

A. TERMS OF BUSINESS: BOATYARD SERVICES

1. PRELIMINARY PROVISIONS AND DEFINITIONS

1.1. These Terms of Business form an integral part of all quotations and contracts provided by the Company.

1.2. These Terms of Business apply to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.3. In these Terms of Business:

'Applicable Laws on Consumer Rights' means all applicable laws, rules, regulations, instruments and provisions in force from time to time relating to consumer protection, including but not limited to the Consumer Rights Act 2015.

'Company' means the party or parties undertaking the Work, as well as any authorised member, agent, employee or representative of the Company.

'Consumer' means a Customer who is considered a "consumer" under the Applicable Laws on Consumer Rights.

'Customer' means the party or parties with whom the Company agrees to perform the Work and shall include the legal owner of any relevant Vessel, any parent or associated company and/or firm, as well as any authorised member, agent, employee or representative of the Customer. Where the Vessel is under demise charter and the agreement is with the demise charterer, the Customer shall also include the demise charterer. In the event that the Company enters into an agreement with more than one party, the obligations of such other parties shall be joint and several, unless otherwise agreed in writing.

'Order' means the Customer's order for the Work, as set out in the Customer's order form, or the Customer's written acceptance of the Company's quotation, or overleaf, as the case may be.

'Parties' means the Company and the Customer; each a Party and collectively the Parties.

'Vessel' means any vessel or a floating craft of any nature (or part thereof), or any other comparable object such as a yacht, a lighter, a barge, a pontoon, a tug, a drilling-platform, a rig as well as any other object entrusted to the Company for the Work to be undertaken.

'Work' means the goods and services supplied to the Customer and/or work undertaken by the Company pursuant to these Terms of Business.

2. LIABILITY

2.1. The Company shall not be liable for any failure or delay in performing its obligations hereunder, or for any loss or damage, caused by or arising from events or circumstances beyond its reasonable control (which includes, without limitation, acts of God, wars (whether declared or not), riots, civil commotions, malicious damage, embargoes, compliance with any law or governmental order, rule, regulation or direction, breakdown of plant or machinery, fire, flood, accidents, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other Party), failure of a utility service or transport network, unusually severe weather conditions, default of suppliers or subcontractors or the actions of third parties not employed by the Parties).

2.2. The Company shall take reasonable steps to maintain security at its premises, and to maintain its facilities and equipment in reasonably good order and condition.

2.3. Notwithstanding Clause 2.2, the Vessel, and any other property of the Customer left at the Company's premises, is at the Customer's own risk.

2.4. The Company shall not be under any duty to salvage or preserve the Vessel from the consequences of: (a) any defect in the Vessel and/or (b) an accident which has not been caused by the Company. However, the Company reserves the right to salvage or preserve the Vessel, at its sole discretion, in appropriate circumstances and in particular where the safety of people, property or the environment is at risk.

2.5. The Customer shall effect and maintain, at no cost to the Company, liability insurance providing cover for any loss or damage for which the Customer may be liable under these Terms of Business (including third party liability cover and, where appropriate, employer's liability cover in respect of any of its employees).

2.6. The Company shall effect and maintain, at no cost to the Customer, liability insurance for such loss or damage for which the Company may be held liable under these Terms of Business.

2.7. Each Party shall produce copies of insurance policies as evidence of cover, immediately and (in any case within seven (7) days) upon request by the other Party.

2.8. Each Party accepts responsibility and liability for:

- death or personal injury caused by its negligence or the negligence of its employee's agents or sub-contractors;
- fraud or fraudulent misrepresentation; or any other reason for which it would be illegal for the Parties to exclude liability.

2.9. Subject to Clause 2.8 the Company shall under no circumstances whatsoever, be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with these Terms of Business.

2.10. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Terms of Business.

3. PRICES AND ESTIMATES

3.1. The price for the Work shall be the price set out in the Order, or if no price is quoted for the Work, the price will be determined based upon the labour and materials expended and services provided in accordance with the Company's usual tariff at the time when the Work was performed, as duly invoiced to the Customer (the "Price").

