

**DUNSTAFFNAGE MARINA LTD**  
**TERMS OF BUSINESS**

**“Owner”** includes any person or corporate body who has entered into agreement with Us and any charterer, skipper, master, agent, or other person for the time being in charge of the Vessel;

**“Premises”** means all the land, adjacent water and buildings occupied by or under Our control, including docks, slipways, pontoons, jetties, quays, piers, mud-berths, sheds, lofts, workshops, hard standing, roadways and car parks;

**“Vessel”** includes any form of craft, boat, ship, yacht, dinghy, multi-hull or other marine structure which is the property of or is in the care and control of the Owner whether or not detailed in any agreement with Us;

**“We/Our/Us”** means Dunstaffnage Marina Limited (company number: SC 154 761);

**“You/Your”** means the Owner.

1. You warrant to Us that You are the owner of the Vessel, have the immediate right to possess the Vessel and that the Vessel length is the length You have stated to Us.
2. We accept no responsibility to You for loss, damage or delay arising from any cause whatsoever unless any such loss or damage was caused by, or resulted from, Our gross negligence or deliberate act. Subject to that exception all vessels and gear are repaired, worked on, moved, stored or otherwise managed and kept at the sole risk of the Owner.
3. Any person using any part of the Premises or its facilities for whatever purpose and whether by invitation or otherwise does so entirely at his own risk and the Owner undertakes to bring the contents of this clause to the attention of the Owner’s crew, guests and invitees.
4. The Owner assumes all risk and responsibility for the security of the Vessel and its safe operation at all times.
5. The Owner or any other persons whilst on the Premises are to immediately report to the manager or his staff any injury or accident that they become aware of which has occurred on the Premises.
6. The Owner shall maintain in full force and effect at all times a fully comprehensive insurance programme featuring comprehensive hull cover for the full market value of the Vessel, its gear and equipment (and any other property on the Premises belonging to or in the care and custody of the Owner) together with public and third party liability insurance against the liabilities of the Owner, their crew, guests and invitees in respect of damage or injury to persons or property, with to a minimum value of not less than £2,000,000 per any one claim for the Vessel and its tenders together with such other insurance cover as is normal for a vessel of its size, power and description. Such insurance will be held with a reputable insurer. Additionally, where an Owner engages paid crew for the Vessel they shall maintain a policy of employer’s liability insurance fully in accordance with current legal requirements.
7. The Owner will be responsible for all actions, proceedings, claims, damages, costs, expenses and liabilities caused by or arising from any damage or injury suffered by an person or to any property where it was caused by an act, failure to act or omission by You, Your crew, passengers, guests or persons carrying out work on Your Vessel by arrangement with You or with Your consent (including that caused by staging or scaffolding erected by any such contractor). If We suffer any loss due to any such act, failure to act or omission then You will be liable to make payment to Us to make good our loss.
8. The Owner shall produce evidence of cover in respect of an insurance required pursuant to these Terms of Business immediately on Our request and in any event within 3 days of such a request being made. Failure to do so will be regarded as a breach of these Terms of Business and, in such circumstances, we reserve the right to require you to remove your Vessel or equipment from the Premises. Any costs incurred by Us in respect of such removal will be payable by the Owner.
9. Notwithstanding any other provisions of these Terms of Business concerning the control and management of any person working upon the Vessel and the consenting process for work to be undertaken, it is the Owner’s strict responsibility to ensure the competence, satisfactory insurance status and adequate and safe working conditions of all persons that may carry out any work upon the Vessel. It is a condition of these Terms of Business that the Owner ensures that any such person holds current, adequate and appropriate insurance cover. Failure to do so will expose

the Owner to substantial financial risk and possible prosecution. The Owner should notify Us in advance of any such work being carried out.

10. Subject to Our express written agreement to the contrary any delivery date quoted by Us is given in good faith and is not guaranteed.

11. a.) No article supplied by us to You shall carry any warranty or condition of sale, expressed or implied, as to quality, or as to fitness for any particular purpose unless the customer when ordering that article sufficiently explains the purpose for which it is required and makes it clear that he is relying on our skills and judgement.

b.) No proprietary article ordered from Us by name, type and/or size by You shall warranty or condition of sale, save as far as We can pass on a manufacturer's warranty.

c.) We are not responsible for interruption of power or water supply or the loss of internet access either on the pontoons or in the yard, due to adverse weather condition, storm damage and national shortage, although every effort will be made to maintain and restore these supplies.

d.) It is the responsibility of any short or long term berth holder, either afloat or on the hard standing, to pay for the usage of electricity. This will be charged daily, weekly or six monthly. We reserve the right at Our discretion to disconnect power from any vessel either ashore or afloat without notice You.

