

# Emsworth Sailing Club



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## TERMS FOR DINGHY PARK LICENCE (2019)

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### 1. THE LICENCE

- 1.1 If you accept our offer of a Licence, we will allocate you a space in the Dinghy Park in which to keep a Boat for the Licence Period.
- 1.2 You will pay to us the Charge in full before 31 January of the Licence Period or later if the Licence Period starts later in the calendar year.
- 1.3 A Licence is valid only for the Licence Period and not beyond. A Licence confers no right on you to the issue of another Licence when it ends.

### 2. YOUR GENERAL OBLIGATIONS

- 2.1 You must use the Dinghy Park only as expressly permitted by these Licence Terms.
- 2.2 Your Boat must display conspicuously any up to date identification markers provided to you by us and a valid Harbour Dues plaque issued to you by the Conservancy.
- 2.3 You must keep your Boat and any trailer or trolley in a sound condition to the reasonable satisfaction of the Billets Officer. If we believe that the Boat or trailer or trolley are not sound, we reserve the right to require you to remove either or both of the Boat and trailer or trolley from the Dinghy Park, until you have put them into an appropriate condition.
- 2.4 No work can be done in the Dinghy Park if that work will or might cause nuisance or annoyance to others.
- 2.5 Masts may not be stepped at any time in dinghies parked in the northern third of Mountbatten Park, nor may they be stepped between 1 November and 1 March in dinghies parked anywhere in the Dinghy Park.
- 2.6 When parking a craft, the halyards and other running rigging shall be secured away from, or otherwise made fast so that they cannot flap against, the mast or other spars.
- 2.7 In the event of non-compliance with either 2.5 or 2.6 a Club official may lower the mast or untie the halyards, and action will be taken in the event of persistent non-compliance.
- 2.8 All members, particularly those to whom billets have been allocated, are required to assist in keeping the terrace, dinghy parks and other storage spaces tidy. Members are required to trim the vegetation in the billet space allocated to them for their dinghy, as part of keeping it tidy.
- 2.9 We reserve the right to refuse to accept the renewal of a billet if it has not been adequately utilised in the previous year, or if the member has persistently been in breach of this Licence. We will regard a billet as not having been adequately used, if the craft allocated to it has not, as evidenced by the

Billets log, been used at least **eight** times during the year. We also reserve the right in exceptional circumstances to require a member to remove his craft or equipment from the Club property should this be considered necessary.

2.10 If we have asked you to take action in respect of the Boat or other equipment in the Dinghy Park and you do not, and we take such action, we may charge you for taking that action on your behalf.

2.11 You will pay to us promptly all sums due from you under the Licence Terms. All payments must be made within 30 days of the date on which they are demanded, or by such later date as we tell you.

### **3. Third party insurance**

3.1 You must maintain at all times a suitable policy of insurance for your Boat such insurance to cover any claim arising from use or ownership of the Boat for a sum not less than £2 million. You will provide satisfactory evidence to us of such insurance within 7 days of being requested to do so.

### **4. Allocation of a Space on the Dinghy Park**

4.1 We will tell you which space you may use for your Boat. We may reallocate spaces from time to time and change the space allocated to you to another space of a similar type/size at any time.

### **5. Assignment and transfer**

5.1 This Licence is personal to you and relates only to the Boat described in the Licence Information. The Licence may not be transferred or assigned to another person, including to a new owner. You may not permit anyone else to use it without our express written consent.

5.2 You may not use the space for a different Boat (either temporarily or permanently) without our express prior consent.

### **6. Changes of Licence Information**

6.1 You must tell us as soon as possible if any of the Licence Information changes. We may require you to notify us by completing an appropriate form for the relevant circumstances.

6.2 We will consider reasonably any request from you to vary this Licence to include a different Boat.

### **7. Termination of the Licence**

7.1 Without prejudice to any right or remedy available to us, we will be entitled to end this Licence immediately by notice in writing to you if:

(a) you fail to pay in full any money owed to us by you, whether arising in connection with the Licence or otherwise, in any such case within 7 days of the date on which payment was due; or

(b) if you commit any breach of this agreement and that breach:

(i) is a breach that cannot be put right; or

(ii) is a breach that can be put right but after we have notified you of the breach and what you must do to put it right, you have not done so within the time we have set in our discretion (but not less than 7 days) for you to do so; or

(c) any of the following events have occurred:

(i) you no longer own the Boat;

(ii) you have committed a serious breach or persistent breaches (whether individually serious or not) of the Club Rules and we have given you warning that a prosecution will be considered by us if there are further breaches of such Club Rules by you.

(d) If you are unable to pay your debts or become insolvent or bankrupt, or make or propose to make an arrangement or composition with your creditors.

- 7.2 Without prejudice to any right or remedy available to you, you will be entitled to end this agreement by giving not less than 30 days notice in writing to us at any time.
- 7.3 On the ending of this Licence, you must remove the Boat and other equipment from the Dinghy Park. If you do not remove it, we may move it and sell or otherwise dispose of the Boat and other equipment. If we do, we may retain from any proceeds of sale or disposal any costs that we have incurred in having to move, sell or dispose of it.
- 7.4 The ending of this agreement does not affect any provision of it which is intended to continue after this agreement has ended, or to come into force when this agreement ends.
- 7.5 If we do not enforce this agreement or any part of it or we do not take action against you for breach, it does not mean that we cannot enforce that or any other provision or take action against you for a subsequent breach.
- 7.6 Termination of the Licence by us shall not entitle you to a refund of any money paid by you in respect of this Licence.

