

MEMBERSHIP AGREEMENT

(May 2007)

The Club

The Newburyport Yacht Club (“the Club”) is a not-for-profit corporation organized under Section 180 (c) of the Massachusetts General Laws. The purpose of the Club is to operate as a public recreational boating facility within the meaning of 310 C. M. R. 9.02 and as a social organization as defined by Section 501 (c)(7) of the Internal Revenue Code of 1986 as amended and is not nor will it be operated for any profitable purposes.

The Club and its facilities are located at 300R Merrimac Street, Newburyport, Massachusetts.

The Club leases the first floor of the Clubhouse, the pool, and designated parking areas pursuant to a leasing agreement with the Marine Conservation Trust, which expires in the year 2100. The Club is in the process of acquiring the docks and related marina operating assets from Deepwater, Inc. (“Deepwater”) under an installment plan of acquisition.

Club Facilities & Boat Slips

In making use of the Club facilities and slips, members must agree to abide by all provisions set forth in Chapter 91 license numbers 2462 and 7762 and in any license or licenses as may be issued in the future by the Commonwealth of Massachusetts or the Federal Government.

Members have exclusive rights to use the slip space referenced on their Membership Application and Membership Agreement. Members are further entitled to winter land storage for their boat and one annual launch and haul and the right to use certain “Club facilities.” These facilities include the boat slips and dockage subscribed for by Club members, the pool, and the first floor of the Club House. Members also have the right to park one vehicle in the areas designated for members’ use.

“Club facilities” do not include any slips owned by Deepwater or the second floor of the Club House, the Rack Building, the Maintenance Building, or the Bait Shop. Nor do “Club Facilities” include any parking areas not designated for use by Club members.

Deepwater reserves the right to use these slips, buildings, and parking areas and to grant such right to others, to change the use thereof and to license, lease, subdivide or sell such property not included under the current lease agreement.

“Club facilities” also do not include seven (7) boat slips, which are being leased by Deepwater to certain individuals in accordance with terms and conditions set forth in 99-year leases. These leases predate the agreement between Deepwater and the Club and afford the lessees the right to use the Club facilities.

However, the lessees are not members of the Club and have no voting rights in the Club.

Membership Application & Membership Agreement

In accordance with the Club's Bylaws, membership in the Club is subject to such qualifications and conditions as the Board of Directors may from time to time determine, and all applications for membership are subject to review and approval by the Board of Directors.

An original and one copy of this properly executed Membership Agreement ("Agreement") must accompany the Membership Application.

When properly executed, this Agreement between the Club and the member shall be for successive terms of one (1) year each. The Agreement shall automatically renew on January 1st of each year unless the membership has been redeemed or the member has resigned or has been expelled from membership.

Renewal of this Agreement is further subject to the limitations and restrictions as are provided for in the Member Promissory Note and Pledge of Membership Interest, if these documents have been executed.

Initial Membership Contribution

Acceptance of an application for a new membership, i.e., a membership not previously held by a Club Member, is contingent upon payment to the Club of an "Initial Membership Contribution," the amount, terms and conditions of which shall be determined from time to time by Deepwater.

Subject to Deepwater's prior approval and to such terms and conditions as Deepwater may from time to time determine, a member may pledge his or her membership rights in the Club to Deepwater as a means of securing payment of the Initial Membership Contribution.

In such circumstances, Deepwater reserves the right to assign the pledge in order to secure the Club's obligations in connection with the acquisition of the Club's facilities

Membership Responsibilities & Limitations

Membership in the Club is limited to those who intend to exercise the rights and privileges of membership solely for their personal use.

Members do not receive any ownership interest or equity in the Club. Membership should not be viewed or acquired as an investment and members should not expect to derive economic benefit as the result of their membership in the Club.

Members must agree to comply with the Club Bylaws, its Rules and Regulations and such other policies as the Board of Directors may from time to time issue.

In order to exercise their membership rights, members must be in good standing. Among the requirements underlying this criterion is payment of all invoices issued by the Club in accordance with such terms and conditions as the Board of Directors may from time to time determine.

It is mutually understood that, by executing this Agreement, members agree to carry their own liability and comprehensive insurance. Members must submit a copy of their current insurance certificate with their annual dues payment.

Members may not sell, redeem, transfer, pledge or mortgage or attempt to sell, redeem, transfer, pledge or mortgage their membership without the express, prior written consent of the Board of Directors and as otherwise provided for in this Agreement. In the event of any such action or attempted action, the Board of Directors shall have the right to elicit a resignation from the member or to expel the member from the Club.

