

General Conditions of Berthing, Mooring and Storage Ashore.

Joint YHA and BMIF Terms and Conditions and Wisbech Yacht Harbour (hereafter described as WYH) Supplementary Conditions, numbers One to Fifteen.



Joint YHA and BMIF Terms and Conditions which refer to 'The Company' shall be deemed to mean Wisbech Yacht Harbour/Fenland District Council/Port of Wisbech Harbour Authority with whom any contract is made.

WYH shall be deemed to include its servants, staff, officers and agents and others contracted to it from time to time.

All use of WYH is subject to these rules.

1. The Public have access to Nene Parade and West Parade, both of which border the pontoons of WYH. Notwithstanding any security measures, which are established or implemented from time to time, owners are advised to ensure their boats, cars and other property are made secure against entry or theft.
2. For Sale notices other than those provided by WYH are not permitted on vessels or cars whilst on WYH premises. When a sale is affected within WYH or an initial introduction made there by an outside Broker, WYH shall be entitled to 1% (one percent) commission plus VAT of the sale price in accordance with the BMIF Code of Practice. Should this fee not be paid by the Broker concerned, the Vendor shall pay this sum to WYH.
3. WYH provides moorings only upon written acceptance of an application for same and such acceptance is at WYH discretion. Craft over 15 metres LOA or 4 metres beam are only permitted within WYH with prior written consent.
4. Any vessel must display its name so as to be clearly visible from the pontoon to which she is moored.
5. Swimming within WYH is not permitted. Small children should wear life jackets and have an adult in attendance at all times. Recreational use of dinghies, tenders and personal watercraft within WYH is also not permitted. Due regard should be paid to the conditions of tide and current.
6. Boat owners and users shall observe and conform with all rules, regulations and bye-laws of the Port of Wisbech Port Authority together with all other statutory rules and regulations affecting WYH and indemnify WYH against all actions, damages, claims or demands which may arise in consequence of any failure to observe or comply with all such byelaws, rules or regulations.
7. No paper or other solid matter shall be discharged from boats or boat toilets while a vessel is in WYH.
8. Berthing charges are quoted per metre length overall of all projections, inclusive of rates, harbour dues and water but exclusive of VAT unless otherwise stated. Fractions of a decimetre count as the next whole decimetre and a minimum charge is equivalent to 6.0 metres. Special rates apply to wide craft such as catamarans and to vessels not expressly designed for leisure purposes. Car parking is subject to availability and restricted to designated spaces only.
9. Electricity is supplied for vessels' domestic purposes only, on a metered basis, controlled by 'swipe' cards, available from various sources. For safety purposes and to comply with EU regulations, the supply is fitted with sensitive overload and earth leakage devices. Because of these, WYH cannot guarantee continuity of supply or be liable for the consequences of these safety devices operating from time to time.
10. The WYH policy is to make pontoon berths available that are 75% of the LOA of vessels so berthed but no guarantee can be made in this respect.

