

MIDDLE HARBOUR YACHT CLUB

MEMBERS MARINA AND MOORING LICENCE

Licence This agreement consists of two parts, the Details and the Standard Terms. They should be read together

Details

Your Details	
<p>Name(s): (All parties are required to complete this section where two or more people own the vessel in any way.)</p>	
<p>Principle Contact Address:</p>	<p>Phone: Fax:</p>
Our Details:	
<p>Middle Harbour Yacht Club (ACN 000 248 877) Lower Parriwi Road The Spit Mosman NSW 2088</p>	<p>Phone: (02) 9969 1244 Fax: (02) 9969 3326</p>
Vessel Details:	
Name:	_____
Length (LOA)	_____ metres
Beam	_____ metres
Draft	_____ metres
Waterways Registration Number	_____ HIN (Boat Code Number) _____
LPG Installation	Yes / No Motor: Diesel / Petrol
Insurance – 3rd Party Insurance Company	_____
Policy Number	_____ Expiry Date: _____
Berth Details:	
Berth Number	Commencement Date
_____	_____

STANDARD TERMS

1. Licence

- 1.1 We grant you a non-exclusive, non-transferable licence to moor or keep a vessel in or on the Berth.
- 1.2 This licence starts on the day this agreement is executed by you and ends, subject to this licence, on the earlier of:
 - a. the date we specify by not less than 30 days notice to you; and
 - b. the date you specify by not less than 30 days notice to us.
- 1.3 You must remove the vessel from the Berth and the Marina on the earlier of the expiry date under clause 1.2 and the day this licence is terminated under clause 9. In the event the vessel is not so removed then we may, without prior notification to you, and at your cost and risk remove the vessel and arrange for its storage or mooring elsewhere.
- 1.4 The rights given to you are contractual only and do not give you any estate or interest in the Marina or the Berth.

2. Berth

- 2.1 We may change the Berth at any time. If we do we will tell you. You must ensure that the Vessel is moved to the Berth we so specify on or by the date we specify.
- 2.2 We may also ask you to temporarily relocate the Vessel to another place in the Marina or, subject to us being satisfied as to the safety and security of, and access to the Vessel, another place made available by us, on our behalf or our request.

3. Licence Fee

- 3.1 You must pay us a licence fee in advance on or before the Commencement Date and thereafter on or before the first day of each calendar month.
- 3.2 We may change the licence fee at any time and will advise you 30 days in advance of any change becoming effective.

- 3.3 Payment is to be made monthly in advance by either Periodical Debit Authority or Direct Debit to the club's nominated bank account. As an alternative, a standing credit card authority will be accepted subject to a service charge as stipulated in the By-Laws.
- 3.4 We may, at our discretion, rebate or refund to you all or part of the licence fee for any period that the Vessel does not occupy the Berth, whether pursuant to clause 2.2 or otherwise.
- 3.5 If you do not pay any amount payable under this licence on time, you must pay, when we ask, interest on the amount from when it becomes due for payment until it is paid. Interest is calculated on the daily balance at the rate we specify from time to time.
- 3.6 Expiry or termination of this licence does not affect your obligations to make payments under this licence for periods before then.
- 3.7 Any GST or any similar tax imposed under this licence will be to your account.

4. Security

- 4.1 On or before the day we specify, you must pay an amount equal to 1 month's licence fee to us as a guarantee fee.
- 4.2 If you do not comply with any of your obligations under this licence then we may apply the moneys so paid without telling you first.
- 4.3 If we apply an amount under clause 4.2 or the licence fee increases and we ask you for the amount given to us under clause 4.1 to be topped up, you must do so within 10 days of us asking you to do so pay the amount to us.
- 4.4 When this licence expires or is terminated, we may use the moneys paid to us under this clause 4 for outstanding payments payable by you under this

licence and then must refund to you any unused part of those moneys.

5. Your Other Obligations

- 5.1 You must use the Berth only in accordance with this licence.
- 5.2 You must comply with the By-Laws and Regulations we make from time to time concerning the marina and moorings and follow instructions from anyone we appoint to control the marina and moorings.
- 5.3 We may update the By-Laws and Regulations at any time.
- 5.4 You must ensure that the vessel is maintained in a seaworthy condition.
- 5.5 You must not dispose of any interest in the Vessel without advising us first.

