



Ocean Village Investments Limited
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14th April 2016

TERMS & CONDITIONS

Ocean Village Investments Limited (“The Company”) grants the Berthing Licence signatory the right to use, to occupy and enjoy the Berth in the Marina upon the following Terms and Conditions.

1 BERTHING LICENCE

- 1.1** Berths at the Marina may be licenced for the periods and at the rates of charge published from time to time by the Company at the Marina and charges therefore will be calculated by reference to the Company’s published list of charges in force at the commencement of the Berthing Licence.
- 1.2** The Berthing Licence shall not be automatically renewed but will end at the End Date specified in the Berthing Licence if not terminated sooner by the Company or by the Owner under the provisions of clauses 10 or 12.

2 BERTHING FEES

- 2.1** ALL BERTHING FEES ARE PAYABLE IN ADVANCE. Fees not received by the Company on the due date will be subject to interest at the rate of **2%** per month or part thereof that they remain outstanding and the Company reserves the right to terminate the Berthing Licence in any case of non-payment of fees or interest on same.
- 2.2** DISCOUNTS TO BERTHING FEES
- 2.3** HALF YEARLY DISCOUNT Applicable for 182 days or over.
- 2.4** YEARLY DISCOUNT Applicable for 365 days or over.
- 2.5** MONTHLY DISCOUNT Applicable for a single calendar month by automated payment in advance.

3 LIABILITY, INDEMNITY AND INSURANCE.

- 3.1** The Company shall not be liable for any loss or damage caused by any event or circumstances beyond its reasonable control (such as extreme weather conditions, the actions of third parties not employed by the Company or any defect of a customer’s or third party’s Vessel or property); this extends to damage to Vessels, gear, equipment or other property left with it for work or storage, and harm to persons entering the Marina or the harbour and/or using any facilities or equipment.

- 3.2** The Company shall not be liable whether in contract, tort or otherwise, for any loss, theft, or any other damage of whatsoever nature caused to any vessel or other property of the Owner, Owner's Party or User or others claiming through the Owner.
- 3.3** The Owner shall indemnify the Company against all loss, damage, costs, claims or proceedings incurred by, or instituted against the Company or its servants or agents which may be caused by the Owner's vessel or by the Owner and/or Owner's party.
- 3.4** The Company shall take reasonable and proportionate steps having regard to the nature and scale of its business to maintain security at the Marina, and to maintain the facilities and equipment in the Marina in reasonably good working order. In the absence of any causative negligence or other breach of duty on the part of the Company, Vessels, gear, equipment and other property are left with the Company at the Owner's risk and Owners should ensure that their own personal and property insurance adequately covers such risks.
- 3.5** The Company accepts no responsibility to an Owner, Owner's party or User or any other person to enforce any provision of these terms and conditions or Regulations against any Owner, Owner's Party or User.
- 3.6** The Owner shall insure his vessel adequately against loss or damage howsoever caused and shall maintain third party insurance in respect of himself and each of his vessels and the Owner's party in a sum of not less than £1,000,000 in respect of each accident or damage and in respect of each vessel, adequate salvage insurance. Such insurance shall be affected and maintained in an insurance office of repute and the Owner shall produce the policy or policies, relating thereto to the Company on demand. If, in the opinion of the Company, such insurance is inadequate having regard to the type of size of the vessel and the risks involved, the Company may require the extent of such insurance to be increased and in default of compliance the Company may require the vessel to be removed from the Marina.
- 3.7** Persons using any part of the Marina or facilities for whatever purpose will whether by invitation or otherwise do so at their own risk.
- 3.8** No guarantee is given or responsibility neither accepted by the Company for the safety of any person or persons or vessel, gear or contents nor for the suitability of any berth or any structure, gear, or other facilities provided.
- 3.9** The Company plan to construct homes within the waters at a date to be determined. The Company shall not be liable whether in contract, tort or otherwise to the Owner as a result of such construction in the waterway or the Marina. The Company shall not be liable to the Owner for any loss, damage or costs incurred as a result of any construction in the waterway or the Marina. The Owner will move the vessel at the direction of the Company upon receipt of written notice to do the same.
- 3.10** The Owner shall ensure that the vessel maintains valid and up to date registration documents throughout the licence period.

