
Flathead Harbor 2019 Boat Slip License Agreement

This agreement is contingent upon proof of vessel ownership, proof of in-force insurance, payment in full and verification of overall boat length and condition.

This Boat Slip License Agreement is made between Flathead Harbor, LLC (“Licensor”) and the Slip “Licensee” named below under the following terms and conditions and is effective on the Beginning Date shown below.

1. Parties to the Agreement

Licensor

Flathead Harbor, LLC
7135 U.S. 93 South, Lakeside, MT 59922
406-646-2656 / marina@flatheadharbor.com

Licensee

Name _____
Address _____

Work/home phone _____
Cell phone _____
Email _____

Vessel

Vessel Name _____
Manufacturer _____
Model _____ Year _____
Hull ID # _____
State Registration # _____ State _____
Beam _____ Draft _____ Overall Length* _____
Power _____ Sail _____
*** Measurement from extreme point of bow to extreme point of stern, including swim platforms and other appendages.**
Vessel Insurance Co _____
Policy # _____ Exp Date _____

2. License to Moor Vessel Granted

Licensee is granted the license to use Slip # _____ at the property known as Flathead Harbor (“Marina”) to moor the above-described vessel (“Vessel”) for recreational, noncommercial purposes only during the term of this Agreement, which term is from the Beginning Date until the Ending Date shown below (the “Term”):

Beginning Date _____ Ending Date _____

At any time, Licensor shall have the right to change the Slip assigned to Licensee’s Vessel as Licensor deems necessary and appropriate in its sole discretion. The term “Slip” as used in this Agreement shall also include any boat lift used with the Slip if one is provided. Licensee is responsible for checking the size of the Vessel to ensure that it will fit within the parameters of any boat lift used with the Slip. Licensee shall remove the Vessel by no later than 8:00 p.m. MDT on the Ending Date. Licensor shall have no responsibility or liability for any damage caused to the Vessel if Licensee fails to remove the Vessel by such time on the Ending Date or earlier termination date as provided in this Agreement.

3. Consideration. For and in consideration of said license, Licensee shall prepay Licensor the sum of _____ (\$____) for the term of this Agreement (“License Fee”). The parties agree that weather, water level, and other conditions beyond the control of Licensor may result in an actual boating season beginning and ending on dates other than the Beginning Date and Ending Date set forth above. In such event, no portion of the License Fee will be refunded or adjusted.

4. Security Deposit. In conjunction with the execution of this Agreement, Licensee shall pay Licensor a security deposit in an amount equal to **ten percent (10%) of the Consideration specified in Item 3 of this Agreement**. Licensor may commingle the security deposit with its other funds. If Licensee breaches any covenant or condition of this Agreement, including but not limited to the payment of the License Fee and any other sums due under this Agreement, Licensor may apply all or any part of the security deposit to the payment of any sum in default and any damage suffered by Licensor as a result of Licensee’s breach. In the event Licensor uses any portion of the security deposit during but prior to

the end of the Term or termination of the license granted in this Agreement, Licensee shall replenish the security deposit upon demand from Licensor. Any payment to Licensor from the security deposit shall not be construed as a payment of liquidated damages for any default. The unused portion of the security deposit shall be repaid to Licensee without interest within thirty (30) days after the Ending Date or earlier termination of the license granted in this Agreement upon a satisfactory inspection of the Slip to ensure proper condition and function, provided Licensee is not in breach of any terms of this Agreement.

