



(i) Licensee shall only be permitted to construct in the License Area such boat dock improvements substantially in conformance with the specifications more particularly set out on Schedule 1(a)(i) attached hereto and incorporated herein by reference for all purposes, and as such boat dock is approved in writing in advance by Licensor in its sole and absolute discretion, including, without limitation, the approval by Licensor of the contractor to construct and install same (individually and collectively, the "Improvements"). Request for approval must be in writing and must include a copy of all proposed plans, specifications and drawings, and of the construction contract or proposal and proof of good standing of the proposed contractor, and shall be sent to Licensor at the address provided for in this Agreement. Any and all approvals by Licensor of plans, drawings, specifications and contractors shall be solely for the benefit of Licensor, and shall not be relied on in any way by Licensee. Licensee's submission of a request for approval as aforesaid shall be deemed to be Licensee's agreement and representation to Licensor of Licensee's acceptance and approval of the proposed contractor(s) plans, specifications and drawings, and that Licensee is not relying on Licensor's approval of same.

(ii) No materials may be placed, nor may there be any commencement of construction of any Improvement, in the License Area until Licensee has received Licensor's written approval and Licensee has provided Licensor with proof of insurance satisfactory to Licensor, and with copies of any and all permits and licenses for such Improvements, satisfactory to Licensor, required to be issued by the City (as defined herein) and the Corps (as defined herein).

(iii) Once such construction has commenced, Licensee shall diligently cause any and all approved Improvements to be completed within the time frame stated in the construction proposal approved by Licensor and in strict accordance with the plans, specifications and drawings approved by Licensor. Licensee shall not terminate any contract, nor change or add any contractors, nor modify or amend any plans, specifications or drawings, once approved by Licensor unless such modifications or amendments are approved in writing by Licensor.

(iv) Licensee shall promptly pay when due any and all costs and expenses related to the Improvements, including the construction thereof, and shall not permit any lien, encumbrance or other claim to be asserted against the Canal, the License Area or Licensor. Licensee shall, at Licensee's sole cost and expense, obtain and tender to Licensor full and final releases in recordable form of all such liens, encumbrances and claims within thirty (30) days of the assertion thereof.

(v) Licensee shall remove from the License Area any and all materials and Improvements which do not comply with all of the foregoing within ten (10) days from the date of Licensor's request therefor, and if Licensee fails to so do, this Agreement shall immediately and automatically terminate, and Licensor shall retain the License Fee (as defined herein) and shall have the right to remove all of the Improvements (or portions thereof) which are situated within, over and/or under the License Area, and Licensee shall promptly reimburse Licensor upon request, for any and all out-of-pocket expenses incurred by Licensor in connection with such removal.

[Signature Page to License Agreement—Geno and Mary Tolari

(b) Subject to the terms and conditions hereof, Licensor hereby grants to Licensee the license for recreational access by boat or other similar watercraft to the Lake from the License Area via the navigable portions of the Canal as may exist from time to time, such license to exist on a non-exclusive basis with Licensor and any and all others which Licensor may from time to time permit the use thereof, without notice to or the consent of Licensee.

(c) IT IS UNDERSTOOD AND AGREED THAT LICENSOR IS NOT MAKING AND SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSE AREA OR THE REMAINING PORTIONS OF THE CANAL, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR REPRESENTATIONS AS TO MATTERS OF TITLE, OR PHYSICAL OR ENVIRONMENTAL CONDITIONS, AVAILABILITY OF ACCESS, INGRESS OR EGRESS, GOVERNMENTAL APPROVALS, COMPLIANCE WITH GOVERNMENTAL REGULATIONS OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING SUCH LICENSE AREA OR THE REMAINING PORTIONS OF THE CANAL, INCLUDING, WITHOUT LIMITATION, (i) THE CONDITION, MERCHANTABILITY, MARKETABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF THE LICENSE AREA OR THE REMAINING PORTIONS OF THE CANAL; (ii) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIAL INCORPORATED INTO ANY OF THE LICENSE AREA OR THE REMAINING PORTIONS OF THE CANAL; AND (iii) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE LICENSE AREA OR THE REMAINING PORTIONS OF THE CANAL. LICENSEE HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY MADE BY LICENSOR AND/OR ANY AGENT, BROKER OR OTHER REPRESENTATIVE OF LICENSOR. LICENSEE REPRESENTS THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE AND REVIEW AND THAT OF LICENSEE'S ENGINEERS, AGENTS AND CONSULTANTS OF ALL SUCH PROPERTY IN ENTERING INTO THIS AGREEMENT OR USING BOTH THE LICENSE AREA AND/OR ALL PORTIONS OF THE CANAL. LICENSEE IS FAMILIAR WITH THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF ALL SUCH PROPERTY AND THE ACCESS TO THE LAKE VIA THE NAVIGABLE PORTIONS OF THE CANAL. BY THIS AGREEMENT, LICENSEE HEREBY ASSUMES ANY AND ALL RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY LICENSEE'S INSPECTIONS AND INVESTIGATIONS OF THE LICENSE AREA AND/OR THE CANAL. LICENSOR GRANTS THE LICENSE REFERRED TO HEREIN TO LICENSEE, AND LICENSEE ACCEPTS LICENSE AREA AND LICENSEE'S USE OF THE CANAL "AS-IS", WHERE-IS", WITH ALL FAULTS.

