

LICENCE OF USE

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_, 2009

BETWEEN:

Greater Victoria Harbour Authority
202 - 468 Belleville Street
Victoria, BC
V8V 1W9
("Harbour Authority")

OF THE FIRST PART

AND:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OF THE SECOND PART

WHEREAS:

- A. Harbour Authority is the registered owner of certain lands located at Fisherman's Wharf, Victoria (the "Wharf") and legally described as:
1) PID 002-012-804
Lot 1 of Lots 1352A, 1366, 1367, 1368, AND 1369, Victoria City, Plan 28160;
2) PID 009-422-455
Lot 1293, Victoria City, except that part in Plan 21724; and
3) PID 025-392-247
Lot A of the Bed of Victoria Harbour, Victoria District, Plan VIP73551
(hereinafter called the "Land")
B. The Licensee is the owner of the float home or vessel converted to residence named " \_\_\_\_\_ " and wishes to be granted this Licence to use a portion of the Land for the purpose of a berthage space at the Wharf for the Float Home.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the fee paid by the Licensee to Harbour Authority and in consideration of the premises and covenants and Agreements contained in this Agreement, Harbour Authority and the Licensee covenant and agree with each other as follows:

1. RIGHTS TO OCCUPY

- 1) Harbour Authority, subject to the performance and observance by the Licensee of the terms, conditions, covenants and agreements contained in this Agreement and to earlier termination as provided in this Agreement, grants to the Licensee a right by way of licence for the Licensee and those who will permanently reside on the Float Home as specified in sub-clause (2) below, to use that portion of the Land identified as a berth, on Finger 1, 3 or the east side of finger 2, (the "Licence Area") and shown on Schedule "A" attached to and forming part of this Agreement for the purpose of berthing the Float Home at the Wharf and for no other purpose. The Licence Area berth is to be chosen by Harbour Authority at its sole discretion.
2) The Float Home shall be owner-occupied, and no rentals are allowed.
3) Along with the Owner, only the following persons shall be allowed to reside on a permanent basis at the Float Home:

\_\_\_\_\_  
\_\_\_\_\_

- 4) The Licensee shall use the Float Home for residential purposes and for no other purpose or purposes whatsoever.



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## **2. RESERVATION OF RIGHTS**

Harbour Authority hereby reserves to itself from the grant and the covenants made by it to the Licensee under paragraph 1 above the right for Harbour Authority, its agents, employees, contractors, subcontractors and invitees to have full and complete access to the Licence Area to carry out any operations associated with Harbour Authority's use of the Licence Area.

## **3. BERTHAGE CHANGE**

Harbour Authority reserves the right to change the berth assigned to the Licensee as necessary for the efficient operation of the Wharf or for other causes, such as emergency or safety. If requested to do so by Harbour Authority, the Licensee shall relocate the Float Home at the Licensee's cost.

## **4. TERM**

The Term of the Licence granted under this Agreement shall be from April 1<sup>st</sup>, 2009 to March 31<sup>st</sup>, 2010 unless earlier terminated under this Agreement.

## **5. DAMAGE DEPOSIT**

The Licensee will pay to Harbour Authority at the commencement of the Term a damage deposit in the amount of ONE THOUSAND (\$1,000.00) DOLLARS. The deposit will be refunded, without interest, thirty (30) days after the expiry or earlier termination of this Licence, provided that the Licensee has met all the terms and conditions of this Licence and all amounts due to Harbour Authority have been paid by the Licensee.

## **6. UTILITIES**

The Licensee agrees to pay for the installation and provision of electricity and all other utilities which may be furnished to the Float Home by Harbour Authority at established rates. Harbour Authority does not guarantee the continuity of utility services to the Float Home. The Licensee will not connect to any of the utility services unless permission to do so has been granted by Harbour Authority.

