1	Title	
2	Lease of City	y Property: Spring 2020 Boat Shows – For the purpose of authorizing a lease of
3		cipal property located at the City Dock, surrounding areas and boat moorings in
4	-	aryland as more fully described in the Lease Agreement with Cruisers University,
5		apolis Spring Sailboat Show, in April 2020, to conduct boat shows.
6	Body	
7		CITY COUNCIL OF THE
8		City of Annapolis
9 10		Ordinance 39-16
11 12	Intro	duced by: Mayor Pantelides, Alderman Budge and Alderman Littmann
13 14	Referred to:	
14 15		atters Committee
16		tal Matters Committee
17	Finance Con	
18	T munee con	
19	AN ORDINA	NCE concerning
20		
21		Lease of City Property: Spring 2020 Boat Shows
22		
23 24 25 26	surrou the Le	rpose of authorizing a lease of certain municipal property located at the City Dock, nding areas and boat moorings in Annapolis, Maryland as more fully described in ease Agreement with Cruisers University, Inc., t/a Annapolis Spring Sailboat, in April 2020, to conduct boat shows.
27		-
28 29 30	WHEREAS,	Cruisers University, Inc., t/a Annapolis Spring Sailboat Show, desires to lease certain municipal property for the purpose of conducting boat shows; and
31 32 33	WHEREAS,	the Annapolis City Council believes that these proposed boat shows would inure to the benefit of the City; and
34 35 36	WHEREAS,	a lease agreement setting forth details of the rental has been prepared and is considered satisfactory; and
37 38 39	WHEREAS,	Article III, Section 8 of the Charter of the City of Annapolis requires the passage of an ordinance to authorize the lease.
40	NOW THER	FFORE
41		
42	SECT	TON I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS
43 44	CITY COU	NCIL that the proposed lease between the City of Annapolis and Cruisers inc., t/a Annapolis Spring Sailboat Show, for the rental of certain municipal
45 46	property at th	e City Dock and other property and water locations in Annapolis, Maryland during pecifically described in the Lease Agreement, a copy of which is attached hereto

and made a part hereof, hereby approved and the Mayor is hereby authorized to execute the leaseon behalf of the City of Annapolis.

3 4 SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE **ANNAPOLIS CITY COUNCIL** that it is expressly found by the City Council that the property 5 to be leased will better serve the public need for which the property was acquired by stimulating 6 7 local interest in the boating industry, encouraging visitors and residents of the City to visit the 8 harbor and dock area, by generating tax revenues and rental income to the City and otherwise 9 providing economic benefits to the City. 10 SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY 11 12 THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its 13 passage. 14 15 **EXPLANATION** 16 CAPITAL LETTERS indicate matter added to existing law. 17 [brackets] indicate matter stricken from existing law. 18 Underlining indicates amendments 19 20

1		CITY OF ANNAPOLIS BOAT SHOW LEASE AGREEMENT
2 3		(Spring 2020)
4 5		Authorized by O-39-16
6 7 8 9 10	of State of N	HIS BOAT SHOW LEASE AGREEMENT ("Lease") is made thisday, 2016, by and between the City of Annapolis, a municipal corporation of the Maryland ("Lessor"), and Cruisers University, Inc., a Maryland corporation, trading as spring Sailboat Show (collectively, "Lessee").
11 12		ARTICLE I
13		
14	<u>Se</u>	ction 1.1. Premises and Term:
15 16 17 18 19 20 21	Supplements the sidew	Lessor hereby leases to Lessee those parcels of land and water described below ely, the "Premises"), and as further designated on <u>Exhibit A</u> and <u>Exhibit A</u> ent, attached hereto and incorporated into this Lease. The Premises shall not include alk on Dock Street between Craig Street and the State-owned property at the end of eet, which are to be left open for public access subject to the terms of this Lease.
22 23 24 25	i.	Water parcel from Charter Dock channel-ward into the Spa Creek moorings and the Susan C. Campbell Park from Monday, April 20, 2020 at 12:01 AM through Tuesday, April 28, 2020 at 5:00 PM.
25 26 27 28 29 30 31 32 33 34 35 36	ii.	(Optional) Ego Alley Parcel from Monday, April 20, 2020 at 5:00 PM through Monday, April 27, 2020 at 8:00 PM. Lessee shall accommodate water taxi docking space for Chesapeake Marine Tours, Inc. during the Term of this Agreement to replace the sixty feet (60') docking space currently leased to CMT. Lessor shall use its best efforts to secure agreement with CMT that the water taxi docking space near the Harbormaster building shall be available for use by Lessee as provided herein; provided, however, if despite best efforts, the City is unable to obtain such agreement, then Lessee shall not be able to use this Ego Alley Parcel, but Lessee shall be entitled to a pro rata reduction in the Rent in direct proportion to the reduction in total Premises area.
37 38 39 40 41	iii.	(Optional) Donner Parking Lot Parcel from Tuesday, April 21, 2020 at 7:00 AM through Tuesday, April 28, 2020 at 5:00 PM. Lessee's use of the Donner Parking Lot Parcel shall be contingent on whether Lessee is able to use the Ego Alley Parcel, specified in Section 1.1(a)(ii) above.
42 43 44 45 46	iv.	(Optional) Newman Lot Parcel from Tuesday, April 21, 2020 at 7:00 AM through Tuesday, April 28, 2020 at 5:00 PM. Lessee's use of the Newman Lot shall be contingent on Lessee obtaining a signed letter of permission from or a separate agreement with the owners of this Parcel (110 Compromise Street), including the adjacent boardwalk and dock (formerly, "Chandler, LLC" and/or "Fawcett's") for use

