

# HARLEYFORD

**TERMS AND CONDITIONS OF BERTHING  
AT  
HARLEYFORD MARINA**

***VERSION 1.8  
DECEMBER 2019***



# MOORING & STORAGE LICENCE ~ TERMS AND CONDITIONS



The following terms and conditions are taken from the Yacht Harbour Association's general regulations and conditions of berthing. They have been designed with the greatest care and with the sole aim of protecting in law the proper rights of both the Company and the Licensee. The Licence also protects Licensees other than the signatory holder, particularly in regard to the clauses relating to noise and nuisance where the beauty, peace and tranquillity require special protective measures. The document constitutes a Licence and under no circumstances does any form of Landlord and Tenant relationship arise hereunder.

The Licensee also agrees to abide by the Special Conditions, which we consider are necessary to cover the special situations that may arise in our Marina. **Where these conditions are at variance, the Special Conditions will apply.**

## GENERAL CONDITIONS

### 1. DEFINITIONS

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

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

**Company** means the Company as identified in the Licence, including its Associated Companies and any of its servants or agents.

**Conditions** means these standard terms and conditions.

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

**Length Overall (LOA)** means the overall length of the Vessel including any fore and aft projections, temporary or permanent. **Licence** means the contract between the Company and the Owner for the provision of the Facility, which incorporates these conditions.

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

**Marina** means Yacht Harbour, Marina, Mooring or any other facility for launching, recovering, mooring or berthing Vessels, which is owned and/or operated by the Company.

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

**Owner** means the person or organisation identified in the Licence.

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

**Vessel** means the vessel identified in the Licence.

**Storage Ashore Accommodation** means the land space temporarily allocated to the Owner from time to time by the Company for the storage ashore of the Vessel during the term of the Licence.

**Pontoon** means a moored and decked floating structure providing landing or mooring facilities.

### 2. THE LICENCE

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

**2.2** The Licence will start on the Start Date and will end on the End Date specified in the Licence, unless terminated sooner under the provisions of Conditions 12 or 13. The Licence will not be automatically renewed after the End Date.

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

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

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

### 3. RIGHTS OF SALE AND OF DETENTION

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

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

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

**3.1.3** The place for delivery and collection of the Vessel (and/or any other property left in the Marina Premises) shall be at the Marina Premises unless agreed otherwise.

Advice regarding the Act may be obtained from the Citizens Advice Bureau, Law Centre or any firm of solicitors.

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

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

### 4. CONDITION AND OPERATION OF VESSEL

**4.1** The Owner must always ensure that the Vessel is maintained in a clean and tidy state and in a seaworthy or navigable condition (as appropriate).

**4.2** The Owner must ensure that, while underway within the Marina, the Vessel is manoeuvred and navigated:

**4.2.1** with reasonable skill and care;

**4.2.2** in accordance with any applicable speed limits and any other applicable laws or regulations; and

**4.2.3** in such a manner so as not to endanger or inconvenience any other vessels in the Marina.

- 4.3** The Owner must ensure that, while moored within the Marina, the Vessel is appropriately secured using such number of fenders and warps of sufficient size and strength and in such configuration as may be appropriate to the Vessel, the mooring and the anticipated weather conditions. Unless otherwise agreed by the Company, such fenders and warps shall be provided by the Owner.

## **5. VESSEL MOVEMENTS**

- 5.1** The Company reserves the right to move the Vessel and any other associated gear and equipment at any time for reasons of safety, security or good management of the Marina Premises.
- 5.2** Where a specific date or tide range for launch of the Vessel has been agreed between the Owner and the Company at the time of slipping or lifting out (or arrival by land), the Company's published scale of charges for vessel movements will apply. Where the Owner requests a different date or tide range the Company reserves the right to charge the Owner for the cost of moving other Vessels to gain access to the launch point and for any attendant expenses, such as crane hire. The Company will provide the Owner with an estimate of such costs and charges prior to incurring them.

