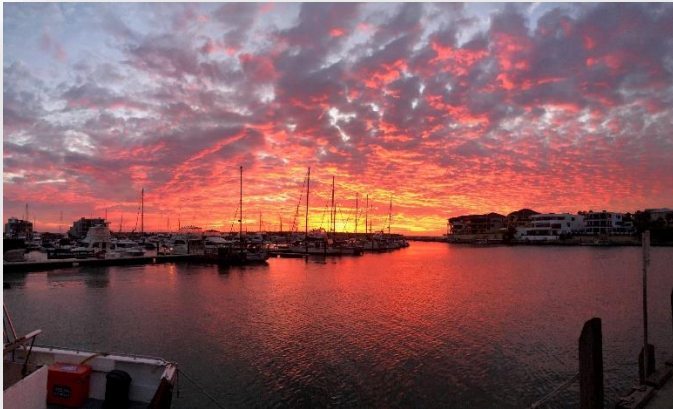




THE MARINA

MINDARIE



PRIVATE MARINA BERTH SUB-LICENCE

NEW & RENEWAL AGREEMENT



PRIVATE MARINA BERTH SUB-LICENCE

THIS AGREEMENT OUTLINES THE TERMS AND CONDITIONS BETWEEN THE SUB-LICENSOR AND THE SUB-LICENSEE FOR A BOAT BERTH (PEN) AT THE MARINA MINDARIE.

1. Definitions and Interpretation

- (1) In these Conditions, subject to the context:
- (a) **"Application"** means an Application for a Private Boat Berth Sub-Licence at The Marina Mindarie;
 - (b) **"Bond"** means payment in advance when signing Sub-Licence as a guarantee of payment for loss of income if the Sub-Licensee fails to pay pen fees
 - (c) **"Conditions"** means those terms and conditions specified in this Sub-Licence;
 - (d) **"Event"** means fire, smoke, explosion, fusion, storm, tempest, cyclone, wave action, tide movement, earthquake, accidental damage or Act of God;
 - (e) **"Fee"** means the fee specified in the Schedule hereto payable by the Sub-Licensee to the Sub-Licensor for the grant of this Sub-Licence;
 - (f) **"Harbour"** means the Mindarie Keys Harbour which includes Mindarie Marina;
 - (g) **"Jetty"** means the jetty of which the Berth forms part and includes all piers, pylons, finger piers and all equipment and facilities installed on the Jetty;
 - (h) **"Minister"** means the Minister for Transport for Western Australia;
 - (i) **"Minor"** means a person under the age of eighteen (18) years;
 - (j) **"Berth"** means that area of water within which the Sub-Licensee is permitted to moor the Vessel pursuant to the terms of this Sub-Licence the number of which is specified in the Schedule hereto;
 - (k) **"Berth User"** means the Sub-Licensee and where the context permits includes the Sub-Licensee's employees, agents, contractors and invitees and all persons who attend the Vessel, the Berth and the area of the Jetty immediately adjacent to the Berth at the Sub-Licensee's invitation;
 - (l) **"Person"** means and includes a person or a corporation;
 - (m) **"Proximity Tag"** means the mechanism for providing keyless access to the Jetty through its security gate;

- (n) **"Sub-Licence"** means this Private Boat Berth Sub-Licence at The Marina, Mindarie pursuant to which the Sub-Licensee may moor the Vessel within the Berth in accordance with the Conditions;
 - (o) **"Sub-Licensee"** means the person or persons described in the Schedule hereto which must include each person who has an ownership interest in the Vessel;
 - (p) **"Term"** means the period of time specified in the Schedule hereto for which this Sub-Licence has been granted; and
 - (p) **"Vessel"** means the vessel described in the Schedule hereto and includes all equipment on the Vessel and its furnishings, fixtures and fittings and mooring ropes and equipment.
- (2) Where the Sub-Licensee is more than one person, the Conditions bind those persons jointly and each of them severally.
- (3) Where the word "include(s)" or "including" is used, it is to be taken to be followed, where the context permits, by the words, "but not limited to".

