

FRANCES BAY MOORING BASIN AND WHARVES APPLICATION FOR TRADING ACCOUNT AND LICENCE

This is an application to:

- open a Trading Account on the terms and conditions of the Agreement contained in **Part E** of this document (please complete Items 1 and 2 of **Part A**); and
- obtain a licence to use a Mooring/Berth on the terms and conditions of the Licence contained in **Part F** of this document (please complete Items 1, 2 and 2 of **Part A**).

PART A - APPLICATION

Item 1: Applicant									
Full Name: <i>(Person Completing this Application)</i>				Drivers Licence/Passport No.: <i>(Note a colour copy must be supplied with this Application)</i>					
Contact Details:		Phone:		Mobile:		Sat phone:			
Business Structure:		<input type="checkbox"/> Individual or Partnership Full name(s): <input type="checkbox"/> Company					ABN:		
Trading Name <i>(If Applicable):</i>				Business Name <i>(If Applicable):</i>			GST Registered: <input type="checkbox"/> Yes / <input type="checkbox"/> No		
Postal Address:									
Email:									
Preferred billing method:		<input type="checkbox"/> Postal Address OR <input type="checkbox"/> Email (please note statements / reminder notices will be postal)							
Item 2: Vessel <i>Note: If the vessel of an approved application is sold, evidence of the sale must be supplied to DIPL within 7 days.</i>									
Vessel Name:				Registration No. <i>(if any):</i>					
Type of Vessel:		<input type="checkbox"/> Fishing	<input type="checkbox"/> Barge	<input type="checkbox"/> Tug	<input type="checkbox"/> Pearling	<input type="checkbox"/> Commercial	<input type="checkbox"/> Yacht	<input type="checkbox"/> Recreational	<input type="checkbox"/> Other (describe)
Insurance: <i>Note: Applicant is responsible for providing renewal details upon expiry and any changes in insurance</i>				Start date:			End date:		
Contact Person and Number for Vessel:									
LOA (metres including bowsprit & duckboard):				GRT (tonnage):					
Maximum Beam (metres):				Lloyds Rego:					
Draft (metres):				Displacement (kilograms):					
Propulsion:		<input type="checkbox"/> Inboard	<input type="checkbox"/> Outboard	<input type="checkbox"/> Sail	<input type="checkbox"/> Oars	Fuel:		<input type="checkbox"/> Diesel	<input type="checkbox"/> Petrol
Hull Construction:		<input type="checkbox"/> Steel	<input type="checkbox"/> Timber	<input type="checkbox"/> Aluminium			<input type="checkbox"/> Fiberglass		
LPG on Board:		<input type="checkbox"/> Yes OR <input type="checkbox"/> No							
Item 3: Requirements <i>1. Applicant is responsible for advising DIPL in writing when location is no longer required. If no prior advice is received, applicant is liable for cost incurred.</i>									
<i>2. Recreational vessels only - A side-view colour photo of the vessel must accompany this application, showing vessel name and rego (if applicable)</i>									
Term sought:		From: From the later of 1 April in the year this Licence was signed or the date this licence is signed.				To: 31 March of the following year <i>(If for a defined period)</i>			
Mooring/Berth Location:		<input type="checkbox"/> Frances Bay Mooring Basin (Duck Pond) <input type="checkbox"/> Pen <input type="checkbox"/> Storage <input type="checkbox"/> Hardstand	<input type="checkbox"/> Fisherman's Wharf <input type="checkbox"/> Bunkering <input type="checkbox"/> Berthing	<input type="checkbox"/> Raptis Wharf	<input type="checkbox"/> Hornibrooks Pontoon <input type="checkbox"/> Berthing <input type="checkbox"/> Hardstand <input type="checkbox"/> Storage	<input type="checkbox"/> Sadgroves Creek (only recreational vessels allowed)	<input type="checkbox"/> Careening Poles (Hornibrooks)		
Mooring Buoy: <i>(Sadgroves Creek only)</i>		<input type="checkbox"/> 1 Buoy anchored by chain to the seabed (Swing Mooring)			<input type="checkbox"/> 2 Buoys anchored by chain to the seabed (Fore and Aft Mooring)				

PART B - DECLARATION

I declare that the information provided in this Application is true and correct and that I have read and understand the Terms and Conditions set out in:

- a) **Part E** of this document if I am applying for a Trading Account and / or
- b) **Part F** of this document if I am applying for a Licence.