3.2. Unless otherwise agreed in writing, the Price will not include expenses incurred for pilotage, salvage, tugs, harbour dues and similar charges which shall be invoiced separately to the Customer.

3.3. The Company will exercise reasonable skill and judgment when giving an estimate or indication of Price. However, estimates are always subject to the accuracy of information provided by suppliers and by the Customer. Estimates are often based on a superficial examination and do not include the cost of any emergent work which may be necessary nor the cost of any extensions to the Work. The Company reserves its right to (a) increase the rates under its usual tariff (provided that such increase does not take place more than once in any twelve (12) months) and/or (b) subject to Clause 3.4, increase the Price for the Work.

3.4. The Company will inform the Customer of any proposed increase in the estimated Price, together with the reasons for such increase, and will proceed with the Work after having obtained the Customer's approval (such approval not to be unreasonably delayed or withheld). The Customer shall remain responsible for the cost of labour and materials already supplied or remaining to be supplied which are not affected by the proposed increase in the Price.

4. PAYMENT

4.1. Unless otherwise agreed between the Parties in writing, payment for all Work provided shall be due immediately upon receipt of the Company's invoice. Payment shall be deemed to have been

made when received by the Company in cash or cleared funds at the Company's nominated bank account. Time for payment is of the essence.

4.2. If the Customer fails to make any payment due to the Company by the due date for payment, the Company has the right to charge interest on the overdue amount at the rate of four percent (4%) above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

4.3. The Customer shall pay all amounts due under these Terms of Business in full without any setoff, counterclaim, deduction or withholding except as required or permitted by law. The Company may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer.

4.4. To the extent permitted by law, the Customer hereby grants to the Company a lien and a continuing security interest, and, where applicable, a maritime lien, over the Vessel as security for payment of the Price until full payment of the Price by the Customer, or until the Customer has given security to the Company in a form and substance acceptable to the Company (for example a letter of guarantee from a bank reasonably acceptable to the Company or lodgement of a cash deposit with a professional third party agent reasonably acceptable to the Company). The security provided shall be sufficient to cover the debt with interest and, where the debt is contested, a reasonable provision for the Company's prospective legal costs and expenses.

4.5. The Company shall be entitled to charge the Customer for storage and the provision of any ongoing services at the Company's normal daily rates until full payment (or provision of security) by the Customer and removal of the Vessel from the Company's premises. The Customer shall be entitled to remove the Vessel upon providing proper security.

5. DELAYS

5.1. Unless otherwise agreed in writing by the Parties, time estimates given for completion of the Work are given in good faith and without guarantee.

5.2. The Company shall not be liable for any failure or delay in the performance or completion of the Work, or for any such loss or damage resulting therefrom, unless the Company has expressly guaranteed completion by a specific date in writing, or the delay arises from its wilful acts or omissions or negligence.

6. THE VESSEL'S MOVEMENTS

6.1. The Company shall have the right to order such movements of the Vessel and such tests or trials it deems necessary in order to perform and determine the due completion of the Work and/or for reasons of safety, security or good management of the Company's business and premises.

6.2. The costs of such movements, trials and/or tests including the cost of any bunkers and/or consumables shall be borne by the Customer.

7. TITLE AND RISK

7.1. Risk in all goods, equipment and materials supplied by the Company to the Customer shall pass to the Customer at the time of supply to the Customer of such goods, equipment or materials or at the time when such goods, equipment or material are assigned or affixed to the Vessel, as the case may be.

7.2. Title to all goods, equipment and materials supplied by the Company to the Customer shall not pass to the Customer until the Company receives payment in full (in cash or cleared funds) for the Work.

8. GUARANTEE

8.1. The Company guarantees that, for a period of twelve (12) months from completion of the Work (the "**Warranty Period**"), the Work will be free of defects in material and workmanship and in conformity with the agreed specification. The Customer shall give notice in writing (as per Clause 15) to the Company of any defects in material or workmanship ("**Defective Work**") which may become apparent and shall provide the Company with sufficient evidence so as to establish the nature and extent of the Defective Work. This guarantee applies only to the Customer: a person who is not a Party to these Terms of Business shall not have any rights to enforce these Terms of Business.

