

HAMBLEDEN MARINA TERMS & CONDITIONS

THE CONDITIONS

1. Definitions and interpretation

The following definitions and rules of interpretation apply in these Terms and Conditions.

1.1. Definitions

Berth: means the space within the Marina Premises that is allocated to a Vessel by the Company from time to time during the duration of the Licence and includes a storage space on land.

Business Day: means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Commissioner: any person, including an Owner or a Marina User, who has entered into a Contract with the Company to provide Maintenance Services to a Watercraft.

Company: means Hambleden Marina Ltd, incorporated and registered in England and Wales with company number 08288083, whose registered office is at The Stables, Chestnut Farm, Cuxham, Watlington, Oxfordshire OX49 5ND.
Email: hmm.peter@gmail.com

Consumer: an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession; as so defined in section 2(3) of the Consumer Rights Act 2015 and section 4 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Contract: the agreement entered into between a Marina User and the Company for the grant of a Licence or the provision of Maintenance Services and/or other services, subject to these Terms and Conditions.

Crane: the Tadano RTF40-3 all-terrain crane or any successor appliance used by the Company for the craning of Watercraft at the Marina Premises.

Craning Period: the period(s) of the year in which the Company undertakes the majority of its craning activities, broadly corresponding with the start and end of the Winter Season. The dates of upcoming Craning Periods can be obtained from the Company upon request and are otherwise confirmed in letters issued to Owners during January and September or October each year.

Facility: means the Berth, mooring or small boat storage and any ancillary facilities to be provided by the Company to an Owner in relation to a Vessel in accordance with these Hambleden Marina Terms and Conditions and as set out in a Licence.

Invoice: the document provided to an Owner in conjunction with a Licence and which sets out the details of the Facility, the Licence Fee and payment instructions in respect of the Licence Fee.

Island Mooring: a Berth located adjacent to the island within the Marina Premises which may or may not be floating and which is accessible from the mainland only by water.

Licence: means the Licence granted to an Owner for (i) an annual Mainland Mooring or Island Mooring and storage ashore during the Winter Season (where applicable); (ii) winter storage ashore or in the water; or (iii) small boat storage at the Marina Premises, in accordance with these Terms and Conditions.

Licence Application: the form signed by an Owner and returned to the Company, wherein he requests the Company to provide the Facility in respect of a Vessel and in which he acknowledges his understanding and acceptance of these Terms and 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 Invoice.

Mainland Mooring: a Berth adjacent to the mainland within the Marina Premises which may comprise a floating pontoon and which is accessible by land.

Maintenance Services: means services of repair, cleaning or maintenance to a Watercraft and any other services intended to prepare a Watercraft for winter (which may include, without limitation, the decommissioning of engines, water systems and the charging of batteries).

Marina Manager: the member of Marina Personnel with management and oversight responsibilities for the day to day running of the Marina Premises.

Marina Personnel: means any person employed or engaged by the Company to support the day to day running of the Marina Premises, which may include a subcontractor or agent.

Marina Premises: means the marina located at Mill End, Henley on Thames, Oxfordshire RG9 3AY and all associated land, waterways, buildings and structures (whether temporary or permanent) occupied by or under the control of the Company, including the marina basin, mill stream and all backwaters, bridges, slipways, pontoons, jetties, walkways, workshops, areas of hard standing, roadways, car parks and islands, or any part thereof as the context may require.

Marina User: any person, including an Owner, his invited guests and the person in charge of any Watercraft, who has lawful cause to be at the Marina Premises in order to use the facilities or to receive services provided by the Company.

Owner: means the person identified in a Licence Application or a charterer, master, agent, or other person (other than the Company) for the time being lawfully in charge of a Vessel.

River Authority: the Environment Agency or other statutory or public body from time to time responsible for the management of the non-tidal River Thames, including the management and enforcement of boat registration and safety requirements.

Red Boards: means the boards displayed by the River Authority from time to time at lock sites along the non-tidal River Thames which are red in colour and display the warning "CAUTION STRONG STREAM" or words to the same effect. When Red Boards are displayed on lock gates, the River Authority advises users of all boats not to navigate that stretch of the River Thames as the strong flows make navigation difficult and dangerous.

Vessel: means the Watercraft identified in a Licence Application and any schedule attached thereto.

Watercraft: means any cruiser, narrowboat, widebeam, barge, open powered boat or RIB, rowing boat, canoe, kayak, paddleboard or other small boat stored at or visiting the Marina Premises from time to time and includes a Vessel.

Winter Season: the period of approximately 5 months from late October to late March in any given year.

Yellow Boards: means the boards displayed by the River Authority from time to time at lock sites along the non-tidal River Thames which are yellow in colour and display the warning "CAUTION STREAM INCREASING" or "CAUTION STREAM DECREASING" or words to the same effect. When Yellow Boards are displayed on lock gates, the River Authority advises users of all unpowered boats not to navigate that stretch of the River Thames and, in the case of users of powered boats, to find a safe mooring where the stream is increasing and to navigate with caution where the stream is decreasing.

1.2. Interpretation

- 1.2.1. In these Terms and Conditions a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.2.3. Unless the context otherwise requires, a reference to one gender shall include a reference to any other gender.
- 1.2.4. A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made under that legislation or legislative provision.
- 1.2.5. A reference to **writing** or **written** includes email but not fax.
- 1.2.6. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.2.7. Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Rights of Consumers

- 2.1. Where a Marina User has entered into the Contract as a Consumer, he has certain legal rights under consumer law.

Right to cancel

- 2.2. Except where the Contract was entered into in person within the marina office, the Marina User has a legal right to change his mind and cancel the Contract without liability. This right may be exercised at any time within the period of 14 days beginning on the day after he receives a copy of the Licence signed by the Company, or for any product or service not supplied under a Licence, from the day after the Company confirms it has accepted the Marina User's order for the product or service.
- 2.3. The Marina User's right under clause 2.1 cannot be exercised where:
- 2.3.1. the Contract is for a service and that service has already been completed;
 - 2.3.2. the Contract is for a product which is made or customised to the Marina User's specifications; and
 - 2.3.3. the Contract includes the supply of a product (such as antifreeze or blacking) which has been applied or mixed inseparably with other items after delivery.

Summary of Consumer's key legal rights

- 2.4. If the Marina User purchases **services** from the Company, for example Maintenance Services, the Consumer Rights Act 2015 provides that:
- 2.4.1. the Marina User can request the Company to repeat or fix the service if it has not been carried out with reasonable care and skill, or claim some money back if it cannot be fixed;
 - 2.4.2. if a price has not been agreed upfront, the charges applied by the Company must be reasonable; and
 - 2.4.3. if no time for provision of the service has been agreed upfront, the service must be carried out within a reasonable time.
- 2.5. If the Marina User purchases **goods** from the Company, for example parts or materials for a Watercraft, the Consumer Rights Act 2015 provides that the goods must be as described, fit for purpose and of satisfactory quality. During the expected lifespan of the product the Marina User's legal rights entitle him to the following:
- 2.5.1. Up to 30 days: if the goods are faulty, a refund.
 - 2.5.2. Up to six months: if the goods cannot be repaired or replaced, a full refund in most cases.
 - 2.5.3. Beyond six months: in the event a defect becomes apparent after six months, it is for the Marina User to prove that the goods were faulty at the time of delivery, in which case he is entitled to a repair, replacement or a partial refund where this is not possible, taking account of fair use after the first six months. If the goods do not last a reasonable length of time, the Marina User may be entitled to bring a claim for a partial refund.
 - 2.5.4. Under the law of England and Wales, any claim for breach of contract is subject to a limitation period of six years from the date of the breach of contract.

3. No commercial activities, signs or advertising

- 3.1. No person shall carry on any business or commercial activity on their own account within the Marina Premises at any time, except with the prior written consent of the Company. For the purposes of the Contract, commercial activity includes the use of or making available any Watercraft for ferrying, charters, cruises, rent or hire for any purpose and in return for consideration of any kind, which includes the benefit of any reciprocal arrangement.
- 3.2. The display of any sign, banner, poster, flag, advert or advertising hoarding, political or religious slogan or any article containing language or imagery which in the Company's reasonable opinion may be liable to cause offence, is strictly prohibited within the Marina Premises, including onboard any Watercraft. The Company may request the removal of any such article and reserves the right to effect its removal without notice and without liability to the owner and to report any illegal item or material to the relevant authorities.
- 3.3. Without prejudice to clause 3.2, the Company may at its sole discretion permit the display of nautical, national or regional flags and temporary greetings banners for birthdays and other special occasions onboard Watercraft within the Marina Premises.

4. Children and pets

- 4.1. Children are welcome at Hambleden Marina but must at all times be accompanied by an adult and wear a suitable lifejacket or buoyancy aid.
- 4.2. It is prohibited to bring onto the Marina Premises any animal other than an assistance dog or a domestic pet. For the purposes of this condition 4.2 the term 'domestic pet' excludes any livestock, fowl and any species or breed of animal which it is illegal for a person in England to own, or the keeping of which requires a licence under the Dangerous Wild Animals Act 1976.

- 4.3. Dogs must be kept under control at all times within the Marina Premises and must not be left unattended, including inside any vehicle, except where they are securely tethered close to a Watercraft on which the person in charge of the dog is present.
- 4.4. The walking or exercising of dogs within the Marina Premises may only take place where such activity is incidental to a Marina User's presence at the Marina Premises for purposes related to his or his guests' use of a Watercraft in accordance with these Terms and Conditions. Any such activity must be undertaken so as not to cause undue nuisance, disturbance or annoyance to other users of the Marina Premises or to Marina Personnel.
- 4.5. The Marina User must promptly retrieve and appropriately dispose of any fouling of the Marina Premises caused by a dog or any other animal under his control.
- 4.6. The Company may require the keeper of any animal which shows aggression toward any person or other animal within the Marina Premises to immediately remove his animal from the Marina Premises and may report any incident or attack to the relevant authorities.
- 4.7. The bathing, washing and swimming of dogs is strictly prohibited in any watercourse within the Marina Premises.
- 4.8. Children and animals being carried aboard Watercraft within the Marina Premises must be sufficiently restrained to prevent them from entering the water and children must wear a lifejacket or buoyancy aid at all times.

