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2016 – 2017 Annual Slip/Storage Space License Agreement For Current (2015 – 2016) Slip Holders

Boat Owner(s) Address:

E-Mail: _____

Primary Tele#: _____

Vessel Manufacturer: _____

Vessel Name: _____

Reg/Doc. #: _____

Designated Slip: _____

Select Payment Plan

- One Payment by **cash or check and with all signed documentation** at your 2016 – 2017 annual rate as specified in your letter, on or before **March 1, 2016**:
Slip Fee of \$ _____ plus Utility Fee of _____ = Total of \$ _____
- One Payment by **credit card, cash or check with all signed documentation** at your 2016 – 2017 annual rate as specified in your letter, on or before **April 1, 2016**:
Slip Fee of \$ _____ plus Utility Fee of _____ = Total of \$ _____
- Three Payments at the 2016 - 2017 rate specified in your letter (April 1st, June 1st and August 1st):
Slip Fee of \$ _____ plus Utility Fee of \$ _____ = Total of \$ _____
- Trailer storage on site: _____ months at **\$30** per month (*please be certain the trailer is registered at the marina office*)

THIS SLIP/STORAGE SPACE LICENSE AGREEMENT ("Agreement") entered into this _____ of _____, 2016, by and between CROWN POINTE MARINA, INC., a company organized and existing under the laws of the Commonwealth of Virginia, doing business as CROWN POINTE MARINA ("Marina") and _____ ("Boat Owner").

RECITALS

A. Marina is the owner and operator of that certain marina facility located in Gloucester County, Virginia; and

B. Boat Owner is the owner of the Vessel more particularly described above (the "Vessel"); and

C. Marina desires to grant a license for the use of a designated boat slip/storage space at the Crown Pointe Marina (the "Marina Facilities") to Boat Owner, and Boat Owner desires to obtain from Marina a license to use the boat slip/storage space more particularly described above for purposes of berthing the Vessel, all subject to the following terms and conditions.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **LICENSE.** Marina hereby grants a license to Boat Owner and Vessel for use of the slip/storage space designated above located in and about Marina Facilities for the vessel described above, including all riggings, engines, appurtenances and contents. **This Agreement confers no leasehold interest on Boat Owner, it being the intent of all the parties hereto that Marina will only grant unto Boat Owner a license to occupy the slip/storage space designated above in accordance with the provisions contained herein.** Marina reserves the right to change the designated slip/ storage space assignment at any time or move the Vessel for normal Marina operations or repairs or for special events. It is expressly understood and agreed that this is a license and not a storage, lease or bailment contract, and Marina Facilities has no duty and assumes neither liability nor responsibility whatsoever for the control, care, maintenance or protection of the Boat Owner's Vessel or any Boat Owner's property. In using Marina Facilities, Boat Owner shall comply with all laws, rules and regulations of Federal, State and local entities, including environmental laws and rules and regulations of the U.S. Coast Guard. Boat Owner shall comply with all Marina Rules. Marina may change Marina Rules by posting new ones or otherwise notifying Boat Owner of the change. Violations of Marina Rules and contract terms shall constitute an event of default and in addition to any other remedies contained herein, result in monetary fines imposed by the Marina management.

2. **TERM.** The term of this Agreement shall be based on an annual term beginning on April 1, 2016 or the commencement date and shall expire on March 31, 2017, time being of the essence (the "Term)". This Agreement shall automatically expire at the end of the Term if not sooner terminated as provided herein, which shall terminate Boat Owner's license to occupancy but shall not terminate any claims Marina may have against Boat Owner arising out of this Agreement.

