

THE YARMOUTH (ISLE OF WIGHT) HARBOUR COMMISSIONERS

TERMS AND CONDITIONS

applicable to

NON-COMMERCIAL MOORING LICENCES

1. Interpretation

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

"**Allocated Mooring**" means the Mooring notified to the Licensee as mentioned in paragraph 4.1 below.

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

"**Change of Control**" has the meaning given in paragraph 12.2 of the Licence Application Procedure.

"**Change of Joint Family Ownership**" has the meaning given in paragraph 13.2 of the Licence Application Procedure.

"**Commissioners**" means The Yarmouth (Isle of Wight) Harbour Commissioners and includes any person authorised on behalf of the Commissioners under paragraph 11 below.

"**Harbour**" has the meaning given in clause 2(1) of the Yarmouth (Isle of Wight) Harbour Revision Order 1971.

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

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

"**Family Member**" means, in relation to any person, a person who is the parent, spouse, partner, son or daughter of that person.

"**Joint Licensee**" means persons to whom a Mooring Licence has been issued jointly in accordance with the Licence Application Procedure.

"**Licence Application Procedure**" means the document entitled: "Non-Commercial Moorings - Licence Application Procedure" excluding the Schedules to it.

"**Licence Period**" means the Licence Period specified in a Licence or such shorter period as may occur by reason of the Licence ceasing to be valid or being terminated.

"**Licence Provisions**" means the provisions of this document and the terms and conditions set out in this document.

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

"**Licensed Boat**" means the boat specified in a 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 the mooring charge levied by the Commissioners as part of the payment required for the issue of a Licence.

"**Mooring Licence**" or "**Licence**" means a licence that has been issued under the Licence Application Procedure.

"**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.

"**Temporary Licence**" means a licence that has been issued as a Temporary Licence under the Licence Application Procedure.

"**Vessel**" has the meaning given in the Byelaws.

1.2 In these Licence Provisions, 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;

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 **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 Licence or to a Licence being terminated includes that Licence being terminated or not being, or ceasing to be, valid or being cancelled in any such case whether under these Licence Provisions or the Licence Application Procedure;

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 in this document and descriptive comments in relation to any cross-referenced paragraph of the Licence Application Procedure are inserted for convenience only and do not affect the interpretation of this document or such cross-referenced paragraph.

2. **The Licensee's general obligations**

2.1 ***Use of Mooring and boat:*** The Licensee shall use the Allocated Mooring solely for the mooring of the Licensed Boat (unless the Licence is a Temporary Licence, in which case paragraph 4.3 below applies). The Licensee shall not use the Allocated Mooring for any purpose not expressly permitted by these Licence Provisions, the Byelaws or other rules or regulations from time to time in force.

2.2 ***Identification:*** The Licensed Boat must be named and the name must be clearly displayed on the Licensed Boat. The Licensee must also display on the Licensed Boat in a conspicuous position the current identification disc issued with the Licence.

2.3 ***No permanent occupancy:*** The Licensee shall not cause or permit the Licensed Boat to be used for living accommodation whilst moored within the Harbour except:

- (a) at weekends and public holidays (plus one day before and one day after such weekend or public holiday) and any time in the period 24th December to the next following 2nd January (both dates inclusive); or
- (b) for short stay holidays for periods of up to 28 days inclusive of weekends and public holidays provided that the total number of such days in any Licence Period does not exceed 28; or
- (c) for longer stay holidays for periods of more than 28 days up to a maximum of 90 days provided that:
 - (i) prior written notice of the proposed holiday and its length is given by the Licensee to the Commissioners; and
 - (ii) there is a vacant period of at least 60 days between the end of one such holiday period and the commencement of the next short stay holiday under sub-paragraph (b) above or longer stay holiday under this sub-paragraph (c) (and so that, if the Licence is a Licence issued to the Licensee upon renewal of an expired Licence, any unexpired portion of such 60 days vacant period at the end of the immediately preceding Licence issued to the Licensee shall be brought forward to the renewed Licence); or
- (d) in any case where the Licensed Boat has during the year 2006 been used by the Licensee for living accommodation with the consent of the Commissioners (in which case that consent will, subject to paragraph 7.4 below, remain in place on the same terms and conditions as applied to the consent when given).

