

BOAT CLUB TRAFALGAR LTD (BCTL)

RULES AND REGULATIONS

A Member agrees to comply with these Rules and Regulations as a condition of membership of BCTL.

DEFINITIONS:

BCTL:	Boat Club Trafalgar Ltd whose office is at Trafalgar Wharf Portchester Hampshire
Location:	Trafalgar Wharf Portchester Hampshire
Boat:	A motor powered boat owned by BCTL
Membership Contract:	A contract entered into between the Member and BCTL conferring Membership Rights
Member:	A person who has entered into a Membership Contract
Membership Rights:	The right to hire a Boat subject to the Rules and Regulations set out herein
Membership Fee:	The annual fee plus VAT payable to become a Member of BCTL as published on the web site and reviewed annually
Joining Fee:	The joining fee plus VAT payable on becoming a member of BCTL in a sum published on the web site
Damage Deposit:	A deposit sum to be paid upon becoming a Member to be held against Damage to a Boat in a sum published on the web site
Web Site:	The BCTL web site under the title boatclubtrafalgar.com
Session:	A period between 9.00 and 1.00 and 1.30 and 5.30 daily, or, such other timings as BCTL publishes on the web site from time to time
Boat Category:	Bronze, Silver day, Silver overnight, Gold and Platinum as stipulated on the web site

MEMBERSHIP CRITERIA:

- A Member of BCTL must be a minimum of 25 years of age
- A Member of BCTL must have signed a Membership Application Form
- A Member of BCTL must hold an RYA Level II Powerboat Certificate
- A Member of BCTL must have successfully completed the new member induction course
- A Member of BCTL must pay the Joining Fee and Damage Deposit
- A Member of BCTL must state the Boat Category applicable to membership
- A Member of BCTL must pay in advance the monthly fee applicable to the Boat Category

APPLICATION FOR MEMBERSHIP:

(1): An applicant for membership of BCTL must complete a membership application form, specify the Boat Category and agree to be bound by, and comply with, these Rules and Regulations

(2): An Applicant may be accepted for membership of BCTL if the Applicant satisfies the Membership Criteria

(3): an applicant for membership who does satisfy the Membership Criteria may be given conditional membership, which does not confer any Membership Rights, subject to satisfying the Membership Criteria. The applicant will become a full Member upon compliance with the Membership Criteria.

MEMBERSHIP RIGHTS:

(1): A Member has the right to hire a Boat in the Boat Category applicable to the Membership for a Session provided that:

(a): There is a Boat available for the Session; and

(b): The Joining Fee, Damage Deposit and monthly membership fee are paid and the monthly membership fee is in credit.

(c): The Member continues to comply with the Membership Criteria

(d): There is no damage, accident or competence issues outstanding against the Member.

(2): A Member may book an unlimited number of Sessions each year subject to only being able to book up to four sessions at a time in an online booking. Once a Session has been used, the Member may book another Session

(3): A Member must comply with the Terms set out in the web site as updated and varied from time to time

CONDITIONS APPLICABLE TO HIRING A BOAT:

A:

(1): A Members account with BCTL must be in credit sufficient to cover the Membership Fee. A Member must be in compliance with all Agreement Terms and Rules and Regulations.

(2): Operation of a Boat while under the influence of alcohol or any other drug is strictly prohibited. It may result in serious injury to others and damage to the boat or to other boats.

(3): All passengers must remain in their seat while the boat is in motion.

(4): Life jackets and kill cords must be worn while the boat is under way.

(5): The Member must use the Boat in a safe and responsible manner and must not cause any damage to it.

(6): Prohibit and prevent any person from using, transporting or possessing any illegal drug or other illegal substance while in the possession of and/or while on board any of the Boats.
(7): Utilize, operate and control the Boat and related equipment in a reasonable, safe, and prudent manner.

(8): Not to use the Boat for any commercial purpose.

(9): Must not remove the Boat from the water or allow or permit it to be removed.

(10): Must not remove engine cowlings or covering of electric components.

(11): Smoking is prohibited on the Boat.

(12): Member is responsible for all berthing, harbour and other fees occurred while away from the Location.

(13): A Boat must be operated in accordance with maritime and harbour regulations at all times.

(14): The member is solely responsible for ensuring it is safe to go to sea.

(15): A Boat may not be used for towing other boats, people or equipment, water skiing, wake boarding, knee boarding, tubing, hang gliding or other sporting or social activities.

(16): Failure to use boats shall not relieve a Member of any liability for payments due to BCTL.

(17): If a Boat is available 24 hrs before a reservation time a member may phone and book it (subject to availability) even if they have currently used all their reservations.

(18): Fuel will be charged to the Member's account as reflected on the reserved boat's flow meter reading upon return to the BCTL. The Member must ensure that there is sufficient fuel in the tank when commencing the hire.

(19): The hire of the Boat will commence at the Location and the Boat must be returned to the Location.

B: GENERAL CONDITIONS:

(1): A member shall have unlimited use of BCTL boats on an as-available basis, except on days when BCTL is closed. BCTL will be closed on Christmas Day and New Year's Day. BCTL also retains the right to close a location on certain days due to inclement weather.