## **7. BERTHAGE CHARGE, LICENCE FEE AND OTHER COSTS**

- 1) In consideration of the right to use, the Licensee shall pay to Harbour Authority on or before the first day of each month of the Term at 202 – 468 Belleville Street, Victoria, BC V8V 1W9 (or such other location as Harbour Authority may designate for receipt of payment), the following charges as specified in Schedule "B" attached to and forming part of this Agreement:
  - a) the berthage charge as established by Harbour Authority;
  - b) the licence fee of FIFTEEN HUNDRED (\$1,500.00) DOLLARS per year, payable in monthly instalments of \$125.00;
  - c) electricity charge: hydro usage will be charged per kilowatt hour used (metered) and invoiced separately **or** based on a flat fee (un-metered) and included in the charges as listed in Schedule "B".
  - d) federal Goods and Services Tax on the above charges; and
  - e) the Licensee's proportionate share of all applicable rates, taxes and assessments, of whatsoever description, that may at any time be lawfully imposed and become due and payable in relation to the Land.
- 2) Any overdue charges shall bear interest at the rate of 2% per month (24% per annum).
- 3) In consideration of the right to use, the Licensee shall pay to Harbour Authority on or before the date the Licensee executes this Licence any and all berthage charge arrears and/or other charges owed by the Licensee to Harbour Authority specified in Schedule "B" attached to and forming part of this Agreement.
- 4) In the event the berthage charge is not paid on or before the first day of the month, for each day it is not paid the berthage charge shall revert to Harbour Authority's pleasure vessel daily moorage rate applicable at the time.
- 5) The Licensee shall be responsible for any real property taxes due and payable relating to the Licence Area and the Float Home contained thereon. Failure to pay such real property taxes by the due date shall constitute a breach of this Licence.

## 8. STANDARDS

- 1) The Licensee shall maintain the Float Home in compliance with the Standards for Float Homes and Live Aboard Vessels in Victoria Harbour (the "Standards") issued by order of the Port of Victoria Harbour Master. If the Licensee does not maintain the Float Home in compliance with the Standards, such non-compliance shall be deemed to be a breach of this Licence.
- 2) Harbour Authority requires all float homes to provide a copy of a survey showing compliance with the "Standards" conducted no more than (5) years prior to the expiration date of this contract.
- 3) Harbour Authority retains the right to request a new survey as a result of structural changes to the float homes or at its sole discretion.

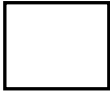
## 9. REGULATIONS

The Licensee shall:

- 1) keep the Licence Area in a neat and orderly manner;
- 2) keep all areas of the Float Home and the Licence Area clean, sanitary and free from all accumulations of debris, filth, rubbish and garbage;
- 3) repair and maintain the exterior of the Float Home in a neat, clean and attractive appearance at all times;
- 4) at his cost, maintain any buildings, structures or improvements constructed or placed on the Licence Area during the Term;
- 5) not store any personal chattels, construction materials or tools on Harbour Authority's docks, floats or wharves;
- 6) use only electrical connections that meet fire regulation, local electrical code and GVHA policies and/or other jurisdictions having authority. A 30 amp plug requires a minimum 10/3 wire; all cords must be suitable for outdoor use; cord caps must be corrosion resistant; cords must be connected securely to the cord cap; only one cord per float home;
- 7) install a water line shut off valve on the float home. Back flow preventers are recommended to avoid potable water contamination;
- 8) keep no more than two (2) domesticated household pets (including those brought onto the Land by the Licensee's servants, agents, guests and invitees), which shall be kept on a leash or in a travel carrier when outside the Licence Area but within the boundaries of the Land, and be responsible for maintaining a clean and quiet environment on the Land by following all laws and/or ordinances concerning pets;
- 9) comply promptly at his own expense with all laws, statutes, regulations and bylaws, and the legal requirements of all authorities, including the Port of Victoria Harbour Master and an association of fire insurance underwriters or agents, and all notices or orders issued under them that are served upon Harbour Authority or the Licensee;
- 10) conduct himself, and require other persons on the Licence Area with the Licensee's consent to conduct themselves, in a manner that will not disturb the neighbours' peaceful enjoyment of the Wharf or otherwise annoy, obstruct or interfere with the rights of other users of the Wharf, nor create any nuisance or allow any objectionable fumes, noises or vibrations to be emitted from the Licence Area;
- 11) the Licensee shall, at the Licensee's cost, hook up to the sewer system provided by Harbour Authority within seven (7) days of receiving notice from Harbour Authority to do so; or, in the event that a sewer pump-out service is provided, the Licensee shall, at the Licensee's cost, utilize the service for the removal of sewage from the Float Home; and
- 12) be responsible for any damage to the Licence Area occurring while the Licensee is exercising his rights under this Agreement. The Licensee acknowledges and agrees that in the event that the Licence Area is damaged, that Harbour Authority may deduct the cost of restoration and/or repair from the amount of the damage deposit under section 5 of this Agreement and if the amount of the damage deposit is insufficient to reimburse Harbour Authority, then the balance of the amount of the cost of repair and/or restoration shall be a debt due from the Licensee to Harbour Authority.

