

MERCIA MARINA General Conditions

1 Definitions

The following expressions shall have the following meanings:-

- 1.1 **“Berth”** means the space on water or land from time to time allocated to the Owner by MADECORN LEISURE for the Vessel for the duration of the Contract.
- 1.2 **“Contract”** means any agreement entered into between Madecorn Leisure and the Owner relating to the Marina
- 1.3 **“Contractor”** means any person appointed by the Owner to carry out maintenance work and/or repair work to the Owner’s Vessel
- 1.4 **“Council Tax”** means tax or taxes or fee or fees payable directly or ultimately to South Derbyshire District Council (“SDDC”) on an individual hereditament.
- 1.5 **“Length Overall (LOA)”** means the overall length of the space occupied by the Vessel including any fore and aft projections, temporary or permanent.
- 1.6 **“Madecorn Leisure”** refers to Madecorn Leisure LLP, its employees and agents to whom these General Conditions apply.
- 1.7 **“the Marina”** shall include the marina, moorings and all other facilities provided at Mercia Marina by Madecorn Leisure for launching, navigating, mooring, berthing and storage of vessels, vehicles and property and all the land, adjacent water and buildings occupied or under the control of Madecorn Leisure, including, dry dock, car parks, amenity buildings, jetties, waste disposal facilities, refueling facilities, water and electricity infrastructure, hard-standing and roadways.
- 1.8 **“the Office”** means the Marina office on site at the Marina.
- 1.9 **“the Owner”** means the owner of a Vessel or Vessels using the facilities of the Marina, and/or the party currently responsible for the operation of the Vessel in the case of a hire or charter vessel. Where the Owner is more than one person, all obligations of the Owner under these General Conditions shall be joint and several.
- 1.10 **“Residential Vessel”** means a boat which is authorised and permitted by Madecorn Leisure to moor at the Marina and be occupied by its Owner and/or family as a sole or principal private residence.
- 1.11 **“Vessel”** means the Vessel or Vessels, including but not limited to boats and vehicles belonging to the Owner using the facilities of the Marina

2 The Contract

- 2.1 Berths at the Marina shall be licensed for the periods and at the rates of charge from time to time published by MADECORN LEISURE. Details of the charges applicable to the Berth at the beginning of the Contract will be given to each licensee at the time that the Contract is granted.

- 2.2 The Contract shall not be automatically renewed but will end at the conclusion of the period agreed if not terminated sooner by MADECORN LEISURE or by the Owner under the provisions contained herein.

3 Liability, Indemnity and Insurance Obligations

- 3.1 MADECORN LEISURE shall not be liable in contract, tort or otherwise, for any loss, theft or any damage of whatsoever nature suffered by any Vessel or vehicle or other property of the Owner, his crew, Contractors or visitors, except to the extent that such loss, theft or damage was caused by the negligence of MADECORN LEISURE.
- 3.2 Notwithstanding Clause 3.1 above, MADECORN LEISURE shall not be liable for any indirect or consequential loss or damage.
- 3.3 The Owner shall maintain third party insurance in respect of himself and his Vessel, vehicles, crew, agents and visitors in a sum of not less than £1,000,000 (one million pounds) and £2,000,000 in the case of each Contractor in respect of each accident or incident, including sufficient cover against full foundering, salvage and wreck removal claims. Such insurance shall be effected and maintained by a reputable insurance company authorised under the Financial Services Authority to carry on in Britain or in Northern Ireland insurance business of a relevant class or who has corresponding permission under the law of another member state of the European Community. The Owner shall produce the above policy or policies and evidence of payment of the premiums to MADECORN LEISURE on demand. The Owner agrees not to do anything that could lead to the above policy or policies being revoked, vitiated or not renewed in the ordinary course.
- 3.4 MADECORN LEISURE shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of any event for which MADECORN LEISURE is not responsible. However, MADECORN LEISURE reserves the right to salvage or preserve an Owner's Vessel or other property when it reasonably considers necessary. Where it does so it shall be entitled to charge the Owner on a normal commercial charging basis and where appropriate, to claim a salvage reward.

