

MOORAGE AGREEMENT

KELOWNA YACHT CLUB
1370 WATER STREET, KELOWNA, B.C. V1Y 1J1
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THIS MOORAGE AGREEMENT (“Agreement”) IS MADE THIS _____ DAY OF _____, 20_____

BETWEEN THE KELOWNA YACHT CLUB (“KYC”) AND A MEMBER OF THE KYC HAVING BEEN OFFERED MOORAGE.

MEMBER INFORMATION

FULL NAME: _____ MEMBER#: _____

ADDRESS: _____

(CITY) _____ (PROV) _____ (POSTAL CODE) _____

PHONE NUMBERS: (RES) _____ (BUS) _____ (CELL) _____

EMAIL: _____

GATE KEY CARD/FOB NUMBER: _____

SLIP # _____ Slips may only be reassigned or exchanged with the written consent of KYC. This Agreement will apply to any subsequent slips occupied by the Member.

(the “Member”)

VESSEL INFORMATION

YEAR: _____ LENGTH OVERALL: _____ BEAM: _____

TYPE: (please circle) POWER SAIL PONTOON HOUSE OTHER: _____ (specify)

HULL MANUFACTURER: _____

REGISTRATION/LICENSE NUMBER: _____

NAME OF VESSEL: _____

VESSEL COLOUR(S): _____

ENGINE: MFG. _____ H.P. _____

(the “Vessel”)

MOORAGE RATES

MOORAGE \$ _____ POWER _____ TAX _____ TOTAL \$ _____ / YEAR which moorage is subject to increases as established by KYC annually

(the “Moorage”)

TERM

THE ORIGINAL TERM SHALL BE _____ TO _____

(the “Original Term”)

PAYMENT METHOD

CASH CHEQUE DEBIT PRE-AUTHORIZED DEBIT WEB PAYMENT

VESSEL INSURANCE

Proof of Vessel insurance must accompany payment. Moorage will not be granted until proof of insurance is provided.

MOORAGE REGULATIONS

Those parts of KYC’s bylaws, rules, regulations and resolutions dealing with moorage, commonly referred to as the Moorage Regulations, as amended or replaced from time to time, the current version is posted on member page of website: www.kelownayachtclub.com and supersedes all other versions.

(the “Moorage Regulations”)

SECURITY DEPOSIT

The amount, as amended from time to time, of the security deposit levied by KYC on its Members which shall be paid by the Member promptly when due.

(the "Security Deposit")

MOORAGE TERMS AND CONDITIONS

Moorage privileges are subject to the terms and conditions contained in this Agreement which incorporates by reference the Moorage Regulations in place on the date of this Agreement and as may be amended from time to time. Your signature on this Agreement acknowledges that you have received adequate notice of, are aware updated versions of the regulations are posted on the member accessed website, which supersedes all other versions, and unconditionally accept all the terms and conditions in this Moorage Agreement and the Moorage Regulations in exchange for the moorage privileges.

Term and Termination

1. **Automatic Renewal.** Unless terminated by either party in accordance with the terms herein, this Agreement shall automatically renew at the end of the Original Term for a period of one year and subsequently at the end of each one year period for an additional one year period (respectively, the "Renewal Dates").
2. **Automatic Termination by the Member.** The Member may automatically terminate their membership and/or this Agreement by either:
 - a. Failing to pay their membership dues by 5:00pm on the first business day in January in each calendar year; or
 - b. Failing to pay their Moorage dues by 5:00pm on the first business day in March in each calendar year.
3. **Termination by KYC for Cause.** Without further notice, KYC shall be entitled to terminate this Agreement and re-assign the Slip with no further notice to the Member in the following circumstances:
 - a. the Member has not paid his or her Membership Dues by the close of business on the first business day in January in each calendar year;
 - b. the Member has not paid his or her annual Moorage fees by the close of business on the first business day in March in each calendar year;
 - c. the Member failing to maintain insurance as required hereunder and providing proof of insurance; and
 - d. the Member, or the Member's family, guests or invitees, violating any other term of this Agreement.
4. **Termination by KYC Not for Cause.** Notwithstanding anything else herein to the contrary, KYC shall be entitled to terminate this Agreement at any time without cause by providing the Member 30 days' notice and a refund of any Moorage paid which is applicable to the period of time after this Agreement is terminated.
5. **Vacant Possession.** The Member agrees that it will vacate the Slip upon the expiry of the Original Term or any subsequent one year term during which time the Member has given notice pursuant to paragraph 1 herein or in the event this Agreement is terminated in accordance with paragraphs 3 and 4 herein. If a Member does not vacate a Slip when required hereunder, KYC is authorized to remove the Vessel from its Slip and the Member agrees to reimburse KYC for the cost of removing the Vessel or any other vessel occupying the Member's Slip. Furthermore, the Member hereby authorizes KYC to seize and sell the Vessel in order to satisfy outstanding Moorage due under this Agreement.

