

DRAFT

LEASE AGREEMENT

This LEASE AGREEMENT (the "lease") is made as of the ____ day of November 2017, between the County of Lake ("Lessor") and Ken Avellino, individually and doing business as Bristol Boat Services, Inc., and Harbor Canvas & Upholstery ("Lessee"), to occupy and use certain property owned by the County of Lake, which has a common address of 1200 Grand Avenue, Waukegan, Illinois, and is legally described as follows ("Premises"):

That part of the **LESSOR'S** right of way (known as the former Chicago, North Shore and Milwaukee Railroad right of way), described as follows: Commencing on the northerly right of way line of Grand Avenue, 100.00 feet west of the east line of Section 20-45-10, thence northerly along a line 100.00 feet westerly of said east line of section 20, 380.00 feet; thence easterly at right angles to the preceding course 80.00 feet; thence southerly along a line parallel to said east line of said Section 20, 445.00 feet, more or less, to the northerly line of Grand Avenue, thence westerly along said Northerly line of Grand Avenue to the place of beginning. Located in Section 20, T 45 N, Range 12, East of the Third Principal Meridian, in the City of Waukegan, Lake County, Illinois and contains 33,000 square feet. See drawing attached hereto as Exhibit A and made a part hereof.

WHEREAS, Lessor desires to lease to Lessee and Lessee desires to lease from Lessor the Premises.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged and intending to be legally bound hereby, Lessor and Lessee hereby agree as follows:

1. Term.

The term of this Lease ("Term") shall commence on December 1, 2017 (the "Lease Commencement Date") and shall expire on November 30, 2020, unless terminated earlier pursuant to the terms and conditions of this Lease.

2. Payment of Rent.

(a) **Rent.** Lessee shall pay to Lessor a gross annual Rent for the Premises during the Term in the amount of Twenty-Four Thousand and 0/100 Dollars (\$24,000.00). Rent shall be paid in monthly installments of Two Thousand and 0/100 Dollars (\$2,000.00), and each such installment is due and payable on or before the first day of each month, and shall be made payable to the Lake County Treasurer. The payment should be sent to the Lake County Division of Transportation, 600 W. Winchester Road, Libertyville, Illinois 60048 (or at such other address as Lessor may specify from time to time), without notice or demand therefor and without any offset or deduction. The first months' installment of Rent shall be due and payable upon execution of the Lease by the parties.

(b) Late Charges/Interest. If Lessee fails to pay any installment of Rent (collectively, "Rent") within ten (10) days of the date due, in addition to Lessor's other remedies, Lessee shall be obligated to pay, as Additional Rent, interest on past due amounts as set forth in this Lease and a late charge of Five Hundred Dollars (\$500.00) for each such late payment. The parties agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. The aforementioned interest shall accrue from the date on which the subject Rent payment was due, until such Rent is fully paid.

(c) Other Lessee Expenses. Lessee shall be solely responsible for procurement of all utilities and other services, including but not limited to (i) electricity and gas service from the applicable public utility, (ii) snow and ice removal, including salting, for the Premises; and (iii) cleaning and janitorial services, if desired by Lessee, for the leased Premises. Lessee shall be responsible for payment, at Lessee's sole cost and expense, directly to the service providers, for such services.

3. Use.

Lessee shall use and occupy the Premises for general commercial purposes limited to those related to the operation of the Bristol Boat Services, Inc., and Harbor Canvas & Upholstery, and for no other purpose. Lessee will not do anything or permit anything to be done upon the Premises in any way tending to create a nuisance, or tending to disturb the occupants of neighboring properties or tending to injure the reputation of the Lessor. Lessee will not use the Premises for lodging or sleeping purposes or for any immoral or illegal purposes.

4. Condition of Premises.

(a) Lessee accepts possession of the leased Premises in an "AS IS" condition.

(b) Upon the expiration or earlier termination of this lease, the Lessee shall (i) remove all of Lessee's equipment, furniture, and personal property, and (ii) remove all property of the Lessee's customers, including boats and other vehicles.

5. Assignment and Subletting.

Lessee shall not (a) assign, convey or mortgage this Lease or any interest hereunder; (b) permit any assignment hereof by operation of law; (c) sublet the Premises or any part thereof; or (d) permit the use of the Premises by any parties other than Lessee, its agents and employees.

6. Repairs.

Lessee will, at Lessee's sole cost and expense, keep the Premises in good order, condition and repair during the Term of this Lease, and Lessee shall promptly and adequately repair all damage to the Premises and replace and repair all damage or broken glass, fixture, equipment, improvements and appurtenances, under the supervision and with the approval of the Lessor. If the lessee does not do so, Lessor may, but need not, make such repairs and replacements, and Lessee shall pay Lessor the cost thereof forthwith upon being billed for same. Lessor may enter the Premises at all reasonable times to make such repairs and replacements. Lessor, however, shall have no obligation to render any service to Lessee in or to the leased Premises of any nature

whatsoever or to expend any money for the maintenance, repair or restoration of the leased Premises.

7. **Alterations.**

Lessee shall not make any alterations, improvements or additions to the Premises.

