

## 2023 Terms & Conditions

Boat owners name: \_\_\_\_\_

Current Slip #: \_\_\_\_\_

### 1. Definitions

- a. "Agreement" means any form or document required by the Marina Operator to be completed by the Tenant to give effect hereto and includes these terms and conditions, which may be amended from time to time by the Marina Operator.
- b. "Boat" means the boat or other vessel owned, licensed or registered, by the Tenant, the particulars of which are set out herein.
- c. "Fees By-law" shall mean the by-law setting fees for the use of municipal property and services as passed by Council for the Town of Prescott from time to time.
- d. "Guest" shall mean the Tenants' passengers, crew, guests or invitees.
- e. "Marina" means, in the case of Sandra S. Lawn Harbour & Marina, the water lot and surrounding properties and buildings situated within, and owned by the Corporation of the Town of Prescott and municipally known as, 191 Water Street East
- f. "Marina Operator" means Corporation of the Town of Prescott or any assigned agency acting on behalf of the Corporation of the Town of Prescott
- g. "Slip" means space within the Marina specified by the Marina Operator for use of Tenant for the docking of the Boat.

### 2. Term

- a. The term of this Agreement is from the Victoria Day long weekend in May to the first (1) day of October of the year noted above unless terminated in accordance with the provisions as set out herein or as a result of the destruction of the mooring facilities by fire, storm or other calamity.
- b. The Owner shall remove the Boat from the Marina on or before the thirty first (31st) day of October of the year noted above, failing which, the Corporation may, in its sole discretion, remove the Boat at the Owner's expense.

### 3. Updates to Agreement

This Agreement shall be in effect for the term herein before set out unless sooner terminated pursuant to this Agreement. The Marina Operator may update the terms and conditions, post rules and regulations throughout the term at Marina Operator's sole discretion. Updates may be e-mailed, texted to the Tenant or posted on marina bulletin boards. The Marina Operator may have policies and procedures regarding other Marina operations (eg. Parking, Refueling, Pumpout operations) beyond those described herein.

### 4. Tenant Breach and Agreement Termination

The Tenant agrees to comply with all terms and conditions of this Agreement and with all policies and procedures of the Marina Operator, as may be amended from time to time at the discretion of the Marina Operator, as well as any and all rules and regulations posted by the Marina Operator at the Marina. In the event that the Tenant breaches any one or more of the terms of this Agreement, violates any of the Marina Operator's policies or procedures or rules

and regulations or for any other reason not listed herein, the Marina Operator may immediately terminate this Agreement. Upon such termination, if the Tenant has not removed the Boat from the Marina by the required departure date determined by Marina Operator in its sole discretion, the Marina Operator may immediately remove the Tenant's Boat from the Marina at the sole cost and expense of the Tenant. The Marina Operator shall not be responsible for any damage, loss or injury to the Boat or other property of the Tenant. Notice may be served to the Tenant by leaving such on the Boat, at the Slip, mailing, e-mailing or texting it to the Tenant. The Tenant agrees that the Marina Operator has a maritime and possessory lien and/or a repair and storers lien on the Boat for all fees and other charges outstanding and owing to the Marina Operator under this Agreement.

## **Insurance**

### **5. Tenant Insurance**

The Tenant agrees to insure the Boat, its operation and its contents during the term of this Agreement against such risks as a prudent individual owning a pleasure craft and being a marina tenant would insure. Such coverage shall include, at a minimum, liability insurance for a minimum amount of \$2,000,000 CDN. The Tenant shall provide the Marina Operator with up-to-date valid copies of Certificate(s) of Insurance in either hard copy or by email. When requested, in the sole discretion of the Marina Operator, a recent survey for the Boat specified may be required at any time throughout the term of the Agreement. If such documents are not submitted by the date and time specified by the Marina Operator, the Marina Operator may terminate this Agreement and/or other services without notice.

## **Fees**

### **6. Fees and Payments**

- a. Fees are based on the boat length overall or the slip length, whichever is greater. The overall boat length is from the bow to the stern, including any apparatuses, swim platforms, anchor winches, outboard motors, etc. For greater clarity, the overall length of a boat is not the length at the waterline or the boat model length but the measured length.
- b. The Owner shall submit payment of the fee in advance of occupancy of the Slip. For returning seasonal tenants, the total amount payable can be made in two equal payments on January 31<sup>st</sup> and March 31<sup>st</sup>. Any slip not fully paid for on March 31<sup>st</sup> will be reassigned.
- c. Fees for the docking of Seadoos or dinghys are for the dock space assigned and not beside, in front or behind the Boat either for the entire term of this Agreement. Exceptions may be made for a night or a weekend at the sole discretion of the Marina Operator, provided that the Tenant obtains prior permission.
- d. There is no charge to launch a watercraft at our boat ramp.
- e. If this agreement is terminated by the owner prior to March 31st, the Owner may request a refund of any fees paid for the upcoming season. If this agreement is terminated by the owner after March 31st and prior to Victoria Day, the Owner may request a refund of the fee paid subject to an administration fee of two hundred and twenty-six dollars (\$226.00 HST included). Termination of the agreement by the owner

after Victoria Day will be provided on a prorated basis less an administrative fee of two hundred and twenty-six dollars (\$226.00 HST included).