2. Licensee's Rights to Adjacent Land; No Rights Outside of License Area.

[Signature Page to License Agreement –Geno and Mary Tolari

(a) Licensee represents, warrants and agrees that Licensee is the sole holder of an easement in and to the real property bordering the License Property, which is more particularly described or depicted on Exhibit "C" attached hereto and incorporated herein by reference for all purposes (the "Adjacent Land"), to which Licensee shall utilize in obtaining access to the License Area and any and all Improvements thereon, and that Licensee will, is and will continue to be the sole holder of the easement interest in and to the Adjacent Land and any and all Improvements constructed on the License Area. Notwithstanding anything herein to the contrary, in the event Licensee's easement interest in and to the Adjacent Land terminates for any reason (except in the event that Licensee purchases such Adjacent Land), the rights granted to Licensee hereunder shall immediately terminate at such time as the easement interest thereon terminates.

(b) Licensee hereby agrees and acknowledges that Licensor is the owner of both the Canal and the License Property, and that Licensee has no right, title or interest therein whatsoever, except as is expressly granted in this Agreement. Licensee acknowledges that the presence of any Improvements, equipment and/or other materials in the Canal outside of the License Area in the absence of or in violation of this Agreement will constitute a trespass and an encroachment on the property of Licensor.

**3. Licensor's Access to License Property and the Canal.** Licensor hereby reserves the right, without obligation, to perform any and all beautification, maintenance and/or other work such as dredging within the Canal boundaries, maintenance of the Canal bulkhead and/or the construction of other improvements within the Canal. Any and all such maintenance, construction and/or improvement activities will be at the sole and absolute discretion of Licensor. As such, Licensor and its contractors, subcontractors, representatives and agents, after providing to Licensee prior written notice, shall have the right to come upon the License Property, at any time, in order to perform any and all such maintenance and other work as may be reasonably necessary. Further, Licensor reserves the right to close or otherwise restrict or grant access to or use of any portion of the Canal (including, without limitation, that portion made a part of the License Area) for any activities at any time and from time to time without notice to any party as may be reasonably necessary for such work.

**4. Compliance of Construction.** Upon Licensor's request, Licensee shall tender to Licensor proof of compliance of all Improvements with any and all laws, rules, regulations, ordinances and requirements of the City of League City, Texas (the "City") or the United States Corps of Engineers (sometimes, the "Corps"), including but not limited to copies of any and all permits and licenses issued by the City and/or the Corps. Failure to so do shall cause an immediate, automatic termination of this Agreement.

**5. Maintenance of Improvements and License Area; Construction and Maintenance of Adjacent Property Fence.**

(a) Licensee shall maintain in a good, clean and safe condition any and all Improvements and shall also maintain in a good, clean and safe condition the shoreline of and Canal bulkhead along the License Area. Any and all vegetation planted in such area shall be maintained by Licensee at all times during the continuation of this License. Licensee shall not

[Signature Page to License Agreement –Geno and Mary Tolari

backfill any such land, nor shall Licensee permit or cause any erosion of such land nor any silting or other flow or movement of any dirt, sand, sod, rocks or the like, into the Canal or any part thereof from the Adjacent Lot to the License Area or from the License Property to the Canal. In addition to all other limitations provided herein, no Improvements shall be constructed in the License Area in such a way that destroys the vegetation planted and maintained in such area. Licensee shall be responsible for any and all costs and expenses and all damages arising out of any breach of the foregoing, and shall pay Licensor upon request the full amount of same. In the event Licensee fails to maintain the License Area accordingly, Licensor shall have the right to immediately terminate the license provided for herein by providing Licensee with written notice of such termination.

(b) Licensee shall be responsible for any and all costs and expenses and all damages to the vegetation banks; which banks are required by the United States Corps of Engineers. To the extent that said vegetation banks are damaged, Licensee shall be responsible to immediately make repairs to the standard required by the United States Corps of Engineers within five (5) business days of said damage. In the event Licensee fails to maintain the vegetation banks accordingly, Licensor shall have the right to restore the banks to their pre-damaged condition. Licensee shall immediately reimburse Licensor for any and all costs and expenses incurred by Licensor to repair such damage.

