

James Creek Marina License Agreement for Boat Storage, Facilities, & Services

By signing page 1 of this license agreement the Boat Owner (including any authorized Agent as defined herein) agrees to the following license agreement.
Please initial where indicated. Failure to initial does not affect validity of this agreement nor Boat Owner's consent to all of its provisions.

1. **LICENSE.** Marina (also "Licensor") hereby grants a License to Boat Owner or Agent (also "Licensee") for the use of the slip designated above (the "Slip") located at the Marina for the Boat described above, including all riggings, engines, appurtenances and contents (the "Boat"). The term "Boat Owner" shall be deemed to include the Boat, the owner and/or master of the boat, any and all agents of the Boat Owner including family members and invited guests or service personnel, as Licensee, where appropriate. **This Agreement confers no leasehold interest. Marina reserves the right to change the Slip assignment or move the Boat for safekeeping, normal Marina operations or repairs, for special events, or as needed at the sole discretion of the Marina.**

Initials _____

2. **AGREEMENT TERMS**

a) **TERM.** The "Commencement Date" of the License Agreement will always be the first day of the month. For purposes of determining what month the "Commencement Date" shall begin, Boaters entering the Marina from the 1st to close of business on the 15th day of the month shall have their "Effective Date" begin as of the first day of the month they entered the Marina. Boaters entering the Marina on the 16th through 31st day of the month will not have their "Effective Date" begin until the first day of the following month. The term of this Agreement shall begin on the Commencement Date and end on the Expiration Date, as indicated on Page 1 of this agreement, unless otherwise modified in writing by the Parties.

b) **PAYMENT TERM.** Boat Owners are required to choose a "Length of Contract" term and pay, in full, for the entire term of their License Agreement as registered with the dock office. In addition, Boat Owners who arrive prior to the commencement date of their agreement are required to pay a prorated amount of all fees and charges indicated on Page 1. Boat Owners who vacate the marina premises before the expiration of the term of their License Agreement are obligated to pay either (a) the remainder of the unused contract term in full or (b) for the term of the contract actually used at the higher contract term rate in addition to sacrificing any previous security deposit. The remaining amount the Boat Owner shall pay shall be determined solely by the Marina and shall be automatically debited from any credit account on file at the Marina office.

c) **HOLDING OVER.** Without otherwise limiting the rights of the Marina hereunder, **Boat Owners whose Boats remain at the Marina after the expiration or termination date of their license agreement, shall be considered transient occupants of the slip** and are still bound to comply with this and all other agreements with the marina, including but not limited to the marina rules. Transient occupants shall be charged at the transient rate unless and until a new license agreement is executed. No refund or credit will be given for any transient charged even if a new license agreement is executed. Without limiting or waiving any of its other rights under this Agreement, Marina may also, at its sole discretion, terminate utility services or do any act, which preserves the Marina's possession of the Boat to enforce its state law possessory or federal maritime lien, if applicable. Marina may also elect to remove the Boat from the Slip, at Boat Owner's expense, to any location selected by Marina. In the case of such removal, Marina shall bear no liability for any loss, damage, or injury resulting from the removal and Boat Owner herein agrees to pay all costs of the removal associated therewith as part of its dockage fees.

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3. **ASSUMPTION OF RISK; DISCLAIMER OF LIABILITY; INDEMNITY.** **The Slip and the Marina are to be used at the sole risk of Boat Owner. Boat Owner hereby assumes any and all such risk. The Marina assumes no responsibility for, and shall not be liable for the care, protection, and/or security of the Boat.** This Agreement does not create a contract of bailment. Boat Owner, for himself, and his Agents (as defined by this Agreement) does hereby release Marina from any and all liability for loss, death, damage or injury (collectively "Injury ") to any person or property arising out of or in connection with the condition or use of the Boat or the condition or use of the Marina or its services, whether such Injury is caused by or through the acts or omissions of the Marina or by any other cause whatsoever, including but not limited to, fire, theft, weather conditions, etc., except for Injuries due to Marina's gross negligence or willful misconduct. Boat Owner shall indemnify and hold harmless the Marina from any claims, suits, actions, damages, liability or expense (including attorneys' fees) in connection with any Injury (unless due to the willful misconduct or gross negligence of Marina) or arising from Boat Owner's breach of this Agreement. Marina is not to be considered as an insurer of Boat Owner's property and Boat Owner shall secure, at a minimum, the insurance required by this Agreement. Boat Owner is advised to remove all items not permanently attached to the Boat while the Boat is in the Marina. Under no circumstances shall the Marina be liable for indirect, consequential, special or exemplary damages, whether in contract or tort (including strict liability and negligence) with respect to Boat Owner's use of the Marina. Boat Owner and Boat Owner's insurers agree to waive any right to petition for exoneration from or limitation of liability under the laws of the United States in the event the Boat is involved in any casualty resulting in personal injury, death or property damage while docked at the Marina or in connection with this Agreement.

