

Whiskey Island Marina & Wendy Park
2800 Whiskey Island
Cleveland, Oh 44102-2251
Phone: (216) 631- 1800 Fax: (216) 631-0990

WHISKEY ISLAND MARINA
2012-2013 SEASON
DRY DOCKAGE AGREEMENT

RACK # _____

Last Name: _____

This Agreement is made at Cleveland, Ohio, as of the date last written below, by and between Whiskey Island Partners, L.P., ("Marina") and the first undersigned, with his agents, guests, family members, employees, heirs, executors, administrators and assigns (collectively the "Owner").

1. Boat Data and Term

- 1.1 This Agreement pertains only to the Owner's boat and trailer if applicable ("Boat") described in Schedule A.
1.2 The term of this Agreement shall commence on the dates indicated below, unless earlier terminated as provided herein:
(Initial Choice)

Annual Dry Dock Agreement 5/1/12-4/30/13

Seasonal Dry Dockage Agreement for 5/1/12 - 10/15/12

- 1.3 Owner represents that he is the registered owner of the Boat described in Schedule A and that the address given below is his/her last mailing address. Owner agrees to provide Marina with a copy of the registration of the Boat, and to promptly inform the Marina of any change in his/her mailing address and that in the absence of doing so, Marina may rely upon the stated last address.

2. Dry Dockage

- 2.1 Marina shall provide dry dockage for Owner's Boat. Owner acknowledges that Marina shall have sole discretion to designate (and periodically to change) the dockage space allocated to Owner's Boat. Marina reserves the right to move Owner's boat at any time within Marina's premises or when moored at temporary docking facilities.
- 2.2 Owner agrees that Marina shall not be liable for the care of or protection of the Boat, its appurtenances, or for any loss or damage of any kind or nature to the Boat, or injuries due to theft, fire, vandalism, Acts of God or any other cause to boats, vehicles, equipment, contents or any other property on Marina's premises, excluding damage caused by forklift handling. In signing this contract Boat Owner expressly waives with respect to the Marina, its agents and its employees, all rights and claims of rights of Boat Owner's insurer in subrogation for damages or loss to this boat, motor and accessories as provided for herein. **FOR YOUR OWN PROTECTION YOU MUST KEEP YOUR BOAT, MOTOR AND ACCESSORIES FULLY INSURED.** By signing this agreement, the Boat Owner expressly states his right to waive his insurer's right of subrogation under any yacht policy.
- 2.3 Marina will inspect Owners boat upon its arrival and during the Orientation Procedure for obstructions during the lifting process, and make recommendations for the possible movement of these obstructions. Owner will hold Marina harmless for any damage to or breakage of trim tabs left down, antennas left up, speedo pick-ups, transducers, or outboard motor units, stern drives, etc., including hull, which are underwater at the time the boat is lifted in or out of the water.
- 2.4 Owner agrees that his use of Marina dry dockage space entails no warranty of any kind as to the condition of the piers, walkways, gangways, ramps, buildings, aprons, or loading areas, nor shall Marina be responsible for injuries to persons or property occurring upon Marina property for any reason.
- 2.5 **OWNER IS PROHIBITED FROM ENTERING RACK BUILDING.** Any personal work by Owner on his boat must be done on outside racks provided by the Marina.
- 2.6 **Children must be accompanied by adults at all times.**
- 2.7 Subject to other provisions herein, Owner's privileges include dry dock dockage and parking in defined areas, the use of the bathroom showers and other facilities.

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- 2.8 Marina shall provide "unlimited" launches and lift-outs, on a "first come, first served" basis, daily from May 1st to October 15th.
- 2.9 This Agreement shall terminate at the end of the dockage period contracted for. IF YOU DESIRE DRY DOCKAGE NEXT SEASON, A NEW AGREEMENT MUST BE SIGNED BY OCTOBER 15TH, or the Marina has the right to lease your dockage space. Failure of Owner to remove his Boat from Marina premises within 15 days of the end of the Agreement Term shall be deemed to be an authorization for the Marina to have the Boat removed and stored elsewhere at Owner's expense and risk. Marina expressly disclaims any responsibility for Owner's Boat under such circumstances.