If my Application at **Part A** is approved by Northern Territory of Australia (through the Department of Infrastructure, Planning and Logistics) (**Territory**) at **Part D** for the Trading Account and/or the Licence, I (as the Applicant referred to throughout the Licence) agree that:

- a) I am the legal and beneficial owner of the Vessel or I am the agent of the Vessel Owner duly authorised to enter into this agreement on behalf of the Vessel Owner;
- b) If my application for a Trading Account is approved, I will comply with the Terms and Conditions at **Part E** of this document, including applicable Territory policies;
- c) If my application for a Licence is approved, I will comply with the Terms and Conditions at **Part F** of this document, including applicable Territory policies;
- d) I am liable for and must pay all applicable fees and charges under the DIPL [Schedule of Charges \(Charges\)](#) as described on the DIPL website at www.nt.gov.au (as varied from time to time) until such time as the approved Licence has expired or is earlier terminated and the Vessel has been removed from the Mooring/Berth;
- e) I will promptly notify the Territory in writing if there are changes to the details in Items 1 and 2 of **Part A** of this document; and
- f) In making this Application, I consent to the use and disclosure of the information herein for any purpose in connection with the management of the requirements sought and reporting by DIPL (save for confidential financial information), credit enquiries, account keeping and billing (including debt recovery action).

Attached to this Application is:

- 1) A copy of my proof of identity (colour copy of Driver's Licence or Passport) as required at Item 1 of **Part A**;
- 2) Copies of Certificates of Insurance and Certificates of Currency as required by clause 41 of **Part F** (only applicable if applying for a Licence);
- 3) A side view photo of the vessel, showing vessel name and rego (recreational vessels only) as required at Item 3 of **Part A** (only applicable if applying for a Licence);

If applicant is a Sole Trader/Partnership:

Signature	Name in full	Date
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If applicant is a Company

Signature of Director	Name in full	Date
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Signature of Director/ Secretary	Name in full	Date
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The completed application form and evidence of insurance are submitted to:

Department of Infrastructure, Planning and Logistics - Frances Bay Mooring Basin

Email: Fbmb.dipl@nt.gov.au

Postal: GPO Box 1680

Darwin NT 0801

Phone: 08 8922 0615

Fax: 08 8924 7009

Website: www.nt.gov.au

PART C – OFFICE USE ONLY

Application received from Applicant and attachments complete and checked	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Date:
Company search obtained (if Applicant is a Company)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Date:
Application processed and Position of Mooring/ Berth Site allocated	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Date:
Checking officer's name:	TRIM Ref:		

PART D – TRADING ACCOUNT AND LICENCE APPROVAL – DIPL OFFICE USE ONLY

Person or Company:		Vessel Name:	
Application Approved:			
Trading Account:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Licence to use Mooring/ Berth:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Method by which Applicant has been advised:	<input type="checkbox"/> Email		<input type="checkbox"/> Post
	<input type="checkbox"/> Copy provided in person. Name of recipient:		
	Signature:		Date:
Term:	Commencement Date:	Expiry Date:	
Approved facilities are:	<input type="checkbox"/> Frances Bay Mooring Basin, Crown land Lot 6405 <input type="checkbox"/> Fisherman's and Raptis Wharves, Crown land Lot 6657 <input type="checkbox"/> Hornibrooks Wharf and Pontoon and Careening Poles, Crown land Lot 6505 <input type="checkbox"/> Sadgroves Creek (recreational vessels only)		
Mooring Buoy (Sadgroves Creek only):	1 Buoy anchored by chain to the sea bed	2 Buoys anchored by chain to the sea bed	
	<input type="checkbox"/> SW No	<input type="checkbox"/> A No	<input type="checkbox"/> B No <input type="checkbox"/> C No
Added to waiting list:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Name of Authorised Territory Representative:			
Signature & Date:			

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PART E – TRADING ACCOUNT - TERMS AND CONDITIONS

The Applicant acknowledges and agrees that if the Application for a Trading Account is approved by the Department of Infrastructure, Planning and Logistics (DIPL), the agreement will be between the Northern Territory of Australia (**Territory**) and the Applicant, and will consist of this Application and these Terms and Conditions ("**Agreement**"), which will be incorporated into every contract for the supply of facilities, services and/or equipment by DIPL to the Applicant except the right to use and occupy a Mooring / Berth (the terms for which are contained in the Licence at **Part F**) ("**Supply**").

Rates and Other Charges

1. The tariffs, rates and other applicable charges for a Supply are those contained in the DIPL Schedule of Charges as described in **Part B**, or such other charges as have been notified under clause 2 except any charges for Mooring / Berthing ("**Charges**").
2. The Charges may be varied by the Territory on 30 days' notice to the Applicant and the Applicant will be deemed to have accepted those Charges on expiry of the notice period unless this Agreement is sooner terminated in accordance with clause 12.

Payment

3. The Applicant must pay the Charges in full within 30 days from the date of the invoice ("**Due Date**"). Charges paid by credit card may attract an administration fee.
4. Payment will not be accepted by way of instalments unless agreed to by the Territory in writing.
5. The Applicant will not set-off or deduct any amount from the payment for any reason whatsoever.

