

**Trinity Point Marina  
Craft Mooring and Berthing Licence Agreement**

**AGREEMENT**

Berth No: ..... ('Berth')

BETWEEN: ..... ('Licensee')

Of (address): .....

ACN (if applicable):..... DOB: ..... Email: .....

Telephone (Mob): ..... (Bus): ..... (Home): .....

Boat Driver's Licence No: ..... Car Rego No: .....

AND Trinity Point8 Marina Pty Ltd ACN 630 009 657 ('Licensor')

Telephone: 0474 012 888

TO supply marina berth and use marina facilities for:

**LICENSEE'S MARINE CRAFT ('Craft')**

Registration Number: ..... Name of the Craft: .....

Type: ..... Model: .....

Year: ..... Manufacturer: .....

Hull Identification (Boatcode) No.: .....

Inboard / Outboard / Stern Drive / Sail / Single/Twin / Petrol / Diesel / Fibreglass / Aluminium / Timber / Steel

Colour/Markings: ..... Radios: 27MHz / VHF / UHF

Centreline Length: ..... Max. Beam: ..... Draft: .....

Engine Brand: ..... hp: ..... Year: .....

Serial No: .....

Insurance Company ..... Policy Number: .....

Expiry Date: .....

**SECURITY/PROXIMITY ACCESS CARD DEPOSIT**

On the signing of this Agreement the Licensee shall pay to the Licensor or its authorised agent the sum of \$..... ('Security') as a security deposit and a sum of \$50 per Proximity Access Card ('Prox Card Deposit') which shall be refunded to the Licensee on the termination of this Agreement or return of the card/s, whichever is the later, subject to the right of the Licensor to deduct from the security deposit any amounts whatsoever that are due and payable by the Licensee to the Licensor under this Agreement.

Prox Card Number/s .....

**LICENCE FEE**

The Licensee shall pay to the Licensor a licence fee of \$..... per..... payable in advance by way of credit card, direct deposit or as the Licensor may otherwise direct in writing. All fees and payments are inclusive of Goods and Services Tax.

**LICENCE TERM ('Licence Term')**

The term of the licence shall be ..... months/weeks commencing ...../...../20..... and thereafter on a monthly/weekly basis unless terminated in accordance with this Agreement.

**LICENSEE'S ACKNOWLEDGEMENT**

I, the Licensee acknowledge that I have received a copy of this Agreement signed by me and certify that I have carefully read the Agreement including the Conditions printed overleaf and agree to those Conditions as part of the Agreement. I am over eighteen (18) years of age.

Dated this ..... day of (month) ..... 20 .....

Signature of Licensee .....

**LICENSOR EXECUTION**

Signed for and on behalf of the Licensor .....

Dated this ..... day of (month) ..... 20 .....

## CONDITIONS

### 1 Definitions and interpretation

---

1.1 Definitions – in this document:

**Authority** means any government department, local government or statutory authority.

**Environmental Law** means any law, regulation, ordinance, policy, guideline, standard or communication of an Authority and the requirements of the common law, from time to time relating to the environment or human health, including a law relating to the use or development of land, construction on land, town planning, development, environmental assessment, water, water catchments, any noise, soil, chemicals, waste, dangerous goods, hazardous substances, hazardous materials, ozone depleting substances, pollution, emissions, contamination, building regulation, occupational health and safety, environmental hazards, and the enforcement or administration of any of these laws.

**Financing Charge Statement** has the meaning given to the term by the PPSA.

**Financing Statement** has the meaning given to the term by the PPSA.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Headlease** means the lease, licence or other right of occupation in place from time to time between Kendall Grange Properties Pty Ltd as lessor or licensor and the Licensor, as lessee or licensee in respect of part of Reserve R1012129 or any other land comprised in Trinity Point Marina.

**Liability** means any obligation, action, proceedings, duty, demand, claim, suit, notice, order, penalty, fine or losses incurred pursuant to any Environmental Law which would or could be imposed upon the Licensor as a result of Pollution in connection with the Craft or the Berth.

