

Mylor Yacht Harbour - Berthing, mooring and storage ashore licence terms and conditions

For licences starting on or after 1st April 2022

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

Company shall mean Mylor Yacht Harbour Ltd.

Harbour shall include the Marina, Moorings or any other facility for launching, navigating, mooring or berthing a vessel.

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

Owner 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 Owner.

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 Owner by the Company for the Vessel during the term of this licence.

Storage Ashore means the land space temporarily allocated to the Owner from time to time by the Company for the storage ashore of the Vessel during the term of the licence.

Licence shall mean the licence agreement signed by the parties including these standard terms and conditions.

Regulations mean those regulations as made by the company which may be amended periodically which the company in its absolute discretion considers necessary to enable the company or those using the premises to comply with applicable legal requirements or for the safety and security or good management of the harbour and premises.

2 The Licence

2.1 Berths at the Harbour or Premises shall be licensed for the period and at the rates of charge from time to time published by the Company at its Premises and in force at the commencement of the licence. Details of the period and charges applicable to the Berth licence will be as per the invoice given to each licensee at the time that the license 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 Owner under the provisions of Clauses 8 or 10. The licence may be renewed for a further period with the subsequent agreement of both the Company and the Owner.

2.3 If any berthing fee or payment for other services remains outstanding for more than 30 days we shall be entitled to:

2.3.1 End this agreement under clause 8 and/or

2.3.2 Exercise our rights under clause 9.

2.3.3 Charge interest at 4% over the base rate of the Bank of England calculated on a daily basis.

3 Liability, Indemnity And Insurance

3.1 The Company shall not be liable for any loss or damage caused by any event or circumstance beyond its reasonable control (such as 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 property). This extends to loss or damage to Vessels, gear, equipment or other goods left with it for work 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 reasonable and proportionate steps having regard to the nature and scale of its business to maintain security at the Premises, and to maintain the facilities and equipment at the Premises and in the Harbour in reasonably good working order. But 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.

3.3 The distance between moorings is so calculated as to provide clear swinging room for the vessels authorised to occupy them under normal circumstances. There may, however, be conditions of wind and tide in which adjacent vessels may make contact with one another or adjacent supporter buoys and mooring equipment. In accepting a mooring or mooring site, a vessel's owner must accept this possibility and agrees to indemnify Mylor Yacht Harbour Ltd against claims for damage so caused.

3.4 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 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 Owner concerned on a normal commercial charging basis and where appropriate, to claim a salvage reward.

3.5 Owners may themselves be liable for any loss or damage caused by them, their crew, guests, family members or their Vessels and they shall be obliged to maintain adequate insurance including third party liability cover for not less than £3,000,000, 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 being requested to do so.

3.6 The Owner shall and shall procure that crew, guests and family members observe the Company's Regulations, a copy of which is published on the Company's website (www.mylor.com). In the event that the Owner or their agents behave in a manner deemed by the Company as unacceptable, the Company retains the right to terminate the licence in accordance with the clauses set out in section 8.

4 Address Details and Changes to Details

4.1 The Owner must supply the Company with their current postal address, phone number and email address and subsequently notify the Company of any changes to these or to the name or LOA of the Vessel.

4.2 All our customer data is held & processed in accordance with the General Data Protection Regulations. Please see our statement & privacy notice at www.mylor.com/privacy-notice Contact Mylor Reception on 01326 372121 or email enquiries@mylor.com for more details.

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 Owner 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 them by the Company.

6 Personal Nature of the Licence

6.1 This licence is personal to the Owner and relates to the Vessel described in the licence particulars. 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. Attention is also drawn to clause 4 of the Company's Regulations regarding commercial use.

6.2 Within 7 days of any agreement for the sale, transfer or mortgage of a Vessel subject to this licence the Owner shall notify the Company in writing of the name, address, email and telephone numbers of the Purchaser, Transferee or Mortgagee, as the case may be.

7 Use of Berth by the Company When Vacant.

7.1 The company may have the use of the Berth when it is left vacant by the Owner.

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 Owner) to terminate this licence in the following manner in the event of any breach by the Owner of this Licence;

8.1.1 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 serve notice on the Owner specifying the breach and requiring them to remedy the breach within a reasonable time specified by the Company. Where the breach is serious or poses an immediate 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. If the Owner fails to affect the remedy within that time, or if the breach is not capable of remedy, the Company may serve notice on the Owner requiring them to remove the Vessel from the Harbour or Premises immediately.

8.1.2 If the Owner fails to remove the Vessel on termination of this licence (whether under this Condition or otherwise), the Company shall be entitled:

8.1.2.1 To charge the Owner 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

8.1.2.2 at the Owner'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 Owner with all costs reasonably arising out of such removal including alternative berthing fees.

8.1.3 Any notice of termination under this Licence shall, in the case of the Owner, be served personally on the Owner, sent by recorded delivery service to the Owner's last known address or sent by email to the address held on the Owner's account. In the case of the Company shall be served at its principal place of business or registered office.

9 Rights of Sale and of Detention

9.1 Where the Company accepts a Vessel, gear, equipment or other goods for repair, refit, maintenance, berthing 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 redelivery 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 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 that they 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.

Advice regarding the Torts Act may be obtained from the Citizens Advice Bureau, Law Centre or any firm of Solicitors

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 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 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 Owner and removal of the Vessel from the Harbour and Premises. The Owner shall at any time 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 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 **shorter term** rate that would have been applicable to the actual period of the licence from 1st April to the date of expiry of the Notice of Termination instead of the annual rate, the amount so calculated not to exceed the annual charge originally contracted for berthing. If this recalculation results in a balance payable to the Company then the Owner shall be required to pay that balance before removing the Vessel from the Harbour or Premises. If there is a balance in favour of the Owner the Company shall pay it to the Owner upon the departure of the Vessel from the Harbour or Premises.

15th November 2021

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