Initials _____

4. **INSURANCE.**

a) **VESSEL.** Boat Owner at his or her sole cost and expense, shall at all times during the term of this Agreement, maintain a public **liability policy with limits of not less than \$300,000 per occurrence**, with an insurance company acceptable to Marina, **naming Marina as an additional insured**, and a policy of property damage insurance covering at least 100% of the actual cash value of the Boat, extended perils, damage by fire, vandalism and burglary. Boat Owner shall provide Marina with a copy of the insurance policy evidencing coverage upon execution of this Agreement, and, no later than 30 days prior to expiration of a policy, BOAT OWNER OR AGENT SHALL PROVIDE MARINA with evidence of the renewal of the policy. All policies of insurance shall require 30 days advance notice by the insurance company to Marina of any amendment or cancellation. Boat Owner shall supply proof of insurance to Marina and Boat Owner's insurance company shall fax Marina Certificate of Insurance listing Marina as holder of said certificate.

b) **CONTRACTORS.** Any outside contractors employed by Boat Owner shall complete the Outside Contractor Safety Agreement, SHALL provide insurance naming Marina as additional insured substantially in compliance with the terms set forth herein with limits of not less than \$1,000,000 per occurrence, SHALL register at the Marina office prior to beginning work, AND SHALL comply with all rules, regulations, and laws, and conclude all work prior to dock office closing.

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5. **LIENS.**

a) Boat Owner hereby recognizes and acknowledges that all services provided by Marina to Boat and Boat Owner are for the direct benefit of the Boat. Accordingly Boat Owner grants to Marina a maritime lien on the vessel for necessities as defined by 46 U.S.C. §31342 and a security interest therein to secure the payment of any and all fees, charges or other sums due hereunder and for any other services or materials rendered or supplied to Owner by or on behalf of Marina (e.g., oil or fuel spill containment, emergency pumpout of vessel bilges, replacement of damaged or broken dock lines and/or fenders, etc.).

(5. Liens Cont.)

b) Boat Owner hereby authorizes and allows the Marina to include as part of its maritime lien for necessities under 46 U.S.C. § 31342 any and all collection and attorneys fees incurred by the Marina to foreclose or enforce its maritime lien for necessities. Boat Owner further acknowledges that all costs and attorney fees may be considered as part of the maritime lien for purposes of securing a bond as security for marina's lien and for purposes of satisfaction from the proceeds of sale should the Boat be sold pursuant to a lien for necessities. To the extent that any sale of the Boat does not satisfy the full amount of Marina's lien, Boat Owner and its Master/Agent, hereby agree to be personally liable and guarantee the full amount of Marina's lien.

c) The Marina's lien shall be both a common law lien for storage and a maritime lien for necessities, which shall be in addition to any state, or federal maritime lien or other remedy otherwise available to Marina hereunder in law or equity. It is specifically agreed that all service, storage, materials, and the like which are provided to the Boat or Boat Owner under this Agreement by or on behalf of the Marina, are provided to the Boat at the request of the Boat Owner on the credit of the Boat. It is understood between the Parties that the Marina is relying primarily on the credit of the Boat for the enforcement of its claim for fees, charges, and invoices for all necessities provided under this Agreement. The Parties further agree that all services provided by the Marina pursuant to this Agreement shall be deemed "necessaries" pursuant to 46 U.S.C. §31342(a), as amended from time to time.

d) In any action, in rem (against the Boat) or in personam (against the Boat Owner), by Marina to enforce a lien of whatever nature, any bond required of boat Owner to be posted pursuant to law releasing the Boat to the Owner, shall be for the greater of the value of the Boat or twice Marina's full debt or amount in controversy plus reasonable attorneys fees, costs of bringing suit, the U.S. Marshal fees, custodia legis fees and claimed interest. Further, Marina may have the amount of any bond posted increased to ensure the posted bond covers all amounts claimed.

e) Without limitation on any of Marina's rights under state or federal law, in the event Marina proceeds against the Boat under Federal Admiralty procedures and Supplemental Admiralty Rules, in rem, Boat Owner agrees to use Marina as the substitute custodian for the Boat in place of the U.S. Marshal.

Initials _____

6. **EMERGENCIES, BAD WEATHER AND ACTS OF GOD.**

a) **RESPONSIBILITIES.** Marina expects Boat Owner to make suitable arrangements for safe, sheltered anchorage during storms, high winds, high or low water, ice or snow conditions and other bad weather, and Boat Owner warrants such arrangements have or will be made. Boat Owner **may not** assume that the Marina will be safe, sheltered anchorage at any time. In the event of an impending storm or other emergency situation, Boat Owner authorizes Marina to do whatever Marina deems appropriate to keep the marina, marina property, the Boat or other boats safe. These actions include but are not limited to moving the Boat at the Boat Owner's risk and expense; however Marina is not required to do any act to save or preserve any Boat or Boat Owner's property. Boat Owner shall pay for all costs of such actions by Marina whether or not Marina's efforts are successful in protecting the Boat.

b) **SALVAGE.** If the Boat sinks while in the Marina, Boat Owner shall raise the Boat at Boat Owner's sole cost and expense. If salvage is not begun within 24 hours after Boat Owner receives notice of the sinking, Marina may raise the Boat at Boat Owner's expense and dispose of it at Marina's discretion. Undertaking to move the Boat shall not be deemed an assumption of responsibility for the safety, security and care of the Boat by Marina, nor shall Marina be deemed a bailee of the Boat Owner. Marina shall have a federal maritime lien for salvage against the Boat for any and all salvage actions and costs undertaken by the Marina. Marina shall also have the contractual right to enforce its salvage costs and the amount of its salvage lien against the Boat Owner and/or Boat Owner's Agent personally.