4 ADDRESS DETAILS AND SUBSEQUENT CHANGE OF DETAILS

- 4.1** The Owner must supply to the Company in writing, details of their home address. This address must be different to the address of the Marina. The Owner shall be obliged to produce evidence of such home address at the request of the Company within 7 days of a request to do so.
- 4.2** The owner must notify the Company in writing of the details of any change of name of the Vessel, or owners change of address, or telephone number or e-mail address.

5 COMMERCIAL USAGE

- 5.1** Except with the written consent of the Company, which may be withheld at the Company's sole discretion, no part of the Company's Marina or the vessel shall be used by the Owner for any commercial purposes, including hiring, embarkation of charter parties, sale or demonstration for sale or hire of the vessel, provided that the occasional use of the said vessel by a personal friend of the Owner on payment of a contribution towards the actual running cost of the said vessel shall not be deemed a commercial purpose hereunder.
- 5.2** The Owner shall upon request by the Company supply to the Company full details in writing of all such use under the proviso of this clause.
- 5.3** The Owner shall be permitted to arrange a private sale of not more than one vessel (such vessels' usually being berthed at the Company's Marina) during any one or more period of twelve consecutive months of the Berthing Licence granted to the owner.
- 5.4** In the event of such a private sale:
- (i) The Owner shall be present at all times during which the vessel is to be viewed, and he shall not be permitted to display a "For Sale" notice on his vessel whilst at the Marina.
 - (ii) The Owner shall not be required to pay commission to the Company upon such private sale in excess of one per cent of the sale price except where prior notice has been given by the Company of a higher rate of commission.
- 5.5** Where the Owner arranges a private sale or part exchange of a vessel berthed or usually berthed in the Marina in full compliance with 5.3 above he shall pay the Company an access charge of 1 % of the total value of the vessel sold. In other cases where a bona fide yacht broker is involved, the Company is entitled in accordance with the British Boating Industry Code of Practice for the sale of Used Boats, to receive one sixth of the standard commission for the sale. This access fee is normally paid direct to the Company by the broker acting in the sale but where this is not the case the Owner shall pay this amount to the Company.
- 5.6** Within 7 days of any sale, transfer or mortgage of any vessel which is subject to a current Berthing Licence granted to the owner by the Company subject to these conditions the Owner shall notify the Company in writing of the name and address of the purchaser, Transferee or Mortgagee, as the case may be.

6 MAINTENANCE OF VESSELS

- 6.1** No work shall be done to the vessel whilst at the Company's Marina or moorings (unless with the prior written consent of the Company which may be withheld at its sole discretion), other than minor running repairs or minor maintenance of a routine nature by the Owner, or Owner's Party not causing any nuisance or annoyance to any other users of the Company's Marina or any other person residing in the vicinity.
- 6.2** Prior written consent for work to be carried out on the Company's Marina will not without good cause be withheld where:
- (i) The work to be carried out is work for which the Company, its concessionaires or those who normally carry out work on its behalf would normally employ a specialist sub-contractor.
 - (ii) The Company is satisfied that the whole of the work is remedial and not servicing and is being carried out under warranty by the manufacturer and/or supplier of the vessel or any part of her equipment to which the warranty relates.