**Marina Manager** means any manager appointed by the Licensor from time to time to manage Trinity Point Marina.

**Outgoings** means all amounts, costs and expenses of any kind assessed by law, reasonably incurred or levied by law in respect of the Trinity Point Marina

**Personal Property** means all personal property the subject of a Security Interest granted under this document.

**Pollution** has the meaning given to the term in the *Protection of the Environment Operations Act 1997* (NSW).

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**PPSA Information** means any information or documents (including copies of such documents), which are in existence or may be entered into in the future, of the kind mentioned in section 275(1) PPSA.

**PPSR** Personal Property Securities Register maintained in accordance with the PPSA.

**Relocation Notice** has the meaning given to the term in clause 3

**Rules** means the rules and conditions applying to the use of Trinity Point Marina as prescribed by the Licensor or the Marina Manager from time to time, initially being those rules specified in the Schedule.

**Security Agreement** means the security agreement under the PPSA created between the Licensee and the Licensor whether described as a security interest, charge or other expression herein and without limiting those other expressions.

**Security Interest** has the meaning given to it by the PPSA and without limiting the meaning in the PPSA includes this document however described.

**Supplier** means the entity making the Supply.

**Trinity Point Marina** means the marina constructed on Lake Macquarie pursuant to a development consent DA/1503/2014 issued by Lake Macquarie City Council and subject to the Headlease.

1.2 Interpretation – in this document:

a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;

b) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;

c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

d) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;

e) a reference to this document includes the agreement recorded by this document;

f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

g) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;

h) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;

i) this document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself; and

j) a reference to 'month' means calendar month.

### 2 Licence

---

2.1 The Licensor grants to the Licensee a non-exclusive, non-transferable licence to moor the Craft at a Berth for the Licence Term at the Licensee's own risk.

2.2 Subject to clause 2.3, with the Licensor's prior approval, the Licensee may continue to occupy the Berth beyond the Licence Term on an ongoing basis terminable by either party giving the other one months prior written notice at any time.

2.3 The Licensor may immediately terminate this document if:

(a) the Licensee is more than seven days late in paying the Licence Fee or any other amount required to be paid by the Licensee under the terms of this document; or

(b) the Licensee is in breach of this document, or any of the Rules.

### 3 Berth

---

3.1 The Licensor may, in its discretion, change the Berth at any time by notice in writing to the Licensee (Relocation Notice) and the Licensee must move the Craft to the berth set out in the Relocation Notice by the date and time specified in the Relocation Notice.

3.2 The Licensee authorises the Licensor to move the Craft to another berth at the Licensee's risk and expense in the following circumstances:

(a) if the Licensee fails to comply with a Relocation Notice;

(b) in the event of an emergency; or

(c) if otherwise reasonably required for the safe operation of Trinity Point Marina.

### 4 Fees and charges

---

4.1 The Licensee must pay the Licensor without any demand, withholding or set-off the Licence Fee by credit card, direct deposit or such other methods nominated by the Licensor in advance on or before the commencement of the Licence Term and thereafter in advance of any ongoing occupation as approved by the Licensor pursuant to clause 2.2.

4.2 The Licensor may increase the Licence Fee at any time after the expiry of the Licence Term by giving not less than 30 days prior notice in writing.

4.3 If any fee or charge not included within Outgoings becomes payable by the Licensor to the local government or another body, statutory or otherwise, for the Berth or use of the Berth, the Licensor may recoup that amount from the Licensee which must pay the amount to the Licensor within 7 days after demand by the Licensor.

4.4 The Licensee agrees to pay interest on any amount under this document which is not paid on the due date for payment. Interest is payable at the rate of 12% per annum and accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

### 5 Security

---

5.1 On or before commencement of the Licence Term the Licensee must pay the Licensor the Security and Key Deposit.

5.2 If the Licensee fails to comply with any of its obligations under this document then the Licensor may apply the Security without prior notice to the Licensee.

5.3 Within 14 days after the Licensor exercises its rights to apply the Security under clause 5.2, the Licensee must pay to the Licensor an amount required to ensure that at all times the total security deposit held by the Licensor as security is equal to the amount specified on page 1 of this document.

5.4 Upon expiry or termination of this document, the Licensor may use the Security for outstanding payments payable by the Licensee under this document and then the Licensor will refund the Licensee any unused part of the Security.

## **6 Berth use**

---

6.1 The Licensee acknowledges that prior to signing this document the Licensee received a copy of the Rules and acknowledges the contents of the Rules.

