



## FCRCC BOAT STORAGE AGREEMENT

a. "THIS AGREEMENT, by and between the FALSE CREEK CANOE SOCIETY (Also known as the FALSE CREEK RACING CANOE CLUB) having an office at the False Creek Community Centre, 1318 Cartwright Street, Vancouver, British Columbia V6H 3R8, Email admin@fcrcc.com ("FCRCC") and the applicant.

Where the boat is co-owned by more than one owner, User shall execute this Agreement for and on behalf of all owners of the boat. WHEREAS the User desires boat storage facilities for the boat described previously AND WHEREAS FCRCC maintains boat storage facilities adjacent to the False Creek Community Centre at Alder Bay on Granville island, Vancouver, British Columbia and at Burrard Civic Marina, Vancouver, British Columbia, as indicated in the agreement, (collectively, the "Boat Storage Facilities"; each a "Boat Storage Facility") and FCRCC desires to allocate to User the indicated space for storage of the boat (together with any replacement or temporary boat storage space, the "Allocated Space"), on the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the premises and mutual covenants set out in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Term of Agreement. This Agreement shall commence on the Effective Date and remain in full force and effect unless extended pursuant to Section 13, or earlier terminated under this Agreement (the "Term"). This Agreement may be renewed on such terms as may be mutually agreed by FCRCC and User.

2. Boat Storage Space.

(a) FCRCC hereby grants to User the right to occupy and use the Allocated Space to store the Boat during the Term, provided that User pays the annual Boat Storage Fee and complies with the terms and conditions set out in this Agreement.

(b) FCRCC, in its sole discretion, reserves the right to allocate to User at any time during the Term on written notice to User a replacement or temporary boat storage space in place of the Allocated Space, and FCRCC may enter the Allocated Space and move the Boat to such replacement or temporary boat storage space without notice to User. Without limiting the generality of the foregoing, FCRCC reserves the right to move a Boat to a less accessible boat storage space if the Boat is inactive, as determined by FCRCC in its sole discretion, or to a temporary boat storage space pending removal of the Boat in the event of termination of this Agreement.

(c) User may submit a written request to FCRCC for a replacement boat storage space if he or she believes that the Allocated Space is inappropriate for his or her needs. FCRCC may, in its sole discretion, consider any such request and any decision made by FCRCC shall be final and binding.

### 3. Fees and Payment.

(a) During the Term, User shall pay to FCRCC, the annual boat storage fee established by FCRCC from time to time for the Allocated Space (the "Boat Storage Fee") for each of the 12-month periods from November 1st of each year to October 31st of the following year (each a "Storage Year"). The user agrees that the Boat Storage Fee shall be subject to change, may vary with the type or location of boat storage space, and will be established on an annual basis by FCRCC, in its sole discretion. The Boat Storage Fee is exclusive of GST, excise or use taxes levied in connection with the provision of the Allocated Space.

(b) The Boat Storage Fee is due and payable in full on or before November 1, of each Storage Year during the Term, payable in cash, credit card or by cheque payable to "FCRCC" at the address set out on the first page of this Agreement. **The Boat Storage Fee is an annual fee and is non-refundable.**

### 4. Conditions of Use. User agrees to comply with the following terms and conditions at all times during the Term:

(a) User may not store any boat or other equipment in the Allocated Space other than the Boat, provided that if the Boat is an outrigger, User may store the Boat, one ama and one pair of iakos in the Allocated Space;

(b) User may not store the Boat in any boat storage space other than the Allocated Space;

(c) the Boat must be wholly or partially owned by User;

(d) the Boat must be maintained in seaworthy condition, as reasonably determined by FCRCC in consultation with User and persons with knowledge of such types of equipment;

(e) User may not modify or alter the Allocated Space without the prior written consent of FCRCC;

(f) User may not use the Allocated Space in a manner that obstructs or interferes with the occupation or use of any adjacent boat storage spaces;

(g) User must promptly notify FCRCC of any changes to the description of the Boat stored in the Allocated Space;

(h) **User must be a member of FCRCC in good standing;** and

(i) User must promptly notify FCRCC of any changes to User's contact information set out on the first page of this Agreement.