(2): Reservations anytime through BCTL online booking system. BCTL reserves the right to substitute, alter, or cancel Boats that are reserved or scheduled by a Member. If you anticipate arriving at the Location later than your scheduled reservation time, you must call the BCTL and alert them to your delayed arrival. If you fail to provide timely notification your reservation may be assigned to another member. Failure to cancel your reservation will result in a £25.00 processing fee.

(3): Overnight reservations. Night time operation of a Boat is prohibited. All Boats must be secure at a Marina from sunset until sunrise.

(4): Boat usage privileges. Before and after boating, a Member must complete the Check Out procedure. Members are expected to return the Boat to the Location by either 1300 or

17:30 unless other arrangements have been previously made through the main office. If you are late returning a Boat, BCTL will charge a late fee of £35.00 per half-hour increment.

(5): *A Member is prohibited from taking a Boat beyond an area East of Horse Sand Fort and West of Hurst Castle. Fishing is not permitted on deck boats or other boats as designated by the dock manager.

* On completion of a additional induction course and/or being signed off as competent, A member is allowed to use Boats within Langstone and Chichester Harbour's and not beyond an Area East of Chichester Harbour Entrance.

(6): The Member is responsible for returning the Boat in the same condition as when the boat left the Location.

(7): Fish may not be cleaned on board a Boat.

RESPONSIBILITY FOR BOAT:

The Member is solely and exclusively responsible for:

(1): Keeping the Boat in good condition free of damage throughout the session; and

(2): All loss or damage to the Boat and accessory equipment from the time that the Boat session commences at the Location until the Boat is returned to the Location, including the time of its proper check in to BCTL.

(3): At no time shall the member allow anyone other than a Member to operate the Boat. The Member is liable for all uninsured damages and losses (plus VAT). The Member shall not admit liability for any third party damage.

GENERAL CONDITIONS:

(1): If alcohol / drugs are contributing factors in an accident a Member is fully responsible for all costs, claims and damages arising out of the accident.

(2): Any damage that occurs while a Boat is in a Member's possession will be noted and charged to the Member at check-in. Some damage, particularly damage to the engine (i.e. caused by entangling the prop in rope or fishing line, running the engine at high rpm after a problem occurs, etc.), may not be noticed at the time of check-in. If damage is discovered after check-in, and BCTL deems the Member to be responsible, the Member will be billed for the full cost incurred by BCTL in repairing the Boat to the same condition as originally delivered to a Member. At BCTL's sole discretion, a member may be denied boat usage until payment is received for any damage to a Boat. BCTL may require the member to attend a meeting to discuss the damage, and BCTL, at its sole discretion, may take any action deemed necessary, including suspension or termination of Membership.

(3): Towing. In the case of a Boat ceasing to operate BCTL will be responsible for reasonable towing charges subject to the Member first using all reasonable endeavours to contact BCTL for approval. If the breakdown arises as a result of the Member's recklessness, incompetence or fault the Member will be solely responsible for towing costs. (Soft grounding vs. hard or low-tide grounding for example.)

(4) Injury and damage to property. A Member recognizes that the operation of a Boat is a specialized activity that requires training and experience and has both obvious and non-

obvious dangers associated with it. A Member acknowledges that many such dangers produce risk of injury to a Member, a Member's passengers, and the public in general regardless of the training and experience of the operator of the Boat and regardless of the proper maintenance and condition of the Boat. Accordingly, a Member accepts sole and exclusive responsibility at all times for the safety of all persons and property on board the Boat, and all persons who may come in contact with the Boat, including a Member, a Member's passengers and the public in general.

(5): A Member acknowledges that BCTL's insurance coverage is for the Member and guests only while the Member is operating (piloting) the Boat. Insurance coverage does not apply if any non-member is operating a BCTL insured Boat during an accident. A Member agrees to release, indemnify, defend and hold BCTL, its officers, directors, employees and agents harmless from and against all claims, loss, damage, expense (including reasonable attorney's fees and costs and expenses of litigation) for injury or loss of any sort including bodily injury, death, property damage or other loss of any kind or nature whether known or unknown, foreseen or unforeseen, patent or latent arising from or relating to the use or operation of a boat in violation of the membership agreement or these rules and regulations. This release and indemnification of BCTL, its officers, directors, employees and agents shall extend to any injury occasioned wholly or in part by any act or omission of BCTL, its officers, directors, employees and agents. A Member further understands and acknowledges that BCTL is not responsible for death, injury or property loss or damages resulting from or arising out of:

(a): The acts or omissions of any third parties or,

(b): A Member's operation of the Boat and related water sport activities, including without limitation, swimming, diving and snorkelling.

The Member shall hold BCTL harmless and shall indemnify BCTL against any claims by any persons arising from such water sport activities.

(6): Status. A member's rights are for the prepaid use of BCTL Boats only, and nothing contained in this Agreement is intended or shall be construed as creating any rights of ownership, legal or equitable, in any of the boats or in BCTL, its stock or assets.

