BAYSHORE
MARINA

MOORING LEASE AGREEMENT

Entered into by and between:

CLUB BAYSHORE MARINA (PTY) LTD
(The Lessor)
Physical Address: 52 Ring Road, Vaal La Mer, Vaal Dam, Gauteng
Postal address: PO Box 67577, Bryanston, 2021
Fax No: (011) 706 9472
Email: finance@gajoma.com

And

____

(ID / Reg No _________________)

An adult male / female / company / corporation* (*Delete as applicable)
(The Lessee)

Physical Address: ____

Postal address: ____

Fax No: ________________________________

Email: _________________________________

It is agreed as follows:

1. Any word purporting the singular shall include the plural, one gender shall include the other gender and neuter, and an individual shall include a legal entity.
2. This agreement relates to a mooring. Where a mooring is temporarily unavailable the lease will be for a temporary mooring until one becomes available.
3. The word "boat" shall include any and all watercraft used by the Lessee, including ancillary boating equipment.
4. Irrespective of the date of signature of this agreement by the Lessor ("signature date"), this lease shall commence on the 1st day of_____________20___ ("commencement date") and continue for 12 (twelve) months, where after it will continue on a month-to-month basis.
5. The Lessee shall pay to the Lessor, as rent, the sum of R___________ excluding VAT, per month, monthly in advance without deduction or set-off. The first payment to be made on or before the commencement date and thereafter to be made on or before the 1st day of each and every succeeding month. The rental amount is subject to an increase once per calendar year, by an amount, and on such date, as determined by the Lessor in its sole discretion. This increase may occur within the first 12 months.
6. All payments are to be made to the Lessor's bankers by monthly debit order, per the debit order instruction in Annexure A, which annexure is a material part of this lease.
7. In the event of any debit order strike, for whatsoever reason, not being credited to the Lessor's account, the Lessee shall be liable to pay to the Lessor an administration fee of R250 which amount is immediately due and payable. The Lessor will add this amount, plus interest, to the next debit order strike should it not be settled immediately. This administration fee will escalate at the same rate as the rental increase in clause 5 above.
8. Interest on all overdue amounts will be charged at 2% per month, or part thereof, and become due immediately upon late payment.
9. On or before signature date, the Lessee shall pay the Lessor a refundable **deposit equal to one month's rental for each mooring leased** as well as a non-refundable activation fee of R ________. The deposit will be held as guarantee to cover any and all amounts owing by the Lessee in terms of this lease and accruing both during and upon termination of the lease. The Lessee may not set the deposit off against the Lessee's liability for rentals. Should the Lessor appropriate any part of the deposit for any purposes under this lease, the Lessee shall

forthwith make payment of an amount of money sufficient to ensure that the amount is once again equivalent to two months rental. On termination of this lease, the Lessor shall be entitled to retain the deposit until it has finally determined the amounts owing by the Lessee in terms of this agreement, where after, any surplus will be repaid within a reasonable time from termination.

10. At the same time as rental increases occur, the deposit will be adjusted so that the deposit remains equal to one month's rental at all times. Such increase will be debited together with the first month's rental at the new increased amount.

11. The Lessee acknowledges, warrants that:

    11.1. -His boat complies with, and will at all times during the duration of this lease, comply with all legal requirements, and contains and will continue to contain the necessary equipment in terms of all regulations and legal requirements applicable from time to time;

    11.2. Only a qualified skipper with a valid skipper's licence shall operate the boat.

    11.3. He is, and will remain for the duration of this agreement, the legal owner of the boat, which is fully described later in this agreement. Failure by the Lessee to inform the Lessor in writing that the Lessee has sold the boat may not be used as a defence against the Lessor attaching and selling the boat to recover amounts that are due by the Lessee in terms of this agreement.

    11.4. If the Lessor is unable to give the Lessee possession of the mooring on the commencement date, for any reason whatsoever, the Lessee shall not have any claim against the Lessor and undertakes to accept occupation from whatever date the mooring is available, subject to a reduction of rent for the period of non-occupation;

    11.5. The Lessor shall have access to the mooring and the boat at all times.

    11.6. The Lessor shall be entitled to cut ropes, move the boat and gain access to the boat, in cases of emergency or operational necessity.

    11.7. The Lessor shall be entitled to move the Lessee's boat and contents from the mooring as well as relocate the boat and contents to another mooring, as the Lessor, in its sole discretion deems necessary operationally, or remove the boat to the hard in the instance of non-payment of any amounts owing by the Lessee to the Lessor in terms of this lease and having failed to remedy such breach in terms of clause 15. The Lessor shall be entitled to recover all costs it incurs doing this from the Lessee.

