

#### DEFINITIONS

The "Authority" means Peterhead Port Authority constituted by The Peterhead Port Authority Harbour (Constitution) Revision Order 2005 and having its principal place of business at Harbour Office, West Pier, Peterhead, AB42 1DW or its successors as operators of the Marina.

The "General Terms & Conditions" means the Authority's General Terms & Conditions as may be varied from time to time by the Authority.

The "Harbour" means the Port of Peterhead and all the facilities contained therein, as defined in article 12(c) of The Peterhead Port Authority Harbour (Constitution) Revision Order 2005.

The "Harbour Master" means the Authority's Harbour Master, his deputy or any nominee of theirs.

The "Marina" means Peterhead Bay Marina including the protective stone breakwaters, pontoons, access bridge, services and administration building, walkways, hard standing boat compound area, car park and all plant and equipment fitted or placed thereon by the Authority.

The "Regulations" means these Regulations relating to the use of the Marina.

The "Vessel" means any vessel, craft, boat, yacht, dinghy or other marine structure which is the property of or is in the control of the Owner.

The "Owner" means any person in control of the Vessel (other than the Authority) including any charterer or hirer.

#### PROVISION OF MOORINGS

The Authority shall be under no obligation to provide berthing facilities, but in the event it does, such facilities shall be granted on the following terms and conditions:-

#### BERTH RENTAL AND HARBOUR DUES

Berths may be rented for the periods and rates published from time to time by the Authority. Where a berth rental charge is calculated with reference to the overall length of the Vessel, the length will include extensions such as davits, bowsprits, etc. and will be rounded to the nearest whole metre. An Owner is not entitled to the exclusive use of a particular berth.

In the case of an Owner renting a berth on an annual basis the berthing year will be the period of twelve months commencing on 1 April and rental charges will be payable in advance and demanded by invoice. Payment is due to be received within 30 days from the invoice date. For the ongoing rental of a berth on an annual basis full payment is due and must be made by the 31 March preceding commencement of the berthing year otherwise the Owner will be liable to pay the rental charges published by the Authority at the daily/weekly rate for the period of berth occupancy after the commencement of the berthing year. If the Owner fails to pay any sum due by it to the Authority, the Owner shall be liable to pay interest to the Authority on such sum from the due date, for the period from that due date to the date of payment at 2 per cent per annum above the base lending rate of The Royal Bank of Scotland plc. Subject to all applicable laws and regulations, the Authority has the right to exercise a lien upon any Vessel and/or any gear and equipment whilst in the Marina or Harbour until all monies due to the Authority in respect of the Vessel have been paid. The Authority shall be entitled to refuse to deliver up the Vessel until all such sums have been paid. Berthing charges accruing shall continue to accrue during such period. If any sums remain unpaid for a period of 60 days from the due date the Authority shall be entitled to take possession of any such Vessel and to sell it and reimburse the Owner the sale proceeds less sums due to the Authority and the reasonable sale costs and expenses incurred by the Authority. The Authority shall have no liability in this regard. No refund is due for berths that are vacated part way through a year. If payment for a berth is not received by the due date, the Authority reserves the right to cancel the berth.

#### THE LICENCE

The right to berth a Vessel in the Marina relates to a particular Owner and Vessel. The Authority reserves the right to cancel an offer of a berth if on inspection of the Vessel it is considered unsuitable for berthing in the Marina because of its dimensions, weight, method of construction, state of repair, type of fendering or other reason. In such circumstances a proportionate refund of any future berth rental charges already paid will be made. A licence to berth in the Marina may not be transferred, nor may it be used for any other vessel without the prior written consent of the Authority. A licence to berth in the Marina issued on an annual basis will be valid from the date of issue until the following 31 March. The Owner must provide the Authority with an address and contact telephone number. Any change in the details relating to the Owner or Vessel provided on the application form, shall be notified to the Authority forthwith.

#### USE OF ELECTRICITY

Electricity is available at most berths although the supply is not guaranteed. If electricity is required to be supplied to unattended vessels or for use other than for low powered equipment, a metering system must be purchased or rented from the Authority. In such circumstances the Owner will be charged for the number of units consumed and shall pay on demand at the current rate of charges in force at the Marina from time to time. Connectors and cables not supplied by the Authority shall only be used if they are of proper manufacture and comply with UK government standards. The Owner will be liable for any damage to the electrical equipment incurred as a result of the acts or neglects of the Owner.