## **6. LIABILITY AND INSURANCE**

- 6.1** The Company will not be liable for any loss or damage of whatsoever nature caused by events or circumstance beyond its reasonable control (such as adverse weather conditions, the actions of third parties or any defect in the Owner's or any third party / property); this extends to loss or damage to the Vessel, its gear, equipment or other property whilst in the Marina Premises and to harm to persons entering the Marina Premises and/or using any of the Company's facilities or equipment therein.
- 6.2** The company will take reasonable and proportionate steps (having regard to the nature and scale of the Marina Premises and the Company's business) to maintain security at the Marina Premises, and to maintain the facilities and equipment at the Marina Premises in reasonable working order. In the absence of any negligence or other breach of duty on the part of the Company, however the Vessel, its gear, equipment and other property remain at the Owner's own risk and the Owner should ensure that their own personal and property insurance adequately covers such risk.
- 6.3** Where access for vessels to and from the Marina is via a lock gate, swing or lift bridge or other restriction, the Company will not be liable for any loss or damage of whatsoever nature suffered by the Owner as a result of the lock gate, swing or lift bridge or other restriction being inoperative, except to the extent that such in-operation may be caused by any negligence or other breach of duty on the part of the Company.
- 6.4** The Company will not be under any duty to salvage or preserve the Vessel or other property from the consequences of any defect in the Vessel or property concerned unless the Company has been expressly engaged to do so by the Owner on commercial terms. Similarly, the Company will not be under any duty to salvage or preserve the Vessel or other property from the consequences of an accident which has not been caused by negligence or other breach of duty on the part of the Company. Nevertheless, the Company reserves the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of people, property or the environment. Where it does so, the Company will be entitled to charge the Owner on a normal commercial charging basis and, where appropriate, to claim a salvage reward.
- 6.5** The Owner must and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company), does comply with all applicable laws when in the Marina Premises.
- 6.6** The Owner must maintain adequate insurance in relation to the Vessel, including third party liability cover for not less than £3,000,000 cover against wreck removal and salvage and, where appropriate, Employer's Liability cover to at least the statutory minimum. The Owner must produce evidence to the Company of such insurance within seven days of being requested to do so.

## **7. COMMERCIAL & RESIDENTIAL USE**

- 7.1** The Owners must not (and must not allow anyone else to) use the Vessel for any commercial or residential purpose while in the Marina Premises without obtaining the Company's prior written consent, which may be withheld in the Company's absolute discretion or granted on such terms as the Company sees fit.
- 7.2** For the avoidance of doubt:  
7.2.1 use of the Vessel to provide overnight accommodation in exchange for payment or a reciprocal arrangement is deemed to be commercial use; and  
7.2.2 stays on board the Vessel for in excess of an average of three nights per week over twelve-week period; or  
7.2.3 uses the Company's offices at the Marina Premises as their mailing address.
- 7.3** The Company reserves the right to request a copy of the Owner's current council tax bill plus a utility bill to verify the residency status of the Owner or Occupier, whenever required.
- 7.4** The Licensee shall not permit more than the number of persons that the boat was originally designed to accommodate to use or occupy the boat for non-permanent residential purposes. For this purpose, two children under the age of five shall count as one person.

## **8. STORAGE**

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

## **9. PARKING**

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

## **10. ACCESS TO & WORK ON THE VESSEL**

- 10.1** The owner must not (and must not allow anyone else to) undertake any work on the Vessel, its gear, equipment or other goods while on the Marina Premises without the Company's prior written consent, other than minor running repairs or minor maintenance of a routine nature carried out by the Owner, their regular crew or members of their family not causing any nuisance or annoyance to any other users of the Marina Premises or any other premises or any person residing in the vicinity, nor interfering with the Company's schedule of work, nor involving access to prohibited areas. The Company's consent will not be unreasonably withheld.
- 10.2** Should, during the maintenance (including painting) of a vessel berthed within the marina, any mess or damage be caused to the property (pontoons / walkways / fixtures & fittings and similar), the Company will request this to be cleaned to the Marina's satisfaction. Should any repairs be required, the Marina will organise this and charge the Owner of the Vessel of which caused the damage. Painting whilst berthed on a pontoon within the marina premises is at the discretion of the Company and permission must be granted from the Marina Office prior to starting.
- 10.3** Where the Facility comprises or includes storage ashore, the Company may restrict the Owner's access to the Vessel and, where appropriate (having regard to the nature and scale of the Marina Premises and the Company's business), the Company may prohibit the Owners from accessing the Vessel while it is stored ashore.

## **11. REGULATIONS**

- 11.1** The Owner must and must ensure that any other person on board or accessing the Vessel while in the Marina premises (excluding the Company) does observe the Regulations published from time to time by the Company, including Company's Health, Safety and Environmental policies.
- 11.2** The Company will supply the Owner with a copy of the Regulations current at the time of granting the Licence. The Company reserves the right to introduce new Regulations where required on legal grounds or for the safety or security or good management of the Marina Premises, and to amend such Regulations as from time to time may be necessary. Such Regulations and any amendments to them will become effective on being displayed on the Company's public notice board or other prominent place at the Marina Premises, and a breach of any of the Regulations will amount to a breach of these Conditions.
- 11.3** The Owner must and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does report to the Company all accidents involving injury to any person or damage to any public or private property that occur in the Marina Premises as soon as reasonably possible after they occur.
- 11.4** The Owner must, and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does not operate any noisy, noxious or objectionable engines, radio, or other apparatus or machinery within the Marina Premises so as to cause any nuisance or annoyance

to any other users of the Marina Premises or to any person residing in the vicinity. Halyards and other rigging shall be secured so as not to cause such nuisance or annoyance.

