

LICENSE AGREEMENT -- TRANSIENT DOCKAGE

TERMS AND CONDITIONS

In consideration of the Total Due for the full term (whether or not YACHT is present at Marina) and the mutual covenants of this AGREEMENT, MARINA licenses OWNER PARTIES to access and use within the Marina (1) an assigned slip ("dock space") adjacent to a dock for dockage of the YACHT and no other vessel or thing, as well as (2) certain facilities and (3) common areas incidental to dockage, in accordance with the provisions and TERMS AND CONDITIONS of this AGREEMENT (herein "License"). The Parties agree that this AGREEMENT is not a lease or other rental agreement relating to real property.

If the person signing this AGREEMENT is not the OWNER, such person: (a) must fully name and identify OWNER in this AGREEMENT, and, (b) certifies that he/she has lawful custody and control of YACHT as Captain/Agent of OWNER.

At all times, OWNER retains exclusive care, custody and control of, and is solely responsible for, YACHT, its engines, appurtenances and contents. MARINA is not a bailee of YACHT, its engines, appurtenances or contents and assumes no responsibility for safe operating condition, tie up, dockage or maintenance of YACHT. OWNER is solely responsible for security of YACHT and for preventing entry by unauthorized persons on YACHT.

STATUTORY NOTICE TO YACHT OWNER

MARINA hereby informs OWNER that in the event OWNER fails to remove the YACHT from the Marina promptly (within eight [8] hours) after the issuance of a tropical storm or hurricane watch for Miami-Dade County, under Florida law, MARINA, its managers, operators, employees, agents or contractors are authorized to remove the YACHT, if reasonable, from its dock or take any and all other reasonable actions deemed appropriate by MARINA, its managers, operators, employees, agents or contractors in order to better secure the YACHT and to protect Marina property, private property, and the environment. OWNER is further notified that he/she/it may be charged a reasonable fee for any such action(s).

Accordingly, in the event OWNER fails to promptly remove YACHT from the Marina after a tropical storm or hurricane watch has been issued, MARINA (its managers, operators, employees, agents or contractors) may remove YACHT, if reasonable, from its dock or take whatever reasonable actions are deemed necessary to properly secure YACHT to minimize damage to it and to protect Marina property, private property, and the environment and OWNER shall pay a reasonable fee for any such actions taken.

INSURANCE, RELEASE, INDEMNIFICATION and ATTORNEYS' FEES

MARINA DOES NOT CARRY INSURANCE covering persons, or, property of OWNER. **MARINA WILL NOT BE RESPONSIBLE** for any personal injury (including death) or property damage resulting, caused by or arising out of this License or other use of the dock or Marina. OWNER PARTIES SHALL KEEP COMPLETE MARINE INSURANCE on YACHT and its operator(s), current and in place, including full insurance on hull and machinery and other property, and, insurance against OWNER PARTIES' liabilities to third parties.

OWNER PARTIES HEREBY RELEASE AND DISCHARGE MARINA (and officers, directors, managers, operators, agents, servants, employees, contractors and insurers thereof) from any and all liability for loss, personal injury (including death), or damage to person or property sustained while in the Marina, on Marina property, and/or using any part of Marina or its

facilities, arising out of, relating to or caused (directly or indirectly) by: (1) any **negligence** of MARINA or officer(s), director(s), manager(s), operator(s), agent(s), servant(s) employee(s), and/or contractor(s) thereof; (2) performance or nonperformance by MARINA of the obligations imposed by this AGREEMENT; and/or (3) strict liability, breach of warranty or other fault (not rising to the level of gross negligence or intentional conduct) of MARINA; irrespective of whether said loss, personal injury (including death) or damage to person or property arises out of, relates to or is caused (directly or indirectly) by failure of MARINA's product, equipment or facilities, fire, theft, vandalism, water damage, collision, allision, windstorm, rain or other casualty.

YACHT AND OWNER SHALL INDEMNIFY AND HOLD HARMLESS MARINA (and officers, directors, managers, operators, agents, servants, employees, contractors and insurers thereof) from and against each and every claim, suit, liability, loss, damage (including without limitation damage to Marina docks, pilings, and cleats, and, others' vessels), fee and expense (including without limitation attorneys' and paraprofessionals' fees), directly or indirectly arising out of, relating to or in connection with OWNER's or YACHT's presence in the Marina or on Marina property, or use of any part of Marina or its facilities; **it being expressly acknowledged and agreed that the indemnification and hold harmless obligations of OWNER PARTIES under this Clause shall apply** even if such claim, suit, loss, damage, fee or expense arises out of, relates to or is caused (directly or indirectly), in whole or in part, by: (1) **negligence** of MARINA or officer(s), director(s), manager(s), operator(s), agent(s), servant(s), employee(s) and/or contractor(s) thereof; (2) performance or nonperformance by MARINA of the obligations imposed by this AGREEMENT; and/or, (3) strict liability, breach of warranty or other fault (not rising to the level of gross negligence or intentional conduct) of MARINA.

