

## EDEN ISLAND MARINA SEYCHELLES

### EDEN ISLAND MARINA BERTHING LEASE AGREEMENT- TERMS AND CONDITIONS

**These Terms and Conditions shall control the conduct of all berth holders at Eden Island Marina and shall be incorporated as part of any berthing lease. These Rules may be altered added to or amended from time to time by Eden Island Marina. Upon such amended Rules being made, any addition or amendment shall be deemed incorporated herein.**

#### 1. Definitions and Interpretations

**Berth** means the water and/or land space temporarily allocated to a BERTH HOLDER from time to time by EDEN ISLAND MARINA for the mooring of a VESSEL during the term of any BERTHING LEASE.

**Eden Island Marina** is the trading name of Superyacht Services (Seychelles) Limited and/or its agents with whom berthing and any other agreements pursuant to these terms and conditions are made

**Berth Holder** means any person or persons or corporate body who have entered into a BERTHING LEASE with EDEN ISLAND MARINA permitting such person or persons or corporate body to berth a VESSEL in a BERTH in the MARINA. All BERTH HOLDER'S must warrant that they are lawfully in possession of the VESSEL as an OWNER.

**Berthing Lease** means the lease for a specified period of time which has been approved by the MARINA MANAGER for the purpose of berthing a VESSEL at the MARINA.

**Marina** means all the land, structures, waterways and water adjacent to it including but not limited to channels, pontoons, buildings, facilities, walkways and car parks which EDEN ISLAND MARINA makes available for use from time to time for its customers and members of the public to which these Terms and Conditions apply.

**Marina Manager** the person or representative appointed by EDEN ISLAND MARINA to run the day-to-day management and administration of the MARINA.

**Owner** means the legal and/or beneficial owner or charterer of the VESSEL and duly authorised to act as agent of the legal and/or beneficial owner. All information regarding an OWNER must be correct and must not mislead any person or member of EDEN ISLAND MARINA.

**User** means any BERTH HOLDER member of a Berth Holder's party or other person lawfully using or visiting the MARINA for any purpose whatsoever.

**Vessel** means any boats, ships, yachts, catamarans, dinghies or craft whether or not their principle propulsion shall be by wind or engine.

**Heavy Displacement Vessel** means any VESSEL greater than twenty (20) tons in weight or any VESSEL that is particularly prone to causing destructive wakes at slow speeds.

#### 2. MARINA BERTHS

(1.) The Service Berth is for the use of Berth Holders only. The Service Berth cannot be used by any vessel for any period longer than one (1) hour at any time unless prior permission is granted by the Marina Manager. All vessels at the Service Berth shall be tied to the dock in a manner so as to allow a maximum number of vessels to use the dock at all times.

(2) In accordance with subsection (3), no vessel shall be permitted to occupy a berthing area without prior approval and authorization by the Marina Manager.

(3) Applications for a Berthing Lease at Eden Island Marina shall be made to the Marina Manager on the forms contained herein. Berthing Leases will be made in the order in which the Vessel appears on the waiting list, if any, based on the availability of berths for size of the vessel to be accommodated.

(4) All vessels must have an overall specified length and width, including any appendages such as marlin boards and railings, such that they can be accommodated within their allocated size of berth. Dinghies, tenders and rafts shall be stowed aboard the vessel unless a berth is separately

provided by Eden Island Marina.

(5) No vessel other than that named vessel authorized within the Berthing Lease shall occupy any particular berth.

### **3. USE OF EDEN ISLAND MARINA WATERWAYS**

(1.) No vessel shall be navigated or operated at such a speed or in such a manner within the Marina and/or its channel that a wake is created that will endanger or inconvenience other vessels docked or moored or cause destruction of the shoreline. Vessels are at all times subject to the speed limits imposed by Eden Island Marina when navigating within the Marina and/or its channel. This provision applies to all vessels for the full length of the channel.

(2.) Heavy Displacement Vessels shall travel at a speed less than 3 knots at all times.

(3.) Berth Holders and other Users should report any incidents of vessels travelling at a speed in excess of any of those stated in the abovementioned subsections.

(4.) Eden Island Marina is entitled to terminate any right to berth or moor in the Marina and terminate any Berth Holder's Berthing Lease should he or she be found in violation of this provision.

