



# Shannon Sailing Ltd.

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## TERMS AND CONDITIONS

### 1. Definitions

- 1.1. **"Berth"** The allocated water space location within the Marina may be varied at the option of the Company.
- 1.2. **"Boat"** cruiser, dinghy, vessel or craft whether or not its principal propulsion is by wind or engine
- 1.3. **"Charges"** Service charge for the services which are subject to review
- 1.4. **"Manager"** Representative of the company responsible for the day-to-day administration of the Marina.
- 1.5. **"Marina"** Land and water provided where available by the company
- 1.6. **"LOA"** Length of the overall Boat including any extension fore and aft of the Boat
- 1.7. **"Services"** services including slipways and jetties, at present known as Shannon Sailing Complex, Dromineer

### 2. Safety and Environment

- 2.1. The boat shall be berthed in such a manner as the company may reasonably require. All warps and fenders shall be provided by the owner who undertakes to ensure that the Boat is properly secured to the jetty at all times. It is the responsibility of the owner to check the security of the warps and to replace them when necessary.
- 2.2. The Company shall have the right (without prior notice):
  - 2.2.1 to move or require the owner to move and reberth the Boat to any new location within the Marina.
  - 2.2.2 to board and enter (by force if necessary) to carry out any emergency work on the Boat, if in the Company's opinion such work be necessary for the Safety of the Boat or of other Marina users. The Owner shall pay the Company's reasonable charges for such work.
- 2.3. The Owner shall ensure that at all times halyards, flags and other items attached to the Boat shall be secured so as not to cause any noise or annoyance to other Marina users.
- 2.4. The Owner shall not operate, or permit to be operated, any machinery, radio or any apparatus so as to cause any nuisance or inconvenience to other users of the Marina or any person residing in the vicinity of the Marina. The owner further undertakes for himself, his family, his visitors and agents using the Boat and Marina facilities that they shall behave in a considerate manner, so as not to cause any nuisance or inconvenience to the Company or any other Marina users. The Company has the right to require the Owner, his family and visitors to leave the Marina forthwith if any of them shall fail to observe the above obligations upon being requested by the Manager so to do.

- 2.5. The Owner shall not refuel the Boat except in the refuelling area and will ensure that extreme care is taken to avoid any spillage and to be responsible for same to the company.
- 2.6. No dangerous inflammable substances shall be brought into the Marina except in properly secured containers designed to contain such substances against leakage.
- 2.7. The Owner shall take all necessary and reasonable precautions against the outbreak of fire in or upon the Boat. At least one fire extinguisher should be provided in the Boat, suitable for the type of engine, fuel and equipment relating to the Boat and of a kind which shall be approved by the appropriate Local Authority or Governmental regulations. Such extinguisher shall at all times be kept instantly ready for use and in good working order.
- 2.8. The Owner shall navigate and control the Boat in a seamanlike manner so as to cause no danger or inconvenience to any other person or boat. The Boat shall proceed at a speed which is safe in relation to prevailing conditions and shall at all times comply with any speed restrictions – maximum water speed of 4 knots and a maximum land speed of 10 kph for all vehicles.
- 2.9. Refuse shall not be thrown overboard or left on the jetties, or other parts of the Marina and shall be disposed of only either in the receptacles provided or removed entirely from Marina. Oil, petrol, tar, paint, sewage, and any other similar noxious substances shall be discharged exclusively into receptacles specifically provided to receive such waste materials. *In no circumstances* shall such waste materials or toilets be discharged into the water or elsewhere in the Marina. Soaps or detergents may only be used if they are of a type approved by the company from time to time. BREACH OF THIS REGULATION CONSTITUTES A BREACH OF THE LOCAL AUTHORITY PLANNING CONDITIONS AND BYE-LAWS FOR WHICH SUBSTANTIAL FINES MAY BE IMPOSED.
- 2.10. Animals may only be brought into the Marina provided that they are at all times on a leash and do not cause inconvenience in the form of noise, fouling of jetties or communal areas. The Owner undertakes to clean any area fouled by such animal and to make good any damage caused. Animals insofar as is reasonably practical, shall be aboard the Boat at all times. The Company reserves the right to require the Owner to remove any animal from the Marina without prior notice.
- 2.11. No washing line shall be erected on the Boat or within the Marina, nor washing displayed on the exterior of the Boat.
- 2.12. The Owner shall not (nor shall he permit any other person to) work on the boat or carry out any repairs or renewals thereto other than minor running repairs or minor routine maintenance unless:
- 2.12.1. he shall obtain the consent in writing of the Company in advance,
- 2.12.2. he shall satisfy the Company that he and any person so employed operate within the rules and regulations of the Marina. The Owner shall take all steps necessary to ensure that no nuisance, or inconvenience shall be caused to the Company or to other Marina users or damage to other boats. And in particular the Owner shall take steps to ensure that the minimum of dust is caused when cleaning or maintaining the Boat. The Owner shall ensure that all waste materials shall be cleared daily from the Boat and taken away by him.