(c) In addition to the other obligations of Licensee hereunder, prior to the Effective Date, Licensee (or any previous owner of the Adjacent Land) shall have constructed along the entire portion of the Adjacent Property which abuts the License Property a 4' high, wrought iron fence (the "Adjacent Property Fence"), such fence to serve as a separation of the Adjacent Property from the License Property. The Adjacent Property Fence is to be constructed solely on the Adjacent Property (and no more than one (1) foot from the property line separating the Adjacent Property from the License Property) and shall incorporate such design, methods, materials, plans and specifications and be constructed by such contractors and other third parties, all as have been approved by Licensor in Licensor's sole and absolute discretion, and is intended to be consistent or harmonious with similar work which may be undertaken by Licensor on other similarly situated lots. Throughout the existence of the license granted herein, Licensee shall be required to maintain the Adjacent Property Fence in a neat, safe and sound condition, making any and all repairs and replacements as may be necessary to maintain the Adjacent Property Fence in a first-class condition (subject to any removal and/or replacement of rights to the Adjacent Property Fence Licensor maintains under any other written agreement by and between Licensor and Licensee. In the event Licensee shall fail to maintain the Adjacent Property Fence accordingly, Licensor shall have the right to immediately terminate the license provided for herein by providing Licensee with written notice of such termination.

(d) Notwithstanding anything herein to the contrary, Licensor's Improvements shall be restricted to a height of 4' on the License Property. This restriction shall remain in effect so long as the License is in effect.

**6. Term of License, License Fee, Taxes and Insurance.**

[Signature Page to License Agreement –Geno and Mary Tolari

(a) (i) Subject to any termination rights contained in this Agreement, the term of this Agreement shall be for one (1) year from the date hereof, commencing on the Effective Date, and shall be automatically renewed for consecutive one-year terms thereafter through the payment to Licensor by Licensee of the License Fee (as defined below) applicable to the term of the renewal as provided herein on or before thirty (30) days prior to the end of the then-current license year (as defined below).

(ii) In the event Licensee desires to discontinue the license granted herein and terminate this Agreement, Licensee shall send written notice to Licensor regarding such intent to not renew the license and terminate this Agreement on or before thirty (30) days prior to the end of the then-current license year.

(iii) Notwithstanding anything in this Section 6(a) to the contrary, in the event Licensee has not paid the required License Fee for the license year on or before thirty (30) days prior to the end of the then-current license year, this Agreement and the license granted herein shall automatically terminate at the end of the then-current license year.

(b) Concurrently herewith for the first one-year period ("license year") of this Agreement, Licensee shall pay to Licensor a license fee in the amount of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00). Thereafter, for each successive license year, the fee for the license granted herein (including that for the initial license year, the "License Fee") shall be adjusted to reflect increases in the Consumer Price Index for "All Urban Consumers, U.S. City Average, All Items" issued by the Bureau of Labor Statistics of the United States Department of Labor. The adjustments to the License Fee for each license year shall be determined by multiplying the then-current License Fee in effect by a fraction, the numerator of which is the index number for the last month before the adjustment and the denominator of which is the index number for the first month of the initial license year or the then effective license year, as the case may be. If the product is greater than the License Fee for the then-current license year, Licensee will pay this greater amount as the License Fee until the next adjustment. Such License Fee shall be payable in advance for the next ensuing license year no later than thirty (30) days prior to the end of the then-current license year. It is expressly provided, however, that the License Fee as adjusted for any license year shall never be less than the License Fee amount for the immediately preceding license year.

(c) Licensee agrees and acknowledges that any License Fee to be paid hereunder shall be immediately earned upon the commencement of the corresponding license year, and no part of any License Fee shall be refundable to Licensee in the event of any termination of this Agreement.

(d) In addition to all other amounts due hereunder, Licensee should be responsible for any and all property taxes for the License Property, and shall reimburse Licensor for such amount within ten (10) days of the date on which Licensor notifies Licensee in writing that the taxes are due. Both parties agree and acknowledge that the License Property is part of a larger tract of land, which shall be subject to taxation, and that the License Property will not be amended as a separate tract therefrom. As such, Licensee understands and agrees that the amount in taxes to be paid by Licensor to Licensee shall be a reasonable estimate of the tax

[Signature Page to License Agreement –Geno and Mary Tolari

liability applicable solely to the Licensed Property, and that Licensee shall be liable in full for any and all tax amounts as provided to Licensee by Licensor hereunder.