## **8. Abandoned Goods**

- 8.1 In the case of an abandoned or unauthorised boat and/or trailer (as defined below) the Club may:-
- a) move the boat and/or trailer to any part of the Club premises without being liable for any loss or damage to the boat and/or trailer howsoever caused;
  - b) upon giving 1 months' notice require the member or former member to collect the boat and/or trailer;
  - c) upon giving three months notice in writing by registered post to the member or former member at his/her last known address shown in the register of members sell the boat and deduct any monies due to the Club (whether arrears of subscription or facility fees or dinghy park fees or otherwise); if the boat and/or trailer is unsaleable (in the reasonable opinion of the Club Committee), after giving notice in writing as aforesaid, dispose of the boat and/or trailer in any manner the Club Committee may think fit and deem the cost of so doing and any arrears as aforesaid to be a debt owing to the Club by the member or former member.
  - d) the Club reserves the right to charge storage for the boat and/or trailer until such time as the owner collects the boat and/or trailer or until notice has been served under clause (b) and (c) above.
- 8.2 Provided that in each case that proper evidence is available to show that all reasonable steps have been taken by the Club to trace a member or former member and that when and if the boat and/or trailer is sold the proceeds of sale (where these exceed the amount of any indebtedness by the member or former member to the Club) shall be placed in a bank deposit account and retained against the eventuality of a claim by the owner (whether he be the said member or former member) for a period of six years.
- 8.3 The Club shall be entitled to treat any of the following as an abandoned or unauthorised boat and/or trailer:
- a) a boat and/or trailer located in the dinghy park and not displaying a current dinghy park sticker;
  - b) a boat and/or trailer located otherwise than in its properly allocated space;
  - c) a boat and/or trailer that remains in the dinghy park for more than one month after any date advised by the Club by which boats and/or trailers must be removed to allow for maintenance works of the dinghy park;
  - d) a boat and/or trailer which is the property of a member or former member which remains on Club premises after any fees payable to the Club by any member or former member (whether by way of arrears of Subscription or facilities fees, dinghy park fees or otherwise) are more than

one month in arrears;

- e) a boat and/or trailer which is the property of a member or former member which overstays by more than a month following the termination of the storage agreement;
- f) a boat and/or trailer which is the property of a former member which overstays by more than a month following the termination of their membership.

8.4 In addition to the powers set out above to move, sell or dispose of boats and/or trailers the Club shall have a lien over members' or former members' boats and/or trailers parked on the Club's premises in respect of all monies due to the Club, whether in respect of arrears of facilities fees or subscriptions or otherwise and shall be entitled to retain possession of the boat and/or trailer until such time as all monies due to the club have been paid in full.

## **9. Emsworth Sailing Club general obligations/no other liability of Emsworth Sailing Club**

9.1 Neither the Club nor any of our authorised officers or employees, will be liable for any claim whatsoever arising out of or in connection with a grant or refusal to grant any Licence or the implementation or enforcement of the provisions of the Licence.

9.2 The Club shall not be liable for any loss or damage caused by events or circumstances beyond our reasonable control (such as severe weather conditions, the actions of third parties not employed by us or any defect in a customer's or third party's property); this extends to loss or damage to Boats, gear, equipment or other property, and harm to persons entering the Dinghy Park and/or using any facilities or equipment.

## **10. Notices:**

10.1 All documents and other written communications to be sent to you may be sent at our option by email (where we have an email address for you as part of the Licence Information) or by ordinary post to your address shown on the Licence Information, unless you have given us written notice of a change of address.

10.2 All documents and other written communications to be sent to us or required to be delivered to Emsworth Sailing Club should be sent by email to [secretary@emsworthsc.org.uk](mailto:secretary@emsworthsc.org.uk) or by ordinary post or delivered by hand to the Club marked for the attention of the Billets Officer.

10.3 Documents sent by email will only be treated as having been served if the email is acknowledged or replied to or if the sender has a "read receipt". An automated response to an email that the intended recipient is "out of office" is to be treated as proof that the email was not received.

10.4 A notice or document received by email before 17:00 on a Working Day is to be treated as received on that day. If it is received after 17:00 or a day which is not a Working Day it is to be treated as received on the next Working Day.

10.5 In the event of any conflict between the terms of this agreement and the Club Rules, this agreement shall prevail, but if a rule expands the terms of this agreement or vice versa, both shall apply.

10.6 A person who is not a party to this agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this agreement.

10.7 This agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English Courts.

10.8 None of your rights or obligations under the Licence may be assigned, transferred, sub-contracted or otherwise disposed of in whole or part without our prior written consent. We may assign, transfer,

sub-contract or otherwise dispose of all or any of our rights or obligations under this agreement by giving notice to you, provided that such a disposal of rights or obligations does not affect any of your rights or remedies under the Licence.

## 11. Interpretation

11.1 In this agreement, the expressions below have the respective meanings given to them (unless the context otherwise requires):

“**Boat**” means the Boat specified in the Licence Information and includes any boat or watercraft listed in the Licence Information.

“**Club**” means Emsworth Sailing Club

“**Club Rules**” means the Byelaws and other rules and regulations of the Emsworth Sailing Club as are in force from time to time.

“**Dinghy Park**” means the Mountbatten dinghy park to the west of the Club or the terrace to the south of the Club

“**Licence Information**” means the information you provide to us when requesting a Dinghy park space

“**Licence Period**” means the period from the licence commencement date specified in the Licence Information to the end of the calendar year, or such shorter period as may occur by either you or us ending the Licence for any reason allowed under its terms.

“**We**” means Emsworth Sailing Club and includes any person authorised on behalf of the Club.

“**You**” means the person to whom a Licence is issued.

11.2 In these licence provisions, unless the context otherwise requires:

a reference to a **person** means an individual only and, as appropriate, that person’s respective successors or assigns; and

words importing the plural shall include the singular and masculine shall include the feminine, and vice versa.

11.3 Headings are used only for convenience and will not affect interpretation.

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