### **4. ENVIRONMENT**

(1.) The Marina is an environmentally friendly area. Berth Holders and all Users shall keep the waterways clear of all forms of litter, pollution and excessive noises, such as engine noises.

(2.) No bilges shall be pumped out in the Marina except in an emergency, that is, where there is a high risk of the vessel sinking. All costs including but not limited to the clean up shall be borne by the Owner.

(3.) No washing shall be hung out on any vessel whilst berthed in the Marina.

(4.) No cleaning of the hull below the waterline shall be carried out in the Marina without prior permission from the Marina Manager.

(5.) No refuse shall be deposited on the Marina, in the water or in locker boxes (if provided), except in authorized litter receptacles provided by Eden Island Marina.

(6.) No part of a moored vessel, such as overhanging bow anchors, shall extend onto the walkway area.

(7.) Only biodegradable products shall be used for cleaning.

### **5. GARBAGE AND LITTERING**

(1.) No person shall have, keep or deposit on a vessel or on the adjacent dock any refuse of any kind whatsoever. Receptacles designated by Eden Island Marina are provided at the Marina for proper disposal of such refuse and all other disposable materials.

(2.) No person shall throw, discharge, abandon or deposit from any vessel or from the shore or float or otherwise any refuse matter of any kind whatsoever into or upon the waters of the Marina, or in, on or upon the banks, walls or walkways of any waters within the boundaries of Eden Island or its adjacent areas except in such receptacles designated by Eden Island Marina for the disposal of such materials. A Berth Holder shall place only that refuse within the designated receptacles as is generated during and results from the Berth Holder's named vessel's voyage.

(3.) No person shall throw, discharge, abandon or deposit or cause to be thrown discharged, abandoned or deposited any refuse of any kind whatsoever, such as sewage, gaseous liquid or

solid materials into the waters of Eden Island Marina so as to render the water unsightly, noxious or unclean so as to be a detriment in any way to public health, safety and welfare.

(4.) No refuse or noxious substances including but not limited to oil, spirits, gasoline, diesel, distillate and any petroleum product, any flammable materials, detergents, cleaning solutions and any other substance that may violate any Water Quality Standards of Seychelles shall be discharged or thrown overboard or left on the docks or any land adjacent to the Marina. Such refuse or noxious substances shall only be disposed of in specially marked receptacles for combustibles and petroleum products. In the absence of such specially marked receptacles, all persons shall dispose of the refuse or noxious substances at a site other than at the Marina or Eden Island.

## **6. SECURITY, SAFETY AND HEALTH**

(1.) Any person found exceeding the speed limits of the Marina, endangering the safety of others or harming the environment will be barred from further entry to the Marina for an indefinite period.

(2.) All safety equipment stored aboard must be fully operable and not expired.

(3.) Vessels shall not be moored, sailed or manoeuvred in any way that may cause a danger, obstacle or inconvenience to any other User.

(4.) Petrol inboard engine driven vessels must ventilate their engine rooms prior to starting.

(5.) Fuel shall not be carried onto vessels while berthed in the Marina.

(6.) Gas Bottles shall be closed off at the bottle when they are not in use.

(7.) Persons using the Marina shall ensure that security gates are kept closed at all times.

(8.) Electric cables from service units to vessels must be secured so that there is no risk of tripping over them or of them getting wet.

(9.) Berth Holders or any members of their parties must not act or behave in such a manner so as to, in the opinion and discretion of the Marina Manager and Eden Island Marina, annoy, cause danger or be offensive others.

## **7. FIRE SAFETY**

(1.) No berth holder shall use or permit his or her vessel to be used or maintained in a way so as to create or constitute a potential fire hazard.

(2.) All vessels berthed at the Marina must have Fire Safety equipment onboard which is suitable for the size and type of the vessel. Such Fire Safety equipment shall at all times be in good and efficient working order and kept ready for immediate use.

(3.) No fuelling of vessels shall be permitted at any time within the Marina.

(4.) Any vessel equipped with liquid propane gas (LPG) for cooking or any other use must be equipped with a functioning solenoid or a warning indicator for detecting LPG leaks.

