

1 **..Title**

2 **Lease of City Dock Space to Chesapeake Marine Tours** – For the purpose of authorizing for
3 fiscal year 2022 the lease of certain municipal property located at the City Dock to Chesapeake
4 Marine Tours, Inc. for the docking and mooring of certain boats.

5 **..Body**

6 **CITY COUNCIL OF THE**
7 **City of Annapolis**

8
9 **Ordinance 15-16**

10
11 **Introduced by: Mayor Pantelides, Alderman Arnett, Alderman Budge,**
12 **Alderman Littmann, Alderman Pfeiffer and Alderwoman Pindell Charles**

13
14
15 **Referred to**
16 **Economic Matters Committee**
17 **Environmental Matters Committee**

18
19
20 **AN ORDINANCE** concerning

21
22
23 **Lease of City Dock Space to Chesapeake Marine Tours**

24
25 **FOR** the purpose of authorizing for fiscal year 2022 the lease of certain municipal
26 property located at the City Dock to Chesapeake Marine Tours, Inc. for the
27 docking and mooring of certain boats.

28
29 **WHEREAS,** the City of Annapolis and Chesapeake Marine Tours, Inc., have entered into a
30 series of leases and amendments, the most recent being O-2-15, to lease through
31 June 30, 2021, certain docking space at the City Dock under certain terms and
32 conditions; and

33
34 **WHEREAS,** the Annapolis City Council believes that the proposed lease would benefit the
35 City; and

36
37 **WHEREAS,** a lease setting forth details of the rental has been prepared and is considered
38 satisfactory; and

39
40 **WHEREAS,** Article III, Section 8 of the Charter of the City of Annapolis requires the passage
41 of an ordinance to authorize a lease.

42
43 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS**
44 **CITY COUNCIL** that the proposed Lease, a copy of which is attached hereto and made a part
45 hereof, between the City of Annapolis and Chesapeake Marine Tours, Inc. d/b/a Watermark
46 Cruises, is hereby approved, and the Mayor is hereby authorized to execute the Lease on behalf

1 of the City. It is further expressly found by the City Council that the services to be provided as a
2 result of the Lease will benefit visitors and residents of the City, will generate tax revenues and
3 additional rental income to the City, and will better serve the public need for which the property
4 was acquired.

5
6 **AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
7 **COUNCIL** that this Ordinance shall take effect from the date of its passage.

8
9

10 **EXPLANATION**

11 CAPITAL LETTERS indicate matter added to existing law.

12 ~~Strikethrough~~ indicates matter stricken from existing law.

13 Underlining indicates amendments.

CITY OF ANNAPOLIS LEASE AGREEMENT

1
2
3 This Lease Agreement (“Lease”) is made this _____ day of _____, 2016, by
4 and between the City of Annapolis, a municipal corporation of the State of Maryland (the
5 “Lessor”), and Chesapeake Marine Tours, Inc., a Maryland corporation, its successors and
6 assigns(collectively, the “Lessee”).
7

8 **WHEREAS**, the Lessor is the fee simple owner of the property known and described as the City
9 Dock in Annapolis, Maryland (the “City Dock”), which is improved by docking space, boat slips
10 and a boardwalk, and the Lessor has space therein to lease; and
11

12 **WHEREAS**, the Lessee desires to lease certain portions of the City Dock, including docking
13 space, two (2) boat slips and a portion of the boardwalk (collectively, the “Premises”), and as
14 more particularly described in Paragraph 1 of this Lease; and
15

16 **WHEREAS**, the Lessee wishes to lease the Premises for the purpose of docking its vessels and
17 carrying on its business of operating a cruise and water taxi service on the Chesapeake Bay and
18 its tributaries; and
19

20 **WHEREAS**, the parties desire to enter into this Lease that defines the rights, duties, and
21 liabilities of the parties.
22

23 **NOW, THEREFORE**, in consideration of the mutual promises and covenants of this Lease, and
24 other good and valuable consideration, the receipt and sufficiency of which are hereby
25 acknowledged, the Lessor and the Lessee agree as follows:
26

27 1. **Identification of the Premises.**
28

29 The Lessor hereby rents and leases to the Lessee, and the Lessee hereby rents and leases
30 from the Lessor, for the Term of this Lease and for the rent and upon the other terms set forth
31 herein, the Premises, consisting of two hundred sixty (260) linear feet of docking space on the
32 City Dock, and as further described below:
33

34 a. The two (2) end boat slips nearest the channel of Spa Creek known as Slips 21
35 and 22, both of which are suitable for boats not exceeding sixty five (65) feet in length;
36