6.2 The Licensor may from time to time amend, replace or update the Rules by written notice to the Licensee.

6.3 The Licensee must:

- a) use the Berth only in accordance with this document;
- b) comply with the Rules (as the Licensor may update from time to time) and at all times comply with the instructions of the Licensor or anyone the Licensor appoints to control the Berth;
- c) not use the Berth for any purpose except mooring the Craft;
- d) keep the Berth and the mooring lines neat and tidy and in good order and condition;
- e) maintain the Craft in a seaworthy condition in accordance with the Rules;
- f) not carry out any repairs to the Craft without prior written permission from the Licensor;
- g) not hire out the Craft (including use of the craft by boat-sharing or accommodation providers) without prior written permission from the Licensor;
- h) not make any modifications or carry out any repairs on the Berth;
- i) not allow the Berth or the Craft to be used by any other person for any commercial or business purpose; and
- j) take out and maintain any policy of insurance required under this document or the Rules.

6.4 The Licensor must permit the Licensee to have access to the Berth at all times of the day or night subject to:

- a) the terms of the Headlease;
- b) the Licensee at all times complying with condition 6.3; and
- c) the Licensor's right to close or restrict the use of any part of the Trinity Point Marina.

6.5 The Licensee shall comply with and shall cause all of its employees, agents, contractors and invitees to comply with the requirements of all statutes, regulations, by-laws, and common law relating to the use and occupation of Trinity Point Marina including but not limited to any requirements relating to pollution.

6.6 The Licensee is responsible for all rubbish associated with the Craft, including but not limited to bilge, engine and other oils, discarded equipment, barnacles, marine growth, paint scraping and similar. The Licensee states as an essential term of this document that the Craft is not the subject of any defect notice, registration cancellation, suspension, levy of debt, proceeds of crime order, injunction, charging order, seizure, confiscation or similar and is not stolen or otherwise illegally obtained or held, nor are there any proceedings against the Licensee or the Craft with respect to defect notice, registration cancellation, suspension, levy of debt, proceeds of crime, injunction, charging, seizure, confiscation or similar.

6.7 The Licensee covenants that the Craft is registered with and meets the requirement of the Roads and Maritime Service of NSW (or equivalent government body in other Australian states and territories) and will remain so at all times during the Term.

## **7 Headlease**

---

7.1 The Licensee and the Licensee's invitees must not do anything which will or may in any way:

- a) derogate from or diminish to any extent the rights of the Licensor under the Headlease;
- b) be a breach or cause the Licensor to be in breach of the Headlease, any development consent or other approval or licence applying to Trinity Point Marina;
- c) be a breach or cause a breach of any law or regulation applying to the use and operation of Trinity Point Marina;
- d) cause early termination of the Headlease; or
- e) prejudice the Licensor's interest in the Headlease or Trinity Point Marina.

7.2 The Licensee acknowledges and agrees that the Headlease may impose requirements on this Licence, in which case the Licensee agrees to do anything reasonably necessary (including varying this document) to comply with the terms of the Headlease from time to time.

7.3 The Licensee must not, and must not allow any other person to, reside permanently on the Craft, at the Berth, or on any vessel moored or berthed at the Marina. The headlessor of the Headlease may, from time to time, set allowable periods for casual residence on vessels at the Marina and the Licensee must comply with any such restriction.

## **8 Change in ownership**

---

8.1 If the Licensee ceases to be the owner of the Craft, the Licensee must promptly notify the Licensor in writing and advise the details of the alternate craft the licensee intends to store in the Berth. For the avoidance of doubt, if the Berth is not suitable for use for the alternate craft, the Licensee must not use the Berth for its storage but may endeavour to negotiate with the Licensor to relocate to an alternate berth within the Marina. The Licensor will negotiate in good faith with the Licensee but may give or withhold consent to a relocation in its absolute discretion.

## **9 Closure and depth maintenance of waterway**

---

9.1 The Licensor will not be liable for any loss, costs or damage that the Licensee may sustain, incur or be threatened with as a result of:

- a) the temporary closure of Trinity Point Marina due to an emergency or other circumstance outside of the Licensor's control;
- b) the closure of any thoroughfare waterways; or
- c) a decrease in depth of any part of the waterway.

