

Terms and conditions

1 Definitions and Interpretation

1.1 Definitions

1.1.1 Owner means any person, firm, company or other legal entity (other than the Company) who owns or has control of any Boat or Vehicle in a Marina.

1.1.2 Marina means all the land and adjacent water owned or controlled by the Company comprising any of its premises from time to time including (but not limited to) slipways, pontoons, quays, drystack, boatyards, car parks, roadways, footpaths and other premises.

1.1.3 Manager means a person who is responsible for the day-to-day administration of a Marina on behalf of the Company.

1.1.4 Berth means the water space or shore space from time to time allocated to the Owner by the Company for the storage of the Boat during the Term of any Licence Agreement.

1.1.5 Boat means any boat, vessel, craft or other marine structure (whether or not its principal propulsion shall be by wind or engine, and including its gear and equipment) which is owned or controlled by the Owner and which the Company has permitted the Owner to keep at a Marina.

1.1.6 Craft means any boat, vessel, craft or other marine structure (whether or not its principal propulsion shall be by wind or engine) other than a Boat.

1.1.7 Length Overall means the length overall of the Boat including davits, bowsprits, boarding ladders, sterndrives, tenders, outdrives, anchors, pulpits and pushpits and any other extensions fore and aft of the Boat.

1.1.8 Services means the services to be provided by the Company to the Owner as set out in the Licence Agreement.

1.1.9 Term means the continuous period of the Licence Agreement.

1.1.10 Company means Boatfolk Marinas Ltd, its successors and assigns, staff and agents, or any Boatfolk Marinas group company.

1.1.11 Charges means the fees payable by the Owner to the Company under a Licence Agreement and/or these Terms and Conditions.

1.1.12 Vehicle means any vehicle or trailer owned or controlled by the Owner other than a Boat.

1.1.13 Licence Agreement means any agreement (whether in writing or otherwise) made between the Company and an Owner under which the Company permits the Owner to keep a Boat at a Marina, either afloat or ashore.

1.2 Interpretations

1.2.1 All notices shall be in writing and shall be served by post or email, addressed to the Company at its registered office and to the Owner at his last known address or if a company at its registered office.

1.2.2 Any waiver by the Company of any breach of the Licence Agreement or these Terms and Conditions by the Owner shall not constitute a waiver of any other breach nor shall any delay or omission of the Company to exercise any rights arising from any breach by the Owner affect or impair the Company's rights in respect of such breach or any other breach of any kind.

1.2.3 No failure by the Company to exercise any power given to it hereunder or to insist upon strict compliance by the Owner with any obligation hereunder shall constitute any waiver of any of the Company's rights under this Agreement.

1.2.4 Words importing the masculine gender also include the neuter and feminine gender and words importing the singular number include also the plural number and where there are two or more parties or persons included in the term Owner, the undertakings expressed to be made by the Owner shall be deemed to be made by those parties or persons jointly and severally.

1.2.5 If the Company is unable to perform any of its obligations by reason of fire, explosion, riot, malicious damage, theft, storm, flood or any other act omission or state of affairs beyond its control, the Company shall be relieved of its

obligations under the Licence Agreement to the extent that the fulfilment of such obligations is prevented, frustrated, impeded or delayed as a consequence of any such event.

1.2.6 All headings are for identification only and shall not form any part of or affect the interpretation of any clause.

1.2.7 Time shall be of the essence in each and every provision of the Licence Agreement, whereby something is required to be done on or by a specified day or date or within a specified period of time.

1.2.8 These Terms and Conditions (or any substitution or amendment of them) shall apply at all times to any Licence Agreement. Even if the Owner has not signed the Licence Agreement the Owner shall be deemed to have accepted the terms of the Licence Agreement and these Terms and Conditions by keeping a Boat at a Marina.

1.2.9 The Licence Agreement and these Terms and Conditions are subject to and governed by the laws of England and Wales and any dispute arising from a Licence Agreement or these Terms and Conditions shall be submitted to the exclusive jurisdiction of the Courts of England and Wales.

2 Management

2.1 The Owner shall comply with all reasonable instructions given by the Company or a Manager in connection with all matters relating to the safe and efficient operation of a Marina.

2.2 The Owner shall provide the Manager with their current correspondence address, email and telephone contact details, and notify them promptly of any changes. This information will be used and retained by the Company in accordance with the General Data Protection Regulation 2016/679.

