

Allocated Non-Residential Leisure Use Mooring Licence

(Terms and Conditions)

1. DEFINITIONS AND INTERPRETATION

In this Agreement:

- 1.1 'Agency' means the Environment Agency of Kingfisher House, Goldhay Way, Orton Goldhay, Peterborough PE2 5ZR
- 1.2 'Agency's Site Officer' means the Agency's supervisor of the Mooring Site (or the person undertaking this role on behalf of the Agency)
- 1.3 'Boat' means the specified boat/vessel authorised to moor at the Mooring Berth under the terms of this Agreement (or one that is substituted for it with the Agency's prior written consent subject to payment of any additional mooring fees)
- 1.4 'Licensee' means the person(s) detailed on the front page of this Agreement
- 1.5 'Licence Fee' means the sum stated on the front page of this Agreement Plus VAT payable in advance BUT exclusive of any other rates assessments taxes or outgoings that may be levied in respect of the Mooring Right
- 1.6 'Mooring Berth' means the mooring structure detailed on the front page of this Agreement at the Mooring Site or such other berth as may be allocated to the Licensee by the Agency during the Licence Period (the Licensee shall not be entitled to the exclusive use of any particular berth within the Mooring Site)
- 1.7 'Mooring Site' means the mooring location detailed on the front page of this Agreement
- 1.8 'Site Rules and Regulations' means the Agency's rules and regulations which are displayed on the Agency's public notice board or other prominent place at the Mooring Site (and annexed to this Agreement). The Agency reserves the right to introduce new rules and regulations on grounds of legal requirement or for the safety or security or good management of the Mooring Site and to amend such rules and regulations as shall from time to time be deemed necessary. Any new rules and regulations or any amendments to them shall become effective upon being displayed on the Agency's notice board or other prominent place within the Mooring Site (and/or communicated to the Licensee in writing) and the Agency shall have the same rights against the Licensee for a breach of the Site Rules and Regulations as for a breach of the terms of this Agreement
- 1.9 Any agreement by the Licensee not to do anything includes an obligation not to permit or suffer that thing to be done by another person under his direction
- 1.10 Where any party to this Agreement comprises two or more persons obligations expressed or implied to be made by or with the persons comprising that party are deemed to be made by or with the persons comprising that party jointly and severally
- 1.11 Words importing one gender include all other genders and words importing the singular include the plural and vice versa

2. LICENCE

- 2.1 The Agency hereby grants to the Licensee the right to moor the Boat at the Mooring Berth during the Licence Period ('the Mooring Right') **SUBJECT TO** the Licensee's Obligations