    11.8. The Lessee hereby unconditionally indemnifies the Lessor against all and any losses it may suffer howsoever arising from this.

12. The Lessee shall: use the mooring solely for the mooring of the boat described hereunder in this agreement; -care for and maintain the mooring and return and deliver the same to the Lessor in good order and condition; make good and repair all damage or breakage or, in the alternative, reimburse the Lessor for the cost of replacing, repairing or making good the mooring, the marina equipment and/or the premises, as the case may be; permit the Lessor or its agents to carry out any work that may be required to be done without hindrance or interference; on termination of the lease, restore the mooring to its original condition as at the commencement of this lease, fair wear and tear excepted; ensure that the directives, as determined by the Lessor from time to time, are strictly complied with, and the Lessee acknowledges that he has received a copy of the Rules of Conduct on signature hereof, has read them and fully understands them, and if he has any query such query has been explained to him.

13. The Lessee shall not: make any alterations or additions to the mooring, or permit nails or screws to be driven into the mooring; permit to be stored or done on the boat or mooring, anything that may adversely affect any insurance policy in respect of the premises, or cause an increase in the rate thereof.

14. The Lessee shall be responsible to the Lessor for any increases in insurance premiums so caused.

15. Should the Lessee commit any breach of any term of this lease, and fail to remedy that breach within 7 (seven) days after receiving notice by the Lessor to do so, save that not more that 2 (two) notices will be required to be sent during this lease, and thereafter the Lessor shall be entitled without prejudice to any other rights which it may have under this lease or in common law to: immediately cancel this lease on written notice thereof; or remedy such breach and recover the total cost incurred by the Lessor in doing so, from the Lessee who will be obliged to pay the amount thereof to the Lessor forthwith; or treat the Lessee's tenancy thereafter as a monthly tenancy terminable by the Lessor only on 1 (one) month's prior written notice thereof to the Lessee.

16. In the event of the Lessor instructing its attorneys to take measures for the enforcement of any of the Lessor's rights under this lease, the Lessee shall pay to the Lessor such collection

charges and other legal costs on an attorney and own client basis as shall be lawfully charged by such attorneys to the Lessor on demand made thereof by the Lessor.

17. The Lessee acknowledges that the Lessor will blacklist the Lessee for payments not made in terms of this lease and that the Lessee shall be liable for all costs in this regard. The Lessee also acknowledges that any arrears after the application of clause 15, gives the landlord the automatic right to obtain a judgement and attach the boat in terms of the landlord's lien and that the Lessee hereby acknowledges that he will not oppose this application.
18. A certificate signed by a member, manager or agent of the Lessor shall be prima facie proof of the amount of any indebtedness owing by the Lessee to the Lessor at any time.
19. The Lessee, by his signature hereto, acknowledges and accepts that the Lessor's primary activity is based on boating and the use of waterborne vessels by its lessees, and that these, and their associated activities, are inherently dangerous and possibly life threatening. The Lessee, in view of such acknowledgement, undertakes to do all that is necessary to personally ensure the safety of himself, his guests, members of his family and other persons using the Lessor's facilities and waterways.
20. The Lessee, by his signature hereto, confirms that all vehicles and waterborne vessels making use of and/or being stored on the Lessor's premises are comprehensively insured and will only be piloted by persons authorised to do so in terms of his insurance policy. The Lessee herewith indemnifies, both in his personal capacity and any representative capacity, the Lessor, its agents, employees, contractors (such persons) from any harm or damage howsoever caused by the Lessee, his family, guests, invitees and others (the others) whether caused negligently, gross or otherwise, whether by commission or omission or otherwise and agrees to hold the Lessor and such persons harmless from any claim of any nature, remedy or right, whether direct or indirect, consequential or otherwise as a result of any damage or harm caused either by the Lessee or the others or any property belonging to or in possession of the Lessee or the others.
21. The Lessor shall be entitled to cede all its rights, title and interest in this lease to any third party. The Lessee shall not be entitled to cede any rights, title and interest in terms of this lease to any third party.
22. The Lessor and the Lessee choose as their chosen address, the address referred to at clause 1. Either party shall be entitled to change their address by giving notice in writing to the other party, but any change in the address of the Lessee shall be effective only on the Lessor's written confirmation of receipt of such change and on condition that such change in address is situate within the Republic of South Africa and is a physical address. Any notice given must be sent by prepaid registered post, facsimile, email or delivered by hand, to such other party at his chosen address.
23. At the option of the Lessor, any action or application concerning or arising out of this lease may be brought in any Magistrate's Court having jurisdiction in respect of the Lessee notwithstanding the amount in issue may exceed the jurisdiction of such court.
24. Any indulgence allowed by the Lessor to the Lessee regarding the Lessee's obligations hereunder, or any failure by the Lessor to enforce its rights, shall not prejudice the Lessor's rights to impose any term or condition or to prosecute its rights hereunder at any time.
25. This lease constitutes the entire lease between the parties and no variation, amendment, cancellation, whether consensual or otherwise, including any variation of this clause, shall be of any force or effect unless contained in writing and signed by the parties hereto.
26. In the event that the Lessee is a legal entity, then the directors/shareholders/members, as the case may be, of such legal entity is required to sign a deed of suretyship, which is attached as annexure B.

