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11th August

1988

THE PORTSMOUTH CITY COUNCIL

- and -

PORT SOLENT LTD

PORT SOLENT		
Please CIRCULATE		
8234 QUICKLY		
Initials	File	Date
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MASTER LEASE

- of -

Marina and land adjoining at North Harbour  
in the City of Portsmouth in Hampshire  
known as Port Solent

City Secretary and Solicitor  
Portsmouth

H M LAND REGISTRY

LAND REGISTRATION ACTS 1925 TO 1971

County and District : HAMPSHIRE - PORTSMOUTH  
Title No : HP 343441  
Property : THE MARINA SITE PORT SOLENT

NORTH HARBOUR PORTSMOUTH

THIS LEASE is made the *eleventh* day of *August*

One thousand nine hundred and eighty-eight BETWEEN THE PORTSMOUTH CITY COUNCIL of Civic Offices Guildhall Square Portsmouth Hampshire PO1 2AL (hereinafter called "the Council" which expression shall where the context requires or admits include the persons for the time being entitled to the reversion immediately expectant on the term hereby granted) of the one part and PORT SOLENT LTD whose registered office is situate at 1 Brewers Green Buckingham Gate London SW1H 0RH (hereinafter called "the Lessee" which expression shall where the context so requires or admits include its successors in title and assigns) of the other part —  
1 In this Lease the following expressions shall unless the context otherwise admits or requires have the meanings respectively assigned to them as follows:-

1.1 "the City Estates Officer" "the City Secretary and Solicitor" and "the Director of Engineering" shall respectively mean the Officers of the Council from time to time so designated or such other Officers as the Council may from time to time designate for the purpose of this Lease and where in this Lease there is reference to the said Officers of the Council such reference shall be deemed to be a reference to the Council and its statutory successors in title and their appointed designates but where the Lessor for the time being pursuant to this Lease shall not be a public authority but shall instead be a limited or public limited

company those expressions shall be interpreted as referring in the case of the City Estates Officer and Director of Engineering to the surveyor for the time being of such Lessor (who shall be a fellow or a professional associate of the Royal Institution of Chartered Surveyors or a Member of the Institution of Civil Engineers) and in the case of the City Secretary and Solicitor shall be interpreted as referring to the Secretary or any director of such company \_\_\_\_\_

1.2 "Planning Acts" means the Town and Country Planning Acts 1971-1985 \_\_\_\_\_

1.3 "the Demised Premises" shall mean the site specified in the First Schedule hereto TOGETHER WITH as set out in the First Schedule hereto and TOGETHER ALSO WITH the easements and rights specified in the Second Schedule hereto \_\_\_\_\_

1.4 "the Plan" means plan PL120 (revision F) annexed hereto marked "Legal Plan" \_\_\_\_\_

1.5 "the Adjoining Sites" shall have the meaning set out in the Third Schedule hereto \_\_\_\_\_

Retained  
Land

1.6 "the Council's Retained Land" shall mean Sites B C and D as shown on Drawing Number 119/E/88/DI annexed hereto \_\_\_\_\_

1.7 "the Development" shall have the meaning set out in the Fourth Schedule hereto \_\_\_\_\_

1.8 "the Commencement Date" is the 1st day of January One thousand nine hundred and eighty-eight \_\_\_\_\_

1.9 "the Term" shall mean the term of 150 years commencing on the Commencement Date \_\_\_\_\_

1.10 "the Rent Days" shall mean the first days of January April July and October in each year of the Term \_\_\_\_\_

1.11 "the Development Agreement" shall mean the Development Agreement dated the 19th day of December One thousand nine hundred

A handwritten signature in black ink, appearing to be "R.K." or similar initials, located at the bottom right of the page.

1.13 Save where otherwise specifically stated any approval to be given hereunder shall not be unreasonably withheld or delayed

2 The Council is the owner in fee simple of the Demised Premises as the same is registered at H M Land Registry with Absolute Title under Title Number HP 343411 \_\_\_\_\_

3.1 In consideration of the rent and covenants on the part of the Lessee hereinafter reserved and contained the Council hereby demises unto the Lessee ALL THAT the Demised Premises TOGETHER WITH the easements and rights specified in the Second Schedule hereto subject nevertheless to the proviso for re-entry hereinafter contained EXCEPTING AND RESERVING as set forth in the Fifth Schedule hereto TO HOLD the Demised Premises unto the Lessee for the Term YIELDING AND PAYING therefor during the Term yearly and proportionately for any fraction of a year \_\_\_\_\_

3.1.1 The rents calculated and payable in accordance with the provisions of the Sixth Schedule hereto and \_\_\_\_\_

3.1.2 On demand a sum equal to all such sums as the Council may from time to time pay for insuring and keeping insured the Demised Premises on any failure by the Lessee to maintain insurances in pursuance of Clause 4.4 and 4.5 hereof \_\_\_\_\_

3.2 The rent shall be paid clear of all deductions by equal quarterly payments in advance on the Rent Days subject to the adjustments provided for in the said Sixth Schedule \_\_\_\_\_

4 The Lessee hereby covenants with the Council as follows:-

Rent

4.1 To pay the rent hereby reserved at the time and in the manner herein provided without any deduction \_\_\_\_\_

Outgoings

4.2 To pay and discharge all outstanding and future rates taxes assessments duties charges and outgoings payable by law in respect of the Demised Premises and any building at any time erected on the same either by the owner or occupier thereof the redemption annuity (if any) only excepted \_\_\_\_\_

4.3.1 To carry out and complete the Development in accordance with the Development Agreement and in strict accordance with any planning permission previously obtained and to the reasonable satisfaction of the City Estates Officer \_\_\_\_\_

4.3.2 Strictly to observe and perform the terms of the Development Agreement insofar as the same are applicable to the Demised Premises and are within the control of the Lessee by virtue of this Lease \_\_\_\_\_

To insure

4.4.1 Forthwith to insure the Demised Premises and keep the same insured at all times throughout the Term in the joint names of the Council and the Lessee at least in a sum to be approved in writing by the City Estates Officer as being sufficient to cover the costs of completely reinstating the Demised Premises in the event of total destruction of the buildings and erections thereon together with Architects and Surveyors fees and other incidental expenses thereto and a sum equivalent to not less than the two previous years rent hereby reserved of the Demised Premises from loss or damage by fire explosion storm or tempest (including lightning) aircraft and any articles dropped therefrom with an insurance office of substance and good repute and to pay all premiums and other monies necessary for this purpose and whenever required to produce to the Council and the officers servants or agents of the Council the policy or policies of such insurance and the receipts

for the then current year's premium and as often as the Demised Premises or any part thereof shall at any time during the Term be destroyed or damaged then and so often as the same may happen the Lessee shall \_\_\_\_\_

4.4.1.1 without delay rebuild and reinstate the Demised Premises to the reasonable satisfaction of the City Estates Officer to its former state or in accordance with detailed plans and elevations submitted to and previously approved by the City Estates Officer on behalf of the Council as owner of the freehold \_\_\_\_\_

4.4.1.2 secure that all monies payable by virtue of such insurance (other than monies received in respect of loss of rent) shall forthwith be laid out and applied in so rebuilding repairing and otherwise reinstating the Demised Premises in good and substantial manner or in such other manner (if any) as may be previously approved in writing by the City Estates Officer and in case the monies received in respect of the said insurance shall be insufficient for that purpose to make good the deficiency (including the fees of any Architect Surveyor or Assessor for acting in connection with the claim) out of the Lessee's own money  
PROVIDED ALWAYS \_\_\_\_\_