1 2		of this space. A copy of such letter of permission or separate agreement shall be provided to Lessor.	
3 4 5 6 7 8	v.	The State Dock Parcel (or the North Bulkhead City Dock Parcel) adjacent to Susan Campbell Park, from Tuesday, April 21, 2020 at 5:00 PM through Tuesday, April 28, 2020 at 5:00 PM loaned to the National Sailing Hall of Fame ("NSHOF") by Lessor under the terms of a Memorandum of Understanding between the State of Maryland, Department of Natural Resources, Lessor and the NSHOF dated November 18, 2005	
9 10		as amended by Addendum dated October 23, 2006.	
11 12	vi.	PG Street Compound from Monday, April 20, 2020 at 12:01 AM through Tuesday, April 28, 2020 at 5:00 PM.	
13 14	(b)) Any separate agreement(s) and/or letter(s) of permission obtained pursuant to	
15	· · ·	1(a) of this Lease, as may be needed, shall be attached to this Lease as <u>Exhibit B</u> upon	
16		and completion. Such attachment may occur after full execution of this Lease.	
17			
18	(c)	Lessee shall only use the Premises for the purpose of holding a boat show (the	
19	"Show").		
20	(1)		
21	(d) bedirees		
22		above in this Section 1.1, as may be extended as set forth in this Lease (collectively,	
23 24	the "Term	.).	
24 25	(e)	The Premises shall not be open to the public before 10:00 AM or after 6:30 PM	
25 26	· · ·	e Term of this Lease. This time restriction shall not apply to private events authorized	
27	by Lessee		
28	-)		
29	Se	ction 1.2. Rent:	
30			
31 32		he greater of either: (i) fifty percent (50%) of Lessee's gross receipts (after deduction of	
33		taxes) from Lessee's sale of tickets for admission to the Show during the Term of this	
34 25		Allectively, the "Ticket Sales") or, (ii) Fifteen Thousand Nine Hundred Fifty-Three	
35 36	Donars an	nd No Cents (\$15,953.00) (the "Minimum Payment").	
36 37	(b)) Lessee shall pay Lessor the Rent, in full, within thirty (30) calendar days of the	
38	· · ·	the Shows. If the Rent is based on the Ticket Sales, rather than the Minimum Payment,	
39	then the Rent shall be paid to Lessor simultaneously with Lessee's payment of its State of		
40	Maryland admissions tax. Lessee shall also submit a copy of its Maryland State Admissions and		
41	Amusement tax report/return and such other proof of gross receipts from the Ticket Sales as may		
42	be reasonably requested by Lessor's Director of Finance to: Director Department of Finance at		
43	160 Duke of Gloucester Street, Annapolis, Maryland 21401. Copies of such payment and proof		
44	-	receipts shall be provided to Lessor's Harbormaster at 1 Dock Street, Annapolis,	
45 46	Maryland	21401.	
40			

Section 1.3. City Fees:

3 In addition to the Rent, Lessee shall reimburse Lessor the sum of Zero Dollars (a) 4 and No Cents (\$00.00) for the costs incurred by Lessor as a result of Lessee's use of the Premises, including, but not limited to, utilities, inspections, parking and transportation, facilities 5 and services, trash and recycling services, police services, fire services, and other safety services 6 7 (collectively, the "City Fees"). Lessee shall pay Lessor the City Fees, in full, at the same time 8 Lessee pays the Rent.

- 9
- 10

Police Services: In exchange for the City Fees, Lessor shall provide police (b) services related to traffic control outside the Premises, security for Lessee's office within the 11 Premises, and liaison with Lessee's security guards inside the Premises. 12

13

Fire Services: In exchange for the City Fees, Lessor shall provide fire protection 14 (c) as required for the Show. Following the erection of all booths and other Show structures as 15 described in Article VII of this Lease, but before the Show opens, the parties shall meet at the 16 Premises to assure compliance with Lessor's Fire Department regulations and accessibility of 17 fire lanes and turning radius. No open flame devices or running of watercraft propulsion engines 18 shall be permitted on the Premises during the open hours of the Show. 19