4 Commercial Use and Sale of Vessel

- 4.1 Except with the previous written consent of MADECORN LEISURE, the Owner shall not use any part of the Marina or Vessel for any commercial purposes including, but without limitation, hire of the Vessel, embarkation of charter parties, rental accommodation or advertising of any kind or to display any advertisements, signboards, posters, signs or notices on the Vessel or anywhere else within the Marina. If MADECORN LEISURE does give its written consent for commercial use, such use will be subject to further terms and conditions and to the payment of additional fees and presentation of proof of suitable insurance. For the avoidance of doubt, occasional use of the Vessel by a friend of the Owner on payment to the Owner of a contribution towards the actual running costs of the Vessel shall not be deemed to be a commercial purpose.
- 4.2 Upon request, the Owner shall supply to MADECORN LEISURE full details in writing of all such use of the Vessel by friends in accordance with Clause 4.1 above.
- 4.3 The Owner shall not place any advertising for a Vessel for private sale on or in the Vessel or anywhere else within the Marina.

- 5 **Notification of Sale**
- 5.1 Within seven days of any sale, transfer or mortgage of any Vessel, the Owner shall notify MADECORN LEISURE in writing of the name and address of the purchaser, transferee or mortgagee, as the case may be.
- 5.2 The berth is not transferable to the new Owner without express permission from MADECORN LEISURE and the completion of a mooring contract.
- 6 **Condition of the Vessel**
- 6.1 The Owner shall ensure that the Vessel remains fit for the purpose for which it was produced at all times whilst it is at the Marina.
- 6.2 All Vessels must be kept clean and in reasonable repair at all times. Should a Vessel be damaged, then repair works must be carried out as soon as is reasonably possible. Tarpaulins and similar covers are allowed as a temporary cover only, for a maximum period of 4 weeks.
- 6.3 All Vessels must be in possession of a valid Boat Safety Certificate and Canal & River Trust Craft Licence and the latter shall at all times be prominently displayed on the Vessel. All vehicles on site must display a valid Vehicle Excise Duty license, where such licenses are required for use on the public highway. Vehicles registered under the Statutory Off Road Notification scheme may not be parked within the Marina. Quad bikes or similar vehicles are not allowed on site.
- 6.4 In addition to the requirements set out in clause 6.1, the Owner shall ensure that the Vessel remains in an aesthetically-pleasing condition whilst it is at the Marina. MADECORN LEISURE shall be the sole judge of what is considered "aesthetically-pleasing" by having reference to the condition of the majority of the vessels moored at the Marina.
- 7 **Work to Vessel**
- 7.1 Minor running repairs or minor maintenance works of a routine nature, including but not limited to light sanding, staining, minor painting, etc., which does not cause noise, disturbance, disruption or pollution to the Marina or affect other Marina users may be carried out to the Owner's Vessel without MADECORN LEISURE's permission. Extensive external sanding, angle grinding, welding, internal refit, spray-painting etc are considered major works and cannot be carried out within the Marina except with MADECORN LEISURE's prior written consent. Maintenance may be carried out daily between 09.00 and 18.00 hours. When carrying out work, all MADECORN LEISURE facilities, bollards, pontoons, service points etc must be suitably protected, kept clean and tidy at all times, and appropriate health and safety measures adopted and followed. MADECORN LEISURE reserve the right to reclaim all costs incurred for remedial works required as a result of any damage the Owner has caused to the Marina.
- 7.2 Where prior written consent is required for work to be carried out at the Marina such consent shall not be unreasonably withheld subject to the Owner demonstrating that all the work will be carried out in strict accordance with the Marina's health and safety and general management policies. Where work is not carried out in accordance with those policies MADECORN LEISURE reserve the right to revoke any prior consent given for such works to be carried out.

