

## BOAT SLIP USE AGREEMENT

This Boat Slip Use Agreement ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Hidden Harbor Estates Master Community Association, Inc., a Florida not for Profit corporation (the "HOA"), whose address is P. O. Box 372850, Satellite Beach, FL 32937 and \_\_\_\_\_ whose address is \_\_\_\_\_, and whose telephone number is \_\_\_\_\_ and whose e-mail address is \_\_\_\_\_ ("User").

### RECITALS:

WHEREAS, there are certain boat slips ("Boat Slips" or individually, "Boat Slip") as constructed and offered to members of the HOA and as so designated in the Declaration of the HOA ; and

WHEREAS, User is or will be at the time of the execution of this Agreement, the owner of HOA Unit/Lot \_\_\_ in the Townhomes of Hidden Harbor ("THH") or \_\_\_\_\_ the Residences at Hidden Harbor ("RHH") including this right to be the exclusive user of one of the Boat Slips (as hereinafter designated).

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, User hereby agrees as follows:

1. Recitals. The above recitals are true and correct and are incorporated into the operative portion hereof by reference.
2. Value of Exclusive Use of Boat Slip No. \_\_\_\_ . The value for the use of the exclusive right to use the that certain Boat Slip identified as Boat Slip number\_\_ (the "Right of Use") in accordance with and subject to the terms and conditions of this Agreement, is \$\_\_\_\_\_ paid on this date to: Hidden Harbor Estates Master Community Association, Inc., a Florida not for profit corporation. In addition, User shall pay an annual fee the HOA in the amount of \$500.00
3. Conditions and Restrictions. The Right of Use granted hereunder shall, at all times, be subject to certain conditions and restrictions including but not limited to the following:
  - a. User must, at all times during the terms of this Agreement, be the legal Owner of a Unit/Lot as defined in the Declaration. User may not assign, in whole or part, nor sublease, any or all of its Right of Use, except as set forth in Paragraph 8 below.. .
  - b. The Right of Use is subject to all terms of the HOA's governing documents, including, but not necessarily limited to its Master, THH and RHH Declaration of Covenants, Conditions and Restrictions (the "Declaration"), By-Laws, and Rules and Regulations as may be promulgated and amended from time to time

c. All Boats must be registered with the HOA prior to use and occupancy of the Boat Slip.

d. This right to use is only a license and is not a lease of property, and it is terminable by HOA if User violates any provisions of this Agreement, the Declaration or Rules and Regulations of the HOA. This license does not create a bailment, and HOA has no duties of care with respect to any boat using the Boat Slip. Use of a Boat Slip is solely and completely at the risk of User. This license is for the use of a single Boat Slip space assigned by the HOA, which may be revoked by the HOA at any time and from time to time, if User violates any terms of the Declaration or Rules and Regulations. This license is personal to User, and User may not assign this license or any rights to any other person or entity except as provided by the HOA.

e. Only one Boat Slip may be granted to an Owner of a Lot/Unit.

4. Use of Space at User's Risk: User agrees that use of the Boat Slip is at the sole risk of User. User represents that he or she has made an inspection of the Boat Slip and other spaces, slips, floats, docks, mooring, walks, gangways, ramps, dock facilities, equipment, and other property of HOA or under the control of HOA, and that all of such items are in satisfactory condition and not defective. User agrees to notify HOA in writing of any defect or unsafe condition observed by User after the date of this Agreement. User agrees that HOA has made no warranties or representations, and that there are no warranties or representations either express or implied, regarding the present or future condition, nature, suitability, or fitness of the Boat Slip or any other spaces, slips, floats, docks, mooring, walks, gangways, ramps, dock facilities, equipment, and other property of HOA or under control of HOA. User assumes all risk of injury, death, damage, or injury to property, to User and User's family, guests, invitees, vendor and employees, and their property, however caused, and whether occurring on the Boat or by or on property belonging to HOA or under control of HOA, whether any such injury, death, damage, or injury to property is alleged to have arisen in whole or in part from the primary or secondary, or active or passive, negligence of HOA, or by reason of any condition of property belonging to HOA or under HOA's control. User agrees to supervise and be responsible for the actions, inaction, fault, and negligence of User's family, guests, invitees, vendors and employees.

