

**DATED**

**1997**

**POSOL RESIDENTS MANAGEMENT  
COMPANY LIMITED (1)**

**and**



Berth in area E

**SUB-UNDERLEASE of Berth No [REDACTED]  
Residential Mooring Area, Port  
Solent, North Harbour, Portsmouth,  
Hampshire**

Un-redacted original kept by  
Posol's Managing Agent under file  
ref: M-B-SubU-E

SOP

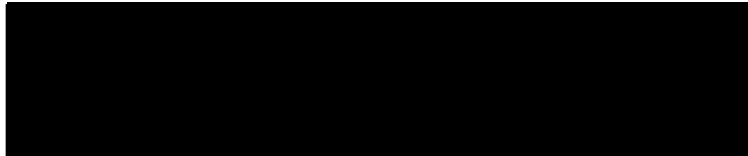
**PORT SOLENT - BERTH IN RESIDENTIAL MOORING AREA**

**PARTICULARS**

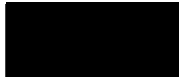
(1) Date of Sub-Underlease: 19

(2) The Lessor: POSOL RESIDENTS MANAGEMENT  
COMPANY LIMITED whose registered office is at  
Western House Moor Lane Staines Middx TW18  
4XQ

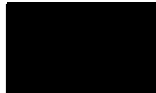
(3) The Lessee:



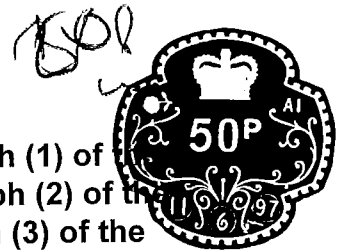
(4) Berth number:



(5) Premium:



THIS SUB-UNDERLEASE made on the date specified in paragraph (1) of foregoing Particulars BETWEEN the Lessor specified in paragraph (2) of the Particulars of the one part and the Lessee specified in paragraph (3) of the Particulars of the other part



WITNESSES as follows:-

1 1.1 In this Sub-Underlease the following expressions shall unless the context otherwise requires have the meanings ascribed to them hereunder:

"The Lessor"

means the Lessor hereinbefore named or other the company or person or persons for the time being entitled to the reversion immediately expectant on the term hereby created;

"the Lessee"

means the Lessee hereinbefore named and includes the successors in title of the Lessee;

"the Berth"

means the land forming the bed of the Marina and the water space and the air space above the bed of the Marina being that part of the Marina as is shown edged in blue on the principal plan annexed hereto and is known by the Berth number specified in paragraph (4) of the foregoing Particulars and for the removal of doubt this demise shall exclude any part of the Pontoonery;

"the Marina"

means the marina basin and associated land at Port Solent comprising (inter alia) water areas pontoons promenades landscaped areas bunds revetments marina walls lock and lock gates and buildings and other facilities and the dredged access channel ("the access channel") namely the channel dredged and to be dredged by Port Solent Limited to a depth of 1.5m below chart datum from the outer cill of the lock to a line between the existing location of piles numbered 72 and 76 at the southern end of the access channel) to Portsmouth Harbour;

"the Estate"

means the residential estate at Port Solent North Harbour Portsmouth Hampshire which said residential estate is shown for the purposes of identification edged by thick black lines on the location plan annexed hereto and the expression "the Estate" shall include any greater or lesser area;

"the Residential Mooring Area"

means the mooring areas adjacent to the Estate and for the removal of doubt such expression shall include any residential mooring areas remaining to

be created after the date hereof;

"Pontoonery"

means the floating access pontoons or other means of access to all berths in the Residential Mooring Area and such expression shall where the context so admits include the piles or supports by which the Pontoonery is attached and all mooring equipment supplied by or on behalf of the Lessor;

"Port Solent Limited"

means Port Solent Limited and includes its successors in title;

"the Port Solent Charge"

means the amounts which the Lessor shall from time to time pay to Port Solent Limited or its successors in title or other the operators from time to time of the Marina towards (inter alia) the maintenance cleaning repair renewal and insurance of the Marina pursuant to the Lessor's Underleases;

"the Relevant Proportion"

means:-

1 OVER M

where M equals the total number of mooring berths in the Residential Mooring Area when the development of the Estate shall have been completed PROVIDED ALWAYS that pending completion of the development of the Estate the Relevant Proportion shall be such proportion as the Lessor shall determine (such determination being final and binding on the Lessee) to be fair and reasonable having regard to all relevant circumstances;