Initials _____

7. **PAYMENT OF DOCKAGE FEES AND OTHER CHARGES.** The Monthly Dockage Fee, Electric Fee, Water & Sewer Fee, and Dockbox Fee is indicated on Page 1 of this License Agreement, and is **DUE AND PAYABLE ON OR BEFORE THE FIRST DAY OF EACH MONTH WITHOUT DEMAND.** Payment for applicable fees not received by close of business on the 5th day of the month will be deemed late and assessed a \$25 late fee. Accounts outstanding over 30 days will automatically be in default under this License Agreement. License Agreements in default are subject, **WITHOUT NOTICE** to Boat Owner, to the daily Transient Amount until such time as the default is cured. **NO REFUND OF PREPAID DOCKAGE FEES WILL BE MADE.** All charges must be paid in full before Boat Owner may remove the Boat from the Marina. All other charges (e.g., replacement of dock lines, fenders, bail outs, etc.) will be billed monthly and are also due on the **FIRST DAY** of each month along with the dockage fees. Charges that are not paid by the 5th day of each month are deemed past due. Past due amounts outstanding are subject to interest at a rate of 1.5% per month, or the maximum allowable by law. Boats are subject to being secured in place in the event that the any outstanding charges are more than 30 days past due, with Boat Owner to pay all costs associated with securing the vessel as part of the monthly dockage fee. **The Marina shall bear no responsibility for damage to any vessel that has been immobilized.**

8. **USE OF SLIP.**

(a) **AUTHORITY.** Boat Owner may use the Slip only to dock the Boat specified on page 1, and for no other purpose. **Marina has exclusive control over the use of the Slip and dock space and has the right to refuse to grant a License to any person for any legally permissible reason. The Marina must be notified and a new License Agreement executed prior to any change of ownership to a vessel that will remain in the Marina or in the event that the Boat Owner sells the vessel and wishes to use the Slip for a new Boat.**

(b) **AGENCY.** Boat Owner at all times represents that Boat Owner has an ownership interest in the Boat and/or is fully authorized to bind all owners of the Boat to the terms and conditions of this Agreement. If an agent of Boat Owner, including a Captain/Master, signs this Agreement, Boat Owner hereby represents and acknowledges that said Agent has authority to bind Boat Owner to this Agreement and ALL of its terms, including personal contractual liability of Owner in addition to master or Agent for any unpaid amounts owed. For the sake of clarity, reference in this agreement to "Boat Owner" also refers to and applies to Boat Owner's Agent or the Boat's Master.

(c) **TRANSFERS AND ASSIGNMENTS.** **This Agreement and Boat Owner's rights hereunder are the personal privilege of Boat Owner and are not assignable and may not be sublet.** Any attempt to assign or sublet is a default under this Agreement, and entitles Marina to all remedies of default pursuant to this Agreement, including immediate termination of this Agreement. This Agreement shall be binding on Boat Owner and his heirs and successors in interest.

(d) **TEMPORARY REMOVAL OF BOAT.** **If Boat Owner removes the Boat from the Marina for extended periods (normally more than three (3) days), for any reason, including repairs to the Boat, Boat Owner shall notify Marina of the anticipated removal and return dates. Marina may use the Slip when not in use by Boat Owner without reduction of the Slip Fee, payment, or any other compensation to Boat Owner.**

(e) **CARE OF SLIP.** Boat Owner shall keep and maintain the Slip in a clean and sanitary condition at all times, and in accordance with the Marina Rules. Upon termination of this Agreement, Boat Owner shall surrender the Slip in good order, normal wear and tear resulting from ordinary use excepted. **Boat Owner shall not alter the Slip, dock area or utilities services. Boat Owner shall not install or place any personal property, dinghies, small boats or personal watercraft, equipment, boxes, fenders, or lockers of any type in the Slip or on the dock, without the express written permission of the Marina.**

9. SECURITY DEPOSITS. Before the Boat may be docked at Marina, Boat Owners shall have to pay the Marina a security deposit to secure the performance of all of Boat Owner's obligations under this Agreement. The security deposit shall not be in lieu of any Dockage Fee. In addition, certain other deposits may be required as indicated on Page 1 or in separate agreements made with the Marina. All such deposits are referred to as the "Deposits." The Deposits may be refundable to Boat Owner without interest within 30 days of termination of this Agreement, provided all the obligations of Boat Owner under this Agreement are satisfied. Marina may commingle the Deposits with other funds held by Marina. If Boat Owner incurs charges in excess of the Deposits, any excess is due and payable upon written demand by Marina and Marina will have the right to require an additional deposit. Boat Owner's failure to post an additional deposit is an event of default under this Agreement, which entitles Marina to, among Marina's other default remedies, immediately terminate this Agreement.

10. UTILITIES. At Boat Owner's request and subject to the payment of monthly utility connection charges, Marina shall make available during the term of this Agreement, to Boat Owner at the Slip, electrical power, water and such other utility services then available at the Marina generally. Charges for shore power shall be on a flat fee basis according to the length of the boat and/or as indicated on page 1. All utility connection payments are due with the dockage fee at the first of the month. Any boat found to be using utility service at any time, whether scheduled to receive such service or not, shall be billed and obligated to pay the utility charge for **that entire month**, unless other arrangements have been made with the Dockmaster. Dockmaster may entertain requests for short term utility service at his discretion and on a case-by-case basis.

