

Ocean Village Marina Bay

OCEAN VILLAGE MARINA & MARINA BAY - GIBRALTAR GENERAL REGULATIONS AND CONDITIONS OF USE

1. (a) In these General Regulations and Conditions "Company" shall mean Ocean Village Investments Limited, and or its Agent or 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 (if any) of the Brokerage, or any other Harbour Facility. The expression "harbour" shall include a Yacht Harbour, Marina, Moorings, or any other facility for berthing a yacht (other than swinging chain moorings). The expression "Marina" shall include the Company's marina at Marina Bay and Ocean Village Marina and any expansion, extension or modification thereof. The expression "Owner" shall include a Charterer, Master or Agent or other person for the time being lawfully in charge (other than the Company) of the vessel or vehicle.

(b) These regulations and conditions shall also govern the use by any person firm or company of any part of the Marina.
2. (a) All vessels and vehicles in or on the Company's Marina or premises may be moved by the Company to any other part of the same Marina. 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 or the Company's premises. The Company plan to construct homes within the Marina waters at a date to be determined. The Company shall not be liable whether in contract, tort or otherwise to the Owner as a result of such construction in the waterway or the Marina. The Company shall not be liable to the Owner for any loss, damage or costs incurred as a result of any construction in the waterway or the Marina. The Owner will move the vessel at the direction of the Company upon receipt of written notice to do the same.

(b) 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 any vessel or vehicle or other property of the Owner or others claiming through the Owner.

(c) The Owner shall indemnify the Company against all loss, damage, costs, claims or proceedings 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.

(d) The Owner shall insure his vessels and vehicles adequately against loss or damage howsoever caused and shall maintain third party insurance in respect of himself and each of his vehicles or vessels, 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 each vessel adequate salvage insurance. Such insurance shall be affected and maintained in an insurance office of repute and the Owner shall produce the policy or policies relating thereto to the Company on demand. If, in the opinion of the Company, such insurance is inadequate having regard to the type and size of the vessel and the risks involved, the Company may require the extent of such insurance to be increased and in default of compliance the Company may require the vessel to be removed from the Marina or premises.
3. (a) Except with the written consent of the Company, which may be withheld at the Company's sole discretion, no part of the Company's premises or the vessel 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 vessel, provided that the occasional use of the said vessel by a personal friend of the Owner on payment to the Owner of a contribution towards the actual running cost of the said vessel shall not be deemed a commercial purpose hereunder.

(b) The Owner, shall upon request by the Company supply to the Company full details in writing of all such use under the proviso of this regulation.

(c) The Owner shall be permitted to arrange a private sale of not more that one vessel (such vessels' usually being berthed at the Company's premises) during any one or more period of twelve consecutive months of the Licence granted to the owner.

In the event of such a private sale:
 - (i) The Owner shall be present at all times during which the vessel is to be viewed, and he shall not be permitted to display a "For Sale" notice on his vessel whilst at the Company's Marina or premises.
 - (ii) The Owner shall not be required to pay commission to the Company upon such private sale in excess of one per cent of the sale price except where prior notice has been given by the Company of a higher rate of commission.

- (d) Where the Owner arranges a private sale or part exchange of a vessel berthed or usually berthed in the Marina in full compliance with (c) above he shall pay the Company an access charge of 1% of the total value of the vessel sold. In other Cases where a bonafide yacht broker is involved, the Company is entitled, in accordance with the British Boating Industry Code of Practice for the sale of Used Boats, to receive one sixth of the standard commission for the sale. This access fee is normally paid direct to the Company by the broker acting in the sale but where this is not the case the Owner shall pay this amount to the Company.
- (e) The Marina Bay Brokerage Department is available to arrange sales of craft berthed in the Marina. Owners of such craft may also employ other brokers with the prior permission of the Company but this will only be forthcoming in the case of bonafide yachts brokers and on the understanding that the Marina Bay Brokerage Department are given simultaneous instructions to sell the vessel on identical terms; failure to comply with these conditions will entitle the Company to recover full brokerage commission from the Owner as though it had effected the sale.
4. Within 7 days of any sale, transfer or mortgage of any vessel which is subject to a current licence granted to the owner by the Company subject to these conditions the Owner shall notify the Company in writing of the name and address of the purchaser, Transferee or Mortgagee, as the case may be.
5. (a) No work shall be done to the vessel whilst at the Company's Marina, premises or moorings (unless with the prior written consent of the Company which may be withheld at its sole discretion), 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 Company's Marina, premises or moorings or any other person residing in the vicinity.
- (b) Prior written consent for work to be carried out on the Company's Marina and premises will not without good cause be withheld where:
- (i) 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.
- (ii) 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.
6. The Company has the right to exercise a general lien upon any vessel and/or other property of the vessel's Owner whilst in or on the Company's Marina or premises until such time as any money due to the Company in respect of the vessel and/or other such property whether on account of licence fee, rental, storage, commission, access or berthing charges, work done or otherwise shall be paid.
7. (a) The Company shall have the right (without prejudice to any other rights in respect of breaches of these conditions by the Owner) to terminate the licence granted to the Owner in the following manner in the event of any breach by the owner to these conditions or of any failure by the Owner to make any payment due to the Company. If the breach is capable of remedy or the Owner has failed to make any such payment the Company may serve notice on the Owner specifying the breach or the failure to pay and requiring him to remedy the breach or pay the amount due within 14 days. If the Owner fails to remedy such breach or pay the amount due within 14 days, or if the breach is not capable of remedy, the Company may serve notice on the Owner specifying the breach or failure to pay (when not already specified) and requiring him to remove the vessel within 28 days, at the expiration of which the Owner shall remove the vessel and any other property of his from the Company's Marina and premises. The Company shall refund to the Owner the unexpired portion of the licence fee (disregarding any discount given) subject to a right of set-off in respect of any damage suffered by it and/or other monies owing as a result of any other matters giving the Company the right to terminate the licence.
- (b) If the Owner fails to remove the vessel on termination of the licence (whether under this Clause or otherwise), the Company shall be entitled:
- (i) to charge the owner with the licence fee 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 renewal of the vessel from its Marina and premises and/or
- (ii) at the Owner's risk to remove the vessel from the Marina and premises and thereupon secure it elsewhere and charge the Owner with all costs arising out of such removal including alternative berthing fees.
8. In all cases where a contract of hire or licence to occupy any moorings, berths, storage space, property or facilities may be lawfully terminated by notice, the same shall be deemed to be lawfully served if served personally on the owner, or sent by registered post or recorded delivery service to the last known address of the Owner or to the registered office of the Company or to the principal place of business.