"the Principal Underlease"

means an Underlease of the part of the Residential Mooring Area which includes the Berth dated 1st August 1990 made between Port Solent Limited of the one part and the Lessor of the other part for a term of one hundred and fifty years (less the last two days) calculated from 1st January 1988;

"the Lessor's Underleases"

means the Principal Underlease and the other similar Underleases heretofore or hereafter granted to the Lessor of parts of the Residential Mooring Area;

"the Superior Lease"

means a Lease of the Marina dated 11th August 1988 made between Portsmouth City Council of the one part and Port Solent Limited of the other part for a term of one hundred and fifty years from the 1st day of January 1988;

"the financial year of the Lessor"

means the annual period determined by the Lessor at its discretion of which notice shall have been given in writing by the Lessor to the Lessee and which until otherwise notified shall be 1st April to 31st March in the following calendar year;

"Management Company"

means Posol Residents Management Company Limited or any other company or unincorporated association which may be formed by or on behalf of the residents of the Estate to assume the duties and responsibilities of Posol Residents Management Company Limited in relation to the Estate and of which the residents of the Estate are or are to be the shareholders;

"Insured Risks"

means such of the risks of damage by fire storm tempest lightning thunderbolt

flood earthquake heave subsidence  
landslip explosion aircraft vehicle boat  
marine craft aerial objects impact strikes  
labour or political disturbance riot civil  
commotion and malicious persons and  
accidental damage to underground  
pipes and cables as are normally  
insurable from time to time through the  
Term with insurers of repute and where  
the context so admits or requires shall  
include any one or more of such risks;

"Interest"

means interest at the rate of 4% per annum above the base rate from time to time in force of National Westminster Bank PLC (or if there shall be no such base rate the rate of interest payable hereunder shall be £12 per centum per annum) in respect of the period from the due date for payment down to the date of actual payment as well before as after any judgment;

"the Superior Lessor"

means Portsmouth City Council or its successors in title the estate owners for the time being of the reversion of the premises demised by the Superior Lease expectant on the term thereby granted



"the Term" means the term of 150 years (less the last three days) calculated from the 1st day of January 1988

"Vessel" means a marine pleasure craft boat or yacht

1.2 Any reference herein to any statute or statutes shall include any statutory extension modification or re-enactment of such statute or statutes and any order regulation or bye-laws thereunder

1.3 Wherever the consent or approval of the Lessor is required or requested hereunder such provisions shall be construed as also requiring the consent or approval of the Port Solent Limited and the Superior Lessor where the same shall be required

1.4 Where the Lessee for the time being is two or more individuals the expression "the Lessee" includes the plural number and obligations expressed or implied to be made by or with such party are deemed to be made by or with such individuals jointly and severally and where the Lessee is two persons this Sub-Underlease shall be held by them as beneficial joint tenants

1.5 Words importing the one gender include all other genders and words importing the singular include the plural and vice versa

1.6 References to "the last year of the Term" include the last year of the Term if the same shall determine otherwise than by effluxion of time and

to "the expiration of the Term" include such sooner determination of the Term

- 1.7 References to any rights of the Lessor shall be construed as extending to Port Solent Limited and the Superior Lessor and include the like right of all persons reasonably authorised by the Lessor Port Solent Limited and the Superior Lessor (including but not limited to agents professional advisers contractors workmen guests and others)
- 1.8 Any covenant by the Lessee not to do any act or thing shall be deemed to include an obligation not to knowingly permit such act or thing to be done and to use its reasonable endeavours to prevent such act or thing being done by a third party under his control
- 2 In consideration of the payment by the Lessee of the premium specified in paragraph 1.5 of the foregoing particulars (the receipt of which is hereby acknowledged by the Lessor) and of the rents and covenants on the part of the Lessee hereinafter reserved and contained the Lessor hereby demises unto the Lessee the Berth TOGETHER with (in common with all others now or hereafter entitled to the like rights) the rights and privileges set forth in Part I of the First Schedule EXCEPTING AND RESERVING unto the Lessor and all others now or hereafter entitled to the like rights and all persons authorised by it or them as set forth in Part II of the First Schedule TO HOLD the Berth unto the Lessee (subject to the rights reserved unto the Superior Lessor and Port Solent Limited in the Superior Lease and the Principal Underlease respectively and to all other easements rights quasi-easements and privileges to which the Berth is or may be subject) for the Term YIELDING AND PAYING therefor unto the Lessor throughout the Term FIRST the yearly rent of a peppercorn (if demanded) on the First day of January in every year and SECONDLY by way of further and additional rent the amounts payable

pursuant to Clause 3.2 hereof

3 The Lessee hereby covenants with the Lessor as follows:-

3.1 to pay the rent first hereby reserved (if demanded) at the times and in manner aforesaid