- 7.3 Where a Contractor is employed, the Owner must ensure that acceptable risk assessments, method statements and a copy of the Contractor's third party liability insurance policy in the sum of £2,000,000 accompanies the request for consent referred to in clause 7.1 above. For the avoidance of doubt, MADECORN LEISURE reserves the right to rescind its prior written permission for the work where it considers the risk assessments and/or method statements of the Contractor are insufficient.
- 7.4 If the Owner is using a Contractor to carry out any work, the Owner must ensure that the Contractor registers with the Office upon their arrival.
- 7.5 MADECORN LEISURE reserves its right to insist that any Contractor leaves the Marina if either the Owner or the Contractor has failed to comply with this Clause 7.
- 7.6 MADECORN LEISURE also reserves its right to withdraw its consent if any work is carried out in contravention of supplied documentation referred to herein, the Marina's health and safety policies and general management policies and/or in contravention with relevant health and safety legislation or approved codes of practice of the Marina.
- 7.7 In carrying out any work the Owner shall use his best endeavors to ensure the Contractor causes as little disturbance and inconvenience to MADECORN LEISURE and/or to any other users of the Marina and/or to any person residing in the vicinity of the Marina. If MADECORN LEISURE receives any complaints regarding the work from any person using the Marina and/or from any person residing in the vicinity of the Marina, MADECORN LEISURE reserves the right to either request a review of the method statement of the Contractor so as to minimise any further disturbance or inconvenience or to withdraw its consent for the work.
- 7.8 In the event that MADECORN LEISURE withdraws its consent for the work for any reason set out in this clause 7, the Owner shall immediately, (save to the extent that the consent may further be extended in accordance with clause 7.7), instruct the Contractor to leave the Marina forthwith and the Owner shall immediately commence restoring the area in which the work was being carried out, into the condition it was in prior to the commencement of the work, including undertaking any remedial work that MADECORN LEISURE decide is required, and shall complete same within a reasonable time from commencement of the work.
- 7.9 Prior to substituting or modifying a Vessel, the Owner must obtain written permission from MADECORN LEISURE. This permission will not unreasonably be withheld.
- 8 **Fees**
- 8.1 Mooring fees are calculated on the Length Overall (LOA) of the Vessel as measured, including bowsprit or stem fittings, bathing platforms, out-drives or transom hung ladders and stern mounted dinghies. There is a minimum charge of 10.97 metres.
- 8.2 All mooring fees are payable in advance. All fees are inclusive of VAT at the prevailing rate unless stated otherwise. Fees will be adjusted to reflect any VAT changes. Mooring fees are subject to review and notice of any changes to the fees will be deemed to have been sufficiently given by MADECORN LEISURE by the display of the amended fees schedule in the Office.

8.3 All Contracts shall commence on the date of arrival in the Marina, or earlier if so agreed between MADECORN LEISURE and the Owner,

8.4 Mooring Contracts term charges:

| Months | % of Full Charge |
|--------------------------------|------------------|
| 3 | 30% |
| 6 | 60% |
| 12 or substantial part thereof | 100% |

8.5 Mooring fees may be paid annually; quarterly or monthly provided always that such payment manner is approved by MADECORN LEISURE. For quarterly payment a surcharge of 4% of the total fee is payable, for monthly payment a surcharge of 10% of the total fee is payable

8.6 If the Owner wants a Vessel to occupy more than one berth, MADECORN LEISURE reserves the right to charge accordingly for the number of berths occupied. For Vessels with a beam in excess of 2.12 metres MADECORN LEISURE reserves the right to levy a minimum of 30% surcharge to a maximum of 100%, the maximum relevant if taking up the equivalent of 2 complete berths. MADECORN LEISURE reserves the right to change the percentage levy applied on any Vessel over 2.12 metres subject to giving 28 days prior notice.

8.7 Electrical supply is available at an extra charge, subject to a maximum load of 16 amps. A Service Charge will be levied for the maintenance of the electrical infrastructure and is payable whether the Owner wishes to make use of the electricity or not.

8.8 Security access keys may be rented from the Office for long-term use (maximum two keys per Vessel). Visitors must leave a deposit at the Office before collecting a key for short-term use. This deposit will only be returned to the visitor if the key is returned undamaged. Where electronic security access keys are used, an annual clearance of all electronic keys will be carried out for security purposes. To re-validate a key the Owner must bring the key to the Office.

