



## **MARTHAM BOAT DYKE TRUST (MBDT) APPLICATION FORM for MOORING on MBDT STAITHE**

**Martham Boat Dyke Trust – Terms & Conditions** - Revised Nov 2018

### **General Conditions of the Use of Property and Moorings at Martham Boat Dyke**

1. In these Conditions, the Trust shall mean Martham Boat Dyke Trustees and/or their Agent or Agents who may be appointed by the Trust from time to time. The expression "Owner" shall include a charterer, Master or Agent or other person for the time being lawfully in charge (other than the Trust) of the vessel or vehicle.
2. All vessels and vehicles in or on the Trusts property may be moved by the Trust to any other part of the same property.
3. The Trust 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 except to the extent that such loss, theft, or damage may be caused by the negligence or wilful act of the Trust or those for whom the Trust is responsible.
4. The Trust shall indemnify against all loss, damage, costs, claims or proceedings incurred by, or instituted against the Trust or its servants or agents which may be caused by the Owner's vessel or vehicle or by the Owner, his servants, agents, crew, guest 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 Trust or those for whom it is responsible.
5. 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. 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 Trust on demand. The owner(s) shall be responsible for maintenance of all staging, pontoons and other mooring aids, not erected or installed by the Trust, and ensure they are in safe condition. The Owner shall be responsible for the repair of any damages caused by the Owner to Trust property.
6. No part of the Trusts property or of any vessel or vehicle while situated therein or thereon shall be used by the Owner for any commercial purposes.
7. 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 Trust subject to these Conditions the Owner shall notify the Trust of the name and address of the Purchaser, Transferee or Mortgagee, as the case may be.
8. No work shall be done to the vessel whilst at the Trusts property (unless with the prior written consent of the Trust 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 Trusts property or any other person residing in the vicinity. Prior written consent for work to be carried out to vessels on the Trusts property shall not without good cause be withheld.
9. The Trust has the right to exercise a general lien upon any vessel and/or other property or the vessels Owner whilst in or on the Trusts property until such time as any money due to the Trust in respect of the vessel and/or other such property whether on account of rental, storage, commission, disposal or mooring charges, work done or otherwise shall be paid.
10. The Trust 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 Trust. If breach is capable of remedy or the Owner has failed to make any such payment the Trust 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



### **MARTHAM BOAT DYKE TRUST (MBDT)**

Owner fails to remedy such breach or pay the amount due within 14 days, or if the breach is not capable of remedy, the Trust 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 Trusts property. The Trust shall refund to the Owner the unexpired portion of the Licence fee (disregarding any discount given) subject to a 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 Trust the right to terminate the Licence.

11. When no date of termination has been agreed in writing between the parties, the Trust or 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 Trusts property.

12. If the Owner fails to remove the vessel on termination of the Licence, the Trust shall be entitled: a. To charge the Owner with the rental which would have been payable by the Owner to the Trust if the Licence had not been terminated for the period between the termination of the Licence and removal of the vessel from its property and/or b. at the Owners risk (save in respect of loss or damage caused by the Trust's negligence during such removal) to remove the vessel from its property and thereupon secure it elsewhere and charge the Owner with all costs arising out of such removal including alternative mooring fees.

13. In all cases where a contract of hire or Licence to occupy any moorings 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.

14. Any vessels or other goods left at or in the Trusts property are subject to the provisions of the Torte (interference with Goods) Act 1977, which confers on the Trust as bailee a right of sale exercisable in certain circumstances. Such sale will not take place until the Trust 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 Trust is not a bailee are left at or in the Trusts property.

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

15. If in the Trusts opinion such be necessary for the safety of the vessel or for the safety of other users of the Trusts facilities or property or their vessels or equipment, the Trust shall have the right to moor, re-berth, move, board, enter or carry out any emergency work on the vessel and except to the extent that such actions arises from the negligence of the Trust or those for whom the Trust is responsible, the Trusts reasonable charges therefore shall be paid by the Owner.

16. Unless he has the Trusts prior consent, the Owner shall not lend or transfer the mooring (this Licence being personal to the Owner relating to a particular vessel and non-assignable) nor shall he use the mooring for any other vessel.

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

18. Nothing in the Licence shall entitle the Owner to the exclusive use of a particular mooring.

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



### **MARTHAM BOAT DYKE TRUST (MBDT)**

20. No vessel or vehicle entering or leaving or manoeuvring in or on the Trusts property shall be navigated at such speed or in such a manner as to endanger or inconvenience other vessels or vehicles. Vessels are, at all times, subject to the speed restrictions and by-laws of Navigation or other authorities.
21. No noisy, noxious or objectionable engines, radio or other apparatus or machinery shall be operated in or on the Trusts property so as to cause any nuisance or annoyance to the Trust, to any other users of the Trusts facilities or to any person residing in the vicinity and the Owner undertakes for himself, his guests and all using the vessel or vehicle 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.
22. No refuse shall be thrown overboard or left on any jetties, pontoons, car parks or any other lands of the Trust or disposed of in any way other than in the receptacles provided by the Trust or by removal from the Trusts property.
23. Dinghies, rafts, and tenders shall be stowed aboard the vessel unless a berth is separately provided by the Trust.
24. Owners and their crews are required to park their motor vehicles in such a position and in such a manner as shall from time to time be directed by the Trust.
25. No items of boats, gear, fittings or equipment, supplies, stores or the like shall be left upon any pontoons, jetties, banks or car parks.
26. 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. 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 exercise great care and caution when handling fuel or refuelling. In the event of a spillage/pollution incident, the Owner will be responsible for the cost of pollution control measures and the cleaning process.
27. The Trust reserves the right to introduce regulations which relate solely to the administration of the Trusts property and facilities 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 Trusts public notice board or other prominent place at the Trusts property, and the Trust shall have the same rights against the Owner for a breach of the regulations as for a breach of these Conditions.
28. (a) The Trust shall have the right by notice in writing to the Owner forthwith to terminate this Licence if at any time the Trusts facilities shall be so damaged, impeded or interfered with by force majeure (as hereinafter defined) as to render it unlikely that the Trust will be unable to continue to provide facilities in accordance with this Licence entered into between the Trust 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 Trust 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 Trust shall, at its discretion, refund to the Owner the unexpired portion of the Licence fee (disregarding any discount given).
29. No residential moorings. You are not allowed to reside on your vessel whilst it is moored at the Trusts property.
30. The Owner shall ensure that a current Broads Authority Registration disc (When applicable) is displayed on his vessel and that a contact telephone number is provided to the Trust.
31. The Trust does not own, repair or have any responsibility for the introduction of mooring stages on its property. The Trust requires that the staging is maintained in a safe condition and reserves the right to require the boat owner to carry out satisfactory repairs.