Default and Costs

6. If the Applicant does not make payment by the Due Date, then the Territory may, without incurring any liability to the Applicant or any third party and without prejudice to its other rights:
 - a. call up all monies owed by the Applicant; and
 - b. detain the vessel in respect of which the Supply was made and/or hold goods and/or product of the Customer (at the Customer's risk) until fully paid;
 - c. by notice to the Applicant, suspend the Trading Account or cease Supply to the Applicant.
7. The Applicant must pay all reasonable enforcement expenses (including legal fees on an indemnity basis) incurred by the Territory to recover any amount due.

Compliance with laws and policies

8. The Applicant will comply with all applicable laws, the Territory policies and procedures and lawful DIPL requirements and directions. Territory policies and procedures are located at www.nt.gov.au.

Liability

9. The Territory will not be liable for any loss of damage of whatsoever kind and howsoever arising (save for its own negligence), including injury or death to persons or loss or damage to property and whether suffered or incurred by the Applicant or third parties in connection with the Supply, except to the extent that liability cannot be limited or excluded by law.

Priority of Documents

10. In the event that the Applicant and the Territory enters or has entered into a contract in connection with the Supply, that contract will take precedence over this Agreement but only to the extent of any inconsistency.

Changes in Particulars

11. The Applicant will promptly advise the Territory in writing (and in any event no later than 7 days) of all changes in contact details, ownership, membership, control or status. The Applicant must provide evidence of any sale or change in ownership of the Vessel as reasonably required by the Territory.

Termination

12. Either party may terminate this Agreement on 7 days' notice expiring upon the deemed receipt of the notice by the other party under clause 13. Upon termination, the total amount payable by the Applicant will become immediately due and payable by the Applicant. In addition the Applicant will be liable for the payment of all other charges, fees, enforcement expenses (if any) and other monies that may be incurred following termination.

Notices

13. Notices must be in writing and addressed and posted to the parties' postal addresses stated in Part A of this Agreement (or other postal address notified by the Applicant in accordance with clause 11). Where no postal address exists notices may be sent to the email address stated in Part A. Notices will be deemed to have been received upon the expiry of 10 days after the date on which they were posted/emailed.

Governing Law

14. The parties agree that this Agreement will be governed and construed in accordance with the laws of the Northern Territory and the parties will submit exclusively to the jurisdictions of the courts of the Northern Territory.

Assignment

15. The Applicant shall not transfer, assign or otherwise dispose of its rights, duties, benefits, obligations or interest under this Agreement without the prior written consent of the Territory.

Severance

16. If any provision of this Agreement is unenforceable, illegal or void, that provision is severed and the other provisions remain in force.

Application of terms in Part E

17. The terms in this **Part E** apply to the supply of all Supplies, except the grant of the right to use and occupy a Mooring/Berth and any applicable Charges, for which purpose the provisions in **Part F** apply.

No Interdependency

18. The Agreement in Part E and Licence in Part F are not interdependent such that termination of either the Agreement and the Licence does not result in termination of the other.

No Merger

19. None of the provisions of this Agreement capable of taking effect after termination or expiry of this Agreement and not given effect to by the termination or expiry, including (but not limited to) clauses 7 and 9, merge on termination or expiry. Such provisions continue to subsist and have effect notwithstanding termination or expiry.

PART F – LICENCE - TERMS AND CONDITIONS

This agreement is an Occupation Licence under section 90 of the *Crown Lands Act*.

Grant of Licence

1. If the application for a Licence is approved by the Department of Infrastructure, Planning and Logistics (**DIPL**), then the Northern Territory of Australia (**Territory**) grants a licence to the Applicant and the Applicant agrees to use the Mooring/Berth (as identified in **Part D**) as follows:
 - a. solely for the purpose of mooring or berthing the Vessel described at **Item 2 of Part A (Vessel)**;
 - b. for the Term set out in **Part D (Term)** unless earlier terminated;
 - c. for the rates and charges for the Mooring / Berthing as described in the DIPL Schedule of Charges as described in **Part B** as at the date of approval of the Application or such other charges as have been duly notified under this Licence (**Licence Charge**). The Licence Charge may be varied by the Territory on 40 days' notice to the Applicant and the Applicant will be deemed to have accepted those Licence Charges on expiry of the notice period unless this Agreement is sooner terminated under this Licence; and
 - d. on the terms and conditions set out in this **Part F (Licence)**.
2. Persons authorised by the Territory will at all times have full and free right to enter upon the Mooring/Berth for any purpose whatsoever.
3. The Applicant's rights to use and occupy the Mooring/Berth under this Licence are:
 - a. subject to any rights to use and occupy the Mooring/Berth held by any other person, whether those rights arise under agreement with the Applicant or otherwise; and
 - b. conditional on any other person using or occupying the Mooring/Berth at the commencement of this Licence vacating the Mooring/Berth and giving up any rights they may have in respect of the Mooring/Berth.
4. The Applicant acknowledges and agrees that:
 - a. the Territory is under no obligation to (at any time) take any action to remove any vessel or person from, force any person to vacate or otherwise remove a person's rights in respect of the Mooring/Berth, except in circumstances where such rights result from an act (where an act does not include an omission) of the Territory; and
 - b. any use or occupation of the Mooring/Berth by any person other than the Applicant at the commencement of the Licence is not the result of any act by the Territory.

