

# GRAND MARINA, LLC

## Winter 2023/2024 Outdoor Space Lease Agreement

This agreement for the outdoor space lease for the boat/trailer/vehicle (“Item”) between Grand Marina, LLC, a Michigan limited liability company (“Marina”), and the Item’s Owner/Authorized Agent (“Owner”) is subject to the Terms and Conditions set forth herein, which Owner has carefully read and acknowledges.

### GENERAL TERMS AND CONDITIONS

**Section 1. Grant of Lease:** Marina hereby grants to Owner the right to occupy and use, for or in connection with the storage of Owner’s Item (but no other property) subject to the terms of this Agreement, the Designated Item Space. Marina also hereby grants to Owner the right to use, on a non-exclusive and non-guaranteed basis, the parking area at the Marina. The grant of rights by Marina to Owner under this Section 1 is sometimes herein referred to as the “Lease”.

**Section 2. Term of Lease:** The Term of this Lease is September 15 through May 15. The Lease is subject to early termination by Marina as elsewhere described in this Lease. Upon expiration of the Term, (a) this Agreement and the Lease hereunder shall continue on a month-to-month basis, for a monthly rental fee equal to \$300 (“Monthly Rental”) subject to 30-days prior written notice by either Marina or Owner, or (b) the Term may be extended by a written extension agreement between Marina and Owner, in which event (x) the “Term” of the Lease thereafter shall mean the term set forth set forth in such written extension agreement, (y) the Monthly Rental under this Agreement thereafter shall be the Monthly Rental forth in such written extension agreement, and (z) any and all other provision of the written extension agreement that are inconsistent with any provisions in this Agreement shall supersede and amend such inconsistent provisions, and the “Agreement” shall mean this Agreement as so extended and amended.

**Section 3. Payment of Rental.** The Rental is payable in advance on the first day of the Term (or the first day of each month if month-to-month). Owner shall be assessed a late payment fee of \$50.00 for (a) any payment of Rental not timely received and (b) for any returned check. The Rental shall be payable at such address and in such manner as Marina may from time to time reasonably direct.

**Section 4. Access and Marina Facilities.** During storage, Owner is granted access to the Item during reasonable business hours. Owner must sign a registration form upon entering and exiting the property. Upon access, Owner is authorized to move the Item using Owner’s own vehicle, using due care and prudence so as to not damage any marina or other property (see indemnity below). While the Item is in storage, only limited work on the Item is permitted (cleaning, small part replacement, and similar minor work). Under no circumstances is owner permitted to sand, paint, perform major repairs or conduct any other activities that could adversely affect any other property or the facility. Owner shall pay for any damage or other adverse conditions caused by Owner. In addition to the use of the Designated Item Space, Owner and Owner’s invitees have limited use of the marina clubhouse and certain grounds, in common with the other owners, but subject at all times to the rules and regulations governing those facilities, which may be amended and changed at any time for any reason (including closure). Owner acknowledges that time spent at the Marina is an important part of the overall experience and that reasonable rules and regulations are important to assure the safe, quiet and peaceful enjoyment of the Marina by Owner and other occupants. Owner agrees to abide by the “Grand Marina Rules” as amended, and incorporated by reference as part of this agreement (posted onsite). Owner agrees that any violation of the “Grand Marina Rules” may result in immediate eviction. Owner agrees to abide by the decision of Marina with respect to any such violation which may include immediate termination of this lease and eviction of Owner and the Item without refund.