The Board of Directors shall further have the right to elicit a resignation from a member or to expel a member for conduct otherwise at variance with this Agreement or with Club policies or its Rules and Regulations or for conduct injurious to the interests of the Club or for conduct, which has a material adverse affect on the members' use and quiet enjoyment of the Club.

Member Leasing Rights & Restrictions

Members shall have the right to lease or to grant use of their slip or winter land storage to other parties and to permit said parties to exercise their rights and privileges, excepting the right to attend meetings of the membership and the right to vote. Members leasing or granting use of their slip may not make use of any of the Club facilities during the leasing or granting period.

Requests to lease or grant use of a slip must be made in writing on a form provided by the Board of Directors. Said requests are subject to such terms and conditions as the Board may from time to time determine.

Members shall also have the right to determine the leasing or usage fee for their slip or winter land storage. Regardless of the amount of the fee set by the member, however, the Club shall be entitled to receive an amount equal to a reasonable percentage of the then published leasing rates for slips and winter land storage.

The Board of Directors shall determine said percentage from time to time.

Once completed, the form provided by the Board of Directors must be placed on file with the Club and all payments associated with arrangements for the leasing or right to use a member's slip or winter land storage must be made directly to the Club.

Membership Resignations & Expulsions

Members intending to submit their resignation from the Club ("Class I") and members tendering their resignation from the Club at the request of the Board of Directors ("Class II") must so advise the Board in writing on a form provided by the Board of Directors. In each instance, members shall have the right to establish the price at which their membership is offered for redemption.

Class I Resignations

The member shall retain all rights and privileges of membership and shall remain liable for all dues, fees, assessments and other Club charges accrued through the date upon which the membership either is redeemed or is retired at the option of the Board of Directors.

Regardless of when the membership is redeemed or retired, the member shall not be entitled to any prorated portion of his or her annual dues, fees, assessments or any other such prior obligations, which have been discharged.

At such time as the membership is redeemed, the Club shall have the right to deduct from the redemption price an amount equal to any outstanding indebtedness to the Club. The Club shall also be entitled to retain a reasonable percentage of the redemption price in accordance with a schedule to be determined from time to time by the Board of Directors.

Class II Resignations

Members resigning at the request of the Board of Directors shall be denied use of the Club facilities and of their slip and shall forfeit all membership rights and privileges as of the effective date of the resignation.

Such former members shall remain liable to the Club for any outstanding indebtedness accrued through the effective date of the resignation and shall not be entitled to any prorated portion of their dues, fees, assessments or any other prior obligations, which have been discharged. Until such time as the membership is redeemed, the Club shall have the right to lease the former member's slip and winter land storage and to retain the proceeds.

At such time as the membership is redeemed, the Club shall have the right to deduct from the redemption price an amount equal to any outstanding indebtedness to the Club as of the effective date of the resignation. The Club shall also be entitled to retain a reasonable percentage of the redemption price in accordance with a schedule to be determined from time to time by the Board of Directors.

Expulsions

Members who have been expelled from the Club shall be denied use of the Club facilities, including use of their slip, and shall forfeit all membership rights and privileges as of the effective date of the expulsion. Members who have been expelled from the Club shall also forfeit the right to determine the price at which their memberships are offered for redemption.

Members who have been expelled from the Club shall remain liable to the Club for any outstanding indebtedness accrued through the date of their expulsion and shall not be entitled to any prorated portion of their annual dues, fees, assessments or any such other prior obligations, which have been discharged.

At such time as the membership is redeemed, the Club shall have the right to deduct from the redemption price an amount equal to any outstanding indebtedness to the Club as of the effective date of the expulsion. The Club shall also be entitled to retain a reasonable percentage of the redemption price in accordance with a schedule to be determined from time to time by the Board of Directors.

Members who have been expelled from the Club shall further be obligated to pay and the Club shall be entitled to reimbursement for all costs associated with any legal actions the Club may elect to pursue in the service of protecting its interests and those of its members.

Member Promissory Note & Pledge of Membership Interest

No reference in this Agreement to the discharge of obligations or to the forfeiture of rights shall be construed as providing any relief of any obligations, which relate to the Member Promissory Note or to the Pledge of Membership Interest, if either or both of these documents have been executed by a member or former member and remain in force.

Membership Redemptions

Once the Board of Directors consents to a proposed resignation, elicits a voluntary resignation or expels a member, the membership will be placed on the "Memberships Pending Redemption" list. This list comprises the location and dimensions of all slips associated with a membership, which have become available for purchase.

