

**MARINE STRUCTURE
CONSTRUCTION AGREEMENT**

THIS AGREEMENT made this _____ day of _____, 20

BETWEEN:

BIG BARGE DOCK SYSTEMS INC.

Of: PO Box 592, Sicamous

British Columbia, V0E 2V0

(hereinafter called the "builder")

- and -

(Name or Company Name)

(Representative)

(Address)

(Province, Postal code)

(hereinafter called the "purchaser")

WHEREAS the purchaser is the owner or is entitled to become the owner of the following lands and improvements thereon, municipally known as _____ and legally described as firstly, *Legal lot description* _____, excepting thereout all mines and minerals and the right to work the same (in this Agreement called the "lands");

AND WHEREAS the lands has waterfront access (in this Agreement called the "site"), on the water known as _____ (in this Agreement called the "lake"), and the builder has agreed with the purchaser to construct a marine structure on the site (in this Agreement called the "project");

AND WHEREAS the builder has provided a formal quote, final configuration drawing, and a tentative construction and installation schedule (if requested), and the builder and purchaser have already entered into and performed a Marine Structure Pre-Construction Agreement dated _____ copies of which are annexed hereto to this Agreement as Schedules 1 (Pre-Construction) 2 (Quote), 3 (Estimated Schedule), and 4 (warranty) respectively.

AND WHEREAS the purchaser agrees to pay the builder for the management and construction of the project, pursuant to the terms of this Agreement;

AND WHEREAS the purchaser and builder acknowledge any significant changes to this Agreement, or of any of the Schedules hereto, shall be documented by way of an addendum signed by both parties and attached to this Agreement;

NOW THEREFORE in consideration of payment terms and acknowledgements referred to herein, the builder and the purchaser agree as follows:

SCHEDULE OF PAYMENTS

1. The builder will build the project for the purchaser in accordance with the drawing set out in Schedule 2 for the price set out in Schedule 1.
2. The builder will request payment from the purchaser as follows:
 - a. 50% of the Schedule 1 total price upon signing of this Agreement;
 - b. An additional 25% of the Schedule 1 total price upon delivery of the steel substructure(s) and decking materials to the site for assembly; balances over \$500,000.00, including this payment, a bank letter of credit may be requested.
 - c. An additional 15% of the Schedule 1 total price upon majority installation into body of water;
 - d. The remaining 10% of the Schedule 1 total price shall be paid 30 days following substantial completion pursuant to the BC Builder's Lien Act;
 - e. 100% of the Contractor Management Fee owing as per this Agreement upon substantial completion.
3. The purchaser shall pay funds owed to the builder within seven (7) days of the date noted on the request for payment invoice from the builder. In the event that the payment of any of the amounts referred to herein and agreed to be paid to the builder at the times and in the manner provided are not so made, or in the event the purchaser should default in any of the other covenants or agreements herein, the builder may at its option cease work and treat the contract as repudiated forthwith on the occurrence of such default. Termination of this Agreement by the builder under the provisions of this paragraph shall not relieve the purchaser of the obligations of payment for the work performed by the builder prior to such termination, along with any related expenses and damages to the builder including loss of profit. Further, the builder is not responsible for any costs incurred to the purchaser or trades due to delays in construction, or termination of this agreement resulting from the failure of the purchaser to make any prompt and appropriate payment.
4. The builder will invoice the purchaser for the entire cost of the builder's work upon substantial completion of the project. This invoice will indicate the total cost of work by the builder, as well as all deposits and payments made by the purchaser to date. Payment of this last invoice is due within Thirty (30) days of the date noted on the request for payment from the builder in consideration that the purchaser can verify that all accounts for labour, products, and other indebtedness which may have been incurred by the builder in the performance of the scope of the builder's work and for which the builder or the purchaser might in any way be held responsible, have been paid in full. Following receipt of final payment by the builder, this Agreement shall be deemed complete.
5. Unpaid invoices shall accumulate interest at 1.5% per month, or 18% per annum from the payment due date.

SUBSTANTIAL COMPLETION and OWNERSHIP

6. *Substantial Completion of the Project* is defined as when the project is ready for use or is being used for the purpose intended.
7. The *Date of Ownership* of the project by the purchaser shall be the date of completion of this Agreement. Prior to the Date of Ownership, the purchaser acknowledges that all structures and materials supplied by the builder within this project belong to the builder, and the builder shall assume no liability for injury etc. due to usage actions of the project by the purchaser prior to ownership.
8. The owners must have their insurances in place once the dock is in the water, whether the decking finalized or not

CONSTRUCTION SCHEDULE

9. The builder has prepared an estimate of the timing of the construction and installation (if requested), a copy of which is annexed as Schedule 3 however the purchaser acknowledges the construction schedule can be affected by any number of factors including, but not limited to, Government and/or trade regulations, weather, the availability of materials, delays in shipping of required materials or equipment, illness, death, road blockages, strikes, forest fires, changes, and other factors. Furthermore, the purchaser acknowledges that the construction schedule is an attempt by the builder to provide a reasonable estimate of the timing of construction and installation however it is agreed that the builder will have no liability or reduction in fees for failing to meet the construction schedule provided they make reasonable and good faith efforts to finish according to the Schedule 3.

