

504997

OWNER'S PROPRIETARY LEASE

BY THIS LEASE made on the 22nd day of April, 1986,  
HARBOUR SIDE YACHT CLUB, INC., a Florida corporation, as Lessor,  
and Andrew A. Bain, 209 Pawnee Drive, West Lafayette, IN 47906

as Lessee, agree as follows:

1. PROPERTY AND TERM: Lessor leases to Lessee Boat Slip  
No. 9 at Harbour Side Yacht Club, Indian River County,  
Florida, as designated and more specifically shown and described  
in the survey thereof attached to the Bylaws of Harbour Side  
Yacht Club, Inc., which was recorded on the 25th day of  
March, 1983, in Official Record Book 660 at Page  
0915 of the public records of Indian River County, Florida, for  
a term beginning on the day, month and year set forth above and  
ending on the 1st day of January, 2075.

2. PROVISIONS OF ARTICLES OF INCORPORATION, BYLAWS, RULES  
AND REGULATIONS: This lease is subject to, and Lessor and Lessee  
shall abide by the provisions of, the Articles of Incorporation,  
the Bylaws and the rules and regulations of Harbour Side Yacht  
Club, Inc. The Articles of Incorporation, Bylaws, rules and  
regulations, and any amendments made to them in the future, are  
made a part of this lease by reference. Lessee acknowledges that  
Lessee has been provided with a copy of the Articles of  
Incorporation, the Bylaws and the present rules and regulations  
of Harbour Side Yacht Club, Inc. and that Lessee has read them,  
understands their contents, and agrees to strictly abide by and  
comply with them.

3. ANNUAL ASSESSMENTS:

A. The various owners of proprietary leases shall be  
subject to the payment of assessments for the operation of the  
Lessor corporation as provided in the Bylaws of Harbour Side  
Yacht Club, Inc. Lessee agrees to promptly pay all assessments  
and other sums and charges required to be paid by the Lessee,  
pursuant to the terms and conditions of said Bylaws, when they  
become due.

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4. POSSESSION:

A. Lessee has inspected the leased property and will accept it in its present condition on the start of this lease. On payment of the assessment above reserved and the due performance of the agreements contained in this lease to be performed, Lessee shall and may peaceably and quietly hold the leased property.

B. Lessee shall have the right of joint use and enjoyment in common with other Lessees of the property of Lessor not specifically leased to other Lessees, except insofar as it may be limited or restricted by this lease or by the rules and regulations, Articles of Incorporation and Bylaws of the Lessor corporation.

5. USE:

A. Lessee shall promptly observe and comply with all present and future Articles of Incorporation, Bylaws, rules and regulations adopted by Lessor and statutes, ordinances, rules and regulations promulgated by any governmental body having jurisdiction over the leased property.

B. Lessee shall not do or suffer to be done in and upon the leased property any act or thing that is of a disorderly or unlawful nature or a nuisance, or that may cause damage to Lessor or its premises.

C. The boat slip shall be used only as a private, non-commercial, boat slip for the use of Lessee, or authorized sublessees, and his or their lawful spouse or any member of their family related to them by blood within the second degree.

6. MAINTENANCE:

A. Lessee shall keep the boat slip, and the dock immediately adjoining the boat slip, in clean and sanitary condition at his own expense, and shall make no changes or alterations to any part of the yacht club complex, including, but not limited to, his boat slip, the docks, walkways, parking areas, etc., without the written consent of the Lessor.

B. Lessee shall promptly pay the expenses of repair, damage or replacements, as determined by the board of directors, to any property of the Lessor, caused by Lessee or Lessee's servants, tenants, visitors and invitees. If Lessee fails to do so, the board of directors may assess the cost against Lessee's boat slip and enforce payment under Article IX of the Bylaws.

C. Lessor shall maintain the docks, existing plumbing and wiring, sidewalks, parking areas, entrances, fences and other property intended for the general use of all of the Lessees in a good state of repair.

