

Boat Slip Lease Agreement

Date: _____

Designated Boat Slip:

Freeport Municipal Marina (the "Marina"), Pier _____, Slip _____

Lessee: _____

Address: _____

Primary Phone: _____

Alternate Phone: _____

Email Address: _____

Lessee's Craft:

Boat Name: _____

Make: _____

Model & Year: _____

Texas Registration Certificate Number: _____

Monthly Rental: \$_____ per month, plus any Utility Costs as described in Section 3 of the Agreement

Security Deposit: \$_____, due from Lessee on the Date above.

Term:

Beginning date: _____

End date (subject to Section 2): _____

This Boat Slip Lease Agreement (this “Agreement”) is made on the Date set forth above by and between Freeport Economic Development Corporation, doing business as Freeport Municipal Marina, and with offices as 202 East 2nd Street, Freeport, TX 77541, (“Lessor”) and Lessee.

Section 1. Grant of Lease: Lessor hereby grants to Lessee the right to occupy and use, for or in connection with the berthing of Lessee’s Craft (but no other maritime vessel) subject to the terms of this Agreement, (a) the Designated Boat Slip, (b) the pier appurtenant to such Designated Boat Slip, to the extent reasonably required to provide access from the land to Lessee’s Craft, and (c) the dock box, if any, that is appurtenant to such Designated Boat Slip. Lessor also hereby grants to Lessee the right to use, on a non-exclusive and non-guaranteed basis, the parking area at the Freeport Municipal Marina and other amenities (including water and electrical utilities) appurtenant to the Designated Boat Slip. The grant of rights by Lessor to Lessee under this Section 1 is sometimes herein referred to as the “Lease”.

Section 2. Term of Lease: The Lease is subject to early termination by Lessor as elsewhere described in this Lease. Upon expiration of the Term, (a) this Agreement and the Lease hereunder shall continue on a month-to-month basis, for the Monthly Rental subject to 30-days prior written notice by either Lessor or Lessee, or (b) the Term may be extended by a written extension agreement between Lessor and Lessee, in which event (x) the “Term” of the Lease thereafter shall mean the term set forth set forth in such written extension agreement, (y) the Monthly Rental under this Agreement thereafter shall be the Monthly Rental forth in such written extension agreement, and (z) any and all other provision of the written extension agreement that are inconsistent with any provisions in this Agreement shall supersede and amend such inconsistent provisions, and the “Agreement” shall mean this Agreement as so extended and amended.

Section 3. Payment of Monthly Rental, Including Utility Costs. The Monthly Rental is payable in advance, without demand, deduction, setoff, or abatement, on the first day of each month during the Term. Lessee shall be assessed a late payment fee of \$25.00 for (a) any payment of Monthly Rental not timely received and (b) for any returned check. If Lessor separately meters Lessee’s electrical service and/or water service, then Lessee shall be responsible for paying the actual costs of such service (collectively, the “Utility Costs”), and the Monthly Rental due as of any particular date shall mean and include the Utility Costs that are due as of such date. The Monthly Rental shall be payable at such address and in such manner as Lessor may from time to time reasonably direct, it being understood that Lessor may reasonably require payment, among other methods of payment, by way of automatic credit card debit, automatic bank draft, or by check drawn on nationally insured banking institution.

Section 4. Insurance. Lessee shall maintain in force, throughout the Term, and with carriers licensed to do business and in good standing in the State of Texas, (a) fire and casualty insurance, with coverage at full replacement value, on Lessee’s craft and all personal property located on Lessee’s Craft, and (b) comprehensive general liability insurance with minimum coverage amounts of \$500,000 per occurrence and in

the aggregate, insuring against death or injury to any person and damage or loss or loss of use of any property. Lessee shall cause Lessee's insurer to issue endorsements to both such policies (x) naming Lessor as an additional insured, and (y) waiving any right of subrogation against Lessor. Within 10 business days of the commencement of the Term, Lessee shall furnish to Lessor certificates of insurance evidencing such coverage (and evidencing that subrogation against Lessor has been waived and that Lessor is named as an additional insured). Upon the written request of Lessor at any time during the Term, Lessee shall, within 10 business days of such request, furnish to Lessor certificates of insurance evidencing that all of the coverage (including waivers of subrogation and the inclusion of Lessor as an additional insured) remains in full force and effect.