2.4 ***Seaworthy condition and salvage:*** The Licensee shall at all times keep the Licensed Boat in a sound watertight and seaworthy condition to the satisfaction of the Commissioners. If the Licensed Boat shall through any cause whatsoever sink within the limits of the Harbour, the Commissioners shall be entitled to raise and salvage the same and shall be entitled to recover the proper charges, fees and expenses from the Licensee in respect thereof. Private salvage will be permitted provided that prior approval of the method is obtained from the Commissioners.

2.5 ***Maintenance and repairs:*** The Licensee may, and may permit other competent persons to, carry out maintenance, repairs or other work in the Harbour to the Licensed Boat but the Commissioners reserve the right to prevent maintenance, repairs or other work being carried out if they consider that the maintenance, repairs or other work are being carried out in a dangerous or obstructive manner or for any other reason it is undesirable that they should proceed.

- 2.6 **Mooring of the Licensed Boat:** The Licensee shall ensure that the Licensed Boat when using the Allocated Mooring is properly moored and shall comply with all such instructions that the Commissioners may give as regards the mooring of the Licensed Boat.
- 2.7 **Safeguarding of others:** The Licensee shall take reasonable precautions at all times to ensure that no person or Vessel using the Harbour (including, without limitation, any person using any other Mooring in the vicinity of the Allocated Mooring) is placed in jeopardy by any action or failure to act by the Licensee through the use of the Allocated Mooring by the Licensee or by any of the master of the Licensed Boat, crew members, agents, guests and/or invitees of the Licensee.
- 2.8 **Outboard engines:** If the Licensed Boat has an outboard engine or the Licensee uses a tender with an outboard engine, then whenever the Licensed Boat or tender is left in the Harbour (whether at the Allocated Mooring or elsewhere), the Licensee shall either:
- (a) leave the Licensed Boat or tender with the outboard engine in the lowered position (and leaving it in the lowered position shall be obligatory in the case of tenders left at any of the dinghy pontoons or other allocated tender mooring places within the Harbour); or
 - (b) leave the outboard engine in a raised position in which case the Licensee shall place 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.
- 2.9 **Speed control:** The Licensee when entering or leaving or manoeuvring the Licensed Boat in the Harbour shall do so at such a speed and in such manner as not to endanger or inconvenience other Vessels in the Harbour and shall in any event observe the speed limits applicable in the Harbour and approaching the Harbour entrance from the Solent.
- 2.10 **Pollution:** The Licensee will not cause pollution within the Harbour by the spillage or dumping of waste, effluent, detergent, fuel or otherwise or the discharge of sea toilet holding tanks. No refuse is to be thrown overboard or left or disposed of in any way within the Harbour other than in receptacles provided by the Commissioners.
- 2.11 **Noise, nuisance and annoyance:** The Licensee 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 sub-paragraph (a) above, run the engines or any noisy generators of a Licensed 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
 - (c) generally behave,

in any such 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.

The Licensee shall cause all halyards and other rigging to be secured so as not to cause such nuisance or annoyance.

- 2.12 **Fuelling:** The Licensee shall not refuel the Licensed Boat otherwise than at the authorised fuelling station or by other means which have been authorised or licensed in writing by the Commissioners. The Licensee shall in all respects comply with the terms and conditions of any such authorisation or licence. 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.
- 2.13 **Movement and storage of gear and equipment:** The Licensee shall not leave on any pontoon decks, jetties or quays any ropes, personal belongings, equipment, gear or any other thing whatsoever except in the course of transporting the same to and from the Harbour. All items or other paraphernalia left on the quay are liable to be disposed of by the Commissioners without notice or warning.
- 2.14 **Use of tenders:** The Licensee shall not use or leave at the Allocated Mooring any tender unless the Licensee has received from the Commissioners an identification disc for the tender in accordance with the Licence Application Procedure.
- 2.15 **General compliance:** Without in any way limiting any of the terms of the Licence or these Licence Provisions, the Licensee shall at all times:
- (a) observe and perform all statutory and other obligations relating to the Harbour;
 - (b) comply with these Licence Provisions, the provisions of the Licence Application Procedure to the extent applicable, the Byelaws and *all general and specific directions and* other applicable rules or regulations from time to time in force; and
 - (c) comply with all lawful requests made by the Commissioners.