### 5. Damage to Property. During the Term, User shall in the course of his or her use of the Allocated Space take all reasonable steps (including the locking of gates after use of the Boat Storage Facility) to protect the Boat Storage Facility housing the Allocated Space and any boats and other equipment owned by other users housed therein

("Protected Property") from any damage and theft and shall be responsible for all damage and theft to the Boat Storage Facility housing the Allocated Space and any Protected Property. If User damages the Boat Storage Facility or any Protected Property in the course of his or her use of the Allocated Space, through negligence, wilful misconduct or otherwise, User shall be responsible for the making good of such damage at his or her cost and expense.

6. Compliance with Laws. User shall comply with all applicable federal, provincial and municipal laws, regulations and bylaws and with any rules and regulations established by FCRCC, Canadian Mortgage and Housing Corporation (hereinafter "CMHC"), False Creek Community Centre (hereinafter "FCCC"), Vancouver Board of Parks and Recreation Burrard Bridge Civic Marina (hereinafter "BBCM"), in effect from time to time regarding the storage of the Boat and the use of the Boat Storage Facilities and the Allocated Space, and no approval by FCRCC hereunder shall act as a waiver of any such requirements.

7. Hazardous Conditions; Repairs and Maintenance. User shall at all times be diligent in his or her use of the Allocated Space and will examine and inspect the Boat Storage Facilities and the Allocated Space prior to each use for hazardous or dangerous conditions, including, without limitation, equipment and facilities that have been damaged or made unsafe by vandalism, improper use, normal wear, inadequate maintenance or the actions of other persons. User accepts all risks of loss or injury (including death) arising from by any activity undertaken in hazardous or dangerous conditions. User shall promptly inform FCRCC in writing of any hazardous or dangerous conditions at the Boat Storage Facilities of which he or she becomes aware. FCRCC, without notice to User, may inspect, repair, maintain or replace any part of the Boat Storage Facilities, including the Allocated Space, in its sole discretion, without obligation to do so.

8. No Warranties. FCRCC makes no representations or warranties as to the Boat Storage Facilities or the Allocated Space or the condition or suitability thereof for the Boat or User's purposes and FCRCC provides, and User accepts, the Allocated Space on an "as-is, where-is" basis.

9. Risk of Loss. User acknowledges and agrees that the Boat Storage Facilities are shared use facilities among FCRCC's members and FCRCC does not have the resources to continuously monitor the Boat Storage Facilities. The Boat and any other property of User of any kind stored within, on or about the Allocated Space or the Boat Storage Facilities shall be at the sole risk of User. None of FCRCC, CMHC, FCCC and BBCM or their respective administrators, directors, officers, contractors, Agents, members, invitees, volunteers and employees shall be liable to User or any person, including, without limitation, any co-owner of the Boat, for any damage to, or loss of, any property or any injury (including death) to any person relating to the Boat or any other property stored within, on or about the Allocated Space or the Boat Storage Facilities arising from any cause whatsoever, including, but not limited to: fire, theft, vandalism, water damage, mysterious disappearance, rodents, acts of God, or the negligence or wilful misconduct of FCRCC, CMHC, FCCC, BBCM, FCRCC or their respective administrators, directors, officers, contractors, Agents, members, invitees, volunteers or employees. In this Agreement, "Agents" shall include any person or organization acting at the direction of or in coordination with FCRCC.

10. Insurance: User acknowledges that FCRCC carries no insurance for any damages, losses, liabilities, claims, costs and expenses (including legal fees) of any kind whatsoever and howsoever arising (collectively, "Losses") that User may suffer or incur in the occupation and use of the Allocated Space and the Boat Storage Facilities or otherwise under this Agreement. User shall be solely responsible for

procuring and maintaining adequate insurance coverage at his or her own expense. FCRC accepts no liability for the adequacy or inadequacy of any particular insurance policy selected by User.

