

1 **..Title**

2 **Lease of City Property: Fall 2020 Boat Shows** – For the purpose of authorizing a lease of
3 certain municipal property located in the general harbor, Dock Street and Edgewood Road areas
4 to United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., for a certain
5 period of time in October 2020, to conduct boat shows.

6 **..Body**

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**CITY COUNCIL OF THE
City of Annapolis**

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Ordinance No. O-37-16

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**Introduced by: Mayor Pantelides, Alderman Littmann
and Alderman Budge**

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Referred to

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Economic Matters Committee

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Environmental Matters Committee

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Finance Committee

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A ORDINANCE concerning

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Lease of City Property: Fall 2020 Boat Shows

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FOR the purpose of authorizing a lease of certain municipal property located in the general
26 harbor, Dock Street and Edgewood Road areas to United States Sailboat Shows, Inc. and
27 United States Powerboat Shows, Inc., for a certain period of time in October 2020, to
28 conduct boat shows.

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WHEREAS, United States Sailboat Shows, Inc., and United States Powerboat Shows, Inc.,
31 desire to lease certain municipal property for the purpose of conducting boat
32 shows; and

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WHEREAS, the Annapolis City Council believes that these proposed boat shows would benefit
35 the City; and

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

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

42

43

NOW THEREFORE,

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**SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY
46 COUNCIL** that the proposed lease between the City of Annapolis and United States Sailboat

1 Shows, Inc., and United States Powerboat Shows, Inc., for the rental of certain municipal
2 property in the general harbor, Dock Street and Edgewood Road areas, as described in the lease,
3 a copy of which is attached hereto and made a part hereof, for portions of October 2020, more
4 specifically described in the attached lease, and subject to the option to expand or reduce the
5 number of days of the tenancy as provided in the lease, is hereby approved and the Mayor is
6 hereby authorized to execute the lease on behalf of the City of Annapolis.

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9 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
10 **ANNAPOLIS CITY COUNCIL** that it is expressly found by the City Council that the property
11 to be leased will better serve the public need for which the property was acquired by stimulating
12 local interest in the boating industry, encouraging visitors and residents of the City to visit the
13 harbor and dock area, by generating tax revenues and rental income to the City and otherwise
14 providing economic benefits to the City.

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16 **SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
17 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its
18 passage.

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21 **EXPLANATION**

22 CAPITAL LETTERS indicate matter added to existing law.

23 [brackets] indicate matter stricken from existing law.

24 Underlining indicates amendments
25

CITY OF ANNAPOLIS BOAT SHOW LEASE AGREEMENT

(Fall 2020)

Authorized by O-37-16

THIS BOAT SHOW LEASE AGREEMENT (“Lease”) is made this _____ day of _____, 2016, by and between the City of Annapolis, a municipal corporation of the State of Maryland (“Lessor”), and the United States Sailboat Show, Inc. and the United States Powerboat Show, Inc., Maryland corporations (jointly and severally, “Lessee”).

Article I

Section 1.1. Premises and Term:

(a) Lessor hereby leases to Lessee those parcels of land and water described below (collectively, the “Premises”), and as further designated on **Exhibit A**, attached hereto and incorporated into this Lease. The Premises shall include Lessor's right and interest in the Chandler, LLC boardwalk and dock (formerly, "Fawcett's") pursuant to an agreement between Lessor and Chandler, LLC, unless such agreement has been terminated for any reason prior to this Lease’s Term (as defined below). The Premises shall not include the sidewalk on Dock Street between Craig Street and the State-owned property at the end of Dock Street, which are to be left open for public access subject to the terms of this Lease.

- i. Ego Alley from Sunday, October 4, 2020 at 6:00 PM through Wednesday, October 21, 2020 at 6:00 PM.
- ii. Newman Street Parking Lot from Friday, October 2, 2020 at 12:01 AM through Wednesday, October 21, 2020 at 6:00 PM.
- iii. Prince George Street from Wednesday, September 30, 2020 at 12:01 AM through Wednesday, October 21, 2020 at 6:00 PM.
- iv. Boat moorings 1-13, 16-20 and 27, as depicted on **Exhibit B** (attached hereto and incorporated herein) from Sunday, October 4, 2020 at 6:00 PM through Wednesday, October 21, 2020 at 6:00 PM.
- v. The Susan Campbell Park Parcel, Dock Street Parking Parcels A, B, C and D, and Dock Street from Randall Street to the water, expressly excepting public access roads and sidewalks from Randall Street to and through Craig Street (as depicted on **Exhibit A**) and the sidewalk exclusion specified above, from Sunday, October 4, 2020 at 6:00 PM through Wednesday, October 21, 2020 at 6:00 PM.
- vi. All twenty (20) of Lessor’s boat moorings, # 41-60, located in St. Mary’s Cove, Spa Creek, from Sunday, October 4, 2020 at 6:00 PM through Wednesday, October 21, 2020 at 6:00 PM.