8.9 Full details of MADECORN LEISURE charges in respect of this Clause 8 may be found at the Office and are incorporated into these General Conditions by reference. MADECORN LEISURE reserves the right to alter these charges from time to time.

8.10 All payments may be made by cheque (if supported by a cheque guarantee card and made payable to Mercia Marina or MADECORN LEISURE), credit or debit card (excluding American Express), cash, bank transfer, or standing order, at the absolute discretion of MADECORN LEISURE.

8.11 MADECORN LEISURE reserves the right to exercise a general lien upon any Vessel and/or other property belonging to the Owner whilst in or at the Marina until such time as any money due to MADECORN LEISURE in respect of the Vessel and/or other property, whether on account of rental, storage, commission, access or berthing charges, damages, work done, administration charges, legal costs or otherwise shall be paid by the Owner. In the event that the aforementioned lien remains unsatisfied for the specific period of time notified in writing to the Owner by MADECORN LEISURE, the Vessel will be sold on brokerage and the proceeds of the sale used to satisfy the monies owed by the Owner to MADECORN LEISURE, the remaining balance will be remitted to the Owner.

- 8.12 Payments made under these General Conditions shall be made without deduction or set-off. The Owner shall punctually pay to MADECORN LEISURE all sums owing to MADECORN LEISURE under these General Conditions. An administration charge in the sum of £20 plus VAT (where applicable) per letter shall be levied against the Owner in the event that it becomes necessary for MADECORN LEISURE or MADECORN LEISURE's appointed legal advisors to write to the Owner to seek payment of any overdue payment or to advise of MADECORN LEISURE's intention to commence legal proceedings against the Owner. For the avoidance of doubt, the Owner accepts that any administration charge levied against him by MADECORN LEISURE in the circumstances set out in this clause represents a genuine pre-estimation of loss on the part of MADECORN LEISURE. In addition to the administration charge the Owner will be liable for the payment of interest at the rate of the current Royal Bank of Scotland Base Rate plus 8% on any sum owing to MADECORN LEISURE from the date of the third letter that MADECORN LEISURE or MADECORN LEISURE's appointed legal advisors are obliged to write to the Owner seeking payment of a debt until the payment of the debt by the Owner. The Owner shall also be liable to pay any fees, including legal fees, incurred by MADECORN LEISURE in relation to payments due under the Contract which have not been paid by the due date specified in the Contract.
- 8.13 MADECORN LEISURE will only make refunds of payments made under these General Conditions in the circumstances specifically provided for under these General Conditions.
- 8.14 MADECORN LEISURE must be in receipt of full settlement of payments due under any prior Contract before a new Contract will be issued.

9 Termination

- 9.1 All Contracts will terminate on 31 August of each year. The contract can be extended by the agreement of the Parties through a notice in writing signed by the Parties at least 28 days prior to the Termination date. This notice will include the per metre rate and service charge applicable and the new termination date.
- 9.2 Either the Owner or MADECORN LEISURE may terminate the Contract by giving the other party not less than 28 days prior notice in writing.
- 9.3 Without prejudice to any other rights MADECORN LEISURE may have in respect of any breaches of the General Conditions by the Owner, MADECORN LEISURE may terminate the Contract with immediate effect in the following circumstances:
- 9.3.1 If the Owner commits a breach of any term of the General Conditions which is capable of remedy but which is not remedied within the time stipulated by MADECORN LEISURE (such time stipulated by MADECORN LEISURE in its absolute discretion) in a written notice to the Owner specifying the breach and requiring its remedy; or
- 9.3.2 If the Owner commits a breach of any term of the General Conditions which is not capable of remedy.
- 9.4 Upon termination by MADECORN LEISURE pursuant to Clause 9.2 above, MADECORN LEISURE shall refund to the Owner the unexpired portion of the mooring fees subject to a right of set-off in respect of any monies owed by the Owner to MADECORN LEISURE.