- 11.5 The Owner must and must ensure that any other person on board or accessing the Vessel while in the Marina Premises (excluding the Company) does not throw any refuse overboard or dispose of it anywhere in the Marina Premises, other than in the receptacles provided by the Company or by removal from the Marina Premises.
- 11.6 The Owner must provide and maintain at least one fire extinguisher, which is approved and manufactured to EN3 standards for portable fire extinguishers, and ensure it is fit for purpose for the Vessel and ready for immediate use in case of fire.

## 12. TERMINATION BY COMPANY

- 12.1 The Company has the right (without prejudice to any other rights in respect of breaches of the terms of the Licence by the Owner) to terminate the Licence in the following manner in the event of any breach by the Owner of any term of the Licence or these Conditions:
  - 12.1.1 Having regard to the nature and seriousness of the breach and the risk it poses for the financial or other security of the Company and/or of the Company's customers and if the breach is capable of remedy, the Company may serve notice on the Owner specifying the breach and requiring them to remedy the breach within a reasonable time specified by the Company. Where the breach is serious or poses an immediate risk or threat to the health, safety or welfare of any other person or property the time specified for remedy may be immediate or extremely short.
  - 12.1.2 If having been served notice under Condition 12.2.1 the Owner fails to affect a remedy within the specified period of time, or if the breach is not capable of remedy, the Company may serve notice on the Owner requiring them to remove the Vessel from the Marina Premises immediately.
- 12.2 If the Owner fails to remove the Vessel on termination of the Licence (whether under Condition 12.1 or otherwise), the Company will be entitled:
  - 12.2.1 to charge the Owner at the Company's 24-hour rate for overnight visitors for each day between termination of the Licence and the actual date of removal of the Vessel from the Marina Premises and/or
  - 12.2.2 at the Owner's risk (save in respect of loss or damage directly caused by the Company's negligence or other breach of duty during such removal) to remove the Vessel from the Marina Premises and thereupon secure it elsewhere and charge the Owner with all costs reasonably arising out of such removal including alternative berthing fees.
- 12.3 Any notice of termination served by the Company under this Condition may be served personally on the Owner, sent registered post or recorded delivery service to the Owner's last known address or sent to the email address (if any) set out in the Licence.
- 12.4 The Licence will terminate immediately and without notice on the death of the Owner. If the Owner's representatives do not either enter into a new licence with the Company or remove the Vessel from the Marina Premises, then Condition 12.2 will apply as if references to the "Owner" were references to the "Owner's representatives".
- 12.5 The Licence will terminate immediately and without notice on the disposal of the Vessel by the Owner.

## 13. TERMINATION BY OWNER

- 13.1 An Annual Licence may be terminated on 16 weeks' written notice by the Owner to the Company. A six-month Licence may be terminated on 8 weeks' written notice by the Owner to the company. Following such notice, the Company shall prepare an account of:
  - 13.1.1 All sums owed by the Owner in respect of services or facilities used up to the intended date of departure of the Vessel, and the charge that would have been payable by the Owner to the Company in respect of this Licence if the original term of this Licence had ended on the date of expiry of the Notice of Termination., less
  - 13.1.2 The sum actually paid by the Owner to the Company in respect of this Licence. Where the balance is in favour of the Company, the Owner shall be required to pay the balance before removal of the Vessel from the Harbour or Premises and where the balance is in favour of the Owner, the Company shall pay it to the Owner upon departure of the Vessel from the Harbour or Premises.
- 13.2 Mooring contracts for periods of less than six-months are non-refundable.

## 14. ADDRESS DETAILS AND SUBSEQUENT CHANGE OF DETAILS

- 14.1 The Owner must supply to the Company details of the Owner's home address. This address must be a different address to the address of the Marina Premises. The Owner must produce evidence to the Company of such home address within 7 days of a request to do so.
- 14.2 The Owner must notify the Company in writing (which includes by email) of any change of name of the Vessel or change of address or telephone number of the Owner, within 7 days of such change taking place.