2. Conditions of Sub-Licence

Subject to the special conditions (if any) contained in Clause 14 hereto, the Sub-Licensee shall:

Sub-Licence Fee, interest and other costs

- (1) (a) Pay in advance the Fee at the times and in the manner advised by the Sub-Licensor from time-to-time; and
- (b) To pay the Sub-Licensor on demand interest on the total amount of any Fee or other moneys payable to the Sub-Licensor which remain unpaid for fourteen (14) days or more from the due date, such interest to be calculated on a daily basis from the due date until the date of payment at the rate of fifteen per centum (15%) per annum.

Repair

- (2) Keep and maintain in good and tenable repair, order and condition to the satisfaction of the Sub-Licensor (fair wear and tear excepted), the Berth and that part of the Jetty which is adjacent to the Berth.
- (3) Pay to the Sub-Licensor on demand the cost of repairing any breakage or damage to either the Berth or the Jetty occasioned by want of care and misuse on the part of any Berth User or otherwise occasioned by any breach or default of the Sub-Licensee under the Conditions.
- (4) (a) Permit the Sub-Licensor and the Minister and their authorised officers with or without workmen or others at any time to enter upon and view the condition of the Jetty and the Berth or any part of them and allow the Sub-Licensor and its employees and contractors to carry out repair and replacement works and if necessary allow the Vessel to be moved temporarily from the Berth in order to enable such works to proceed.
- (b) At the direction of the Sub-Licensor carry out promptly any works necessary to comply with the Sub-Licensee's obligations under the Conditions.
- (5) Not remove or make any alteration or addition to the Jetty or the Berth.

- (6) Keep and maintain the mooring equipment used to secure the Vessel in the Berth and to the Jetty in good and substantial repair, order and condition to the satisfaction of the Sub-Licensor and to replace them (in whole or part) if directed to do so by the Sub-Licensor. This includes mooring ropes, hoses and fittings.

Use

- (7) Use and occupy the Berth only for the purpose of mooring the Vessel.
- (8) Ensure that the Vessel is moored within the limits of the Berth as specified by the Sub-Licensor from time-to-time and so as not to interfere with or obstruct movement of any other vessel around the Jetty or within the Harbour.
- (9) Not, within the Harbour, moor or anchor or leave the Vessel unattended at any time, other than when it's moored in the Berth.
- (10) Comply with any direction of a person authorised by the Sub-Licensor or the Minister, to direct the method of mooring of vessels within the Harbour.
- (11) Secure the Vessel when moored to the satisfaction of the Sub-Licensor and to comply immediately with any directions issued by the Sub-Licensor in that regard.
- (12) Provide appropriate fenders to prevent damage to the Berth, the Jetty and to the Vessel and to other vessels and related equipment within the Harbour.
- (13) Ensure that all dinghies, tenders, jet skis, kayaks, surf skis and rafts aboard the Vessel are securely stowed at all times on the vessel only and not floating in the Berth or on adjacent jetty's or fingers. A breach of this item may result in seizure of the tender and removal by the sub-licensors or termination of the agreement
- (14) Not do or leave undone or cause or permit or suffer to be done or left undone in or upon the Berth, the Jetty or the Harbour any act or thing which may be or become a nuisance, damage, annoyance or inconvenience to any person and not to obstruct the Jetty or any access way leading to the Jetty. Including items such as cray pots, crab pots, eskys, cray pot winches, tools, boxes, crates etc. A breach of this item may result in seizure of the items and removal by the sub-licensors or termination of the agreement
- (15) Not carry out in the Berth or about the Jetty or within the Harbour:
 - (a) any hull cleaning, external sanding or painting of, or any structural work to, the Vessel; Any mechanical works should be conducted at the Commercial jetty near the ramps
 - (b) any mechanical repairs or maintenance to the Vessel, other than minor routine mechanical repairs and maintenance provided that such minor routine repairs and maintenance do not create noise nor contaminate the Harbour; or
 - (c) any oil change to the Vessel without first advising and receiving approval to do so from the Sub-Licensor.