7. **Survival of Obligations.** All provisions requiring the payment or reimbursement by Licensee to Licensor, and all provisions of Section 13 hereof, shall survive any expiration or early termination of this Agreement for a period of four (4) years from the date of said expiration or termination.

8. **Removal of Improvements from Canal.** Notwithstanding anything to the contrary set forth in this Agreement, Licensee acknowledges and agrees that any structure or Improvement extending into the Canal may be removed by Licensor in order to maintain the integrity of the Canal and/or to comply with any and all applicable restrictions, regulations, rules or laws. Licensee further agrees that any and all costs and expenses associated with the removal and/or replacement of such structures and Improvements shall be borne by Licensee, and that Licensee shall immediately pay to Licensor upon Licensor's request any and all such costs and expenses incurred.

9. **USE OF LICENSE AREA.** LICENSEE ASSUMES ALL LIABILITY FOR THE ACTS AND SAFETY OF LICENSEE AND HIS/HER TENANTS, GUESTS AND INVITEES, AND HEREBY RELEASES AND AGREES TO HOLD HARMLESS LICENSOR AND ALL OF ITS PARTNERS, OFFICERS AND REPRESENTATIVES FROM AND AGAINST ANY AND ALL LIABILITY FOR DAMAGES, INJURY AND/OR DEATH, SUFFERED BY ANY PERSON, PROPERTY, CORPORATION OR OTHER ENTITY BY REASON OF ANY ACTION TAKEN OR RIGHT EXERCISED PURSUANT TO THIS AGREEMENT.

10. **Approval of Construction by Licensor.** Licensee agrees that no structure or building shall be constructed or installed in the License Area nor shall any Improvement be modified or replaced, without Licensor's prior written permission, which shall be provided or withheld in Licensor's sole and absolute discretion. Licensee shall provide Licensor with proof of Licensee's obtaining any and all permits that may be required from the City, the Corps or any other entities with governing authority over such construction.

11. **Rules Governing Use of Canal.** Licensee agrees to observe and abide by any and all laws, rules, restrictions and regulations regarding the Canal, whether in existence now or established in the future, including, but not limited to, those set forth in this Agreement.

12. [Intentionally reserved.]

13. **INDEMNIFICATION.**

(a) LICENSEE HEREBY RELEASES, AND AGREES TO INDEMNIFY AND HOLD HARMLESS LICENSOR AND ALL OF ITS PARTNERS, OFFICERS, SUBSIDIARIES, AFFILIATES AND REPRESENTATIVES (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, DEMANDS, SUITS, JUDGMENTS OR DAMAGES (INCLUDING, WITHOUT

[Signature Page to License Agreement –Geno and Mary Tolari

LIMITATION, CONSEQUENTIAL DAMAGES AND/OR CLAIMS FOR DIMINUTION OF PROPERTY VALUE) ASSERTED AGAINST THE INDEMINIFIED PARTIES OR INCURRED BY THE INDEMINIFIED PARTIES FOR ANY AND ALL LIENS, CLAIMS, LOSSES OR DAMAGES TO ANY PROPERTY, AND ALL PERSONAL INJURY OR DEATH OF ANY PERSON (INCLUDING BUT NOT LIMITED TO BODILY INJURY TO OR DEATH OF ANY OR ALL OF LICENSEE AND/OR LICENSEE'S GUESTS, INVITEES, EMPLOYEES, AGENTS, REPRESENTATIVES OR CONTRACTORS), ARISING OUT OF ANY USE OR EXERCISE BY LICENSEE OR ANY GUEST, INVITEE, EMPLOYEE, AGENT, REPRESENTATIVE OR CONTRACTOR OF LICENSEE (COLLECTIVELY, "LICENSEE PARTIES") OF ANY RIGHTS UNDER THIS AGREEMENT, AND TO PAY ANY AND ALL COSTS AND EXPENSES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND EXPENSES, WHICH ANY OF THE INDEMINIFIED PARTIES MAY SUSTAIN OR INCUR ARISING OUT OF OR RESULTING FROM ANY ACT OR OMISSION OF LICENSEE OR ANY OF THE OTHER LICENSEE PARTIES IN CONNECTION WITH SUCH USE OR EXERCISE, INCLUDING BUT NOT LIMITED TO ANY BREACH OF ANY COVENANT, OBLIGATION, REPRESENTATION OR WARRANTY CONTAINED IN THIS AGREEMENT, AND SUCH INDEMNIFICATION AND AGREEMENT TO HOLD HARMLESS SHALL BE APPLICABLE REGARDLESS OF WHETHER SUCH INJURIES, DEATH, PROPERTY LOSS OR DAMAGES IN CONNECTION WITH SUCH USE OR EXERCISE ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF ANY OF THE INDEMINIFIED PARTIES. IT IS PROVIDED, HOWEVER, THAT LICENSEE'S INDEMNITY AND AGREEMENT TO HOLD HARMLESS PROVIDED FOR IN THIS SECTION 13 SHALL NOT BE APPLICABLE TO THE EXTENT ANY OCCURRENCE IS CAUSED SOLELY FROM ANY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OF THE INDEMINIFIED PARTIES.