9. The Company provides moorings for sea going craft in good overall condition only. No vessel may be used as a static Houseboat and all vessels must be kept in a clean, mobile, seaworthy condition except where under repair, such repairs to be executed with reasonable dispatch.
10. (a) The vessel shall be berthed or moored by the Owner in such a manner and position as the Company may require and unless otherwise agreed the necessary warps and fenders shall be provided by the Owner. In accordance with regulation 2(a) the Company reserves the right to relocate the vessel at any time to any other area in the Marina or the Company's premises.
- (b) The moorings and attached rope pennants are the property of the Company. The Owner is required to take all reasonable precautions to prevent chafe and fouling of the moorings and rope pennants. Failure to observe this regulation will render the Owner liable to pay the Company's charges for any necessary clearance, repair or replacement of the moorings and rope pennants.
- (c) It is forbidden to drop anchors in the vicinity of the Marina piers without authorisation from the Pier master.
11. If in the Company's absolute discretion it becomes necessary for the safety of the vessel or for the safety of other users of the Marina or its premises or for other vessels or for the safety of the Marina itself, its plant premises 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 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.
- 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.
12. Unless he has the Company's prior written consent, the Owner shall not lend or transfer the berth (this licence being personal to the owner relating to a particular vessel and non-assignable) nor shall he use the berth for any other vessel.
13. (a) The licence with the Company creates an entitlement to berthing facilities. IT DOES NOT GRANT THE EXCLUSIVE RIGHT TO THE USE OF A PARTICULAR BERTH. It follows from this that during the absence of the boat from its allotted berth the Company is free to license the berth to other vessels. However in the case of vessels to whom the quarterly rate or annual rate is applicable and provided that the Owner of the vessels has notified the Company in advance in respect of absences of the vessel from the Marina for periods of 21 days or more, then 50% of any licence fee accruing (excluding Government levy) from the re-licensing of the berth, will be credited to the Owner of the vessel and set against any licence fee due by them to the Company in respect of that period.
- (b) The fees to be charged to any sub licensee under the terms of this licence shall be fixed and collected by the Company.
- (c) The Company is under no obligation, contractual or otherwise, to obtain such sub-licenses.
- (d) The Company will not unreasonably withhold permission for the berth to be used by a Third Party Introduced by the Owner for a boat of suitable dimensions subject to Clause 12 (a) above.
14. (a) Persons using any part of the Company's Marina or premises or facilities for whatever purpose will whether by invitation or otherwise do so at their own risk.
- (b) No guarantee is given or responsibility accepted by the Company for the safety of any person or persons or vessel her gear or contents nor for the suitability of any berth or any structure, gear, or other facilities provided.
- (c) The Owner undertakes for himself, his staff and his guests not to permit or allow to be done such actions that may be deemed by the Company to be unreasonable, antisocial or disruptive to the peaceable enjoyment of the Marina and/or its premises by its users and/or the Company's staff. Such behaviour may include (but not be limited to) noise pollution (of any kind), threatening and/or intimidating behaviour and any other behaviour that may cause annoyance, nuisance, offence or alarm. A breach of this Regulation will be considered to be incapable of remedy for the purposes of Regulation 7(a)."
15. 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. Vessels are at all times subject to the speed restrictions and bye-laws of Harbour, Navigation or other authorities and in particular the speed limit of 3 knots in or near the Marina.

Owners shall observe and perform the bye-laws rules and regulations of the Gibraltar Harbour Authorities and all other statutory rules or regulations affecting the Marina.