- (16) (a) Not start the engine(s) of the Vessel nor leave the engine(s) running while the Vessel is in the Berth otherwise than immediately prior to departure from, and immediately after arrival at, the Berth and in any event not start or run the engine(s) or generator(s) or compressor(s) on the Vessel in the Berth or the Harbour **earlier than 0500 hours between 1 September and 31 March or earlier than 0700 hours from 1 April and 31 August**. Failure to comply with this item may result in termination of the agreement with the Sub-licensee. This is a DOT requirement that the Sub-Licensors must comply with.
- (b) Do all other things necessary to ensure that noise, including the sound of generators, compressors, music, radio and television broadcasts, emitting from the Vessel and its equipment, is kept to a level that's acceptable to the Sub-Licensors.
- (17) (a) Not refuel the Vessel within the Harbour unless it's moored at the fuelling jetty. Failure to comply with this item may result in termination of the agreement with the Sub-licensee. This is a DOT requirement that the Sub-Licensors must comply with. It is a significant risk to the Marina.
- (b) Complete re-fuelling operations promptly and with due care, including complying with such practices as are laid down by the relevant authorities, and then immediately remove the Vessel from the fuelling jetty.
- (18) Not store or keep on or in the Vessel whilst in the Berth any gas, fuel or flammable substances other than in tanks or fuel lines which either form a permanent part of Vessel or which comply with all safety standards as regulated from time-to-time for the storage of flammable substances.
- (19) Not use the Harbour's emergency fire services equipment other than in a fire risk related emergency.
- (20) (a) Ensure that the Vessel when approaching or leaving the Berth is driven in a seamanlike manner at a speed not greater than five (5) knots and not cause either nuisance or damage to the Berth or the Jetty or to any other vessel, property or person through collision, wash or otherwise.
- (b) Ensure that the Vessel is driven within the Harbour in a seamanlike manner at a speed not greater than five (5) knots.
- (c) Ensure that the person who is in control of the Vessel at any time holds a current skipper's ticket.
- (21) Keep the Vessel in a state of good and substantial repair, order and condition and clean and tidy to the satisfaction of the Sub-Licensors. Failure to comply with this item may result in termination of the agreement with the Sub-licensee. This is a DOT requirement that the Sub-Licensors must comply with.
- (22) Keep the Berth and adjacent areas of the Jetty clean and tidy, safe and free of obstruction and place all rubbish in appropriate rubbish bins.
- (23) Not, without the prior written consent of the Sub-Licensors, use the Berth or the Vessel for any commercial purposes including, but not limited to, hiring, embarkation and disembarkation of charter passengers, fishing or diving charter boat operations or sale or demonstration for sale purposes.
- (24) Keep the security gate (if any) leading onto the Jetty closed and locked, and allow the automatic security gate (if any) to fully and freely close.

