

LICENSE AGREEMENT

Effective this ** day of ****, 20**.

BETWEEN:

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

(hereinafter called the "City")

- and -

LICENSEE NAME

(hereinafter called the "Licensee")

WHEREAS:

- a) The Licensee is the registered owner of the lands and premises municipally known as **insert municipal address** and legally described as **insert legal description**, in the Geographic Township of Verulam, City of Kawartha Lakes, being PIN: **insert PIN** (the "Licensee's Land");
- b) The City is the owner of those public highway lands known as Cedar Glen Road and legally described as Road Allowances on Plan 163, in the Geographic Township of Verulam, City of Kawartha Lakes, being PIN: 63141-0583 (LT) (the "City Property");
- c) The Licensee has a boathouse and dock, which is more specifically identified on Schedule "A" attached (the "Boathouse and Dock"), which encroaches on the City Property and as a result requires the use of municipally owned property; and
- d) The Licensee has applied to the City for a license for a period of five (5) years in order to provide the Licensee with a non-exclusive license to use the City Property.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Grant of License

- 1.1. The City hereby grants to the Licensee a non-exclusive license (the "License") to occupy and use a part of the City Property, as more specifically shown on Schedule "B" attached hereto (the "Lands"), for the sole purpose of use and enjoyment (including location, maintenance, repairs and removal) of the Boathouse and Dock and for no other purpose.
- 1.2. All property rights for the Boathouse and Dock remain with the Licensee and the Licensee shall have exclusive use of the Boathouse and Dock.

2. License Term

- 2.1. This License will commence on the ** day of ****, 20** and terminate on the ** day of ****, 20**.

3. License Fee

- 3.1. In consideration for its use and occupation of the Lands, the Licensee agrees to pay to the City an annual license fee (the "License Fee") of Five Hundred Fifty Dollars (\$550.00) **OR** Four Hundred Dollars (\$400.00) **OR** One Hundred Fifty Dollars (\$150.00), increased annually by the Consumer Price Index – All Items, with payment due upon execution of this License and annually thereafter on or

before the ** day of ****. Alternatively, the Licensee may make full payment for the entire term of the License upfront (\$****.00), in which case the License Fee will not be indexed annually. If this License is terminated prior to the end of the Term, the Licensee will be refunded for the years which have not commenced at the time of termination. If this License is terminated within a year of expiry of the Term, the fee will not be pro-rated and refunded. The License Fee is in addition to and separate from any other fees or payments being made to the City by the Licensee in relation to the Licensee's use or license of any other portion of the City Property not covered by this License.

4. Payment of Fee

- 4.1. All payments of the License Fee to be made by the Licensee pursuant to this License shall be delivered to the City at the City's address for service set out in Section 15 or to such other place as the City may from time to time direct in writing.

5. Dock Number

- 5.1. The Dock shall be identified as Dock Number 06-***. The City shall provide the Licensee with a sign identifying the Dock as such.
- 5.2. The Licensee shall affix the aforementioned sign to the Dock and the sign must be visible from the road allowance.
- 5.3. Any replacement signs shall be provided at the sole expense of the Licensee.

6. Licensee's Covenants

- 6.1. The Licensee shall not do or permit to be done on the Lands anything that may:
 - a) constitute a nuisance;
 - b) cause damage to the Lands;
 - c) cause injury or annoyance to occupants or owners of neighbouring properties;
 - d) make void or voidable any insurance upon the Lands;
 - e) constitute a breach of any by-law, statute, order or regulation of any municipal, provincial, federal or other competent authority relating to the Lands; or
 - f) cause any lien, mortgage, or other encumbrance to be incurred or registered against the Lands.
- 6.2. The Dock shall not exceed six feet in width. The City recognizes that the Dock is currently ** feet long by ** feet wide. The City agrees to allow this width, until such time as significant repairs to the Dock are required. At the time of significant repairs, the Dock shall be reconstructed so that the encroachment is minimized to no more than six feet in width. Upon reconstruction, this License shall be deemed to have been amended so as to exclude any portion of the Lands which is no longer subject to an encroachment.
- 6.3. There shall be no additions or substantial alterations made to the Boathouse and Dock, outside of general repairs and maintenance, unless prior written consent has been received from the City.
- 6.4. The Licensee shall not alter the vegetation or any part of the City Property, save and except for general maintenance (i.e. grass cutting). Tree cutting will require a Road Occupancy Permit issued by the Public Works Department.
- 6.5. If the Dock is removed from the Land during the winter, it shall not be stored on the City Property, unless prior written consent has been received from the City.