16. 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 (especially before 0800 and after 2000) to the Company, to any other users of the Marina or premise 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 shall be secured so as not to cause such nuisance and annoyance.
17. No refuse shall be thrown overboard or left on the pontoons, jetties or Car Parks, or disposed of in any way other than in the receptacles provided by the Company or by removal from the Company's Marina and premises.

In the interest of hygiene no petrol, fuel or oil, contaminated bilge water or refuse shall be discharged or allowed to escape into the Marina waters or Company's premises.
18. Dinghies, tenders and rafts shall be stowed aboard the vessel unless a berth is separately provided by the Company. The Company reserves the right to prohibit the use of small sailing craft, motor boats and yacht tenders within the confines of the Marina.
19. Owners and their crew shall only park their motor vehicles in such car parking bays as may be marked for use by the Company or Gibraltar Traffic Authority.
20. No item of boats' gear, fittings or equipment, supplies, stores, or the like shall be left upon the pontoons, jetties or car parks.
21. Owners, their crew and guests are requested not to hang laundry to dry on their vessels in a position where it is visible from the piers.
22. The Owner shall take all necessary precautions against the outbreak of fire in or upon his vessel, (and the Owner shall observe all statutory and local regulations relative to fire prevention (if any) which shall be exhibited at the offices of the Company). The Owner shall provide and maintain at least one fire extinguisher of a governmentally approved or BSI standard type and size in or on the vessel fit for immediate use in case of fire. Owners shall not refuel vessels in the Marina.
23. Bathing from the piers and sea walls of the Marina and premises is not permitted and owners are advised that due to the movement of vessels within the Marina and the number of obstructions, structures, lines etc., that diving and bathing from vessels in the Marina is dangerous.
24. No dogs, cats or other animals are allowed on the piers. The Company reserves the right to exclude vessels with animals on board.
25. The Pier Office is manned at the times shown on a notice in the Pier Office. Before departure Owners with reserved berths should inform the Pier master of their intended time and date of return so that the berth can be cleared in advance of their return. ALL OWNERS ARE REQUESTED TO NOTIFY THE PIER OFFICE 24 HOURS BEFORE DEPARTURE.
26. 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.
27. 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 gallon current at the time for all water drawn.
28. Except with the written consent of the Company and then only subject to such terms as may be imposed under such written consent, no hawking or touting for business is permitted on the Marina or its premises and no circulars or other notices may be placed on vessels in the Marina or in its premises. No advertisement or "For Sale" notice may be displayed on any vessel or on the Marina or premises without the expressed permission of the Company.

29. BERTHING FEES. *, Berths may be licensed for the periods from time to time published by the Company at the Marina or premises and charges therefore will be calculated by reference to the Company's published list of charges ruling at the date of the commencement of the berthing licence.

RENEWAL OF LICENSE - The Company reserves the right to refuse to renew any berthing license at its sole discretion. Any Owner who fails to remove their Vessel from the Marina at the end of their period of license shall be charged the sum of £250 per day from the date that their license ended until the date of removal of the Vessel from the Marina. If the berth is to be licensed to another party, then the Company has the right to board and/or move the unlicensed Vessel to another berth.

ALL BERTHING FEES ARE PAYABLE. IN ADVANCE. Fees not received by the Company on the due date will be subject to interest at the rate of 2% per month or part thereof that they remain outstanding and the Company reserves the right to terminate the owners licence in any case of non-payment of fees or interest on same.

MONTHLY DISCOUNT Applicable for the periods of 30 days or over only

HALF YEARLY DISCOUNT Applicable for 182 days or over.

Periods when the berth is vacant will not be credited save when the berth is sub-licensed in accordance with the provisions of Clause 13 hereof.

CANCELLATION

The Owner may cancel his monthly rate or half yearly rate berthing licence by giving the Company 28 days notice in writing. No refund of berthing fees will be made in respect of the first month of the monthly rate and the first six months of the half yearly rate. Fees in respect of any unexpired portion of any subsequent periods of the berthing licence will be refunded pro rata less 15%.

Notwithstanding the above, in the event that cancellation is due to the sale of the owners vessel and the access fee of 1% has been received by the Company in accordance with Clause 3 and subject to receipt of notice in the terms of Clause 4 the berthing fees in respect of any unexpired period of the Owners berthing licence will be refunded pro rata without reduction.

For the purpose of calculating Berthing Fees, Overall Length and Beam measurements are deemed to include all extensions to the vessel including bowsprits, davits, bathing platforms, external steering gear and the like. The Company may measure any vessel on the Marina or premises to verify overall length and beam.

30. No failure of the Company to exercise any power given to it under these rules, or to insist upon strict compliance by Owners and users with any obligation hereunder and no custom or practice of the parties at variance with the terms hereof will constitute a Waiver of the Company's rights to enforce strict compliance with these rules.
31. The Company reserves the right to introduce regulations and conditions which relate to the administration of the Company's marina and premises, and to amend such regulations and conditions from time to time. Such regulations and conditions and any amendments to them shall become effective on being displayed at the Company's Offices, and the Company shall have the same rights against the Owner for a breach of those regulations and conditions as for a breach of these regulations and conditions..

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