

TSU HOLDINGS LIMITED PARTNERSHIP
313B Deer Road, Lake Cowichan, BC V0R 2G0 Tel: 250-715-7560

MOORAGE CONTRACT
Civic Address of Applicant:

The Owner hereby applies for moorage at Kaatza Marina (the "Marina") from April 1st, 2024 to March 31st, 2025 (the "Moorage Term"). The Owner hereby agrees to the provisions of this Contract as set out on this page and appearing on the succeeding pages of this Contract and to abide by all Marina rules and regulations (collectively, the "Terms") and to pay Tsu Holdings Limited Partnership (the "Company") for moorage the following fees:

Moorage Fee: \$ _____ (based on \$12.00 per foot/month x12)
\$ _____ (based on \$16.50 per foot/month x 6)
\$ _____ GST

Total (payable in advance): \$ _____ Total for Term

The Owner will pay the total moorage fee set out in advance for the Moorage Term by cheque or e-transfer. The Company agrees, subject to the observance by the Owner of the Terms, to allow the Owner to moor the vessel described below (the "Vessel") at the Marina for the Moorage Term.

The Owner HEREBY REPRESENTS AND WARRANTS that the information in this application is accurate and HEREBY AUTHORIZES the Company and its agents to obtain such credit reports or other information as required to complete a credit investigation. This consent is given pursuant to Section 7 of the B.C. *Personal Information Protection Act* and amendments thereto.

THE OWNER IS ADVISED TO CHECK THE VESSEL REGULARLY. ANY VESSEL MOORING WITHOUT A SIGNED CONTRACT MAY BE IMPOUNDED. THE COMPANY ASSUMES NO RESPONSIBILITY FOR THE CARE, SECURITY OR PROTECTION OF THE VESSEL.

APPLICATION FOR A BERTH AT THE MARINA FOR SUBSEQUENT YEARS MUST BE RECEIVED BETWEEN OCTOBER 1st AND March 31st.

THIS CONTRACT CONTAINS TERMS WHICH EXCLUDE LIABILITY OF THE COMPANY FOR DAMAGE AND PERSONAL INJURY AND WHICH PROVIDE AN INDEMNITY TO THE COMPANY.

_____ Accepted by Tsu Holdings Limited Partnership
Owner per:
_____ Authorized Signatory

VESSEL INFORMATION (Please print)
Name of Vessel: _____ Berth Number: _____
Length: _____ Beam: _____ Licence Register No. _____
Owner of Vessel: _____ Insured By: _____
Type of Vessel: _____ Policy No.: _____

OWNER INFORMATION (Please print)
Name: _____ Driver's Licence or Pleasure Craft Operator No. _____
Address: _____ Name of Bank _____
Address of Bank: _____

Postal Code: _____
Phone No. (Mobile) _____
Phone No. (Work) _____
*Email _____
valid email address required Person to contact in case of emergency:
Phone No. _____

PLEASE READ THE FOLLOWING PAGES

**KAATZA MARINA
STANDARD MOORAGE CONTRACT TERMS**

1. **Consideration.** In consideration of the payment of \$10.00 by each party to the other, the Fees payable hereunder, the Company allowing the Owner to use a berth at the Marina on the terms of this Contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Owner agree as set out herein.
2. **Berth License.** This Contract creates only a licence in favour of the Owner for the use of an assigned berth at the Marina. This Contract is not a lease or a bailment agreement. The Owner shall have no proprietary rights whatsoever to any berth. The Vessel shall only be moored at the berth designated on the face of this Contract. Neither the berth nor the Vessel when moored at the berth may be used as living quarters or a residence or otherwise for residential accommodation. The Company shall have the right at any time and from time to time, without any notice to the Owner and at the sole risk of the Owner, to rearrange the position or orientation, or change the location, of the Vessel, and the Owner hereby appoints the Company as its agent for such purposes. The Owner hereby acknowledges that it bears sole responsibility for the maintenance, moorage conditions, weather protection, and covering of the Vessel, and the Owner will from time to time inspect the same and ensure the integrity and safety of the mooring and the general condition of the Vessel and any structures or materials used to cover same, and ensure that the Vessel is moored properly to the satisfaction of the Owner. At the end of the Moorage Term, the Owner shall vacate the berth and remove the Vessel from the Marina.
3. **Description of Vessel.** The Owner represents and warrants that the description of the Vessel on the face page of this Contract is accurate and complete.
4. **Accounts.** All fees are payable in advance and subject to applicable taxes. The Moorage Fee set out on the face of this Contract must be paid in full upon execution of this Contract by cheque or etransfer. All accounts are due immediately upon being issued by the Company. The Owner shall pay interest on all overdue accounts at a rate of two percent per month (twenty-four percent per year), compounded monthly. The Owner shall reimburse the Company on demand for all losses, costs and expenses incurred by the Company to collect overdue accounts, whether by legal action or otherwise.

