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THE YARMOUTH (ISLE OF WIGHT) HARBOUR COMMISSIONERS

NON-COMMERCIAL MOORINGS

LICENCE APPLICATION PROCEDURE

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1. Interpretation

1.1 In this document, unless the context otherwise requires, the expressions below have the respective meanings given to them:

"**Allocated Mooring**" means the Mooring to which a Licence relates.

"**Applicant**" means a person who alone or as a Joint Family Applicant is applying:

- (a) for first registration on the Waiting List or to remain on it;
 - (b) for a Mooring Licence for the first time or by way of renewal or transmission,
- as the case may be,

and references to an "**application**" shall be construed accordingly.

"**Byelaws**" means The Yarmouth (Isle of Wight) Byelaws 1973.

"**Change of Control**" has the meaning given in paragraph 12.2 below.

"**Change of Joint Family Ownership**" has the meaning given in paragraph 13.2 below.

"**Commercial Moorings Licence**" means a licence issued under the Commissioners' Commercial Moorings Licence Application Procedure.

"**Commissioners**" means The Yarmouth (Isle of Wight) Harbour Commissioners and includes any person authorised on their behalf under paragraph 16 below.

"**Current Council Tax Bill**" means, in relation to an Isle of Wight address specified for the purposes of any application or notification of change or other circumstance under this document, a Council Tax bill which:

- (a) is addressed to:
 - (i) the relevant resident(s) at that address; or
 - (ii) a Family Member of that resident or one of those residents, being a Family Member who is also resident at that address;
- (b) shows the payment of Council Tax at that address; and
- (c) relates to the tax year of the Isle of Wight Council which expires next after the date of the relevant application or notification of change or other circumstance.

"**Eligible Resident**" means a person who fulfils at least one of the residency tests in paragraph 3.1(b) below.

"**Effective Date**" means 1st January 2007.

"**Existing Boat**" means a boat specified in a Vessel Particulars Form other than a Proposed Boat and includes a Licensed Boat.

"**Family Member**" means, in relation to any person, a person who is the parent, spouse, co-habiting partner (whether or not as a member of a registered civil partnership), son or daughter of that person.

"**Family Member Declaration**" means a declaration substantially in the form set out in Schedule 7 to this document or in such other form as the Commissioners may from time to time decide.

"**Harbour**" has the meaning given in clause 2(1) of the Yarmouth (Isle of Wight) Harbour

Revision Order 1971 and includes any part of it.

"Harbour Dues" means all dues, levies, fees and payments of whatever nature which the Commissioners shall from time to time decide to charge or proscribe in respect of Vessels entering the Harbour whether or not for the purpose of using Moorings or other facilities provided by the Commissioners.

"Invitation to Apply" means an invitation to apply for a Mooring Licence sent or to be sent in accordance with this document in such other form as the Commissioners may from time to time decide.

"Joint Family Applicant" means a husband and wife or two co-habiting partners (whether or not as members of a registered civil partnership), in each such case living at the same address.

"Joint Licensee" means a Joint Family Applicant to whom a Mooring Licence is issued jointly.

"Licence Application Form" means any one of the forms substantially as set out in Schedule 3 to this document or such other form(s) as the Commissioners may from time to time decide.

"Licence Period" means the Licence Period specified in the Mooring Licence as provided by paragraph 6.2 or 8.3(a)(1) below or such shorter period as may occur by reason of the Mooring Licence terminating.

"Licence Terms and Conditions" means the provisions of the document entitled "Terms and Conditions applicable to Non-Commercial Mooring Licences".

"Licensee" means a person (including, where applicable, Joint Licensee) to whom a Mooring Licence is issued.

"Licensed Boat" means a boat (other than a Proposed Boat) specified in a Mooring Licence.

"Mooring" means a mooring in the Harbour from time to time made available by the Commissioners for the purposes of Mooring Licences whether on a sole or shared basis.

"Mooring Charge" means a mooring charge determined by the Commissioners in accordance with this document.

"Mooring Licence" or **"Licence"** means a licence substantially in either of the forms set out in Schedule 4 to this document (or in such other form(s) as the Commissioners may from time to time decide) or, as the case may be, a licence substantially in that form (or other such form) that has been issued pursuant to this document.

"Moorings Lists" means the Transfer List and the Waiting List.

"Notification of Change Form" means the form substantially as set out in Schedule 5 to this document or such other form as the Commissioners may from time to time decide.

"Previous Licence" means a licence issued under the Previous Moorings Policy having 31st December 2006 as its expiration date.

"Previous Moorings Policy" means the non-commercial moorings policy of the Commissioners applicable to Previous Licences.

"Priority Moorings Date" means in relation to any person on a Moorings List the date referred to in sub-paragraph (i) or (ii) of paragraph 4.1(b) below.

"Proposed Boat" means a boat of the type specified in a Vessel Particulars Form that the person(s) lodging that Form with the Harbour Office then intend(s) or intended to acquire but has/have or had not done so as at the date of that Form.

"South River Mooring" means one of those Moorings located in the river to the south of the River Yar Boatyard moorings which is for the first time, with effect from or after the Effective Date, being made available by the Commissioners for the purposes of Mooring Licences.

"South River Mooring Licence" means a right granted by a third party to moor a boat at a South River Mooring for a fixed period of at least 12 months which expires or expired immediately prior to the Effective Date.

"South River Mooring Licensee" means a person who prior to the Effective Date holds or has held a South River Mooring Licence.

"Temporary Licence" means a Mooring Licence which relates to a Proposed Boat which is to be issued or has been issued under this document:

- (a) to a person on the Waiting List; or
- (b) to a Licensee under paragraph 12.5(b) or 12.7(b) below following a notification of change; or
- (c) to a Licensee upon renewal of a Temporary Licence referred to in sub-paragraph (b) above.

"Temporary Licensee" means a Licensee under a Temporary Licence.

"Transfer List" means the list kept by the Commissioners under paragraph 4.1(a)(i) below.

"Vessel" or **"boat"** has the meaning given to Vessel in the Byelaws.

"Vessel Particulars Form" means:

- (a) either of the forms substantially as set out in Schedule 2 to this document or such other form(s) as the Commissioners may from time to time decide; or
- (b) at any time in relation to a form that has been lodged with the Commissioners under any of the provisions of this document, that form or, where more than one such form has been lodged by the same person, the form that has most recently been so lodged.

"Waiting List" means the list kept by the Commissioners under paragraph 4.1(a)(ii) below.

"Waiting List Application Form" means the form substantially as set out in Schedule 1 to this document or such other form as the Commissioners may from time to time decide.

1.2 In this document, unless the context otherwise requires:

a reference to the **Byelaws** (or a Byelaw), general or specific **directions** (or a direction), a **statute** or a **harbour revision order** or **other statutory instrument** or any provision thereof 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;

except in the Schedules to this document, a reference to **this document** includes (1) the Schedules to this document and each provision of it and (2) this document, those provisions and those Schedules as the same may from time to time be modified by the Commissioners;

in the Schedules to this document, a reference to the **Licence Application Procedure** means this document without its Schedules;

a reference to the **main Harbour** means that part of the Harbour that is situated to the north of the bridge (and underneath it) and the road;

a reference to a **notification of change** means a notification of change under paragraph 10

below and whichever of paragraphs 11 to 13 below is applicable;

a reference to a **person** means an individual only and, as appropriate, that person's respective successors or assigns;

a reference to the **river** means that part of the Harbour that is situated to the south of the bridge and the road;

a reference to **termination** of or in relation to a Mooring Licence or to a Mooring Licence being terminated includes that Mooring Licence being terminated or not being, or ceasing to be, valid or being cancelled in any such case whether under the Licence Terms and Conditions or this document, and "**terminate**", "**terminating**" and other derivatives of that word shall be construed accordingly;

a reference to a **type of Mooring** means:

- (a) a walk-ashore Mooring;
- (b) a pile Mooring; or
- (c) a pontoon Mooring other than a walk-ashore Mooring,

in any such case whether in the main Harbour or the river;

a reference to a **walk-ashore Mooring** means a Mooring (whether in the main Harbour or the river) from which Licensees can walk to a quay or the shore;

words importing the plural shall include the singular and *vice versa*.