## 15. DATA PROTECTION

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

## 16. LAW & JURISDICTION

- 16.1 The Licence, these Conditions and any non-contractual obligations arising out of, or in connection with, the Licence shall be governed by and construed in accordance with English Law.
- 16.2 Each of the parties irrevocably agrees that any and every dispute (and any non-contractual obligations, as aforesaid) arising out of or in connection with the Licence shall:
  - 16.2.1 If one party acts as consumer (meaning a natural person acting for purposes outside of a trade, business or profession), be subject to the non-exclusive jurisdiction of the English courts; or
  - 16.2.2 Where no party acts as consumer, be subject to the exclusive jurisdiction of the English Courts.

## 17. DISPUTE RESOLUTION SCHEME

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

## SPECIAL CONDITIONS

### 1. CONTRACTORS

The Licensee shall not permit any outside surveyor, broker, agent, contractor, tradesman or workman to enter the premises or moorings of the Company for any purposes whatsoever without obtaining the prior written consent of the Company. If such consent is granted such surveyor, broker, agent, contractor, tradesman or workman must report to the Marina Office for registration and with proof of public liability insurance to the value of £3,000,000, professional indemnity insurance and their Company Health and Safety policy prior to any work being carried out. The Contractor must, without exception; sign in to the Marina Office each day and immediately upon their arrival to the Marina premises and pay the £10 daily fee until the work has been completed.

### 2. CONTRACT AND TERMS AND CONDITIONS

- a) All moorings and sites are contracted subject to the Terms and Conditions above accompanying the contract and these special conditions.
- b) Any amendments to the Special Conditions shall become effective on being displayed at the Company's offices.
- c) Contracts commence on the agreed start date and run for a period of 12 or six months (unless otherwise agreed with the Company). As the name implies, the contract is a legal and binding document for the period.
- d) Licensees are advised to carefully read the Terms and Conditions and Special Conditions herein prior to signing their contract. All conditions are available from the Marina Office upon request.

- e) Disorder, deprecation or indecorous conduct by a Licensee or his guest or visitors shall be cause for cancellation of the Licence.
- f) No private or trade advertising (signs, notices etc.) is permitted on the Marina premises unless with previous written consent of the Company, which may be withheld at its sole discretion. No Owner will be permitted to display a 'For Sale' notice on any vessel.
- g) The Owner agrees and acknowledges that from time to time the Company may be required to give the owner's details to certain statutory third parties (such as, but not restricted to navigation authorities) however the Company undertakes not to give the Owner's details out to any other third party (except where obliged by law to do so).
- h) The Owner agrees that the Company may from time to time send the Owner newsletters and / or mailings relating to the normal business of the Marina or its tenants (such purpose restricted to matters concerning the Owners Vessel or normal Marina business).
- i) The Company will not be liable for delays or failures to perform its duties under this agreement if these are the consequence of causes or circumstances beyond its reasonable control (including but not limited to acts of God, war, riot, civil disturbance, terrorism, acts of government, strikes, fire, flood, power failure or communications failure).

### **3. ELECTRICITY**

- a) No guarantee is given by the Company for the continuous supply of electricity and other services within the Marina Premises. The Owner is responsible for the consequences of a discontinued electricity supply and shall take all necessary precautions assuming that a continuous supply of electricity is not maintained. Mains electricity is only available to boats with a properly equipped and protected ring-main installation. The Owner shall observe all statutory and local regulations relative to electricity in or upon their vessel.
- b) The Owner shall not leave any electric fan or incandescent heater in operation aboard the vessel while the vessel is unoccupied.
- c) The Company reserves the right to disconnect or discontinue the shore supply to the Owners vessel in the case of overloading, persistent earth tripping, or for fault finding purposes.
- d) The Company reserves the right to charge to the Owner the costs of any repairs or replacements to the Marina electrical system necessitated to any damage caused by the Owner or their vessel whether accidental or otherwise.
- e) The Owner undertakes to pay the Company for all electricity consumed at the Company's premises whether supplied by meter, metered lead, pre-payment card or flat-rate charge at the price published from time to time by the Company and displayed at the marina office. This charge may alter without notice as supply costs alter. Charges for electricity supplied will include standing charges, monthly demand charge, capacity charge, climate change levy, repair and renewal costs, NICEIC certification costs, maintenance costs, and administration costs. Electricity is supplied in accordance with OFGEM regulations.
- f) The Company reserves the right to disconnect the Owner's 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 terms of conditions (66) to (70) above.
- g) The annual electricity service charge will be charged to ALL moorings with this facility.
- h) A limited electricity supply is available on the hard standing for the use of power tools only.

### **4. WI-FI**

- a) Harleyford Marina Wi-Fi Internet connectivity is available to Harleyford Marina Berth-Holders who hold a current mooring contract within Harleyford Marina and is subject to the Terms and Conditions upon activation.