5. Insurance: User agrees to secure and maintain during the term of this Agreement a policy of complete marine insurance including protection and indemnity liability with limits of not less than \$500,000.00 per occurrence, naming HOA, as additional named insured, with waiver of subrogation with respect to HOA. User is required to carry hull insurance on the Boat, the amount to be determined by Boat Slip User. The insurance required by this Section shall indemnify HOA for any losses sustained resulting from any damage to the dock or any of the structures or facilities thereon, caused by User or User's guests, vendors, licensees or invitees.

6. Limitation Of Liability—Injury, Loss, Or Damage: User agrees that HOA, shall not be liable for any injury, including death, to User or to any person caused by or related to the mooring or the dock or arising from any accident or fire or casualty on the same or from any other cause whatsoever, including negligence; nor shall HOA, be liable for any loss of or damage to any property belonging to User, or to User's guests and invitees, located in the Boat Slip, mooring, dock, space, or other facilities under the control of HOA, caused by or related to the Boat Slip, mooring, space, or the dock or arising from any accident or fire or casualty on the same or from any other cause whatsoever, including negligence.

7. Indemnification: User agrees to defend, indemnify, and hold harmless HOA from any and all loss, liability, injury, or damage (including attorneys' fees and costs to investigate and defend):

a. arising out of or caused by a breach or default by User of any of User's obligations under this Agreement, the Declaration or Rules and Regulations;

b. arising out of or caused by or related to any action, inaction, fault, or negligence by User or User's guests or invitees;

c. arising out of or caused by or related to the exercise of any rights under this Agreement, Declaration or Rules and Regulations by HOA; or

d. any risk User has assumed hereunder.

8. Assignment of this Boat Slip Agreement: User shall only be entitled to assign this Agreement or to otherwise transfer its Use Right to another Owner who is a member (in good standing) of the HOA and any attempt to do otherwise shall be null and void. The assignment of this Agreement MUST be approved, in writing, by the HOA. Such approval will not be granted until a Transfer Fee in an amount of \$500.00 or an amount determined by the Board of Directors Failure to obtain the approval of the HOA and to remit the transfer fee to the HOA will make the transfer null and void.

9. Enforcement. The HOA has the right, without limitation, to enforce the terms and conditions of this Agreement, including the right to seek specific performance hereof. If in the event User or its successors and assigns shall fail to timely pay any and all fees, taxes, assessments and special assessments pertaining to the Boat Slip then, at the option of the HOA, this Right of Use may be voided, and the Right of Use of the Boat Slip shall revert to the HOA at no cost or fee due to User.

10. Termination:

a. On Transfer of Boat Ownership. This Agreement, at the sole option of HOA, shall automatically and immediately terminate at such time as User sells, leases, or otherwise transfers any or all of its interest in the boat to any other party, whether or not such transfer is

voluntary or involuntary, by operation of law, under legal process or proceedings, by receivership, in bankruptcy, or otherwise.

b. User's Breach of Agreement. If User fails to perform any of the terms, conditions, and promises as set forth in this Agreement, Declaration or Rules and Regulations, HOA, at its option, and without waiving any other remedies they may have, may immediately terminate this Agreement on written notice to User.

c. Removal of Boat on Termination. On termination of this Agreement, User shall immediately remove the boat from the Boat Slip and shall remove all other of his or her personal property, if any, from the Boat Slip and surrounding area. Should HOA deem it necessary to move the boat and personal property, it will be at User's sole expense. If User fails to remove the Boat within five (5) days after termination of this Agreement, User agrees that HOA may (but is not required to) cause the boat to be removed (together with all personal property located on or about boat) to a mooring or dry dock location of HOA's choice, and User shall pay or reimburse to HOA all costs incurred or charged by HOA and any third party by reason of such removal. User agrees that HOA shall have no liability to User or to any other person for any loss or damage resulting from any such removal of the boat or failure to remove such boat, whether occurring by negligence or otherwise, and User waives any rights against all such persons and entities by reason of such removal. Any and all costs incurred by the HOA shall subject User to lien rights against the User's property as set forth in the Declaration.

