

## MOORING AGREEMENT FOR BOATS WITH HOUSEBOAT CERTIFICATES

### 1. DEFINITIONS:

#### 1.1 In this Agreement the following words and expressions have the meanings set out below:-

**Houseboat** means the **Houseboat** or vessel named in the application or renewal form or one that is substituted for it with **our** prior written consent, which will be subject to the suitability of the **Mooring** and payment of an additional mooring fee where applicable. The substitute boat must possess the recognisable attributes of a boat typical to **BW's** network.

**Houseboat Certificate** means the relevant licence/certificate granted by **BW** sufficient to enable a vessel to be on the Waterway.

**Boat Tender** means one unpowered vessel or a vessel powered by a small outboard engine that is less than 3 metres **LOA** which is carried on or towed by the **Boat** and used only for going to and from the **Boat**. When not in use, it must be within the space allocated for the **Boat's** mooring.

**British Waterways, BW, we, us, our** means the British Waterways Board, its successors and assigns and any of its employees or other persons authorised by British Waterways to act for it.

'Boat length' means the length overall of the Boat including permanently fixed fenders as reasonably required to be used when the boat is moored or underway, bowsprits, boarding ladders, davits including their loads, stern drives, out drives, rudders, anchors, pulpits, push pits and any other extensions fore and/or aft of the Boat.

**Mooring** means the water space at the **Mooring Site** temporarily allocated to **you** from time to time by **us** for the **Mooring** of the **Boat** during the period of this Agreement.

**Mooring Site** includes the **Mooring** and land and water (together with any pontoon or jetty) adjacent to the **Mooring** that is in **our** ownership or control; and where the **Mooring** is within a marina, boatyard or basin, includes all such water space and land associated with that marina, boatyard or basin.

**Owner, you, your, yours** mean the person(s) or entity named as Owner in this Agreement and in the associated Houseboat certificate and includes an employee of the Owner or a person in charge of the **Boat** with the Owner's permission.

**Site Rules** has the meaning given in Condition 2.7.

**Sum** means the mooring fees payable (exclusive of VAT) as set out in Schedule I of this Agreement.

**VAT** means value added tax or any other tax of a similar nature (as applicable at the time) and unless otherwise expressly stated all references to Sum or other amounts payable by **you** are exclusive of VAT.

### 2. GENERAL CONDITIONS:

2.1 This Agreement allows **you** to moor the **Boat** at the **Mooring Site**. It does not give **you** the right to a particular **Mooring** or berth. Where a berth or particular **Mooring** is specified, **you** nevertheless agree to move the **Boat** when **we** ask **you** to do so. You agree that **we** may move the **Boat** a reasonable distance to ensure best use of the water space available at the **Mooring Site**.

2.2 **You** agree to pay the mooring fee (including, if appropriate, any late payment and/or credit card charges). The prompt payment applies for qualifying applications, the qualifying criteria are set out in The Schedule to this Agreement. We reserve the right to apply a late payment charge if you do not pay the mooring fee when it is due.

2.3 If **you** use the **Mooring** or display the mooring permits before having paid the fee **you** nevertheless agree to comply with the terms of this Agreement.

2.4 **You** are responsible for paying Council Tax or Business Rate (if applicable) and all gas, electricity and other services used by **you** at the **Mooring Site** that are not included in the fees you pay to **BW**.