All vessels are subject to a monthly utility surcharge in addition to any other fees.

If payment for utility charges is not received by the Marina with the other Marina fees due and owing by the FIFTH (5TH) day of each month, a late payment charge may be added to Boat Owner's next monthly statement equal to 1.5% of the unpaid utility bill. At the end of each 30-day billing period thereafter, an additional charge will be made equal to 1.5% of any total amount that remains unpaid at that time. Boat Owner shall not inspect, remove or tamper with the electrical meter, wires or related equipment. **MARINA DOES NOT WARRANT THE AVAILABILITY OF UTILITY SERVICES, AND SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE OR INJURY DUE TO THE INTERRUPTION OR UNAVAILABILITY OF UTILITY SERVICES.** Without limiting the foregoing, Boat Owner acknowledges that water and pump-out service may be discontinued during inclement weather. Also, the pumpout will be shut off for the winter season no later than November 15th and placed back in operation no earlier than March 15th. In addition, Marina does not warrant that the utility services will be compatible with the utility service requirements of the Boat (including electrical interconnection requirements or the effect of electrolytic action).

11. STORAGE LOCKERS. At Boat Owner's request, and subject to the payment of a monthly usage fee, Marina shall make available during the term of this Agreement, to Boat Owner the use of storage lockers ("Dock Boxes"). Boat Owners shall not store any flammable, poisonous, toxic, explosive, or otherwise hazardous or dangerous materials, as determined by the Marina, in the dock box. Such materials found stored in any Dock Box are subject to immediate removal. The Marina reserves the right to terminate assignment of any dock box to the Boat Owner at any time. Boat Owners are to use only the locks provided by the Marina and to surrender the assigned key upon termination of the license agreement. Duplication of keys is not permitted and the Boat Owner is responsible for any costs associated in the event that the assigned key or lock is lost or damaged. The lock is to remain on the dock box at all times.

12. SECURITY SERVICE. Boat Owner acknowledges that any security service provided by Marina is a courtesy only and that, while Marina will use its best efforts to provide adequate surveillance, Marina bears no liability or responsibility in the event of theft, damage, demolition, unauthorized use, and the like, of Boat or Boat Owner's property. Boat Owner is strongly advised to keep vessel and any other storage or equipment locked when not in use AND TO TAKE ANY AND ALL OTHER PRECAUTIONS TO PROTECT BOAT AND BOAT OWNER'S PROPERTY AT ALL TIMES.

13. NO WARRANTIES. Marina makes no warranties, expressed or implied, as to the condition of the Slip or the Marina (including floats, walkways, gangways, ramps, gear and related items) or the suitability of the Slip and the Marina for Boat Owner's intended purposes. Boat Owner acknowledges that Boat Owner has had an opportunity to inspect the Marina and the Slip prior to execution of this Agreement and agrees to accept the Marina and the Slip in their current "as-is" condition.

14. CANCELLATION. Marina may, in its sole discretion, cancel this Agreement at any time in writing by giving Boat Owner thirty (30) days advance notice. In such event, any Slip and/or Utility Fees paid in advance shall be refunded on a prorated basis.

15. CONDUCT. The conduct at the Marina of Boat Owner, any member of Boat Owner's family, and any of Boat Owner's employees, licensees, agents or guests (collectively referred to as "Boat Owner's Agents") shall be the sole responsibility of Boat Owner. Conduct by Boat Owner or its Agents that might disturb or cause harm to any person, damage property, be a nuisance, or harm the reputation of the Marina (including use of drugs, alcohol or any intoxication) shall, at the option of Marina, be cause for immediate termination of this Agreement by Marina. Intoxication shall be presumed if (i) Marina shall require the assistance of a law enforcement agency (e.g., US Park Police, DC Harbor Patrol, USCG, etc.) to deal with Boat Owner or Boat Owner's Agents, (ii) Boat Owner or its Agents engage in the physical assault of another person or property or (iii) one or more Marina Licensees or guests files a written complaint with Marina concerning the intoxication of Boat Owner or Boat Owner's Agents. Intoxication by Boat Owner or Boat Owner's Agents shall be deemed a nuisance.

16. BOAT OWNER'S RESPONSIBILITY FOR DAMAGE AND THE ENVIRONMENT. Boat Owner shall be responsible for and shall promptly, upon demand, pay Marina for any damage caused by Boat Owner, the Boat or Boat Owner's Agents. Boat Owner shall, in and around the Marina, comply with all laws, rules, and regulations concerning the protection of the environment and pay AND/OR REIMBURSE Marina for any damage, expense or liability incurred by Marina due to Boat Owner's or Boat Owner's Agent's failure to comply with such laws and regulations or due to any pollution created by, caused by, or contributed to by Boat Owner, Boat or Boat Owner's Agents. Boat Owner shall not release or permit to be released, by action or inaction, any hazardous waste or environmentally objectionable substances, including oil, gasoline or untreated sewage ("Hazardous Substances") into the water or land of the Marina. The costs for which Boat Owner may be responsible include, but are not limited to, the costs of booms, absorbent pads, disposal of the Hazardous Substance, clean up oversight by governmental agencies and Marina personnel and any legal fees incurred in defense of any violations. Boat Owner shall be responsible for reporting and cleaning up any such release. Boat Owner shall report any release to the Marina manager and shall keep Marina informed on a daily basis of Boat Owner's actions with respect to any clean up. If Marina is not satisfied, in Marina's sole discretion, with Boat Owner's actions in reporting and cleaning up a release, Marina may take any action it deems appropriate regarding the release, at Boat Owner's expense. This provision is in addition to, and not in lieu of, the indemnity provision set forth in this Agreement. Marina reserves the right to immediately terminate this License Agreement for violation of this provision.