UTILITY INSTALLATION (water, electric, propane, fuel products)

10. The purchaser acknowledges that any required installation or hookup of utilities are to be done by qualified and licensed contractors who carry or are covered by appropriate insurance in relation to their errors and omissions. The contractor must present a letter of clearance from the British Columbia Workers' Compensation Board (WCB) prior to being awarded the utility installation work, as well as prior to any of their workers entering the project site and commencing work, as well as prior to being issued final payment by the purchaser to ensure the employer maintained their business in good standing with WCB throughout their entire scope off work period.

11. The builder and purchaser acknowledge the awarding of utilities installation work shall be at the sole discretion of the purchaser and any and all monies owed in regard to the performance of this scope of work or costs of quality assurance such as independent inspection and testing services if required shall be the sole responsibility of the purchaser.

CONTRACTOR MANAGEMENT SERVICE

12. The builder is available to coordinate and manage the contractors ('contractors' in this Agreement refers to owners and their workers) regarding the installation of utilities on the project. The builder's Contractor Management Services include:
- a. Obtaining quotes.
 - b. Assisting the purchaser in assessing quotes and confirming qualifications, insurance coverage, and WCB status.
 - c. Communicating with the contractors regarding timeline expectations during the project.
 - d. Provide site supervision as required to coordinate and provide general directions for the project to the contractor.
 - e. Ensure all contractors are responsible for the removal and disposal of their waste products and debris.
13. The purchaser acknowledges that the builder is not licensed in any respect to the utilities installation and is therefore limited in knowledge of the codes and bylaws and is unable to qualify or warranty the contractor's products and services incorporated into this project.
14. The builder's Contractor Management Services Fee is 10% of the total of all costs to the purchaser relating to the utilities installation scope of work, not including GST. The purchaser acknowledges that if the costs of the utilities installations scope of work increases pursuant to the project requirements, the Contractor Management Services Fee will increase proportionately and that the builder has the right to disclosure of all invoices in regard to this scope of work for the purpose of Contractor Management Services Fee calculations

Contractor Management Services Fee (10%) is estimated to be \$ _____.

15. **The purchaser acknowledges that all utility installations to go in the deck substructure chamber should occur prior to installation of decking. By declining the Contractor Management Services of the builder, the purchaser acknowledges that it must advise all utility contractors awarded work on this project that any delays in the project occasioned by the unavailability or uncooperative actions of the contractors at the time they are required shall be dealt with as follows:**
- a. Any costs incurred to the builder due to project delays by contractors will be charged to and paid by the purchaser.
 - b. The builder has the right to proceed with the project construction or other utility installations without consideration for the absent contractor. A contractor that has not been available at the required time to which the project has proceeded past shall forfeit their right to access the project site until given full approval by the builder to reenter the project site and complete the work as required.
16. In the event that, after completion of all construction and installation work by the builder, there is still incomplete, or unperformed work specifically scheduled to a contractor and the builder and/or purchaser has made reasonable and good faith efforts in having the contractor, or an alternate, complete the scope of work, there will be no financial holdbacks by the purchaser to the builder for any and all work completed by the builder to date, and the builder shall complete the last final invoice and be released of all Contractor Management Services duties in regard to the contractor as agreed upon in this Agreement.
17. The purchaser shall be responsible for payment of the Contractor Management Services fee to the builder following completion of the project or as per this Agreement.

I AGREE to the builder coordinating and managing the contractors regarding the installation of utilities on this project on my/our behalf. Further, I agree to pay the builder the applicable Contractor Management Services Fee as per this Agreement.

Per: _____
(purchaser)

I DECLINE having the builder coordinate and manage the contractors regarding the installation of utilities on this project on my/our behalf. Further, I acknowledge by declining this service, the rights of the builder as stated in this Agreement shall be in affect.

Per: _____
(purchaser)

CHANGES

18. The purchaser acknowledges that any additions, removals, corrections, or variations in the scope of work as set out in Schedule 1 may require re-approval by governing agencies.
19. The purchaser acknowledges that any changes in costs associated with additions, removals, corrections, or variations, in regard to the contractor scope of work or material changes, shall be solely between the contractor and the purchaser.