- f. All cheques are to be made payable to the Corporation of the Town of Prescott.
- g. If credit cards are the form of payment, please complete the credit card payment authorization and the transactions will be automatically processed on the January 31<sup>st</sup> and March 31<sup>st</sup>.
- h. Payment arrangements can be made by calling Town Hall at 613-925-2812 ext. 6211 or attending Town Hall in person.

## **7. Pro-rated Fees**

Pro-rated summer seasonal fees are offered only after June 15th for the summer if any slips remain available. Slips will not be held before June 15th for any tenant seeking pro-rated fees. Full season long fees apply where the Marina Operator holds a slip for a Tenant, or the Tenant occupies a seasonal Slip before June 15th.

## **8. Agreement Cancellation**

Should the Tenant wish to cancel the Agreement at any time, the Marina Operator requires written notice of the cancellation of the Agreement and must specify the Boat departure date. Verbal notices will not be accepted. The Marina Operator maintains the right, at its sole discretion, to approve or decline any Tenant requested refund as set out in item 6. *Fees and Payments (e)* above.

## **9. Liens**

The Tenant agrees that the Marina Operator may claim a lien against a Tenant's Boat and contents for unpaid docking fees or charges for all other services rendered or performed or for any damages to the Marina caused by the Tenant or for any costs incurred by the Marina Operator in exercising any of its rights under this Agreement.

## **Slips**

### **10. Marina Operator Acceptance Rights**

The Marina Operator reserves the right to accept or decline any application for dockage without cause.

### **11. Slip Location**

Slip locations are not guaranteed. The Marina Operator reserves the right to alter, from time to time, the assigned Slip location to be used for dockage of the Tenant's Boat. Assigned slip locations may be changed by the Marina Operator for business purposes, to eliminate or reduce conflict between Tenants or to create efficient use of the docks and Marina space. In event of a high water levels which results in the Tenant's Boat no longer fitting in the assigned Slip due to length, beam or height, the Marina Operator retains the right, in its sole discretion, to move the Boat to an alternate slip until such time that the water levels subside and there is no longer an issue with the Tenant's Boat fitting into the assigned Slip. Upon decrease of the water level to a suitable level the Tenant shall immediately move its boat back to the assigned

Slip. The temporary occupancy of a Slip during one term does not give the Tenant any rights to that Slip in subsequent terms. The Marina Operator does not guarantee the accommodation of a Tenant's Boat during periods of high or low water. If a proper slip cannot be provided under either condition for the Tenant's Boat the Tenant shall be offered a prorated refund and will be required to vacate the Boat from the Marina. The Marina Operator shall not be responsible for moving the Tenant's Boat at any time. However, the Tenant authorizes the Marina Operator to move the Tenant's Boat (at the Tenant's sole expense) as may be required in the event of an emergency or to avoid loss or damage to Marina property, as determined in the sole discretion of the Marina Operator.

## **12. Slip Assignments**

The Tenant acknowledges that certain Boat length and beam limits apply to the Slips within the Marina. All Slip assignments shall be at the sole discretion of the Marina Operator. The Tenant shall not relocate its Boat or occupy an alternate location or slip without written advanced approval from the Marina Operator. Boats may only occupy the specific Slip that is assigned to the Tenant in this Agreement. Boats found in unassigned slips may be moved at the Tenant's expense and may be subject to additional fees at the Marina posted per day visitor rate. If the Tenants purchases a new boat, the Tenant must seek advanced approval and slip assignment prior to the arrival of the newly acquired boat. The Marina Operator does not guarantee a slip for any newly acquired boat.

In the event that the Owner wishes to be assigned the same slip as the slip assigned in the previous year, the Owner shall notify the Marina Operator, by the 30<sup>th</sup> day of September.

All requests for Slip-re-assignment by the tenant shall be submitted to the Marina Operator. Slip re-assignment shall be at the sole discretion of the Marina Operator. The Marina Operator may, at its sole discretion, re-assign Slips based upon availability and navigational concerns.

## **13. Early Arrival and Late Departures**

Unless otherwise agreed in writing in advance with the Marina Operator, in event that the Tenant arrives prior to the start of the Agreement term or fails to remove its Boat from the Marina upon completion of the Agreement term, the Tenant shall pay to the Marina Operator a visitor fee based on the valid rate for each day upon which the Boat is in the Marina. The Marina Operator has no obligation to accommodate early arrivals or late departures outside of the Term of the Agreement.

## **14. No Assignment or Transfer of Agreement**

The Tenant agrees that it shall not assign or sublet this Agreement. The Tenant agrees that it shall not use, cause, permit or allow its Slip, or permitted dock areas to be used for the docking or storage of any other boat, dock box, or vessel other than the Boat as indicated herein. Slips are not, under any condition, to be offered to potential purchasers. Slips are not to be sold with the Boat or to be a part of any sale, rental or lease agreement. Upon the sale of the Boat it is to be removed from the Marina immediately. This Agreement does not transfer with the sale of the Boat and is not transferrable to any purchaser of the Boat. If a sold boat remains in the marina following transfer of ownership any new owner will be required to complete a new marina application and agreement and pay applicable visitor fees, however, the Marina Operator does not guarantee the Availability. Children and minors are not permitted to live alone on the Boat and must have adult supervision living aboard with them at all times.

