

# **General Terms and Conditions for Superyacht Reservations Port of Amsterdam**



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## I GENERAL

### Article 1 Definitions

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**Client:** the natural person or legal entity using the Area or other services of Port of Amsterdam with a Superyacht, including the captain, the owner of the Superyacht, the party who or which has been entrusted with using the Superyacht, the agent, and the party which or whom, as a representative of the above-mentioned individuals, performed preparatory work for Port of Amsterdam in preparation of the above-mentioned use or procurement of services;

**Service:** the reservation of a Berth, including all the related activities;

**Harbour Master's Division:** the department of Port of Amsterdam responsible for the public management of safe, efficient and environmentally responsible vessel traffic in Amsterdam and the North Sea Canal Area;

**Port of Amsterdam:** Havenbedrijf Amsterdam N.V.;

**Length:** overall length, as stated on the Certificate of Tonnage;

**Berth:** a public quay, buoy or pile used to dock vessels (Article 2.1);

**Certificate of Tonnage:** the document as specified in the Dutch Certificate of Tonnage Act (Meetbrievenwet);

**Nautical service:** services to ensure the efficient, safe and environmentally responsible handling of vessel traffic, e.g. bunkering ships, collecting waste and towing vessels;

**Superyacht:** motor yacht from 45m in length overall or a sailing yacht from 35m in length overall;

**Area:** the port area and the port waters of Amsterdam, including the IJ.

## II IMPLEMENTATION

### Article 2 Applicability

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- 2.1 These General Terms and Conditions apply to any and all contracts and agreements under which the Client exercises its right to reserve a Berth with Port of Amsterdam with its Superyacht.
- 2.2 Unless expressly otherwise agreed in writing, the Client waives the applicability of any general terms and conditions of its own and Port of Amsterdam explicitly rejects the applicability of the Client's general terms and conditions.

- 2.3.1 Any amendments to and/or departures from the provisions of these General Terms and Conditions will be binding on Port of Amsterdam solely if and to the extent that Port of Amsterdam has explicitly accepted such amendments or departures in writing.

### Article 3 Purpose, negotiation of the Agreement and joint and several liability

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- 3.1 The purpose of the Agreement is to reserve Berths designated for a Superyacht, which will be entitled, during the reservation period, to use a Berth in the reserved location with the agreed ship at the agreed time for the agreed period and at the agreed price.
- 3.2 An agreement between the parties and the Client is concluded when:
  - (I) Port of Amsterdam has received a written application from the Client. This is only the case if the Client has submitted a complete statement via the Easydock berth reservation system managed by Port of Amsterdam or in another manner indicated by Port of Amsterdam;
  - (II) Contrary to the provisions under I, from the time the Client effectively starts using the Services provided by Port of Amsterdam.
- 3.3 The individuals designated under 'Client' in Article 1 of these General Terms and Conditions are regarded as joint and several debtors with regard to fulfilment of all the Client's obligations towards Port of Amsterdam.

### Article 4 Performance of the services

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- 4.1 It is not possible to Berth in the Area with a Superyacht without making a reservation first.
- 4.2 Port of Amsterdam is authorised to remove a Superyacht from a Berth if the Client fails to comply with the conditions as referred to in Article 6, and/or no reservation has been made.
- 4.3 Services within the meaning of these General Terms and Conditions do not include the exercise of public duties by Port of Amsterdam, which is subject to public law, or the supply of electricity and services in the field of port security (ISPS).
- 4.4 Port of Amsterdam is authorised to provide the Services specified in these General Terms and Conditions as it sees fit.
- 4.5 Port of Amsterdam will make every effort to provide the Services with care and in accordance with the Client's needs.
- 4.6 In providing the Services, Port of Amsterdam is entitled to use items other than those agreed

between the Parties (including the location reserved), or to engage the services of third parties if the circumstances so necessitate. The quality of the overall performance must not be adversely affected in a disproportionate way. Port of Amsterdam will exercise this authority with restraint. In principle, reservations are made at the location De Ruijterkade West or Westerhoofd. Port of Amsterdam can designate more locations at which the reservation can be made. Port of Amsterdam will make this known in good time. The Client can make a proposal for another location. It is possible to reserve this location if this is not opposed by the port and nautical interests.