6.6. The Boathouse and Dock is for the sole use of the Licensee. The Licensee is not permitted to enter into a sub-License to a third party.

7. State of the Lands

7.1. The Licensee agrees to accept the Lands on an "as is" basis.

7.2. The Licensee covenants and agrees that, upon expiration or other termination of this License, it will remediate the Lands to the state and standard of repair to which they existed prior to installation of the Boathouse and Dock, in the sole and absolute discretion of the City, reasonable wear and tear excepted.

8. Licensee Expenses

8.1. The Licensee shall maintain the Lands in a good and safe state of repair. Such maintenance shall include providing snow removal services, repair of pavement, sanding, grading, grass cutting and any other necessary repairs as may be required by the Licensee in order to continue to use the Lands for the purpose intended herein, being the use and enjoyment of the Boathouse and Dock.

9. Repairs and Maintenance

9.1. The Licensee acknowledges and agrees to keep the Boathouse and Dock in a state of good repair and to complete any maintenance that may be required to do so. The Licensee acknowledges that all repair and maintenance costs are solely that of the Licensee.

9.2. The Licensee acknowledges and agrees that any repairs to the Boathouse and Dock are subject to Trent-Severn Waterway policies and may require a permit, a copy of which shall be provided to the City.

9.3. The Licensee acknowledges that the City shall not be responsible for nor shall it assume any liability or responsibility for any capital expenditures, repairs or alterations of any nature whatsoever related to the Licensee's use of the Lands and in default of this covenant, the City shall have the right to terminate this License.

9.4. The Licensee shall not obstruct persons authorized by the City to enter the Lands to examine the condition thereof and view the state of repair at all reasonable times:

a) and if upon such examination repairs are found to be necessary, written notice of the repairs required shall be given to the Licensee by or on behalf of the City and the Licensee shall make the necessary repairs within the time specified in the notice;

b) and if the Licensee refuses or neglects to keep the Lands in good repair the City may, but shall not be obliged to, make any necessary repairs, and shall be permitted to enter the Lands, by itself or its servants or agents, for the purpose of effecting the repairs without being liable to the Licensee for any loss, damage or inconvenience to the Licensee in connection with the City's entry and repairs, and if the City makes repairs the Licensee shall pay the cost of them immediately.

9.5. Upon expiry of the Term or other determination of this License the Licensee agrees to peaceably surrender the Lands, including any alterations or additions made thereto, to the City in a state of good repair.

9.6. The Licensee shall immediately give written notice to the City of any damage that occurs to the Lands from any cause.

9.7. In the event the City or a third party utility, during the term of this License, undertakes any use, alteration, addition, improvement, expansion, renovation or

repair (the "Work") to the City Property, and/or other assets of the City (or third party utility within the City Property from time to time during the term of this License) in the vicinity of the Boathouse and Dock, and provided the Work is not undertaken due to, or in, an emergency, the Licensee shall receive not less than twelve hours advance notice of such Work. If, in the discretion of the City staff, agents or contractors undertaking the Work, such work requires the removal of all or a portion of the Boathouse and Dock forming the subject matter of this License, to the extent same encroaches on the City Property, or should the Work result in damage to the Boathouse and Dock, the Licensee herein acknowledges that the City shall not be responsible for, nor shall it assume any liability or responsibility for, such removal and/or damage and that the Boathouse and Dock, or any portion thereof, will not be replaced and/or repaired and this License will be terminated effective immediately. **Without limiting the generality of the foregoing, the Licensee specifically acknowledges that, in the event of work including but not limited to snow removal or control, sidewalk improvements, watermain breaks, gas leak and repair, sewer main repair or replacement or any other works or emergency repair as required for public safety, conducted by the City, its agents or contractors, to municipal infrastructure that results in damage to, or requires the removal of, all or a portion of the Boathouse and Dock encroaching on the City Property, the City will never repair, replace, or provide compensation for same.**

9.7.1. If temporary removal of the Boathouse and Dock is required, the Licensee shall be required to remove the Boathouse and Dock, at its own cost and expense, by the date set out in the notice. During the construction/work period, the Boathouse and Dock shall not be stored on the City Property, unless the Licensee receives prior written consent from the City. The City shall make best efforts to minimize the impact on the Licensee. No refund shall be given for the period of time in which the Boathouse and Dock cannot be located on the Lands. When permitted by the City, and no sooner, the Licensee may relocate the Boathouse and Dock to the Lands at its own cost and expense.