## **15. Extended Vacancy**

The Tenant agrees that it shall notify the Marina Operator of the Tenant's Boat leaving the Marina for a period of time in excess of twenty-four (24) hours. During such period, or other time of vacancy, the Marina Operator may permit other boats to use or occupy the Tenant's Slip on a visiting basis. The Tenant further agrees that the Tenant shall not be entitled to the fees or any portion thereof received by the Marina Operator for the use or occupation of the Slip during the Tenant's vacancy. The Tenant is not permitted to allow other persons use of the Slip for any other boat than the Boat to which this Agreement applies. The Tenant must advise the Marina Operator of any vacancy period through the submission of a sail plan for both Tenants safety and vacancy information purposes. The Tenant shall not be entitled to any form of refund or prorated fee adjustment as a result of not occupying the slip unless agreed in writing by the Marina Operator.

## **16. Supplementary Watercraft**

The Tenant acknowledges that additional fees may be due for the in-water storage of supplementary boats such as personal water craft (pwc's), inflatables, dinghies or the like. Such craft shall not occupy the same Slip as the Tenant's Boat. Fees for such craft docked at their own Slip in the Marina are payable at current posted rates.

## **Boat Use, Condition, and Repairs**

### **17. Pleasure Craft Representation**

The Tenant represents and warrants that the Boat is a pleasure craft and agrees that the Boat shall at all times be used for such pleasure craft purposes and be licensed or registered, identified and equipped in accordance with The Canada Shipping Act.

### **18. Restricted Purpose**

The Tenant agrees to its use of the Marina and the Marina facilities for their intended purpose only – the dockage of a pleasure craft to be used as such on a regular basis. The Tenant shall not use the Marina for the purposes of using the Boat as a permanent and only residential location during the summer term. The Tenant acknowledges and agrees that the Marina is not being operated primarily as a residential location for the Tenant. The Landlord and Tenant Act does not apply to Slip occupancy. The Marina Operator reserves the right to limit the number of seasonal live aboards during the summer term as it sees fit. The Tenant acknowledges that the Tenant will take the Boat in and out of the Marina for use as a pleasure craft and it will not remain stationary in its Slip for the term.

### **19. Boat Operator Competency**

The operator(s) of the Tenant's Boat shall hold both a valid Power Boat Operators License and shall comply with Federal Government requirements concerning operator competency. If the Marina Operator feels the Tenant exhibits weak or poor operator competency the Marina Operator has the right to move the Tenant to an alternate slip or remove them from the Marina, at Marina Operator's sole discretion.

### **20. Marina Entry and Departure for Sailboats**

Arrival and departure under sail within the Marina is prohibited. Halyards must be secured.

## **21. Boat Secured**

Tenant's Boat shall be secured and fendered in its assigned Slip in a manner acceptable to the Marina Operator to protect its docks and equipment for all local seasonal weather, wind and high or low water level conditions. This includes the provision of an adequate number, type, proper thickness and suitable length of lines and the appropriate number and diameter fenders for the length and tonnage of the Boat. If, in the sole opinion of the Marina Operator, the Boat is found not to be secured and fendered in an acceptable manner, the Marina Operator may adequately secure the Boat and assess a service fee via invoice to be paid by the Tenant. If new or additional lines or fenders are required, in the opinion of the Marina Operator, then they may be supplied at the Tenant's expense.

## **22. Fastening and Securing Brackets**

The Tenant shall not fasten or secure any brackets, dock whips, supports or structures to the docks for the purposes of securing the Boat or personal watercraft docking system without the written consent of the Marina Operator. The Marina Operator must install such devices so they are secured correctly as to not cause damage to the dock. The Tenant shall pay a fee to the Marina Operator for any such installation including all time and materials.

## **23. Inclement Weather**

The Tenant shall be responsible for properly securing the Boat in the event of inclement weather so that no damage occurs to the Tenant's Boat, other boats in the Marina or to the Marina itself. If, in the sole opinion of the Marina Operator, the Tenant has not taken the necessary and appropriate precautions, Marina personnel may, but shall not be obligated to, appropriately secure the Boat or prepare the Boat for foul weather at the cost and expense of the Tenant. The Tenant shall be responsible for all damage incurred to its Boat, other boats and to the Marina arising from the Tenant's failure to properly secure their Boat. The Tenant shall monitor the weather including winds, wind direction and water levels and shall attend to the boat as conditions warrant. The Tenant should use caution when on the docks and boat for their personal safety during periods of inclement weather. The Tenant should not proceed into the lake when conditions are poor and at times when weather agencies issue warnings.

## **24. Boat Maintenance**

Boats docked in the Marina must be seaworthy and capable of moving under their own power. If the Boat has two or more engines, each and all engines must be operable. The Tenant shall maintain the Boat structurally and mechanically and keep it clean and presentable both inside and outside to a level satisfactory to the Marina Operator in its sole discretion. If the Boat becomes inoperable, for whatever reason, the Tenant must show the Marina Operator that they are attempting to satisfactorily repair the Boat in what the Marina Operator feels is a timely fashion. In the event of any mechanical failure, malfunction or damage to the Boat which, in the opinion of the Marina Operator, constitutes a threat to safety of the Boat, another boat and/or tenant in/of the Marina or to the Marina itself, then the Tenant agrees to immediately remove the Boat using a professional towing or marine service in a timely fashion. In event that the Tenant fails to do so persons designated by the Marina Operator may board the Tenant's Boat and move it to another location within or outside of the Marina. In such an event, all costs incurred by the Marina Operator in moving the Boat shall be the responsibility of the Tenant. The Tenant shall reimburse the Marina Operator for all such costs including any

environmental clean-up costs. The Marina Operator shall not be liable or responsible for any damage and/or loss to the Boat or incurred by the Tenant arising from the Marina Operator having to move the Boat in accordance with the terms herein.