8. **Covenant Against Liens.**

Lessee covenants and agrees not to suffer or permit any lien of mechanics or materialmen to be placed against the Premises, and in the case of any such lien, immediately pay off and remove the same. Lessee has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Lessee, operation of law or otherwise, to attach to or be placed upon Lessor's title or interest in the Premises, including any Buildings located thereon.

9. **Surrender of Possession.**

Upon the expiration or earlier termination of this Lease, Lessee will at once surrender possession of the Premises to Lessor in good repair and tenantable condition and remove all effects therefrom, and if such possession is not immediately surrendered, Lessee may forthwith reenter the Premises and repossess itself thereof as of its former estate and remove all persons and effects therefrom, using such force as may be necessary, without being deemed guilty of any manner of trespass or forcible entry or detainer. Without limiting the generality of the foregoing, Lessee agrees to remove at the termination of the Term all items of property related to the operation of its businesses on the Premises, including but not limited to those items specifically described in Section 4(b) of this Lease. Lessee shall repair any damage to the Building or the Premises resulting from such removal. If Lessee shall fail or refuse to remove all such property from the Premises, Lessee shall be conclusively presumed to have abandoned the same, and title thereto shall thereupon pass to Lessor without any cost either by set-off, credit allowance or otherwise, and Lessor may at its option accept the title to such property or, at Lessee's expense may: (a) remove the same or any part thereof in any manner that Lessor shall choose; and (b) store the same without incurring liability to Lessee or any other person.

10. **Holding Over.**

Lessee shall pay to Lessor, double the Rent for each month or portion thereof, if Lessee shall retain possession of the Premises or any part thereof after the termination of this Lease, whether by lapse of time or otherwise, and also shall pay all damages sustained by Lessor on account thereof. The provisions of this Section shall not operate as a waiver by Lessor of any right of re-entry herein before provided. In the absence of such notice, Lessee shall occupy the Premises on a tenancy from month-to-month and all other terms and provisions of this Lease shall be applicable to such period, with the exception of the increase in Rent set forth above.

11. **Lessor's Remedies.**

If default shall be made in the payment of the Rent or any installment thereof or in the payment of any other sum required to be paid by Lessee under this Lease, or under the terms of any other agreement between Lessor and Lessee, and such default shall continue for five (5) days after written notice to Lessee, or if default shall be made in the performance of any of the other covenants or conditions which Lessee is required to observe and perform and such default shall

continue for thirty (30) days after written notice to Lessee or if the interest of Lessee in the Lease shall be levied on under execution or other legal process, or if an Event of Bankruptcy occurs or if Lessee shall abandon or vacate the Premises during the Term of this Lease, then Lessor may treat the occurrence of any one or more of the foregoing events as a breach of this Lease, and thereupon at its option may without notice or demand of any kind to Lessee or any other person, have any one or more of the following described remedies in addition to all other rights and remedies provided at law or in equity:

(a) Lessor may terminate this Lease and the Term created hereby, in which event Lessor may forthwith repossess the Premises and be entitled to recover forthwith as damages a sum of money equal to the value of the Rent up to the date of termination plus any other sum of money and damages owed by Lessor to Lessee, including sums of money and damages which accrue after the date of termination;

(b) Lessor may terminate Lessee's right of possession and may repossess the Premises by forcible entry or detainer suit or otherwise, without demand or notice of any kind to Lessee and without terminating this Lease, and be entitled to recover forthwith as damages a sum of money equal to the value of the Rent up to the date of termination plus any other sum of money and damages owed by Lessor to Lessee, including sums of money and damages which accrue after the date of termination;

The following shall be "Events of Bankruptcy" under this Lease:

(i) Lessee's becoming insolvent, as that term is defined in Title 11, of the United States Code, entitled Bankruptcy, 11 U.S.C. 101 et seq. (the "Bankruptcy Code"), or under the insolvency laws of any State, District, Commonwealth or Territory of the United States (the "Insolvency Laws");

(ii) the appointment of a receiver or custodian for all or a substantial portion of Lessee's property or assets, or the institution of a foreclosure action upon all or a substantial portion of Lessee's real or personal property;

(iii) the filing of a voluntary petition under the provisions of the Bankruptcy Code or Insolvency Laws;

(iv) the filing of an involuntary petition against Lessee as the subject debtor under the Bankruptcy Code or Insolvency laws, which is either not dismissed within thirty (30) days of filing, or results in the issuance of an order for relief against the debtor, whichever is later; or

(v) Lessee's making or consenting to an assignment for the benefit of creditors or a common law composition of creditors.

12. **Nonwaiver.**

No waiver of any condition expressed in this Lease shall be implied by any neglect of Lessor to enforce any remedy on account of the violation of such condition if such violation be

continued or repeated subsequently, and no express waiver shall affect any condition other than the one specified in such waiver and that one only for the time and in the manner specifically stated. No receipt of moneys by Lessor from Lessee after the termination of the Term or of the Lessee's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given to Lessee prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Premises, Lessor may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment.

