

# LOUGH SWILLY MARINA LTD.

## Application Form for Pontoon Berthing

### APPLICATION:

I, (Forename):.....(Surname).....

Address:.....Post Code.....

(hereinafter called "the Licensee") request Lough Swilly Marina to provide Berthing and/or hard standing from the .....day of ..... 20..... to the .....day of .....20..... at Lough Swilly Marina for my vessel specified in the schedule hereto.

### EMERGENCY CONTACT NUMBER:

Home:.....Business:.....Mobile.....

e-mail address:.....

(for notification of code changes)

It is a requirement that all boat owners maintain adequate insurance. Kindly confirm that such insurance is in force: Yes \_\_\_\_\_ No \_\_\_\_\_

**VESSEL NAME:**.....

Type (please tick)

Sail:            Motor:            Motor-Sailer:            Multi-Hull:

Hull (please tick)

GRP:            Wood:            Metal:            Concrete:            Aluminium:

Engine:            Petrol:            Diesel:            Make:.....

**Dimensions of vessel (includes all appendages):**

**L.O.A.....(m)    BEAM:.....(m)    DRAFT:.....(m)    TONNAGE:.....**

**I have read and agree to be bound by the Licence Agreement and the conditions therein contained:**

**Signature:**.....

**Date:**.....**Date boat will arrive:**.....

This document contains all the conditions of berthing which are agreed between you and Figary Water Sports Dev. Co. Ltd. on behalf of Lough Swilly Marina. In this document you are referred to as 'the licensee'. Lough Swilly Marina is referred to as 'the Company'.

### OFFICIAL USE ONLY

Inv. No.	Berth No.	Licence Expiry Date:
Method of Payment:	Comments:	

# **LOUGH SWILLY MARINA LTD.**

**2013 SEASON**

## **MARINA PONTOONS Licence for Vessel(s) at Lough Swilly Marina**

.....

I/WE AGREE TO BE BOUND BY THE RULES AND CONDITIONS ANNEXED TO THIS LICENCE.

IN CONSIDERATION OF THE ABOVE I/WE AGREE TO PAY FIGARY WATER SPORTS DEVELOPMENT COMPANY LTD. ON THE SIGNING OF THIS LICENCE, THE SUM OF €\_\_\_\_\_. ADDITIONAL FEES WILL ACCRUE FOR ANY PERIOD YOU REMAIN BERTHED AT THE MARINA BEYOND THE EXPIRATION OF YOUR LICENCE.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

FIGARY WATER SPORTS DEVELOPMENT COMPANY LTD, ON BEHALF OF LOUGH SWILLY MARINA ACCEPTS THE ABOVE APPLICATION AND AGREES TO PROVIDE A BERTH AT THE MARINA, SUBJECT TO THE RULES AND GENERAL CONDITIONS ANNEXED TO THIS LICENCE.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