Moorage and Payment

6. **Payment of Moorage.** Moorage is due upon the Member and KYC entering into this Agreement and annually dues by 5:00pm on the first business day in March in each calendar year unless this Agreement is otherwise terminated in accordance with the terms hereof.
7. **No Refunds.** All fees paid hereunder, including Moorage, are non-refundable except as specifically set out herein.
8. **Security Deposit.** Upon the execution of this Agreement, the Member shall pay KYC the Security Deposit. If the Member is in breach of any of the terms of this Agreement, the Member authorizes KYC to utilize the Security Deposit or portion thereof to satisfy the said breach but in no way shall this be construed as a waiver of KYC's rights and remedies arising out of this Agreement. In the event that all or any portion of the Security Deposit is used by KYC in accordance with this Agreement, the Member shall immediately replenish the Security Deposit to the amount required by KYC and as amended from time to time.

Insurance

9. **Risk and Insurance.** The Vessel and contents of the Vessel shall be moored entirely at the Vessel owner's risk with respect to any loss or damage sustained, whether by theft or otherwise, while on KYC premises. The Vessel shall be insured at all times including valid liability insurance in the amount of \$2,000,000 for the Vessel while moored at KYC. The Member shall supply KYC administration staff with proof of insurance for the Vessel upon request. Failure to supply the said insurance document or failure to ensure that adequate insurance coverage is in place at all times is a material breach of this Agreement and entitles KYC to terminate this Agreement.

The Vessel and Moorage

10. **Multiple Boat Owners.** Where there are multiple owners of the Vessel, Moorage may only be held by the KYC member who has been offered moorage and signed the Moorage Agreement. Upon termination of the Moorage Agreement for any reason, the other owner(s) must apply for new moorage.

11. **Damage to Other Property.** The Member shall be liable for any loss, damage or destruction caused to any property, including without limitation, any KYC property or other vessels which damage is caused by a Member's Vessel, the Member personally, or the Member's family, guests, invitees and any other persons on KYC's premises with the Member's express or implied consent.
12. **Vessel to be Secured.** The Member is responsible for securing his/her Vessel to the dock in a safe and responsible manner and shall take all reasonable steps to prevent damage to other vessels and docks. The Member shall use the proper size and grade of rope as required to maintain safe and secure dock lines. The Member shall not permit the Vessel to hang over the wharf. Without notice to the Member, KYC staff may remove any vessel:
 - a. found to be in contravention of this section;
 - b. any vessel which, in the sole opinion of KYC, is in danger of sinking or listing; or
 - c. that represents a hazard to other vessels in the KYC marina.

The Member of such vessel shall pay, in accordance with the terms and conditions of this Agreement, all such costs and expenses related to such removal, whether such costs or expenses arise indirectly or directly as a result of such removal.

13. **Removal of Unauthorized Vessels.** Only the authorized Vessel may be moored in the Slip assigned to the Member. KYC may, in its absolute discretion; remove from the KYC premises at the Member's expense any vessel which is not authorized by this Agreement to occupy the Slip.
14. **No Interference.** The Member shall not conduct him/herself in a manner that is detrimental to the safety or the quiet enjoyment of KYC premises by others. Failure to comply with this condition may result in the termination by KYC of all rights to moor the Vessel belonging to the Member who is in contravention of this condition and any such Vessel may be removed without notice from KYC at the Member's expense. The Member shall ensure that the Member's family, guests and invitees comply with the terms of this paragraph.
15. **Repairs and Maintenance.** Under no circumstances shall any major fibreglass or other heavy repair work be permitted on KYC premises. Minor repairs to vessels are permitted with permission of the KYC. Members must instruct maintenance workers to report first to the KYC office before entering the moorage basin.
16. **Environmental Contaminants.** The Member shall:
 - a. receive, handle, use, store, treat, ship and dispose of any and all environmental contaminants (as established from time to time by applicable legislations or regulation or bylaw) in strict compliance with all applicable environmental, health or safety laws, regulations, orders or approval; and
 - b. remove prior to the end of the Term of this Agreement and off KYC premises all environmental contaminants. The Member agrees that he/she shall not, and shall ensure their guests and invitees do not, release into the environment or deposit, discharge, place or dispose of at or near KYC's premises any hazardous or toxic materials, substances, pollutants, contaminants or waste as a result of any activities carried on by the Member or their guests and invitees on KYC premises.