#### VESSEL IDENTIFICATION

Vessels berthed in the Marina must have their name clearly displayed. The Owner must ensure that any display sticker provided by the Authority as evidence of the relevant dues having been paid is displayed in a conspicuous position on the Vessel.

#### MOORING OF VESSEL

The Owner shall berth and leave the Vessel safely and securely moored and appropriately fendered and in such a manner, position and location as the Authority may require. The Authority shall have the right to alter the location of the berth from time to time. The Owner must ensure that no damage, obstruction, nuisance or annoyance is caused to the Harbour and other Harbour or Marina users. All necessary warps and fenders shall be supplied by the Owner. In the event that the Vessel has sails, these are required to be removed and stored safely when not in use and all rigging secured safely. Any outboard motors are to be removed from the water and stored safely on the Vessel when not in use. The Owner shall, if required to do so by the Harbour Master, give free access across the deck of his Vessel for persons and goods to and from vessels berthed alongside his Vessel. The engines of any Vessel moored in the Marina shall not be operated in such a manner so as to cause damage to the bed or banks of the Marina or to any other vessel or property.

#### MOVEMENT OF VESSELS

The Authority shall have the power to move, enter or board any Vessel if in its opinion this is necessary for the safety of the Vessel and/or safety or convenience of other Harbour users and/or safety of the Authority's premises, plant or equipment and/or any other reason determined by the Harbour Master acting reasonably. The Authority reserves to itself absolute discretion as to the means and procedure to be followed in the handling of any Vessel notwithstanding any express instructions given by the Owner in relation thereto. If required by the Authority, the Owner shall leave a duplicate set of their Vessel keys with the Authority at all times. Keys will not be released to third parties without the Owner's prior consent.

#### MAINTENANCE OF VESSEL

The Owner shall keep the Vessel in a sound watertight and sea worthy condition, to the satisfaction of the Harbour Master, at all times. The Authority shall have the right to carry out emergency work on the Vessel and the Owner shall be liable for all reasonable charges for this work. The Owner shall notify the Harbour Master as soon as practicable after becoming aware of (i) any vessel that has sunk or grounded in the Harbour or the occurrence of any accident within the Harbour Limits. If the Vessel sinks within the limits of the Harbour, the Authority shall be entitled to raise and salvage the Vessel and to recover from the Owner reasonable charges, fees and expenses incurred in respect thereof. Where reasonably practicable the Owner will be given prior warning that the Authority is about to exercise its rights under this clause.

#### REPAIR WORK

No repairs or works shall be carried out on the Vessel within the Marina premises other than minor running repairs or minor routine maintenance. Such repairs shall be carried out in a safe manner so as not to cause or be likely to cause any damage or any danger, nuisance, disruption or annoyance to other Marina or Harbour users and local residents. The Authority reserves the right to terminate works in progress if it considers that these are being carried out or about to be carried out in breach of this regulation. No welding or hot work is permitted without prior approval of the Harbour Master.

#### COMMERCIAL USE

No part of the Marina or the Vessel may be used for any commercial purpose without the prior written consent of the Authority, which may be withheld at the Authority's sole discretion.

#### USE OF MARINA PREMISES

No part of the Harbour shall be used for water skiing, jet skiing, kite surfing, parascending, recreational swimming or diving or such other similar activity without the prior consent of the Harbour Master. No person shall leave on the pontoon decks, walkways, access bridge or boat compound any equipment, fishing gear, ropes or personal belongings or any other thing whatsoever except for brief periods in the course of transporting the items to or from the Vessel. The Authority shall have the right to remove and dispose of any such items left on the Marina premises without the prior consent of the Authority. The loading, landing or storage of any creels, fishing related equipment, with the exception of sea angling tackle, is prohibited. Any Vessel, equipment, goods or other property which is located on the Marina and Harbour, is located entirely at the owner's own risk and the Authority shall not be held responsible or liable for any damage either done by or to the Vessel, equipment, goods or other property, howsoever that damage or destruction is occasioned.