## **8. BOAT REPAIRS AND CONDITION**

(1.) All boats shall be berthed and secured in accordance with this section and with proper care and equipment. Such berthing or equipment shall be maintained at all times in such condition as to meet with the approval of the Marina Manager.

(2.) No alterations or other changes may be made to the Marina's berth structures or equipment by anybody other than by Eden Island Marina.

(3.) At least two rubber cylindrical fenders shall be used at all times when vessels are moored to protect the vessel from the Marina pontoons. Lost or defective fenders shall be replaced by Eden Island Marina at the Berth Holder's cost.

(4.) At least three mooring lines shall fit the berth. Defective ropes shall be replaced by Eden Island Marina at the cost of the Berth Holder. A Berth Holder shall, at all times, ensure that his or her vessel is safely moored with lines adequate for the shape and size of the vessel and the weather conditions.

(5.) All vessel engines must be kept in a good state of repair so as to minimize the likelihood of fuel or oil leaking into the bilge.

#### **9. STORAGE ON DOCKS**

(1.) No equipment shall be stored or erected on the Marina without prior permission of the Marina Manager.

(2.) Nothing shall be stored on the dock by any User. Each Berth Holder is responsible for keeping the adjacent dock area clean and free of litter and clutter. A User shall not place items on the dock except for short periods of time and if doing so, shall place the items in such a manner so as not to obstruct the free passage along the dock.

#### **10. TOILET USAGE**

(1.) On-board toilets or marine heads shall not be used while the vessel is in the Marina unless vessels are equipped with proper and operational holding tanks so that no human excreta is discharged into the Marina. Holding tanks for toilets, washing or any other sewage shall not be discharged into the Marina or surrounding national park area at any time.

(2.) All Marine Head sea cocks are to remain in the closed position whilst in the Marina.

#### **11. MAINTENANCE OF MARINA**

All Users shall immediately notify the Marina Manager of the need for repairs to the docks or any dangerous conditions in or on the Marina requiring attention.

#### **12. MAINTENANCE WORK ON VESSEL**

(1.) Any repairs and maintenance of a vessel may only be made or accomplished with authorization from the Marina Manager and shall only include operations that do not result in pollution of the water or air, do not cause a level of noise that will disturb other Users or nearby residents and do not cause damage or staining of the Marina structures.

(2.) No major repair or reconstruction work shall be performed in or at any berth by any Berth Holder

(3.) No repairs or maintenance of a vessel shall be performed before 0800 or after sunset except where emergency repairs are necessary to prevent the vessel from sinking. The Marina Manager may give written authorization to repair or maintain a vessel after sunset in the Marina if the repairs or maintenance requires a longer period of time. Authorization must state a commencement and ending time and date for when the repairs can take place. At no time should the repairs infringe upon the safety and welfare of Users of the Marina.

(4.) Any contractor or contractors enlisted by a Berth Holder to perform authorized repairs or maintenance must comply with the safety and operational policies of Eden Island Marina and be certified for work by the Marina Manager prior to entering the Marina.

(5.) All materials used in repairs or maintenance work must not obstruct the free passage of the

dock. The dock area must be kept clean, neat, free from any obstruction and orderly.

(6.) No materials of any type resulting from repair or maintenance work, including but not limited to solvents, paints, sandpaper and other non-biodegradable materials shall be allowed to enter the water at the Marina.

(7.) Spray painting, welding, burning and other hazardous activities are not permitted in the Marina.

### **13. SWIMMING**

It shall be unlawful for any person to swim, bathe, or wade in any portion of the Marina. This section shall not prevent a User from mooring or anchoring a vessel, clearing a fouled propeller, assisting a vessel in clearing another vessel's mooring lines or removing a vessel that is aground.

### **14. FISHING**

It shall be unlawful for any person to fish from any docks of the Marina and its adjacent locality. No shoreline fishing from the banks within the Marina is permitted.

### **15. VISITORS**

It shall be unlawful for any visitor to be permitted on the docks unless accompanied by a Berth Holder or written permission has been granted to them by the Berth Holder.

### **16. CHILDREN ON DOCKS**

It shall be unlawful for any child under the age of ten [10] years to go, remain, or be upon the docks in the Marina, unless they are accompanied by a parent or a responsible adult.