37 b. The end of the City Dock adjacent to Slip 22, between two (2) dolphins, for a
38 distance of not more than eighty (80) feet; and
39

40 c. Sixty (60) feet along the boardwalk adjacent to the Lessor’s Harbormaster’s
41 office.
42

43 2. **Term.**
44

1 The Lessor leases to the Lessee and the Lessee hereby leases from the Lessor the
2 Premises for a term of one (1) year commencing on July 1, 2021, and ending June 30, 2022 (the
3 “Term”), unless sooner terminated in accordance with the provisions of this Lease.
4

5 3. Rent.
6

7 a. The Lessee shall pay unto the Lessor, at a rate of One Hundred Seventy-Seven
8 Dollars and Eighty-Eight Cents (\$177.88) per linear foot, the total sum of Forty-Six Thousand
9 Two Hundred Forty-Eight Dollars and Eighty Cents (\$46,248.80) for the Term of this Lease (the
10 “Rent”). This represents a three percent (3%) per year annual increase, using the same rate per
11 linear foot, from the amount earned by the Lessor from the lease of one thousand four hundred
12 twenty three (1,423) linear feet of total rented dock space at the City Dock during the 2015
13 calendar year. The Lessee shall pay the Rent not later than July 1, 2021, without deduction,
14 setoff or counterclaim whatsoever, and without demand to the Lessor. Payment shall be made
15 payable to the “City of Annapolis” and shall be sent or delivered to the Finance Director,
16 Finance Department, City Hall, 160 Duke of Gloucester Street, Annapolis, Maryland 21401.
17 Copies of such payment shall be provided to the Lessor’s Harbormaster at 1 Dock Street,
18 Annapolis, Maryland 21401.
19

20 b. The Lessee shall also pay as additional rent all sums, taxes, assessments, costs,
21 expenses and other payments which the Lessee under any of the provisions of this Lease assumes
22 or agrees to pay (the “Additional Rent”), and in the event of any nonpayment thereof, the Lessor
23 shall have all the rights and remedies provided in this Lease and/or by law or at equity.
24

25 c. Except as otherwise provided for in this Lease, any Additional Rent shall be due
26 and payable thirty (30) calendar days after receipt of notice of amount due and payable. All
27 payments shall be made payable to the “City of Annapolis” and shall be sent or delivered to the
28 Finance Director, Finance Department, City Hall, 160 Duke of Gloucester Street, Annapolis,
29 Maryland 21401.
30

31 d. In the event the Rent or Additional Rent under this Lease, or any part thereof,
32 shall remain unpaid for a period of fifteen (15) business days after the day on which it is due,
33 then in addition to all other sums due by the Lessee under this Lease, the Lessee shall pay the
34 Lessor as Additional Rent: (1) late fees equal to one percent (1%) of the unpaid amount, and (2)
35 if an action of any type is filed in any court, reasonable attorneys fees.
36

37 e. The Lessee shall also pay, from time to time, all state, county and local taxes, and
38 assessments of any kind and nature whatsoever, including all interest and penalties on them,
39 which shall or may accrue or required by law during the Term of this Lease for the Premises.
40 The Lessee shall pay all such taxes and assessments before any fine, penalty, interest, or cost
41 may be added for nonpayment, and shall furnish to the Lessor, on request, official receipts or
42 other satisfactory proof evidencing such payment. If any tax or assessment is payable in
43 installments over a period of years, the Lessee shall be liable only for payment of those
44 installments falling due and payable during the Term, with appropriate pro-ration in case of
45 fractional years. Taxes and assessments shall not be deemed to include any municipal, state or
46 federal income taxes assessed against the Lessor, or any municipal, state or federal capital levy,

1 estate, succession, inheritance or transfer taxes of the Lessor, or any franchise taxes imposed on
2 the Lessor, or any income, profits or revenues tax, assessment or charge imposed on the Rent
3 received as such by the Lessor under this Lease.

