

TERMS AND CONDITIONS

1. This Agreement shall be deemed to be a use agreement in the nature of a revocable license for the use by the Boater of a slip at the Madeira Beach Municipal Marina as is otherwise set forth herein, and as is otherwise reflected in the rules and regulations governing conduct in the Marina as promulgated by the City Manager or his designee, and the policies concerning the conduct of operations at the Marina as determined by the Board of Commissioners and as is otherwise set forth in the code of ordinances governing activities in the City of the Madeira Beach Marina. This Agreement shall not be deemed to be a lease or conveyance of any real property rights, nor shall this Agreement constitute an agreement for the use of real property that would subject the parties to the provisions of Chapter 83, F. S. or any similar statute regarding landlord and tenant rights. This Agreement shall not establish a landlord-tenant relationship between the parties. This Agreement shall at all times be subject to cancellation by the City as is otherwise hereinafter set forth and shall also be subject to change of policy at any time as determined by the City for the conduct of operations at the City Marina.
2. The Boater shall pay a user fee according to the current Fees & Collection Procedure Manual. User fees are subject to change pursuant to City ordinance, and upon such change, this use Agreement shall be automatically modified to reflect such increased user fee.
3. Upon occupancy, the rental fee is due for first and last month. Rental fees for any subsequent period is payable monthly in advance. In advance means before the fifteenth of the month to avoid a late fee as described in the current Fees & Collection Procedure Manual. Failure to pay in a timely manner may result in the cancellation of this use agreement, and removal of vessel. Refunds for any unused prepaid period will be determined on a case-by-case basis.
4. All fees are to be paid in advance on or before the first day of each month. The first month's fees, plus an amount equal to an additional month's fees or one hundred fifty dollars (\$150.00), whichever is greater. If a waiting list fee has been previously paid, it shall be credited against the deposit required hereinabove. When use fees increase from time to time, the deposit fee may be increased to reflect an equal amount on deposit. Such additional deposit amount shall be due no later than fifteen (15) days from date of written notice that such fee is due. Fees shall be for a full calendar month only. Occupancy for a partial month shall be charged at transient rates or at full month rate, at the option of the City.

RETURNED CHECKS Boater shall pay the City a returned check charge according to the current Fees & Collection Procedure Manual.

5. Lien: Any fees, interest, late charges, returned check charges, storage charges, damage reimbursements, utility charges, other charges, court costs and attorney's fees incurred by City, as provided in this Agreement, through and including the date of the lawful removal of the Boat from the Marina, and any other charges accrued and unpaid under this Agreement, shall constitute a lien against the Boat which may be enforced by City as provided by law and/or as provided in this Agreement.
6. The City reserves the right to terminate this Agreement, with or without cause, in its sole discretion, and no Boater shall have the right to any continuance of this Agreement. The Boater shall be required to maintain adequate liability insurance and proper registration. The City Manager or his designee shall determine the amount of liability insurance required.

7. The Boater hereby holds the City harmless from any liability that might arise because of the loss of life, bodily injury, property loss, or property damage which may occur to him/herself or their property, or to the property of others arising from the Boater's use or occupancy of the slip assigned hereunder during the term of this Agreement.
8. The Boater shall be responsible for the care, maintenance, custody, and control of his/her vessel and the actions and behavior of family members and guests at the marina at all times during the term of the Agreement, and the Boater hereby assumes sole responsibility for the safety and well-being of any person or persons he shall invite or bring into the City of Madeira Beach Municipal Marina. The insurance required herein shall be obtained and a Certificate of Insurance delivered to the City of Madeira Beach Municipal Marina prior to any use or occupancy of any portion of the City of Madeira Beach Municipal Marina under the terms of this Agreement, and such policy shall be in an amount and a form satisfactory to the City.
9. The Boater agrees to make no unlawful, improper, or offensive use of his assigned slip, and to abide by any and all rules and regulations promulgated by the Marina Supervisor, the City Manager or his assignee, and to maintain his vessel and the slip space in a manner in keeping with good seamanship, and in a neat and manner that reflects positively on the appearance of the Madeira Beach Municipal Marina. If, at any time in the opinion of the City, the Boater fails to maintain his/her boat and slip space, he/she will be advised by written notice of such failure and said notice shall specify the procedure the Boater is to follow to satisfy this requirement.
10. The Boater shall have a reasonable time within which to comply with the directions of the Marina Supervisor and in no event shall such compliance time exceed two (2) weeks. The Boater shall use the slip space and other marina facilities available to him/her only in a reasonable & customary manner and no gear, tackle, rubbish, etc. shall be stored on or left to obstruct the docks in any way.
11. Discharge or treated or untreated effluent, any form of sewage, fuels, oil or any petroleum products or other matter into the waters of the Madeira Beach Municipal Marina is strictly prohibited. Failure to comply with the provisions of this paragraph shall constitute grounds for immediate cancellation of this Agreement.
12. The Boater shall be responsible for securing his/her vessel to the dock in a manner that will protect his/her vessel and other vessels in the marina. The City shall have no responsibility or liability for damage occasioned by improperly secured vessels except to vessels actually secured by the City. By accepting the privilege of the use of a slip in the City marina, the Boater hereby waives any claim against the City because of damage to his/her boat arising from the actions of other users of the Madeira Beach Municipal Marina. Should there be any questions as to the manner of securing the vessel or any other factor affecting the safety of the dock or the marina facilities, the City may specify in what manner any vessel is to be secured and that lines are to be used and the Boater shall immediately comply with any such request or rules as the City shall make regarding such matters.
13. In the event that an emergency exists in the opinion of the City, then the City may secure the vessel of the Boater using whatever means and materials the City deems appropriate and expedient and the Boater shall pay the City for labor and materials used by the City for this purpose.