2.3 The Company and the Owner expressly agree that it is not the intention of the parties to create any relationship of Landlord and Tenant and that the Licence Agreement is personal to the Owner and may not be assigned or transferred to anyone else. The Owner shall not lend or seek to lend or transfer the Berth to any

other person. The Licence Agreement relates to the particular Boat described in the Licence Agreement, or to any replacement Boat which the Company has permitted the Owner to keep at a Marina. The Owner shall not himself place, nor encourage or permit any other person to place, a Craft other than the Boat in the Berth.

2.4 The Owner may only replace the Boat during the Term with another Boat after obtaining the Company's prior written approval, which will not be unreasonably withheld. The Company may vary the terms of the Licence Agreement (including the Berth and/or the Charges) to take account of any change in the Boat.

2.5 Any items left secured to Company property may have the locks cut and the item/s removed.

2.6 The Company expressly reserves the right to replace or vary these Terms and Conditions from time to time in order to promote the better administration of a Marina in the interests of users of the Marina as a whole or to comply with statutes, regulations or bye-laws. The Company shall give the Owner not less than thirty days prior written notice of any such replacement or variation.

2.7 The Owner shall remove their Boat and/or Vehicles from the Marina at the request of the Company if they fail to comply with these Terms and Conditions.

3 Berth Allocation and Boat Movements

3.1 The Owner acknowledges and agrees that the Company shall have the right without prior notice to require the Owner to move and re-berth the Boat or shall itself have the right to move and re-berth the Boat to any new location within the Marina if it is in the interests of the Company or the Owner or Marina users or visitors to do so.

3.2 Nothing shall entitle the Owner to exclusive use of any particular Berth.

3.3 The Owner shall notify the Manager prior to his departure from the Marina together with the anticipated time and date of return to enable the Manager to ensure that the Berth will be available to the Owner on his return to the Marina.

3.4 The Company shall have the absolute right to allow another Craft temporarily to occupy the Berth when it is not occupied by the Boat and the Company shall not be obliged to account to the Owner for any berthing fees received.

3.5 The Boat shall be stored in the Berth allocated by the Company from time to time and shall not be stored elsewhere in the Marina without the prior written agreement of the Company.

3.6 If an Owner returns to their Berth and finds another Craft in that Berth, the Owner must moor the Boat in the visitors' berth area and not in any numbered berth.

4 Safety

4.1 The Boat shall be berthed by the Owner in such a manner and in such location as the Company may require. No Boat shall be anchored in the Marina nor moored in such a way as to cause any obstruction to the Company or any other user of the Marina.

4.2 Boats shall only be moored to bollards and equipment designated for such purpose and in such a manner and within berths or such other position as the Company may reasonably require. Unless otherwise agreed all necessary warps and fenders shall be provided by the Owner and the Owner expressly undertakes and agrees to ensure that the Boat is properly and safely secured and attached to the pontoon at all times. In particular, it is the responsibility of the Owner to check the security of warps and fenders and to replace them when necessary.

4.3 No Boat shall be made fast to any other Boat or Craft within the Marina without the prior written consent of the Company and the owner or person in charge of the other Boat or Craft.

4.4 The Owner shall navigate and control the Boat at all times in a seamanlike manner so as not to cause wash and not to cause danger damage or inconvenience to any other person or boat. In particular, the Boat shall proceed at a speed which is safe in relation to prevailing conditions and shall at all times comply with a water speed limit of 5 knots. The Owner shall ensure that the Boat is not navigated in the

Marina by anyone incapable of properly navigating it or by any person who is under the influence of alcohol or drugs or otherwise intoxicated so as to render navigation unsafe.

4.5 The Owner is responsible for the safe operation of the Boat, and at no point should the Owner carry out actions that exceed his own competency. While in the Marina, Users must proceed and navigate with due care, at all times relying on good seamanship, paying attention to all navigational signs, signals and directions as authorised by the Manager.

4.6 The Owner at all times shall strictly observe and perform all statutes, rules, regulations and bye-laws affecting the Marina.

4.7 The precincts of the Marina are clearly shown on the plan which may be examined at the main office and all adjoining land and water owned by the Company is out of bounds. No water skiing, speedboat racing, hydroplaning, swimming, diving, snorkelling, angling or fishing is allowed in the Marina.

4.8 The Company shall have the right to board, enter (by force if necessary), lift ashore, slip, move, moor, carry out work on or re-berth any Boat, Vehicle, gear, equipment or other property of the Owner at the Marina at any time for reasons of safety, security or emergency or to prevent or stop a nuisance or criminal offence, or carry out any emergency work on the Boat without prior notice to the Owner if in the Company's opinion such work be necessary for the safety of the Boat or the safety and or convenience of other users or visitors of the Marina. The Owner shall pay the Company's reasonable charges for such work.

