

Terms and Conditions

Annual Lease of Berth at St Andrews Harbour

These are the terms and conditions which apply to all Boat Owners who lease a berth at St Andrews Harbour ("**Terms and Conditions**"):-

1. Definitions and Interpretation

In this document the following words and expressions shall have the following meanings:-

"Berth" means the berth allocated in the Harbour to the Boat Owner;

"Boat Owner" means the person to whom the Letter of Agreement, attached to these Terms and Conditions, is addressed;

"Contract" means the contract between the Boat Owners and the Trust consisting of these Terms and Conditions and the Letter of Agreement;

"Duration" means the period of 12 months from 1st April in one year to 31st March in the next year;

"Gear" means boating and fishing gear only, or any other equipment of a commercial nature, which has received prior approval by the Trust or the Harbour Master;

"Harbour" or **"Premises"** means St Andrews Harbour;

"Harbour Master" means the harbour master of the Premises, or from time to time the harbour master's appointed depute;

"Invoice Date" means the date on which the annual invoice is sent to the Boat Owner;

"Letter of Agreement" means the letter accompanying these Terms and Conditions;

"Trust" means St Andrews Harbour Trust, constituted in terms of the St Andrews Harbour Acts 1897 - 2010 and the St Andrews Harbour Revision (Constitution) Order 2010 and having its principal office at Kinburn Castle, St Andrews, Fife, KY16 9DR;

2. Payment

2.1 The annual rent payable by the Boat Owner to the Trust shall be £18.95 + VAT per foot for Inner Basin Quayside or Mooring, £21.16 + VAT for Inner Basin Pontoon and £27.08 + VAT per foot for inner & outer harbour, for the vessel which is to be berthed at the Berth, payable within two months of the Invoice Date. An additional fee of thirty Pounds (£30.00) will become payable if monies due by the Boat Owner under the Contract have not been received, in full, within two months of the Invoice Date.

2.2 If any monies due by the Boat Owner under the Contract remain unpaid four months after the Invoice Date or if there is a breach of any of the other obligations undertaken by the Boat Owner under the Contract then, and in any such case, it will be lawful for the Trust by giving a minimum of fourteen (14) days' written notice to the Boat Owner to bring this Contract to an end, at which time, the Trust has, *inter alia*, the right to remove the Boat Owner's vessel from the Harbour, whilst reserving to the Trust, a right to claim for all charges due and in respect of any breach of the

conditions of this Contract. In the event that the Boat Owner's vessel is removed from the Harbour, the Trust shall not, under any circumstances whatever, be liable for any loss, costs, damages, charges or expenses, whether direct or indirect, which arise from such removal of the vessel from the Harbour and the Boat Owner shall have no recourse against the Trust, except in terms of condition 9.3.

3. Use

The Boat Owner will use the Berth as a location to berth his or her vessel only and will not use or permit the same to be used for any other purpose. The Boat Owner will not do or permit to be done in the Harbour anything which is illegal or immoral or which in the opinion of the Trust or the Harbour Master may be a nuisance or cause annoyance, disturbance or damage to, or in any way interfere with the comfort or business of the Trust, the Harbour or other adjoining or nearby Premises.

4. Not to Endanger Insurance

The Boat Owner will not place or store in or about the Berth or the Harbour anything, nor do or permit to be done anything which is dangerous, or in consequence of which any insurance effected in respect of the Harbour or adjoining subjects under the management of the Trust would, or might be vitiated or prejudiced, or the premiums increased, and shall on demand re-imburse to the Trust any such increase in the premiums arising out of the Boat Owner's occupation of the Berth. The Boat Owner shall be responsible for insuring his or her own property and equipment within the Harbour. The Boat Owner shall also be responsible for acquiring third party and public liabilities insurance in respect of his or her occupation of the Harbour. Such insurance levels shall be set at an amount of not less than £3 million pounds or otherwise notified to the Boat Owner by the Trust from time to time.

5. Obligations of Boat Owner

The Boat Owner will be bound as follows:-

- 5.1 to treat the Harbour in a considerate manner;
- 5.2 to comply with all statutes, statutory provisions (as from time to time which are amended, modified, replaced or re-enacted), orders, regulations, directives, instruments, bye-laws and other subordinate legislation which could reasonably be said to be relevant in relation to the Contract between the Trust and the Boat Owner. Copies of these publications can be found on the internet at www.legislation.gov.uk. The Boat Owner should be aware that statutory provisions are subject to change but that these amendments are beyond the control of the Trust. In addition to the statutory provisions mentioned above, the Boat Owner shall comply with the St Andrews Harbour Trust Rules and Regulations, as published from time to time. Furthermore, the Boat Owner agrees to store only Gear on the harbour wall. It is understood that such Gear is only to be stored above the Boat Owner's Berth and that space which is to be shared equally between all vessels in the Harbour. In some circumstances, Gear may be stored outside of the Boat Owner's Berth for a limited time but prior permission must be sought from the Harbour Master in this instance. Any Gear which is stored on the harbour wall is to be at least six feet from the edge of the harbour wall. No Gear is to be stored on the harbour wall for more than ten (10) days without consent from the Harbour Master. Any Boat Owner wishing to store his or her vessel on the harbour wall may do so only with the permission of the Harbour Master and under his or her direction. Any vessel which is stored on the harbour wall is subject to the harbour dues at the same rate as Inner Harbour Quayside rates. Nothing is to be left on the harbour wall which will, in any way,

impede access to life rings, bins, steps etc. Any rubbish, dangerous or derelict Gear will be removed by the Harbour Master and the Boat Owner shall be liable for the cost thereof. No ropes, chains etc are to be left hanging on the harbour wall and when the Boat Owner removes his or her vessel from the Harbour, any and all chains and ropes are to be removed also. It is the responsibility of the Boat Owner to keep the area above the Berth clean and tidy. No gear shall be stored on any part of the pontoons;