## MARINA RULES AND CONDITIONS

1. In these Rules the Company shall mean the Company and/or its agents to whom the application for berthing is made which may be its associated companies, concessionaires, tenants and assignees for the operation of any harbour facility. The expression 'harbour' shall include a yacht harbour, marina, moorings, or any other facility for berthing a yacht. The expression 'Owner' shall include a charter, master, or agent, or other person for the time being lawfully in charge (other than the Company) of the vessel or vehicle. The expression 'Licence' shall mean the licence granted to the Owner to berth any vessel on the Company's harbour or premises pursuant to these Rules. All references to the male shall also include the female.
2.
  - (a) All vessels and vehicles in or on the Company's harbour and premises may be moved at any time by the Company to any other part of the same harbour and premises.
  - (b) The Company shall not be liable whether in contract, tort, or otherwise, for any loss, theft or any other damage of whatsoever nature caused to any vessel or vehicle or other property of the Owner or others claiming through the Owner.
  - (c) The Owner shall indemnify the Company against all loss, damage, costs, claims or proceedings incurred by or instituted against the Company or its servants or agents which may be caused by the Owner's vessel or vehicle or by the Owner, his servants, agents, crew, guests or sub-contractors.
  - (d) The Owner shall insure his vessels and vehicles adequately against loss or damage howsoever caused and shall maintain third party insurance (including both public liability and where relevant employers liability insurance) in respect of himself and each of his vessels or vehicles, his crew for the time being and his agents, servants, visitors, guests and sub-contractors in a sum of not less than 1.3 million euro in respect of each accident or damage and shall maintain in respect of each vessel adequate salvage insurance. Such insurance shall be effected and maintained in an insurance office of repute and the Owner shall produce the policy or policies relating thereto to the Company on demand.
3. Except with the written consent of the Company, which may be withheld at the Company's sole discretion, no part of the Company's harbour or premises or any vessel or vehicle shall be used by the Owner for any commercial purpose, including hiring, embarkation or disembarkation of charter parties, sale or demonstration for sale or hire of the vessel, provided that the occasional use of the vessel by a personal friend of the Owner on payment to the Owner of a contribution towards the actual running cost of the said vessel shall not be deemed a commercial purpose hereunder. The Owner shall upon request by the Company supply full details in writing of all such use under the proviso to this Rule.
4. Within 7 days of any sale, transfer or mortgage of any vessel which is subject to a current licence granted to the Owner by the Company subject to these conditions the Owner shall notify the Company of the name and address of the Purchaser, Transferee or Mortgagee, as the cases may be. The Company shall be under no obligation to accept any such purchaser, transferee or mortgagee in place of the licensee.
5. If, in the currency of an annual or multiple year licence, the holder wishes to change the details of the craft covered by the licence, he may apply to the manager to do so and, if it is possible, he shall be facilitated in this. In the case where such change involves an increase or a decrease in the size of the vessel to which the licence applies, the additional amount or the refund due, will be calculated as a fraction of the year remaining, at rates applicable for that year and, in the case of a multiple year licence, for the remaining period of the licence. These rates will be applied, as appropriate, to the difference in the dimensions of the vessels.
6. No work shall be done to the vessel whilst in or on the Company's harbour or premises except by the Company (unless with the written consent of the Company which may be withheld at the Company's sole discretion) other than minor running repairs or minor maintenance of a routine nature by the Owner, his regular crew, or members of his family, not causing any nuisance or annoyance to any other users of the harbour or premises or any person residing in the vicinity.
7. The Company has the right to exercise a general lien upon any vessel and/or other property of the vessel's Owner whilst in or on the Company's harbour or premises until such time as any money due to the Company in respect of the vessel and/or other such property whether on account of rental, storage, commission or berthing charges, work done or otherwise, shall be paid.
8.
  - (a) The Company shall have the right (without prejudice to any other rights in respect of breaches of these Rules by the Owner) to terminate the Licence granted to the Owner in the following manner in the event of any breach by the Owner of these Rules or of any failure by the owner to make any payment due to the Company. If the breach is capable of remedy or the Owner has failed to make any such payment the company may serve notice on the Owner personally or by sending it by recorded delivery to his last known address specifying the breach or failure to pay and requiring him to remedy the breach or pay the amount due within 14 days.

If the Owner fails to remedy such breach or pay the amount due within 14 days, or if the breach is not capable of remedy, the Company may serve notice on the Owner personally or by sending it by recorded delivery to his last known address specifying the breach or failure to pay (when not already specified) and requiring him to remove the vessel within 28 days, at the expiration of which the Owner shall remove the vessel and any other property of his from the Company's harbour and premises. The Company shall refund the Owner the un-expired portion of the rental (disregarding any rebate given) subject to a right of set-off in respect of any damage suffered by it and/or other monies owing as a result of any of the matters giving the Company the right to terminate the Licence.

- (b) When no date of termination for a Licence has been agreed in writing between the parties, the Company or the Owner may terminate the Licence granted to the Owner by giving the other 28 days notice of such termination, at the expiration of which the Owner shall remove the vessel from the Company's harbour and premises.
- (c) Any obligation of the Company toward vessels or goods left at its harbour or premises ends upon the expiry or lawful termination of the grant to the Owner of facilities in respect of such vessels or goods and the Company accepts no responsibility for loss or damage to any vessels or goods left at its harbour or premises without its consent.
- (d) If the Owner fails to remove the vessel on termination of the Licence (whether under this Rule or otherwise), the Company shall be entitled:
- (i) To charge the Owner with the rental which would have been payable by the Owner to the company if the Licence had not been terminated for the period between termination of the Licence and removal of the vessel from its harbour and premises and/or
  - (ii) At the Owner's risk to remove the vessel from its harbour and premises and thereupon secure it elsewhere and charge the Owner with all costs arising out of such removal including alternative berthing fees.
9. In all cases where a contract of hire or licence to occupy any moorings, berth, storage space, property or facilities may be lawfully terminated by notice, the same shall be deemed to be lawfully served if served personally on the Owner or sent by registered post or recorded delivery service to the last known address of the Owner or to the principal place of business of the Company.
10. The Company shall have the right to moor, re-berth, move, board, enter, lift ashore, slip or carry out any emergency work on the vessel, if in the Company's opinion such be necessary for the safety of the vessel or the safety and/or convenience of other users of the harbour or for the safety or good management of the Company's premises, plant and equipment and the Owner shall pay the Company reasonable charges for such work.
11. The Owner shall not lend nor transfer the berth (this Licence being personal to the Owner, relating to a particular vessel and non-assignable) nor shall he use it for any other vessel without prior consent of the Company.
12. The vessel shall be berthed or moored by the Owner in such a manner and position as the Company may from time to time require and unless otherwise agreed the necessary warps and fenders shall be provided by the Owner. The Owner is entirely responsible for ensuring that his vessel is moored or berthed in a safe and secure manner.
13. (a) Berths may be licensed for the periods published by the Company from time to time. Berthing fees will be calculated by reference to the Company's published charges from time to time.
- (b) Nothing in this Licence shall entitle the Owner to the exclusive use of any particular berth. If at any time during the period of this licence the berth previously allocated by the Company to the Owner shall not be used by the Owner for mooring the Owner's vessel, then the Company shall be entitled to moor or permit a third party to moor a vessel at such berth and the Company shall be entitled to all income (if any) arising. Upon the Owner returning his vessel to the harbour, the Company shall use all reasonable endeavours as soon as practicable to make such berth available to the Owner. The Owner shall use all reasonable endeavours to give to the Company not less than 24 hours' previous notice of the Owners intention to return his vessel to the harbour.
14. All persons entering or using any part of the Company's harbour or premises or facilities for whatever purpose and whether by invitation or otherwise do so entirely at their own risk.
15. The vessel, when entering or leaving or manoeuvring in the harbour shall not be navigated at such a speed or in such a manner as to endanger or inconvenience other vessels in the harbour. Vessels are at all times subject to the speed restrictions and by-laws of the Company or harbour, navigation or other authorities.
16. No noisy, noxious or objectionable engines, radio, or other apparatus or machinery shall be operated within the Company's harbour or premises nor shall animals be allowed within the Company's harbour or premises so as to cause any nuisance or annoyance to the Company, to any other users of the harbour or premises or any person residing in the vicinity and the Owner undertakes for himself, his guests and all using the vessel that they shall not behave in such a way as to offend as aforesaid. Halyards shall be secured so as not to cause such nuisance or annoyance.
17. (a) No refuse or noxious substances including batteries, oil residues or sewage shall be discharged or thrown overboard or left on the pontoons, jetties or car parks, or disposed of in any way other than by removal from the Company's harbour premises.
- (b) Owners are required to ensure that the washing down of boats using the marina does not cause contamination of water by Organotin anti-foulants, including Tributyltins (TBT). The application to any vessel or marine structure of Organotin, including Tributyltins is prohibited.