The Licensee acknowledges that neither the Licence nor these Licence Provisions in any way prejudices or abrogates the powers given to the Commissioners by the Byelaws or other applicable rules or regulations from time to time in force or by law.

- 2.16 **Compliance by others:** The Licensee shall at all times ensure that the master of the Licensed Boat (if not the Licensee), crew members, agents, guests and/or invitees of the Licensee (or of any such persons) are made aware of the foregoing provisions of this paragraph 2 and comply with such provisions.

3. **Third party insurance**

- 3.1 Each Licensee is required to maintain third party insurance in respect of the Licensed Boat and the master, crew members, agents, guests and/or other invitees of the Licensee (or of any such persons), and in respect of any tender used by the Licensee, to cover risks including damage by fire, other hazards to other craft in the Harbour and to the Commissioners property, fuel spillage or release of other contaminants into or pollution of the Harbour for a minimum sum of £2,000,000 (or such other minimum sum as the Commissioners may from time to time require).
- 3.2 Such insurance shall be effected and maintained with an insurance office of repute and must cover all owners of the Licensed Boat and tender, if any.
- 3.3 Evidence of compliance with the above third party requirements may be required to be produced to the Commissioners.

4. **Allocation of and rights to a Mooring**

- 4.1 The Commissioners will notify the Licensee of the Mooring to which the Licence relates. Unless the Licence is a Temporary Licence, the Mooring so notified is the Mooring which the Licensee may use for the purposes of the Licensed Boat. The Commissioners may change that Mooring to another Mooring of a similar type at any time. Nothing in the Licence entitles the

Licensee to the exclusive use of the Allocated Mooring and, depending upon its location and the type of Mooring, the Allocated Mooring may be required to be shared with other users (including visitors).

4.2 A Licence does not confer upon the Licensee any estate, right or interest whatsoever over or in connection with the Allocated Mooring or any other property belonging to the Commissioners other than, except in the case of a Temporary Licence:

- (a) the right to moor the Licensed Boat at the Allocated Mooring on and subject to the terms of the Licence and these Licence Provisions; and
- (b) to have such access (if any) to the Allocated Mooring as may be available from time to time.

4.3 A Temporary Licence does not confer upon the Licensee:

- (a) any right to moor any Vessel at the Allocated Mooring; or
- (b) to have any access to the Allocated Mooring.

Accordingly, the Licensee under a Temporary Licence shall not be permitted to moor any Vessel or to otherwise use the Allocated Mooring until a new Mooring Licence has been issued following an application as mentioned in paragraph 5.3 below. If the Licence is such a new Mooring Licence and an amount by way of Harbour Dues and Mooring Charge is payable under paragraph 5.5 of the Licence Application Procedure following the issue of that Mooring Licence, the rights conferred under that Mooring Licence mentioned in sub-paragraphs (a) and (b) of paragraph 4.2 above shall only take effect when that amount has been paid in full. Until then, sub-paragraphs (a) and (b) of this paragraph 4.3 shall apply to the new Mooring Licence.

4.4 The Commissioners reserve the right to berth other boats at the Allocated Mooring during any period when the Licensed Boat is absent from the Allocated Mooring. Except to the extent that paragraph 9.3 below applies, the Commissioners shall be entitled to retain for their own benefit any Harbour Dues and Mooring Charges received in respect of other boats so berthed. If an Allocated Mooring is occupied by another boat at a time when the Licensee wishes to return the Licensed Boat to its original Allocated Mooring, the Commissioners will allocate to the Licensee another Mooring of a similar type for use by the Licensee either until the original Allocated Mooring becomes vacant or until further notice. In the case of a walk-ashore Mooring in the main Harbour, the Commissioners will use their best endeavours to ensure that the Licensee is able to return to the original Allocated Mooring as soon as possible.