- 5.3 to ensure that all waste emanating from the Boat Owner's use of the Berth is removed from the Harbour and to comply with all arrangements for disposal of waste from time to time reasonably specified by the Trust or the Harbour Master;
- 5.4 to comply with all security arrangements and requirements from time to time reasonably specified by the Trust or the Harbour Master and to comply immediately with all reasonable requirements and directions of the Harbour Master or his or her agents and representatives in that regard;
- 5.5 not to bring into the Harbour any goods of a flammable or explosive nature or any portable gas appliances or gas cylinders unless they comply with all statutory regulations relating to their storage and use;
- 5.6 not to obstruct or impede in any way the full and free right of safe access to the Harbour or any other Premises adjoining or nearby which is managed by the Trust at all times and for all purposes of the Trust, the Harbour Master, the Harbour and all persons authorised by the Trust and/or the Harbour Master;
- 5.7 not to do or permit or suffer to be done by those for whom the Boat Owner is responsible in law, or omit to do, anything whereby the service media or any part thereof serving the Harbour or any adjoining or neighbouring property may become choked, obstructed or damaged, or whereby any deleterious material of any kind is passed into, or deposited into any drains or sewers serving the Harbour or any adjoining or neighbouring property;
- 5.8 to comply fully with all instructions and directions which derive from the Harbour Master.

6. **Access**

The Boat Owner will permit the Harbour Master and his or her agents (with or without workmen) on reasonable notice (except in case of emergency) and at all reasonable times to access the Boat Owner's Berth, to inspect the same or to carry out any repairs or alterations or improvements to it or to any adjoining or neighbouring berth which the Trust or the Harbour Master may deem necessary, and for all other necessary purposes and the Boat Owner shall further permit all persons authorised in writing by the Trust or the Harbour Master to access the Berth at all reasonable hours, the Trust and the Harbour Master exercising these rights in such a manner so as to cause the least reasonably practicable inconvenience to the Boat Owner.

7. **Assignment**

- 7.1 This Contract is personal to the Boat Owner and the rights and obligations conferred and imposed by this Contract will not be capable of assignment or other transmission by the Boat Owner either wholly or partially. The Trust may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

8. **Removal**

- 8.1 So long as the Trust and the Boat Owner are not going to enter into a contract which will commence after the expiry of this Contract, on the termination of the Contract, the Boat Owner will remove the vessel, along with all goods, materials and equipment from the Premises leaving the Premises cleared and in such a condition as shall be in accordance with the obligations undertaken by the Boat Owner in terms of clause 5 of these Terms and Conditions.
- 8.2 If the Trust and the Boat Owner are going to enter into a contract which will commence after the expiry of this Contract, then Clause 8.1 shall not apply.

9. **Indemnity**

- 9.1 The Boat Owner shall indemnify the Trust in respect of any liability, loss or claim incurred by the Trust arising out of any breach by the Boat Owner of his or her obligations under the Contract or from the activities of the Boat Owner, or his or her agents whilst in the Harbour.
- 9.2 The Trust shall not, under any circumstances whatever, be liable for any special, indirect or consequential loss, costs, damages, charges or expenses of the Boat Owner. The Trust's total liability to the Boat Owner arising out of, or in connection with the Contract shall not exceed the annual rent paid by the Boat Owner as specified in clause 2.1 of these Terms and Conditions.
- 9.3 Nothing in the Contract limits or excludes the Trust's liability for (i) death or bodily injury caused by the Trust's negligence; or (ii) any fraudulent misrepresentation by the Trust or any fraud perpetrated by the Trust.

10. **No Tenancy Rights**

The parties agree that this Contract will not confer any tenancy rights upon the Boat Owner.

11. **Notices**

All notices under the Contract will be in writing and will be deemed sufficiently given if sent by First Class Recorded Delivery post addressed to the Boat Owner at the address which the Boat Owner has provided to the Trust or such other address as the Boat Owner may notify the Trust of in writing or, in the case of the Trust, at Kinburn Castle, St Andrews, Fife, KY16 9DR, and any notice will be deemed served forty eight (48) hours after the date on which the same was posted (excluding weekends and public and statutory holidays). In proving service, it will be sufficient to prove that the envelope containing the notice was duly addressed to the Trust or the Boat Owner, as the case may be, in accordance with this Clause, and posted to the place to which it was so addressed.

12. **Entire Agreement**

These Terms and Conditions, along with the Letter of Agreement, set out the entire agreement and understanding between the Trust and the Boat Owner in relation to the Contract and will supersede all previous proposals, agreements and other communications whether written, oral or otherwise in relation thereto.

13. **Governing Law**

This Licence and the relationship between the parties shall be governed by and interpreted in accordance with Scots law.