3. LICENSEE'S OBLIGATIONS

The Licensee agrees and undertakes with the Agency as follows:-

- 3.1 to pay and discharge in addition to the Licence Fee all existing and future rates taxes assessments and all other outgoings which may be or become due in respect of the Mooring Berth and/or the Mooring Right
- 3.2 to promptly pay for all electricity water telecommunications and any other services used at the Mooring Berth together with all other charges and costs which may arise as a result of this Agreement upon receiving demand for payment
- 3.3 to exercise the Mooring Right for recreational purposes only and to ensure that the Boat regularly vacates the Mooring Site between April and October to cruise and refuel
- 3.4 not to occupy the Mooring Berth as a permanent residence OR for more than three consecutive nights in any period of seven days (occasional holiday stays not exceeding two weeks duration may be permitted SUBJECT to prior agreement with the Agency's Site Officer)
- 3.5 to comply at all times with the Site Rules and Regulations and all other reasonable directions given by the Agency's Site Officer
- 3.6 not to make any alterations whatsoever to the Mooring Berth and not to place on or attach or affix thereto any 'For Sale' signs, advertisements, cables, pipes, fencing, barrier, steps, pontoon, platform, staging gangway, loading stage, pylon, machinery or any other structures equipment or fixtures of any description
- 3.7 to immediately make good and reinstate at his own expense and to the reasonable satisfaction of the Agency or pay proper compensation for any damage caused to the Mooring Berth or any property of the Agency resulting from the Licensee's exercise or purported exercise of the Mooring Right AND in default the Agency may carry out such reinstatement and recover on demand the costs and expenses of so doing from the Licensee as a debt due and recoverable by action immediately
- 3.8 to ensure that appropriate boat registration requirements are complied with and relevant navigation charges are paid in respect of the current year and to display the Boat's registration licence in a prominent place at all times
- 3.9 to keep the Boat at all times in a sound and watertight condition and at all times left secure and properly moored parallel to the Mooring Berth and to take all such other steps as may be necessary for the safety thereof particularly in times of flood frost ice storm tempest or other adverse conditions and to accept all responsibility with regard to such mooring including the safety thereof
- 3.10 to ensure that any gas systems and appliances on or about the Boat are routinely inspected and maintained by a competent Gas Safe Registered BSS Examiner in compliance with the Gas Safety (Installation and Use) Regulations 1998 BUT not to permit any such work to be carried out without obtaining the prior written consent of the Agency AND ensuring that all contractors first register with the Agency's Site Officer before commencing any works within the Mooring Site
- 3.11 to provide and maintain at least one fire extinguisher which is approved and manufactured to EN3 standards for portable fire extinguishers and to ensure that it is fit for purpose for the Boat and ready for immediate use in case of fire
- 3.12 to comply with the Environment Agency's Land Drainage Sea Defence Navigation and Fisheries Byelaws so far as they relate to and affect the Mooring Right and to comply with all other legislation relevant to the Licensee's use and occupation of the Mooring Berth
- 3.13 to ensure that use of the Mooring Berth does not obstruct or interfere with any third party rights or impede public rights of navigation
- 3.14 to keep the Mooring Berth in a clean and tidy condition and not to leave any rubbish at the Mooring Site (where waste bins are located at the Mooring Site all rubbish should be deposited in the containers provided)

- 3.15 to ensure that any domestic pets are kept under proper control and supervision at all times and to clear up any fouling within the Mooring Site immediately. Dogs must be kept on a lead at all times when on or about the Mooring Site (except when aboard vessels)
- 3.16 to indemnify and keep indemnified the Agency and its servants against all claims or demands for loss or damage or injury to third parties whomsoever or any other liability which may arise out of the exercise or purported exercise of the Mooring Right by the Licensee (or any persons authorised by the Licensee) or in connection with any matter relating to the Mooring Berth
- 3.17 to effect and maintain insurance cover for the Boat for a minimum sum of £3 million or such other reasonable amount as the Agency from time to time requires in respect of the Licensee's liability to indemnify the Agency against losses arising from the Licensee's acts omissions or negligence and all liability to third parties arising out of or in connection with any matter involving or relating to the Mooring Berth and/or the Mooring Right AND to produce evidence of such insurance to the Agency within seven days of request
- 3.18 to permit the Agency and any persons authorised by the Agency to have access to the Mooring Berth (by temporarily removing the Boat if necessary) in order to inspect it and to carry out repairs to the structure at all reasonable times upon giving 24 hours prior notice (or in the event of emergency at any time without notice) causing as little inconvenience to the Licensee as reasonably practicable
- 3.19 to promptly notify the Agency in writing of any change of name to the Boat or change of postal or e-mail address or telephone number of the Licensee
- 3.20 not to assign share or sub-licence the whole or any part of the Mooring Right which is personal to the Licensee (*this licence is not transferable if the Boat is sold during the Licence Period*)
- 3.21 not to allow any vessel other than the Boat to have use of the Mooring Berth unless previously agreed in writing by the Agency
- 3.22 not to use the Mooring Berth in connection with any trade or business whatsoever
- 3.23 not to discharge any sewage waste overboard or pollute the watercourse by any other means (holding tanks must be pumped out at an appropriate sanitary station). In the event of accidental spillage of a pollutant to notify the Agency (24 hour incident hotline: 0800 80 70 60) immediately to minimise the environmental impact
- 3.24 not to do anything which may cause a nuisance damage danger or annoyance to the Agency or to any persons on or about the Mooring Site
- 3.25 not to impede in any way the Agency or its Servants or Agents in the exercise of the Agency's right of possession and overall control of the Mooring Site and berth allocation
- 3.26 not to fish either from the Mooring Berth or any vessel moored thereto or from any part of the Mooring Site (enquiries regarding fishing should be directed to the appropriate local Angling Association)
4. If there is any breach by the Licensee of any conditions set out in clause 3 of this Agreement which are either not remediable or have not been remedied by the Licensee within 28 days of receiving notice of the breach then this licence may immediately be determined by the Agency giving the Licensee written notice to that effect and the Licensee shall not be entitled to any refund in respect of the Licence Fee paid
5. Either party may terminate this Agreement for any reason by giving the other not less than eight weeks written notice and upon expiry of such notice this licence shall absolutely cease and determine but without prejudice to either party's right in respect of any antecedent breach of the terms hereof. If the Mooring Right is terminated by the Licensee pursuant to this clause the Agency shall be entitled to recalculate the Licence Fee at the rate that would have been applicable to the actual period of mooring instead of the annual rate. If this recalculation results in a balance payable to either party then this shall be paid prior to the date of termination