4.9 No dangerous, inflammable, poisonous or noxious substances, spirits, oil or petrol or other inflammable fluid shall be brought into the Marina or stored on the Boat except in properly secured containers expressly designed to contain such substances against leakage.

4.10 The Owner is responsible for conducting regular inspections of any gas appliances on the Boat. The Company recommends that an annual inspection is carried out by a qualified gas engineer.

4.11 When at the Marina, the Owner shall refuel the Boat only at the designated fuelling berth and from fuel purchased from the Company. Where fuel is required to be transferred from portable containers the Owner shall ensure that all portable fuel tanks and spare fuel containers are clearly marked with the fuel type, and the Company reserves the right to refuse the use of any container deemed unfit for that purpose.

4.12 The Owner shall take all necessary and reasonable precautions against the outbreak of fire in or upon the Boat and must observe all statutory and local regulations relative to fire prevention. The Owner shall provide at least one fire extinguisher in or upon the Boat suitable for the type of engines, fuel and equipment relating to the Boat and of a kind which shall be approved by the appropriate Government Department. Such extinguisher shall at all times be kept instantly ready for use and in good and efficient working order.

4.13 No parts of the Boat or other equipment, dinghies, gear, fittings, supplies, stores or similar items shall be stored or left upon the pontoons, jetties, car parks or otherwise within the Marina without the prior written consent of the Company which consent may be granted or refused by the Company in its absolute discretion.

4.14 The hardstanding area occupied by the Boat must be kept clean and tidy and at the end of the storage period returned to its original condition. Any damage caused, staining from oil, antifouling paint and any other substance must be removed. The Company reserves the right to clean any area not left in its original condition and to charge the Owner for this service.

4.15 The Owner, the Owner's crew, members of the Owner's family and any person using the Boat is responsible for reporting to the Company all accidents involving injury to any person or damage to any public or private property that occurs in the Marina as soon as possible, and in any event within hours of such accident or damage has occurred.

5 Keys

5.1 The Owner shall deposit keys with the Manager giving full access to the interior and lockers of the Boat, including engine keys. These keys may be used by the Company to enter or to move a Boat if requested by the Owner or if the Company believes that it is necessary or desirable so to do.

6 Environment

6.1 The Owner shall ensure that the Boat is properly maintained so as to minimise emissions and the risk of fuel or oil leakages.

6.2 The Owner will use suitable absorbents, rather than chemicals or detergents to deal with on board fuel or oil spillages

6.3 The Owner shall ensure that, if the Boat is powered by an outboard engine(s), the Boat is equipped with a supply of absorbing material for use in the event of a spillage on board. If the boat is powered by an inboard engine, the Owner shall ensure that the Boat is fitted with internal arrangements such as drip trays, bulkheads, bilge water filters or such other equipment effective in preventing the escape of oil from the bilges into the sea. The Owner must not pump oil or oily bilge water from a Boat into the water of the Marina.

6.4 The Owner undertakes and agrees that no refuse shall be thrown overboard or left on the pontoon, jetties or any other parts of the Marina and shall be disposed of only in receptacles provided by the Company or removed entirely from the Marina. The Owner further undertakes and agrees that oil, petrol, tar, paint, sewage and any other similar noxious substances shall be discharged exclusively into receptacles specifically provided to receive such waste materials. In no circumstances shall such waste materials be discharged into the water or elsewhere in the Marina.

6.5 It is strongly recommended that antifouling is not rubbed down whilst the Boat is in the water.

7 Animals

7.1 Animals may only be brought into the Marina provided that they are at all times kept under the close control of the Owner and do not cause inconvenience in the form of noise, fouling of pontoons or the communal areas or otherwise. Dogs must be kept on leads at all times.

7.2 Animals should not be left unattended in Vehicles at the Marina. The Company reserves the right to gain entry into any Vehicle if animals are found contained therein and to call the RSPCA or other relevant authority if an animal is in distress, out of control or posing a threat at the Marina.

8 Vehicles and Parking

8.1 All Vehicles are parked at the Owner's risk. Parked Vehicles must be identified with the appropriate sticker and reference as issued by the Marina. Vehicles must be parked within the designated areas and not so as to cause an obstruction.