(7): Compliance with laws and ordinances. A Member shall comply with all applicable governmental laws, ordinances, orders, and regulations now in force or which may hereafter be in force insofar as they pertain to the use, operation and utilization of boats. A Member shall also comply with all requirements of any insurance companies providing insurance for BCTL and the rules and regulations of any marina or other docking facility in which BCTL boats are located.

(8): Limitations on warranties and liability. BCTL makes no representations or warranties, express or implied, except those included in this agreement. A Member acknowledges that all boats provided by BCTL are provided "as is" without any warranties or representations of any kind, including, without limitation, warranty of merchantability or fitness for a particular purpose. In particular, without in any manner limiting the foregoing, BCTL makes no representations or warranties as to the qualities, capacity, or other attributes of the Boat, the use of which will or may be furnished to a Member pursuant to this agreement and any such representations or warranties which may be made or upon which a member may rely are exclusively those of the manufacturers of said equipment. BCTL shall not be responsible or liable at any time for loss or damage to personal property brought by a Member, or any of a Member's family, guests, invitees, or third party aboard BCTL boats used by a Member. BCTL shall not be responsible or liable to a Member for any defect, latent, or other defects of any type or nature in any Boat or any equipment, appliances, or apparatus utilized in

connection with such Boat, nor shall BCTL be responsible or liable for any injury or damage caused by or resulting from any defect, act, or omission in the construction, maintenance, operation, or use of any Boat, or any equipment, fixtures, appliances, or apparatus utilized in connection with such Boat. A Member further acknowledges and agrees that a Member is waiving and releasing any and all claims which a Member could make against BCTL, its parent and affiliates, or any officer, director, employee, a member or agent of BCTL for any personal injury or property damage arising from any defect, latent or otherwise, in any Boat or any equipment, appliances, or apparatus utilized in connection with such Boat.

(9): Force Majeure. BCTL shall be excused from performance, or any delays in performance hereunder, due to fire, flood, earthquakes, hurricane, acts of God, unavailability of materials, equipment or fuel, war, declaration of hostilities, revolt, civil strife, altercation or commotion, strike, labour disputes, epidemic, lack of or failure of fork-lift or transportation facilities, mechanical breakdowns, any law, order, proclamation, regulation or ordinance of any government or subdivision thereof, or for any other cause whether similar or dissimilar to those enumerated, beyond the reasonable control of BCTL

(10): Arbitration. If any dispute arises out of the interpretation of these Rules and Regulations it shall be referred to an arbitrator (to be appointed by the BCTL and the Member jointly or, in default of agreement, by BCTL alone) and the arbitration shall be carried out in accordance with the provisions of the Arbitration Act 1996.

DEFAULT:

A: Any of the following shall constitute an event of default with respect to this Agreement:

(1) Any failure by a Member to pay when due the full amount of any deferred payment under obligation, debt instalment, or other charge hereunder; or

(2) Failure of a Member to abide by and adhere to the Rules and Regulations of BCTL or of the marina where BCT's boats are docked, as now in effect or as hereafter amended; or

(3) The failure or inability of the Member, as demonstrated to BCTL, in its sole judgment, to operate the Boat, 1) in a safe, alert, and cautious manner, 2) exercising due caution to protect the Boat and engine from damage, and 3) within any operational requirements or limitations published by BCTL, or

(4) A Members' use of a Boat in any manner that poses a nuisance upon the seas, or a substantial risk of personal injury, death and / or property damage. No waiver or indulgence by BCTL with respect to any given default shall constitute a waiver of BCTL's rights with respect to any subsequent default or breach.

REMEDIES ON DEFAULT:

(B):

Upon the occurrence of any event of default by the member, BCTL may terminate this Agreement and all Membership rights of a Member arising hereunder, and BCTL shall be entitled to retain as liquidated damages, and not as a penalty, all sums previously paid to BCTL by a Member pursuant to this agreement.

TERMINATION OF MEMBERSHIP:

(A):

BCTL may prohibit a Member from hiring or operating a Boat or may terminate the Membership, if in the sole discretion of BCTL, any of the following occur:

(1): The Member has not paid the monthly fee or any other sum due from the Member to BCTL

(2): Misuse of alcohol or drug use by the Member or his guests

(3): A Member has used language or has behaved in a manner which is unbecoming to the BCTL, other members or their guests, BCTL employees or is consistently discourteous in demeanour.

(4): Frequent boating mishaps, reckless or dangerous operation or use of a Boat

(5): Failure to adhere to the Rules and Regulations

(6): A Member engages in a business or activity injurious to Boat Club.

(7): Breach of the Terms of the BCTL insurance policy terms and conditions for the use of a Boat

(9): If the Member is in Default as defined in these Rules and BCTL opts to terminate the Membership

(B):

Upon termination of Membership, the Member immediately ceases to be a Member of BCTL and ceases to benefit from the Rights of Membership. The Joining Fee, Damage Deposit and Monthly Fees shall belong to BCTL and not be refunded to the Member.

Date last updated: 28th March 2017