TOWN QUAY

APPLICATION FOR A BERTHING LICENCE FOR VESSELS AT

TOWN QUAY, ABP'S PORT OF SOUTHAMPTON

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TOWN QUAY

OWNER*

Name Of Owner

Full Home Address

Invoice Address If Different From Above

CONTACT

Mobile

Mobile 2

E-Mail

Car
(Make, Model and Registration Number)

VESSEL

Name Of Vessel

Make

Type

Keel Configuration
eg Bilge/Fin & Skeg/ Long Keel

Hull Colour

Hull Material

Age Of Vessel

Length Overall

Beam

Draught

Engine

Tonnage

SSR Number

DETAILS OF SERVICES

Berth Number

Electricity Required Yes ☐ No ☐

Start Date / /

End Date / /

Total Charge ex VAT

VAT

Total charge inc VAT

PAYMENT TERMS

Quarterly in advance ☐

Annually in advance ☐

My/Our vessel is/is not subject to any purchase agreement/mortgage/or any other encumbrance *(please include a copy of insurance certificate with this application).*

My vessel is insured with

For 3rd Party insurance value of

FOR OFFICE USE ONLY

Electricity Meter Serial Number:

Start Reading:

Special Terms:
(IF ANY)

• please note that ABP shall apply these Conditions to all those in charge of the Vessel with the Owner's consent as if they were the Owner.

IMPORTANT ADVICE

THIS LICENCE CONTAINS PROVISIONS WHICH EXCLUDE AND LIMIT ABP'S LIABILITY TO YOU. PLEASE READ ALL OF THE CONDITIONS CAREFULLY. BY SIGNING BELOW YOU ARE CONFIRMING THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO ALL OF THE TERMS AND CONDITIONS SET OUT IN THIS LICENCE.

SIGNED BY THE OWNER

_____ *signed*

_____ *dated*

Signed by _____ *on behalf of ABP*

_____ *signed*

_____ *position in*

_____ *dated*

This Licence applies to the berthing and mooring of a vessel at Town Quay Marina, ABP's Port of Southampton and any other facility or service provided by ABP in connection with such berthing and mooring. This Licence incorporates this Cover Sheet and the Conditions below (together the "Licence").

"ABP" means Associated British Ports, whose principal office is at Aldwych House, 71 -91 Aldywch London WC2B 4HN

CONDITIONS

1 DEFINITIONS

Where the following words appear in these Conditions they shall have the following meanings:

ABP means Associated British Ports (as further defined on the Cover Sheet).

ABP's Health Safety and Environmental Policy means a heath safety and environment policy issued from time to time by ABP in connection with the Harbour or Premises;

Alongside Berth means a berth where a Vessel of appropriate draft may be secured, with access to the shore without the need for a dinghy or tender.

Berth means the space on water or land from time to time allocated to the Owner by ABP for the Vessel during the term of this Licence.

Conditions means these terms and conditions;

Cover Sheet means the attached sheet referred to as such, signed by the parties to this Licence, which contains the details of the Licence.

Environment includes (whether alone or in combination) ecological systems and living organisms (including humans); air (including air within buildings or other structures and whether below or above ground); land and soil (including buildings and any other structures in, on or under land and soil, anything below the surface of the land, and land covered with water); and water (including water under or within land or within pipe or sewerage systems).

Environmental Law means all laws (including without limitation common laws), bye-laws, directives, regulations and codes of practice applicable to the United Kingdom relating to the protection of the Environment;

Harbour shall include a yacht harbour, marina, mooring or any other facility for launching, navigating, mooring or berthing a vessel.

Length Overall (LOA) means the overall length of the space occupied by the Vessel including any fore and aft projections, temporary or permanent.

Licence means the Cover Sheet and Conditions together;

Owner shall include any charterer, master, agent or other person for the time being in charge of the Vessel, excluding ABP.

Owner Invitees means the crew, members of the Owner's family, any person or company carrying out work in relation to the Vessel, any other guest or invitee of the Owner.

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

Premises means all the land, adjacent water and buildings occupied by or under the control of ABP, including docks, slipways, pontoons, jetties, quays, piers, mudberths, sheds, lofts, workshops, roadways and carparks.

Regulations means all bylaws, codes of practice of other directions or regulations issued from time to time by ABP in connection with the Harbour or Premises;

Vessel shall include any form of craft, boat, ship, yacht, dinghy, multihull, or other marine structure which is in the care and control of the Owner.

2 THE LICENCE

2.1 ABP agrees to licence the Berth to the Owner for the period and at the charges specified on the Cover Sheet in accordance with the terms and conditions set out in this Licence.