- 9.5 Upon expiry of the 28 days referred to in Clause 9.2 or upon MADECORN LEISURE terminating this agreement pursuant to Clause 9.2, the Owner shall be required to take delivery of his Vessel and remove it from the Marina within 7 days. If the Owner fails to take delivery and remove his Vessel within this period, MADECORN LEISURE shall be entitled:
- 9.5.1 to charge the Owner the amount which would have been payable by the Owner to MADECORN LEISURE if the agreement had not been terminated for the period between termination of the agreement and removal of the Vessel from the Marina; and/or
 - 9.5.2 to remove the Vessel from the Marina and secure it elsewhere and charge the Owner with all costs arising out of such removal, including alternative berthing fees; and/or
 - 9.5.3 to sell the Vessel by auction and deduct from the sale proceeds:
 - 9.5.3.1 all costs arising out of such sale, including but not limited to, removal costs, alternative berthing fees, auction fees, administration fees and legal costs; and
 - 9.5.3.2 arrears of mooring fees, accrued interest and any charges made pursuant to clause 9.5.1 provided that MADECORN LEISURE will account to the Owner thereafter in respect of any net sale proceeds.
- 9.6 Should the Owner choose not to maintain the berth for the contracted period stated within the Contract, the amount of refund paid will be at the discretion of MADECORN LEISURE.
- 9.7 Any termination of the Contract pursuant to this clause 9 is without prejudice to the rights of MADECORN LEISURE in connection with any antecedent breach of or other obligation of the Owner subsisting under the Contract.
- 10 **Rights of MADECORN LEISURE to Re-berth and Move Vessels**
- 10.1 MADECORN LEISURE reserves the right to moor, re-berth, move, board, enter or carry out emergency work on any Vessel if, in MADECORN LEISURE's opinion (acting reasonably), it is necessary to do so for the purposes of attempting to:
 - 10.1.1 avoid damage to the Vessel or to any other vessel in the Marina or to the waterspace; and/or
 - 10.1.2 ensure the safety of other users of the Marina; and/or
 - 10.1.3 ensure the safety of MADECORN LEISURE's staff, premises, plant or equipment.
 - 10.2 MADECORN LEISURE also reserves the right to moor, re-berth or move the Vessel if, in MADECORN LEISURE's opinion, it is necessary to do so in order to launch or put afloat any other vessel.
 - 10.3 MADECORN LEISURE also reserves the right to moor, re-berth or move the Vessel, and/or to move any equipment and/or goods belonging to the Owner, if, in MADECORN LEISURE's opinion, it is necessary for the good management, safety or security of the Marina or for any other reason. Should MADECORN LEISURE so require, the Owner shall move his vessel to another berth as directed by MADECORN LEISURE within 7 calendar days. Should the Owner fail to do so, MADECORN LEISURE reserves the right to relocate the vessel and recharge the Owner the cost of doing so. MADECORN LEISURE will not be liable for any

damage to the Vessel arising as a result of the mooring, re-berthing, moving or towing save where such damage is caused by any negligence or default on the part of MADECORN LEISURE.

11 Mooring, Re-berthing, Moving or Towing at the Owner's Request

11.1 Subject to payment by the Owner of MADECORN LEISURE's reasonable charges, MADECORN LEISURE may moor, re-berth, move or tow any Vessel at the request of the Owner. MADECORN LEISURE will not be liable for any damage to the Vessel arising as a result of the mooring, re-berthing, moving or towing save where such damage is caused by any negligence or default on the part of MADECORN LEISURE.

11.2 Where MADECORN LEISURE complies with an Owner's request pursuant to Clause 11.1 above, the Owner agrees to indemnify MADECORN LEISURE in full from and against any and all loss, damage or liability (including all legal fees and costs) incurred by MADECORN LEISURE as a result of complying with such request.

12 MADECORN LEISURE'S Right of Sale

12.1 Any Vessel or other property left at the Marina in breach of the terms of this agreement will be subject to the provisions of the Torts (Interference with Goods) Act 1977 ("the Act"), which confers on MADECORN LEISURE as bailee a right of sale exercisable in certain circumstances.