### **3. Management**

- 3.1. The Company and the Owner expressly agree that it is not the intention of the parties to create the relationship of landlord and tenant. A Berthing Agreement relates to a particular Boat, details of which must be supplied to the Company.

- 3.2. The Owner may not at any time sub-license Berthing rights.
- 3.3. Without prejudice to the above (Clause 12) the Owner shall be entitled to give the use of the rights hereby granted to a friend, provided that the boat to be berthed by the friend shall be of similar dimensions to the Owner's Boat.
- 3.4. The Owner is not permitted directly or indirectly to charter the Boat or otherwise use it or cause it to be used commercially without the prior written consent of the Company.
- 3.5. If the Company is unable to perform any of its obligations by reason of fire, explosion, riot, malicious damage, theft, storm, flood or any other act or omission beyond the Company's control, the Company shall be relieved of its obligations whether and to the extent that the fulfilment of such obligations is prevented, impeded or delayed as a consequence of any such event, in which event a fair proportion of fees shall be refunded to the Owner.
- 3.6. The Company expressly reserves the right to introduce new terms and conditions or vary these terms and conditions in order to promote the better administration of the Marina in the interests of users of the Marina or to comply with statutes, regulations or bye-laws applicable or imposed by the Local Authority or any governmental department or agency from time to time.
- 3.7. The Boat, dinghies, tenders, trailers and cradles shall be clearly marked with the name of the Boat. Any equipment which is not stored securely in the Boat shall also be clearly marked with the name of the Boat.
  - 3.7.1. No parts of the Boat, cradles, trailers or other equipment, dinghies, gear, fittings, or supplies, shall be stored or left upon the jetties, car parks or otherwise within the Marina without the prior consent of the Company.
  - 3.7.2. All vehicles, cradles and trailers are parked (if permitted) and the Boat is berthed at the Owner's sole risk.
  - 3.7.3. The Company shall be entitled at its sole discretion to charge a fee for the storage of any trailers or cradles within the Marina.
- 3.8. The Owner shall not himself nor shall he permit any other person to live aboard his Boat for periods longer than 30 days in any one calendar year.
- 3.9. No tent, caravan (motor or trailer) or other vehicle adapted or designed for sleeping may remain in any part of the Marina without the prior written consent of the Company
- 3.10. The Owner shall notify the Manager prior to his departure by Boat from the Marina together with the anticipated time and date of return.
- 3.11. If required by the Company, the Owner shall deposit keys of the Boat with the Manager giving full access to the interior, including engine keys.
- 3.12. If the Owner should be permitted to park his car in the Marina or if he shall park it in the area adjacent thereto then, if it is fitted with an alarm he shall deposit the keys with the Manager before departing the Marina in the boat.
  - 3.12.1. The Company shall be entitled at its sole discretion to charge a fee for the use of the Marina's car parks.
  - 3.12.2. No motor vehicle shall be parked so as to obstruct the jetties, roadway, slipway, craneage platforms or any other working areas within the Marina. The Company reserves the right to remove any vehicle by craneage, towing or otherwise if the vehicle shall interfere for any reason with the commercial activities or the convenience of Marina users or shall have an adverse safety or environmental effect.
- 3.13. The Company shall observe the Bye-Laws of the River Shannon and all other rules or regulations affecting the Marina (whether statutory or otherwise).
- 3.14. The Owner may arrange a sale of the Boat but in no circumstances shall the Owner display any "For Sale" or similar notice without having obtained consent of the Company.

3.15. The Owner shall maintain the Boat in good and clean condition and ensure that the Boat is able to proceed under its own power at all times.

#### **4. Payments due to Company**

- 4.1. If the Owner fails to pay any sum when due, such sum shall bear interest calculated at the rate of one half of one per cent per week (or part of a week).
- 4.2. The Owner shall indemnify the Company against the payment of any charges which may be levied on the berth by any statutory or other authorised body outside its control.