8.2. On notification by the Customer of the Defective Work, the Company will be given a reasonable opportunity to inspect the Defective Work and if it is the Company's responsibility, the Company shall repair or re-perform, in whole or in part, at its discretion, the Defective Work. Delivery of repairs or re-performance under this guarantee will be made in accordance with these Terms of Business.

8.3. The Customer shall, immediately after the discovery of any Defective Work, take all appropriate steps to mitigate any loss or damage and to prevent any Defective Work becoming more serious.

8.4. The Company shall not be liable for any Defective Work if the defect arose as a result of: (a) the Customer's failure to follow the Company's oral or written instructions; (b) the Company following any drawing, design or specifications supplied by the Customer; (c) fair wear and tear, wilful damage, negligence or abnormal working conditions; and/or (d) changes made to ensure compliance with applicable statutory or regulatory standards.

8.5. Any remedial work which is put in hand by the Customer directly without first notifying the Company and allowing the Company a reasonable opportunity to inspect the Defective Work shall invalidate the guarantee provided under this Clause 8.

8.6. Where the Customer is not a Consumer:

8.6.1. these Terms of Business do not contain any express or implied term as to quality or fitness for any particular purpose, unless, prior to the Work being performed, the purpose has been clearly identified in writing to the Company and the Customer has stipulated that it is relying upon the Company's skill and judgment to ensure this purpose has been met; and

8.6.2. the Company accepts no liability to the Customer in respect of any loss of profit or turnover which the Customer or its customer or any other person may sustain in consequence of the failure of any faulty or unfit article supplied to the Customer by the Company.

8.7. The Company shall assign to the Customer any and all of its rights against the manufacturer or supplier of any particular article used in the Work or supplied to the Customer as part of the Work.

9. QUALITY STANDARDS

9.1. The Company will exercise reasonable care and skill in the performance of the Work in accordance with the provisions of these Terms of Business, the requirements of any relevant regulatory bodies and, in the absence of any other contractual term as to quality, to a satisfactory standard.

10. ACCESS TO PREMISES / WORK

- 10.1. No work or services shall be carried out by the Customer on the Vessel or the Company's premises without the Company's prior written consent except for minor running repairs or minor maintenance of a routine nature. The Company's consent may be revoked with immediate effect in the event of any breach of these Terms of Business by the Customer, in which case the Company shall be entitled to demand the immediate cessation of any work.
- 10.2. Only contractors appointed by the Yard Manager / Foreman are permitted to work on site, unless express permission is given by the Yard Manager. All contractors are required to report to the yard office on arrival and departure and must provide proof of third-party liability insurance to a minimum of £5,000,000.
- 10.3. The Customer is subject to the Company's health and safety, environmental and access policies and shall further be obliged to comply with all laws and regulations relating to environmental protection and safety.
- 10.4. The Customer is responsible for any damage or loss caused directly or indirectly from any breach of its obligations under these Terms of Business.
- 10.5. The Customer shall take all necessary precautions to avoid pollution of the environment and shall indemnify the Company for any loss or damage arising from any pollution of the environment.
- 10.6. Hazardous waste (oils, batteries, flares and fire extinguishers) must not be placed in bins or skips. Specific hazardous waste disposal can be arranged on request
- 10.7. All rubbish must be disposed of in the skips provided.
- 10.8. No welding, work with naked flames, or spray painting is permitted in the yard without express permission of the Yard Manager.
- 10.9. If electricity is required, owners need to supply their own metered leads.
- 10.10. No person is permitted to climb the mast or be hoisted aloft, whilst boats are ashore.
- 10.11. Under no circumstances may boat shores be moved or tampered with.
- 10.12. All boats must be well maintained and kept in good condition.
- 10.13. Engines must not be started whilst boats are ashore.
- 10.14. The Customer shall ensure that it does not cause any nuisance or annoyance to the Company, any other customer or person present or residing in the vicinity and does not interfere

with the Company's schedule for the Work and/or the good management of the Company's premises and business.

10.15. During performance of the Work by the Company (and/or any of the Company's sub-

10.16. contractors), the Customer shall not have access to the Vessel unless the Company's prior written consent has been obtained.

