

LICENCE GRANTED UNDER THE COAST PROTECTION
ACT 1949 (Section 18) and the ST IVES BAY COAST
PROTECTION ORDER 2003

LICENCE TO DREDGE

The District Council of Penwith (hereinafter called the 'Council') of Council Offices, St Clare, Penzance, Cornwall TR18 3QW acting in its capacity as the Coast Protection Authority for the District of Penwith

Grants this Licence to

Hayle Harbour Management Ltd (Co No 4906053) (hereinafter called the 'Company') whose registered office is 25 Copthall Avenue, London EC2R 7BP

This Licence authorises the Company to conduct Dredging of the Seashore within the limits of the Harbour in accordance with the Schedule of Conditions and allows the licence holder to appropriate or dispose of materials removed from the Seashore in accordance with the Schedule of Conditions of this Licence.

This Licence shall come into force on the Effective Date shown below and shall remain in force until the Date of Expiry as shown below.

Signed..... Date of issue:

SJR Mansell MBE F.Inst.L.Ex Effective Date:
Proper Officer

Expiry Date: 2 years from the effective date

LICENCE HOLDERS; please read the Schedule of Conditions as set out below, they set out important conditions relating to the operation of this Licence.

SCHEDULE OF CONDITIONS

Definitions

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| 1.1 | Act | Shall mean the Hayle Harbour Act 1989 and all associated plans, documents, maps and charts |
| 1.2 | Clause | Shall mean a clause of this schedule of conditions |

1.3	Excluded Area	Shall be any area in the Harbour outside of the prescribed Dredging Zones
1.4	Dredging	Shall mean the removal of material from the Seashore by the means as set out in this Licence
1.5	Dredging Zones	Shall mean the zones where Dredging is permitted within the Harbour as within the hatched area on the plan in the Schedule attached to this Licence
1.6	Environmental Consultees	Shall mean the Environment Agency, Cornwall County Council, Natural England and the RSPB
1.7	Harbour	Shall be the Seashore within the limits of jurisdiction of the Company as set out in the Act, Section 15(1) and Section 15(2) a and b
1.8	Review Meetings	Shall be meetings held between the Council and Environmental Consultees and the Company every quarter as set out in this Licence
1.9	Seashore	Shall mean the bed and shore of the sea and of every channel, creek, bay or estuary, and of every river as far up that river as the tide flows, and any cliff, bank, barrier, dune, beach, flat or other land adjacent to the shore within the Harbour
1.10	Notice	Shall mean written notice sent by 1 st class post with a deemed delivery date of two Working Days after the date of posting or by facsimile with a deemed delivery date of that Working Day if sent before 17.00, if sent later deemed delivery will be the next Working Day
1.11	Working Day	Shall mean any day(s) on which clearing banks in the City of London are, (or would be but for a strike, lockout or other stoppage affecting particular banks or banks generally) open for business excepting Saturdays and Sundays

2. Area and Purpose of Dredging

2.1 Dredging is to be confined to the Harbour and such Dredging is subject to quarterly scrutiny by the Council in accordance with Clause 5 below

2.2 Purpose of Dredging

2.2.1 The primary purpose of Dredging is to maintain the depth of the Harbour in accordance with the depths as shown on the Admiralty Chart No 1168 Edition No 2 dated 28th June 2001

2.2.2 The secondary purpose of Dredging is to remove hazards to the navigation of the main channel and berths and to allow for safe transit of the Harbour by vessels using the Harbour

2.3 Bathymetric survey of the harbour is to be conducted within the first year of the Licence and the date of the survey is to be mutually agreed between the Company and the Council. Any subsequent bathymetric survey or surveys shall be undertaken at no greater frequency than 12 months from the previous one. The resulting data from any bathymetric survey conducted pursuant to this Clause shall be made available to the Council on completion of any such survey

3. Permission to Dredge

3.1 The Company submitted an application to dredge by way of a letter dated 28th November 2007 giving in outline the area and the anticipated duration of the Dredging operations

3.2 As the application to dredge involved dredged materials being removed from the existing sand cell the Council exercised its right under the licence issued on 13th December 2006 to consult with statutory environmental bodies

3.3 Having conducted said consultation the Council has agreed to give permission to dredge in accordance with the Conditions set out in paragraphs 4 - 7 below

3.4 This permission and this Licence cannot be altered unless such alterations are made in writing and signed by both the Council and the Company

4. Method and Timing of Dredging

4.1 Subject to Clause 4.2 Dredging of the Dredging Zones is to be conducted by trail suction Dredging with a dredger of maximum capacity of 200 tonnes.