## **10 Licensor's Rights**

---

10.1 The Licensor or its employees, agents or contractors may at any time carry out works on the Trinity Point Marina or Berth, or board the Craft and carry out at the Licensee's cost and risk any work the Licensor deems necessary for the safety of persons or property, the Craft or any other craft or the Trinity Point Marina.

10.2 Without limiting clause 10.1, the Licensee acknowledges and agrees that:

- a) the Licensor intends to develop Trinity Point Marina and the adjoining land over one or more stages, some or all of which may not be complete as at the date of this document;
- b) the Licensor may develop additional facilities at Trinity Point Marina, including a helipad or other docking facilities and this may require use of Trinity Point Marina for associated uses or access by other users;
- c) during the Licence Term the Licensor may carry out development works on Trinity Point Marina and the adjoining land in accordance with the conditions of any development consent or other approval applying;
- d) the conduct of development works may result in disturbance to or interference with the Licensee's use and enjoyment of the Berth and Trinity Point Marina and the Licensee shall not have any claim in respect of any such disturbance, and
- e) the Licensee may not object to the Licensor lodging any application for development consent or any other approval required to construct one or more stages of Trinity Point Marina or to the carrying out of development works.

## **11 Insurances**

---

11.1 The Licensee must take and out maintain the following insurances during the Licence Term:

- a) insurance for the Craft and its contents, fittings and equipment with an insurer of recognised standing acceptable to the Licensor;
- b) public liability insurance for an amount not less than \$10 million per event; and
- c) such other insurances as prescribed from time to time by the Rules.

11.2 The Licensee must provide certificates of currency to the Licensor evidencing compliance with this clause 11 prior to entry into this document and thereafter within seven days of receiving a written request from the Licensor.

## **12 Indemnity**

---

12.1 The Licensee indemnifies the Licensor against the full amount of all expenses, losses, damages, claims, demands, actions, suits, proceedings and costs that the Licensor may sustain, incur or be threatened with as a result, whether directly or indirectly, of any:

- a) breach by the Licensee, its employees, agents, contractors and invitees of the terms of this document;
- b) breach by the Licensee of any statutes, regulations, by-laws, and common law relating to the use and occupation of Trinity Point Marina including, but not limited to, any Environmental Laws or requirements relating to Pollution;
- c) loss, damage or injury from any cause whatever to property caused or contributed to by the Craft or the use of the Berth or walkways, gangways, pontoons or other structures servicing the Berth by the Licensee or any other person, whether or not that other person is authorised by the Licensor or the Licensee so to do;

d) personal injury sustained by any person in or about the Berth caused or contributed to by the Craft or the use of the Berth or walkways, gangways, pontoons or other structures servicing the Berth by the Licensee or any other person whether or not that other person is authorised by the Licensor or the Licensee so to do except to the extent caused by the wilful or negligent act or omission of the Licensor; and

e) accident to any person or thing, however it occurs, which may occur in connection with the Craft or the use by the Licensee or any other person, whether or not that other person is authorised by the Licensor or the Licensee so to do, of any part of the Berth or walkway or gangway, pontoons or other structures servicing the Berth except to the extent caused by the wilful or negligent act or omission of the Licensor.

12.2 The Licensee hereby indemnifies the Licensor from all expenses, losses, damages, claims, demands, actions, suits, proceedings and costs resulting from any accident, damage or injury occurring to the Craft or the Licensor caused by moving the Craft pursuant to the Licensor's rights under this document, except where caused by the wilful or negligent act or omission of the Licensor.

12.3 The Licensee indemnifies the Licensor from and against all Liabilities suffered or incurred by the Licensor in any claim, cost, loss, liability, damage suit, action, proceeding, order, demand, judgment or expense however it arises whether it is present or future, fixed or unascertained, actual or contingent in respect of Pollution of the Trinity Point Marina or surrounding land or waterways or of any obligation arising under Environmental Law in respect of Trinity Point Marina arising directly or indirectly as a consequence of the Licensee's use and occupation of the Berth and the Craft except to the extent that the Liability arises from the Licensor's negligent acts or omissions.

12.4 The Licensee acknowledges that the Licensor has provided no warranty as to the condition of any pontoons, jetties, walkways, slipways, ramps, roads, buildings, equipment or other facilities of the Trinity Point Marina.