2.2 This Licence shall not be automatically renewed but will end at the End Date specified on the Cover Sheet if not terminated sooner by ABP or by the Owner under the provisions of Clauses 8 or 10.

3 LIABILITY, INDEMNITY AND INSURANCE

3.1 ABP'S LIABILITY IN RELATION TO THE OWNER USING THE BERTH, HARBOUR AND PREMISES IS SET OUT IN THIS CLAUSE 3.

3.2 Subject to Clause 3.6, ABP shall not be liable for any loss, damage, injury or other harm caused by events or circumstances beyond its reasonable control (such as (without limitation) severe weather conditions, the actions of third parties not employed by it, any defect in a customer's or third party's property, war, civil or industrial commotion, blockade of the port, closure of the port or any part of the port, damage to the port by explosion, fire, radio active contamination, terrorist activity (actual or threatened) or natural disaster).

3.3 ABP shall not be liable for:

(a) any loss destruction or damage of any Vessel or other property (whether caused accidentally or by vandalism);

(b) theft of or from any Vessel;

(c) the death of or personal injury sustained by an Owner, Owner Invitees or any other person;

(d) any other losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by the Owner or Owner Invitees or any other person in connection with the use of the Berth, Harbour and Premises,

EXCEPT to the extent that such is due to the negligence of ABP.

3.4 Without prejudice to the generality of the provisions in Clause 3.2 and 3.3 above, the Owner acknowledges that the location of the Harbour and Berth is in close proximity to a busy shipping channel and that ships wash is generated from other vessels using the channel (for example Red Funnel Ferries and Hythe Ferries) and also from other vessels using the Harbour, and that such ships wash may have an impact on the Owner's Vessel in the Harbour. The Owner further acknowledges that ABP does not accept any liability in connection with any damage, loss or injury caused as a result of such wash.

3.5 ABP will not be liable to the Owner for any loss of profit (direct or indirect); loss of business, contracts, anticipated savings or depletion of goodwill; any indirect or consequential loss or damages, costs, expenses or other claims for consequential compensation or indirect economic loss (howsoever caused) whether in contract, tort or breach of statutory duty or otherwise which arises out of or in connection with this Licence.

3.6 Nothing in these Conditions excludes or limits the liability of ABP for death or personal injury caused by ABP's negligence, or for fraudulent misrepresentation.

3.7 Vessels are berthed or moored in the Harbour at the Owner's risk and while ABP takes reasonable and proportionate steps to maintain general security at the Premises, ABP does not guarantee that it is a secure environment. In the absence of any causative negligence of ABP, Vessels, gear, equipment and other property at the Harbour and Premises are left at the Owner's own risk and Owners should ensure that their own personal and property insurance adequately covers such risks.

3.8 ABP shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of any defect in the Vessel or property concerned unless it shall have been expressly engaged to do so by the Owner on commercial terms. Similarly ABP shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of an accident which has not been caused by the ABP'S negligence of some other breach of duty on its part. However ABP reserves the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of people, property or the environment. Where it does so it shall be entitled to charge the Owner concerned on a normal commercial charging basis and, where appropriate, to claim a salvage reward.

3.9 The Owner will be liable for any loss or damage caused by them, the Owner Invitees or their Vessels and shall maintain adequate insurance including third party liability cover for not less than £2,000,000, and cover against wreck removal and salvage, and, where appropriate, Employers' Liability cover to at least the statutory minimum. The Owner shall produce evidence to ABP of such insurance within 7 days of a request to do so.

4 ADDRESS DETAILS AND SUBSEQUENT CHANGE OF DETAILS

4.1 The Owner must supply to ABP in writing, details of the Owner's home address. This address must be a different address to the address of the Harbour. The Owner shall be obliged to produce evidence to ABP of such home address within 7 days of a request to do so.

4.2 The Owner must notify ABP in writing of the details of any change of names of the Vessel or change of address or telephone number of the Owner.

5 BERTH ALLOCATION

5.1 The physical layout of every Harbour and Premises and the varying needs and obligations of ABP and its customers requires that ABP retains absolute control of Berth allocation within the Harbour and Premises. Accordingly the Owner shall not be entitled to the exclusive use of any particular Berth but shall use such Berth as is from time to time allocated to him by ABP.

6 PERSONAL NATURE OF THE LICENCE

6.1 This Licence is personal to the Owner and relates to the Vessel described in the application for berthing. It may not be transferred or assigned to a new Owner or to a different Vessel, either temporarily or permanently, without the express written consent of ABP.

6.2 Within 7 days of any agreement for the sale, transfer or mortgage of a Vessel subject to this Licence the Owner shall notify ABP in writing of the name, address and telephone numbers of the purchaser, transferee or mortgagee, as the case may be.