10. Environmental

10.1. The Licensee shall be, at its own expense, responsible for any loss, costs, damages, charges or expenses whatsoever which may be sustained by the City as a result of any environmental contamination, spill or hazard as may be created by the Licensee during its use of the Lands.

10.2. Execution of this License constitutes confirmation that any environmental damage occurring as a result of its occupation of the Lands shall be remedied upon the expiration of the License at the sole cost of the Licensee.

11. Insurance

11.1. During the License Term and any renewal thereof, the Licensee shall provide and maintain Homeowners' Insurance on an occurrence basis and shall include, but is not limited to legal liability and personal liability, property damage including loss of use thereof, tenant's legal liability and property coverage on all property owned by or for which the Licensee is legally liable. Such policy shall be written for an inclusive liability limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence, with a deductible that is acceptable to the City. To achieve the desired limit, umbrella or excess liability insurance may be used. The policy shall be issued by an insurance company authorized by law to carry on business in the Province of Ontario and *The Corporation of the City of Kawartha Lakes* shall be named as an additional insured on the policy.

11.2. The insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the City.

11.3. The insurance and any payment of the proceeds thereof to the City shall not relieve the Licensee of its obligations to repair, restore, and maintain the Lands.

- 11.4. The insurance will not be cancelled, permitted to lapse or materially changed unless the insurer for the Licensee notifies the City in writing at least fifteen (15) days prior to the effective date of cancellation, expiry or change.
- 11.5. Upon execution of this License, and annually thereafter, the Licensee shall provide the City with a Certificate of Insurance as confirmation of the above-requested insurance coverage, including a copy of the endorsement issued by the Homeowners' Insurance provider extending full coverage to the Boathouse and Dock located on the Lands. If requested by the City, the Licensee shall provide copies of the said insurance policies.
- 11.6. If the City receives notification that the insurance policy has been cancelled, this License will terminate immediately.

12. Indemnity

- 12.1. The Licensee shall at all times indemnify and save harmless the City, its employees, agents and members of council from and against any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever made or brought against, suffered by, or imposed on the City in respect of any loss, damage or injury to any person or property directly or indirectly arising out of, resulting from, or sustained, arising out of or occasioned by the maintenance, use or occupancy of the Lands or as a result of this License or any operation connected therewith except for the negligence or willful misconduct of the City.
- 12.2. The Licensee further covenants to indemnify and save harmless the City with respect to any encumbrance on or damage to the Lands or The Corporation of the City of Kawartha Lakes occasioned by or arising from the act, omission, default, or negligence of the Licensee, its officers, agents, servants, employees, contractors, customers and/or invitees.
- 12.3. The foregoing indemnities shall survive the termination of this License notwithstanding any provisions of this License to the contrary.

13. Acts of Default and City's Remedies

- 13.1. An "Act of Default" has occurred when:
 - 13.1.1. The Licensee has breached its covenants or failed to perform any of its obligations under this License; and
 - a) the City has given fifteen (15) days' notice, or such longer period as the City may determine in its sole discretion, specifying the nature of the default and the steps required to correct it; and,
 - b) The Licensee has failed to correct the default as required by the notice;
 - 13.1.2. The Licensee has;
 - a) become bankrupt or insolvent or made an assignment for the benefit of creditors;
 - b) had its property seized or attached in satisfaction of a judgment;
 - c) had a receiver appointed;
 - d) committed any act or neglected to do anything with the result that a Construction Lien or other encumbrance is registered against the City's property;

- e) without the consent of the City, made or entered into a license to make a sale of its assets to which the Bulk Sales Act applies;
 - f) taken action if the Licensee is a corporation, with a view to winding up, dissolution or liquidation;
 - g) ceased to exist.
- 13.1.3. any insurance policy is cancelled or not renewed by reason of the use or occupation of the Lands, or by reason of non-payment of premiums;
- 13.1.4. the Lands;
- a) become vacant or remain unoccupied by the Licensee for a period of ninety (90) consecutive days or
 - b) is used by any other person or persons, or for any other purpose than as provided for in this License without the written consent of the City.
- 13.2. When an Act of Default on the part of the Licensee has occurred the City shall have the right to terminate this License.
- 13.3. If, because an Act of Default has occurred, the City exercises its right to terminate this License prior to the end of the Term, the Licensee shall nevertheless be liable for payment of the License Fee and all additional fees and all other amounts payable by the Licensee in accordance with the provisions of this License.
- 13.4. If, when an Act of Default has occurred, the City chooses not to terminate the License, the City shall have the right to take any and all necessary steps to rectify any or all Acts of Default of the Licensee and to charge the costs of such to the Licensee.
- 13.5. If, when an Act of Default has occurred, the City chooses to waive its right to exercise the remedies available to it under this License or at law, the waiver shall not constitute condonation of the Act of Default, nor shall the waiver be pleaded as an estoppel against the City to prevent its exercising its remedies with respect to a subsequent Act of Default. No covenant, term, or condition of the License shall be deemed to have been waived by the City unless the waiver is in writing and signed by the City.