OWNER PARTIES, JOINTLY AND SEVERALLY, SHALL PAY all costs and expenses, including reasonable **attorneys' and paraprofessionals' fees**, incurred by MARINA in seeking to enforce, through judicial proceedings or otherwise, any and all provisions, TERMS AND CONDITIONS of this AGREEMENT or to effect collection of any sums due MARINA.

The above INSURANCE, RELEASE, INDEMNIFICATION and ATTORNEYS' FEES Clauses shall survive (1) termination of this AGREEMENT, and, (2) termination and/or revocation of the License provided under this AGREEMENT.

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OWNER SHALL PAY MARINA A LATE CHARGE AT THE RATE OF 5% PER ANNUM ON ANY AMOUNT THAT IS OVERDUE UNDER THIS AGREEMENT FOR MORE THAN 5 DAYS, TO BE COMPUTED FOR THE ENTIRE PERIOD FOR WHICH THE AMOUNT IS OVERDUE. LATE CHARGES SHALL BE DUE IMMEDIATELY WITHOUT NOTICE, SET-OFF OR DEFENSE AND SHALL CONTINUE TO ACCRUE UNTIL ALL AMOUNTS, INCLUDING THOSE BILLED AFTER LATE CHARGES ARE FIRST INCURRED, ARE PAID CURRENT. HOWEVER, OWNER DOES NOT AGREE OR INTEND TO PAY, AND MARINA DOES NOT AGREE OR INTEND TO CHARGE, ANY INTEREST OR FEE GREATER THAN MARINA WOULD BE PERMITTED TO CHARGE OR COLLECT BY ANY APPLICABLE FEDERAL OR FLORIDA STATE LAW.

OWNER/Captain/Agent hereby authorizes MARINA to at any time charge against the account of the submitted credit/debit card, any and all MARINA amounts for fees and charges incurred by OWNER or any other person connected with YACHT, including OWNER's agents, crew, contractors and guests. If amounts due to OWNER are not paid in full at or before the time of termination or revocation of the License, OWNER/Captain/Agent hereby authorizes MARINA to charge the billed amounts plus LATE CHARGES against said credit/debit card account.

If OWNER defaults in the timely payment of any amount due, or if OWNER breaches any provision or any of

the TERMS AND CONDITIONS of this AGREEMENT, MARINA shall have all rights and remedies provided by this AGREEMENT and by applicable laws (now or hereafter existing). It is agreed that YACHT is itself responsible as an owner to perform and abide all provisions, TERMS AND CONDITIONS of this AGREEMENT, and further, responsible for performance of all OWNER's obligations and responsibilities under this AGREEMENT. Any and all sums due MARINA by OWNER (his/her/its captain, agents and/or guests) under, arising out of or relating to this AGREEMENT, shall also be fees or charges against YACHT. In addition to all other remedies, MARINA may also proceed in accordance with Florida and/or federal laws to enforce any and all liens against YACHT created or recognized by Florida and/or federal laws. Nothing in this AGREEMENT shall be construed as a waiver by MARINA of any lien rights created or recognized by Florida or federal laws. MARINA shall have the option to proceed against YACHT, in rem, and, personally against OWNER, Captain or Agent, or any combination thereof, for breach of this AGREEMENT, to enforce any and all liens, and to enforce any and all provisions, TERMS AND CONDITIONS of this AGREEMENT. All remedies provided for in this AGREEMENT, and by Florida and federal laws, are cumulative and non-exclusive.

OWNER, YACHT, Captain, and Agent, and their contractors and guests, shall at all times comply with the MARINA RULES AND REGULATIONS, and any alteration, amendment or modification thereof. MARINA reserves the right to alter, amend, and modify MARINA RULES AND REGULATIONS, at any time, by posting or by delivery of a notice. Neither this AGREEMENT nor the License is assignable, alone or in combination, by any OWNER PARTIES; any attempt by any OWNER PARTIES to assign this AGREEMENT, License, or any privileges arising under this AGREEMENT, alone or in combination, is void. MARINA may designate a dock space other than the specific dock space designated by notice to OWNER, and, OWNER agrees to move YACHT accordingly at OWNER's expense.

All disputes and matters whatsoever arising under, in connection with or incident to this AGREEMENT, shall be litigated, if at all, in and before a court of competent jurisdiction in Miami-Dade County, Florida, to the exclusion of all other courts of any other county, state, territory or country.

If any provision or any of the TERMS AND CONDITIONS contained in this AGREEMENT shall be held to be invalid, illegal, or unenforceable in any respect, this shall not affect any other provision, TERM or CONDITION, and this AGREEMENT shall be construed as if such provision, TERM or CONDITION had never been contained in this AGREEMENT. This AGREEMENT is the entire AGREEMENT between the Parties and supersedes all prior agreements. No changes to this AGREEMENT are valid unless in writing and signed by both Parties. MARINA's failure to require strict performance of this AGREEMENT, or MARINA's waiver of any provision, TERM or CONDITION, shall not be deemed a future waiver of any provision, TERM or CONDITION or of any of MARINA's rights under this AGREEMENT.

Any notice to OWNER called for by this AGREEMENT is effective upon delivery at either the address specified herein or to the YACHT. Any notice to MARINA called for by this AGREEMENT is effective upon delivery to a MARINA person in the Dock Master's office during open hours.