7. NO LIENS: Lessee shall keep all of the property comprising the yacht club complex free of liens and encumbrances. Lessee has no authority to create an encumbrance or mechanic's lien on the said property superior to Lessor's rights or title. If an encumbrance or lien is placed against the property and is not removed within 60 days, Lessor may require Lessee to give satisfactory security for its removal in an amount equal to that of the encumbrance or lien with costs, expenses, interest and attorneys' fees, including appellate proceedings. Lessee may contest the validity of the encumbrance or lien, but if he fails to do so or to prosecute the contest diligently or to have the encumbrance or lien released, Lessor may release it, with the right in its uncontrolled discretion to compromise it, but no duty to do so. Lessee shall reimburse Lessor or demand for any sums so expended. Lessee shall have the right to pledge or mortgage Lessee's proprietary lease so long as said pledge or mortgage is made to a commercial lending institution or Harbour Side Development Corporation. Lessee shall not have the right to pledge or mortgage Lessee's proprietary lease to anyone else without first obtaining the written approval of the board of directors. Any such pledge or mortgage not so approved by the board of directors shall be void and of no legal effect.

8. EXCULPATION: Lessor shall not be liable for any injury or damage to Lessee's boat or other personal property belonging to Lessee and brought on the premises, or that of his servants,

tenants, visitors and invitees, caused by casualty or accident, whether the loss, damage or injury in any case results from conditions on the property leased or on other parts of the property, and regardless of whether the cause or means of rectifying it is inaccessible to Lessee. Lessor shall not be liable to Lessee for any claim or demand arising from any act or omission of any other boat slip tenant.

9. INSURANCE:

A. Lessor shall adequately provide fire and extended coverage insurance on the corporate property, and public liability insurance for Lessor's property.

B. Lessee shall be responsible for carrying adequate fire and extended coverage insurance, and public liability insurance, upon his boat and all personal property that he brings upon the corporate property. Lessee shall carry, at the minimum, Fifty Thousand Dollars (\$50,000.00) of public liability insurance upon his boat so as to assure that should Lessee or Lessee's boat damage the property of the Lessor there will be sufficient funds to repair such damage. Lessee shall furnish to Lessor proof of such liability coverage.

10. PAYMENT OF TAXES AND OTHER COSTS BY THE CORPORATION:  
To the limit of its resources and out of funds provided by the owners, Lessor shall:

A. Pay all taxes and assessments that may be levied against the property of the Lessor.

B. Pay the premium on all necessary insurance required to be carried by Lessor under this lease.

C. Pay all necessary bills that might be incurred for operation or maintenance of the corporate property, including water and sewer bills.

11. OPERATION AND MANAGEMENT:

A. Lessor shall provide a high standard of management for Lessor's property and shall perform all acts reasonably required to maintain a sound operation and to protect the investment of the various Lessees.

B. Lessor may set up reasonable operating and maintenance reserves to carry the operation of Lessor for specific periods of time to alleviate as much as possible the necessity of a large number of special assessments.

12. SALE, LEASE, EXCHANGE OR MORTGAGE OF CORPORATE PROPERTY: Lessor shall not sell, lease, exchange or mortgage the corporate real property as an entirety, or purchase or lease additional real property, without the approval by vote or written consent of three fourths of all of the owners of proprietary leases obtained in accordance with the requirements of the Articles of Incorporation and Bylaws.

13. PROPRIETARY LEASES: Harbour Side Development Corporation, as Lessor's agent, shall be entitled to issue a total of forty-nine (49) owners' proprietary leases to the boat slips which comprise Harbour Side Yacht Club, Inc. The description of those leases, with the voting rights and equity rights pertaining to them, are set forth fully in the Bylaws of Harbour Side Yacht Club, Inc. and are incorporated in this lease by reference.

One (1) proprietary lease shall be issued to Harbour Side Condominium Association, Inc. for the use of members of Harbour Side Condominium Association, Inc. as set forth in the Bylaws of Harbour Side Yacht Club, Inc.

14. SALE, TRANSFER, PLEDGING OR SUBLEASING OF BOAT SLIPS BY LESSEE: The sale, transfer, pledging or subleasing of the boat slips covered by this owner's proprietary leases shall be governed by the Bylaws of Harbour Side Yacht Club, Inc. which are incorporated by reference in this lease.

