

THE YARMOUTH (ISLE OF WIGHT) HARBOUR COMMISSIONERS

LICENCE TERMS FOR COMMERCIAL MOORINGS

1. THE LICENCE

1.1 If you accept our offer of a Licence by the specified date we will allocate to you a mooring and you are licensed to use it for the Boat for the Licence Period.

1.2 You will pay to us the Mooring Charge in full before the Licence Period begins or in accordance with any instalment schedule offered to you by us in the Licence Offer. Any instalment schedule offer will be for 4 or fewer instalments as the Harbour is not licensed to offer credit under the Consumer Credit legislation.

1.3 You warrant to us that the following are true and will remain true during the Licence Period:

1.3.1 if you are an individual, that you are over 18 and the owner (whether jointly or as sole owner) of the Boat and have possession and control of it;

1.3.2 that the Total Overall Length of the Boat is as stated in the Licence Information;

1.3.3 that you are eligible to hold a mooring in the Harbour because you will during the Licence Period carry on a business or trade (being a business or trade which in all respects complies with the Harbour Rules) in or from the Harbour for at least one half of the number of days of each calendar year, and using the Boat for the purposes of that business or trade.

that your vessel has met the MCA/UK Gov operational standards for small vessels and holds the correct vessel certification and complies with any other legal requirement's connected with your trade.

For the avoidance of doubt, if your business or trade is in the fishing industry, any period during which the certain type of fishing normally conducted by you is prohibited by UK law or regulation shall not be counted as a period when you have not carried on your business or trade in that year.

You will on request provide to us such evidence as we may reasonably require to prove satisfactorily to us your eligibility, including but not limited to evidence relating to the business or trade that you carry on.

1.4 A Licence is valid only for the Licence Period and not beyond. A Licence confers no right on you to the issue of another Licence when it ends.

1.5 A licence can only be granted to an individual who is a sole trader, or to a limited company, or to the partners in a formal business partnership. In the case of a partnership, the named partners are Joint Licensees and are jointly and severally liable for the obligations of the Licensee under this agreement.

2. YOUR GENERAL OBLIGATIONS

- 2.1 **Use of mooring:** You must use the allocated mooring only as expressly permitted by these Licence Terms.
- 2.2 **Identification of Boat:** Your Boat must be named and the name clearly displayed on it. You must also display conspicuously on it the current identification disc issued to you by us.
- 2.3 **Non-use for living accommodation:** You will not use or allow your Boat to be used for living accommodation whilst it is moored in the Harbour other than:
- 2.3.1 on an overnight basis pending a proposed early morning departure from the Harbour or in the event of a late night arrival; or
 - 2.3.2 by you or persons employed by you whilst carrying out maintenance, repairs or other work permitted by the Licence.

The decision as to whether any use constitutes “living accommodation” shall be at our reasonable discretion. If we tell you that we believe your use is for living accommodation then such use must stop. A failure to stop will be a breach of the Licence.

If you wish to use the Boat for living accommodation beyond these circumstances, then you must ask us and we may, in our discretion, give permission.

- 2.4 **Seaworthy condition:** You must keep your Boat in a clean, sound, well presented, watertight and seaworthy condition to the reasonable satisfaction of the Harbour Master. If we believe that the Boat is not sound or seaworthy, we reserve the right to require you to remove the Boat from its mooring and from the Harbour until the Harbour Master is satisfied that it is structurally sound and poses no threat to safety, the environment or safe navigation within the Harbour.

If the Boat shall for any reason sink within the Harbour, we shall be entitled to raise and salvage it and recover from you the proper charges, fees and expenses in respect thereof. Private salvage will be permitted provided that you obtain our prior approval to the method and timing of such salvage.

2.5 Maintenance and Repairs

- 2.5.1 No work can be done at the mooring if that work will or might cause danger, obstruction, nuisance or annoyance to other Harbour users, or interfere with our activities. Any maintenance, repairs or other work to the Boat carried out at the mooring must be undertaken in compliance with the Harbour Rules. (By way of example only, permits must be obtained from us for any hot work, or if anyone wishes to go into the water to undertake work.)
- 2.5.2 You may, with our prior agreement, moor alongside any quayside or jetty in the Harbour specified by us for the purposes of loading and unloading equipment in connection with the carrying on of work permitted under paragraph 2.5.1 above, or in order to carry out such work if it cannot reasonably be carried on at the Allocated Mooring.
- 2.5.3 You will comply with all directions given to you, including but not limited to the length of time that the Boat may be moored elsewhere in the Harbour, where permission is given under paragraph 2.5.2 and you will in any event move the Boat to its allocated mooring as soon as any work has been completed.