14. The Boater waives and releases the City from any liability whatsoever for its actions taken under emergency circumstances to secure and protect any property belonging to the Boater. The City does not assume responsibility or liability for the vessel or for other property of the Boater.
15. The Boater may perform limited repair work on his own vessel if such work does not interfere with the rights and privileges of other slip users, but a Boater may not use the services of any dealer, mechanic, craftsman, or cleaning person on the Marina premises without first securing prior approval of the Marina Supervisor. Such approval will only be made to those technicians who show proof of liability insurance, have a valid Business Tax Receipt, and have registered as a vendor with the City of Madeira Beach. Said technicians must sign in and out with the Marina Supervisor's office.
16. The vessel will be entered by the Marina Supervisor only for emergency conditions or necessary moving of the vessel. The City shall have the right to require the temporary removal of the vessel from its dock in order to maintain the docks or to protect the vessel or any other vessels at any time or to provide for repair or dredging operations within the marina.
17. In the case of emergency or necessary vessel movement the Marina Supervisor shall be authorized to move the subject vessel, if possible and practical, to a safer area to protect the vessel, Marina property or the general welfare of the Marina users, if the vessel is unattended and the Boater cannot be reached. The City shall not be under any obligation to move the vessel in the event of emergency or to provide any other services to the Boater. Any costs incurred by the City shall be billed to the Boater.
18. The Boater agrees to indemnify and hold the City harmless from any and all liability, loss or damage caused by or to the subject vessel which may arise out of failure of the City to move the vessel, the inability of the Marina Supervisor to reach the Boater or arising from the movement of the vessel by the Marina Supervisor or Marina employees.
19. The Boater shall be solely responsible for any liability connected with his vessel causing damage to the property of others.
20. This Agreement shall continue in full force and effect until cancelled or amended as is otherwise provided herein. This Agreement may be cancelled, changed, or amended by the City without notice or without cause effective as of the first day of any calendar month except as in terms provided herein. The Boater shall furnish 15-day written notice to the Marina Supervisor of the City of Madeira Beach of his/her intent to terminate this Agreement.
21. Boater acknowledges that the City has all the legal rights to maritime liens, personal property liens, and statutory liens, either state or federal, upon the boat, motor, and accessories thereof to secure any and all user fees or any other charges or costs for services or materials rendered or supplied to the Boater during the time of this Agreement. The breach or default by the Boater of any of the terms and conditions of this Agreement or the general rules and regulations of the Marina shall give the City the right to cancel this Agreement immediately upon three (3) days written notice to the Boater and, under emergency circumstances to immediately cancel this Agreement without written notice.
22. The waiver of any breach or default of the Boater by the City of the terms of this Agreement shall not constitute a waiver of any future breach or default by the said Boater. In the event of any covenants to pay to the City any and all Costs of enforcing its rights hereunder including recovery of a user fees or other charges due and owing from the Boater or any expenditures authorized under the terms of this Agreement, including court costs and attorneys fees.