6. Declarations

- 6.1 You declare that:
- You, either solely or in partnership own the Vessel or are the lessee(s) or charterer(s) of the Vessel;
 - all parties that have an interest in the Vessel, other than a finance company, meet all the eligibility requirements of the By-Laws;
 - you are authorised by all parties that have an interest in the Vessel to enter into this licence;
 - other than in 6.1.a. above, you have not entered into this licence as the trustee of any trust or on behalf of any person; and
 - all the information you have given us about the Vessel is correct and not misleading.

You must tell us if you could not repeat any of these declarations at any time.

7. Our Rights

We may by our employees and agents at anytime carry out works on the marina or Berth or board the Vessel and carry out at your cost and risk any work we reasonably consider it necessary to do so

for the safety of the Vessel or any other vessel or the Marina.

8. Indemnities and Releases

- 8.1 You release us and our employees and agents from, and agree that we are not liable for:
- any damage suffered by the vessel whilst within the confines of the Marina or occupying a Berth through the negligence of our employees and agents, or otherwise;
 - any loss or injury suffered by you or your employees, agents, guests and other invitees on or in relation to the Vessel.
- 8.2 You acknowledge and agree that:
- we have made no representations or warranty as to the adequacy, suitability or safety of the Berth, the Marina and its equipment, and that you have satisfied yourself as to these matters; and
 - to the extent permitted by law, all warranties and conditions implied by law are negated and excluded from this licence.
- 8.3 You are liable for and must indemnify us and our officers, employees and agents against loss, liability or injury arising from, and costs incurred in connection with:
- any damage caused, in our reasonable opinion, to the Berth, Marina or Mooring by the vessel or by you or your employees, agents, guests and other invitees;
 - the removal and storage or mooring of the Vessel under clause 1.3
 - any work carried out on the Vessel under clause 7;
 - any termination of this licence under clause 9;
 - any act, omission or default of yours or of any of your employees, agents, guests and other invitees;
 - us or our officers, employees and agents doing anything which you must do under this licence but which you have not done.
- 8.4 Each indemnity continues after termination or expiry of this licence, and

may be enforced before incurring any expense.

9. Termination

We may terminate this licence by giving you notice if:

- a. you repudiate your obligations under this licence;
- b. you do not comply with this licence; or
- c. you give us incorrect or misleading information (including through the declarations under clause 6) in connection with this licence or the Vessel.
- d. you dispose of any interest in the Vessel being the subject of this agreement.

10. Notices

10.1 Communications in connection with this licence must be in writing unless otherwise indicated.

10.2 Communications may be:

- a. left at, posted to or faxed to the address set out in the Details or the last address last notified by one of us to the other of us;
- b. posted by us on the Club's notice board or published by us in any Club publication or periodical; or
- c. left for you on the Vessel but only if our attempts to contact you by post and fax using the contact information in the Details have been unsuccessful.

10.3 Communications take effect from the time they are received unless a later time is specified in them. If they are sent by post, they are taken to be received on the day they would be received in the ordinary course of post. If they are sent by fax, they are taken to be received at the time that the transmitting machine produces a report that indicates that the communication was sent to the recipients address. If they are left on the vessel, they are taken to be received on the day 5 working days after we first attempted to contact you by post and fax.

11. Miscellaneous

11.1 Your rights under this licence are personal to you and you must not:

- a. attempt to dispose of or deal with this licence or any rights you may have under this licence; or
- b. permit any other vessel to occupy the Berth except as provided for under the By-Laws.

We may dispose of or deal with this licence or our rights under this licence in any way.

11.2 This licence is governed by the law in force in New South Wales and both of us submit to the non-exclusive jurisdiction of its courts.

11.3 This licence may not be varied except by a written instrument signed by both of us.

11.4 Our rights, powers and remedies under this licence are cumulative with and not exclusive of the rights powers or remedies provided at law independently of this licence. To the extent permitted by law, any present or future law, which operates to vary or affect your obligations or our rights in connection with this licence, is excluded.

11.5 This licence constitutes the entire agreement between us about the licence of a Berth and supersedes all previous agreements and arrangements about the subject matter.

12. Meaning of Words

12.1 In this licence the following terms have these meanings:

“Berth” the marina Berth or mooring so described in the Details or other such Berth or mooring as we may notify under clause 2

“Details” The information so described set out in page 1 of this licence.

“Marina” The floating marinas and moorings located at Middle

Harbour Yacht Club and operated by us.