1
2 vii. Edgewood Road/7090 Bembe Beach Road from Sunday, October 4, 2020 at 6:00 PM
3 through Sunday, October 3, 2021 at 6:00 PM (i.e. year round).
4

5 (b) Except for Edgewood Road/7090 Bembe Beach Road, Lessee shall only
6 use the Premises for the purpose of holding two (2) boat shows (each a "Show" and collectively,
7 the "Shows").
8

9 (c) Except for Edgewood Road/7090 Bembe Beach Road, Lessee shall hold
10 the Shows on the Premises only during the dates and times described above in this Section 1.1,
11 as may be extended as set forth in this Lease (collectively, the "Term").
12

13 (d) The Premises shall not be open to the public before 10:00 AM or after
14 6:30 PM during the Term of this Lease. This time restriction shall not apply to private events
15 authorized by Lessee.
16

17 Section 1.2. Rent:
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19 (a) Except as may be adjusted by Sections 1.4 and/or 2.3 of this Lease, the "Rent"
20 shall be the greater of either: (i) fifty percent (50%) of Lessee's gross receipts (after deduction of
21 admission taxes) from Lessee's sale of tickets for admission to the Shows during the Term of this
22 Lease (collectively, the "Ticket Sales") or, (ii) Three Hundred Eighty-Five Thousand Dollars and
23 No Cents (\$385,000.00) (the "Minimum Payment").
24

25 (b) Lessee shall pay Lessor the Rent, in full, within thirty (30) calendar days of the
26 close of the Shows. If the Rent is based on the Ticket Sales, rather than the Minimum Payment,
27 then the Rent shall be paid to Lessor simultaneously with Lessee's payment of its State of
28 Maryland admissions tax. Lessee shall also submit a copy of its Maryland State Admissions and
29 Amusement tax report/return and such other proof of gross receipts from the Ticket Sales as may
30 be reasonably requested by Lessor's Director of Finance to: Director Department of Finance at
31 160 Duke of Gloucester Street, Annapolis, Maryland 21401. Copies of such payment and proof
32 of gross receipts shall be provided to Lessor's Harbormaster at 1 Dock Street, Annapolis,
33 Maryland 21401.
34

35 Section 1.3. City Fees:
36

37 (a) In addition to the Rent, Lessee shall reimburse Lessor the sum of Thirty-Eight
38 Thousand Six Hundred Twenty-Five Dollars and No Cents (\$38,625.00) for the costs incurred by
39 Lessor as a result of Lessee's use of the Premises, including, but not limited to, utilities,
40 inspections, parking and transportation, facilities and services, trash and recycling services,
41 police services, fire services, and other safety services (collectively, the "City Fees"). Lessee
42 shall pay Lessor the City Fees, in full, at the same time Lessee pays the Rent.
43

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

1
2 (c) *Fire Services:* In exchange for the City Fees, Lessor shall provide fire protection
3 as required for the Shows. Following the erection of all booths and other Show structures as
4 described in Article VII of this Lease, but before the Shows open, the parties shall meet at the
5 Premises to assure compliance with Lessor's Fire Department regulations and accessibility of
6 fire lanes and turning radius. No open flame devices or running of watercraft propulsion engines
7 shall be permitted on the Premises during the open hours of the Shows.
8

9 (d) *Utilities:* In exchange for the City Fees, Lessor shall provide water and electricity
10 as required for the Shows. Lessee, at its own expense, shall install all temporary electrical
11 equipment, lines and devices required to provide power to the Premises in compliance with the
12 National Electric Code.
13