The Member shall ensure that the Member's family, guests and invitees comply with the terms of this paragraph. The Member shall and does agree to indemnify and save harmless KYC from and against any and all i) liabilities, lawsuits, claims, costs and damages (including lost revenue, consequential damage, interest, penalties, fines, monetary sanctions); ii) expenses incurred or suffered by KYC (including amounts paid to lawyers, accountants and engineers) by reason of, resulting from, in connection with, or arising in any manner whatsoever out of the breach of any term contained in this paragraph. This indemnification shall remain in full force and effect notwithstanding the expiration or other termination of this Agreement.

17. **Moorage Regulations Incorporated.** KYC's Moorage Regulations as amended or replaced from time to time with updated versions posted to the member area of the website (www.kelownayachtclub.com), which supersedes all other versions, are hereby incorporated in their entirety into, and form part of, this Agreement without notice or publication to the Member. The Member acknowledges having received full and adequate notice and disclosure of the Moorage Regulations including any amendment or replacement of them. The Member agrees to familiarize him or herself with, be bound by, and strictly adhere to the Moorage Regulations. Failure to comply with the Moorage Regulations may result in KYC withdrawing the Member's moorage privileges at any time. The Member agrees that it is the Member's obligation to inform him or herself as to the contents of the Moorage Regulations as amended or replaced from time.

General

18. **No Assignment.** This Agreement is not assignable or transferable by the Member.
19. **Time of the Essence.** Time is of the essence of this Agreement.

ASSUMPTION OF RISK AND WAIVER OF LIABILITY

20. **Assumption of Risk and Waiver of Liability.** By signing this Agreement the Member is waiving, on his/her own behalf and on behalf of his/her family members, guests, and invitees, certain rights to sue KYC and is agreeing to indemnify KYC against any and all claims and liability for anything arising out of the use of KYC premises, equipment and facilities.

The Member acknowledges that KYC premises, equipment, and facilities have many inherent risks including but not limited to water-related hazards, a moorage basin and moving Vessels, inclement weather, uneven ground, ramps, slippery surfaces, docks, ropes, walkways, and pets. The Member accepts and assumes all risks arising out of, associated with or related to activities using KYC premises and facilities, even though such risks may have been caused by the negligence of KYC.

The Member covenants and agrees to release, discharge, indemnify and hold harmless KYC and its employees, directors, officers and agents from or against any and all liability whatsoever for any loss, damage, actions, claims, suits, proceedings, costs, charges, demands, expenses or direct or indirect monetary loss, (whether founded in tort or in contract or otherwise) and including claims for consequential damages, resulting from

- (a) injury to or the death of any persons,
- (b) damage to or loss of any property,
- (c) damage to the environment, or
- (d) any claim of any nature whatsoever

any of which arise directly or indirectly in any manner out of or in any way connected with the use of KYC property, premises or otherwise or attributable to the nature, construction, design, condition or state of repair of the KYC premises or any of the land and moorage basin occupied by KYC or of the Slip, or arising out of, occasioned by, or attributable to the presence on, rental, occupancy or use of KYC, any of the land and the moorage basin occupied by KYC or of the Slip occupied by the Member or by any person visiting same or being thereon and even though such liability may have been caused, or contributed to, by the negligence of KYC or its employees or agents.

EACH OF THE PARTIES, WISHING TO BE LEGALLY BOUND BY THE TERMS OF THIS AGREEMENT, HAS PLACED THEIR SIGNATURES BELOW AS OF THE DATE OF THIS AGREEMENT. THE UNDERSIGNED MEMBER, BY SIGNING BELOW, ACKNOWLEDGES HAVING READ, UNDERSTOOD AND AGREED WITH ALL THE TERMS, CONDITIONS AND PROVISOS OF THIS AGREEMENT.

KELOWNA YACHT CLUB
Per:

Signature of Member

Authorized Signatory

This Agreement is made in accordance with WAREHOUSE LIEN ACT, RSBC c. 480 and the FEDERAL COURT ACT, RSC, and successor legislation and the Member acknowledges and agrees that the Moorage in this Agreement constitutes "dock charges" within the meaning of the Federal Court Act, and "warehouse's charges" within the Warehouse Lien Act;

Note: The member area of the website provides updated information including any changes/amendments to the Kelowna Yacht Club rules and regulations. To access this information you must have a login and password set up. This can be facilitated by the office staff. In the event you are unable to access the online version of the Moorage Regulations you can request a current printed copy at the Kelowna Yacht Club office. The moorage regulations found on the website is always the current version and supersedes all other versions.