2.6 **Reasonable care:** You will take reasonable precautions at all times to ensure that no person or vessel using the Harbour is placed in jeopardy by any action or failure to act by you, whether through the use of the mooring by you or by any master of your Boat, or any of your crew members, agents, guests and/or invitees. You shall at all times ensure that all persons using or visiting the Boat (whether invited by you or others) are made aware of and comply with all of the Licence Terms and Harbour Rules.

2.7 **Storage of Equipment and Loading and Unloading**

2.7.1 You shall ensure that all rigging and equipment is secured so as not to cause nuisance or annoyance to us or to other Harbour users.

2.7.2 Without limiting paragraph 2.7.1, you shall not, except with our specific consent:

(a) leave on any pontoon decks, jetties or quays any ropes, personal belongings, equipment, gear or other thing whatsoever except whilst you are transporting it to and from the Boat and the Harbour. This does not prevent you from hanging from a location within the Harbour (such location having been allocated or previously agreed by the Harbour Master) storage pots for the purposes of keeping shellfish alive; or

(b) leave or store ashore on our property any items, vessel's equipment, fishing gear or personal effects other than fishing equipment which, subject to available space, may be left in any area designated by us for such use. All equipment or other items or paraphernalia left on the quay or elsewhere in the Harbour are liable to be moved or disposed of by us without notice or warning.

2.7.3 You may moor alongside the West Quay only in such place(s) as we may from time to time direct for the purposes of loading and unloading the Boat.

2.7.4 You shall comply with any directions given by the Harbour Master as regards the length of time that the Boat may remain moored alongside the West Quay for these purposes, and you shall promptly remove the Boat from the West Quay if loading or unloading is not taking place or is completed.

2.8 **Refuelling:** You shall not refuel your Boat in the Harbour other than at the authorised fuelling station or by other means which have been authorised in writing by us. You must comply fully with the terms and conditions of any such authorisation. Throughout refuelling, all naked lights must be extinguished, engines must be stopped, smoking is prohibited and mobile phones and other mobile communication devices must be switched off.

2.9 **Outboard Engines and Tenders:**

2.9.1 If you are a non-walk ashore mooring Licence holder up to 31 December 2018:

(a) You will, without additional payment, be entitled to the use of one tender in connection with your Boat for the duration of the Licence. A tender must not exceed 3 metres in length (ignoring any outboard) and must display an identification disc supplied by us.

(b) If you wish to use a tender you must first notify us by giving us in writing those details of the tender that we ask for. If you change your tender, you must do the same. We may require you to complete an appropriate form to provide those details.

- (c) A tender must be left in the spaces allocated by us for tenders within the Harbour or briefly at the mooring. Without limiting the meaning of “briefly”, in no circumstances must a tender be left at a mooring if the Boat is absent for more than 24 hours.
- (d) Non walk ashore licence holders may use the taxi free of charge during its operational hours with reasonable fair usage; this will be at the taxi driver’s discretion and only to and from your licenced vessel.
- (e) If your Boat or any tender used by you has an outboard engine, then whenever the Boat or tender is left in the Harbour, you shall either:
 - (i) leave the outboard engine in the lowered position (which you must do in the case of tenders left at any of the dinghy pontoons or other allocated tender mooring places within the Harbour); or
 - (ii) leave the outboard engine in a raised position with a suitable covering or fender over the protruding end of the outboard motor so as to prevent damage to adjacent boats or other Harbour users or injury to individuals.
- (f) tenders must not be chained to pontoons and must be kept properly maintained.