10.17. The Customer and any other person entering the Premises on his behalf, for whatever purpose and whether by invitation or otherwise do so at their own risk. All vehicles and their contents are left at the Customers' risk. No unaccompanied or unsupervised children are permitted on site.

10.18. It is the responsibility of the Customer to ensure his Vessel is in a seaworthy condition prior to launch. The Company takes no liability for damage caused by ingress of water or any consequential losses other than were caused by negligence on behalf of the Company.

11. GENERAL REGULATIONS

11.1. The Company reserves the right to introduce new Regulations on grounds of legal requirement or for the safety or security or good management of the Harbour or Premises, and to amend such regulations as from time to time shall be necessary. Such Regulations and any amendments to them shall become effective on being displayed on the Company's public notice board or other prominent place at the Company's Premises, and the Company shall have the same rights against the Customer for a breach of the Regulations as for a breach of the terms of this Licence.

12. ASSIGNMENT AND OTHER DEALINGS

12.1. The Company may at any time assign, transfer or deal in any other manner with all or any rights under these Terms of Business and may sub-contract or delegate in any manner any or all of its obligations under these Terms of Business to a third party.

12.2. The Customer shall not, without the prior written consent of the Company, assign, transfer, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Terms of Business.

13. CONSUMER RIGHTS

13.1. To the extent that these Terms of Business contradict with the Applicable Laws on Consumer Rights, the rights conferred on Consumers under the Applicable Laws on Consumer Rights remain unaffected.

Advice on whether a Customer is a Consumer or is otherwise protected by some or all of the Applicable Laws on Consumer Rights may be obtained from any local Trading Standards Office, the Citizens Advice Bureau, the Office of Fair Trading or any firm of solicitors practising in England and Wales.

14. THIRD PARTY RIGHTS

14.1. A person who is not a Party to these Terms of Business shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms of Business.

15. COMMUNICATION, NOTICES AND ADDRESS DETAILS

15.1. All communications and notices given under these Terms of Business shall be in writing. A notice shall be sufficiently served if given by effective means of communication, including but not limited to fax, email, registered or recorded mail or by personal service, to the Customer's last known address or to the Company's official email, trading address or registered office.

15.2. The Customer must supply to the Company in writing, details of the Customer's home address. This address must be a different address to the address of the Harbour. The Customer shall be obliged to produce evidence to the Company of such home address within 7 days of a request to do so.

15.3. The Customer must notify the Company in writing of the details of any change of names of the Vessel or change of address, email, or telephone number of the Customer.

16. SEVERANCE

16.1. If any provision of these Terms of Business is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed

deleted. Any modification to or deletion of a provision or part-provision under this Clause 16 shall not affect the validity and enforceability of the remaining provisions of these Terms of Business.

17. GOVERNING LAW AND JURISDICTION

17.1. These Terms of Business, as well as any contract(s) made subject to these Terms of Business, shall be governed by and construed in accordance with English law. All disputes arising out of or in connection with these Terms of Business shall be subject to the non-exclusive jurisdiction of the English courts.

17.2. Disputes arising out of or in connection with this Agreement, when they cannot be resolved by negotiation, may, with the written agreement of the Parties, first be submitted to mediation under British Marine's ("**BM**") Dispute Resolution Scheme. Details of the Scheme are available to current BM members on request from BM and/or online on BM's member website.

B. TERMS OF BUSINESS – BERTHING

DEFINITIONS

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

Berth means the space on water or land within the Marina Premises allocated to the Vessel by the Company from time to time during the duration of Licence.

Company means the Company as identified in the Licence, including its associated companies and any of its servants or agents.

Conditions means these standard terms and conditions.

Facility means the type of berthing, mooring and/or shore storage facility to be provided by the Company to the Owner in relation to the Vessel as set out in the Licence

Length Overall means the overall length of the Vessel, including any fore and aft projections, temporary or permanent.

Licence means the contract between the Company and the Owner for the provision of the Facility, which incorporates these Conditions.

Licence Fee means the fee payable by the Owner to the Company in consideration for the Company providing the Facility, as specified in the Licence.