### **13 Assignment and sublicensing**

13.1 This document is personal to the Licensee and is not capable of assignment to any person. The Licensee must not sublet the Berth or otherwise allow its use by a third party.

13.2 The Licensor may assign its interest in this document by written notice to the Licensee.

### **14 Warranties**

14.1 The Licensee warrants to the Licensor that:

a) the information supplied by the Licensee to the Licensor under or for a purpose connected with this document was or will be complete, true and accurate in all respects; and

b) the Licensee is the owner of the Craft at the date of this document and, subject to this document, will remain the owner of the Craft for the Term, unless the Licensee advises the Licensor otherwise in accordance with clause 8.

### **15 Emergencies**

15.1 If the Licensor believes there exists a state of emergency in which action or the restriction of action is required for securing the safety of life, crafts or any property in the Trinity Point Marina or thoroughfare waterways, the Licensor may authorise a person to move the Craft to any other berth or mooring (or elsewhere) within or outside the Trinity Point Marina at the risk and expense of the Licensee.

### **16 Entry by Licensor**

16.1 The Licensor may enter upon the Berth at all times to ensure compliance by the Licensee with this document.

### **17 Termination**

17.1 The Licensor may immediately on notice (written or verbal) to the Licensee terminate this document if:

a) the Licensee fails to observe, perform or fulfil any of the terms, conditions of and restrictions of or has breached any warranty contained in this document and fails to rectify the same within 5 business days after notice of breach is given to the Licensee by the Licensor, or such shorter period as appropriate having regard to the nature of the breach;

b) any step is taken to appoint a receiver, a receiver and manager, an official manager, a trustee in bankruptcy, a provisional liquidator, a liquidator or other like person to part or all of the Licensee's assets, operation or business;

c) the Licensee engages in conduct that, in the Licensor's reasonable opinion may or does adversely affect the Trinity Point Marina, the Berth, the Craft

or use of the thoroughfare waterways or of any other craft and the Licensee fails to cease such conduct within 5 business days after notice of breach is given to the Licensee by the Licensor; or

d) an amendment to the Headlease, or any order or direction is given by any relevant authority or any law prevents the Licensor from complying with the terms of this document.

17.2 The Licensee may terminate this Licence at any time during the Term by no less than six months' notice in writing to the Licensor.

17.3 The Licensee is not entitled to any pro-rata refund of the Licence Fee or any Outgoings on termination.

### **18 Effect of termination**

18.1 Following termination of this document, the Licensee must forthwith:

- a) stop using the Berth;
- b) remove the Craft from the Berth; and
- c) pay all amounts payable to the Licensor under this document.

18.2 If the Licensee does not comply with clause 18.1(b), the Licensor may remove the Craft from the Berth to any other mooring (or elsewhere) within or outside the Trinity Point Marina at the cost and risk of the Licensee and thereafter the Licensor shall have no liability in respect of the Craft or the relocation thereof.

18.3 Termination of this document will not affect any accrued rights and remedies either party may have against the other.

18.4 Any provision of this document capable of having effect after termination will remain of full force and effect.

### **19 Car parking**

19.1 The Licensee acknowledges and agrees nothing in this document grants the Licensee the exclusive right to use any car park forming part of the Trinity Point Marina.

### **20 Waiver**

20.1 The failure of any party at any time to require full or partial performance of any provision of this document will not affect in any way the full right of that party to require that performance subsequently.

20.2 The waiver by any party of a breach of a provision of this document is not deemed a waiver of all or part of that provision or any other provision or of the right of that party to avail itself of its rights subsequently.

20.3 Any waiver of a breach of this document must be in writing signed by the party granting the waiver, and shall be effective only to the extent specifically set out in that waiver.

### **21 GST**

21.1 Any terms capitalised in clause 21 and not already defined in clause 1.1 have the same meaning given to those terms in the GST Act.

21.2 The consideration for a Supply made under or in connection with this document includes GST.

21.3 If a Supply made under or in connection with this document is a Taxable Supply, then at or before the time the consideration for the Supply is payable the Supplier must give the Recipient a Tax Invoice for the Supply.

21.4 Where a Tax Invoice is given by the Supplier, the Supplier warrants that the Supply to which the Tax Invoice relates is a Taxable Supply and that it will remit the GST (as stated on the Tax Invoice) to the Australian Taxation Office.