8.2 The Owner shall procure that in no circumstances shall any Vehicle be parked so as to obstruct the pontoons, roadways, slipways, craneage platforms or any other working areas within the Marina. The Company reserves the right to remove any Vehicle by towing or otherwise if the parking of the Vehicle may interfere for any reason with the commercial activities or the convenience of users of the Marina or may have an adverse safety or environmental effect. The Company reserves the right to charge the Owner for the reasonable costs incurred in moving or storing any Vehicle.

8.3 The Owner shall ensure that any Vehicle parked is registered with the DVLA, has valid road tax, has a current MOT certificate (if required), is insured, roadworthy and complies with all relevant laws. The Company reserves the right not to accept, or to remove and dispose of a Vehicle if the Company has reasonable grounds to believe the Vehicle does not comply with these requirements. The Owner shall indemnify the Company against any reasonable costs incurred in the removal and disposal of the Vehicle.

8.4 No tent, caravan (motor or trailer) or other Vehicle adapted or designed for sleeping may remain in any part of the Marina without the prior written consent of the Company.

8.5 The Company reserves the right, in the event that the alarm installed to any Vehicle parked within the Marina activates and remains sounding without the Owner deactivating it within a period of 2 hours, to engage an engineer to deactivate the alarm. In such case the Owner shall indemnify the Company from the costs incurred and acknowledges that the deactivation of the alarm is undertaken exclusively at the Owner's risk. The Company will endeavour, but shall not be obliged, to contact the Owner to warn that action is to be taken to deactivate any alarm.

9 Living Onboard

9.1 The Owner must not use or permit any Boat to be used at the Marina for residential purposes unless they have entered into a separate liveaboard agreement with the Company in respect of the Boat. The Company is under no obligation to enter into a liveaboard agreement with the Owner. For the avoidance of doubt, a Boat shall be regarded as being used for residential purposes if, amongst other things, the Owner or anyone else with the Owner's knowledge:

- i. uses the Boat as his principal or main place of residence; or
- ii. uses the Company's offices at the Marina as his mailing address.

10 Name and Condition of Boats

10.1 The Boat and any dinghies, tenders, trailers and cradles shall be clearly marked with the name of the Boat. Any other equipment which is not stored securely in the Boat shall also be clearly marked with the name of the Boat.

10.2 The Owner shall maintain the Boat in good, clean and seaworthy condition and ensure that the Boat is able to proceed under its own power at all times. The Boat shall leave the Marina at least twice during the Term.

10.3 The Company may require the Owner to obtain a report prepared by a qualified professional surveyor (at the Owner's expense) to satisfy the Company that the Boat is capable of self-propelled movement, is structurally sound and poses no threat to safety or safe navigation within the Marina. Any such request will be in writing and will give reasonable notice to the Owner. If the Owner then fails to obtain such a report the Company may engage a professional surveyor itself to prepare the report, and any costs incurred in this will be recharged to the Owner.

11 Insurance

11.1 The Owner must comprehensively insure his Boat and Vehicles against loss or damage however caused, which insurance must include cover for liability to third parties (including public liability and where relevant employer's liability) in respect of himself and each of his Vehicles or Boats, his crew for the time being, and his agents, servants, visitors, guests and sub-contractors in a sum of not less than £3,000,000 in respect of each accident or damage and must maintain in respect of each vessel adequate removal of wreck insurance.

11.2 The Owner shall not cancel surrender or materially alter the terms of such insurance policy without the prior written consent of the Company which consent will not be unreasonably withheld.

11.3 The Owner will furnish the Company with legible copies of the current insurance certificate and policy of insurance, on completing an application form or as soon as practical after completion of an application form but prior to the Boat being berthed at the Marina, and no less than once a year thereafter.

12 Sale of Boats

12.1 The Owner shall be permitted to arrange a private sale of not more than one Boat (such Boat usually being berthed at the Marina) during any one or more periods of six consecutive months of the Licence Agreement granted to him. A private sale shall be deemed to be any sale that is not made in the course of a trade or

business. In the event of such a private sale the Owner must be present at all times during which the Boat is to be viewed, and the Owner is not permitted to display a "For Sale" notice on the Boat in or on the Marina.

12.2 Upon sale or loss of possession of the Boat, the Owner must immediately notify the Company in writing of the name and address of the buyer or new Owner of the Boat. Until details of the new Owner are provided, the Owner is responsible for all charges relating to the Boat.

12.3 The Owner has no rights to transfer the Berth occupied by the Boat to the new owner without written consent of the Company.

