

IPSWICH HAVEN MARINA

GENERAL BERTHING CONDITIONS

- 1 In these Conditions, the Company shall mean the Company and/or its Agent or Agents to whom the application for berthing is made which may be one or more of its Associated Companies, Concessionaires, Tenants and Assignees for the operation (if any) of the Boat Repair Yard, Brokerage, or any other Harbour Facility. The expression "Marina" shall include a Yacht Harbour, Marina, Moorings or any other facility for berthing a yacht. The expression "Owner" shall include a Charterer, Master, or Agency or other person for the time being lawfully in charge (other than the Company) of the vessel or vehicle.
- 2 (a) All vessels and vehicles in or on the Company's marina or premises may be moved by the Company to any other part of the same marina or premises.
(b) The Company shall not be liable whether in contract, tort or otherwise, for any loss, theft, or any other damage of whatsoever nature caused to any vessel or vehicle or other property of the Owner or others claiming through the Owner except to the extent that such loss, theft, or damage may be caused by the negligence or wilful act of the Company or those for whom the Company is responsible.
(c) The Owner shall indemnify the Company against all loss, damage, costs, claims or proceedings incurred by, or instituted against the Company or its servants or agents which may be caused by the Owner's vessel or vehicle or by the Owner, his servants, agents, crew, guests or sub-contractors except to the extent that such loss, damage, costs, claims or proceedings may be caused by the negligence or wilful act of the Company or those for whom it is responsible.
(d) The Owner shall maintain third party insurance in respect of himself and each of his vehicles or vessels, his crew for the time being, and his agents, visitors, guests and sub-contractors in a sum of not less than £2,000,000 in respect of each accident or damage and in respect of each vessel adequate salvage insurance. Such Insurance shall be affected and maintained in an insurance office of repute and the Owner shall produce the policy or policies relating thereto to the Company on demand.
- 3 No part of the Company's marina or premises or of any vessel or vehicle while situated therein or thereon shall be used by the Owner for any commercial purpose.
- 4 Within 7 days of any sale, transfer or mortgage of any vessel which is subject to a current licence granted to the Owner by the Company subject to these conditions the Owner shall notify the Company of the name and address of the purchaser, Transferee or Mortgagee, as the case may be.
- 5 (a) Subject to paragraph (b) of this condition no work shall be done to the vessel whilst at the Company's marina, premises or moorings (unless with the prior written consent of the Company which may be withheld at its sole discretion), other than minor running repairs or minor maintenance of a routine nature by the Owner, his regular crew, or members of his family not causing any nuisance or annoyance to any other users of the Company's marina, premises or moorings or any other person residing in the vicinity.
(b) Prior written consent for work to be carried out on the Company's marina premises or moorings shall not without good cause be withheld in the following circumstances:
 - (i) Where the work to be carried out is work for which the Company, its concessionaires or those who normally carry out work on its behalf would normally employ a specialist sub-contractor; or
 - (ii) Where the Company is satisfied that the whole of the work is remedial and not servicing and is being carried out under warranty by the manufacturer and/or supplier of the Vessel or any part of her equipment to which the warranty relates.
 - (iii) If the Company has set aside an area of the Company's marina, premises or moorings where Owners may carry out work on their Vessels, and the work for which consent is sought is restricted to that area and is not to be carried out in a manner prohibited under Regulations for the time being made by the Company with regard thereto.
- 6 The Company has the right to exercise a general lien upon any vessel and/or other property of the vessel's Owner whilst in or on the Company's marina or premises until such time as any money due to the Company in respect of the vessel and/or other such property whether an account of rental, storage, commission, access or berthing charges, work done or otherwise shall be paid.
- 7 (a) The Company shall have the right (without prejudice to any other rights in respect of breaches of these conditions by the Owner) to terminate the licence granted to the Owner in the following manner in the event of any breach by the Owner of these conditions or of any failure by the Owner to make any payment due to the Company. If the breach is capable of remedy or the Owner has failed to make any such payment the Company may serve notice on the Owner specifying the breach or the failure to pay and requiring him to remedy the breach or pay the amount due within 14 days. If the Owner fails to remedy such breach or pay the amount due within 14 days, or if the breach is not capable of remedy, the Company may serve notice on the Owner specifying the breach or failure to pay (when not already specified) and requiring him to remove the vessel within 28 days, at the expiration of which the Owner shall remove the vessel and any other property of his from the Company's marina and premises. The Company shall refund to the Owner the unexpired portion of his licence fee (disregarding any discount given) subject to a right to set-off in respect of any damage suffered by it and/or other monies owing as a result of any of the matters giving the Company the right to terminate the licence.
(b) When no date of termination has been agreed in writing between the parties, the Company or the Owner may terminate the licence granted to the Owner by giving the other 28 days' notice of such termination, at the expiration of which the Owner shall remove the vessel from the Company's marina and premises. Berthing Licence fees are non-refundable.
 - (i) The company shall make no refund to the owner if the licence is terminated by the owner before the expiry date.
- (c) If the Owner fails to remove the vessel on termination of the licence (whether under this condition or otherwise), the Company shall be entitled:
 - (i) to charge the Owner with rental which would have been payable by the Owner to the Company if the licence had not been terminated for the period between termination of the licence and removal of the vessel from its marina and premises and/or
 - (ii) at the Owner's risk (save in respect of loss or damage caused by the Company's negligence during such removal) to remove the vessel from its marina and premises and thereupon secure it elsewhere and charge the Owner with all costs arising out of such removal including alternative berthing fees.
- 8 In all cases where contract of hire or licence to occupy any moorings, berth, storage space, property or facilities may be lawfully terminated by notice, the same shall be deemed to be lawfully served if served personally on the Owner or sent by registered post or recorded delivery service to the last known address in the United Kingdom of the Owner or to the principal place of business of the Company.
- 9 Any vessels or other goods left at the Company's marina or premises are subject to the provisions of the Torts (Interference with Goods) Act 1977, which confers on the Company as bailee a right of sale exercisable in certain circumstances. Such sale will not take place until the Company has given notice to the Owner or has taken reasonable steps to trace him in accordance with the Act. A similar

