



CITY OF MARATHON MARINA USER LICENSE AGREEMENT

USER LICENSE AGREEMENT: This agreement is made and entered into on this date between the City of Marathon d/b/a City of Marathon Marina, Boot Key Harbor City Marina, 800 35th Street Ocean, Marathon, Florida 33050 (the "City" or "Marina") and the person whose name and address is shown as Owner's name (the "Licensee") on the Marina User Information Form. Licensee agrees to provide written notice of any change in any of the information furnished by the Licensee within ten days of such change.

There is no agreement to create a bailment of the vessel. This agreement is merely a license for rental of a mooring ball or dock space by the Licensee for a specific vessel at the Licensee's sole risk. There is not either temporary or permanent domain, nor control exercised over said vessel by the Marina, but said control is to always remain with the Licensee. The Marina shall not be liable for the care or protection of the vessel including any gear or equipment at any time. Licensee acknowledges that he/she has inspected the mooring ball or dock space and is satisfied that it is safe and suitable for use. Licensee further agrees that he/she has examined the Marina premises to his/her satisfaction prior to the execution of this license agreement and is satisfied with the physical condition of the premises and agrees that the premises are in a safe condition and in good repair.

RELEASE OF LIABILITY AND INDEMNITY: Licensee, on his/her own behalf and on behalf of his/her executors, agents, heirs, personal representatives, and assigns and each of them, hereby expressly releases and forever discharges the City of Marathon, and its agents, employees, officials and legal representatives, in both their official and individual capacities, as well as their successors and assigns (collectively referred to as the "Marina") from any and all claims, actions, demands and causes of action in law or in equity for any and all liability for loss (including loss of life), or damages to person or property, including, but not limited to, damages caused by the Marina's own negligence, fire, theft, vandalism, wind storm, high or low waters, hail, rain, ice, collision or accident, any other Act of God, or the acts of third parties, whether negligent or intentional. Licensee shall be liable to the Marina for any personal injury, loss of life, or property damage caused by Licensee or on behalf of Licensee or by Licensee's agents, servants, or invitees. Licensee agrees that he/she and his/her vessel shall be responsible for any damages caused to any property of the City as a result of any collision, impact or otherwise by the Licensee's vessel and the Marina property. Licensee further agrees to defend, indemnify, and hold the Marina harmless from any loss, cost, expense, claim or liability, including attorney's fees and costs of litigation and appeal, for all personal injury, loss of life, and property damage related in any way to Licensee's actions or property, regardless of the Marina's negligence. This paragraph shall survive the expiration or termination of this agreement.

USER LICENSE AGREEMENT CONDITIONS

As used herein, "Licensee" shall mean the vessel owner, his/her agents, guests, employees, personal representatives, heirs and assigns. "Marina" and "City" shall be used interchangeably, and mean the City of Marathon, Florida d/b/a City of Marathon Marina, Boot Key Harbor City Marina, 800 35th Street Ocean, Marathon, Florida, 33050, and all associated uplands, docks, buildings, facilities, mooring fields, or submerged lands owned or leased, or otherwise under the management of City of Marathon Marina or the City of Marathon Ports Management Department.

"Vessel" is synonymous with "boat" as referenced in Article 7, Section 1(b) of the Florida Constitution and includes every description of watercraft, and barge, and airboat, other than a seaplane, on the water, used or capable of being used, as a means of transport on the water.

- 1. COMPLIANCE WITH LAWS:** (a) Licensee agrees that his/her use of the Marina facilities, and any use by his/her guests or other vessel occupants, will comply with all Federal, State, County and City laws and ordinances; especially pertaining to waterways, vessels, marinas, navigation and boating. (b) Only recreational/pleasure vessels that comply with Federal, State and local regulations concerning equipment, operation, registration and safety will be allowed to moor or dock at the Marina. (c) No commercial vessels shall be allowed to dock or moor at the Marina. (d) State and local laws and ordinances will apply to the responsible use and consumption of alcoholic beverages. Smoking is not permitted in Marina buildings.