15. DEFAULT:

Lessee shall be in default under this lease if Lessee has not strictly and completely complied with and abided by all of the terms, conditions and provisions of this lease, the Articles of Incorporation, the Bylaws and the rules and regulations of Harbour Side Yacht Club, Inc. Upon Lessee's default Lessor shall have all of the rights, privileges and remedies, all of

which are cumulative, as are set forth in the Articles of Incorporation and Bylaws of Harbour Side Yacht Club, Inc. In addition, Lessee agrees to pay to Lessor all of Lessor's costs, expenses, losses or damages that may be sustained by Lessor because of Lessee's default, including, but not limited to, transfer and storage charges for Lessee's personal property removed from the leased premises, brokers' commissions and attorney's fees for enforcing or construing this lease, whether for litigation, including appellate proceedings, or otherwise. In addition, Lessor may, at its option, utilize any remedies available at law or in equity, including injunctive relief, to enforce or terminate this lease should Lessee be in default. Lessee shall pay all reasonable costs, expenses and attorney's fees incurred in that regard.

16. WAIVER: The waiver of a breach of this lease shall not be a waiver of a subsequent breach nor affect the validity of this agreement.

17. INDEMNITY: Lessee shall indemnify Lessor and hold it harmless from any claims or demands arising from:

A. Lessee's use or possession of the property and anything done or permitted by Lessee in or about the property, or any of them;

B. Any default of Lessee under this lease;

C. The negligence of Lessee, the members of his family, and his or their servants, tenants, guests, and invitees;

D. Any damage to the property of Lessee or others or injury to any person on or about the property from any cause;

E. Any legal or administrative proceeding in which Lessor is made a party without its fault;

F. All costs, attorney's fees and expense incurred by Lessor in connection with items indemnified against. Lessee shall defend any legal action or proceeding resulting from a claim or demand indemnified against at his expense by attorneys satisfactory to Lessor on receipt of written notice from Lessor to do so.

18. INVALIDITY CLAUSE: If any part of this lease is adjudged invalid, the validity of the other parts shall not be affected. Any rights and remedies given Lessor and Lessee by this lease shall be in addition to those provided by law. Lessor and Lessee may enjoin any breach or threatened breach of this lease. All remedies in this lease shall be cumulative.

19. CONSTRUCTION OF LEASE: The legal relationship between Lessor and Lessee is that of landlord and tenant for the purpose of construing Lessee's right of occupancy under this lease.

20. DEVOLUTION: This agreement shall bind the parties and their heirs, personal representatives, successors and assigns.

21. GENDER: The term "Lessee" in this instrument includes the singular and the plural and all genders.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

Andrew D. Bain (SEAL)

\_\_\_\_ (SEAL)

Signed, Sealed and Delivered in our presence:

"LESSEE"

Pandra Patterson  
Barry H. Pate  
As to Lessee

STATE OF Illinois

COUNTY OF Lawrence

I hereby certify that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_

to me known to be the person(s) described in and who executed the foregoing Proprietary Lease and HE acknowledged before me that HE executed the same.

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WITNESS my hand and official seal in the County and State  
last aforesaid this 22nd day of Jan, 1986.

[Signature]  
Notary Public, State of Florida at  
Large. My commission expires:

(NOTARY SEAL)

HARBOUR SIDE YACHT CLUB, INC.

BY: [Signature]  
President

Signed, Sealed and Deliver-  
ed in our presence:

"LESSOR"

(CORPORATE SEAL)

[Signature]  
[Signature]  
As to Lessor

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

I hereby certify that on this day, before me, an officer  
duly authorized in the State and County aforesaid to take  
acknowledgments, personally appeared [Signature]

well known to me to be the [Signature] President of the Corporation  
named as Lessor in the foregoing Proprietary Lease and HS  
acknowledged executing the same in the presence of two  
subscribing witnesses freely and voluntarily under authority duly  
vested in him by said corporation and that the seal affixed  
hereto is a true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State,  
last aforesaid this 22nd day of Jan, 1986.

[Signature]  
Notary Public, State of Florida at  
Large. My commission expires:

(NOTARY SEAL)

Prepared by:

Charles R. McKinnon, Esq.  
McKinnon & Stewart, Chartered  
Post Office Box 3345  
Vero Beach, Florida 32960

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