right of sale shall also arise when any vessel or other goods of which the Company is not a bailee are left at the Company's marina or premises.

Any obligation of the Company towards vessels or goods left at its marina or premises ends upon the expiry or lawful termination of the grant to the Owner of facilities in respect of such vessels or goods and the Company accepts no responsibility for loss or damage to any vessels or goods left at its marina or premises without its consent save in so far as such loss or damage is caused by the negligence of the Company or those for whom the Company is responsible.

(b) Whilst moored in the Company's marina and for the purpose of keeping the dock water clean and unpolluted, the Company requires all clients to refrain from using their 'Sea Toilets'. The proper facilities in the 'Shore Side' amenity block must be used.

21 Dinghies, tenders and rafts shall be stowed aboard the vessel unless a berth is separately provided by the Company.

22 Owners and their crew are required to park their motor vehicles in such position and in such manner as shall from time to time be directed by the Company.

23 No items of boats, gear, fittings or equipment, supplies, stores or the like shall be left upon the pontoons, jetties or car parks.

24 The Owner shall take all necessary precautions against the outbreak of fire in or upon his vessel and the Owner shall observe all statutory and local regulations relative to fire prevention (if any) which shall be exhibited at the offices of the Company. The Owner shall provide and maintain at least one fire extinguisher of a governmentally approved or BSI standard type and size in or on the vessel fit for immediate use in case of fire. Owners shall not refuel vessels in the marina otherwise than in the Company's refuelling berth.

25 The Company reserves the right to introduce regulations which relate solely to the administration of the Company's marina and premises and which are not inconsistent with these Conditions, and to amend such regulations from time to time. Such regulations and any amendments to them shall become effective on being displayed on the Company's public notice board or other prominent place at the Company's premises, and the Company shall have the same rights against the Owner for a breach of the regulations as for a breach of these conditions.

26 Brokerage: The Company will appoint a Sole Brokerage Franchisee. Any vessels offered for sale whilst on the company's premises shall be offered to 'Franchisee' to sell on standard SBBNF/AYABA terms. Other brokers may only be instructed if the 'Franchisee' has been offered equal opportunity to list the vessel direct from the owner. Owners may sell their vessels direct, or through other brokers if they so choose. If the vessel is sold through another broker 1% of the selling price shall be payable to the Company, on all vessels moored or stored on the Company's premises when sold.

No 'For Sale' signs may be placed on any vessel other than those issued by the Company's 'Franchisee' for use with vessels they are listing.

27 (a) The Company shall have the right by notice in writing to the Owner forthwith to terminate this Licence if at any time the Company's marina or premises shall be so damaged, impeded or interfered with by force majeure (as hereinafter defined) as to render it likely that the Company will be unable to continue to provide a berth, mooring or storage ashore accommodation in accordance with the Licence entered into between the Company and the Owner.