Marina means the marina, yacht harbour, mooring or any other facility for launching, recovering, mooring or berthing vessels, which is owned and/or operated by the Company.

Marina Premises means the Marina and all the associated land and buildings occupied by or under the control of the Company, including docks, locks, bridges, slipways, pontoons, jetties, quays, piers, walkways, mud-berths, sheds, lofts, workshops, hardstanding, roadways and carparks.

Owner means the person or organisation identified in the Licence.

Regulations mean those regulations (if any) made by the Company as the same may be amended from time to time in accordance with Condition 11, which the Company in its absolute discretion, considers necessary to enable the Company or those using the Marina Premises to comply with applicable legal requirements or for the safety or security or good management of the Marina Premises.

Vessel means the vessel identified in the Licence.

1. THE LICENCE

1.1. In consideration for the Owner paying the Licence Fee, the Company agrees to provide to the Owner the Facility in the Marina Premises in relation to the Vessel for the duration of the Licence..

1.2. The Licence will start on the Start Date and will end on the End Date specified in the Licence, unless terminated sooner under the provisions of Conditions 14 or 15. The Licence will not be automatically renewed after the End Date.

1.3. The Licence is personal to the Owner and relates to the Vessel described in the Licence. The Owner may not transfer or assign the Licence to a third party. The Owner may not use the Berth for a vessel other than the Vessel, either temporarily or permanently, without the written consent of the Company

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

2. BERTH ALLOCATION

2.1. The physical layout of the Marina Premises and the operational requirements of the Company are such that the Company must retain absolute discretion as to the utilisation of space within the Marina Premises. Nothing in the Licence or these Conditions entitles the Owner to the exclusive use of any particular space within the Marina Premises. The benefit provided by the Company pursuant to the Licence is accordingly merely a licence to occupy whichever Berth may be from time to time allocated to the Vessel by the Company.

2.2. The Company is entitled to make use of the Berth whilst it is left vacant by the Owner.

3. RIGHTS OF SALE AND OF DETENTION

3.1. The occupation of the Berth by the Vessel is subject to the provisions of the Torts (Interference with Goods) Act 1977. This Act confers on the Company a right of sale in circumstances where the Owner fails to collect or accept re-delivery of the Vessel (and/or any other property left in the Marina Premises) following termination of the Licence. Such sale will not take place until the Company has given notice to the Owner in accordance with the Act. For the purpose of the Act it is recorded that:

3.1.1 The Licence is granted to the Owner by the Company on the basis that the Owner is the owner of the Vessel or the owner's authorised agent and that the Owner will take delivery or arrange collection of the Vessel (and/or any other property left in the Marina Premises) following termination of the Licence.

3.1.2 The Company's obligation as custodian of the Vessel (and/or any other property left in the Marina Premises) ends on its notice to the Owner of termination of that obligation;

3.1.3 The place for delivery and collection of the Vessel (and/or any other property left in the Marina Premises) shall be at the Marina Premises, unless agreed otherwise. Advice regarding the Act may be obtained from the Citizens Advice Bureau, Law Centre or any firm of solicitors

3.2. Maritime Law entitles the Company in certain other circumstances to bring an action against the Vessel to recover a debt or damages. Such action may involve the arrest of the Vessel through the Courts and its eventual sale by the Court. Sale of the Vessel may also occur through the ordinary enforcement of a judgment debt against the Owner.

3.3. The Company reserves a general right ("a general lien") to detain and hold onto the Vessel or other property pending payment by the Owner of any sums due to the Company. If the Licence is terminated or expires while the Company is exercising this right of detention it shall be entitled to charge the Owner at the Company's 24 hour rate for overnight visitors for each day between termination or expiry of the Licence and the actual date of payment (or provision of security) by the Owner and removal of the Vessel from the Marina Premises. The Owner shall at any time be entitled to remove the Vessel or other property upon providing proper security, for example a letter of guarantee from a bank or a cash deposit sufficient to cover the debt with interest, and where the debt is contested a reasonable provision for the Company's prospective legal costs.