SIGNED on behalf of the Lessor at _______________ on this ________ day of ____________ 20___.

____________________________ As witnesses: _________________

for **CLUB BAYSHORE MARINA Pty Ltd**

SIGNED on behalf of the Lessee at ______________ on this ________ day of ____________ 20___.

__________________________ As witnesses: _________________

(**LESSEE SIGNATURE**)

____

(LESSEE NAME)

BAYSHORE MARINA

Important Details

Invoice is to be made out to: ____

Postal Address: ____

Contact Person: ____

Contact particulars: Phone (W):____________________ **Fax (w)** ____________________

Mobile: ____________________ **Email:**________________________________

Company Name: ______________ **Your Position:** ______________ **Your Industry:** ______________

Initial Boat locker/Mooring Number: _____________**Type of Boat (yacht/power/etc):** ______________

Boat Make: ________________________**Boat Name (if Applicable):** ________________________

Boat Description (and / or photograph)

Declaration: I hereby declare that I am the legal owner of the boat described / shown above and will remain the owner of the boat for the duration of the lease. Should I sell the boat I undertake to ensure that the Lessor is advised in writing before I sell the boat and that all amounts owed to the Lessor will be paid before a sale is concluded.

__________________________ As witnesses: ________________

(**LESSEE SIGNATURE**)

(__________________________)

(LESSEE NAME)

Copies of the following documents are required:

1. **Identity document (if the Lessee is an individual);**
2. **Resolution of directors / members if the Lessee is a company / close corporation**
3. **Skipper's licence;**
4. **Buoyancy and safety certificate for the boat;**

BAYSHORE MARINA

Annexure A

DEBIT ORDER INSTRUCTION

From: (Name of Debtor) ____

(Address) ____

Date: ____________________________

To: CLUB BAYSHORE MARINA (Pty) Ltd, P.O. Box 67577, Bryanston, 2021

Dear Sirs

RE: LEASE BETWEEN CLUB BAYSHORE MARINA (PTY) LTD AND MYSELF DATED ___________

The details of my/our bank account are as follows:

BANK _______________________ BRANCH ______________________

BRANCH NUMBER

ACCOUNT NUMBER

TYPE OF ACCOUNT CURRENT/SAVINGS/TRANSMISSION (Delete where not applicable)

I/We hereby request, "instruct" and authorise you to draw against my/our account with the above-mentioned bank (or any other bank or branch to which I/we may transfer our account) the sum of R________________ (________________ Rands), plus annual increases and incidentals as per the abovementioned lease, being the amount necessary for payment of the monthly rental due in respect of said lease. The draw will be made on **the first working day of each and every month** commencing on the first day of _______________ 20___ and continuing until the termination of the above-mentioned lease. All such withdrawals from my/our account by you shall be as though they had been signed by me/us personally.

I/We understand that the withdrawals hereby authorised will be processed by a computerised system provided by the South African Banks, and I also understand that details of each withdrawal will be printed on my/our bank statement or an accompanying voucher. I/We agree to pay any bank charges relating to this debit order instruction. This authority forms part of the above-mentioned lease and may not be cancelled without both your and my/our lease in writing to do so. I/we understand that I/we shall not be entitled to any refund of amounts which you have withdrawn while this authority was in force if such amounts were legally owing to you. Receipt of this instruction by you shall be regarded as receipt thereof by my/our bank.
I/we agree that although this Authority and Mandate may be cancelled by me/us, such cancellation will result in the landlord having the right to terminate the lease. I/we shall not be entitled to any refund of amounts which you have withdrawn while this Authority was in force, if such amounts were legally owing to you. I/We acknowledge that the party hereby authorised to effect the drawing(s) against my/our account may not cede or assign any of its rights to any third party without my/our prior written consent and that I/we may not delegate any of my/our obligations in terms of this contract/authority to any third party without the prior written consent of the authorised party.
Signed:

On this ________________ day of ________________ 20____

____
AUTHORISED SIGNATURE ON THE ACCOUNT

NOTE: A cancelled cheque or Bank letter confirming the existence of the account plus mandated signatory must be attached for verification purposes

Annexure B

DEED OF SURETYSHIP

I/We, the undersigned,

____

Identity number:_________________

and

____________________________ (insert full name)

Identity number: _______________

of ____, at which address I/we choose as my/our address for any notice or legal process, do hereby bind myself/ourselves, jointly and severally, as surety and co-principal debtor/s under renunciation of all benefits arising from the legal exceptions: it is not necessary for the creditor to sue the principal debtor first, division, cession of action, irrespective of whether the creditor sues one or more of the sureties, no value received and/or revision of accounts, with the meaning of which I/we declare myself/ourselves fully acquainted. In the event that the National Credit Act No. 34 of 1934, as amended ("*the* NCA") does not apply to this suretyship, I/we also renounce the benefits of error in calculation and no cause for the debt, with the meaning and effect of all of which I/we declare myself/ourselves to be fully acquainted. I/we bound myself/ourselves, as aforesaid, for the due and punctual payment of all amounts and sums of money which may at any time hereafter and from time to time be or become due, owing and payable and for the due fulfilment of all the obligations which may now or at any time hereafter and from time to time, be or become due by:

________________________ **(PTY) LTD/CC**

Registration no: ________________

hereinafter referred to as ("*the Principal Debtor*"), unto and in favour of:

CLUB BAYSHORE MARINA CC
Registration No: b1987/015897/23
hereinafter referred to as ("*the Creditor*")

I/we declare that:

1 All admissions and acknowledgements of indebtedness by the Principal Debtor shall be binding on me/us and that the said Creditor shall be entitled to, (without affecting its rights hereunder), release securities or sureties given or granted in its favour, or compel or make any other arrangements or conclude any settlement or compromise with the Principal Debtor, or any other surety/ies, and in the event that the Principal Debtor is placed in liquidation or under any judicial management, or a compromise being effected with its Creditors, no dividends or payments which the Creditor may receive shall prejudice its rights to recover from me/us to the full extent of the amount owing by the Principal Debtor as at the date of liquidation of the Principal Debtor.

2 I/We hereby agree that the Creditor shall be entitled, from time to time, without affecting its rights hereunder, and without notice to me/us and without obtaining my/our consent, to grant any extensions of time for payment to the Principal Debtor, and release all or any securities held from the Principal Debtor, and that no such extension or release shall in any way affect my/our liability hereunder.

3 Any indulgence granted by the Creditor to the Principal Debtor or me/us shall in no way constitute in any form a waiver or novation hereof.

4 I/We agree and declare that this deed of suretyship shall be in addition and without prejudice to any securities now or hereafter to be held by the Creditor, and that this deed of suretyship shall remain in full force and effect as a covering suretyship for so long as any amount whatsoever shall remain owing by the Principal Debtor to the Creditor and in respect of any obligation of whatsoever nature that may remain owing by the Principal Debtor to the Creditor.

5 I/We hereby agree that the Creditor is entitled and authorised without notice or reference to me/us to cede, assign and transfer all or any of its rights under the deed of suretyship to any other person/s whether such cession is made to the cessionary/ies, jointly and severally, with the Creditor or any other person/s, and in the case that this Suretyship relates to more than one debt of the Principal Debtor, and/or to more than one Principal Debtor, the Creditor shall be entitled in its discretion to cede, assign and transfer to any cessionary/ies on the basis of the aforesaid, its rights against me/us in relation to any one or more of such debts or in relation to any one or more such Principal Debtors, so that my obligations in relation to each such debt or Principal Debtor, as the case may be, are several one from the other, and on such cession my/our liability/ies shall continue in favour of the cessionary/ies, as the case may be, and in relation to the rights so ceded in respect of not only liability at the date of such cession, but also in respect of any further liability which might be incurred by the Principal Debtor in question at any time thereafter and in relation to the debt in question.