2.9.2 Walk ashore mooring Licence holders are not entitled to keep a tender in the Harbour.

2.10 If you are a non-walk ashore mooring Licence holder from 1 January 2019:

- (a) You will not be entitled to keep a tender in the water on the tender pontoons.
- (b) You may use the harbour taxi free of charge during its operational hours, with reasonable fair usage; this will be at the discretion of the harbour taxi operative.
- (c) You may keep a tender ashore in one of the allocated tender racks supplied by us, providing there is space available.
- (d) Should you wish to use the tender storage racks facility, in the first instance you should contact the Deputy Harbour Master to register your interest for this service.
- (e) A tender must not exceed 3 metres in length (ignoring any outboard), must be clearly identifiable and marked with the name of your Licensed vessel.
- (f) A tender may be left briefly at the mooring. Without limiting the meaning of “briefly”, in no circumstances must a tender be left at a mooring if the Boat is absent for more than 24 hours.
- (g) You may, subject to availability, and only in connection for use with your licensed Boat, use one of the tenders provided by us which are kept afloat on the tender pontoons. Oars for use with these tenders will be available from the Harbour Office, and must be signed for upon collection.
- (h) If your Boat or any tender used by you has an outboard engine, then whenever the Boat or tender is left in the Harbour, you shall leave the outboard engine in a raised position with a suitable covering or fender over the protruding end of the outboard motor so as to prevent damage to adjacent boats or other Harbour users or injury to individuals.
- (i) Tenders must not be chained to pontoons and must be kept properly maintained, of smart appearance, and in a seaworthy condition.

2.10.2 Walk ashore mooring Licence holders are not entitled to keep a tender in the Harbour.

2.11 Your obligations: Without in any way limiting the Licence Terms, you shall at all times:

- (a) observe and perform all statutory and other obligations relating to the Harbour;
- (b) observe and perform these Licence Terms and all Harbour Rules from time to time in force; and
- (c) comply with all lawful requests made by the Harbour Master and Harbour employees.

You acknowledge that this Licence does not in any way prejudice or limit the powers given to us by the Harbour Revision Order(s), General Directions or Byelaws or other applicable Harbour rules or regulations from time to time in force or by law.

2.12 Administrative costs: We may charge you for our administration costs and any costs we incur where we are required to raise with you any breach of these Licence Terms (including but not limited to late payment). Details of our charges are set out on our website at <http://www.yarmouth-harbour.co.uk/resident-moorings/annual-moorings/>.**2.13 Payments:** You will pay to us promptly all sums due from you under the Licence Terms. All payments must be made within 30 days of the date on which they are demanded, or by such later date as we tell you. VAT will, where applicable, be charged by us at the relevant rate and this will be payable by you.

If you are late in making any payments, we may charge you interest at 4% above the base rate of National Westminster Bank plc from time to time, with interest accruing on a daily basis from the date on which payment was due to the date on which payment is received by us.

In addition, if the Licence refers to payments by instalment and any instalment is overdue then we may, by giving you written notice, change the payment terms to require immediate payment of the full amount then remaining outstanding for the Licence.

2.14 Noise, nuisance and annoyance: You shall not:

- (a) use any engines, generators, radios, music players or other apparatus or machinery within the Harbour that cause noise, light or fumes; or
- (b) without limiting 2.14(a) above, run the engines or any noisy generators or pumping gear of the Boat overnight between the hours of 2200 and 0700 while moored in the Harbour (except only running engines for the purposes of mooring or departing from a mooring or assisting others to moor or depart from a mooring, or the use of pumping gear in connection with holding tanks on board the Boat for the purposes of keeping wet fish or shellfish fresh or alive); or
- (c) generally behave;

in any case in such a manner that does, or would reasonably be likely to, cause any nuisance or annoyance to the Commissioners or to any other users of the Harbour or to any other person residing in the vicinity of the Harbour.

3. THIRD PARTY INSURANCE**3.1** You must maintain at all times a suitable policy of insurance, including in respect of public liability and third party liability cover, for claims for damage to persons or property. This should cover you, your Boat and any tender, and the master, crew members, agents, guests and/or other invitees of you or others. Such insurance shall be for not less than £2,000,000, or such other minimum sum as we may require from time to time. Where appropriate, you must also hold employers liability insurance cover to at least the statutory minimum. You will

provide satisfactory evidence to us of such insurance within 7 days of being requested to do so.