- 1.3 The headings to the paragraphs and sub-paragraphs in this document and descriptive comments in relation to any cross-referenced paragraph of the Licence Terms and Conditions are inserted for convenience only and do not affect the interpretation of this document or such cross-referenced paragraph.

2. **Number, location and type of Moorings**

- 2.1 **Available Moorings:** The number, location and type of non-commercial Moorings available for the purposes of this document will be as the Commissioners shall from time to time decide. The Commissioners may at any time decide that a Mooring shall be available as both a non-commercial Mooring and a commercial Mooring and, similarly, may at any time decide that such dual availability shall cease.

- 2.2 **No obligation to provide:** The Commissioners shall be under no obligation to provide mooring or berthing facilities for non-commercial use but, in the event that they do so, any such facility shall be provided only on the terms and conditions of this document and the Licence Terms and Conditions.

3. **Eligibility for a Mooring Licence**

- 3.1 **Eligibility conditions:** A person is eligible to apply for or renew a Mooring Licence if, and only if, that person fulfils the following conditions to the satisfaction of the Commissioners:

- (a) the person has applied and been accepted for initial registration on the Waiting List under paragraph 4 below unless registration is not required by reason of paragraph 4.2(b) below; and
- (b) the person fulfils at least one of the following residency tests:
 - (i) the person is and has for at least 12 months immediately prior to the date of the Licence Application Form been a resident on the Isle of Wight within a radius of seven miles from the Church of St. James in Yarmouth, Isle of Wight; or

- (ii) the person does not fulfil the test at sub-paragraph (i) above but is or was:
 - (1) the holder of a Previous Licence; and
 - (2) resident on the Isle of Wight at the address specified on the Previous Licence;and
at the date of the relevant application continues to be resident on the Isle of Wight; or
- (iii) the person does not fulfil the test at sub-paragraph (i) above but is or was:
 - (1) the holder of a Previous Licence; and
 - (2) not resident on the Isle of Wight; or
- (iv) the person does not fulfil the test at sub-paragraph (i) above but is or was:
 - (1) a South River Mooring Licensee; and
 - (2) at the date of the relevant Licence application is resident at the address specified in the first Licence Application Form sent by that person and, in the case of a Licence renewal, remains resident at that address.

3.2 **Individuals only:** A Licence will only be issued to an Eligible Resident who is:

- (a) a single-named individual; or
- (b) a Joint Family Applicant,

and, accordingly, only Eligible Residents who are single-named individuals or Joint Family Applicants may apply to be registered on the Waiting List under paragraph 4 below or apply for a Mooring Licence.

3.3 **Council Tax Bill requirement:** Persons who are required by or in connection with a Licence Application Form or notification of change or other circumstance to provide a copy of a Current Council Tax Bill and, where applicable, Family Member Declaration in support of their application for a Licence or that notification of change or other circumstance but fail to do so will not be accepted as fulfilling a residency test.

3.4 **One address, one Licence:** Not more than one Mooring Licence may be held at any one address notwithstanding that more than one Eligible Resident may reside at that address. In the case of holders of Previous Licences or South River Mooring Licensees who were resident at the same address, this restriction shall not apply as regards Mooring Licences held at the same address by the Licensee concerned but only for so long as that Licensee remains resident at that address or another address that fulfils the residency test at paragraph 3.1(b)(i) above.

3.5 **No holding of more than one Licence:** No person may hold more than one Mooring Licence. If any person has held more than one Previous Licence or South River Mooring Licence, this restriction shall not apply, but the disapplication of this restriction as regards any Mooring Licence issued to the holder of a Previous Licence or South River Mooring Licensee shall cease to apply upon that holder ceasing to own, or own a majority share in, the Licensed Boat specified in that Licence. In that event, that Licence will automatically terminate and renewal of that Licence will not be permitted.

3.6 **Commercial Licence permitted:** For the avoidance of doubt, nothing in paragraph 3.4 or 3.5 above shall prevent another Licence being held at the same address or a Licensee from holding another Licence if that other Licence is a Commercial Moorings Licence.

4. **Transfer and waiting lists**

4.1 ***Lists and priorities:***

- (a) The Commissioners keep the following lists for persons wishing to apply for a Mooring Licence relating to any particular type of Mooring:
 - (i) a transfer list for the purposes of paragraph 4.10 of the Licence Terms and Conditions; and
 - (ii) a waiting list.
- (b) Persons applying to be placed on a Moorings List will be put on the relevant Moorings List on a first come first served basis in the order in which they apply determined by reference to:
 - (i) in the case of a person on the Waiting List, the date of application by that person for first registration on the Waiting List;
 - (ii) in the case of a person on the Transfer List, the date of application by that person to be placed upon the Transfer List under paragraph 4.10 of the Licence Terms and Conditions.

4.2 ***Requirement to register on the Waiting List:***

- (a) Subject to sub-paragraph (b) of this paragraph 4.2, persons who wish to be issued with, and do not hold, a Mooring Licence must in the first instance apply to the Harbour Office for an application to register on the Waiting List in accordance with paragraph 4.6 below. Registration on the Waiting List, whenever effected and whether following an application or by operation of any of the provisions of this document, will expire on the following 31st December.
- (b) The requirement to register on the Waiting List does not apply to a person who is:
 - (i) the holder of a Previous Licence; or
 - (ii) a South River Mooring Licensee.

4.3 ***No double registration:*** No person on the Waiting List may apply to be registered on the Waiting List again nor may any Licensee apply to be registered on the Waiting List. A Joint Family Applicant that includes a person on the Waiting List or a Licensee, and *vice versa*, will be regarded as the same person for this purpose.

4.4 ***Fees:*** An initial registration fee will be payable at the time of first registration on the Waiting List and thereafter an annual registration fee will be payable to remain on the Waiting List. These fees are non-returnable in any circumstances nor will the annual registration fee be subject to any time-apportioned reduction. Each of the initial registration fee and the annual registration fee will amount to £35 as from the Effective Date. The amounts of the fees are subject to change by the Commissioners at any time.

4.5 ***Transfer List (restrictions for South River Mooring Licensees):*** A South River Mooring Licensee:

- (a) to whom a Licence has been issued following an Invitation to Apply under paragraph 7.5 below; and
- (b) who has not been placed on the Transfer List by reason of an application previously made under this paragraph 4.5;

may apply to be placed on the Transfer List for a change in Mooring only if that South River Mooring Licensee has been accepted by the Commissioners as fulfilling the residency test at paragraph 3.1(b)(i) above either:

- (i) in connection with the issue of that Mooring Licence; or
- (ii) following a duly completed and signed Notification of Change Form under paragraph 11 below showing a change of address to an address which fulfils that residency test.