12.2 In circumstances where the Act does not apply or where MADECORN LEISURE cannot be regarded as a bailee of the Vessel, section 12 and Schedule 1 of the Act are expressly incorporated into these General Conditions except that where the term 'bailee' appears in the relevant provisions of the Act it is to be replaced with 'MADECORN LEISURE' and where the term 'bailor' appears it is to be replaced with 'Owner' and where the term 'bailment' appears it is to be replaced with 'General Conditions'.

12.3 MADECORN LEISURE will not exercise the right of sale described in this Clause 12 until it has given notice to the Owner or has taken reasonable steps to trace him in accordance with the Act.

13 Non-Assignability.

The Contract is personal to the Owner and his Vessel. The Owner must not assign any of his rights or obligations under the Contract to any third party or to any vessel not named in the MADECORN LEISURE Contract signed by the Owner.

14 Non-Exclusivity of Berths

14.1 Nothing in these General Conditions shall entitle the Owner to the exclusive use of a particular berth. Vessels shall be berthed or moored by the Owner in such a manner and position as MADECORN LEISURE shall direct at any time.

14.2 Once MADECORN LEISURE has allocated a berth to the Owner, the Owner shall not utilise a different berth unless such a change of location is approved by MADECORN LEISURE in writing prior to the Owner taking such action or is necessitated by emergency circumstances.

14.3 MADECORN LEISURE reserves the right to replace warps and re-secure any Vessel in the interests of safety at the Owner's expense.

15 Safe Navigation of Vessels in the Marina.

- 15.1 When entering or leaving or manoeuvring in the Marina, the Owner must ensure that the Vessel is not navigated at such a speed or in such a manner as to endanger or cause inconvenience to other vessels.
- 15.2 The Owner must ensure that his Vessel is not navigated by anyone who is under the influence of alcohol or drugs or otherwise intoxicated so as to affect the capability of the individual to safely navigate.
- 16 **Prohibition of Nuisances**
- 16.1 No noisy or objectionable engines, radios or other apparatus or machinery shall be operated at the Marina so as to cause a nuisance or annoyance to MADECORN LEISURE or to any other users of the Marina or to any person residing in the vicinity.
- 16.2 Engines, generators or other apparatus or machinery must not be operated between the hours of 20.00 and 09.00 unless it is for the purposes of navigation.
- 16.3 No anti-social behaviour or abuse, verbal or physical, shall be tolerated towards customers, fellow moorers or staff at the Marina. Immediate termination of the Contract will occur and criminal prosecution may be taken.
- 16.4 The Owner shall use his best endeavours to ensure that himself, his crew, Contractor and visitors do not cause a nuisance as described in Clauses 16.1, 16.2 and 16.3.
- 16.5 The Owner shall not do or permit to be done anything which may cause a nuisance or annoyance to MADECORN LEISURE or any user of the Marina.
- 17 **Disposal of Refuse**
- 17.1 No refuse shall be thrown overboard or left on the pontoons, jetties or car parks. Any domestic waste shall be disposed of in the receptacles provided by MADECORN LEISURE or by removal from the Marina by the Owner. Non-domestic waste, including but not limited to batteries, refrigerators, television or computer screens, soft furnishings, cookers and the like must be removed from the Marina by the Owner.
- 17.2 The use of sea toilets within the Marina or similar disposal of toilet waste into the Marina is prohibited. Failure to observe this rule will result in immediate termination of the Contract.
- 18 **Spillages**
- The Owner should immediately inform MADECORN LEISURE of any spillage of oil, paint or any other pollutant into the Marina. The Owner should also take such steps as are reasonably practicable in the circumstances to minimise the spread of the pollutant and warn other users of the Marina of the problem. Costs associated with any clean up operation may be charged to the Owner.
- 19 **Stowage and Use of Dinghies**
- Dinghies, tenders and rafts shall be stowed aboard the Vessel unless a berth is separately allocated to them by MADECORN LEISURE.
- 20 **Storage of Material**
- 20.1 No fittings, equipment, supplies, stores or any other property belonging to the Owner shall be stored or left at the Marina other than as directed by MADECORN LEISURE.