12. No person or persons shall be permitted to reside aboard any vessel nor shall a vessel be used as a houseboat although WYH may waive this restriction in particular cases from time to time and at its discretion. This restriction shall not prevent residence aboard a vessel during a period of holiday for purposes of that holiday.
13. Entry into WYH by land or water entails acceptance of its published regulations, conditions and charges. Charges are payable in advance.
14. WYH reserves the right to refuse to issue a Berthing Licence Agreement or to renew same, at its discretion and all vessels granted such a Berthing Licence shall be kept in a seaworthy and reasonably smart condition. The opinion of the Harbour Master shall be final in this case.
15. No variation of WYH charges or standard terms and conditions can be entertained unless such variation is confirmed in writing by an authorised officer of WYH.
16. 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 "Harbour" shall include a Yacht Harbour, Marina, Moorings, or any other facility for berthing a yacht. The expression "Owner" shall include a Charterer, Master, or Agent or other person for the time being lawfully in charge (other than the Company) of the vessel or vehicle.
17.
 - (a) All vessels and vehicles in or on the Company's Harbour or premises may be moved by the Company to any other part of the same Harbour 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 £1 million 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 or reputable and the Owner shall produce the policy or policies relating thereto to the Company on demand.
18. No part of the Company's Harbour or premises or of any vessel or vehicle while situated therein or thereon shall be used by the Owner for any commercial purpose.
19. Within 7 days of any sale, transfer or mortgage of any vessel which is subject to a current license 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.
20.
 - (a) Subject to paragraph (b) of this Condition no work shall be done to the Vessel whilst at the Company's Harbour, 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 Harbour, premises or mooring or any other person residing in the vicinity.
 - (b) Prior written consent for work to be carried out on the Company's Harbour 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 Harbour 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.
21. 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 Harbour or premises until such time as any money due to the Company in respect of the vessel and/or other such property whether on account of rental, storage, commission, access or berthing charges, work done or otherwise shall be paid.
22. (a) The Company shall have the right (without prejudice to any other rights) in respect of breaches of these conditions by 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 Harbour and premises. The Company shall refund to the Owner the unexpired portion of the licence fee (disregarding any discount given) subject to the right of 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 license.
- (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 Harbour and premises.
- (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 the 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 Harbour and premises and/or
 - (ii) at the Owners risk (save in respect of loss or damage caused by the Company's negligence during such removal) to remove the vessel from its Harbour and premises and thereupon secure it elsewhere and charge the Owner with all costs arising out of such removal including alternative berthing fees.
23. In all cases where a 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.
24. Vessels stored at seasonal rates ashore or in mud berths will be launched or put afloat as near the end of the seasonal period as in the Company's opinion tide, weather conditions and available facilities permit and in such sequence as to avoid moving other vessels for this purpose and also so as to make the most economical use of the facilities at the Company's disposal. At the Owner's request the Company will, if possible, launch his vessel at any suitable tide and weather conditions, but the cost of the moving other vessels for this purpose and/or any attendant expenses must be paid for by the Owner. The basis of such charges is available to the Owner on request.

25. Any vessel or other goods left at the Company's Harbour 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 Harbour or premises.

Any obligation of the Company towards vessels or goods left at its Harbour or premises end upon the expiry or lawful termination of the grant to the Owner of the 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 Harbour 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.

26. If in the Company's opinion such be necessary for the safety of the vessel or for the safety of other users of the Harbour or premises or for their vessels or for the safety of the Company's Harbour, 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.
28. 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.
29. Nothing in the Licence shall entitle an Owner to the exclusive use of a particular berth.
30. Berths (including those occupied by vessels on the Company's Harbour 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 Harbour 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.
31. All persons using any part of the Company's Harbour 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 Harbour premises or facilities was caused by or resulted from the Company's negligence or deliberate act or that of those for whom the Company is responsible.
32. No vessel, when entering or leaving or maneuvering in the Harbour shall be navigated at such a speed or in such a manner to endanger or inconvenience other vessels in the Harbour. Vessels are at all time subject to the speed restrictions and bye-laws of Harbour, Navigation or other authorities.
33. No noisy, noxious or objectionable engines, radio, or other apparatus or machinery shall be operated within the Harbour or premises so as to cause any nuisance or annoyance to the Company, to any other users of the Harbour or premises or to any person residing in the vicinity and the Owner undertakes for himself, his guests 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 such nuisance or annoyance.
34. 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 Harbour and premises.
35. Dinghies, tenders and rafts shall be stowed aboard the vessel unless a berth is separately provided by the Company.
36. 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.
37. No items of boats, gear, fittings or equipment, supplies, stores, or the like shall be left upon the pontoons, jetties or car parks.

38. The Owner shall take all the 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 Harbour otherwise than in the Company's refueling berth.
39. The Company reserves the right to introduce regulations which relate solely to the administration of the Company's Harbour 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.
40. Rules numbered 16 onwards are subject to any amendments that may be issued from time to time by The Yacht Harbour Association (TYHA) or by the British Marine Industries Federation (BMIF) and a copy of the current edition of their General Conditions relating to berthing, mooring, storage, ashore or boatyard work shall be made available at the Marinas reception desk upon request.
41. No licence shall be capable of subsisting for longer than 364 days