

Berthing, Mooring and Storage Ashore License

Conditions and Rules (as amended 2018)

GENERAL CONDITIONS

1 DEFINITIONS

Where the following words appear in these Conditions, the License and the Company's Regulations they shall have these meanings:

Company shall mean the Seaham Harbour Community Interest Company or SHDC or any of its agents to whom the application for berthing is made.

SHDC shall mean the Seaham Harbour Dock Company, any of its agents.

Harbour shall include bays, basins, beaches, all navigational waters, Company premises and SHDC premises within the SHDC limits. For these Conditions and Rules, the limits of the Harbour end at a point east of the most eastern extent of the outer breakwaters, west of this is within the limits.

Marina shall include the waters and all other parts of the land occupied by the Company.

Premises means all the land and buildings occupied by or under control of the Company and SHDC, including slipways, quays, piers, sheds, cabins, workshops, business units, marina offices, hardstanding, roadways, paths, car parks, fences and gates.

Owner shall include any charterer, master, agent or other person for the time being in charge of the Vessel, excluding the Company.

Vessel shall include any form of craft, boat, yacht, dinghy, multihull or other marine structure which is in the care and control of the Owner.

Length Overall (LOA) means the overall length of the space occupied by the Vessel including any fore and aft projections, temporary or permanent.

Berth means the space on water or land from time to time allocated to the Owner by the Company for the Vessel during the term of this license.

Storage Ashore means the land space allocated to the Owner from time to time by the Company for the storage ashore of the Vessel, pots, nets, parts, tools or any other equipment during the term of the license.

Storage Ashore accommodation means any premises, building, cabin, shed or other walled, plated or covered structure used for storage.

Pontoon means a moored and decked floating structure providing landing or mooring facilities.

Mooring means any Pontoon, chain, bollard or other anchorage that is temporary or permanent and allocated to the Owner from time to time by the Company.



2 THE LICENSE

- 2.1 Berths or Moorings at the Harbour, Marina or Premises shall be licensed for the periods and at the rates of charge from time to time published by the Company at its Premises and in force at the commencement of this license. Details of the charges applicable to the Berth or Mooring at the beginning of the license will be given to each licensee at the time that the license is granted.
- 2.2 This license shall not be automatically renewed but will end at the conclusion of the period agreed if not terminated sooner by the Company or by the Owner under provisions of Clauses 8 or 10.

3 LIABILITY, INDEMNITY AND INSURANCE

- 3.1 The Company shall not be liable for any loss or damage caused by an event or circumstance beyond its reasonable control (such as extreme weather or sea conditions, the failure or delay of dock gates, collision with any object, the action of third parties not employed by it or any defect in any part of a customer's or third party's Vessel): this extends to loss or damage to Vessels, gear, equipment or other goods left with it for repair, storage or lifting out/in, and harm to persons entering the Premises, Harbour or Marina and/or using any facilities or equipment.
 - 3.1.1 The Company shall take all reasonable steps to maintain security at the Premises, and to maintain the facilities and navigational aids at the Premises and Marina in reasonably good working order. Subject to this, and in the absence of negligence or breach of duty on the part of the Company. Vessels, vehicles, trailers, gear, equipment or other goods are left with the Company at the Owner's risk and Owners should ensure that they have appropriate insurance against all relevant risks.
 - 3.1.2 The Company shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of any defect in the Vessel or property concerned unless it shall have been expressly engaged to do so by the Owner on commercial terms. Similarly the Company shall not be under any duty to salvage or preserve an Owner's Vessel or other property from the consequences of an accident for which the Company is not responsible. However the Company reserves the right to do so in any appropriate circumstances, particularly where a risk is posed to the safety of people or the environment. Where it does so it shall be entitled to charge the Owner concerned on a normal commercial charging basis. [and where appropriate, to claim a salvage reward]
 - 3.1.3 Owner's may themselves be liable for any loss or damage caused by them, their crew or their Vessels and they shall be obliged to maintain adequate insurance including third party liability cover for not less than £2,000,000 and, where appropriate, Employer's Liability cover to at least the statutory minimum. The Owner shall be obliged to produce evidence to the Company of such insurance within 14 days of been requested to do so by the Company.

4 CHANGE OF DETAILS

- 4.1 The Owner must notify the Company of any change of names of the Vessel or change of address or telephone number.

5 BERTH ALLOCATION

- 5.1 The physical layout of the Marina and Premises and the varying needs and obligations of the Company and its customers requires that the Company retains absolute control of Berth allocation within the Marina and Premises. Accordingly the Owner shall not be entitled to the exclusive use of any particular Berth but shall use such Berth as is from time to time allocated to him by the Company. The Owner may request to the Company a change of Berth however the Company are not obliged to do so as this may depend upon the length and draft of the Vessel and other circumstances.