- 2.5 **You** may keep a **Boat Tender** on the water at the **Mooring** provided **we** agree in writing. The **Boat Tender** must be marked "Tender to [name and index number of the **Boat**].
- 2.6 The **Boat** must be properly licensed for the duration of this Agreement. Current mooring and licence permits must be displayed where they can be easily seen from either side of the **Boat** at all times.
- 2.7 **We** may introduce local rules ["Site Rules"] relating to the use and management of the **Mooring** or **Mooring Site** which are not inconsistent with this Agreement. **We** will consult local customers before the introduction of a new set of Site Rules or major alterations to existing Site Rules. **We** reserve the right to amend such rules from time to time provided **we** give **you** reasonable prior notice of the proposed changes. The Site Rules and any amendments to them shall become effective once a copy of them has been given to **you** or when they are displayed on a notice board or other prominent place at the **Mooring Site**.
- 2.8 **You** must comply with the conditions of any planning permission for the **Mooring Site** and comply with relevant laws, byelaws, Site Rules and special conditions, including any concerning **your** private use of land at the **Mooring Site**.
- 2.9 **We** may go onto any **BW** property at the **Mooring** at reasonable times to inspect it for defects. **We** also may go onto the **Mooring** to do works and repairs. **We** will give **you** at least 14 days notice, and where practicable 28 days notice in writing of **our** intention to do the works and tell **you** what works **we** plan to do. If there is any emergency **we** may do the works without giving **you** notice. In that case, **we** will tell **you** as soon as practical what the emergency was and what works **we** have done.
- 2.10 **We** can move the **Boat** if **we** need to do any work on **BW** property at the **Mooring**. **We** will give **you** at least 28 days notice in writing unless there is an emergency or the movement is of a minor nature. If **we** do need to move the **Boat** **we** will provide **you** with an alternative **Mooring**. When **we** move the **Boat** to do work **we** will put the **Boat** back on to the **Mooring** as soon as possible after the work is finished. If **you** reasonably incur any costs or expenses because **we** have moved the **Boat** to do works **we** will refund them.
- 2.11 **We** will give **you** at least 28 days notice in writing of **our** intention to carry out any building or development work in, around or adjacent to the **Mooring** or **Mooring Site**.
- 2.12 **You** must ensure that the **Boat** is adequately secured with suitable mooring lines at the **Mooring**.
- 2.13 **You** must not keep, hang or place anything on **BW** property at the **Mooring Site** unless **we** have previously agreed to it or where the site rules allow otherwise. **You** must not display on the **Boat** or the **Mooring Site** any sign or notice of a commercial nature without **our** permission.
- 2.14 **You** must not damage, alter, add to or deface any **BW** property at the **Mooring Site** in any way unless permitted by site rules or in writing by us. **We** may make a charge to cover the cost of making good.
- 2.15 **You** must not keep animals other than domestic pets at the **Mooring**. They must remain under proper control whilst at the **Mooring Site** and not cause nuisance to **your** neighbours. **You** must clear up their mess.
- 2.16 **You** or **your** visitors must not obstruct any emergency access roads, service roads or service areas at the **Mooring Site**. **You** must ensure that **you** and **your** visitors park their motor vehicles considerately (and only in the spaces allocated for them, where provided). Any vehicles using the **Mooring Site** must be roadworthy, taxed and insured.
- 2.17 **You** must keep the outside of the **Boat** in reasonable repair and the area around the **Boat** clean and tidy.

### **Health, Safety & Environment**

- 2.18 **You** should let **us** know if **you** notice any defects in the **Mooring**.
- 2.19 Any works undertaken on the **Boat** whilst at the **Mooring Site** must be carried out in a safe manner and with due regard to protecting the environment and **your** obligations under Condition 2.21.
- 2.20 Any accidents or other incidents involving injury to any person or damage to **BW** property at the **Mooring Site** must be reported to **us**. **You** must report any damage for which **you** are responsible under Condition 2.21.
- 2.21 **You** must not do (or carelessly fail to do) anything at the **Mooring Site** which will cause damage or nuisance to any other person or their property. **You** accept responsibility for any such damage or

nuisance caused by **you**, other occupants of the **Boat** or **your** visitors. **You** will not be responsible for events that are outside **your** control.

- 2.22 **You** must dispose of **your** rubbish so that it does not become a nuisance or a risk to the health or safety of any person, animal or **our** property.
- 2.23 **You** must make sure the **Boat** is moored safely and that it is properly attached to the bollards, moorings rings, mooring pins or stakes. **We** may go onto the **Boat** and move it at **our** discretion for reasons of safety or the protection of the environment.
- 2.24 **You** must not light fires including barbecues on the **Mooring** or **Mooring Site** unless allowed under the Site Rules or **you** have first obtained permission from your local Moorings Manager.