4. ALLOCATION OF AND RIGHTS TO A MOORING

- 4.1 We will tell you which mooring you may use for your Boat. Other than as expressly permitted by these Licence Terms, or as otherwise agreed to by us, you will not moor your Boat in the Harbour other than at the allocated Mooring. We may reallocate moorings from time to time and change the mooring allocated to you to another mooring of a similar type at any time. You are not entitled to the exclusive use of the allocated mooring. Depending upon the location and type of mooring, the allocated mooring may be required to be shared, for example by rafting, with other users (including visitors).
- 4.2 A Licence does not confer upon you any ownership, right or interest whatsoever over or in connection with the allocated mooring or any other property belonging to us other than the right to moor your Boat at the allocated mooring subject to these Licence Terms and to have such access (if any) to the allocated mooring as may be available from time to time.
- 4.3 We will have the right to use the allocated mooring at any time when it is left vacant by you. You must expect the mooring to be used by us if your Boat is away from the mooring for more than 24 hours. We ask you to let us know when you are expecting to return, so that we may try to ensure that the mooring is available to you on your return. If you have not told us, or the Mooring is not readily available when you return, we will find you a temporary mooring until your allocated mooring is available.
- 4.4.1 We reserve the right to board, moor or re-moor your Boat or take any action in respect of your Boat or tender, or move your Boat, tender or any gear, equipment or other goods at any time for reasons of safety, security, emergency, to prevent or stop a nuisance or otherwise for good management of the Harbour and our premises.
- 4.4.2 If we take action under paragraph 4.4.1 or if we have asked you to take action in respect of your Boat, tender, gear, equipment or other goods and you do not and we take such action, then in either case we may charge you for taking that action on your behalf in accordance with our usual charges. By way of example, this would include moving a Boat, a tender or other equipment left in the Harbour, or emptying a Boat or tender of water.
- 4.5 If for any reason (including navigational, emergency or safety reasons) we direct you to move your Boat, you shall immediately do so. You shall return the Boat to the allocated (or our nominated alternative) mooring only when we direct you to do so. If you do not move your Boat as directed by us under this paragraph 4.5, then without prejudice to any other rights that we may have, we may move or cause your Boat to be moved at your sole risk and expense. We shall be entitled to charge you for our services or those of third parties in doing so.

5. ASSIGNMENT AND TRANSFER

- 5.1 This Licence is personal to you and relates only to your Boat described in the Licence Information.
- 5.2 The Licence may not be transferred or assigned to another person without our express prior written consent. You may not permit anyone else to use the mooring, even a new owner of the Boat. If you intend to sell the Boat as part of the transfer of your business as a going concern, and we are asked to by you, we will consider reasonably whether our consent to an assignment can be given, or whether a new licence can be offered to the purchaser of the Boat and the business, and in either case on what terms. Our consideration will include issues such as the existing waiting list for commercial mooring licences, and whether such an assignment would prejudice another person's opportunity to be offered a licence.

You may not use the mooring for a different vessel (either temporarily or permanently) without our express prior consent.

6. CHANGES OF PERSONAL INFORMATION AND CHANGES TO YOUR BOAT

6.1 You must tell us as soon as possible if any of the Licence Information changes, your eligibility to hold a Licence changes or you believe that in either case it may change. We may require you to notify us of changes, whether these are changes expressly referred to in this paragraph 6 or otherwise, by completing an appropriate form for the relevant circumstances, and providing such information as we shall reasonably require. For the avoidance of doubt, failure to provide such information will entitle us to give notice to terminate the Licence on such notice as we deem reasonable in the circumstances

6.2 Changes to your Business or Trade:

If your business or trade changes and as a result you are no longer eligible to have a mooring in the Harbour, we may terminate this Licence by giving you notice. The Licence will then end on the date of, or with effect from the end of the period specified in, that notice. Alternatively, we may, at our discretion, expressly permit the Licence to continue for the remainder of its term but in that circumstance, no renewal of the Licence would be offered.

6.3 Changes to your Boat:

6.3.1 We will consider reasonably any request from you to vary this Licence to include a different boat.

If in the Chief Executive's reasonable opinion, the proposed new boat can be safely moored on your allocated mooring, then we would normally agree to such a variation.

If the proposed new Boat cannot be safely moored on your allocated mooring, our offer to you of a variation to the Licence will depend upon whether we have a suitable alternative mooring available. If we do, we will tell you, and we will tell you what terms (including as to Mooring Charges) you must agree to if you wish to accept such a variation of the Licence.

If we do not have a suitable mooring available, then you may ask to be returned to any mooring waiting list that we run at that time.