### **22 PPSA**

22.1 The parties acknowledge that this document (or a transaction in connection with it) may constitute a security interest in favour of the Licensor.

22.2 If the Licensor determines that this document (or a transaction in connection with it) is or contains a Security Interest, the Licensee agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which the Licensor asks and considers necessary for the purposes of:

- a) ensuring that the Security Interest is enforceable, perfected and otherwise effective;
- b) enabling the Licensor to apply for any registration, complete any Financing Statement or give any notification, in connection with the Security Interest; or
- c) enabling the Licensor to exercise rights in connection with the Security Interest.

22.3 The Licensor is not required to give any notice under the PPSA (including notice of a Verification Statement) unless the notice is required

by the PPSA to be given (even though the parties have waived the right to receive notice).

22.4 The Licensee must notify the Licensor as soon as the Licensee becomes aware of any of the following:

- a) if any of the Personal Property is located or situated outside Australia or, upon request by the Licensor, of the present location or situation of any of the Personal Property; or
- b) if the Licensee parts with possession of the Personal Property.

22.5 The Licensee must not:

- a) create any security interest or lien over any of the Personal Property whatsoever (other than Security Interests granted in favour of the Licensor);
- b) sell, lease or dispose of its interest in the Personal Property;
- c) give possession of the Personal Property to another person except where the Licensor expressly authorises it to do so; or
- d) change its name without first giving the Licensor 15 Business Days' notice of the new name or relocate its principal place of business outside Australia or change its place of registration or incorporation.

22.6 Everything the Licensee is required to do under this clause 22 is at the Licensee's expense.

22.7 Each party agrees to keep the PPSA Information in strict confidence and not disclose that information, except in circumstances required by sections 275(7)(b) or (e) PPSA, provided that where sections 275(7)(b) or (e) require such disclosure, the party that is required to disclose the information gives all available notice to the other party to allow that party to legally challenge the required disclosure and takes all available steps (whether required by the other party or not) to maintain such PPSA Information in confidence.

22.8 Each party agrees not to authorise the disclosure of any PPSA Information to any third party pursuant to section 275(7)(c) PPSA or request information under section 275(7)(d) PPSA unless the other party to this document explicitly agrees.

## **23 Notice**

23.1 A notice, consent or communication under this document is only effective if it is:

- a) in writing, in English, signed by or on behalf of the person giving it;
- b) addressed to the person to whom it is to be given; and
- c) given as follows:
  - (i) delivered by hand to that person's address as set out in this document or as varied by written notice;
  - (ii) sent to that person's address by prepaid mail or by prepaid airmail, if the address is overseas; or
  - (iii) sent by email to that person's email address as provided in this Agreement where the sender maintains a transmission confirmation indicating the email was sent without error and showing the correct destination email address and name of recipient.

23.2 A notice, consent or communication given under clause 23.1 is given and received on the corresponding day set out in the table below. The time expressed in the table is the local time in the place of receipt.

| <b>If a notice is</b>              | <b>It is given and received on</b>  |
|------------------------------------|---|
| Delivered by hand or sent by email | a) that day, if delivered by 5.00pm on a Business Day; or<br>b) the next Business Day, in any other case.   |
| Sent by post                       | a) three Business Days after posting, if sent within Australia; or<br>b) seven Business Days after posting, if sent to or from a place outside Australia. |

23.3 In addition, the Licensor may give the Licensee notice by:

- a) affixing the notice to the mast of the Craft or, if the Craft does not have a mast, by affixing the notice to a prominent position on the Craft (in which case notice will be deemed to be served on the day on which the notice was affixed); or
- b) any other mode of notice permitted by law.

## **24 Severability**

24.1 A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.

24.2 If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this document in the relevant jurisdiction, but the rest of this document will not be affected.

## **25 Entire agreement**

25.1 This document supersedes all previous agreements about its subject matter. This document embodies the entire agreement between the parties.

25.2 To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this document.

25.3 Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this document.