4
5 4. Quiet Enjoyment.
6

7 The Lessee may peaceably and quietly have, hold and enjoy the Premises for the Term
8 of this Lease subject, however, to the terms of this Lease and compliance with those terms.
9

10 5. Utilities.
11

12 a. The Lessee may, at its option and at its expense, arrange with Baltimore Gas &
13 Electric ("BGE") to have electric service for the Premises separately metered and billed directly
14 to the Lessee, and the Lessee agrees to pay all charges therefore directly to BGE. In the
15 alternative, and/or if the Lessee shall fail to arrange separate metering with BGE, the Lessee
16 shall be required to pay monthly as Additional Rent the appropriate monthly winter electric rate,
17 as set by the City Council of Annapolis in its Annual Fee Resolution applicable to the Term of
18 this Lease which, as it pertains to this Lease, for a one hundred (100) amp outlet, shall be twice
19 the rate set in the Annual Fee Resolution for a fifty (50) amp outlet.
20

21 b. The Lessee shall pay Two Hundred Fifty Dollars and No Cents (\$250.00) per
22 month as Additional Rent for trash and recycling collection to be provided by the Lessor for the
23 Premises.
24

25 6. Vessels Authorized at the Premises.
26

27 a. The Lessee shall have authority to dock an office barge at the Premises, plus the
28 passenger vessels Harbor Queen, No. 539448; Annapolitan II, No. 544467; Cabaret II, No.
29 1039051; Lady Sarah, No. 1160977; Miss Anne, No. 635636; Miss Anne II, No. 672686;
30 Catherine Marie, No. 1082215; Severn Exposure, No. 1146892; Raven, No. 1239100; and four
31 (4) water taxi launches.
32

33 b. The Lessee may replace any vessel referenced in this Paragraph; provided that all
34 replacement vessels shall be of the same size, or substantially the same size, and of the same use
35 as Coast Guard certified passenger vessels. The Lessee shall provide the Lessor with prior
36 written notice of its intent to replace a vessel, and all replacement vessels shall be subject to the
37 Lessor's prior approval, which shall not be unreasonably withheld as long as all replacement
38 vessels meet the standards of Coast Guard certified passenger vessels.
39

40 7. Use of the Premises.
41

42 a. The Lessee may use and occupy the Premises during the Term of this Lease only
43 for the purpose of docking its vessels and carrying on its business of operating a cruise and water
44 taxi service on the Chesapeake Bay and its tributaries, including passenger vessels for
45 sightseeing, boat charter and water taxi operations, and for office space from which to conduct
46 the business which this Lease authorizes at the Premises, and for no other purpose whatsoever.

1
2 b. The Lessee accepts the Premises in “as is” condition. The Lessor makes no
3 representation or warranty with respect to the condition or state of the land, or the Premises, or
4 its fitness for any particular use, and the Lessor shall not be liable for any latent or patent defect
5 thereon. Unless as otherwise expressly provided in this Lease, the Lessor does not make, and
6 specifically disclaims, any representations, warranties or covenants of any kind or character,
7 express or implied, with respect to the nature, condition, economical, functional, environmental
8 or physical condition of the Premises.

9
10 c. The Lessee shall not use or occupy or permit the Premises, or any part thereof, to
11 be used or occupied, nor do or permit anything to be done in or on the Premises in a manner
12 which would in any way (1) violate any of the terms of this Lease; (2) make it difficult for either
13 the Lessor or the Lessee to obtain fire or other insurance required by this Lease at standard rates;
14 (3) cause or create a public or private nuisance in or on the Premises or the City Dock; or (4)
15 tend to impair or interfere with the character, reputation or appearance of the Premises or the
16 City Dock.

17
18 d. The Lessee shall notify the Lessor’s Harbormaster by e-mail to
19 harbormaster@annapolis.gov whenever any of its vessels will be scheduled to be absent from
20 any portion of the Premises for more than seventy-two (72) consecutive hours, during which
21 time the Lessor may utilize any portion of the Premises so vacated for any lawful purpose
22 whatsoever without any abatement of the Rent due pursuant to this Lease. Whenever the Lessee
23 notifies the Lessor’s Harbormaster of such planned absences for more than seventy-two (72)
24 consecutive hours, the Lessee shall also give the Lessor’s Harbormaster twenty-four (24) hour
25 prior written notice by e-mail to harbormaster@annapolis.gov of the intended return to the
26 portion of the Premises vacated.

27
28 e. The Lessee shall not discharge or board passengers at the plaza located at that
29 portion of the City Dock closest to the Market House, commonly known as the end of Ego Alley.

30
31 f. The Lessor shall attempt to keep the Premises free and clear of unauthorized
32 vessels when the Lessee's vessels are away from the Premises, but the Lessor shall be under no
33 obligation or responsibility to do so, nor shall the Lessor assume or incur any liability for failing
34 to do so, and the Lessee hereby unconditionally and completely waives and releases all
35 complaints, claims, suits and actions of all types, both administrative and judicial, against the
36 Lessor in connection therewith.