14 (e) *Trash and Recycling:* In exchange for the City Fees, Lessor shall provide an
15 adequate number of trash and recycling dumpsters outside the Premises for the use by Lessee
16 during the Term of this Lease, and Lessor shall also provide for the prompt removal of all trash,
17 refuse and recycling materials deposited into these dumpsters during the Shows. Lessee, at its
18 sole expense, shall provide an adequate and equal number of trash and recycling containers for
19 its use within the Premises during the Term of this Lease, shall regularly empty such containers
20 into Lessor-provided dumpsters, and shall also provide for the prompt removal of all such
21 containers from the Premises after the Shows.
22

23 Section 1.4. Revisions to the Premises: 24

25 (a) Lessor shall have the right to decrease the area of the Premises in order to reflect
26 any change in ownership or infrastructure, provided written notice is furnished to Lessee on or
27 before April 1, 2020. In the event the total Premises area (measured in square feet) is reduced by
28 any action of Lessor under this Section 1.4, the Rent due and payable shall be reduced in direct
29 proportion to the reduction in total Premises area. Lessee shall present documentation including
30 measurements and calculations to support any claim of reduced Premises.
31

32 (b) Lessee shall have the right to request to decrease the area of the Premises in order
33 to reflect any change in the Shows, provided a written request is furnished to Lessor on or before
34 April 1, 2020. Any such change shall be subject to Lessor's written approval, which approval
35 shall not be unreasonably withheld. If such a decrease is approved by Lessor, Lessee shall be
36 entitled to a pro rata reduction in the Rent, but only if the Rent is based on the Minimum
37 Payment. Lessee shall not be entitled to a reduction in the percentage of Ticket Sales due to
38 Lessor if the Rent is based on such Ticket Sales.
39

40 (c) Any increase in the area of the Premises requires an amendment to this Lease,
41 signed by both parties.
42

43 Article II 44

45 Section 2.1. Number of Days: Lessor grants to Lessee the right to add one (1) day at the
46 end of either or both of the Shows for general public admission. Lessee shall also have the right,

1 in its sole discretion, to reduce the number of days of either or both of the Shows. Lessee shall
2 provide written notice of such intention no later than thirty (30) calendar days before the opening
3 of the first of the Shows governed by this Lease.
4

5 Section 2.2. Other Boat Shows: Excluding any lease to Cruisers University, Inc., Lessor
6 shall not lease the Premises for the purpose of holding boat shows on the Premises from April 1st
7 through November 1st during the year 2020. Lessee may, within its sole discretion, provide
8 written authority to waive this restriction. This restriction shall be deemed to be automatically
9 waived by Lessee as to either Show reduced to less than one (1) ten (10) hour day pursuant to
10 Section 2.1.
11

12 Section 2.3. Adjustment to Rent: The Rent, but only if based on the Minimum Payment,
13 and the City Fees shall be increased or reduced proportionately if Lessee exercises its rights to
14 extend or shorten the number of Show days pursuant to Section 2.1. All of the other provisions
15 of the Lease shall remain in full force and effect.
16

17 Article III

18 Section 3.1. Use of the Premises:

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21 (a) Lessee is authorized to use existing and normal ingress to and egress from the
22 Premises, and existing and normal street and harbor lighting, all without additional charge.
23

24 (b) Amplified music or other amplified sound on the Premises shall not exceed the
25 maximum decibel levels specified in Chapter 11.12 of the City Code, as may be amended.
26

27 (c) Lessee shall submit to Lessor an initial diagram of its proposed use of the
28 Premises at least thirty (30) calendar days prior to the Shows, and shall continue to submit
29 updates of such diagram (as needed) up to the date of the opening of the Shows. Lessee shall
30 obtain final Lessor approval of the final (updated) diagram prior to opening the Shows, which
31 approval shall not unreasonably be withheld or delayed.
32

33 Section 3.2. Pre-Show Meetings and Inspection: At no additional cost to Lessee and
34 prior to the opening of each Show, representatives of Lessor's Department of Neighborhood and
35 Environmental Programs, Police Department, Fire Department, Office of Emergency
36 Management, Harbormaster, and Department of Public Works shall inspect the Premises and
37 nearby areas with Lessee's representative(s) to determine compliance with Lessor requirements,
38 and for determination of the condition of the Premises. Written approval by representatives of
39 these Lessor departments shall be required before Lessee may open either Show. The opening of
40 the Shows shall not be delayed by any Lessor department whose representative is not present for
41 this pre-inspection. Lessor shall not refuse permission to open either Show or any part of the
42 Shows under this Section unless a threat to health or safety has been identified. Lessor shall
43 make every effort to limit that part of the Show(s) not opened in the event of such threat, and to
44 allow Lessee to open the closed portion of the Show(s) as soon as the threat is abated to Lessor's
45 satisfaction.
46