3.2 3.2.1 to contribute and pay to the Lessor on demand the Relevant Proportion of the costs expenses outgoings and matters mentioned or referred to in Part II of the Second Schedule hereto and value added tax thereon where applicable

3.2.2 the contribution under paragraph 3.2.1 of this sub-clause for each financial year of the Lessor shall be estimated by the Lessor (whose decision shall be final and binding on the Lessee) prior to the beginning of each financial year of the Lessor and the Lessee shall pay the estimated contribution by two instalments the first instalment (being two-thirds of the estimated contribution) on the first day of the financial year of the Lessor and the second instalment (being one-third of the estimated contribution) six calendar months thereafter

3.2.3 as soon as reasonably may be after the end of each financial year of the Lessor when the actual amount of the said costs expenses outgoings and matters for that year has been ascertained the Lessee (on being supplied with a sufficient statement of account) shall forthwith pay the balance due to the Lessor or receive a refund of any amount overpaid

3.2.4 the certificate of the Lessor as to any amount due to the Lessor under paragraph 3.2.3 of this sub-clause shall (in the

absence of any manifest error or omission) be final and binding on the Lessee

- 3.3 if and whenever during the Term any contributions payments or instalments or any part or parts thereof under clause 3.2 hereof or any other sums payable by the Lessee hereunder shall at any time be unpaid for a space of fourteen days next after becoming payable the Lessee shall pay Interest on the same to the Lessor
- 3.4 From time to time and at all times during the Term to pay and discharge and indemnify the Lessor against all rates taxes duties charges assessments and outgoings whatsoever (whether parliamentary parochial local or of any other description) which are now or may at any time hereafter be assessed charged or imposed upon or payable in respect of the Berth and the Relevant Proportion of such of them as may be payable in respect of the Residential Mooring Area as a whole
- 3.5 not to carry out any alterations or additions to the Berth or to the Pontoonery nor to affix any equipment bollard or other thing thereto nor to carry out any works of any nature to the walls or revetments of the Marina
- 3.6 not to discharge any effluent or rubbish or noxious substance into the Marina
- 3.7 to comply (save to the extent that the need for compliance arises from any duty imposed by statute on Port Solent Limited or from any breach or non- observance or non-performance on the part of Port Solent Limited of any of the covenants on the part of Port Solent Limited contained in the Lessor's Underleases) with all relevant statutes and

execute (save as aforesaid) all works required thereby whether such works are required to be carried out by the owner or the occupier or any other person and (save as aforesaid) shall observe and perform all regulations and bye-laws and other requirements of any public authority in respect of the Berth

3.8 3.8.1 in particular but without prejudice to the generality of the foregoing sub-clause to observe perform and comply with all rules and regulations which shall from time to time be prescribed by Port Solent Limited in respect of the Marina insofar as the same are or shall be proper reasonable and consistent with the terms of this Sub-Underlease

3.8.2 to observe perform and comply with all rules and regulations which the Lessor may from time to time prescribe in respect of the Residential Mooring Area insofar as the same are or shall be proper reasonable and consistent with the terms of this sub-Underlease

3.9 to pay all expenses (including solicitors' costs and surveyors' fees) reasonably incurred by the Lessor:-

3.9.1 incidental to the preparation of and service of a notice under Section 146 of the Law of Property Act 1925 notwithstanding forfeiture is avoided otherwise than by relief granted by the Court or

3.9.2 resulting from all applications by the Lessee for any consent of the Lessor required by this sub-underlease including stamp duty on licences and any duplicates thereof and the reasonable

costs and disbursements of the solicitors and surveyors of the Lessor and Port Solent Limited and the Superior Lessor and including all such costs and disbursements properly and actually incurred in cases where consent is lawfully or in accordance with this Sub-Underlease refused or the application is withdrawn but not otherwise

