



MARINA
LOW WOOD BAY

TERMS & CONDITIONS

Sections headings are given for convenience only and do not form part of the terms and conditions.

1 DEFINITIONS

- 1.1 'company' shall mean Low Wood Hotel (1958) Ltd (trading as Low Wood Bay Marina), or any of its agents, which may be one or more of its associated companies, contractors and assignees for the operation of its services or facilities
- 1.2 'premises' shall include all the land, jetties, pontoons, adjacent water and buildings occupied by or under the control of the company.
- 1.3 'owner' shall include any master, charterer, agent or other person for the time being in charge of the vessel, excluding the company.
- 1.4 'person' shall mean any person, firm, company or other legal entity.
- 1.5 'user' shall mean any person entering or using the premises for any purpose.
- 1.6 'vessel' shall include any form of craft, boat, ship, yacht, dinghy, multihull, kayak, canoe or other marine structure. The term shall also include any vehicle, equipment or property stored in a berth.
- 1.7 'berth' means the space on water or land from time to time allocated to the owner by the company for the vessel during the term of this licence.
- 1.8 'commercial use' shall mean any use of a vessel for hire or reward where any payment is made in cash or in kind by or on behalf of any person which gives them a right to make use of the vessel.
- 1.9 'length overall' (LOA) means the overall length of the space occupied by the vessel including any fore and aft projections, temporary or permanent.
- 1.10 Any reference to 'writing' or 'written' includes faxes and emails.
- 1.11 'Crane Dates' shall mean dates set by the company to lift the boats off and on the marina at the start and end of the season.

2 LICENCE

- 2.1 Berths at the premises shall be licensed to the owner for the type, period, vessel and at the rates of charge in force at the commencement of the licence as specified on the licence agreement.
- 2.2 The company retains absolute control of berth allocation within the premises. Accordingly the owner shall not be entitled to exclusive use of any particular berth but shall use such berth as is from time to time allocated by the company.
- 2.3 The licence is personal to the owner and relates to the vessel described in the licence agreement. 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.
- 2.4 No variations in terms and conditions of the licence are permitted unless confirmed in writing by the company.
- 2.5 The licence is subject to the company receiving a properly completed and signed licence agreement. Notwithstanding the owner's failure to sign or return the licence agreement the owner shall be deemed to have accepted the terms of the licence on payment of fees or taking up a berth with the company.
- 2.6 The company may have the use of the berth when it is left vacant by the owner without paying compensation or any discount to the owner.

3 OWNERS DETAILS

- 3.1 The owner must ensure that we have a current postal address, telephone number and an email address at which they can be contacted.
- 3.2 The owner must notify the company in writing of any change of names of the vessel or change of address, telephone number or email address of the owner within seven days of the change occurring.
- 3.3 Any formal notices shall be deemed to be delivered to the owner when delivered by a recorded delivery service to the last address provided to the company by the owner.

4 PAYMENTS

- 4.1 Fees are payable in full and in advance.
- 4.2 Payment fees for a licence are non-refundable and non-transferable.
- 4.3 No reduction in fees will be made for surrender or a licence before the expiration date.
- 4.4 The owner shall pay any valid invoice submitted in respect of the berth or any other goods or services provided by the company upon receipt of the invoice unless other terms have been expressly agreed in writing. Payment shall be deemed to be made when cleared into the company's account.
- 4.5 Any queries regarding an invoice should be made in writing within ten days of the invoice date.
- 4.6 If you fail to make any payment for the berth or fail to pay any invoice by the due date, the company shall be entitled to take any or all of the following measures:
 - 4.6.1 Charge interest at an annual rate of 8% above NatWest base rate on the amount unpaid.
 - 4.6.2 Refer the debt to the company's debt recovery agent. The costs of any proceedings or bailiff charges will be added to the outstanding debt and recovered accordingly.
 - 4.6.3 Suspend the provision of, or restrict access to any services.
 - 4.6.4 Terminate this agreement by giving you notice in writing.

5 RIGHTS OF SALE AND OF DETENTION

- 5.1 Where the company accepts a vessel, gear, equipment or other property for 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 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 purposes of the act it is recorded that:
 - 5.1.1 Goods for repair or other treatment are accepted by the company on the basis that the customer is the owner of the goods or the owner's authorised agent and will take delivery or arrange collection when the repair or treatment has been carried out.
 - 5.1.2 The company's obligation of custodian of goods accepted for storage ends on its notice to the customer of termination of that obligation.
 - 5.1.3 The place for delivery and collection of goods shall be at the company's premises unless agreed otherwise.
- 5.2 Maritime law entitles the company in certain circumstances to bring action against a vessel to recover debts 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.
- 5.3 The company reserves a general right ('a general lien') to detain and hold the owner's vessel or other property pending payment by the owner 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 owner at the company's daily rate for each day between termination or expiry of the licence and the actual date of payment (or provision of security) by the owner and the removal of the vessel from the premises. The owner shall at any time be entitled to remove the vessel or other property upon providing proper security sufficient to cover the debt with interest and, where the debt is contested, a reasonable provision for the company's prospective legal costs.