6 PERSONAL NATURE OF THE LICENSE

- 6.1 This license is personal to the Owner and relates to the Vessel described in the application for berthing. It may not be transferred or assigned to a new Owner or to a different Vessel, either temporarily or permanently, without the express consent of the Company.
- 6.2 Within 7 days of any agreement for the sale, transfer or mortgage of a Vessel subject to this license the Owner shall notify the Company of the name, address and telephone numbers of the Purchaser or Transferee.

7 USE OF BERTH BY COMPANY WHEN VACANT

- 7.1 The Company may have the use of the Berth when it is left vacant by the Owner.

8 TERMINATION

- 8.1 The Company shall have the right (without prejudice to any other right in respect of breaches of the terms of this license by the Owner) to terminate this license in the following manner in the event of any breach by the Owner of this license;
 - 8.1.1 Having regard to the nature and seriousness of the breach and the risk it poses for the financial or other security of the Company and/or of the Company's customers and if the breach is capable of remedy, the Company may serve notice on the Owner specifying the breach and requiring him to remedy the breach within a reasonable time specified by the Company. Where the breach is serious or poses an immediate risk or threat to the health, safety or welfare of any other person or property the time specified for remedy may be immediate or extremely short. If the Owner fails to effect the remedy within that time, or if the breach is not capable of remedy, the Company may serve notice on the Owner requiring him to remove the Vessel and/or any other equipment from the Harbour, Marina or Premises immediately.
 - 8.1.2 If the Owner fails to remove the Vessel and/or any other equipment whether under this condition or otherwise, the Company shall be entitled
 - 8.1.2.1 to charge the Owner at the Company's 24 hour rate for each day between termination of this license and the actual date of removal of the Vessel from the Harbour, Marina or Premises and/or
 - 8.1.2.2 at the Owner's risk (save in respect of loss or damage caused by the Company's negligence or other breach of duty during such removal) to remove the Vessel from the Harbour, Marina or Premises and thereupon secure it elsewhere and charge the Owner with all costs reasonably arising out of such removal including alternative berthing fees
 - 8.1.3 By service of a notice of termination if:
 - 8.1.3.1 the owner is considered to have brought the Marina into disrepute.
 - 8.1.3.2 the owner has used threatening and /or abusive language or behaviour towards Seaham Harbour Marina personnel, other Berthholders or the general public.
 - 8.1.4 Any notice of termination under this license shall, in the case of the Owner, be served personally on the Owner or sent by registered post or recorded delivery service to the Owner's last known address and in the case of the Company shall be served at its principle place of business or registered office.

9 RIGHTS OF SALE AND OF DETENTION

- 9.1 Where the Company accepts a Vessel, gear, equipment or other goods for repair, refit, maintenance or storage the Company does so subject to the provisions of the Torts (Interface with Goods) Act 1977. This Act confers a Right of Sale on the Company in circumstances where the customer fails to collect or accept re-delivery of the goods (which includes a Vessel and/or any

other property). Such sale will not take place until the Company has given notice to the customer in accordance with the Act. For the purpose of the Act it is recorded that:

- 9.1.1 Goods for repair or other treatment are accepted by the Company on the basis that the customer is the owner of the goods or the Owner's authorised agent and that he will take delivery or arrange collection when repair or treatment has been carried out.
- 9.1.2 The Company's obligation as custodian of goods accepted for storage ends on its notice to the customer of termination of that obligation;
- 9.1.3 The place for delivery and collection of goods shall be at the Company's Premises unless agreed otherwise. Advice regarding the Act may be obtained from the Citizens Advice Bureau, Law Centre or any firm of solicitors

- 9.2 Maritime Law entitles the Company in certain other circumstances to bring action against a Vessel to recover debt or damages. Such action may involve the arrest of the Vessel through the courts and its eventual sale by the court. Sale of a Vessel may also occur through the ordinary enforcement of a judgement debt against the Owner of a Vessel or other property.
- 9.3 The Company reserves a general right ("a general lien") to detain and hold onto the Owner's Vessel or other property pending payment by the Owner of any sums due to the Company. If the license is terminated or expires while the Company is exercising this right of detention it shall be entitled to charge the Owner at the Company's 24 hour rate for overnight visitors for each day between termination or expiry of this license and the actual date of payment (or provision of security) by the Owner and removal of the Vessel from the Harbour, Marina and Premises. The Owner shall at any time be entitled to remove the Vessel or other property upon providing proper security, for example a letter of guarantee from a bank or a cash deposit, sufficient to cover the debt with interest and, where the debt is contested, a reasonable provision for the Company's prospective legal costs.