## **25. CSA-Approved Electrical Devices**

The Tenant shall use only Canadian Standards Association (CSA) approved marine grade electrical devices including cords, plugs, adapters and other equipment. The Tenant acknowledges that the Marina works closely with the Electrical Safety Authority (ESA) and the ESA does conduct inspections. If any electrical devices do not meet CSA, ESA or the Marina Operator's approval the Tenant will be immediately advised and must follow instruction to remove or replace such devices immediately. If such devices are found to be unsafe or not kept in neat order the ESA and/or the Marina Operator has the right to disconnect and remove such devices or turn off all power to the Boat or the dock immediately without notice and at the Tenant's expense. The Marina Operator will not compensate the Tenant for any loss of consumables as a result of such a power shut down. Upon notification that a particular electrical configuration, device or cord is not suitable or safe the Tenant must take immediate correction action or electrical shut down will result.

## **26. Boat Repairs**

Routine maintenance such as cleaning, and minor repairs necessary for the preservation and seaworthiness of the Boat at individual Slips are restricted to activities that can be performed without materials entering the water, creating loud noise or causing any damage to common areas, docks, or piers. Tenant shall not repair, sand, paint, or scrape any part of the Boat or gear when docked in the Marina or on the docks, the finger piers, or any common area of the Marina.

## **27. Outside Contractors**

No outside contractors, service organizations, corporations or individuals will be permitted to undertake any work on Tenant's Boat in the Marina area without first having obtained approval in writing from the Marina Operator. All such persons must sign-in at the Marina Office. All such persons must comply with the Boating Ontario Clean Marine Boat Maintenance Policy or similar program including the possession of valid suitable insurance which contains environmental coverage as well as appropriate Worker's Compensation. Tenants must ensure all contractors meet the requirements of the Occupational Health & Safety and all applicable regulations. Additionally, all outside contractors must comply with marina safety program or their own safety program, whichever is more stringent. The Marina Operator may request the Contractor's safety program at any time. Specifically, if permission is granted, the Tenant shall ensure that under no circumstances will any hazardous material such as oil, antifreeze, batteries etc. be left or spilled in the Marina. Failure by the Tenant to ensure that no hazardous material is left or spilled in the Marina shall constitute a breach of this Agreement by the Tenant. It is mandatory that all outside contractors have proof of WHMIS 2015 training prior to handling any hazardous materials.

The Corporation of the Town of Prescott values the diversity of its workforce, its patrons and visitors and the community in which we operate and is committed to providing an environment where individuals are treated with dignity and respect. The Tenant acknowledges and agrees that all outside contractors shall be required to abide by the Marina's Workplace Discrimination, Harassment and Violence Prevention Policy. Failure by any contractor to comply with the provisions of this Agreement may result in immediate removal from the

premises by the Marina Operator. A copy of applicable policies and procedures are posted in the Marina or may be requested at any time.

## **28. Boat Sinking**

The Tenant shall endeavor to prevent the Boat from sinking. In the event that the Tenant's Boat should sink in the Marina, the Tenant agrees at its sole expense to remove the Boat forthwith and cover any environmental and other related expenses. If the Tenant should fail to remove the Boat forthwith, then the Marina Operator may remove the Tenant's Boat at the Tenant's sole expense. In the event that the Boat sinks, the Tenant shall be responsible for any and all damage caused to the Boat arising from the sinking and/or the Boat's removal therefrom.

## **Commercial Activities**

### **29. No Advertising or Soliciting**

No advertising or soliciting of any kind shall be permitted in the marina. No signs including use of banners, dock boxes or sail covers are to be used for promotion. The Marina or Marina Operator's name, address, phone number, photos of the Marina or facilities, maps of the Marina area and e-mail addresses may not be used for business purposes. The Marina premises are not to be used to promote a business. On board activity may not conflict with the interests of the Marina Operator or the occupants therein. Should the Marina Operator learn of any unapproved activity the Tenant will be advised to immediately discontinue such and, if not, will be cause for immediate termination of this Agreement.

### **30. Commercial Boats and Yacht Sales**

The Tenant shall not allow or permit yacht brokers, agents or salespersons to establish a business location at the Marina. No commercial sales operations of any kind are permitted in the Marina space.