Utilities: In exchange for the City Fees, Lessor shall provide water and electricity 21 (d) as required for the Show. Lessee, at its own expense, shall install all temporary electrical 22 23 equipment, lines and devices required to provide power to the Premises in compliance with the National Electric Code. 24

25

20

26 (e) Trash and Recycling: In exchange for the City Fees, Lessor shall provide an adequate number of trash and recycling dumpsters outside the Premises for the use by Lessee 27 during the Term of this Lease, and Lessor shall also provide for the prompt removal of all trash, 28 29 refuse and recycling materials deposited into these dumpsters during the Show. Lessee, at its sole expense, shall provide an adequate and equal number of trash and recycling containers for its use 30 within the Premises during the Term of this Lease, shall regularly empty such containers into 31 32 Lessor-provided dumpsters, and shall also provide for the prompt removal of all such containers from the Premises after the Show. 33

- 34
- 35 36

Section 1.4. Revisions to the Premises:

Lessor shall have the right to decrease the area of the Premises in order to reflect 37 (a) any change in ownership or infrastructure, provided written notice is furnished to Lessee on or 38 before November 1, 2019. In the event the total Premises area (measured in square feet) is 39 reduced by any action of Lessor under this Section 1.4, the Rent due and payable shall be 40 reduced in direct proportion to the reduction in total Premises area. Lessee shall present 41 42 documentation including measurements and calculations to support any claim of reduced Premises. 43

44

45 (b) Lessee shall have the right to request to decrease the area of the Premises in order to reflect any change in the Shows, provided a written request is furnished to Lessor on or before 46

November 1, 2019. Any such change shall be subject to Lessor's written approval, which approval shall not be unreasonably withheld. If such a decrease is approved by Lessor, Lessee shall be entitled to a pro rata reduction in the Rent, but only if the Rent is based on the Minimum Payment. Lessee shall not be entitled to a reduction in the percentage of Ticket Sales due to Lessor if the Rent is based on such Ticket Sales.

7 (c) Any increase in the area of the Premises requires an amendment to this Lease,
8 signed by both parties.

6

9 10

11

21

26

ARTICLE II

Section 2.1. Number of Days: Lessor grants to Lessee the right to add one (1) day to the Show for general public admission. Lessee shall also have the right, in its sole discretion, to reduce the number of days of the Show. Lessee shall provide written notice of such intention no later than thirty (30) calendar days before the opening of the Show governed by this Lease.

Section 2.2. Dates of the Show: Lessor grants to Lessee the right to shift the dates of the
 Show and the Term of the Lease to exactly one (1) week earlier in that same calendar year (i.e.
 April 13, 2020 through April 21, 2020). Lessee shall provide written notice of such intention no
 later than sixty (60) calendar days before the opening of the Show governed by this Lease.

Section 2.3. Adjustment to Rent: The Rent, but only if based on the Minimum Payment,
 and the City Fees shall be increased or reduced proportionately if Lessee exercises its rights to
 extend or shorten the number of Show days pursuant to Section 2.1. All of the other provisions
 of the Lease shall remain in full force and effect.

Section 2.4. Other Boat Shows: Excluding any lease to United States Sailboat Show,
 Inc. or United States Powerboat Show, Inc., Lessor shall not lease the Premises for the purpose
 of holding boat shows on the Premises from April 1st through November 1st in the year of 2020.
 Lessee may, within its sole discretion, provide written authority to waive this restriction. This
 restriction shall be deemed to be automatically waived by Lessee in the event the Show is
 reduced to less than one (1) ten (10) hour day pursuant to Section 2.1.

33 34 **ARTICLE III** 35 36 Section 3.1. Use of the Premises: 37 Lessee is authorized to use existing and normal ingress to and egress from the 38 (a) 39 Premises, and existing and normal street and harbor lighting, all without additional charge. 40 (b) Amplified music or other amplified sound on the Premises shall not exceed the 41 maximum decibel levels specified in Chapter 11.12 of the City Code, as may be amended. 42 43 Lessee shall be prohibited from selling alcoholic beverages on the Premises 44 (c) 45 during the Show. 46

1 (c) Lessee shall submit to Lessor an initial diagram of its proposed use of the 2 Premises at least thirty (30) calendar days prior to the Show, and shall continue to submit 3 updates of such diagram (as needed) up to the date of the opening of the Show. Lessor shall 4 obtain final Lessor approval of the final (updated) diagram prior to opening the Show, which 5 approval shall not unreasonably be withheld or delayed.