18. Dinghies, tenders and rafts shall be stowed aboard the vessel unless a berth is separately provided by the Company.
19. Owners and their crew are required to park their motor vehicles in such position and in such manner as shall from time to time be directed by the Company.
20. No items of boats, gear, fittings or equipment, supplies, stores, or the like shall be left upon the pontoons, jetties or car parks.
21. The Owner shall take all necessary precautions against the outbreak of fire in or upon his vessel and the Owner shall observe all statutory and local regulations relative to fire prevention (if any) that may be exhibited at the offices of the Company. The Owner shall provide and maintain at least one fire extinguisher of a Governmentally approved or BSI standard type and size in or on the vessel in case of fire, which extinguisher shall at all times be kept ready for immediate use and in good and efficient working order. Owners shall not refuel vessels in the harbour otherwise than at the Company's refuelling berth (when provided).
22. Dogs must be kept on a lead whilst on the premises and must not be allowed to foul the footpaths and pontoons.
23. During the second phase of marina construction and the development of the marina complex, the Company cannot accept any responsibility for disturbance noise, dust and any other inconvenience suffered by owners on account of building work carried out at the premises or on land adjoining thereto.
24. Bathing or fishing within the marina is not permitted. Young children must wear adequate life jackets and those under 16 years of age must be accompanied at all times by a responsible adult who undertakes responsibility for their safety and control.
25. The Company shall be entitled in its absolute discretion to decline to renew a licence and without stating any reasons for doing so.
26. Craft exceeding 65 feet in length overall or 20 feet in beam shall not be permitted to enter or remain within the marina or harbour without the prior written permission of the Company.
27. Any licensee who wishes to have overnight occupancy onboard his vessel in a marina or harbour berth for a consecutive period of 28 days or in excess of 60 days in any single licence period may not do so without first seeking and obtaining the prior written consent of the Company, which may in its absolute discretion refuse without stating reasons for doing so.
28. The Company provides berthing for sea-going vessels only. Engines must be kept in full working order.
29. All differences and disputes between the Company and the owner as to the interpretation and construction of this license shall be submitted to arbitration by a sole arbitrator to be appointed (in absence of agreement between the Company and the Owner upon such appointment and on the application of either of them) by the President for the time being of the Incorporated Law Society of Ireland, such arbitration to be governed by the Arbitration Acts, 1954 and 1980.
30. This licence is governed by the laws of the Republic of Ireland and shall be interpreted and construed accordingly.
31. The foregoing Rules shall apply to all users of the company's harbour and premises. These Rules may be altered added to or amended from time to time by the Company. Upon such amended Rules being displayed at the Marina Centre or served on the Owner any addition or amendment shall be deemed incorporated herein.
32. The marina operates under a waste management plan which is available for inspection at the marina office. At the present time the marina only receives general mixed waste and sewage discharge is strictly prohibited. An 1100 litre general waste bin is provided and annual berthing fees cover the expense incurred for collection of the waste. Charges for Port Reception Facilities are included in your berthing fees.