



BARTON MARINA- TERMS AND CONDITIONS

OUR TERMS

1 THESE TERMS

- 1.1 In these Conditions 'the Company' or 'us' shall mean Lakeland Leisure Estates Ltd and its subsidiaries including Barton Turns Marina Ltd, a company registered in England and Wales. Our registration number is 02500695 and our registered office address is The Studio, Station Road, Staveley, Kendal, Cumbria, LA8 9NB. Our registered VAT number is 533769519. The expression 'Owner' or 'you' shall include the Agent, Master, Charterer or other person for the time being lawfully in charge (other than the Company) of the vessel. The person entering into this Contract warrants that he/she has authority to do so from the Owners and all others interested in the vessel.
- 1.2 These Conditions apply to the contract between the Company and the Owner ('the Licence') to the exclusion of all other terms and conditions (including any terms and conditions which the Owner purports to apply under any purchase order, confirmation of order or other document).
- 1.3 Payment of your invoice and/or use of a mooring within the Marina is deemed acceptance of these Conditions.
- 1.4 'The Marina' means all the land, adjacent water and buildings occupied by the Company at Barton Marina including any facilities for servicing, overhauling or repair and any other facility for launching, navigating, mooring, or berthing a vessel.

2 HOW TO CONTACT US

- 2.1 You can contact the Company by telephoning our offices at 01283 711666 or by writing to us at enquiries@bartonmarina.co.uk or Barton Marina, Burton upon Trent, Staffordshire, DE13 8DZ.

3 YOUR INFORMATION

- 3.1 We will only use your personal information as set out in our Privacy Policy, which can be found at <http://www.lakelandleisuregroup.com/privacy>.

4 THE LICENCE

- 4.1 The Company will provide access to a berth at the Marina as part of the Licence.

5 PRICE AND PAYMENT

- 5.1 The prices payable during the period of licence shall be the price published on the Company's price list available at www.bartonmarina.co.uk ('Licence Fees'). The Licence Fees will be calculated by reference to the applicable published price at the commencement of the Licence.

- 5.2 All Licence Fees are payable strictly in advance either monthly in advance, quarterly 3 months in advance or annually 12 months in advance.
- 5.3 If the Owner does not make payment of any fees by the due date the Company shall be entitled to charge interest on the overdue amount at a rate of 5% above the base lending rate of Bank of England from time to time, accruing monthly. This interest shall accrue on a daily basis from the due date until the actual date of payment of the overdue amount, whether before or after judgment. The Owner must pay the interest together with any overdue amount.
- 5.4 If you think an invoice is wrong, please contact the Company promptly to inform them. You will not have to pay any interest on the disputed amount until the dispute is resolved. Once the dispute is resolved, the Company will charge you interest on correctly invoiced sums from the original due date.
- 5.5 You can pay a reservation fee to reserve a berth in advance (subject to availability). Reservation fees are not refundable.
- 5.6 Refunds: If you have paid an annual fee this is for a 12-month commitment, your invoice will be recalculated at the quarterly rates subject to the 90 day notice period. The Company will not refund monthly or quarterly mooring contracts.

6 YOUR OBLIGATIONS

- 6.1 While your vessel is berthed at the Marina you are required to have the following valid documentation in place:
- 6.1.1 Canal and River Trust Licence, this must be prominently displayed on your vessel at all times;
- 6.1.2 Boat Safety Certificate or Recreational Craft Directive Certificate of Conformity; and
- 6.1.3 third party insurance (see clause 6.6 for details).
- All such documentation is to be made available to the Company to grant a mooring licence or at any other time the Company so requests. You will not be granted a Licence without demonstrating to us that you have the above documentation. If any of the above expire during the Term of the Licence and renewed documentation is not obtained by you, we may terminate the Licence immediately.
- 6.2 The Licence granted to an Owner is personal to the Owner and a particular nominated vessel. Within seven days of any sale, transfer or mortgage of any vessel, the Owner shall notify the Company of the name and address of the purchaser, transferee, or mortgagee as the case may be.
- 6.3 No part of the Company's moorings or premises or of any vessel or vehicle while situated there in or thereon shall be used by the Owner for any commercial purposes including the private sale of the Owner's vessels or vehicles.
- 6.4 Subject to paragraph 6.5.2 of this condition, no work shall be carried out to the vessel whilst at the Company's moorings or premises (unless with prior written consent of the Company which may be withheld at the Company's sole discretion) other than minor running repairs or minor maintenance of a routine nature by the Owner, his regular crew or family members and subject to not causing any nuisance or annoyance to any other users of the Company's moorings or premises or any other person residing in the vicinity.