4.6 **Waiting List applications:**

- (a) Persons who wish to apply to be registered on the Waiting List or to maintain their registration must notify the Harbour Office to that effect. While the Commissioners may send renewal reminders, they do not undertake to do so.
- (b) A person who wishes to apply to be or to remain registered on the Waiting List need not specify any Existing Boat or Proposed Boat at the time of application. However, such person will not receive an Invitation to Apply for a Mooring Licence unless and until that person has duly completed and signed a Vessel Particulars Form (either in respect of an Existing Boat or a Proposed Boat) and lodged it with the Harbour Office. Nevertheless, a person wishing to apply to be registered on the Waiting List for the first time or to remain registered on the Waiting List must state in the Waiting List Application Form whether the person:
 - (i) wishes to register an Existing Boat;
 - (ii) wishes to register a Proposed Boat;
 - (iii) does not own a boat but intends to acquire a boat of a type as yet undecided.
- (c) Applicants will be sent:
 - (i) in the case of initial registration, an up-to-date copy of each of this document (omitting those Schedules to it as are not of relevance to registration on the Waiting List) and the Licence Terms and Conditions;
 - (ii) in the case of registration renewal, an up-to-date copy of each of this document (omitting those Schedules to it as are not of relevance to registration on the Waiting List) and the Licence Terms and Conditions but only if there have been any changes made to the copies sent under sub-paragraph (i) of this sub-paragraph (c);
 - (iii) information as to the respective amounts of Waiting List registration fees, Harbour Dues and Mooring Charges then payable; and
 - (iv) an applicable Waiting List Application Form and, if sub-paragraph (b)(i) or (ii) of this paragraph 4.6 applies, an appropriate Vessel Particulars Form.
- (d) A person wishing to be registered on the Waiting List for the first time must complete and sign a Waiting List Application Form and lodge it at the Harbour Office together with payment of the initial registration fee.
- (e) A person wishing to remain registered on the Waiting List must send to the Commissioners a written request to do so unless that person wishes to notify a change in the information provided in the previously lodged Waiting List Application Form. In that event, the person concerned must complete and sign a new Waiting List Application Form. Documents required under this sub-paragraph (e) must be lodged at the Harbour Office by 31st January each year together with payment of the annual registration fee. Failure to do so by that time will result in removal from the Waiting List.

4.7 **One boat registration:** An Applicant may not apply to be registered on the Waiting List in respect of more than one boat.

4.8 **Notification of changes:** Any change of details relating to a registration on the Waiting List must be notified to the Harbour Office in accordance with paragraph 10 below. Persons who

no longer wish to remain on the Transfer List or Waiting List are requested to notify the Harbour Office accordingly.

4.9 ***Inaccurate information:*** The information provided in the Waiting List Application Form and any Vessel Particulars Form and any applicable changed information provided pursuant to paragraph 10 below will not be verified for Waiting List purposes but will simply be recorded on the Waiting List. However, if such information is found to be inaccurate, the Commissioners may:

- (a) refuse the Applicant's request to be registered or to remain registered on the Waiting List; or
- (b) relegate the Applicant concerned to the bottom of the Waiting List; or
- (c) remove that Applicant from the Waiting List without the possibility of that Applicant re-applying at all or for such period, if any, as the Commissioners may specify.

4.10 ***Three invitations only:*** A person to whom an Invitation to Apply for a Mooring Licence is sent three times under paragraph 7 below but who does not apply for that Licence or who does apply but fails to comply with the requirements for obtaining that Licence or is refused a Licence under paragraph 9 below will be removed from the applicable Moorings List. If a person is removed from a Moorings List in these circumstances and wishes to return to or be re-registered on that Moorings List, the person concerned will be required:

- (i) in the case of a person on the Waiting List, to apply to be placed on the Waiting List as a first registrant;
- (ii) in the case of a person on the Transfer List, to re-apply to be placed upon the Transfer List under paragraph 4.10 of the Licence Terms and Conditions;

and that person's Moorings Priority Date will be re-determined accordingly.

5. Harbour dues, mooring and other charges

5.1 *Dues and charges payable:*

- (a) Harbour Dues and Mooring Charges are payable to the Commissioners by Applicants for Mooring Licences whether relating to an Existing Boat or a Proposed Boat and will be decided and calculated at the times and on the bases set out in the following provisions of this paragraph 5 or at such other times or on such other bases as the Commissioners may from time to time determine.
- (b) The Harbour Dues at any time will be the per metre rate decided by the Commissioners to apply generally at that time to Vessels using the Harbour.
- (c) The amounts of the Mooring Charges will be decided annually by the Commissioners prior to the commencement of each calendar year and will take effect as from 1st January in that year for the period of 12 months commencing on that 1st January.

5.2 ***Calculation of dues and charges:*** Harbour Dues and Mooring Charges applicable to Mooring Licences will be calculated as follows:

- (a) a per metre rate of Mooring Charge will be established for each type of Mooring;
- (b) a minimum length basis of Mooring Charge may be fixed for any type of Mooring other than a pile Mooring;
- (c) except in the case of Temporary Licences (to which paragraph 5.4 below applies), the per metre rates of Harbour Dues and applicable Mooring Charge will be applied to the overall length (expressed in metres) of the Existing Boat (including bowsprits,

davits and other extensions) or, if applicable and if longer, the minimum length basis fixed under sub-paragraph (b) of this paragraph 5.2 for the type of Mooring concerned;

- (d) in the case of multihulls, the Mooring Charge will be increased by 50 per cent. (or such other percentage as the Commissioners may from time to time decide).

5.3 ***Apportionment of dues and charges:*** If a Mooring Licence (other than a Temporary Licence) is to be issued other than on 1st January in any year, the Harbour Dues and Mooring Charge for the year in question will be apportioned on a day basis to the period from the date of issue until the next following 31st December (both dates inclusive).

5.4 ***Provisions applicable to Temporary Licences:***

- (a) If a new Temporary Licence is to be issued to a person on the Waiting List, the Harbour Dues and Mooring Charge for the Licence Period under the Temporary Licence will be those applicable to the Allocated Mooring under paragraphs 5.1 and 5.2 above, apportioned on a day basis to that Licence Period.
- (b) The Harbour Dues and Mooring Charge for the Licence Period under a Temporary Licence issued under paragraph 12.5(b) or 12.7(b) below will be the same as applied in relation to the Licensed Boat and Allocated Mooring under the Mooring Licence that terminated under those paragraphs, apportioned on a day basis to that Licence Period. Accordingly, no further or other Harbour Dues and Mooring Charge will be payable by the Licensee under such a Temporary Licence.
- (c) If an Invitation to Apply for a new Temporary Licence is to be sent upon renewal of a Temporary Licence issued under paragraph 12.5(b) or 12.7(b) below, the rates of Harbour Dues and Mooring Charges for the Licence Period under the new Temporary Licence will be those applicable to the Allocated Mooring under paragraphs 5.1 and 5.2 above, apportioned on a day basis to that Licence Period. If no Vessel Particulars Form in respect of a Proposed Boat had been lodged by the Licensee, the overall length (expressed in metres) of the Licensed Boat to which the terminated Mooring Licence previously held by the Licensee related will be the boat length for the purpose of paragraph 5.2(c) above; otherwise the overall length of the Proposed Boat (expressed in metres) will be the boat length for that purpose.

5.5 ***Dues and charges upon issue of a new Licence to holders of Temporary Licences:***

- (a) The Harbour Dues and Mooring Charges payable for a new Mooring Licence issued or to be issued to the holder of a Temporary Licence pursuant to paragraph 8.3 below will be calculated separately for:
 - (i) that part of the Licence Period under the new Mooring Licence that is equivalent to the unexpired portion of the Licence Period under the Temporary Licence (the "**first period**"); and
 - (ii) the remainder of the Licence Period under the new Mooring Licence (the "**second period**").
- (b) The Harbour Dues and Mooring Charge applicable to the first period will be whichever is the higher of:
 - (i) those calculated under paragraph 5.2(c) above for the new Mooring Licence; and
 - (ii) those calculated under paragraph 5.4 above for the Temporary Licence concerned, apportioned on a day basis to the first period.
- (c) The Harbour Dues and Mooring Charge applicable to the second period will be those

calculated under paragraph 5.2(c) above for the new Licence, apportioned on a day basis to the second period.

5.6 ***Time for payment:*** Except as provided in paragraph 8.3(b) below, Harbour Dues and Mooring Charges are payable in full at the time of application for the Licence.

5.7 ***Other charges:*** Other charges are levied by the Commissioners for other services or activities provided or carried out by them. Whenever a Licensee is required to pay for any such other service or activity, the charge will be the rate generally charged at the relevant time by the Commissioners for the service or activity in question.