5. Parking, vehicle use and security

- 5.1. Any person who drives or has charge of any motor vehicle within the Marina Premises must hold a full and valid driving licence for the relevant category of vehicle and must be insured to do so.
- 5.2. All vehicles parked and/or driven within the Marina Premises must be roadworthy, have a valid MOT (if applicable) and remain taxed and insured at all times.
- 5.3. The breaking, repair, maintenance, modification and washing of motor vehicles is strictly prohibited within the Marina Premises, with the exception of emergency repairs, which must be effected in such a way as to minimise any disruption caused to the operation of the Marina Premises and any Marina User.
- 5.4. The parking of vehicles and trailers within the Marina Premises is only permitted for the Marina User and his invited guests whilst they remain onsite or are cruising onboard a Watercraft.
- 5.5. Marina Users must make all reasonable efforts to park any vehicle under their control on tarmac or gravel surfaces within the Marina Premises and must avoid parking on grassed areas wherever possible.
- 5.6. No vehicle is to be parked at any time:
 - 5.6.2. within 10 metres of the Crane;
 - 5.6.3. within 5 metres of any slipway, except whilst a Watercraft is being loaded onto or unloaded from the vehicle or a trailer attached to it and only then until such loading or unloading is complete;
 - 5.6.4. in any way which blocks or obstructs the entrance to the Marina Premises or any roadway, bridge, doorway or emergency exit within it, or access to any adjacent premises;
 - 5.6.5. in a way which prevents access to or blocks in any trailer;
 - 5.6.6. within 2 metres of the edge of any waterway;
 - 5.6.7. in any area blocked with cones or subject to a "No Parking" sign or in which the Company or a member of Company Personnel has instructed the person in charge of the vehicle not to park.
- 5.7. Access to the Marina Premises is limited during Craning Periods and should only be attempted where absolutely necessary. The Marina User must at all times stay clear of the Crane whilst it is in use and must not drive, walk or pilot any Watercraft within 20 metres of the Crane or underneath the boom whilst the craning of any Watercraft is taking place or about to take place.
- 5.8. The Company will take reasonable and proportionate measures (having regard to the nature and scale of the Marina Premises and the Company's business) to maintain security at the Marina Premises. However, in the absence of any negligence or other breach of duty on the part of the Company, any vehicles or trailers remain at the owner's risk whilst within the Marina Premises.
- 5.9. The Company has installed CCTV cameras within the Marina Premises for the purposes of preventing and detecting crime and to protect the safety of Marina Users and Marina Personnel. The Marina User acknowledges that he and his guests may be recorded on CCTV when they are within the Marina Premises. Recorded footage will be stored securely by the Company and deleted periodically. The Company will not use its CCTV cameras for any other purpose and will not share footage with any third

party, except where it is required to do so by law, in order to comply with a court order, or following a request from a law enforcement agency for the purposes of an investigation.

- 5.10. As part of its security measures, the Company has installed electronic entry code mechanisms on the main entrance gate to the Marina Premises, the security barrier on the marina bridge and the toilet block. The code(s) for these mechanisms are available from the marina office. Any Marina User who is provided with the code(s) must not disclose them to any person other than another Marina User.

6. Recreation and camping

- 6.1. Caravans, motorhomes and any other vehicle or trailer which has been converted for the purpose of providing a place in which to live or sleep are not permitted within the Marina Premises. In the case of self-propelled vehicles, exception may be made at the Company's absolute discretion where such vehicle is a Marina User's day-to-day means of transport and he confirms that it will not be used as accommodation or be parked at the Marina Premises for longer than 72 hours.
- 6.2. Fishing, swimming, bathing, diving, water-skiing, the racing of Watercraft and the use of jet skis, hydroflight equipment, model boats, model aircraft and drones are strictly prohibited within the Marina Premises.
- 6.3. No tent, gazebo or marquee of any kind must be pitched anywhere within the Marina Premises except with the prior written consent of the Company.
- 6.4. Barbeques, campfires and firepits are not permitted anywhere within the Marina Premises, including onboard any Watercraft.
- 6.5. Parties, meetings and other events comprising a gathering of more than twelve people are not permitted anywhere within the Marina Premises, including onboard any Watercraft, except with the written consent of the Company.
- 6.6. Picnics may be taken within the Marina Premises where such activity is incidental to the use by a Marina User or his invited guests of a Watercraft in accordance with these Terms and Conditions.

7. Behaviour

- 7.1. Marina Users and their invited guests must act lawfully at all times within the Marina Premises.
- 7.2. The Company will not tolerate any threatening, violent or abusive behaviour by any Marina User or any of his guests. For the avoidance of doubt, such behaviour includes verbal abuse, whether or not involving the use of discriminatory language, and the harassment of others, either verbally, in writing or online. The Company reserves the right to ask any person exhibiting such behaviour to leave the Marina Premises immediately and may report any such incident to the relevant authorities.
- 7.3. The following items are strictly prohibited within the Marina Premises:
 - 7.3.1. any controlled drug in circumstances where its possession or use would be illegal under the Misuse of Drugs Act 1971;
 - 7.3.2. any firearm, ammunition, explosive device or material, projectile, harpoon or bladed article of any kind, except for any tool or implement which is of a kind customarily used in the repair or maintenance of Watercraft; and
 - 7.3.3. any firework or other pyrotechnic device, except for marine flares.
- 7.4. Marina Users must ensure that any implement or flare permitted under clause 7.3.2 or 7.3.3 is stored safely and securely at all times when not in use, for example inside a locked vehicle or a secure compartment onboard a Watercraft. Flares must not be discharged within the Marina Premises and must be removed from the Marina Premises on or by their expiry date.
- 7.5. Marina Users must not operate any noisy, noxious or objectionable engine, generator, radio, sound system, speakers or other apparatus or machinery within the Marina Premises so as to cause nuisance or annoyance to any other Marina User or to any person residing in the vicinity.
- 7.6. Marina Users must not interfere with any chocks, blocks, supports or scaffolds supporting or attached to any Watercraft whilst it is stored ashore on the Marina Premises.
- 7.7. The baiting, capture, chasing, coursing, killing or trapping of any animal, bird or fish is strictly prohibited within the Marina Premises.
- 7.8. Marina Users must not attempt knowingly to climb, break through or otherwise cross any boundary or perimeter of the Marina Premises onto neighbouring land or any prohibited area, which for the avoidance of doubt and subject to clause 7.9 includes the island within the Marina Premises.
- 7.9. Access to the island within the Marina Premises is strictly prohibited except for the purpose of accessing a Watercraft moored at an Island Berth, or to seek refuge in an emergency.

8. Fire safety

- 8.1. A Marina User must immediately alert a member of Marina Personnel and, where appropriate, contact the emergency services if he knows or suspects that an unplanned or uncontrolled fire has taken hold or is at risk of taking hold anywhere within the Marina Premises, including onboard a Watercraft.
- 8.2. In the event of fire a Marina User may use the fire extinguishers and other firefighting equipment positioned around the Marina Premises by the Company, but only where he considers it is safe and appropriate for him to do so, acting reasonably and taking account of all the circumstances and any instructions and safety notices affixed to the equipment. If in any doubt as to the correct use of such equipment, the Marina User should refrain from using it and immediately seek assistance from Marina Personnel.
- 8.3. Firefighting equipment provided by the Company must not be used for any purpose other than to prevent or extinguish fire, nor in any scenario in which the equipment is not designed to be used, taking account of any specifications, instructions and warnings affixed to the equipment.
- 8.4. A Marina User must report any missing or defective item of firefighting equipment within the Marina Premises to a member of Marina Personnel as soon as he becomes aware of it.
- 8.5. The refuelling of any vehicle or Watercraft from fuel cans or by any other means is strictly prohibited within the Marina Premises, except with the express permission of (and in accordance with any instructions and advice given by) a member of Marina Personnel.

9. Movement of Watercraft

- 9.1. No Watercraft when entering, leaving or manoeuvring within the Marina Premises shall be navigated at such a speed or in such a manner as to endanger or inconvenience other Watercraft in the marina or any person(s) thereon, including through the generation of unduly large bow waves or wakes.
- 9.2. No Watercraft shall be manoeuvred or navigated within the Marina Premises by any person other than its owner, his invited guests or Marina Personnel, except with the prior written agreement of the Company.
- 9.3. No Watercraft shall be moved or navigated within the Marina Premises by any person where it would be dangerous or illegal for him to do so, whether by reason of intoxication (due to alcohol or drugs) or otherwise.
- 9.4. No Watercraft shall be moved or navigated on any waterway within the Marina Premises at any time when the River Authority's website indicates that Red Boards are in operation on the stretch of the River Thames from Hambleden Lock to Hurley Lock, except in the following circumstances:
 - 9.4.1. by a member of Marina Personnel;
 - 9.4.2. by a Marina User with the permission of the Marina Manager;
 - 9.4.3. by a Marina User where he is returning a Watercraft to the Marina Premises in order to safely moor or berth the Watercraft.
- 9.5. No unpowered Watercraft shall be moved or navigated on any waterway within the Marina Premises at any time when the River Authority's website indicates that Yellow Boards are in operation on the stretch of the River Thames from Hambleden Lock to Hurley Lock, except in the following circumstances:
 - 9.5.1. by a member of Marina Personnel;
 - 9.5.2. by a Marina User with the permission of the Marina Manager;
 - 9.5.3. by a Marina User where he is returning the unpowered Watercraft to the Marina Premises in order to safely moor or berth the unpowered Watercraft or to bring it ashore.
- 9.6. The Marina User shall report to the Company any accident or incident occurring at any time within the Marina Premises which results in injury to any person or the loss of or damage to any public or private property as soon as reasonably possible after its occurrence.