10 TERMINATION BY OWNER

- 10.1 This license may be terminated on 30 days' notice by the Owner to the Company. Following such notice the Company shall prepare an account of;
 - 10.1.1 all sums owed by the Owner in respect of services or facilities used up to the intended date of departure of the Vessel, and
 - 10.1.2 the charge that would have been payable by the Owner to the Company in respect of this license if the original term of this license had ended on the date of expiry of the Notice of Termination, less
 - 10.1.3 the sum actually paid by the Owner to the Company in respect of this license Where the balance is in favour of the Company the Owner shall be required to pay the balance before removal of the Vessel from the Harbour, Marina or Premises and where the balance is in favour of the Owner the Company shall pay it to the Owner upon departure of the Vessel from the Harbour, Marina or Premises.

10.2 SALE OF VESSEL

The owner must notify the Company on the sale or transfer of a vessel whilst under license whereas the responsibility of that vessel and any moneys owed will lie with the licensed owner unless notification of sale or transfer is given. The details of the new owner must be given to the Company **prior to the completion** of that sale or transfer. The Company can exercise the right to deny any new owner of the vessel under sale or transfer a berth; this being subject to an application received and endorsed by the Company.



GENERAL RULES

11 VESSEL MOVEMENTS AND LIFTING OUT/IN

- 11.1 The company reserves the right to move any Vessel, gear, equipment or other goods at any time for reasons of safety, security or good management of the Harbour, Marina and Premises.
- 11.2 A copy of the Company's standard scale of charges for Vessel movements and/or lifting out/in will be provided to the Owner before they enter into an agreement with the Company. The Owner will agree with the Company such date, time and tide range as is reasonable for moving, slipping or lifting out/in of his Vessel. The Company will provide the Owner with an estimate of any additional costs for any special operations that the Owner may require for movement, slipping, lifting out/in, equipment hire or any other means or requirements other than the standard operations.
- 11.3 Vessels shall be berthed or moored by the Owner in such a manner and position as the Company may require and unless otherwise agreed adequate mooring ropes, warps and fenders for the Vessel shall be provided by the Owner.
- 11.4 No Vessel, when entering or leaving or manoeuvring in the Harbour or Marina shall be navigated at such a speed exceeding 5 knots or in such a manner as to endanger or inconvenience other Vessels or users in the Harbour or Marina.
- 11.5 An Owner or any other person aboard the Vessel shall not navigate within the Harbour or Marina whilst under the influence of drink or drugs to such extent as to be incapable of taking proper control of the Vessel.
- 11.6 No Vessel shall enter any restricted areas within the Harbour or Marina unless authorised by the Company or Harbour Master or for such consequences for the immediate safety of the Vessel or its Owner, crew and any others aboard the Vessel. A plan showing the restricted area is attached as Appendix 1.
- 11.7 No vessel shall stop, anchor or moor within or at the entrances of the gateway at any time. Vessels must not approach the gateway during the phases of gate operations, either opening or closing, until the safety systems indicate otherwise.
- 11.8 Owner's shall be aware that navigational priorities within the Harbour are given to SHDC operations of shipping, dredging, pilot vessels and any other SHDC vessel movements or operations. Vessels shall not obstruct the fairway and shall notify the Company immediately if a Vessel loses power within the fairway or loses an anchor, cable or chain, in the Owner's view, may cause obstruction or damage to shipping or other Vessels.
- 11.9 **Advisory note:** Owner's, their guests and crew are advised that Vessels are at all times subject to the speed restrictions and other statutory requirements within the Byelaws of SHDC as a navigational authority and the requirements and powers of regulatory authorities, including but not limited to the Maritime Coastguard Agency and the Health and Safety Executive; there are criminal penalties for the breach of such restrictions, requirements and Byelaws.



12 COMMERCIAL USAGE

- 12.1 No part of the Company's Marina or Premises or any Vessel or vehicle situated therein or thereon shall be used by the Owner for any commercial purpose, except where the Owner has sought and obtained prior written agreement from the Company. Where this license is granted to a commercial operator whose Vessel is operated for hire or reward in the course of trading, special conditions may apply to this license and will be appended.

13 STORAGE

- 13.1 Dinghies, ferries, tenders and rafts shall be stored aboard a Vessel unless the Company allocates a separate berth, mooring or storage area.
- 13.2 No Owner shall use any part of the Harbour, Marina or Premises for storage. Subject to availability, the Company may allocate Storage Ashore accommodation or space to an Owner upon request. Open land space may be subject to charges and buildings, cabins, sheds or other walled or covered accommodation within the Premises will be subject to such charges with prior agreement by the Company. The Company are not obliged to provide services of any description to any Storage Ashore accommodation, hardstanding or spaces. All storage areas must be kept clean and in reasonable condition.
- 13.3 The Owner of any Storage Ashore accommodation shall not perform any sort of trade from that which is allocated to him unless consent has been granted by the Company.
- 13.4 It is the responsibility of the Owner to ensure the security of the Storage Ashore accommodation allocated to him.