(b) The indemnification and agreement to hold harmless provided for in this Section 13 is separate from and independent of Licensee's insurance coverage as set forth in Section 16 herein, and Licensee agrees that such indemnification and agreement to hold harmless will not be limited in any way by any applicable comparative negligence statutes.

**14. Complaints Regarding Use of License Area and Canal; Use Restrictions.**

(a) Licensee, at Licensee's sole cost and expense, agrees to promptly resolve any and all complaints from homeowners, business and governmental entities related to Licensee's use or occupancy of the License Area or other portion of the Canal, and Licensor may, without liability, terminate this license for any failure of Licensee to promptly resolve any such complaint to Licensor's reasonable satisfaction.

(b) Notwithstanding anything to the contrary contained in this Agreement, the following uses of and/or activities in the License Area shall be strictly prohibited, and Licensee shall not commit or permit any of the following to occur, or be placed or used or to exist within, on or about the License Area, or any portion thereof:

[Signature Page to License Agreement—Geno and Mary Tolari



- products;
- (i) the release or discharge of waste products, fuel or any petroleum products;
- (ii) the service, maintenance or repair or like activities concerning any watercraft;
- (iii) any commercial use of any watercraft within the Marine License Area;
- (iv) any human-powered watercraft (or watercraft capable of being human powered), including but not limited to kayaks, rowboats, dinghies, paddle boats, canoes, floats, rafts and the like regardless of length;
- (v) the placement, docking or storage, whether temporary or otherwise, of watercraft which are not:
  - (A) in a seaworthy condition, fully operational, such watercraft to be properly maintained and operated in a top quality, first-class condition;
  - (B) in compliance with all U.S. Coast Guard safety requirements;
  - (C) equipped with a fully operational motor of a size adequate to power the watercraft in question;
  - (D) capable of unassisted locomotion and navigation;
  - (E) licensed and marked as required by the regulations and laws of the State of Texas and/or the laws and regulations of the United States of America; or
  - (F) properly insured, with Licensee being the named insured or an additional insured for such coverage and/or properly registered and/or licensed with any and all respective agencies governing same;
- (vi) barges, shrimp boats or other commercial use vessels;
- (vii) any inoperable watercraft;
- (viii) any watercraft that is not kept in a clean, neat, evenly painted, rust free and orderly appearance and condition;
- (ix) any activity or condition constituting a nuisance or creating any impairment of navigation or contamination of any waters; or
- (x) use, disposal, release or storage of any biologically or chemically active or other hazardous substances or materials, to include such hazardous substances or

[Signature Page to License Agreement –Geno and Mary Tolari

materials as described in 42 U.S.C. sec. 9601 et seq. (the Comprehensive Environmental Response, Compensation, and Liability Act of 1980), as may be amended, or under any applicable state or local laws or regulations governing same.

**15. Transfer and Assignment.** This Agreement and the license granted herein is non-transferable and non-assignable by Licensee. In addition to the other provisions of this Agreement, it is agreed and understood by Licensee that the rights, privileges and obligations conferred and imposed upon Licensee by this Agreement may not be sold, conveyed, devised, assigned or sublet by Licensee to any third party, and the term of the license granted hereunder shall not continue beyond the lifetime of Licensee (or if Licensee is made up of multiple persons, beyond the lifetime of the last of such persons). Notwithstanding anything else herein to the contrary, if at any time Licensee ceases to own the Adjacent Land, then this Agreement will immediately and automatically terminate, without liability of Licensor to Licensee.

**16. Insurance.** Licensee covenants to keep and maintain, at its sole costs and expense, general liability insurance against claims for personal injury, death and property damage occurring on the License Area or any other portion of the Canal with single limit coverage of not less than an aggregate of One Million and No/100 Dollars (\$1,000,000.00) including umbrella coverage, if any, and naming Licensor as an additional named insured and loss payee. Licensee shall provide proof of such insurance to Licensor at any time upon request. If at any time any such insurance lapses or Licensee fails to provide proof of such insurance to Licensor, Licensor shall have the right to obtain such insurance, and Licensee shall immediately reimburse Licensor for any and all costs and expenses incurred by Licensor to obtain such coverage.

**17. No Third-Party Rights.** Nothing contained herein shall be construed as creating any rights in the general public or as dedicated for public use any portion of the Canal, including, without limitation, that portion made a part of the License Area. Additionally, no easements shall be implied by this Agreement.

