

1 DEFINITIONS

Where the following words appear in these Conditions, the Licence and the Company's Regulations they shall have these meanings:

Alongside Berth means a berth where a Vessel of appropriate draft may be secured, with access to the shore without the need for a dinghy or tender.

Berth means the space on water or land from time to time allocated to the Owner by the Company for the Vessel during the term of this Licence

Company shall mean [Kingfisher wharf], the Company or any of its agents to whom the application for berthing is made which may be one or more of its associated companies, concessionaires, tenants and assignees for the operation of the boat repair yard, brokerage or other harbour facility. **Harbour** shall include marina, mooring or any other facility for launching, navigating, mooring or berthing a vessel.

Length Overall (LOA) means the overall length of the space occupied by the Vessel including any fore and aft projections, temporary or permanent.

Licence shall mean the Licence signed by the parties including these Standard Terms and Conditions. **Owner** shall mean the person or company named on the Licence, any charterer, master, agent or other person for the time being in charge of the Vessel, excluding the Company.

Pontoon means a moored and decked floating structure providing landing or mooring facilities. **Premises** means all the land, adjacent water and buildings occupied by or under the control of the Company, including docks, slipways, pontoons, jetties, quays, piers, mudberths, sheds, lofts, workshops, hardstanding, roadways and carparks.

Regulations mean those regulations (if any) made by the Company as the same may be amended from time to time in accordance with clause 15, which the Company in its absolute discretion, considers necessary to enable the Company or those using the Premises to comply with applicable legal requirements or for the safety or security or good management of the Harbour or Premises.

Storage Ashore Accommodation means the land space temporarily allocated to the Owner from time to time by the Company for the storage ashore of the Vessel during the term of the Licence. **Vessel** shall include any form of craft, boat, ship, yacht, dinghy, multihull, or other marine structure which is in the care and control of the Owner.

2 THE LICENCE

2.1 The Berth at the marina or Premises shall be licensed for the period and at the Charges specified in the Licence.

2.2 This Licence shall not be automatically renewed but will end at the End Date specified in the Licence if not terminated sooner by the Company or by the Owner under the provisions of Clauses 8 or 10.

3 LIABILITY, INDEMNITY AND INSURANCE

3.1 The Company shall not be liable for any loss or damage caused by events or circumstances beyond its reasonable control (such as severe weather conditions, the actions of third parties not employed by it or any defect in a customer's or third party's property); this extends to loss or damage to Vessels, gear, equipment or other property left with it for work or storage, and harm to persons entering the Premises or the marina and/or using any facilities or equipment.

3.1.1 The Company shall take reasonable and proportionate steps having regard to the nature and scale of its business to maintain security at the Premises, and to maintain the facilities and equipment at the Premises and in the marina in reasonably good working order. But in the absence of any causative negligence or other breach of duty on the part of the Company, Vessels, gear, equipment and other property are left with the Company at the Owner's own risk and Owners should ensure that their own personal and property insurance adequately covers such risks.

3.1.2 The Company shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of any defect in the Vessel or property concerned unless it shall have been expressly engaged to do so by the Owner on commercial terms. Similarly the Company shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of an accident which has not been caused by the Company's negligence of some other breach of duty on its part. However the Company reserves the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of people, property or the environment. Where it does so it shall be entitled to charge the Owner concerned on a normal commercial charging basis and, where appropriate, to claim a salvage reward.

3.1.3 Owners may themselves be liable for any loss or damage caused by them, their crew or their Vessels and they shall be obliged to maintain adequate insurance including third party liability cover for not less than £2,000,000, and cover against wreck removal and salvage, and, where appropriate, Employers' Liability cover to at least the statutory minimum. The Owner shall be obliged to produce evidence to the Company of such insurance within 7 days of a request to do so.

3.1.4 The Owner shall, and shall procure that his crew, members of his family comply with all applicable laws when using the Company's marina and Premises.

4 PERSONAL NATURE OF THE LICENCE

4.1 This Licence is personal to the Owner and relates to the Vessel described in the Licence. It may not be transferred or assigned to a new Owner or to a different Vessel, either temporarily or permanently, without the express written consent of the Company and;

4.2 Within 7 days of any Licence for the sale, transfer or mortgage of a Vessel subject to this Licence the Owner shall notify the Company in writing of the name, address and telephone numbers of the Purchaser, Transferee or Mortgagee, as the case may be.