4. USE OF BERTH BY COMPANY WHEN VACANT

4.1. The Company may have the use of the Berth whilst it is left vacant by the Customer.

5. CONDITION AND OPERATION OF VESSEL

5.1. The Owner must ensure that at all times the Vessel is maintained in a clean and tidy state and in a seaworthy or navigable condition (as appropriate).

- 5.2. It is the responsibility of the Owner to ensure the Vessel is in a seaworthy condition prior to launch. The Company takes no liability for damage caused by ingress of water or any consequential losses other than were caused by negligence on behalf of the Company.
- 5.3. If electricity is required, the Owner must supply their own lead. Electricity is charged at a fixed weekly / monthly rate for the duration of the stay.
- 5.4. The Owner must ensure that, while underway within the Marina, the Vessel is manoeuvred and navigated:
- 5.4.1. with reasonable skill and care;
 - 5.4.2. in accordance with any applicable speed limits and any other applicable laws or regulations; and
 - 5.4.3. in such a manner so as not to endanger or inconvenience any other vessels in the Marina.
- 5.5. The Owner must ensure that, while moored within the Marina, the Vessel is appropriately secured using such number of fenders and warps of sufficient size and strength and in such configuration as may be appropriate to the Vessel, the mooring and the anticipated weather conditions. Unless otherwise agreed by the Company, such fenders and warps shall be provided by the Owner.
- 5.6. Boats must be adequately covered, particularly in winter months. Owners will be charged if checks on boats are requested, or if covers need to be re-secured.

6. VESSEL MOVEMENTS

- 6.1. The Company reserves the right to move the Vessel and any associated gear and equipment at any time for reasons of safety, security or good management of the Marina Premises.
- 6.2. Where a specific date or tide range for launch of the Vessel has been agreed between the Owner and the Company at the time of slipping or lifting out (or arrival by land), the Company's published scale of charges for vessel movements will apply. Where the Owner requests a different date or tide range the Company reserves the right to charge the Owner for the cost of moving other vessels to gain access to the launch point and for any attendant expenses, such as crane hire. The Company will provide the Owner with an estimate of such costs and charges prior to incurring them.
- 6.3. When instructed by the Owner, boats will be launched and moored, if necessary, more than one abreast on the pontoons within the Elephant Boatyard Marina. Launch and haul out instructions may be made by telephone, email, or in writing completing a haul out form.

6.4. The company will endeavour to meet all launch and haul out requests but no guarantee can be given to meet such requests and no liability will be accepted in the event requests cannot be met.

7. STORAGE ASHORE

7.1. Storage ashore is subject to availability and will be charged at the published rate. Details of our rates can be found on our website www.elephantboatyard.com/boatyard

7.2. No boats are to be left ashore for a period of more than 12 months without going back into the water, unless there is ongoing work being undertaken by the yard team. If boats are left for a period longer than this, with no activity, the rate being charged will be increased to the equivalent of the Outer Pontoon rate. The yard also has the right to terminate the storage agreement.

7.3. Engines must not be started whilst boats are ashore.

7.4. Under no circumstances may boat shores be moved or tampered with.

8. LIABILITY AND INSURANCE

8.1. The Company will not be liable for any loss or damage of whatsoever nature caused by events or circumstances beyond its reasonable control (such as adverse weather conditions, the actions of third parties or any defect in the Owner's or any third party's property); this extends to loss or damage to the Vessel, its gear, equipment or other property whilst in the Marina Premises and to harm to persons entering the Marina Premises and/or using any of the Company's facilities or equipment therein.

8.2. The Company will take reasonable and proportionate steps (having regard to the nature and scale of the Marina Premises and the Company's business) to maintain security at the Marina Premises and to maintain the facilities and equipment at the Marina Premises in reasonable working order. In the absence of any negligence or other breach of duty on the part of the Company, however, the Vessel, its gear, equipment and other property remain at the Owner's own risk and the Owner should ensure that their own personal and property insurance adequately covers such risk.

8.3. Where access for vessels to and from the Marina is via a lock gate, swing or lift bridge or other restriction, the Company will not be liable for any loss or damage of whatsoever nature suffered by the Owner as a result of the lock gate, swing or lift bridge or other restriction being inoperative, except to the extent that such in operation may be caused by any negligence or other breach of duty on the part of the Company.