6

7 Section 3.2. Pre-Show Meetings and Inspection: At no additional cost to Lessee and 8 prior to the opening of the Show, representatives of Lessor's Department of Neighborhood and Environmental Programs, Police Department, Fire Department, Office of Emergency 9 10 Management, Harbormaster, and Department of Public Works shall inspect the Premises and nearby areas with Lessee's representative(s) to determine compliance with Lessor requirements, 11 and for determination of the condition of the Premises. Written approval by representatives of 12 these Lessor departments shall be required before Lessee may open the Show. The opening of 13 the Show shall not be delayed by any Lessor department whose representative is not present for 14 this pre-inspection. Lessor shall not refuse permission to open the Show or any part of the Show 15 under this Section unless a threat to health or safety has been identified. Lessor shall make every 16 effort to limit that part of the Show not opened in the event of such threat, and to allow Lessee to 17 open the closed portion of the Show as soon as the threat is abated to Lessor's satisfaction. 18

Section 3.3. Transportation: Lessee shall prepare and submit a written "Transportation 20 Plan" with a parking element to Lessor's Director of Transportation at 308 Chinquapin Round 21 Road, Annapolis, Maryland 21401, with a copy to Lessor's Harbormaster at 1 Dock Street, 22 23 Annapolis, Maryland 21401. The Transportation Plan shall address matters specified by Lessor's Director of Transportation, and shall be submitted to that director no later than April 15, 2020. 24 Except for public ways within the Premises, the Transportation Plan shall not provide for the 25 26 closure of any street or restrict parking to only those associated with the Show. Moreover in publicizing the Show, Lessee shall direct all persons attending the Show to park their vehicles at 27 satellite lots and ride a shuttle to the site of the Show. Upon receipt of the Transportation Plan, 28 29 Lessor's Director of Transportation shall make copies available to all relevant agencies, including, but not limited to, those listed in Section 3.2, and to interested parties who have 30 requested a copy. 31

32

19

33 34 ARTICLE IV

Section 4.1. Insurance: Lessee, at its sole expense, shall obtain and keep in full force and effect comprehensive commercial general liability insurance of no less than Two Million Dollars (\$2,000,000.00) combined single limit, bodily injury and property damage, and Eight Million Dollars (\$8,000,000.00) umbrella policy, which shall be effective during the Lease's Term and the entire period of time during which Lessee shall use or occupy the Premises or any part of the Premises.

41

42 Section 4.2. Additional Insured: The insurance policy or policies shall specifically name 43 the "City of Annapolis, its elected officials, appointees, directors, employees, agents, contractors 44 and representatives" as additional insureds, and insure against any and all loss, costs, damages, 45 and expenses suffered by any person or to any property, including property owned by Lessor, 46 due to or alleged to be due to an act, omission or the negligence of Lessee, its officers, agents,

1 employees, vendors, subtenants or contractors, directly or indirectly, in connection with this 2 Lease or the use of the Premises or any part of the Premises by Lessee, its officers, agents, employees, vendors, subtenants or contractors. 3

4

Section 4.3. Insurer: Lessee's insurer or insurers shall be authorized to write the 5 required insurance, approved by the Insurance Commissioner of the State of Maryland, and 6 subject to the approval of Lessor's City Attorney. The form and substance of Lessee's insurance 7 8 policy or policies shall also be subject to reasonable approval by Lessor's City Attorney, and shall be submitted to the City Attorney at 160 Duke of Gloucester Street, Annapolis, Maryland 9 21401, with a copy to Lessor's Harbormaster at 1 Dock Street, Annapolis, Maryland 21401, for 10 such approval not less than thirty (30) calendar days prior to Lessee's occupancy of the Premises. 11 The policy or policies of insurance shall then be secured by Lessee and filed with the City 12 Attorney not less than fifteen (15) calendar days prior to Lessee's occupancy of the Premises. No 13 approvals pursuant to this Section 4.3 shall be unreasonably withheld or delayed. 14

15

Section 4.4. Notice: The certificate for each insurance policy or policies shall contain a 16 statement on its face that the insurer will not cancel the policy or fail to renew the policy, 17 whether for nonpayment of premium, or otherwise, whether at the request of Lessee or for any 18 other reason, except after thirty (30) calendar days advance written notice mailed by the insurer 19 or Lessee to Lessor's City Attorney, and that such notice shall be transmitted postage prepaid, 20 return receipt requested. 21

22 23

24 25 26

27

Section 4.5. Lessee's Obligations: The obligations of Lessee under this Article are part of but do not limit or satisfy Lessee's obligations under the remainder of this Lease.

ARTICLE V

Section 5.1. Indemnity: Lessee shall forever indemnify, defend and hold harmless 28 29 Lessor, its elected officials, appointees, directors, employees, agents, contractors and representatives, from and against any and all claims, suits, actions, judgments, and liability for 30 loss, injury, damages and/or expenses suffered or alleged to have been suffered during the 31 Lease's Term by any person or to any property due to or alleged to be due to an act, omission or 32 the negligence of Lessee, its officers, agents, employees, vendors, subtenants or contractors, 33 directly or indirectly, in connection with this Lease or the use and occupancy of the Premises or 34 any part of the Premises, by Lessee, its officers, agents, employees, vendors, subtenants or 35 contractors. 36

Section 5.2. Reimbursement: Lessee shall reimburse Lessor, within thirty (30) calendar 38 days after demand for such reimbursement, for any damage done to Lessor's buildings, facilities, 39 equipment or property caused by an act, omission or the negligence of Lessee, its officers, 40 agents, employees, vendors, subtenants or contractors, during the Lease's Term or Lessee's use 41 and occupancy of the Premises or any part of the Premises. Lessee may request Lessor to provide 42 reasonably sufficient documentation or other proof of such damage prior to any reimbursement. 43 If Lessee disputes any request for reimbursement, it may appeal such request to the City 44 45 Manager and/or his/her authorized designee for review and reconsideration.