6. **General provisions applicable to Mooring Licences**

6.1 ***Invitations to apply:*** Invitations to apply for Mooring Licences will only be sent to persons who have duly completed and signed a Vessel Particulars Form (whether in respect of an Existing Boat or a Proposed Boat) and lodged it with the Harbour Office, and will relate only to the Existing Boat or Proposed Boat specified in that Form. A Vessel Particulars Form may be lodged at the Harbour Office at any time. Changes to the information contained in any Vessel Particulars Form must be notified in accordance with paragraph 10 below.

6.2 ***Licence Periods:***

(a) A Mooring Licence (other than a Temporary Licence), if and when issued, will be for a period of 12 months commencing 1st January in each year except in the case of a Mooring Licence (other than a Temporary Licence) issued for the first time at any other time of the year in which case the period of the Licence will be from the date of issue until the next following 31st December.

(b) The period of a new Temporary Licence issued to a person on the Waiting List will be 180 days.

(c) The period of a Temporary Licence issued under paragraph 12.5(b) or 12.7(b) below will be as specified in those paragraphs.

(d) The period of a Temporary Licence issued upon renewal of a Temporary Licence issued under paragraph 12.5(b) or 12.7(b) below will be as determined under paragraph 12.8(b) below.

6.3 ***Licence Terms and Conditions:*** Mooring Licences are issued upon and subject to the Licence Terms and Conditions.

7. **Invitations to Apply for Mooring Licences**

7.1 ***General:*** Invitations to Apply for a Mooring Licence in respect of a Mooring that becomes available will be sent in accordance with the following provisions of this paragraph 7 to persons on the Moorings Lists in an order of priorities determined by reference to their Priority Moorings Date.

7.2 ***Invitations to persons on the Moorings Lists:***

(a) When a Mooring of any type becomes available and there is at least one person on the Moorings Lists in respect of that type of Mooring, an Invitation to Apply for a Mooring Licence will be sent to such person (or the person whose Priority Moorings Date is the earliest in time if more than one) but only if:

(i) the Commissioners consider that the relevant boat is suitable for that Mooring; and

(ii) in the case of a person on the Waiting List, such person has lodged at the Harbour Office a duly completed and signed Vessel Particulars Form relating

to either an Existing Boat or a Proposed Boat.

- (b) If there is more than one person on the Moorings Lists and for whatever reason no Licence is issued relating to the available Mooring under sub-paragraph (a) of this paragraph 7.2 (whether the condition(s) in that sub-paragraph (a) is (are) not fulfilled as regards (A) the person whose Priority Moorings Date is the earliest in time or (B) that person's boat or otherwise), an Invitation to Apply for the Mooring will be issued to the person whose Priority Moorings Date is the next earliest in time in respect of that type of Mooring, and so on and so forth until a person on a Moorings List for that type of Mooring is identified as regards whom the suitability condition is fulfilled.
- (c) A Licensee on the Transfer List who did not fulfil the condition in sub-paragraph (a) of this paragraph 7.2 will remain on the Transfer List in the same position.

7.3 ***Moorings Lists – persons not issued with a Licence:***

- (a) A person on a Moorings List who was not sent an Invitation to Apply for a Mooring Licence under paragraph 7.2 above or who was sent an Invitation to Apply but did not apply for a Licence in response to that Invitation or, having applied, was not for any reason issued with a Mooring Licence will, subject to paragraph 4.10 above, remain on the that Moorings List with the same Priority Moorings Date.
- (b) If the Vessel Particulars Form referred to in sub-paragraph (a)(ii) of paragraph 7.2 above relates to a Proposed Boat, the type of Licence specified in the Invitation to Apply will be a Temporary Licence relating to that Proposed Boat. If that Vessel Particulars Form relates to an Existing Boat, the Invitation to Apply will be for a Mooring Licence relating to that Existing Boat.
- (c) A person on the Waiting List who was not sent an Invitation to Apply for a Mooring Licence or who was sent an Invitation to Apply but did not apply for a Licence in response to that Invitation or, having applied, was not for any reason issued with a Mooring Licence will, subject to paragraph 4.10 above, remain on the Waiting List in the same position.
- (d) If the Vessel Particulars Form referred to in sub-paragraph (a)(i) of this paragraph 7.3 relates to a Proposed Boat, the type of Licence specified in the Invitation to Apply will be a Temporary Licence relating to that Proposed Boat. If that Vessel Particulars Form relates to an Existing Boat, the Invitation to Apply will be for a Mooring Licence relating to that Existing Boat.

7.4 ***Invitations to holders of Previous Licences:*** A holder of a Previous Licence who wishes to obtain a Mooring Licence will be required to apply for that Licence as a new Applicant or Joint Family Applicant under the terms of this document. Invitations to Apply for a Mooring Licence under this document will be sent to each such holder not later than 1st December 2006.

7.5 ***Invitations to South River Mooring Licensees:***

- (a) An Invitation to Apply for a Mooring Licence will be sent to each South River Mooring Licensee relating to the same South River Mooring as was being used by the South River Mooring Licensee at the time of the Invitation.
- (b) Applications for Mooring Licences from South River Mooring Licensees relating to other Moorings will not be accepted. A South River Mooring Licensee who wishes to apply for a Mooring Licence elsewhere in the Harbour must apply to be registered on the Transfer List in accordance with paragraph 4.5 above.

7.6 ***Invitations to apply for Licence renewal:*** Invitations to Apply for the renewal of Mooring Licences under this document (including renewal of a Temporary Licence) will be sent to each Licensee not later than 1st December each year.

7.7 ***Invitation documents, information and amounts of dues and charges:***

- (a) A person who is sent an Invitation to Apply for a Mooring Licence will also be sent the following documents and information:
 - (i) in the case of an Invitation to Apply for a Licence sent to the holder of a Previous Licence or a South River Mooring Licensee for the first time, an up-to-date copy of this document (omitting those Schedules to it as are not of relevance to the application) and the Licence Terms and Conditions;
 - (ii) in the case of any other Invitation to Apply for a Licence sent to any person for the first time or upon renewal, an up-to-date copy of this document (omitting those Schedules to it as are not of relevance to the application) and the Licence Terms and Conditions but only if there has been a change from the version previously sent to that person;
 - (iii) subject to paragraph (b) of this paragraph 7.7, the location and type of the Mooring to apply to the Licence;
 - (iv) the amounts of Harbour Dues and Mooring Charge; and
 - (v) an applicable Licence Application Form.
- (b) In the case of a Licence renewal, while the location and type of the Allocated Mooring will normally be the same location as the Allocated Mooring to which the previously held Licence related, there is no guarantee that this will be the case and the Commissioners reserve the right to specify a Mooring in a different location or of a different type. If this occurs, the Invitation to Apply sent under paragraph (a) of this paragraph 7.7 will specify the change.

8. **Applications for and issue of Licences**

8.1 ***Application requirements:***

- (a) Except as provided in paragraph 14 below, applications for a Mooring Licence may only be made in response to an Invitation to Apply. If a tender is to be used, notification to the Harbour Office must be given in accordance with paragraph 8.5 below.
- (b) A person wishing to apply for a Mooring Licence for the first time under this document or to renew a Mooring Licence (including a Previous Licence) must complete and sign the applicable Licence Application Form sent under paragraph 7.7(a)(v) above and lodge it at the Harbour Office within 30 days after the date of the Invitation to Apply, or by the next following 31st January in the case of a renewal, together with:
 - (i) a copy of a Current Council Tax Bill (and, if applicable, duly completed and signed Family Member Declaration) as required by the Licence Application Form;
 - (ii) payment in full of the amount of Harbour Dues and Mooring Charge as notified.
- (c) Failure to comply with the foregoing provisions of this paragraph 8.1 within the time specified will result in the application not being considered and the Licence not being issued or renewed, as the case may be. In that event, paragraph 10 (*Removal of the Licensed Boat and lien*) of the Licence Terms and Conditions shall apply and the Mooring shall become available for the purposes of paragraph 7.1 above.