- 6.5 Prior consent for work to be carried out on the Company's moorings or premises shall not without good cause be withheld in the following circumstances:
- 6.5.1 Where the work to be carried out is work for which the Company, its concessionaries or those who normally carry out the work on its behalf would normally employ a specialist contractor;
 - 6.5.2 Where the Company is satisfied that the whole of the work is remedial and not servicing as is being carried out under warranty by the manufacturer and/or supplier of the vessel or any part of her equipment to which the warranty relates; or
 - 6.5.3 If the Company has set aside an area of the Company's moorings or premises where owners may carry out work on their vessels, and the work for which consent is sought is restricted to that area and is not to be carried out in a manner prohibited under Regulations for the time being made by the Company regard thereto.
- 6.6 The Owner shall maintain third party insurance in respect of himself and each of his vehicles, vessels, his crew for the time being and his agents, visitors, guests, and sub-contractors in a sum of not less than £1.5 million in respect of each accident or damage and in respect of each vessel adequate salvage insurance. Such insurance shall be effected and maintained in an insurance offer of repute and the Owner shall produce the policy or policies relating to the Company on demand.
- 6.7 The Owner, its guests and crew are advised that vessels are at all times subject to the speed restrictions and byelaws of Harbour and navigation authorities and the requirements and powers of regulatory authorities, including but not limited to the Maritime and Coastguard Agency and The Health and Safety Executive and Environment Agency. There are criminal penalties for the breach of such restrictions, requirements, and byelaws.
- 6.8 The Owner must keep his/her vessel in good condition, well maintained and protected at all times. If in any opinion of the Company it has deteriorated so as to be unfit to remain in the Marina, then the Company reserves the right to terminate any licence granted by these Conditions.
- 6.9 Vessels shall be berthed by the Owner with all necessary warps and fenders unless otherwise stated, supplied by the Owner.
- 6.10 A vessel's electrical equipment and shore power cabling must be safe to use and maintained in good working order in accordance with the relevant regulations and standards. Any damage caused to the Marina by faulty equipment will be chargeable at full repair cost. Only electricity cards issued by the Company may be used with the Marina bollards.
- 6.11 All persons using any part of the Marina premises or facilities for whatever purpose and whether by invitation or otherwise do so at their own risk unless injury or damage to person or property sustained within the Marina, premises or facilities was caused by or resulted from the Company's negligence or deliberate act or that those for whom the Company is responsible. In the event that any person has an accident on the Marina, no matter how the accident may have been caused and whether or not the accident involved the Company's property and whether or not the accident involves injury to a person or damage to a vessel or property or equipment belonging to the Company or other person, the Owner or other person who shall for the time being have responsibility for the person, vessel or equipment that cause or was involved in the accident is required to report the accident to the Company's office as soon as is practicable and in any event no later than 24 hours after the accident took place.

