

UNIVERSAL MARINA

RIVER HAMBLE

TERMS AND CONDITIONS FOR THE USE OF AND FOR THE SUPPLY OF SERVICES BY UNIVERSAL MARINA (EFFECTIVE 01.01.2018)

These Terms and Conditions shall apply to all persons entering and using the MARINA for any purpose and shall govern the contractual relationship between the COMPANY and BERTHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER, CONTRACTORS and any other CUSTOMER, as specifically detailed below.

DEFINITIONS:

BERTH is a defined space on the water allocated by Universal Marina from time to time to the BERTHOLDER.

BERTHOLDER means the person who has signed a CONTRACT with the COMPANY for a BERTH in the MARINA.

BOAT means the vessel specified in the CONTRACT which is authorised by the COMPANY to use the BERTH, DRY SAIL, DRY STACK or HARDSTANDING.

COMPANY means John Willment Marine Limited (Company registration number: 0707628. Registered Office: 3000a Parkway, Whitely, Hampshire, PO15 7FX) trading as Universal Marina or any other trading name within the Willment group of companies.

CONTRACT means the agreement entered into between the COMPANY and the primary nominated BERTHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER.

CONTRACTOR means a private individual, sole trader, partnership or company that enters the MARINA to undertake works on a BOAT under the instruction of the CUSTOMER OR THE COMPANY and who is authorised to supply services and goods within the MARINA by the COMPANY.

CUSTOMER means any person using goods or services offered by the COMPANY within the MARINA.

DRY SAIL CUSTOMER means an OWNER OR REPRESENTATIVE who has entered into a CONTRACT with the COMPANY with respect to a HARDSTANDING area.

DRY STACK SLOT is a slot within the BOAT storage facility allocated at the discretion of the COMPANY to the DRY STACK CUSTOMER during the term of the CONTRACT.

DRY STACK CUSTOMER means any person who has entered into a CONTRACT with the COMPANY for a DRY STACK SLOT

ENVIROMENTAL GUIDELINES refers to a list of guidelines set by the COMPANY available from the the Marina Reception.

HARDSTANDING CUSTOMER means any person who has entered into a CONTRACT with the COMPANY for a HARDSTANDING CONTRACT.

HARDSTANDING is a space ashore in the MARINA allocated from time to time to the OWNER for storage limited to maximum 6 months duration in writing by the MANAGER during the term of the HARDSTANDING CONTRACT.

HEALTH AND SAFTY GUIDELINES refers to a list of guidelines set by the COMPANY available from the MARINA Reception.

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LOA (length overall) means the total length of the BOAT including davits, bowsprits, boarding ladders, bathing platforms, sterndrives, tenders, outboards, rudders, anchors, pulpits, pushpits and any other extensions fore and aft of the boat.

DISCOUNT SCHEME is a discount structure applicable to a BERTHOLDER from time to time at the sole discretion of the COMPANY.

MANAGER means a person designated by the COMPANY who is responsible for day-to-day operations of the MARINA.

MARINA means all parts of Universal Marina including all property owned by or situated within the COMPANY'S property, including docks, pontoon, jetties, quays, piers, mud, marshes, berths, sheds, workshops, offices, hardstands, roadways, pathways and car park.

OWNER means the BERTHOLDER, DRY SAIL CUSTOMER, DRY STACK CUSTOMER, HARDSTANDING CUSTOMER or any other person being in control of the BOAT.

PERMIT means a written agreement entered between the COMPANY and a sole trader, partnership or company issued to a CONTRACTOR.

USERS mean any person entering the MARINA

CONTRACT

1. The BERTHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER will be required to enter into a CONTRACT with the COMPANY. Until such a CONTRACT is concluded the COMPANY reserves the right to charge the OWNER the COMPANY'S ruling daily rates until the date such CONTRACT is signed, irrespective of whether any previous expired CONTRACT with the COMPANY existed. Additional services will be charged at the COMPANY'S ruling list price which shall be notified to the CUSTOMER prior to such services being carried out.

1.1 Where the CONTRACT is not adequately completed or returned to the COMPANY, and invoices have been settled by the CUSTOMER, the terms and conditions herein will be deemed to have been accepted in whole by the CUSTOMER.

1.2 The COMPANY'S tariff of charges to BERTHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER will be calculated using the BOAT'S LOA and the COMPANY reserves the right to audit the LOA at any time and, in the case of any discrepancy to retrospectively amend such charges accordingly.

1.3 It is the responsibility of the BERTHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER to ensure the correct LOA is reflected in the CONTRACT.

