



Dromineer, Co Tipperary  
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## TERMS AND CONDITIONS

### 1. Definitions

- 1.1. "Berth" The allocated water space or hard-standing space location within the Marina complex, which may be varied at the option of the Company.
- 1.2. "Boat" cruiser, dinghy, vessel or craft, 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 overall of the Boat including any extension fore and aft of the Boat
- 1.7. "Services" Services including slipways and jetties, at present known as Shannon Sailing Marina, 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 re-berth the Boat to any new location within the Marina.
  - 2.2.2. To board and enter (by force if necessary), move, lift ashore, slip 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 themselves, their family, 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, their 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. Please report any spillage to staff immediately.
- 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. All refuse associated with the Boat is the responsibility of the Owner and 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. 'Littering' is charged at €250 + VAT & cost of disposal. 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



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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 along with immediate termination of your Berthing Licence.

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. There is a fouling charge of €80 per instance. 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 acknowledges and agrees that the Boat may undergo fair wear and tear and deteriorate whilst on site and this may include, but is not limited to, oxidization, corrosion, condensation, perishing of plastics, rubbers, seals and hoses, development or increase of leaking, water ingress, deterioration of electrical systems, settling and sedimentation of oils and petroleum products, seizure of moving parts due to lack of use and deterioration of other mechanicals, paintwork, materials (especially covers), hull and superstructure, deterioration arising from being on the Marina for a long period.

2.12.1 The Owner is completely responsible for how property is secured and the Company take no responsibility for securing your property in or out of the water. If you require the assistance of the Companies staff, you indemnify the company for this assistance.

2.13. The Owner shall not (nor shall they 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: 2.13.1. They obtain the consent in writing of the Company in advance, (which may be withheld at the Company's sole discretion). Insurance must be produced.

2.13.2. They satisfy the Company that they or 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 themselves.

### 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 clearly identified by Name or alternatively by number, details of which must be supplied to the Company.

3.2. The Owner may not at any time sub-license Berthing rights.

3.3. The Owner shall not lend nor transfer the berth nor shall they use it for any other vessel without prior consent of the Company.

3.4. The Owner is not permitted directly or indirectly to charter the Boat or otherwise use it or cause it to be used for any commercial purpose, including hiring, embarkation or disembarkation of charter parties, sale or demonstration of sale or hire of the vessel used commercially without the prior written consent of the Company which may be withheld at the Company's sole discretion.

3.5. If the Company is unable to perform any of it's 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 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

POD Marine Limited trading as "Shannon Sailing Marina"

Directors: Pat O'Donnell P.J. O'Donnell

Registered Office: California Heights, Chapelizod, Dublin 20

VAT: 3524506KH

Company Registration: 616427

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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. Unless otherwise expressly agreed, we are in no way responsible for your property or how you secure it.

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 complex.

3.8. The Owner shall not themselves nor shall they permit any other person to live aboard their 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. If your boat/ item stored is not booked and paid, the Company reserves the right to remove from our property. Your boat is booked via Berthing Agreement, all other items must also be booked and paid for separately under 'Storage'. Items include masts, trailers and any items left ashore.

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. We also reserve the right to designate your place to park.

3.12.2. No motor vehicle shall be parked so as to obstruct the jetties, roadway, slipway, crane platforms or any other working areas within the Marina. The Company reserves the right to remove any vehicle by crane, 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.

3.12.3. All Berthage & Storage Fees are charged in advance. No boat/ item stored will be allowed to leave without full payment in advance. We are not responsible for any unspecified 'abandoned items'.

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 shall be permitted to arrange a private sale of not more than one vessel (such vessel usually being berthed at the Company's premises) during any one or more periods of twelve consecutive months of the agreement granted to the Owner. In the event of such a private sale: 3.14.1. The Owner shall be present at all times during which the vessel is being viewed, and he shall not be permitted to display a 'For Sale' notice on his vessel whilst in or on the Company's Marina or premises.

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. We reserve the right to charge a fair rate for carrying out maintenance on your behalf

3.16. Any person or Company carrying out work on boats within the marina must 3.16.1. Get permission from the Company in advance.

3.16.2. Produce evidence of Insurance to ensure that they have satisfied the Company that they and any person so employed is adequately covered by public liability insurance.



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3.16.3. The company reserves the right to charge a fee allowing a person or company to work on boats within the marina.

3.17. Any person or company found to be carrying out work on boats within the marina without prior authorisation from the company 3.17.1. Will be asked to cease work and leave the premises.

3.17.2. May have a fee of no less than €250 placed upon them.

3.18. The owner of a vessel which allows unauthorised work to be carried out on his craft 3.18.1. May have a fee of no less than €250 placed upon them.

3.18.2. May be asked to vacate their berth.

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

4.1. If the Owner fails to pay any sum when due, such sum will bear interest calculated at the rate equal to Bank of Ireland +2% 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.

4.3. The Company shall have the right to exercise a general lien upon the vessel and/or other property of the vessel's Owner whilst in or on the Company's marina or premises until such time that any money owed to the company in respect of the vessel and/or other property, whether an account of rental, storage, commission, berthing, electricity, workshop and fuel charges, damages to Company property, work done or otherwise (including without limitation, interest and the Company's costs in enforcing this general lien and obtaining from the owner payment of any due amounts to the Company under these Rules) shall be paid.

4.4. The Company shall have the right to impound, move, and lift ashore a vessel if fees have been outstanding for 3 months. The Owner shall pay the Company's reasonable charges as per Fee Charter for such work.

#### **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 their own risk and the Owner undertakes to bring the contents of this clause to the attention of their 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 their 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



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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 the 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 they have satisfied the Company that they 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 carriage, storage, removal and all expenses reasonably incurred by the Company including alternative berthing fees calculated at the Company's published daily rate.

7.3 The 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 rate or rates that would have been applicable to the actual period of the licence instead of the annual rate: the amount so calculated should not be less than 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 the balance before removing the vessel from the marina.

## 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 hydroplaning is allowed. Strict no wake policy in the marina.

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 in advance of use. 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.

8.2.5. Persons must only connect to their pre-authorised electricity outlet

8.3. Boats lying ashore will be launched by the Company or its concessionaires at the Owner's request, weather conditions permitting, and 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.



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## 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.

## 10. Abandonment

10.1 Any property left on site not falling into a valid agreement in agreed locations, will become the property of the Company after 3 months e.g. A boat in a particular berth, a car in a particular parking space, a trailer in a designated bay.

10.2 If we cannot make contact with you following unpaid bills, we reserve the right to remove your property from our premises or charge you a fee equal to twice our current rates for same. See condition 4 above.

10.3 The Company is in no way responsible for unidentifiable property, it is the owners responsibility to ensure all their property remains in the pre-determined locations and fees paid.

10.4 Following 'any service' of a vessel, after 7 days your vessel will be charged for berthage or storage at our daily rate. If we cannot accommodate your vessel in the water, we reserve the right to lift and place it on hardstand for which you will be charged for lifting and our advertised daily rate.

10.5 We reserve the right to detain vessels pending ordinary enforcement of a judgement debt against the owner of said vessel. Failure to pay debts after a reasonable period will lead to sale of vessel to cover debts owed.



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