10. Supply and use of water

- 10.1. A Marina User may use any of the hose points located around the Marina Premises throughout the year, unless directed not to do so either by signage or by Marina Personnel.
- 10.2. Where a Marina User uses a hose point, he must replace any frost protection covers immediately after use. The Marina User shall be liable for the replacement cost of any frost cover which he misplaces and for the full cost of works needed to repair any damage caused to the hose point and any ancillary pipework and infrastructure as a result of his failure to comply with this clause 10.2.
- 10.3. The washing of any Watercraft within the Marina Premises must only be undertaken at such time and in such manner as not to cause undue nuisance, disturbance or annoyance to other users of the Marina Premises or to Marina Personnel.
- 10.4. In order to increase the safety of drinking water onboard all Watercraft, the filling of any onboard water tank must only be undertaken using a clean, food-grade hose. In line with industry best practice, the Company

strongly recommends that a separate hose is used for all other purposes such as the washing of a Watercraft's exterior surfaces. Any hose provided by the Company must not be used for the filling of onboard water tanks or any drinking water receptacle.

- 10.5. A Marina User will not incur any additional charges for his use of water within the Marina Premises where such use is ancillary to the ordinary enjoyment, cleaning and maintenance of a Watercraft. The Company may request a Marina User to cease any activity which in its reasonable opinion falls outside of such use.
- 10.6. Marina Users must act at all times in accordance with the terms of any ban or restriction on the use of hoses, sprinklers and other devices as may be imposed by the Company's water provider from time to time. The Company may place notices around the Marina Premises in the event of such ban or restriction, but it is the Marina User's responsibility to ensure his compliance.
- 10.7. The Marina User shall use reasonable endeavours not to leave any tap or hose running unnecessarily, including when it is not in use and must report any leak to a member of the Marina Personnel promptly.

11. Waste disposal and bathroom facilities

- 11.1. Litter, refuse, sewage, oil and any other waste material must not be discharged or thrown overboard from any Watercraft or abandoned on any part of the Marina Premises. All waste must be disposed of by placement in the appropriately marked receptacles provided by the Company, or by removal from the Marina Premises by the Marina User.
- 11.2. Portable toilets must only be emptied into the Elsan disposal points provided by the Company and these shall be used for this purpose only.
- 11.3. No paint, chemical, solvent or liquid fuel shall be poured or placed into any watercourse, drain or gully within the Marina Premises.
- 11.4. The Marina User agrees to dispose of all waste materials in accordance with local and statutory regulations, and to make appropriate use of any recycling receptacles provided by the Company.
- 11.5. The safe and legal disposal of gas canisters and used or expired flares is the sole responsibility of the Marina User. Under no circumstance shall these items be placed, stored or discarded anywhere within the Marina Premises.
- 11.6. Any waste disposal or recycling facilities provided by the Company shall be used by the Marina User solely for the disposal and recycling of waste generated incidentally to his use of the Marina Premises in accordance with these Terms and Conditions.
- 11.7. Any item of waste too large for the facilities provided by the Company must be removed from the Marina Premises by the Marina User and disposed of elsewhere.
- 11.8. The toilet block within the Marina Premises must not be used for anything other than its intended purposes and must be left in a safe and hygienic state after use. The washing of paintbrushes, rollers and any other equipment used in the painting, treating or application of a protective coating to any part of a Watercraft is strictly prohibited within the toilet block, including in any sink or shower.
- 11.9. The washing of dogs is prohibited within the toilet block, including in any shower.
- 11.10. The Marina User shall ensure that the door to the toilet block locks shut after use and shall report any material fault, problem or inappropriate use of the toilet block to Marina Personnel upon first becoming aware of it.

12. Use of the slipway

- 12.1. The slipway must not be used for any purpose other than the slipping, launching or retrieval of:
 - 12.1.1. dinghies, canoes and any other small boats provided by the Company for the exclusive use of Marina Users who have been granted a Licence in respect of an Island Berth or any other mooring not directly accessible from the mainland (**Small Craft**); or
 - 12.1.2. any privately owned dinghy, canoe, small boat or paddle board by a Marina User who has the benefit of a Licence for small boat storage at the Marina Premises or where such vessel is a tender to a Watercraft berthed in the Marina Premises (and any person accompanying him).
- 12.2. Vehicles, trailers and any launching trolley which cannot safely be manhandled by a Marina User are strictly prohibited on the slipway.
- 12.3. Any person using the slipway must wear a lifejacket or buoyancy aid at all times.
- 12.4. The slipway must not be used at any time when the movement of unpowered Watercraft is prohibited in accordance with clause 9.5 or in extreme weather conditions, except with the permission of the Marina Manager.

13. Liability

- 13.1. The Marina User shall indemnify the Company against all loss, damage, costs, claims or proceedings incurred by, or instituted against the Company or its servants or agents which may be caused by any Watercraft or vehicle belonging to or under the control of the Marina User, or by the Marina User, his agents, crew, guests or subcontractors except to the extent that such loss, damage costs, claims or proceedings is caused by the negligence or other breach of duty on the part of the Company or those for whom it is responsible.
- 13.2. The Company shall not be liable whether in contract, tort or otherwise, for any loss, theft, or any other damage of whatsoever nature caused to any Watercraft, vehicle or other property belonging to the Marina User or any person claiming through him whilst on the Marina Premises, except to the extent that such loss, theft or damage may be caused by the negligence or other breach of duty by the Company or those for whom the Company is responsible. The Marina User should ensure that his own personal and property insurance adequately covers such risk.
- 13.3. The Company shall not be liable for any loss or damage of whatever nature caused by a Force Majeure Event, as such term is defined at clause 17, including but not limited to loss or damage to any Watercraft, its gear, equipment or other property of the Marina User or his guests at any time within the Marina Premises.
- 13.4. Without prejudice to the requirements of clause 32.1 (Owner's insurance cover) and except where such event may be caused by the negligence or wilful act of the Company or those for whom the Company is responsible, in the event of the structural failure, fire, explosion, sinking, capsizing or wrecking of a Watercraft within the Marina Premises for any reason, the owner of the Watercraft shall be liable for all costs of salvage, recovery, environmental clean-up, repair or replacement of damaged or destroyed property belonging to any third party and any professional, legal and medical fees incurred by and any compensatory awards due to any person as a direct or indirect result of such occurrence, whether or not caused by the owner's negligence or recklessness.
- 13.5. The Company shall not be under any duty to salvage or preserve any Watercraft or any other property belonging to the Marina User or his guests from the consequences of any defect in the Watercraft or property concerned, except where the Company has been expressly engaged to do so by the Marina User on commercial terms. Similarly, the Company shall not be under any duty to salvage or preserve any Watercraft or other property from the consequences of accident, including any collision, sinking, capsizing or wrecking of the Watercraft 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 appropriate circumstances, in particular where it considers that a risk is posed to the safety of any person, property or the environment. Where the Company exercises its right under this clause 13.5, it shall be entitled to charge the Marina User on a normal commercial charging basis and, where appropriate, to claim a salvage reward.
- 13.6. Subject to clause 13.8 (liabilities which cannot legally be limited), the Company's total liability to the Marina User:
 - 13.6.1. for loss of or damage to property caused by the negligence of its employees and agents in connection with the Contract shall not exceed £1,000,000 (one million pounds) for any one event or series of connected events; and
 - 13.6.2. for all other loss or damage which does not fall within clause 13.6.1 shall not exceed £1,000,000 (one million pounds).
- 13.7. Nothing in this clause 13 shall limit any payment obligations of the Marina User under these Terms and Conditions.
- 13.8. Nothing in these Terms and Conditions limits any liability which cannot legally be limited, including liability for:
 - 13.8.1. death or personal injury caused by negligence;
 - 13.8.2. fraud or fraudulent misrepresentation; and
 - 13.8.3. any other liability which cannot be excluded or limited under applicable law.
- 13.9. It is the responsibility of the Marina User to ensure that any of his guests are made aware of these Terms and Conditions.

By the Company

- 14.1. Without prejudice to any other right or remedy available to it, the Company has the right to terminate the Contract in accordance with clause 14.2 and 14.3 in the event of any breach by the Marina User of any of these Terms and Conditions:
- 14.2. having regard to the nature and seriousness of the breach and the risk it poses to the financial or other security of the Company and/or of the Company's customers and whether or not the breach is capable of remedy, the Company may give notice to the Marina User in writing, 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 person or property, the time specified for remedy may be immediate or very short.

- 14.3. If having been served notice under clause 14.2 the Marina User fails to effect a remedy within the specified period of time, or if the breach is incapable of remedy, the Company shall be entitled to terminate the Contract by giving notice to the Marina User in writing and requiring him to remove his Watercraft from the Marina Premises within 28 days of the date of such notice. On or by the expiration of the notice period the Marina user shall remove the Watercraft and any other property belonging to him from the Marina Premises. The Company shall refund to the Marina User the unexpired portion of any Licence Fee (disregarding any discount given), subject to a right of set-off in respect of any damage suffered by it and/or any other sums due to the Company.
- 14.4. Where notice of termination is given by the Company in accordance with clause 14.3 and at the time of such notice being given his Watercraft is stored ashore, the Company shall take such reasonable steps as are necessary to enable the Marina User to safely remove the Watercraft from the Marina Premises within the 28 day period specified in clause 14.3. Where the Marina User is unable to safely remove his Watercraft from the Premises within this period due to the Company being unable to facilitate this, for example because other Watercraft would need to be moved, the provisions in clause 14.7 shall be disapplied until such time as the Company has taken the necessary action to facilitate the safe removal of the Watercraft by the Marina User.
- 14.5. The Contract will terminate automatically after a period of 28 days following the death of the Marina User. If the Marina User's representatives do not either enter into a new Contract with the Company or remove the Marina User's Watercraft from the Marina Premises by the expiration of this period, then the provisions of clause 14.7 shall apply as if references to the "Marina User" were references to the "Marina User's representatives".