- (25) Do all things necessary to ensure the safety and security of the Vessel including in stormy weather conditions and ensure and that the Vessel is fitted with fire extinguishers as required or recommended by all relevant statutory authorities.
- (26) Not reside on board the Vessel in the Harbour including in the Berth for more than three (3) nights in a calendar month, except with the written permission of the Sub-Licensors which permission (if granted) may be withdrawn or made subject to special conditions at any time at the discretion of the Sub-Licensors [such permission shall not operate to allow any person to reside on board the Vessel for a period of more than thirty (30) consecutive days without the prior written consent of the Minister]. Failure to comply with this item may result in termination of the agreement with the Sub-licensee. This is a DOT requirement that the Sub-Licensors must comply with.
- (27) Not to swim or dive into the Harbour waters (other than in clearly designated swimming areas), including within the Berth or in the vicinity of the Jetty.
- (28) Not allow any Minor on the Jetty or on the Vessel in the Berth unless accompanied by an adult, except with the written permission of the Sub-Licensors which permission (if granted) may be withdrawn at any time at the discretion of the Sub-Licensors.
- (29)
 - (a) Only use the services on the Jetty allocated to the Berth in the manner prescribed from time-to-time by the Sub-Licensors and to pay for such services the fee charged from time-to-time by the Sub-Licensors.
 - (b) Only use power leads and electrical plugs and sockets of a type approved by the Sub-Licensors and all relevant authorities and to keep such equipment in first class repair and condition at all times.
- (30) Not affix or exhibit or permit to be affixed or exhibited to the Berth or any part of the Jetty or in the Harbour or on the Vessel any advertising poster or sign, without any prior approval from the Sub-Licensors.
- (31) Not install any boat-lifting device in the Berth without the prior written consent of the Sub-Licensors and which consent may be given or given subject to special conditions or withheld at the discretion of the Sub-Licensors.
- (32) Not to be a party to or cause or allow any unlawful behaviour, disorderly conduct, offensive language, anti-social behaviour or revelry to take place on the Jetty or on or about the Vessel while it is in the Berth or within the Harbour. Failure to comply with this item may result in termination of the agreement with the Sub-licensee. This is a DOT requirement that the Sub-Licensors must comply with.
- (33) Ensure that every person in or about the Vessel does not breach any of the Conditions and further to comply immediately (and to cause any Berth User to comply immediately) with any request made or direction given by or on behalf of the Sub-Licensors in relation to ceasing any such breach.
- (34) Not ride, or cause to allow the riding of, any form of bicycle, scooter, skateboard, trolley or wheeled recreational object on any part of the Jetty.
- (35) Notify the Sub-Licensors immediately of all fires, leakages and spills of fuels, oils or waste from any vessel and all damage to, defects in, or malfunctions of, any property and equipment of the Sub-Licensors.

- (36) Not allow any third party, including a boat broker, tradesperson or worker, to access the Jetty without that person having first attended (and registered their details with) The Marina, Mindarie reception.

No deposits

- (37) (a) Not deposit or discharge:
- (i) anything whatsoever (whether of a solid or liquid nature) into the Harbour waters including from the bilges, heads or sinks of the Vessel; or
 - (ii) anything whatsoever including of a dangerous or obnoxious nature (whether of a solid or liquid nature) upon the Jetty or upon any other facility within the Harbour unless the matter is to be immediately removed from that place.
- (b) Dispose of all rubbish and sewerage from the Vessel at an authorised disposal unit or as permitted by law.
- (38) (a) Do all the things necessary to prevent the escape of pollutants, including oil and fuel, from the Vessel into the Harbour waters and if, contrary to the Conditions, pollutants do so escape the Sub-Licensee must use its best endeavours to immediately do all things reasonably necessary to minimise the effect of and remove the pollutants.
- (b) Notify the Sub-Licensors at once of the escape of pollutants into the Harbour waters and if the escape is caused by a Berth User, to reimburse the Sub-Licensors for all costs incurred by it in its efforts to contain and remove the pollutants.
- (39) Wash down the Vessel with only fresh or sea water without any chemicals except bio-degradable detergent of a type approved by the Sub-Licensors.

No assignment

- (40) Not assign, transfer, sublicense, mortgage, charge or otherwise encumber or part with possession of the Vessel or the Berth or the benefit of this Sub-Licence or the rights or privileges granted by this Sub-Licence in whole or in part without first obtaining the prior written consent of the Sub-Licensors and which consent may be given or given subject to special conditions, or withheld in the discretion of the Sub-Licensors.