5. **Agreement Nontransferable.** This Agreement is not assignable or transferable by Licensee. Licensee shall not rent, sublet, assign or permit use of the Slip by any other person or vessel or than those described above in Section 1.
6. **Conditions for Use of Slip.** The following, along with Licensee's compliance with the other terms of this Agreement, are conditions for Licensee's use of the Slip and Marina:
 - a. **Use Subject to Government Authority.** Licensee acknowledges that Licensor's right to operate the Marina and to make available the facilities licensed under this Agreement is governed by certain agreements, concessions, permits and licenses granted to or benefitting the Licensor by Flathead County and the U.S. government. Licensee agrees that this Agreement shall be subject to the terms of any such agreements, concessions, permits, and licenses. Should the Licensor's right to provide the Slip be terminated during the term of this Agreement, or should the appropriate governing body elect to alter or terminate the right to use Flathead Lake, rendering the Marina unusable for its intended purpose, the license granted under this Agreement shall immediately terminate. In the event of such termination, no portion of the License Fee will be refunded or adjusted.
 - b. **Compliance with Rules, Regulations and Laws.** Licensee agrees to comply with all Rules and Regulations of the Marina as amended from time to time by Licensor in its sole discretion and all applicable laws, ordinances, health, safety, environmental and sanitary regulations of all regulatory bodies, including any federal, state or local agency. The current Rules and Regulations for the Marina are attached as Exhibit A and are incorporated into the terms of this Agreement.
 - c. **Care of Slip.** At all times, and regardless of weather conditions, Licensee shall use high-quality lines and snubbers to secure the Vessel to the Slip. Licensee agrees that in the event the Vessel is not safely secured, Licensor may enter the Vessel to place lines and snubbers, without liability of the Licensor for damages or loss of any kind, and may charge Licensee a fee of \$25 per day for such service until Licensee properly secures Vessel with its own equipment and returns lines and snubbers to Licensor. Further, Licensee shall keep and maintain the Slip in a clean and sanitary condition at all times. Licensee shall not install or place any personal property, equipment, lockers or boxes about the Slip or the Marina docks. Under no circumstances may Licensee change, modify or alter the Slip or any portion thereof. Upon termination of this Agreement, Licensee shall surrender the Slip in the same condition it was in at the beginning of this License, reasonable wear and tear excepted.
 - d. **Waste and Environmentally Objectionable Materials.** No refuse, whether biodegradable or not, shall be thrown into the water, including by-products of clean catch. No hazardous waste or environmentally objectionable substances, including petroleum products, cleaning agents, untreated sewage or non-biodegradable substances shall be released onto or around the Slip or the Marina or adjacent waters. Licensee agrees that other than a properly sealed, nonleaking container of two (2) gallons or less, no gasoline may be carried to or from Slip and Vessel and no gasoline may be pumped or placed in Vessel while in Marina except at designated Marina-owned gas pumps and by Marina personnel. Licensee shall indemnify, defend, and hold harmless Licensor for any damage, expense, or liability for failure of Licensee and Licensee's guest, invitees, and agents to so comply.
 - e. **Care of Vessel.** Licensee represents and warrants to Licensor that Vessel is and will be maintained in good, neat, and seaworthy condition. Licensee shall be solely liable for the condition and safety of Vessel and agrees that Licensee is not relying in any way upon the skill or intervention of Licensor to protect the Vessel should foul or dangerous weather, or any and all other conditions, natural or unnatural, seen or unforeseen, threaten to or actually damage the Vessel. If the Vessel sinks, Licensee shall be responsible to remove the Vessel from the Slip and Marina within two (2) days at its sole cost and expense.
 - f. **Licensee's Responsibility for Damage.** Licensee shall be responsible for and shall promptly, upon demand, pay Licensor for (i) any damage caused to the Marina property or the Slip by Licensee or Licensee's guests and invitees, or the Vessel; (ii) all expenses to put the Slip into the same condition it was in on the Beginning Date, reasonable wear and tear excepted
 - g. **Removal of Vessel in Case of Emergency.** In case of emergency that poses a peril for the Slip, the Marina property, persons or nearby vessels, Licensee authorizes Licensor, without recourse, to enter the Vessel to take any action whatsoever, including removing the Vessel from the Slip, to prevent further damage or injury, but, Licensor shall be under no obligation to take such action.

- h. **No Warranties.** Licensee understands that Licensor makes no warranties, express or implied, as to the condition of the Slip or the Marina (including walkways, gangways, ramps and related items) or the suitability of the Slip and the Marina for Licensee's intended purposes. Licensee acknowledges that he/she had the right and opportunity to inspect the Marina and the Slip prior to execution of this Agreement and accepts the Marina and the Slip in their current condition.
- i. **Insurance.** Licensee acknowledges that it is Licensee's responsibility to insure the Vessel for any and all property damage, theft, vandalism and other property and casualty events that may occur while it is located in the Slip or any other part of the Marina. Licensee acknowledges that the Licensor is not obligated to carry such insurance coverage, and Licensee hereby releases Licensor from any and all liability for any and all damage, theft, vandalism or other property and casualty events relating to the Vessel or Licensee's use of the Slip and Marina facilities. Licensee shall maintain throughout the term of this Agreement watercraft liability insurance that provides comprehensive liability coverage against any property damage, including to the Slip, the Marina, and other vessels and property at or near the Marina, or personal injury liability arising out of ownership, use or maintenance of the Vessel and Slip. The insurance policy shall be in the minimum amount of \$300,000 and shall name Licensor as an additional insured under the policy. Licensee shall supply a certificate of insurance evidencing Licensee's compliance with the requirements of this provision at the time this Agreement is executed