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5. **Marina Use and Safety.**
 - a) The Owner and the Owner's agents, guests, employees, invitees, licensees, contractors, and any other person at the Marina in connection with the Vessel or the Owner's use of the Marina, or for whom the Owner is responsible in law (collectively with the Owner, referred to as the "**Owner Parties**") shall not carry on any business at the Marina.
 - b) The Owner Parties shall not carry on any activity at the Marina or on the Vessel while it is moored at the Marina that may be deemed by the Company, in the Company's sole and absolute discretion, to be a nuisance or unsafe.
 - c) The Owner Parties shall not permit any garbage, bilge contents, petroleum products or other organic or inorganic wastes, contaminants or pollutants to be emptied overboard or escape from the Vessel or be deposited anywhere within the Marina except into receptacles provided for that purpose. The Owner Parties shall comply with all environmental laws. Without the express written consent of the Company, the Owner Parties shall not bring any contaminants or pollutants onto the Marina excepting only fuel and lubricants in the fuel tanks, engine and operating parts of the Vessel. **The Owner shall notify the Company promptly of any breach or suspected breach of this Section and shall indemnify the Company against all loss and expense arising therefrom.**

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- d) No litter or debris shall be left on the Marina except that refuse may be placed in the containers provided for that purpose.
- e) If the Vessel is in danger of sinking or is a hazard to other vessels or the Marina, as determined by the Company in its sole and absolute discretion, the Owner at the Owner's expense must remove the Vessel from the Marina. **The Company may, but is not obligated to, arrange for the removal from the Marina of any vessel or other item which, in the Company's opinion, in its sole and absolute discretion, appears to be in danger of sinking or a hazard to other vessels or the Marina, in which case the Owner will indemnify the Company for the costs of such removal. The Company shall not be liable for any loss suffered by the Owner Parties or damage to the Vessel by reason of removing the Vessel from the Marina.**

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- 6. **Terms, Rules and Regulations.** The Owner Parties shall comply with the Terms and with such additional or changed terms and such rules or regulations applicable to the Marina as are from time to time made by the Company in its sole and absolute discretion (provided the Owner has written notice of same), all of which are hereby incorporated as provisions of this Contract. Posting the rules and regulations of applicable to the Marina and any updated rules and regulations at the Marina office shall constitute effective written notice to the Owner. **The Owner shall ensure that the Owner Parties comply with the Terms and agrees to indemnify the Company for any failure of any of the Owner Parties to comply with the Terms.**

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7. **Lien and Sale of Vessel.**

- a) The Company shall have a possessory and a charging lien upon the Vessel for all amounts which are or become owing to the Company by the Owner under this Contract or otherwise (collectively, the "Fees").
- b) **If Fees are outstanding for 45 days, the Vessel may be seized and impounded by the Company. In such event, the Owner authorizes the Company to lift the Vessel and store it in the Company's storage facilities, or any other impoundment facilities, and the Owner will indemnify the Company for the costs of the same. The Company shall not be liable for any loss suffered by the Owner Parties or damage to the Vessel by reason of seizing, lifting, or impounding the Vessel in accordance herewith, or selling it under Section 7c) below, or otherwise enforcing any rights or remedies of a creditor.**
- c) To realize any Fees, the Company may, upon 45 days' notice to the Owner, in any manner sell and absolutely dispose of the Vessel (including, without limitation a disposition by way of destruction, or sale for scrap) pursuant to its contractual lien, and the Owner hereby appoints the Company as its attorney to do all things and sign all documents necessary for such sale and disposition. Without limiting the foregoing, the Owner covenants and agrees to provide the Company, upon demand, with all documents of title for the Vessel, registry papers, "blue book" etc., as necessary and an executed bill of sale, and, if applicable, an executed bill of sale/transfer form in the form required by and registrable at the Ship's Registry/Transport Canada and signed by the registered owner (the "**Registry Transfer**"), in order to effect such sale and disposition as contemplated hereunder.
- d) The Company shall be entitled to deduct from the proceeds of any sale or disposition hereunder, in addition to the Fees, all costs and expenses of every nature whatsoever incurred by the Company in connection with such sale (including without limitation legal fees on a solicitor and own client basis and any costs or expenses incurred by the Company in connection with obtaining a declaration in any court regarding the rights of the Company under this Section 7 or the validity of a sale or proposed sale of the Vessel pursuant to this Contract) and in the event that such costs and expenses are incurred in connection with an uncompleted sale, the Company shall be entitled to recover from the Owner the costs and expenses incurred by the Company in connection with such uncompleted sale.