1 Section 3.3. Transportation: Lessee shall prepare and submit a written “Transportation
2 Plan” with a parking element to Lessor’s Director of Transportation at 308 Chinquapin Round
3 Road, Annapolis, Maryland 21401, with a copy to Lessor’s Harbormaster at 1 Dock Street,
4 Annapolis, Maryland 21401. The Transportation Plan shall address matters specified by Lessor’s
5 Director of Transportation, and shall be submitted to that director no later than August 1, 2020.
6 Except for public ways within the Premises, the Transportation Plan shall not provide for the
7 closure of any street or restrict parking to only those associated with the Shows. Moreover in
8 publicizing the Shows, Lessee shall direct all persons attending the Shows to park their vehicles
9 at satellite lots and ride a shuttle to the site of the Shows. Upon receipt of the Transportation
10 Plan, Lessor’s Director of Transportation shall make copies available to all relevant agencies,
11 including, but not limited to, those listed in Section 3.2, and to interested parties who have
12 requested a copy.

13 14 Article IV

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

22
23 Section 4.2. Additional Insured: The insurance policy or policies shall specifically name
24 the “City of Annapolis, its elected officials, appointees, directors, employees, agents, contractors
25 and representatives” as additional insureds, and insure against any and all loss, costs, damages,
26 and expenses suffered by any person or to any property, including property owned by Lessor,
27 due to or alleged to be due to an act, omission or the negligence of Lessee, its officers, agents,
28 employees, vendors, subtenants or contractors, directly or indirectly, in connection with this
29 Lease or the use of the Premises or any part of the Premises by Lessee, its officers, agents,
30 employees, vendors, subtenants or contractors.

31
32 Section 4.3. Insurer: Lessee’s insurer or insurers shall be authorized to write the
33 required insurance, approved by the Insurance Commissioner of the State of Maryland, and
34 subject to the approval of Lessor’s City Attorney. The form and substance of Lessee’s insurance
35 policy or policies shall also be subject to reasonable approval by Lessor’s City Attorney, and
36 shall be submitted to the City Attorney at 160 Duke of Gloucester Street, Annapolis, Maryland
37 21401, with a copy to Lessor’s Harbormaster at 1 Dock Street, Annapolis, Maryland 21401, for
38 such approval not less than thirty (30) calendar days prior to Lessee's occupancy of the Premises.
39 The policy or policies of insurance shall then be secured by Lessee and filed with the City
40 Attorney not less than fifteen (15) calendar days prior to Lessee's occupancy of the Premises. No
41 approvals pursuant to this Section 4.3 shall be unreasonably withheld or delayed.

42
43 Section 4.4. Notice: The certificate for each insurance policy or policies shall contain a
44 statement on its face that the insurer will not cancel the policy or fail to renew the policy,
45 whether for nonpayment of premium, or otherwise, whether at the request of Lessee or for any
46 other reason, except after thirty (30) calendar days advance written notice mailed by the insurer

1 or Lessee to Lessor's City Attorney, and that such notice shall be transmitted postage prepaid,
2 return receipt requested.

3
4 Section 4.5. Lessee's Obligations: The obligations of Lessee under this Article are part
5 of but do not limit or satisfy Lessee's obligations under the remainder of this Lease.

6
7 **Article V**

8
9 Section 5.1. Indemnity: Lessee shall forever indemnify, defend and hold harmless
10 Lessor, its elected officials, appointees, directors, employees, agents, contractors and
11 representatives, from and against any and all claims, suits, actions, judgments, and liability for
12 loss, injury, damages and/or expenses suffered or alleged to have been suffered during the
13 Lease's Term by any person or to any property due to or alleged to be due to an act, omission or
14 the negligence of Lessee, its officers, agents, employees, vendors, subtenants or contractors,
15 directly or indirectly, in connection with this Lease or the use and occupancy of the Premises or
16 any part of the Premises, by Lessee, its officers, agents, employees, vendors, subtenants or
17 contractors.