Compliance with Laws, Authorisations & Policies

5. The Applicant must comply with:
 - a. any laws and requirements as provided under the *Crown Lands Act*, *Ports Management Act*, *NT Marine Act*, *NT Marine Pollution Act*, *Work Health & Safety (National Uniform Legislation) Act*, *Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (Cth)* and any other applicable laws, regulations and by-laws, including, without limitation, any relating to the navigation and movement of vessels, vessel or personnel or other relevant registrations, dangerous cargoes, seaworthiness, marine safety, the environment, water, pollution and otherwise relating to the Applicant's use of the Vessel and occupation of the Mooring/Berth (**Law**);
 - b. without limiting the generality of clause 5(a), Section 20 (2) of the *Work Health & Safety (National Uniform Legislation) Act* in relation to providing a safe means of entering and exiting a workplace;
 - c. applicable Territory Policies, which are available on the Territory's website or otherwise notified by the Authorised Territory Representative (**Territory Policies**), where the Authorised Territory Representative is that person named at **Part D**;
 - d. the requirements, standards, guidelines, recommendations or specifications of any competent authority in respect of the Applicant's navigation, movement and mooring of the Vessel including without limitation:
 - I. the National Standard for Commercial Vessels issued under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (Cth)* located at www.amsa.gov.au, as they may be replaced, substituted or varied from time to time;
 - II. the safety alert notice issued by NT Worksafe on 1 August 2018 titled 'Safety Alert – Safe Access/Egress to Marine Vessels in Port' located at www.worksafe.nt.gov.au.
 - e. all necessary survey and licensing regulation requirements in connection to the Vessel and its operations.

Applicant to conduct Risk Assessment or Job Safety Analysis

6. For the purpose of this Licence, particularly clauses 7 to 10:
 - a. **Risk Assessment or Job Safety Analysis** means a document which records the risk assessment and risk control methods to be employed by the Applicant, in relation to the use and occupation of either the Frances Bay Mooring Basin and / or any of the Frances Bay Wharf Facilities, depending on which facilities are being used by the Applicant, as required by law or to meet any requirements, recommendations or notice of any competent authority;
 - b. **Frances Bay Mooring Basin** means the Frances Bay Mooring Basin also known colloquially as the Duck Pond; and
 - c. **Frances Bay Wharf Facilities** means any of Hornibrooks Wharf, Fisherman's Wharf, and Raptis Wharf.
7. The Applicant must, prior to the commencement of the Term, provide the Territory with a copy of its Risk Assessment or Job Safety Analysis, and obtain the Territory's approval of the Risk Assessment or Job Safety Analysis (of which approval must not be unreasonably withheld or delayed).
8. If any part of the Risk Assessment or Job Safety Analysis does not meet the requirements of, or is otherwise inconsistent with any laws or this licence, or does not meet any requirements, recommendations or notifications of any competent authority, the Applicant must amend the Risk Assessment or Job Safety Analysis to address any issues within seven (7) days of receiving notice of those issues from the Territory;
9. Clauses 7 and 8 shall reapply until such time as the Territory (acting reasonably) notifies the Applicant of its approval of the Risk Assessment or Job Safety Analysis.
10. If the Applicant does not provide the Territory with its Risk Assessment or Job Safety Analysis in accordance with clauses 7 to 9, the Territory may, by notice in writing to the Applicant, immediately suspend or terminate the Applicant's use and occupation of the Mooring/Berth.

Directions and Relocation

11. The Applicant (and the Vessel) are at all times subject to and must comply with any directions of:
 - a. the Regional Harbourmaster for the Port of Darwin;
 - b. a Port Management Officer appointed by the Port Operator of the Port of Darwin;
 - c. the Authorised Territory Representative; and
 - d. any other competent authority.
12. Allocation of a Mooring/Berth is in the sole discretion of the Territory and the Applicant must not allow the Vessel to occupy any Mooring/Berth other than that allocated to it by the Territory or allow any other vessel to occupy the Mooring/Berth.
13. The Authorised Territory Representative reserves the right to request the Applicant to relocate to another Mooring/Berth and once requested the Applicant must immediately relocate the Vessel to the other Mooring/Berth, in which case the new Mooring/Berth will be the Mooring/Berth for the purpose of this Licence.