6.4 Changes where there are Joint Licensees or you are a company:

6.4.1 Where a change in the ownership and/or personal information or other change to the circumstances relating to the Boat occurs, for example by the resignation or death of one partner, we must be notified by the Licensees of that change.

6.4.2 In the case of the death of one Joint Licensee, the Licence will continue with the surviving Joint Licensee as the sole Licensee if he/she is otherwise eligible to be a licensee.

6.4.3 In the case of the joint ownership of the Boat changing, then the one of the Joint Licensees retaining ownership of the Boat must notify us of his/her continued ownership. In that case, we would expect to vary the Licence to substitute the person retaining ownership as the sole licensee if he/she is otherwise eligible to be a licensee. In all other respects the Licence would continue without change. We may require evidence to prove satisfactorily to us the change of ownership and/or eligibility before offering any such variation. Until we have varied the Licence both Joint Licensees will continue to be bound by the Licence.

6.4.4 Where the Licensee is a company, we must be notified of any change of directors, or of ownership of the company or change of control of it, with the provision of such information

regarding the change and/or the new shareholders and/or directors as we may reasonably request.

6.5 Death of a Licensee:

6.5.1 In the event of the death of a sole Licensee, this Licence will end automatically with his/her death. We will allow the Boat to remain on the allocated mooring for a reasonable time to allow arrangements to be made for it.

6.5.2 In the event of the death of a sole Licensee, a family member (meaning a parent, spouse, co-habiting partner (whether or not as a member of a registered civil partnership) or child of that person) may apply to us for a Licence for the Boat. The family member making the application must be eligible in his/her own right to apply for a Licence, including but not limited to the obligation to operate, and because he/she will operate, the relevant business or trade utilizing the Boat from the Harbour. Provided that application is made within 60 days of the death of the Licensee, we will consider that application in priority to any potential mooring holders on the waiting list. The offer and terms of such a Licence will be in accordance with our usual licensing practice at the relevant time, but, if granted, the Licence will be backdated to the date of the death of the previous Licensee.

6.6 Grandfather Rights:

6.6.1 No new names or shared ownership can be added to a licensed vessel that has grandfather rights on any tariff.

6.6.2 Upon the death of a licensee with Grandfather Rights, the tariff will revert to a standard tariff should a spouse or next of kin wish to apply for a license.

7. TERMINATION OF THE LICENCE

7.1 Without prejudice to any right or remedy available to us, we will be entitled to end this agreement immediately by notice in writing to you if:

- (a) you fail to pay in full any money owed to us by you, whether arising in connection with the Licence or otherwise, in any such case within 7 days of the date on which payment was due; or
- (b) if you commit any breach of this agreement and that breach:
 - (i) is a breach of paragraph 5 of these Licence Terms;
 - (ii) is a breach that cannot be put right; or
 - (iii) is a breach that can be put right but after we have notified you of the breach and what you must do to put it right, you have not done so within the time we have set in our discretion (but not less than 7 days) for you to do so.
- (c) we have agreed (in our discretion) to issue this Licence to you subject to a specific condition (whether because of a non-compliance during a previous licence period or otherwise) and given you a period of time to satisfy that specific condition, and you have failed satisfactorily to do so within the agreed timescale; or
- (d) any information or warranty given by you to us in or in connection with this Licence or any other licence issued by us to you was false or inaccurate in any respect when given, or has by reason of a change in circumstances, ceased to be accurate; or

- (e) any of the following events have occurred:
 - (i) you have failed to provide evidence satisfactory to us of your eligibility for a mooring or of your insurance, having been asked so to do;
 - (ii) you are no longer eligible to have a mooring in the Harbour;
 - (iii) you no longer own the Boat;
 - (iv) we have begun a prosecution of you under the Harbour Rules for breach(es) of those Rules; or
 - (v) you have committed a serious breach or persistent breaches (whether individually serious or not) of the Harbour Rules and we have given you warning that a prosecution will be considered by us if there are further breaches of such Rules by you; or
- (f) If you (or either/any of you in the case of Joint Licensees) are unable to pay your debts or become insolvent or bankrupt, or make or propose to make an arrangement or composition with your creditors.