(a) that if the re-building or re-instatement of the Demised Premises or any part thereof shall be frustrated for whatsoever reason all (or part as the case may be) of the insurance monies (otherwise than aforesaid) relating to the Demised Premises or part thereof in respect of which frustration occurs shall be apportioned between the Council and the Lessee on the following basis namely that the open market value shall be determined as hereinafter set out of both the Council's interest and the Lessee's interest in the Demised Premises including the buildings erected thereon immediately prior to the happening of the event

which caused the claim under the said insurance policy (or in the case of part frustration the open market value of both the Council's interest and the Lessee's interest in such part of the Demised Premises in respect of which the re-building or re-instatement shall have been frustrated) and the insurance monies as set out above shall be paid to the Council and the Lessee in such proportions as the respective valuations of their interests bear to the total of the valuations of their interests and any dispute as to such proportions shall be referred to arbitration pursuant to the provisions of clause 6.3 hereof Provided that in this clause open market value shall mean the maximum gross price reasonably obtainable by the Council and the Lessee in the open market for the sale of their respective interests in the Demised Premises (or part thereof) at such date as aforesaid following the complete and free marketing and exposure of the sale of such interest to all parties likely to be interested therein \_\_\_\_\_

(b) that if the Lessee shall at any time fail to insure and keep the Demised Premises insured as aforesaid and maintain public liability insurance as further provided by sub-clause 4.4.2 of this clause the Council may (but shall not be obliged to) do all things necessary to effect and maintain such insurances and any monies expended by the Council for that purpose shall be repayable by the Lessee to the Council on demand and in the meantime shall be a charge on the Demised Premises and be recoverable forthwith by action or by distress as for rent in arrears \_\_\_\_\_

4.4.2 To insure or cause to be insured the Council and the Lessee with insurers of substance and good repute in such reasonable sum as the Council shall approve (and initially not less than one million pounds in respect of any one injury or occurrence) against any liability loss claim or proceeding in respect of any injury or

	<p>damage whatsoever to any person resorting to the Demised Premises or to any property real or personal of any third party by reason of any occupiers or property owners liability and shall pay or cause to be paid all premiums and other monies necessary for this purpose and whenever required produce to the City Estates Officer evidence of the policy or policies of such insurance and evidence of the payment of the then current year's premium _____</p>
Not to vitiate policy	<p>4.5 Not to do or permit anything to be done upon the Demised Premises whereby any policy of insurance against any damage to the Demised Premises for the time being subsisting may be invalidated</p>
Not to cause nuisance	<p>4.6 Not to do or permit or suffer to be done anything in or upon the Demised Premises or any part thereof which may be or become a nuisance or annoyance or cause damage or inconvenience to the Council or its lessees tenants licensees and other occupiers of the Adjoining Sites or whereby any insurance for the time being effected on the Adjoining Sites may be rendered void or voidable or whereby the rate of premium thereon may be increased _____</p>
To repair	<p>4.7 During the Term to keep the Demised Premises including all authorised additions thereto and the boundary walls and fences and all the fixtures roads and paths (except those (if any) as shall have been adopted by the Local Highway Authority) drains foul sewers and other pipes and the sanitary and water apparatus thereon and the appurtenances thereof clean and tidy and in good and tenantable repair and condition to the reasonable satisfaction in all respects of the City Estates Officer _____</p>
To permit Landlord to enter and examine	<p>4.8 To permit the Council and its duly authorised agents with or without workmen and others upon giving one week's previous notice in writing (except in cases of emergency when such notice as is practicable shall be given) to enter upon and examine the condition of the Demised Premises and thereupon the Council may</p>



serve upon the Lessee notice in writing specifying any repairs necessary to be done and require the Lessee forthwith to execute the same and if the Lessee shall not within twenty one days after service of such notice proceed diligently with the execution of such repairs then to permit the Council and its duly authorised agents to enter upon the Demised Premises and execute such repairs and the cost thereof shall be a debt due from the Lessee to the Council and be forthwith recoverable by action as if the same were rent in arrear PROVIDED THAT the Council shall be under no obligation to carry out any such repairs \_\_\_\_\_

Not to erect 4.9 Subject always to Clause 4.9.3 not at any time during the  
new buildings Term without the prior written approval of the City Estates  
or add to or Officer to erect any new building or structure on the Demised  
alter Premises or make any structural or external alterations or any  
existing external addition to the Demised Premises (provided always that  
buildings this Clause shall not restrict alteration or replacement of  
pontoonery) or make access to the adjoining roads or change the  
existing external design elevation or external appearance of the  
Demised Premises except in accordance with detailed plans  
elevations sections and specifications previously submitted to  
and approved by the City Estates Officer nor make any excavation  
or sink any well upon the Demised Premises or interfere with or  
by building or otherwise cause access to any pipes wires cables  
drains sewers watercourses conduits or subways which now are under  
in or through the Demised Premises and which do not exclusively  
serve the Demised Premises to be or become more difficult than  
the same now is and \_\_\_\_\_

4.9.1 the Lessee shall immediately upon notice in writing from  
the City Estates Officer requiring it so to do remedy any breach  
of this covenant and on its failure so to do for the space of two

months after such notice then it shall be lawful for the Council its servants contractors agents and workmen to enter upon the Demised Premises and remove such new buildings and structures alterations additions or interferences and execute such other requisite works all expenses of so doing to be paid to the Council by the Lessee as a liquidated debt on demand PROVIDED THAT the Council shall be under no obligation to carry out any such works —

4.9.2 to obtain such licence the Lessee shall submit the necessary plans and specifications for approval and pay the reasonable costs and fees of the Council for such consent —

4.9.3 not to do anything whereby the effectiveness of methane control precautions are rendered less effective or whereby the release of methane in a manner injurious to health and safety occurs or whereby the risk of which release is increased and at all times to observe and to perform the requirements of a Methane Monitoring Manual approved by the Council or other guidelines agreed in writing between the parties hereto —

4.10 In the execution of any of the works referred to in the last foregoing sub-clause to conform at its own expense to all of the provisions of any statutes statutory instruments orders byelaws or regulations which are applicable thereto and without prejudice to the generality of the foregoing in particular —

4.10.1 to obtain all licences approvals plans permissions and other things for the execution of the work and to comply with the regulations byelaws and other matters prescribed by any competent authority either generally or in respect of the specific works to be undertaken —

4.10.2 upon request by the Council to produce to it or its authorised agent all such notices permissions consents and licences relating to the said works and to allow the Council and

Not to  
exhibit  
signs etc

its agents to make copies thereof \_\_\_\_\_

4.11 Not to exhibit on the exterior of the walls or roofs of the Demised Premises or of any building or structure thereon any electric or illuminated sign or hanging sign facia advertisement placard skysign or lettering except such as may previously have been approved in writing by the City Estates Officer and in default the Council may enter upon the Demised Premises and remove the same at the Lessee's cost as if the same were an unauthorised new building \_\_\_\_\_

To permit  
entry to  
repair etc

4.12 With the prior written approval of the City Estates Officer only to permit the Council and its underlessees and sub-tenants or other the occupiers for the time being of the Adjoining Sites and other land and buildings of the Council or any part or parts thereof with or without servants agents contractors licensees workmen tools plant equipment and appliances at all reasonable hours in the daytime after giving not less than forty-eight hours previous notice in writing to the Lessee and to any other person or persons who may be concerned as being at that time in actual occupation of the Demised Premises (except in cases of emergency when such notice as is practicable shall be given) to enter upon the Demised Premises for the purposes of \_\_\_\_\_

4.12.1 Executing works of repair reconstruction alterations painting redecoration or other works to or upon the Adjoining Sites and other land and buildings of the Council or any part or parts thereof which it would not otherwise in the opinion of the Council be reasonably practical to carry out and/or \_\_\_\_\_

4.12.2 Repairing cleansing emptying maintaining or renewing any sewers watercourses drains gutters water pipes electricity wires or cables gas pipes and other services in or under the Demised Premises which serve either in common therewith or independently

the Adjoining Sites and other land and buildings or any part or parts thereof \_\_\_\_\_