#### 11. Indemnification and Release.

(a) User will indemnify and save harmless FCRC, CMHC, FCC and BBCM and their respective administrators, directors, officers, contractors, Agents, members, invitees, volunteers and employees (collectively, the "Indemnified Parties") from any Losses that the Indemnified Parties may suffer or incur as a result of:

(i) the occupation and use of the Allocated Space and the Boat Storage Facilities by User or any other users of the Boat, including, without limitation, any co-owner of the Boat, including any personal injury (including death) or property damage or loss occurring in connection therewith;

(ii) the negligence or wilful misconduct of User or any other users of the Boat in or about the Allocated Space or the Boat Storage Facilities; and

(iii) any breach by User of any term of this Agreement.

This indemnity will survive expiration or earlier termination of this Agreement.

(b) User hereby releases and discharges the Indemnified Parties from any and all Losses suffered or incurred, or alleged to be suffered or incurred, by User or any person claiming through User, including, without limitation, any user or co-owner of the Boat, arising out of the occupation and use of the Allocated Space or the Boat Storage Facilities by User or otherwise under this Agreement, including, without limitation, the removal and/or sale of the Boat or other equipment hereunder, even if due to the negligence or wilful misconduct of any of the Indemnified Parties. This release will survive expiration or earlier termination of this Agreement.

12. Limitations of Liability. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL FCRC, CMHC, FCC AND BBCM OR THEIR RESPECTIVE ADMINISTRATORS, DIRECTORS, OFFICERS, CONTRACTORS, AGENTS, MEMBERS, INVITEES, VOLUNTEERS AND EMPLOYEES BE LIABLE TO USER OR ANY OTHER PERSON, INCLUDING, WITHOUT LIMITATION, ANY CO-OWNER OF THE BOAT, FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE), WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF FCRC, CMHC, FCC OR BBCM HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR OF ANY CLAIM BY ANY OTHER PARTY.

13. Holding Over. If, with FCRC's consent, User remains in possession of the Allocated Space after the expiration of the Term and User is not in breach of this Agreement, User will be deemed to be occupying the Allocated Space on a month-to-month basis only, at a monthly boat storage fee equal to one-twelfth (1/12th) of the then-current annual Boat Storage Fee, payable in advance on the first day of each such month, and otherwise on the terms and conditions set out in this Agreement. Either party may terminate such overholding in accordance with the rights of termination under Section 14.

14. Termination. This Agreement may be terminated:

- (a) by User at any time on seven(7) days prior written notice to FCRCC;
- (b) by FCRCC at any time on 30 days prior written notice to User;
- (c) by FCRCC immediately on written notice if the Allocated Space is not used within 30 days after the Effective Date, in which case User will be moved to the bottom of the boat storage waiting list;
- (d) by FCRCC immediately on written notice, if, for any Storage Year, User has failed to pay the Boat Storage Fee on or before October 31st of such Storage Year, or if, for any overholding period, User has failed to pay the applicable monthly boat storage fee for two (2) consecutive months;
- (e) by FCRCC immediately on written notice, if at any time during the Term, User breaches any term of this Agreement and fails to cure such breach within 14 days after written notice from FCRCC, including, without limitation:
  - (i) failing to remove unauthorized equipment from the Allocated Space;
  - (ii) failing to maintain the Boat in seaworthy condition;
  - (iii) failing to be a member of FCRCC in good standing; and
  - (iv) failing to comply with applicable laws;
- (f) by FCRCC on 30 days prior written notice if the Boat is inactive, as determined in FCRCC's reasonable discretion, following consultation with User and persons with knowledge of such types of equipment;
- (g) by FCRCC in accordance with Section 16; and
- (h) by FCRCC immediately on written notice, in the event of termination of the agreement(s) with CMHC, FCCC and/or BBCM under which FCRCC derives its rights of occupation and use in respect of the Boat Storage Facility housing the Allocated Space, as the case may be.