### **Our Responsibilities**

- 2.25 **We** will exercise reasonable care in carrying out our functions under this Agreement (including when boarding or moving the **Boat** or the **Boat Tender**) and will make good damage caused by our negligence.
- 2.26 **We** will keep the mooring services and facilities that **we** provide under this Agreement clean and repaired. **We** will replace any equipment that has become unusable and is beyond economic repair. **We** will not be liable if the mooring services and facilities fail temporarily and **we** will replace or repair them within a reasonable time.
- 2.27 **We** shall not be liable for any other loss or damage caused by any events or circumstances beyond our reasonable control (such as extreme weather conditions, unforeseeable failure of historic structures or the actions of third parties not employed by **us**). This includes loss or damage to boats, gear, equipment or other goods left with **us** for repair or storage. **You** may wish to take out **your** own insurance to cover such risks.
- 2.28 **We** will comply with the price control regulations for Landlords set out by the gas, water, electricity and telecommunications regulatory bodies.

### **Assigning this Agreement to another person**

- 2.29 If a Houseboat Certificate for the boat had been issued along with an associated mooring permit for the **Mooring Site** which was valid on 31 July 2010, **you** may assign this Agreement with **our** consent to a new owner of the **Houseboat** and **we** will offer to renew the Mooring Agreement on similar terms upon expiry. **Our** consent will be given on the basis that **you** comply with Condition 2.31 (a) – (e) inclusive.
- 2.30 If **your** first Houseboat Certificate at the **Mooring Site** was issued after 31 July 2010, **we** will assign the unexpired portion of this Agreement to the new owner of the **Houseboat**, subject to you complying with Condition 2.31 below, but **we** will not offer to renew the mooring permit on its expiry. **We** will advertise the **Mooring Site** for allocation via auction. **We** will notify **you** in advance of the date when the mooring vacancy is to be advertised and **you** may take part in the auction. **We** will offer **you** a mooring permit if **you** are successful in the auction. Thereafter, **we** will not unreasonably refuse to renew the mooring permit.
- 2.31 **We** will give **our** consent to the assignment subject to **you** complying with the following conditions:-
- (a) The **Boat** must have a valid and up-to-date BW Licence and Boat Safety Certificate
  - (b) **You** do not owe BW any money for mooring fees, licence fees, removal costs, damages or other associated costs;
  - (c) In the past, **you** have not repeatedly failed to meet agreed payment terms to which **we** have drawn your attention.
  - (d) In the past, **you** must not been subject to formal action for breaching **our** licence or mooring terms and conditions, site rules, navigation rules, relevant Acts or Bye-Laws and regulations.
  - (e) **You** must notify **us** in advance of the prospective buyer(s) of the Boat. The prospective buyer(s) must then contact **us** so that **we** can conduct checks before they buy the **Boat**. The prospective buyer(s) must satisfy the following conditions:-
    - (i) they must not owe BW any money for any reason including, without limitation, mooring fees, licence fees, removal costs, damages or other associated costs;

- (ii) in the past, they have not repeatedly failed to meet agreed payment terms to which **we** have drawn their attention;
  - (iii) they must not have breached any of **our** licence or mooring terms and conditions, site rules, navigation rules, relevant Acts or Bye-Laws and regulations;
  - (iv) **we** have not, at any time in the last five (5) years, removed their boat from our waterways or property under any statutory powers or in accordance with a court order;
  - (v) **we** are satisfied that they have the ability to pay for the mooring permit. We may carry out an independent credit check;
  - (vi) if the prospective buyer(s) intends to replace the existing boat with a new boat, it must fit the dimensions of the mooring, the **Mooring Site** and our waterways and, if defined in the local rules ("Site Rules") for the **Mooring**, their boat is suitable for the **Mooring**. The new boat must possess the recognisable attributes of a boat typical to **BW's** network. Once the prospective buyer(s) contacts **us** and gives **us** the information **we** need, **we** will complete the checks and communicate **our** decision to the buyer(s) and the certificate holder within 14 working days of receipt of the information.
- (f) On completion of the sale of the Boat, a signed bill of sale in the form specified in the Merchant Shipping Act 1995 must be supplied to us. (<http://www.docstoc.com/docs/3417542/Department-For-Transport-Merchant-Shipping-Act-Bill-of-Sale-Maritime>)

2.32 In the event of your death, BW will transfer the remaining period of this Agreement to your beneficiary. If the Boat is then sold by your beneficiary the right to assign will be subject to the same conditions above.