## 10. CONSTRUCTION

- 1) The Licensee shall not make any improvements or structural changes to the Float Home or construct or place any building or structure on the Licence Area, unless prior to any improvement, structural changes, placement or construction, it has obtained:



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- a) Harbour Authority's approval in writing; and
  - b) all necessary permits required by the jurisdiction having authority; and
  - c) all required inspections.
- 2) The Licensee shall not store any personal chattels, construction materials or tools on Harbour Authority's docks, floats or wharves before, during or after approval granted under this section.
  - 3) Any construction work carried out by the Licensee on the Licence Area shall be at the Licensee's cost.
  - 4) Any construction waste or hazardous materials generated must be disposed of off site at the expense of the Licensee. No construction or hazardous waste may be deposited in the Harbour Authorities waste receptacles.

#### **11. BUILDERS' LIENS**

The Licensee will indemnify Harbour Authority from and against any liens for wages or materials, for damages to persons or property caused during the making of or in connection with any construction, repairs, alterations, installations and additions which the Licensee may make or cause to be made on, in or to the Licence Area.

#### **12. REPAIRS BY HARBOUR AUTHORITY**

- 1) Harbour Authority may charge the Licensee for any emergency service required to be provided to the Float Home during the absence of the Licensee, and while assuming no responsibility for services rendered in such instances, may enter upon the Float Home for such purpose. No such action, including taking temporary possession of or entering the Float Home, shall constitute a bailment.
- 2) If the Licensee fails to repair or maintain the Licence Area, the Float Home or any structure or improvement on the Licence Area in accordance with this Agreement, Harbour Authority may, by its agents, employees or contractors, enter the Licence Area and make the required repairs or do the required maintenance and the cost of the repairs or maintenance shall be a debt due from the Licensee to Harbour Authority.
- 3) In making the repairs or doing the maintenance, Harbour Authority may bring and leave upon the Licence Area the necessary materials, tools and equipment, and Harbour Authority shall not be liable to the Licensee for any inconvenience, annoyance, loss of business or other injuries suffered by the Licensee by reason of Harbour Authority affecting the repairs or maintenance.

#### **13. SAFETY**

- 1) The Licensee is responsible for the safe mooring of the Float Home and shall furnish and maintain his own safe line and chafing gear. The chafing gear shall be attached to the Float Home only and not to the docks, floats, wharves or pilings. Care must be taken not to affect any other berth or access with mooring lines.
- 2) Children under the age of 12 are not permitted on Harbour Authority's facilities, docks, floats or wharves unless accompanied by an adult.

#### **14. INSURANCE**

- 1) The Licensee will take out and maintain during the term of the Licence a policy of general public liability insurance against claims for bodily injury, death or property damage arising out of the use of the use of the Licence Area by the Licensee in the amount of not less than One Million (\$1,000,000.00) Dollars per single occurrence with such greater amount as Harbour Authority may from time to time designate, naming Harbour Authority as an insured party thereto and shall provide Harbour Authority with a certified copy of such policy or policies.
- 2) The proceeds of the insurance covering the Float Home shall be used to remove all debris from the loss to the Float Home as well as to repair or restore the Float Home to its condition prior to the loss, or to remove the Float Home in its entirety from the Wharf.
- 3) All policies of insurance shall contain a waiver of subrogation clause in favour of Harbour Authority or alternate clause acceptable to Harbour Authority and shall also contain a clause requiring the insurer not to cancel or change the insurance without first giving Harbour Authority 30 days' prior written notice.



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- 5) If both Harbour Authority and the Licensee claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of Harbour Authority, and the balance, if any, to the settlement of the claim of the Licensee.
- 6) The deductible on the policy of the Insurance shall be not more than Five Hundred (\$500.00) Dollars.