2. **TWELVE MONTH ANNUAL LICENSE AGREEMENT:** (a) Mooring Licensee will be notified upon eligibility to sign a Twelve-Month Annual License Agreement based on availability. (b) Twelve Month Annual License Agreement date begins the day the license agreement is signed. (c) Failure to stay the full twelve months, will be a breach of contract and Licensee will not be able to renew any agreements with the City Marina unless Approved by the Ports Director. (d) Payments made after the due date are not eligible for continuation of the Twelve-Month Annual Agreement. (e) Payments made under this agreement shall be made monthly.
3. **PAYMENT OF FEES & LATE PAYMENTS:** (a) Monthly payments are made in advance and are due at noon on each monthly anniversary of the date of this agreement. Payments made after the due date but within the five-day grace period are considered late, but no penalty is charged. If payment is more than five days past due, the Marina shall charge a twenty-percent penalty. After ten days a ten-day notice will be issued to vacate. Licensee shall be notified by telephone at the last phone number provided to the Marina and a notice placed on the vessel. If the vessel is not removed from mooring field, the Marina shall summarily revoke this license, order the removal of the vessel, and terminate this agreement as provided below. (b) If Licensee becomes delinquent on payments, Licensee agrees to allow the Marina the right to take over the property of the Licensee and to secure that property to the space occupied, or to store the property in any other location deemed appropriate by the Marina. Marina may choose to use an outside company at which it is at the owner's expense to get their property back. (c) Unless specifically authorized by the Marina, the Licensee shall not remove a vessel from the Marina until all unpaid charges have been paid. (d) Weekly and daily payments are made in advance and are due by noon on the following due date. There is no grace period. (e) Weekly and daily license fees cannot be converted to a monthly rate. (f) There are no refunds for any portion of unused time.
4. **INSURANCE:** Licensee agrees to keep his/her vessel, other than a dinghy, while docked in the Marina canal, insured with marine liability insurance, in the minimum marine liability and hull coverage amount of \$300,000.
5. **SPACE ASSIGNMENT:** (a) Any person wishing to use a mooring or dock space must contact the Marina during business hours to apply for and obtain a User License Agreement and receive a space assignment. An application must be made on a form supplied by Marina. Personal legal identification, State Registration and or USCG Documentation of the vessel is required to obtain a User Agreement License. Only one vessel per Licensee is allowed to occupy the mooring field or anchorage at any one time. Marina reserves the right to issue or deny a license to any person for any reason. (b) Licensees with foreign-registered vessels must provide a copy of their valid United States Cruising Permit. (c) Spaces are assigned at the sole discretion of the Marina, and assignments may be changed at any time. (d) Available dock space shall first be offered to customers with a documented ambulatory disability. Space shall then be assigned on a first-come, first-served basis; except for moorings and dock space installed on the City-owned harbor bottom, which may be offered first to a registered resident of the City of Marathon. (e) Vessels must be physically located within Boot Key Harbor to receive an assignment, and then immediately proceed to occupy the space. (f) Check-out time for moored or docked vessels is noon on the due date. (g) Dinghy Dock privileges for anchored vessels are based on a calendar day. Vessels still occupying the space beyond this time will be charged accordingly. (h) The Marina will not rent space to any sexual predator due to the implicit permitted use of the grounds with the license agreement and proximity of Marina property to the City Park.
6. **UNATTENDED VESSELS & Wet Storage:** (a) Marina office is to be notified when registered vessel owner is to be absent from vessel for more than twenty-four hours. (b) Registered vessel owner shall not leave vessel unattended for longer than twenty-four hours without consent from the Ports Director and have an agent/overseer being properly authorized and registered with the Marina to be responsible for the interest of the Licensee and his/her vessel; this person must be able to operate the vessel and have full access to all areas. (c) The Marina shall not be used for wet storage as defined by the City Manager or his designee. Vessels not occupied by registered owner for more than ten days in the Marina mooring field or anchorage will be considered wet storage. The Marina reserves the right to terminate this agreement should sufficient evidence indicate that this type of activity is taking place. (d) Emergency inspections of unattended vessels will be conducted whenever a vessel appears to be in, or is likely to create, distress or potential danger to other vessels or the environment. (e) The Marina reserves the right to correct all nuisances or emergency conditions, at the Licensee's expense, on unattended vessels, after first attempting to rectify the problem by notifying the Licensee.
7. **VESSEL PROPULSION & LIGHTING:** (a) Only vessels with their own propulsion system, capable of the use for which it was designed, shall be licensed to use the Marina facilities. When designed without machine propulsion, a vessel must be always capable of propulsion by sail. (b) No vessel shall have its sailing rig including the mast stored on the deck while in the Marina mooring field or anchorage. (c) All vessels, while occupying a mooring ball or anchored in Boot Key Harbor, shall burn a white anchor light at night consistent with State or Federal vessel lighting requirements. Boot Key Harbor is not exempt from the requirement of an anchor light on vessels while moored or at anchor (refer to 1972 COL-REGS demarcation lines for the Florida Keys).