13 Commercial Activities

13.1 Except with the Company's written consent (which may be withheld at its sole discretion), no part of the Marina or any Boat or Vehicle kept in or on the Marina may be used by the Owner for any commercial purpose, including hiring, embarkation or disembarkation of charter parties, sale or demonstration of sale or hire of the Boat provided that the occasional use of the Boat by a personal friend of the Owner's on payment to the Owner of a contribution towards the actual running costs of the said Boat shall not be deemed a commercial purpose. The Owner must upon request by the Company supply to it full details in writing of all such use under the proviso to this condition.

13.2 At no time should a Boat be hired out or rented to third parties for accommodation purposes without the Company's prior written consent, which can be withdrawn at any time at its absolute discretion, or granted on such terms as it shall see fit.

13.2.1 Any accommodation booking agents, whether peer-to-peer, online or otherwise, must be full members of British Marine (www.britishmarine.co.uk).

13.2.2 Personal accident cover for guests must be provided by the booking agent.

13.2.3 The Company must be notified by the booking agent of all bookings in advance.

13.2.4 Accommodation bookings cannot exceed 28 nights in each year, and a maximum of 3 consecutive nights per booking

14 Work on Boats

14.1 The Owner must ensure that any work carried out to a Boat in the Marina is executed in a safe, workmanlike and tidy manner and does not cause a nuisance or annoyance to others, or damage to any boat, pontoons or Marina equipment. Tools and equipment must not be placed or left on any part of the Marina. The Owner must not spill liquids on or into the Marina. Waste materials must be removed by the Owner after completing work on a Boat. Where appropriate, the Company will charge the Owner for removing any tools, equipment or waste materials and for making good any damage to the Marina or boats or vehicles in the Marina.

14.2 The Owner shall not carry out any work to the Boat, gear or equipment whilst in or on the Marina without the prior written consent of the Company (which shall not be unreasonably withheld) other than minor running repairs or minor maintenance of a routine nature.

14.3 The Owner shall ensure that he, his servants, agents or subcontractors complies at all times with the Company's current Boatyard Guidelines (which are available on request from the Company) when using the Marina or carrying out any works to the Boat.

14.4 All contractors must report to the Marina office, sign and adhere to the relevant Marina's Contractors' Protocol (details of which are available from the Company upon request), and provide an up to date insurance certificate, specific to the work being undertaken, which must include Public Liability to the value of no less than £5,000,000.

14.5 Neither the Owner nor his agent shall be permitted to construct or complete the construction of any boat within the Marina without the prior written consent of the Company which consent may be granted or refused by the Company in its absolute discretion.

14.6 Professional divers engaged for any purpose within the Marina must comply with the Diving at Work Regulations 1997 and must be authorised by the local Harbour Authority.

15 Nuisance

15.1 The Owner shall not do or cause, suffer or permit to be done at the Marina any act or thing which does or may cause a nuisance, annoyance, damage or inconvenience to the Company, other users of the Marina or residents living near to the Marina.

15.2 The Owner shall not cause (or permit to be caused) any obstruction on any of the access roads, pontoons, passageways, car parks or boat parks of the Marina.

15.3 The Owner shall not operate or permit to be operated within the Marina any engine generator other machinery radio or any apparatus so as to cause any nuisance annoyance or inconvenience to other users of the Marina or any person residing in the vicinity of the Marina.

15.4 The Owner further undertakes and agrees for himself his family and his visitors using the Boat and Marina facilities that they shall behave in a considerate manner and in such a way as to cause no nuisance annoyance or inconvenience to any other users of the Marina. Drugs and excessive alcohol consumption are strictly prohibited in the Marina. If the Owner, his agents, servants, guests, visitors and/or subcontractors are found to be in possession of, or in the Company's reasonable opinion considered to be under the influence of, drugs, excessive alcohol or otherwise intoxicated, such person will be asked to leave the Marina immediately, and the Company may terminate the Licence Agreement in accordance with clause 19.

15.5 The Owner shall ensure that at all times halyards flags banners and other items attached to the Boat shall be secured so as not to cause any noise, nuisance, annoyance or inconvenience to other Marina users or local residents.

15.6 The Owner shall not erect any washing line on the Boat or within the Marina or allow any washing to be displayed on the exterior of the Boat.

16 Supply of Utilities and Services

16.1 Drinking water is supplied to the pontoons at stand pipe taps. Owners must provide their own hose. Water to the pontoons may be turned off from about the end of November until about the end of February.