4.12.3 For all reasonable purposes in connection with the development of the Adjoining Sites which cannot in the opinion of the Council otherwise be conveniently effected \_\_\_\_\_

PROVIDED THAT \_\_\_\_\_

(a) the Council and any other person or persons shall in doing so cause as little damage disturbance and inconvenience as possible to the Demised Premises and shall keep indemnified the Lessee and any other person or persons who may be concerned in all respects against all loss and damage caused or suffered thereby to the Demised Premises \_\_\_\_\_

(b) notwithstanding the provisions of sub-paragraph (a) of this clause the Council shall not be liable to the Lessee for any annoyance nuisance or damage caused to the Lessee's business or activities at the Demised Premises save in respect of foreseeable loss arising out of any negligent execution by the Council of works pursuant to this Clause 4.12 \_\_\_\_\_

(c) such persons as aforesaid other than the Council itself as shall be authorised by the Council other than its servants agents contractors or workmen or statutory undertakers shall not exercise the rights hereunder to act in contravention of the Eighth Schedule hereto without the permission of the Lessee (except in cases of emergency when such notice as is practicable shall be given) \_\_\_\_\_

As to user

4.13.1 Not to use or permit or suffer the use of the Demised Premises or any part thereof for any illegal or immoral purpose

4.13.2 Not to use or permit or suffer the use of the Demised Premises or any part thereof otherwise than for the purposes specified in the Seventh Schedule hereto \_\_\_\_\_

Drains and  
windows

4.14 Not to stop up or obstruct in any way whatsoever or permit or suffer any substantial (in the reasonable opinion of the City Estates Officer) amounts of oil grease or other deleterious matter or substance to enter the drains and sewers in upon under or nearby the Demised Premises and to employ such plant for treating any deleterious effluent as may be required from time to time by the Council or any other statutory undertaking in accordance with the best modern practice \_\_\_\_\_

As to  
storage

4.15 Not without the previous approval in writing of the Council under the hand of the City Estates Officer to allow goods articles or material (including scrap capable of being recycled) to be stored stocked or displayed on any open or undeveloped land on the Demised Premises or otherwise than in suitable buildings erections structures or bins \_\_\_\_\_

Not to  
obstruct  
accessways

4.15.2 Without prejudice to sub-clause 4.15.1 above not to obstruct nor cause or permit to be obstructed any of the access roads or passageways on the Demised Premises \_\_\_\_\_

As to  
Sections  
146 and 147  
Notices

4.16 To pay all costs charges and expenses (including Solicitors costs and Surveyors fees) incurred by the Council for the purpose of and incidental to the preparation and service of a notice under Sections 146 and 147 of the Law of Property Act 1925 or any statutory amendment or re-enactment thereof for the time being in force requiring the Lessee to remedy a breach of any of the covenants herein contained notwithstanding that forfeiture for such breach is avoided otherwise than by relief granted by the Court \_\_\_\_\_

Comply with  
Dilapidation  
Notice

4.17 At their own cost absolutely within the period of three calender months after any such notice (or immediately in case of emergency) well and substantially to repair and make good all such defects decays and wants of reparation to the Demised Premises

and any buildings or erections thereon as required by such notice in accordance with the covenants in that behalf hereinbefore contained And if the Lessee shall fail to comply with the requirements of such notice as aforesaid it shall be lawful for the Council (but without prejudice to the right of re-entry hereinafter contained) or their contractors agents and workmen to enter upon the Demised Premises to execute such works as may be necessary to comply with the same And in the event of the Council so entering the Demised Premises and carrying out such works the Lessee shall pay on demand to the Council the cost and expenses of executing such works as liquidated damages and such sums shall be recoverable forthwith by action or distress as if such monies formed part of the rent payable hereunder \_\_\_\_\_

As to  
encroachment

4.18 If any encroachment or easement on or over the Demised Premises whatsoever shall be attempted to be made or acquired by any person or persons whomsoever to give notice thereof in writing to the Council immediately the same shall come to the notice of the Lessee and at the cost of the Lessee do all such things as may be necessary or proper for preventing any new encroachment or easement being made or acquired as aforesaid \_\_\_\_\_

Indemnify  
Council

4.19 To indemnify and keep indemnified the Council from and against legal liability in respect of all loss damage actions proceedings suits claims demands costs damages liabilities and expenses in respect of any injury to or the death of any person damage to any property movable or immovable the infringement disturbance or destruction of any right easement or privilege or otherwise by reason of or arising in any way directly or indirectly out of the repair state of repair conditions or any alteration to or to the user hereinbefore permitted of the Demised Premises and from all proceedings costs claims and demands of

whatsoever nature in respect of such liability or alleged liability \_\_\_\_\_

4.20 To pay to the Council the Council's legal and survey costs resulting from all applications (whether successful or not unless the Council unreasonably withholds its consent) for any consent of the Council required by this Lease including all stamp duties on any documents \_\_\_\_\_

To yield up

4.21 At the expiration or sooner determination of the Term quietly to yield up unto the Council the Demised Premises together with all additions and improvements made thereto in the meantime and all fixtures (other than trade or tenants fixtures affixed by the Lessee or any undertenant) in or upon the Demised Premises or which during the Term may have been affixed or fastened to or upon the same and in such state and condition as shall in all respects be consistent with the full and due performance by the Lessee of all the covenants herein contained and to use its best endeavours to assign or procure the assignment transfer and delivery to the Council or their nominee of the then existing licences and certificates in respect of any licenced parts of the Demised Premises and to sign make and do all necessary notices applications and acts for procuring the transfer of the same or for obtaining a renewal thereof to such person or persons \_\_\_\_\_

As to

assignments  
underlettings  
etc

4.22 Not to assign underlet or part with the whole or any part of the Demised Premises during the last seven years of the Term in any circumstances whatsoever and during the preceding period of the Term \_\_\_\_\_

4.22.1 Not to assign part only of the Demised Premises \_\_\_\_\_

4.22.2 Not to assign the whole of the Demised Premises as one entity without the prior approval of the City Estates Officer under the hand of the City Secretary and Solicitor \_\_\_\_\_

4.22.3 Not at any time during the Term (except in respect of any dry or wet berths or moorings) to underlet let licence or otherwise part with or grant any concession in or share possession of the Demised Premises or any part or parts thereof without the previous approval of the City Estates Officer under the hand of the City Secretary and Solicitor \_\_\_\_\_

4.22.4 That in every underlease of any part of the Demised Premises save in respect of underleases or licences for dry or wet berths and moorings there shall be included therein a covenant by the underlessee not at any time during the Term to underlet or part with the possession of that part of the Demised Premises comprised in such underlease without the previous approval of the City Estates Officer under the hand of the City Secretary and Solicitor and the Lessee shall at its own expense take all such action as shall be reasonable and necessary for the enforcement of such covenant \_\_\_\_\_

4.22.5 Upon every permitted assignment or underlease or assignment of any underlease or other disposition of the Demised Premises or any part or parts thereof save in respect of wet or dry berths or moorings within One month thereafter to give to the City Secretary and Solicitor notice in writing thereof specifying in such notice the names and addresses of the parties to such assignment underlease or other disposition and to produce the assignment underlease or other document relating to the same or a certified copy thereof to the office of the City Secretary and Solicitor for registration in order that he may obtain such particulars therefrom as he may require and to pay to the Council such reasonable registration fee as the Council may from time to time prescribe on each such occasion \_\_\_\_\_

