



# WINTERS MARINE LIMITED (LINCOMBE BOATYARD)



Salcombe, Devon, TQ8 8NQ  
Telephone: 01548 843580 Mobile: 07989 322437  
Email: [info@lincombeboatyard.co.uk](mailto:info@lincombeboatyard.co.uk)

## Broker Permit

Company:.....\*Ltd/Partnership/sole trader/private individual

Contact name .....

Position in company .....

Address:.....

Post code:.....Telephone:.....

Email:.....

Company activities .....

Who will be on site: .....

Dates on site .....or

Request for annual permit to work from .....

Customer name (if applicable): .....

### Acceptance

I have received and read the 'terms & conditions for brokers' and the boatyard 'safety instructions'.

I will accept the 'terms & conditions for brokers' and will abide by the boatyard 'safety instructions'.

I have provided Winters Marine Ltd with a copy of my insurance certificates.

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Signed by the Contractor ..... Date .....

Signed by Winters Marine Ltd .....Date .....

\*Delete as applicable

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## **TERMS AND CONDITIONS FOR CONTRACTORS**

**Broker** refers to all persons carrying out business on our premises.

**Company** refers to Winters Marine Ltd.

**Premises** refers to the land, water, structures and buildings owned, maintained and operated by Winters Marine Ltd.

1. Brokers must supply copies of third party Employers and Public liability insurance certificates showing a limit of not less than £3,000,000 any one claim in respect of Public liability. It must also remain in force for the duration, provide indemnity to the company as principal and not waive the company's rights of recovery.
2. Brokers indemnify the company against all losses or damages suffered by the company as a result of, or in connection with, any action of the broker.
3. Brokers must inform the company of any notices issued, or legal proceedings, that have been taken against the broker by the Health and Safety Executive in the last 3 years.
4. Brokers must provide details of any accidents/incidents reported by, or on behalf of, the contractor to the Health and Safety Executive during the last 3 years as required by the *Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 2013* (RIDDOR).
5. Brokers must sign in and out of reception on every visit to the premises.
6. Brokers must not engage in any activity that may bring the company or any of the company's employees, customers or visitors into disrepute.
7. Brokers must at all times, comply with the company's policies and guidelines which are contained in the boatyard 'safety instructions'.
8. Brokers must comply with all statutory legislation and regulations.
9. Brokers must be able to demonstrate a safe system of work, and comply with the Health and Safety at Work Act 1974. Brokers must ensure that its employees are properly trained and comply with the company's policies and guidelines which are contained in the boatyard 'safety instructions'.
10. Brokers must maintain adequate standards of health and safety for themselves and their employees, clients and anyone within their working vicinity.
11. Brokers must maintain a clean, tidy and safe environment.
12. Brokers must not access a vessel without the permission of the owner. Keys will not be released unless the owner has given the company permission to do so. Security for a vessel will be the responsibility of the broker following a viewing. Keys are to be returned promptly to the company.
13. Brokers are only permitted to conduct viewings on the premises; they are not permitted to carry out any work to a customer's vessel. Should work be required this must be discussed with the Company.
14. Brokers must abide by the requests of the company and their employees.
15. Brokers must communicate with the company to ensure safe operation of all facilities.
16. If the Broker or their employees/clients cause any contamination of the premises, in any way, they will be liable for all costs incurred.
17. The company has the right to terminate the brokers permit at any time. The company's decision will be final and the broker will have no right to appeal, nor will the broker have any claim against the company for any loss suffered. In the event of such termination the broker shall vacate the premises immediately.
18. Nothing in these terms and conditions absolves the broker from their duty to comply with the relevant legislation including Health and Safety at Work Act 1974, Fire Regulatory Reform (Fire Safety) Order 2005 and others.
19. Brokers and their employees will be responsible for escorting their clients at all times when on the premises. They will be responsible for their safety and will make them aware of any relevant safety precautions in place and are wearing suitable footwear.
20. Brokers will be responsible for checking that any appointed surveyor by their client has the correct insurance in place in order to carry out their work on the premises and failure to ensure this will deem the broker's insurance liable.
21. Conducting viewings when a boat is stored in any undercover storage shed will require booking an appointment in advance and cannot take place outside of working hours which are Monday to Friday 8am to 4.30pm.
22. The company shall permit the broker to display, with prior approval, a small sign showing the broker's name and contact details on the boat being sold.



