

GULF HARBOUR MARINE VILLAGE BERTH RENTER TERMS & CONDITIONS

1. DEFINITIONS

“Agreement” means the Berth Sub Licence Agreement read together with these terms and conditions, the Association’s constitution, the Association’s common facilities rules and the rules of the Body Corporate.

“Association” means Gulf Harbour Marine Village Residents' Association Incorporated

“Berth Licensee” means a resident of the Gulf Harbour Marine Village who is licensed by the Association to use of the Berth.

“Berth” means the marine berth the subject of this Agreement for the accommodation of recreational vessels only as specified in the BSLA.

Berth Renter means the person sub licensed to use the Berth pursuant to the BSLA.

”Berth Sub Licence Agreement” (BSLA) means the sub-licence entered into between the Berth Renter, the Association, the Body Corporate and the Berth Licensee and which form part of the Agreement.

“Body Corporate” means the body corporate that controls the common areas adjacent to the Berth over which the Renter is granted pedestrian access

“Common Facilities” means the waterway and associated facilities incorporating common or public walkways, pedestrian areas, seating, toilet facilities (if any), carparks, walls, security structures, ramps, launching facilities and other facilities.

"Common Areas" means the waterway, residential fringe and the common areas of any building adjacent to the waterway.

“Marina” means the waterway under the jurisdiction of the Association

“Liveaboard” means staying overnight on the Vessel for more than one night, but excluding the night of arrival at the commencement of the Agreement or the night before departure upon expiry or termination of the Agreement. Noise restrictions will be strictly enforced.

“Vessel” means the marine vessel entitled to use the Berth pursuant to the Agreement as specified in the BSLA.

2. ACCESS TO BERTH

The Body Corporate shall allow the Berth Renter pedestrian access over such of its common areas to enable access to and from the Berth. The Body Corporate shall also allow

pedestrian access to crew members, children, and service providers when accompanied by the Berth Renter.

3. JURISDICTION

At all times whilst enjoying the Marina together with its Common Facilities the Berth Renter and invitees and guests are subject to the jurisdiction of the Association and its common facilities rules.

4. VEHICLES

No Berth Renter, invitees, guests, service provider or crew members of the Vessel shall drive a vehicle, or permit any vehicle to be driven, within the confines of the Common Facilities of the Association or the common areas of the Body Corporate.

5.RESTRICTIONS ON USE

The Berth Renter shall not use the Berth other than for accommodating the Vessel. The use of the Berth to moor non-recreational vessels including (but not limited to) charter vessels, commercial fishing vessels, vessels carrying passengers for hire, work vessels, commercial freight carriers or vessels for any other commercial or industrial purposes, is expressly forbidden.

6. BERTH RENTER NOT TO SUBLET

The Berth Renter is not to be permitted at any time to sublet, or to authorise the use of the Berth, by any other vessel.

7. NAVIGATION COMPLIANCE

The Berth Renter shall at all times when navigating through the Gulf Harbour marina channel and fairway and the Marina, comply with the rules of the Association and the Body Corporate and with any special instructions issued by the Association, and any rules imposed by the management of the Gulf Harbour Marina.

8. VESSEL SIZE NOT TO EXCEED DIMENSIONS OF BERTH

The Berth Renter shall not at any time permit any part of the Vessel while moored at the Berth (including any dinghy, tender or the like, whether fixed on board the Vessel or moored in the water adjacent to the Vessel to extend beyond the maximum permitted dimensions of the Berth as specified by the Association.

9. SIGNAGE

The Vessel's name must be displayed in letters of not less than 90mm in height on each side of the Vessel. No vessel may display advertising signs or "for sale" signs.

10. COMPULSORY VACATING OF BERTH

The Association may, at any time require the Berth Renter to vacate the Berth either on a temporary or permanent basis for the purpose of upgrading or carrying out maintenance or structural repairs to the Berth or the Marina. If such circumstances arise, neither the Association or Berth Licensee shall have any liability to pay any compensation to the Berth Renter.

11. NO DISCHARGE

The Berth Renter shall not pollute, or permit the pollution, of the Marina or discharge into the Marina any poisonous, noxious or dangerous or offensive substance or thing including discharges from treated toilet systems such as electra-san and the like. All rubbish shall be removed from the Vessel and properly disposed of outside the common areas or Common Facilities.

12. STATUTE COMPLIANCE

The Berth Renter shall comply with any Auckland Council By-law, harbour master direction, Maritime Safety Authority direction, Statute, law, regulation, restriction, or other requirements as may apply to the Marina.

13. ANIMALS

The Berth Renter shall not permit any animal (domesticated or otherwise) to enter the marine village, the Marina or the common areas of the Body Corporate, or the Common Facilities unless the animal is on a lead and taken directly to or from the Vessel.

14. CHILDREN MUST BE ACCOMPANIED

The Berth Renter shall not permit, or allow, any children under the age of 12 years for whom the Berth Renter is responsible, to enter into the Common Facilities or common areas unless accompanied by the Berth Renter or adult crew member.

15. NO SWIMMING OR FISHING ETC

The Berth Renter shall not engage in any swimming, fishing, diving or underwater activities within the Marina, except for permitted maintenance of the Vessel, subject to such directions as the Association may stipulate from time to time.

16. MANOEUVRING RESTRICTIONS

Within the Marina the Berth Renter shall not moor, sail or manoeuvre any vessel so as to create a danger, impediment, obstacle, wake or inconvenience to residents or other users.