7 USE OF BERTH BY ABP WHEN VACANT

7.1 ABP may have the use of the Berth when it is left vacant by the Owner.

8 TERMINATION

8.1 ABP shall have the right (without prejudice to any other rights in respect of breaches of the terms of this Licence by the Owner) to terminate this Licence in the following manner in the event of any breach by the Owner of this Licence;

(a) Having regard to the nature and seriousness of the breach and the risk it poses for the financial or other security of ABP and/or of ABP's customers and if the breach is capable of remedy, ABP may serve notice on the Owner specifying the breach and requiring him to remedy the breach within a reasonable time specified by ABP. 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. If the Owner fails to effect the remedy within that time, or if the breach is not capable of remedy, ABP may serve notice on the Owner requiring him to remove the Vessel from the Harbour or Premises immediately.

8.2 If the Owner fails to remove the Vessel on termination of this Licence whether under this Condition or otherwise), ABP shall be entitled:

(a) to charge the Owner at ABP's 24 hour rate for overnight visitors for each day between termination of this Licence and the actual date of removal of the Vessel from the Harbour and Premises; and/or

(b) at the Owner's risk (save in respect of loss or damage directly caused by ABP's 's negligence or other breach of duty during such removal) to remove the Vessel from the Harbour and Premises and thereupon secure it elsewhere and charge the Owner with all costs reasonably arising out of such removal including alternative berthing fees.

8.3 Any notice of termination under this Licence shall, in the case of the Owner, be served personally on the Owner or sent by registered post or recorded delivery service to the Owner's last known address and in the case of ABP shall be served at its principal place of business or registered office.

9 RIGHTS OF SALE AND OF DETENTION

9.1 The Owner acknowledges that Maritime Law entitles ABP in certain other circumstances to bring action against a Vessel to recover debt or damages. Such action may involve the arrest of the Vessel through the Courts and its eventual sale by the Court. Sale of a Vessel may also occur through the ordinary enforcement of a judgment debt against the Owner of a Vessel or other property.

9.2 ABP may exercise a general right (being "a general lien") to detain and hold onto the Owner's Vessel or other property in relation to any sums due from the Owner to ABP, and in the event of any such sums not being paid within 21 (twenty one) days of the date of the notice of exercise of any such lien , ABP may sell the Vessel and/or property without further notice to the Owner and apply the proceeds towards the satisfaction of all such sums on whatsoever account owing and also all charges, expenses and moneys reasonably arising during the exercise of any such lien.

9.3 If the Licence is terminated or expires while ABP is exercising its right of a general lien as specified in Clause 9.2 above, ABP shall be entitled to charge the Owner at ABP's 24 hour rate for overnight visitors for each day between termination or expiry of this Licence and the actual date of payment or satisfaction of the debt (or provision of security) and removal of the Vessel from the Harbour and Premises.

10 TERMINATION BY NOTICE

10.1 This Licence may be terminated on 16 weeks' written notice by the Owner to ABP.

10.2 This Licence may be terminated on 16 weeks' written notice by ABP to the Owner.

GENERAL RULES

11 VESSEL MOVEMENTS

11.1 ABP reserves the right to move any Vessel, gear, equipment or other goods at any time for reasons of safety, security or good management of the Harbour and Premises.

11.2 A copy of ABP's scale of charges for Vessel movements will be provided to the Owner before they enter into an Agreement with ABP. Where a specific date or tide range for relaunch of the Vessel has been agreed between the Owner and ABP at the time of slipping or lifting out (or arrival by land) this charge alone will be payable for the launch. However where the Owner requests a different date or tide range ABP 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. ABP will provide the Owner with an estimate of such costs and charges prior to incurring them.

11.3 Vessels shall be berthed or moored by the Owner in such a manner and position as ABP may require and unless otherwise agreed adequate warps and fenders for the Vessel shall be provided by the Owner

11.4 No vessel, when entering or leaving or manoeuvring in the Harbour, shall be navigated at such a speed or in such a manner as to endanger or inconvenience other vessels in the Harbour.

11.5 Advisory note: Owners, their guests and crew are advised that Vessels are at all times subject to the speed restrictions and byelaws of Harbour and navigation authorities and the requirements and powers of regulatory authorities, including but not limited to the Maritime and Coastguard Agency and The Health and Safety Executive; there are criminal penalties for the breach of such restrictions, requirements and Byelaws.