4.5 The Commissioners reserve the right to berth boats at an Allocated Mooring specified in a Temporary Licence until a new Mooring Licence has been issued in respect of a new or replacement boat in respect of that Allocated Mooring as referred to in paragraph 5.3 below and the Licensee is permitted to moor the Licensed Boat at that Mooring under paragraph 4.3 above. The Commissioners shall be entitled to retain for their own benefit any Harbour Dues and Mooring Charges received in respect of other boats so berthed. If an Allocated Mooring is occupied by another boat at a time when the Licensee is permitted to moor the Licensed Boat at the Allocated Mooring, the Commissioners will allocate to the Licensee another Mooring of a similar type for use by the Licensee either until the original Allocated Mooring becomes vacant or until further notice. In the case of the walk-ashore Moorings in the main Harbour, the Commissioners will use their best endeavours to ensure that the Licensee is able to moor at the originally Allocated Mooring as soon as possible.

- 4.6 A Licence (other than a Temporary Licence) relates only to the Licensed Boat and the Allocated Mooring. The Licensee will not, without the prior written consent of the Commissioners, moor any other Vessel at the Allocated Mooring other than a tender during any period when the Licensed Boat is absent from the Allocated Mooring.
- 4.7 Unless paragraph 4.4 or 4.5 above or 4.9 below applies, the Licensee will not moor the Licensed Boat at any Mooring within the Harbour other than the Allocated Mooring. If the Licensee is in breach of this restriction, then without prejudice and in addition to any other rights that the Commissioners may have, the Commissioners may cause the Licensed Boat to be moved to the Allocated Mooring at the Licensee's sole risk and expense and shall be entitled to charge the Licensee for their services in doing so.
- 4.8 The Licensee will notify the Commissioners if the Licensee intends to vacate the Allocated Mooring overnight or for any period comprising two or more days and shall, in the case of a walk-ashore Mooring in the main Harbour, give a notice to the Commissioners under paragraph 9 below if that period is 90 days or more.
- 4.9 If for any reason the Commissioners determine in the case of an emergency or for navigational, emergency or safety reasons, and direct the Licensee, that the Licensed Boat must be moved, the Licensee shall immediately move the same as so directed. The Licensee shall return the Licensed Boat to the original Allocated Mooring or another Mooring of a similar type when directed to do so by the Commissioners and not before. If the Licensee does not move the Licensed Boat from or to a Mooring as directed by the Commissioners under this paragraph 4.9, then without prejudice and in addition to any other rights that the Commissioners may have, the Commissioners may cause the Licensed Boat to be moved at the Licensee's sole risk and expense and shall be entitled to charge the Licensee for their services in doing so.
- 4.10 A Licensee who wishes to transfer the Licensed Boat to another Mooring within the Harbour and/or to change the type of Mooring allocated to that Licensee must apply in writing to the Commissioners accordingly whereupon the Licensee will be placed on the Transfer List under the Licence Application Procedure.

5. **Licence renewal**

- 5.1 A Licence is valid only for the Licence Period and not beyond. A Licence confers no right upon the Licensee to the issue of another Licence upon the expiration of the Licence Period.
- 5.2 A Licensee who wishes to renew a Licence must do so by means of an appropriate application under the Licence Application Procedure.
- 5.3 If prior to the end of the Licence Period of a Temporary Licence, or any earlier termination of it, the Licensee acquires a new or replacement boat, the Licensee should, in accordance with the Licence Application Procedure, duly complete and sign a new Vessel Particulars Form relating to the new or replacement boat, lodge it at the Harbour Office and make an appropriate application for a new Mooring Licence.
- 5.4 Licensees who do not wish to renew a Licence are requested to notify the Harbour Office accordingly.