7 BERTH ALLOCATION

- 7.1** The physical layout of every Marina and the varying needs and obligations of the Company and its customers require that the Company retains absolute control of Berth Allocation within the Marina. Accordingly the Owner shall not be entitled to the exclusive use of any particular Berth, but shall use that Berths as is from time to time allocated to him by the Company.
- 7.2** All vessels in or on the Marina may be moved by the Company to any other part of the Marina.
- 7.3** The Company has the right in its absolute discretion to temporarily or permanently relocate any berth at any time to any other area of the Marina.
- 7.4** If it becomes necessary for the safety of the vessel or for the safety of other users of the Marina or for other vessels or for the safety of the Marina itself, its plant or equipment or for the commencement of works, repairs, construction or improvement or expansions to the Marina or for any other reasonable purpose to board and/or move a vessel to an alternative berth the Company shall in such circumstances have the right and absolute discretion to board, enter or carry out any emergency work on the vessel and then moor, re-berth or move the vessel as may be necessary and the Company's reasonable charges and expenses in respect of the same shall be paid by the Owner.
- 7.5** Owners shall notify the Company in writing when their vessel is left unattended for periods in excess of 48 hours and if the vessel is left in the care of someone other than the Owner or his permanent crew.

8 PERSONAL NATURE OF THE BERTHING LICENCE

- 8.1** The Berthing 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 the Company.
- 8.2** Unless he has the Company's prior written consent, the Owner shall not lend or transfer the berth (this Berthing Licence being personal to the owner relating to a particular vessel and non-assignable) nor shall he use the berth for any other vessel.
- 8.3** The Owner shall remain liable for all berthing fees and costs associated with his vessels use of the berth throughout the licence period.

9 USE OF BERTH BY COMPANY WHEN VACANT

- 9.1** The Berthing Licence with the Company creates an entitlement to berthing facilities. IT DOES NOT GRANT THE EXCLUSIVE RIGHT TO THE USE OF A PARTICULAR BERTH.
- 9.2** The Company may have the use of the Berth when it is left vacant by the Owner.
- 9.3** During the absence of the boat from its allotted berth the Company is free to licence the berth to other vessels.
- 9.4** The Company will not unreasonably withhold permission for the berth to be used by a Third Party introduced by the Owner for a boat of suitable dimensions subject to clause 9.1 and 9.2 above

10 TERMINATION

- 10.1** The Company shall have the right (without prejudice to any other rights in respect of breaches of the terms of this Berthing Licence by the Owner) to terminate this Berthing Licence in the following manner in the event of any breach by the owner to any terms of this Berthing Licence and or any failure by the Owner to make any payment due to the Company.
- 10.2** If the breach is capable of remedy or the Owner had failed to make any such payment due to the Company, the Company may serve a notice on the Owner specifying the breach or the failure to make any payment due requiring the Owner to remedy the breach or pay the amount due to the Company within 14 days.
- 10.3** If the owner fails to remedy the such breach or pay the amount due within 14 days, or if the breach is not capable of remedy, the Company may serve notice on the Owner specifying the breach or failure to pay (when not already specified) and requiring the Owner to move the vessel within 28 days, at the expiration of which the Owner shall remove the vessel and any other property of his from the Marina. The Company shall refund to the Owner the unexpired portion of the Berthing Licence fee (disregarding any discounts given) subject to the right off set-off in respect of any damage suffered by it and/or other monies owing as a result of any other matters giving the Company the right to terminate the Berthing Licence.
- 10.4** If the Owner fails to remove the vessel on termination of the Berthing Licence (whether under this Clause or otherwise), the Company shall be entitled:
- (i) to charge the owner with the Berthing Licence fee which would have been payable by the Owner to the Company if the Berthing Licence had not been terminated for the period between termination of the Berthing Licence and removal of the vessel from the Marina and charge the sum of £250 per day from the date that their license ended until the date of removal of the Vessel from the Marina and/or
 - (ii) at the Owner's risk to remove the vessel from the Marina and thereupon secure it elsewhere and charge the Owner with all costs arising out of such removal including alternative berthing fees.
- 10.5** The Company reserved the right to refuse to renew any berthing license at its sole discretion.
- 10.6** In all cases where a contract of hire or Berthing Licence to occupy any moorings, berths, storage space, property or facilities may be lawfully terminated by notice, the same shall be deemed to be lawfully served if served personally on the owner, or sent by registered post or recorded delivery service to the last known address of the Owner or to the registered office of the Company, or principal place of business.
- 10.6** The Company provides moorings for sea going craft in good overall condition only. No vessel may be used as a static Houseboat and all vessels must be kept in a clean, mobile, seaworthy condition except where under repair, such repairs to be executed with reasonable dispatch.