3. **SLIP, STORAGE FEES AND OTHER CHARGES.** Slip, storage, Utility and other license fees are payable in advance by the Boat Owner. Boat Owner will choose the payment schedule for the slip/space license fees simultaneously with the execution of this Agreement based on a Quarter, Semi-Annual or Annual rate schedule and at that time will pay in advance for the service. Amounts appearing on the rate schedule are due on or before the 1st of the month prior to the payment schedule selection. Marina shall be entitled to a late charge in the amount of \$35.00 on any payment more than five (5) days past due. Non-receipt of billing statements does not relieve Boat Owner of the obligation to pay all charges due. All payments shall be made at the Marina's address set forth above or as indicated on the invoice.

4. **SERVICE CHARGES.** Boat Owner shall pay Marina a service charge of \$50.00 for any payment received after the due date and for every credit card denied and check returned by Boat Owner's bank for insufficient funds, or for any other reason. It shall be the sole discretion of Marina whether a personal check will be accepted after a check has been returned uncollectable.

5. **ASSIGNMENTS.** Boat Owner may not sublet or assign this Agreement and/or the right to use boat slip/storage space without the prior written consent of the Marina.

6. **USE OF BOAT SLIP/STORAGE SPACE.** Boat Owner may use the Boat slip/storage space only to store the specified Vessel, and for no other purpose. Marina reserves the right to exclusive control over the use of the Boat slip/storage space and has of the right to refuse to grant a license to any person for any reason. If Boat Owner sells the Vessel and wants to use the Boat slip/storage space for another Vessel, Boat Owner must first get permission from and register the new Vessel with Marina. Boat Owner represents that Boat Owner has an ownership interest in the Vessel and/or Boat Owner is fully authorized to bind all owners of the Vessel to the terms and conditions of this Agreement. If an agent of Boat Owner is signing this Agreement, said person represents that he has the authority to bind the Boat Owner. Boat Owner shall be responsible for the conduct and control of all guests, agents or others invited to Marina Facilities. Conduct by Boat Owner or his/her guests or agents that might disturb or cause harm to any person, damage property, be a nuisance or harm the reputation of Marina Facilities (including use of drugs or becoming intoxicated by alcohol) shall, at the option of Marina, be cause for immediate termination of this Agreement by Marina. Boat Owner shall not alter the Boat slip/storage space. Boat Owner shall not install or place any other personal property not described in this Agreement on the Boat slip/storage space, without **WRITTEN** permission of Marina. Use of Marina Facilities or the Boat slip/storage space for the purpose of conducting business is prohibited, unless authorized in **WRITING** by the Marina. Upon termination of this Agreement, Boat Owner shall surrender the Boat slip/storage space in good order and repair, other than normal wear and tear resulting from ordinary use.

7. **UTILITIES.** Each slip shall be assessed a utility charge as listed on the Slip Rental Rate Sheet. The Marina has the right to modify the utility charge if a slip holder utilizes additional power other than provided in this Agreement. Marina expressly does not warrant the availability of utility services, and shall not be responsible for any damage or injury due to interruption or unavailability of utility services. Boat Owner has no permission to alter services or to control the use of electrical or water provided Marina.

8. **BOARDING AND REMOVAL OF VESSELS.** In case of perceived emergency, Marina is authorized to do whatever Marina deems reasonably appropriate, including boarding or moving the Vessel or taking any other action, without liability for damages or loss of any kind arising from such action or inaction, unless such damage or loss directly results from Marina's gross negligence or willful misconduct. Boat Owner agrees to pay for any work and supplies used by the Marina in such a perceived emergency. Marina retains the right of inspection of the premises and the right to inspect the Vessel from time to time for compliance with safety regulations. If the condition of the Vessel, with respect to maintenance, or for any other reasons, is, in the reasonable opinion of the Marina, dangerous to the Vessel, the premises or other Vessels in the Marina facilities, Marina may cancel this contract after notifying the Boat Owner. If the Boat Owner can make a reasonable effort within ten (10) days of such notice to remedy such condition, Boat Owner will retain this Agreement; but the Marina shall have the right in the meantime to take appropriate action to remedy the hazard created thereby. Marina shall have no duty, however, to inspect Owner's Vessel and the Marina does not hereby assume any liability whatsoever for the safe condition of the Vessel or condition of the demised premises attributable to the Boat Owner.