By the Marina User

- 14.6. Following the expiry of any 14-day cancellation period under clause 2.2, the Contract may be terminated by giving 6 months' written notice to the Company. Following receipt of such notice, the Company shall provide to the Marina User a statement setting out:
- 14.6.1. all sums owed by the Marina User to the Company, including the pro-rata charge payable by the Marina User in respect of any Licence for the period until the expiry of the 6-month notice period; less
- 14.6.2. the sums actually paid by the Marina User to the Company, including in respect of such Licence. Where the balance is in favour of the Company, the Marina User shall be required to pay the balance before removal of his Watercraft from the Marina Premises and, subject to any charges arising under clause 14.7, where the balance is in favour of the Marina User, the Company shall pay it to the Marina User upon the departure of his Watercraft from the Marina Premises.

Failure to remove Watercraft upon termination

- 14.7. If the Marina User fails to remove his Watercraft from the Marina Premises on termination of the Contract (whether under this clause **Error! Reference source not found.** or otherwise), the Company shall be entitled:
- 14.7.1. to charge the Marina User for mooring or storage fees (as applicable) at the pro-rata Licence Fee rate which would have been payable by the Marina User to the Company if the Contract had not been terminated, for the period between termination of the Contract and removal of the Watercraft from the Marina Premises; and/or
- 14.7.2. at the Marina User's risk (save in respect of loss or damage directly caused by the Company's negligence during such removal) to remove the Watercraft from the Marina Premises and thereupon secure it elsewhere and charge the Marina User all costs arising out of such removal, including alternative berthing or storage fees; or
- 14.7.3. if the Watercraft is derelict, to dismantle, destroy and/or dispose of the Watercraft and to charge to the Marina User all costs reasonably incurred by the Company in connection with such dismantling, destruction or disposal.

15. Late or non-payment of Licence Fee and other charges

Interest on overdue sums

- 15.1. Without prejudice to any other right or remedy that it may have, if the Marina User fails to pay the Company any sum due to it in accordance with these Terms and Conditions either on or by the due date, the Marina User shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 15.1 will accrue each day at 4% a year above the Bank of England's base rate from time to time.

Right of the Company to detain a Watercraft pending payment

- 15.2. The Company reserves a right (a 'general lien') to detain and retain the Watercraft and/or other property within the Marina Premises belonging to the Marina User pending payment by the Marina User of any sums due to the Company.
- 15.2.1. The Company reserves the right to secure the Watercraft afloat or ashore against non-payment of monies due. The Company may invoice the Marina User for all costs of craning, hoisting and storage in this regard and the Marina User shall remain responsible for insuring the Watercraft in these circumstances.
- 15.2.2. The Company reserves the right to prevent the Watercraft from leaving the Marina Premises. If the Contract is terminated or expires while the Company is exercising this right of detention it shall be entitled to charge the Marina User the pro-rata Licence Fee for each day between termination or expiry of the Contract and the actual date of payment (or provision of security) by the Marina User and removal of the Watercraft from the Marina Premises.
- 15.2.3. The Marina User shall at any time be entitled to remove the Watercraft 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.

Right of the Company to sell a Watercraft

- 15.3. Without prejudice to the right reserved by the Company under clause 14.7, the provision of the Facility by the Company in respect of any Watercraft is subject to the provisions of the Torts (Interference with Goods) Act 1977 (the **Act**), which confers upon the Company as bailee a right of sale exercisable in circumstances where the owner of the Watercraft fails to collect or accept re-delivery of the Watercraft (and/or any other property left by him within the Marina Premises) following termination of the Contract. Such sale will not take place until the Company has given notice to the owner, or has taken reasonable steps to trace him in accordance with the Act. For the purposes of the Act it is recorded that:
- 15.3.1. The right to mooring and/or storage ashore of any Watercraft at the Marina Premises is granted to a Marina User by the Company on the basis that the Marina User is the legal owner of the Watercraft or the owner's authorised agent and that the Marina User will take delivery or arrange collection of the Watercraft and/or any other property left in the Marina Premises following termination of the Contract.
- 15.3.2. The Company's obligation as custodian of the Watercraft (and/or any other property left in the Marina Premises) ends on its notice to the Marina User of termination of that obligation.
- 15.3.3. The place for delivery and collection of the Watercraft (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.

16. Privacy and personal information

- 16.1. 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 on the Company's website and from the Company upon request.
- 16.2. Where a Marina User has provided the Company with his email address, the Company may contact the Marina User by email from time to time with important safety or other information necessary for his safe enjoyment of the Facility and/or the Marina Premises.
- 16.3. The Company will not send the Marina User any marketing materials, nor will it pass any of the Marina User's personal information to any third party, except where the Marina User has given his express consent, or where the Company has a legitimate interest in doing so or is required to do so by law.
- 16.4. The Company may from time to time advertise its business, including on social media platforms, using photographs or videos taken within the Marina Premises, which may capture any Watercraft within the Marina Premises at the time such photograph or video is taken. The Company will not include any imagery or footage of any Marina User in such materials, except with the express consent of the Marina User.

17. Force Majeure

- 17.1. Force Majeure Event means any circumstance not within a party's control including, without limitation:
- 17.1.1. acts of God, flood, drought, earthquake or other natural disaster;
- 17.1.2. epidemic or pandemic;
- 17.1.3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- 17.1.4. nuclear, chemical or biological contamination or sonic boom;

- 17.1.5. any law or any action taken by a government or public authority, including failing to grant a necessary licence or consent;
 - 17.1.6. collapse of buildings, fire, explosion or accident; [and]
 - 17.1.7. any labour or trade dispute, strikes, industrial action or lockouts
 - 17.1.8. non-performance by suppliers or subcontractors; and
 - 17.1.9. interruption or failure of utility service.
- 17.2. Provided it has complied with clause 17.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under the Licence or these Terms and Conditions by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of the Licence or these Terms and Conditions or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 17.3. The Affected Party shall:
- 17.3.1. as soon as reasonably practicable after the start of the Force Majeure Event but no later than 3 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Licence or these Terms and Conditions; and
 - 17.3.2. use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 17.4. If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 3 weeks, the party not affected by the Force Majeure Event may terminate the Licence agreement by giving 1 month's written notice to the Affected Party.

18. Assignment

- 18.1. The Contract is personal to the Marina User. The Marina User shall not assign, transfer, mortgage, charge subcontract, delegate, declare a trust over or deal in any other manner with any of his rights and obligations under the Contract.
- 18.2. The Company may assign or transfer its rights under the Contract, for example upon a sale of the Marina Premises. The Company will give the Marina User notice in writing if it plans to effect such assignment or transfer. Upon receipt of such notice the Marina User may contact the Company to end the contract within 3 months of the date of the notice (or from the date of the assignment or transfer by the Company, if sooner). Following termination of the Contract under this clause 18.2 the Marina User shall be entitled to a refund, calculated on a pro-rata basis, of any Licence Fee or other sums paid to the Company in respect of the Facility or other services to be provided by the Company under the Contract in the period following termination.

19. Variation

No variation of the Contract shall be effective unless it is in writing and signed by the Company and the Owner.

20. Waiver

- 20.1. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 20.2. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

21. Rights and remedies

The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

22. Severance

- 22.1. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.
- 22.2. If any provision or part-provision of the Contract is deemed deleted under clause 22.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

23. Entire agreement

- 23.1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or verbal, relating to its subject matter.
- 23.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

24. Third party rights

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

25. Notices

- 25.1. Any notice given to a party under or in connection with the Contract (other than for or in legal proceedings) shall be in writing and shall be:
 - 25.1.1. Delivered by hand or by pre-paid first-class post or other next working day delivery service at the address stated in the Contract (or, in the case of an Owner, any updated address as he has provided to the Company in accordance with these Terms and Conditions); or
 - 25.1.2. Sent by email to the email address specified in the Contract.
- 25.2. Any notice shall be deemed to have been received:
 - 25.2.1. if delivered by hand, at the time the notice is left at the proper address;
 - 25.2.2. if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting; or
 - 25.2.3. if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 25.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

26. Governing law and jurisdiction

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales and subject to the exclusive jurisdiction of the courts of England and Wales.

SPECIAL CONDITIONS PART A - MOORING & STORAGE ASHORE

27. Licence

- 27.1. In consideration of the Owner paying the Licence Fee, the Company agrees to provide the Owner with the Facility in relation to the Vessel for the duration of the Licence.
- 27.2. The Licence shall commence from midnight on the start date specified in the Licence and will expire at midnight on the end date specified in the Licence (Licence Period), unless terminated sooner in accordance with these Terms and Conditions.
- 27.3. The Licence shall not renew automatically after the end of the Licence Period and any renewal shall be subject to the terms specified at clause 40.

28. Berths and mooring

- 28.1. The allocation of any Berth by the Company shall at all times be at its sole discretion and subject to availability, though the Company will seek to accommodate a request by an Owner for a Berth of a particular type or in a particular location within the Marina Premises where it safe and practical to do so.
- 28.2. The subletting, transfer or assignment of any Berth, including storage space ashore to any third party are strictly prohibited.
- 28.3. No Berth shall be used for any Watercraft other than the Vessel, either temporarily or permanently, without the prior written agreement of the Company.
- 28.4. No residential use
- 28.5. Under no circumstances shall the Owner use (or allow any other person to use) the Vessel as his primary residence or give (or allow any other person to give) the Vessel or the Marina Premises as his address.
- 28.6. The Company reserves the right to request documentary evidence of the Owner's current residential address at any time during the term of the Licence, which must be provided within 7 days of such request.
- 28.7. The Company will not accept delivery of and will return to the sender any personal post, letter or parcel addressed to the Owner or any other person at the Marina Premises, except where expressly agreed between the Owner and the Company in respect of a specified delivery.
- 28.8. For the purposes of correspondence and notices served in accordance with these Terms and Conditions, the Owner's address for service shall be the Owner's address as stated on his Licence, or any other address as he may subsequently provide to the Company.
- 28.9. The Owner must notify the Company as soon as practicable after any change to his residential address during the term of the Licence.