SITE SAFETY

20. The purchaser acknowledges that the project site is potentially hazardous. Persons unaccompanied by the builder, or those unauthorized to be within the project site by the builder, may void the builder's insurance and/or personal liability. As such, in the event that the purchaser or other unauthorized persons breach this provision of the Agreement then they release the builder for any liability arising from any damage or injury caused by the breach of this Agreement and further agree to indemnify the builder for any damage or legal action that may arise from the breach of this term.

LIFTING EQUIPMENT

21. The builder will supply the appropriate lifting equipment required for this project and the dates and timelines such equipment is required to be at the site and available to the builder for the purpose of unloading steel substructures and decking materials, moving of supplies or equipment, and for placement of the marine structure into the water for installation. The purchaser acknowledges it shall be responsible for all costs associated with the delivery, insurance, and return of such equipment while on their property.
22. The builder or purchaser acknowledge all operators of lifting equipment must be authorized to do so by the builder or purchaser following evidence they are capable, skilled, and certified to operate such equipment as per any and all regulatory requirements.

REFUSE CONTAINER

23. The builder will advise the purchaser of the appropriate sized refuse container required to be at the project site for the full duration of the project for use by all workers associated with the project. The purchaser acknowledges it shall be fully responsible for payment of all refuse container costs, including delivery, dumping, and removal fees.

BUILDERS REPRESENTATIONS

24. All materials to be used by the builder are new, unless otherwise stated or agreed upon in writing.
25. The builder represents to the purchaser that all welds are air pressure tested.
26. All wood to be used by the builder will be appearance grade or better and non-treated.

ACCESS TO LANDS & UTILITIES

27. The purchaser covenants and agrees to give free and uninterrupted possession of the foreshore lands and site to the builder, and agrees not to let any other construction on the foreshore lands or site that would interfere with the builder's access to the site for the purposes of constructing and installing the project.
28. provide power

DEFAULT BY THE PURCHASER

29. The builder owns and shall have the right to remove or seize any portion of the project if any scheduled payment is not made by the purchaser.

DEFAULT BY THE BUILDER

30. If the builder should neglect to prosecute the work in accordance with the terms of this Agreement, or fail to make prompt payment to subcontractors, suppliers, or laborers, or if the builder should become bankrupt or make a general assignment for the benefit of its creditors, or if a receiver of the builder should be appointed, the purchaser may provide a written notice to the builder requiring it to cure the default, neglect or event specified in such notice within ten (10) days of the delivery of such notice. Should the builder fail to comply with the said notice in the time so limited, the builder's engagement shall forthwith terminate and the purchaser may take possession of the lands and of all materials, equipment and appliances thereon and finish the work in accordance with the plans and specifications as the purchaser may deem expedient but without undue delay or expense. In such event the builder shall not be entitled to any further payment under this Agreement and upon completion of the work an accounting shall be had between the purchaser and the builder in which the costs of completion necessarily incurred by the purchaser shall be set off against the balance due to the builder at the time the purchaser took possession of the project. If the unpaid balance shall exceed the expense of finishing the work, such excess shall be paid to the builder; however, if such expense shall exceed such unpaid balance, the builder shall not be liable to pay the difference to the purchaser.

NO ASSIGNMENTS

31. No assignment of this Agreement shall be valid by either the builder or purchaser without the written consent of the other, such consent not to be unreasonably withheld.

TIME ESSENCE

32. It is agreed that time is to be considered of the essence of this Agreement

SPECIAL CONDITIONS AND WARRANTY

33. In addition to any other warranties of materials that the purchaser has from suppliers, the builder will offer warranty on materials and labour as specified in the Company Warranty document.

NOTICES

34. Any notices required to be given under this Agreement shall be given to either the builder or the purchaser in writing and mailed to or delivered to the other at the address shown in this Agreement on page 1. Any notice delivered by mail shall be deemed to have been received seventy-two (72) hours after it has been posted in a prepaid addressed envelope and sent by single registered mail.

RATIFICATION OF TERMS

35. The builder and purchaser affirm and ratify the ongoing obligations of each party set out in the Marine Structure Pre-Construction Agreement relating to the ownership of drawings and design work and the use or disclosure of same.

BINDING EFFECT

36. This Agreement shall enure to the benefit of and be binding upon the builder and the purchaser and their respective successors and assigns.

IN WITNESS WHEREOF the builder and the purchaser have signed this Agreement on the date on page one (1) of this Agreement and the purchaser has initialed all pages as representing being read and understood.

"purchaser"

BIG BARGE DOCK SYSTEMS INC. "builder"