17. LAWS, RULES AND REGULATIONS. Boat Owner shall comply with ALL Marina Rules as well as all applicable local, state and federal laws, ordinances, resolutions, rules and U.S. Coast Guard regulations. The Marina may change the Marina Rules by posting new or additional rules in the Marina office or otherwise notifying Boat Owner, in writing, of the change. The current Marina Rules are included at the end of this Agreement.

18. DEFAULT. The Boat Owner shall be in default of this Agreement if:

- (1) Boat Owner fails to comply with ANY TERM OR CONDITION SPECIFIED BY THIS AGREEMENT;
- (2) Boat Owner fails to comply with ANY TERM OR CONDITION SPECIFIED BY THE MARINA RULES ATTACHED HERETO;
- (3) Boat Owner fails to make any timely payment as specified by this Agreement;
- (4) Boat Owner fails to make timely payments for any other services provided by the Marina to the Boat or Boat Owner under this Agreement;
- (5) Boat Owner removes the Boat from Marina for more than three (3) consecutive days without notifying the Marina.
- (6) Boat Owner does not keep any and all information on file with the Marina current;
- (7) Boat Owner declares bankruptcy or is forced into bankruptcy by his creditors; OR
- (8) Boat Owner does any other act which this Agreement states is an act of default.

(18. DEFAULT cont. on page 5)

In the event the Boat Owner commits an act constituting default(s), Marina shall notify Boat Owner in writing. Marina's failure to notify Boat Owner of a default(s) shall not waive Marina's right to notify Boat Owner of future defaults. **Except in cases of safety or environmental violations, Boat Owner shall have ten (10) days from the date of notice to cure the default.** In the event that Marina in its sole discretion determines that the Boat Owner's default creates a safety or environmental hazard (endangering life, personal safety or property, either of the Boat Owner or others, or violations of municipal, state, or federal environmental regulations) Boat Owner shall cure the default immediately upon notice. Should the safety or environmental hazard create an imminent threat to persons, property, or the environment, Marina may correct the default itself without liability to Boat Owner for any damage arising from Marina's actions, but regardless of whether the Marina cures the default or not, Boat Owner shall be in default.

Initials _____

19. MARINA REMEDIES. If Boat Owner fails to cure the default within the designated cure period, or if Boat Owner commits the same default on more than one occasion, Marina may declare this License Agreement terminated, effective immediately upon notice to Boat Owner. The failure of Marina to terminate the License Agreement shall not waive Marina's right to do so in the future. Termination of the License Agreement does not constitute a refund of any fees or charges as constituted by the provisions in Paragraph 14. Cancellation.

Upon declaring the License Agreement terminated, Marina shall have the following rights:

- (1) Marina may begin charging Boat Owner the Transient Daily Rates and other fees owed to Boat Owner's credit card on file with Marina without prior notice to Boat Owner.
- (2) Marina may repossess and sell the Boat in accordance with state law and Marina's right of repossession as listed herein.
- (3) Marina may foreclose its maritime lien for necessities under federal maritime law.
- (4) Marina may exercise any and all set-off rights as listed herein or otherwise available to Marina.
- (5) Marina may bring collection proceedings against Boat Owner. In such event, Boat Owner and his agent/master shall be personally liable on all debt incurred by the vessel and/or its owner/master/agent and shall pay all collection costs, interest, court and other costs and reasonable attorneys fees in the amount of 30% of the total amount marina seeks to collect.
- (6) The enumeration of Marina's rights, above, shall not limit Marina's right to other remedies.

20. SET-OFF RIGHTS OF MARINA. In the event of any default by Boat Owner under this Agreement, in addition to all other rights specified hereunder, the Parties agree that Marina shall further have the right to:

- (a) Terminate or decrease any electricity provided to the Boat;
- (b) Terminate or decrease any and all services being provided to the Boat;
- (c) Set-off any debt by disabling access to the Boat or any property rented to Boat Owner by Marina, including dock-boxes; and,
- (d) Repossess, remove and sell the contents and personal property of any dock-box which Boat Owner has rented from Marina.

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21. UNPAID DEBT BURDEN OF PROOF. Non-receipt of billing statements does not relieve Boat Owner of the obligation to pay all charges due AS SOON AS THEY BECOME DUE. Boat Owner shall have the burden of proving, by receipt or canceled check that payment in full of all charges was made. Marina may change the fees or change the other provisions of the Agreement by written notice to Boat Owner giving at least 14 days before the change is effective. A \$25 charge will be incurred for each returned check. If Boat Owner has an outstanding balance for amounts owed under this Agreement that is more than 90 days past due, the Boat may be arrested or repossessed by Marina and sold at public auction or private sale, or may be otherwise moved or towed away at boat owner's expense. This provision is in addition to and not a limitation of Marina's rights under state or Federal Maritime law. **BOAT OWNER SHALL BE OBLIGATED TO PAY ALL EXPENSES OF ARREST, REPOSSESSION, SALE, ADVERTISING, TRANSPORTATION AND/OR DESTRUCTION OF BOAT.**