5 USE OF BERTH BY COMPANY WHEN VACANT.

5.1 The Company may have the use of the Berth whilst it is left vacant by the Owner.

6 TERMINATION

6.1 The Company shall have the right (without prejudice to any other rights in respect of breaches of the terms of this Licence by the Owner) to terminate this Licence in the following manner in the event of any breach by the Owner of this Licence;

6.1.1 Having regard to the nature and seriousness of the breach and the risk it poses for the financial or other security of the Company and/or of the Company's customers and if the breach is capable of remedy, the Company may serve notice on the Owner specifying the breach and requiring him to remedy the breach within a reasonable time specified by the Company. Where the breach is serious or poses an immediate risk or threat to the health, safety or welfare of any other person or property the time specified for remedy may be immediate or extremely short. If the Owner fails to effect the remedy within that time, or if the breach is not capable of remedy, the Company may serve notice on the Owner requiring him to remove the Vessel from the marina or Premises immediately.

6.1.2 If the Owner fails to remove the Vessel on termination of this Licence whether under this Condition or otherwise), the Company shall be entitled:

6.1.2.1 to charge the Owner at the Company's 24 hour rate for overnight visitors for each day between termination of this Licence and the actual date of removal of the Vessel from the marina and Premises; and/or

6.1.2.2 at the Owner's risk (save in respect of loss or damage directly caused by the Company's negligence or other breach of duty during such removal) to remove the Vessel from the marina and Premises and thereupon secure it elsewhere and charge the Owner with all costs reasonably arising out of such removal including alternative berthing fees.

6.1.3 Any notice of termination under this Licence shall, in the case of the Owner, be served personally on the Owner or sent by registered post or recorded delivery service to the Owner's last known address and in the case of the Company shall be served at its principal place of business or registered office.

6.1.4 The owner shall have the right to terminate the agreement by giving the company one calendar month notification of termination and the owner shall be liable for all mooring/storage charges up to the last day of the calendar month in which notification is received by the company.

7 RIGHTS OF SALE AND OF DETENTION

7.1 Where the Company accepts a Vessel, gear, equipment or other goods for repair, refit, maintenance or storage the Company does so subject to the provisions of the Torts (Interference with Goods) Act 1977. This Act confers a Right of Sale on the Company in circumstances where a customer fails to collect or accept re-delivery of the goods (which includes a Vessel and/or any other property). Such sale will not take place until the Company has given notice to the customer in accordance with the Act. For the purpose of the Act it is recorded that:

7.1.1 Goods for repair or other treatment are accepted by the Company on the basis that the customer is the owner of the goods or the owner's authorised agent and that he will take delivery or arrange collection when the repair or treatment has been carried out.

7.1.2 The Company's obligation as custodian of goods accepted for storage ends on its notice to the customer of termination of that obligation;

7.1.3 The place for delivery and collection of goods shall be at the Company's Premises unless agreed otherwise. Advice regarding the Act may be obtained from the Citizens Advice Bureau, Law Centre or any firm of Solicitors

8 HEALTH, SAFETY AND THE ENVIRONMENT

8.1 Attention is drawn to the Company's relevant Health, Safety and Environmental policy, as amended from time to time. The Company shall supply the Owner with a copy of the Policy current at the time of the Licence. Any amendments shall be displayed on the Company's public notice board or other prominent place at the Company's Premises and further copies shall be available on request. The Owner, his regular crew, members of his family and/or any person or company carrying out work on the Vessel, with the permission of the Company, must comply with the Company's Health, Safety and Environmental Policy.

8.2 The Owner, his crew, members of his family and any person carrying out work on the Vessel is responsible for reporting to the Company all accidents involving injury to any person or damage to any public or private property that occur in the marina or on the Premises as soon as possible after they occur.

8.3 No noisy, noxious or objectionable engines, radio, or other apparatus or machinery shall be operated within the Harbour or Premises so as to cause any nuisance or annoyance to any other users of the marina or Premises or to any person residing in the vicinity and the Owner undertakes for himself, his guests and all using the Vessel that they shall not behave in such a way as to cause any nuisance or annoyance to any other users of the marina or Premises or to any person residing in the vicinity. Halyards and other rigging shall be secured so as not to cause such nuisance or annoyance.

8.4 No refuse shall be thrown overboard or left on the pontoons, or car parks or on any other part of the Premises, or disposed of in any way other than in the receptacles provided by the Company or by removal from the Company's marina and Premises. The Company's further directions regarding waste management shall be posted on the Company's Public Notice Board or other prominent place and copies will be available from the Company on request.

8.5 The Owner shall, and shall procure that his crew, members of his family comply with all applicable laws when using the Company's marina and Premises.