Comply with legislation

- (41) At all times duly and punctually observe and comply with the provisions of:
- (a) all Acts of the State of Western Australia and of the Commonwealth of Australia now or at a later date in force so far as applicable to the navigation of the Vessel, the Berth, the Jetty, the Harbour and the use of them by the Sub-Licensee and all regulations made under those Acts; and
 - (b) all leases and licences granted pursuant to the said Acts relating to the Berth, the Jetty or the Harbour including not to prevent legitimate access and use of the Harbour by the public.

Insurance and proof of ownership

- (42) (a) Insure and keep insured with insurers approved by the Sub-Licensors in the name of the Sub-Licensee for the Sub-Licensee's rights and interests, all claims based on what is

commonly known as public liability and all other usual maritime risks and in particular to insure the Sub-Licensee against all claims which may be made against the Sub-Licensee by any person arising out of the use of the Berth or the Jetty or the Vessel in an amount of not less than Ten million dollars (\$10,000,000) in respect of each claim.

- (b) Keep the Vessel and any other property owned or brought on to the Vessel or the Jetty by the Sub-Licensee, insured to the extent of its full replacement value with an insurer approved by the Sub-Licensors whilst within the confines of, or near the Harbour against loss or damage by fire, smoke, explosion, fusion, storm, tempest, typhoon, cyclone, earthquake, accidental damage, or Act of God.
- (c) Deliver copies of all policies of insurance and proof of ownership (registration) to the Sub-Licensors on commencement of the initial Term and thereafter, as soon as practicable upon their subsequent renewal and pay all premiums promptly and deliver to the Sub-Licensors copies of the receipts for payment of premiums by the Sub-Licensee upon request.

Indemnity

- (43) Notwithstanding anything contained in the Conditions, indemnify and keep indemnified the Sub-Licensors and the Minister and the Crown from and against all damage to any property of the Sub-Licensors, the Minister and the Crown and indemnify and keep indemnified the Sub-Licensors, the Minister and the Crown and their respective officers, employees, contractors, invitees and agents from and against all actions, suits, claims, proceeding demands and costs caused by or arising out of or in connection with or resulting from:
 - (a) the use by a Berth User of the Vessel in the Harbour;
 - (b) the use by a Berth User of the Berth and the Jetty or other facilities in the Harbour;
 - (c) the activities of a Berth User within the Harbour;
 - (d) any default by the Sub-Licensee in the due and punctual performance and observance of and compliance of the Conditions; and
 - (e) the Vessel breaking its moorings in the Berth.

Surrendering up of the Berth

- (44) Immediately at the end of the Term or upon the sooner expiration of this Sub-Licence:
 - (a) remove the Vessel from the Berth and leave the Berth in such condition as shall be consistent with the due performance of the Sub-Licensee's obligations under the Conditions; and
 - (b) return all keys, Proximity Tags and access cards to the Sub-Licensors within 14 days of the departure date from the marina.

Indemnity & release regarding escape of pollutants

- (45) Notwithstanding anything contained in the Conditions:

- (a) indemnify and keep indemnified the Sub-Licensor and the Sub-Licensor's respective officers, employees, contractors, invitees and agents and the Minister and the Crown ("**the Indemnified**") from and against all actions, suits, claims, proceedings, demands, costs, damages, liabilities, fines and penalties ("**Claims**") caused by or arising out of or in connection with or resulting from any escape of any pollutants (including chemicals, paint, oil and fuel) into the Harbour:
- (i) caused by or contributed to by a Berth User; or
 - (ii) otherwise, occurring whilst a Berth User was conducting or attempting to conduct refuelling operations or shortly before or shortly thereafter; and

such costs include any costs that may be incurred in respect of statutory authorities, emergency services, environmental specialists, consultants and service providers; and the Indemnified shall have no duty to mitigate the same; and

- (c) release and forever discharge the Indemnified from and against all Claims arising out of or in connection with or in respect of any action taken or not taken by any person in good faith in connection with such escape of pollutants, including any action taken or not taken in order to protect person, property or the environment; and this clause may be pleaded as an absolute bar to any such Claims made by or on behalf of the Sub-Licensee or any person claiming by, through or under the Sub-Licensee."

