

Draft
LOT AND BOAT DOCK LICENSE AGREEMENT

LICENSOR: **TOWN OF FALMOUTH**
271 Falmouth Road
Falmouth, Maine 04105

LICENSEE: **property owner**

PREMISES: That certain strip of land owned by the Licensor and lying between the low water mark of Casco Bay and land of the Licensee as depicted on Town of Falmouth Tax Maps as [insert map/lot #] (the "Premises") and further described in Exhibit A.

TERM: The term of this License shall commence on _____, 2013 and shall terminate on April 30, 2014 (the "License Term"), unless sooner terminated in accordance with the terms and conditions hereof.

Provided that Licensee is not in default of any covenant, agreement or obligation contained in this License during the License Term or any subsequent Renewal Term, and Licensor has not exercised its right to terminate this License as set forth in Articles VII or VIII hereof, this License shall automatically renew on May 1, 2014 for one (1) year and for successive one (1) year terms (the "Renewal Terms" and each individually a "Renewal Term") upon the same terms and conditions applicable during the License Term as set forth herein. The parties agree that this License creates no interest in land or real estate and in no event shall be deemed a lease or sublease, but instead creates only a freely revocable license from the Licensor to the Licensee.

**LICENSE FEE/
RENEWAL FEE:** Licensee shall pay to Licensor the sum of One Dollar (\$1.00) in advance of the Term of this License (the "License Fee"). No additional fee shall be due to Licensor in advance of any Renewal Term.

In consideration of the mutual covenants contained in this License and other valuable consideration paid by Licensee, Licensor does hereby agree to permit Licensee the use of the Premises, upon and subject to the terms and conditions set forth in this License, and subject to all liens, encumbrances, easements, agreements, covenants, restrictions, zoning laws and governmental or any other regulations now or hereafter affecting or governing the Premises.

ARTICLE I. DELIVERY OF PREMISES; LICENSOR'S IMPROVEMENTS. At the commencement of the License Term, Licensor shall deliver the Premises to Licensee. Licensee agrees to accept possession of the Premises "as is" without warranty or representation by Licensor, either express or implied, as to its condition or repair. Without limiting the generality of the foregoing, Licensor makes no representations or warranties as to the adequacy of the

Premises for the intended use by Licensee. The Licensors shall have no obligation to maintain, improve or alter the Premises.

ARTICLE II. SAFETY. Licensee acknowledges and agrees to exercise this License and use the Premises at Licensee's own risk and peril. Licensee acknowledges and agrees that Licensee alone is responsible for the safety of Licensee and any guests or invitees of the Licensee on the Premises. Licensee agrees to establish adequate safety procedures when at or using the Premises.

ARTICLE III. USE OF PREMISES. Licensee shall use the Premises for access to Casco Bay and to maintain and use the [existing/new temporary/permanent boat dock (ramp and float)] that Licensee has installed on the Premises as a boat dock and launch, all for personal and family recreational use only (the "Permitted Use"). Licensee shall not use or alter the Premises for any other use or purposes other than accessing Casco Bay and the boat dock installed on the Premises, and for launching or removing Licensee's boats or other watercraft to and from Casco Bay. Licensee shall not use or alter the Premises in connection with any commercial activities.

ARTICLE IV. PUBLIC USE. Nothing in this License shall limit the rights of the public to access and cross the Premises, including, without limitation, the right to cross over any improvements installed by the Licensee in order to pass through the premises.

ARTICLE V. REPAIRS; COMPLIANCE WITH LAWS. Licensee shall promptly report any damage to the Premises to Licensors. Licensee shall be responsible for any damage caused by Licensee or Licensee's guests and invitees to the Premises and shall promptly reimburse Licensors for the costs to repair the same. Licensee, and Licensee's guests and invitees, shall comply with all federal, state and municipal laws, ordinances, orders and regulations affecting the Premises.

ARTICLE VI. LICENSEE'S COVENANTS. Licensee covenants and agrees as follows:

- (a) To maintain the Premises in a clean, neat and sanitary condition. Licensee shall dispose of its trash off site.
- (b) Not to make any use of the Premises other than to access Casco Bay and as a boat dock and launch. Not to make any use of the Premises which is improper, offensive or illegal, nor to permit any act or thing to be done on the Premises which shall constitute a nuisance or which may make void or voidable any insurance on the Premises.
- (c) To allow the Licensors access over Licensee's property at all reasonable times for inspections of the Premises, such access point or points to be approved by the Licensee, Licensee's approval not to be unreasonably withheld, conditioned or delayed.
- (d) To pay all costs and expenses, including reasonable attorneys' fees, incurred by Licensors in enforcing the provisions of this License in the event of any breach or default by Licensee.

ARTICLE VII. ASSIGNMENT. This License is personal to the Licensee and is assignable but only to the owner or owners of Tax Map U02-005. The Licensee shall provide notice of the assignment within thirty (30) days of its effective date.

ARTICLE VIII. DEFAULTS BY LICENSEE. If default shall be made by Licensee in the performance or compliance with any of the agreements, terms, covenants or conditions in this License, Licensors, at any time, may give written notice to Licensee specifying such event of default or defaults and stating that this License is revoked and is terminated, and thereupon all rights of Licensee under this License shall thereby expire and terminate immediately.