- 4.7 The Client hereby accepts that circumstances as referred to in clause 4.6, as well as unforeseen circumstances – including a shortage of Berths – may affect the agreed or estimated time at which the services are provided.
- 4.8 The Client will, at all times, provide Port of Amsterdam in a timely manner with all the details required for the proper performance of the Services and will cooperate in any way necessary to ensure this.
- 4.9 If the Client fails to provide the required details to Port of Amsterdam, or fails to do so in a timely manner, Port of Amsterdam is authorised not to accept the reservation.

### III RESERVING BERTHS

#### Article 5 Reservation method/extension

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- 5.1 The Client has the option to reserve Berths for a maximum consecutive period of 7 x 24 hours. The berth can be reserved from 1 February of the calendar year for which the reservation is requested.
- 5.2 Port of Amsterdam will send a confirmation and invoice for the reservation.
- 5.3 Reservations are made via the Easydock berth reservation system managed by Port of Amsterdam. On the basis of the reservation, Port of Amsterdam decides which location best meets the reservation requirements.
- 5.4 The Client will receive a confirmation of the allocated berth in the reservation system no later than one month after the request for a berth has been made.
- 5.5 A reservation is made if the application has been accepted in writing by Port of Amsterdam.
- 5.6 The use of the Berth reserved may be extended, provided this does not conflict with subsequent reservations. The Client cannot request such an extension in advance, but only within the period during which the Client is using the Berth it has reserved.
- 5.7 Port of Amsterdam reserves the right at all times

to modify or cancel reservations, also following acceptance as specified in Article 5.5, provided it states valid reasons.

#### Article 6 Use of the Berth

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The Client may only make personal use of the Berth, and only as part of a cruise in which the Superyacht enters the Area. Personal use is understood to mean the use by the person or persons making the cruise to Amsterdam.

The Client is not permitted to use the Superyacht in the Area for other (e.g. commercial) purposes, including, among other things, making areas in the Superyacht available for overnight stays, parties, etc. to parties other than the Client, whether or not for payment. The Client shall comply with all legal regulations that apply to the use of the Superyacht.

#### Article 7 Tariffs

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- 7.1. The tariffs for reserving a Berth consist of a basic tariff per m1. The tariff applies per calendar day (24 hours).
- 7.2 The booking fee payable by the Client is calculated based on the tariffs for booking fees listed in the Tariff List enclosed with these General Terms and Conditions (Appendix 1).
- 7.3 The tariffs listed in Appendix 1 apply to the berths 'De Ruijterkade West' and 'Westerhoofd'.
- 7.4 The tariffs listed in the Tariff List may be modified by Port of Amsterdam.
- 7.5 The tariffs listed in the second paragraph are exclusive of Dutch VAT.

#### Article 8 Cancelling and changing reservations

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- 8.1. If the applicant wishes to cancel the reserved Berth, the Client must communicate this to Port of Amsterdam using the Easydock reservation system.
- 8.2 Only in the event of a situation of force majeure cancellations can be made by telephone (Port Office: +31 20 5234600 - option 2) and by email (portoffice@portofamsterdam.com).
- 8.3 No cancellation fee will be charged if the cancellation is made before the provisional reservation has been confirmed.
- 8.4 If the Berth is cancelled fewer than 30 days before the date of reservation, 100% of the booking fee will be charged.

#### Article 9 Billing and payment

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- 9.1 Invoicing takes place after the reservation period.
- 9.2 Invoices are sent to the billing address provided by the Client.

- 9.3 Payment must be made by the due date stated on the invoice.

#### **Article 10 Other obligations**

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- 10.1 The Client will ensure that peace and quiet in the immediate vicinity of its Superyacht is guaranteed and that the crew and guests do not cause any disturbance.
- 10.2 Guests are prohibited from causing disturbance to local residents and adjacent vessels between 10:00 p.m. and 7:00 a.m. This in all cases includes noise nuisance.
- 10.3 Provisioning of ships by lorries or other vehicles is not permitted between Monday and Friday from 10:00 p.m. to 7:00 a.m. and on Saturday and Sunday from 10:00 p.m. to 9:00 p.m. If this rule is violated, Port of Amsterdam may cancel future bookings for the Berth in question. Ships should preferably be provisioned by boat.
- 10.4 The Client will ensure that any taxis and cars it has hired to transport the guests and crew of the Superyacht at the times permitted will adhere to the parking times applicable on the quay and will not cause any disturbance to local residents.
- 10.5 The Client is required to use the shore power facilities at the 'De Ruijterkade West' berth, if these facilities are available in the Berth reserved for the Client. The Client is required to report any defective shore power installation by dialling the number listed on the shore power installation.