22. RIGHT OF REPOSSESSION. In the event of any default by Boat Owner under this Agreement, which continues for more than thirty (30) days, after written notification by Marina to Boat Owner of the default, Boat Owner hereby grants Marina a common law possessory lien, a maritime lien for necessities, and a security interest in the Boat as defined below. If Boat Owner removes the Boat before any default is cured or outstanding charges have been paid, without the express written consent or requested removal by the Marina, Boat Owner hereby grants Marina an irrevocable license to enter upon the Boat wherever it may be found, to disable it or do anything necessary to transport or remove the Boat back to the Marina or a safe port or harbor at the Marina's sole discretion, or disable and keep the Boat where it is so that it may not be moved further. Boat Owner agrees that Marina or its agents may do so by any means available to the Marina or its designated agent at Boat Owner's expense, so long as it can be done without injury to the Boat. Marina acknowledges that it shall be liable to Boat Owner in the event the Boat is damaged or injured during such disabling or removal and such damages shall be limited to the actual costs of repairs.

23. NOTICES; ADDRESSES; SERVICE OF PROCESS. All written notices (including service of process) sent or requested by Marina or its agents to Boat Owner shall be sent either by email, facsimile, overnight courier, or regular mail to the address listed by Boat Owner in this Agreement or the last known address of the Boat Owner as updated in Marina's files. For purposes of legal notification and service of process, delivery by hand, email, facsimile, overnight courier, or U.S. Mail of any written communication or service of process to the Boat Owner's address as listed on this agreement or updated last known address shall be deemed actual notification under this Agreement and in compliance with all state and federal rules. If Boat Owner fails or refuses to accept any such written notifications or service of process, such refusal shall be deemed an event of default under this Agreement. Under such circumstances, Boat Owner hereby agrees and acknowledges that service of process shall be effected upon him if sent by email, facsimile, overnight courier, U.S. mail or hand delivered (or personally served) to the Boat Owner or person of 18 years or older at Boat Owner's last known address as defined herein or Boat, wherever either may be found, and whether accepted or not. Boat Owner is responsible for informing Marina of Boat Owner's most current address and phone number. Within ten (10) days following the date of any change in Boat Owner's business or residence address or telephone number, Boat Owner shall provide Marina, in writing, with the new address or telephone number. If Boat Owner changes address or telephone number without providing the new address and telephone number to Marina, written communications shall be delivered to the last known address of Boat Owner, as stated in Marina's records.

24. COLLECTION COSTS/ATTORNEYS' FEES. In the event Boat Owner defaults under this Agreement, Marina shall be entitled to recover any costs incurred, including reasonable attorneys' fees as incurred or 30% of the outstanding amount owed, (whichever is greater), in enforcing or protecting its rights, pursuant to a lien or otherwise, whether or not suit is filed. Such amounts shall be included in the amount of any lien for storage and/or necessities which Marina may have against the Boat Owner. Boat Owner hereby acknowledges and agrees that all collection costs and attorneys fees are specifically included in the Marina's maritime lien against the Boat and must be included for purposes of determining the amount of any bond.

25. CUMULATIVE REMEDIES; NO WAIVER. Marina's rights and remedies hereunder are cumulative in nature, and pursuit of any particular remedy shall not be deemed an election of remedies or a waiver of any other remedies available hereunder or otherwise available in law. No waiver or forbearance of a breach of this Agreement by Marina shall be construed as a waiver or forbearance of any other subsequent breach, and the acceptance of any performance hereunder, or the payment of any amounts after the same has become past due or at a time when any other default exists shall not constitute a waiver of the right to demand payment of all other amounts owed or a waiver of any other default then or thereafter existing.

26. JOINT AND SEVERAL LIABILITY. If more than one person executes this Agreement as Boat Owner, or if a master or agent executes this agreement on behalf of a boat owner, their obligations are joint and several, and any act or signature of, or notice or refund to any one or more of them with respect to this Agreement shall be fully binding upon each of them.

27. ENTIRE AGREEMENT. This Agreement is the entire agreement between the parties and supersedes all prior agreements. No modifications or amendments to this Agreement are valid unless in writing and signed by both parties, with the exception of the marina rules, which may be changed as defined on the following page.

28. **SEVERABILITY.** In the event that any provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, this shall not affect any other provisions and this Agreement shall be construed as if such provision had never been contained in this Agreement.

29. **CONCESSION CONTRACT.** If any terms or conditions of this Agreement are or become inconsistent with the terms or conditions of the National Park Service Contract, under which Licensor holds the concession to operate the Marina, or the Maintenance Agreement and Operating Plan for the operation of the Marina entered into under such contract (collectively, the "Concession Contract"), then the terms of the Concession Contract shall prevail and the inconsistent term or terms of this Agreement shall be void.

30. **CHOICE OF LAW.** This Agreement shall be governed by the laws of, and subject to the jurisdiction of, Washington D.C. and the federal laws and jurisdiction of the United States.