General Conditions of Use of Mooring/Berth

14. The Applicant must moor, berth and manoeuvre the Vessel in accordance with any directions of the Authorised Territory Representative, the Regional Harbourmaster, a Port Management Officer and any other competent authority.
15. The Applicant acknowledges and agrees that the Applicant is responsible for the conduct of the Vessel's crew, employees, guests and other invitees (**Applicant's Invitees**) at all times.
16. The Applicant must not allow the Vessel to exceed a speed of 5 knots when approaching, departing or being moved in the vicinity of the Mooring/Berth.
17. The Applicant must ensure that the Vessel is at all times in a seaworthy condition and identified, marked, equipped and maintained as required by the Territory, the Regional Harbourmaster, a Port Management Officer and any competent authority.
18. The Applicant must ensure that the Applicant and any of the Applicant's Invitees do not do anything in or around the Mooring/Berth which may be illegal, or (in the opinion of the Authorised Territory Representative) annoying, dangerous, offensive or cause a nuisance to other users of the area of the Mooring/Berth.
19. The Applicant must not allow any intoxicating liquor to be consumed on the Mooring/Berth unless confined to the Vessel and otherwise in compliance with any applicable laws.
20. The Applicant must ensure that in using the Mooring/Berth, it (together with any walk-way thereto) is kept in an orderly state, clean, clear and accessible at all times and free of equipment.
21. The Applicant must not place or allow any garbage or refuse of any kind to be placed in any place or areas in the Mooring/Berth other than the rubbish bins provided.

22. The Applicant must not store dinghies in the Mooring/Berth or the vicinity of the Mooring Berth.
23. The Applicant acknowledges and agrees that any water supply to the Mooring/Berth is available for use for that Mooring/Berth only and the Applicant must not use or allow the water supplied to the Mooring/Berth to be used for the benefit of any other Mooring/Berth or any other vessel other than the Vessel.
The Applicant must provide its own hose to use any water supplied to the Mooring/Berth, which must be stored when not in use so as not to present a hazard to other users of the Mooring/Berth or other areas in the vicinity of the Mooring/Berth.
24. The Applicant must not and must not allow anyone to wash or hose down the Vessel unless with the consent of the Authorised Territory Representative.
25. The Applicant must not and must not allow any inflammable substance/liquids or bilge water containing any contaminants or any other effluent, fuel or oil to be emptied, spilled, poured or otherwise disposed of into the Mooring/Berth or the vicinity of the Mooring/Berth.
26. The Applicant must not and must not allow any swimming, diving or fishing on or from the Mooring/Berth.
27. The Applicant must not permit any children under the age of 12 years to be on the Vessel at the Mooring/Berth unless accompanied and supervised by a person over the age of 18 years.
28. The Applicant must not use or allow the use of toilets on the Vessel whilst in a Mooring Basin in the Mooring/Berth or otherwise use the Mooring/Berth unless the Vessel has a working holding tank fitted.
29. The Applicant must not bring nor allow to be brought any pets into a Mooring Basin nor onto Wharves in the Mooring/Berth unless on a leash and under control of a person over the age of 18 years. The Applicant must ensure that the Applicant and the Applicant's Invitees observe signage with respect to the prohibition of pets in the Mooring/Berth.
30. The Applicant must not carry out any major repairs to the Vessel (such as welding, grinding or other metal work) within a Mooring Basin nor upon any Wharf or Poles within the Mooring/Berth without the Authorised Territory Representative's written consent. The Territory acknowledges and agrees that minor repairs to a Vessel (such as internal painting, mechanical adjustments and electrical repairs) are permitted within the Mooring Basin, Wharf and Pole, but must be done in accordance with any requirements of the Authorised Territory Representative.
31. The Applicant must not use or allow for the use of power leads within the Mooring Basin nor on any Wharf or Pole within the Mooring/Berth unless they show an inspection tag permitting it to be used to connect power from each individual Mooring/Berth power outlet to the Vessel. The Applicant acknowledges and agrees that:
 - a. if connecting to a 15A outlet, cable should not be less than 2.5mm flexible cable,
 - b. if connecting to a 32A outlet, cable should not be less than 6mm flexible cable,
 - c. if connecting to a 50A or 63A outlet, cable should not be less than 16mm flexible cable.
 - d. plugs must be weatherproof.
32. The Applicant must, when the Vessel is unattended for a period, turn off at the bottle any LPG gas installations and isolate any battery systems. Vessels berthing at Fisherman's Wharf or Raptis Wharf must not be left unattended at any time.