Tenders

- 28.10. An Owner must ensure that any tender to his Vessel, including any inflatable or RIB, is kept on davits (where these are fitted to the Vessel) at all times save when in use, or otherwise onboard the Vessel. Tenders must not be kept or left in the water or upon any land within the Marina Premises, including on any pontoon, walkway or area of hard standing.

29. Rights reserved by Hambleton Marina

- 29.1. If in the Company's reasonable opinion it is necessary for the safety of the Vessel or for the safety of any Marina User, Watercraft or of the Marina Premises or for the good management of the Marina Premises, the Company shall have the right to re-berth, moor, enter, or carry out any emergency work on the Vessel and, except to the extent that such re-berthing, mooring, movement, boarding, entering, or emergency work arises from the negligence of the Company or those for whom the Company is responsible, the Owner shall be liable for the Company's reasonable charges therefor.
- 29.2. The Company reserves the right to move, adapt or remove the Company's moorings, pontoons and any Berth at its sole discretion for the purposes of maintenance, renewal or reconfiguration of the Marina Premises.

30. Storage ashore and winter storage

- 30.1. Where an Owner:
 - 30.1.1. has been granted a Licence for an annual mooring and has given his consent to the storage ashore of the Vessel during the Winter Season; or
 - 30.1.2. has been granted a Licence for winter storage ashore;
 - 30.1.3. then subject to the provisions contained within Part B of these Terms and Conditions (*Special Conditions Part B - Craning*), the Company shall:
 - 30.1.4. crane the Vessel out of the water at the start of the Winter Season;

30.1.5. pressure wash the Vessel below the waterline;

30.1.6. arrange outdoor storage of the Vessel on an area of hardstanding or other solid surface within the Marina Premises; and

30.1.7. crane the Vessel back into the water at the end of the Winter Season.

30.2. **In the case of an Owner who has been granted a Licence for an annual mooring, the charges for craning and pressure washing are as set out in the Licence Application. These charges are not included within the Licence Fee and shall be invoiced separately.**

30.3. With the exception of small boat storage, the Company does not offer as standard an annual licence for storage ashore, whether upon chocks, blocks or a trailer, but may consider a request for such a licence in respect of a specified Watercraft on an exceptional basis. Any request to grant an annual licence for storage ashore must be made to the Company in writing and any decision in respect of such request shall be taken at the Company's sole discretion.

Trailers

30.4. The Owner may, by prior arrangement with the Company and subject to the payment of any applicable fees, store one trailer at the Marina Premises onto which the Vessel may be loaded for the purposes of storage ashore. Fees for trailer storage shall be notified to the Owner upon request.

30.5. In the case of an Owner who has been granted a Licence for an annual mooring, trailer storage fees shall be waived for the duration of the Winter Season where the trailer is being used to support the Vessel.

30.6. The Owner must ensure that any trailer left by him at the Marina Premises is in good mechanical order, is capable of being moved or towed and is of sufficient size, strength and specification to support the Vessel and any other Watercraft which he places or instructs the Company to place upon it.

30.7. The Company shall not be liable in respect of any loss, damage or injury to any party arising as a result of the failure or unsuitability of a trailer or any part of it for the loading, unloading or storage of any Watercraft where the Company has been instructed to do so by the Owner, except where such loss, damage or injury is due to negligence or other breach of duty on the part of the Company.

30.8. The Company reserves the right to move any trailer stored on the Marina Premises at any time, without notice, to another location within the Marina Premises.

Safety and access

30.9. The Owner must not under any circumstance move, readjust or attempt to move or readjust any chocks, blocks, cradles or other supports of the Vessel or any other Watercraft whilst it is stored ashore within the Marina Premises.

30.10. In the event that the Owner requires the Vessel to be moved whilst it is stored ashore, he must contact a member of Marina Personnel.

30.11. The Owner must not access or board the Vessel whilst it is stored ashore within the Marina Premises unless he considers it is safe to do so having regard to all the circumstances. The Company strongly recommends that the Owner should not attempt to access or board the Vessel during hours of darkness at any time whilst it is stored ashore. If the Owner is in any doubt as to his ability to safely access or board the Vessel whilst it is stored ashore, he should seek advice or assistance from Marina Personnel before attempting to do so. When accessing or boarding the Vessel the Owner must act strictly in accordance with any instructions or advice given to him by Marina Personnel.

30.12. The Owner shall not sleep, stay or allow any other person to sleep or stay onboard the Vessel and shall not permit any children to board the Vessel whilst it is stored ashore within the Marina Premises.

30.13. The Owner must not (and must not attempt to) access or board any Watercraft other than the Vessel whilst it is stored ashore within the Marina Premises, except where there is an immediate risk to the health, life or property of any person and he considers it is safe to do so having regard to all the circumstances.

30.14. The Owner must not deposit or store any equipment, dinghy, tender, raft, buoy or waste of any description underneath the Vessel or any other Watercraft while it is stored ashore within the Marina Premises.

30.15. The Company strongly recommends that where the Vessel is suitable for craning in accordance with the provisions of Part B of these Terms and Conditions, it should be removed from the water and stored ashore during the Winter Season. However, where a Vessel shall remain in the water during the Winter Season for any reason, the Owner acknowledges and agrees that:

30.15.1. the Company shall be permitted to move the Vessel to an alternative location within the Marina Premises for the duration of the Winter Season or any part of it with a view to limiting the Vessel's exposure to the elements and to varying winter river levels and flows;

30.15.2. the allocation of Berths and moorings for the Winter Season shall be at the Company's sole discretion, taking into account factors including availability and the number, size and type of Watercraft which require winter storage in the water;

- 30.15.3. priority for water-based moorings during the Winter Season shall be given to Marina Users who have been granted a Licence by the Company for the provision of winter storage in the water;
- 30.15.4. where the Company is unable to accommodate a Vessel on a floating pontoon, the Vessel may be rafted to another Watercraft during part or all of the Winter Season;
- 30.15.5. the Owner remains responsible for the maintenance, repair and safety of the Vessel where it remains in the water during the Winter Season. The Owner shall make regular checks and inspections of the Vessel during the Winter Season or arrange for such checks to be made on his behalf, in particular following any incidences of flooding of the river Thames in the vicinity of the Marina Premises and before and after any extreme weather events such as prolonged periods of freezing temperatures, storms, high winds and heavy rain; and
- 30.15.6. to the extent that it is safe for him to do so, the Owner shall take appropriate pre-emptive actions, or arrange for such actions to be taken on his behalf to preserve the safety of the Vessel ahead of any anticipated flooding of the river Thames in the vicinity of the Marina Premises or any forecast storm or inclement weather. Such pre-emptive actions may include, at a minimum, the slackening of mooring lines or ropes and the securing of loose items and canopies.

31. Condition and Maintenance of Vessel

- 31.1. The Owner must carry out regular inspections of his Vessel, taking advice from a qualified marine surveyor with experience of the Vessel type where appropriate, and shall at all times maintain the Vessel's engine(s), machinery, mechanical and safety components in good working condition.
- 31.2. The Owner shall ensure that the exterior of the Vessel is kept in a generally clean and tidy condition.
- 31.3. If in the Company's reasonable opinion the condition of a Vessel has been left to deteriorate to such an extent that it is detracting from the enjoyment of other Marina Users or poses a threat to safety or navigation within the Marina Premises, the Company shall give notice to the Owner to clean and/or maintain the Vessel within a reasonable period. If such cleaning or maintenance is not carried out within the specified period and to the satisfaction of the Company (acting reasonably) then the Company reserves the right to carry out, or to instruct a suitably qualified third party to carry out, such cleaning, maintenance and any craning required for the purpose, each of which shall be at the Owner's expense.
- 31.4. At all times when the Vessel is moored or berthed in the water, the Owner shall provide and maintain adequate ropes, fenders, chains, other anchoring devices or any combination thereof as are required to ensure the safe attachment of the Vessel to its Berth, taking account of possible variations in water level and flow.
- 31.5. Where the age or type of the Vessel is such that a Boat Safety Scheme (**BSS**) certificate is required in order for the Vessel to be kept or used on the River Authority's waterways, the Owner shall ensure that he obtains and maintains a valid BSS certificate for the Vessel.
- 31.6. The Owner shall provide to the Company on demand a copy of a full structural out-of-water survey report dated within the last 6 years for any Vessel which is more than thirty years old and in respect of which he has (or has applied for) a Licence of any kind at the Marina Premises.
- 31.7. No work shall be done to any Vessel within the Marina Premises (except with the prior written consent of the Company), other than minor running repairs or minor maintenance of a routine nature by the Owner, his regular crew or members of his family, not causing any nuisance or annoyance to the Company or to any other Marina User or any person residing in the vicinity.
- 31.8. Prior written consent for work to be carried out at the Marina Premises shall not without good reason be withheld by the Company where it is satisfied that the whole of the work is remedial and not servicing and is being carried out by the manufacturer or supplier of the Vessel, or otherwise by a suitably qualified and experienced contractor who shall carry full current Public and Employers' Liability Insurance which includes a minimum of £5,000,000 (five million pounds) of third party cover.
- 31.9. Any contractor attending the Marina Premises to undertake any work to a Vessel must report to the marina office upon arrival in order to register and provide evidence of his insurance cover in accordance with clause 13.8.
- 31.10. The Company does not routinely offer workshop facilities or indoor space for the storage or carrying out of works to Watercraft. In the event that such a space is temporarily required by the Owner in respect of the Vessel, he should contact the Marina Manager to discuss whether, and the terms on which, any such space may be available on an exceptional basis. The allocation of indoor storage or workshop space is at the Marina Manager's absolute discretion and shall at all times be subject to the needs of the Company to occupy such space.
- 31.11. Painting of the Vessel whilst in the water or stored ashore within the Marina Premises is at the discretion of the Company and written permission must be obtained from the Company prior to starting.
- 31.12. In the event that any repairs or maintenance to a Vessel at the Marina Premises (including painting) results in any spillage, mess or damage to the Company's property, including any pontoon, bank, jetty or walkway, the Company will require this to be cleaned and/or made good to the Company's reasonable satisfaction.