12. You acknowledge and agree that, in the interest of safety and commercial expediency in the management of the Premises, We reserve the right to move any vessel, gear or vehicle on the Premises at Our discretion and without prior notice to the Owner or occupier.

13. Owners of Vessels berthed on the pontoon at the Premises must notify Us (the Marina reception) of Your intended time of return in the event of the Vessel leaving the Premises for a period over 6 hours. The Owner shall specify the departure time, the period the Vessel will be away from the Premises and the anticipated date and time of return. We will rely upon this information in planning access for visitors and other owners. If the information supplied by the Owner is inaccurate or incomplete We are unable to guarantee that the berth will be available upon the return of the Vessel to the Premises. Owners are not entitled to the exclusive use of any particular pontoon berth.

14. We retain all rights of possession in respect of each pontoon berth. While we will endeavour to ensure that the pontoon berth allocated to the Owner at the time of booking is available for use by the Vessel, we shall have an absolute right to alter the location of the pontoon berth within the Premises from time to time and the Vessel shall be moored in the pontoon berth allocated by Us to the Owner from time to time and shall not be moored elsewhere on the Premises without our prior approval.

15. At any time when a pontoon berth is not actually occupied by the Vessel, We shall be free to permit its use (and charge a fee) by any other Vessel without paying compensation or giving any discount to the Owner.

16. Owners using any part of our premises and/or facilities for whatever purpose, whether by invitation or otherwise, do so at Their own risk unless injury or damage to person or property sustained within the premises and/or facilities was caused by or resulted from Our negligence or deliberate act or that of those for whom We are responsible. We can accept no responsibility for any Owner living short or long term aboard any Vessel within the marina.

17. Owners and Their crewmembers should observe all signage and especially safety notices since heavy machinery does operate on a continuous basis at the Marina throughout the year.

18. No work shall be carried out on Vessels or equipment on any part of the Premises without Our prior written consent, save for minor running repairs or maintenance of a routine nature carried out by the Owner, Your regular crew or members of Your family. We reserve the right to require the Owner to move the Vessel to a designated area of the Premises, or a specific berth, before work, maintenance or repairs are carried out.

19. The Owner must ensure that work, maintenance and repairs carried out to a Vessel on the Premises is executed in a safe, workmanlike and tidy manner and does not cause any nuisance or annoyance to Us, any other users of Our premises or any other person residing in the vicinity, pollution, or damage to any boat, pontoons or equipment. Tools and equipment must not be placed or left on any part of the Premises. Owners must not spill liquids on the pontoon or into the water. Waste materials must be removed by the Owner after work on a Vessel. Where appropriate, We will charge the Owner for removing any tools, equipment or waste materials and making good any damage to the Premises or boats or vehicles on the Premises. Such remedial work will be charged to the Owner at Our published

hourly rates, details of which are available on request at the Marina office or, alternatively at the rate charged to Us by third party contractors. The Owner will be notified of such costs before work is carried out if it is practical to do so.

20. No one is permitted to build any Vessel or complete a part-built Vessel on any part of the Premises without obtaining Our prior written consent.

21. Contractors may not work on a Vessel without our prior written consent and on reasonable notice. Prior written consent for work to be carried out on the Premises will not be withheld by Us without good cause where:

- i.) the work to be carried out is work for which We, or our concessionaries or those who normally carry out work on our behalf would normally employ a specialist subcontractor; or
- ii.) the work is being carried out by the manufacturer or supplier of the Vessel under a warranty.

22. The Owner shall ensure that the contractor contacts the marina office or pre-arranged person on arrival and exit of the Premises each day.

23. The Owner must ensure that, suitable risk assessments, method statements and a copy of the contractor's third party liability insurance policy in the sum of £5,000,000 accompanies the request for consent referred to above. The Owner must also ensure that contractors are only employed to carry out such repairs that they are qualified to undertake and that contractors have the appropriate and requisite accreditations. For the avoidance of doubt, We reserve the right to refuse Our prior written permission for the work once We have had the opportunity to consider the risk assessments and method statements of the contractor.