- 20.2 Except whilst transporting items to or from the Vessel, the Owner must not leave or store any items on the pontoons, pathways, walkways, car parks or anywhere else on the Marina.
- 21 **Vehicle Parking**
Subject always to the availability of parking spaces, the Owner, his crew, Contractor and visitors are required to park their validly taxed motor vehicles in such a position and such as manner as directed by MADECORN LEISURE.
- 22 **Health and Safety and Fire Precautions**
- 22.1 The Owner shall abide by all relevant health and safety regulations, codes of practice and any health and safety guidance issued by MADECORN LEISURE whilst using the Marina.
- 22.2 The Owner shall take all necessary precautions against the outbreak of fire in or upon his Vessel and the Owner shall observe any statutory and local regulations relating to fire prevention exhibited in the Office. The Owner shall provide and maintain in good working order at least one fire extinguisher of an EU government approved or BSI standard type and size, in or on the Vessel and readily available for immediate use in case of fire.
- 22.3 The Owner shall not refuel the Vessel in the water, except when moored at MADECORN LEISURE's refuelling berth.
- 22.4 The lighting of open fires or use of fireworks is strictly prohibited. Barbecues or portable gas cookers may be used when placed on a suitable stand and only in designated areas. All barbecues and cookers must not be left unattended and must be properly extinguished. The area around the equipment must be left in a clean and tidy condition.
- 22.5 Children invited to the Marina by the Owner and the Owner's Visitors and Contractors are the sole responsibility of the Owner and must remain under the Owner's supervision at all times as the Marina may be potentially dangerous to them. They must not cause a nuisance to any other user of the Marina.
- 22.6 Running and cycling on the pontoons is not permitted. No items may be secured to electricity bollards, including cycles.
- 22.7 When connecting to a designated electrical outlet bollard, MADECORN LEISURE approved leads and plugs must be used. These must be maintained in accordance with the relevant regulations and standards. The Owner is not permitted to alter the berth or facilities in any way.
- 22.8 Refunds will not be issued for unexpired electricity credit left in service bollards at any time. Only electricity cards issued by MADECORN LEISURE may be used on the site.
- 22.9 The Owner must provide MADECORN LEISURE with current address and contact details and telephone numbers so that the Owner can be contacted in the case of an emergency.
- 23 **Diving, Bathing or Fishing**
- 23.1 Diving and bathing in the waters of the Marina is not permitted. Fishing is only permitted by the Owner from the Owner's Vessel.

- 23.2 Children under the age of 12 must be accompanied by a responsible adult at all times whilst at the Marina.
- 23.3 Any person on site unable to swim is advised to wear adequate life jackets at all times whilst at the Marina.
- 24 **Washing**
Laundry may not be hung anywhere in the Marina. Any laundry hung on the Owner's Vessel must not be visible to other users of the Marina.
- 25 **Television aerials, satellite dishes and wind generators**
Every effort must be made by the Owner to ensure that television aerials, satellite dishes and wind generators are erected in a manner that makes them as inconspicuous as their design allows for, whilst the Vessel is in the Marina.
- 26 **Additional Regulations and Rules**
- 26.1 MADECORN LEISURE reserves the right to amend these General Conditions and/or to introduce other site specific rules and regulations which MADECORN LEISURE deem necessary for the efficient and effective running of the Marina. Such amendments and rules and regulations shall become effective on being displayed in the Office reception.
- 26.2 Any such rules and regulations introduced pursuant to this Clause 26 shall be deemed to form part of these General Conditions and MADECORN LEISURE shall have the same rights against the Owner for a breach of these rules and regulations as for a breach of these General Conditions.
- 26.3 The Owner shall at all times abide by, and shall use his best endeavours to ensure that his crew, Contractor and visitors abide by any applicable Canal & River Trust, Environment Agency and any other local authority bye-laws.
- 26.4 The Owner further undertakes to abide by any reasonable instructions issued by MADECORN LEISURE.
- 27 **Occupation of Vessels**
Except in the case of a Vessel specifically authorised by Madecorn Leisure as a Residential Vessel, the Owner undertakes that the Vessel whilst based at the Marina will not be occupied as a principal private residence.
- 28 **Liability to Council Tax**
- 28.1 Should SDDC or the Valuation Office Agency or a successor agency determine that the Owner of a Vessel has permitted his vessel to moor at a particular berth in the Marina for sufficient period of time for an individual hereditament to be established, the Owner will be solely responsible for any Council Tax demanded.
- 28.2 Mercia Marina reserves the right to request evidence from an Owner that he/she is paying Council Tax on any individual hereditament at the Marina or at their principal private residence if elsewhere.
- 29 **Temporary Failure of Services and Facilities**
Without prejudice to the generality of Clause 33.4, MADECORN LEISURE will not be liable to the Owner in the event of a temporary failure of any of the facilities and/or services at the Marina due to a reason not within MADECORN LEISURE's control, but agrees to use its reasonable endeavours to ensure that the affected services and/or facilities are repaired as soon as reasonably possible.