(b) In this Clause force majeure means any event or circumstances (whether arising from natural causes, human agency or otherwise) beyond the control of the Company including (insofar as beyond such control but without prejudice to the generality of the foregoing expression) weather conditions, riots, civil commotion, aircraft fire, breakdown or war.

(c) In the event of such termination as aforesaid the Company shall refund to the Owner the unexpired portion of the Licence fee (disregarding any discount given).

The regulations and byelaws referred to in General Condition 16 are those imposed by the Company in its capacity as statutory owner and operator of its Ipswich Haven Marina Undertaking. Vessels are in addition subject to any other directions or regulations from time to time given or imposed by the Company in that capacity.

10 If in the Company's opinion such be necessary for the safety of the vessel or for the safety of other users of the marina or premises or for their vessels or for the safety of the Company's marina, premises, plant or equipment, the Company shall have the right to moor, reberth, move, board, enter or carry out any emergency work on the vessel and except to the extent that such mooring, reberthing, movement, boarding, entering or emergency work arises from the negligence of the Company or those for whom the Company is responsible, the Company's reasonable charges therefore shall be paid by the Owner.

11 Unless he has the Company's prior consent, the Owner shall not lend or transfer the berth (this licence being personal to the Owner relating to a particular vessel, and non-assignable) nor shall he use the berth for any other vessel. Subject to any special condition of the Company to the contrary, if the Owner notifies the Company in writing that the vessel will be away from the marina and premises for 28 days or more and the Company is able to relicence, on a continuous basis for a period or periods of not less than 28 days each, the berth normally occupied by the Owner's vessel, the Company shall pay the Owner not less than one-third of the licence income so received for each such period.

12 Vessels shall be berthed or moored by the Owner in such a manner and position as the Company may require and unless otherwise agreed the necessary warps and fenders shall be provided by the Owner.

13 Nothing in the Licence shall entitle an Owner to the exclusive use of a particular berth.

14 Berths (including those occupied by vessels on the Company's marina or premises or facilities for servicing, overhauling or repair) shall be licensed for the periods from time to time published by the Company at its marina or premises and charges therefore will be calculated by reference to the Company's published list of charges ruling at the commencement of the licence.

15 All persons using any part of the Company's marina premises or facilities for whatever purpose and whether by invitation or otherwise do so at their own risk unless any injury or damage to person or property sustained within the Company's marina premises or facilities was caused by or resulted from the Company's negligence or deliberate act or that of those whom the Company is responsible.

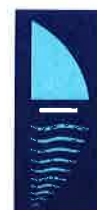
16 All vessels, when lying, entering, leaving or manoeuvring in the Port of Ipswich must comply at all times with the Port of Ipswich Harbour Bye Laws and in addition comply with any direction or regulation imposed by the Harbour Master given either specifically or generally and in accordance with such reasonable conditions as may be imposed.

17 All vessels exceeding 20 metres LOA entering or leaving Ipswich Haven Marina must be navigated under mechanical means and if such vessels are not fitted with engines then suitable towage must be arranged to and from the main navigable channel of the River Orwell.

18 All vessels exceeding 20 metres LOA proceeding to and from Ipswich Haven Marina must contact O.N.S. (call sign Ipswich Port Radio) by VHF Channel 14 and obtain permission before entering or leaving the marina.

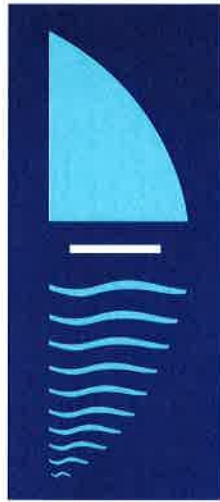
19 No noisy, noxious or objectionable engines, radio or other apparatus or machinery shall be operated within the marina or premises so as to cause any nuisance or annoyance to the Company, to any other users of the marina or premises or to any person residing in the vicinity and the Owner undertakes for himself, his guest and all using the vessel that they shall not behave in such a way as to offend as aforesaid. Halyards shall be secured so as not to cause nuisance or annoyance.

20 (a) No refuse shall be thrown overboard or left on the pontoons, jetties or car parks, or disposed of in any way other than in the receptacles provided by the Company or by removal from the Company's marina and premises.



**IPSWICH HAVEN
MARINA**

JANUARY 2010



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≈ **MARINA** ≈

Application for a Berthing Licence