### **31. No Commercial Activity Permitted**

The Marina Operator does not approve or permit the Tenant's Boat to be used as a passenger vessel for reward, remuneration or profit or permit it to be used for any form of commercial activity, business, charter or passenger boat operation. The Tenant, or any representative(s) of the Tenant, shall not offer the Boat to the public for the purposes of overnight accommodation, tours, excursions, water sports, cruises of any type, transport or water taxi or other form of commercial activity unless agreed and approved in writing as outlined in a required separate commercial marine agreement. Overnight accommodation refers to any Bed and Breakfast, Air BnB or other such business. Transport Canada Marine Safety will be advised upon discovery of any passenger related commercial activity on the Tenant's Boat. No third party shall make the Tenant's Boat available to the public or promote it in any fashion for any commercial purpose. Charterers and their guests as passengers, as defined in the Canada Shipping Act, are not permitted on the Marina docks and may not board or depart the Tenant's Boat from any of the Marina Operator's managed properties. Should the Marina Operator learn of any such activity it will advise the Tenant and/ or its representative(s) to immediately discontinue such activity and/or will be cause for immediate termination of this Agreement in the Marina Operator's sole discretion. The dockage of any such identified vessel on the Tenants properties will be denied.



## **Marina and Dock Areas**

### **32. Common Areas**

All common areas, including, without limitation, buildings, drives, recreational areas and facilities, grounds walkways, parking areas, and all docks, breakwater and piers shall be kept free and clear of obstructions, and no materials or personal property of any kind shall be stored or left on docks outside or beside of dock boxes. No part of the common areas, docks, and finger piers shall be decorated or furnished by Tenant in any manner. All personal property must be kept on Tenant's Boat or within its personal dock box.

### **33. Pumps and Sewage**

Discharge of heads, Boat toilets, holding tanks, contaminated bilge water or the like, into the Marina is a violation of environmental laws and constitutes a material breach of the terms and conditions of this Agreement. Nearby pump out facilities for black water are available for the Marina at the posted rates. Emptying of portable toilets in restrooms or anywhere in and around the Marina, is strictly prohibited. The restrooms at the Marina shall be used only for the purposes for which they are designed. Waste oil and battery disposal are not available at the Marina or pump out facility. Under no circumstances is shall oil, fuel or hazardous waste material be emptied using the pump out facility. Anyone for whom the Tenant is responsible that is caught leaving hazardous waste material at the Marina or using the pumpout machine to extract such will result in the immediate termination in this Agreement and the Tenant shall be responsible for all costs incurred by the Marina Operator for any repair to equipment and any disposal expenses. The Marina Operator reserves the right to report such activity to the Ministry of the Environment and any other governing authority, as appropriate.

Upon recognition of a spill of any kind the Tenant shall advise the Marina Operator. Upon report of a Tenant "dumping" or the discovery of an environmental risk, the Marina Operator must advise the Ministry of Environment, Transport Canada, Environment Canada. Any fines issued for a Tenant's spill shall be the sole responsibility of Tenant. The Tenant acknowledges the utmost importance of preventing any spill. In event of a spill from the Tenant's Boat(s), or from any items left by the Tenant or its representatives in the Marina area including on the docks or within nearby garbage compounds or containers, the Tenant will be held responsible. The Tenant will be charged for all costs related to the clean-up of a spill including labour and replacement of all materials and supplies used to mitigate the spill to the satisfaction of the Marina

Operator, the Ministry of the Environment, Environment Canada and Transport Canada.

### **34. Refuse and Garbage**

Tenant shall not throw or allow to be thrown or discharge any refuse or garbage into the Marina or leave any refuse or garbage in or about the Marina area. Supplied waste and recycling bins (if provided) shall be used by the Tenant. The Tenant shall not discharge into the Marina or leave about the Marina area including in the garbage areas or recycling areas any fuel, oil, flammable liquids, oily bilge water or other pollutants or hazardous waste. All hazardous waste materials such as batteries, waste oils, antifreeze, coolants, paints and the like shall be immediately disposed of upon departure from the Boat in a proper environmental, legal and ethical fashion by the Tenant or authorized representative. The Tenant will endeavor to use environmental products and services whenever possible. The Tenant acknowledges the Marina Operator is involved in various industry environmental programs such as Boating Ontario's Clean Marine, as outlined on its website, and the Tenant shall participate in a

responsible fashion. Failing to do so may be cause for immediate termination of this Agreement.

### **35. Wi-Fi**

Wi-Fi service is complementary and is provided on an is, as available, basis without warranty of fitness for use or service of any kind.

### **36. Laundry**

Tenant shall not hang laundry on the Boat or anywhere in or around the Marina.

### **37. Dock Carts**

The Marina Operator provides dock cart(s) for use by the Tenant to transfer groceries, luggage and other clean light weight items to and from the Boat. The Tenant agrees to return such cart(s) to the proper place in a clean and good state of repair. Such carts shall not be used for the transfer of heavy items that may cause damage to the cart or transport greasy, oily or dirty items that may stain or dirty the cart. The Tenant shall be responsible for any damage or loss caused to or by the cart while under the use of the Tenant.

### **38. Barbecues and Open Flame Cooking**

Propane barbecues of any type, charcoal fires of any kind or open flame cooking appliances are forbidden to be used on the docks, ramps, or breakwater at any time. The Marina Operator retains the right to demand the immediate removal of any barbeque or any other cooking appliance, if deemed by the Marina Operator, in its sole discretion, to be unattractive, inappropriate or unsafe. This includes cooking devices used on the Boat. If the Tenant fails to remove the item immediately, the Marina Operator will do so at the Tenant's expense. The use of proper approved marine designed propane barbeques are permitted in the Marina but must only be used aboard the Boat and must be properly and safely affixed to the Boat. No barbecue or propane tank of any type or size shall be stored on the dock at any time.