1.4 The COMPANY reserves the right to amend its price list or to add services at any time subject to 30 days written notice.

1.5 The CONTRACT is granted to the BERTHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER for up to 12 months at a time (as specified in the CONTRACT) for a BERTH allocated by the COMPANY.

1.6 The COMPANY reserves the right to move or re-berth any BOAT, gear, equipment or other property at any time for reasons of safety, security or good management of the business and MARINA without prior notice to the OWNER.

1.7 The COMPANY requires the CUSTOMER to remove all furling headsails, dodgers or items that could cause undue windage (excluding cabin covers on motor cruisers) in respect of any BOATS on the HARDSTANDING or DRY STACK.

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1.8 Payments shall be deemed to have been made when the COMPANY receives cash or funds cleared in its bank account.

1.9 No BERTH or DRY SAIL, DRY STACK or HARDSTANDING will be reserved or allocated until all fees have been received in terms of clause 1.8.

1.10 BERTHOLDERS, HARDSTANDING CUSTOMERS, DRY SAIL CUSTOMERS or DRY STACK CUSTOMERS who qualify for any discount or group scheme will lose such discounts applied to any overdue invoice(s) and will no longer qualify for further discounts or benefits and in such event the full list price for fees will be applied for all further services, berthing or storage services.

1.11 The COMPANY reserves the right to charge interest and fees on any arrear invoice in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and Late Payment of Commercial Debts Regulations 2002 and 2013. Interest is charged at the Bank of England base rate that applies during the period in which the debt falls due PLUS 8%.

1.12 In addition to clause 1.11 the COMPANY reserves the right to exercise a lien over the CUSTOMER'S BOAT until the debt including any accrued interest and charges has been discharged. The COMPANY further reserves the right to remove the BOAT from its BERTH and put it on the HARDSTANDING and charge the CUSTOMER per the published daily rates for lifting and storage accordingly.

1.13 The BERTHHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER CONTRACTS have a fixed term period and no refunds shall be made for early termination of the CONTRACT. Any cancellation of direct debit instruction by the CUSTOMER or any return of any direct debit due to lack of funds will lead to the remaining balance of the CONTRACT becoming immediately due and payable in full and subject to charges per clause 1.11

1.14 Direct debit CUSTOMERS must complete and return their signed direct debit mandate to the COMPANY 14 days prior to the CONTRACT start date. If this is not possible the CUSTOMER must pay the first instalment on signature of CONTRACT.

2. THE MARINA - Conditions of Use

THE BERTHHOLDER, HARDSTANDING CUSTOMERS, DRY SAIL CUSTOMERS or DRY STACK CUSTOMERS, acknowledge and undertake at all times:

2.1 not to leave the MARINA without full settlement of the CUSTOMER'S account;

2.2 that the BOAT will be moored only in the BERTH allocated by the COMPANY from time to time or by the prior written consent of the COMPANY;

2.3 to notify the MANAGER prior to the departure of the BOAT from the MARINA, providing notice of the anticipated time and date of departure and/or return;

2.3 that the COMPANY has the absolute right to allocate the BERTH to a CUSTOMER when the BERTHHOLDER has temporarily vacated the BERTH;

2.4 not to sublet their BERTH to any third party without the express written permission of the COMPANY;

2.5 to deposit all keys for the BOAT with the MANAGER at the MARINA reception giving full access to the BOAT and to give authority to the COMPANY to move the boat under its own power;

2.6 to allow the COMPANY to act as a key holder for the BERTHHOLDER who will provide the COMPANY with a list of authorised personnel to whom the keys may be issued to;

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2.7 that the BOAT shall be berthed in such a manner and in such a location as the COMPANY may require. All necessary warps and fenders must be provided, fit for use and must be properly and safely secured and attached to the pontoon at all times failing which the COMPANY reserves the right to supply or replace such items and to charge the BERTHOLDER for time and cost of materials accordingly;

2.8 except with written consent of the COMPANY which may be withheld at the COMPANY'S sole discretion not to use any part of the MARINA or the BOAT for any commercial activities purposes including hiring, embarkation of charter parties, sale or demonstrations for sale or hire of the BOAT. The occasional use of the BOAT by invited guests of the BERTHOLDER on payment to the BERTHOLDER of a contribution towards the actual running costs of the said BOAT shall not be deemed a commercial activity purpose hereunder;

2.9 not to live aboard the BOAT nor permit any other person to live aboard the BOAT. For this condition a person shall be deemed to be 'living aboard' a BOAT if he/she spends more than 14 nights aboard in any 30-day cycle;