**18. Remedies.**

(a) In the event of a violation or threat thereof of any of the provisions of this Agreement, Licensee agrees that such violation or threat thereof shall cause Licensor to suffer irreparable harm and Licensor shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of this Agreement by Licensee, Licensor, in addition to any and all remedies available at law, in equity or otherwise under this Agreement, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of this Agreement.

(b) In addition to its other remedies, Licensor shall have self-help remedies in the event of any breach by Licensee of any of its obligations under this Agreement, which may include, by way of example only, the removal of any Improvements which are in violation of this Agreement, the payment in full and removal of any and all lien claims or affidavits of liens and/or the placing of insurance covering Licensor or the payment of tax amounts due Licensor from Licensee on the License Property, all at the expense of Licensee.

[Signature Page to License Agreement –Geno and Mary Tolari

(c) Notwithstanding anything herein to the contrary, Licensor may terminate this Agreement if, in its sole discretion, Licensee or any of the other Licensee Parties in any way violates this Agreement or causes a nuisance, or any unsightly, obnoxious or illegal activities in its use of the License Area or other portions of the Canal.

(d) Upon the expiration or early termination of this Agreement, if Licensee fails to remove from the License Area any and all Improvements and/or other structures or personal property from the License Area to Licensor's satisfaction or pay any and all amounts due hereunder within thirty (30) days from the date of Licensor's request therefor, Licensor shall have the right to remove any and all such property at Licensee's sole cost and expense, and, additionally, Licensor is hereby granted the right to take all such steps as is necessary to secure the payment of such amounts due, including, without limitation, the right to file a lien against any of Licensee's property for such amounts which are due and payable.

(e) In addition to the other obligations of Licensee in this Agreement, Licensee shall be obligated to promptly reimburse Licensor for any and all reasonable costs and expenses incurred by Licensor in any way caused or related to any breach or default by Licensee of any of its obligations under this Agreement.

(f) For any and all payments due by Licensee to Licensor which are not paid within thirty (30) days from the due date for such payment(s), Licensee shall pay Licensor a late charge equal to 1% per month for each past due amount, to compensate Licensor for liquidated damages for the additional time and expense incurred in collecting such late payments.

(g) The rights and remedies granted in this Agreement are cumulative and not exclusive, and the exercise of such rights shall be without prejudice to the enforcement of any other right or remedy authorized by this agreement, by law or at equity, and that Licensor shall have available to it any and all rights provided for herein and by law or at equity.

**19. Eminent Domain Taking.** In the event of an eminent domain taking of all or any portion of the Canal (including that portion made a part of the License Area) which prohibits Licensee's access to the Lake, Licensor shall have the right to terminate this Agreement, and the award made with respect thereto, or any other award or payment made therefor, whether as compensation for the portion thereof taken or as severance damages with respect to the remainder thereof not so taken, shall belong solely to Licensor. The term "eminent domain taking" includes a voluntary conveyance made under threat of or anticipation of an involuntary eminent domain taking or condemnation or any transfer by deed in lieu thereof.

**20. Notices.** Notices or other communication hereunder shall be in writing made by certified mail or national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice addresses are as follows:

[Signature Page to License Agreement –Geno and Mary Tolari

Licensor: MB Harbour, Ltd.  
2951 Marina Bay, Ste. 130-343  
League City, Texas 77573  
Attn: Teresa Scotto

Licensee: Geno or Mary Tolari  
430 Twin Timbers  
Kemah, TX 77565

**21. Miscellaneous.**

(a) In the event either of the parties hereto institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party, after a final adjudication of such matter, shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

(b) The parties hereto agree that the provisions of this Agreement may be modified or amended, in whole or in part, only by the written consent of both parties hereto, evidenced by a document that has been fully executed and acknowledged by all such parties.

(c) No waiver of any default of any obligation by any of the parties hereto shall be implied as any omission by the other party to take any action with respect to such default.

(d) Nothing in this Agreement shall be deemed or construed by the parties hereto or by any third-party as to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties except as set forth herein.

(e) Each provision of this Agreement is hereby declared to be independent of and severable from the remainder of this Agreement. If any of the provisions contained herein shall be held to be illegal, invalid or unenforceable, such holding shall not affect the legality, validity or enforceability of the remainder of this Agreement. In the event the legality, validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description for a parcel of property, the parties agree to promptly cause such legal description to be prepared and to share equally in the cost thereof.

(f) Time is of the essence in all respects for this Agreement.

(g) This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations and understandings are superseded hereby. Any section headings contained herein are for convenience only and are not intended to limit or enlarge the scope or meaning of the language hereof.