7.2 Without prejudice to any right or remedy available to you, you will be entitled to end this agreement:

- (a) by giving not less than 30 days notice in writing to us at any time;
- (b) immediately by giving notice in writing to us if we:
 - (i) commit any breach of this agreement and that breach either cannot be put right, or, if it can be put right, but after you have notified us of the breach and what we must do to put it right, we have not done so within the time you have set in your discretion (but not less than 7 days) for us to do so.
 - (ii) cease or threaten to cease to carry on business, or are unable to pay our debts or become insolvent, or make or propose to make an arrangement or composition with our creditors.

7.3 Termination of the Licence (other than your termination for a breach by us) shall not entitle you to a refund of any money paid by you in respect of the mooring (subject only to paragraph 7.6 below).

7.4 The ending of this agreement does not affect any provision of it which is intended to continue after this agreement has ended, or to come into force when this agreement ends.

7.5 If we do not enforce this agreement or any part of it or we do not take action against you for breach, it does not mean that we cannot enforce that or any other provision or take action against you for a subsequent breach.

7.6 If you end this Licence by giving us notice under paragraph 7.2(a), you will be entitled to a refund of 50% of the Mooring Charges paid by you in respect of the allocated mooring for what should have been the remaining period of the Licence from the date of termination, calculated on a pro rata basis.

The entitlement to a refund will arise only where you have given us notice under paragraph 7.2(a) and you were not otherwise in breach of any provision of this Licence at the time of termination. We can set off any money that remains to be paid by you whether in respect of the Licence or otherwise against that refund.

8. REMOVAL OF THE BOAT AND LIEN

- 8.1 Subject to paragraph 8.2 below, when the Licence ends for whatever reason, you shall immediately remove your Boat and any tender from the allocated mooring.
- 8.2 Paragraph 8.1 above does not apply if a renewal of the Licence is granted by us to you in respect of your Boat to take effect immediately on conclusion of the previous Licence. If the new Licence relates to a new allocated mooring, you shall move your Boat to that new allocated mooring by the date that we specify.
- 8.3 If you fail to remove your Boat and/or tender at the end of this Licence, we shall be entitled to charge you at our overnight non-commercial visitor's rate for a boat of equivalent length on a similar type of mooring for each day between the end of this Licence and the actual date on which your Boat and/or tender is (or are both) removed from the Harbour. We may remove your Boat and/or tender from the Harbour and secure it elsewhere at your risk (excluding only for loss or damage caused by our negligence or breach of duty during that removal). We may charge you for all costs reasonably arising out of that removal and/or storage, whether those are our costs or charged to us by third parties.
- 8.4 If we have told you that a new mooring has been allocated to you for your Boat and you do not move it and any tender within 7 days after being required to do so (or such longer period as we may agree on your request), then, without prejudice and in addition to any other rights that we may have, we may at any time thereafter cause your Boat and/or tender to be moved to the new allocated mooring at your sole risk and expense (excluding only for loss or damage caused by our negligence or breach of duty during such removal) and shall be entitled to charge you for our services or those of third parties in doing so.
- 8.5 We reserve a general right ("a general lien") to detain and hold onto your Boat or other property (including any gear or cargo) pending payment by you of any sums due to us. If the Licence is terminated or expires whilst we are exercising this right of detention we shall be entitled to charge you at our overnight visitor's rate for a boat of equivalent length on a similar type of mooring for each day between termination or expiry of the Licence and the actual date of payment (or provision of security) by you and removal of the Boat and any tender and gear from the Harbour. You shall at any time be entitled to remove the Boat or other property upon providing proper security, for example a letter of guarantee from a bank or a cash deposit, sufficient to cover the debt with interest and where the debt is contested, a reasonable provision for our prospective legal costs.

9. COMMISSIONERS' GENERAL OBLIGATIONS/NO OTHER LIABILITY OF COMMISSIONERS

- 9.1 Subject to paragraph 9.3 below, by granting a Licence we agree to take all reasonable steps to maintain the pontoons or piles at which the allocated mooring is situated in a reasonably good state of repair and usable condition.
- 9.2 Neither we, nor any individual Commissioner or any of our authorised officers or other employees, will be liable for any claim whatsoever arising out of or in connection with a grant or refusal to grant any Licence or the implementation or enforcement of the provisions of the Licence.
- 9.3 We shall not be deemed by this Licence to have given to you any warranty or condition as to the maintenance by us of a sufficient (or any) depth of water at or at the approaches to the allocated mooring.
- 9.4 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 (but is not limited to) loss or damage to Boats, cargo, gear, equipment or other property left with it

for work or storage, and harm to persons entering the Harbour and/or using any facilities or equipment.