37
38 g. The Lessor shall have the right to remove from the Premises, without any liability
39 whatsoever for so doing, and without prior or subsequent notice to the Lessee, any alterations
40 made by the Lessee which are made without the consent required in Paragraph 11 of this Lease.
41 The cost of removal and/or repairs associated with any such unauthorized alterations, including
42 any administrative costs incurred by the Lessor, shall be billed to the Lessee, and shall be due
43 and payable by the Lessee as Additional Rent.

44
45 h. The Lessee shall conduct its business in and about the City Dock and the Premises
46 in an orderly manner, and shall keep its vessels neat and clean and shall maintain the area

1 immediately adjacent to its mooring area on the Premises and the Premises itself in a neat and
2 clean manner.

3
4 i. Amplified music or other amplified sound on the Premises shall not exceed the
5 maximum decibel levels specified in Chapter 11.12 of the Code of the City of Annapolis, as may
6 be amended.

7
8 8. Lessor's Right to Temporary Use of the Premises.

9
10 a. The Lessor shall have the right and privilege, with the consent of the Lessee,
11 which consent shall not be unreasonably withheld, on not less than seven (7) calendar days prior
12 notice from the Lessor to the Lessee, to reclaim and use all or some of the Premises in order to
13 meet contractual obligations relating to the annual fall boat shows for no more than the number
14 of days specified in the applicable City Council-approved lease for such annual fall boat shows
15 at or on the City Dock, and to accommodate certain other special events, shows or programs
16 conducted from time to time at or on the City Dock. In such event, the Lessee shall vacate the
17 designated portion of the Premises to which the consent applies, and remove all of its vessels
18 from that designated portion of the Premises during the period specified in the Lessor's notice.

19
20 b. If the Lessee vacates any portion of the Premises due to any events, shows or
21 programs, other than the annual fall boat shows conducted at or on the City Dock, as described in
22 Paragraph 8(a) above, the Lessee shall be entitled to a pro rata abatement of the Rent due
23 pursuant to this Lease based on the ratio which the number of days of vacancy specified in the
24 Lessor's notice bears to the total Rent, and based on the portion of the Premises vacated.

25
26 9. Lessor Rights.

27
28 a. The Lessor and its employees, representatives, agents, and servants, including any
29 builder or contractor employed by the Lessor, shall have the absolute unconditional right at any
30 and all reasonable times, after not less than twenty-four (24) hours prior notice to the Lessee
31 (except in the case of an emergency where no such notice is required), to enter the Premises for
32 any of the following purposes: (a) to inspect the Premises; (b) to make such repairs and/or
33 changes in the Premises as the Lessor may deem necessary or proper; (c) to enforce and carry out
34 any provision of this Lease; (d) for any purpose relating to the safety, protection or preservation
35 of the Premises; or (e) for any other purpose related to the enforcement of this Lease.

36
37 b. The Lessor shall use reasonable efforts to minimize interference to the Lessee's
38 business or use of the Premises when making inspections or repairs, but the Lessor shall not be
39 required to perform the inspections or repairs at any time other than during normal working
40 hours.

41
42 10. Lessee Equipment, Vessels, Personal Property.

43
44 The Lessee shall retain ownership of all of its trade and business equipment, vessels and
45 personal property from time to time installed or located on the Premises. The Lessee may remove
46 any such fixtures, equipment or vessels (subject to Paragraph 6 of this Lease) at any such time

1 during the Term, and shall remove all of it prior to the expiration or earlier termination of this
2 Lease. Removal shall not cause any damage to the Premises or the Property.

3
4 11. Repairs and Maintenance.

5
6 a. The Lessee shall not make or cause to be made any alterations, additions, or
7 improvements to the Premises without obtaining the prior written consent of the Lessor that may
8 be withheld in the Lessor's sole and absolute discretion.

9
10 b. Prior to the Lessee repairing, replacing or otherwise altering any aspect of the Premises
11 or the Property, the Lessee shall provide the Lessor with thirty (30) calendar day prior written
12 notice specifying the need for and nature of any and all such repairs, replacements or
13 alternations, and providing the Lessor with a copy of all applicable contracts or agreements with
14 any third party hired by the Lessee to perform such repairs, replacements or alterations. The
15 Lessee or its contractors shall not start or undertake any such repairs, replacements or alterations
16 without the prior written approval of the Lessor, and without first obtaining all necessary permits
17 and governmental approvals. Such approved repairs, replacements or alterations shall be made
18 and rendered by professional contractors licensed in the State of Maryland, be done in a good
19 and workmanlike manner, and shall comply in all respects with all applicable federal, state, and
20 local laws, ordinances and regulations, including, but not limited to, zoning, building and fire
21 code requirements.