18
19 Section 5.2. Reimbursement: Lessee shall reimburse Lessor, within thirty (30) calendar
20 days after demand for such reimbursement, for any damage done to Lessor's buildings, facilities,
21 equipment or property caused by an act, omission or the negligence of Lessee, its officers,
22 agents, employees, vendors, subtenants or contractors, during the Lease's Term or Lessee's use
23 and occupancy of the Premises or any part of the Premises. Lessee may request Lessor to provide
24 reasonably sufficient documentation or other proof of such damage prior to any reimbursement.
25 If Lessee disputes any request for reimbursement, it may appeal such request to the City
26 Manager and/or his/her authorized designee for review and reconsideration.

27
28 **Article VI**

29
30 Section 6.1. Security: Lessee shall contract with and pay, as independent contractors,
31 security guards from an agency duly licensed by the State of Maryland, in numbers sufficient to
32 maintain security, peace and order at the Shows inside the Premises during the entirety of the
33 Lease's Term.

34
35 **Article VII**

36
37 Section 7.1. Interior Construction: Lessee shall have the right to construct, install or
38 erect seats, platforms, booths, tanks, scaffolding, rigging, floating piers, pilings, docks, catwalks,
39 tents, exhibits, and any other apparatus or structure which Lessee may deem necessary or
40 desirable for the purpose of presenting the Shows. Lessee shall have the right to erect and
41 construct a temporary fence so as to enclose the Premises in such a manner as to limit entry onto
42 the Premises through controlled entrances. Such fence shall not contain barbed wire, razor wire
43 or any similar materials.

44
45 Section 7.2. Exterior Construction: Wherever necessary to provide for pedestrian traffic,
46 Lessee shall erect and construct temporary wooden sidewalks outside of the Premises where the

1 existing sidewalks are enclosed in the Premises by a temporary fence described in Section 7.1.
2 All temporary sidewalks shall be handicap accessible and illuminated during hours of darkness,
3 and maintained by Lessee in a safe and secure condition.
4

5 Section 7.3. ADA and Other Permits: Lessee hereby assumes exclusive responsibility
6 for compliance with any and all applicable provisions of the Americans with Disabilities Act of
7 1990 (ADA), as amended from time to time, at the Premises, during the entire time that Lessee
8 uses or occupies the Premises or any part of the Premises. Subject to the inspection provisions of
9 Section 3.2 of this Lease, and to standard public safety and health approvals, any and all permits,
10 licenses or authorizations required to be obtained from Lessor by Lessee during the Term of this
11 Lease for the purpose of constructing or erecting the temporary structures described in this
12 Article VII and for operating the Shows, shall be deemed granted and issued upon the execution
13 of this Lease by Lessor and Lessee. All other federal, state or county permits, which may be
14 required, shall be the sole responsibility and expense of Lessee.
15

16 Article VIII

17
18 Section 8.1. Cleanliness: Lessee shall be responsible for keeping the Premises free of
19 debris, trash and refuse, which shall be placed in the containers and the dumpsters specified in
20 Section 1.3(e).
21

22 Section 8.2. Sanitation and Toilets: Lessee shall, at its sole expense, provide adequate
23 and sanitary toilet facilities throughout the Premises for use by the general public and others
24 attending or participating in the Shows, including sufficient ADA compliant sanitary toilet
25 facilities.
26

27 Section 8.3. Trash, Recycling and Public Safety Cooperation: The parties shall
28 cooperate with each other and use their best efforts to ensure that there is prompt trash and
29 recycling removal, public safety protection, and adequate traffic control during the designated
30 period of use and occupancy by Lessee of the Premises.
31

32 Article IX

33
34 Section 9.1. Quiet Enjoyment: Lessor covenants with Lessee that at all times during the
35 Term of this Lease, Lessee shall peacefully hold and quietly enjoy the use and occupancy of the
36 Premises without any disturbance or hindrance from Lessor or from any other person claiming
37 through Lessor, except that Lessor or others claiming through Lessor may enter onto the
38 Premises to effect necessary repairs to their own facilities as reasonably contemplated by the
39 terms of this Lease, and to assure compliance with the terms of this Lease and all applicable
40 laws. Lessee shall cooperate with Lessor to effect this access to the Premises.
41

42 Article X

43
44 Section 10.1. Condition of Premises after Shows: Upon the expiration or earlier
45 termination of this Lease, Lessee, at its sole expense, shall return the Premises to Lessor in the
46 same or superior condition than received, natural wear and tear excepted.