#### **5. Liability, Indemnity and Exclusion**

- 5.1. The Company shall not except in respect of death or personal injury caused by negligence of the Company be liable to the Owner, his family or visitors by reason of any representation or implied warranty condition or other term or any duty at common law or under any express term of this Berthing Agreement for any consequential loss or claim (whether for loss of profit, enjoyment or use of the Boat or otherwise and whether occasioned by negligence of the Company or its employees, agents, subcontractors or otherwise) arising out of or in connection with any act or omission of the Company relating to the provision of the Services and/or the use of the Marina or its facilities, including but not limited to the jetties, slipway, refuelling area, car parks and common areas.
- 5.2. Any person using any part of the Marina 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 his family and visitors.
- 5.3. The Owner shall indemnify the Company from and against all actions, claims, proceedings, and expenses made against the Company by third parties in respect of any injury, damage or liability caused by or arising from the wilful act, neglect or default by the Owner or of any person acting for or on behalf of the Owner or directly or indirectly out of the breach, non performance or non observance of any of the Terms and Conditions of this Agreement
- 5.4. The Owner shall pay the Company's reasonable charges for making good any damage caused to property in the Marina if such damage shall result from any activity of the Owner his family or visitors which shall be in breach of these terms and conditions.

#### **6. Insurance**

- 6.1. The Owner undertakes to maintain public liability insurance for an amount of not less than Euro 2.0 million in respect of the Boat and any other property in the Marina in the care custody or control of the Owner together with such other insurance as is normal for a Boat of its size, power and description. Such insurance to be effected with an Insurance Company of repute, and for such other sum and for such other risks as the Company may from time to time reasonably require.
- 6.2. The Owner shall not cancel such insurance policy without the prior written consent of the Company which consent will not be unreasonably withheld.
- 6.3. The Owner shall:
  - 6.3.1. on request furnish to Company legible copies of the current insurance certificate and policy of insurance together with copy of receipt for the last premium paid;
  - 6.3.2. not work or permit any other person to work on the boat or carry out any repairs or renewals unless he has satisfied the Company that he and any person so employed is adequately covered by public liability insurance.

## **7. Termination**

7.1. The Company shall have the right to terminate any Berthing Agreement forthwith by notice in writing to the Owner in any of the following circumstances:

7.1.1. If the Owner shall be in breach of a Substantial Term of the Agreement which shall include but not be limited to, any term relating to the payment of any sum due to the Company.

7.1.2. If the Owner shall be in breach of any term not being a Substantial Term and shall not remedy such breach within fourteen days of written notification by the Company of details of the breach to the Owner

7.1.3. If there shall be a repeated breach of any of the terms other than a Substantial Term of the Berthing Agreement. A repeated breach is defined as two or more breaches of any of such terms.

7.2. Upon termination of the agreement the owner shall forthwith remove the Boat from the Marina. If the Owner shall fail to remove the Boat the Company shall be entitled to remove the Boat from the Marina and locate it elsewhere. The Owner shall pay craneage, storage, removal and all expenses reasonably incurred by the Company including alternative berthing fees calculated at the Company's published short term rate.

## **8. SPECIAL CONDITIONS**

8.1. Access is limited to the Marina and entry upon all adjoining land, premises and water owned by the Company is forbidden. No water skiing, speedboat racing or hydro-planing is allowed. Jet skiing is prohibited.

8.2. Electricity (where applicable) is provided subject to the following terms and conditions:

8.2.1. The Company cannot guarantee continuous supply as power cuts and breakdowns are not within its control. Overloading will cause trips to activate, immediate reconnection may not be possible. The Company shall not be obliged to do this outside office hours.

8.2.2. Cables and connectors not supplied by the Company shall be approved by the Company. The Owner shall not seek to connect or reconnect connectors and cables without receiving prior approval.

8.2.3. Supply is provided to and for the Boat only. Shared supply is not permitted.

8.2.4. All electricity supplied shall be paid for by the Owner on demand at the current rate of charge in force at the Marina from time to time and if payment is overdue the supply shall be disconnected and a reconnection charge made.

8.3. Boats lying ashore will be launched by the Company or its concessionaires at the Owner's request, weather conditions permitting, the cost of same must be paid by the Owner.

8.4. It is the Owner's responsibility to ensure that his Boat is adequately protected against frost damage.

## **9. Arbitration**

9.1. All disputes which arise between the parties in connection with this Agreement or the subject matter of this Agreement shall be decided by an Arbitrator agreed by the parties.