#### **4.1 Extent of the Service**

- a) Harleyford Marina has no responsibility for, or control over, the internet Services you access and do not guarantee that any services are error or virus free.
- b) We have no responsibility or control over, the information you transmit or receive via the service.
- c) We do not guarantee the availability of the Service or the speed at which information may be transmitted or received via the Service or that the Service will be compatible with your equipment or any software which you choose to use.
- d) Harleyford Marina does not guarantee the security of the information which you may transmit or receive using the Service or located on any equipment utilising the Service and you accept that it is your responsibility to protect your information and have adequate security (in terms of equipment and procedures) to ensure the security, integrity and confidentiality of your information and data.
- e) Harleyford Marina reserves the right at all times to withdraw the Service, change the specifications or manner of use of the Service, to change access codes, usernames, passwords or other security information necessary to the Service.

#### **4.2 Your use of the Service**

- a) You must not use the Service to; access Internet Services or send or receive emails which are defamatory, threatening, intimidatory or which could be classed as harassment. Contain obscene, profane or abusive language or material. Contain pornographic material (that is text, pictures, films, video clips of a sexually explicit or arousing nature). Contain offensive or derogatory images regarding sex, race, religion, colour, origin, age, physical or mental disability, medical condition or sexual orientation. In our reasonable opinion, may adversely affect the manner in which we carry out our business or are otherwise unlawful or inappropriate.
- b) We recommend that you do not use this Service to transmit or receive any confidential information or data and should you choose to do so, you do so at your own risk.
- c) The Service is intended for consumer use only. In the event that you use the Service for commercial purposes, we would specifically refer you to clause 4.4 below.
- d) We may terminate or temporarily suspend the Service if we reasonably believe that you are in breach of any provisions of this agreement including but not limited to any clause that forms this agreement.

#### **4.3 Criminal activity**

- a) You must not use the Service to engage in any activity which constitutes or is capable of constituting a criminal offence, either in the United Kingdom or in any state throughout the world.
- b) You agree and acknowledge that we may be required to provide assistance and information to law enforcement, governmental agencies and other authorities. You further agree we are entitled to co-operate with law enforcement authorities and rights-holders in the investigation of any suspected or alleged illegal activity by you which may include, but is not limited to, disclosure of such information as we have and are entitled to provide by law, to law enforcement authorities or rights-holders.

#### **4.4 Other Terms**

- a) You agree to compensate the Marina fully for any claims or legal action made or threatened against us by someone else because you have used the service in breach of these Terms and Conditions outlined above.
- b) Whilst we do not seek to limit our responsibility for fraudulent mis-representation or if you are injured or die as a result of our negligence we have no responsibility (to the extent permitted by law) to compensate you (whether or not we are negligent) for any direct financial loss, loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, data, use, business, wasted expenditure, business interruption, loss arising from disclosure of confidential information, loss arising from or in connection with use of the service or inability to use or access the Service or a failure, suspension or withdrawal of all or part of the Service at any time or damage to physical property or for any other similar direct loss that may arise in relation to this agreement whether or not we were advised in advance of the possibility of such loss or damage.

### **5. KEYS**

The Licensee shall deposit with the company a set of keys relating to the Vessel under Licence.

### **6. LENGTH OF BOAT CALCULATION**

For record and accounting purposes:

- a) The calculated length of the boat is the length of the hull overall from the foremost to the aftermost extremity
- d) 1 metre shall be calculated at 3.28 feet.

- e) All measurements will be rounded up to the nearest 0.25 metre.
- f) The Company reserves the right at any time during the period of this agreement to measure the Owner's vessel and to charge additional berthing fees should the length overall exceed that stated in this agreement. The overall length of the vessel will be calculated over all accessories and fixings, for example; outboard engines, sterndrive units, bathing platforms, pulpits and davits.