8.2 ***Issue of Mooring Licence and identification disc:***

- (a) Unless a notice of refusal is given under paragraph 9 below or paragraph 8.1(c) above applies, a Mooring Licence will be issued in the name of the Applicant (or names of a Joint Family Applicant) and sent to the Applicant or Joint Family Applicant.
- (b) Renewal of a Mooring Licence will be effected by means of the issue of a new Licence.
- (c) If the type of Licence specified in the Invitation to Apply was for a Temporary Licence relating to a Proposed Boat, the Licence issued under sub-paragraph (a) of this paragraph 8.2 will be a Temporary Licence relating to that Proposed Boat. If the type of Licence specified in the Invitation to Apply was for a Mooring Licence relating to an Existing Boat, the Licence issued under that sub-paragraph will be a Mooring Licence relating to that Existing Boat.
- (d) All persons issued with a Mooring Licence (other than a Temporary Licence) will also receive an identification disc which must be displayed in a prominent position on the Licensed Boat. If notification of the use of a tender is given in accordance with paragraph 8.5 below, a separate identification disc for the tender will be sent which must be displayed in a prominent position on the tender. Each disc will be numbered and form part of the reference system for the Licensed Boat (and tender, if applicable) in the Harbour.
- (e) In the case of a Licence renewal and the issue of a new Licence following a notification of change or other circumstance, the old Licence and any identification disc should be destroyed as they will have ceased to be of any effect.

8.3 ***Issue of a new Licence (Existing Boat) to Temporary Licensee:***

- (a) If a Vessel Particulars Form in respect of a new or replacement boat is lodged at the Harbour Office by a Temporary Licensee, then, provided that the Commissioners consider that:
 - (i) based on the information in that Vessel Particulars Form and/or such other information as may be in the possession of the Commissioners, the Licensee or Joint Licensee alone or together is the owner, or the owner of a majority share in, the new or replacement Existing Boat as specified in the Vessel Particulars Form; and
 - (ii) the new or replacement Existing Boat is suitable for the Allocated Mooring to which the Temporary Licence relates,

the Commissioners will send to the Temporary Licensee concerned:

- (1) a new Mooring Licence relating to the same Allocated Mooring and the new or replacement Existing Boat with a Licence Period that commences on the date of issue of the new Licence and expires on the next following 31st December (such new Licence to replace the Temporary Licence which will automatically terminate);
 - (2) an identification disc for the new or replacement boat;
 - (3) a statement or invoice showing the calculation under paragraph 5.5 above of the Harbour Dues and Commercial Mooring Charge applicable to the issue of the new Licence and whether any additional amount is due and payable for the issue of the new Licence together with a payment form giving the option to make payment by one of the methods provided in paragraph 15 below.
- (b) The amount due shown in a statement sent under sub-paragraph (a)(3) of this paragraph 8.3 is payable by the Licensee in full within 14 days.

8.4 **No refunds:** Notwithstanding that the calculation under paragraph 5.5 above shows that the Harbour Dues and/or Mooring Charge would have been less for the new or replacement boat, no refund of Harbour Dues or Mooring Charge will be made.

8.5 **Tenders:**

- (a) Each Licensee (other than the holder of a Temporary Licence or a Licence that relates to a walk-ashore Mooring) shall be entitled without payment of any further or additional Harbour Dues or Mooring Charge to the use of one tender in connection with the Licensed Boat for the duration of the Licence Period. A tender must not exceed 4 metres in length (ignoring any outboard).
- (b) A Licensee wishing to use a tender must notify the Harbour Office by delivering a Vessel Particulars Form giving details of the tender as shown on the Form. Any change of tender should be similarly notified by delivering a new Vessel Particulars Form.
- (c) The Form giving details of a tender may be the same Form as that which gives the details of the Licensed Boat or a separate Form. If a separate Form is used, that Form must also give the name of the Licensed Boat and must be signed by the same person(s) as signed the Vessel Particulars Form that specified the Licensed Boat.

9. **Refusals, termination and appeals**

9.1 **Non-compliance (Licence Terms):**

- (a) In the case of a Licensee applying to renew a Licence, the Commissioners may refuse to issue a new Licence unless the Licensee has in all respects complied with the previously issued Licence and the Licence Terms and Conditions or, if the Licensee held a Previous Licence, with the Previous Moorings Policy and the Previous Licence.
- (b) The Commissioners may agree to the issue of the new Licence notwithstanding any such non-compliance if the non-compliance is, in the opinion of the Commissioners, capable of remedy and steps satisfactory to the Commissioners are being taken by the Licensee to ensure that such non-compliance will be remedied within an agreed timescale.

9.2 **Non-compliance (conditions for obtaining a Licence):** If the Commissioners consider that, based on the information in a Licence Application Form and any other information supplied in connection with a Licence application that:

- (a) the Applicant or Joint Family Applicant is not or, in the case of a Licence renewal, has ceased to be an Eligible Resident; or
- (b) except in the case of an application for a Temporary Licence, the Applicant or Joint Family Applicant alone or together is not or has ceased to be the owner, or the owner of a majority share in, the Existing Boat as specified in the Vessel Particulars Form; or
- (c) the Commissioners are entitled to terminate, or have terminated, any Moorings Licence, Commercial Moorings Licence or other type of licence previously issued to the Applicant or, in the case of a Joint Family Applicant, to any of the persons who constitute the Joint Family Applicant or are entitled to refuse or have previously refused to issue any such Moorings Licence, Commercial Moorings Licence or other type of licence to the Applicant or any such person (whether on first application, renewal or otherwise),

the Commissioners shall be entitled to refuse to issue a Licence to that Applicant or Joint Family Applicant or to renew the Licence concerned.

9.3 ***False declarations:*** If a false declaration is made in any Licence Application Form or other document lodged at the Harbour Office in connection with any Licence application or a notification of change or other circumstance, the Commissioners shall be entitled to refuse to issue the Licence or, in the case of the renewal of a Licence, refuse to renew it. The Commissioners may also refuse to permit the person concerned returning to the Waiting List at any time or for such period as they may decide.

9.4 ***Notice of and reasons for refusals or termination:***

- (a) If the issue or renewal of a Licence is refused under any of the provisions of this document, written notice of refusal will be given to the Applicant and any payment of Harbour Dues and/or Mooring Charge made will be refunded.
- (b) If the issue of a Licence or the renewal of a Licence is refused or a Licence is terminated under any of the provisions of this document or the Licence Terms and Conditions, the reasons for the refusal or termination will be given.

9.5 ***Appeals:***

- (a) A person who feels aggrieved by a refusal to issue, or a termination of, a Licence or to renew a Licence may appeal to a Chairman's committee comprising the Chairman of the Commissioners and two other Commissioners (excluding the Chief Executive/Harbour Master or separate Chief Executive if those offices are at any time held by separate persons). An appeal must be made in writing stating the reasons for it and must be lodged at the Harbour Office within 14 days of the date of refusal or termination.
- (b) The appellant may be asked by the Chairman, and the appellant has the right, to appear before the committee to argue the appellant's case.
- (c) The decision of the committee is final.

9.6 ***Removal of boat:*** If a Licence (other than a Temporary Licence) is terminated or terminates under any of the provisions of this document, paragraph 10 (*Removal of the Licensed Boat and lien*) of the Licence Terms and Conditions shall apply.

10. **Changes in circumstances, boat or information supplied: general provisions**

10.1 ***General requirement to notify changes:*** Subject to paragraph 10.2 below, any change in the information supplied in, or in connection with, any Waiting List registration or Licence (whether a change of address, change or acquisition of a boat or other Change of Control or Change of Joint Family Ownership of a Licensed Boat or otherwise) or the death of a Licensee (or one of a Joint Licensee) must be notified to the Commissioners as soon as possible after the change or other circumstance occurs. At the same time, a request should be made for a Notification of Change Form, Form set in Schedule 6 and other Forms according to the nature of the change or other circumstance being notified under paragraph 10.5, 11, 12, 13 or 14 below, as applicable.