## **LIMITATION OF LIABILITY**

All persons using any part of the Harbour for whatever purpose do so at their own risk. The Authority shall, in no circumstances have any liability (including by way of indemnity) in respect of any of the following losses or damage howsoever caused (whether such losses or damage were foreseen, foreseeable, known or otherwise): (a) any, indirect, incidental, special or consequential loss or damage; (b) loss of actual or anticipated income or profits; (c) loss of goodwill; (d) loss of business; (e) loss of revenue or of the use of money; (f) loss of contracts; (g) loss of anticipated savings; and (h) loss which could have been avoided by the Owner through reasonable conduct or by the Owner taking reasonable precautions. The Authority shall have no liability for any loss, damage, cost, expense or delay caused or arising as a consequence of: (a) acts, events or omissions beyond its reasonable control; (b) force majeure (including adverse weather, storm, tempest, lightning, earthquake, tidal waves and flood); (c) strikes, lock-out or other industrial disputes (whether involving the workforce of the Authority or any other party); (d) failure of a utility service or transport network; (e) war, riot or civil commotion; (f) malicious damage; (g) wear and tear, leakage or latent defect of goods or equipment; (h) compliance with any law or governmental order, rule, regulation or direction; (i) accident; (j) breakdown of plant or machinery (including computer hardware, computer software, telephone, radio satellite or other communication system, alarm or C.C.T.V.); (k) loss/deletion of data; (l) fire (including steps to extinguish fire) or smoke; (m) temperature variation, mould or corrosion; (n) vermin or insects; (o) any Vessel being in an unsuitable condition; (p) acts or default of third parties including suppliers or sub-contractors; and (q) the failure of the Owner to comply with these Regulations. Nothing in these Regulations shall exclude or in any way limit the Authority's liability for fraud, or for death or personal injury caused by its negligence, or any other liability to the extent the same may not be excluded or limited as a matter of law.

## **MAINTENANCE OF BERTH**

No guarantee is given or responsibility accepted by the Authority for the suitability of any berth, depth of water or facilities provided at the Marina.

Owners shall immediately advise the Harbour Master should any defect become apparent in the Marina infrastructure including breakwater, mooring chains, ropes, buoys, pontoon berthing or water/electrical/safety appliances.

## **SPEED RESTRICTIONS**

Vessels entering, leaving or manoeuvring within the Marina or Harbour shall do so with care and caution and at such speed and in such a manner so as not to damage, endanger or inconvenience other vessels, individuals, equipment or any part of the Harbour or Marina. A speed limit of 5 knots is in force throughout the Bay Harbour. This reduces to 4 knots within the Marina breakwater other than in respect of use by the Harbour Master in the case of emergency.

## **POLLUTION/FIRE SAFETY**

**No refuse is to be thrown overboard or left at any place** within the Harbour or Marina except in the appropriate receptacles provided by the Authority. No effluent, detergent, fuel or other pollutants shall be spilled or dumped within the Harbour limits. Oily rags, waste oil, used filters, etc must be placed in the appropriate bin and must not be left lying around. Any flammable materials, fuel oil, gasses and warning flares stored on board a Vessel shall be securely stored and contained in a safe and proper manner. Smoking is strictly prohibited in any fueling areas. The Owner shall take all necessary precautions for the prevention of fire including providing at least one fire extinguisher on the Vessel suitable for the type of engines, fuel and equipment on the Vessel and shall comply with any requirements of the Harbour Master in this regard.

## **NOISE**

No noisy, noxious or objectionable equipment, machinery, engines or radios shall be operated within the Harbour or Marina which shall cause or be likely to cause annoyance to other persons using or residing in the vicinity of the Harbour. Halyards and other rigging shall be secured in such a manner as not to cause annoyance or obstruction. Owners shall at all times behave in a considerate manner.