9. **INSURANCE:**

a) Boat Owner, at his/her sole expense, shall at all times during the course of this Agreement maintain, with an insurance company which is acceptable to the Marina, a Protection policy of insurance with limits of not less than \$300,000 and a deductible of not more than \$10,000 per occurrence, naming **Marina, as an additional insured.** Boat Owner shall also maintain a Personal Property and/or Hull and Machinery policy covering at least 100% of the present, actual cash value of the Vessel, with endorsements for extended perils, damage by fire, electrolysis and/or stray current, corrosion, vandalism, theft and burglary

b) Upon execution of this Agreement, Boat Owner shall provide evidence of the renewal of the policies no later than thirty (30) days prior to their expiration. All policies of insurance shall require thirty (30) days advance notice by the insurance company to Marina of any amendment or cancellation.

c) Outside service personnel must be approved by Marina and must be listed on our contractor list. Marina reserves the right to deny access to any Outside Service Personnel for any reason. Outside service personnel must deliver to Marina evidence of a standard certificate of workmen's compensation and liability insurance coverage in an amount equal to that carried by Marina. An Outside Service Personnel fee will be assessed by the Marina for outside service personnel performing work on the assigned vessel. Outside service personnel are required to sign in and out in the main office and are to work only in designated service areas from 8:30 a.m. to 3:30 p.m., Monday through Fridays, (NO WEEK-ENDS or HOLIDAYS) and are to adhere to standard yard policies as posted in the marina office. The Boat Owner is responsible for any and all cost and or damage caused by themselves or outside personnel in their employ to any other vessel or premises at the marina and for any expense incurred including clean-up of service area or inspection of the Boat Owner's Vessel following outside service personnel work.

d) Failure to comply with any of the terms of this Section shall, at the option of the Marina, be cause for immediate termination of this Agreement by Marina.

10. **LIEN FOR FEES AND SERVICES.** Marina shall have a lien on the Vessel, its appurtenances and contents pursuant to §43-31 et seq. of the Code of Virginia, 1950, as amended to secure the performance by Boat Owner of the terms and conditions of this Agreement, to secure payment by Boat Owner for all services and supplies provided by Marina to Boat Owner or on behalf of the Vessel and injury or damage caused or contributed to or by the Vessel or Boat Owner, including but not limited to damage to pier, piling, docks, wharfs, personal injury, damage to other boats or vessels, pollution by oil, its derivatives, or other hazardous materials, loss by sinking, collision, fire, or other losses. Notwithstanding termination of this Agreement, Marina shall be fully authorized to HOLD THE VESSEL AND SELL THE SAME in accordance with applicable lien law in the event the Boat Owner fails to perform the terms and conditions of this Agreement or fails to pay for services and supplies. So long as Marina continues to hold the Vessel, Boat Owner shall be deemed to be holding over and shall be responsible for all continuing charges and expenses incurred by Marina and Holding Over fees as more fully described in Section 11, *Holding Over*. Boat Owner expressly agrees that Marina shall also have the right to exercise any and all rights available to it under applicable Federal and State law, including but not limited to the right to arrest the Vessel and recover any and all expenses incurred in doing so as *custodia legis* expenses.

11. **HOLDING OVER.** If the Vessel remains at the boat slip/storage space following termination of this Agreement, and without otherwise limiting the rights of Marina hereunder, Boat Owner shall be deemed to be occupying the boat slip/storage space for purposes of transient storage and shall pay Marina the then applicable daily rate of transient storage for each day the Vessel continues to be stored at the boat slip/storage/space.