Provisions to 4.23.1 To ensure that the following provision is imposed upon any



apply to  
lesser  
interests

Underlessee and Sub-Underlessee of any mooring in the Residential Mooring Area and the Apartment Mooring Area namely that the Underlessee and Sub-Underlessee shall covenant directly with the Lessee to observe and perform the terms of this Lease and Sub-Underlease so far as the same fall to be observed and performed by the Underlessee and Sub-Underlessee respectively and insofar as the same are applicable to an individual mooring and in addition that such proposed Sub-Underlessee shall become a member of the Residents Management Company (to whom the Underlease of the said Residential Mooring Area shall have been granted) or of the Apartment Management Company (to whom the Underlease of the Apartment Mooring Area shall have been granted) unless such underlease is not granted (either as to the whole or any part thereof) to the Residents Management Company or the Apartment Management Company (as the case may be) and in this Clause a Management Company is a company or unincorporated association formed by or on behalf of and of which residents of the Housing Land or the Apartment Site are or are to be the shareholders or members \_\_\_\_\_

4.23.2 To ensure that the following provisions are imposed in respect of all berths in the enclosed boat mooring basin as herein defined:-

*RJK* (a) to pay a due and proper proportion ~~of the proportion payable by the Lessee~~ of the Port Solent Charge which is the common expenditure for the benefit of the marina and marina environment shared between lessees and occupiers of Port Solent as a whole \_\_\_\_\_

(b) to observe and perform the rules from time to time of the enclosed boat mooring basin as hereinbefore defined (a copy of the present rules are for the purposes of identification appended hereto) and \_\_\_\_\_

Compliance  
with  
statutes etc

(c) a prohibition against sub-letting the whole of any underleased mooring (other than a Residential Mooring Area or Apartment Mooring Area) \_\_\_\_\_

Public  
access

4.24 To comply in all respects with the provisions of the Health and Safety at Work Act 1974 the Offices Shops and Railway Premises Act 1963 Factories Act 1961 and the Planning Acts and also that the Lessee will execute all such works as are required to be executed in pursuance of those Acts and of any other Act of Parliament already or hereafter to be passed or as may be directed or required by any local or public authority (including the Council in its capacity as a local authority) to be executed at any time during the Term upon or in respect of the Demised Premises whether by the Council or the Lessee and to observe and perform all the regulations and bye laws and other requirements of any public authority in respect of the Demised Premises and to keep the Council fully indemnified against all actions expenses and demands in respect of any failure by the Lessee to comply with its obligations pursuant to this sub-clause \_\_\_\_\_

Access for  
Maintenance

4.25 To provide and maintain at the Lessee's own expense and to the reasonable satisfaction of the City Estates Officer public access to the adjoining foreshore along the line of the Southern West Bund Road and to and (for pedestrians only) over the lock when closed situate on the Demised Premises and also to Horsea Island which is to the south of the Demised Premises \_\_\_\_\_

Landscaping

4.26 To provide reasonable working space and access for maintenance of all sea defences abutting the western boundary of the Demised Premises \_\_\_\_\_

4.27 To lay out and maintain to the reasonable satisfaction of the City Estates Officer all landscaped and other open areas within the Demised Premises and if any trees or plants shall die

within five years of the completion of the Development to replace during the next planting season all such dead or dying trees or plants all to the reasonable satisfaction of the City Estates Officer \_\_\_\_\_

Provision of sanitary facilities 4.28 To provide and maintain to the reasonable satisfaction of the City Estates Officer adequate reception facilities for the emptying of sanitary facilities from boats using the enclosed boat mooring basin as herein defined \_\_\_\_\_

Requirements of Trinity House and Queens Harbour Master 4.29 To comply in all respects with the requirements of Trinity House and the Queens Harbour Master relating to the operation of the enclosed boat mooring basin or adjacent waterways \_\_\_\_\_

Licensing provisions 4.30 To apply or cause application to be made at all proper times to the Licensing Justices for the time being and to use the Lessee's best endeavours to obtain a renewal of the certificates and licences necessary for using and keeping open any licensed parts of the Demised Premises during the Term properly licensed for the sale and consumption therein of beer wine and excisable liquors by retail and to cause the same to be used as such licensed premises and the character thereof preserved with the licensing authorities and with the public \_\_\_\_\_

To keep enclosed boat mooring basin open 4.31 To keep open at all times (save within normal operational constraints) the enclosed boat mooring basin herein defined and shown on the Plan by reference to the legend thereon and adequate and suitable means of access thereto so that the same are available to users of vessels capable of navigating within the enclosed boat mooring basin to its design depth and desirous of using the same and to keep the enclosed boat mooring basin properly dredged at all times and not to place dredged materials except in places

	approved by the Council _____
Compliance with Code of Practice	4.32 To have due regard to the provisions of the Code of Practice for the equipment and operation of marinas and yacht harbours recommended by the National Yacht Harbour Association _____
Marine Insurance	4.33 Without prejudice to the provisions of clauses 4.4.1 and 4.4.2 hereof to insure all water areas by taking out an appropriate Marine Insurance Policy to cover (inter alia) the following risks that is to say _____
	4.33.1 Fire _____
	4.33.2 Explosion _____
	4.33.3 Collision _____
	4.33.4 Negligence _____
	4.33.5 Malicious act and _____
	4.33.6 Catastrophe _____
Provision of fire fighting equipment	4.34 To keep the enclosed boat mooring basin sufficiently supplied and equipped with fire-fighting and extinguishing apparatus and appliances of a type to be approved from time to time by the City Estates Officer which shall be open to the inspection and maintained to the reasonable satisfaction of the City Estates Officer (so far as not inconsistent with the legal obligations of the Lessee) and also not to obstruct the access to or means of working such apparatus and appliances by their operations at or connected with the enclosed boat mooring basin _____
Clean water	4.35 To take all reasonable precautions to ensure that the water areas are kept free of flotsam jetsam and other debris and deleterious matter of a like nature and to use its best endeavours to prevent the deposit or the escape of oil grease or other deleterious matter or substances of a like nature into the water areas _____
Prevention	4.36 To operate the enclosed boat mooring basin in a safe and

of spread  
of rabies

hygenic manner including the taking of all reasonable precautions to prevent the spread of rabies by animals upon any boat entering the same and without prejudice to the foregoing to take such steps as may reasonably be required from time to time by the City Estates Officer to ensure the safe and hygenic operation of the enclosed boat mooring basin \_\_\_\_\_

4.37 Without prejudice to the generality of Clause 4.32 hereof to provide and maintain car parking areas within the Demised Premises in accordance with the standards from time to time required by the National Yacht Harbours Association with the exception that the ratio of car parking spaces to marina berths shall be 1.5:1 \_\_\_\_\_

4.38 To take all reasonable steps to procure that any areas from time to time used for the laying up of boats during the winter are adequately landscaped to the reasonable satisfaction of the City Estates Officer and as far as practicable that such areas are primarily used for the laying up of boats during the winter and further that so far as practicable during the summer the said areas are made available for car parking \_\_\_\_\_

4.39 To permit the Council and its nominees (and its successors in title to the Retained Land) at any time within a period of 80 years from the date hereof free of charge by the Lessee to lay maintain construct and use a roadway and such services as the Council shall deem reasonably necessary thereunder in or substantially in the area shown cross hatched black and marked "Access Strip for Local Authority for possible future use" on the Plan and land lying to the south thereof PROVIDED THAT the Lessee shall grant and perfect alternative rights for the Council outside the said period for the residue then unexpired of the Term and provided that in so doing the Council makes good all damage occasioned in the exercise of such rights and is responsible to

the Lessee for all reasonably foreseeable loss arising out of the negligent exercise of the rights conferred upon it hereby \_\_\_\_\_

4.40 Until the same is adopted as a public highway to maintain the roadway referred to in paragraph (f) of the Fourth Schedule hereto to the standard therein referred to and in default of the Lessee so doing the Council shall have the right following service of 7 days prior written notice (or forthwith in cases of emergency) to carry out all works reasonably necessary to remedy any breach by the Lessee of its obligations hereunder and the Council's costs in so doing shall be forthwith recoverable from the Lessee as a liquidated debt and as if the same formed part of rent in arrear and further shall carry interest at the rate specified in clause 6.1.2 hereof \_\_\_\_\_