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## SAFETY INSTRUCTIONS

**For your safety, & that of others, please observe the following when on our premises  
Our staff are highly experienced, please listen to their advice & follow their instructions  
if you have any queries please ask a member of staff**

### GENERAL

Access to our site is only permitted with prior arrangement.  
Visitors, within working hours, (Monday to Friday 8am to 4.30pm) are required to report to reception.  
No unauthorized access is permitted out of these hours.  
CCTV is in operation 24 hours a day.  
Please use the marked yellow walkways at all times.  
Please do not move or go around any barriers or guards.  
Swimming & diving is not permitted on our premises or moorings.  
Lifejackets are to be worn at all times on our pontoons.  
Pontoons & walkways can be slippery when wet or in cold weather.  
If lifting operations are taking place you may have to wait until the area is made safe before being given access.  
First Aid & emergency equipment is located at reception.  
Smoking is not permitted on site within 5m of any building.

### VEHICLES

Please be aware of moving vehicles & boats at all times.  
Vehicles should be driven with extreme care on site & reversing and/or towing must be done with assistance.  
Cars may only park in the marked bays.  
Cars must not block in any trailers, boats or machinery.  
Please drive carefully through the security barrier to avoid damage to your vehicle, or our barrier, and keep to the **speed limit of 5mph** once you have entered the site.

### FIRE

On hearing the fire alarm immediately proceed to the muster point at the top of the inner slipway.  
Do not tackle a fire or put yourself or others at risk.  
All fire exits & emergency routes are to be kept clear at all times.  
Please make yourself aware of the fire exits & fire-fighting equipment when you enter our buildings.  
On discovering a fire please sound the alarm & proceed to the muster point.

### CHILDREN & PETS

Children are not permitted to 'play' in the boatyard & must be closely supervised at all times.  
Please do not allow them to throw stones or to climb on railings, the bridge and machinery/equipment.  
We are happy for dogs to be on our premises but we expect owners to clean up after them & keep them on a lead.  
Children and pets are not permitted on board boats stored ashore, at any time.  
Please do not tie dogs to boat supports.

### TOILETS & SHOWERS

Our facilities are located in the building on the right as you enter the boatyard.  
Access is controlled for your security.  
Showers operate by £1 coins only.  
The facilities to the side are available at all times, except during cleaning.

### TIDES

Access to the deep water for your tender/dinghy is through our dredged channel which is navigable at most states of the tide.  
On a low spring tide you may need to allow between 1-2 hours either side of low tide to gain access.  
Please follow the red & green channel marker buoys to avoid going aground.

### INCIDENTS & SUSPICIOUS ACTIVITIES

In an emergency dial 999 & then contact Winters Marine Ltd for assistance or refer to safety instructions on noticeboard.  
Report any of the following to Winters Marine Ltd as soon as possible:

- An incident or 'near miss'.
- Any situation or equipment that looks potentially dangerous.
- Anyone performing a dangerous task.
- Any smoke or heat that may lead to a fire.
- Anything suspicious - make a note of registration numbers, markings or descriptions of any vessel or vehicle involved.

### PRIOR TO LIFTING

Boats to be laid up ashore are required to complete a form on our website under the 'laying up' button.  
A boat safety form is also required.  
Fore sails, covers & awnings should be removed before lifting.  
Logs should be fitted with blanks to avoid damage.  
Vessels on our premises must be covered by a minimum of £3,000,000 third party liability insurance.  
Owners supplying their own cradles or props must ensure they are maintained & comply with current health & safety standards. We reserve the right to refuse to use anything we believe to be unsafe.  
Excessive fouling will incur additional charges.  
Vessels are lifted at the discretion of the operator & Winters Marine Ltd.