## **IV OTHER GENERAL STIPULATIONS**

#### **Article 11 Liability**

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- 11.1 The liability of Port of Amsterdam shall not exceed the amount paid to Port of Amsterdam by its insurer.
- 11.2 Port of Amsterdam shall not be liable for any activities within the meaning of Article 5.
- 11.3 If Port of Amsterdam's insurance company does not honour a claim brought by Port of Amsterdam for whatever reason or if the loss is not covered by Port of Amsterdam's insurance, Port of Amsterdam's liability will be limited to EUR 500 (five hundred euros) per claim/event. A series of related claims/events qualifies as a single claim or event.
- 11.4 The provisions of this article do not apply if and to the extent that the loss is the result of gross negligence or wilful misconduct by Port of Amsterdam.
- 11.5 Liability for loss of profit or lower revenues and any other indirect and consequential loss is expressly excluded.

#### **Article 12 Force majeure**

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- 12.1 If Port of Amsterdam fails to fulfil any of its obligations to the Client, such failure cannot be attributed to Port of Amsterdam, if fulfilment of the obligation is complicated or rendered impossible by any foreseeable or unforeseeable circumstance outside Port of Amsterdam's control. In that case, Port of Amsterdam will not be in default. Such circumstances include, in any event, but are not limited to: war, acts of terrorism, occupation, government measures of any kind whatsoever, natural disasters, fire and explosion, extreme weather conditions, high water levels, blockades, strikes, a shortage of Berthing facilities, and defective locks.
- 12.2 In the event of force majeure, Port of Amsterdam is authorised to suspend the performance of its obligations until the circumstances no longer prevent fulfilment. If the force majeure event takes longer than one month, both Port of Amsterdam and the Client will be entitled to rescind the Agreement in whole or in part without being liable to pay any compensation whatsoever.

#### **Article 13 Indemnification**

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The Client indemnifies Port of Amsterdam against any third-party claims on any basis whatsoever for damages related to the use of the Area or the services provided by Port of Amsterdam to the Client.

#### **Article 14 Suspension and rescission**

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- 14.1 If the Client fails to fulfil any obligation towards Port of Amsterdam, as well as in the event of bankruptcy, a moratorium or the suspension of business operations of the Client's company, Port of Amsterdam, without intervention from the courts and without any compensation being payable to the Client, will be authorised to suspend all or part of its services (to be determined at its discretion) temporarily or permanently or to rescind the portion of the Agreement which has not yet been performed in whole or in part by written notification to the Client, notwithstanding any other rights to which it might be entitled.
- 14.2 In the event of rescission of the Agreement on the grounds listed in paragraph 1 of this article, any claim brought by Port of Amsterdam will be immediately due and payable.

#### **Article 15 Removal of a Superyacht**

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If a Client fails to satisfy its obligations or fails to do so in a timely manner, Port of Amsterdam will be authorised to remove (or arrange for the

removal of) the Superyacht from the Berth at the Client's risk and expense. This will not affect the Client's obligation to pay the fee specified in Article 7.

#### **Article 16 Applicable law and disputes**

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- 16.1 Any and all rights, obligations and disputes arising from these General Terms and Conditions will be governed exclusively by Dutch law.
- 16.2 Any and all disputes which might arise in connection with these General Terms and Conditions or any agreements between the Parties arising therefrom will be settled exclusively by the competent court in the Amsterdam judicial district.

#### **Article 17 Invalidity of one or more provisions**

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- 17.1 The invalidity of any provision of the Agreement or of these General Terms and Conditions will not affect the other provisions of the Agreement and these General Terms and Conditions.
- 17.2 If and to the extent that any provision of this Agreement or of these General Terms and Conditions must be deemed unreasonably onerous, unacceptable or invalid in the circumstances provided, a provision will apply between the Parties which, all circumstances considered, is acceptable and matches the provision deemed inapplicable as closely as possible.

#### **Article 18 Privacy**

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The Client gives Port of Amsterdam permission to process data relating to the Client, including any personal data, in the performance of the Agreement. When processing this data, Port of Amsterdam is bound by the rules of the General Data Protection Regulation.