The Councils

covenants

For quiet

enjoyment

5.1 The Council hereby covenants with the Lessee as follows:

That the Lessee paying the said rents and observing and performing the covenants and conditions herein contained and on the Lessee's part to be observed and performed shall and may peaceably and quietly possess and enjoy the Demised Premises and \_\_\_\_\_ all additions thereto during the Term without any interruption from or by the Council or any persons rightfully claiming through under or in trust for the Council \_\_\_\_\_

To permit the

Lessee to

enter

adjacent

premises

5.2 With the prior written approval of the City Estates Officer only to permit the Lessee and its underlessees and sub-tenants or other the occupiers for the time being of the Demised Premises or any part or parts thereof if authorised in writing by the Lessee with or without servants agents contractors licensees workmen tools plant equipment and appliances at all reasonable hours in the daytime after giving not less than forty eight hours previous notice in writing to the City Estates Officer and to any other person or persons who may be concerned as being at that time in

actual occupation thereof (except in cases of emergency when such notice as is practicable shall be given) to enter upon the Adjoining Sites for the reasonable purposes of \_\_\_\_\_

5.2.1 Executing works of repair reconstruction alterations painting redecoration or other works to or upon the Demised Premises or any part or parts thereof which it would not otherwise in the opinion of the Council be reasonably practical to carry out and/or \_\_\_\_\_

5.2.2 Repairing cleansing emptying maintaining or renewing all sewers watercourses drains gutters water pipes electricity wires or cables gas pipes and other services in or under the Adjoining Sites which serve either in common therewith or independently the Demised Premises or any part or parts thereof \_\_\_\_\_

5.2.3 The development of the Demised Premises which development cannot in the opinion of the City Estates Officer otherwise be conveniently effected \_\_\_\_\_

PROVIDED THAT THE Lessee and any other person or persons shall in doing so cause as little damage disturbance and inconvenience as possible to the Adjoining Sites and shall keep indemnified the Council in all respects against all loss and damage caused or suffered thereby to the Adjoining Sites \_\_\_\_\_

5.3 To join with the Lessee in securing all necessary rights of access to Adjoining Sites but without any obligation upon the City Council to make payment or give other consideration therefor in order to enable the Lessee to perform its obligations set out in Clause 4.7 and 4.35 hereof \_\_\_\_\_

5.4 Not to tip materials within the Council's Retained Land which may cause the leachate barrier to be impaired \_\_\_\_\_

Provisos

for re-entry

6.1.1 Notwithstanding and without prejudice to any other remedies and powers herein contained or otherwise available to the Council

if the rent hereby reserved or any part thereof shall be unpaid for twenty eight days after becoming due and payable (whether legally demanded or not) or if any covenant on the part of the Lessee herein contained shall not be performed or observed or in particular and without prejudice to the generality of this clause if the Lessee shall fail to rebuild the Demised Premises in the event of their being destroyed or damaged pursuant to its covenant in that behalf hereinbefore contained then and in any such case it shall be lawful for the Council at any time thereafter to re-enter upon the Demised Premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to any right of action or remedy of the Council in respect of any breach non-observance or non-performance of any of the Lessees covenants herein contained \_\_\_\_\_

Interest to  
be payable  
on outstand-  
ing monies

6.1.2 If any payment due to the Council from the Lessee shall be in arrear or unpaid (whether the same shall have been formally or legally demanded or not save as specifically set out in the 6th Schedule hereto) any such payment shall carry interest at the rate of four per centum per annum above National Westminster Bank PLC lending rate prevailing from time to time or if such rate shall cease to exist such other reasonable commercial rate as the Council may from time to time in writing specify and without prejudice to any other powers or rights of the Council the Council shall be entitled to charge and receive interest at the rate as aforesaid in respect of any such payment for such period as such payment remains outstanding and to enforce the payment thereof as if it were rent in arrear \_\_\_\_\_

Development  
of adjacent  
land

6.2 Save as set out in the Proviso to Clause (2) of the Fifth Schedule nothing herein contained or implied shall impose or be deemed to impose any restriction on the user or development of any



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Arbitration

land or buildings not comprised in this Lease or give the Lessee the benefit or the right to enforce or have enforced or to prevent the release or modification of any covenant agreement or condition entered into by any Lessee or tenant of the Council in respect of property not comprised in this Lease or to prevent or restrict in any way the development of any land not comprised in this Lease —

6.3 Any disputes or differences arising as between the Council and the Lessee as to their respective rights duties or obligations or as to any matter or thing in any way arising out of or connected with the subject matter of this Lease (otherwise than as herein provided) shall be referred in accordance with the provisions of the Arbitration Act 1950 or any statutory modification or re-enactment thereof for the time being in force to the determination of a single arbitrator to be agreed upon between the parties or failing agreement to a person nominated by the President for the time of the Royal Institution of Chartered Surveyors whose fees shall be borne by the parties \_\_\_\_\_ hereto in such proportion as he shall direct \_\_\_\_\_

Notices

6.4 Any notice decision direction approval authority permission or consent to be given by the Council under this Lease shall (except as specifically herein provided) be valid and effectual if signed by such officer or agent as the Council may from time to time by resolution designate for the purpose and shall be deemed to have been validly served on or conveyed to the Lessee if sent by prepaid registered post or the recorded delivery service to the Lessee at its address herein specified or such other address for service as the Lessee may from time to time notify in writing to the City Secretary and Solicitor and in the case of a notice to be served on the Council it may be served in like manner upon any officer or agent which the Council may from time to time designate

As to power  
of local  
authority

by resolution for the purpose \_\_\_\_\_

6.5 For the avoidance of doubt nothing herein contained or implied shall prejudice or affect the Council's rights powers duties and obligations in the exercise of its functions as a Local Authority and the rights powers duties and obligations of the Council under all public and private statutes bylaws orders and regulations may be as fully and effectually exercised in relation to the Demised Premises as if the Council was not the owner thereof and as if this Lease had not been executed by it \_\_\_\_\_

Merger

6.6 Upon completion of the Development in accordance with clause 4.3 hereof the provisions of the Development Agreement relating solely to carrying out and completing the development of the Demised Premises which for the avoidance of doubt does not include provisions of the Development Agreement relating to Overage payments and further which does not include Agreements for the construction of roads or sewers for adoption by public authorities shall merge with this Lease and such completion shall be recorded by Memorandum annexed hereto and executed by the parties hereto —

Marginal  
notes

6.7 The marginal notes hereto and the headings to the Schedules hereof shall not affect the construction of this Lease \_\_\_\_\_

Interpre-  
tation

6.8.1 In this Lease words importing the masculine gender shall be deemed and taken to include the feminine gender and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided or unless the same is inconsistent with the context \_\_\_\_\_

6.8.2 Where the expression "the Lessee" or "Underlessee" comprises two or more persons firms or companies the Lessees or Underlessees obligations shall be construed as joint and several and without prejudice to the generality of the foregoing in particular the right of re-entry under Clause 6.1.1 hereof shall

be construed as arising on the occurrence of any of the circumstances therein mentioned in relation to any one or more of such persons firms or companies and the Council shall not be prejudiced by any agreement bankruptcy composition dealing death dissolution indulgence or liquidation or security in relation to some one or more of the Lessees or Underlessees \_\_\_\_\_

6.8.3 Where the expression "the Lessee" comprises a partnership the Demised Premises shall be vested in the partners as joint tenants and the Council will upon their application consent in writing to any assignment required by the Lessee for the mere purpose of transferring the Demised Premises so as to vest the same in themselves jointly with any partner or partners or so as upon the death or retirement of a partner to vest the Demised Premises exclusively in the other partner or partners \_\_\_\_\_

6.8.4 Any reference to any statute or statutes shall include any statutory extension modification and re-enactment of such statute or statutes and any order regulation and bye-law thereunder \_\_\_\_\_

IN WITNESS whereof the Council and the Lessee have caused their respective Common Seals to be hereunto affixed the day and year first before written \_\_\_\_\_