### **17. OBSTRUCTIONS PLACED IN WATER**

No float, pier, dock, pile, ramp or other obstruction may be placed in the Marina without the prior authorization of Eden Island Marina.

### **18. SIGNS**

(1.) No User shall place, erect or maintain any sign, advertisement, display or notice on any property, structure or vessel within the Marina without prior written authorization of Eden Island Marina. If written authorization is granted, the Marina Manager may impose any size limit to the sign, advertisement, display or notice as he thinks is reasonable.

(2.) No person shall row, propel, navigate or maintain any boat or float in the Marina for the purpose of advertising without first having received prior written authorization of the Eden Island Marina.

### **19. NUISANCE**

No noisy, noxious or objectionable engines, radio, television or other apparatus or machinery or loud voices or musical instruments shall be operated within the Marina or surrounding premises nor shall animals be allowed within the Marina or surrounding premises so as to cause any nuisance or annoyance to Eden Island Marina, to any other Users or any person residing in the vicinity and the Berth Holder undertakes for himself, his guests and all using the vessel that they shall not behave in such a way as to offend as aforesaid.

### **20. GUESTS ABOARD**

(1.) If parties are held on boats, the noise level shall be kept to a minimum so as not to annoy or inconvenience other Users of the Marina or nearby residents.

(2.) No Berth Holder shall have more than 10 guests on board his or her vessel while at its berthing space between the hours of 2000 and 0400.

(3.) When a vessel is departing or arriving at its berth space between the hours of 2000 and

0400, any guests may remain aboard only in so far as they are undertaking any act necessary for the departure or arrival, such as the loading and unloading of the vessel.

## **21. SPECIAL EVENTS**

(1.) All sponsors and organizers of special events are required to obtain a permit from Eden Island Marina for a special event. No special event shall take place in the Marina without an approved permit and full payment of a special event fee.

(2.) **Special event** means events including but not limited to fishing competitions, launching of sailing events and holiday celebrations hosted by a person, company, non-profit organization or government agency. It will include the use of the Eden Island Marina facilities which include berthing docks, receptacles for refuse, the weigh station, the service berth, the parking area, water facilities and channel access.

## **22. COMMERCIAL USE AND BUSINESSES IN THE MARINA**

(1.) No part of the Marina including any berth or dock structure shall be used by a Berth Holder or a member of a Berth Holder's party for any commercial, trade or business purpose.

(2.) An Owner must not carry on or permit to carry on any trade, profession or business from their vessel or use their vessel for display or inspection at the Marina without prior written approval from Eden Island Marina to conduct the business.

(3.) When requesting written permission from Eden Island Marina, Owners must provide valid copies of their business permit and relevant insurance to the Marina Manager.

(4.) No advertising banners or boards shall be erected or displayed within the Marina, including on vessels, without prior approval by the Marina Manager.

## **23. EDEN ISLAND MARINA BOARDING RIGHTS**

Eden Island Marina shall have the right to carry out works on the Marina or board any vessel and carry out any work on the vessel if the Marina Manager, its employees or agents is of the opinion that it is necessary to do so for the safety of the vessel or the safety and/or convenience of any other vessels, users of the Marina or the Marina itself. Any work on a vessel will be carried out at the Owner's own costs and risks.

## **24. BOAT REMOVAL AND IMPOUNDMENT**

(1.) Any obligation of Eden Island Marina toward vessels left at its Marina or premises ends upon the expiry or termination of the grant to the Berth Holder of facilities in respect of such vessel and Eden Island Marina accepts no responsibility for loss or damage to any vessels left at its Marina or premises without its consent.

(2.) If the Owner fails to remove the vessel on expiry or termination of the Berth Lease, Eden Island Marina shall be entitled to, at the Owner's risk and costs;-

(a) Remove the vessel from the Marina and thereupon secure it elsewhere and charge the Owner all costs arising out of this removal without any notification; or

(b) Impound the vessel. Impoundment shall mean the chaining of the vessel to the dock and placing a dated sign upon it explaining the reasons for impoundment. Eden Island Marina may also impound a vessel by removing it from the berth.

Eden Island Marina shall not be liable for any such actions and all Berth Holders waive all claims for damage to persons or property sustained by a vessel resulting from its movement

The Berth Holder shall reimburse the Marina for all costs incurred in moving, impounding and/or storing of the vessel.