10.2 ***Notification not required:*** A notification of change by a person in connection with the renewal of registration on the Waiting List is not required pursuant to this paragraph 10 if that person completes, signs and lodges a new Waiting List Application Form under paragraph 4.6(e) above instead.

10.3 ***Mooring no longer required and refunds:***

- (a) If prior to end of the Licence Period under any Mooring Licence, the Licensee no longer requires the Mooring specified in that Licence, instead of lodging a Notification of Change Form, the Licensee may in writing notify the Harbour Commissioners to that effect (such notification to specify the date as from which the Licence is no longer

required if that date is sooner than the end of the existing Licence). In that case, the Mooring Licence will remain in force until the end of the Licence Period or it will automatically terminate on the date specified in such notification, if sooner.

- (b) If a notification is given under sub-paragraph (a) of this paragraph 10.3 by a Licensee under a Mooring Licence and
- (i) that notification specifies a date which is on or before 30th September in the Licence Period;
 - (ii) the Licensee vacates the Allocated Mooring on the date so specified or in any event on or before 30th September in the Licence Period; and
 - (iii) a Mooring Licence is issued by the Commissioners in respect of the same Allocated Mooring to another Applicant under the procedures in this document for the whole or part of the period (the "**refund period**") from the date so specified (or actual date of vacation by the Licensee of the Allocated Mooring, if later) until the end of the original Licence Period of the terminated Licence,

the Licensee giving the notification shall be entitled (subject to paragraph (c) of this paragraph 10.3) to a refund of the Harbour Dues and Mooring Charge paid by that Licensee by reference to the refund period equal to whichever is the lower of:

- (A) the amount so paid by that Licensee; and
- (B) the amount of Harbour Dues and Mooring Charge paid in respect of the new Licence by reference to the refund period.

Amounts referable to the refund period specified above will be calculated by means of an apportionment of the amount on a day basis to the refund period.

- (c) The Commissioners shall be entitled to deduct from any refund due under this sub-paragraph (b) a service charge based on the amount of administrative work involved in implementing the procedures referred to in sub-paragraph (b)(iii) of this paragraph 10.3 and the refund process. In that event, a statement showing the amount of the service charge (including any applicable value added tax) will be sent to the Licensee.
- (d) Any refund owing, less deduction (if any) made under sub-paragraph (c) of this paragraph 10.3, will be paid within 14 days of the date of issue of the new Licence. No refund of Harbour Dues or Mooring Charge will be made except as provided in this paragraph 10.3.
- (e) No Invitation to Apply for renewal of a Mooring Licence will be sent to a Licensee giving a notification under sub-paragraph (a) of this paragraph 10.3 relating to a Licensed Boat and the Licensee will not be permitted to re-apply for a Mooring Licence. The Licensee may, however, apply for registration on the Waiting List as a new registrant at any time.

10.4 ***Despatch of Forms:*** A Notification of Change Form and other Forms will be sent to the person notifying the change or other circumstance as requested and must be duly completed, signed and lodged at the Harbour Office accompanied by the other applicable forms and documents required by paragraph 10.5, 11, 12, 13 or 14 below as soon as possible and in event by any time limit specified in the applicable paragraph(s).

10.5 ***Unspecific changes:*** In the case of a change or circumstance other than as mentioned in paragraph 11, 12, 13 or 14 below, the Notification of Change Form should be accompanied by a separate note or memorandum giving brief details of the change.

11. **Change of address**

11.1 ***Requirement to notify:***

- (a) A Notification of Change Form under this paragraph 11 is required whenever there has been a change of address of a person on the Waiting List or Transfer List or a Licensee.
- (b) The Notification of Change Form must be accompanied by:
 - (i) a copy of a Current Council Tax Bill relating to the new address; or
 - (ii) if a Current Council Tax Bill relating to the new address is not then available, an undertaking to deliver a copy of a Current Council Tax Bill when issued; and
 - (iii) in either such case, a Family Member Declaration, if applicable.
- (c) If an undertaking to deliver a Current Council Tax Bill is given, the Licensee is expected to notify the Isle of Wight Council of the new address as soon as possible and must deliver a copy of the Current Council Tax Bill to the Commissioners for verification promptly after it has been received by the Licensee. The Commissioners may terminate the Licence of a Licensee who fails to comply with this sub-paragraph (c).

11.2 ***Consequences of residency non-compliance:*** If there has been a change of address or other change referred to in paragraph 10.5 above (whether or not notified to the Commissioners) and the Commissioners are of the opinion that the person on the Waiting List or the Licensee or one of a Joint Licensee concerned is not or has ceased to be an Eligible Resident, the Commissioners may by notice in writing to the person concerned:

- (a) remove that person from the Waiting List or Transfer List; or

- (b) in the case of a Licensee or one of a Joint Licensee:
 - (i) terminate the Licence held by the Licensee or Joint Licensee with immediate effect or with effect from the expiration of such period as may be specified in the notice of termination; or
 - (ii) permit the Licence to continue until its date of expiration and inform the Licensee that an application to apply for a Licence or renew the Licence upon its expiration will not succeed based on the information provided.

12. **Change of boat details**

12.1 ***Requirement to notify:***

- (a) This paragraph 12 applies to the notification of a Change of Control of an Existing Boat or a change of intention as regards a Proposed Boat. Paragraph 13 below also applies to a notification of Change of Control of a Licensed Boat where the Change of Control is notified by one only of a joint owner of that Licensed Boat or Joint Licensee and the Change of Control concerned is as a result of Change of Joint Family Ownership. Paragraph 14 below applies to a notification of Change of Control of a Licensed Boat where the Change of Control concerned results from the death of a sole Licensee.
- (b) Except where paragraph 14 below applies and subject to paragraph 10.3 above, a Notification of Change Form under this paragraph 12 is required whenever there has been a Change of Control of an Existing Boat (whether or not a Licensed Boat) or a change of intention as regards a Proposed Boat.
- (c) If the Notification of Change Form relating to a Licensed Boat is completed and signed by one only of a Joint Licensee and is not accompanied by a claim for a Change of Joint Family Ownership under paragraph 13 below, the Notification of Change Form lodged under this paragraph 12 will be regarded as incomplete and will not be considered.

12.2 ***Defined term:*** A "**Change of Control**" of an Existing Boat occurs if it is sold or if the ownership of the Existing Boat is not for any other reason the same as was shown in the Vessel Particulars Form relating to that Existing Boat. If the Existing Boat concerned is registered and the registration details show its ownership divided into shares, a change in the registered ownership details at the port or place of registry shall be treated as conclusive in determining whether or not there has been a sale or other change of ownership of that Existing Boat.

12.3 ***Change of Control (Waiting List):*** In the case of the Change of Control of an Existing Boat or a change of intention as regards a Proposed Boat, in either such case as specified in a Vessel Particulars Form lodged by a person on the Waiting List, the Notification of Change Form may be accompanied by a new Vessel Particulars Form. The new Vessel Particulars Form may relate to the same Existing Boat (such as where majority ownership of that Boat has changed but is still held by the same Eligible Resident), a new Existing Boat or a Proposed Boat. If a new Vessel Particulars Form is not duly completed, signed and lodged at the Harbour Office with the Notification of Change Form, the information on the list concerned will be amended to show that person as no longer owning, or owning a majority share in, any boat or proposing to acquire any particular boat, as the case may be; otherwise that information will be amended so as to reflect the information given in the Vessel Particulars Form.