- 8. VESSEL & DINGHY RAFTING:** (a) The maximum length of vessels to be licensed to use the Marina facilities is 45 feet, although vessels up to 60 feet may be allowed on certain high-capacity moorings and canal dockages. Measurements shall be length-over-all from stem to stern as defined by Chapter 327, Florida Statutes, and will include bow sprits, anchors, davits, dinghies or any other object, accessory or attachment protruding from the vessel. (b) Vessels using the dinghy dock are limited to 12 feet in length, unless approved by the Ports Director. (c) Rafting of vessels shall be limited to one dinghy or tender (12 feet or less). Additional vessels must be approved by the Ports Director.
- 9. HOLDING TANK & PUMPOUT REQUIREMENTS:** (a) There can be no discharge of human or pet sewage from any vessel using Marina facilities, mooring field or Marina anchorage. (b) All vessels using the Marina facilities (other than dinghies) must be equipped with a permanently installed toilet and Type III MSD (holding tank). All through-hull seacocks connecting Type III (holding tank) systems to the outside hull area are to be sealed (in accordance with City, State and Federal law) in the closed and locked position during the entire time at the Marina. Additionally, vessels with liquid waste systems must be equipped with a standard, externally accessible waste fitting. (c) Composting heads must be US Coast Guard approved and maintain a minimum of one urine dump receipt a month. (d) Holding tanks can be pumped free of charge on an overnight visit, or once per week on a Marina pre-designated schedule while registered and licensed at the Marina. Additional or off-schedule pump-outs are available for an additional fee of \$5.00 and require 1-day advance notification. (e) Vessels must be in such an area that does not restrict safe operation of pump-out vessel. Vessels must be clear of obstructions (solar panels, dinghies, kayaks, jugs, pets, feces etc.) that inhibit the safe approach and rafting of the pump-out vessel or impede access to the waste fitting.
- 10. VESSEL INSPECTIONS:** All vessels are subject to inspection by Marina personnel upon arrival, and at not less than three-month intervals thereafter. Inspections will be comprised of: (a) A brief inspection that relates to the vessel's seaworthy condition, including checking the vessel's bilges for excessive accumulations of fuel or oil and that pumping equipment is operational. (b) Vessel equipped with propulsion is in working order or all standing, running rigging and sails are in working condition. (c) A sanitation equipment and system inspection to ensure compliance with marine sanitation requirements of City, State and Federal laws and regulations.
- 11. ENVIRONMENTAL PROVISIONS:** (a) Licensees and their vessels must comply with all City, State and Federal laws pertaining to health and pollution. Oil, spirits, flammables, oily bilges or raw sewage will not be discharged into Marina waters. (b) Only biodegradable and non-toxic cleansers and soaps may be used on vessels while at the Marina and in City waters. As required by Florida Department of Environmental Protection (DEP), the use of detergents containing ammonia, sodium hypochlorite, Clorox or chlorinated solvents, petroleum distillates or lye while at the Marina is prohibited. (c) No refuse, garbage or solid waste shall be disposed of or thrown overboard into City waters. Any discharge of pollutants into City waters is prohibited and shall be reported immediately to the Ports Director, United States Coast Guard, and the Florida DEP. (d) The feeding, watering or molesting of wildlife and/or aquatic life (especially manatees) except for lawful fishing from moored vessels is prohibited. The use of chum or other organic fish attractors in the water is prohibited. (e) Minor repairs or light maintenance will be allowed if that maintenance does not add pollution or put waste and contaminants into City waters or the air and does not disturb the public peace or tranquility of any person. All sanding and scraping with power tools shall have an appropriate vacuum attachment. All handwork that produces dust or scraping shall be immediately accompanied by a vacuum cleaner.
- 12. WASTE DISPOSAL & RECYCLING:** (a) Trash receptacles and dumpsters are to be used for normal household type garbage only. Do not put flammable or hazardous material, wood, metal, construction debris or large objects in the receptacles or dumpsters. (b) Recyclable materials must be placed in the appropriate bin, consistent with its labeling. (c) Licensee is responsible for removing from the premises or proper disposal of all lithium batteries, propane tanks, flammables and hazardous materials as required by law. (d) Used oil, gasoline, diesel, anti-freeze, filters and lead batteries may be brought to the Marina office for disposal during business hours only. Any unauthorized dumping or drop-offs will be reported to law enforcement and may be subject to the termination of this User Agreement.
- 13. MAIL & PACKAGES:** (a) As a courtesy to Licensee, USPS, UPS and FedEx will deliver to the Marina; however, we do not sign for any packages, letters or freight. (b) All mail and packages should be addressed to Licensee with a mailing address of 800 35th Street Ocean, Marathon FL 33050-2393, without reference to the Marina, Licensee's boat name or mooring number. (c) Mail or packages delivered to the Marina will be placed into designated mail slots wherever possible. The Marina reserves the right to refuse mail/packages that are too large or numerous to be stored conveniently, in the sole discretion of the Marina and without notice to Licensee. (d) If a signature is required for your package, you must be here to meet the delivery driver and sign for your package. (e) Marina is not responsible for any lost packages. (f) Licensee acknowledges that the Marina shall not be acting as a Bailee and that the delivery of the mail/package shall be at the sole risk of the Licensee, and that neither the Marina nor the City of Marathon shall be liable for injury, loss or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