16.2 Electricity (where applicable) is provided subject to the following terms and conditions:

16.2.1 Either a 16, 32 or 63-Amp 240V metered supply is available to each berth subject to a charge for units used. An additional standing charge may be applicable. Meters will be read monthly and invoices issued on a quarterly basis. Low value invoices may be amalgamated and issued annually.

16.2.2 Alternatively, a pre-paid electricity meter will be provided and managed by a third party. The Company will accept no liability if the Owner's credit runs out.

16.2.3 The Company cannot guarantee continuous supply as power cuts and breakdowns are not within its control.

16.2.4 If any invoiced sum remains outstanding after 7 days, electrical supply may be withheld.

16.2.5 The Owner is responsible for all electricity charges owed.

16.3 The Company cannot guarantee continuous WiFi coverage.

17 Yard storage, lifting and other services

17.1 The terms and conditions in this paragraph, together with the Company's standard Boat Care/Marine Power terms and conditions (which are available from the Company upon request), apply to the lifting and storage ashore of Boats at the Marina.

17.2 Payment of yard services must be made in full at the time of booking or a minimum of 3 days prior to the initial service. Any additional

services are to be paid prior to relaunch. The Company reserves the right to cancel any unpaid service.

17.3 Owners must ensure that all sails, awnings and spray hoods are removed prior to lift out.

17.4 Once a Boat is ashore the boat stands, cradle arms or boat supports must not be tampered with in any way. These can only be altered by Company staff.

17.5 Excessively fouled Boats may be subject to additional charges.

17.6 Altered lift/launch dates are subject to availability. Should the Owner fail to arrive on 'owner present lifts' the lift may be re-booked (subject to availability) and additional charges may apply.

17.7 Any hazardous waste resulting from work on any Boat, gear, equipment or other goods whilst on Marina premises must be disposed of in a safe and secure manner in accordance with the Company's COSHH policies.

17.8 The Owner must ensure that the Boat is watertight prior to launch.

17.9 Owners of non-production or light displacement Boats or Boats with underwater appendages must declare to the Company all necessary information which is specific to their Boat when requesting lift and storage ashore.

17.10 Cradles, stands and supports will be provided by the Company. Cradles supplied by the Owner may not be used without the Company's prior written permission.

17.11 Owners are required to comply at all times with the Company's Boatyard Guidelines.

18 Payments and Power of Sale

18.1 All invoices issued by the Company must be paid in full within 7 days of receipt (unless stated otherwise).

18.2 All invoices issued by the Company are subject to the addition of Value Added Tax or such other tax required to be paid by law at the rate for the time being in force.

18.3 Charges are based on the recorded Boat length overall. Any changes or corrections of the Boat length must be notified to the Marina office and additional Charges may be made. The Company reserves the right to measure all Boats to verify length overall.

18.4 The Charges due under the Licence Agreement are payable irrespective of whether the Berth is occupied or not. No refunds will be made by the Company to the Owner for any period during the Licence Agreement where the Berth is not occupied.

18.5 The Owner, when permanently removing a Boat from the Marina, shall ensure that any and all invoices are paid in full. If the Owner fails to pay any sum due to the Company within the specified time limit, then without prejudice to any other right or remedy it may have, the Company may:

18.5.1 Suspend provision of Services to the Owner;

18.5.2 Charge the Owner interest calculated at the rate of eight per cent (8%) per week or part of a week at for which there is any sum due but not paid from the Owner to the Company as well as after as before judgment;

18.5.3 Allocate any payment made by the Owner as the Company sees fit;

18.5.4 Exercise a general lien (i.e. the right to take possession of and prevent the Owner from gaining access to, using or moving a Boat and/or other property) over any Boat, Vehicle or other property of the Owner within the Marina until such time as any sums due to the Company (including interest and the Company's costs in enforcing the general lien and obtaining from the Owner payment of any sum due to the Company under the Licence Agreement), are paid;

18.5.5 Subject to clause 18.7 retain possession of any Boat, Vehicle or other property of the Owner pending payment of all sums due to the Company, including any interest that may be due on late payments;

18.5.6 Sell the Boat, Vehicle or other property of the Owner. All Boats, Vehicles and any other property of the Owner left at the Marina are

subject to the Torts (Interference with Goods) Act 1977 which confers on the Company a right of sale of such property. Such sale will not take place until the Company has given written notice to the Owner in accordance with that Act;

18.5.7 Arrest a Boat through the Admiralty Court to recover a debt or damages. Any costs involved in any legal action will be recovered from the Owner.