46

ARTICLE VI

3 <u>Section 6.1. Security:</u> Lessee shall contract with and pay, as independent contractors, 4 security guards from an agency duly licensed by the State of Maryland, in numbers sufficient to 5 maintain security, peace and order at the Show inside the Premises during the entirety of the 6 Lease's Term.

ARTICLE VII

10 Section 7.1. Interior Construction: Lessee shall have the right to construct, install or 11 erect seats, platforms, booths, tanks, scaffolding, rigging, floating piers, pilings, docks, catwalks, 12 tents, exhibits, and any other apparatus or structure which Lessee may deem necessary or 13 desirable for the purpose of presenting the Show. Lessee shall have the right to erect and 14 construct a temporary fence so as to enclose the Premises in such a manner as to limit entry onto 15 the Premises through controlled entrances. Such fence shall not contain barbed wire, razor wire 16 or any similar materials.

17

23

34 35

36

40

1 2

7 8

9

<u>Section 7.2. Exterior Construction:</u> Wherever necessary to provide for pedestrian traffic,
 Lessee shall erect and construct temporary wooden sidewalks outside of the Premises where the
 existing sidewalks are enclosed in the Premises by a temporary fence described in Section 7.1.
 All temporary sidewalks shall be handicap accessible and illuminated during hours of darkness,
 and maintained by Lessee in a safe and secure condition.

Section 7.3. ADA and Other Permits: Lessee hereby assumes exclusive responsibility 24 for compliance with any and all applicable provisions of the Americans with Disabilities Act of 25 1990 (ADA), as amended from time to time, at the Premises, during the entire time that Lessee 26 uses or occupies the Premises or any part of the Premises. Subject to the inspection provisions of 27 Section 3.2 of this Lease, and to standard public safety and health approvals, any and all permits, 28 29 licenses or authorizations required to be obtained from Lessor by Lessee during the Term of this Lease for the purpose of constructing or erecting the temporary structures described in this 30 Article VII and for operating the Show, shall be deemed granted and issued upon the execution 31 32 of this Lease by Lessor and Lessee. All other federal, state or county permits, which may be required, shall be the sole responsibility and expense of Lessee. 33

ARTICLE VIII

37 Section 8.1. Cleanliness: Lessee shall be responsible for keeping the Premises free of
 38 debris, trash and refuse, which shall be placed in the containers and the dumpsters specified in
 39 Section 1.3(e).

<u>Section 8.2. Sanitation and Toilets:</u> Lessee shall, at its sole expense, provide adequate
 and sanitary toilet facilities throughout the Premises for use by the general public and others
 attending or participating in the Show, including sufficient ADA compliant sanitary toilet
 facilities.

<u>Section 8.3. Trash, Recycling and Public Safety Cooperation:</u> The parties shall
 cooperate with each other and use their best efforts to ensure that there is prompt trash and
 recycling removal, public safety protection, and adequate traffic control during the designated
 period of use and occupancy by Lessee of the Premises.

ARTICLE IX

8 Section.9.1. Quiet Enjoyment: Lessor covenants with Lessee that at all times during the 9 Term of this Lease, Lessee shall peacefully hold and quietly enjoy the use and occupancy of the 10 Premises without any disturbance or hindrance from Lessor or from any other person claiming 11 through Lessor, except that Lessor or others claiming through Lessor may enter onto the 12 Premises to effect necessary repairs to their own facilities as reasonably contemplated by the 13 terms of this Lease, and to assure compliance with the terms of this Lease and all applicable 14 laws. Lessee shall cooperate with Lessor to effect this access to the Premises.

ARTICLE X

18 <u>Section 10.1. Condition of Premises after Show:</u> Upon the expiration or earlier
 19 termination of this Lease, Lessee, at its sole expense, shall return the Premises to Lessor in the
 20 same or superior condition than received, natural wear and tear excepted.