## **7. LIABILITY**

- a) Any damage to any part of the grounds, fixtures or fittings of Harleyford Marina caused by the Licensee, their invitee or pets shall be the responsibility of the Licensee and made good to the satisfaction of the Company or reasonable compensation shall be paid for any damage.
- b) The Licensee shall ensure that no pollution of any nature emanates from the Vessel and only the Elsan disposal points provided shall be used for the emptying of portable toilets and these shall be used for this purpose only. Where pollution occurs, the Licensee will be responsible for the costs of all remedial and decontamination work.
- c) All Licensees are reminded that they should maintain adequate Third-Party insurance with a minimum sum of £2,000,000 required for the duration of this Licence. Harleyford Marina will require to see a copy of the insurance at the time of renewing your contract.
- d) The Licensee is responsible for maintaining the appearance and condition of their boat in a condition acceptable to the Company.
- e) If in the Company's opinion such be necessary for the safety of the vessel or for the safety of other users of the marina or premises or for their vessels or for the safety of the Company's marina, premises, plant or equipment, the company shall have the right to moor, re-berth, move, board, enter or carry out any emergency work on the vessel and except to the extent that such moorings, re-berthing, movement, boarding, entering or emergency work arises from the negligence of the Company or those for whom the Company is responsible, the Company's reasonable charges therefore shall be paid by the Owner.
- f) If in the Company's opinion, the condition of the vessel has been left to deteriorate to such an extent that it is detracting from the enjoyment of other berth-holders or poses a threat to safety or navigation within the Marina, the owner shall be asked to clean and or maintain the vessel and if such cleaning or maintenance is not carried out then the company reserves the right to carry out or to instruct to have carried out such cleaning. Maintenance and/or lifting ashore or such will be at the Owners expense.
- g) The Owner shall maintain the vessel's engines and machinery in a good working condition at all times.
- h) The Owner shall not leave any electric fan or incandescent heater in operation aboard the vessel while the vessel is unoccupied.
- i) Children must be supervised and accompanied by an adult at all times.
- j) Swimming, diving and paddle boarding within the marina is strictly prohibited.
- k) The hardware of the Marina Premises is not to be interfered with in any way.

## **8. MOORING ALLOCATION**

- a) In all cases the allocation of moorings shall be at the sole discretion of the Company although the Company will use reasonable endeavours to accede to a request for a particular mooring.
- b) The amount of space allocated for a mooring to each Licensee shall be determined by the Company in accordance with their normal practice and the decision of the Company shall be final.
- c) Vessel shall be berthed or moored by the Owner in such a manner and position as the Company may require and adequate warps and fenders shall be provided and fitted by the Owner.

## **9. ENVIRONMENT AGENCY LICENCE**

All boat owners are reminded that any Vessel on the Thames including those moored within Harleyford Marina must be licensed with the Environment Agency. A Licence application form may be obtained from the Marina Office.

## **10. PAYMENT**

- a) Payment of mooring fees is to be made two weeks in advance by a single payment either by cash, cheque, credit or debit card or bank transfer.
- b) Payment of mooring Licence fees must be made prior to moving a boat onto a mooring.

## **11. RENEWAL**

- a) Where the term of this Licence is six months or more:
  - i) Your contract for mooring services will end on the date set out in the order ("Minimum Term"). We will notify you before the end of the Minimum Term to let you know the Mooring Services we provide to you will be ending soon. If however your vessel continues to be on the Berth after the Minimum Term this will be taken as confirmation that you wish for us to continue to provide the Mooring Services for an additional Minimum Term and we shall invoice for the mooring services to be provided to you during the additional term and you shall pay the invoice in accordance with clause 10. These terms will continue to apply to the provision of the Mooring Services if you choose to Berth your vessel during any Additional Term.
  - ii) The Owner shall notify the Company within 30 days after the date of such notice if he wishes to enter into a new berthing Licence stating the desired period thereof and the Vessel for which the berthing Licence is sought, and the Company shall use its reasonable endeavours to accommodate the Owner in this regard.
  - iii) If the Company does not receive notice pursuant to condition ii) from the Owner, the Company gives no assurance that a berth will be available to the Owner.

## **12. REFUNDS**

- a) Moorings are let for the period specified in the Moorings Licence and Invoice.
- b) Mooring fees cannot be refunded, or credit given for non-use of berths.
- c) Contracts are not transferable.

## **13. SAFETY OF MOORING**

Any warps, fenders or other mooring devices which in the opinion of the Company prejudice the safety of the Vessel in or upon the Marina may be replaced by the Company and charged to the account of the Licensee.

- a) No items of boats, gear, fittings or equipment, supplies, stores or alike shall be left upon the pontoons, jetty's, bankside or car parks. No item of any description (for example but not limited to aerials, antennae, fenders, cleats, statues etc.) shall be fixed to the pontoon, jetty's or bankside by the Owner. Such items are liable to immediate removal and disposal by the Company at the Owners expense.
- b) The Owner may not use any part of the Company's premises for the purpose of lighting BBQs with the exception where available of specific BBQ areas designated at the Company's discretion. BBQs must not be lit on pontoons or aboard vessels.
- c) No guarantee is given by the Company as to water levels within the Company's marina and the Owner is responsible for any consequence of fluctuating water levels. The navigation authority's policy is to maintain water within a stated range except in flood or low flow conditions when water levels may exceed the stated range.