11 RIGHT OF SALE AND OF DETENTION

- 11.1** Maritime law entitles the Company in certain circumstances to bring an action against a Vessel to recover debt or damages. Such action may involve 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 judgment debt against the Owner of a vessel or other property.
- 11.2** The Company reserves a general right (“a lien”) to detain and hold onto the Owner’s Vessel or other property pending payment by the Owner of any sums due to the Company. If the

Berthing 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 this Berthing Licence and the actual date of payment (or provision or security) by the Owner.

12 TERMINATION BY OWNER

- 12.1** The Owner may cancel his monthly rate or half yearly rate or yearly rate Berthing Licence by giving the Company 28 days notice in writing. No refund of berthing fees will be made in respect of the first month of the half yearly rate and the first six months of the yearly rate. Fees in respect of any unexpired portion of any subsequent periods of the Berthing Licence will be refunded pro rata less 15%.
- 12.2** Notwithstanding the above, in the event that cancellation is due to the sale of the owners vessel and the access fee of 1% has been received by the Company in accordance with Clause 5.4 and subject to receipt of notice, the berthing fees in respect of any unexpired period of the Owners Berthing Licence will be refunded pro rata without reduction.
- 12.3** For the purpose of calculating Berthing Fees, Overall Length and Beam measurements are deemed to include all extensions to the vessel including bowsprits, davits, bathing platforms, external steering gear and the like. The Company may measure any vessel on the Marina to verify overall length and beam.

MARINA & HARBOUR REGULATIONS

13 NAVIGATION

No vessel, when entering or leaving or manoeuvring in the Marina, shall be navigated at such a speed or in such a manner as to endanger or inconvenience other vessels, in the Marina. Vessels are at all times subject to the speed restrictions and bye-laws of the Harbour, Navigation or other authorities and in particular the speed limit of 3 knots in or near the Marina.

- 13.1** Owners shall observe and perform the bye-laws rules and regulations of the Gibraltar Harbour Authorities and all other statutory rules or regulations affecting the Marina.
- 13.2** Owners and Captains must adhere to the Marina arrival and departure procedure. When the white lights are flashing at the end of the runway on the south-west corner, no vessels should leave or enter the marina as this indicates that an aircraft is due to arrive or depart. Large vessels with an air draft of 10 meters or over should be aware of the OLS. Clearance is required from the Gibraltar Port VTS to enter the restricted zone.

14 NUISANCE

- 14.1** No Noisy, noxious or objectionable engines, radio, or other apparatus or machinery shall be operated within the Marina so as to cause any nuisance or annoyance (especially before 08.00 hrs and after 20.00hrs) to the Company, to any other users of the Marina or premise or to any other person residing in the vicinity and the Owner undertakes for himself, the Owner's party or Users using the vessel that they shall not behave in such a way as to offend as aforesaid. Halyards shall be secured so as not to cause such nuisance and annoyance.

15 REFUSE & WASTAGE

15.1 No refuse shall be thrown overboard or left on the pontoons, piers or any part of the Marina, or disposed of in any way other than in the receptacles provided by the Company or by removal from the Company's Marina. The Company's further directions regarding waste management shall be posted on the Company's Public Notice Board or other prominent place and copies will be available from the Company on request.

15.2 Owners shall be prohibited from the discharging of sewage within the Marina; such discharge may result in termination by the Company of the Berthing Licence and ejection of the Owner from the Marina.