22 Section 10.2. Lessee's Equipment after Show: Prior to the expiration or earlier termination of this Lease, Lessee shall immediately remove all of its property, fixtures and 23 chattels from the Premises. In the event that Lessee, its officers, agents, employees, vendors, 24 subtenants or contractors fail to remove any item of property, Lessor reserves the right to remove 25 and store any such property after the expiration or earlier termination of this Lease at Lessee's 26 sole expense, or as an alternative, to leave the property at the Premises. In either case, Lessor 27 shall charge Lessee a per diem rental for storage of such property. Lessor shall bear no 28 29 responsibility or liability for damage to or expense incurred as a result of property left, removed or stored under the provisions of this Section. Lessee shall pay to Lessor any expenses or charges 30 due pursuant to this Section within thirty (30) calendar days after receipt of a bill from Lessor. 31 32

Section 10.3. Post-Shows Inspection: Within ten (10) calendar days following the 33 expiration or earlier termination of this Lease, Lessee shall accompany Lessor on a tour of the 34 Premises to determine the condition of the Premises. Items corrected or repaired by Lessor, and 35 deemed by Lessor to be the sole responsibility of Lessee, shall be billed by Lessor and paid by 36 Lessee within thirty (30) calendar days after receipt of such bill. Lessee may request Lessor to 37 provide reasonably sufficient documentation or other proof of such items corrected or repaired 38 by Lessor prior to any payment. If Lessee disputes any bill for an item corrected or repaired by 39 Lessor, it may appeal such bill to the City Manager and/or his/her authorized designee for review 40 and reconsideration. 41

42

5 6

7

15 16

17

21

43 44

ARTICLE XI

45 <u>Section 11.1. Remedies:</u> All duties, liabilities and/or obligations imposed upon or 46 assumed by Lessee or Lessor by or under this Lease shall be taken or construed as cumulative,

1 and the mention of any specified duty, liability or obligation imposed upon or assumed by Lessee 2 or Lessor under this Lease shall not be taken or construed as a limitation or restriction upon any or all of the other duties, liabilities, or obligations imposed upon or assumed by Lessee or Lessor 3 4 under this Lease. The remedies provided for in this Lease shall be construed to be cumulative and in addition to any other remedies provided in law or equity which Lessor or Lessee would 5 have in any case. In no case shall a waiver by either party of the right to seek relief under this 6 provision constitute a waiver of any other or further violation. The remedies provided in this 7 8 Lease shall not be deemed exclusive of other remedies not specified.

9

10 <u>Section 11.2. Injunction:</u> Lessor shall have the right to seek and obtain in any court of 11 competent jurisdiction an injunction, without the necessity of posting a bond, to restrain a 12 violation or alleged violation by Lessee of any term of this Lease, anything to the contrary 13 notwithstanding.

14

15

16 17

ARTICLE XII

Section 12.1. Impossibility of Performance:

18 (a) Notwithstanding any other terms or provisions of this Lease, in the event Lessor is 19 temporarily or permanently prevented, restricted or delayed in the performance of any or all of 20 the duties and obligations imposed upon or assumed by it hereunder, by act of the General 21 Assembly of Maryland or the City Council of Annapolis, by a court of competent jurisdiction, by 22 administrative delay not due to the fault of Lessor (and its members and agents), or by an 23 unforeseen event, not due to the fault of Lessor (and its members and agents), including but not 24 limited to fire, casualty, acts of God, strikes or other unforeseen occurrences which render 25 impossible the fulfillment of this Lease, then Lessor shall not be liable directly or indirectly for 26 any claims caused to or suffered by Lessee or any other person in connection with or as a result 27 of such prevention, restriction or delay, and Lessee shall not be liable for the payment of Rent for 28 29 the Term of the Lease. However, if such prevention, restriction or delay relates to not more than five percent (5%) of the Term of the Lease, the Show shall still be held and the Rent (only if 30 based on the Minimum Payment) shall be prorated to account for the number of scheduled hours 31 32 the Show is not open to the public.

33

(b) Lessee shall not be responsible for delays in the performance of any or all of the duties and obligations imposed upon or assumed by it hereunder caused solely by unforeseeable causes beyond its control or the control of its subcontractors or suppliers of materials, such as fire, casualty, acts of God, strikes, or other unforeseen occurrences. However, if such delay relates to not more than five percent (5%) of the Term of the Lease, the Show shall still be held and the Rent (only if based on the Minimum Payment) shall be prorated to account for the number of scheduled hours the Show is not open to the public.

41

42 (c) Lessor and Lessee shall work cooperatively to determine possible alternatives,
43 solutions and/or remedies to any prevention, restriction, or delay that may occur.