[Signature Page to License Agreement –Geno and Mary Tolari

(h) The laws of the State of Texas shall govern the interpretation, validity, or performance, and enforcement of this Agreement, without regard to any rules regarding choice of laws. Venue for any action regarding this Agreement and the subject matter hereof shall be proper in a state or federal court of competent jurisdiction situated in Galveston County, Texas.

(i) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, collectively, shall be considered one and the same instrument.

(j) For purposes of this Agreement, a "person" shall include all individuals and entities of every kind and character.

**22. DTPA Waiver.** To induce Licensor to enter into this transaction, Licensee represents and warrants that (a) Licensee is not in a significantly disparate bargaining position with respect to the negotiation of this Agreement, and (b) Licensee is represented by legal counsel in connection with the negotiation of this Agreement. Licensee hereby waives its rights under the Deceptive Trade Practices-Consumer Protection Act, Sec. 17.41 et seq. of the Texas Business and Commerce Code ("DTPA"), a law that gives consumers special rights and protections. After consultation with legal counsel of its own selection, Licensee hereby voluntarily consents to this waiver of rights provided by the DTPA.

**23. Perpetuities Savings Clause.** Notwithstanding any other provisions contained in this Agreement, any interest provided for, granted or created pursuant to this Agreement shall terminate not later than one day less than twenty-one (21) years after the death of some life in being in existence at the creation of such interest.

**24. Effective Date.** This Agreement shall become effective on the date in which the last of Licensor or Licensee (if one or more, the date in which the last of the constituent Licensees executes this Agreement) have executed same and Licensee shall have paid to Licensor the License Fee amount due for the initial license year (the "Effective Date"). If Licensor and Licensee (if one or more, all constituents thereof) have not executed this Agreement and Licensee has not paid to Licensor the License Fee for the initial license year within fifteen (15) days of the date on which Licensee has acquired the Twin Timbers Lot, this Agreement shall be null and void, effective at such time.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY RESERVED]**

[Signature Page to License Agreement --Geno and Mary Tolari



**LICENSEE:**

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

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

STATE OF TEXAS                    §  
  §  
COUNTY OF GALVESTON       §

This instrument was acknowledged before me on this day by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for  
the State of Texas