**Section 5. Insurance.** Owner shall maintain in force, throughout the Term, and with carriers licensed to do business and in good standing in the State of Michigan, (a) fire and casualty insurance, with coverage at full replacement value, on Owner’s craft and all personal property located on Owner’s Item, and (b) comprehensive general liability insurance with minimum coverage amounts of \$500,000 per occurrence and in the aggregate, insuring against death or injury to any person and damage or loss or loss of use of any property. Owner shall cause Owner’s insurer to issue endorsements to both such policies (x) naming Marina as an additional insured, and (y) waiving any right of subrogation against Marina. Within 10 business days of the commencement of the Term, Owner and shall furnish to Marina certificates of insurance evidencing such coverage (and evidencing that subrogation against Marina has been waived and that Marina is named as an additional insured). Upon the written request of Marina at any time during the Term, Owner shall, within 10 business days of such request, furnish to Marina certificates of insurance evidencing that all of the coverage (including waivers of subrogation and the inclusion of Marina as an additional insured) remains in full force and effect.

**Section 6. Owner’s Maintenance & Related Obligations.** Owner shall maintain Owner’s Item and the Designated Item Space (including any appurtenant utility connections) in a safe and clean condition, and shall keep the Marina deck free and clear of obstructions that could pose any danger to others using such Marina deck. Without limiting the foregoing, Owner shall secure and safely route all utility hoses and cables so as not to pose any hazard across any area of the dock or along any fender. Owner shall secure any dock box so as not to blow open during high winds, and shall be solely responsible for any damage caused by an improperly secured dock box. Owner shall not discharge or otherwise dispose of sewage, trash, fuel oil, or any other contaminant in or

on the Marina property, or into the water surrounding the Marina property, except in a manner and at a time expressly approved by Marina. In Owner's use of the Designated Item Space and Owner's Item, Owner shall comply with all applicable local, state, and federal environmental and other rules, regulations, and laws. Owner shall promptly, at its sole cost and expense, cause to be repaired in a good and workmanlike manner any damage caused by Owner to the Designated Item Space, or the appurtenances thereto, or to the Marina. Owner shall not modify or alter any portion of the Designated Item Space or any of Marina deck or facilities appurtenant to the Designated Item Space without the prior written consent of Marina, which consent may be withheld or denied in Marina's sole discretion.

**Section 7. Indemnity.** Owner shall fully and forever indemnify, hold harmless, and defend Marina from and against any and all claims, demands, causes of action, liabilities, damages, and costs (including costs of court and attorneys' fees) in connection with, related to, or arising out of any action or omission by Owner – or by any of Owner's invitees, agents, contractors, or subcontractors – in any way related to Owner's Item and/or the Designated Item Space. **Owner's indemnity, hold harmless, and defense obligations shall apply even in instances in which Marina or any third party is negligent; accordingly, Owner hereby acknowledges that Owner is obligated to indemnify, hold harmless, and defend Marina even against the consequences of Marina's own negligence. SEE NOTICE BELOW REGARDING CONDITION OF MARINA PROPERTY.**

**Section 8. Marina's Disclaimers and Owner's Waivers.** Owner acknowledges that: (a) Marina shall have absolutely no obligation to provide any security to persons or property at the Marina; (b) Marina shall have absolutely no obligation to carry any insurance of any nature, for its own benefit or for the direct or indirect benefit of any other party, including Owner; (c) Owner shall have absolutely no liability to Owner or to any of Owner's invitees, agents, contractors, or subcontractors for any claim, liability, or damage to person or property; and (d) Owner accepts the Designated Item Space, the appurtenances thereto, and any and all other portions of the Marina "as is, where is," with all faults and defects, whether latent or patent. Owner waives any such claim it may have against Marina arising out of any of the foregoing. **SEE NOTICE BELOW REGARDING CONDITION OF MARINA PROPERTY.**