18.6 Notwithstanding any other provision in these terms, the Owner irrevocably appoints the Company as his agent and attorney for the sale and disposal of the Boat and/or any other property belonging to the Owner, his servants or agents, visitors, guests and sub-contractors which is left at the Marina without the Company's consent (including following termination of the Licence Agreement) so long as any money is due from the Owner to the Company, irrespective of whether such money relates to the Boat and/or property, and the Company shall be entitled to charge and apply all usual commissions and expenses incurred by the Company or any third party in connection with such sale or disposal.

18.7 The Owner shall at any time be entitled to remove the Boat, Vehicle 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 (including interest and any costs incurred and/or likely to be incurred by the Company in enforcing the general lien and obtaining from the Owner payment of any sum due to the Company under the Licence Agreement) and, where the debt is contested, a reasonable provision for the Company's actual or prospective legal costs.

18.8 The Owner may opt to pay annual licence fees by monthly instalments, for the duration of the Licence Agreement. The Owner shall not be invoiced for the payments and shall be responsible for ensuring payment of each instalment on the first day of each month. Failure to pay an instalment by the due date may result in the total outstanding amount becoming due. Payment by instalments shall not absolve the Occupier from liability for all charges incurred during the Licence Agreement.

19 Termination of Licence Agreement

19.1 The Licence Agreement shall not be automatically renewed, but will terminate at the conclusion of the Term unless terminated earlier by the Company under the provisions of this clause.

19.2 The Company may terminate the Licence Agreement (without prejudice to any other rights it may have in respect of breaches by the Owner of the terms of the Licence Agreement and/or the Marina rules and regulations) in the following manner in the event of any breach by the Owner of any of the terms of the Licence Agreement:

19.2.1 If the breach is one that 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. If the breach is serious, or in the opinion of the Company or a Manager poses an immediate risk or threat to the health, safety or welfare of any person or property, the time specified for remedy may be immediate or extremely short.

19.2.2 If the Owner fails to remedy the breach within the specified time, or if the breach is not capable of remedy, the Company may serve notice on the Owner terminating the Licence Agreement immediately.

19.3 The Company may terminate the Licence Agreement immediately if the Owner sells or otherwise disposes of the Boat.

19.4 The Company reserves the right to terminate the Licence Agreement with immediate effect if the Owner, their guests and/or any other persons using the Boat cause unreasonable interference, nuisance or annoyance with the proper and safe operation of the Marina or use intimidating behaviour or language toward anyone using the Marina.

19.5 The Company has the right to terminate the Licence Agreement by giving written notice to the Owner if at any time the Marina is so damaged, impeded or interfered with by force majeure (as defined below) as to render it unlikely that the Company will be able to continue to provide a berth or mooring in

accordance with the Licence Agreement. For the purposes of this clause, force majeure means any event or circumstance (whether arising from natural causes, human agency or otherwise) beyond the control of the Company including but not limited to) weather conditions, riots, civil commotion, fire or war.

19.6 In the event of termination by the Company in accordance with clause 1 above, the Company shall refund to the Owner part of the Licence Fee in proportion to the unexpired period of the Licence Agreement.

19.7 The Owner may terminate the Licence Agreement at any time by serving written notice on the Company.

19.8 Upon termination of the Licence Agreement the Owner shall remove the Boat and any other property belonging to him from the Marina within fourteen days. If the Owner fails to remove the Boat and/or such property by that date the Company may (at the Owner's risk, save in respect of loss or damage caused by an act or omission of the Company or its agents) remove the Boat and property from the Marina and locate it elsewhere and/or may exercise its right of sale pursuant to the to the Torts (Interference with Goods) Act 1977 after giving written notice to the Owner. The Owner shall pay any storage removal and all other charges reasonably incurred by the Company in relation to the storage, removal and/or disposal of the Boat and any such property, including alternative berthing fees and legal costs.

19.9 If the Owner fails to remove any Boat from the Marina following the termination of the Licence Agreement, the Company will charge the Owner at the Company's prevailing daily berthing rate for any period during which the Owner leaves the Boat at the Marina.

19.10 Save where the Licence Agreement has been terminated by the Company under clause 19.1 above, refunds of any sums paid by the Owner under the Licence Agreement will only be considered in exceptional and unforeseen personal circumstances.

20 Right to Take Photographs and Video Footage

20.1 The Company may from time to time take photography or video that captures scenes on the Marina for promotional purposes. If Owners or users of the Marina have objections to either themselves or their Boats or Craft being photographed, they should make their objections known to the photographer or the Marina office and the Company will take reasonable steps to avoid their inclusion in any photographing or filming. However, the Company cannot guarantee that they will not be included on an incidental basis.