- 44
- 45

ARTICLE XIII

1 Section 13.1. Payment: Lessee shall make all payments due under this Lease by check, 2 payable to the *City of Annapolis*. In addition to all other amounts due pursuant to this Lease, Lessee shall pay Lessor a monthly late fee of one percent (1.0%), or twelve percent (12%) per 3 4 annum, of any payment more than sixty (60) calendar days past due, until paid. 5 6 Section 13.2. Right to Audit: Lessor shall have to right to receive and review a copy of 7 Lessee's Maryland State Admissions and Amusement tax report/return and any additional proof 8 of gross receipts from the Ticket Sales as may be reasonably requested by Lessor's Director of 9 Finance to confirm that Lessee has fulfilled its obligations under this Lease. 10 11 ARTICLE XIV 12 Section 14.1. Time is of the Essence: Time is of the essence in the performance of this 13 Lease. Except as may be provided in this Lease or otherwise agreed to in writing by both parties, 14 the times and deadlines specified in this Lease shall not be extended for any reason relating to 15 the Term of the Lease and/or the installation or removal of equipment, materials, displays, or 16 property from the Premises. 17 18 19 ARTICLE XV 20 Section 15.1. Assignment: Lessee shall not assign, transfer, or otherwise dispose of this 21 Lease without the prior written consent of Lessor, but such consent shall not be unreasonably 22 23 withheld or delayed. The foregoing shall not prevent Lessee from subleasing portions of the Premises to Show exhibitors, provided the portion of the Premises subleased to any exhibitor 24 does not exceed twenty-five percent (25%) of the total area of the Premises. 25 26 27 **ARTICLE XVI** 28 29 Section 16.1. Independent Contractor: Lessee is an independent contractor and not the agent or employee of Lessor. Under no circumstances shall this Lease be considered to create an 30 employee or agency relationship or a partnership or joint venture between the parties. 31 32 33 **ARTICLE XVII** 34 Section 17.1. Liens: Lessee hereby consents that Lessor shall have a lien upon all 35 property of Lessee located from time to time upon the Premises for any and all unpaid charges 36 which arise under this Lease which lien shall be subordinate to the lien of any mortgagee of 37 Lessee: provided, however, that Lessee provides Lessor with at least thirty (30) calendar days 38 prior written notice of such lien. Lessee hereby consents to and Lessor shall have the power to 39 impound and retain possession of such property until all such charges and late fees due pursuant 40 to this Lease have been paid, in full, to the satisfaction of Lessor. In the event such charges 41 remain unpaid thirty (30) calendar days after the expiration or earlier termination of this Lease, 42 Lessor shall have the power to sell such property at public auction and apply the receipts from 43 such auction to all such unpaid charges. 44 45 **ARTICLE XVIII** 46

Section 18.1. Compliance with all Laws: Lessee shall comply with all laws, ordinances, and statutes applicable to the Premises or any part of the Premises, and the use and occupancy thereof, and to pay all taxes or charges imposed by law in connection with Lessee's use and occupancy of the Premises. Provided Lessee is making good faith progress towards correcting any violation under this Section, Lessee shall have a reasonable time to correct that violation, not to exceed sixty (60) calendar days.

ARTICLE XIX

11 Section 19.1. Termination: In the event Lessee should materially default in performance of its obligations under this Lease, and such default continues for more than thirty (30) calendar 12 days after Lessor has given written notice to Lessee of such default, (except that if such default 13 shall not be reasonably curable within thirty (30) calendar days, such thirty (30) calendar day 14 period shall be extended for such time as is reasonably necessary to cure the default provided 15 Lessee commences to cure the default within thirty (30) calendar days and diligently prosecutes 16 the cure until completion) Lessor shall have the right to immediately terminate the Lease and/or 17 to pursue reimbursement from Lessee for any damages to Lessor resulting from Lessee's 18 material default of this Lease. For purposes of this Article XIX, "materially default" and/or 19 "material default" shall mean one (1) or more of the following: 20

- (a) If any representation or warranty, expressed or implied, of Lessee and pertaining to this Lease shall prove at any time to be incorrect or misleading in any material respect either on the date when made or throughout the Term of this Lease; or
- (b) If Lessee shall fail to comply, fail to fulfill, or otherwise violate any of the terms, conditions, or obligations contained in this Lease; or
 - (c)- If Lessee shall fail to pay Rent and/or City Fees as required by the terms and conditions of this Lease; or
 - (d) If Lessee loses or forfeits its corporate status, or ceases to be in good standing with the State of Maryland.
- 33 34

32

1

8 9

10

21

22

23

24 25

28

29

30 31

Section 19.2. Other Leases: There are currently in effect leases between Lessor and 35 Lessee for the Premises for boat shows for the years of 2016 through 2019. In the event Lessee 36 should materially default in performance of its obligations in any one (1) of the above years, 37 such material default shall also constitute a material default in the leases for all years subsequent 38 to it, including this Lease. If the material default continues for more than thirty (30) calendar 39 days after Lessor has given written notice to Lessee of such material default, Lessor shall have 40 the right to terminate any of the leases for any one (1) or more of the years remaining in effect, 41 including this Lease. Otherwise, execution of this Lease shall have no effect on those leases for 42 the years of 2016 through 2019. 43