22
23 c. If the Lessor is required to make any repairs to such portions of the Premises by reason,
24 in whole or in part, of the negligent or willful act or failure to act by the Lessee or the Lessee's
25 employees, agents, contractors, guests or invitees, the Lessor may collect the cost of any and all
26 such repairs from the Lessee as Additional Rent.

27
28 d. The Lessor shall be responsible for the maintenance and repair, including making any
29 necessary replacements of same, of the docks, sidewalks, paving, pilings, dolphins and other
30 structures, improvements, fixtures and equipment owned by the Lessor at the City Dock, in the
31 City's sole discretion, and subject only to applicable laws, regulations and City appropriations.
32 The Lessor shall be responsible for removal of trash and other rubbish from the docks, sidewalks
33 and paving owned by the Lessor at the City Dock, in the City's reasonable discretion, and subject
34 to City staffing and financial restrictions. The Lessor shall arrange for the removal of all snow
35 and ice from the docks, sidewalks and paving owned by the Lessor at the City Dock, which
36 removal shall occur after the City, in its sole discretion, has addressed all other City streets,
37 facilities, and areas that may need snow removal.

38
39 e. The Lessor shall have no liability to the Lessee by reason of any inconvenience,
40 annoyance, interruption, or injury to business or other use or occupancy arising from making any
41 repairs or changes that the Lessor is required or permitted to make in or to any portion of the
42 Premises pursuant to this Lease or by law.

43
44 12. Security, Property Loss Damage.

1 a. The Lessee assumes all risks associated with the security of the Premises. The
2 Lessor shall have no obligation or duty with regard to security. The Lessee shall police and
3 maintain the Premises in a clean, safe and secure manner.
4

5 b. The Lessor, its elected officials, appointees, directors, employees, agents,
6 contractors and representatives (the "Indemnified Parties") shall not be liable for any damage to
7 property of the Lessee or of others located on the Premises or entrusted to its or their employees,
8 nor for the loss of any property by theft or otherwise, nor for any injury or damage to persons or
9 property resulting from theft, casualty, acts of God, fire of every nature and type, the
10 accumulation of snow or ice, explosion, steam, gas, electricity, wind, water, rain or snow, or
11 from the pipes, appliances or plumbing works of the same or from the street or subsurface or
12 from any other place, or from any other cause whatsoever; nor shall the Lessor be liable for any
13 such damage caused by other tenants or persons in the Premises, or for damage caused by
14 operations in construction of any public or quasi-public works. All property of the Lessee kept or
15 stored on the Premises shall be so kept at the risk of the Lessee only and the Lessee shall
16 indemnify, defend and hold the Indemnified Parties harmless from any claims arising out of
17 damage to the same, including subrogation claims by the Lessee's insurance carrier.
18

19 13. Default, Breach and Termination.
20

21 a. In the event the Lessee should materially default in performance of its obligations
22 under this Lease, and such default continues for more than thirty (30) calendar days after the
23 Lessor has given written notice to the Lessee of such default, the Lessor shall have the right to
24 immediately terminate the Lease and/or to pursue reimbursement from the Lessee for any
25 damages to the Lessor resulting from the Lessee's material default of this Lease. For purposes of
26 this Paragraph 13, "materially default" and/or "material default" shall mean one (1) or more of
27 the following:
28

29 (1) If any representation or warranty, expressed or implied, of the Lessee and pertaining to
30 this Lease shall prove at any time to be incorrect or misleading in any material respect either on
31 the date when made or throughout the Term of this Lease; or
32

33 (2) If the Lessee shall fail to comply, fail to fulfill, or otherwise violate any of the terms,
34 conditions, or obligations contained in this Lease; or
35

36 (3) If the Lessee becomes insolvent or generally does not pay its debts as they become due,
37 or if a petition for relief is filed by the Lessee in a bankruptcy court, or if the Lessee applies for,
38 consents to, or acquiesces in the appointment of a trustee, custodian, or receiver for the Lessee or
39 any of its assets and property, or makes a general assignment for the benefit of creditors, or in the
40 absence of such application, consent, or acquiescence, a trustee, custodian, or receiver is
41 appointed for the Lessee or for a substantial part of the assets and property of the Lessee and is
42 not discharged within thirty (30) calendar days; or
43

44 (4) If any bankruptcy, reorganization, debt arrangement, or other proceeding or case under
45 any bankruptcy or insolvency or any dissolution or liquidation proceeding is instituted against

1 the Lessee and is consented to or acquiesced to by the Lessee or remains for sixty (60) calendar
2 days undismissed; or

3
4 (5) If the Lessee loses or forfeits its corporate status, or ceases to be in good standing with
5 the State of Maryland.