12 COMMERCIAL USAGE

12.1 No part of ABP's Harbour or Premises or any Vessel or vehicle while situated therein or thereon shall be used by the Owner for any commercial purpose, except where the Owner has sought and obtained prior written agreement from the ABP (any such commercial use will be subject to additional terms and conditions of ABP).

13 STORAGE

13.1 Dinghies, tenders and rafts shall be stowed aboard the Vessel unless ABP allocates a separate berth for them.

14 PARKING

14.1 Subject always to the availability of parking space Owners and Owner Invitees may only park vehicles on the Premises in accordance with the directions of ABP.

15 MARINA AND HARBOUR REGULATIONS

15.1 The Owner shall at all times observe ABP's Regulations and in particular (but without limitation):

(a) The Owner shall 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.

15.2 ABP shall supply the Owner with a copy of the Regulations current at the time of application for a Licence. ABP reserves the right to introduce new Regulations on grounds of legal requirement or for the safety or security or good management of the Harbour or Premises, and to amend such regulations as from time to time shall be necessary. Such Regulations and any amendments to them shall become effective on being displayed on ABP's public notice board or other prominent place at the Premises, and ABP shall have the same rights against the Owner for a breach of the Regulations as for a breach of the terms of this Licence.

15.3 Advisory note: Owners and the Owner Invitees are advised that their conduct and that of their vessels is likely to be regulated and governed at various times by statutory, local authority and harbour regulations which may be more extensive than those specified in this Licence and the breach of which may result in criminal penalties.

16 ACCESS TO PREMISES/WORK ON THE VESSEL

16.1 No work shall be done on the Vessel, gear, equipment or other goods while on the Premises without ABP's prior written consent other than minor running repairs or minor maintenance of a routine nature by the Owner, his regular crew or members of his family not causing nuisance, or annoyance to any other customer or person residing in the vicinity, nor interfering with ABP's or its customers' or tenants' activities, nor involving access to prohibited areas.

17 HEALTH, SAFETY AND THE ENVIRONMENT

17.1 Attention is drawn to ABP's Health, Safety and Environmental Policy, as amended from time to time. ABP shall supply the Owner with a copy of the policy current at the time of application for a Licence. Any amendments shall be displayed on ABP's public notice board or other prominent place at the Premises and further copies shall be available on request. The Owner will and will procure that the Owner Invitees, comply with ABP's Health, Safety and Environmental Policy.

17.2 The Owner, and the Owner Invitees on the Vessel are responsible for reporting to ABP all accidents involving injury to any person or damage to any public or private property that occur in the Harbour or on the Premises as soon as possible after they occur.

17.3 The Owner shall, and shall procure that the Owner Invitees comply with all applicable laws when using ABP's Harbour and Premises.

17.4 No noisy, noxious or objectionable engines, radio, or other apparatus or machinery shall be operated within the Harbour or Premises so as to cause any nuisance or annoyance to any other users of the Harbour or Premises or to any person residing in the vicinity and the Owner undertakes for himself and the Owner Invitees that they shall not behave in such a way as to cause any nuisance or annoyance or disturbance to any other users of the Harbour or Premises or to any person residing in the vicinity . Halyards and other rigging shall be secured so as not to cause such nuisance, annoyance or disturbance.

17.5 No refuse or waste shall be discharged from a Vessel, thrown overboard or left on the pontoons, or car parks or on any other part of the Premises, or disposed of in any way other than in the receptacles provided by ABP or by removal from ABP's Harbour and Premises. ABP's further directions regarding waste management shall be posted on ABP's public notice board or other prominent place and copies will be available from ABP on request.

17.6 The Owner will ensure that no hazardous materials or dangerous substances (being goods or materials of a noxious, hazardous, inflammable, explosive, dangerous or offensive nature or which are in any way likely to cause damage (including without limitation any radioactive substances or materials)) are stored on the Vessel or any other area of the Premises.

17.7 Without prejudice to the generality of Clause 17.3, the Owner shall, and shall procure that the Owner Invitees shall, comply with all Environmental Laws when using the Harbour and Premises.

17.8 The Owner agrees to indemnify ABP in full and on demand for all liabilities, costs, expenses, damages and losses incurred or suffered by ABP as a result of a breach by the Owner or any of the Owner Invitees of Clauses 17.4, 17.5, 17.6 or 17.7.

18 GENERAL

18.1 This Licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

18.2 The parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Licence or its subject matter or formation (including non-contractual disputes or claims).

18.3 A person who is not a party to this Licence may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

18.4 This Licence supersedes any previous written or oral agreement between the parties in relation to the matters dealt with in this license and constitutes the whole agreement between the parties relating to the subject matter of this Licence.

18.5 This Licence may only be varied in writing signed by or on behalf of each of the parties.

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