6. **Assignment and transfer**

- 6.1 A Licence is personal to the Licensee and may not be transferred, assigned or sub-let.
- 6.2 Any transfer, assignment or sub-letting or attempt to do so without such consent will automatically result in the Licence ceasing to be valid.

7. **Change of information and transmission**

- 7.1 Any change in the information supplied in, or in connection with, the Licence or the application for a Licence (whether a change of address, change of boat or other Change of Control or Change of Joint Family Ownership of a Licensed Boat or otherwise) or the death of a sole Licensee must be notified to the Commissioners under the Licence Application Procedure as soon as possible after the change or other circumstance occurs and a request made for a Notification of Change Form and/or other Forms according to the nature of the change or other circumstance.
- 7.2 Licensees should refer to paragraphs 10 and 11 of the Licence Application Procedure in the case of a change of address or other details.
- 7.3 Licensees should refer to paragraphs 10, 12 and 13 of the Licence Application Procedure in the case of a Change of Control of a Licensed Boat and a Change of Joint Family Ownership.

A Licensee proposing to change boat is strongly advised to check with the Commissioners before committing to a replacement boat in order to ensure that the replacement boat will be considered by the Commissioners as suitable to the relevant Allocated Mooring. Failure to do this could result in termination of the Licence under the Licence Application Procedure.

- 7.4 In the event of the death of a sole Licensee, a Family Member of the deceased Licensee may be entitled to have a new Mooring Licence issued to that Family Member in respect of the Licensed Boat. Family Members should refer to paragraphs 10 and 14 of the Licence Application Procedure. Any consent given to the deceased Licensee for the purposes of paragraph 2.3(d) above shall cease to apply to any such new Mooring Licence.

8. **Termination of the Licence**

- 8.1 In addition and without prejudice to other rights of termination of the Licence under these Licence Provisions or the Licence Application Procedure, the Commissioners shall be entitled by notice in writing to the Licensee to terminate the Licence and bring the Licence Period to an end at any time if:
- (a) the Licensee fails to pay in full any Harbour Dues or Mooring Charges or any other amount payable by the Licensee under or in connection with the Licence and these Licence Provisions or any other amount owing by the Licensee in whatever capacity to the Commissioners and howsoever arising, in any such case within seven days of the due date for such payment; or
 - (b) the Licensee shall at any time be in breach of any of the other Licence Provisions or any of the provisions of the Licence in any respect which in the opinion of the Commissioners is incapable of remedy or, if in their opinion the breach is capable of remedy, the breach is not remedied by the Licensee within 21 days after the Licensee first becomes aware of the event or circumstance giving rise to the breach; or
 - (c) the Commissioners have agreed under the Licence Application Procedure to issue a new Licence to the Licensee notwithstanding a previous non-compliance by the Licensee but the Licensee has failed to remedy that non-compliance within the agreed timescale; or
 - (d) any information, declaration or confirmation given or made by the Licensee to the Commissioners in or in connection with the application for the Licence or any other Licence issued by the Commissioners to the Licensee was, when made or given, false or inaccurate in any respect or shall by reason of a change in circumstances have ceased to be accurate at the date of issue of the Licence or other Licence; or

- (e) an event entitling the Commissioners to terminate the Licence has occurred under the Licence Application Procedure including, without limitation:
 - paragraph 11.1(c) (*failure to provide copy of Current Council Tax Bill*);
 - paragraph 11.2(b) (*change of address resulting in the Licensee ceasing to be an Eligible Resident*);
 - paragraph 12.6(i) (*ceasing to own or own a majority share in the Licensed Boat*);
 - paragraph 12.7(b) (*replacement boat being unsuitable for the Allocated Mooring and no suitable alternative being available: issue of a Temporary Licence in place of a Mooring Licence*);
 - paragraph 13.5 (*rejection of a claim for a Change of Joint Family Ownership*);
 - paragraph 14.9 (*transmission on the death of a Licensee not being effected*);
 - paragraph 14.12(a) (*no claims for transmission on the death of a Licensee being made*);
- or
- (f) the Licensed Boat is not berthed at the Allocated Mooring for more than 180 calendar days (whether consecutive or in total) in a Licence Period except with the prior written consent of the Commissioners.