Upon any such revocation or termination of this License, Licensee shall remove the dock within fourteen (14) days of receipt of such notice, quit and peacefully surrender the Premises to Licensors, and Licensors, upon or at any such revocation or termination, may without further notice enter or re-enter the Premises and possess and repossess itself thereof, by summary proceedings or any other process available to Licensors under Maine law, and may dispossess Licensee and remove Licensee and all other persons and property from the Premises without being liable to prosecution therefor, and may have, hold and enjoy the Premises.

Licensee covenants and agrees, in the event of any such revocation or termination of this License, or summary proceedings, to remain liable to Licensors for all charges incurred by Licensors in enforcing or prosecuting the same, including attorneys' fees, interest and penalties therefore, and to further be liable to Licensors for all costs and expenses of returning the Premises to the same condition as existed upon the commencement of the License Term. Any and all rights and remedies which Licensors may have under this License upon any breach shall be in addition to such rights and remedies as Licensors may have at law or in equity.

ARTICLE IX. TERMINATION BY LICENSOR WITHOUT CAUSE. Notwithstanding anything to the contrary contained in this License, during the License Term and any Renewal Term, Licensors may, in its sole discretion and without cause, terminate this License at any time by giving written notice to Licensee of such termination. Thereupon the Licensee shall remove the dock within sixty (60) days of receipt of the notice and quit and peacefully surrender the Premises to Licensors.

ARTICLE X. SEWER LINE WORK. The Licensors retain all rights to maintain, repair, improve, modify, relocate and replace the Licensors' sewer line, which crosses the Premises, and related improvements. Upon fourteen (14) calendar days' notice, the Licensee shall remove the dock if the Licensors deem removal necessary for work on the sewer line. If the Licensors fail to remove the dock within the time prescribed by the Licensors, the Licensors may cause the dock to be removed at the Licensee's expense. In an emergency situation, the Licensors may remove the dock without notice to the Licensee. In no event shall the Licensors be liable for damage to the dock or be required to replace the dock.

ARTICLE XI. SHORELINE MAINTENANCE. Licensee may not alter the Premises in any way without prior written consent of the Licensors, including, but not limited to, mowing, pruning, trimming, removal or replacement of vegetation, removal of rocks or stabilization material. Licensors retain the right, in its sole discretion, to maintain and alter slopes on the

Premises to address slope stability, including, but not limited to, land, rocks, stabilization materials and outfalls.

ARTICLE XII. WAIVERS. Failure of Licensor to complain of any act or omission on the part of the Licensee, no matter how long the same may continue, shall not be deemed to be a waiver by Licensor of any of its rights hereunder. No waiver by Licensor at any time, express or implied, of any breach of any provision of this License shall be deemed a waiver of a breach of any other provision of this License or a consent to any subsequent breach of the same or any other provision.

ARTICLE XIII. NOTICES. All notices and other communications authorized or required hereunder shall be in writing and shall be either delivered in person or sent to the address of the recipient set forth on the first page of this License by certified mail or registered mail, return receipt requested, postage prepaid, and any such notice or other communication shall be deemed to have been given when so delivered or two (2) days after so mailed to the party to whom such notice or other communication shall be addressed.

ARTICLE XIV. INDEMNIFICATION AND HOLD HARMLESS. Licensee covenants and agrees that he will indemnify and hold Licensor, its officers, employees, agents, successors and assigns, harmless from and against any and all liability, damage, penalties, actions, suits, claims or judgments arising from the injury to or death of any person, or property damage sustained by anyone from any cause whatsoever (including the cost of defending against any such claims or enforcing this indemnity, and including reasonable attorneys' fees), arising directly or indirectly out of or in connection with the use of the Premises and the dock situated thereon by Licensee, its guests and invitees. The indemnification and hold harmless obligation of Licensee described in this paragraph is in addition to and not a waiver of Licensor's immunities or limitations on damages provided to Licensor under the Maine Tort Claims Act.

ARTICLE XV. LICENSOR DEFAULT. Licensee agrees that Licensor shall not be in default of any of its obligations hereunder unless such default shall remain uncured for more than thirty (30) days following Licensor's receipt of written notice from Licensee specifying the nature of such default, or for such longer period as may be reasonably required to correct such default.

ARTICLE XVI. INVALIDITY OF PARTICULAR PROVISIONS. If any term or provision of this License or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this License shall be valid and enforced to the fullest extent permitted by law. This License shall be governed by the laws of the State of Maine.

ARTICLE XVII. HEIRS, SUCCESSORS AND ASSIGNS. Except as otherwise expressly provided in this License, the terms and provisions of this License shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns, respectively, of Licensor and Licensee.

ARTICLE XVIII. ENTIRE AGREEMENT. This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not contained in this instrument shall have any force or effect. This License shall not be modified in any way except by a writing executed by both parties. Licensee agrees and acknowledges that the relationship between the parties hereto is that of licensor and licensee only, and that this Agreement does not constitute a lease or otherwise create a landlord and tenant relationship between Licensor and Licensee. Licensee hereby waives the right to claim the protections or provisions of State or Federal law which may from time to time be granted to tenants in a landlord and tenant relationship.

THIS INSTRUMENT SHALL NOT BE RECORDED AT THE REGISTRY OF DEEDS

IN WITNESS WHEREOF, the Parties hereto have set, or caused their duly authorized representatives to set, their hands and seals this ____ day of [month], 2013.

LICENSOR:
TOWN OF FALMOUTH

Witness

By: Nathan A. Poore
Its: Town Manager

LICENSEE:

Witness

[property owner]