THE FIRST SCHEDULE above referred to

(the Demised Premises)

ALL THAT piece or parcel of land and water thereover at Port Solent North Harbour Portsmouth in Hampshire shown more particularly edged red on the Plan together with all buildings structures piling and other constructions and engineering works placed or to be placed or replaced thereunder or thereon or under or on some part thereof including any leachate barrier and marina containment walls thereon or thereunder \_\_\_\_\_

THE SECOND SCHEDULE above referred to

(Easements and Rights Appurtenant to the Demised Premises)

1.1 The right (in common with the Council where appropriate) to the free and uninterrupted passage and running and use of water soil gas electricity and other services as now or hereafter within the said period of 80 years to be used and enjoyed from or to the Demised Premises through the mains pipes sewers drains channels and cables in over or under other buildings and land of the Council its successors in title or its Lessees licensees owners and occupiers along such routes and in such positions as may be reasonable and in any event so as not to interfere with any buildings or other constructions on such land together with the right to lay construct and maintain or permit to be laid constructed or maintained in over or under such land within the said period such further mains pipes sewers drains channels and cables manholes stopcocks inspection chambers and similar apparatus as may be necessary during the said period and along such routes and in such positions as aforesaid PROVIDED THAT the Council or such other person as aforesaid shall grant and perfect alternative rights for the Lessee outside the said period for the residue then unexpired of the Term as and when necessary And also with the right for the Lessee and its agents and all other persons lawfully authorised with or without workmen and others at all reasonable times to enter upon such land or any part thereof for the purpose of laying constructing inspecting maintaining repairing and renewing any main pipe sewer drain channel manhole stopcock cable inspection chamber or similar apparatus the Lessee causing as little disturbance and inconvenience as possible and making good all damage caused to such land by the reason of the carrying out of any such work and keeping indemnified the Council

and others as aforesaid in all respects against all loss or damage caused or suffered thereby to such land and buildings or any part thereof \_\_\_\_\_

1.2 In particular but without prejudice to the generality of the foregoing and subject to Clause 5.2 hereof all such rights of access and other rights as set out in paragraph 1.1 of this Schedule for purposes of the maintenance or replacement by the Lessee of the leachate barrier and its associated construction works \_\_\_\_\_

17/16  
2 Full rights of continuing support shelter and protection to and from the ~~Demised~~ Premises from all such parts of the Adjoining Sites as now or customarily afford the same \_\_\_\_\_

3 A right of way with or without vehicles at all times and for all purposes connected with the permitted use but not further or otherwise over the unadopted estate roadways within Port Solent to be constructed within the said period until their adoption by the local highway authority \_\_\_\_\_

3.1 In particular but without prejudice to the generality of the foregoing a right of way over the northern West Bund Road until adoption as a public highway for access at all times to the Tidal Revetment and West Bund and to the lock and to the lock gates with or without vehicles machinery and equipment for the purpose of construction renewal replacement repair maintenance or inspection thereof \_\_\_\_\_

3.2 A right of way with or without vehicles at all times and for all purposes connected with the permitted use thereof over the Adjoining Site lying to the east of the Demised Premises and known as the retail site along the route shown on the Plan or along such other route as shall from time to time be agreed between the Lessor and the Lessee and any other person with a lawful right at

any time to object to such variation including the Lessee of the land affected for the purposes of access to and from bridge head number 3 to pontoons L and M (as shown on the Plan) and the right to the temporary parking of motor vehicles at the turning circle nearest the said bridge head for the purposes strictly of loading and unloading items for use on vessels moored to such pontoons —

3.3 A right of way for pedestrians only at all times and for all purposes connected with the permitted use thereof but not further or otherwise over the pedestrian thoroughfare within the said retail site adjacent to the lower promenade (shown on the Plan) \_\_\_\_\_

4 To the extent that the Lessor can grant the same and insofar as the same is necessary a right of passage at all times and for all purposes connected with the Marina over and within the access ~~hatched black and marked Access Channel on plan 119/E/88/DI~~ <sup>within that area hatched</sup> channel (as shown ~~on the Plan~~) or any additional area ~~from time to time dredged by the Lessee which the Council and the Lessee may agree in writing~~ \_\_\_\_\_

5. The right insofar as the Lessor may lawfully demise the same to the benefit of enforcement of the covenants restrictions and stipulations set out or to be set out in transfers of the housing land lying to the north of the Demised Premises and the benefits of the rights and easements reserved or to be reserved by such transfers \_\_\_\_\_

THE THIRD SCHEDULE above referred to

(the Adjoining Sites)

The Adjoining Sites shall mean the land at Port Solent outwith the Demised Premises the Council's Retained Land and the remainder of the Adjoining Sites as the same are shown on Drawing Number 119/E/88/DI annexed hereto by reference to the legend thereon \_\_\_\_\_

THE FOURTH SCHEDULE above referred to

(the Development)

"The Development" shall mean the construction or creation on the Demised Premises of:-

- MPK
- (a) an enclosed boat mooring basin as hereinafter defined \_\_\_\_\_
  - (b) a yachting service area for the marina including dry berths and storage areas and with repair works and excluding any retail ~~the location and extent of which yachting service area shall be~~ or office use ~~designated by the Lessee with the prior approval~~ <sup>in writing of the City Estates Officer from time to time</sup>
  - (c) ancilliary service and facilities which shall include a clubhouse changing rooms and toilets an administration office for a marina operator and car parking for long and short term stays \_\_\_\_\_
  - (d) landscaped areas \_\_\_\_\_
  - (e) an area for the building which houses the machinery which moves and controls the lock gates \_\_\_\_\_
  - (f) the construction of a roadway from roundabout R3 to the southern West Bund Road in accordance with plans specifications and materials and to the standards <sup>approved</sup> ~~agreed~~ from time to time by the City Estates Officer \_\_\_\_\_
- MPKX

"the enclosed boat mooring basin" shall mean an enclosed boat mooring lagoon for up to 1000 wet berths located in the centre of Port Solent including excavation of material to form the Marina Basin to a Maximum Bed Level of one metre below Ordnance Datum with access via a lock at its western end to the main navigation channel at Portsmouth harbour \_\_\_\_\_

THE FIFTH SCHEDULE above referred to

(General Exceptions and Reservations and Adverse Easements)

- (1) The right (in common with the Lessee where appropriate) to the free and uninterrupted passage and running of water soil gas electricity and other services as now or hereafter within the said period of 80 years to be used and enjoyed from or to other

buildings and land of the Council its successors in title or its lessees licensees owners and occupiers through the mains pipes sewers drains channels and cables in over or under the Demised Premises along such routes and in such positions as may be reasonable and in particular under the lock and to the Adjoining Sites and in any event so as not to interfere with any approved constructions on the Demised Premises together with the right to lay construct and maintain or permit to be laid constructed or maintained in over or under the Demised Premises within the said period such further mains pipes sewers drains channels and cables manholes stopcocks inspection chambers and similar apparatus as may be necessary during the said period and along such routes and in such positions as aforesaid PROVIDED THAT the Lessee shall grant and perfect alternative rights for the Council outside the said period for the residue then unexpired of the Term as and when necessary And also with the right for the Council and its agents and all other persons lawfully authorised with or without workmen and others at all reasonable times to enter upon the Demised Premises or any part thereof for the purpose of laying constructing inspecting maintaining repairing and renewing any main pipe sewer drain channel manhole stopcock cable inspection chamber or similar apparatus the Council or such other person as aforesaid causing as little disturbance and inconvenience as possible and making good all damage caused to the Demised Premises by the reason of the carrying out of any such work and keeping the Lessee indemnified in all respects against all loss or damage caused or suffered thereby to such land and buildings save where such loss is not reasonably foreseeable or arises without negligence on the part of the Council or such other person as aforesaid in the carrying out of any such works