12. **RESPONSIBILITY FOR DAMAGE.** Boat Owner and Vessel shall be responsible for and shall promptly, upon demand, pay Marina for any costs or damage incurred by the marina or others due to acts or omissions of the Boat Owner, the Vessel, or Boat Owner's agents or guests. Boat Owner shall not release or permit to be released, by action or inaction, any hazardous waste or environmentally objectionable substances, including oil, gasoline or untreated sewage ("Hazardous Substances") into the water or land of Marina Facilities. The costs for which Boat Owner and Vessel may be responsible include, but are not limited to, the costs of absorbent booms, absorbent pads, disposal of

the Hazardous Substance, clean up oversight by governmental agencies and Marina personnel, and any legal fees, costs and penalties incurred in defense of any violations. Boat Owner shall be responsible for **IMMEDIATELY** and cleaning up any such release. Boat Owner shall **IMMEDIATELY** report any release to all appropriate government authorities and to the Marina Manager and shall keep Marina informed on a daily basis of Boat Owner's actions in reporting and cleaning up a release. Marina may take any action in lieu of, the provisions set forth in the Disclaimer of Liability and Agreement to Indemnify. Boat Owner and their personal representatives, heirs, assigns and successors in title hereby agree to defend, indemnify and hold harmless Marina and its agents, officers, stockholders, directors and their respective successors in title, of and from any cost, expense or liability resulting from negligence of the Boat Owners agents, invites, or from the unsafe condition of Boat Owners Vessel. The Boat Owner expressly assumes all risks to his/her Vessel; including (without limiting such risks) perils of the sea, fire, windstorm, flooding and all other hazards not the direct and proximate result of gross negligence of Marina or of their agents.

13. **TERMINATION FOR CAUSE; DEFAULT; REMEDIES.** This Agreement specifies certain breaches by Boat Owner that are so serious that Marina has reserved the right to immediately declare Boat Owner in default and terminate this Agreement or seek other remedies without the notice periods specified below. (See Section 9, Insurance) In all other cases, if Boat Owner breaches this Agreement and such breach continues for ten (10) days after Marina has given written notice of the breach to Boat Owner, Boat Owner shall be in default. Upon default, Marina may exercise any and all remedies available hereunder or at law. If Boat Owner is in default, Marina may elect to **TERMINATE** this Agreement by giving ten (10) days written notice to Boat Owner. Upon termination, Boat Owner shall immediately pay all sums due Marina and remove the Vessel from the dry storage yard and the Marina Facilities. Should Boat Owner fail to timely pay all sums due and fail to remove the Vessel from the Marina as required, the Vessel shall then be deemed abandoned. Marina shall be deemed an involuntary depository, and Boat Owner shall incur a per diem storage fee at the applicable daily rate for transient moorage. In the event of Boat Owner's default or termination of this Agreement without removal of the Vessel, Marina may either exercise its rights under section ten (10), *Lien for Fees and Services*, or, by notice to Boat Owner, suspend the right of Boat Owner to obtain access to Marina Facilities, to use the Boat slip/storage space and the Vessel **without the necessity to initiate any legal proceedings. The failure of Marina to enforce this provision for prior default(s) shall not constitute a waiver of the Marina to enforce this provision for future defaults by the Boat Owner.**

14. **TERMINATION WITHOUT CAUSE.** Marina may elect, at its sole option, to terminate this Agreement at any time. In such event, Marina shall send Boat Owner written notice of termination by first class mail to address written above (or to any new address provided by Boat Owner to Marina in writing). In such event, Marina shall refund to Boat Owner the pro-rated charges from the date of termination to the end of the current annual term of this Agreement (after deduction of any amounts due Marina).

15. **CUMULATIVE REMEDIES; NO WAIVER.** Marina's rights and remedies hereunder are cumulative, and pursuit of any remedy is not an election of remedies or a waiver of any other remedies. No waiver or forbearance of a breach of this Agreement shall be construed as a waiver or forbearance of any subsequent breach. The acceptance of any performance hereunder, or the payment of any amounts after the same has become due or at a time when any other default exists shall not constitute a waiver of the right to demand payment of all other amounts owed or a waiver of any other default then or existing thereafter.