No change to the capacity of the dredger shall be agreed except by the Council and the Company in writing

- 4.2 Where any part of the Dredging Zones cannot be adequately dredged by the approved method set out in Clause 4.1 the Company may implement small scale Dredging with other mechanical means to be agreed with the Council and the Environmental Consultees PROVIDED THAT no Dredging permitted by means other than that described in Clause 4.1 shall be conducted during the month of August
- 4.3 The weight of sand to be removed per dredge shall not exceed 200 tonnes and shall not exceed 53,000 tonnes per annum
- 4.4 The Company is to set out a long term Dredging protocol for the Harbour and submit the same to the Council before the termination of this Licence

5. Monitoring of the removal of Dredged Materials

- 5.1 For each day that Dredging is conducted in accordance with paragraph 4 above the Company is to record the following information
- The location or locations of the Dredging
 - The start and finish times of the dredge
 - The tonnage removed
- 5.2 The Company shall undertake testing of dredged material to meet the requirements of the Environment Agency and shall make the results of such tests available to the Council
- 5.3 The Company shall attend Review Meetings with the Council and the Environmental Consultees to discuss previous and future Dredging operations. Information, such as that set out in 5.1 and 5.2 above, is to be presented to the Council not less than 5 Working Days before the scheduled date of the relevant Review Meeting
- 5.4 Following commencement of this Licence the Company is to provide copies of the records provided for the Environment Agency Waste Exemption Licence which sets out the proposed use for the dredged materials
- 5.5 The Company shall consider uses other than agricultural use for the dredged materials and these alternative uses shall be reported to the second Review Meeting following the commencement of this Licence

6. Use of Dredged Materials

- 6.1 A minimum of 20% of the dredged materials is to be retained within the St Ives Bay sand cell for the initial 2 year period of this Licence. Should this Licence be extended as set out in Clause 8 this figure shall be adjusted once agreement has been reached on the sand retention option referred to in Clause 6.3
- 6.2 The Company shall ensure that no more than 5,000 tonnes of stockpiled dredged materials shall be permitted on the Harbour quayside for non-replenishment use unless the Council agrees otherwise
- 6.3 The Company shall make proposals and consider all proposals put forward by the Council and Environmental Consultees for options to retain sand in the sediment cell including beach/dune replenishment using the sand intended to be retained in the cell. A meeting shall be held on a date to be agreed between the parties but not less than three months after the start of this Licence to discuss these options with a view to agreeing a suitable option as soon as is reasonably practicable after that meeting

7. Blasting with explosives not Permitted

- 7.1 Blasting of rock with explosives as a method of Dredging is not permitted under this Licence

8. Extension and Termination

- 8.1 If at any time whilst this Licence is in force the Council in consultation with the Environmental Consultees consider that the terms of this Licence have not been complied with the Council may determine this Licence by giving not more than three months' Notice to the Company
- 8.2 If at any time whilst this Licence is in force the Company wishes to cease Dredging it may terminate this Licence by giving not more than three months' Notice to the Council
- 8.3 The Company may at any time prior to the termination of this Licence serve Notice upon the Council to extend its term for a period of 2 years and the Council and the Company shall endorse this licence accordingly after consultation with the Environmental Consultees

9. Rights under Statute

- 9.1 This Licence is issued without prejudice to any and all rights which the Company may have to conduct Dredging under the terms of the Act but subject to the provisions of the Coast Protection Act 1949 Section 18 and Sections 34 –36

10. Dispute Resolution

10.1 All disputes or differences which shall at any time arise between the Council and the Company whilst this Licence is in force shall initially be referred to:

10.1.1 In the case of the Council the Chief Executive of the Council

10.1.2 In the case of the Company the Harbour Master

Or in each case any other such person as nominated by the persons in 10.1.1 and 10.2.2 above who shall within 28 days of such referral attempt to resolve the dispute through mediation or other forms of dispute resolution as deemed mutually acceptable to the Council and the Company

11. Law

11.1 This Licence shall be governed by and construed in accordance with the laws of England and the Council and the Company irrevocably submit to the jurisdiction of the English Courts

12. Succession of Licensee

12.1 This Licence is issued to the Company who may assign its rights hereunder to any company or body which may from time to time be exercising the powers of the harbour authority under the provisions of the Act