### BOATS STORED ASHORE

Only minor work may be undertaken by an owner.  
Prior approval is required from Winters Marine Ltd before removing or washing down antifoul, sanding/scraping, grinding, welding, cutting, removing engines & all 'boatbuilding' activities including electrical work, hot work, engineering, gas work, rigging work etc.  
Whilst your boat is ashore please do not attempt to move any hull supports e.g. shores, cradles, props etc.  
Please secure all halyards to prevent damage.  
Covers should not be tied to boat supports including cradles. All cover ties should go fully under the hull of a boat.  
Out of working hours we do not recommend lone working.  
No Hull and/or keel sanding/blasting may be undertaken in the boatyard. Alternative methods are available from Winters Marine Ltd.

Silicon based antifouls may ONLY be applied by Lincombe Boatyard companies.

Only dustless electric sanders are permitted for use on site. A professional rigger & electrician, approved by Winters Marine Ltd, may be needed to assist with mast un/stepping. Walkways are to be kept clear of debris & stored items. Electrical leads, debris or equipment shall not be left in such a manner as to pose a 'trip hazard'.

Only approved engineers may start an engine whilst a boat is ashore.

Please do not approach the lift area at any time & remain at least 5m away from this area until the lift is complete.

Additional safety instructions apply when working in the undercover storage shed.

BBQ's are not permitted on our premises.

### **ELECTRICITY & SERVICES**

Use of boatyard electricity is subject to prior permission.

All shore power is supplied through a metered cable which can be owner supplied or hired on site.

All electrical cables & plugs must be made for the marine environment & be undamaged.

The wiring on your boat & onboard electricity systems must comply with appropriate standards.

Do not connect more than one supply to a boat & never connect one boat to another.

Never attempt to repair or alter connecting cables, plugs or any infrastructure.

Do not use worn or damaged cables, plugs or sockets.

Please do not access, tamper with or affect the electricity supply in any way.

We cannot be held responsible for the consequences for any loss of power.

Batteries are not to be left on charge, especially overnight, unless someone is present aboard the boat throughout the whole period of charging.

Always use a professional electrician who is approved by Winters Marine Ltd.

### **WORKING AT HEIGHT**

Only professional riggers, approved by the Winters Marine Ltd, are permitted to go up a mast whilst your boat is ashore.

Customers are reminded of the hazards associated with working high above ground on the decks of their boats, on scaffolding or up ladders.

When using a ladder, customers must tie off the top of the ladder to the boat to prevent the ladder slipping when in use.

Customers are advised to supply their own ladders for accessing their vessels when ashore.

Ladders or steps should conform to the latest safety standard.

Ladders should be removed from vessels when unattended.

Ladders must not be used to access 3.5 metres or more above ground level.

No scaffolding is to be erected on site.

A harness or handrail system must be used as a 'fall arrest' if using platforms 1.8m above ground level.

When working on the deck of a boat ashore, a suitable handrail or fall arrest system should be in place.

### **GAS**

No gas is permitted to be used whilst your boat is stored ashore. Please use shore power for all heating/cooking etc.

Gas bottles are to be stored 'switched off' in an upright position & secured to prevent them falling over.

### **CONTRACTORS**

The term 'contractor' includes all persons carrying out work on any boat other than their own.

No work shall be carried out on a vessel, gear, equipment or other goods while on our moorings or in the boatyard unless done by the owner (see above for work that requires permission), Lincombe Boatyard personnel or sub-contractors engaged by Lincombe Boatyard companies.

Owners are not to bring their own contractors onto Lincombe Boatyard premises or our moorings without permission from Winters Marine Ltd.

If Winters Marine Ltd agrees to a contractor working on site then they will be required to provide, prior to starting any work, the following:

\* A completed contractor's permit.

\* A hot work permit is required for anything that generates or requires heat i.e. grinding, welding, cutting, heat gun etc.

\* Copies of third party/public/employers & products liability cover which provides indemnity to Winters Marine Ltd as principal and does not contain any agreement to waive our rights of recovery.

\* For security reasons we will not issue keys to contractors unless we have received the boat owner's instructions.

\* Owners should be aware that in the event of injury or damage being caused on our premises by a contractor who has not satisfied Winters Marine Ltd with the required information in order to work on site then the owner's insurance will be deemed liable.

\* Contractors must sign in & out at reception on each visit.

### **PRIOR TO LAUNCH**

Please ensure the boat is watertight and either supply a set of keys for the boat or leave unlocked so that checks can be made once launched.

Fenders & mooring lines must be fitted before the lift starts.