14. Termination

- 14.1. Either party shall have the right to terminate this License by giving 60 days prior written notice to the other party, in which case the License shall be cancelled without further recourse by either party against the other.
- 14.2. If the Licensee breaches any of its covenants under this License Agreement, and the breach is not rectified upon 30 days' notice, the City may immediately terminate this License Agreement and such termination is effective on the date notice of termination is deemed to be served upon the Licensee.
- 14.3. If the Licensee is no longer the owner of the Licensee's Land, this License shall terminate immediately, unless this License is to be assigned or transferred to the subsequent property owner as set out in section 18 of this License.
- 14.4. If the Licensee reconstructs the Boathouse and Dock to the extent that it no longer encroaches on the City Property, this License shall be deemed to have been terminated.
- 14.5. This License terminates on the ** day of ****, 20**, and is not subject to renewal. The Licensee may seek an extension or renewal of the License at or prior to the end of the Term, at their own initiation and expense and the City is under no obligation to permit or agree to same.

- 14.6. If the Licensee remains in possession of the Lands after termination of the License as aforesaid and if the City then accepts payment of the License Fee for the Lands from the Licensee, it is agreed that such overholding by the Licensee and acceptance of License Fee by the City shall create a monthly license and that the occupation of the Lands by the Licensee shall remain subject to all the terms and conditions of this License except those regarding the Term.
- 14.7. Upon termination of this License Agreement, the Licensee shall remove the Boathouse and Dock from the Lands.

15. Failure to Remove Boathouse and Dock

- 15.1. If the Licensee fails to remove the Boathouse and Dock at the end of the Term, the City may remove the Boathouse and Dock from the Lands and place the materials on the Licensee’s Land.
- 15.2. All expenses incurred by the City in connection with the removal of the Boathouse and Dock and restoration of the City Property shall be paid by the Licensee and shall be due within 30 days of the billing date set out on the invoice. In the event of failure to pay the entire amount due within the said 30 days, interest may be applied at the rate of 15% annually. At the discretion of the City, and subject to applicable legislation, the outstanding balance of the invoice plus interest may thereafter be added to the tax roll of the Licensee’s Land, for the year in which the expenses were billed and collected in the same manner as taxes.

16. Notice

- 16.1. Any notice required or permitted to be given by one party to the other pursuant to the terms of this License shall be given:

To the City at:
 The Corporation of the City of Kawartha Lakes
 26 Francis Street, P.O. Box 9000
 Lindsay, Ontario K9V 5R8
 Attention: Clerk
 Fax: 705-324-8110
 E-mail: clerks@kawarthalakes.ca

To the Licensee at:
 Licensee Name
 Licensee Address
 Fax: Insert Fax Number
 E-mail: Insert E-mail Address

- 16.2. The above addresses may be changed at any time by giving ten (10) days written notice to the other party to this License.
- 16.3. Any notice given by one party to the other in accordance with the provisions of this License shall be deemed conclusively to have been received on the date delivered if the notice is served personally or sent by facsimile or e-mail transmission or seventy-two (72) hours after mailing if the notice is mailed.

17. Registration

- 17.1. The Licensee hereby acknowledges and agrees that this License does not create or confer on the Licensee any interest in the Lands, that this License is personal to the Licensee and that this License merely confers on the Licensee the non-exclusive right to enter onto and occupy the Lands for the Term for the purpose of the use and enjoyment of an existing fence. Accordingly, the Licensee agrees that

it shall not at any time register notice of or a copy of this License on title to the Lands or the property of which the Lands forms part.