- 6.12 No vessel when entering or leaving or manoeuvring in the Marina shall be navigated at such speed in such a manner as to endanger or inconvenience other vessels in the Marina. Vessels are at all times subject to speed restriction and conditions of the usage of the canal system.
- 6.13 No noisy, noxious or objectionable engines, loud music or other apparatus or machinery shall be operated within the Marina or premises so as to cause any nuisance or annoyance to the Company, to any other users of the Marina or premises or to any person residing in the vicinity and the Owner undertakes for himself, his guests and all using the vessel that they shall not behave in such a way as to offend the aforesaid. No running of engines or generators between the hours of 6pm and 8am.
- 6.14 Unless the Owner has the Company's prior consent (*which may be withheld at its sole discretion*), the Owner shall not lend or transfer the berth (*the Agreement being personal to the Owner relating to a particular vessel and non-assignable*) nor shall he use the berth for any other vessel. Mooring or storage accommodation and/or vessels may not be sublet by the Owner.
- 6.15 No fishing unless under licence is allowed in the Marina.
- 6.16 No bathing, diving or any form of water sports is allowed in the Marina.
- 6.17 No refuse shall be thrown overboard or left on the jetties or car parks or disposed of in any way other than in the receptacles provided by the Company. All spillages must be reported immediately, the cost of any clean-up operation will be recharged. Non domestic waste found to be disposed of on site will incur a removal fee, chargeable to the Owner.
- 6.18 Craft using the leisure moorings must not be used as a permanent place of residence. Occupation of the vessel by you or any other person must not exceed 28 days in any one consecutive period. No post will be received for leisure moorers. Owners must have a permanent residential address outside the Marina, proof of residential address must be supplied to the Company to grant a mooring licence. Residential moorers may have post delivered to the marina. The company does not take responsibility for the loss of any post or packages left on the premises.
- 6.19 The Owner must notify the Company in writing of the details of any changes of name of the vessel or change of address or contact details of the Owner.
- 6.20 Pets must always be kept on a short lead. Pets should not cause a nuisance to the Company or other users of the moorings or premises. All foul should be cleaned up immediately by the Owner and disposed of in the receptacles provided by the Company and Owners remain responsible for the actions of their guests' pets.
- 6.21 No items of boats, gear fittings or equipment, supplies, stores, or the likes shall be left upon the jetties, car parks or Company premises. No items such as bicycles, storage boxes, coal, or wood to be stored on the roof of vessels. Wash lines or rotary lines are not permitted. Maximum height of TV aerials above roof level to be 1 metre.
- 6.22 The sale of vessels within the Marina will be undertaken by the Marina brokerage company only. No advertising, marketing, exchange, or agreement to sell any vessel may be conducted by another broker or the Owner whilst under mooring licence or notice period. Any breach of these Conditions will incur a brokerage fee payable to the Company. The 90-day notice period applies for the termination of the mooring agreement.
- 6.23 Any vessel on a designated brokerage berth may not be occupied overnight at any time.

- 6.24 Barbecues and portable gas cookers are only permitted in designated areas. Open fires and fireworks are strictly prohibited.
- 6.25 Damage to jetties or bollards from either spillage or collision will be the responsibility of the Owner at full repair cost.
- 6.26 All boat Owners should be aware that jetties may become slippery during wet, inclement, or cold weather. Extreme caution must be taken, and it is advised that suitable footwear be worn. The Company shall not be held responsible for any accidents that may occur.
- 6.27 Children are the sole responsibility of the Owner and must remain under the Owner's supervision at all times. Children under the age of 12 must wear adequate life jackets.
- 6.28 Running or cycling on the jetties is not permitted.
- 6.29 The Owner shall take all necessary precautions against the outbreak of fire in or upon the vessel and the Owner shall observe statutory and local regulations relative to fire prevention (if any) which shall be exhibited at the offices of the Company. The Owner shall provide and maintain at least one fire extinguisher of governmentally approved or BSI standard type and size in or on the vessel for immediate use in case of fire. Owners shall not refuel vessels in the Marina other than at the Company's refuelling berth.
- 6.30 Only smokeless fuel shall be burnt while the vessel is moored in the Marina.
- 6.31 Care must be taken when driving on the premises and displayed speed limits strictly adhered to. You must ensure that any vehicle you, your crew and visitors bring to the Marina is fit for purpose. Vehicles must be taxed, have a valid MOT, and valid insurance. Vehicles registered under the statutory off-road notification scheme are not allowed on Company premises.
- 6.32 Subject to the availability of space the Owner may park a maximum of one non-commercial motor vehicle per vessel on the Company's premises at any one time. Residential moorers may park two non-commercial vehicles on the company's premises. Vehicles must be parked in designated parking areas only. The Owner must not park commercial vehicles, campervans, caravans, trailers, or any other form of motor vehicle on the Company's premises. Additional vehicles are chargeable at £80 per month.
- 6.33 Owners and those entering into the Agreement will remain responsible for the acts and omissions of the guests, invitees and visitors and covenant upon the behalf of such persons that those persons will abide by and perform the Owner's obligations under these Conditions so far as such requires to be performed and complied with by such persons. Any loading of a craft should be notified to the Marina office so that the Company can monitor all persons arriving and leaving the moorings.
- 6.34 No anti-social behaviour or abuse, verbal or physical, is permitted towards Company employees, its customers, or other persons at the Marina. The Company will terminate your mooring licence immediately if you, your crew, or visitors breach this clause.
- 6.35 No gas bottles shall be stored on or in a vessel or vehicle other than within the vented locker provided for the purpose of housing such bottles. No fuel shall be stored on a vessel or vehicle other than within the fuel tanks. The filling of the vessel's tank with fuel is not permitted within the Marina other than from the Company's fuel dispenser.
- 6.36 The Marina adjoins the Trent and Mersey canal which is controlled by the Canals and Rivers Trust ('CRT'). You are required to use the canal in accordance with CRT regulations and good practice guidelines. Water levels and the ability to cruise the canals are managed by CRT.