Provide a mooring number.

Invoices are settled with all boatyard companies.

### **WASTE & WATER**

Drinking water is not available in the boatyard.

Hose pipe outlets are located nearby the blue electricity boxes.

Hazardous materials should be used & stored as recommended by the manufacturer & legislation.

All debris must be disposed of at the end of each working day.

We will make a charge if an area around a boat is left untidy.

Please do not contaminate the general waste with oil, grease, paint, resin, sealant, lightbulbs, electrical items, antifouls, batteries or metals. This will result in an extra charge.

Any hazardous materials such as paints, antifouling, scrapings, oil, rags etc. are to be disposed of in our hazardous waste area.

It is an owner's responsibility to dispose of waste from the boat in a safe way. This may include removal from site to suitable facilities i.e. pyrotechnics.

### **TERMS**

Our terms of business are BMF 15a Edition.

Nothing in these safety instructions absolves an employee, contractor, owner or visitor from their duty to comply with these safety instructions & relevant legislation.

Unauthorised boats/trailers left on the premises will incur a removal charge of £100.

All work carried out will be invoiced periodically & will be either payable within thirty days or prior to launching whichever is the soonest.

Interest will be charged at the rate of 2.5% per month on outstanding accounts.

All vessels must be covered by a minimum of £3,000,000 3<sup>rd</sup> party & public liability insurance.

All cars, boats, equipment & stores therein are stored or moored at the owner's risk

# TERMS OF BUSINESS Edition 15a – England

These terms of business apply to all contracts for work and facilities or goods undertaken by us on or after 31 October 2012

**1 – LIABILITY** 1.1 We shall not be liable for any loss or damage caused by events or circumstances beyond our reasonable control (such as severe weather conditions, the actions of third parties not employed by us or any defect in a customer's or third party's property); this extends to loss or damage to vessels, gear, equipment or other property left with us for work or storage, and harm to persons entering our premises or using any of our facilities or equipment.

1.2 We shall take reasonable and proportionate steps having regard to the nature and scale of our business to maintain security at our premises, and to maintain our facilities and equipment in reasonably good working order; but in the absence of any negligence or other breach of duty by us vessels and other property are left with us at the customer's own risk and customers should ensure that their own personal and property insurance adequately covers such risks.

1.3 We shall not be under any duty to salvage or preserve a customer's vessel or other property from the consequences of any defect in the vessel or property concerned unless we have been expressly engaged to do so by the customer on commercial terms. Similarly we shall not be under any duty to salvage or preserve a customer's vessel or other property from the consequences of an accident which has not been caused by our negligence or some other breach of duty on our part. However we reserve the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of people, property or the environment. Where we do so we shall be entitled to charge the customer concerned on a normal commercial basis.

1.4 Customers may themselves be liable for any loss or damage caused by them, their crew or their vessels and while their vessel or other property is on our premises or is being worked on by us they shall be obliged to maintain adequate insurance, including third party liability cover for not less than £2,000,000, and, where appropriate, Employer's Liability cover in respect of any employee. Customers shall be obliged to produce evidence of such insurance to us within 7 days of a request to do so.

1.5 Nothing in these Terms of Business shall limit or exclude our liability for death or personal injury caused by our negligence or the negligence of our employees, agents or sub-contractors; for fraud or fraudulent misrepresentation; or otherwise to the extent that it would be illegal for us to exclude or attempt to exclude liability.

**2 - PRICES AND ESTIMATES** 2.1 In the absence of express agreement to the contrary our price for work shall be based on labour and materials expended and services provided.

2.2 We will exercise reasonable skill and judgment when we give an estimate or indication of price. However such estimates are always subject to the accuracy of information provided by the customer and are usually based only on a superficial examination and will not include the cost of any emergent work which may be necessary to the vessel, gear or equipment nor the cost of any extensions to the work comprised in the estimate. 2.3 We will inform the customer promptly of any proposed increase in estimated prices and the reasons for it and will only proceed with the work or supply with the approval of the customer.

The customer shall remain responsible for the cost of labour and materials already supplied or remaining to be supplied which are not affected by the proposed increase in price.