#### **15. INDEMNIFICATION AND RELEASE**

- 1) The Licensee will release, indemnify and save harmless Harbour Authority, its directors, officers, employees and agents from and against all expenses, costs, losses, claims, actions, damages or liabilities including the aggregate amount paid in reasonable settlement of any actions, suits, proceedings or claims and the reasonable fees and expenses of counsel and other related expenses that may be incurred in investigating or advising with respect to and or defending any action, suit, proceeding or claim that may be made against Harbour Authority and its directors, officers, employees and agents, whether or not resulting in liability, to which Harbour Authority and its directors, officers, employees or agents may become subject to or otherwise involved in any capacity under any statute or common law or otherwise and so far as such expenses, costs, losses, claims, actions, damages or liabilities arise out of or are based, directly or indirectly, by reason of the use of the Licence Area by the Licensee, its contractors, agents or invitees or by any member of the public.
- 2) The Licensee will indemnify and save harmless Harbour Authority for any loss or damage to or disfigurement of Harbour Authority's facilities, docks, floats, wharves, installations located on the Land, howsoever caused, whether by the Licensee or by his servants, agents, guests, or invitees, or the Float Home, whether by negligence or otherwise.
- 3) The Licensee releases Harbour Authority, its directors, officers, employees and agents from any claim, right, remedy, action, cause of action, loss, damage, expense, fee or liability which the Licensee may have against any or all of them in respect of any section of this Agreement or its performance or its breach of this Agreement or its breach of any Statutory or other duty of care on the part of Harbour Authority.
- 4) These releases and indemnities survive the expiration or earlier termination of this Licence.

#### **16. LIABILITY**

- 1) The Float Home, and ancillary equipment and other property of the Licensee and his servants, agents, guests and invitees stored, berthed, moored or located on Harbour Authority's premises, shall be solely at the Licensee's risk and Harbour Authority shall not be responsible under any circumstances for any loss or damage caused thereto, whether caused by negligence of Harbour Authority, its servants or agents, or acts of third parties or otherwise.
- 2) Any vehicle owned by the Licensee, or his servants, agents, guests and invitees, and contents therein, parked on Harbour Authority's premises, are left at the risk of the Licensee, or his servants, agents, guests and invitees.
- 3) All persons using Harbour Authority's facilities, docks, floats, wharves and ramps do so at their own risk and Harbour Authority assumes no responsibility whatsoever for the personal injury to the Licensee or his servants, agents, guests and invitees occurring within Harbour Authority's premises from any cause whatsoever.

#### **17. TERMINATION**

- 1) If the Licensee is in default on the payment of berthage charges, Licence fees, or other costs, or the payment of any other sum payable under this Agreement, or is in breach of this Agreement, and if the default continues after the giving of seven (7) days' notice by Harbour Authority to the Licensee, then Harbour Authority may terminate this Agreement and reenter the Licence Area and the rights of the Licensee with respect to the Licence Area shall lapse and be absolutely forfeited and all sums payable under this Agreement for which the Licensee is in default, shall be liquidated damages recoverable by Harbour Authority as a debt due from the Licensee to Harbour Authority.
- 2) Harbour Authority may terminate this Licence upon giving the Licensee one month's notice in writing, and if so, the Licensee shall not be entitled to claim any refund of the Licence fee or berthage fee or any portion thereof.

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## 18. REMOVAL OF FLOAT HOME

The Licensee, upon expiry or earlier termination of this Agreement, shall remove the Float Home and all buildings, structures or improvements constructed or placed on the Licence Area by the Licensee ("Improvements"). If the Licensee does not remove the Float Home and all Improvements on the Licence Area at the expiry or earlier termination of this Agreement, the Float Home and Improvements may, at the sole discretion of Harbour Authority, become the property of Harbour Authority at no cost to Harbour Authority and Harbour Authority may remove the Float Home and Improvements from the Land.

## 19. CLEAN UP

Upon expiry or earlier termination of this Agreement, the Licensee shall clean up the Licence Area and restore the surface of the Licence Area as reasonably as may be possible to the condition of the Licence Area prior to the commencement of the term of this agreement.

## 20. COMPENSATION

The Licensee shall not be entitled to compensation for any loss or injurious affection or disturbance resulting in any way from the termination of this Licence or the loss of the Licensee's interest in any building, structure or improvement built or placed on the Licence Area.

## 21. FORFEITURE

Harbour Authority, by waiving or neglecting to enforce the right to forfeiture of this Agreement or the right of re-entry upon breach of this Agreement, does not waive its rights upon any subsequent breach of the same or any other provision of this Agreement.

## 22. MISCELLANEOUS

- 1) This Agreement shall not be interpreted as granting any interest in the Licence Area to the Licensee.
- 2) Time is of the essence in this Agreement.
- 3) This Agreement is not assignable or transferable.