1
2 Section 10.2. Lessee's Equipment after Shows: Prior to the expiration or earlier
3 termination of this Lease, Lessee shall immediately remove all of its property, fixtures and
4 chattels from the Premises. In the event that Lessee, its officers, agents, employees, vendors,
5 subtenants or contractors fail to remove any item of property, Lessor reserves the right to remove
6 and store any such property after the expiration or earlier termination of this Lease at Lessee's
7 sole expense, or as an alternative, to leave the property at the Premises. In either case, Lessor
8 shall charge Lessee a per diem rental for storage of such property. Lessor shall bear no
9 responsibility or liability for damage to or expense incurred as a result of property left, removed
10 or stored under the provisions of this Section. Lessee shall pay to Lessor any expenses or charges
11 due pursuant to this Section within thirty (30) calendar days after receipt of a bill from Lessor.
12

13 Section 10.3. Post-Shows Inspection: Within ten (10) calendar days following the
14 expiration or earlier termination of this Lease, Lessee shall accompany Lessor on a tour of the
15 Premises to determine the condition of the Premises. Items corrected or repaired by Lessor, and
16 deemed by Lessor to be the sole responsibility of Lessee, shall be billed by Lessor and paid by
17 Lessee within thirty (30) calendar days after receipt of such bill. Lessee may request Lessor to
18 provide reasonably sufficient documentation or other proof of such items corrected or repaired
19 by Lessor prior to any payment. If Lessee disputes any bill for an item corrected or repaired by
20 Lessor, it may appeal such bill to the City Manager and/or his/her authorized designee for review
21 and reconsideration.
22

23 Article XI

24
25 Section 11.1. Remedies: All duties, liabilities and/or obligations imposed upon or
26 assumed by Lessee or Lessor by or under this Lease shall be taken or construed as cumulative,
27 and the mention of any specified duty, liability or obligation imposed upon or assumed by Lessee
28 or Lessor under this Lease shall not be taken or construed as a limitation or restriction upon any
29 or all of the other duties, liabilities, or obligations imposed upon or assumed by Lessee or Lessor
30 under this Lease. The remedies provided for in this Lease shall be construed to be cumulative
31 and in addition to any other remedies provided in law or equity which Lessor or Lessee would
32 have in any case. In no case shall a waiver by either party of the right to seek relief under this
33 provision constitute a waiver of any other or further violation. The remedies provided in this
34 Lease shall not be deemed exclusive of other remedies not specified.
35

36 Section 11.2. Injunction: Lessor shall have the right to seek and obtain in any court of
37 competent jurisdiction an injunction, without the necessity of posting a bond, to restrain a
38 violation or alleged violation by Lessee of any term of this Lease, anything to the contrary
39 notwithstanding.
40

41 Article XII

42 Section 12.1. Impossibility of Performance:

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44
45 (a) Notwithstanding any other terms or provisions of this Lease, in the event Lessor is
46 temporarily or permanently prevented, restricted or delayed in the performance of any or all of

1 the duties and obligations imposed upon or assumed by it hereunder, by act of the General
2 Assembly of Maryland or the City Council of Annapolis, by a court of competent jurisdiction, by
3 administrative delay not due to the fault of Lessor (and its members and agents), or by an
4 unforeseen event, not due to the fault of Lessor (and its members and agents), including but not
5 limited to fire, casualty, acts of God, strikes or other unforeseen occurrences which render
6 impossible the fulfillment of this Lease, then Lessor shall not be liable directly or indirectly for
7 any claims caused to or suffered by Lessee or any other person in connection with or as a result
8 of such prevention, restriction or delay, and Lessee shall not be liable for the payment of Rent for
9 the Term of the Lease. However, if such prevention, restriction or delay relates to not more than
10 five percent (5%) of the Term of the Lease, the Shows shall still be held and the Rent (only if
11 based on the Minimum Payment) shall be prorated to account for the number of scheduled hours
12 the Shows are not open to the public.

13
14 (b) Lessee shall not be responsible for delays in the performance of any or all of the
15 duties and obligations imposed upon or assumed by it hereunder caused solely by unforeseeable
16 causes beyond its control or the control of its subcontractors or suppliers of materials, such as
17 fire, casualty, acts of God, strikes, or other unforeseen occurrences. However, if such delay
18 relates to not more than five percent (5%) of the Term of the Lease, the Shows shall still be held
19 and the Rent (only if based on the Minimum Payment) shall be prorated to account for the
20 number of scheduled hours the Shows are not open to the public.