**Section 9. Condition of Marina Property.** Owner acknowledges that certain portions of the Marina property, including parking areas, decks, docks, seawalls, waterways, and other areas within the Marina property may be in poor condition and in a state of extreme disrepair. Many areas of the Marina property are dangerous and could result in injury or death. Owner acknowledges these defects and understands that Owner is entering into this Lease at a discount due to these conditions. **LESSEE, FOR LESSEE AND ANY PARTIES ASSOCIATED WITH LESSEE, INCLUDING LESSEE'S GUESTS, HEREBY ACKNOWLEDGES THE CONDITION OF THE MARINA, THE HAZARDS, BOTH APPARENT AND HIDDEN, AND HEREBY ACCEPTS ALL CONDITIONS AS-IS-WHERE-IS, WITH ALL RISKS INHERENT THEREIN. LESSEE ACKNOWLEDGES PERSONAL LIABILITY FOR ANY INCIDENTS AND WILL INDEMNIFY LESSOR, AND ANY AFFILIATE OF LESSOR, IN ACCORDANCE WITH THIS LEASE, INCLUDING, BUT NOT LIMITED TO, THE PROVISIONS OF SECTIONS 7 AND 8.**

**Section 10. Assignment and Subletting.** The Lease created by this Agreement and the rights granted hereunder are personal to Owner. Owner may not assign all or any part of its rights under this Agreement, or otherwise sublet the Designated Item Space or any part thereof, without the prior written consent of Marina, which consent may be withheld or denied in Marina's sole discretion. This Lease shall be binding upon and inure to the benefit of Marina and its successors and assigns.

**Section 11. Grant of Security Interest.** To secure all of the obligations of Owner under this Agreement, Owner hereby grants unto Marina a security interest in and to (a) Owner's Item and (b) all of Owner's personal property, fixtures, and equipment located on or used in connection with Owner's Item and/or the Designated Item Space (collectively, the "Secured Property"). Promptly at Marina's request, Owner shall execute and deliver to Marina all UCC financing statements and other documents requested by Marina to evidence and perfect the security interest granted herein. Marina shall have the right to make all UCC filings deemed necessary or appropriate by Marina to evidence and perfect the security interest granted herein. Upon any Owner Event of Default (hereinafter defined) by Owner, Marina shall have all of the rights of a secured party under the Michigan Uniform Commercial Code in instances where the debtor is in default, including without limitation the right to sell or cause to be sold, in any one or more public or private sales, or otherwise realize upon the value of, any or all of the Secured Property, subject to the provisions of the Michigan Uniform Commercial Code. Unless otherwise provided by law, any requirement of reasonable notice of any such sale shall be satisfied if Marina gives to Owner such notice, in accordance with the notice provisions of this lease, ten days before any such sale. Upon notice by Marina to Owner that any Event of Default exists, and for so long as such Event of Default remains uncured, Owner shall have no right to remove any of the Secured Property from the Designated Item Space, and Marina shall have the right to take possession of such Secured Property, and take steps to hinder any attempt at its removal, without any liability to Owner for trespass, conversion, or otherwise. Owner agrees that any unpaid amounts due Marina under this Agreement, and any other charges permissible under the law, constitute a lien on Owner's Item in favor of Marina pursuant to the Michigan Marina and Itemyard Storage Lien Act (MCL 570.371 et al). Owner agrees to pay for Marina's reasonable attorneys' fees and costs incurred in enforcing the provisions of this Agreement.

**Section 12. Default by Marina.** In the event of any default by Marina, Owner shall give to Marina written notice of such default, specifying the nature of the default. Marina shall have 10 days within which to cure such default. If Marina timely fails to cure such default, then Owner shall have the right, by giving written notice to Marina, to terminate this Agreement, with such termination begin

effective as of the final day of the month on which such notice of termination is given. Owner's right to terminate shall be Owner's sole remedy under this Agreement in the event of such a Marina default, and Marina shall not on any account be liable in money damages (including without limitation for any attorneys' fees or costs of court) to Owner. Notwithstanding the foregoing, Owner shall have no right to give Marina any notice of default, and shall have no right to terminate this Agreement before the expiration of its stated Term, at any time that Owner has any Monthly Rental due to Marina, or is otherwise in default of any of Owner's other obligations under this Agreement.