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- e) If the Vessel is a federally registered Vessel, the Company may, in its sole and absolute discretion, require the Owner to provide the Company with an executed Registry Transfer in advance of, and for the duration or any portion thereof, of the moorage or storage of the Vessel at the Marina, and the Owner covenants to provide the Company with the same upon demand. The Company covenants to make no use of the Registry Transfer except in accordance with a sale or disposition hereunder; and, provided that the Owner pays in full to the Company all Fees, the Company covenants to return the Registry Transfer to the Owner unused when the Owner removes the Vessel from the Marina, or, if applicable, claims the Vessel from any impoundment facilities.
- f) The Owner acknowledges and agrees that, notwithstanding that this is not a bailment agreement and the Company is not a bailee, the Company, in enforcing a lien hereunder, has the right to sell the Vessel as if it were a warehouse of the Vessel and is entitled to all rights and remedies of a warehouse, and to use the procedures set forth in the B.C. *Warehouse Lien Act* and amendments thereto.

8. Termination by Company.

- a) The Company may terminate this Contract by giving 7 days' notice to vacate to the Owner if:
 - i) the Owner fails to pay when due any sums the Owner owes to the Company on any account and notice of default has been given and the default is not rectified within 7 days of the notice;
 - ii) any of the Owner Parties breach any of the terms of this Contract or fail to abide by the Terms and notice of such default has been given and the default is not cured or rectified within 14 days of the notice, or if the default cannot reasonably be cured within such 14-day period, and the Owner fails to commence curing the default within such 14-day period and to proceed with due diligence until the default is cured; or
 - iii) the conduct of any of the Owner Parties or the Owner Parties' use of the Marina is, in the reasonable opinion of the Company, prejudicial to the orderly and safe operation of the Marina, the safety of other persons or their property, or constitutes a nuisance or annoyance to the Company or its customers ("**Offending Conduct**"), and notice of such Offending Conduct has been given and the Offending Conduct does not cease within 2 days of the notice.

Upon receiving a notice to vacate pursuant to this Section 8a), the Owner shall, at the Owner's expense, vacate the berth and remove the Vessel from the Marina on or before the date specified in the notice. Any unpaid Fees accruing due or to become due for the balance of the term of the moorage shall thereupon become payable immediately. If the Contract is terminated by the Company pursuant to this Section 8a), there shall be no refund of any prepaid moorage fee, Lump Sum Fee (referred to in Section 10) or other fees, paid by the Owner under this Contract.

- b) The Company may terminate this Contract by giving 30 days' notice to vacate to the Owner if the Company's right to use any part of the lakebed of Lake Cowichan upon which the Marina is constructed is revoked. Upon receiving a notice to vacate pursuant to this Section 8b), the Owner shall, at the Owner's expense, vacate the berth and remove the Vessel from the Marina on or before the date specified in the notice. Any unpaid Fees owing by the Owner to the Company shall be paid in full on or before the date specified in the notice, and any prepaid moorage fees or other charges will be refunded by the Company to the Owner, on or before the date specified in the notice, on a pro rata basis based on the number of days remaining in the Moorage Term relative to the total number of days in the Moorage Term. In addition, if the Lump Sum Fee is indicated as having been paid on the face

page of this Contract and the Company has acknowledged its receipt by signing where indicated on the face page of this Contract, then if the notice to vacate pursuant to this Section 8b) is provided within 5 years of the Owner paying the Lump Sum Fee, then the Company will refund to the Owner, on or before the date specified in the notice, a pro rata portion of the Lump Sum Fee calculated based on the number of days remaining in such 5-year period relative to 1,825.

9. **Survival.** Notwithstanding anything in this Contract to the contrary, this Contract shall survive the vacating of the Marina by the Owner or Vessel, and the issuance of a notice to vacate for cause or otherwise in no way terminates or rescinds any of the terms, conditions, releases, indemnities or exclusions agreed to herein.

11. **Overholding.** If the Vessel continues to be moored at the Marina after the Moorage Term or after the termination otherwise of the right of the Owner to moor the Vessel at the Marina, the Owner shall promptly pay to the Company for such unauthorized moorage 150% of the highest daily rate charged by the Company in respect of vessels having the similar specifications as the Vessel. The provisions of this Contract shall apply to such unauthorized moorage, except that the Company shall not be deemed to have consented to or permitted such moorage, and such moorage shall be month-to-month.

12. **No Refund.** No refund shall be made of any paid moorage fees in any circumstances, except as provided for in Section 8.b).