“Working Day” A weekday in Sydney which is not a public holiday.

12.2 In this licence (unless the context requires otherwise):

- “you” means the person or persons whose details are set out in the Details. It includes your successors. If there are more than one, “you” means each of them separately and every two or more of them jointly;
- “we” or “us” means the Middle Harbour Yacht Club, an authorised officer of Middle Harbour Yacht Club, our successors and anybody we assign our rights to;

- the singular includes the plural and vice versa;
- “person” includes a firm, a body corporate, an unincorporated association or an authority;
- a reference to anything includes the whole and each part of it;
- a reference to law means common law, principles of equity and laws made by parliament (and the latter includes regulations and instruments under them);
- the word “including” when introducing an example does not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

Executed as an agreement:

Dated: _____

Middle Harbour Yacht Club

Licencee(s) (All parties named in the Title Section of this Licence must sign this agreement)

Signature

Signature(s)

Witness:

Title

First Name Middle Name Last Name

Signature

This Agreement is based on one developed by the Cruising Yacht Club of Australia and Middle Harbour Yacht Club acknowledges the assistance provided by the CYCA in its development.



MHYC

ABN: 95 000 248 877

**Request for Automatic Payment issued
by Middle Harbour Yacht Club Ltd**

Return to: Middle Harbour Yacht Club
PO Box 106 Seaforth NSW 2092
Fax to: 02 9969 3326

Membership Number: _____

Surname: _____ Given Names: _____
(Or Company/Business Name)

Address: _____

Suburb: _____ Post Code: _____

Phone: (H) (____) _____ (W) (____) _____ (Mob.) _____

Payment Schedule & Amount(s)

Please Select Payment Frequency : Monthly Annually

First Debit To Occur on ____ / ____ / ____ First debit amount \$ _____

Then regular monthly debits of \$ _____ and / or the total amount due for the specified period to be paid on the first banking day of each period thereafter, until further written notice is given by me to Middle Harbour Yacht Club Ltd.

Automatic Payment Options

(please select your preferred payment option)

Payment from your Bank Account (Direct Debit)

Financial Institution: _____ Branch: _____

BSB Number: _____ Account number: _____

Account Name: _____

NOTE - Direct Debit is not available on the full range of accounts - if in doubt please refer to your financial institution

I/We request Middle Harbour Yacht Club to arrange for funds to be debited through the Bulk Electronic Clearing System (BECS) from the nominated institution account to pay my Middle Harbour Yacht Club Account(s), and/or the total amount billed for the specified period on the date due. You acknowledge reading the Automatic Payment Arrangement Conditions (printed overleaf) which incorporate the Direct Debit Request Service Agreement and its terms. Your payments will occur on the First Debit Date & First banking day of each month thereafter. **Unsuccessful debits will incur a \$35.00 Administration Fee "dishonour fee", in addition to the "Regular Debit Amount" for that period.**

Payment by Credit Card

VISA MasterCard

Card Number: _____ CCV Number _____
(Last 3 digits on back of card)

Expiry Date: ____ / ____ Card Holder Name: _____

(Please note: - Middle Harbour Yacht Club will appear on your credit card statement)

I/We request Middle Harbour Yacht Club to arrange for funds to be debited from the credit card specified above to pay my Middle Harbour Yacht Club Account(s), and/or the total amount billed for the specified period on the date due. I/We acknowledge reading the Automatic Payment Arrangement Conditions (printed overleaf) and agree to its terms. Your first payment will occur on the "First Debit Date & First banking day of each month thereafter". **Unsuccessful debits will incur a \$35.00 Administration Fee "dishonour fee", in addition to the "Regular Debit Amount" for that period.**

This authority is to remain in force in accordance with the schedule above and the terms and conditions as described overleaf, and I / we have read and understand the same.

Signature of cardholder or account holder

Date

____ / ____ / ____

Signature of joint account holder (if required)

Date

____ / ____ / ____

Automatic Payment Arrangement Conditions

I/We hereby authorize Middle Harbour Yacht Club (hereby known as "MHYC") to make periodic withdrawals from the Financial Institution specified above as described above. I/We request until further notice in writing, for MHYC to direct debit my/our account described above. These Automatic Payment Arrangement Conditions apply to you, and form part of your contract with Middle Harbour Yacht Club, if you agree to pay us by either:

- direct debit from your bank, credit union or building society account (in which case this is also the Direct Debit Request Service Agreement); or
- automatic payment from your credit card, (collectively referred to herein as an "**Automatic Payment Arrangement**").