Mooring/Berth

33. The Applicant must at all times moor the Vessel stern to the Mooring/Berth.
34. The Applicant must when mooring the Vessel in the Mooring/Berth:
 - a. if moored to a buoy, moor the Vessel to the buoy specified in **Part A** (and no other buoy) in the correct manner so as to avoid any damage to the mooring and other vessels, moorings or other property; and
 - b. if moored in a Mooring Basin, Wharf or Pole, moor the Vessel in a manner that does not cast out nor lay an anchor in the Mooring Basin or adjacent to or in the vicinity of the Wharf or Pole.
35. The Applicant must provide appropriate deck fittings and mooring lines from the Vessel to the Mooring/Berth, and for this purpose all deck fittings and moorings must be:
 - a. of such type and strength as are adequate for the purposes of securing the Vessel to the Mooring/Berth and as may be required by the Authorised Territory Representative, Regional Harbourmaster, a Port Management Officer and other competent authority; and
 - b. maintained to a reasonable standard, and as may be required by the Authorised Territory Representative, Regional Harbourmaster, a Port Management Officer and other competent authority.
36. The Applicant must not cause nor permit any damage to the Territory's facilities or property or the property of any third party or cause any injury or death to any person in relation to its use of the Mooring/Berth or otherwise in connection with this Licence. The Applicant must immediately notify the Authorised Territory Representative of any such damage, injury or death caused or noticed by the Applicant or any of the Applicant's Invitees.
37. The Applicant is liable and responsible for carrying out any works to the Mooring/Berth that may be required to bring the Mooring/Berth up to and keep and maintain the Mooring/Berth to a standard that is fit, suitable and adequate for all or any of the purposes for which the Applicant or the Applicant's Invitees require the Mooring/Berth.

Charges

38. If a Trading Account under **Part E** is approved at **Part D**, clauses 3 to 5 of **Part E** apply for payment of a Licence Charges as if those clauses form part of this Licence. Otherwise, the Applicant must pay the Territory the Licence Charges in advance as at the date of approval of this Application and otherwise as follows:
- a. If the Mooring/Berth is in the Mooring Basin or Fisherman's Wharf and:
 - I. the Term is less than 3 months, the entirety of the Licence Charges for the Term; or
 - II. the Term is more than 3 months:
 - A. the Licence Charges for the first 3 months; and
 - B. thereafter, quarterly (or part thereof on a pro rata basis); or
 - b. If the Mooring is at Sadgroves Creek and:
 - I. the Term is less than 3 months, the entirety of the Charges for the Term; or
 - II. if the Term is for more than 3 months:
 - A. the entirety of the Licence Charges for the first 3 months; and
 - B. thereafter, 3 monthly (or part thereof on a pro rata basis); or
 - c. If the Mooring/Berth is at any Pole, the entirety of the Licence Charges.

Lien, Seizure and Sale

2. The Applicant acknowledges that, to the extent permitted by law, where there is an amount due and payable to the Territory under this document (including a debt), the Territory will have a lien on the Vessel, its fittings and contents and the Territory may seize, attach and detain the Vessel until fully paid or, if unpaid, may sell the Vessel to recover the amount outstanding and associated costs.

Extension

3. If requested by the Applicant, the Territory may, in its absolute discretion, grant a further Term on the same terms as this Licence (except this clause 40 and save that the Licence Charges applicable will be those that apply as at the date of the Extension) for a period notified to the Applicant by the Authorised Territory Representative.

Insurance and Photographs

4. During the Term, the Applicant must take out, keep, maintain and provide to DIPL copies of Certificates of Insurance and Certificates of Currency for the following insurances:
 - A. comprehensive public liability insurance for at least \$20 million per claim:
 - I. covering claims for:
 - A. damage to any real or personal property;
 - B. the injury to, or death of, any person; and
 - C. pollution / environmental damage and clean-up costs for such damage,
 - D. in connection with the Applicant's operations or use of the Mooring/Berthing Location;
 - II. which extends to include indemnity the Northern Territory of Australia for any legal liability claims arising out of this document and shall include a cross liability clause, the purpose of which requires the insurer to accept the term "insured" as applying to each of the persons comprising the insurance as if a separate policy of insurance had been issued to each of them.
 - b. workers compensation insurance, including employer's liability insurance to protect the Territory against any claims and liability arising out of the common law or required by statute relating to employees for accident or injury to any person employed by the Applicant in relation to the Applicant's operations on the Mooring/Berth and otherwise in connection with this Licence; and
 - c. property damage insurance and hull insurance covering the Vessel (and its contents), for no less than their market value, that includes cover for wreck removal and associated costs.
 - d. A side-view colour photo of recreational vessels must be provided to DIPL, showing vessel name and registration (if applicable).
5. The Applicant must give the Territory written notice immediately after the cancellation of or change in any insurance policy to meet the requirements set out in clause 41.
6. The Applicant must, on the reasonable request of the Authorised Territory Representative, provide the Territory with acceptable proof of currency and coverage of the insurances set out in clause 41 on any extension of the Term and otherwise.
7. The effecting of insurance by the Applicant in accordance with the above requirements will not in any way limit the responsibilities and obligations of the Applicant under all or any of the provisions of this Licence.