## **14. SALE OF BOATS**

The Licensee shall, in the event of a private sale of this boat, declare to the Company the gross sale price and remit to the Company upon demand access commission calculated at 1% of the gross sale price plus VAT upon completion.

## 15. SUBLETTING

The subletting of moorings and boats is strictly prohibited. Additionally, in the interest of security, no boat may be used at any time by any person other than the Licensee or his immediate family except by prior arrangement with the Company.

## 16. TEMPORARY MOORINGS

- a) Six-month moorings are offered at the annual rate published herein plus a charge of approximately 20%.
- b) Temporary moorings over 6 weeks' duration but less than six-months, are offered at the annual rate published herein plus a charge of approximately 28%.
- c) Temporary moorers may be asked to move should their berth be required by a permanent moorer.

## 17. CRANING, HARD STANDING & STORAGE

- a) A minimum charge of 6.00 mts applies to all craning services. A maximum length of 16m applies to all vessel requiring storage ashore. A maximum weight limit of 13 tonnes applies to all craning services.
- b) Delays which necessitate lifting outside normal working hours will be charged at £130 per hour.
- c) Harleyford Marina do not operate lifting services at weekends or bank holidays except by prior arrangement.
- d) Harleyford Marina cannot guarantee your required lifting date, especially when booking at short notice. We are unable to specify exact lifting times for any booking. Harleyford Marina will try to accommodate or lifting requirements however bookings are subject to change by the Company for reasons outside of their control.
- e) If 7 days' notice of cancellation is given: 100% of fees will be refunded. If more than 48hrs notice but less than 7 days' notice is given: 50% of fees will be refunded. Less than 48hrs notice is given: No refund is payable
- f) Crane bookings are not confirmed until payment has been received in full.
- h) Harleyford Marina cannot be held responsible for any personal effects or equipment left on board any vessel during craning operations and storage. Harleyford Marina advises you remove all valuables and portable equipment prior to craning. Please ensure all fragile items are securely stowed. Harleyford Marina cannot be held responsible for any breakages.
- i) Harleyford Marina cannot accept liability for any damage caused when handling craft or when stored / moored on the Company Premises, except where it can be demonstrated that the Company has been negligent.  
You are responsible for making the crane driver aware of any specific lifting or chocking requirements prior to the lift. Vessels stored ashore on chocks or cradles may only be moved by the Company or have such chocks, block, cradles or other supports moved or adjusted by the Company.
- j) All pressure washing must be carried out by marina staff in the designated crane / wash-down area. Pressure washers are not permitted to be used on the hard standing unless prior consent is given by the marina office.
- k) Harleyford Marina reserves the right to refuse to lift any vessel they feel would be unsafe or not suitable for the crane, hard standing or marina based on (but not limited to) dimensions, construction material(s) or conditions of the vessel.
- l) All vessels must have suitable insurance to cover the craning and storage ashore of the vessel.
- n) Ladders to climb aboard the vessel whilst ashore must be provided by yourself. The top of ladders should be secured to the vessel when climbing.
- o) No items must be thrown from the vessel, even in the instance where waste receptacles are below.
- p) No work that will cause noise should take place between the hours of 8pm and 8am.
- q) Under no circumstances are persons allowed to sleep on board vessels whilst they are stored ashore.
- r) All gas and fuel tank work should be undertaken by professionals. If you engage an outside contractor, they must report to the marina office to register and provide the appropriate insurance documents. A contractor's fee is applicable.
- s) Children are not permitted to play on the hard standing. All children must be supervised at all times. Dogs must be kept on a lead at all times and should not cause a distraction, nuisance to other customers.
- t) Vehicles are not permitted to be parked on the hard standing. The owner must use the car park provided. Trolleys are available for transporting tools etc. All vehicles must display a Harleyford Marina car parking sticker which are available from the Marina Office.
- u) All rubbish must be removed from site to be disposed off and must never be left under the vessel as this will obstruct any movement of you boat and create a fire / health & safety risk.
- v) Harleyford Marina will not launch any vessel to water until the area of hard standing surrounding the vessel has been left clean and tidy and all waste has been removed from site.
- w) Shot / slurry blasting must not be carried out by boat owners or outside contractors without first gaining the written consent from the marina office.
- x) The Owner shall ensure that the vessel is prepared and ready for launch and shall further ensure that the vessel is checked for integrity and safety as soon as it is put afloat.
- y) Vessels stored ashore will be launched or put afloat in such sequence as to avoid moving other vessels for this purpose and also so as to make the most economical use of the facilities at the Company's disposal at the Owners request, the Company will, if possible, launch his vessel but the cost of moving other vessels for this purpose and / or any attendant expenses must be paid for by the owner. The basis of such charges is available to the owner on request.