20.2 The Company operates CCTV Surveillance Cameras in the Marina for security and safety purposes in accordance with the CCTV Code of Practice and the General Data Protection Regulation 2016/679.

20.3 The flying of drones or other unmanned aircraft in or over any part of the Marina is strictly forbidden without the express prior written permission of the Company.

20.4 The Owner must notify the Company in writing, and obtain the written permission of the Company (which the Company may reasonably refuse), prior to installing or using any CCTV equipment on the Boat at the Marina. Any CCTV system used or operated by the Owner on their Boat must not capture any images of people outside the boundaries of the Owner's Boat.

21 Limitation of Liability and Indemnity

21.1 The Owner agrees to indemnify the Company against (i.e. pay for) any loss, damage or costs incurred by, and all claims or proceedings instituted against, the Company or its servants or agents which may be caused by the Boat or any Vehicle or by the Owner, the Owner's servants, agents, crew, guests, or sub-contractors except to the extent that such loss, damage, costs, claims or proceedings may be caused by an act or omission of the Company or those for whom the Company is responsible. The Owner further agrees to indemnify the Company against any and all reasonable costs of enforcing its rights under these Terms and Conditions, including (but not limited to) the cost

of letters and telephone calls and costs (including legal costs) payable to third parties.

21.2 Notwithstanding anything to the contrary in the Licence Agreement the Company shall not be liable to the Owner or any third party by reason of any representation or implied warranty condition or other term or any duty at common law or under any express term of the Licence Agreement for any consequential loss or claim (whether for loss of profit enjoyment or use of the Boat or otherwise whether occasioned by negligence of the Company or its employees, agents, sub-contractors or otherwise) arising out of, or in connection with any act or omission of the Company relating to the provision of the Services and/or the use of the Marina or its facilities, including but not limited to the boatyard, drystack, pontoons, slipways, refuelling pontoons and car parks.

21.3 All persons using any part of the Marina or facilities provided thereon for whatever purpose and whether by invitation or otherwise do so at their own risk and the Company shall not be liable for any loss or damage occasioned thereby (save in the case of death or personal injury caused by or resulting from any negligent act or omission of the Company or those for whom it is responsible).

21.4 The Company shall not be liable for the loss, theft or any other damage of whatsoever nature caused to any Boat or Vehicle or other property (whether insured or not) belonging to the Owner or others claiming through him except to the extent that such loss, theft, or damage may be caused by an act or omission of the Company, its employees or agents. Owners are advised to remove all valuables from the Marina.

21.5 Where access to and from the Marina is via a lock gate, swing or lift bridge or other restriction, the Company shall not be liable for loss, damage or costs 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 inoperation may be caused by the act or omission of the Company or those for whom it is responsible.

21.6 No warranty or representation is expressed or implied by the Company of the suitability of



Boatfolk Marinas Limited
Deacons House, Bridge Road, Bursledon,
Southampton, Hampshire SO31 8AZ

the Berth for the Boat or of any berth structure gear or other facility provided under the Terms of the Licence Agreement by the Company.

21.7 The Company shall not be liable for any loss or damage caused by any event or circumstance beyond its reasonable control (such as extreme weather conditions, the actions of third parties not employed by it or any defect in any part of a customer or of any Craft).

21.8 The Company shall take all reasonable steps to maintain security at the Marina, and to maintain the facilities at the Marina in reasonably good working order. Subject to this, and in the absence of negligence or breach of duty on the part of the Company, Boats, Vehicles, gear, equipment or other property is left at the Marina at the Owner's own risk.

21.9 The Company shall not be under any duty to salvage or preserve an Owner's Boat or other property arising from any defect in the Boat or property concerned unless it has been expressly engaged to do so by the Owner on commercial terms. The Company shall further not be under any duty to salvage or preserve an Owner's Boat or other property from the consequences of an accident for which the Company is not responsible. 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.

21.10 If the Owner requests the Company to launch the Boat in the Owner's absence it is the Owner's responsibility to ensure that the Boat is watertight and all hull openings inspected and closed prior to the planned date of launch. The Company will not accept any liability for the watertight integrity or otherwise of the Boat upon launch.

© Boatfolk Marinas Limited
October 2022

02380 178680
info@boatfolk.co.uk
boatfolk.co.uk
Registered in England No. 2746437
VAT No. 216 6221 34