- 14. GENERAL RULES & REGULATIONS:** (a) Children under the age of thirteen must be under the direct supervision of an adult eighteen or older. (b) Swimming, diving, harvesting lobster or fishing is not permitted in the Marina canal, or from the Marina docks, docked vessels, or Marina uplands. (c) Docks and premises are to be kept free and clear of gear, tackle, hoses, bicycles, equipment, laundry, garbage, and all other obstructions always, and decks of all vessels shall be always kept free and clear of debris and present a neat appearance. (d) Motorized vehicles of any sort, except motorized wheelchairs or scooters to assist the ambulatory disabled, are not allowed on the docks and seawall. (e) Barbeque grills (propane or other) and/or open fires are not permitted on boats or docks in the Marina canal; this is not to include galley stoves. (f) Use of Marina electrical outlets for the operation of power tools, battery chargers, welders, etc., is prohibited except by permission from the Ports Director. (g) Licensee must notify the Marina office, in writing, when visitors are permitted to use their vessel. The Licensee is responsible for all their guests, and shall immediately inform them of, and have them read and understand a copy of the Marina User License Agreement. (h) All signs of any kind placed on or adjacent to moored vessels will meet the requirements of the city code. (I) Continuing infractions of the rules and regulations contained herein as established and adopted by the City Council, shall, at the option of the City, cancel this license agreement and the Licensee shall remove his or her vessel from the premises.
- 15. GENERATORS & NOISE COMPLIANCE:** (a) Licensees shall be considerate of others and keep noise to a minimum. (b) Between the hours of 10:00pm and 7:00am, noise must be kept below 60dBA, allowing only for normal conversation, (Marathon City Code, Chapter 14 – Article II, Sec. 14-32). (c) Non-inverter generators, generators with a capability or rating greater than twenty-two watts, construction generators, and any generator not in proper manufactured running condition are prohibited from operation at any time, except for temporary use approved by the Ports Director.
- 16. VESSEL MAINTENANCE & CONTRACTORS:** (a) A Licensee may work on their own vessel providing such work, in the judgment of the Ports Director, does not interfere with the rights, privileges, or safety of other persons, Licensees or property. Marina staff must be informed of all vessel repairs and any maintenance that could impact the Marina. (b) No major repairs, refinishing or re-fitting of vessels will be allowed in the Marina. (c) Licensee is required to notify the Marina when he/she expects workmen to be onboard and the nature of work to be performed. The City requires all contractor for hire, craftsmen or any other person performing any work whatsoever on Licensee's vessel while in or on the premises of the Marina, including City-owned or leased submerged lands and uplands, to first provide the Marina all evidence of occupational licensing, and any other documentation required by Marina policies, including, but not limited to, certification of workman's compensation and one million in liability insurance coverage, in order to protect the health, safety, welfare and property of all concerned parties. Hiring of any unlicensed and/or uninsured contractors for work located on city property, including the mooring and anchorage fields, is not allowed. Failure to meet these conditions will require the Licensee to remove their vessel from the premises.
- 17. DINGHY OPERATION & DOCKAGE:** (a) All dinghies must be registered with the Marina office and display a current marina tag. (b) Dinghies must be twelve feet or less and no wider than six feet six inches and be in such condition not to damage other dinghies while at the dock. Exceptions can be made by the Ports Director for dinghies over twelve but under fourteen feet and no wider than six feet six inches for extraordinary circumstances. (c) Ambulatory disabled Licensees may use the designated "Handicap Accessible" portion of the dinghy dock regardless of dinghy type, provided it is no longer than fourteen feet, no wider than six feet six inches and approved by the Ports Director. Licensees without ambulatory disabilities must yield this space to disabled customers. (d) Licensee will obey all posted speed limits while operating their dinghy or any other vessel; posted speeds are "Slow Speed – Minimum Wake" within Boot Key Harbor and "Idle Speed – No Wake" within all man-made canals, including the City Marina canal. (e) Dinghies shall be docked only in the areas designated for their specific type. (f) Dinghy painters must be between four feet and six feet long, including locks or cables. (g) Motors must be kept in the down position while at the dinghy dock. (h) Dinghy repairs and maintenance will not be allowed on Marina property except for within the project room.
- 18. MOORING BALL ATTACHMENT:** (a) Mooring ball pick-up lines are provided for convenience but shall not be attached directly to the vessel itself; Licensee must provide attachment lines to secure their vessel to the pick-up line. (b) Attachment lines shall not be affixed to any portion of the mooring system other than the eyelet at the end of the pick-up line. (c) Attachment lines must be in good condition, at least 1/2 inch in diameter and no longer than four feet in length. (d) There shall be no changes, modifications or alterations made to the mooring anchor, hard or soft tackle, or pick-up line. (e) There shall be no anchoring within the mooring field, or placement of accessory anchors, for any reason. (f) The use of any hard tackle such as shackles, snap hooks, thimbles or chain to attach to the mooring system is prohibited. (g) Any Licensee mooring in contravention to these rules, or in neglect of any precaution which may be required by the ordinary practice of seamanship, will be required to move immediately when requested to do so by the Marina, and may be subject to the termination of this User Agreement.