24. We reserve the right to insist that contractors working on the Vessel on behalf of the Owner leave the Premises if either the Owner or the contractor has failed to comply with the provisions of these Terms of Business. We also reserve the right to withdraw Our consent if any work is carried out in contravention of the relevant Health and Safety legislation or approved codes of practice. In such circumstances, the Owner shall instruct the contractor to leave and shall restore the area where work was underway into the condition it was in prior to the commencement of the works.

25. Where a contractor appointed by an Owner requires work to be carried out by Us to assist with the handling of any Vessel or equipment, any such work will be charged by Us directly to the Owner.

26. Work carried out by Us at the request of a contractor appointed by an Owner, to remove and forward any part or equipment to the contractor's place of work will be invoiced directly to the contractor

27. In all cases where a contract or hire license to occupy any berth, storage space, property or facilities may be lawfully terminated by notice, the same shall be deemed to be lawful if personally sent by registered post or recorded delivery service to the last known address in the United Kingdom of the Owner.

28. Vessels stored at seasonal rates ashore or in mid-berths will be launched or put afloat as near the end of the seasonal period as, in Our opinion, tide, weather conditions and available facilities permit and in such sequence as to avoid moving other Vessels for this purpose and also so as to make the most economical use of the facilities at Our disposal. At the Owner's request We will, if possible, launch Their vessel at any suitable tide and in suitable weather conditions but the cost of moving other Vessels for this purpose and any attendant expenses must be paid for by the Owner. Moorings are at all times subject to Our Rules and Regulations.

29. Subject to express agreement in writing to the contrary, all estimates given by Us are subject to the cost of labour and materials remaining at the same level as those prevailing at the time of the estimate, and the quoted price shall be increased or decreased by the amount which the actual cost of labour, materials and overheads has increased or decreased by reason or variation of the aforesaid levels since the date of the estimate. However the estimate shall not be adjusted to meet any increased costs, which would not have occurred, but for Our failure to proceed with the work with reasonable dispatch.

30. Any quotation is subject to acceptance within seven days from the date thereof.

31. Upon Your acceptance of any estimate provided by Us, You shall pay a non-refundable deposit in a sum equal to 10% of the total value of the accepted estimate payable to Us. Where such deposit is unpaid within a further seven days, We reserve the right to cancel the reservation. Where a berth or storage of a Vessel ashore is booked by an Owner and a Berthing Form is signed, We may, at Our discretion, charge a 10% cancellation charge if the berth or

storage reservation is subsequently cancelled by the Owner. Sums owed to us in respect of storage, berthing, repairs and transport costs in respect of any Vessel booked on a road transport and departing from the Premises must be paid for in advance by the Owner. Where sums remain outstanding, We reserve the right to withhold the Vessel.

32. In the absence of any written agreement or agreement to the contrary delivery is given at Our yard or in the water adjacent thereto.

33. Estimates cover only the work and/or the items specified thereon. All additions, waiting time and any additional costs due to modified instructions will be charged to the Owner at the ruling rate. If, in the course of executing any work, We find any defect in a vessel and/or its gear that in Our opinion should be rectified without delay and before the Owner's consent can be obtained, We reserve the right to carry out such necessary repair at our discretion and charge same to the Owner. Notice of any such rectification will be forwarded to the Owner forthwith.

34. Unless otherwise specified, Our terms of payment for goods supplied, work done and berthing are net within 14 days from the date of invoice or before removal of the Vessel or goods, whichever shall be the earlier. If the Vessel or goods, are not removed within 14 days from the date of invoice. We shall have the right thereafter to make a retrospective reasonable berthing or storage charge.

35. We have the right to exercise a general lien upon any Vessel and/or its gear and equipment whilst in or upon the Premises or afloat at any of Our pontoon berths, until such time as any monies due to Us from the Owner in respect of such Vessel and/or its gear, whether on account of rental, storage or berthing charges, work done, administration charges, legal costs or otherwise, are paid to Us in full by the Owner. In the event that the aforementioned lien remains unsatisfied for the specified period of time notified in writing to the Owner by Us, the Vessel will be sold on Our brokerage and the proceeds of sale will be used to satisfy the monies owed by the Owner to Us. Any remaining balance of the amounts realised will then be remitted to the Owner.