31. James Creek Marina is operated on behalf of the National Park Service by Guest Services, Inc.

Initials _____

MARINA RULES AND REGULATIONS

The following **Marina Rules** have been adopted in order to provide a safe and inviting Marina for our patrons. These Rules, which are also posted on the Marina bulletin board and on the website www.jamescreek.com, are expressly made part of the License Agreement. Boat Owner, any member of his family, any of his employees, licensees, agents, contractors, and guests (hereinafter individually referred to as "Boat Owner's Agent") expressly agree to comply with these Rules at all times. The Marina maintains the right from time to time to change or add Rules for the safety, care and cleanliness of the Marina or for the preservation of good order and, upon posting such amendments and additions in a conspicuous place in the Marina, they shall become part of the License Agreement and supercede all previous versions. Boat Owner agrees to comply, and to cause Boat Owner's Agent to comply, with all Marina Rules.

1. **DOCKING, MOORING, OR OTHERWISE SECURING OF ANY AND ALL VESSELS** in the Marina or to any portion of the docks is permitted only with the written authorization of the Marina, by means of a license agreement, and as such falls under the jurisdiction of the Marina.
2. **RULES OF THE ROAD** and navigation laws of the United States and the District of Columbia apply to all boats in, approaching or leaving the Marina. Boat Owners and Boat are responsible for damages or injuries caused by Boat's wake.
3. **ALL VESSELS REQUIRE EXAMINATION AND APPROVAL** by the Dockmaster prior to the execution of any slip license agreement. Vessels are to be maintained in good mechanical and aesthetic condition at all times. Vessels not in good condition, as determined at the sole discretion of the Dockmaster, will not be admitted to or permitted to remain in the Marina. A marine survey, conducted by an accredited marine surveyor, may be required at the discretion of the Marina at the Boat Owner's expense any time prior to arrival or while the vessel remains in the Marina.
4. **MAINTENANCE IN THE MARINA**, whether by boat owner or commercial contractor, shall be limited to normal preventative maintenance. These procedures are to include changing batteries, fluids, and expendable parts (e.g., belts, filters, etc.). Extensive repairs may require, at the sole discretion of the Marina, that the vessel be removed from the marina prior to the work being done. Boat washing is permitted using Marina approved biodegradable soaps and cleaners.
5. **POWER TOOLS** are not permitted to use on the docks or exterior of any vessel. Special exception may be requested from the Dockmaster who will review each request on a case-by-case basis. The decision of the Dockmaster shall be final. **Painting, to include varnish, conditioning oil, and solvent, is not permitted. Repairs, maintenance, and other activities that produce debris (e.g., paint chips, sawdust, filings, etc.) are not permitted.**
6. **MODIFICATIONS OR ADDITIONS** (e.g., installing fenders, hose caddies, etc.) to any portion of the docks are not permitted.
7. **CONTRACTORS, AGENTS, AND GUESTS** must be accompanied by the Boat Owner while they are on the docks. If the Boat Owner cannot be present the Boat Owner must inform the Marina Office prior to admitting the agent or guest on the docks. All contractors are required to sign in at the dock office prior to accessing the docks. Contractors are permitted only during the Marina hours of operation unless accompanied by the Boat Owner. All work must be concluded and contractor key returned prior to fuel dock closing (See schedule). Boat inspectors or insurance adjusters as well as any other person inspecting the Boat or performing any job or activity on or for the Boat shall be deemed a "contractor" for purposes of these rules.
8. **PARKING PERMITS** are issued to vehicles registered to the vessel owner and their immediate family only. Boater Permits are NON-TRANSFERABLE. Any vehicle NOT displaying a CURRENT permit may be ticketed and/or towed at the Owner's sole risk and expense. The Marina DOES NOT warrant the availability of parking. The Marina disclaims responsibility for vehicles parked on James Creek Marina property, including, but not limited to, damage to, theft of or theft from vehicles. Permits will NOT be issued to delinquent accounts. Boaters may obtain visitor-parking passes at the Dock Office at no cost. Trailer parking is not permitted.
9. **WALKWAYS** shall be kept clear at all times. Boarding steps and ladder are subject to approval by the Marina.
10. **"FOR SALE" SIGNS** and any other forms of advertising or solicitation are not permitted in the Marina, as per National Park Service policy and Code of Federal Regulations (36 CFR §§ 5.1 and 5.2).
11. **COMMERCIAL ACTIVITIES**, vending, or otherwise collecting funds is not permitted. Commercial activities include, but are not limited to, rental or leasing of boats, chartering of boats or boarding paying passengers, use of the Marina address, use of a boat, telephone, or facsimile number in any advertising, brochure, letterhead, business card, or other commercial document that is located at the Marina. Any questions should be directed to the Dockmaster.
12. **LAUNDRY** shall not be hung on boats or docks.