3.10 not at any time during the Term to use or permit or suffer the Berth or any part thereof to be used for any purpose other than for the mooring of one Vessel of an appropriate size for the Berth

3.11 not to use the Berth in such a manner as to cause nuisance or annoyance to the Lessor or to other tenants of the Lessor or to any other users of the Marina or to the owners or occupiers of adjoining or neighbouring houses nor to use or permit or suffer the Berth to be used for any illegal or immoral purpose

3.12 3.12.1 not to assign this Sub Underlease as a whole except to a person who shall (i) simultaneously become the holder of one "B" ordinary share in the Management Company (ii) simultaneously become the freehold owner of the house on the Estate to which the Berth shall have been allocated prior to the date hereof and so that the Lessee shall assign this Sub Underlease to such person on completion of the acquisition by such person of the house and (iii) have executed and delivered to the Lessor and to Port Solent Limited a Deed of Covenant in the terms of the specimen form of Deed of Covenant set out in the Third Schedule hereto

- 3.12.2 not to assign underlet or part with possession of part only (as opposed to the whole) of the Berth
- 3.12.3 not to grant any sub-underlease or other tenancy of or share or otherwise part with possession of the Berth (save by way of an assignment in accordance with paragraph 3.12.1 of this sub-clause) Provided however that nothing in this Sub-Underlease shall operate so as to prevent the Lessee from granting a non-renewable licence for a period of less than one year in favour of a third party for the use of the Berth for the berthing of a Vessel subject to any such licence being granted (i) upon terms otherwise consistent and in accordance with the terms of this Sub-Underlease and (ii) in conjunction with a bona fide letting of the said house to which the Berth has been allocated
- 3.13 within twenty-one days of any assignment of this Sub-Underlease or other dealing (including the grant of a licence under the proviso to Clause 3.12.3 hereof) to notify the Lessor and (by way of separate notice) Port Solent Limited in writing of such assignment or other dealing and forthwith upon any assignment to notify the Lessor and (by way of separate notice) Port Solent Limited in writing of the name type and dimension port of registry registered number and full insurance details and the name and address of the owner of the Vessel which is to be moored within the Berth (if relevant) and shall pay to each of them the Lessor and Port Solent Limited a reasonable registration fee which shall during the first ten years of the Term be £30 in each case together with value added tax thereon
- 3.14 to observe and perform such of the tenant's covenants in the Principal

Underlease as are applicable to this Sub-Underlease and to the Berth save to the extent that the observance and performance of such covenants is expressly assumed by the Lessor in this Sub-Underlease

3.15 to indemnify and keep indemnified the Lessor against all damages losses costs expenses actions demands claims and liabilities made against or suffered or incurred by the Lessor arising directly or indirectly out of any breach or non-observance of any of the Lessee's covenants or the conditions or other provisions contained in this Sub-Underlease

3.16 (save to the extent (if any) that the Lessor is entitled to be and is indemnified under any policy of insurance maintained by the Lessor) to indemnify and keep the Lessor indemnified from and against all damages losses costs expenses actions demands claims and liabilities made against or suffered or incurred by the Lessor arising directly or indirectly out of any act omission or negligence of the Lessee or any persons at the Berth expressly or impliedly with the Lessee's authority or from any damage or injury suffered by any person whomsoever or any property whatsoever by or in the course of the exercise of the Lessee's rights under this sub- Underlease or the use by the Lessee of the Marina insofar as they may result from any act or default or culpable omission of the Lessee

3.17 at all times to notify the Lessor and Port Solent Limited in writing of, and of any change in, the name type and dimension port of registry registered number and full insurance details of any Vessel moored at the Berth and the name and address of its owner

3.18 at all times to procure that any Vessel moored at the Berth is insured against liability to third parties and against damage to the Marina and to



the Pontoonery

3.19 to pay value added tax (or any similar tax which may replace value added tax) on all taxable supplies received by the Lessee on the grant of or under or in connection with this Sub-Underlease

3.20 to pay to the Lessor on demand a sum equal to the cost of repairing any damage which the Lessee or any one using the Berth with his consent may cause to any part of the Marina or any part of the Pontoonery