(2) The full right and liberty at any time hereafter and from time to time to execute works erections and additions or to alter or rebuild any of the buildings from time to time erected on the Council's Retained Land and to use the Council's Retained Land in such manner as it or they may think fit notwithstanding that interference may thereby be caused to the access of light or air to any building for the time being erected on the Demised Premises \_\_\_\_\_

PROVIDED THAT the Council shall not until 1 January 2001 use that part of the Council's Retained Land shown lettered B1 B2 B3 and C on Drawing Number 119/E/88/DI annexed hereto for any purposes other than amenity formal and informal recreation and open space unless the Council shall first be able to demonstrate to the satisfaction of the Lessee (acting reasonably) that a proposed alternative use will not prejudice the Lessee's financial interest in the Demised Premises (including the underlying value thereof disclosed to the Council) in which case the Council shall be free to develop or use such land for such alternative purposes provided that such development or use shall be commenced within three years of such alternative use being proposed \_\_\_\_\_

(3) Full rights of continuing support shelter and protection from the Demised Premises for all such parts of any Adjoining Site or the Council's Retained Land as now or customarily afford the same

(4) Full right and liberty at all times and for all purposes with or without vehicles to pass and repass over and along all roadways constructed through or over the Demised Premises including a right of way to and from Horsea Island the site lying to the east of the southern West Bund Road and north of the existing southern road as shown on the Plan and the tidal revetment lying to the west of the Demised Premises together with the right for the Council and others authorised by it to connect other roadways \_\_\_\_\_

thereto from the Council's Retained Land within the location shown by reference to the legend on the Plan making good to the reasonable satisfaction of the Lessee all damage thereby caused to the roadways on the Demised Premises but not being liable to the Lessee for any consequential loss in connection with the exercise of the rights conferred hereby \_\_\_\_\_

THE SIXTH SCHEDULE above referred to

(The Rent Formula)

The rents payable under this Lease shall be the rents provided for in accordance with the following provisions that is to say:-

1. In this Schedule the following expressions shall have the meanings hereinafter respectively assigned to them:-

(a) "Rental Period" shall mean the period of 1 year commencing on the commencement date or upon each anniversary thereof as the context may require and "First Rental Period" and "Relevant Rental Period" shall be construed accordingly \_\_\_\_\_

(b) "Preceding Financial Year" shall mean the financial year expiring next before the commencement of the Relevant Rental Period \_\_\_\_\_

(c) "Estimated Rent " shall mean 4 times the amount of the Variable Rent for the first complete quarter following the date hereof \_\_\_\_\_

(d) "Variable Rent" shall mean a sum equivalent in pounds sterling of 10% per annum of the amounts receivable by the Lessee (whether or not actually received) from berthing charges and dry or other storage purposes and any other facility or concession in each case receivable from the mooring or storage of boats or any part or parts of boats only at the Demised Premises or any part or parts thereof during the first year of the Term or the Preceding Financial Year as the case may be but excluding \_\_\_\_\_

(i) such berthing charges (if any) as may prove irrecoverable after all reasonable steps to recover the same have been taken and  
(ii) a sum equivalent to the cost reasonably incurred (as certified by the Lessee's auditors) in the maintenance repair and renewal of the following:

(aa) the Lock Structure \_\_\_\_\_

(bb) the Lock Machinery Electrics and Gates \_\_\_\_\_

(cc) Piling in the Approach Channel \_\_\_\_\_

(dd) the Approach Channel \_\_\_\_\_

MPK

(ee) ~~Administration~~ <sup>Administration</sup> Buildings and Lock Control \_\_\_\_\_

(ff) Signs and Signals \_\_\_\_\_

(gg) Scavenging \_\_\_\_\_

(hh) such other items (if any) as shall be considered reasonable by the City Estates Officer acting in his discretion \_\_\_\_\_

(ii) the actual costs incurred by the Lessee in collecting monies payable to it under the immediately preceding sub-paragraphs (aa)

- (hh) inclusive \_\_\_\_\_

PROVIDED ALWAYS THAT the total deductions under sub-paragraphs (aa) - (ii) shall not exceed 30% of the total costs incurred by the Lessee for the whole of Port Solent in the matters referred to in sub-paragraphs (aa) - (ii) hereof \_\_\_\_\_

(iii) if there shall be charged in respect of moorings a composite figure including a rent or licence fee and a service or administration charge in respect of the items referred to in paragraphs (aa) - (ii) of this clause such element of such composite charge as appertains to the service or administration charge \_\_\_\_\_

2(a) During the First Rental Period the Lessee shall pay rent on the Rent Days and at the rate of the Estimated Rent (apportioned if appropriate on a daily basis) \_\_\_\_\_

2(b) Within three months from the termination of the First Rental Period the Lessee shall cause to be submitted to the City Estates Officer audited copies of the trading accounts for the Lessee's entire business operation carried on in respect of the Marina such trading accounts to be subject to the provisions of Clause 4 hereof for the First Rental Period and thereupon the Council shall calculate therefrom and in accordance therewith a sum equal to the Variable Rent for the First Rental Period and if the sum so calculated shall exceed the Estimated Rent the amount of the difference shall be paid to the Council by the Lessee within 14 days of a written demand from the Council in that behalf which fully specifies such difference and if the Estimated Rent shall exceed the Variable Rent so calculated the amount of the difference shall be repaid by the Council to the Lessee within 14 days of submission of the Council's said calculation by the Council to the Lessee \_\_\_\_\_

3. During each subsequent Rental Period the Lessee shall pay rent on the Rent Days at the rate of the Variable Rent for the Preceding Financial Year \_\_\_\_\_

4. The Lessee shall keep full records and the names and address of all tenants undertenants and occupiers of all the berths and moorings together with full particulars of the terms created by the Underlease berthing agreement or instrument of occupation and the rents charges and fees payable thereunder in respect of berthing charges of the marina and full records of all other receipts from dry or other storage on the Demised Premises and any other facility or concession referred to in paragraph <sup>1(d)</sup>~~14~~ hereof and shall provide the City Estates Officer not less than three months from the expiration of each preceeding financial year a statement properly certified by the Lessee's auditors as a true

and accurate record showing the receipts of such berthing charges and such rents for that year and such further information as the City Estates Officer shall reasonably require to enable him to calculate the rents payable hereunder and shall permit the Council to inspect the said records and take copies thereof at any time during normal business hours after giving reasonable prior notice

5. The Council may address enquiries to the Lessee regarding matters which it considers may affect its interest under this Schedule and in the event of not receiving satisfaction may appoint independent accountants to examine the Lessee's books and records to obtain information and explanations and to report thereon to the Council \_\_\_\_\_

6. If the Lessee shall in the opinion of the City Estates Officer or any arbitrator to whom reference may have been made under Clause 6(3) hereof:-

(a) grant any estate interest or concession in the Demised Premises or any part thereof or \_\_\_\_\_

(b) take occupancy or permit or suffer any person to take occupancy of the whole or any part of the Demised Premises (save by way of the Lessee's immediate estate under this Lease) \_\_\_\_\_

In either case at less than the open market rent licence fee or concession fee for the estate interest occupation or concession in question without taking any fine or premium then for the purposes of calculating the Variable Rent there shall be added to the amounts receivable by the Lessee referred to in paragraph 16 of this Schedule a notional sum equal to the difference assessed by the City Estates Officer or the arbitrator as the case may be between the amount actually receivable by the Lessee for the estate interest occupation or concession in question and the sum which in the opinion of the City Estates Officer or the arbitrator

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underlet except to the owner for the time being of a legal estate in one of the apartments constructed within the Apartment Site as shown on the Plan or such moorings shall not be assigned or underlet except to an underlessee or assignee of a like interest as the original underlessee \_\_\_\_\_