8.2 Termination of a Licence for whatever reason shall be without prejudice and in addition to any other rights that the Commissioners may have as a result of or in connection with such termination (including, without limitation, the rights mentioned in paragraph 10.4 below). In particular, termination shall not release the Licensee from the obligation to pay the Harbour Dues and Mooring Charge nor shall termination entitle the Licensee to a refund of any Harbour Dues and Mooring Charge.

8.3 If termination of the Licence occurs by reason of sub-paragraph (f) of paragraph 8.1 above, the Licensee may apply under the Licence Application Procedure as a first registrant to be registered on the waiting list.

8.4 Those obligations of, and other provisions binding on, a Licensee under the Licence and these Licence Provisions such as are capable of application after the Licence Period shall remain, to the extent so applicable, in full force and effect and binding upon the Licensee after the end of the Licence Period in the same manner as the same are binding upon the Licensee during the Licence Period.

9. **Voluntary partial or total surrender of the Licence**

9.1 This paragraph 9 applies only in respect of the walk-ashore Moorings in the main Harbour and such other Moorings as the Commissioners may from time to time decide. This paragraph 9 does not apply to a Temporary Licence.

9.2 Subject to paragraphs 9.5 and 9.6 below, the Licensee shall be entitled to surrender the Licence (a "**Surrendered Licence**") for any period of 90 days or more during the currency of the Licence (a "**Partial Surrender**"), or for the unexpired portion of the period of the Licence (a "**Total Surrender**"), by giving written notice to the Commissioners (a "**Surrender Notice**") specifying the period concerned (the "**Surrender Period**"). A Surrender Notice must be given not later than 14 days prior to the commencement of the Surrender Period and, once given, commits the Licensee to remove the relevant Licensed Boat from the Allocated Mooring for the duration of the Surrender Period. The Commissioners shall be entitled to berth other boats at the Allocated Mooring during the Surrender Period, and the Commissioners shall be entitled to retain for their own benefit any Harbour Dues and Mooring Charges received in respect of boats so berthed.

- 9.3 Neither a Partial Surrender nor a Total Surrender shall release the Licensee from the obligation to pay the proportion of Harbour Dues and Mooring Charge attributable to the Surrender Period but shall entitle the Licensee to a partial refund of those Harbour Dues and Mooring Charge as provided in this paragraph. The refund that the Licensee shall be entitled to receive shall be a sum equal to 50% of that fraction of the Harbour Dues and Mooring Charge paid by the Licensee as consideration for the Licence of which (1) the numerator is the total number of days during the Surrender Period on which other Vessels are berthed at the Allocated Mooring for a continuous period of seven days or more and (2) the denominator is the number of days in the Licence Period.
- 9.4 Except in the case of a Total Surrender, the Commissioners will use their best endeavours to ensure that the Licensee is able to return to the original Allocated Mooring as soon as possible as from the end of the Surrender Period.
- 9.5 No Surrender Period may commence prior to 90 days from the last day of a preceding Surrender Period (and so that, if this Licence is a Licence issued to the Licensee upon renewal of an expired Licence, any unexpired portion of such 90 days at the end of the immediately preceding Licence issued to the Licensee shall be brought forward to this Licence).
- 9.6 No Surrender Period may exceed 180 days nor, if more than one Surrender Notice is given in any Licence Period, may the total number of days in all Surrender Periods in a Licence Period exceed 180 days.