Section 5. Lessee's Maintenance & Related Obligations. Lessee shall maintain Lessee's Craft and the Designated Boat Slip (including any dock box, any appurtenant utility connections) in a safe and clean condition, and shall keep the Marina deck free and clear of obstructions that could pose any danger to others using such Marina deck. Without limiting the foregoing, Lessee shall secure and safely route all utility hoses and cables so as not to pose any hazard across any area of the dock or along any fender. Lessee shall secure any dock box so as not to blow open during high winds, and shall be solely responsible for any damage caused by an improperly secured dock box. Lessee shall not discharge or otherwise dispose of sewage, trash, fuel oil, or any other contaminant in or on the Marina property, or into the water surrounding the Marina property, except in a manner and at a time expressly approved by Lessor. In Lessee's use of the Designated Boat Slip and Lessee's Craft, Lessee shall comply with all applicable local, state, and federal environmental and other rules, regulations, and laws. Lessee shall promptly, at its sole cost and expense, cause to be repaired in a good and workmanlike manner any damage caused by Lessee to the Designated Boat Slip, or the appurtenances thereto, or to the Marina. Lessee shall not modify or alter any portion of the Designated Boat Slip or any of Marina deck or facilities appurtenant to the Designated Boat Slip without the prior written consent of Lessor, which consent may be withheld or denied in Lessor's sole discretion.

Section 6. Security Deposit. Lessor shall have the right, but not the obligation, to apply all or any part of the Security Deposit to any past due obligation of Lessee for Monthly Rental, and/or for the cost of curing any default by Lessee under this Agreement, and/or to pay attorneys' fees incurred by Lessor in connection with any such default by Lessee. Within 5 business days of any such application by Lessor of all or any part of the Security Deposit hereunder, Lessee shall be obligated to fully restore to Lessor the amount so applied.

Section 7. Indemnity. Lessee shall fully and forever indemnify, hold harmless, and defend Lessor from and against any and all claims, demands, causes of action, liabilities, damages, and costs (including costs of court and attorneys' fees) in connection with, related to, or arising out of any action or omission by Lessee – or by any of Lessee's invitees, agents, contractors, or subcontractors – in any way related to Lessee's Craft and/or the Designated Boat Slip. **Lessee's indemnity, hold harmless, and defense obligations shall apply even in instances in which Lessor or any third**

party is negligent; accordingly, Lessee hereby acknowledges that Lessee is obligated to indemnify, hold harmless, and defend Lessor even against the consequences of Lessor's own negligence. However, notwithstanding the foregoing, Lessee shall have no obligation to indemnify, hold harmless, or defend Lessor in instances in which Lessor is solely negligent.

Section 8. Lessor's Disclaimers and Lessee's Waivers. Lessee acknowledges that: (a) Lessor shall have absolutely no obligation to provide any security to persons or property at the Marina; (b) Lessor shall have absolutely no obligation to carry any insurance of any nature, for its own benefit or for the direct or indirect benefit of any other party, including Lessee; (c) Lessee shall have absolutely no liability to Lessee or to any of Lessee's invitees, agents, contractors, or subcontractors for any claim, liability, or damage to person or property; and (d) Lessee accepts the Designated Boat Slip, the appurtenances thereto, and any and all other portions of the Marina "as is, where is," with all faults and defects, whether latent or patent. Lessee waives any such claim it may have against Lessor arising out of any of the foregoing.

Section 9. Rules & Regulations. Lessee acknowledges receipt of a copy of the Rules & Regulations of the Freeport Municipal Marina, and agrees to comply with such Rules & Regulations, as same may be amended from time to time.

Section 10. Assignment and Subletting. The Lease created by this Agreement and the rights granted hereunder are personal to Lessee. Lessee may not assign all or any part of its rights under this Agreement, or otherwise sublet the Designated Boat Slip or any part thereof, without the prior written consent of Lessor, which consent may be withheld or denied in Lessor's sole discretion. This Lease shall be binding upon and inure to the benefit of Lessor and its successors and assigns.

Section 11. Grant of Security Interest. To secure all of the obligations of Lessee under this Agreement, Lessee hereby grants unto Lessor a security interest in and to (a) Lessee's Craft and (b) all of Lessee's personal property, fixtures, and equipment located on or used in connection with Lessee's Craft and/or the Designated Boat Slip (collectively, the "Secured Property"). Promptly at Lessor's request, Lessee shall execute and deliver to Lessor all UCC financing statements and other documents requested by Lessor to evidence and perfect the security interest granted herein. Lessor shall have the right to make all UCC filings deemed necessary or appropriate by Lessor to evidence and perfect the security interest granted herein. Upon any Lessee Event of Default (hereinafter defined) by Lessee, Lessor shall have all of the rights of a secured party under the Texas Uniform Commercial Code in instances where the debtor is in default, including without limitation the right to sell or cause to be sold, in any one or more public or private sales, or otherwise realize upon the value of, any or all of the Secured Property, subject to the provisions of the Texas Uniform Commercial Code. Unless otherwise provided by law, any requirement of reasonable notice of any such sale shall be satisfied if Lessor gives to Lessee such notice, in accordance with the notice provisions of this lease, ten days before any such sale. Upon notice by Lessor to Lessee that any Event of Default exists, and for so long as such Event of Default remains uncured, Lessee shall

have no right to remove any of the Secured Property from the Designated Boat Slip, and Lessor shall have the right to take possession of such Secured Property, and take steps to hinder any attempt at its removal, without any liability to Lessee for trespass, conversion, or otherwise.