23. *Should the vessel be seized by the City pending delinquent payment of slip rental fees, payment in full must be made by either cash in order for the vessel to be released at the time of payment. In the event that the Boater shall refuse to remove his/her vessel from the City's docks upon cancellation or expiration of this Agreement the City shall have the right to remove the vessel from the marina without any responsibility or liability on the part of the City and all costs of towing and storage will be the sole responsibility of the Boater and the Boater hereby appoints the City as his/her agent to contract for removal and storage of his/her vessel in the event that it becomes necessary, in the opinion of the City, or the city, at its option, shall have and impress upon the vessel, a lien for such services. In the event that such charges are not paid within (30) days from the date of removal from the Marina, the City or any third party into whose possession the City has delivered the said vessel shall have a lien for such services and such lien is specifically granted to the City and any third party and the City may sell the vessel to satisfy the lien. After payments of any amounts due the City or any third party from the proceeds of such sale the remaining balance, if any, shall be paid over to the Boater.
24. In the event that the Boater should change slips, for any reason, with approval of the Marina Supervisor, this Agreement will remain in full force and effect except for any new user rate imposed because of such relocation. Any new rate shall commence as of the time of transfer.
25. This Agreement is not assignable or transferable in any manner whatsoever by the Boater to any other person and the right of use of the assigned slip is granted solely, personally and inclusively to the Boater and such slip may be used by any other person for any use whatsoever except upon specific permission of the Marina Supervisor for temporary usage. In the event that the Boater has removed his boat from the slip for any reason, the Marina Supervisor may use such slip for the mooring of other vessels until such time as the Boater's vessel is returned to the slip. Any violation of this paragraph will be grounds for immediate cancellation of this Agreement without further notice.
26. This permit is non-transferable and applies only to the above-named vessel, owner and/or operator, facility and space. The City reserves the right to discontinue furnishing these accommodations, that is, to cancel this Agreement and change the rental rate for space by giving or mailing notice in writing to the Boater at either of the above addresses.
27. Commercial vessels are not permitted to carry more passengers than approved by the United States Coast Guard license and all commercial vessel operators must be licensed by the U.S.C.G. and comply with the rules and regulations published by them.
28. Sale of Commercial Vessel(s) Named in Use Agreement:
 - a) Should the holder of a commercial docking permit decide to sell the vessel named in this Agreement, Boater shall advise the Supervisor in writing of his/her intent to sell said vessel prior to consummation of the sale. The Boater shall further advise as to his-her intent to either retain the slip for another vessel to be acquired by the Boater or to relinquish his claim to further use of the slip at the time of sale.
 - b) If the Boater elects to relinquish the slip, the purchaser will, upon approval of a use agreement and payment of rental fees, be issued a the slip in question.
 - c) If the Boater elects to retain the slip for another vessel, he will have ninety (90) days from the date of sale to acquire a replacement vessel, titled in his name, and place it in the slip. The Boater may request in writing an extension of the ninety (90) day period, not to exceed 180 days. Should he fail to comply, this Agreement will be revoked, and the slip will be assigned to

another person on the waiting list. During this period, the city will have the right to use the slip for transient dockage and the holder of the docking permit may not permit any other vessel not personally owned by him to be placed in the slip.

- d) When the Boater elects to retain the slip, the purchaser will have not more than four (4) weeks following the sale to remove the vessel from the slip. The purchaser will be charged the daily transient rate for any period the vessel is docked at the marina in excess of the four-week period.
 - e) All new commercial slip renters, prior to signing a new use agreement, will meet with the Supervisor for an explanation of marina rules. The new commercial slip renter will be asked to provide at least three personal references. In the event unsatisfactory references are received on a prospective commercial slip renter, this Agreement will not be transferred or approved.
29. Water shall not be wasted. Water siphons are not permitted except in emergency. Additional charges will be added to the slip rent of any tenant using abnormal amounts of water.
 30. All vessels underway within the marina basin shall be operated at idle speed.
 31. No commercial operation shall interfere with the public's use of the marina area or infringe upon the normal operation of any other persons who are authorized to conduct business within the marina. A determination by the Supervisor will be accepted as final in evaluating and limiting activities, which may infringe upon the rights of other. Disorderly conduct, which includes threats to harm people or property of any other boater, marina employee or member of the public by a boater, his employees or visitors, will be subject to immediate removal from the marina. Also, public intoxication, profanity or abusive language directed at anyone will not be tolerated.
 32. All commercial vessels shall display a sign which shall give the name of vessel, owner, captain and type of operation. The sign size will be regulated by the Marina Supervisor and be in compliance with the city sign ordinance. Also, unless specifically modified and approved by the Marina Supervisor, the commercial operation shall not conduct business other than that specified in the docking permit. Upon returning to the marina, the operator may display and dress fish as a service to patrons.
 33. Living aboard commercial vessels is prohibited unless authorized by the Marina Supervisor. Subleasing of space or permitting any vessel not named in this Agreement to use the space named herein is not permitted. Any other vessel mooring within this space may do so only with the prior written permission of the Marina Supervisor, who will charge the daily transient rate currently in effect. Any boater expecting to vacate his slip for any period in excess of seven (7) consecutive days shall notify the Marina Supervisor in advance. The City reserves the right to use any empty slip for temporary transient boaters, after verifying by phone that the Boater will not be using the slip. The electric usage for this period of use by the transient boater will not be charged to the Boater.
 34. The City shall have a lien against the vessel named herein and its appurtenances for unpaid sums due for rental of space or other services, or from damages caused to docks or other city owned property by their vessel.
 35. Each commercial vessel owner at this Marina will provide a Hurricane Plan to the Marina Supervisor. The Hurricane Plan should be a detailed list of action on what the Boater will do with his vessel in the event of a hurricane. It is strongly recommended that the Boater move the vessel from the Marina and anchor it in a hurricane hole or other safe location. If the owner