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

23 24 **Article XIII**

25
26 **Section 13.1. Payment:** Lessee shall make all payments due under this Lease by check,
27 payable to the *City of Annapolis*. In addition to all other amounts due pursuant to this Lease,
28 Lessee shall pay Lessor a monthly late fee of one percent (1.0%), or twelve percent (12%) per
29 annum, of any payment more than sixty (60) calendar days past due, until paid.

30
31 **Section 13.2. Right to Audit:** Lessor shall have to right to receive and review a copy of
32 Lessee's Maryland State Admissions and Amusement tax report/return and any additional proof
33 of gross receipts from the Ticket Sales as may be reasonably requested by Lessor's Director of
34 Finance to confirm that Lessee has fulfilled its obligations under this Lease.

35 36 **Article XIV**

37
38 **Section 14.1. Time is of the Essence:** Time is of the essence in the performance of this
39 Lease. Except as may be provided in this Lease or otherwise agreed to in writing by both parties,
40 the times and deadlines specified in this Lease shall not be extended for any reason relating to
41 the Term of the Lease and/or the installation or removal of equipment, materials, displays, or
42 property from the Premises.

43 44 **Article XV**

45

1 Section 15.1. Assignment: Lessee shall not assign, transfer, or otherwise dispose of this
 2 Lease without the prior written consent of Lessor, but such consent shall not be unreasonably
 3 withheld or delayed. The foregoing shall not prevent Lessee from subleasing portions of the
 4 Premises to Show exhibitors, provided the portion of the Premises subleased to any exhibitor
 5 does not exceed twenty-five percent (25%) of the total area of the Premises.

6
 7 **Article XVI**

8
 9 Section 16.1. Independent Contractor: Lessee is an independent contractor and not the
 10 agent or employee of Lessor. Under no circumstances shall this Lease be considered to create an
 11 employee or agency relationship or a partnership or joint venture between the parties.

12
 13 **Article XVII**

14
 15 Section 17.1. Liens: Lessee hereby consents that Lessor shall have a lien upon all
 16 property of Lessee located from time to time upon the Premises for any and all unpaid charges
 17 which arise under this Lease which lien shall be subordinate to the lien of any mortgagee of
 18 Lessee; provided, however, that Lessee provides Lessor with at least thirty (30) calendar days
 19 prior written notice of such lien. Lessee hereby consents to and Lessor shall have the power to
 20 impound and retain possession of such property until all such charges and late fees due pursuant
 21 to this Lease have been paid, in full, to the satisfaction of Lessor. In the event such charges
 22 remain unpaid thirty (30) calendar days after the expiration or earlier termination of this Lease,
 23 Lessor shall have the power to sell such property at public auction and apply the receipts from
 24 such auction to all such unpaid charges.

25
 26 **Article XVIII**

27
 28 Section 18.1. Compliance with all Laws: Lessee shall comply with all laws, ordinances,
 29 and statutes applicable to the Premises or any part of the Premises, and the use and occupancy
 30 thereof, and to pay all taxes or charges imposed by law in connection with Lessee’s use and
 31 occupancy of the Premises. Provided Lessee is making good faith progress towards correcting
 32 any violation under this Section, Lessee shall have a reasonable time to correct that violation, not
 33 to exceed sixty (60) calendar days.

34
 35 **Article XIX**

36
 37 Section 19.1. Termination: In the event Lessee should materially default in performance
 38 of its obligations under this Lease, and such default continues for more than thirty (30) calendar
 39 days after Lessor has given written notice to Lessee of such default, (except that if such default
 40 shall not be reasonably curable within thirty (30) calendar days, such thirty (30) calendar day
 41 period shall be extended for such time as is reasonably necessary to cure the default provided
 42 Lessee commences to cure the default within thirty (30) calendar days and diligently prosecutes
 43 the cure until completion) Lessor shall have the right to immediately terminate the Lease and/or
 44 to pursue reimbursement from Lessee for any damages to Lessor resulting from Lessee’s
 45 material default of this Lease. For purposes of this Article XIX, “materially default” and/or
 46 “material default” shall mean one (1) or more of the following:

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

5
6 (b) If Lessee shall fail to comply, fail to fulfill, or otherwise violate any of the terms,
7 conditions, or obligations contained in this Lease; or

8
9 (c) If Lessee shall fail to pay Rent and/or City Fees as required by the terms and
10 conditions of this Lease; or

11
12 (d) If Lessee loses or forfeits its corporate status, or ceases to be in good standing
13 with the State of Maryland.