14 PARKING

- 14.1 Subject always to availability of parking space Owners may only park vehicles on the Premises in accordance with the directions of the Company. No parking is allowed anywhere inside the main site unless for loading or unloading albeit vehicles must be removed to the car parks as soon as loading or unloading is complete.

15 HABITATION

- 15.1 Vessels shall not be used for habitation to any extent, subject to variation at the discretion of the Company.

16 SERVICES: ELECTRIC, WATER & DIESEL AND WORK ON VESSELS

- 16.1 The Company will provide a means of electric connection points to Pontoon walkways to be used for routine maintenance of Vessels. The Owner must ensure that the supply will not be used for prolonged periods of domestic supply or charging. Owners must ensure that all cables, connections or other equipment are in a safe condition and kept clear of immersion in sea water and Pontoon walkways and any loaned or hired cables or equipment are returned to the Company Marina office in good condition.
- 16.2 The Company will provide a means of water connection points to Pontoon walkways to be used for routine washing down, flushing and filling. Should hoses and/or connections be loaned or hired from the Company then these shall be returned in good condition. Hoses must not be immersed in sea water as this may result in backflow contamination and shall be kept clear of pontoon walkways to prevent any trip hazard.
- 16.3 **Advisory note:** Owners must be aware that the misuse or overuse of electric and water is not only wasteful to the local supply and detrimental to the environment and conservation.
- 16.4 No work shall be done on a Vessel **other than minor repairs or minor maintenance of a routine nature**. No hot work, grinding, spray painting or other works to be carried out that may cause damage or contamination to nearby Vessels. Improvements or major works to a Vessel must not be carried out on the Pontoons unless consent has been received from the Company.

17 HEALTH, SAFETY AND THE ENVIRONMENT

- 17.1 The Owner shall take all necessary precautions against the outbreak of fire in or upon his Vessel and the Owner shall observe any fire regulations that may apply to his Vessel. The Owner shall provide and maintain at least one fire extinguisher of a governmentally approved BSI standard in or on the Vessel, fit for immediate use in case of fire.
- 17.2 It is strongly recommended that children should wear an approved life jacket and must be accompanied by an adult at all times whilst on the Pontoons. Disabled/infirm must be accompanied by at least one adult whilst on the access ramp and pontoons.
- 17.3 Pontoon walkways, ramps and berth fingers must be kept free from cables, hoses, gear, waste, crab pots, nets, containers and any fishing or other boat owner's equipment that may cause trip hazards or weight stress on fingers. Any spillages or waste materials on pontoons must be cleaned away immediately.
- 17.4 No noisy, noxious or objectionable engines or other apparatus or machinery or loud radios and other players shall be operated within the Harbour, Marina or Premises so as to cause nuisance or annoyance to the Company, to any other users, the public or nesting or over-wintering birds. Owners shall not leave Vessel or vehicle engine to run unnecessarily.
- 17.5 Fishing, potting or bathing within the Marina is prohibited.
- 17.6 No refuse shall be thrown overboard or left on the Pontoons or car parks or any other part of the Premises, or disposed of in any other way other than in the receptacles provided by the Company or by removal from the Premises. Other wastes may be disposed of within the Company's Waste Management procedures.
- 17.7 No dumping of fish or shellfish offal within the Harbour, Marina or Premises.
- 17.8 Owner's shall be aware that they are responsible for any crew or invitees onto their Vessel or pontoon area and will ensure that they adhere to these health, safety and environmental conditions and any other regulations, rules or procedures that the Company may produce.

18 PAYMENTS AND DEBTS

- 18.1 Any due payments for berths, storage, lifting out/in or other relevant services shall be made under the instruction of the Company. Where any services are invoiced or sums owed then this shall be paid within 14 days of the date of such notice. Should sums not be paid within this period then the Company may authorise a debt recovery service to collect any sums owed.

19 REGULATIONS

- 19.1 These general Conditions and Rules have incorporated the relevant SHDC statutory regulations and Byelaws as amended 2002 and other legislation, in particular Health & Safety, Fire risks, Oil Storage & Transfer, Environmental and Navigation laws.

20 AMENDMENTS AND REVIEW

- 20.1 The Company has the right to introduce amendments to these Conditions and Rules which relate solely to the Company's Marina and Premises and/or SHDC Byelaws. The Conditions and Rules and any amendments to them shall become effective when displayed on the Company's notice board or other prominent place at the Company's Premises and the Company shall have the same against the Owner for a breach of those Conditions and Rules as for a breach of these Conditions and Rules.
- 20.2 The Conditions and Rules will be reviewed annually as beneficial to both the Company and the Owner.