2.10 to notify the MARINA reception of all overnights stays;

2.11 to navigate and control the BOAT in the MARINA in a seaman like manner so as to cause no danger or damage or inconvenience to any other USER, BOAT or MARINA. In particular the BOAT shall proceed at a speed that is safe in relation to prevailing conditions and shall at all times comply with the speed restrictions and regulations imposed by the Hamble River Harbour Authority;

2.12 that the COMPANY has the right to board and enter (by force if necessary) the BOAT to carry out any emergency work without prior notice to the OWNER if it is in the COMPANY'S opinion that such work is necessary for the safety of the BOAT or the safety and/or convenience of other USERS. The BERTHOLDER shall pay on demand the COMPANY'S reasonable charges for such work;

2.13 to ensure that at all times halyards, flags, banners, wind generators and other items attached to the BOAT are secured so as not to cause any noise nuisance and annoyance or inconvenience to other USERS;

2.14 to keep the BOAT in a good, clean and operable condition at all times;

2.15 not to erect washing lines nor visibly dry clothes on the BOAT or elsewhere;

2.16 not to stow dinghies, tenders and rafts on or alongside the BOAT unless otherwise agreed in writing by the COMPANY;

2.17 to mark the BOAT and any dinghies, tender trailers and cradles clearly with the name of the BOAT. Any other equipment, which is not stored securely in the BOAT, must also be clearly marked with the name of the BOAT. If unmarked items remain at the MARINA for a period exceeding one month, then at the discretion of the COMPANY the items can be removed and disposed of by the COMPANY at cost to the USER;

2.18 not to store, fix or leave parts of the boat or other equipment including dinghies, gear fittings, fenders, trailers, supplies stores or similar items upon the pontoons, jetties, car parks or otherwise in the MARINA without the prior written consent of the COMPANY, which consent may be granted or refused by the COMPANY in its absolute discretion;

2.19 to comply with all instructions of the MANAGER in connection with all matters relating to the safe and efficient operation of the MARINA;

2.20 to return all luggage trolleys to the designated trolley storage area after use;

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2.21 not to operate or permit to be operated within the MARINA an engine generator, other machinery or equipment, a radio or any other apparatus so as to cause any noise nuisance, annoyance or inconvenience to other MARINA users or any person residing in the vicinity of the MARINA;

2.22 to only access the MARINA via designated entrances. Entry upon all adjoining land and water to the MARINA owned by the COMPANY is forbidden. A maximum speed for a car and or any other vehicle is 10 miles an hour in the marina and 15 miles an hour over the Marina's access road must at all times be observed;

2.23 not to fish, swim, jet ski, cause a disturbance, conduct anti-social behavior or bait dig within the MARINA;

2.24 to report in writing or telephonically to the MANAGER immediately any accident, incident or injury that occurs within the MARINA;

2.25 to observe the bylaws of the Hamble River Authority and all other statutory rules and regulations affecting the MARINA and the river.

3. HEALTH & SAFETY

CUSTOMERS AND USERS acknowledge and undertake at all times:

3.1 not to bring any dangerous, inflammable, poisonous or noxious substances, spirits, oil, petrol or flammable fluid, gas or solid into the MARINA or store such substances on the BOAT except in properly secured containers expressly designed to contain such substances against leakage or escape. Any containment costs of containing any leakage or escape shall be charged to the BERTHOLDER'S account;

3.2 to take all necessary precautions against the outbreak of fire on the BOAT. At least one fire extinguisher in or upon the boat suitable for the type of engines, fuel and equipment relating to the BOAT and of a kind that shall be approved by the appropriate regulatory authority must be provided. Such extinguishers shall at all times be kept instantly ready for use and in good and efficient working order.

4. WASTE & RECYCLING

CUSTOMERS AND USERS acknowledge and undertake at all times:

4.1 to separate and deposit waste only in the designated bins provided by the COMPANY (eg general waste, cardboard and glass) and not to dispose of the same over board or to leave it on the pontoon, jetties or other parts of the MARINA and specifically, to dispose of oil, petrol, tar, paint, antifouling, bleach, sewage and any other similar noxious substances exclusively into receptacles provided for such waste materials. In no circumstances shall such substances be discharged into the water, sewage system or elsewhere in the MARINA.

4.2 not to dispose of out of date flares or other pyrotechnics within the MARINA. Where no appropriate waste receptacle is provided such waste remains the responsibility of the USERS.

