

TERMS & CONDITIONS FOR BERTHING, MOORING AND STORAGE ASHORE AT DAVIS'S BOATYARD

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1. We and our employees accept no responsibility for loss, damage or delay arising from any cause whatsoever unless such loss, damage or delay was caused by or resulted from, our negligence of deliberate act or that of those for whom we are responsible. Subject to that exception, all vessels and gear are repaired, worked on, moved, stored or otherwise managed and kept at the sole risk of the Owner. Customers should therefore ensure that their vessels and/or property are adequately insured against all risks; they also should ensure that they are themselves adequately insured against third party risks as they may be liable for damage caused by their vessels, themselves or their crew whilst on or about the premises.

2. Subject to express agreement to the contrary any delivery date quoted is given in good faith and is not guaranteed but delivery shall be within a reasonable time of any date specified bearing in mind all the circumstances of the particular case.

3. This clause applies only where we supply goods to a person who buys in the course of a business ("a business customer").

(a) No article supplied by us to a business customer shall carry any warranty or condition of sale, express or implied, as to quality or as to fitness for any particular purpose unless the customer when he orders that article sufficiently explains the purpose for which it is required and makes it clear that he is relying on our skill and judgement.

(b) No proprietary article ordered from us by name, type and/or size by a business customer shall carry any such warranty or condition of sale, save so far as we can pass on a manufacturer's warranty.

(c) In no event do we accept liability to a business customer for consequential damage beyond replacement of any faulty or unsuitable article supplied.

4. In the interests of safety and expedience, we reserve the right to move any vessel and/or gear at our discretion.

5. All persons using any part of our premises and/or facilities for whatever purpose and whether by invitation or otherwise do so at their own risk, unless any injury or damage to person or property sustained within the premises and/or facilities was caused by, or resulted from our negligence or deliberate act or that of those for whom we are responsible.

6 (a) Subject to paragraph (b) of this condition no work shall be done to the vessel whilst on our premises or moorings without our 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 any nuisance or annoyance to any other users of our premises or moorings or any other person residing in the vicinity.

(b) Prior written consent for work to be carried out on our premises will not without good cause be withheld where:-

(i) The work to be carried out is work for which we, or our concessionaires or those who normally carry out work on our behalf, would normally employ a specialist sub-contractor or

(ii) The whole of the work is being carried out under warranty by the manufacturers and/or supplier of the vessel or any part of her equipment to which the warranty relates.

7. In all cases where a contract of hire or licence to occupy any moorings, berth, storage space, property or facilities may be lawfully terminated by notice, the same shall be deemed to be lawfully served if served personally or sent by registered post or recorded delivery service to the last known address in the United Kingdom of the hirer or licensee.

7.1 Mooring Licence may be terminated on 16 weeks written notice by the owner to Davis's Boatyard. In this event the company will be entitled to recalculate the charge for the Berth using the rate or rates that would have been applicable to the actual period of the licence instead of the annual rate. If this recalculation results in a balance payable to Davis's then the owner shall be required to pay that balance before removing the Vessel from the Harbour or Premises. If there is a balance in favour of the Owner the Company shall pay it to the Owner upon the Vessel's departure from the Harbour or Premises.

8. Vessels stored at seasonal rates ashore or in mud berths will be launched or put afloat as near the end of the seasonal period as in our opinion tide, weather condition and available facilities permit and 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 our disposal. At the owners request we will if possible launch his vessel at any suitable tide and weather conditions, but the cost of moving other vessels for this purpose and/or any attendant expenses must be paid for by the owner. Moorings are at all times subject to River and Harbour Authority Rules and Regulations.

9. Subject to express agreement in writing to the contrary all quotations given by us are subject to the cost of labour and materials remaining at the same level as those prevailing at the time of the quotation and the quoted price shall be increased or decreased by the amount by which the actual cost of labour, materials and overheads has increased or decreased by reason of variation of the aforesaid levels since the date of the quotation. However the quotation shall not be adjusted to meet increased costs which would not have occurred but for our failure to proceed with the work with reasonable despatch.

10. Any quotation is subject to acceptance within seven days from the date thereof.

11. In the absence of any written agreement of arrangement to the contrary, delivery is given at our yard or in the water adjacent thereto.

12. Quotations cover only the work and/or items specified thereon, and all additions, alterations, waiting time and any additional costs due to modified instructions will be charged to the customer at ruling prices, if in the course of executing any work, we find any defect in a vessel and/or its gear that in our opinion should be rectified without delay, and before the Owner's consent can be obtained, we reserve the right to carry out such necessary repair at our discretion and to charge same to the owner. Notice of any such rectification will be forwarded to the Owner forthwith.

13. Unless otherwise specified, our terms of payment for goods supplied, work done or accommodation provided are net in 30 days from the date of invoice or before removal of the vessel or goods, whichever shall be the earlier, if the vessel or goods are not removed within 30 days from the date of invoice, we shall have the right thereafter to make reasonable mooring or storage charges.

13 (a) invoices are sent out in advance and payment can be made within 30 days of the date of the invoice unless otherwise stated. If the account remains unpaid after 30 days a reminder will be sent and a surcharge of £5.00 to cover clerical and postal charges will be added to the account and will again be added for any subsequent reminder sent.

14. Subject to any agreement to the contrary, we have the right to exercise a general lien upon any vessel and/or its gear and equipment whilst in or upon our premises or afloat at any of our moorings, until such time as any moneys due to us from the Owner in respect of such vessel and/or its gear whether on account of storage or mooring charges, work done or otherwise shall be paid.

15. Acceptance by us of goods (including vessels and/or their engines, gear and equipment) for repair or other treatment or for mooring or storage is subject to the provisions of the Torts (Interference with Goods) Act 1977, which confers on us as bailees a right of sale exercisable in certain circumstances. Such sale will not take place until we have given notice to the Owner in accordance with the Act. For the purpose of the Act it is hereby recorded that:

(a) goods for repair or other treatment are accepted by us on the terms that the Owner will take delivery of the goods in accordance with Clause 11 of these terms when the repair or other treatment has been carried out.

(b) our obligation as custodian of goods accepted for mooring or storage ends upon the expiry or lawful termination of the grant to the Owner of facilities for mooring or storage.

16. Save as provided for business customers under Clause 3, all goods are supplied with the benefit of the appropriate undertakings (particularly as to conformity of goods with description or sample, and as to their quality or fitness for a particular purpose) which are implied by the Sale of Goods Act 1893 as amended. Nothing in these terms shall affect those statutory rights.

17. Except where notice is required to be given under Clauses 12 or 15, and except as regards Clause 14, the word "Owner" shall include a Chartered, Master, or Authorised Agent.

18. When your vessel is being stored, under no circumstances are you permitted to move or remove shores, blocks and supports that are supporting your boat. (To anti foul, paint, repair, maintain or any other reason).

19. Subject to express agreement to the contrary all orders written or verbal are accepted on the understanding that the foregoing terms of business shall apply to each and every transaction.

20. The company reserves the right to use the berth when the owner leaves it vacant.

21. Customers will be allocated a particular berth, however the company 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 by the Davis's

22. Under no circumstances are berth holders to re-fuel on the pontoons.

Sub-Contractors

"All contractors or workmen must report to the office on arrival each day and must be in possession of the necessary third party liability insurance".