6
7 b. There are currently in effect leases between the Lessor and the Lessee for the Premises
8 for the years of 2015 through 2021. In the event the Lessee should materially default in
9 performance of its obligations in any one (1) of the above years, such material default shall also
10 constitute a material default in the leases for all years subsequent to it, including this Lease. If
11 the material default continues for more than thirty (30) calendar days after the Lessor has given
12 written notice to the Lessee of such material default, the Lessor shall have the right to terminate
13 any of the leases for any one (1) or more of the years remaining in effect, including this Lease.
14 Otherwise, execution of this Lease shall have no effect on those leases for the years of 2015
15 through 2021.

16
17 14. Signs.

18
19 All signs that the Lessee desires to post on the Premises shall be approved in writing and in
20 advance by the Lessor, the Historic Preservation Commission of the City of Annapolis, and any
21 other agency if required by law. The Lessee shall maintain any signs, as may be approved by this
22 Paragraph, and shall repair and replace when necessary to keep in good condition and repair at
23 all times.

24
25 15. Compliance with Law.

26
27 a. The Lessee, at its sole cost and expense, shall keep in force all licenses, consents and
28 permits necessary for the lawful use of the Premises for the purposes of this Lease. The Lessee,
29 at its sole cost and expense, shall promptly comply with and do all things required by any notice
30 served upon it or upon the Lessor in relation to the Premises or any part thereof, from any of the
31 departments or agencies of the Lessor, a county, the State of Maryland, or the United States, if
32 the same shall be caused by the Lessee's use of the Premises. The Lessee shall pay all costs,
33 expenses, claims, fines, penalties, and damages that may in any manner arise out of the failure of
34 the Lessee to comply.

35
36 b. The Lessee shall have a reasonable time to correct any violation under this
37 Paragraph.

38
39 16. Insurance.

40
41 a. The Lessee shall for the duration of this Lease maintain and pay the premiums for
42 a policy of insurance covering liability for personal injury and property damage arising out of its
43 business and operations pursuant to this Lease in the amount of no less than One Million Dollars
44 (\$1,000,000.00) per person for bodily injury and property damage and Three Million Dollars
45 (\$3,000,000.00) for each occurrence in the aggregate.

46

1 b. The Lessee shall have adequate workers' compensation insurance covering its employees
2 who enter and/or work on the Premises, and in no event shall the coverage in such policy be less
3 than One Million Dollars (\$1,000,000.00) per person for accidental bodily injury and
4 occupational disease.

5
6 c. The insurance policy or policies shall specifically name the "City of Annapolis, its
7 elected officials, appointees, directors, employees, agents, contractors and representatives" as
8 additional insureds.

9
10 d. The Lessee's insurer or insurers shall be authorized to write the required insurance,
11 approved by the Insurance Commissioner of the State of Maryland, and subject to the approval
12 of the Lessor's City Attorney. The form and substance of the Lessee's insurance policy or
13 policies shall also be subject to reasonable approval by the Lessor's City Attorney, and shall be
14 submitted to the City Attorney at 160 Duke of Gloucester Street, Annapolis, Maryland 21401,
15 with a copy to the Lessor's Harbormaster at 1 Dock Street, Annapolis, Maryland 21401, for such
16 approval not less than thirty (30) calendar days prior to the Lessee's occupancy of the Premises.

17
18 e. The certificate for each insurance policy or policies shall contain a statement on its face
19 that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of
20 premium, or otherwise, whether at the request of the Lessee or for any other reason, except after
21 thirty (30) calendar days advance written notice mailed by the insurer or the Lessee to the
22 Lessor's City Attorney, and that such notice shall be transmitted postage prepaid, return receipt
23 requested.

24
25 f. The obligations of the Lessee under this Paragraph are part of but do not limit or
26 satisfy the Lessee's obligations under the remainder of this Lease.

27
28 17. Surrender of Premises.

29
30 a. On the last day or earlier termination of this Lease, the Lessee shall vacate the Premises
31 and leave it in good condition and repair, normal wear and tear excepted. If the Premises are not
32 surrendered when required, the Lessee shall indemnify, defend and hold the Indemnified Parties
33 (as defined in Paragraph 12 of this Lease) harmless against loss or liability resulting from the
34 delay by the Lessee in vacating the Premises, including, without limitation, any claims made by
35 any succeeding tenant or other occupant founded on such delay. Any holding over with the
36 consent of the Lessor after the termination of this Lease shall be construed to be a tenancy from
37 month-to-month upon the same terms and conditions as provided in this Lease, to the extent
38 applicable.