The membership will first be offered to Club members for a period of 30 days from the date it is placed on the "Memberships Pending Redemption" list, after which the membership will be offered to the public at large.

Membership redemptions are unconditionally subject to the market demands for memberships in the Club. Consequently, the Board of Directors cannot and does not make any representations as to either the timing of the membership redemption or to the price at which the membership is redeemed.

Membership Transfers Upon Death

Members are entitled to bequeath their membership rights in the Club and a document for that purpose will be provided by the Club and maintained on file. In the event the beneficiary of said rights wishes to assume said rights, the beneficiary must so advise the Board of Directors in writing and on the form provided for that purpose.

In the event the beneficiary relinquishes his or her rights to assume the membership or no beneficiary is designated or no beneficiary rights have been established within three (3) years from the date of the member's death, the Club will arrange for the redemption of the membership.

Upon redemption of the membership, the Club will deduct from the proceeds any outstanding indebtedness to the Club, any legal fees associated with the redemption and a percentage of the redemption price in accordance with a schedule to be determined from time to time by the Board of Directors. The balance of the proceeds will be remitted to the member's estate.

The Marine Conservation Trust, Deepwater Inc. & The Newburyport Yacht Club

The Marine Conservation Trust currently owns the land and improvements upon which the Club facilities are located. The Club owns the slips, which have been assigned to Club members, the dockage associated with those slips and certain other operating assets. Deepwater owns the slips, which have not been assigned to Club members and the dockage associated with those slips.

In 2001, the Marine Conservation Trust leased the real property improvements as well as certain facilities to the Club pursuant to a 99-year lease ("the Club lease," "the lease") for an annual rental fee of one dollar (\$1.00). The lease is a so-called "triple net" lease, pursuant to which the Club is obligated to pay all real estate taxes, utilities, insurance and other costs, expenses and charges related to the use, occupation and ownership of the land and related improvements. The Club is further obligated to maintain all Club facilities in good clean order, repair and condition.

Deepwater is selling the docks and certain other marina assets to the Club under an installment sale plan of acquisition as applications for new memberships are approved. At the time the Club entered into the leasing agreement, based on the then prevailing per linear foot price of the slips, the total purchase price for the marina assets was \$6,426,000. If the purchase price is increased during the term of the installment sale plan, the Initial Membership Contributions due and payable to the Club upon the initial sale of a membership will be adjusted accordingly.

The Club is discharging the purchase price in the form of a promissory note, which is secured by a security interest in the marina assets and the assignment of the promissory notes and membership pledge agreements securing the payment of the Initial Membership Contributions by Club members. Deepwater has the right to enforce the pledge agreements against any individual purchasing an initial membership who fails to pay the Initial Membership Contribution to the Club. Such failure may result in the complete loss and forfeiture of the member's membership interest and the rights and privileges of membership and all sums previously paid by said member.

The Lease, the Installment Sale Agreement, the Club Promissory Note, the Assignment of Promissory Note and Pledge Agreement and all other ancillary agreements are referred to herein as the "underlying documents."

CURRENT MEMBER(S) RELEASE

The undersigned hereby acknowledges and agrees that he/she/ they is/are executing this document of his/her/their/our own free will and, further, that he/she/they:

- 1. Has/have carefully reviewed and agrees to abide by this Membership Agreement and all underlying documents, including but not limited to the Club Bylaws, its Rules & Regulations and any other policies promulgated by the Club’s Board of Directors and has had the opportunity to consult with legal counsel before signing this Agreement and any other membership documents;
- 2. Has/have had the opportunity to inspect the Club facilities;
- 3. Has/have not relied upon any representation or warranty, express or implied, regarding the terms, conditions, rights or obligations of membership or the conditions of the Club facilities or otherwise;
- 4. Has/have not relied on any agreements or understandings regarding the Club or membership therein except as expressly set forth in the membership documents;
- 5. Hereby release and forever discharge and covenant not to sue Marina Conservation Trust, its trustees and beneficiaries, Deepwater, Inc. d/b/a Boatworks Marina, its directors, officers, shareholders and employees or the Club for any matter or thing arising out of or resulting from the formation of the Club, the offering or refusal to offer or grant any membership, any terms, conditions, rights or obligations of membership or any other matter or thing related to the Club.

Slip Assignment: _____.

Date: _____

Name: _____
(Please Print)

Name: _____
(Please Print)

Signature: _____

Signature: _____

When dated and countersigned below, this document will take effect as an agreement between the Newburyport Yacht Club and the member(s) executing this release.

For the Newburyport Yacht Club:

Date: _____

Name & Title: _____
(Please Print)

Signature: _____