7 Residential Moorings

- 7.1 The total price of the mooring does not include:
 - 7.1.1 Residential Mooring council tax charges.
 - 7.1.2 Pump out, launderette, internet connection, electricity service charge, and electricity units supplied. These are provided at an additional charge which we will indicate to you over the telephone, by email or in writing.
- 7.2 Council Tax Charges.
 - 7.2.1 If you inform us that you are a composite moorer but wish to moor your vessel for over 12 months, you will be required to re-berth your vessel during each 12-month period. This will avoid you becoming an individual moorer and directly responsible for council tax charges to the local authority.
 - 7.2.2 We reserve the right to recover any charges from you in respect of any charges made against Barton Marina by the local authority and/or council in respect of your use of the Berth.
- 7.3 Non-exclusivity of Berth. Unless we allocate to you (at our discretion) a particular Berth for 12 months or more, nothing in these terms and conditions shall entitle you to the exclusive use of any particular Berth.
- 7.4 Commercial use. You are not permitted to use any part of the marina or vessel for any commercial purposes unless we provide you with our prior written consent. Commercial use includes hire of the vessel, embarkation of charter parties, rental accommodation, or advertising of any kind. If we do provide written consent, you may have to comply with additional terms and/or pay additional fees which we will inform you of.
- 7.5 Occasional use by family and friends for no payment reward will be at the discretion of our local management team. This type of use must receive our approval prior to the occupation so that we are able to monitor the correct usage and notify Emergency Services of those present in such emergency situations. We will not allow vessels to be utilised for multiple occupation i.e. the berthing recommendation by the manufacturer or to a maximum of 6 Berths for larger vessels. We may request you to provide to use full details in writing of all such use of the vessel by friends or relatives.

8 OUR OBLIGATIONS

- 8.1 The Owners 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 the Owner by the Company. The Company will use its reasonable endeavours to keep such movement to a minimum.
- 8.2 All vessels and vehicles in or on the Marina or premises may be moved by the Company to any other part of the same marina or premises without notice.

- 8.3 The Company has the right to exercise a general lien upon any vessel and or other property of the vessel's Owner whilst in or on the Company's moorings or premises until such time as any money due to the Company in respect of the vessel and or other such property whether on account or rental, storage, commission, access or berthing charges, work done or otherwise shall be paid.
- 8.4 If in the Company's opinion such be necessary for the safety of the vessel or for the safety of other vessels and users of the Marina or for the safety of the Marina, premises or plant or equipment, the Company shall have the right to moor, re-berth, move, board, enter or carry out any emergency work on a vessel and except to the extent that such mooring, re-berthing, movement, boarding, entering or emergency work arises from the negligence of the Company or those for whom it is responsible the Company's reasonable charges therefore shall be paid by the Owner.
- 8.5 The Company may refuse consent to allow a particular animal or type of animal to be kept on your vessel or attend the Marina. The Company reserves the right to require you to remove any animal which is causing a danger, disturbance, or nuisance.
- 8.6 The Company reserves the right to close the canal entrance without notice when loss of water in the Marina is anticipated.
- 8.7 The Company offer a syndicate mooring scheme (the **Scheme**). This provides complimentary use of Great Haywood Marina, Tattenhall Marina, Saul Junction Marina and Roydon Marina Village to annual moorers of Barton Marina. The Scheme is subject to availability and advanced booking is required. The Scheme carries no monetary value should there be no availability, cancellation or if the Scheme is no longer in operation and the Company has no liability to the Customer in respect of the same.