39
40 b. On the last day or earlier termination of this Lease, the Lessee shall, within thirty (30)
41 calendar days and at its own cost and expense, dismantle and remove all of its personal property
42 from the Premises. Any such property not removed at the expiration of this Lease, and the
43 Lessee's continued failure to remove the same within thirty (30) calendar days after receipt of
44 notice from the Lessor, shall be deemed abandoned and, at the election of the Lessor, shall
45 become the property of the Lessor without payment of any kind to the Lessee, without increasing
46 the Lessor's liability to the Lessee, and for any disposition of it as the Lessor decides to make.

1
 2 c. Within ten (10) calendar days of vacating, the Lessor shall tour the Premises, with the
 3 Lessee present if possible, to determine the condition of the Premises. Any items determined to
 4 be in need of correction or repair shall be corrected or repaired by the Lessor, and shall be
 5 invoiced by the Lessor and paid by the Lessee within thirty (30) calendar days of such invoicing.

6
 7 18. Indemnification.

8
 9 a. The Lessee shall indemnify, defend, and hold harmless the Indemnified Parties
 10 (as defined in Paragraph 12 of this Lease) from and against any and all actions, suits, causes of
 11 action, judgments, claims, and liabilities for loss, injury, damages and/or expenses suffered or
 12 alleged to have been suffered by any person or to any property due to or alleged to be due to an
 13 act, omission or the negligence of the Lessee, its officers, employees, contractors or other agents,
 14 directly or indirectly, in connection with this Lease or the use and occupancy of the Premises or
 15 any part of the Premises, whether or not the result of negligence or other fault, during the term of
 16 this Lease.

17
 18 b. In the event the Lessor is required to defend any such actions, suits, causes of
 19 action, judgments, claims or other liabilities, the Lessor shall be entitled to participate in its
 20 defense, either in whole or in part as it so deems, and to select its own attorneys to provide a
 21 defense at the sole expense, for purposes of attorney fees and litigation costs, of the Lessee.

22
 23 c. The Lessee shall reimburse the Lessor, within thirty (30) calendar days after
 24 demand for such reimbursement, for any damage done to the Lessor's buildings, facilities,
 25 equipment or property caused by an act, omission or the negligence of the Lessee, its officers,
 26 employees, contractors or other agents, during the Lease's Term or the Lessee's use and
 27 occupancy of the Premises or any part of the Premises, except for that caused by reasonable and
 28 ordinary wear and tear. The Lessee may request the Lessor to provide reasonably sufficient
 29 documentation or other proof of such damage prior to any reimbursement. If the Lessee disputes
 30 any request for reimbursement, it may appeal such request to the Lessor's City Manager and/or
 31 his/her authorized designee for review and reconsideration.

32
 33 19. Impairment of the Lessor's Title.

34
 35 The Lessee shall not have the right, power, or permission to do any act or to make any agreement
 36 that may create, give rise to, or be the foundation for, any right, title, interest, lien, charge, or
 37 other encumbrance on the estate of the Lessor in the Premises. The Lessee shall not permit any
 38 part of the Premises to be used by any person or persons or by the public at any time or times
 39 during the Term of this Lease, in such manner as might tend to impair the Lessor's title to or
 40 interest in the Premises, or in such manner as might make possible a claim or claims of adverse
 41 use, adverse possession, prescription, dedication, or other similar claims of, in, to, or with respect
 42 to the Premises.

43
 44 20. Immunities; Reservation of Governmental Authority.

45

1 a. The Lessor reserves and shall be entitled to enforce any and all immunities, partial
2 or total, statutory or common law, in any proceeding that is initiated as a result of this Lease,
3 whether initiated by the Lessor, the Lessee or any third party.

4
5 b. The Lessor reserves the right at all times to exercise full governmental control and
6 regulation with respect to all matters connected with this Lease not inconsistent with the terms of
7 this Lease.

8
9 c. No remedy provided by this Lease or reserved to the Lessor is intended to be exclusive of
10 any other remedies provided for in this Lease, and each such remedy shall be cumulative, and
11 shall be in addition to every other remedy given under this Lease, or now or hereafter existing at
12 law or in equity or by statute. Every right, power and remedy given to the Lessor shall be
13 concurrent and may be pursued separately, successively or together against the Lessee, and every
14 right, power and remedy given to the Lessor may be exercised from time to time as often as may
15 be deemed expedient by the Lessor.