16. **WARRANTIES.** Marina makes no warranties, express or implied, as to the condition of the Boat slip/storage space or Marina Facilities (including roads, lots, yards, buildings, walkways, gangways, ramps, equipment and related items) or the suitability of the Boat slip/storage space or the Marina for Owner's intended purposes. Boat Owner acknowledges that Boat Owner has had an opportunity to inspect Marina Facilities and the Boat slip/storage space prior to execution of this Agreement and agrees to accept both in their current condition and warn his/her crew, passengers and guests of any real or perceived defects and/or hazards found at the Marina Facilities or the Boat slip/storage space.

17. **WINTERIZATION.** All boats are required to be fully winterized for the winter season, i.e. usually November through March. **No unattended electric heaters are allowed.** Marina does not guarantee that electrical service shall be continuous. Marina shall have the right to disconnect any heating or air conditioning system, which in Marina's reasonable opinion, constitute a fire hazard. Marina will promptly notify the Boat Owner should this happen.

18. **NOTICES.** Any notice hereunder shall be in writing and shall be deemed to be given if and when it is personally delivered to the party, or five (5) days after it is deposited in the mail, addressed to the party at the addresses set forth in this Agreement. **BOAT OWNER IS RESPONSIBLE FOR INFORMING MARINA OF ANY CHANGES TO BOAT OWNER'S CURRENT ADDRESS AND/OR TELEPHONE NUMBER.**

19. **ATTORNEY'S FEES.** If either party default under this Agreement, the other party shall be entitled to recover any costs incurred, including attorney's fees in enforcing or protecting its rights, whether or not suit is filed.

20. **GOVERNING LAW AND VENUE.** All issues and questions concerning the construction, validity, enforcement, and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of law rules or provisions (whether of the Commonwealth of Virginia or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Commonwealth of Virginia. In addition, each party, on behalf of itself and its successors and assigns, agrees that the County of Gloucester, Virginia shall be the exclusive venue (to the extent that subject-matter jurisdiction exists) for all causes of action arising out of this Agreement. Boat Owner hereby agrees not to elect a trial by jury on any issue triable of right by a jury and waives any right to trial by jury fully with regard to all issues relating to this Agreement.

21. **SEVERABILITY; ENTIRE AGREEMENT.** If any provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any aspect, this shall not affect any other provisions and this Agreement shall be construed as if such provision had never been contained in this agreement. This Agreement is the entire Agreement between the parties and supersedes all prior Agreements. Except as otherwise provided in this Agreement, no changes to this Agreement are valid unless in writing and signed by both parties.

22. **ASSUMPTION OF RISK – DISCLAIMER OF LIABILITY – INDEMNITY.** The Boat slip/storage space and the Marina Facilities are to be used at the sole risk of Boat Owner and Vessel, and Boat Owner and Vessel hereby assume such risk. Marina assumes no responsibility for and shall not be liable for the care, releases Marina from any and all liability for loss, death, damage or injury (collectively "injury") to any person or property arising out of or in connection with the condition or use of the Vessel or the condition OR use of the Marina or its services. Boat Owner and Vessel shall indemnify and hold harmless the Marina from any claims, suits, actions, damages, liability or expense (including attorneys' fees) in connection with any injury (unless due to the willful misconduct or gross negligence of Marina) or arising from Boat Owner's breach of this Agreement. Marina is not to be considered under this Agreement as an insurer of Boat Owner's property and Boat Owner should secure such insurance as Boat Owner desires, Boat Owner is advised to remove all items not permanently attached to the Vessel while the Vessel is in the Marina. Under no circumstances shall the Marina be liable for indirect, consequential, special or exemplary damages, whether in contract or tort (including strict liability and negligence) with respect to Boat Owner's use of the Marina. Vessel, Boat Owner and Boat Owner's insurers agree to waive any right to petition for exoneration from or limitation of liability under the laws of the United States in the event the Vessel is involved in any casualty resulting in personal injury, death or property damage while stored at the Marina or in connection with this Agreement. In consideration of the Fee set forth in this Agreement, Owner agrees that Marina shall not carry any insurance for the protection of Owner or Vessel. My initials indicate my agreement. _____X