**Section 13. Default by Owner.** If Owner fails to make payment of any Rental within five days of delivery by Marina of notice of any Rental that is past due, or fails to cure any other default under this Agreement within ten days of delivery by Marina of such default, then an "Owner Event of Default" shall exist and Marina shall have the following remedies, which shall be cumulative rather than exclusive:

- the right to terminate this Agreement, and the grant of the Lease hereunder, which termination right may be exercised by written notice by Marina to Owner, and which termination shall be effective as of the date of such notice;
- the right to immediately enter upon and repossess the Designated Item Space and all appurtenances thereto, by forcible entry and detainer suit, or otherwise;
- the right to remove Owner's Item (and any personal property then inside Owner's Item from its mooring, and to store Owner's Item (and such personal property), with all risk of loss belonging solely to Owner, and with no liability whatsoever to Marina, and with all costs of storage being deemed to be including among the past due Monthly Rental under this Agreement;
- the right to make any required repairs to the Designated Item Space, or to expend any other sums required to cure any defaults by Owner under this Agreement, with all such sums expended being deemed to be included among the past due Rental under this Agreement;
- the right to terminate Owner's rights of possession with regard to the Designated Item Space and all appurtenances thereto, without demand or notice of any kind and without terminating this Agreement, in which event Marina may, but shall be under no obligation to, relet all or any part of the Designated Item Space for credit to Owner's account, on such terms and conditions as Marina in its sole discretion shall deem appropriate; and
- the right to exercise Marina's rights under the Michigan Uniform Commercial Code with regard to the security interest granted to Marina in the Secured Property.

In the event of any Owner Event of Default, Marina shall have the right to recover from Owner, whether by way of sale of the Secured Property, or by means of execution and levy on a judgment, or by means of voluntary payment by Owner, or by some combination thereof: (a) all Rental that is past due, including any late payment fees due in connection therewith, (b) all Rental to come due during the remainder of the Term (assuming that Marina has not terminated this Agreement and the Lease hereunder), (c) Marina's reasonable and necessary attorneys' fees and costs of court, (d) pre-judgment at the lesser of 8% per annum or the maximum allowed by law, and (e) post-judgment interest at lesser of 10% per annum or the maximum allowed by law.

**Section 14. Notice.** Any notice required or permitted to be given to Marina shall be given by certified or registered United States mail, postage prepaid, to the address of Marina set forth on the first page of this Agreement, or to any revised address of which Marina may from time to time notify Owner. Such notice to Marina shall be deemed to have been given on the postmark date or, if any such notice is not postmarked within the State of Michigan, five days after the postmark date. Any notice required or permitted to be given by Owner may be given either by (a) certified or registered United States mail, postage prepaid, to the address of Owner set forth on the first page of this Agreement, or to any revised address of which Owner may from time to time notify Marina, or (b) via email to the email address of Owner set forth on the first page of this Agreement. Any mailed notice by Marina shall be deemed to have been given on the postmark date, and any email notice by Marina shall be deemed to have been given at the time the email is sent, and shall be deemed to have been properly given and received if sent to the email address of Owner reflected on the first page of this Agreement, regardless of whether actually received by Owner.

**Section 15. Relocation of Designated Item Space.** Marina shall have the right, from time to time, and without notice to Owner, to change the location of the Designated Item Space.

**Section 16. Miscellaneous.**

- This Agreement (including the Grand Marina Rules referred to herein) sets forth the entire agreement between Marina and Owner, and supersedes and takes the place of all prior representations, warranties, and agreements, and may be amended only by written instrument signed by the party to be bound.
- This Agreement shall be governed by the laws of the State of Michigan, and exclusive venue for the adjudication of any dispute arising under this Agreement shall be in a court of competent jurisdiction in Ottawa County.
- If any provision or portion of a provision of this Agreement is determined to be unenforceable, then the unenforceable provision shall be deemed to have been severed and excised from the Agreement, and the remainder of the Agreement shall remain in full force and effect.
- Owner warrants that Owner is the owner of Owner's Item, free and clear of any adverse liens or claims, save and except

claims by any lender of a security interest therein arising prior to the Date of this Agreement.