**3 - DELAYS** 3.1 Any time given for completion of our work is given in good faith but is not guaranteed. We shall not be responsible for any delay in completion of the work or for the consequences of any such delay unless it arises from our wilful acts or omissions or from our negligence.

**4 - VESSEL MOVEMENTS** 4.1 We reserve the right to move any vessel, gear, equipment or other property at any time for reasons of safety, security or good management of our business and premises.

**5 - PAYMENT** 5.1 Unless otherwise agreed between us payment for all work, goods and services shall be due immediately on invoice date. Payment shall be deemed to have been made when we receive cash or cleared funds at our bank.

5.2 We have the right to charge interest on any sum outstanding for more than 30 days (except in the case of a reasonable and proportionate retention by the customer of any amount genuinely in dispute between us and the customer) on the outstanding balance at 4% above Bank of England base rate which may be calculated daily up to the date of actual payment. In the case of business customers this rate will be substituted with the current rate applicable under late payment legislation.

5.3 We reserve a general right ("a general lien") to detain and hold onto a customer's vessel or other property pending payment by the customer of all sums due to us. We shall be entitled to charge the customer for storage and the provision of any ongoing services at our normal daily rates until payment (or provision of security) by the customer and removal of the vessel or property from our premises. The customer shall be entitled to remove the vessel or other property upon providing proper security, for example a letter of guarantee from a Bank reasonably acceptable to us or lodgement of a cash deposit with a professional third party agent reasonably acceptable to us, sufficient to cover the debt with interest and, where the debt is contested, a reasonable provision for our prospective legal costs. This right does not affect the customer's entitlement to withhold a proportionate part of the price in respect of alleged defects but where that amount is in dispute between us the customer shall be required to provide security for the full amount pending resolution of the dispute.

5.4 Our customers' attention is drawn also to the note at Clause 10.2 of these Terms of Business regarding other rights which exist at law.

**6 - RETENTION OF TITLE / RISK** 6.1 Title to all goods, equipment and materials supplied by us to a customer shall remain with us until full payment has been received by us.

6.2 Risk in all goods, equipment and materials supplied by us to a customer shall pass to the customer at the time of supply to the customer.

**7 - GUARANTEE** 7.1 Advice on whether a customer is "a consumer" or otherwise protected by some or all of the consumer protection legislation in force in the United Kingdom may be obtained from any local Trading Standards Office, the Citizens Advice Bureau, the Office of Fair Trading or any firm of solicitors (who may charge). Online guidance may be obtained at [www.adviceguide.org.uk](http://www.adviceguide.org.uk).

7.2 A customer who is a consumer has certain minimum statutory rights regarding the return of defective goods and claims for losses. These rights are not affected by these terms.

7.3 In addition to the statutory rights provided by English law we guarantee our work for a period of 12 months from completion against all defects which are due to poor workmanship or defective materials supplied by us. This guarantee applies only to the customer to whom the work or materials were supplied. We shall be liable under this guarantee only for defects which appear during this 12 month period and which are promptly notified to us in writing at our trading address or registered office set out on our letterhead. The geographical area within which this guarantee will be honoured is restricted to the United Kingdom.

7.4 On notification by the customer of such defects, we will investigate the cause and if they are our responsibility under the terms of this guarantee we will promptly remedy them or, at our option, employ other contractors to do so. Any remedial work which is put in hand by the customer directly without first notifying us and allowing us a reasonable opportunity to inspect and agree such work and its cost will invalidate this guarantee in respect of those defects.

7.5 Where we supply goods or services to a partnership or company or to a customer who is acting in the course of a business or a commercial operation (a "Business Customer") then:

7.5.1 no article supplied by us to a Business Customer shall carry any express or implied term as to its quality or its fitness for any particular purpose unless prior to the supply the Business Customer has sufficiently explained the purpose for which it is required and made it clear that he is relying on our skill and judgement;

7.5.2 no proprietary article specified by name, size or type by a Business Customer shall carry any such express or implied term but we will assign to the Business Customer any rights we may have against the manufacturer or importer of that article; and

7.5.3 we accept no liability to indemnify a Business Customer against any loss of profit or turnover

which he or his customer or any other person may sustain in consequence of the failure of any faulty or unfit article supplied by us.