9 LIABILITY

- 9.1 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence, for fraud or fraudulent misrepresentation or any other liability that cannot be restricted by law.
- 9.2 Save as provided in these Conditions, all warranties, conditions, and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Conditions.
- 9.3 Subject to clause 8.1:
- 9.3.1 The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with these Conditions shall be limited to an amount equal to the Licence Fees paid by you in the year that the action giving rise to the claim occurs;
- 9.3.2 The Company shall not be liable in contract, tort (including negligence), statutory duty or otherwise howsoever for any claim, damage, loss or costs in respect of any indirect:
- (a) Loss of profit;
 - (b) Loss of use;
 - (c) Loss of anticipated contracts and/or savings;
 - (d) Loss of goodwill;
 - (e) Loss of opportunity;

(f) Loss of business and/or business interruption; or

(g) Any indirect loss or consequential or special loss or damage,

and the parties intend that each type of loss under this clause 8.3.2 shall be severable in accordance with clause 13.3.

10 INDEMNITY

10.1 The Owner shall indemnify the Company against all loss, damage, cost, claims or proceedings incurred by or instituted against the Company or its servants or agents which may be caused by the Owners vessel or vehicle, his servants, agents, crew, guests or sub-contractors except to the extent that such loss, damage, costs, claims or proceedings may be caused by the negligence or wilful act of the Company or those for whom the Company is responsible.

11 FORCE MAJEURE

11.1 The Company shall not be liable for any failure to meet its obligations under these Conditions if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, but not limited to, acts of God, governmental actions, war or national emergency, acts of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, explosion, flood, storm, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), failure of a utility service or transport network, or restraints or delays affecting carriers or the inability or delay in obtaining supplies or adequate or suitable materials, or other similar event (a 'Force Majeure Event').

11.2 In the event of a Force Majeure Event hindering or delaying the performance of a party's obligations for a continuous period of three months or more, either party shall be entitled to terminate these Conditions by giving not less than 30 days' written notice to the other party.

12 OUR RIGHTS TO MAKE CHANGES

12.1 The Company reserves the right to amend or supplement these Conditions at the Company's sole discretion and may introduce other rules which the Company deem necessary. Any such rules, regulations and amendments introduced to the Conditions shall be deemed to form part of these Conditions and your mooring licence from the date they become effective. In relation to any significant changes the Company makes to these Conditions, e.g. changes in the price of the services provided under these Conditions, we will notify you and you may then contact us to terminate these Conditions and receive a refund in respect of any Licence Fees paid in advance in accordance with clause 5.6 before the changes take effect.

13 TERMINATION

13.1 The Company shall have a right (without prejudice to any other rights it does or may possess) to terminate the Licence with immediate effect from the date of service of written notice to the Owner if the Owner:

13.1.1 Commits a material and/or persistent breach of any of its obligations under these Conditions (including a failure to make payment of any amount due under these Conditions) and (if the breach is capable of remedy) the Owner fails to remedy it (or make payment of any sums due) within 14 days as stated in any notice in writing by the Company; or