10. GENERAL PROVISIONS

10.1 Wherever a time is specified in these Licence Terms by which certain matters are required to be implemented, we may in our absolute discretion agree to an extension of that time in any particular case.

10.2 These Licence Terms are under constant review by us and may be changed at any time. We will notify you of any changes on our website and by posting a notice at the Harbour Office. We may also send you details by post or email, but shall not be obliged to do so.

10.3 Notices:

(a) All documents and other written communications to be sent to you may be sent at our option by email (where we have an email address for you as part of the Licence Information) or by ordinary post to your address shown on the Licence Information, unless you have given us notice under clause 6.2 of a change of address.

(b) All documents and other written communications to be sent to us or required to be delivered to the Harbour Office should be sent by email to info@yarmouth-harbour.co.uk or by ordinary post or delivered by hand to the Harbour Office marked for the attention of the Administration Department.

(c) Documents sent by email will only be treated as having been served if the email is acknowledged or replied to or if the sender has a "read receipt". An automated response to an email that the intended recipient is "out of office" is to be treated as proof that the email was not received.

(d) A notice or document received by email before 5.00pm on a normal office working day is to be treated as received on that day. If it is received after 5.00pm or not on a normal office working day it is to be treated as received on the next working day.

10.4 In the event of any conflict between the terms of this agreement and the Harbour Rules, this agreement shall prevail, but if a rule expands the terms of this agreement or vice versa, both shall apply.

10.5 A person who is not a party to this agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this agreement.

10.6 This agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English Courts.

10.7 None of your rights or obligations under the Licence may be assigned, transferred, sub-contracted or otherwise disposed of in whole or part without our prior written consent. We may assign, transfer, sub-contract or otherwise dispose of all or any of our rights or obligations under this agreement by giving notice to you, provided that such a disposal of rights or obligations does not affect any of your rights or remedies under the Licence.

11. INTERPRETATION

11.1 In this agreement, the expressions below have the respective meanings given to them (unless the context otherwise requires):

"Boat" means the boat specified in the Licence Information.

"Harbour" means the Inner Harbour and the Outer Harbour as defined in the General

Directions.

"**Harbour Dues**" means the harbour dues levied by the Commissioners as part of the payment required for the issue of a Licence.

"**Harbour Master**" means any person appointed as such by the Commissioners, and his deputies and assistants, and any other person or employee of the Commissioners for the time being authorised by the Commissioners to act, either generally or for a specific purpose, in the capacity of Harbour Master;

"**Harbour Rules**" means all General Directions, Special Directions, Byelaws and other rules and regulations of the Harbour as are in force from time to time.

"**Joint Licensees**" means two or more individuals conducting the relevant business using the Boat by way of a formal partnership;

"**Licence Period**" means the period from the licence commencement date specified in the Licence Information to the licence end date also specified in the Licence Information, or such shorter period as may occur by either you or us ending the Licence for any reason allowed under its terms.

"**Mooring Charge**" means the Harbour Dues and other mooring charges levied by the Commissioners for a Licence.

"**Total Overall Length**" means the overall length of the space occupied by the Boat, including any fore and aft projections, whether temporary or permanent.

"**Vessel**" has the meaning given in the General Directions.

"**We**" means the Yarmouth (Isle of Wight) Harbour Commissioners and includes any person authorised on behalf of the Commissioners.

"**You**" means the individual, company or partnership to whom a Licence is issued.

11.2 In these licence provisions, unless the context otherwise requires:

a reference to the General or Special Directions, a Byelaw or a statute or a Harbour Revision Order or other statutory instrument, or any provision of any of these, is to be construed as a reference to any amendment, re-enactment or replacement of the same as may have been made or may from time to time be in force;

a reference to a **person** includes a sole trader, a person or persons trading in partnership or a company and, as appropriate, that person's respective successors or assigns; and

words importing the plural shall include the singular and masculine shall include the feminine, and vice versa.

11.3 Headings are used only for convenience and will not affect interpretation.

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