## **25. RECONSIDERATION OF EVICTED BERTH HOLDERS**

Any Owner whose authorization to berth has been terminated for any reason, but not expired, who wishes to berth again at the Marina must make a new application to Eden Island Marina and

will not be given any priority. Any such new application made will be considered only after all pending berthing fees are paid and any other violations of their Berthing Lease or other provisions are cured. The Marina Manager is authorized to require an advance deposit of six months rental fees for any such new application.

## **26. REASSIGNMENT OF BERTHS**

(1.) Nothing in this agreement shall entitle the Owner to the exclusive use of any particular berth. If at any time during the period of a Berthing Lease or, Eden Island Marina may at its sole discretion, temporarily or permanently reassign any berth previously allocated by the Marina Manager. The Berth Holder is deemed to have consented to the reassignment and is obliged to move of the vessel.

(2.) Eden Island Marina reserves the right to reassign berths:

- (a) For the proper operation, maintenance and repair of the Marina;
- (b) For the convenience of the Marina;
- (c) For a special event; and/or
- (d) In case of an emergency.

(3.) If the Berth Holder fails to comply under this section, the Marina Manager and its agents may move the vessel at the costs and risk of the Berth Holder. Eden Island Marina, its employees or agents will not be liable to any claims for damage to persons and property sustained by a vessel resulting from its movement pursuant to this section.

## **27. NON-TRANSFERABILITY OF BERTHING LEASE**

The Berth Holder shall not lend or transfer a Berthing Lease (being personal to the Owner who was a party to the agreement at the time the Berthing Lease was made, relating to a particular named vessel and non-assignable) whether voluntarily or involuntarily, nor shall he or she use it for any other vessel. The Berth Holder shall not form any agreements to allow any other person other to use a designated berth, use a designated berth for a vessel other than the agreed named vessel, transfer an interest in a corporation or partnership (general or limited) or joint venture owning vessel in which the agreement attempts to give, sell sublease, assign, or otherwise transfer the Berthing Lease and or an interest within it or the right to use a designated berth. Any violations of this section shall be grounds to terminate the Berthing Lease.

## **28. INDEMNITIES AND RELEASES**

(1.) Eden Island Marina shall not be liable whether in contract, tort or otherwise, for any loss, theft or any other damage of whatsoever nature caused to any vessel or other property of the Owner or others claiming through the Owner.

(2.) The Owner shall indemnify Eden Island Marina against all loss, damage, costs, injuries, claims or proceedings incurred by or instituted against Eden Island Marina or its servants, agents, employees or structures which may have, in Eden Island Marina's reasonable opinion:

- (a) Been caused by the Owner's vessel or by the Owner, his or her servants, agents, crew, guests or other invitees,
- (b) Resulted from the removal and storage of the vessel prior to the commencement date and date of termination or expiry of this agreement,
- (c) Resulted in any work carried out on the vessel or
- (d) Terminated this agreement.

(3.) Eden Island Marina does not represent or guarantee the adequacy, suitability or safety of the Marina and their respective equipment and machinery. To the extent permitted by law, all warranties and conditions implied by law shall be excluded from this agreement.

## **29. INSURANCE**

(1.) All vessels are required to have proof of current, up to date insurance to receive any services

of Eden Island Marina. This insurance must be obtained from an insurance office of repute and must include:

- (a) Insurance of an amount that a prudent owner would insure,
- (b) Suitable third party liability insurance in respect of himself and each of his vessels or vehicles, his crew for the time being and his agents, servants, visitors, guests and sub-contractors in respect of any potential or actual accident or damage and
- (c) Shall maintain in respect of any vessel adequate salvage insurance.

(2.) The Owner shall produce the policy or policies relating thereto to Eden Island Marina on demand.

### **30. BOAT OWNERSHIP AND DECLARATIONS**

(1.) Any changes of ownership of a vessel or vessel particulars which is under a Berthing Lease must be communicated in writing to the Marina Manager within five [5] days of any change of ownership or transfer resulting from a gift, sale, lease, withdrawal, addition or substitution of partners, sale or transfer of stock in a closely held corporate ownership of the vessel or change of officers or directors of a closely held corporation owning the vessel.