## **26 Time of the essence**

26.1 Time is of the essence in respect of all obligations under this document.

## SCHEDULE

### Trinity Point Marina Rules

---

1. Only craft with current insurance and in seaworthy condition will be admitted to the marina.
2. Any craft occupying a marina berth must have a current Craft Mooring and Berthing Licence Agreement (obtainable from Marina Office during business hours).
3. All craft must be registered and maintained as required by law.
4. Craft entering or leaving the marina will be under the control of the Marina Manager and must (subject to any applicable laws) manoeuvre and berth as directed by the Marina Manager.
5. All craft must observe the speed limit within the marina namely, 4 knots or wakeless speed, whichever is less.
6. All craft must be kept in a neat and tidy condition. All decks must be kept free of rubbish, bottles and drying clothes.
7. All craft must be securely locked and their fittings and contents secured to reduce loss by theft or damage of any kind.
8. All mooring lines must be maintained in good order and condition. The Marina Manager may replace at the Licensee's expense any lines which are in poor or unsound condition.
9. Licensees must only use commercially available fendering and must not use tyres (or parts of tyres) to fender their craft.
10. Halyards must be tied off to eliminate noise.
11. All craft must be berthed as securely as possible to the marina fixtures.
12. No person may live on board the craft while berthed at the marina.
13. No rubbish, objects, or plastic containers may be thrown overboard in the marina waterways, or left on walkways, gangways or any other fixtures in the marina.
14. No heavy objects must be placed on, or transported over, walkways and gangways.
15. Craft may not be refuelled in the marina except at the fuel dock.
16. All oil, spirit, fuel, galley, toilet, shower waste and bilge discharge must be properly disposed of. Under no circumstances is it to be discharged or released into marina waterways or (except in the case of human effluent) the sewage pump-out station.
17. Licensees and their guests must not pollute the environment of the marina or its waterways.
18. No ropes, tools, equipment, clothing or any other contents of the craft may be left or stored on any walkways or gangways.
19. Licensees must not permit their boat to overhang any walkway, gangway or marina waterway.
20. Noise, use of radios and musical equipment and parties are only permissible if no annoyance, nuisance or disturbance is caused to other users of the marina.
21. Swimming, diving and fishing in the marina is prohibited.
22. All fuels and inflammable liquids and gases must be stored safely and properly so as not to cause danger to any craft or person in the marina. Licensees must not light or permit any naked flame on deck when their craft is within the marina.
23. Before being issued with a Proximity Access Card ('Prox Card'), Licensees are required to pay a deposit of \$50.00 per Prox Card. Prox Cards are issued to the Licensee alone and cannot be reissued, lent or borrowed to a third party or contractor. Once notice to vacate is given, the Licensee must return the Prox Card/s within 14 days of the Craft Mooring and Berthing Licence Agreement expiry date or forfeit the deposit. Prox card deposits will only be refunded by EFT. The refund will occur within 7 business days of returning the Prox Card/s in good working condition. When advising intention to vacate, Licensees will be required to provide banking details so the deposit can be refunded via EFT.
24. Licensees must observe all laws, by-laws, regulations and any requirements of any government authority or other agency, which apply to the marina.
25. All dogs must be kept leashed and under control. Licensees must also clean up after their dogs.
26. All shore-power cables and extension cords must be kept clean and dry at all times, have waterproof plugs, be maintained to an acceptable standard, and be safely placed across pontoons. Licensees must only use shore-power cables (and any extension cords) that are either:
  - (a) provided by Trinity Point Marina (at the Licensee's expense), or
  - (b) inspected and tagged by a certified electrician and approved by the Marina Manager.
27. Licensees must ensure that there are no people in the surrounding waters whilst connecting or disconnecting their craft to or from the shore-power.
28. Any type of painting and general repair works to craft is prohibited in the marina. The only repairs to craft will be those of an emergency nature that have been approved via written permission from the Marina Manager prior to the repair works being carried out.
29. Subject to obtaining prior written approval to carry out emergency repair works, only contractors who have a current Boating Industry Association marine card and current acceptable public liability insurance will be permitted access to any craft. Approval to access craft for emergency repair works will only be granted during business hours and may be granted with other conditions. Approval for access to work on a craft may be refused or revoked at the discretion of the Marina Manager.
30. All works carried out to craft are done at the Licensee's risk. The Licensee fully releases and discharges the Licensor and the Marina Manager from all claims for loss and damage to property, or injury to persons, arising from such works.