Barbecues are provided by the Marina Operator in the common area for Tenant use only. It is the responsibility of the Tenant to ensure the safe and responsible use of the cooking apparatus and assumes are reasonability for any injury or damage caused by the use of the barbecues.

### **39. Portable Gas, Fuel Containers, and Fueling**

The Tenant shall not use any form of portable gas or fuel container to transfer fuel in the Marina from a container into the Boat's built in fuel tank(s). The Tenant acknowledges and agrees that such restriction is in place in recognition of this being an unsuitable, unsafe and potentially environmentally damaging act. Fuel cans or containers shall not be stored in the Marina premises at any time, including the storage of such containers, even when empty, on the dock, in a dock box or under any type of cover. The Marina Operator will remove any fuel container found on the dock even if empty, at the Tenant's expense.

Refueling of a Boat while docked or moored is prohibited.

### **40. Boat Refueling**

Boat refueling can be done at the marina at the gas dock.

Prior to receiving fuel services, the Owner shall remove the Boat's fuel cap and indicate the type of fuel to be used to Marina staff.

#### **41. Storage and Dock Boxes**

Tenant shall not store or allow to be stored any gear, bikes, scooters, canoes, kayaks, dinghies, pwc's, chairs, fuel cans, paints, oil, hazardous waste, tables, refrigerators, cooking equipment, supplies, materials, hardware, accessories, wood, doors or debris or the like on the docks, water's edge promenade or breakwater. The Tenant shall not construct thereon any lockers, decks, gardens or other structures. Where required and safe for neighbouring tenants, boarding stairs are permitted with approval in writing from the Marina Operator.

Marina grade and designed white fiberglass dock boxes are permitted only upon prior written permission and conditions set by the Marina Operator in its sole discretion. Deck or home patio boxes not designed or intended for marina environment use are not permitted under any condition. The Tenant is limited to one (1) marine dock box per assigned Slip. Dock boxes must be white fiberglass, attractive and, appropriate in size and no larger than 72" Width x 24" Height x 23" Depth. Dock boxes must not block pedestrians or access to other boats. Dock boxes must be kept clean and in good state of repair at the sole discretion of the Marina Operator and shall be moved when requested by the Marina Operator. Any dock boxes not kept in good state of repair, including having a missing lid, will be removed with contents by the Marina Operator at the cost of the Tenant. All items including dock boxes must be removed at the end of the Agreement term. Relocation of a dock box must be done immediately should the Tenant's assigned slip be changed within the term of the agreement. The Marina Operator makes no representation or guarantee that there will be suitable space for a dock box at the Tenant's slip. In event that a cleat, safety ladder, power or water post or other fixed item including another tenant's dock box prevents the location of a dock box at the Tenant's Slip, efforts may be made, with no guarantee, to accommodate a box at another nearby location. All dock boxes must be affixed to the dock in a manner approved by the Marina Operator to prevent high winds from blowing a dock box or its contents around the Marina and/or into the water. The Tenant must clearly place the Tenant's Boat name on the box or the Tenants last name in the lower left hand corner of the dock box lid so the Marina Operator may identify the ownership of the Dock box at any time.

#### **42. Swimming, Fishing and Miscellaneous Activities**

Due to boat traffic and other harbour hazards such as potentially high bacteria levels or stray electrical current, swimming, diving, kayak rolling, canoe swamping, paddle boarding, and fishing are strictly prohibited within the Marina. The following activities, although not a complete list, are also prohibited in the Marina and on docks, breakwater or piers: fish cleaning, fireworks, firing of marine flares, flying of kites, and use of remote-controlled drones from either on the docks or onboard the Tenant's Boat.

#### **43. Children and Personal Flotation Devices (PFDs)**

Children and minors must be supervised and accompanied by an adult at all times. Children must wear an approved and weight appropriate life jacket, pfd or an approved inflatable at all times within or near the Marina area. They are not under any condition permitted to swim in the marina.

#### **44. Entry and Exit to/from Marina (No Wake Speed)**

All boats operating in the Marina must enter and exit the Marina at a no wake speed so as to cause no discomfort, damage or injury to person or property. Tenants are liable for any and all damage or injury caused to any property or person by the Boat's wake. The Tenant's Boat shall not be towed into the Marina unless due to mechanical failure while underway. The Tenant acknowledges that upon any mechanical failure Tenant will notify and keep the Marina Operator updated, have the Boat repaired swiftly, moved or towed out particularly if the Boat is not in its assigned Slip. The Tenant must maintain the engine(s) and drive train(s) systems so they are fully operable throughout the term so the Boat can move at any time under its own power.

#### **45. Dock Attendant Staff**

Dock attendant staff are generally available in accordance with the posted hours at the Marina office. Staff may be contacted at the Marina office, at posted phone numbers or on VHF Ch. 68, during such hours for assistance.

#### **46. Blocking Access**

The Tenant shall not tie any Boat or item onto or block access to any of the Marina safety ladders, safety equipment, power pedestals, water supply posts or fire extinguishers and shall only tie the Boat to provided cleats or bollards.