16
17 21. Assignment.

18
19 The Lessee shall be entitled to assign its Lease obligations with the prior written consent
20 of the Lessor, which the Lessor shall not unreasonably withhold, but any assignee, to the
21 reasonable satisfaction of the Lessor, shall be financially able to meet the obligations of the
22 Lease, including the payment of all Rent and Additional Rent due timely and the maintenance of
23 the minimum insurance coverage required by this Lease, have the overall capability, expertise
24 and resources to operate a waterfront tour and cruise business of a scale and quality comparable
25 to that of the Lessee, or, in the alternative, to operate a maritime business that qualifies as an
26 "amusement" under the Maryland State tax laws, and to otherwise perform the obligations of the
27 Lease at the same level as the Lessee.

28
29 22. Independent Contractor.

30
31 Nothing contained in this Lease shall be construed to constitute the Lessee as an agent,
32 representative, or employee of the Lessor, or to create any relationship between the parties other
33 than landlord and tenant.

34
35 23. Lessee's Representations.

36
37 The Lessee hereby represents and warrants the following:

38
39 a. The Lessee is a corporation, duly formed and validly existing under the laws of the State
40 of Maryland and is qualified to do business and is in good standing in the State of Maryland.

41
42 b. The Lessee has the power and authority to consummate the obligations and
43 responsibilities contemplated hereby, and has taken all necessary action to authorize the
44 execution, delivery and performance required under this Lease.

45
46 24. Notice.

1 a. All notices pursuant to this Lease shall be by regular mail or email, except notice
2 of termination, which shall be by certified mail, return receipt requested.

3
4 b. Notice to the Lessor shall be to the City Attorney, 160 Duke of Gloucester Street,
5 Annapolis, Maryland 21401, cityattorney@annapolis.gov.

6
7 c. Notice to the Lessee shall be to Debbie Gosselin at PO Box 3350, Annapolis,
8 Maryland 21403, Debbie@watermarkjourney.com.

9
10 d. The parties shall timely advise each other in writing of any change of address.

11
12 25. Venue, Waiver of Jury Trial and Governing Law.

13
14 a. Venue for all judicial proceedings which result from this Lease shall be the courts
15 of Anne Arundel County, Maryland.

16
17 b. The parties hereby expressly waive trial by jury in any such judicial proceeding.

18
19 c. The laws of the State of Maryland shall govern all matters relating to this Lease.

20
21 26. Integration; Modification or Amendment.

22
23 a. This Lease sets forth the entire agreement between the parties relative to the
24 subject matter of this Lease. No representation, promise or condition, whether oral or written, not
25 incorporated herein shall be binding upon either party to this Lease. This Lease shall not be
26 waived, modified or amended except in a writing signed by both parties and witnessed.

27
28 b. No act by any representative or agent of the Lessor, other than such a written
29 amendment and acceptance by the Lessor, shall constitute an acceptance thereof.

30
31 27. Binding Effect.

32
33 The terms of this Lease shall be binding upon, enforceable against, and for the benefit of
34 the parties and their successors and assigns.

35
36 28. Severability.

37
38 If any of the provisions of this Lease are declared by a court or other lawful authority to be
39 unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected
40 thereby and shall remain enforceable to the full extent permitted by law.

41
42 29. Survival.

43
44 Those paragraphs in this Lease which by their nature are intended to survive shall survive the
45 termination of this Lease.

1 30. Authorization.

2
3 This Lease is authorized by the Council of the City of Annapolis pursuant to O-15-16.
4

5
6 IN WITNESS WHEREOF, it is the intent of the parties that the Lessee has signed this Lease
7 under seal and, further, that the parties have executed this Lease the day and year first written
8 above.

9
10 CHESAPEAKE MARINE TOURS, INC.

11
12
13 _____ By: _____
14 Witness Debbie Gosselin, President (Seal)

15
16 ATTEST: CITY OF ANNAPOLIS

17
18
19 _____ By: _____
20 Regina C. Watkins-Eldridge, MMC, Michael J. Pantelides, Mayor (Seal)
21 City Clerk

22
23 REVIEWED AND APPROVED BY:

24
25 _____
26 Thomas C. Andrews, City Manager

27
28 APPROVED FOR FINANCIAL SUFFICIENCY:

29
30 _____
31 Bruce T. Miller, Director
32 Finance Department

33
34 APPROVED FOR FORM AND LEGAL SUFFICIENCY:

35
36 _____
37 OFFICE OF THE CITY ATTORNEY

38