3. Default

If the Sub-Licensee, or a Berth User, breaches a provision of the Conditions and the nature of the breach is such that it cannot be remedied, the Sub-Licensor may, by providing the Sub-Licensee with seven (7) days written notice, terminate this Sub-Licence. If the Sub-Licensee or a Berth User breaches a provision of the Conditions which can be remedied, and remains in default under or in breach of any such provision for a period of three (3) days after notice of such default has been given to the Sub-Licensee by the Sub-Licensor, the Sub-Licensor may (in addition to all its rights at law or in equity) by written notice to the Sub-Licensee terminate this Sub-Licence effective from the date of service of the notice on the Sub-Licensee but without prejudice to any right of action of either party against the other arising out of any antecedent breach of the Conditions.

4. Bond & Default of payment – Boat Seizure procedures

A bond equal to fifty percent (50%) of the agreed pen fee of the Sub-Licence will be paid on signing for the pen and will be held by the Sub-Licensor until the agreement is terminated, where it will be refunded to the Sub-Licensee.

Conditions of refund of Bond

4.1 Should the Sub-Licensee fail to pay the pen fees as scheduled in advance for a renewal of the pen. The Sub-Licensor at its own discretion with notice, may choose to use the Bond for payment. The Sub-Licensee will be notified this has occurred and until the payment is made, the bond will act as payment for the pen.

4.2 During the default period access to the pen will be temporarily terminated until payment is made as well as any amount of the bond that may have been used by the Sub-Licensor as part payment at the time to ensure the balance of the Bond remains at 50% of the pen fee with the licence agreement.

4.3 Should no payment be forthcoming; condition 4.1 will remain with the bond being forfeit, the access to the jetty terminated; debt collectors will be engaged to recover lost funds and, in the case, where no further response is generated from the Sub-Licensee, court procedures could occur, with boat seizure from the sheriff and sold at auction to recover any losses. Any out-of-pocket expenses to the

Sub-Licensors as well as any debt owing not including the bond, will be deducted from the sale of the vessel from the Sub-Licensee.

5. Responsibility for Damage, etc.

The Sub-Licensors shall not in any way be responsible for:

- (1) any damage from any cause whatsoever, including but not limited to an Event, that any vessel (including the Vessel) owned or used by the Sub-Licensee or by any person lawfully authorised by the Sub-Licensee in that regard may at any time sustain while in the Berth or entering or leaving the Berth or while within the Harbour other than damage resulting directly from an act (or omission to act) of gross negligence by the Sub-Licensors;
- (2) the destruction (in whole or part) or damage to the Jetty leading to damage or destruction (total or partial) to the Vessel caused by any cause whatsoever, including an Event;
- (3) any loss resulting from the theft of the Vessel (or any part of it) or any other vessel owned by or used by the Sub-Licensee or a Berth User; or
- (4) any injuries which the Sub-Licensee or a Berth User may at any time sustain while in or upon the Berth, the Jetty or the Harbour or the access to the Jetty however occurring other than injuries resulting directly from an act (or omission to act) of gross negligence by the Sub-Licensors.