36. Goods (including vessels and/or their engines, gears and equipment) for repair or other treatment are accepted by Us on Condition that the Boat Owner will take delivery of the goods when the repair or other treatment has been carried out. Our obligation as custodians of goods accepted for mooring or storage ends upon the expiry or lawful termination of the grant to the Owner of facilities for mooring or storage. Acceptance by Us of goods for repair or other treatment of for mooring or storage is subject to a right to Us to sell the goods (a) if the Owner has failed to pay any charges in relation to the goods for a period of one month after invoicing and (b) after three months' notice of intention to sell the goods has been given by the Owner in writing by recorded delivery at Their last known address. We shall account to the Owner for the proceeds of sale less any charges due to us and the costs of sale and the purchaser of goods shall have a good title thereto against the Owner.

37. Save as provided under clause 3, all goods are supplied with the benefit of the appropriate undertakings (particularly as to conformity of goods with description or sample, and as to their quality for a particular purpose), which are implied by the Sale of Goods Act 1893 as amended.

38. Except where notice is required to be given under Clause 14 or 16, and or except as regards Clause 35, the word 'Owner' shall include Charterer, Master or Authorised Agent.

39. A credit charge of 5% above base rate may be added to any Owner's account that is outstanding for more than 14 days and any Owner's account who departed without final payment. We, at our discretion, may deduct this charge provided that payment is made in full in accordance with the terms as stated on the invoice. **Any** invoice left unpaid after the 14 days payment terms are subject to a late payment penalty fee of 5% of the invoice total.

40. This agreement is for all purposes governed solely by the laws of Scotland, which apply to all aspects of any dispute of whatsoever nature between the company and any other. The courts of Scotland shall for all purposes have jurisdiction in respect of any such dispute except that the company reserves the exclusive right to insist upon any dispute being submitted to Arbitration in which event the company has sole rights to nominate a single arbiter whose determination shall in all respects be final.

41. Subject to express agreement to the contrary, all orders written or verbal either for equipment, parts, berthing or storage of boats are accepted on the understanding that the foregoing "Terms of Business" shall apply to each and every transaction.

42. In the event of a sale by the Owner of any Vessel moored or stored at the Premises, the Owner shall pay to Us upon request a commission of 2% of the net sale price or value realised or a £250 minimum fee (whichever is the greater) and VAT thereon unless sold through Our brokerage.
43. You shall be permitted to arrange a sale of the Vessel during the terms of Your contract with Us. The Owner expressly agrees that Their authorised agent shall be present at all times when the Vessel or its equipment is viewed or demonstrated for the purpose of the sale and in no circumstances shall the Owner display any "For Sale", "For Rent" or similar notice on or in the Vessel or any other part of the Premises, unless previously agreed by us in writing.
44. Within seven days of any sale or transfer of any Vessel, the Owner shall notify Us in writing of the name and address of the purchaser or transferee if the Vessel is to remain on the Premises.
45. Due to the legislation regarding the resale and pollution from the use of any commercial or agricultural diesel type We prohibits the movement of diesel on Marina property and especially the pontoons. As a consequence no Owner is permitted to fuel their vessel from containers or cans. Owners handling petrol for outboards are asked to do so with extreme care.
46. Owners are requested to remove any dog or animal fouling caused by their own animals immediately, failure to do so may result in the Owner being asked to leave without refund.
47. If Owners are using our Sail Store for storage of items, they must do so at their own risk as the Marina will take no responsibility for loss or damage to items.
48. The dinghy store is maintained and monitored by Dunstaffnage Bay Mooring Owners Association. If Owners are using this compound they must do so at their own risk as the Marina will not take any responsibility for loss or damage of items in the compound.
49. The discharge from toilets is prohibited within the Marina area.
50. Owners that have completed and submitted application form/s for their Vessel/s summer storing and/or winter storing at Dunstaffnage Marina, that subsequently cancel, will incur a cancellation fee of 5% of their total invoice.
51. We are committed to protecting and respecting your privacy. Our Privacy Policy sets out the basis on which any personal data we collect from You or that which You provide to Us is handled and stored. We will use Your personal information in accordance with current data protection legislation and in particular to (i) maintain our records in order to supply the services provided to You under these Terms of Business; (ii) to process your payment for the services provided to You under these Terms of Business; and (iii) to inform you about other services We may provide. We will only share your personal information with third parties where the law requires Us to do so or where you have consented to it.