18. Assignment and Transfer

- 18.1. The Licensee shall not assign or transfer all or any part of its interest in this License without the prior written consent of the City, which consent may be unreasonably withheld.
- 18.2. This License is not eligible to be assigned or transferred to a successive owner of the Licensee's Land and the Boathouse and Dock must be removed from the Lands at the Licensee's sole expense.
- 18.3. The consent of the City to any assignment or transfer of interest in this License shall not operate as a waiver of the necessity for consent to any subsequent assignment or transfer.
- 18.4. Any consent granted by the City shall be conditional upon the assignee or transferee executing a written License directly with the City agreeing to be bound by all the terms of this License as if the assignee or transferee had originally executed this License as Licensee.
- 18.5. Any consent given by the City to any assignment or other disposition of the Licensee's interest in this License shall not relieve the Licensee from its obligations under the License.
- 18.6. If the party originally entering into this License as Licensee, or any party who subsequently becomes the Licensee by way of assignment or transfer or otherwise as provided for in this License, is a corporation then;
 - 18.6.1. the Licensee shall not be entitled to deal with its assets in any way that results in a change in the effective voting control of the Licensee unless the City first consents in writing to the proposed change, and;
 - 18.6.2. if any change is made in the control of the Licensee corporation without the written consent of the City then the City shall be entitled to treat this License as terminated.

19. Amendment

- 19.1. No alteration, amendment, change or addition to this License shall be binding on the City and/or the Licensee unless such alteration, amendment, change or addition is reduced to writing and signed by both the City and the Licensee.

20. Confirmation

- 20.1. The parties hereto hereby confirm that this License is a non-exclusive license to occupy and use the Lands only and shall not constitute a lease of the Lands and that the provisions of the *Commercial Tenancies Act* (Ontario) shall not apply hereto.

21. Entire License

- 21.1. It is agreed and understood that this License (including the schedules referred to herein, which are hereby incorporated by reference) constitutes the entire License between the parties with respect to the subject matter hereof and supersedes all prior arrangements, proposals, understandings and negotiations, both written and oral, between the parties or their predecessors with respect to the subject matter of this License.

22. General Matters of Intent and Interpretation

- 22.1. Each obligation under this License is a covenant.

- 22.2. The headings in this License are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
- 22.3. The use of the neuter singular pronoun to refer to the City or the Licensee is a proper reference even though the City or the Licensee is an individual, a partnership, a corporation or a group of two or more individuals, partnerships or corporations. The grammatical changes needed to make the provisions of this License apply in the plural sense when there is more than one City or Licensee and to corporations, associations, partnerships or individuals, males or females, are implied.
- 22.4. Whenever a statement or provision in this License is followed by words denoting including or example (such as "including" or "such as") and there is a list of, or reference to, specific matters or items, such list or reference shall not be read so as to limit to restrict the generality of such statement or provision, even though words such as "without limitation" or "without limiting the generality of the foregoing" do not precede such list of reference.
- 22.5. If a part of this License or the applications of it to a person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, that part:
- 22.5.1. is independent of the remainder of the License and is severable from it, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this License; and
- 22.5.2. continues in all circumstances except those as to which it has been held or rendered invalid, unenforceable or illegal.
- 22.6. This License will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 22.7. Time is of the essence of this License.
- 22.8. To the extent that liability exists at the time of expiry or earlier surrender or termination of this License, the covenant(s) from which such liability is derived shall survive such expiry or earlier surrender or termination.

23. Force Majeure

- 23.1. Except for any obligation to pay money, neither party will be liable for any failure or delay in its performance under this License due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labour shortage or dispute, governmental act or failure of the Internet, provided that the delayed party:
- a) gives the other party prompt notice of such cause; and
- b) uses its reasonable commercial efforts to correct promptly such failure or delay in performance.

24. Compliance With Laws

- 24.1. The Licensee agrees to comply with all lawfully enacted statutes, regulations and by-laws of the Province of Ontario, the Government of Canada, and the City, as such may from time to time apply to the Licensee or its occupation of the Lands.

25. Successors

- 25.1. The rights and obligations under this License extend to and bind the parties and their respective successors and permitted assigns.

26. Electronic Signatures

26.1. This Agreement may be executed and delivered by facsimile or other electronic means, which electronic copies shall be deemed to be original.

DATED at Lindsay, this _____ day of _____, 20**

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

PER: _____
Name: Robyn Carlson
Title: City Solicitor

(I have authority to bind the Corporation in accordance with By-Law 2016-009 section 5.05(1))

I hereby accept the above License on the terms and conditions contained therein

DATED at _____, this _____ day of _____, 20**

Witness

Licensee Name

DRAFT

SCHEDULE "A"

Photographs of the Boathouse and Dock

Insert photos of boathouse and/or dock

Dimensions of the Boathouse and Dock

The Boathouse consists of insert details measuring ** feet wide by ** feet long. The Dock consists of insert details measuring ** feet wide by ** feet long.

DRAFT

SCHEDULE "B"

Insert survey

DRAFT