

## PEN LICENCE (14 Oct 2020)

**THIS LICENCE** is made on the day and year set out in the Schedule between: -

**COCKBURN POWER BOATS CLUB INC.** of 28 Jervoise Bay Cove, Coogee ("the Club") of the one part

AND

The person in paragraph 1 of the Schedule ("the Licensee") of the other part.

*WHEREBY it is agreed as follows: -*

1.

- a) Annual Pen Fee means the fee for each term of this Licence, determined by the Management Committee from time to time in accordance with the Pen Regulations.
- b) The Club means Cockburn Power Boats Club Inc.
- c) The Licensee means the person described in paragraph 1 of the Schedule.
- d) The Club Area means the whole of the marina complex, hard standing, parking areas, waterways, buildings and other facilities, plant and equipment, seabed and waters owned, leased or otherwise held or occupied by the Club at 28 Jervoise Bay Cove, Coogee.
- e) The Club's Rules and Regulations means all the rules or regulations made or amended by the Club in accordance with its Constitution including the "Pen Regulations" and the Fire Safety Compliance Procedure adopted and modified by the Club, are to be read as and form part of this offer.
- f) The Management Committee means the Management Committee of the Club.
- g) The Licensee's watercraft means the watercraft described in paragraph 2 of the Schedule or a substitute watercraft, the details of which have been given to and approved by the General Manager in accordance with the Pen Regulations.
- h) The Licensed Pen means the current or future Club pen described in paragraph 4 of the Schedule.
- i) The Term means the period from the commencing date specified in paragraph 4 of the Schedule to the next 30th of June and each renewal term of twelve (12) months thereafter granted pursuant to these Regulations.
- j) The definitions contained in the Club's Rules and Regulations (in force at the date of this Licence or as amended from time to time) apply unless the context otherwise requires (as determined by the Management Committee).

2. In consideration of payment of the Pen Licence Fee paid before execution of this Licence the Licensee shall during the Term have the sole right of mooring the Licensee's Boat (or other boat approved of by the General Manager) within the Licensed Pen and to embark and disembark the Licensee's guests from jetties within the Club Area, for that Term, in accordance with the Club's Rules and Regulations (in force at the date of this Licence or as amended from time to time.)
3. The Club's Rules and Regulations (including the Pen Regulations) in force at the date of this Licence or as amended from time to time, are incorporated into this Licence as if specifically set forth as express terms in this document and, the Licensee expressly covenants with the Club to duly observe and comply with those Rules and Regulations.
4. The Licensee will forthwith upon the execution of this Licence and before any renewal of the Term (and renewed term) provide the Club with:
  - (a) proof that the Licensee's watercraft is currently registered with the WA Department of Transport (or equivalent authority);
  - (b) proof of the Licensee's compliance with the Club's Rules and Regulations relating to Fire and Safety Compliance;
  - (c) proof of the Licensee's compliance with the Club's Rules and Regulations relating to the taking out and maintaining of a Pleasure/Water Craft Policy with a cover for insured events and \$10m coverage required by the Club's Rules and Regulations.
5. The Licensee shall not without the prior approval in writing of the General Manager, assign sub-let or part with possession or occupation of the Licensed Pen or dispose of any estate or interest in the Licensed Pen or mortgage charge or encumber the Licensed Pen.
6. The Licensee shall give to the Club prompt written notice of any change of the watercraft (solely and beneficially owned by the Licensee or entity referred to in 2 of the Schedule) which the Licensee desires to moor in the Licensed Pen and of any change in the name, make, dimensions or other relevant particulars of the Licensee's watercraft reasonably required by the Club's Rules and Regulations (in force at the date of this Licence or as amended from time to time) and shall notify the Club immediately prior to any sale, transfer or entry into partnership or other change in the beneficial ownership of the Licensee's watercraft or majority ownership or control of the entity owning the Licensee's watercraft.

If the Licensee fails to notify the Club of a change in the Licensee's watercraft, referred to in 2 of the Schedule, to be moored or stored within the Licensed Pen or particulars of the Licensee's watercraft or any change in or encumbrance on the beneficial ownership of the Licensee's watercraft or change in beneficial ownership or control of the entity referred to in 2 of the Schedule;

or

the General Manager notifies the Licensee that he/she does not approve of any such change or encumbrance;

the Club may immediately determine this Licence (or any renewal).