Removal of Vessel

8. The Territory may by notice in writing, require the Applicant to remove the Vessel from the Mooring/Berth within 3 days, if:
 - A. following the expiration of this Licence, a further licence is not granted by the Territory to the Applicant for the Vessel; or
 - B. this Licence is terminated.
9. If the Applicant fails to remove the Vessel in accordance with a notice provided to it:
 - A. under clause 45; or
 - B. in accordance with an exercise of rights under any Law, the Territory, may remove or procure the removal of the Vessel from the Mooring/Berth.
10. In the event the Vessel is removed or stored in accordance with clause 45:
 - A. all costs associated with removing and storing the Vessel and associated charges will be a debt due and payable to the Territory by the Applicant; and
 - B. the Vessel will remain at the risk of the Applicant in all respects and the Territory will not be liable for any loss, damage or liability suffered or incurred by the Applicant.

Emergency Situation

11. If the Territory, the Regional Harbourmaster, a Port Management Officer or any other competent authority, in any of their discretion, considers that an emergency situation exists, any of them may carry out such safety measures as are considered desirable in the circumstances and may cause the Vessel to be removed from the Mooring/Berth by whatever means considered fit. The Vessel, equipment, mooring lines and fittings will remain at the risk of the Applicant in all respects and the Territory will not be liable for any loss, damage or liability suffered or incurred by the Applicant as a result.
12. The Applicant must immediately upon request provide to the Authorised Territory Representative a set of the Vessel's main door hatch and ignition keys for use in an emergency situation.

Change of ownership

13. If the Applicant (or the Vessel Owner) enters into any agreement to sell or otherwise dispose of the Vessel, the Applicant must:
 - A. within 7 days of entering into a contract for the sale of the Vessel (or an ownership interest in the Vessel or any entity that owns the Vessel), notify the Territory of that sale or change in interest; and
 - B. subject to clause 50, ensure the Vessel is removed from the Mooring/Berth prior to the completion of the contract of sale or disposal of the Vessel (or an ownership interest in the Vessel or any entity that owns the Vessel).
14. The Applicant will not be obliged to ensure the removal of the Vessel if the new owner has made a successful application to the Territory for a licence for the Mooring/Berth in respect of the Vessel.

Risks, Warranties and Indemnities

15. To the extent permitted by law, the Territory does not expressly or impliedly warrant that the Mooring/Berth or any other Territory facilities are or will remain fit, suitable or adequate for all or any of the purposes of the Applicant and all warranties (if any) as to the suitability, fitness and adequateness of the Mooring/Berth or other Territory facilities are hereby expressly negated.
16. The Applicant and the Applicant's Invitees use the Mooring/Berth and any other Territory facilities at their own risk and the Applicant releases the Territory from and against any loss, damage or liability suffered or incurred by any persons for:
 - a. any loss, injury, damage or death; and
 - b. any damage to the Vessel, equipment, fixtures, fittings or other property, however occurring and including but not limited to damage caused by the acts or omissions of any of the Territory's tenants, licensees, customers, contractors or by trespassers, or by any weather conditions, water, heat, fire, emissions, electricity, vermin, explosion, tempest, riot, civil commotion, bursting pipes or by the entry of water from any source whatsoever or by the operation of any fire equipment nor for any loss of profits resulting there from.
17. The Applicant indemnifies the Territory against:
 - a. losses, damages, costs and liabilities suffered or incurred by the Territory; and
 - b. third party claims made against the Territory, in relation to the Applicant or the Applicant's Invitees' use or occupation of the Mooring/Berth, other Territory facilities or waterways in the Mooring/Berth and the Port of Darwin (including any damage caused by the Applicant and the Applicant's Invitees and trespassers) other than to the extent to which that loss, damage,

- cost liability or third party claim arose as a direct result of the Territory's negligence.
18. The Applicant must at its cost and own expense:
 - a. take all reasonable and practical measures to ensure that the environmental impact resulting from its use of the Mooring/Berth and nearby waterways is prevented;
 - b. immediately clean up any contamination or spills in or affecting the Mooring/Berth and the Port of Darwin, to the extent caused or contributed to by the Applicant or the Applicant's Invitees; and
 - c. indemnify the Territory against any and all losses, costs, third party claims, demands or damages arising from or incidental to the existence of any contamination or spills referred to in this clause 55.
 19. The Applicant is responsible for the cost of structural or capital repairs undertaken by or on behalf of the Territory, in circumstances where damage to the Mooring/Berth, other Territory facilities, nearby waterways or any of the Territory's (or the Territory's tenants, licensees, customers', contractors' or invitees') property, has been caused or contributed to by the Applicant or the Applicant's Invitees' use of the Mooring/Berth or other Territory facilities.
 20. If, in the event of any pollution, contamination, spills, property damage and the like caused by or in connection with the Applicant's use of the Mooring/Berth and Port of Darwin or the Territory's facilities, the Territory is entitled to take any action required to make good the harm, including without limitation cleaning up, repairs and wreck removal and the Applicant will be responsible for all costs and expenses incurred by the Territory which will be recoverable as a debt due and payable to the Territory.
 21. Notwithstanding any other provision in this Licence, if by reason of any event or circumstance which prevents the Territory from performing any obligation under this Licence and which is beyond the reasonable control of the Territory or could not have been reasonably avoided, the Territory will not be liable under this Licence to the Applicant to the extent to which the Territory is so prevented and the performance of that obligation is suspended.