3. Owner's Covenants

- Owner hereby covenants and agrees that:
- 3.1 Owner shall not permit any solicitors, brokers, salespeople, workers or prospects on or about the Boat while it is in the Marina unless previously approved by Marina. Owner warrants that the Boat is used for pleasure or business entertainment only and that Owner is not in the business of selling boats or any other type of marine equipment at Marina except by written consent of the Marina.
- 3.2 Rights and privileges granted under this Agreement are personal and not assignable by Owner for any reason whatsoever, unless Marina gives prior written approval, which approval shall not be unreasonably withheld. Any attempt by Owner to assign his rights or privileges under this Agreement may result in immediate termination of this Agreement and the Agreement Term. In such event, Owner shall receive no refund of money paid through the date of the attempted assignment.
- 3.3 Owner's Boat shall not be provided dockage or launch service unless and until Owner pays Marina any and all fees and charges required hereunder and access to Marina may be denied unless and until all fees and charges are paid.
- 3.4 Owner hereby accepts and shall abide by Marina's Rules and Regulations, which are attached hereto as Schedule B and incorporated herein by reference, and which may be periodically amended by Marina in its sole discretion, and all other Marina rules, regulations and policies, and all laws pertaining to marina operations, all safety rules and provisions, speed limits, warning signs and any and all other indications of public or private safety.
- 3.5 **OWNER is responsible for any damage arising out of the use, maintenance, and operation of his vessel including, but not limited to, collision, leakage of fuel and lubricants or other spillage. Owners vessel will be removed from the building if it is causing damage or a danger to other boats or marina property**
- 3.6 OWNER SHALL PROVIDE EVIDENCE OF INSURANCE FOR HIS BOAT AND EQUIPMENT AGAINST DAMAGE OR THEFT. Owner shall obtain and maintain continuously such personal liability insurance and property damage insurance as are sufficient to cover any loss due to damage or theft and to protect Owner and hold Marina harmless against any loss or damage made by reason of injury or death to person or damage to property and resulting to or caused by Owner's Boat or other property or persons using same regardless of cause or reason.
- 3.7 Owner authorizes the Marina to move the Boat as may be required in the event of any emergency or to avoid loss or damage to Marina property. Owner further agrees that Marina shall not be liable for any damage to the Boat caused by such moving of the Boat.
- 3.8 Owner agrees to keep Boat in a seaworthy condition, and shall create neither a fire hazard or an eyesore, or a sinking hazard. Owner agrees to keep the Boat properly moored and dry within at all times.
- 3.9 Owner is responsible for properly securing his boat at the dock with sufficient mooring lines of size and quality to properly and safely moor vessel.

4. Termination

- 4.1 In addition to the remedies available to Marina in Sections 7.6 and 3.2, Marina may terminate this Agreement immediately upon written notice without refund to Owner at Owner's last known address if Owner violates or permits violation of or fails to perform any of Owner's covenants, duties or obligations hereunder, including such duties and obligations as are contained on Schedule B, as periodically amended.
- 4.2 Marina may terminate this Agreement for any reason regardless of cause after mailing to Owner by ordinary United States mail written notice of termination at least twenty (20) days prior to the termination date; provided, however, that if Marina terminates this Agreement and the Agreement Term under this Section 4.2, Marina shall refund to Owner the pro rata portion of all fees charged hereunder. The pro-ration shall be made on the basis of the proportion of the prime season from June 1 to September 15 that the Owner's boat will not make use of the Dry Stack facilities.

4.3 In the event of termination of this Agreement and the Agreement Term under Section 7.6, 3.2, 4.1, or 4.2, if Owner fails to remove Owner's Boat and/or other property from Marina's premises within 15 days of the termination date, Marina is hereby authorized to remove such Boat and property at Owner's expense and risk, to store such Boat and property at any location at Owner's expense and risk, to take possession of and to re-let the dockage space and to retain any balance or pre-paid fees and other charges as liquidated damages. Charges for dockage of the Boat and other property shall be equal to the transient dockage rate then in effect, or a dockage facility's charges, whichever is higher. Furthermore, the Owner grants the right and authority to Whiskey Island Marina named herein to sell his boat for whatever price it can secure to satisfy any charges that are six months or more delinquent provided Whiskey Island Marina notifies in writing the Owner of its intentions at his address listed on the face of the contract. The Owner shall receive full value of the sale less selling costs, commission and all outstanding indebtedness.

5. Indemnification

5.1 Except as otherwise provided for in this Agreement, neither party shall be liable to the other for or be required to indemnify the other for consequential, special, indirect or incidental damages arising out of this Agreement.

5.2 Marina shall not be liable to Owner for liquidated or consequential damages of any kind arising out of the Termination of this Agreement by Marina.

6. Miscellaneous

6.1 This Agreement is executed in the City of Cleveland, State of Ohio and all disputes, controversies and interpretive matters hereunder shall be governed by Ohio law.

6.2 This Agreement constitutes the entire Agreement between Marina and Owner regarding the subject matter hereof and all other written or oral agreements, arrangements, representations, understandings, statements and warranties regarding the subject matter hereof are merged and superseded by this Agreement. This Agreement may not be amended unless by a written instrument signed by both Parties, except as provided in Section 6.3 herein.