(ii) as to the remainder to be underlet on the following terms:-

(c) Subject to there being let or sufficient space available for letting not less than 300 moorings or such other maximum number as may physically be accommodated for the purposes of sub-clause (d) of this clause in respect of 200 moorings (the location of which shall be discussed with the City Estates Officer and the Lessee shall consider his reasonable opinion thereon but not so as to bind the Lessee) to be sold by way of Underlease at open market value (the receipts of such sale shall not be deemed to be part of the gross berthing receipts for the purposes of computation of rent referred to in the said Sixth Schedule hereto) \_\_\_\_\_

(d) all other moorings being not less than 300 or such other maximum number as may physically be accommodated the positions whereof shall be discussed with the City Estates Officer in manner aforesaid are to be let on Underleases or Licences at the open market annual rack rent or licence fee (which shall form part of the gross berthing receipts for the purposes of computation of the rents referred to in the said Sixth Schedule hereto) PROVIDED ALWAYS THAT the Lessee may with the prior written approval of the City Estates Officer (which approval may be withheld if the City Estates Officer reasonably determines that the future operation of the Marina is adversely affected) charge a fine or premium for an underlease or licence of such 300 moorings or any fraction thereof \_\_\_\_\_

2. As to the remainder of the Demised Premises except that area

the boat mooring lagoon for the construction and maintenance of moorings, to be \_\_\_\_\_

(i) as to part sub-underlet following the grant of underleases to the relevant Residents Management Company in respect of the housing site or Apartment Management Company or Companies or otherwise within the apartment mooring area on the following terms:-

(a) in the case of the Residential Mooring Area shown on the Plan by reference to the legend thereon a maximum of 430 Sub-Underleases for a term of years equivalent to the Term (less the last two days thereof) at a nominal ground rent or without ground rent being payable and with provisions for service charges (which shall not be deemed to be part of the gross berthing receipts for the purposes of computation of the rents referred to in the said Sixth Schedule hereto) and including a provision against assignment or underletting except to an owner for the time being of a legal estate in the housing site to which such mooring has been initially allocated as evidenced by the Schedule of Properties and Allocated Moorings delivered by the Lessee to the Council on completion of the Development on the respective housing areas \_\_\_\_\_

(b) in the case of the Apartment Mooring Area as shown on the Plan by reference to the legend thereon a maximum of 60 Sub-Underleases for a term of years not greater than the Term of this Lease (less the last two days thereof) at a nominal ground rent or without rent being payable and with provision for service charges (which shall not be deemed to be part of the gross berthing receipts for the purposes of computation of the rents referred to in the said Sixth Schedule hereto) and including a provision whereby either such moorings shall not be assigned or

might reasonably have been receivable for the estate interest occupation or concession in question and if a fine or premium shall be taken there shall be similarly added a sum assessed or determined by the City Estates Officer or the arbitrator as the case may be as being the annual rental equivalent of such fine or premium PROVIDED ALWAYS THAT if the City Estates Officer shall consent to an underletting or the Lessee shall become entitled to underlet one or more of the moorings referred to in paragraph 1(d) of the Seventh Schedule hereto at a fine or premium the notional sum to be added to the Variable Rent shall be 10% of such fine or premium \_\_\_\_\_

7. If and so long after the commencement of the Rental Period in question the Variable Rent therefor shall not have been determined then the Lessee shall continue to pay rent on the basis of the Estimated Rent or the rent payable during the immediately Preceding Rental Period as the case may be and shall pay on the Rent Day next following the date on which the Variable Rent for the Relevant Rental Period or part thereof shall have been determined the amount of any accrued additional rent which has been found to be payable hereunder and in any such case the Lessee shall not in relation to any such period up to the said date of payment be considered as being in arrear with the rent payable hereunder and save as aforesaid the rent payable for any Rental Period shall be determined and be treated as payable from the beginning of that period \_\_\_\_\_

THE SEVENTH SCHEDULE above referred to

(Permitted Use) (Clause 4.13)

The permitted use of the Demised Premises is as and for:-

1. An enclosed boat mooring basin as hereinbefore defined for up to 1000 wet berths with facilities ancillary thereto and within



drains within 5 metres of the waterside face of the Marina Containment in a proper manner and so as not to affect the integrity or stability of the Marina Containment and provided that no repair or maintenance works shall be carried out within such area unless reasonable prior notice shall have been given to the Marina Lessee \_\_\_\_\_

B. SOUTHERN REVETMENT \_\_\_\_\_

1. No tree or shrub the eventual height of which exceeds 3 metres shall be planted within 7 metres of the waterside face of the Marina Containment \_\_\_\_\_

2. No building of any nature or foundations or other works of construction shall be permitted within 7 metres of the waterside face of the Marina Containment without the approval of the Marina Lessee \_\_\_\_\_

3. Nothing shall be done within 7 metres of the waterside face of the Marina Containment which could affect the integrity or stability of the Marina Containment (otherwise than with the consent in writing of the Marina Lessee) including but without prejudice to the generality of the foregoing:-

(i) the raising of the ground level above a level of +3.00 metres above Ordnance Datum \_\_\_\_\_

(ii) the stacking of materials on the ground \_\_\_\_\_

(iii) the driving or parking of any vehicle \_\_\_\_\_

(iv) the installation of any plant or equipment \_\_\_\_\_

(v) the driving of any piles \_\_\_\_\_

(vi) the creation of a surcharge loading exceeding 10KN/M<sup>2</sup> \_\_\_\_\_

PROVIDED ALWAYS that the Purchaser/Lessee shall not be precluded from installing using repairing and maintaining surface water drains within 7 metres of the waterside face of the Marina Containment in a proper manner and so as not to affect the

forming part of the Option Land as defined in the Development Agreement for use as specified in sub-paragraphs (b) to (f) of the Fourth Schedule hereto such as is applicable to such sub-paragraph \_\_\_\_\_

3. As to the Option Land aforesaid for use only as car parking and as to the ~~parking~~ <sup>parking</sup> service area referred to in the Fourth Schedule and necessary landscaping ~~not to be used for any other use.~~ <sup>use.</sup>

THE EIGHTH SCHEDULE

RESTRICTIONS

A. MARINA WALLS \_\_\_\_\_

1. No tree or shrub the eventual height of which exceeds 3 metres shall be planted within 5 metres of the waterside face of the Marina Containment \_\_\_\_\_

2. No building of any nature or foundations or other works construction shall be permitted within 7 metres of the waterside face of the Marina Containment without the approval of the Marina Lessee \_\_\_\_\_

3. Nothing shall be done within 5 metres of the waterside face of the Marina Containment which could affect the integrity or stability of the Marina Containment (otherwise than with the consent in writing of the Marina Lessee) including but without prejudice to the generality of the foregoing:-

(i) the raising of the ground level above a level of +3.00 metres above Ordnance \_\_\_\_\_

(ii) the stacking of materials on the ground \_\_\_\_\_

(iii) the driving or parking of any vehicle \_\_\_\_\_

(iv) the installation of any plant or equipment \_\_\_\_\_

(v) the driving of any piles \_\_\_\_\_

(vi) the creation of a surcharge loading exceeding 10KN/M<sup>2</sup> \_\_\_\_\_

PROVIDED ALWAYS that the Purchaser/Lessee shall not be precluded from installing using repairing and maintaining surface water

integrity or stability of the Marina Containment and provided that  
no repair or maintenance works shall be carried out within such  
area unless reasonable prior notice shall have been given to the  
Marina Lessee \_\_\_\_\_

4. Nothing shall be affixed to or connected with the Marina  
Containment otherwise than with the prior consent of the Marina  
Lessee \_\_\_\_\_

THE COMMON SEAL of THE PORTSMOUTH )  
CITY COUNCIL was hereunto affixed )  
in pursuance of a resolution of )  
the Council passed at a meeting )  
duly convened and held:- )

**ASSISTANT**

*R. J. Marshall*  
City Secretary and Solicitor

SEAL REGISTRY No.

51778