Should any repairs be required to Company property, the Company will arrange for such repairs to be undertaken at the Owner's expense.

- 31.13. The Owner shall ensure that no pollution of any watercourse or land emanates from his Vessel. Where any such pollution occurs, the Owner will be responsible for the costs of all remedial and decontamination works.

32. Insurance and licensing requirements

- 32.1. Until such time as a Licence expires or is terminated, or the Vessel named in a Licence is permanently removed from the Marina Premises (whichever is the later) the Owner shall at all times maintain in respect of the Vessel adequate insurance cover, including:
- 32.1.1. third party liability cover in a sum of not less than £3,000,000 (three million pounds) in respect of each accident or damage;
 - 32.1.2. cover in respect of damage to or loss of the Vessel, in a sum no less than the value of the Vessel; and
 - 32.1.3. salvage insurance, adequate to cover all and any costs of salvage, recovery, removal, disposal, and all environmental clean-up costs and undertakings.
- 32.2. The insurance cover required at clause 32.1 shall be maintained with a reputable insurance provider and the Owner shall produce evidence of such insurance cover to the Company within 14 days of the commencement date of the Licence and at such other times during the term of the Licence as the Company may reasonably demand.
- 32.3. The Owner must ensure that any policy of insurance covering the Vessel is of a type which provides cover during the craning, lifting and storage ashore of the Vessel at the Marina Premises.
- 32.4. The Owner shall not do, or omit to do, any act in circumstances where such act or omission would render void the policy of insurance required under clause 32.1.
- 32.5. Until such time as the Vessel is permanently removed from the Marina Premises and for so long as the River Authority shall require, the Owner shall apply for and at all times maintain a registration of the Vessel with the River Authority. The Owner shall ensure that a valid and up-to-date registration plate is clearly displayed on or in the Vessel at all times and in accordance with all applicable legislation, regulations and River Authority rules.
- 32.6. The Owner acknowledges that the Marina Premises and any Watercraft within them may be subject to unannounced inspection by the River Authority at any time.

33. River conditions and access to Vessel

- 33.1. The Owner acknowledges that the level and flow of water within the Marina Premises will vary from time to time according to weather and river conditions that are outside of the Company's control. It is the Owner's responsibility to maintain an awareness of the river conditions affecting the Marina Premises, whether by visiting the site in person, by consulting the website of the River Authority or another reputable information source or by contacting the Company. The Owner must make sufficient checks and inspections of the Vessel whilst it remains in the water within the Marina Premises, taking into account current river conditions, to enable him to take any action reasonably necessary to prevent or mitigate damage to the Vessel resulting from high water levels or strong flows and to ensure its safety, but only where it is safe for him to do so.
- 33.2. The Owner must take such action on a pre-emptive basis where it is reasonable for him to do so, in the knowledge that safe access to the Vessel may not be possible in certain circumstances.
- 33.3. The Company strongly advises that no person should board, stay on or attempt to board or stay on a Watercraft at any time when the River Authority's website indicates that Red Boards or Yellow Boards are in operation on the stretch of the River Thames from Hambleden Lock to Hurley Lock, or in extreme weather conditions. **The Company shall not accept any liability for any loss of or damage to property or any death or personal injury resulting from a decision by an Owner or any other person to board, attempt to board or stay on the Vessel or any other Watercraft during such time, except where such death or personal injury is caused by negligence on the part of the Company.**
- 33.4. Where use of a Small Craft is necessary to access the Vessel, the Owner shall ensure his compliance and that of his invited guests at all times with clause 36 of these Terms and Conditions (Use of Small Craft provided by the Company).

34. Fire safety

- 34.1. The Owner must familiarise himself with the location and means of operating the fire extinguishers and any other firefighting equipment closest to his allocated Berth as shall be installed and maintained by the Company from time to time. The Owner should contact a member of Marina Personnel if he requires guidance as to the location of or the correct way to use any piece of firefighting equipment provided by the Company.

- 34.2. The Owner must provide and maintain on or in his Vessel fire extinguishers and fire protection equipment which are fit for immediate use in accordance with local and statutory regulations. As a minimum, the Owner shall provide and maintain on his Vessel 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.
- 34.3. The Owner shall comply with any applicable legislation and take all necessary and reasonable precautions to prevent the outbreak of fire in or upon the Vessel.
- 34.4. No electric fan or incandescent heater shall be left in operation onboard the Vessel at any time when the Vessel is unoccupied or overnight.
- 34.5. The Owner shall not store any highly flammable or explosive liquids, chemicals or substances onboard the Vessel, except for any items or substances which are incidental to the ordinary use of the Vessel and only in such quantities as are customary for the day-to-day use of such items or substances. Such substances must be stored at all times in a sealed bottle or container and away from any flame or heat source.

35. Supply and use of electricity

- 35.1. Where electricity supply is available at a Berth:
 - 35.1.1. Occasional use of electricity without metering is permitted outside the Winter Season at times when the Owner or his invited guests are onboard the Vessel, but a meter shall be required for any permanent connection and/or connection during the Winter Season, in which case the Company shall provide a meter upon request, subject to availability.
 - 35.1.2. The Company reserves the right to request a deposit is paid by the Owner upon provision of an electricity meter, which shall be refundable upon the return of the meter to the Company, subject to reasonable deduction or withholding in the event of loss of or damage to the meter.
 - 35.1.3. The Owner must ensure that all cables supplied by him to connect his Vessel to the meter or any component of the Company's electrical supply are safe and of a bright colour and shall be routed so as to pass underneath any walkway and not to cause a hazard to any Marina User.
 - 35.1.4. The Company does not guarantee the continuous supply of electricity to any Berth or to any other location within the Marina Premises. The Owner is responsible for any consequences of a discontinued electricity supply (which may affect the operation of equipment such as freezers, frost damage protection heaters and battery charging for automatic bilge pumps) and he shall take all necessary precautions against such eventuality.
 - 35.1.5. The Owner shall comply with all statutory requirements relative to electricity in or upon the Vessel.
 - 35.1.6. The Company reserves the right to disconnect or discontinue the electricity supply to a Vessel at any time and without notice in the event of overloading, persistent tripping, or for the purposes of fault identification, diagnosis and rectification.
 - 35.1.7. The Company reserves the right to charge the Owner all costs incurred by it in repairing or replacing any component(s) of the Company's electrical system as a result of damage caused by the Owner or his Vessel, whether due to the Owner's negligence or otherwise.
 - 35.1.8. The Owner undertakes to pay the Company for all electricity consumed by him and his guests at the Marina Premises supplied via meter or metered lead at the price published from time to time by the Company and displayed at the marina office. The price charged by the Company for electricity may alter with limited notice as supply costs change. Charges for electricity supplied by the Company are inclusive of all standing charges and any demand charges, capacity charges, environmental levies, maintenance, repair and renewal costs, any NICEIC or equivalent certification costs and reasonable administration costs.
 - 35.1.9. The Company reserves the right to disconnect the metered electricity supply to the Vessel should any account for the supply of electricity remain unpaid after 28 days or in the event that the Owner does not comply with the provisions of this clause 35.1.
- 35.2. A limited, unmetered electricity supply is available on the hardstanding to facilitate the use of power tools and other hand-held devices in accordance with these Terms and Conditions.

36. Use of Small Craft provided by the Company

The Company advises that a reasonable level of fitness and agility is required in order to manhandle, climb aboard, launch and safely use the Small Craft owned and provided for use by the Company. If the Owner is in any doubt as to his ability to safely or correctly use the slipway or any of the Small Craft, he should immediately seek advice or assistance from Marina Personnel, who will be happy to help, especially on the Owner's first few outings. The Company recommends that its Small Craft are not used during hours of darkness.

- 36.1. The Small Craft must only be used by the Owner or his invited guests for the purposes of accessing and egressing the Vessel when moored at an Island Berth or any other Berth or mooring not directly accessible from the mainland.
- 36.2. The Owner must ensure that he and each of his invited guests is wearing a lifejacket or other suitable buoyancy aid at all times whilst using the Small Craft.
- 36.3. The Company undertakes to use reasonable endeavours to check and maintain the river worthiness of its Small Craft. However, the use of any Small Craft is at all times subject to the Owner's own assessment of its river worthiness based on his reasonable skill and judgement.
- 36.4. The Owner must not use and must not permit any person accompanying him to use any Small Craft if he has any doubt as to its river worthiness. The Owner shall report any such concerns to the Company immediately.
- 36.5. Except where permission has been obtained in writing from the Marina Manager, the Small Craft must not be used at any time when:
 - 36.5.1. the River Authority's website indicates that Red Boards or Yellow Boards are in operation on the stretch of the River Thames from Hambleden Lock to Hurley Lock;
 - 36.5.2. the River Thames adjacent to the Marina Premises is in flood; or
 - 36.5.3. during any episode of extreme weather.
- 36.6. The Small Craft must not be carried or navigated outside the Marina Premises without the prior written agreement of the Company and must in all cases be returned to the slipway (or to level ground directly adjacent to the slipway) immediately after use.
- 36.7. Any costs incurred by the Company in repairing or replacing any Small Craft as a result of damage or destruction caused by deliberate or reckless misuse on the part of the Owner or any of his invited guests shall be charged to the Owner in full.