12.4 ***Change of Control (Licensed Boats):***

- (a) Unless a notification under paragraph 10.3 above has been given, the Notification of Change Form required by paragraph 12.1 above in relation to a Licensed Boat must either:

- (i) be accompanied by a duly completed and signed new Vessel Particulars Form showing the Change of Control that has occurred with details of the same Existing Boat or of a replacement boat; or
 - (ii) make a request in the Notification of Change Form for time to replace the boat concerned
- (b) If the Notification of Change Form is not accompanied by either a new Vessel Particulars Form or does not contain a request for time as required by sub-paragraph (a)(i) or (ii) of this paragraph 12.4, the Commissioners may treat the Notification of Change Form as a notification given under paragraph 10.3 above.
- (c) If the Notification of Change Form relating to a Licensed Boat is completed by one only of a Joint Licensee, a claim for a Change of Joint Family Ownership must also be made under paragraph 13 below; otherwise the Notification of Change Form lodged under this paragraph 12 will not be considered.

12.5 ***Request for time:*** Where a request for time is made for the replacement of a boat as envisaged by paragraph 12.4(a)(ii) above, the following provisions will apply:

- (a) The time granted will be a period of 180 days commencing on the date of the Notification of Change Form.
- (b) The Licensee's Mooring Licence will automatically terminate with immediate effect and a Temporary Licence will be issued to the Licensee in its place, such Temporary Licence to relate to the same Allocated Mooring with a Licence Period that expires at the end of that 180 days period or the end of the Licence Period under the terminated Mooring Licence, whichever occurs first.

12.6 ***Termination due to lack of requisite ownership:*** If the Commissioners are of the opinion (whether or not as a result of a Notification of Change Form delivered under this paragraph 12) that:

- (a) the Licensee, or Joint Licensee jointly or together, has ceased to own, or to own a majority share in, the Licensed Boat; or
- (b) in the case of a replacement boat specified in a Vessel Particulars Form lodged with the Notification of Change Form, the Licensee or Joint Licensee jointly or together do not own, or do not own a majority share in, the replacement boat,

the Commissioners shall be entitled by notice in writing to the Licensee concerned either:

- (i) to terminate the Licensee's Mooring Licence with immediate effect or with effect from the expiration of such period as may be specified in the notice of termination; or
- (ii) to permit the Licensee's Mooring Licence to continue until its date of expiration and inform the Licensee that an application to renew the Licence upon its expiration will not succeed based on the information provided.

12.7 ***Unsuitability of a replacement boat:*** If the Commissioners are of the opinion that the Allocated Mooring is not suitable for the replacement boat specified in a Vessel Particulars Form lodged with the Notification of Change Form under paragraph 12.4(a)(i) above, the Commissioners shall be entitled by notice in writing to the Licensee concerned to:

- (a) allocate a different Mooring if a suitable one is available and require the Licensee to use the different Mooring for the replacement boat;
- (b) if a different suitable Mooring is not available for the replacement boat, terminate the Licensee's Mooring Licence with immediate effect and issue a Temporary Licence to the Licensee in its place, such Temporary Licence to relate to the same Allocated Mooring with a Licence Period that expires at the end of that 180 days period or the end of the Licence Period under the terminated Mooring Licence, whichever occurs

first.

Licenses proposing to change their boat are strongly advised to check with the Commissioners before committing themselves to a replacement boat in order to ensure that the replacement boat will be considered by the Commissioners as suitable for the Mooring allocated to that Licence holder. Failure to do this could result in termination of their Mooring Licence as provided above.

12.8 ***Further provisions to apply in the case of the issue of a Temporary Licence:***

- (a) No refund of Harbour Dues or Mooring Charge paid in respect of a Mooring Licence that has terminated under paragraph 12.5(b) or 12.7(b) will be made and paragraph 5.4 above shall apply as regards those Dues and Charges.
- (b) If the 180 days period referred to in paragraph 12.5(a) or 12.7(b) above would expire after the end of the Licence Period under the terminated Mooring Licence, the balance of that 180 days period will be carried forward so as to apply to the year immediately following the date of expiration of the Licence Period under the Temporary Licence. In that case, if a new Temporary Licence is issued by way of renewal of the Temporary Licence issued under paragraph 12.5(a) or 12.7(b) above, the Licence Period applicable to that new Temporary Licence will be the carried forward period.

12.9 ***Removal of Licensed Boat:*** Paragraph 10 (*Removal of the Licensed Boat and lien*) of the Licence Terms and Conditions will apply if a Licence is terminated or terminates under any of the provisions of this paragraph 12.

13. **Change of Joint Family Ownership**

13.1 ***Requirement to notify:*** If one of a Joint Licensee notifies the Commissioners of a Change of Control of a Licensed Boat under paragraph 12 above and wishes to claim that the Change of Control is as a result of a Change of Joint Family Ownership, the provisions of this paragraph 13 shall apply.

13.2 ***Defined term:*** A "**Change of Joint Family Ownership**" of a Licensed Boat occurs when:

- (a) a change of control of the Licensed Boat has been notified under paragraph 12 above;
- (b) the Licensed boat, or a majority share in the Licensed Boat, is shown in the Vessel Particulars Form as being jointly owned by a husband and wife or two co-habiting partners, in each such case living at the same address; and
- (c) the change of control results from the death of one of the spouses or co-habiting partners or their divorce or legal separation.

13.3 ***Claims:***

- (a) In the event of a Change of Joint Family Ownership, one only of the spouses or partners or, in the case of death, the surviving spouse or partner may also claim a Change of Joint Family Ownership by completing and signing the appropriate claim form sent with the Notification of Change Form under paragraph 12 above. The person making such claim must be eligible to apply under this document for a Mooring Licence (including, without limitation, fulfilling the residency test under paragraph 3.1(b)(i) above).
- (b) The claim form must give brief details of the circumstances giving rise to the Change of Joint Family Ownership and be accompanied by evidence in support.

13.4 ***Change of Waiting List information:*** In the case of a claim for a Change of Joint Family Ownership made by one of the spouses or partners or, in the case of death, the surviving spouse or partner on the Waiting List, then, provided that the claim is accepted by the Commissioners, the information on the list concerned will be amended accordingly; otherwise the persons concerned will be removed from the list.

- 13.5 **Issue of new Mooring Licence:** In the case of claim for a Change of Joint Family Ownership made by one of a Joint Licensee or surviving Joint Licensee, then, provided that:
- (a) the claim is accepted by the Commissioners;
 - (b) the Commissioners consider that the person making the claim is eligible to apply under this document for a Mooring Licence (including, without limitation, fulfilling the residency test at paragraph 3.1(b)(i) above); and
 - (c) the Licensed boat, or a majority share in the Licensed Boat, is owned by the person making the claim;

the existing Mooring Licence will be terminated and a new Mooring Licence in respect of the same Licensed Boat will be issued by the Commissioners to the claimant as sole Licensee and treated as if originally issued to that claimant; otherwise, subject to paragraph 13.6 below, the existing Mooring Licence will be terminated and no new Mooring Licence will be issued.

- 13.6 **Multiple claims:** If in the case of legal separation or divorce both of the spouses or partners makes a claim under this paragraph 13, the claim received by the Commissioners first in time will be the claim that will be considered to the exclusion of the other claim. The second claim will be considered by the Commissioners only if the first claim is not accepted by them.

14. **Transmission**

- 14.1 **Application of transmission provisions:** This paragraph 14 applies in the event of the death of a person on the Waiting List (other than as a joint registrant) or a sole Licensee under a Mooring Licence (other than a Temporary Licence). Paragraph 13 above, and not this paragraph 14, applies to the death of one of a joint registrant on the Waiting List or one of a Joint Licensee.

- 14.2 **Defined terms:** In this paragraph 14:

- (a) "**Joint Family Member**" means a Family Member of the deceased Licensee and another person who would, if they were making an application for a Mooring Licence under this document, together constitute a Joint Family Applicant;
- (b) "**Notification and Application Form**" means the form set out in Schedule 6 or such other form as the Commissioners may from time to time decide;
- (b) "**Transmissible Licence**" means a Licence other than a Temporary Licence.