6 No variation or cancellation of this deed of suretyship shall be of any force or effect unless such variation or cancellation is reduced in writing and signed by both me/us and the Creditor.

7 I/We hereby agree and consent that the Creditor shall, at its sole option, be entitled to institute any legal proceedings which may arise out of or in connection with this deed of suretyship at the election of the Creditor, in any Magistrate's Court having jurisdiction, notwithstanding the fact that the claim or value of the matter in dispute might exceed the jurisdiction of such Magistrate's Court, to which jurisdiction I/we hereby consent.

8 I/We agree that notwithstanding anything in the wording of this deed of suretyship to the contrary, if only one or more but not all of us should sign this deed of suretyship, then the person/s signing this deed of suretyship shall be liable as surety/ies and co-principal debtor/s subject to all the terms and conditions hereof as if this deed had made no reference to the other/s of me/us who have not signed this deed.

9 I/We hereby choose my/our address for all purposes at the address contemplated above, and any notice that may be required, although not obliged, to be given to me/us shall be deemed to have been received by me/us 3 (three) days after having been properly addressed and posted to me/us by pre-paid registered post.

10 In this suretyship, unless the context or subject shall otherwise require, the singular shall include the plural and the masculine shall include the feminine and the neuter, and references to persons shall include companies. In the case of plurality of debtors this suretyship applies to all their indebtedness and obligations to the Creditor, whether joint or several. Where two or more persons execute this suretyship:

- 11.1 they renounce, by their signature, the benefits of the exceptions of division and irrespective of whether the creditor sues one or more of the sureties and are liable hereunder severally as well as jointly;
- 11.2 all provisions of this deed shall apply to each of them severally as well as to all of them jointly; and
- 11.3 in the event of this suretyship for any reason being inoperative or unenforceable against one or more of them, it shall nevertheless remain binding on and enforceable on the other/s of them.

12 A certificate under the hand of any member or manager of the creditor as to the existence and amount of the indebtedness of the Principal Debtor and of ourselves to the Creditor at any time, as to the fact that such amount is due and payable, the amount of interest accrued due thereon and the rate of interest applicable thereto and as to any other fact, matter or thing relating to the indebtedness of the principal debtor and of ourselves to the creditor shall be, on the face of it, proof of the contents and correctness thereof and the amount of our indebtedness hereunder for the purpose of provisional sentence or summary judgment or any other proceedings against us in any competent court, and shall be valid as a liquid document for those purposes. It shall not be necessary to prove the appointment of the person signing any such certificate.

13 Each provision in this suretyship is severable the one from the other and if any provision is found by any competent court to be defective or unenforceable for any reason whatever, the remaining provisions shall be of full force and effect and continue to be of full force and effect.

14 In this deed of suretyship, unless the context clearly indicates a contrary intention, an expression which denotes the singular includes the plural and vice versa and an expression which denotes a natural person shall include an artificial person and vice versa.

15 Notwithstanding anything to the contrary contained herein:

- 15.1 the provisions hereof are not intended to override the provisions of the NCA or any other legislation (the NCA Act and legislation being hereinafter collectively referred to as "applicable legislation");

15.2 should any provision hereof comprise a contravention of any applicable legislation, then:

15.2.1 such provision shall be read as being subject to any applicable legislation which shall override the relevant provision hereof; and

15.2.2 I/we shall co-operate with the creditor to amend such provision so as to achieve my/our intention without contravening any applicable legislation and if I/we are unable to do so such provision shall be deemed to be severed herefrom.

16 This deed of suretyship may be executed in several counterparts which, when taken together, shall constitute a single instrument.

17 Should the Creditor institute any legal proceedings against me/us arising out of or in connection with this deed of suretyship, then I/we undertake to pay such costs on the attorney and own client scale.

SIGNED BY SURETY at ____________________ this the ___ day of ______________ 201_

As witnesses**:**

____

_________________________ ________________________________

I, …………………………………… declare that my marriage status is as follows:

Unmarried Married	: :
Out of Community of Property (Antenuptial Contract)	:
In Community of Property	:
If In Community of Property, the spouse has to complete the following	:
I, ………………………………………………………………… (full name) Identity No. ………………………………….. do hereby consent in terms of Section 15(2) of the Matrimonial Property Act (88 of 1984) to ………………………………………… (spouse's name) entering into this Suretyship. ………………………………….. SIGNATURE	

SIGNED BY SPOUSE at ____________________ this the ___ day of ______________ 201_

As witnesses:

____

_________________________ ________________________________