## 18. TENDERS/SMALL CRAFT

- a) Tenders to all craft subject to a valid Harleyford Marina mooring Licence are to be kept on davits (where fitted) or aboard the parent craft. They may not be left in the water, adjacent to the parent craft, on the bank or on the pontoons.
- b) The Company asks that; except for access, all dinghy and small craft owners avoid the Marina Basin, which can be extremely dangerous when large craft are manoeuvring.

## 19. PETS

- a) Dogs must be kept on a lead at all times and under the strictest control in order not to cause nuisance to others or to cause damage to the Marina Premises. For reasons of hygiene, dog owners must clean up after their dogs.
- b) Cats are strictly prohibited on the Marina or onboard a vessel berthed within the Marina.

## 20. TROLLEYS

- a) Trolleys are provided for short-term use only and are to be returned to a trolley bay immediately after use.
- b) At no time are trolleys to be removed from the Marina Premises.
- c) Trolleys must not be overloaded and are to be returned clean.
- d) Children and adults are not permitted to ride in the trolley.

## **21. VEHICLES IN THE MARINA**

- a) **STICKERS.** All cars must display an identification sticker provided free of charge from the Marina Office.
- b) **CAR PARKS.** There are car parking areas adjacent to all moorings. Licensees are asked not to park on the access road to Basin B, on the quayside or on the grass verge. Boats moored on The Park and Eastern Spit may park one car beside their boat, but if leaving the mooring the car must be parked in a car park.
- c) **SPEED LIMIT.** For every good reason including the safety of Licensees, the Marina speed limit is 5 mph.
- d) **LEARNER DRIVERS.** No one may have charge of a motorised vehicle on the Company's premises unless they hold a current driving licence and are fully insured. Driving tuition is not permitted on the Company's premises.
- e) **MAINTENANCE.** No maintenance work or cleaning shall be carried out to any motor vehicle whilst on the Company's premises except for emergency repairs with the express permission of the Company.
- f) **MOTOR CYCLISTS.** When driving on the Company's premises, motorcyclists should wear full headgear and keep within the speed limit. Motorcycles may only be used for access to and access from the Marina.
- g) All vehicles on the Company's premises must be fully taxed and insured.
- h) The Owner shall not park or store any motor vehicle on or at the Company's premises other than during periods when the Owner is aboard their vessel. No motor vehicles shall be parked or stored on or at the Company's premises for any period in excess of fourteen days unless the Owner is away from the Marina cruising aboard the vessel. Vehicles that are deemed by the marina to be left for a long period of time (in excess of fourteen days) without the prior written consent of the marina will be subject to a £25 daily fee from the first date the car was left.

## **22. FISHING IN THE MARINA**

Fishing in the marina is prohibited.

## **HEALTH & SAFETY AND ENVIRONMENTAL POLICY**

- 1. Harleyford Marina makes every effort to keep the marina and the grounds safe, but it is very important that moorers do not do anything that is a risk to others – or the environment.
- 2. Harleyford Marina recommends wearing suitable footwear such as deck shoes whilst on the Marina Premises, especially whilst walking on the pontoons. High heeled shoes, flip flops and slippery soled dinner shoes are not recommended.
- 3. Moorers are only permitted to undertake small running repairs to their vessels – should work be required to be carried out by a contractor, the contractor must first be registered with the Marina Office (see Clause 1 of Special Conditions).
- 4. The area around the Owner's Vessel must be kept neat and tidy with no objects or cables/hoses to be left on the pontoons.
- 5. All fuel cans must be stored in a safe manner out of the reach of children.
- 6. All general waste must be disposed of in the correct manner and in the receptacles provided.
- 7. All waste oil must be placed in the waste oil tank in the marina car park. The key to use this facility may be obtained from the marina office.
- 8. All waste batteries must be removed from the site and disposed of in a safe manner.
- 9. Waste/fuel must never be discharged into the water.
- 10. Sewage must never be discharged into the water. Pump out and Elsan disposal points are located within the marina.
- 11. Illegal substances / items are strictly prohibited from the Marina Premises.
- 12. No part of any vessel may overhang a walkway (including anchors / bow sprits / davits etc.) Pontoons and walkways must be kept clear of gear, including dinghies and skiffs, at all times.
- 13. Cycling on Pontoons is not permitted.
- 14. All accidents – either to a person or to other Vessels – must be reported to the Marina Office.
- 15. **If you see anything that you feel is a danger to you or your fellow moorers – please report the facts to the Marina Office as soon as possible.**

**DECEMBER 2019**