17. CONTROL OF NOISE

The Berth Renter shall ensure that the Vessel and its occupants keep noise to a minimal level, so as not to disturb other residents or users. This includes securing halyards, sheets, lines, ropes, rigging, flags, wind generators etc so that they shall not create undue noise or nuisance. Please refrain from unnecessary running of engines which create noise and fumes. Be considerate of any noise levels keeping in mind the close proximity of the berths to the Association Members' residences and occupants of Body Corporate land.

18. MOORING LINES

For the purpose of mooring any vessel to the Berth, the Berth Renter shall supply mooring lines approved by the Association, and shall at all times ensure that a minimum of four corner mooring lines are properly fitted and used at all times. The Association may serve notice to the Berth Renter requiring repair to fastenings bollards or mooring lines so as to

ensure that the Vessel is safely secured. Failure to comply may result in the Vessel being removed from the Berth and/or the Marina.

19. PROPERTY STORAGE

The Berth Renter shall store all property, gear and equipment on or in the Vessel shall not utilise the Marina or other areas for storage purposes.

20. NO ALCOHOL

Alcoholic beverages may be consumed only on-board the Vessel.

21. CORRECT USE OF FIRE EQUIPMENT AND SPILL KITS

The Berth Renter shall not use fire-fighting equipment supplied by the Association for any purpose other than for fighting fires or spill kits for purposes other than containing spills in the Marina.

22. RESTRICTED PRODUCTS

The Berth Renter shall not bring into the Marina or store on the Vessel any dangerous or flammable goods but this rule shall not prevent the Berth Renter from carrying small quantities of fuel, in safe containers, in quantities reasonably required for small outboard engines or stoves, to be stored inside the Vessel.

23. NO REFUELLING

The Berth Renter shall not carry out any refuelling of the Vessel within the Marina, other than at the fuel jetty or from the designated pumps located in Gulf Harbour Marina.

24. BERTH MODIFICATIONS

The Berth Renter shall not alter or modify the Berth or adjacent structures without the prior written approval of the Berth Licensee and the Association. Renters may apply for modifications such as dinghy racks, steps, docking wheels and pads etc, by providing a completed "Berth Modification Form" (available on the GHMVRAl web site) to the Facilities Manager.

25. NO RADAR USE

The use of radar within the Waterway is strictly prohibited.

26. VESSELS MUST NOT DETRACT FROM MARINE VILLAGE

The Berth Renter shall keep the Vessel in good serviceable condition, repair and appearance so as not to obstruct, interfere with or endanger other vessels navigating or mooring in the Marina.

27. NO WORK AT BERTHS

No major work shall be undertaken on the Vessel whilst in the Marina. This shall not prohibit any reasonable washing or cleaning of the Vessel (above the waterline) or reasonable minor maintenance on the Vessel. If in doubt please contact the Facilities Manager for clarification.

28. SAFETY COMPLIANCE

The Berth Renter shall adhere to any request given by the Association to ensure efficient, safe and harmonious use of the Marina and the Berth.

29. BREACH OF RULES OR CONDITIONS

If the Berth Renter commits any breach of the Agreement or the rules of the Body Corporate, the Association or the Body Corporate may give written notice to the Berth Renter and/or the Berth Licensee specifying the breach. A breach the subject of a notice must be remedied within 7 days of the date of the notice. Failure to remedy the breach within the 7 day period may result in the termination of the Agreement and a requirement that the Vessel be removed from the Berth within 7 days of written notice of termination to the Berth Renter or Berth Licensee.

30. DEFAULT IN COMPLYING

If after the 7 day notice period of termination the Berth Renter has failed to remove the Vessel from the Berth and Marina, the Association may, without incurring any liability for so doing and without further notice, remove the Vessel and arrange for its storage on the Gulf Harbour Marina hardstand and recover the cost of removal and any other costs incurred in connection with the breach, from the Berth Renter and/or Berth Licensee.

31. BODY CORPORATE

If the Agreement expires or is terminated, the Berth Renter shall have no right or licence to access the Body's Corporate common areas unless it is to remove the Vessel and should the Berth Renter access the Body's Corporate common areas for any other purpose then that shall be deemed a trespass. The Berth Renter shall not be entitled to remove the Vessel unless and until all costs and expenses incurred by the Association and the Body Corporate have been paid.

32. ASSOCIATION'S LIEN

Where the Association removes the Vessel, it shall be entitled to a lien over the Vessel to the extent of the costs of removal and the Vessel's storage. All costs incurred by the Association and/or the Body Corporate in connection with the breach are to be paid before possession of the Vessel is returned to the Berth Renter.

33. CUSTODIAL ARRANGEMENTS

The Association may, if the Association thinks fit, place and maintain on the Vessel such number of custodians as may be necessary and the costs in so doing shall be recoverable by the Association from the Berth Renter and/or the Berth Licensee.

34. EXECUTION OF NOTICES

All notices given by the Association the Body Corporate are to be signed by the Chairperson (or his/ her delegated nominee) of the respective organisation.

35. POWER AND OTHER SHORE SERVICES

The Berth Renter shall ensure that the use of any power, water, sewage, pump or other shore service, complies with all of the relevant regulations and rules governing the supply or discharge of power, water, sewage or other shore services. The Berth Renter may use the water, power and other facilities provided on the structures, in common with any other Marina users on an occasional basis only.

36. BINDING AGREEMENT

This Agreement shall not come into effect until such time as the Berth Renter, Berth Licensee, Association and Body Corporate have executed it, except that there shall be no requirement for the Body Corporate to execute this Agreement if the Berth Renter does not require access over the Body's Corporate common areas and in such circumstances this Agreement will come into effect after execution by the Berth Renter, Berth Licensee and Association only. The Association reserves the right to amend these terms and conditions and any such amendment will apply to this Agreement

37. GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of New Zealand