23. **SUBORDINATION.** Boat Owner agrees that this Agreement and the rights granted hereunder shall at all times be subject to and subordinate to the lien of any and all mortgages now or hereafter placed by Marina on any or all of Marina Facilities; and Boat Owner agrees to execute, acknowledge and deliver from time to time any instrument of subordination required by any mortgagee of Marina. Upon the transfer of any or all of Marina's interest in Crown Point Marina, regardless of whether such transfer is characterized as voluntary or by operation of law, conditional or unconditional, Boat Owner agrees to attorn to the transferee without the necessity of executing any additional documents, but further agrees to execute, acknowledge and deliver to such transferee, upon demand, any and all instruments of attornment required by such transferee. Boat Owner additionally agrees to execute and deliver to such transferee either prior to or simultaneously with such transfer a signed writing, acknowledging the status of this Agreement.

24. **ESTOPPEL STATEMENTS.** Boat Owner agrees that from time to time, upon not less than twenty (20) days' prior written request by Marina, Boat Owner will deliver to Marina a written statement, on a form provided by Marina, certifying that (i) this Agreement is unmodified and in full force and effect (or, if modifications have occurred, stating the modifications and that this Agreement as modified is in full force and effect); (ii) the dates to which the license fees and any other charges have been paid; and (iii) that Marina is not in default under any provision of this Agreement, or, if in default, the nature thereof in detail.

25. **SEVERE WEATHER AND OTHER EMERGENCIES.** Marina expects Boat Owner to have made suitable arrangements for safe sheltered anchorage during severe weather including without limitation tropical storms or hurricanes and Boat Owner warrants such arrangements have or will be made. Boat Owner may not assume that Marina Facilities, including without limitation the boat slip/storage space will be safe, sheltered anchorage during such period. In the event of impending severe weather or emergency, Marina, at its sole discretion, reserves the right to move or evacuate the Vessel or take such other actions as Marina deems appropriate at Boat Owner's sole risk and expense. **UNDERTAKING TO MOVE OR EVACUATE THE VESSEL SHALL NOT BE DEEMED AN ASSUMPTION OF RISK OR RESPONSIBILITY FOR THE SAFETY, SECURITY AND CARE OF THE VESSEL BY MARINA. MARINA SHALL NOT BE DEEMED A VAILEE OF THE BOAT.** Boat Owner agrees to reimburse Marina for any and all costs it incurs on Boat Owner's behalf in emergency situations. **NOTICE: PROVISIONS IN THIS AGREEMENT PROVIDING FOR NOTICE BY FIRST CLASS MAIL SHALL BE SATISFIED IN WEATHER AND OTHER EMERGENCY SITUATIONS IF THE NOTICE IS POSTED ON THE VESSEL.**

Boat Owner on his behalf and on behalf of the Vessel, acknowledges that he/her has read and fully understands this Agreement, including the Marina Rules set forth here-in. Owner certifies that the information provided is correct and agrees to promptly notify the Marina in the event of changes to the above information. Copies of current registration/documentation and Certificate of Insurance are required to be kept at the Marina Office for as long as the Vessel is at Marina Facilities. This Agreement is made and to be construed under the laws of the Commonwealth of Virginia.

"MARINA"
Crown Pointe Marina, Inc.
dba Crown Pointe Marina

"BOAT OWNER" AND "Vessel"

(Print Boat Owner's Name)

Marina Operations Manager

Sign Here (Boat Owner)

Date: _____

Date: _____