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13. **CHARCOAL AND GAS COOKING** is not permitted on the docks or on the exterior of any vessel in or attached to the Marina.
14. **FIREWORKS** are not permitted in the Marina, on the docks, or on any vessel in or attached to the Marina.
15. **TRASH AND GARBAGE** must be placed in **sealed plastic bags** and disposed of in the trash bins located along the sidewalks or taken with the Boater when they leave. **Do not leave garbage anywhere on the ground.** Glass, aluminum, and plastic should be placed in the provided recycling containers. Cardboard boxes must be flattened and put in the dumpster. Any construction debris, old furniture, or other bulky items must be removed from the Marina by the Boat Owner. Shrink wrap is not to be disposed of in the dumpster. Ask us about our shrink wrap recycling program.
16. **USED MOTOR OIL, ANTIFREEZE, FUEL, AND BATTERIES** can be recycled. Contact the Marina to arrange disposal. All other hazardous materials (e.g., varnish, paint, alcohol, wood oil, etc.) are not to be stored or disposed of at the James Creek Marina. Contact the Marina regarding the disposal of oil and/or fuel soaked rags and/or absorbent material prior to disposal. **No flammables, hazardous materials, or fireworks are to be stored for any period of time on board vessels or on the docks (including dock boxes) by order of the D.C. Fire Marshall. (These materials include, but are not limited to, fuel, spray paint, WD40, wasp killer, acetone, etc.)**
17. **UTILITY CONNECTIONS** from the Boat to the Marina are to be maintained in a serviceable condition as directed by the National Park Service safety officer. All utility connections are subject to approval by the Dockmaster. Unsafe connections are immediately subject to disconnection with or without prior notification of the Boat Owner(s). **Under no circumstances may a Boat Owner plug into any other slip outlet,** even with the permission of the occupant of that slip, without prior approval from the Marina. If there is a problem or emergency, notify the Dockmaster or the call number on the dock office door. Under no circumstances may anyone plug into any Marina plug, light, or appliance without the express permission of the Marina. Do not run cords across any walkway.
NO MORE THAN ONE VESSEL IS TO BE CONNECTED TO A SINGLE SHORE POWER OUTLET.
18. **LOUD NOISES** such as hailers, loud music, or unnecessarily loud revving of engines will not be permitted. Dock parties must conclude by 11:00 p.m. Sunday-Thursday, and by 12:00 midnight Friday and Saturday. Any noise which can be heard further than two slips from the boat will be considered to be too loud.
19. **IF THE BOAT IS TO BE OCCUPIED OR OPERATED** by a person other than the Owner without the Owner present, the Marina must be contacted in writing. The Owner should provide the Marina a list of approved individuals if they expect them to use the boat on a regular basis.
20. **GATE ACCESS** is by combination unique to each dock. For the safety of everyone do not provide the combination to anyone. Contractors will receive a contractor key when they check in.
21. **PETS** are allowed with the condition that they are kept on a leash at all times while on the docks or on the property as per National Park Service Regulation (36 CFR 2.15). Pets, with the exception of service animals, are not allowed in the comfort station at any time.
22. **SPACE HEATERS ARE NOT TO BE OPERATED UNATTENDED AT ANY TIME.** Certain “boat safe” engine compartment heaters may be used with prior approval from the Marina. Vessels found operating unattended space heaters or other unsafe heating devices will be immediately disconnected from shore power. **At no time are kerosene or propane space heaters to be operated in the Marina.**
23. **NO DISCHARGES** are permitted in any District of Columbia waterways. Sewage, treated or untreated, must go to an onboard holding tank and discharged at a septic pumpout station. Bilges must be kept free of any contaminants (e.g. oil, fuel, antifreeze, etc.) A discharge is defined as any spilling, leaking, pumping, pouring, emitting, emptying, or dumping as per US Code Title 33 Navigation and Navigable Waters. Y valves should be in the “closed” or “holding tank” position and locked at all times while boating in inland waters.
24. **ANY CHANGES TO YOUR BOATER STATUS** (i.e., departure date, change of slip, mailing address, etc.) require notification to the Marina. A credit to your account, if applicable, will be issued only if the Marina Office is notified, in writing, prior to any such changes. Forms for this purpose are provided in the Dock Office. Changes can also be mailed, faxed to the address indicated at the top of page 1, e-mailed to info@jamescreek.com, or left in the drop box by the door to the Marina office.
25. **RIDING OR OPERATING** motorized transportation (Moped, scooter, etc.), skates, or skateboards is not permitted on the docks.
26. **LIVEBOARDS*** are not permitted at the James Creek Marina in accordance with National Park Service policies (36 CFR § 2.61).

* Slip Holders who spend 3 or more nights in any 7-day period and/or use the marina for a mailing address are considered liveaboard.

Initials _____

Any questions, concerns, or comments regarding this License Agreement, the Marina Rules, or any other Marina issues should be addressed to the Marina Office.

Addendum A

1) Security Deposits

All security deposits are non-refundable prior to arrival. Cancellations or non-arrivals* result in forfeiture of security deposit. Upon arrival deposits are held until the end of License Agreement term as indicated on the cover sheet. **Early departures result in forfeiture of deposit in addition to other charges indicated in Section 2 of the License Agreement.** Security deposits left in place at the dock office for the purpose of retaining a slip for the following year or season have until December 31st of the last license agreement year to cancel without penalty. Cancellations or non-arrivals* after December 31st result in forfeiture of the deposit. In addition, failing to timely pay slip fees, etc. may result in the immediate forfeiture of security deposit if default is not paid within 30 days. Security deposit must then be repaid or vessel removed from Marina. Boat owners are expected to comply with all rules and regulations of the James Creek Marina, the National Park Service, the Government of the District of Columbia and all applicable maritime laws. Failure to comply may result in forfeiture of deposit. Please read your License Agreement carefully and refer any and all questions to the Dockmaster.

* non-arrival is defined as failure to arrive at the marina on the date specified by the license agreement or the Dockmaster. The Dockmaster, prior to the scheduled date of arrival, must approve any changes to the arrival date. Failure to approve of reschedule date does not require Marina to refund the security deposit.

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