37. Sale of Vessel

- 37.1. The Owner shall obtain consent in writing from the Company prior to advertising the Vessel for sale or making any arrangement for a potential purchaser or sales agent to view it, such consent not to be unreasonably withheld. The Company has experience of selling used boats of varying types, so may be able offer or procure competitive agency services.
- 37.2. The Owner may not without the written consent of the Company display or affix any 'for sale' sign on or to the Vessel or any part of the Marina Premises.
- 37.3. The Owner shall notify the Company in advance of any arrangements he has made for a prospective purchaser or sales agent to attend the Marina Premises.
- 37.4. No 'test driving' of the Vessel shall be permitted within the Marina Premises by any prospective purchaser, transferee, mortgagee or sales agent.
- 37.5. Upon a sale of the Vessel the Owner:
 - 37.5.1. must provide to the Company as soon as reasonably practicable the name and address of the purchaser, transferee or mortgagee, as the case may be. Until such time as the Company receives such information, all liability for the Vessel including in respect of the Licence Fee, any other fees or charges and compliance with these Terms and Conditions shall remain with the Owner; and
 - 37.5.2. acknowledges that the Company shall be under no obligation to consider offering a Licence to any new owner of the Vessel until such time as all sums due to the Company by the Owner, whether in respect of the Licence or otherwise, have been paid in full and the other requirements of the Contract have been met.

38. Fees

Annual mooring and winter storage

- 38.1. The Licence Fee in respect of any annual mooring or winter storage provided by the Company, whether ashore or in the water, shall be calculated on a per-metre basis. Indicative rates and any minimum charges which may apply are specified on the Company's website, as updated from time to time.. The per-metre rate applicable to a particular Watercraft may vary depending on the location of a Berth within the Marina Premises and the type of Watercraft.
- 38.2. The measurement of any Watercraft for the purpose of calculating the Licence Fee payable in respect of that Watercraft shall be that which is provided by the Owner to the Company at the time of submitting a Licence Application and should accurately represent the overall length of the hull, from the foremost to the aftermost extremity, including any outboard engines, bathing platforms, pulpits and davits.
- 38.3. The Company reserves the right at any time during the term of any Licence to:

38.3.1. measure the Watercraft in accordance with the stipulations at clause 38.1; and

38.3.2. to charge additional berthing fees should the length overall exceed that stated in the Licence Application.

Small boat storage

38.4. The Licence Fee in respect of any outdoor storage ashore for small boats provided by the Company shall be provided upon request, but shall in all cases be subject to the minimum charge for such storage as stated on the Company's website from time to time, which reflects a minimum Licence term of 26 weeks.

Price changes

38.5. The Company may from time to time at its discretion change the level of the Licence Fee or other charges levied by it in respect of some or all of the services offered by the Company. The Licence Fee due for the term of an existing Licence shall remain as stated in the Licence, with any revised pricing applicable only upon renewal of an existing Licence or upon entry into a new Licence.

39. Payment of Licence Fee

39.1. In all cases payment of the Licence Fee is to be made in advance, by no later than one month prior to the start of the Licence Period or, where different, by the date specified in the Invoice. Payment of the Licence Fee must be made in a single payment in accordance with the payment instructions stated in the Invoice and otherwise in accordance with these Terms and Conditions.

39.2. If the Owner opts to receive invoices and documents - including those in relation to the renewal of an annual Licence - via email then the email address provided by the Owner to the Company on the Licence Application shall be used by the Company until such time as the Owner provides an alternative email address. All invoices sent to the email address provided shall be accepted as valid demands for payment. All Licence Application forms sent to the email address provided shall be accepted as valid invitations to renew the Licence.

40. Licence Renewal

40.1. The Company reserves the right not to renew or offer to renew any Licence for mooring and/or storage ashore following the expiration or termination of the Licence.

40.2. A Licence Application form for the renewal of an existing annual mooring Licence will be sent to the Owner during January of the year in which the renewed Licence shall commence and must be returned to the Company within the deadline stated on the Licence Application form or otherwise stated on any accompanying correspondence.

SPECIAL CONDITIONS PART B - CRANING

41 Craning policy The craning of any Watercraft for any purpose, whether into or out of the water, shall be undertaken at the Company's discretion.

- 41.2 For craning purposes, the maximum gross weight of any Watercraft (including all engines, fixtures, fittings, tenders and items stored onboard) must be no more than 17.5 tons. A Marina User should refer to the manufacturer's specifications and, if he is in any doubt as to whether the gross weight of his Watercraft exceeds 17.5 tones, he must inform Marina Personnel upon making a request for craning and in any event prior to the commencement of craning.
- 41.3 Notwithstanding an Owner's consent for the Company to crane his Vessel for any purpose, the Company will not undertake craning of any Watercraft where, based on the information reasonably available to it:
 - 41.3.1 the size and weight of the Watercraft exceeds or appears to exceed the safe operating tolerances of the Crane; or
 - 41.3.2 the Watercraft shows signs of significant structural damage or other defect(s) which in the Company's reasonable opinion would be likely to make craning unsafe or to cause damage to the Crane, the Marina Premises or further damage to the Watercraft.

42. Craning schedule

- 42.1. In the case of a Vessel with the benefit of a Licence for an annual mooring, where the Vessel is to be craned out of the water at the start of the Winter Season for the purposes of storage ashore or is to be craned back into the water following the Winter Season, the Company shall give notice to the Owner in writing that craning is to take place. During the spring and autumn Craning Periods the Company cranes many Watercraft per day across large areas of the Marina Premises. Subject to clause 42.2 and 42.3, the notice of craning provided to the Owner:
 - 42.1.1. may take the form of an individual letter addressed to the Owner, or an email which is sent to multiple owners whose Watercraft are to be craned;
 - 42.1.2. shall be sent to the Owner not less than 14 days prior to the scheduled date of craning;
 - 42.1.3. shall specify a period of no longer than 14 days within which the Vessel is scheduled to be craned; and
 - 42.1.4. may not specify a particular day or time of day on which the Vessel is to be craned.
- 42.2. In the event of circumstances beyond the Company's reasonable control, including but not limited to actual or forecast periods of inclement or severe weather, storms and flooding of the River Thames in the vicinity of the Marina Premises, the Company reserves the right to:
 - 42.2.1. delay or postpone the craning of any Vessel beyond the 14 day period specified at clause 42.1.3; and/or
 - 42.2.2. reduce the period of notice given under clause 42.1.2.
- 42.3. Where a Watercraft is to be craned in any other circumstance, such as for inspection, repair or removal from the Marina Premises by road, the Company will seek to accommodate reasonable lifting requests, subject to availability and other factors such as weather conditions. However, the Company cannot guarantee a specific craning date or time, especially where such request has been made at short notice and it shall not be liable for any loss or costs incurred by a Marina User as a result of any delay in craning.

43. Craning safety and pre-craning checks

- 43.1. A Watercraft may be craned without a member of Marina Personnel having first been aboard. It is the Marina User's responsibility to ensure that, prior to the date on which craning is scheduled to take place, his Watercraft is in a safe and ready state for craning, including securing all items stored onboard and retracting, detaching or protecting any masts, aerials or other protrusions.
- 43.2. The Company recommends that the checks carried out by a Marina User of his Watercraft prior to craning should include the condition and watertightness of the hull, removal of excess water from inside the Watercraft (whether from rain or any other cause), the presence of frost or other damage which may cause leaks, ensuring any bungs are in place, safe fitment or storage of masts or aerials and that any fenders and ropes are securely fitted.
- 43.3. Lifting or craning of a Watercraft by its nature tests the structural integrity of the hull skins and structures. Any weakness or deterioration may compromise hull integrity and lead to water ingress. If in any doubt as to the structural integrity, watertightness or fitness for craning of his Watercraft, then prior to craning a Marina User must instruct a qualified marine surveyor with experience of that type of Watercraft to identify any issues or otherwise confirm the fitness of the Watercraft for craning.
- 43.4. A Marina User must make Marina Personnel aware of any specific lifting and/or chocking requirements of his Watercraft prior to craning taking place.

44 Risk and liability

- 44.1 The Company undertakes that it shall, and shall procure that any sub-contractor engaged by the Company to operate the Crane shall observe manufacturer's lift points and maintain safe working practices at all times when craning any Watercraft.
- 44.2 Notwithstanding clause **Error! Reference source not found.**, the Company shall not be liable for:
- 44.2.1 any failure of the structural integrity of any Watercraft during craning and any costs arising therefrom; and
- 44.2.2 any damage to or loss of personal effects or equipment left on board any Watercraft during craning operations;
- 44.3 except where such structural failure, loss or damage is due to negligence on the part of the Company or those for whom it is responsible. The Company strongly recommends that all valuables and portable items are removed from any Watercraft prior to craning and that any delicate or breakable items which remain onboard are stowed securely.

45. Craning charges

- 45.1. The craning charges applicable to a Watercraft are available from the Company upon request, and shall be notified prior to commencement of the Contract to an Owner with a Licence for winter storage at the Marina Premises. Craning charges are calculated based on the length of the Watercraft to be craned, subject to a minimum charge which applies to any Watercraft less than 7 metres in length.
- 45.2. The measurement of a Watercraft for the purpose of calculating the craning fees payable in respect of that Watercraft shall accurately represent the overall length of the hull, from the foremost to the aftermost extremity, including any outboard engines, bathing platforms, pulpits and davits and, where applicable, shall be that which is provided by the Owner to the Company at the time of submitting a Licence Application.
- 45.3. The Company reserves the right to perform its own measurement of a Watercraft prior to or after craning where it has reason to believe its length exceeds that declared to the Company prior to craning by a Marina User and to charge the Marina User the difference between the sum paid by him for the craning of his Watercraft and that which he would have been required to pay had the correct measurement been known to the Company.
- 45.4. Invoices for craning, pressure-washing and any other related service provided by the Company shall be payable in advance and in accordance with the payment terms stated on the relevant invoice.
- 45.5. The Company shall not undertake craning of any Watercraft until payment for the craning services has been received in full.