3.21 to permit the Lessor and Port Solent Limited to enter upon the Berth for any purpose that in the opinion of the Lessor or Port Solent Limited is necessary to enable the Lessor to comply with the covenants on the Lessor's part contained in this Sub-Underlease or in the Principal Underlease or to enable Port Solent Limited to comply with the covenants on the part of Port Solent Limited in the Superior Lease notwithstanding that the obligation to comply with such covenants may be imposed upon the Lessee by this Sub-Underlease

3.22 at the expiration or sooner determination of the Term quietly to yield up the Berth to the Lessor

4 The Lessor hereby covenants with the Lessee that:-

4.1 the Lessee paying the rents and the further and additional rents hereby reserved as and when the same ought to be paid and observing and performing all the covenants herein contained and on the part of the Lessee to be performed and observed the Lessee shall be permitted peaceably to hold and enjoy the Berth and the easements rights and privileges hereby granted without any disturbance or interruption by the

Lessor or any person or persons rightly claiming through under or in trust for it

4.2 the Lessor will throughout the Term punctually pay the rents reserved by the Principal Underlease and will duly observe and perform the tenant's covenants agreements and conditions therein contained save insofar as the observance and performance of such covenants agreements and conditions is made the liability of the Lessee by this Sub-Underlease and (save as aforesaid) will indemnify and will keep indemnified the Lessee against all actions claims proceedings costs expenses and demands in any way relating thereto

4.3 The Lessor will if so required by the Lessee take all reasonable steps to enforce the covenants on the part of Port Solent Limited contained in the Principal Underlease upon the Lessee indemnifying the Lessor against all costs and expenses in respect of such enforcement or attempted enforcement and providing such security in respect of costs and expenses as the Lessor may reasonably require

4.4 the Lessor shall throughout the Term but subject always to prompt payment by the Lessee of the further and additional rents hereby reserved carry out comply with or supply the works obligations and services set out in Part I of the Second Schedule hereto provided that the Lessor shall not be liable to the Lessee in respect of:-

4.4.1 any failure or interruption in any of the services by reason of necessary maintenance or damage or destruction or by reason of mechanical or other defect or breakdown or frost or other inclement conditions or shortage of fuel materials labour or any other cause beyond the Lessor's control or

4.4.2 any act or omission or negligence of any person undertaking the works obligations or services or any of them on behalf of the Lessor

5 It is hereby agreed and declared that if the rents or the further and additional rents hereby reserved or any part or parts thereof shall be unpaid for the period of thirty days next after becoming payable (whether the same shall be legally demanded or not) or if any default shall be made by the Lessee in the performance or observance of any of the covenants herein contained then and in any such case it shall be lawful for the Lessor to re-enter the Berth or any part thereof in the name of the whole and to have the same again and repossess and enjoy the same as in its first and former estate anything herein contained to the contrary notwithstanding and thereupon the Term hereby created shall cease and be void but without prejudice to any right of action or remedy of either party in respect of any antecedent breach of any of the covenants on the part of the other herein contained

6 It is hereby further agreed and declared as follows:-

6.1 any dispute of any nature arising out of this Sub-Underlease (save as provided in Clause 6.6) shall be referred to and determined by an independent person (duly qualified in the nature of the dispute) to be agreed upon by the parties or in default of such agreement to be appointed on the application of either party by the President for the time being of the Royal Institution of Chartered Surveyors (or any successor to that Institution)

6.2 such a person shall act as an expert and not as an arbitrator and may request the parties to submit their claims and any supporting evidence

in whatever manner he shall think fit

- 6.3 if such a person is unwilling or unable to continue his appointment his successor shall be appointed in like manner as set out above
- 6.4 the determination and award of such person shall be final and binding on the parties hereto
- 6.5 notwithstanding the foregoing the Lessor and the Lessee hereby agree that the expert (or an expert who has already been appointed in relation to another dispute in relation to the Residential Mooring Area) may be requested by the Lessor to determine any dispute between the Lessor and the Lessee together with any dispute (between the Lessor and any other tenant or tenants of a berth in the Residential Mooring Area) of a similar nature or arising out of similar circumstances
- 6.6 notwithstanding the foregoing the Lessor shall be entitled to elect for any dispute of any nature arising out of this Sub-Underlease (such election to be made no later than the making of an application to the President pursuant to Clause 6.1 hereof) to be determined by the person (if any) appointed to determine any dispute arising out of similar circumstances under the Principal Underlease or any other of the Lessor's Underleases acting in the capacity in which he is appointed thereunder and pursuant to the terms of his appointment thereunder
- 6.7 for the purpose of service of all notices hereby or by statute authorised to be served the regulations as to service of notices contained in Section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962) shall be deemed to be incorporated herein