- 19. PETS:** (a) All pets must be leashed or contained when off the vessel in accordance with Chapter 5 of the City code. (b) Loud, disruptive or nuisance pets will not be allowed. (c) Pet waste must be picked up and properly disposed of in accordance with Chapter 5 of the City code. (d) Pets may not be washed or groomed inside any Marina building, including the shower or restroom facilities, and any pet washing or grooming on Marina uplands must be first approved by the Ports Director.
- 20. VEHICLE PARKING:** (a) Parking is only available to mooring or dockage Licensees and their guests. (b) All vehicles must display a current Marina parking sticker or tag, in clear view through the front windshield. (c) Mooring and dockage customers may park a single personal vehicle, registered in their name, at no charge, while fees apply for additional vehicles and overnight guest parking. (d) Trailer parking is not allowed. (e) Recreational Vehicles and truck-mounted campers must fit into a standard parking space and be approved by the Ports Director. (f) Vehicles must be kept in good running condition and meet all local and state requirements. Vehicle oil and fluid changing is prohibited on Marina property. No drain pans, or fluid catchments under vehicles are allowed, and vehicles leaking fluids will be removed from the lot. (g) The area under and around the vehicle is to be kept clear. Items such as wood, car parts, boating equipment, bicycles, etc. cannot be stowed with the vehicle, nor may a vehicle be used primarily as a storage unit and must be maintained in drivable condition. (h) There is to be no sleeping or overnight use of any vehicles, except for emergencies with prior approval of the Ports Director. (i) The Marina shall not be responsible for any accident or personal injury while operating vehicles on Marina grounds or while on City owned property. (j) The Marina is not responsible for lost, stolen, damaged or missing vehicles of any kind while stored on Marina grounds or on City owned property. (k) Any vehicles without City Marina issued tags or in inoperable condition may be towed from City Marina property at the owner's expense.
- 21. BICYCLES:** (a) Each person on the vessel may have one bicycle in good repair stored on Marina property with the appropriate ID tag displayed on the handlebars. (b) Bicycles must be stored on the bicycle racks provided by the Marina. Storage of bicycles against parked vehicles is not allowed. (c) Bicycles are not allowed inside Marina buildings or on docks, ramps and gangways, except when walked for purposes of loading or unloading onto a vessel. (d) Bicycle repairs are not allowed on Marina property, except within the project room. (e) The Marina shall not be responsible for any accident or personal injury while operating bicycles on Marina grounds or while on City owned property. (f) The Marina is not responsible for lost, stolen, damaged or missing bicycles of any kind while stored on Marina grounds or on City owned property. (g) Any bicycles without City Marina issued tags or inoperable condition will be removed from the bicycle racks and disposed of after 30 days. (h) The Marina shall not be responsible for any accident, or personal