44 45

ARTICLE XX

1 Section 20.1. Immunities: Nothing in this Lease shall be interpreted or construed to 2 waive, in whole or in part, or to otherwise diminish, Lessor's statutory, common law or other immunities in any action in tort, in contract or in any other form. The parties agree that if any 3 4 duty assumed by Lessor under the terms of this Lease or any action taken by Lessor pursuant to any such term is construed to waive, in whole or in part, any such immunity, then the immunity 5 shall nevertheless be fully restored, and shall bind and protect the parties as a contractual 6 7 undertaking. 8 9 ARTICLE XXI 10 Section 21.1. Lessee's Representations: Lessee hereby represents and warrants the 11 12 following: 13 Lessee is a corporation(s), duly formed and validly existing under the laws of the 14 (a) State of Maryland and is qualified to do business and is in good standing in the State of 15 Maryland. 16 17 Lessee has the power and authority to consummate the obligations and 18 (b) responsibilities contemplated hereby, and has taken all necessary action to authorize the 19 execution, delivery and performance required under this Lease. 20 21 22 (c) Lessee has obtained and shall continue to maintain, at its sole expense, such 23 licenses and certifications as are necessary for the Show and as required pursuant to this Lease, and shall present such licenses or certifications to Lessor upon its request. 24 25 26 ARTICLE XXII 27 Section 22.1 Authority: This Lease is authorized by Ordinance O-06-16 adopted by the 28 29 City Council of the City of Annapolis. 30 31 ARTICLE XXIII 32 33 Section 23.1. Binding Effect: The terms of this Lease shall be binding on and enforceable against the parties and their respective successors and assigns. 34 35 Section 23.2. Governing Law: In all actions arising from this Lease, the laws of the 36 State of Maryland shall govern, and the venue for all actions initiated pursuant to this Lease shall 37 be exclusively the Courts of Anne Arundel County, Maryland. The parties waive jury trial in all 38 actions initiated pursuant to this Lease. 39 40 Section 23.3. Severability: If any of the provisions of this Lease are declared by a court 41 or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions 42 hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by 43 44 law. 45

<u>Section 23.4.</u> Survival: Those sections in this Lease which by their nature are intended
 to survive shall survive the termination of this Lease.

3 4

5

6

<u>Section 23.5. Notice:</u> Any notice required to be delivered shall be sent to the following address and individual or such other address and/or such other individual as a party may identify in writing to the other party:

7	c i i	
8	To Lessor:	Director, Recreation & Parks Department
9		273 Hilltop Lane
10		Annapolis, Maryland 21403
11		
12	With a Copy to:	City Attorney
13		160 Duke of Gloucester Street
14		Annapolis, Maryland 21401
15		
16	To Lessee:	Annapolis Boat Shows
17		980 Awald Road, Suite 302
18		Annapolis, Maryland 21403
19		Attn: Paul Jacobs, President
20		
21	With a Copy to:	Thomas J. Mulrenin, Esquire
22		Yumkas, Vidmar, Sweeney & Mulrenin, LLC
23		1919 West Street, Suite 200
24		Annapolis, MD 21401
25		

Section 23.6. Entire Agreement: This Lease constitutes the sole and entire agreement of the parties with respect to the subject matter of this Lease, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the subject matter. Neither party has relied on any statement, representation, warranty or agreement of the other party or of any other person on such party's behalf, including any representations, warranties, or agreements arising from statute or otherwise in law, except for the representations, warranties, or agreements expressly contained in this Lease.

- 33 Section 23.7. No Oral Amendments: No amendment to or rescission, termination,
 35 cancellation or discharge of this Lease is effective unless it is in writing, identified as an
 36 amendment to rescission, termination, cancellation or discharge of this Lease and signed by an
 37 authorized representative of each party to this Lease.
- Section 23.8. No Peddlers, Hawkers, Itinerant Merchant License: A license for peddlers,
 hawkers, and itinerant merchants pursuant to Chapter 7.40 of the Annapolis City Code is not
 required to be obtained by Lessee during the Term of this Lease and/or for the purpose of the
 Show.
- 43

IN WITNESS WHEREOF, Lessor, by and through its duly authorized agent, has caused this Lease to be executed on its behalf, and Lessee, by and through its duly authorized agent, has duly executed this Lease on the date first written above. Witness the signatures of the parties.

	LESSEE: Cruisers University, Inc. trading as Annapolis Spring Sailboat Show
Witness	By: Paul Jacobs, President
ATTEST:	LESSOR: City of Annapolis, Maryland
Regina C. Watkins-Eldridge, MMC,	By: Michael J. Pantelides
City Clerk	Mayor
REVIEWED AND APPROVED BY:	
Thomas Andrews, City Manager	
APPROVED FOR FINANCIAL SUFF	ICIENCY:
Bruce T. Miller, Director Finance Department	
APPROVED FOR FORM AND LEGA	L SUFFICIENCY:

1		
2		
3	EXHIBIT A	
4	THE PREMISES	
5		

EXHIBIT A SUPPLEMENT

1	
2	EXHIBIT B
3	SEPARATE AGREEMENT(S) / LETTER(S) OF PERMISSION
4	
5	
6	
7	
8	[Attach separate agreement(s) and/or letter(s) of permission,
9	as applicable and as completed].
10	
11	
12	
13	