6.3 The Rules and Regulations (attached hereto and incorporated herein by reference) may be amended by Marina from time to time (in Marina's sole discretion), for the safety, health and welfare of persons using dockage or dockage space. Notice of any such amendment shall be made by placing a copy of such amendment on or about the assigned dock, or on Owner's Boat or in a public place on the Marina Bulletin Board and shall be deemed to amend this Agreement automatically without further action by the Parties.

6.4 All provisions of this Agreement are severable and no provision hereof shall be affected by the invalidity of any such provision.

6.5 In the event of a dispute regarding the dockage agreement, the Boat Owner and Whiskey Island Marina agree to resolve the dispute by looking to this Agreement. The Boat Owner agrees that this Agreement is the complete and exclusive statement of the dry dockage Agreement between the Boat Owner and the Marina which supersedes any proposal or prior agreement, oral or written, and any other communications between the Boat Owner and the Marina relating to the subject matter of this Agreement. If there is a conflict between what one of the Marina's agents or employees says and the terms of this Agreement, the terms of this Agreement shall control.

7. Fees and Charges

7.1 Annual Dry Dockage includes heated winter dockage. However, Marina is not responsible for damage due to freezing conditions caused by extreme weather conditions, equipment failures, or other force majeure. It is Owner's responsibility to notify Marina of last usage prior to winter lay-up. If owner would like the additional protection of winterization, then owner must contact the Whiskey Island Marina Service department directly.

7.2 Owner shall pay Marina fees and other charges:

- a. Annual/Seasonal/Winter Drystack dockage.
- b. Based upon boat overall length including swim platform, bow pulpit and rounded to the nearest foot.**
- c. Based upon an additional charge for being over wide or over high.

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7.3

Dry Dockage Lease Rates:

Annual Dry Dock w/Inside Heated Winter Storage 5/1/12 to 4/30/13		
Boat Length	Pre Season Discount	Fall Discount
19' to 24'	\$89/ft	\$84/ft
25' to 34'	\$94/ft	\$89/ft
35' to 42'	\$99/ft	\$94/ft

Dry Stack Seasonal 5/1/12-10/15/2012		
Boat Length	Pre Season Discount	Fall Full Pay Discount
19' to 24'	\$74/ft	\$69/ft
25' to 34'	\$79/ft	\$74/ft
35' to 42'	\$84/ft	\$79/ft

Boats 18' and under - \$1050.00 (+ 7.75% tax)/Annual \$840.00 (+ 7.75% tax)/Seasonal

Trailer Storage is based on availability: See Marina representative.

\$300.00/Six months \$350.00/Annual

***** Validation sticker required – Trailers without the appropriate sticker displayed will be removed from the Marina. By requesting trailer storage at WIM owner agrees that WIM will ultimately have no responsibility for possible damage resulting from storage or moving trailer.**

7.4

Payment terms (Initial Choice):

- a. Pre Season Discount: Two payments, 30% due October 15, 2011, 70% due January 1, 2012.
- b. Fall Full payment Discount: 100% - one payment due by 10/15/11.

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7.5 **Payment worksheet:**

		\$ AMOUNT
Dockage	Base Rate x Length	
Trailer Storage: Please fill out trailer information		
Sub-total		
Referral Discount	Referring Customer or Dealer Name	
Sub-total		
7.75 % tax		
GRAND TOTAL		

Payment due dates:

Date:	At Signing			
Payment Amt.				

7.6 Dockage fees paid hereunder are not refundable unless this agreement is terminated by Marina under Section 4.2 hereof. Any dockage fees and other charges not paid in accordance with this Agreement shall bear interest at the maximum rate permitted by law until fully paid. If Owner does not pay the fees and charges as herein stated, Marina shall also have the right to terminate this Agreement and the Agreement Term at any time without notice or demand, to keep all fees and payments made to Marina and to retain custody of Owner's Boat, subject to Section 4.3 until all outstanding balances are paid in full.

Automatic Payment Authorization

I authorize Whiskey Island Marina to charge my MC / Visa credit card for my dockage payment(s) either:

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____ Please charge my credit card in accordance to the payment terms in
Section 7.

OR

____ I will send my payment(s) when they are due in accordance with Section
7 and Whiskey Island Marina has my authorization to charge my credit
card if the payment is more than 10 days late.

Signed _____ Date _____

Credit Card# _____ Exp. Date _____

IN WITNESS WHEREOF, the parties have set their hands as of the day and year written below.

Signature Date _____ By: _____
Whiskey Island Marina Date _____

Print Name Title _____

Address

City, State & Zip

Email Address

Phone Number #

Boat Make, Model, Year, OH #, Length, Name,

Deposit Information

Amount \$ _____

Method: Cash: _____ Receipt# _____

Check#: _____ Gate Card(s) _____

Credit Card # : _____

Exp. Date: _____

Revised 8/11/11