injury while operating loaner bicycles donated for use to Licensee. Bicycles used by guest of Licensee must be signed out and accompanied by responsible Licensee. Responsible Licensee must be a legal guardian if guest is underage of 18 and always accompanied by Licensee while bicycle is in use. Any damage caused by Licensee and or guest while operating a donated bicycle will be the sole responsibility of the Licensee. Licensees are responsible for providing their own cable lock and safety equipment required by law.
- 22. STORAGE UNITS:** (a) Storage units are available only to Licensees, and only on a monthly basis. (b) Units are assigned at the sole discretion of the Marina and can be changed at anytime. (c) Licensee shall not modify, alter or repair the unit without the consent of the Ports Director. (d) Licensees are responsible for providing their own lock. (e) Storage of all flammables or volatiles as defined by product labels or packaging is strictly prohibited. (f) Storage shall not extend beyond the boundaries of the storage unit. (g) Windows located on storage lockers, will remain clear of all contents or materials that may prohibit visual inspection of contents stored. (h) Licensee shall not use the storage unit for retail business purposes. (i) Storage units are accessible from 8:00am until 5:20pm, excluding City declared holidays. (j) Licensee hereby appoints the City as its attorney-in-fact to advertise for sale the goods located within the storage unit and sell such goods at any time after any fees due have remained unpaid and past due for thirty days.
- 22. PROJECT ROOM:** (a) Workspace in the project room is available to mooring or dockage Licensees only and to registered contractors directly serving a current Marina Licensee. (b) Fees shall be paid in advance and overnight projects must always display a current project tag. Fees shall be charged for projects left overnight. (c) Projects must be completed within seven consecutive days. (d) Licensee may use the project room from 8:00am until 5:20pm, excluding City declared holidays. (e) Licensee shall be responsible for all work performed and keep all materials within the project area. (f) Project area must be kept neat and tidy and swept at the end of each workday. (g) Licensee may not leave hazardous materials or batteries being charged unattended at any time and shall not store hazardous or flammable material in the project room overnight. (h) Projects are subject to staff approval. (i) Licensee must promptly remove all belongings upon expiration of the project tag. Any property left after expiration of the project tag will be considered by the Marina as lost or abandoned, and the Marina will be authorized to dispose of such property without further notice. (j) Marina is not responsible for any accidents or personal injury while working on projects.
- 23. ACCIDENTS & EMERGENCIES:** (a) The Marina maintains the ability to move any vessel from one location to another during emergencies such as fire, sinking, or an operation where room is required to discharge management over the Marina. (b) All collisions, accidents and casualties, including sinking, are to be reported to a law enforcement agency having