## 23. NOTICES

It is hereby mutually agreed that any notice required to be given under this Agreement shall be deemed to be sufficient given if:

- 1) Sent by email to the email address listed below,
- 2) delivered by hand, at the time of delivery; and
- 3) mailed from any government post office in the province of British Columbia by prepaid registered mail addressed as follows:

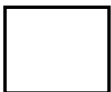
if to Harbour Authority:

Greater Victoria Harbour Authority  
202 - 468 Belleville Street  
Victoria, BC V8V 1W9

Email: kread@victoriaharbour.org

if to the Licensee:

Name  
Address  
City, Prov. Postal Code  
Email:



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or at the address the party may from time to time designate, then the Notice shall be deemed to have been received 48 hours after the time and date of mailing. If, at the time of mailing the Notice, the delivery of mail in the Province of British Columbia has been interrupted in whole or in

part by reason of a strike, slowdown, walk-out or other labour dispute, then the Notice may only be given by actual delivery of it.

**24. SEVERABILITY**

If for any reason any provision of this Licence, other than any provision which is of fundamental importance to the arrangement between the parties, is to any extent held or rendered invalid or unenforceable, then the particular provision shall be deemed to be independent of and severed from the remainder of this Licence and all the other provisions of this Licence shall nevertheless continue in full force and effect.

**25. INTERPRETATION**

- 1) When the singular or neuter are used in this Agreement they include the plural or the feminine or the masculine or the body politic where the context or the parties require.
- 2) The headings to the clauses in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.
- 3) This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.
- 4) This Agreement shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 5) All provisions of this Agreement are to be construed as covenants and agreements as though the words importing covenants and agreements were used in each separate paragraph.

**IN WITNESS WHEREOF** the parties hereto have executed this document as of the day and year first above written.

Greater Victoria Harbour Authority by )  
its authorized signatories: )  
)  
)

\_\_\_\_\_)  
Manager, Property Services )  
)  
Name: )

Float Home Owner(s): )  
)  
Name: )

\_\_\_\_\_)  
Name: )

SIGNED and DELIVERED in )  
the presence of: )  
)

\_\_\_\_\_)  
Signature of Witness )

\_\_\_\_\_)  
Address of Witness )

\_\_\_\_\_)  
Occupation of Witness )

Schedule "A" to Licence of Use  
"Licence Area"



Updated February 2006.  
Not to scale.

**Schedule "B" to Licence of Use**  
granted by Greater Victoria Harbour Authority to

Float Home Name: \_\_\_\_\_

Overall Square Footage: \_\_\_\_ ft x \_\_\_\_ ft = \_\_\_\_\_ ft<sup>2</sup>

Term of Licence: 01 April 2009 to 31 March 2010

**A. Arrears:**

*(Payment must be made on or before date of signing)*

Berthage charge arrears and/or other charges due and payable pursuant to subparagraph 7(3) of the Licence of Use.

\$ Nil

Total Arrears due:

\$ Nil

**B. Monthly charges payable during Term:**

*(Payment must be made on or before the 1<sup>st</sup> day of each month of the Term)*

1. Berthage @ \$0.90 per square foot x \_\_\_\_ ft =

\$X.XX

2. Licence Fee

\$ 125.00

3. Hydro Charge

*(Hydro usage will be charged per kilowatt hour used (metered) or based on flat fee (unmetered) and will be invoiced separately. Payment is due 5 days after date of invoice.)*

Total monthly charge payable to Harbour Authority

\$ X.XX

**C. Rates, Taxes, and Assessments:**

*(Payment must be made on or before the 5<sup>th</sup> day after date of invoice)*

Pursuant to Clause 7(1) (f), the Licensee agrees to pay a proportionate share of all applicable rates, taxes and assessments, of whatsoever description, which may at any time be lawfully imposed and become due and payable in relation to the Land. Pursuant to Clause 7(5) the Licensee shall be responsible for any real property taxes due and payable relating to the Licence Area and the Float Home contained thereon. These amounts will be invoiced separately.

*Payment may be made in person or by cash or by cheque or money order, made payable to  
Greater Victoria Harbour Authority at:  
#202 – 468 Belleville Street  
Victoria BC V8V 1W9.*

**The undersigned represents and warrants that she is the legal and beneficial owner of the Float Home named above.**

\_\_\_\_\_  
*Date of Signing*