### **Tenant Behaviour**

#### **47. Noise**

The Tenant must comply with all Town of Prescott Bylaws including the Noise Bylaw. Any breach can be reported the marina office. Noise must be kept to a minimum at all times including noise from pets. The operation of any engine, generator, tool, sound system or other audio or video device shall only be used in such a manner so that it does not result in a nuisance or interfere with any Marina Operator programmes or events. Quiet enjoyment must be maintained at ALL times. Any noise violation by the Tenant, or anyone for whom the Tenant is responsible, may result in immediate termination of this Agreement, and the Tenant will be requested to immediately remove their Boat from the Marina at the sole cost and expense of the Tenant. The Tenant is responsible for the actions and behavior of any guests to the Boat even in the Tenant's absence.

Between the hours of 11:00 p.m. and 7:00 a.m. excessive noise is prohibited. Refer to By-Laws 45-81 and amendment, By-Law 27-91.

#### **48. Discrimination, Harassment, and / or Violence**

The Corporation of the Town of Prescott values the diversity of its workforce, its patrons and visitors and the community in which we operate and is committed to providing an environment where individuals are treated with dignity and respect. The Tenant and/or any guest, family, visitor or invitee of the Tenant must comply at all times with Corporation of the Town of Prescott's Workplace Discrimination, Harassment and Violence Prevention Policy Failure by the Tenant, or any guest, family, visitor or invitee of the Tenant, to comply with the provisions of this Agreement may result in immediate removal from the premises by the Marina Operator. A copy of this policy is posted in the Marina and may be requested at any time. The Tenant

acknowledges and agrees that prohibited behavior includes, but is not necessarily limited to: public intoxication, profanity, abusive language, racial and/or sexist comments and harassment of any kind. Any Tenant, visitor, guest, family or other invitees of the Tenant who engages in any prohibited behavior or causes harm or threatens to cause harm to a person or property of anyone else will be subject to immediate removal from the Marina and immediate termination of this Agreement in the Marina Operator's sole discretion. The Tenant is responsible for any actions and behavior of any guest, visitor, family and/or invitee of the Tenant, even in the Tenant's absence.

#### **49. Pets**

Pets must be leashed on the docks and within the Marina area at all times. In event that pets cause a nuisance or, at the discretion of the Marina Operator, a threat or nuisance to others, the Tenant shall immediately remove the pet from the Marina area. Pets are not permitted in the office, washroom, shower and laundry areas at any time. Tenant's must clean up after pets and must abide by all Towns' By-Laws particularly the Animal Control Bylaw. Pets cannot be left unattended or put in dock carts.

#### **50. Relations with Marina Operator Staff**

The Tenant and their guests shall not engage in any improper conduct towards Marina employees or any other person in the Marina, including but not limited to:

- a. Harassment, which includes a course of vexatious comment or conduct, based on one or more of the prohibited grounds (race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, same-sex partnership status, family status or disability) under the Human Rights Code, R.S.O. 1990, c.H.19, as amended.
- b. Conduct that may be considered threatening, including but not limited to yelling, and use of profane language
- c. Any disorderly, indecorous, or other inappropriate conduct that has endangered or might endanger safety, has injured or might injury any person, has caused or might cause damage to the Marina property, or has harmed or might harm the reputation of the Marina.
- d. Invite, entertain, or allow marina staff on board their boat for any reason.

#### **51. Consumption of Alcohol**

Alcohol consumption in the Marina is prohibited, except in in areas permitted by law.

#### **52. Smoking or Vaping**

No smoking by-law: CORPORATION OF THE TOWN OF PRESCOTT, BY-LAW 35-2007, Being, a by-law to designate a smoking area at the Town Hall and to prohibit smoking around doorways at all municipal properties.

#### **53. Clean Marina Facility**

The Marina has been designated as a Clean Marine Facility. Without limiting the generality of the rules which are binding upon the Owner and Guests, the Corporation encourages the Owner and Guests to implement the following

Clean Marine Policies:

- a. To keep all garbage of any kind on board the Boat until it may be placed in waste containers.
- b. To separate all recyclables and place them in the appropriate containers.
- c. To separate hazardous wastes, including used oils and antifreeze, unwanted paints, solvents and cleaners, batteries, old unusable fuel, and used oil filters and take all such wastes to the municipal household hazardous waste collection site. WE DO NOT ACCEPT ANY OF THE ABOVE.
- d. To take all necessary steps to avoid spilling fuel, oil, or any chemicals or cleaners whatsoever into the water, to refrain from pumping oil-contaminated bilge water overboard and to be guided by instructions from Marina staff when at the gas dock and/or pump-out dock.
- e. To carry out any repair work on the boat in designated areas only, taking all precautions required by the Marina to avoid leaving any debris, little or no liquid contaminants behind.
- f. To avoid pumping grey water overboard when in Marina.
- g. To never discharge raw sewage from the black-water holding tanks to anywhere other than a pump-out.
- h. To use environmentally-responsible products whenever and wherever possible.
- i. To operate the vessel in a safe and considerate manner at all times, to operate the engines only when necessary, to avoid creating a wake when entering and leaving the dock, and to avoid causing a nuisance to all others using the marina's facilities.
- j. To always show respect for the environment and local wildlife.
- k. To promote Clean Marine practices at all times.
- l. The cleaning of fish shall not be undertaken in any area of the Marina. Remains of fish must be removed from the Marina. No fish may be displayed in the Marina for any reason.