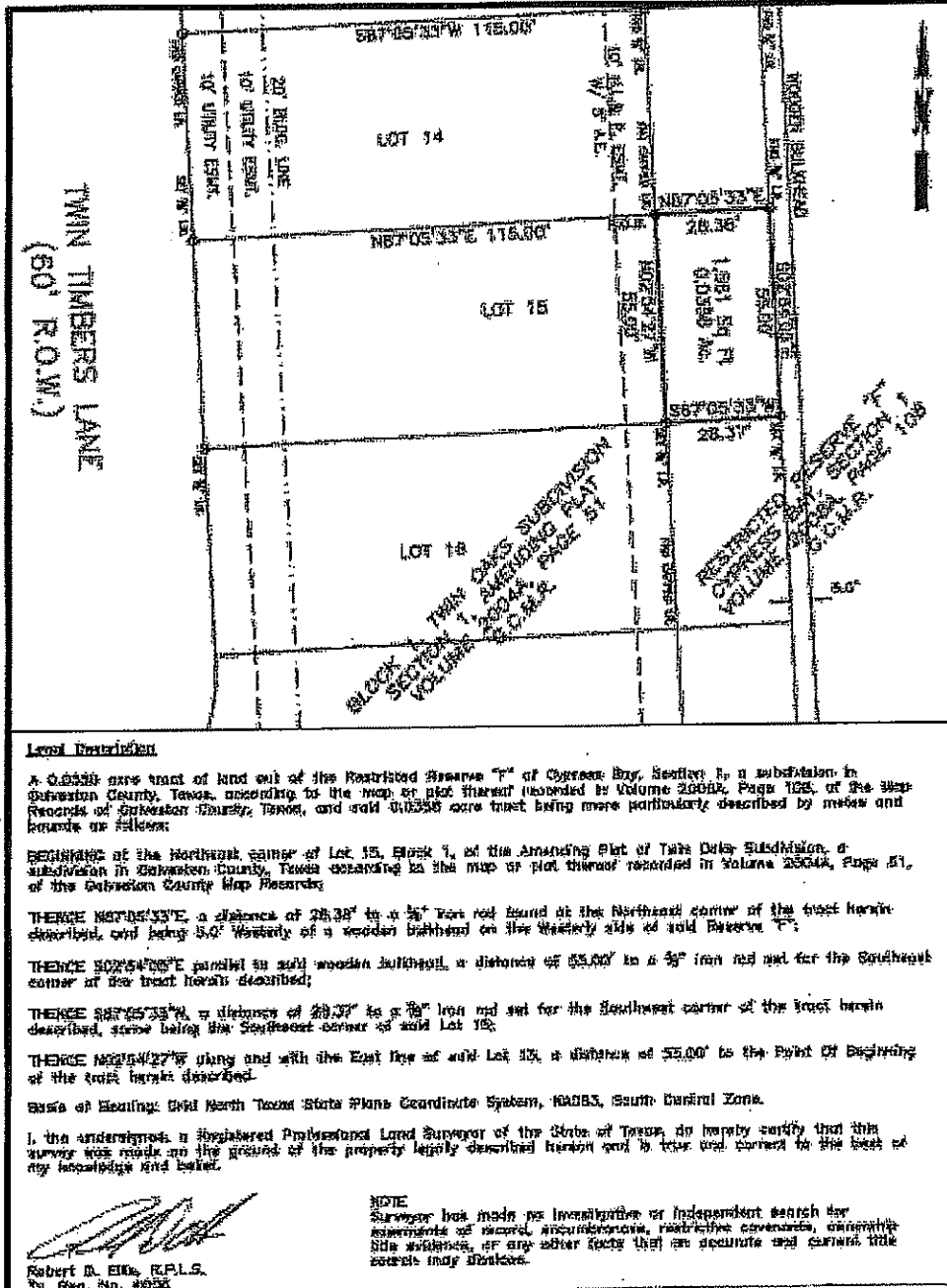




**EXHIBIT "C" TO  
LICENSE AGREEMENT**

**ADJACENT LAND**

[to be attached]

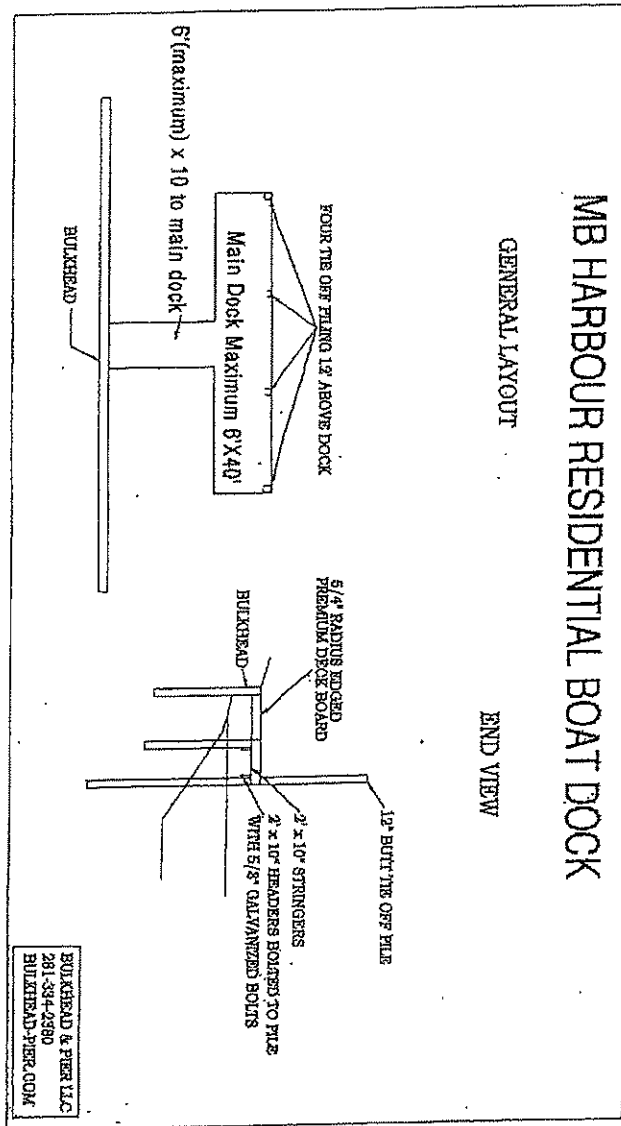


[Exhibit "C" to License Agreement – Geno and Mary Tolari

**SCHEDULE 1(a)(i) TO  
LICENSE AGREEMENT**

**BOAT DOCK CONSTRUCTION SPECIFICATIONS**

[to be attached]



Approved by: *[Signature]*  
*Geno Tolari*  
*Mary Tolari*

[Schedule 1(a)(i) to License Agreement – Geno and Mary Tolari]

Please return FILED AND RECORDED AGREEMENT TO:

Teresa Scotto  
MB Harbour, Ltd  
104 Twin Oaks Blvd Ste 100  
Kemah TX 77565

[Schedule 1(a)(i) to License Agreement – Geno and Mary Tolari]

299888