16 POLLUTION

16.1 In the interest of hygiene, no petrol, fuel or oil, contaminated bilge water or any black water or refuse shall be discharged or allowed to escape into the Marina waters.

17 USE OF OTHER CRAFTS

17.1 Dinghies, tenders and rafts shall be stowed aboard the vessel unless a berth is separately provided by the Company. The Company reserves the right to prohibit the use of small sailing craft, motor boats and yacht tenders within the confines of the Marina.

18 PARKING

18.1 No unauthorised vehicles including motorcycles shall park in the Company's Marina.

19 STORAGE

19.1 No item of boats' gear, fittings or equipment, supplies, stores, or the like shall be left upon the pontoons, jetties or in the car parks.

20 LAUNDRY

20.1 Owners, their crew and guests are requested not to hang laundry to dry on their vessels in a position where it is visible from the piers.

21 FIRE & SAFETY

21.1 The Owner shall take all necessary precautions against the outbreak of fire in or upon his vessel, (and the Owner shall observe all statutory and local regulations relative to fire prevention (if any) which shall be exhibited at the offices of the Company). The Owner shall provide and maintain at least one fire extinguisher of a governmentally approved or BSI standard type and size in or on the vessel fit for immediate use in case of fire. Owners shall not refuel vessels in the Marina.

22 BATHING

22.1 Bathing from the piers and sea walls of the Marina is not permitted and owners are advised that due to the movement of vessels within the Marina and the number of obstructions, structures, mooring lines etc., that diving, fishing and bathing from vessels in the Marina is dangerous.

23 PETS

23.1 Owners and/or Owner's Party and/or Users with dogs or other animals on board should keep them under control. Dogs must be kept on the lead whilst walking on the pontoons or anywhere in the Company's Marina.

23.2 Owners and/or Owner's Party and/or Users shall see that any soiling of the pontoons or Marina by their animals is cleared up by them immediately and not disposed of into the Marina.

24 REPORTING TO PIER OFFICE PRIOR TO DEPARTURE

24.1 The Pier Office is manned at the times shown on a notice in the Pier Office. Before departure Owners with reserved berths should inform the Pier master of their intended time and date of return so that the berth can be cleared in advance of their return. ALL OWNERS ARE REQUESTED TO NOTIFY THE PIER OFFICE 24 HOURS BEFORE DEPARTURE.

25 KEYS OF VESSEL

25.1 For the convenience of Owners, keys of boats, which should be duplicates, may be deposited at the office, accompanied by any instructions in writing restricting their issue to third parties. Such instructions will be strictly enforced and the Company will accept no responsibility for any consequent delay or inconvenience that may be caused, in all other cases the Pier master will use his discretion as to the issue of keys, but the Company accepts no liability for such issue to persons who appear to be bona fide applicants.

26 ELECTRICITY /WATER

26.1 Owners must only draw Fresh Water from a metered outlet specifically allocated for their use by the Pier master and are liable to pay the Company's published charge per litre current at the time for all water drawn.

26.2 Owners must only draw electricity from a metered outlet specifically allocated for their use by the Pier master and are liable to pay the Company's published charge per KWH current at the time for all electricity consumed.

26.3 The Company expressly reserves the right to terminate the supply of both water and electricity should the same be overdue for a period of four weeks or more.

27 HAWKING & TOUTING

27.1 Except with the written consent of the Company and then only subject to such terms as may be imposed. Under such written consent no hawking or touting for business is permitted on the Marina and no circulars or other notices may be placed on vessels in the Marina. No advertisement or "For Sale" notice may be displayed on any vessel or on the Marina without the expressed permission of the Company.

28 WAIVER

28.1 No failure of the Company to exercise any power given to it under these, regulations or to insist upon strict compliance by Owners and users with any obligation hereunder and no custom or practice of the parties at variance with the terms hereof will constitute a Waiver of the Company's rights to enforce strict compliance with these regulations.