plans on leaving the vessel at the Marina dock, he-she must show how the vessel will be secured. The Marina will require all mooring lines to be at least doubled and that the Boater secure all loose items and that a number of fenders be placed on the vessel to protect it and the City dock(s). Under current law, the Boater has the right to leave his/her vessel at the Marina during a hurricane. The Boater has a general obligation to keep his/her vessel in a secure condition at the dock and not do harm to the dock or other boats. The standards of care are those of a reasonably prudent vessel owner.

36. This facility is to be used at the sole risk of the owner of said vessel, and City shall not be liable or responsible for the care or protection of the vessel, including gear, equipment and contents, or for any loss or damage or whatever kind of nature to said vessel, howsoever occasioned. There is no guarantee or warranty of any kind as to the condition of the piers, catwalks, ramps, or mooring gear, nor shall the City be responsible for injuries to persons or property occurring hereon or for any reason whether herein specifically stated or not. Boater agrees to hold the City harmless and indemnify it of all loss, damage or liability or any kind claimed by reason of any act or failure to act on the part of the owner, his agents, employees, or guests in the use of mooring space for the vessel.
37. The following documents or certified copies must be on file with the Marina Supervisor:
 - a) Current business tax receipt from the city.
 - b) U.S. Coast Guard Inspection Certificate issued within the last year (Inspected vessel only.
 - c) Valid and current Captain's license issued by the U.S.C.G. for each operator of above described vessel
 - d) Proof of Boater's ownership of the vessel.
 - e) A map showing proposed routes over which the Boater desires to operate, length of the trip (miles), time schedules and days of operation (applicable to dinner cruises and sightseeing vessels only.
 - f) Boater shall also maintain a minimum of \$500,000 liability insurance for each commercial vessel and shall name the City as an additionally insured.
38. Vessels shall be kept in a seaworthy condition, and shall create fire hazard, eyesore, or sinking hazard. If a vessel is observed in an unsafe condition, the Boater will be directed by the Marina Supervisor to remove the vessel from the marina. Boater agrees to remove the vessel upon notification of the City of an unsafe condition(s) or to be held responsible for all and any damage caused by the vessel to Marina docks, pilings and structures. Boater shall keep the vessel properly moored and dry at all times. Routine maintenance and minor repair necessary for the preservation and seaworthiness of the vessel such as mechanical adjustment, minor painting, leaky seals and rot prevention may be performed within the marina. Such repairs are generally considered to be those which:
 - a) Do not disturb the public peace and tranquility of any person aboard any vessel within the jurisdiction of the marina.
 - b) Do not contribute to disorderly or unsightly appearance during the process or repair or maintenance.
 - c) Are capable of accomplishment with hand tools or certain portable power tools normally carried aboard the vessel.
 - d) Are confined to the vessel.
 - e) Do not pollute or put waste in marina waters.

39. Swimming, diving, fishing and cast netting is prohibited from marina docks and seawalls.
40. Distribution of advertising material, solicitation of any kind, or sale of tickets for any vessel carrying passengers for hire is prohibited upon the docks, sidewalks, seawall, parking lots or other public places. Passage tickets sold on the docks shall be sold only at established booths or at the vessel. The Boater may not have more booths than vessels operating. It shall be the duty of the Boater to keep such booths and all adjacent areas clean and free of all encumbrances. No booth may be moved or relocated without written permission of the Marina Supervisor.
41. This Agreement constitutes the entire agreement between the parties and may not be modified except by a document in writing and executed with the same formality as this Agreement. This Agreement shall be interpreted in accordance with the laws of the State of Florida. The sole and exclusive forum for any litigation regarding this agreement shall be solely in Pinellas County, Florida. Time is of the essence of this Agreement and every material part hereof.