6 LIABILITY AND INSURANCE

- 6.1 The company shall not be liable for any loss or damage caused by any event or circumstance beyond its reasonable control (such as severe weather conditions, the actions of third parties not employed by the company, or any defects in a customers or third party's property); 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 using any facilities or equipment.

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- 6.2 All services and facilities are provided subject to availability. The company undertakes to use all reasonable endeavours to provide services as requested but accepts no responsibility for delays or cancellations or any subsequent losses or increased costs or inconvenience arising from circumstances beyond the company's reasonable control.
- 6.3 The company shall take all reasonable steps to maintain security at the premises, and to maintain the facilities at the premises 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 owner's own risk and owners should ensure that they have adequate insurance to cover such risks.
- 6.4 The company shall not be under any duty to salvage or preserve a vessel or other property from the consequences of any defect in the vessel or property, or from the consequence of an accident or occurrence for which the company is not responsible unless it shall have been expressly engaged to do so by the owner on commercial terms. 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 owner concerned on a normal commercial charging basis.
- 6.5 Owners 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 £2,000,000 and cover against wreck removal and salvage. The owner shall be obliged to produce evidence to the company of such insurance at the commencement of the licence period or within seven days of being requested to do so by the company.
- ## 7 TERMINATION
- 7.1 The licence for the berth is a fixed term agreement which does not automatically renew but terminates on the end date specified unless it is ended earlier in accordance with this agreement.
- 7.2 The company may terminate this licence, without notice and with immediate effect without refund in the event of an owner committing a serious or repeated breach of the rules.
- 7.2.1 And or may terminate the licence without cause upon returning the unexpired portion of the fees paid.
- 7.3 The company shall have the right (without prejudice to any other rights in respect of breaches of the terms of this licence by the owner) to terminate this licence in the event of any breach by the owner of the licence.
- 7.3.1 Having regard to the nature and seriousness of the breach, and if the breach is capable of remedy, the company may serve notice on the owner specifying the nature of the breach and requiring the owner to remedy the breach within a reasonable time specified by the company.
- 7.3.2 Where the breach is serious or poses a risk or threat to the health, safety or welfare of any other person or property the time specified for remedy may be immediate or extremely short.
- 7.3.3 If the owner fails to effect the remedy, or the breach is not capable of remedy, the company may serve notice on the owner requiring removal of the vessel from the premises immediately.
- 7.4 On termination of this licence, howsoever it may occur:
- 7.4.1 The owner shall pay to the company all amounts owing before removing the vessel from the premises.
- 7.4.2 The vessel shall be removed from the premises no later than the termination date.
- 7.5 If the owner fails to remove the vessel on termination of this licence, howsoever it may occur, the company shall be entitled:
- 7.5.1 To charge the owner at the company's daily rate for each day or part thereof between the termination of this licence and the actual date of removal of the vessel from the premises.
- 7.5.2 At the owners risk (save in respect of loss or damage caused by the company's negligence or other breach of duty) to remove the vessel from the berth or premises and secure it elsewhere and charge the owner with all costs reasonably arising out of such removal and alternative storage.
- 7.6 If we do not enforce this agreement or any part of it or we do not take action against you for a breach of this agreement it does not mean that we cannot enforce that or any other provision or take action against you for a subsequent breach.
- 7.7 If the licence has been terminated by the licence holder please refer to point 4.2 & 4.3
- 7.8 The company may terminate this licence with immediate effect if in the Company's opinion, for racism or other discrimination, abusive language or sexual harassment towards employees or any other user, this behaviour will not be tolerated.
- ## 8 CRANE OPERATIONS & WINTER STORAGE
- 8.1 Crane fees are included in the mooring fees under the following circumstances:
- 8.1.1 If the licence is renewed crane lift is included at the start of the season and at the end of the season
- 8.2 If the boat owner is requesting to be lifted on or off the water outside out crane dates this will be subject to a charge.
- 8.3 If the boat doesn't require a crane lift this doesn't qualify for a refund or reduction in fees.
- 8.4 If the boat is already on Lake Windermere and arrives mid way through the season crane lift is included off at the end of the season.
- 8.5 No refund or reduction in fees is given for any missed crane lifts.
- 8.6 It is the owners responsibility for ensuring the boat is ready for crane lift e.g. removal of covers
- 8.7 Other than where caused by negligence or other breach of duty, the company shall not be liable for any loss or damage caused to the vessel, trailer or other equipment
- ## 9 MARINA RULES AND REGULATIONS
- 9.1 The owner, crew and guests must observe the marina rules and regulations, copies of which are included with the application pack and available on request from the company. We may amend or add to these rules and regulations as deemed appropriate.
- breach of the rules or regulations as for a breach of the terms of this licence.
- 9.2 The company shall have the same rights against the owner for a
- 9.3 Owners, 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 other regulations which may be more extensive than those of the company and the breach of which may result in criminal penalties.
- 9.4 Making payment for, or taking up a membership, indicates your acceptance of the Terms and Conditions as stated above.