**8 - QUALITY STANDARDS** 8.1 We will complete our work to the agreed specification and, in the absence of any other contractual term as to quality, to a satisfactory quality.

**9 - ACCESS TO PREMISES/WORK ON THE VESSEL** 9.1 No work or services shall be carried out on a vessel, gear, equipment or other property on our premises without our prior written consent (which consent shall not be unreasonably withheld or delayed) except for minor running repairs or minor maintenance of a routine nature by the customer or his regular crew. It shall be an absolute condition that all work is carried out in full compliance with our health and safety, environmental and access policies and that it does not cause any nuisance or annoyance to us, any other customer or person residing in the vicinity, and does not interfere with our schedule of work or the good management of our business and our said consent to work or services being carried out may be revoked with immediate effect in the event of any breach of such conditions. We shall not be responsible to customers or third parties for the consequences of any person's failure to respect any part of this clause 9.1 but we shall be entitled to demand the immediate cessation of any work which in our view breaches the requirements of this clause 9.1.

9.2 While we or our subcontractors are working on a customer's vessel or equipment the customer shall not have access to it except by prior arrangement. We will agree reasonable access when it is safe to do so and when it will not interrupt or interfere with our work schedule.

**10 - RIGHT OF SALE** 10.1 We accept vessels, gear, equipment and other property for repair, refit, maintenance or storage subject to the provisions of the Torts (Interference with Goods) Act 1977. This Act confers a Right of Sale on us in circumstances where the customer fails to collect or accept re-delivery of the goods (which includes a vessel and any other property). A sale will not take place until we have given notice to the customer in accordance with the Act. For the purpose of the Act it is recorded that:

10.1.1 goods for repair or other treatment are accepted by us on the basis that the customer is the owner of the goods or the owner's authorised agent and that he will take delivery or arrange collection when the repair or treatment has been carried out;

10.1.2 our obligation as custodian of goods accepted for storage ends when we give notice to the customer;

10.1.3 the place for delivery and collection of goods shall normally be at our premises. Advice regarding the Act and its effect may be obtained from any of the sources referred to at Clause 7.1 above.

10.2 Maritime Law entitles us in certain circumstances to bring action against a vessel to recover a debt or damages. Such action may involve the arrest of the vessel through the Courts and its eventual sale by the Court. This right of arrest and sale may continue to exist against a vessel after a change of ownership. Sale of a vessel or other property may also occur through the enforcement of a court order or judgement.

**11 - SUBCONTRACTING** 11.1 We may subcontract all or part of the work entrusted to us by the customer, on terms that any such subcontractor shall have the protection and benefit of all rights and conditions, and of all limitations and exclusions of liability, which exist for us under these Terms of Business. Where we exercise this right we shall remain responsible to the customer for the performance of our subcontractor.

**12 - NOTICES** 12.1 Notice to a customer shall be sufficiently served if personally given to him or if sent by first class post to the customer's last known address. Notices to us should be sent by first class post to our principal trading address or registered office.

**13 - LAW AND JURISDICTION** 13.1 Any contract or series of contracts made subject to these terms and any non-contractual obligations arising out of, or in connection, therewith shall be governed by and construed in accordance with English law.

13.2 Each of the parties irrevocably agrees that any and every dispute (and any non-contractual obligations, as aforesaid) arising out of or in connection with a contract or series of contracts subject to these terms shall:

13.2.1 if one party acts as consumer (meaning a natural person acting for purposes outside of a trade, business or profession), be subject to the non-exclusive jurisdiction of the English courts; or

13.2.2 where no party acts as consumer, be subject to the exclusive jurisdiction of the English courts.

**14 - DISPUTE RESOLUTION SCHEME** 14.1 The BMF and the RYA recommend that disputes arising out of or in connection with a contract or series of contracts subject to these terms, when they cannot be resolved by negotiation, be submitted with the written agreement of the parties, to mediation under the BMF's Dispute Resolution Scheme. Details of the Scheme are available at [www.britishmarine.co.uk/drs](http://www.britishmarine.co.uk/drs).

Published by the British Marine Federation and in consultation with the RYA, who recommend that where disputes cannot be negotiated they be submitted to mediation under the BMF's Dispute Resolution Scheme.

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