13. **Limitation of Liability.** The Owner acknowledges that boating and the maintenance of a marine vessel involve many inherent risks, dangers and hazards and hereby agrees and acknowledges that:
 - a) **the Owner fully assumes and accepts all such risks, dangers and hazards, including without limitation the possibility of personal injury, death, and loss or theft of the Vessel, its contents, and personal property. The Vessel, its contents and any personal property moored or stored at the Marina are done so at the Owner's sole and exclusive risk;**

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- b) **during the Moorage Term, the Owner shall obtain insurance coverage for the full value of the Vessel, its contents and any personal property moored or stored at the Marina, which insurance shall include without limitation a minimum of \$1,000,000.00 third party liability coverage. The Owner acknowledges and agrees that the Company shall not be responsible for providing any insurance coverage;**

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- c) **subject to the rights granted to the Company under Section 7 of this Contract, the Company does not in any way take possession of, or undertake any duty to take care of, any vessel berthed under this Contract or otherwise at the Marina. The Company does not represent that the berth or the floats are fit for any purpose. The Owner accepts the Marina premises on an “as is, where is” basis and acknowledges that, in its own judgment, the Marina and berth are suitable and appropriate for the Vessel;**

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- d) **the Company is not liable or responsible for, and the Owner hereby waives and releases the Company from, any loss, theft, damages or expenses, of any nature whatsoever (including without limitation those arising or resulting from personal injury, death, or loss or theft of or damage to vessels, contents, or personal property, and those suffered or incurred by any of the Owner Parties), however caused, whether by negligence of the Company or the acts of third parties, including without limitation contractors or vendors operating on Marina property, or otherwise;**

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- e) **the Owner shall hold harmless and indemnify the Company in respect of any and all liability for personal injury, death, or loss of or damage to vessels or contents suffered by the Company, any of the Owner Parties, or third parties (including without limitation to any children or minors under the supervision of the Owner or the Owner Parties), as a result of or in connection the Owner Parties’ attendance at the Marina, or the Owner’s mooring or occupying a vessel at the Marina, however caused, whether by negligence of the Company or the acts of third parties, including without limitation contractors or vendors operating on Marina property, or otherwise; and**

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- f) **the Owner further agrees to be liable for any loss, damage or destruction caused to the Company’s property by the Owner Parties or in connection with the Vessel or the Owner Parties’ use of the Marina, and to pay the costs and expenses incurred by the Company in respect of restoring such loss, damage or destruction, within 30 days of receiving an account for the same.**

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- 14. **No Assignment or Sublicense by Owner.** This Contract is personal to the Owner. The Owner shall not assign this Contract and shall not sublicense the berth, in either case without the express prior written consent of the Company, which consent may be withheld in the Company’s sole and absolute discretion.
- 15. **Notices.** Any notices to be given by the Owner in connection with this Contract shall be in writing and delivered to the Company’s office at the address on the face of this Contract. Any notices, billings, or other communications to be given to the Owner by the Company may be given in writing to the Owner by electronic mail to the Owner at the email address listed on the face page of this Contract, or by mailing it to the address on the face of this Contract, or by posting it on the Vessel. Notice given by mail or posting on

the Vessel shall be deemed effectively given three days after being so posted on the Vessel or mailed to the Owner in accordance herewith. Notice given by electronic mail shall be deemed effectively given on the day of sending, if sent before 5:00 p.m. PST, and the next day, if sent after 5:00 p.m. PST, unless the Company receives an electronic notice of non-receipt or "bounceback". The Owner shall provide a valid email address. Notice may also be effectively given by posting publicly at the Marina office, as and where indicated in this Contract.

16. **Marina and Company.** The word "Marina" includes without limitation the marina docks and berths, the boat yard and the dry storage facilities, and any property or waters owned, leased or used by the Company for the Marina berths. **Where used in connection with an indemnity, or a release or waiver or limitation of liability, in each case in favour of the Company, the word "Company" shall include, and the indemnity, release or waiver or limitation of liability shall extend and apply to, the Company's affiliates, and to all directors, officers, principals, shareholders, employees and agents of the Company and its affiliates.**
17. **Criminal Interest Rate.** If any interest (including any fees, bonus, additional consideration or otherwise) stipulated herein, would, except for this clause, be or effectively be a criminal rate under the *Criminal Code* (Canada), or void for uncertainty, or unenforceable for any other reason, then the interest chargeable hereunder shall be one per cent less than the rate which would be a criminal rate (or a void or unenforceable rate), calculated in accordance with generally accepted actuarial practices and principles.
18. **No Contra Preferentum.** The language in this Contract shall in all cases be construed as a whole and neither strictly for nor strictly against any of the parties to this Contract.
19. **Governing Law.** This Contract shall be in all respects governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in the Province of British Columbia. Each of the parties hereto hereby irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia.
20. **Entire Agreement.** This Contract is the entire agreement between the Company and the Owner in respect of the subject matter of this Contract and in respect of any circumstances or events surrounding or arising in connection with the subject matter of this Contract. This Contract cannot be added to or altered except by agreement in writing. There are no representations, warranties, conditions, covenants, agreements or promises of any nature (implied, collateral, statutory or otherwise) binding upon the Company in connection with this Contract or the subject matter of this Contract, or in connection with any circumstances or events surrounding or arising in connection with the subject matter of this Contract, except as expressly set out herein.

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