15. Effect of Termination. Subject to Section 13, in the event of the expiration or earlier termination of this Agreement:

- (a) User shall cease all use of the Allocated Space except to permanently remove the Boat from the Allocated Space;
- (b) User shall remove the Boat from the Allocated Space within 14 days after the effective date of termination;
- (c) if this Agreement has been terminated by FCRCC for User's breach of the terms hereof, User shall pay to FCRCC as liquidated damages, the sum of five (5) dollars (\$5.00) for each calendar day after the effective date of termination until the Boat is removed from the Allocated Space, in cash or by cheque payable to "FCRCC" at the address set out on the first page of this Agreement. User agrees that such liquidated damages are fair and reasonable; and
- (d) if the Boat or any unauthorized equipment remains in the Allocated Space 60 days after the effective date of termination, the Boat or equipment shall be deemed to be abandoned and FCRCC may re-enter the Allocated Space without notice to User, FCRCC may remove and/or sell or otherwise dispose of the Boat or equipment, and FCRCC may retain all proceeds from any such sale or disposition.

16. Force Majeure. If a party is delayed in the performance of its obligations under this Agreement (other than the payment of money) by an event outside its reasonable control, including, without limitation, acts of God and labour disputes, including strikes, lockouts, job actions or boycotts, the party delayed will be relieved of its obligations under this Agreement to the extent of the delay. The damage or destruction of the Boat Storage Facility housing the Allocated Space by fire or other casualty will not entitle User to any refund, abatement or reduction of any Boat Storage Fee paid under this Agreement nor extension of the Term, any law or statute now or in the future to the contrary notwithstanding. If the Boat Storage Facility housing the Allocated Space is destroyed or damaged in whole or in part in a manner that precludes its use for storing boats, FCRC shall be under no obligation to rebuild or repair the said damage, and FCRC may immediately terminate this Agreement upon written notice to User.

17. No Assignment. User may not assign, sublease, sublicense or otherwise transfer to any person his or her rights granted under this Agreement, without the prior written consent of FCRC in its sole discretion.

18. Relationship. If the Boat is co-owned by more than one owner, User acknowledges and agrees that he or she is executing this Agreement for and on behalf of all owners of the Boat, and User shall inform and make all other owners of the Boat aware of the terms and conditions of this Agreement. Nothing in this Agreement nor any of the acts of the parties hereto shall create any legal relationship between the parties other than that of licensor and licensee. Nothing in this Agreement shall be create a legal demise, nor create or grant any interest in land, and this Agreement may not be registered in any Land Title Office.

19. General Provisions. Any notices to be given hereunder shall be in writing and sent to FCRC, addressed to the Office Administrator, and to User at the addresses on the first page hereof delivered by hand delivery or by electronic transmission, with originals to follow immediately thereafter by overnight mail or by first class mail, and shall be effective upon first receipt thereof. This Agreement may be amended only by mutual written agreement of the parties. This Agreement will be governed by the laws of the Province of British Columbia. If a provision of this Agreement is held invalid or unenforceable, it will be severed from this Agreement and will not affect the validity or enforceability of the remaining provisions of the Agreement. The rights and remedies available under this Agreement shall be cumulative and not alternative and shall be in addition to and not a limitation of any rights and remedies otherwise available to the parties at law or in equity. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all previous writings and understandings. Wherever the singular or masculine form is used in this Agreement, it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa, as the context requires. The parties shall both do such further acts and execute and deliver such further instruments as may be required to implement the intent of this Agreement. This Agreement may be executed in any number of counterparts (either originally or by electronic copy), each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument.

20. Independent Legal Advice. USER CONFIRMS THAT HE OR SHE HAS READ THIS AGREEMENT BEFORE SIGNING IT, UNDERSTANDS THE TERMS AND CONDITIONS HEREOF AND THAT THIS AGREEMENT IS A LEGALLY BINDING CONTRACT. IF USER HAS ANY QUESTIONS CONCERNING THE CONTENT OF THIS

AGREEMENT, USER ACKNOWLEDGES THAT HE OR SHE SHALL HAVE CONSULTED A LAWYER FOR INDEPENDENT LEGAL ADVICE.

IN WITNESS WHEREOF FCRC and User have executed this Agreement as of the Effective Date. IN WITNESS WHEREOF FCRC and User have executed this Agreement as of the Effective Date.

Updated November 2019