jurisdiction within twenty-four hours of the incident, per 327.30, Florida Statutes. (c) Any sunken vessel must be removed within ten working days after appropriate notice to the owner is given for removal. Such notice will take into consideration emergency conditions subsequent to severe storms or hurricanes. If the vessel is not removed within that time frame, it will be removed by the City of Marathon at the owner's expense.

- 24. STORMS & HURRICANES:** (a) Marina Moorings are not rated for wind-speed or hurricane categories because of the variety of vessel weights, windage, and an array of stress factors. During major storms or hurricanes, the Marina cannot assure that the moorings will hold in high wind conditions beyond the tested limit of mooring strength as calculated by the engineer of record, and tests conducted by the installer. Therefore, the Licensee must assume all liability from failure of the mooring during storm conditions. Engineering specifications for Marina mooring systems are calculated for traditional vessel hull and cabin types; therefore, non-traditional or other unique vessel types, such as houseboats, shall not be allowed at the Marina. (b) The Marina Canal, Docks and Seawall are not safe locations for vessels during tropical storms or hurricanes, and the city believes significant damage to vessels and to the Marina will likely occur in a major storm if a vessel remains at the Marina docks or seawall. Licensee agrees that it is his/her sole responsibility to be aware of the threat or approach of a tropical storm or hurricanes. All vessels on the seawall and floating docks will be relocated to the mooring field section of the marina, at no additional charge, prior to the issuance of a watch for a named storm event. Mooring assignments for storm events will be for a minimum of one week. Payment is due at the time of assignment. (c) Per paragraph 17 of the User License Agreement, there shall be no anchoring or placement of accessory anchors in the mooring field for any reason, and the use of any hard tackle such as shackles, snap hooks, thimbles or chain to attach to the mooring system is prohibited. (d) A limited number of monthly customers may store their dinghies within the building. Vessels will be taken on a first come, first serve basis, and are limited to the space available and the time and effort practical to store any such vessels. (e) All vessels, equipment, gear, automobiles, vans, campers, motorcycles, bicycles, or any other type of transportation and any other item left at the marina property in any way, shape, or form is done so at the owner's risk. It is understood that the City and any or all their agents, representatives, or employees cannot assume any physical or financial responsibility for any of the above-mentioned items left on or near Marina grounds. (f) Storage of dinghies will commence 60 hours prior to storm landfall as forecasted by the National Weather Service. The Marina officially closes 48 hours prior to landfall, and the buildings will be locked, and access will be denied at that time. Post storm, the Ports Director will determine when the property can be opened safely. Stored dinghies and other property must be removed within 48 hours of the Marathon City Marina re-opening and access to Marathon has been restored after a storm event. All storage will be accomplished by the owner of the dinghies and without the assistance or use of Marina personnel or equipment. (g) **RELEASE OF LIABILITY AND INDEMNITY:** Licensee, on his/her own behalf and on behalf of his/her executors, agents, heirs, personal representatives, and assigns and each of them, hereby expressly releases and forever discharges the City of Marathon, and its agents, employees, officials and legal representatives, in both their official and individual capacities, as well as their successors and assigns (collectively referred to as the "Marina") from any and all claims, actions, demands and causes of action in law or in equity for any and all liability for loss (including loss of life), or damages to person or property, including, but not limited to, damages caused by Marina's own negligence, fire, theft, vandalism, wind storm, high or low waters, hail, rain, ice, collision or accident, any other Act of God, or the acts of third parties, whether negligent or intentional. Licensee shall be liable to Marathon City Marina for any personal injury, loss of life, or property damage caused by Licensee or on behalf of Licensee or by Licensee's agents, servants, or invitees. Licensee further agrees to the extent allowable by Florida Law, and subject to the provisions and limitation amounts listed in section 768.28, Florida statutes, indemnify, and hold Marina harmless from any loss, cost, expense, claim or liability, including attorney's fees and costs of litigation and appeal, for any and all personal injury, loss of life, and property damage related in any way to Licensee's actions or property, regardless of Marina's negligence. This paragraph shall survive the expiration or termination of this agreement.
- 25. ACCESSIBILITY:** Marathon City Marina staff strive to ensure that all our guests can enjoy the use of our facilities. Where feasible, modifications have been made to physical access-barriers inherent in our pre-1992 structures. Equivalent facilitation will be provided to address other barriers and allow for equal access to all our services. Marina staff members are always available to assist our customers with disabilities.