d. Alteration of Facilities. If HOA shall decide to alter, remodel, repair, refurbish, or reconstruct (alteration) any part of its moorage, dock, or facilities and, in the sole judgment of HOA, the continued occupancy of the space by the boat pursuant to this Agreement will in any way interfere with any such proposed alteration, HOA may require the User to remove his or her boat until the work is completed and there shall be no reduction of fees due from User.

e. Termination of Use. If the use from any governmental entity or agency is terminated for any reason whatsoever, HOA may terminate this Agreement by giving written notice to User, which notice shall specify the effective date of such termination and there shall be no reduction or refund of any costs, payments or fees to User.

f. Damage to or Destruction of Boat Slip. This Agreement shall automatically terminate on substantial damage to or destruction of the dock or Boat Slip space if the HOA does not undertake to replace/repair same.

g. Discharge of Pollutants. This Agreement shall automatically terminate if User discharges, or causes or suffers to be discharged, any trash, litter, sewage, or other form of pollutant from User's boat into the waters in or adjacent to HOA's facilities.

h. Verification of Documents and Exhibits. Exhibit A is the Boat Slip's Specific Location. User shall attach a copy of his or her driver's license to this Agreement as EXHIBIT "B," a valid boat

registration as EXHIBIT "C," proof of insurance required pursuant to this Agreement as EXHIBIT "D." and complete the Boat Description as EXHIBIT "E."

11. Miscellaneous:

a. Governing Law, Venue, Severability. This Agreement shall be governed by the laws of the State of Florida. Venue shall be proper only in Brevard County, Florida. If any one or more of the provisions of this Agreement shall be held invalid or unenforceable, the validity and enforceability of all other provisions of this Agreement shall not be affected thereby.

b. Sole Agreement, Amendment. This Agreement supersedes and replaces any prior agreement(s) or understanding(s) of any type between the parties. This Agreement may be amended only by a written instrument executed by both parties.

c. Benefit. All rights and obligations of this Agreement shall bind and inure to the benefit of the parties and their respective heirs, executors, administrators, assigns, and successors; provided, however that this Agreement shall not be assignable by the Parties, except as set forth herein.

d. Non-waiver. No delay or failure by a party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right.

e. Remedies. Rights Cumulative. Any and all of HOA's rights and remedies, provided for in this Agreement, or provided for in law or equity, shall be cumulative and not limited, and the exercise of a right or remedy by HOA shall not constitute a waiver by, or estoppel against, HOA exercising any other right or remedy on a cumulative basis.

f. Headings. Headings in this Agreement are for convenience only and shall not be used to interrupt or construe its provisions.

g. Attorney's Fees. In the event either party commences legal action to enforce its rights under this Agreement, the prevailing party shall be entitled to reimbursement from the other party of its reasonable attorney's fees and costs, including any appeals.

h. Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed given if delivered by hand, sent by a recognized overnight courier (such as Federal Express), or mailed by certified or registered mail, return receipt requested, in a postage pre-paid envelope, and addressed as follows:

If to HOA : Hidden Harbor Estates Master Community Association, Inc.  
PO Box 372850  
Satellite Beach, FL 32937

If to User :

All notices shall be deemed complete on the date of receipt; provided however, that if delivery of any notice hereunder shall be prevented because the party to whom notice is to be provided shall refuse to accept the notice, including the failure to pick up any notice sent by overnight courier or registered or certified mail upon receipt of notice from the courier service or postal authorities, or because of any change of address by such party for which no notice shall have been provided to the other parties as herein set forth, then such notice shall be deemed completed at the time delivery shall first be attempt at the address set forth for such party herein, as reflected on the records of the US Postal Service or overnight courier service, as applicable.

i. WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY DOCUMENT EXECUTED IN CONNECTION HEREWITH OR RELATED HERETO, OR ANY COURSE OR CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS TRANSACTION.

IN WITNESS WHEREOF, the parties have affixed their signatures and seals as of the date set forth above.