10. **Removal of the Licensed Boat and lien**

- 10.1 Subject to paragraph 10.2 below, when the Licence Period under a Licence other than a Temporary Licence ends (whether because the Licence expires or it ceases to be valid or is terminated or cancelled under the Licence or these Licence Provisions or the Licence Application Procedure), the Licensee shall immediately remove the Licensed Boat and any tender from the Allocated Mooring. The Licensee shall be charged the visitor's rate of Harbour Dues and Mooring Charge applicable to the Allocated Mooring from the date on which the Licence Period ends until the Licensed Boat and any such tender is removed. If no visitor's rate is published in respect of the Allocated Mooring or type of Allocated Mooring concerned, the rate shall be the rate which applies to Moorings which the Commissioners consider to be of the nearest type as the Allocated Mooring.
- 10.2 Paragraph 10.1 above does not apply if a new Licence is granted by the Commissioners to the Licensee in respect of the Licensed Boat, and takes effect, to commence immediately after the end of the Licence Period of the previous Licence. If the new Licence relates to a new Allocated Mooring, the Licensee shall immediately move the Licensed Boat and any tender from the previous Allocated Mooring to the new Allocated Mooring.
- 10.3 If a Mooring Licence is terminated with a Temporary Licence being issued in its place under the Licence Application Procedure and any Vessel belonging to the Licensee remains moored at the relevant Allocated Mooring, the Licensee shall remove that Vessel from the Allocated Mooring.
- 10.4 If the Licensee has not removed the Licensed Boat, tender or other Vessel from the Allocated Mooring within 28 days of being required to do so under paragraph 10.1, 10.2 or 10.3 above (or such longer period as the Commissioners may agree upon the request of the Licensee), then, without prejudice and in addition to any other rights that the Commissioners may have, the Commissioners may at any time thereafter cause the Licensed Boat, tender or other Vessel to be removed from the Allocated Mooring at the Licensee's sole risk and expense and shall be entitled to charge the Licensee for their services in doing so. Any storage or Mooring used will be charged at the daily rate applicable to such alternative facilities. If the Licensed Boat, tender or other Vessel is moved to a visitor's berth, the visitor's rate of Harbour Dues and Mooring Charge for that berth shall be charged to and payable by the Licensee.

10.5 If a new Allocated Mooring has been notified to a Licensee under the Licence Application Procedure for the purposes of mooring a Licensed Boat and the Licensee does not move the Licensed Boat and any tender to the new Allocated Mooring within 14 days after being required to do so (or such longer period as the Commissioners may agree upon the request of the Licensee), then, without prejudice and in addition to any other rights that the Commissioners may have, the Commissioners may at any time thereafter cause the Licensed Boat and/or tender to be moved to the new Allocated Mooring at the Licensee's sole risk and expense and shall be entitled to charge the Licensee for their services in doing so.

10.6 The Commissioners shall have a lien upon each Licensed Boat, and/or any tender and/or any gear from time to time belonging to the Licensee, for any sum due to them from the Licensee in whatever capacity and howsoever arising.

11. **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 the Licence and these Licence Provisions on their behalf. The Chief Executive/Harbour Master (or separate Harbour Master) is authorised by the Commissioners to delegate to such one or more of the Deputy Harbour Master and the Berthing Masters the power to implement such of the Licence Provisions as the Chief Executive/Harbour Master (or separate Harbour Master) shall think fit. 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 the Licence or these Licence Provisions is final save only as regards an appeal under the Licence Application Procedure.

12. **Commissioners' general obligations/no other liability of Commissioners**

12.1 Subject to paragraph 12.3 below, by granting a Licence, the Commissioners undertake to the Licensee 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.

12.2 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 these Licence Provisions or the Licence.

12.3 The Commissioners shall not by the permission granted by the Licence be deemed to have given the Licensee 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 the Allocated Mooring.

12.4 The Commissioners accept no liability whatsoever for the death or injury to any person or damage to any property of the Licensee or the Licensee'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 or the failure by the Commissioners substantially to perform their obligations to the Licensee under paragraph 12.1 above.

13. **General Provisions**

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

13.2 ***Review of Licence Provisions:*** These Licence Provisions are under constant review by the Commissioners and may be changed at any time.

13.3 ***Sole rights:*** The rights and permissions conferred on and given to a Licensee by a Licence and these Licence Provisions are the sole rights and permissions as regards the matters concerned. The Licensee shall have no rights as regards any of those matters nor shall the Licensee be treated as having been given any permissions as regards any of those matters save only as shall have been conferred or given to the Licensee under or by virtue of the Licence.

13.4 ***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.