5. CONTRACTORS & WORK ON BOATS

CUSTOMERS AND USERS acknowledge and undertake at all times:

5.1 that no work shall be done on the BOAT, gear, equipment or other goods while in the MARINA without written consent and subject to conditions of the COMPANY other than minor running repairs or minor maintenance of a routine. The COMPANY will designate

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suitable space from time to time at its sole discretion for all works undertaken in the MARINA;

5.2 to clear all waste daily and to deposit such waste in suitable designated receptacles. Any failure to clear away such waste will result in the COMPANY itself directing such CUSTOMER OR USER to remove such waste their own cost or the COMPANY may clear and remove such waste at the cost to the CUSTOMER or USER;

5.3 not to construct or complete the construction of any BOAT within the MARINA without the prior written consent of the COMPANY. Such consent may be granted or refused by the COMPANY at its absolute discretion;

5.4 not to allow any CONTRACTOR to work on the BOAT in the MARINA unless the CONTRACTOR has a PERMIT issued by the MANAGER of the COMPANY and has third party liability insurance in the sum of at least £5000 000 (Five Million Pounds Sterling);

5.5 to behave in a considerate manner and in such a way so as not to cause nuisance, annoyance or inconvenience to any other USER;

5.6 to ensure that dust and dirt or other substances do not soil the immediate area of the BOAT or hardstanding and any fouling that should occur is removed immediately;

5.7 that all work is carried out in full compliance with applicable all health and safety and environmental laws and the COMPANY'S HEALTH AND SAFETY GUIDELINES, ENVIRONMENTAL GUIDELINES. The COMPANY shall not be responsible to CUSTOMERS or third parties for the consequences of any person's failure to respect any part of this condition but the COMPANY shall be entitled to demand the immediate cessation of any work, which in its sole opinion breaches these terms and conditions;

5.8 not to undertake any work on the hard standing (inter alia raising sails, starting engines, use of dangerous chemicals) that in any way endangers any person or damage to equipment, the surrounding area or other BOATS.

6. PARKING

CUSTOMER AND USERS acknowledge and undertake at all times:

6.1 to park their vehicles in designated parking areas within the MARINA and in accordance with its policies and fee structures of the COMPANY which it publishes from time to time. All vehicles parked in the MARINA are parked at the sole risk of the CUSTOMERS and USERS. Any vehicle parked in a non-designated area or on any yellow line may be wheel clamped and the owner of the vehicle will be charged a release fee of £50;

6.2 not to park caravans (motor or trailer) or other vehicle adapted or designed for sleeping or to erect tents in any part of the MARINA;

6.3 to provide the COMPANY with details of designated vehicle registration number plates to be used in conjunction with the parking system.

6.4 JWM reserve the right to move any vehicle parked within the Marina in a safe and professional manner.

7. PETS

7.1 Animals must be kept under control and on a lead and must not cause inconvenience in the form of noise, fouling of pontoons or the communal areas or otherwise. Any fouling of the MARINA by an animal must be cleared up by the CUSTOMER and placed in the appropriate bin or removed from site;

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8. INSURANCE

CUSTOMERS may be liable to the COMPANY for any loss or damage caused by them, their crew or their BOAT while their BOAT or other property is at the MARINA and agree:

8.1 to maintain in full force and effect, public liability insurance in an amount of a minimum of £5,000,000 for the potential damage to any BOAT and any other property in the MARINA in the care, custody or control of the OWNER, together with such other insurance as is normal for a BOAT of its size and power and description with an insurance company of repute and for such additional risks as the COMPANY may from time to time reasonably require.

8.2 that the BERTHOLDER shall furnish the COMPANY with legible copies of the current insurance certificate and policy of insurance together with a copy of receipt for the last premium paid which policy shall endure for the full period of the CONTRACT;

8.3 that BERTHOLDER shall not cancel, surrender or materially alter the terms of such insurance policy without the prior written consent of the COMPANY.

9. SERVICES

Electricity, water and WIFI is provided by the COMPANY to the BERTHOLDER solely for the use of the BOAT and CUSTOMERS subject to the following terms and conditions:

9.1 The COMPANY cannot guarantee continuous supply of services and it accepts no responsibility for loss or damage arising out of the supply of services or their termination.

9.2 The USER of electrical supply shall at all times ensure their connectors and cables are fit for purpose and meet all regulatory standards.

9.3 The maximum load when available on each outlet is 16 Amps on the water & 10amps on land. Overloading will cause trips to activate and immediate re-connection may not be possible. Reconnection may not be carried out outside of office hours.

9.4 Each BOAT must be fitted with a galvanic isolator and which is always fit for purpose failing which no connection may be made to any electrical connection point within the MARINA.