8.4. The Company will not be under any duty to salvage or preserve the Vessel or other property from the consequences of any defect in the Vessel or property concerned unless the Company has been expressly engaged to do so by the Owner on commercial terms. Similarly, the Company will not be under any duty to salvage or preserve the Vessel or other property from the consequences of an accident which has not been caused by negligence or other breach of duty on the part of the Company. Nevertheless, 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, the Company will be entitled to charge the Owner on a normal commercial charging basis and, where appropriate, to claim a salvage reward.

8.5. The Owner must, and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does, comply with all applicable laws when in the Marina Premises.

8.6. The Owner must maintain adequate insurance in relation to the Vessel, including third party liability cover for not less than £3,000,000, cover against wreck removal and salvage and, where appropriate, Employers' Liability cover to at least the statutory minimum. The Owner must produce evidence to the Company of such insurance within 7 days of a request to do so.

9. COMMERCIAL & RESIDENTIAL USE

9.1. The Owner must not (and must not allow anyone else to) use the Vessel for any commercial or residential purpose while in the Marina Premises without obtaining the Company's prior written consent, which may be withheld in the Company's absolute discretion or granted on such terms as the Company sees fit.

9.2. For the avoidance of doubt:

9.3. Use of the Vessel to provide overnight accommodation in exchange for payment or a reciprocal arrangement is deemed to be commercial use; and

9.4. the Vessel is deemed to be used for residential purposes if, amongst other things, the Owner (or anyone else) uses the Vessel as their principal or main place of residence; or

9.5. stays on board the Vessel for in excess of an average of three nights per week over a twelve-week period; or

9.6. uses the Company's offices at the Marina Premises as their mailing address.

10. STORAGE

10.1. The Owner must stow any dinghies, tenders or rafts aboard the Vessel unless the Company allocates a separate facility for them.

11. PARKING

11.1. Subject always to the availability of parking spaces, the Owner and their crew and guests may only park vehicles in the Marina Premises in accordance with the directions of the Company. The Owner must not (and must not allow anyone else to) use a vehicle parked in the Marina Premises for any commercial purpose or for overnight accommodation.

11.2. For long stay parking Owners should use the Bursledon Station Car Park.

11.3. All Vehicles are parked at the Owner's risk. Owners should be aware of tide movements as the yard can flood in certain conditions (spring tides, low air pressure). The Company cannot accept responsibility for any damaged caused to cars by flooding at high tide.

12. ACCESS TO & WORK ON THE VESSEL

12.1. The Owner must not (and must not allow anyone else to) undertake any work on the Vessel, its gear, equipment or other goods while on the Marina Premises without the Company's prior written consent, other than minor running repairs or minor maintenance of a routine nature carried out by the Owner, their regular crew or members of their family not causing any nuisance or annoyance to any other users of the Marina Premises or any other premises or any person residing in the vicinity, nor interfering with the Company's schedule of work, nor involving access to prohibited areas. The Company's consent will not be unreasonably withheld.

12.2. Where the Facility comprises or includes storage ashore, the Company may restrict the Owner's access to the Vessel and, where appropriate (having regard to the nature and scale of the Marina Premises and the Company's business), the Company may prohibit the Owner from accessing the Vessel while it is stored ashore.

13. REGULATIONS

13.1. The Owner must, and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does, observe the Regulations published from time to time by the Company, including Company's Health, Safety and Environmental policies.

13.2. The Company will supply the Owner with a copy of the Regulations current at the time of granting the Licence. The Company reserves the right to introduce new Regulations where required on legal grounds or for the safety or security or good management of the Marina Premises, and to amend such Regulations as from time to time may be necessary. Such Regulations and any amendments to them will become effective on being displayed on the Company's public notice board or other prominent place at the Marina Premises, and a breach of any of the Regulations will amount to a breach of these Conditions.

13.3. The Owner must, and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does, report to the Company all accidents involving injury to any person or damage to any public or private property that occur in the Marina Premises as soon as reasonably possible after they occur.