7. **Default, Termination and Remedies.**

- a. **Termination for Default:** Any breach or failure on the part of the Licensee to fulfill any part of this Agreement, including the Rules and Regulations, shall give Licensor the right to terminate Licensee's rights under this Agreement without prior notice to the Licensee. In such event of termination for default, all prepaid consideration shall be forfeited by Licensee and shall not be refunded and Licensee is required to remove the Vessel from the Slip and Marina within two (2) days after such termination.
 - b. **Other Termination.** Notwithstanding anything in this Agreement to the contrary, expressed or implied, Licensor reserves the right to terminate Licensee's rights under this Agreement at any time and without cause. In the event of such termination without cause, Licensee shall remove the Vessel from the Slip and Marina within two (2) days after such termination and Licensor will refund the portion of the License fee for the days remaining in the Term after the Vessel is removed from the Slip and Marina, pro-rated on a daily basis.
 - c. **Remedies.** If Licensee fails to remove the Vessel from the Slip and Marina by the Ending Date or upon termination of the license as provided in this Agreement, Licensor shall have the following options: (1) remove the Vessel and store or re-dock the Vessel at any location in any commercially reasonable manner, all at the expense and on the account of the Licensee; (2) lock the Vessel in place; (3) charge "Additional License Fees" for the number of days the Vessel remains in the Slip ("Holdover Days"); and (4) exercise any and all other rights and remedies Licensor may have at law, admiralty or equity, including the right to foreclose any lien against the Vessel, its appurtenances and contents arising under this Agreement or any applicable laws. Further, Licensor shall have the right to deem the Vessel abandoned by Licensee thirty (30) days after the Ending Date or earlier termination of the license and then sell the Vessel in accordance with Montana law. Licensee shall pay Licensor, in addition to any other amounts due hereunder, all auction, collection, removal, salvage, storage, transport or other costs, charges, fees and expenses incurred by Licensor in connection therewith, including attorneys' and paralegal fees and costs, whether or not suit is instituted against Licensee. Additional License Fees shall be calculated using the following formula: License Fee ÷ the number of days in the Term of this Agreement X the number of Holdover Days. All remedies described in this Agreement exist and may be exercised concurrently.
8. **Indemnity and Hold Harmless.** Licensee shall indemnify, defend, and hold harmless the Licensor and its agents, owners, managers, directors, officers, representatives and employees from and against all claims, causes of action, demands, liabilities, losses, costs, expenses, including reasonable attorney and paralegal fees related to damage to property, including but not limited to the Vessel, or for injuries or death to Licensee, Licensee's guests, invitees, or agents, or to any other person arising from Licensee's license of the Slip or Licensee's use of the Slip, the Marina, or the Vessel. Notwithstanding the foregoing, Licensor and its agents, owners, managers, directors, officers, and employees reserves the right, in each of their sole discretion, to select counsel of their own choosing in connection with any matter subject to indemnification hereunder, and Licensee shall be responsible to pay any and all costs associated with such counsel, including reasonable attorney's fees and expenses.
9. **Severability.** If any provision of this Agreement shall be found to be void, voidable or unenforceable, such determination shall not affect any other provision of this Agreement.
10. **Legal Forum.** This Agreement shall be governed by the laws of the State of Montana, and jurisdiction shall be Flathead County, Montana.

11. **Entire Agreement.** This agreement constitutes the entire agreement between the parties. No modifications or amendments to this Agreement shall be valid unless in writing and signed by both parties.
12. **Headings.** Headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
13. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile or electronic copy in PDF format or other comparable format, which shall be deemed original signatures. The parties hereto all agree that the transaction contemplated by this Agreement may be conducted and signed by the parties by electronic means in accordance with the Montana Uniform Electronic Transaction Act.
14. **Time.** Time is of the essence as to every term and condition of this Agreement.
15. **Attorney Fees.** Should either party incur any costs or expenses, including reasonable attorney and paralegal fees, in enforcing any provision of this Agreement, then the other or unsuccessful party shall reimburse the prevailing party on demand for all such costs or expenses.
16. **Modification of Agreement.** No modification of this Agreement will be valid or binding unless the modification is in writing, signed by all parties to this Agreement.
17. **Waiver.** No provision of this Agreement may be waived, except by an agreement in writing signed by the party sought to be charged with the waiver. The waiver of any breach of any of the provisions of this Agreement by either party shall not constitute a continuing waiver or a waiver of any subsequent breach by said party either of the same or of another provision of this Agreement.

THIS AGREEMENT is executed by:

Licensee Full Name (Print)

Date

Licensee Signature

FLATHEAD HARBOR, LLC

By: _____

Date

Its: _____