User:

Hidden Harbor Estates Master Community Association, Inc., a Florida not for Profit corporation

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

# BOAT SLIP ASSIGNMENT - Exhibit A

## Boat Slip #1

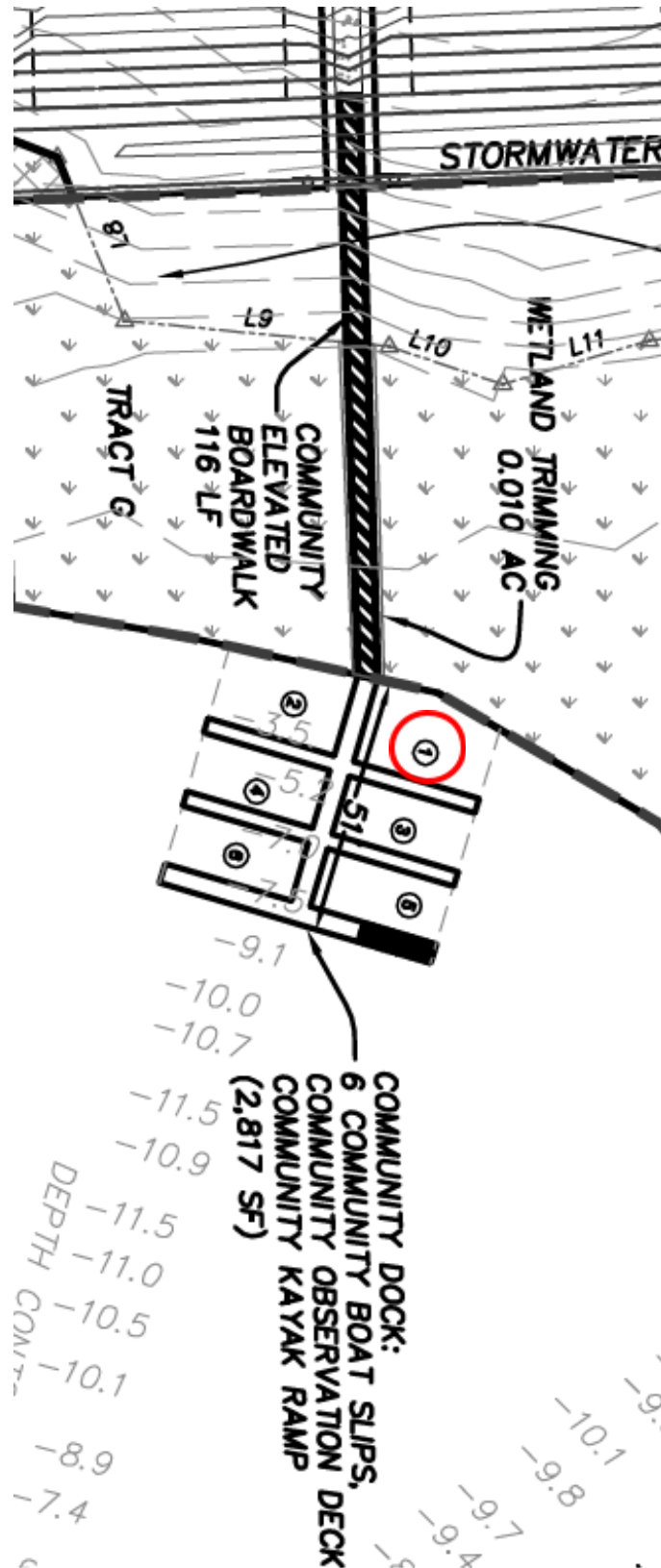


EXHIBIT "B"  
DRIVER'S LICENSE

EXHIBIT "C"  
BOAT REGISTRATION

EXHIBIT "D"

INSURANCE

EXHIBIT "E"  
BOAT REGISTRATION FORM

BOAT DESCRIPTION

A. Boat Name: \_\_\_\_\_

B. Number: \_\_\_\_\_

C. Builder: \_\_\_\_\_

D. Type: \_\_\_\_\_

E. Total Length: \_\_\_\_\_ Ft.

F. Beam: \_\_\_\_\_ Ft.

G. Draft: \_\_\_\_\_ Ft.

H. Insurance Carrier: \_\_\_\_\_

I. Insurance Policy No.: \_\_\_\_\_

User agrees to provide HOA written notice of any change in the insurance, including amounts or terms of coverage, insurance carrier, insurance agent, or insurance policy number, within five (5) days after the occurrence of any such change. HOA shall be named an additional insured.

Current Annual fee: \$\_\_\_\_\_ payable upon execution of this Agreement