Middle Harbour Yacht Club commitment to you

MHYC may change the terms of the Automatic Payment Arrangement at any time, including varying the amount but will give you at least 14 days notice before we do so.

We will keep information relating to your nominated financial institution account, or credit card account, confidential, except where permitted by law or required for conducting direct debits or processing credit card payments with your financial institution or credit card provider and for a related query, dispute or claim. We will take reasonable steps to protect personal information held by MHYC against loss and against access, use, modification or disclosure that is unauthorised.

Each Automatic Payment will occur on the due date notified to you or if that day is a Saturday, Sunday or Public Holiday, the next following business day.

Your Commitment to Middle Harbour Yacht Club

If you cease your account agreements for MHYC Membership, Marina, Moorings, Storage Facilities, your Automatic Payment Arrangement will be terminated, please note that 30 days written notice is required to terminate Payments.

It is your responsibility to:

- ensure your nominated account can accept direct debits through the Bulk Electronic Clearing System (if unsure, ask your financial institution, as direct debit arrangements are not available on some accounts) or nominated credit card is current and valid and the credit card details and cardholders name(s) are accurate. You are advised to verify account details against a recent bank statement and if uncertain you should contact your financial institution;
- ensure there are sufficient clear funds in your nominated account, or credit available on your nominated credit card, to meet the Automatic Payment on the due date; (unless otherwise notified, the due date will be the first day of each month) **Unsuccessful debits will incur a \$35.00 Administration Fee, "dishonour fee", in addition to the "Regular Debit Amount" for that period;** Direct debits normally occur over night; however transactions can take up to three (3) days depending on your Financial Institution.
- Advise MHYC if your nominated account is transferred or closed, or the account details change, and for your nominated credit card, advise MHYC of changes to the card details you provided to MHYC, including expiry or suspension or cancellation of your card;
- arrange suitable alternative payment method if the Automatic Payment Arrangement ends for any reason; and
- if you have chosen to pay by direct debit, ensure that all account holders on the nominated financial institution account (in the case of joint accounts), sign the Request for Automatic Payment form overleaf.
- I/We authorise the verification of my details of the above mentioned account with my/our Financial Institution.
- I/We authorise the Financial Institution to release information to verify the above mentioned account details.

You may be charged a fee by your financial institution or credit card issuer, in addition to MHYC Administration Fee "dishonour fee", due to failed or incorrect payment. You must still arrange for the payment to be made to MHYC.

Your Rights

Subject to the terms and conditions of your Membership or Marina Licence Agreement (whether Marina & Mooring or Storage), you may cancel the Automatic Payment Arrangement by writing to us at Middle Harbour Yacht Club, PO Box 106, Seaforth NSW 2092.

MHYC requires minimum of 30 days written notice before the due date of a payment to:

- stop the Automatic Payment;
- suspend future Automatic Payments;
- alter any details on the Request for Automatic Payment form overleaf; or
- cancel the Automatic Payment Arrangement completely.

Any dispute arising from this or subsequent direct debits will be in the first instance directed to the Middle Harbour Yacht Club. Where you consider that an Automatic Payment has been initiated incorrectly, you should contact Middle Harbour Yacht Club, Accounts Department on 02 9969 1244.

Other Information

The details of your Automatic Payment Arrangement are contained in the Request for Automatic Payment form overleaf. Middle Harbour Yacht Club require that your instructions to stop or in anyway alter the Automatic Payment Arrangement are given to us in writing or electronic form.

Middle Harbour Yacht Club may cancel the Automatic Payment Arrangement at anytime or if two consecutive Automatic Payments are dishonoured by your financial institution or credit card issuer, in which case you must arrange with MHYC an alternative payment method.

Your Automatic Payment Arrangement is also governed by the terms and conditions of your contract for Membership or Marina & Moorings Licence Agreement and or Storage Licence Agreement.

This authority shall be interpreted and enforced pursuant to the laws of the state of **NSW**.

The Financial Institution may, in its absolute discretion, determine the order of priority of payments by it if any monies pursuant to this request or any other authority or mandate. The Financial Institution may, in its absolute discretion, at any time by notice in writing to me/us terminate this request as to future debits.