6.8 each and every right vested in the Superior Lessor and Port Solent Limited by virtue of the Superior Lease and the Principal Underlease respectively shall be exercisable by the Superior Lessor or (as the case may be) Port Solent Limited so far as it affects the Berth notwithstanding that it may not be expressly provided for in these presents

6.9 all rents and other payments whatsoever due from the Lessee under these presents shall be exclusive of value added tax and the Lessee shall in addition pay the full amount of any value added tax for which the Lessor or other person entitled to such rents or other payments shall be accountable in respect thereof

**IN WITNESS** whereof these presents are duly executed by the parties hereto the day and year first before written

## **THE FIRST SCHEDULE**

### **Part I**

#### **(Rights granted)**

- 1 The right to moor a Vessel within the Berth to the part of the Pontoonery adjacent to the Berth or (in the case of berths which are so situated that a Vessel therein can be moored parallel to an adjacent section of the Marina wall) to such section of the Marina wall.
- 2 The right subject to any temporary restriction necessarily imposed by the Lessor or Port Solent Limited or the Superior Lessor to pass and repass with Vessels over the Marina and through the lock and lock gates.
- 3 A right of passage at all times and for all purposes connected with the full use and enjoyment of the Berth over and within the access channel together with any additional dredged area which Port Solent Limited may from time to time provide.

### **Part II**

#### **(Rights reserved)**

- 1 The right of access at all reasonable times to the Berth for the purposes of (i) ensuring that the Lessee has complied with his obligations herein contained (ii) carrying out the Lessor's obligations set out in Part I of the Second Schedule hereto and those contained in the Principal Underlease (iii) carrying out any other works or providing any other services which the Lessor may at any time carry out or provide and (iv) whenever necessary and after

reasonable endeavours have been made to give notice thereof to the Lessee the right to move and moor or berth elsewhere in the Marina (subject to prior notice save in the case of emergency) any Vessel in the Berth.

- 2 The right of all persons in lawful exercise of the right of passage within the Residential Mooring Area temporarily in the course of manoeuvring a Vessel to pass and repass within the Berth but not so as to obstruct or delay the exercise by the Lessee of all rights of navigation and mooring granted by this Sub- Underlease.
- 3 All other rights easements and quasi-easements now enjoyed or intended to be enjoyed by any other part of parts of the Residential Mooring Area from over under or against the Berth.

## **THE SECOND SCHEDULE**

### **Part I**

#### **(the Lessor's obligations)**

- 1 To pay all existing and future rates taxes assessments and outgoings now or hereafter imposed or payable in respect of the Pontoonery.
- 2 To maintain the Pontoonery in good repair order and condition and renew the same when necessary.
- 3 To insure or cause to be insured the Pontoonery and keep the same insured with insurers of repute against loss or damage by any of the Insured Risks and such other risks as the Lessor shall reasonably consider desirable in an adequate and appropriate sum which will not be less than the full reinstatement

cost together with architects' and surveyors' and other professional fees and pay or cause to be paid all premiums and other monies necessary for this purpose and whenever required (but not more often than twice in any year of the term) to provide the Lessee with particulars of such insurance and evidence of the payment of the then current year's premium and in the event of the Pontoonery or any part thereof at any time being destroyed or damaged by way of any of the Insured Risks then and as often as the same may happen with all reinstate reasonable despatch to rebuild repair or otherwise the Pontoonery or the relevant part thereof in a good and substantial manner.