(2.) A Berth Holder may retain his designated berth for a period of thirty [30] days after transferring title or to agreeing to sell his or her vessel provided the abovementioned notification is given and the Berthing Lease has not yet expired.

(3.) All new owners of vessels whether the vessel is under Berthing Lease or otherwise must reapply for a Marina berth in accordance with these Terms and Conditions.

(4.) If a Berth Holder fails or refuses to notify the Marina Manager of change of ownership such failure or refusal shall constitute grounds for cancellation of the Berthing Lease.

### **31. NOTICES**

All communication in connection with any Berthing Lease must be in writing unless otherwise stated.

### **32. PAYMENTS AND CHARGES**

(1.) All fees for use of berthing space pursuant to a Berthing Lease are due and payable monthly in advance on the first day of each month. A Security Deposit equivalent to two month's berthing fees must be paid on or before the commencement date of any Berthing Lease.

(2.) Short stays of periods of less than five days shall be payable in advance for the entire duration of berthing on arrival. The vacation of a berth occupied pursuant to this subsection prior to the expiration of the term set forth therein shall not entitle the person paying the fee to any rebate or refund.

(3.) Payments may be made in cash, credit card or by current dated, signed local cheques. Credit card payments must be approved in advance. Berthing fees may occasionally change.

(4.) All additional charges levied by Eden Island Marina against the Berth Holder must be paid. These additional charges include but are not limited to electricity and water.

(5.) All charges levied before and up to the date of the expiry or termination of a Berthing Lease must be paid by the Owner.

(6.) A Berth Holder who desires to permanently vacate a berth that he or she is using pursuant to Berthing Lease prior to its expiry date shall not be refunded any paid unused rental fees unless an approved substitute vessel is secured by the Marina Manager before its departure. Eden Island Marina will not incur any losses as a result of such substitution. Any charges including a handling fee for locating substitute vessels, transfers or ownership details and other

administrative tasks will be borne by the Berth Holder.

(7.) Any outstanding payments owed will be extracted from the Security Deposit, the remainder of which, if any, will be refunded. Should there be no outstanding payments, the full Security Deposit will be refunded upon expiry.

### **33. PROVISION OF SERVICES**

(1.) Electricity and water and any other service that Eden Island Marina should so wish to provide subsequent to the enactment of these Terms and Conditions shall be provided to Berth Holders by Eden Island Marina entirely at the Berth Holder's own risk and on the following conditions:

- (a) Berth Holders shall use connection points that are nearest to the designated berth.
- (b) Cables and connectors not supplied by Eden Island Marina must be approved by Eden Island Marina prior to any use or attempted use of them.
- (c) It is not permitted to share any supply of services among two or more Berth Holders.
- (d) No Berth Holder shall have any claim of any nature howsoever arising against Eden Island Marina, whether for damages, consequential or otherwise, in the event of any failure or problem arising out of the provision of services under this agreement.
- (e) Overloading cables and connections will cause disconnection via trips and immediate re-connection cannot be guaranteed.

(2.) Eden Island Marina cannot guarantee a continuous supply of any service at all times. Power cuts and breakages and other circumstances which interrupt continuous supply may be beyond Eden Island Marina's control.

### **34. TERMINATION**

(1.) Eden Island Marina shall have the right (without prejudice to any other rights in respect of breaches of these rules by the Owner) to terminate the Berthing Lease granted to the Berth Holder in the event of any breach by the Berth Holder:-

- (a) Of these Terms and Conditions,
- (b) Any Boating Safety Rules and Regulations,
- (c) Any provision regarding a Berthing Lease,
- (d) By any failing to make any payment/s due and/or
- (e) By providing false or misleading information in connection with the agreement.

(2.) Eden Island Marina shall provide Five (5) days written notice of termination to the Berth Holder which is deemed to have been served, if by Postal Service, within twenty-four (24) hours of the time the said notice is deposited in the Seychelles Postal Service, if by Email, from the moment of it being sent, if Personal Service, from the moment the notice is handed over to the Berth Holder or their agent. The notice shall specify the breach, the date and time on or before which the berth must be vacated and the termination date. The Berth Holder shall be liable for all berthing or mooring fees accruing prior to the date of termination.