6. Removal and Relocation of Vessel

- (1) The Sub-Licensors shall be at liberty (at the cost and expense of the Sub-Licensee) in case of an emergency or upon the termination of this Sub-Licence (if the Sub-Licensee has not vacated the Berth) or otherwise if the Sub-Licensors shall lawfully require the Berth to be vacated, to remove any vessel (including the Vessel) from the Berth and either anchor or moor it at such place and by such means as the Sub-Licensors (using reasonable care) shall determine or remove the Vessel from the water and store the Vessel on land as the Sub-Licensors (using reasonable care) shall determine.
- (2) The Sub-Licensors shall be under no liability whatsoever to the Sub-Licensee or any person claiming through or under this Sub-Licence in respect of anything done by the Sub-Licensors pursuant to this condition.
- (3) The Sub-Licensors will notify the Sub-Licensee in writing of the location of the Vessel if it is removed from the Berth pursuant to this condition.
- (4) The Sub-Licensors shall be entitled at any time during the Term by not less than seven (7) days' notice to the Sub-Licensee, to terminate the Sub-Licensee's occupation of the Berth pursuant to this Sub-Licence and to allocate to the Sub-Licensee such other mooring Berth within the Harbour as the Sub-Licensors may determine in its absolute discretion ("**the New Berth**"). The New Berth shall from the date specified in the said notice be deemed to be the Berth the subject of this Sub-Licence and the Sub-Licensee shall immediately remove the Vessel from the Berth to the New Berth. The unexpired portion of the Fee shall be applied against the then prevailing fee for the New Berth. The Sub-Licensee hereby agrees that it shall make no requisition, objection or claim for compensation in respect of the Sub-Licensors' change in the Berth.
- (5) If at any time during the Term, the Sub-Licensee shall leave the Berth unoccupied for any period, the Sub-Licensors shall be entitled in its absolute discretion and without notice to allow any other vessel to temporarily occupy the Berth at such Fee and upon such special conditions as the Sub-Licensors shall consider appropriate until the return of the Vessel. If the Sub-Licensors has allowed

another vessel to occupy the Berth, it may, in its absolute discretion (but shall not be obliged to do so) refund to the Sub-Licensee such portion of the Fee as the Sub-Licensor sees fit, at such time and in such manner as the Sub-Licensor sees fit.

6. Re-development

In the event that the Sub-Licensor resolves to re-develop the Jetty in which the Berth is located (or any part of it), the Sub-Licensor may by giving the Sub-Licensee not less than sixty (60) days written notice terminate this Sub-Licence and the Sub-Licensee hereby agrees that it shall make no requisition, objection or claim for compensation in respect of such termination.

7. Termination

Should the Minister for any reason whatsoever terminate the right to grant or continue the Sub-Licensor's Combined Mooring and Jetty Licence then simultaneously this Sub-Licence will also terminate and the Sub-Licensee hereby agrees that it shall make no requisition, objection or claim for compensation in respect of such termination.

8. Nature of Rights

The rights conferred by this Sub-Licence are in contract only and do not create in or confer upon the Sub-Licensee any estate or any proprietary right in or to the Berth, the Jetty or the Harbour and the Sub-Licensee hereby agrees that its rights thereto shall be those of a sub-licensee only.

9. Renewal of Sub-Licence

The Sub-Licensee hereby agrees that it has no automatic right to renew this Sub-Licence at the end of the Term. Should the Sub-Licensee wish to renew this Sub-Licence then not less than thirty (30) days and not more than sixty (60) days prior to the date on which this Sub-Licence ends, the Sub-Licensee may submit an Application for the Sub-Licensor to grant it a new Sub-Licence for a new Term.

The Sub-Licensor will inform the Sub-Licensee whether or not the Sub-Licensor is prepared to grant a new Sub-Licence and, if so, nominate the Berth number as well as the applicable Fee and required special conditions (if any).

If the Sub-Licensee's Application is not granted within fourteen (14) days of it being lodged with the Sub-Licensor it will be deemed to be declined and the Sub-Licensee must then remove the Vessel from the Berth either at or prior to the end of the Term.

Should the Sub-Licensee or a Berth User remain in the Berth without the prior written consent of the Sub-Licensor the Sub-Licensee hereby agrees that it will pay to the Sub-Licensor by way of damages for trespass a daily Fee of 1/365th plus fifteen per centum (15%) of the then current annual Fee for the Berth.