13.4. The Owner must, and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does, not operate any noisy, noxious or objectionable engine, radio, or other apparatus or machinery within the Marina Premises so as to cause any nuisance or annoyance to any other users of the Marina Premises or to any person residing in the vicinity. Halyards and other rigging must be secured so as not to cause such nuisance or annoyance.

13.5. The Owner must, and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does, not throw any refuse overboard or dispose of it anywhere in the Marine Premises, other than in the receptacles provided by the Company or by removal from the Marina Premises.

13.6. The Owner must provide and maintain at least one fire extinguisher, which is approved and manufactured to EN3 standards for portable fire extinguishers, and ensure it is fit for purpose for the Vessel and ready for immediate use in case of fire.

14. TERMINATION BY COMPANY

14.1. The Company has the right (without prejudice to any other rights in respect of breaches of the terms of the Licence by the Owner) to terminate the Licence in the following manner in the event of any breach by the Owner of any term of the Licence or these Conditions:

14.2. 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 them 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.

14.3. If having been served with notice under Condition 12.1.1 the Owner fails to effect a remedy within the specified period of time, or if the breach is not capable of remedy, the Company may serve notice on the Owner requiring them to remove the Vessel from the Marina Premises immediately.

14.4. If the Owner fails to remove the Vessel on termination of the Licence (whether under Condition 12.1 or otherwise), the Company will be entitled:

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

14.6. 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 Premises and thereupon secure it elsewhere and charge the Owner with all costs reasonably arising out of such removal including alternative berthing fees.

14.7. Any notice of termination served by the Company under this Condition may be served personally on the Owner, sent by registered post or recorded delivery service to the Owner's last known address or sent to the email address (if any) set out in the Licence.

14.8. The Licence will terminate immediately and without notice on the death of the Owner. If the Owner's representatives do not either enter into a new licence with the Company or remove the Vessel from the Marina Premises then Condition 14.2 will apply as if references to the "Owner" were references to the "Owner's representatives".

14.9. The Licence will terminate immediately and without notice on the disposal of the Vessel by the Owner.

15. TERMINATION BY OWNER

15.1. The Licence may be terminated on two months' written notice being given by the Owner to the Company. In this event the Company will be entitled to recalculate the Licence Fee using the rate or rates that would have been applicable to the actual period of the Licence instead of the annual rate; the amount so calculated not to exceed the annual rate originally agreed. If this recalculation results in a balance payable to the Company then the Owner must pay that balance before removing the Vessel from the Marina Premises. If there is a balance in favour of the Owner the Company will pay it to the Owner upon the departure of the Vessel from the Marina Premises

15.2. Any notice of termination served by the Owner under this Condition must be served at the Company's principal place of business or registered office or sent to the email address (if any) set out in the Licence.

16. ADDRESS DETAILS AND SUBSEQUENT CHANGE OF DETAILS

16.1. The Owner must supply to the Company details of the Owner's home address. This address must be a different address to the address of the Marina Premises. The Owner must produce evidence to the Company of such home address within 7 days of a request to do so.

16.2. The Owner must notify the Company in writing (which includes by email) of any change of name of the Vessel or change of address or telephone number of the Owner, within 7 days of such change taking place.

17. DATA PROTECTION

17.1. The Company is a data controller for the purposes of the EU General Data Protection Regulation and the UK Data Protection Act 2018. A copy of the Company's Privacy Policy is available from the Company on request.

18. LAW & JURISDICTION

18.1. The Licence, these Conditions and any non-contractual obligations arising out of, or in connection with, the Licence shall be governed by and construed in accordance with English Law.

18.2. Each of the parties irrevocably agrees that any and every dispute (and any non-contractual obligations, as aforesaid) arising out of or in connection with the Licence shall:

18.2.1 if one party acts as consumer (meaning a natural person acting for purposes outside of a trade, business or profession), be subject to the non-exclusive jurisdiction of the English courts; or

18.2.2 where no party acts as consumer, be subject to the exclusive jurisdiction of the English courts.

19. DISPUTE RESOLUTION SCHEME

The Yacht Harbour Association recommends that, before commencing court proceedings, the parties to a dispute arising out of or in connection with the Licence should endeavour to resolve their dispute by negotiation or, failing that, by mediation.