## **Part II**

### **(Costs expenses outgoings and matters to which the Lessee is to contribute)**

- 1 The expenses incurred by the Lessor in carrying out its obligations under Part I of this Schedule.
- 2 Twenty-seven per centum of the Port Solent Charge.
- 3 The cost of maintaining such policy or policies of insurance as the Lessor shall consider appropriate covering liability for injury to persons on or within the Residential Mooring Area.
- 4 The cost of providing and carrying out such other services and works on or in relation to the Residential Mooring Area which the Lessor may from time to time in its discretion decide to provide or carry out and which shall be of benefit to all (or a majority of) the users of berths therein.
- 5 All other expenses incurred by the Lessor in and about the maintenance and proper and convenient management of the Residential Mooring Area including



(but without prejudice to the generality of the foregoing) any interest paid on any money borrowed by the Lessor to defray any expenses incurred by it and specified or referred to in this Schedule and any legal or other costs bona fide incurred by the Lessor in taking or defending any proceedings (including any arbitration) in connection with the Residential Mooring Area or arising out of the carrying out by the Lessor of its obligations or the exercise of its powers in relation to the Residential Mooring Area.

- 6 The fees and disbursements paid to any managing agents appointed by the Lessor in respect of the Residential Mooring Area.
- 7 The fees and disbursements paid to any accountant solicitor or other professional person in relation to the preparation auditing or certification of any accounts of the costs expenses outgoings and matters referred to in this Schedule and the collection of the contributions and payments due from sub-underlessees of the berths in the Residential Mooring Area.
- 8 Value added tax (or any other tax or levy which may be introduced in addition thereto or in substitution therefor) properly payable or chargeable on the costs expenses outgoings and matters referred to in the preceding paragraphs of Part II of this Schedule.

### **THE THIRD SCHEDULE**

#### **(Specimen Form of Deed of Covenant)**

**THIS DEED OF COVENANT is made the                      day of                      19[ ]**

**BETWEEN**

- (1) POSOL RESIDENTS MANAGEMENT COMPANY LIMITED whose registered office is at [ ] (hereinafter called "the Lessor");
- (2) PORT SOLENT LIMITED whose registered office is at [ ] (hereinafter called "the Company");
- (3) [insert name and address of assignor] (hereinafter called "the Assignor"); and
- (4) [insert name and address of assignee] (hereinafter called "the Assignee")

#### **WHEREAS**

- (A) By a Sub-Underlease (hereinafter called "the Sub-Underlease") dated 19      made between the Lessor (1) and [ ] (hereinafter called "the Original Lessee") (2) Berth No. [ ] in the Residential Mooring Area at Port Solent North Harbour Portsmouth Hampshire (hereinafter called "the Berth") was demised to the Original Lessee for the term of years and upon the terms and conditions more particularly therein contained
- (B) In the Sub-Underlease the Original Lessee covenants with the Lessor (inter alia) not to assign the Sub-Underlease except to a person who shall have executed and delivered to the Lessor and the Company a Deed of Covenant in the form of this present Deed
- (C) The Assignor wishes to assign the Sub-Underlease to the assignee and the Assignee has agreed to enter into the covenants hereinafter appearing

**NOW THIS DEED WITNESSES** as follows:-

1 The Assignee **HEREBY COVENANTS** with the Lessor that with effect from the date upon which the Sub-Underlease shall be assigned to him the Assignee and his successors in title will thenceforth during the residue of the term of years created by the Sub-Underlease pay the rents and the further and additional rents thereby reserved and observe and perform the covenants on the part of the Original Lessee therein contained as if such covenants were set out in full herein.

2 The Assignee **HEREBY COVENANTS** with the Company that with effect from the date upon which the Sub-Underlease shall be assigned to him the Assignee and his successors in title will thenceforth during the residue of the term:

2.1 pay to the Lessor and the successors in title of the Lessor the further and additional rents reserved by the Sub-Underlease at the times and in the manner for payment therein prescribed and observe and perform the covenants on the part of the Original Lessee therein contained;

2.2 observe and perform (so far as the same are applicable to the Berth) the covenants and provisions contained in the Underlease dated 1st May 1990 made between the Company of the one part and the Lessor of the other part which is referred to in the Sub-Underlease save for payment of the rent thereby reserved

3 In this Deed where the context so admits:-

3.1 References to "the Lessor" "the Company" and "the Assignee" shall include their respective successors in title

3.2 Words importing the masculine gender only include the feminine gender

3.3 Words importing the singular number only include the plural number and vice versa and where there are two or more persons included in the expression "the assignee" covenants expressed to be made by the Assignee shall be deemed to be made by such persons jointly and severally

THE COMMON SEAL of POSOL )  
RESIDENTS MANAGEMENT COMPANY )  
LIMITED was hereunto affixed )  
in the presence of:- )

Director

Secretary