10. Access to Berth

The Sub-Licensee hereby acknowledges and agrees that this Sub-Licence does not grant automatic right of access across the land and car park which is adjacent to the Jetty and that it must comply with all obligations imposed on the public over the said land and car park.

The Sub-Licensors may lock the gates (if any) leading to the Jetty. The Sub-Licensee must apply for and abide by the Conditions in respect of which the key/card key/Proximity Tag is issued for the Jetty's security gate, if any, including paying a refundable sum of One hundred dollars (\$100.00) for each key/card key/Proximity Tag issued to the Sub-Licensee. The Sub-Licensee must not duplicate any key/card key/Proximity Tag or, without the prior written approval of the Sub-Licensors, lend any key/card key/Proximity Tag to another person except during such time as the Sub-Licensee is on the Vessel in the Harbour. The Sub-Licensors may, at its entire discretion, refuse to provide such approval or grant it subject to special conditions. The Sub-Licensors will only consider any request for such approval if the Sub-Licensee confirms:

- (a) the identity of the particular person;
- (b) the particular purpose for which that person requires access to the Berth; and
- (c) that the said person has been made aware of the Conditions and their obligation to comply with them.
- (d) any contractors requiring access to a vessel must provide valid business insurances to the marina office and log-in and out a trade access tag upon each visit. No boat owner is to provide access to a contractor with their personal proximity tag.

The Sub-Licensors may either cancel or de-activate the key/card key/Proximity Tag at any time if the Sub-Licensee or a Berth User is in default of the Conditions or if the Term has expired.

The Sub-Licensee remains responsible for the actions and omissions of any Berth User, notwithstanding the issue of a key/card key/Proximity Tag to such Berth User with the approval of the Sub-Licensors.

11. No Warranty by Sub-Licensors

The Sub-Licensors does not give any warranty (express or implied) that the Berth or the Jetty or the Harbour are or will remain suitable for any purpose for which the Sub-Licensee intends to use the Berth including for the mooring of the Vessel. To the extent permitted by law the Sub-Licensors excludes any warranty in relation to the Berth and the Jetty and the Harbour which is implied by law.

12. Assignment by Sub-Licensors

- (a) The Sub-Licensors may at any time and from time-to-time assign and/or transfer and/or part with possession of the Berth and/or the Jetty.
- (b) The Sub-Licensors shall not in any way be responsible for any obligation to the Sub-Licensee under this Sub-Licence on and from the time it has transferred or assigned its estate, right and interest in the Berth and/or the Jetty to a third party.

13. Notices

Any notice demand request or consent to be given by either party to the other shall be in writing signed by the party giving the same or by the agent of such party and shall be delivered to the party to whom it is addressed by email, facsimile, personally or posted by prepaid registered mail to that party to his address specified in the Schedule hereto or such other address in the case of the Sub-Licensee as shall be the current address of the Sub-Licensee in the books or records of the Sub-Licensors.

Any notice sent by registered post shall be deemed to have been received on the day when in the ordinary course of registered post it should have been delivered to the address to which it was sent.

14. Special Conditions

Any special notes to be completed below:

SCHEDULE

SUB-LICENSOR: Sanctus Nominees Pty Ltd care of PO Box 879, Subiaco in the State of Western Australia

SUB-LICENCEE:

VESSEL'S NAME:

VESSEL'S REGISTRATION NUMBER:

REGISTERED OWNER OF VESSEL:

SUB-LICENCE TERM:

SUB-LICENCE FEE:

BERTH NUMBER:

Dated this

day of

, 20

.

Signed for and on behalf of Sanctus Nominees)
Pty Ltd (ACN 008 934 156) by authority of it's)
Directors pursuant to Section 127 of the)
Corporations Act 2001 by:)

.....
Administration person completing agreement

.....
Director Approving Agreement

Signed by

.....
Boat owner – agreeing to terms and conditions
herein this sublicense document

In the presence of:

.....
Witness Name

.....
Witness Address