ADDITIONAL LEGAL PROVISIONS

- 26. TERMINATION OF AGREEMENT/BREACH/REMEDIES:** (a) Either party may terminate this agreement with or without cause upon ten days' prior written notice. Expiration or termination of this agreement shall constitute termination of all other agreements between the Licensee and the City pertaining to the use of facilities at the Marina. (b) Upon termination of this agreement, Licensee shall at once vacate the assigned mooring or docking space and the Marina, and remove his/her vessels, personal property, vehicles, etc. from the Marina. Should the Licensee fail to vacate the premises and remove his/her vessels or other property upon termination, Licensee agrees that the City may, at its sole option, remove the vessel or property and place it in storage. The licensee agrees to pay all charges for towing, removal and storage. In addition, the City may utilize all remedies provided by law, and as provided herein, to remove the Licensee and/or the vessels and property

from the premises. (c) Licensee agrees that the mooring or dockage provided by the City is a “necessity” within the meaning of the Federal Maritime Lien Act, and that the City, in addition to relying upon the credit of the Licensee, shall retain a maritime lien against the vessel, its appurtenances and contents, for all unpaid dockage fees, delinquency charges, and for any damage caused to any dock, piling, or any other property of the City. For undocumented vessels, pursuant to Section 328.17, Florida Statutes, in the event of non-payment of storage for a period of six months, the city is authorized to sell the Licensee’s vessel at a non-judicial sale.

- 27. NO WARRANTIES:** Licensee fully understands and agrees that the City does not warrant the condition of the slips, docks, piers, gangways, ramps, buoys, mooring gear or any other parts of the Marina to be safe for docking, berthing, or mooring vessels, or for accepting and discharging passengers, and assumes no responsibility; nor does the City warrant or guarantee the continuity of electrical or water service where provided, nor does it accept any responsibility or liability for any damage caused by the use of the electrical or water service.
- 28. NO ASSIGNMENTS OR SUB-LICENSES:** Licensee shall not assign, sub-license, transfer, mortgage, or otherwise dispose or otherwise encumber the license or any rights granted herein.
- 29. ENFORCEMENT COSTS & ATTORNEY’S FEES:** Licensee shall pay and discharge all costs, expenses, and attorney’s fees, which may be incurred by the City in enforcing the covenants of the License agreement, including but not limited to collecting any sums due under this agreement, enforcing the termination provisions, and any maritime or other liens.
- 30. REMEDIES CUMULATIVE:** The remedies herein are cumulative and use of one shall not be taken to exclude or waive the right to use any other remedy provided by Local, State or Federal law.
- 31. JOINT & SEVERAL OBLIGATION:** In the event the License is granted to more than one individual or other legal entity (or to any combination), then and in that event, each and every obligation or undertaking to be performed by Licensee under the License agreement shall be the joint and several obligations of each such individual or other legal entity.
- 32. DAMAGE OR DESTRUCTION TO PREMISES:** In the event the premises, or any portion thereof, shall be destroyed or damaged by fire, wind, water, or other casualty so as to prevent the use of the premises for the purposes and during the periods specified herein, or the premises cannot be used because of strikes, Acts of God, or other causes beyond the control of the City, then the License shall terminate and the Licensee waives any claim against the City for damages by reason of such termination. The City shall not be obligated to repair or rebuild the premises but may elect in its sole discretion to do so.
- 33. SUBORDINATION TO GOVERNMENT AGREEMENTS:** Licensee acknowledges and agrees that the License agreement is subject to and subordinate to any existing or future agreements of any kind between the City and any other public agency of the United States Government, State of Florida or any County authority, or any official, board, commission, or other body politic of the State or Federal government, now or hereafter created, whether specifically mentioned here or not, pertaining to the development, construction, operation or maintenance of Marathon City Marina facilities, mooring fields and basins, and their adjoining seawalls and dock areas. The City reserves the right to further develop, improve, maintain, modify and repair the seawalls and dock areas, the roadways and connected walkways, at any time regardless of the views of the Licensee and without interference or hindrance by the Licensee.
- 34. GOVERNING LAW AND VENUE:** This license agreement for use of the facilities at Boot Key Harbor City Marina shall be deemed to have been made, and shall be construed, in accordance with the laws of the State of Florida and, where applicable, the laws of the United States of America. The sole venue for an action on this agreement shall be the appropriate court located in Monroe County, Florida.
- 35. INTEGRATION CLAUSE:** All written agreements for use of the facilities at Boot Key Harbor City Marina constitute the sole, complete and only agreements between the parties hereto. Any prior agreements, oral understandings, promises, negotiations, representations, not expressly set forth in a written agreement, shall have no force or effect. Said written agreements shall not be subject to parole.
- 36. SEVERABILITY CLAUSE:** The unenforceability, invalidity or illegality of any provision of this license agreement shall not render the other provisions unenforceable, invalid or illegal.