9.5 The COMPANY reserves the right to disconnect such services if any of the CUSTOMERS' is in arrears or in the sole opinion of the COMPANY such disconnection is required due to any health, environmental or safety factors being present.

10. LIABILITY

10.1 The COMPANY shall take all reasonable and proportionate steps having regard to the nature and scale of its business to maintain security at the MARINA, and to maintain its facilities and equipment in reasonably good working order; but in the absence of any gross negligence or other breach of duty by the COMPANY, BOATS and other property are kept at the MARINA at the CUSTOMER's sole risk and CUSTOMERS should ensure that their own personal and property insurance covers such risks. Any person entering and using any part of the MARINA or it's facilities for any purpose, whether by invitation or otherwise, does so entirely at their own risk.

10.2 The COMPANY shall not be under any duty or obligation to salvage, preserve a CUSTOMER'S BOAT or other property from the consequences of any defect in the BOAT

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unless it has been expressly engaged to do so by the CUSTOMER on agreed commercial terms with the COMPANY. Similarly, the COMPANY shall not be under any duty to salvage or preserve a CUSTOMER'S BOAT or other property from the consequences of an accident which has not been caused by employees or by some other breach of duty and care of the COMPANY and its employees. The COMPANY however, reserves the right in any appropriate circumstances to salvage or preserve a CUSTOMER'S BOAT, particularly where a risk is posed to the safety of people, property or the environment. Where the COMPANY exercises this right, it shall charge the CUSTOMER a fee in accordance with its standard fees for such services or such cost it deems reasonable.

10.3 Nothing in these terms and conditions shall limit or exclude any parties' liability for death or personal injury caused by the COMPANY'S negligence, or the negligence of its personnel, agents or subcontractors, or in the case of fraud or fraudulent misrepresentation.

11. TERMINATION

11.1 The Company may terminate the CONTRACT with CUSTOMERS or USERS with immediate effect by serving written notice if any its Terms and Conditions or CONTRACT are breached. It further reserves the right to recoup any costs associated with this termination including the removal and transport of the BOAT from the MARINA.

12. DIVING ACTIVITIES

All BOATS berthed at the MARINA requiring any diving activities within the MARINA are required to seek prior authority and to complete a Dive Request form which must be approved by the Hamble River Harbor Master. Copies of these forms are available in the Marina Office.

13. NOTICES

13.1 Notice to a CUSTOMER shall be sufficiently served if personally handed over or is sent by post to the CUSTOMER'S last known address or is emailed to the CUSTOMER at an email address supplied by the CUSTOMER. Notices to the COMPANY must be sent to Universal Marina offices at Crableck Lane, Sarisbury Green, Southampton, SO31 7ZN.

13.2 The provisions of this clause shall not apply to the service of proceedings or any documents in any legal action in which our address of our registered office must be used.

14. MISCELLANEOUS

14.1 The CONTRACT is exclusive to the BOAT and the BERTHOLDER, HARDSTANDING CUSTOMER, DRY SAIL CUSTOMER or DRY STACK CUSTOMER and may be transferable to a new BOAT or third party, at the sole discretion of the COMPANY and subject to availability.

14.2 Nothing in these terms and conditions shall create or shall be deemed to create the relationship of landlord and tenant between the parties, or any partnership or joint venture between the parties, or constitute any party the agent of the other, or authorise any party to make or enter into any commitments on behalf of any other party, unless expressly stated otherwise in these terms and conditions.

14.3 The COMPANY expressly reserves the right to introduce new terms or vary these terms and conditions to promote the better administration of the MARINA in the interests of the

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USERS as a whole or to comply with any applicable statutes, regulations or bylaws. Any such amendments will be displayed at the MARINA office or is available on request and will be deemed to be incorporated at the date and time when first displayed.

14.4 If at any time any one or more of the provisions hereof is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

14.5 Where the COMPANY is unable to perform any of its obligations by fire, flood, storm, earthquake or other natural disaster, explosion, riot, terrorism, malicious damage or any other act, breakdown of equipment, unavailability of staff, omission or state of affairs beyond the COMPANY'S control, the COMPANY shall be relieved of all its obligations and shall incur no responsibility or liability in respect thereof whether for damages or otherwise.

14.6 No one other than a party to the CONTRACT shall have any right to enforce any of its terms.

14.7 These terms and conditions shall be governed by and construed in accordance with English law and any disputes arising under the terms shall be submitted to the exclusive jurisdiction of the English Courts.

Updated 22.12.17

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