7. Notwithstanding the provisions of this Licence the Club reserves the right at any time and from time to time by written notice to the Licensee to substitute an alternative Club pen (suitable for a watercraft of the dimensions of the Licensee's watercraft) for any Club pen allotted to the Licensee hereunder whereupon this Licence shall at all times during the Term (and any renewal) apply to that substituted Club pen.
8. Upon the expiration of the Term or any earlier determination of this Licence (or any renewal), so long as the Licensee's watercraft remains within the Club Area, this Licence shall (unless the annual renewal has been completed) continue as a licence from day to day determinable by the Club either giving notice to the Licensee or by the removal of the Licensee's watercraft from the Club Area and with a fee payable by the Licensee (based on the applicable temporary weekly Pen Fee ) in advance for each week or part thereof that the Licensee's watercraft remains in the Club Area (whether in the Licensed Pen or elsewhere).
9. So long as the Licensee has remedied, within 48 hours of written notice, any breach of non-observance of the conditions or stipulations during the Term (and any renewal) and so long as the provisions and/or criteria set out in the Club's Rules and Regulations (in force at the date of this Licence or as amended from time to time and including rules as to Licensee participation) are satisfied:
  - a) the Club shall renew this Licence upon the same terms and conditions other than the annual Pen Fee, for a period of 12 months from the 1st July next following (with a like right of renewal upon each expiry) at an annual Pen Fee determined by the Management Committee for each renewed term.
  - b) Renewal of this Licence shall be effected: -
    - (i) The Club forwarding an invoice for the renewal period; and
    - (ii) the Licensee accepting the renewal by paying to the Club, prior to the 30<sup>th</sup> June, the renewal invoice for the relevant annual Pen Fee.
  - c) If this Pen Licence is renewed in accordance with this clause both parties shall be bound by the terms and conditions set out herein and in the renewal invoice for the renewed term of 12 months.
10. This Pen Licence:
  - (a) constitutes the entire agreement whether oral or written relating to the subject matter hereof and to the Licensee's rights to occupy or use the Club Pen within the Club Area; and
  - (b) this Pen Licence supersedes all prior agreements and understandings whether oral or written relating thereto.
11. Each party shall meet its own legal fees and other expenses relating to this Pen Licence but any duty assessed under the Duties Act shall be paid by the Licensee to the Club on demand.
12. The Licensee acknowledges and agrees that if the Licensee leaves the Licensee's watercraft or any other vessel in the Licensed Pen without a valid licence (Abandoned Watercraft), then if the Abandoned Watercraft has not been removed from the Licensed Pen within SEVEN (7) days after notice has been served in accordance with this Licence, the Licensor may treat the watercraft as

abandoned and remove and/or deal with the Abandoned Watercraft as it sees fit, including:

- (a) removing the watercraft from the Licensed Pen and/or the Club Area;
- (b) selling or otherwise disposing of the watercraft;
- (c) Charging the Licensee on a pro rata basis for the time that the Abandoned Watercraft was moored in the Licensed Area;
- (d) Recovering the cost of any disposal, sale or other fees or charges incurred in respect of the Abandoned Watercraft, from the Licensee.

The Licensor and the Minister for Transport are not responsible for any loss or damage arising as a result of the Licensee's failure to remove the Abandoned Watercraft from the Licensed Pen in accordance with these Regulations.

## **THE SCHEDULE**

Licence made the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

### **1. THE LICENSEE:**

Name (Please print): \_\_\_\_\_

Address: \_\_\_\_\_

Membership Number: \_\_\_\_\_

### **2. THE LICENSEE'S WATERCRAFT:**

Make of Watercraft: \_\_\_\_\_

Model: \_\_\_\_\_

Sail or Power: \_\_\_\_\_

Name of Watercraft: \_\_\_\_\_

DoT Registration Number: \_\_\_\_\_

Overall watercraft length (include bowsprit and marlin/swim board etc.):  
\_\_\_\_\_ metres

Beam at widest point: \_\_\_\_\_ metres

Draft: \_\_\_\_\_ metres

### **3. LICENSED PEN:**

Pen number \_\_\_\_\_

4. **COMMENCEMENT OF LICENCE (TERM):**

The \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

5. **LICENCE FEE:**

\$\_\_\_\_\_ (from \_\_\_\_\_ to 30<sup>th</sup> June)

The parties have executed this Licence on the day and in the year set out in the Schedule.

SIGNED for and on behalf of

**COCKBURN POWER BOATS CLUB INC.**

by: \_\_\_\_\_(Commodore or Vice Commodore)

Signature:\_\_\_\_\_

by: \_\_\_\_\_ (General Manager)

Signature:\_\_\_\_\_

**The LICENSEE**

(Print name)\_\_\_\_\_

Signature:\_\_\_\_\_

**Signed by the Licensee in the presence of:**

(Print name)\_\_\_\_\_

Signature of **WITNESS**;\_\_\_\_\_

Address:\_\_\_\_\_

Occupation:\_\_\_\_\_