## **INSURANCE**

Owners shall maintain third party insurance in respect of their Vessel, crew and guests to cover all risks including damage by fire or other hazards to other craft and persons using the Harbour and Marina, and to the property of the Authority, for a minimum sum of £3,000,000 or such greater sum as may be required by the Authority and intimated to the Owner. Owners shall maintain first party removal of wreck insurance for a minimum sum of £3,000,000. Such insurances shall be maintained with a reputable insurance company and evidence that the Vessel is so insured shall be provided each year to the Authority on request. Vessels found to be without such insurances may have the berth cancelled immediately in accordance with the undernoted termination provisions.

## **SECURITY**

The Authority may introduce security measures at the Marina, as well as physical barriers to deter unauthorised access to the pontoons and vessels. However, ultimate responsibility for loss from or damage to a Vessel lies with the Owner.

## **HARBOUR BYELAWS/DIRECTIONS**

Attention is drawn to the Peterhead Bay Harbour Byelaws 1984 and any modification or re-enactment thereof, a copy of which can be provided on request. The Byelaws are effective in the Marina as well as the Harbour. These Regulations do not in any way prejudice the powers of the Authority under the Byelaws. The Owner shall comply with any further directions of the Harbour Master and the Authority made in respect of good management of the Marina.

## **TERMINATION OF CONTRACT**

If the Owner fails to comply with any statute, byelaw, condition of berthing, any of the Regulations or any lawful direction given by the Harbour Master, the Authority may terminate the berthing contract by sending written notice to the last known address of the Owner by registered post. If the identity of the Owner or the Owner's contact details are not known to the Authority, the Authority shall serve such written notice by leaving a copy on the Vessel. In such circumstances the Owner shall remove the Vessel and any other property belonging to him within 28 days. Notwithstanding the foregoing, the Authority may terminate the berthing contract and require removal of the Vessel and any other property of the Owner with immediate effect in the event of any material breach of any statute, byelaw, Regulation or lawful direction of the Harbour Master (the determination of a material breach being made by the Harbour Master in their sole discretion). On failure to remove the Vessel within the 28 day period or immediately (if applicable as per the foregoing), the Authority may at the Owner's sole risk and expense remove the Vessel from the Harbour and store or berth it elsewhere and all reasonable costs incurred by the Authority in so doing shall be recoverable from the Owner. If (i) the Owner fails to collect and remove the Vessel within a further 28 days (following the initial 28 day period if applicable as per the foregoing); or (ii) any sums due to the Authority remain unpaid for a period of 60 days from the due date the Authority shall be entitled to take possession of the Vessel and to sell it and reimburse the Owner the sale proceeds less sums due to the Authority and the reasonable sale costs and expenses incurred by the Authority. The Authority shall have no liability in this regard.

## **GENERAL**

Headings are for ease of reference and do not form part of or affect the interpretation of these Regulations. The Regulations together with the conditions detailed in the 'Peterhead Bay Marina' promotional brochure shall apply to all Marina users. These may be altered or amended from time to time by the Authority and shall be deemed to be incorporated herein upon any notice of amendment being sent to the Owner's last known address. If the identity of the Owner or the Owner's contact details are not known to the Authority, the Authority shall serve such notice by leaving a copy on the Vessel if located within the Marina. In the absence of express acceptance by the Owner of these Regulations, acceptance shall be implied in the event of the entry or delivery of any Vessel, person, goods or equipment into or onto the Marina or by oral application to the Authority for entry to the Marina or the use of any Marina facility by or on behalf of any Owner. If and in so far as any part or provision of the Regulations is or becomes void or unenforceable it shall be deemed not to be or never to have been or formed a part of the Regulations and the remaining provisions of the Regulations shall continue in full force and effect. The failure of the Authority to exercise or enforce any right conferred on them by the Regulations shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter. These Regulations and in particular the limitations on liability are intended to inure for the benefit of both the Authority and its employees, agents and contractors to which end the Authority contracts on these Regulations on its own behalf and as agent for and trustee for the benefit of its employees, agents and contractors. All legal relationships and agreements between the Authority and the Owner shall be governed in all respects by Scots law and the Owner hereby submits to the exclusive jurisdiction of the Scottish Courts in connection therewith. The provisions of the General Terms & Conditions shall apply to the Owner and the Vessel to the extent they are not at odds with the Regulations.

**Peterhead Port Authority**

**1 Feb 2016**