- 13.1.2 Commits any act which brings or is likely to bring the Company into disrepute or which damages or is likely to damage its interests.
- 13.2 If these Conditions are terminated in accordance with clause 12.1, the Company may serve notice requiring the Owner to remove its vessel within 14 days, at the expiration of which the Company shall remove the vessel and any other property of the Owner within the Marina and the Owner shall be liable for the costs of such action.
- 13.3 The Company or the Owner shall have a right (without prejudice to any other rights it does or may possess) to terminate these Conditions immediately by notice in writing to the other if:
 - 13.3.1 The other party being a Company passes a resolution for winding up or a court makes a winding up order in respect of that party or it has a receiver, administrative receiver, manager or administrator appointed over all or any of its undertakings or assets;
 - 13.3.2 The other party is unable to pay its debts or becomes insolvent (in the meaning of the Insolvency Act 1986) or makes or proposes to make an arrangement with its creditors; or
 - 13.3.3 The other party, being a business, ceases or threatens to cease to carry on its business.
- 13.4 The Company shall have a right (without prejudice to any other rights it does or may possess) to terminate these Conditions immediately by notice in writing to the Owner if:
 - 13.4.1 The Owner has a bankruptcy petition presented against it or dies; or
 - 13.4.2 Being a partnership, the Owner is dissolved.
- 13.5 When no date of termination has been agreed in writing between the parties, the Company or the Owner may terminate the licence granted by the Agreement by giving to the other 90 days' notice in writing of such termination at the expiration of which the Owner shall remove the vessel from the Marina. The Company shall refund to the Owner any unexpired portion of the Licence Fees subject to the right of set off in respect of any monies owed to the Company by the Owner in accordance with clause 5.6.
- 13.6 If the Owner fails to remove the vessel on termination of the Licence (whether under this condition or otherwise) the Company shall be entitled to:
 - 13.6.1 Charge the Owner with rental which would have been payable by the Owner to the Company had not the Licence been terminated for the period between termination and removal of the vessel from its mooring; and/or
 - 13.6.2 At the Owner's risk to remove the vessel from the Marina without any liability upon the Company including as to loss or damage arising out of its own negligence or those for whom it is responsible and charge the owner with all costs arising out of such removal including alternative mooring fees.
- 13.7 These Conditions and all rights arising under them whether or not relating to a licence to occupy any mooring afloat or ashore or licence or hire or supply of goods may be terminated by notice which shall be deemed to have been lawfully served upon the Owner if sent by pre-paid post to the last known address of the Owner as maintained in the Company's records or placed upon any vessel at the Marina to which this licence relates.

- 13.8 Any vessel or other goods left at the Marina are subject to the Provision of the Torts (Interference with Goods) Act 1977, which confers on the Company, as Bailee, a right of sale exercisable in certain circumstances. Although this right is granted to the Company the Owner acknowledges that the Company is not a Bailee of any vessel, vehicle or goods owned, belonging to or in the custody of the Owner. Such sale will not take place until the Company has given notice to the Owner or has taken reasonable steps to trace the Owner in accordance with the Act. A similar right of sale shall also arise when any vessel or other goods of which the Company is not Bailee, are left at the Marina. Any obligation of the Company towards such goods left at its marina ends upon the expiry or lawful termination of the grant to the Owner of the facilities for such vessels or goods and the Company accepts no responsibility for loss or damage to any vessel or goods including as to its own negligence or the negligence of those for whom it is responsible.

14 OTHER IMPORTANT TERMS

- 14.1 The Company may transfer its rights and obligations under these Conditions to another organisation, and you will be notified in writing if this happens, but this will not affect your rights or the Company's obligations under these Conditions. If you are unhappy with the transfer, you may contact the Company to terminate these Conditions within 14 days of you receiving notice of this and receive a refund in respect of any Licence Fees paid in advance in accordance with clause 5.6 before the changes take effect.
- 14.2 Nothing in these terms will affect your legal rights in relation to the services provided in accordance with these Conditions. For more information about your legal rights, please visit www.adviceguide.org.uk or call 0345 4040506.
- 14.3 Each of the paragraphs of these Conditions operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 14.4 These Conditions are between the Company and you. Any person who is not a party to these Conditions has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of these Conditions.
- 14.5 If we do not insist immediately that you do anything you are required to do under these Conditions, or if we delay in taking steps against you in respect of your breaking these Conditions, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you, but your vessel is still berthed at the Marina, we can still require you to make the payment at a later date.
- 14.6 These Conditions are governed by English law and either party may bring legal proceedings in respect of these Conditions in the English courts.