### Termination

- 2.33 The Agreement terminates at the end of the period specified in the application or renewal form.
- 2.34 At the end of the agreement **you** must let **us** have the **Mooring** back in a clean and tidy condition.
- 2.35 **We** may terminate this Agreement within 28 days if **you** fail to pay money owing to **us** under this Agreement or in connection with the licensing or use of the **Boat** on **our** waterways.
- 2.36 **We** may terminate this Agreement before the end of the period specified in the application or renewal form if **you** breach any of the terms of this Agreement and either the breach cannot, in our opinion, be put right or if **you** fail to put things right having been asked by **us** to do so.
- 2.37 Before **we** terminate this Agreement under Condition 2.35 **we** will write to **you** and explain how **we** think **you** have broken the terms of this Agreement; and
- 2.37.1 Where **we** think **you** can put things right **we** will tell **you** how **we** think **you** can do so and how long **you** have to comply. This time will depend upon the circumstances but will be reasonable and will be at least 28 days where work is required to be done to the **Boat**. **We** may extend the time if you write to the moorings manager and explain why you need the extra time. If **you** do not put things right within the time **we** have given **you**, this Mooring Agreement will end and **you** must remove the **Boat** from the **Mooring** immediately.
- 2.37.2 Where **we** are of the opinion that **you** cannot put things right, **we** will explain why and **you** must remove the **Boat** from the **Mooring Site** within 28 days and this Agreement will terminate at the end of that 28 days whether or not the **Boat** has been removed.
- 2.38 If **you** fail to remove the **Boat** from the **Mooring Site** on termination of this Agreement **we** shall be entitled to:
- Damages equivalent to the mooring fee which would have been payable by **you** if the Agreement had not been terminated; or
  - Remove the **Boat** from the **Mooring Site** at **your** risk (except for loss or damage caused by **our** negligence during such removal) and keep it elsewhere and charge **you** with all costs arising out of such removal including alternative mooring fees.
- 2.39 **You** may terminate this Agreement at any time by giving not less than four weeks written notice of termination to **our** local Moorings Manager.

2.40 If **you** terminate this Agreement by giving notice in accordance with Condition 2.38, **we** will make a part refund of **your** mooring fee.

2.40.1 Any refund will be the difference between the cost of a short term fee (which is based on the monthly charge of one tenth of the annual fee) for the **Mooring** for the period up to expiry of **your** notice and the annual mooring fee paid.

### **Notices**

2.41 Any written notice which under the provisions of this Agreement is to be given to **BW** shall be deemed effectively served if addressed to **BW** and served upon its local Moorings Manager c/o 64 Clarendon Road, Watford WD17 1DA or upon such other person and/or at such other address as **BW** may from time to time designate in writing.

2.42 Any written notice to be given by **BW** to **you** shall be effectively served if sent through the post either in a registered letter or special delivery service to the address set out in this Agreement. If the receiving party consists of more than one person a notice to one of them is a notice to all.

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### **THE SCHEDULE: MOORING FEES AND PAYMENT TERMS (England & Wales) INCENTIVES FOR PAYING PROMPTLY**

Mooring fees are published on [www.britishwaterways.co.uk/bwmooringprices](http://www.britishwaterways.co.uk/bwmooringprices) . Printed copies are available from Customer Services on 01923 201120. The fee tables for mooring in England & Wales show the standard rate. A discount applies as long as you pay in full in advance of the mooring start or renewal date.

The fee tables do not apply to customers with three year mooring agreements secured through our mooring vacancy auction system.

If you do not pay the mooring fee when it is due, a fixed Late Payment Charge may apply. This is a fair reflection of the additional cost incurred by British Waterways in collecting overdue mooring fees.

The qualifying criteria for the prompt payment rate are as follows:

1. The payment and correctly completed application (and any enclosures) must have been received by British Waterways or a licensing agent before the start date of the new permit. In cases of doubt where we have no record of receiving an application, we will accept a formal proof of posting from Royal Mail or other professional dispatch service.
2. Full Payment for the mooring must be in advance. The discount does not apply for moorings paid for in instalments.
3. These rules apply regardless of whether or not we have sent you a reminder to renew your mooring permit. It is your responsibility to ensure that your boat is correctly licensed and has a mooring permit, if appropriate, at all times.