## **Tenant Risk, Responsibility, and Indemnity**

### **54. Personal Property**

It is understood and agreed that all of Tenant's personal property must be removed from the Marina area upon the termination of this Agreement. This includes, but is not limited to, dock boxes and contents. Should such personal property not be removed within seven (7) days following the Marina Operator's request to do so, the property will be removed and disposed of by the Marina Operator at the cost of the Tenant. The Marina Operator shall not be responsible

for any damage or loss incurred by the Tenant with respect to Tenant's personal property, no matter the cause.

#### **55. Tenant's Sole Risk and Indemnity**

Use of the Marina or its facilities by Tenant shall be at the sole risk of the Tenant. The Tenant agrees that the Marina Operator and, and the Corporation of the Town of Prescott, shall not be liable or responsible for any damage, loss, injury or death arising from or out of any occurrence, in, upon, at, or relating to the Marina, or injury or damage to property of the Tenant, from any cause whatsoever, whether or not such death, injury, loss or damage results from the negligence of the Marina Operator or its respective employees, servants or agents or other persons for whom it may in law be responsible. The Tenant agrees to indemnify and hold harmless the Marina Operator and the Corporation of the Town of Prescott, and save them harmless from and against any and all loss, claims, damages, liability, causes of action and expenses in connection with the loss of life, personal injury, loss or damage to property arising from or out of any occurrence in, upon or at the Marina occasioned wholly or in part by any act or omission of the Tenant and that such indemnification shall survive the termination of this Agreement.

#### **56. Nuisance Odours**

The Tenant shall ensure that any odour emanating from the Boat or its contents is not offensive, a nuisance, bothersome or unhealthy to those in the Marina at the sole discretion of the Marina Operator. Upon notification of such the Tenant shall take immediate action to eliminate such odour to the satisfaction of the Marina Operator at Tenant's sole expense.

#### **57. Animal Deterrence**

The Tenant agrees that the Marina Operator is not responsible for any damage, loss or mess that may be caused by nuisance animals such as raccoons, ferrets or the like. The Tenant shall keep its Boat tightly closed, clean and tidy to deter such animals from entering the Tenant's Boat or Marina. The Marina Operator is not obligated to trap, catch or remove any such nuisance animals from the Marina.

#### **58. Tenant's Risk Assumption**

The Tenant, as a responsible prudent boat owner, acknowledges and assumes all of the risks of keeping their Boat in the Marina and understands the risks of exposure of the Boat to waves, wind, precipitation, temperature, high or low water levels, ice and any potential weather event throughout Slip occupancy and the full term of this Agreement. The Marina Operator assumes no responsibility for these or other risks.

#### **59. Theft, Damage, and Vandalism**

The Marina Operator will not be responsible for any damage to the Tenant's Boat and belongings however caused. The Marina Operator will not be responsible for any theft, damage or vandalism caused as a result of unknown persons entering the docks or the Tenant's Boat.

#### **60. Security**

The Tenant acknowledges they have chosen to keep their Boat in a public marina accessible by both land and water. The Tenant is solely responsible for keeping the Boat locked and closed up, to lock valuables below or not leave them onboard. Tenants should report any breach of security within the Marina or onboard the Tenant's Boat immediately to Marina Operator's personnel and/or the Police. The Marina Operator may deny access to the Marina to any person who is unable to supply adequate identification, documentation, or disclose a legitimate purpose for such attendance and access to the Boat.

#### **61. Customs and Immigration**

Owners and Guests are responsible for all personal customs and immigration related matters.

#### **Other**

#### **62. Governing Law**

This Agreement shall be interpreted in accordance with and governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The parties attorn to the courts of Ontario.

#### **63. Agreement Headings**

Any headings used in this Agreement are inserted for reference only and in no way define or limit any of the provisions hereof.

#### **64. Severability**

A declaration by a court of competent jurisdiction that any provision of this Agreement is invalid or unenforceable shall in no way affect the validity or enforceability of any other provisions of this Agreement.

#### **65. Events of Force Majeure and Water Levels**

The Marine Operator shall not be liable or responsible for losses, injuries or damages of any kind incurred by the Tenant where same are caused by reason of force majeure, being an event beyond the Marina Operator's reasonable control. Force majeure events shall include but not be limited to an accident, fire, action of elements and natural disasters including, among other things, rising water levels, or civil commotion, medical epidemic, act of God, or acts of prohibition of any government authority and acts of war, insurrection and terrorism. If an event of force majeure prevents the Marina Operator from carrying out its obligations under the Agreement, such event shall excuse such non-performance by the Marina Operator until such time that the force majeure event ceases.

The Marine Operator will not be held responsible for any damage caused to the Boat or other equipment as a result of flooding, high or low water levels or the lack of shore side fender surface, any high water re-position, removal of a fender or any wake or wave impacting the vessel or its fenders. The Tenant agrees to assume full responsibility for leaving a Boat alongside any berth during periods of extreme water levels. The Tenant shall abide by any advisories or notices issued by the Marine Operator or the Police regarding vessel speed and wake to avoid vessel damage and shoreline erosion during periods of high water.