Section 12. Default by Lessor. In the event of any default by Lessor, Lessee shall give to Lessor written notice of such default, specifying the nature of the default. Lessor shall have 10 days within which to cure such default. If Lessor timely fails to cure such default, then Lessee shall have the right, by giving written notice to Lessor, to terminate this Agreement, with such termination begin effective as of the final day of the month on which such notice of termination is given. Lessee's right to terminate shall be Lessee's sole remedy under this Agreement in the event of such a Lessor default, and Lessor shall not on any account be liable in money damages (including without limitation for any attorneys' fees or costs of court) to Lessee. Notwithstanding the foregoing, Lessee shall have no right to give Lessor any notice of default, and shall have no right to terminate this Agreement before the expiration of its stated Term, at any time that Lessee has any Monthly Rental due to Lessor, or is otherwise in default of any of Lessee's other obligations under this Agreement.

Section 13. Default by Lessee. If Lessee fails to make payment of any Monthly Rental within five days of delivery by Lessor of notice of any Monthly Rental that is past due, or fails to cure any other default under this Agreement within ten days of delivery by Lessor of such default, then a "Lessee Event of Default" shall exist and Lessor shall have the following remedies, which shall be cumulative rather than exclusive:

- (a) the right to terminate this Agreement, and the grant of the Lease hereunder, which termination right may be exercised by written notice by Lessor to Lessee, and which termination shall be effective as of the date of such notice;
- (b) the right to immediately enter upon and repossess the Designated Boat Slip and all appurtenances thereto, by forcible entry and detainer suit, or otherwise;
- (c) the right to remove Lessee's Craft (and any personal property then inside Lessee's Craft from its mooring, and to store Lessee's Craft (and such personal property), with all risk of loss belonging solely to Lessee, and with no liability whatsoever to Lessor, and with all costs of storage being deemed to be including among the past due Monthly Rental under this Agreement;
- (d) the right to make any required repairs to the Designated Boat Slip, or to expend any other sums required to cure any defaults by Lessee under this Agreement, with all such sums expended being deemed to be included among the past due Monthly Rental under this Agreement;
- (e) the right to terminate Lessee's rights of possession with regard to the Designated Boat Slip and all appurtenances thereto, without demand or notice of any kind and

without terminating this Agreement, in which event Lessor may, but shall be under no obligation to, relet all or any part of the Designated Boat Slip for credit to Lessee's account, on such terms and conditions as Lessor in its sole discretion shall deem appropriate; and

- (f) the right to exercise Lessor's rights under the Texas Uniform Commercial Code with regard to the security interest granted to Lessor in the Secured Property.

In the event of any Lessee Event of Default, Lessor shall have the right to recover from Lessee, whether by way of sale of the Secured Property, or by means of execution and levy on a judgment, or by means of voluntary payment by Lessee, or by some combination thereof: (a) all Monthly Rental that is past due, including any late payment fees due in connection therewith, (b) all Monthly Rental to come due during the remainder of the Term (assuming that Lessor has not terminated this Agreement and the Lease hereunder), (c) Lessor's reasonable and necessary attorneys' fees and costs of court, (d) pre-judgment at the lesser of 8% per annum or the maximum allowed by law, and (e) post-judgment interest at lesser of 10% per annum or the maximum allowed by law.

Section 14. Notice. Any notice required or permitted to be given to Lessor shall be given by certified or registered United States mail, postage prepaid, to the address of Lessor set forth on the first page of this Agreement, or to any revised address of which Lessor may from time to time notify Lessee. Such notice to Lessor shall be deemed to have been given on the postmark date or, if any such notice is not postmarked within the State of Texas, five days after the postmark date. Any notice required or permitted to be given by Lessee may be given either by (a) certified or registered United States mail, postage prepaid, to the address of Lessee set forth on the first page of this Agreement, or to any revised address of which Lessee may from time to time notify Lessor, or (b) via email to the email address of Lessee set forth on the first page of this Agreement. Any mailed notice by Lessor shall be deemed to have been given on the postmark date, and any email notice by Lessor shall be deemed to have been given at the time the email is sent, and shall be deemed to have been properly given and received if sent to the email address of Lessee reflected on the first page of this Agreement, regardless of whether actually received by Lessee.

Section 15. Relocation of Designated Boat Slip. Lessor shall have the right, from time to time, upon no fewer than 10 days' notice to Lessee, to change the location of the Designated Boat Slip; provided, however, that Lessee may not make any such change in order merely to accommodate another user or potential user of the Lessee's Designated Boat Slip, and in connection with any such relocation: (a) Lessee shall be entitled to the waiver of one month's Monthly Rental, and (b) Lessor shall offer to Lessee a substitute boat slip of at least equal size and with comparable appurtenances (such as any dock box or utility connections), which shall thereupon become Lessee's Designated Boat Slip.