46. Cancellation of craning

- 46.1. Where the Company exercises its right under clause 41.3 not to crane a Watercraft for any reason, any craning charges paid shall be refunded in full within 7 days of the date on which the Company determines it will not crane the Watercraft.
- 46.2. Where a Marina User requests to cancel the craning of his Watercraft for any reason:
- 46.2.1. Any craning charges shall be refunded to the Marina User in full where he gives at least 7 days' notice to the Company;
- 46.2.2. where he gives more than 48 hours' notice but less than 7 days' notice, any craning charges paid shall be refunded subject to a deduction of 20%; and
- 46.2.3. where he gives less than 48 hours' notice, any craning charges paid shall be refunded subject to a deduction of 50%.

SPECIAL CONDITIONS PART C - MAINTENANCE SERVICES

Where it has been agreed that the Company shall provide Maintenance Services, in the event of a conflict between any provision within this *Part D – Special Conditions for Maintenance Services* and a provision elsewhere in these Terms and Conditions, the provision in this Part D shall prevail.

47. Liability and insurance

- 47.1. The Commissioner may be liable for any loss or damage caused by him, his Watercraft or any other of his property whilst that Watercraft or other property is on the Marina Premises for the purposes of receiving Maintenance Services.
- 47.2. At all times until the Maintenance Services are completed or his Watercraft is permanently removed from the Marina Premises (whichever is first) the Commissioner shall maintain in respect of the Watercraft adequate insurance cover, including:

- 47.2.1. third party liability cover in a sum of not less than £3,000,000 (three million pounds) in respect of each accident or damage;
 - 47.2.2. cover in respect of damage to or loss of the Watercraft, in a sum no less than the value of the Watercraft; and
 - 47.2.3. salvage insurance, adequate to cover all and any costs of salvage, recovery, removal, disposal, and all environmental clean-up costs and undertakings.
- 47.3. The insurance cover required at clause 47.2 shall be maintained with a reputable insurance provider and the Commissioner shall produce evidence of such insurance cover to the Company prior to the commencement of the Maintenance Services.
 - 47.4. The Commissioner must not do, or omit to do, any act in circumstances where such act or omission would render void the policy of insurance required under clause 47.2.
 - 47.5. The Company has obtained and shall maintain for so long as it offers Maintenance Services insurance cover in respect of its own legal liability for individual claims not exceeding £3,000,000 (three million pounds) per claim arising out of its provision of Maintenance Services.
 - 47.6. The Company shall ensure that any subcontractor engaged on behalf of the Company to carry out any Maintenance Service shall be suitably qualified and experienced to provide that Maintenance Service and shall carry full current Public and Employers' Liability Insurance which includes a minimum of £5,000,000 (five million pounds) of third party cover.

48. Prices and estimates

- 48.1. The prices of the standard Maintenance Services offered by the Company are as set out in the Work Request form which is available from the marina office and is sent to Owners with a Licence for an annual mooring ahead of the autumn Craning Period. These prices are otherwise available upon request.
- 48.2. The price of any Maintenance Service which is not included in the Company's Work Request form, or which is stated therein as being on a 'price on application' basis shall be based on the labour and materials expended and services provided in providing the Maintenance Service.
- 48.3. The Company shall exercise reasonable skill and judgement when giving an estimate or indication of a price for any Maintenance Service or part thereof and any component or ancillary items such as oil, antifoul and antifreeze. However, such estimates are in all cases subject to the accuracy of any information provided by the Commissioner and will in most cases be based on a superficial examination of the Watercraft. Such estimates will therefore not include the cost of any works the necessity of which only becomes apparent once provision of a Maintenance Service has commenced, nor the cost of any extension to the work comprised in the estimate.
- 48.4. The Company will inform the Commissioner promptly of any proposed increase in an estimated price and shall provide the reasons for it. In such circumstances, the Company will only proceed to undertake the works or procure any necessary component, as applicable, with the Commissioner's express approval. The Commissioner shall remain responsible for the cost of all labour and materials already supplied or remaining to be supplied which are not affected by the proposed increase in price.
- 48.5. The Company reserves the right to require the Commissioner to provide his approval of any estimate, quote or increase to an estimate in writing.

49. Delay

- 49.1. Where the Company provides the Commissioner with an indicative date by which any Maintenance Service shall be completed, such date is given in good faith, is indicative and shall not constitute any guarantee or warranty on the part of the Company. The Company shall not be responsible for any delay in completion of a Maintenance Service or any part of it, or for the consequences of any such delay except where it arises as a result of negligence or other breach of duty on the part of the Company or those for whom it is responsible.
- 49.2. Notwithstanding clause 49.1, where the Commissioner is a Consumer, the Maintenance Services requested by him shall in all cases be performed within a reasonable time.

50. Subcontracting

- 50.1. The Company may subcontract all or part of the work entrusted to it by the Commissioner in the provision of Maintenance Services on terms that any such subcontractor shall have the protection and benefit of all rights and conditions, and of all limitations and exclusions of liability, which exist for the Company under these Terms and Conditions. Where the Company exercises its right to engage subcontractors it shall notify the Commissioner and shall remain responsible to the Commissioner for the performance of the subcontractor.

- 50.2. Where a Maintenance Service is to be provided by a subcontractor the Company shall provide the Commissioner in advance with the name and contact details of the subcontractor.
- 50.3. The Company reserves the right to invoice the Commissioner in respect of the fees of any subcontractor after the final invoice for completed works has been issued to the Commissioner. Subcontractors' fees may include but are not limited to expenses incurred due to unforeseen additional work, materials, or any other costs related to the project that were not initially included in the initial project estimate or scope of work.
- 50.4. In the case of certain Maintenance Services, including valeting, the Company may, with the Commissioner's consent, arrange for a third party provider to contact the Commissioner to discuss and arrange the provision of those Maintenance Services. Where any Maintenance Service is carried out under an agreement reached between the Commissioner and a third party provider, it shall be carried out subject to the third party provider's terms and conditions, including as to payment. The Company shall not be liable in respect of any Maintenance Service or any other service or product provided by a third party provider.

51. Right to move Watercraft

- 51.1. The Company reserves the right to move any Watercraft, equipment or other property of the Commissioner at any time for reasons of safety, security or the good management of the Marina Premises.
- 51.2. The Company shall be entitled to make use of any suitable trailer belonging to the Commissioner for the purposes of moving or repositioning the Watercraft for purposes linked to the provision of Maintenance Services.
- 51.3. The Commissioner shall deposit with the Company upon request a set of keys for the Watercraft, which shall be returned to the Commissioner on or by the completion of all Maintenance Services.

52. Payment

- 52.1. Unless otherwise agreed between the Company and the Commissioner, payment for Maintenance Services, including all charges for materials, labour, components and ancillary items shall be due immediately on presentation of an invoice. Payment shall be made in accordance with the payment instructions stated on the invoice.
- 52.2. Payment shall be deemed to have been made upon receipt by the Company of cash or cleared funds at its nominated bank account.
- 52.3. The Commissioner should pay careful attention to the Company's rights in the event of any late or missed payment, in particular those set out under clause 15.1 (interest) and 15.2 (general lien), which may be exercised in the event of any late or missed payment in respect of Maintenance Services.

53. Right of the Company to sell

- 53.1. The Company accepts Watercraft and other property for the provision of Maintenance Services subject to the provisions of the Torts (Interference with Goods) Act 1977 (the '**Act**'). The Act confers a right of sale on the Company in circumstances where the Commissioner fails to collect or accept re-delivery of the goods (which includes a Watercraft and any other property). No sale will take place until the Company has given notice to the Commissioner in accordance with the Act. For the purpose of the Act, it is recorded that:
 - 53.1.1. goods for Maintenance Services are accepted by the Company on the basis that the Commissioner is the owner of the goods or the owner's authorised agent and that he will take delivery or arrange collection when the Maintenance Services have been carried out;
 - 53.1.2. the Company's obligation as custodian of goods accepted for Maintenance Services ends when we give notice to the customer;
 - 53.1.3. the place for delivery and collection of goods shall normally be at the Marina Premises. Advice regarding the Act and its effect may be obtained from the Citizens Advice Bureau, law centre or any firm of solicitors.

54. Retention of title / risk

- 54.1. Title to all goods, equipment and materials supplied by the Company to the Commissioner in the course of providing Maintenance Services shall remain with the Company until full payment has been received from the Commissioner.
- 54.2. The risk in all goods, equipment and materials supplied by the Company to the Commissioner in the course of providing Maintenance Services shall pass to the Commissioner at the time of supply.

55. Quality standards

- 55.1. Where the Commissioner is a Consumer, his statutory rights are as summarised in clause 2.
- 55.2. The Company shall complete the Maintenance Service to the agreed specification, with reasonable care and skill and to a satisfactory quality.
- 55.3. Where the Company supplies goods or services to a customer who is not a Consumer (a "Trade Customer") then:
 - 55.3.1. no article supplied by the Company to a Trade Customer shall carry any express or implied term as to its quality or fitness for any particular purpose, except where prior to supply the Trade Customer has sufficiently explained the purpose for which it is required and made clear that he is relying on the Company's skill and judgement;
 - 55.3.2. no branded or proprietary article specified by name, size or type by a Trade Customer shall carry any such express or implied term, but the Company will assign to the Trade Customer any rights it may have against the manufacturer or importer of the article; and
 - 55.3.3. the Company accepts no liability to indemnify a Trade Customer against any loss of profit or turnover which he or his customer or any other person may sustain as a result of the failure of any faulty or unfit article supplied by the Company.

56. Access

Access by the Commissioner or any person acting on his behalf to the Watercraft may not be possible whilst it is undergoing Maintenance Services. Should such access be required, the Commissioner must contact the Company will shall use reasonable endeavours to facilitate such access when it is safe to do so.