29 VARIATION OF REGULATIONS

29.1 The Company reserves the right to introduce further and regulations and conditions which relate solely to the administration of the Company's Marina and which are not inconsistent with these Conditions, and to amend such regulations from time to time. Such regulations and

any amendments to them shall become effective on being displayed at the Company's Offices, and the Company shall have the same rights against the owner for a breach of those regulations as for a breach of these regulations and Conditions.

30 LAW AND JURISDICTION

- 30.1** This Berthing Licence and any non-contractual obligations arising out of, or in connection with, this Berthing Licence shall be governed by and construed in accordance with the laws of Gibraltar and the parties hereby submit to the non-exclusive jurisdiction of the Gibraltar Courts.

PRIVACY POLICY

1 OUR APPROACH TO PRIVACY

- 1.1** At Ocean Village Investments Ltd (OVI) we are committed to preserving the privacy of our customers and visitors to this website.
- 1.2** This Privacy Policy explains what personal information we collect from users of this website and how we use that information from time to time. This Policy should be read in conjunction with our Terms & Conditions.

2 WHEN WE COLLECT PERSONAL INFORMATION

- 2.1** We ask for personal information from you in a number of circumstances:
When you make a booking with us or purchase any other product or service from us - whether online or through our customer service team;
When you contact us to discuss a booking or make use of our online berth booking management services;
When you subscribe to our e-mail notification service or enter competitions or register for promotions;
When you take part in surveys or provide us with feedback.

3 WHY WE COLLECT PERSONAL INFORMATION

- 3.1** We collect personal information to help us deliver an effective service as follows:
To fulfil any existing and/or future booking you make with us including necessary reservation, payment, administration associated with the arrangements and you recognise that, by providing us with such sensitive personal data, you give your explicit consent to us to process such data for the purposes set out in this policy;
To provide any other product or service you have purchased from us;
To deal with any queries or requests you have regarding your booking and manage any amendments you may wish to make or changes we need to advise you about;
To fulfil security, customs, immigration and border control requirements associated with your booking which may include providing information to the police and appropriate government agencies;
To make information available to appropriate third parties where necessary in the event of an emergency;
To provide you with information about products, services and promotions that may be of interest to you unless you have asked us not to contact you.
To ensure that content from our website is presented in the most effective manner for you and for your computer;

For quality assurance testing, market analysis, systems testing, analysis of statistics, benchmarking, auditing and performance measures.

4 OUR APPROACH TO DIRECT MARKETING

4.1 By accepting our Terms & Conditions and our Privacy Policy you are allowing us to make contact with you from time to time to provide you with information which we think you may find of interest. We may also pass on your details to other companies directly associated with Ocean Village Investments Ltd, Ocean Village Commercial Properties Ltd and Fairhomes Gibraltar Ltd so that they can tell you about products or services which may be of interest to you.

Contact may be made by post, telephone, email or social media.

You can contact us at any time to remove your details from our marketing database. Please give your name, postal address details and your email address.

5 WHEN WE MAY DISCLOSE INFORMATION TO THIRD PARTIES

5.1 We may disclose personal information to third parties including other companies directly associated with Ocean Village Investments Ltd, Ocean Village Commercial Properties Ltd and Fairhomes (Gibraltar) Ltd, in connection with the purposes explained above.

6 COOKIES AND IP ADDRESSES

6.1 Similar to other commercial websites, our website may utilise standard technology to collect information about how our website is used by individual computers connected to the internet. Information may be gathered through cookies and Web server logs which allow us to monitor website traffic and to personalise the content of the site for you.

6.2 Browsers are usually set to accept cookies. However, if you would prefer not to receive cookies, you may alter the configuration of your browser to refuse cookies. If you choose to have your browser refuse cookies, it is possible that some areas of our site will not function as effectively when viewed. A cookie cannot retrieve any other data from your hard drive or pass on computer viruses.