30 **Animals**

The Owner may not keep any animals on board the Vessel whilst it is in the Marina, other than domesticated animals that have been notified to MADECORN LEISURE as being present onboard and approved as suitable to be in the Marina by MADECORN LEISURE. Dogs approved by MADECORN LEISURE as suitable for the Marina must at all times remain on a lead and under the control of the Owner at all times whilst they are at the Marina and must not cause a nuisance to any other users of the Marina. MADECORN LEISURE reserves the right to require the Owner to remove any offending animals from the Marina forthwith if this clause is breached by the Owner.

31 **Service Charge**

MADECORN LEISURE reserves the right to levy a service charge for the use of facilities within the Marina. The service charge will be added to the mooring fee payable and the amount of the charge will be displayed in the Office. Payment of this charge is due immediately.

32 **Personal Data Storage and Provision to SDDC**

By accepting these Conditions the Owner gives consent under the Data Protection Act 2018 that MADECORN LEISURE may obtain and store details of the Owner's name and principal private residence address and be permitted to provide this information to South Derbyshire District Council as and when required by them.

33 **General**

33.1 In these General Conditions, unless the context otherwise requires, words importing any gender include every gender and words importing the singular include the plural and vice versa.

33.2 The headings in these General Conditions are for convenience only and shall not affect its interpretation.

33.3 Unless otherwise agreed in writing, MADECORN LEISURE's failure to exercise or delay in exercising any right or remedy provided by these General Conditions does not constitute a waiver of that right or remedy or waiver of any other rights or remedies under these General Conditions.

33.4 MADECORN LEISURE shall not be liable for any failure or delay in performing any of its obligations under these General Conditions caused by circumstances beyond its control.

33.5 If any part of these General Conditions is held by a court of competent jurisdiction to be invalid or unenforceable, the validity and enforceability of the remainder of these General Conditions shall not be affected.

33.6 These General Conditions, the Schedule and any site specific rules and regulations introduced by MADECORN LEISURE in accordance with Clause 26 above constitute the entire agreement and understanding between MADECORN LEISURE and the Owner with respect to all matters referred to within it and shall supersede any previous agreement(s) between the parties in relation to the matters referred to in these General Conditions.

33.7 No person other than a contracting party may enforce any provision of these General Conditions by virtue of the Contracts (Rights of Third Parties) Act 1999.

- 33.8 Any notice given or invoice to be delivered in accordance with these General Conditions shall be delivered by hand or sent by first class post. Any notice or invoice delivered by first class post shall be deemed to have been received 48 hours after it has been posted.
- 33.9 These General Conditions shall be governed and construed in accordance with the laws of England.
- 33.10 Any rights of granted to the Owner to moor Vessel/s at the Marina shall be as licensee and no relationship of landlord and tenant is created between MADECORN LEISURE and the Owner by the Contract.