14
15 Section 19.2. Other Leases: There are currently in effect leases between Lessor and
16 Lessee for the Premises for boat shows for the years of 2016 through 2019. In the event Lessee
17 should materially default in performance of its obligations in any one (1) of the above years,
18 such material default shall also constitute a material default in the leases for all years subsequent
19 to it, including this Lease. If the material default continues for more than thirty (30) calendar
20 days after Lessor has given written notice to Lessee of such material default, Lessor shall have
21 the right to terminate any of the leases for any one (1) or more of the years remaining in effect,
22 including this Lease. Otherwise, execution of this Lease shall have no effect on those leases for
23 the years of 2016 through 2019.

24
25 **Article XX**

26
27 Section 20.1. Immunities: Nothing in this Lease shall be interpreted or construed to
28 waive, in whole or in part, or to otherwise diminish, Lessor's statutory, common law or other
29 immunities in any action in tort, in contract or in any other form. The parties agree that if any
30 duty assumed by Lessor under the terms of this Lease or any action taken by Lessor pursuant to
31 any such term is construed to waive, in whole or in part, any such immunity, then the immunity
32 shall nevertheless be fully restored, and shall bind and protect the parties as a contractual
33 undertaking.

34
35 **Article XXI**

36
37 Section 21.1. Lessee's Representations: Lessee hereby represents and warrants the
38 following:

39
40 (a) Lessee is a corporation(s), duly formed and validly existing under the laws of the
41 State of Maryland and is qualified to do business and is in good standing in the State of
42 Maryland.

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

1
2 (c) Lessee has obtained and shall continue to maintain, at its sole expense,
3 such licenses and certifications as are necessary for the Shows and as required pursuant to this
4 Lease, and shall present such licenses or certifications to Lessor upon its request.

5
6 **Article XXII**

7
8 Section 22.1 Authority: This Lease is authorized by Ordinance O-37-16 adopted by the
9 City Council of the City of Annapolis.

10
11 **Article XXIII**

12
13 Section 23.1. Binding Effect: The terms of this Lease shall be binding on and
14 enforceable against the parties and their respective successors and assigns.

15
16 Section 23.2. Governing Law: In all actions arising from this Lease, the laws of the
17 State of Maryland shall govern, and the venue for all actions initiated pursuant to this Lease shall
18 be exclusively the Courts of Anne Arundel County, Maryland. The parties waive jury trial in all
19 actions initiated pursuant to this Lease.

20
21 Section 23.3. Severability: If any of the provisions of this Lease are declared by a court
22 or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions
23 hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by
24 law.

25
26 Section 23.4. Survival: Those sections in this Lease which by their nature are intended
27 to survive shall survive the termination of this Lease.

28
29 Section 23.5. Notice: Any notice required to be delivered shall be sent to the following
30 address and individual or such other address and/or such other individual as a party may identify
31 in writing to the other party:

32
33 To Lessor: Director, Recreation & Parks Department
34 273 Hilltop Lane
35 Annapolis, Maryland 21403

36
37 With a Copy to: City Attorney
38 160 Duke of Gloucester Street
39 Annapolis, Maryland 21401

40
41 To Lessee: Annapolis Boat Shows
42 980 Awald Road, Suite 302
43 Annapolis, Maryland 21403
44 Attn: Paul Jacobs, President

45
46 With a Copy to: Thomas J. Mulrenin, Esquire

Yumkas, Vidmar, Sweeney & Mulrenin, LLC
1919 West Street, Suite 200
Annapolis, MD 21401

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 that 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, and agreements expressly contained in this Lease.

Section 23.7. No Oral Amendments: No amendment to or rescission, termination, cancellation or discharge of this Lease is effective unless it is in writing, identified as an amendment to or rescission, termination, cancellation or discharge of this Lease and signed by the authorized representatives 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 Shows.

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:
United States Sailboat Show, Inc.,
United States Powerboat Show, Inc.

Witness

By: _____
Paul Jacobs, President

ATTEST:

LESSOR:
City of Annapolis, Maryland

Regina C. Watkins-Eldridge, MMC,
City Clerk

By: _____
Michael J. Pantelides
Mayor

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REVIEWED AND APPROVED BY:

Thomas Andrews, City Manager

APPROVED FOR FINANCIAL SUFFICIENCY:

Bruce T. Miller, Director
Finance Department

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

City Attorney