6. Upon termination or expiry of this Agreement the Licensee shall immediately remove the Boat from the Mooring Site and in default the Agency shall be entitled to charge the Licensee at the Agency's 24 hour rate for overnight visitors for each day between termination or expiry of this Agreement and the actual date of removal. If the Boat has not been removed within fourteen days of termination or expiry the Agency shall be entitled (but not obliged) to remove the Boat from the Mooring Site (at the Licensee's risk except for any loss or damage caused by the Agency's negligence) and secure it elsewhere and to charge the Licensee with all reasonable costs and expenses arising from such removal including alternative berthing fees
7. The Agency reserves a general right ('a general lien') to detain the Boat pending payment by the Licensee of any outstanding sums due to the Agency pursuant to this Agreement and which remain unpaid for 21 days after the date upon which the same ought to have been paid AND if this Agreement is terminated or expires while the Agency is exercising this right of detention it shall be entitled to charge the Licensee at the Agency's 24 hour rate for overnight visitors for each day between termination or expiry of this Agreement and the actual date of payment
8. There is excepted and reserved unto the Agency the right to sublet the Mooring Berth on a daily or weekly basis if is not occupied by the Licensee for a continuous period of seven days at any time during the Licence Period EXCEPT that in the event that the Agency shall exercise this right then the Licensee will be provided with an alternative mooring berth during such period of subletting
9. There is excepted and reserved unto the Agency the right at any time during the Licence Period to relocate the Mooring Berth to any alternative berth within the Mooring Site for any reason upon giving the Licensee reasonable notice (except in the case of emergency when no notice is required) and in the event that the Agency shall exercise the right contained in this clause the Licensee shall relocate the Boat to such alternative berth as may be specified by the Agency as soon as reasonably practicable and in default the Agency shall be entitled to relocate the Boat and charge the Licensee with all reasonable costs arising from such relocation
10. The Licensee acknowledges that the Mooring Berth is licensed entirely at his own risk and the Agency accepts no responsibility for the safety of the craft moored or for any damage to or the loss of property or for any losses or other liability whatsoever which shall or may occur to or be sustained by the Licensee during the exercise or purported exercise of the Mooring Right (except to the extent caused by the Agency's negligence)
11. The Licensee must obtain the Agency's written consent prior to undertaking works of any nature on the Boat while at the Mooring Site (including all works carried out to fuel electrical and gas systems and appliances). Copies of contractor's third party liability insurance method statements and relevant risk assessments must be made available for inspection by the Agency for any work to be undertaken and all contractors on site must first register with the Agency's Site Officer
12. The Agency shall not by its permission hereby granted be deemed to give the Licensee any warranty or condition as to the maintenance of a sufficient or any level of water at the Mooring Site or at the Mooring Berth and it is the Licensee's responsibility to ensure that the Boat is secured in such a way as to cope with fluctuations in water level
13. Notwithstanding the terms and provisions of this Agreement the legal possession and control of the Mooring Site shall at all times remain vested in the Agency and this Licence is not intended to confer exclusive possession of the Mooring Berth to the Licensee nor to create the relationship of landlord and tenant between the parties and this Licence shall not in any way confer or impose on either of them any of the rights or obligations of a landlord or tenant or any other rights or obligations save those expressed or implied by law
14. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this licence and nothing in this Agreement is intended to confer any benefit on any person who is not a party to it
15. The provisions of Section 196 of the Law of Property Act 1925 as amended by the Recorded Delivery Service Act 1962 shall apply to any Notice under this Agreement