Termination and Enforcement Costs

22. Unless terminated earlier in accordance with this Licence, the Licence expires at the end of the Term.
23. Either party may terminate this Licence by 30 days' written notice to the other party. Notice of termination by the Applicant shall be accompanied by payment of all Licence Charges and other amounts payable to the Territory by the Applicant (including a debt).
24. The Territory may immediately terminate the Licence by notice in writing to the Applicant, if the Applicant:
 - a. fails to pay, on the due date, any Licence Charges or a debt owing to the Territory;
 - b. fails to comply with any directions of the Territory;
 - c. breaches any of the terms and conditions of this Licence; or
 - d. becomes insolvent,and no refund of Licence Charges or other fees paid in advance will be made.
25. The Territory may terminate this Licence immediately by notice in writing to the Applicant, in which case the Territory must refund any Licence Charges or other fees paid by the Applicant to the Territory for the period past the date of termination.
26. Termination or expiry of this Licence does not affect the accrued rights and obligations of the parties.
27. The Applicant must pay all reasonable enforcement expenses (including legal fees on an indemnity basis) incurred by the Territory to recover any amount due under this Licence.

Notices

28. All service of notice required to be given in writing under this Licence must be given in writing and served personally, by pre-paid registered post or by email to the addresses provided in Part A. Each party must, within 7 business days of any change of that parties' contact details specified in Part A, advise the other party of the change by notice in writing.
29. A written notice is deemed to be given by the sender and received by the addressee if:
 - a. given by delivery in person, when delivered to the addressee;
 - b. sent by mail, on the seventh business day from and including the date of posting; or
 - c. sent by email, when the email is received at the specified email address,but if the delivery, receipt or transmission is not on a business day or is after 4:00 pm (recipient's time) on a business day, the notice is taken to be received at 9:00 am on the next business day.

No Limitation

30. The Applicant acknowledges and agrees that without prejudice to the Territory's obligations under this Licence, nothing in this Licence limits or otherwise restricts the Territory's, Regional Harbourmaster's, a Port Management Officer's or any other competent authority's rights or obligations under any Laws or with respect to the management or operation of the Mooring/Berth and Port of Darwin, including making decisions and exercising its rights under law. The Applicant acknowledges that pursuant to applicable laws, the Territory is

subject to the directions of the Minister, and despite the Territory's obligations under this Licence, the Territory is entitled to enforce or comply with any requirement imposed on it by the Minister.

No Tenancy

31. The Applicant must not use or allow use of the Vessel as a primary place of residence. Nothing in this Licence shall confer on the Applicant any right as a tenant nor create the relationship of landlord and tenant (excluding vessels moored at Sadgroves Creek).

No Assignment

32. This Licence is not assignable or transferable without the express written consent of the Territory.
33. The Applicant must not assign, sub-let or otherwise pass possession of the Mooring/Berth that is the subject of this Licence to a third party without the prior written consent of the Territory (which consent may be withheld by the Territory in its absolute discretion).

Severance

34. If any provision of this Licence is unenforceable, illegal or void, that provision is severed and the other provisions remain in force.

Governing Law

35. This document shall be governed and construed in accordance with the laws of the Northern Territory of Australia and the Applicant specifically agrees to submit to the jurisdiction of the Darwin Local Court or the Northern Territory Supreme Court in Darwin.

Costs and Expenses

36. Each party will be responsible for their own costs and expenses incurred in connection with the negotiation and execution of this Licence. The Applicant will be liable for any costs incurred by the Territory in providing any consents required by the Applicant or as a result of any failure by the Applicant to comply with any of its requirements under this Licence, which costs will be a debt due and payable immediately upon demand by the Territory.

Application of Terms in Part F

37. The terms in this **Part F** apply to the grant of the right to use and occupy the Mooring/Berth and Licence Charges for such use or occupation, but do not apply to any other Supplies made under **Part E** for which purpose the provisions in **Part E** apply.

No Interdependency

38. The Agreement in **Part E** and Licence in **Part F** are not interdependent such that termination of either the Agreement or the Licence does not result in termination of the other.

No Merger

39. None of the provisions of this Licence capable of taking effect after termination or expiry of this Licence and not given effect to by the termination or expiry, including but not limited to clauses 5, 45, 46, 47, 52, 53, 54, 55, 56, 57 and 58, merge on termination or expiry. Such provisions continue to subsist and have effect notwithstanding termination or expiry.