- 14.3 **Removal from Waiting List:** The death of a single-named person on the Waiting List will result in the removal of that person from the Waiting List.

- 14.4 **Termination of Temporary Licences:** The death of a sole Licensee under a Temporary Licence will result in the automatic termination of that Temporary Licence.

- 14.5 **Despatch of documents:** A Family Member who requests a Notification and Application Form will be sent that Form and an up-to-date copy of this document and the Licence Terms and Conditions.

- 14.6 **Notification of death:**

- (a) In the event of the death of a sole Licensee under a Transmissible Licence, a Family Member (or the one of a Joint Family Member who is the Family Member) of the deceased Licensee may alone (or together) who wishes to obtain a Mooring Licence for the same Allocated Mooring and in respect of the same Licensed Boat must complete and sign Part A of the Notification and Application Form.
- (b) The Family Member lodging such a Form must be eligible to apply under this

document for a Mooring Licence (including, without limitation, fulfilling the residency test under paragraph 3.1(b)(i) above).

(c) The Notification and Application Form must specify the address on the Isle of Wight that entitles the Family Member concerned to be considered by the Commissioners as an Eligible Resident as required by sub-paragraph (b) of this paragraph 14.6 and must therefore be accompanied by:

- (i) a copy of the Current Council Tax Bill relating to that address; and
- (ii) a Family Member Declaration, if applicable.

(d) Part A of the Notification and Application Form must also be accompanied by evidence confirming the death of the Licensee.

14.7 ***Application for a new Mooring Licence:*** Part B of the Notification and Application Form and a new Vessel Particulars Form relating to the Licensed Boat must be duly completed and signed by the Family Member or Joint Family Applicant showing the Family Member or Joint Family Member as owning, or owning a majority share in, the Licensed Boat or, in the case of a Joint Family Member, as jointly or together owning, or owning a majority share in, the Licensed Boat.

14.8 ***Time for delivery of Form:*** The duly completed and signed Notification and Application Form and the new Vessel Particulars Form must be lodged with the Harbour Office within 90 days of the date of death failing which the Transmissible Licence will terminate.

14.9 ***Refusal of Licence and termination:***

(a) If the Commissioners are of the opinion that the Family Member concerned is not an Eligible Resident as required by paragraph 14.6 above or that the person signing Part A of the Notification and Application Form is not a Family Member of the deceased Licensee or that the other requirements of the foregoing provisions of this paragraph 14 have not been fulfilled, transmission of the Transmissible Licence to the Applicant or concerned under this paragraph 14 will be refused, and the Commissioners will give written notice of refusal to the claimant concerned.

(b) If the claim has, or all claims (if more than one) have, been refused, the Commissioners will terminate the Transmissible Licence in accordance with paragraph 14.12(b) below. The Commissioners will inform the Family Member(s) concerned in writing accordingly and send to them a copy of the notice under that paragraph.

14.10 ***Issue of new Mooring Licence:*** Unless transmission is refused under paragraph 14.9 above, transmission of the Transmissible Licence of the deceased Licensee will be effected by termination of the deceased's Transmissible Licence and the issue of a new Mooring Licence by the Commissioners to the Family Member or Joint Family Member concerned relating to the same Allocated Mooring and Licensed Boat as under the Transmissible Licence. For the avoidance of doubt, any consent given to the deceased Licensee for the purposes of paragraph 2.3(d) of the Licence Terms and Conditions shall not apply to a new Licence issued under this paragraph 14.10.

14.11 ***Multiple claims:*** If more than one Family Member lodges a Notification and Application Form under this paragraph 14, the Form lodged by a Family Member first in time will be the Form that will be considered to the exclusion of the other Form(s). The second Form will be considered by the Commissioners only if the Family Member relationship specified in the first Form is not accepted by the Commissioners (and so on and so forth if more than two Forms are lodged).

14.12 ***Termination if no claims are made:***

(a) If no claims are made by any Family Member under this paragraph 14 following the

death of sole Licensee within the 90 days period referred to in paragraph 14.8 above, the Transmissible Licence will be terminated by the Commissioners by giving notice under sub-paragraph (b) of this paragraph 14.12.

- (b) A Transmissible Licence may be terminated under any of the foregoing applicable provisions of this paragraph 14 by the Commissioners sending to the address of the deceased Licensee a notice addressed to "The Owner of", specifying the name of the Licensed Boat concerned. Such notice shall state that the Licence has been terminated and shall specify a date (not being less than 14 days from the date of the notice) by which the Licensed Boat must be removed from the Mooring and either moored at a visitor's berth or taken out of the Harbour. If that does not occur within such 14 days period, paragraph 10 (*Removal of the Licensed Boat and lien*) of the Licence Terms and Conditions will apply.

15. **Payments and receipts**

- 15.1 Value added tax will be added to all fees and charges at the applicable rate.
- 15.2 All payments may be made either by cheque, crossed and made payable to Yarmouth (Isle of Wight) Harbour Commissioners or by any credit card or debit card that is from time to time accepted by the Commissioners.
- 15.3 All payments may also be made in cash. Receipts will only be issued in respect of cash payments.

16. **Authorised Officers**

Each of the Chief Executive/Harbour Master (and separate Chief Executive and Harbour Master if those offices are at any time held by separate persons) is appointed by the Commissioners to implement and enforce the provisions of this document (including acceptance or refusal to accept a person as an Eligible Resident) on their behalf. The decision of the Chief Executive/Harbour Master (or separate Chief Executive or Harbour Master) as regards any matter in the implementation or enforcement of the provisions of this document is final save only as regards an appeal under paragraph 9 above.

17. **No liability of Commissioners**

- 17.1 Neither the Commissioners nor any individual Commissioner nor any of the Commissioners' authorised officers or other employees will be liable for any claim whatsoever arising out of or in connection with grant or refusal to grant any Licence or the implementation or enforcement of the provisions of this document.
- 17.2 The Commissioners shall not be deemed to have given any person any warranty or condition as to the maintenance by the Commissioners of a sufficient or any level of water at or at the approaches to any Allocated Mooring.
- 17.3 The Commissioners accept no liability whatsoever for the death or injury to any person or damage to any property of any person or any person's invitees, agents or employees or any other persons except where such act is proved to be the result of gross negligence by the Commissioners, their servants or authorised agents.

18. **Powers of Attorney**

Any document required to be signed and lodged with the Harbour Office by any person under this document may be signed by that person's authorised attorney(s). In that case, the original of the power of attorney (or a copy certified by a member of the legal profession) must be produced with the signed document for inspection.

19. **Electronic or facsimile signatures**

Any Mooring Licence, notice or other document requiring to be signed on behalf of the Commissioners for the purposes of this document will, in the absence of manifest error or

fraud, be treated as duly signed if it bears the electronic or facsimile signature of the person authorised to sign the same.

20. **General Provisions**

20.1 **Extensions of time:** Wherever a time is specified in this document by which certain matters are required to be implemented, the Commissioners may agree to an extension of that time in any particular case.

20.2 **Reviews:** The provisions of this document are under constant review by the Commissioners and may be changed at any time.

20.3 **Notices:**

(a) All documents and other written communications to be sent to the Licensee will be sent by ordinary post to the Licensee's most recent address as notified in writing to the Commissioners. Unless notice is given to the contrary, the most recent address will be regarded as that shown on the Licence. In the case of joint-named Licensees, all such documents and other written communications will be given only to the person first named on the Licence.

(b) All documents and other written communications to be sent to the Commissioners or lodged at the Harbour Office should be sent by ordinary post or delivered by hand to the Harbour Office marked for the attention of the Administration Department. Communications other than documents that are required to be signed may also be sent to the Harbour Office by e-mail to info@yarmouth-harbour.co.uk.