13. **Notices.**

Any notice required or permitted under this Lease shall be in writing and shall be delivered and deemed received as follows: (i) by personal delivery or by facsimile (with electronic confirmation) during the recipient's normal business hours, in which case it shall be deemed received at the time of such delivery or facsimile as the case may be; (ii) by certified or registered mail, in which case it shall be deemed received on the date such return receipt is signed; or (iii) by prepaid nationally recognized overnight courier by next day delivery, in which case it shall be deemed received on the day following the date of deposit with such courier. Any such notice shall be addressed to the parties at the following addresses (or at such other address as any party shall specify to the others by notice given pursuant to this Section):

(a) If to Lessor:

Shane E. Schneider, P.E.
Director of Transportation/County Engineer
Lake County Division of Transportation
600 W. Winchester Road
Libertyville, Illinois 60048

(b) If to Lessee:

Ken Avellino
d/b/a Bristol Boat Services Inc./ Harbor Canvas & Upholstery
1200 Grand Avenue
Waukegan, Illinois 60085

14. **Indemnification.**

Lessee shall indemnify Lessor and its respective board members, officers, officials, employees, agents, and representatives from and against, and hold the Lessor harmless from, any and all claims, losses, judgments, costs, damages, expenses, charges, penalties, fines and liabilities (including, but not limited to, reasonable attorneys' fees and experts' fees) (collectively, "Claims") arising from or related to: (i) the conduct of Lessee's business in, or use and occupancy of, the leased Premises or the Building located thereon during the Term of this

Lease, (ii) any act or omission of Lessee or his affiliates, subsidiaries, directors, officers, shareholders, members, managers, employees, agents, contractors, invitees, successors or permitted assigns (collectively, the "Lessee Parties), (iii) any breach or default by Lessee in the observance or performance of the terms and conditions contained in this Lease or (iv) any work or thing whatsoever done, or any condition created by Lessee or the Lessee Parties, in or about the Leased Premises or the Building located thereon during the Lease Term. The obligations of Lessee contained herein shall not apply to the extent that any Claim arises from the sole negligence of the Lessor.

15. **Insurance.**

Lessee, at its sole cost and expense, and for the mutual benefit of Lessor, its officers, officials, board members, employees, agents, and representatives, and Lessee agrees to purchase and keep in force and effect during the Term hereof, an "all-risk" property insurance policy issued by insurers acceptable to Lessor, on its fixtures and Lessee improvements including, but not limited to, special wall and floor coverings, special lighting fixtures, built-in cabinets and bookshelves and on its contents, furniture, equipment or other personal property located in the Premises protecting Lessor and Lessee from damage or other loss caused by fire or other casualty including, but not limited to, vandalism and malicious mischief, perils covered by extended coverage, theft, sprinkler leakage, water damage (however caused), explosion, malfunction or failure of heating and cooling or other apparatus, and other similar risks in amounts not less than the full insurable replacement value of such property. Such insurance shall provide that it is specific and not contributory and shall name the Lessor as an additional insured and shall contain a replacement cost endorsement and a clause pursuant to which the insurance carriers waive all rights of subrogation against the Lessor with respect to losses payable under such policies.

Lessee shall, at Lessee's expense, maintain during the Term commercial general liability insurance, contractual liability insurance and property damage insurance under policies issued by insurers of recognized responsibility, with limits of not less than \$2,000,000 per occurrence for personal injury, bodily injury, sickness, disease or death or for damage or injury to or destruction of property (including the loss of use thereof) for any one occurrence. Lessee's policies shall name Lessor and its respective board members, officers, officials, employees, agents, and representatives as additional insureds.

Lessee shall, at Lessee's expense, obtain and keep in full force and affect a Workers' Compensation policy providing statutory benefits for Lessee's employees and Employer's Liability coverage with a limit in an amount not less than \$500,000 per employee by accident, \$500,000 per employee by disease and a \$500,000 policy limit by disease.

16. **Hazardous Materials.**

Lessee covenants not to introduce any hazardous or toxic materials onto the Premises without complying with all applicable Federal, State and local laws or ordinances pertaining to the transportation, storage, use or disposal of such materials, including but not limited to obtaining proper permits. If Lessee's transportation, storage, use or disposal of hazardous or toxic materials on the Premises results in the contamination of the soil or surface or ground water or loss or damage to any person(s) or property, then Lessee agrees to: (1) notify Lessor immediately of any contamination, claim of contamination, loss or damage; (2) after consultation with the Lessor, clean up the contamination in full compliance with all applicable statutes, regulations and standards and (3) indemnify, defend and hold Lessor harmless from and against any claims, suits, causes of action, costs and fees, including attorney's fees and costs, arising from or connected with any such contamination, claim of contamination, loss or damage. This provision shall survive termination of this Lease.

17. **Taxes.**

Lessee agrees to pay any and all real estate or other taxes that may be levied against the leased Premises as a result of Lessee's use of the leased Premises.

18. **Miscellaneous.**

(a) All rights and remedies of Lessor under this Lease shall be cumulative, and none shall exclude any other rights and remedies allowed by law.

(b) All payments becoming due under this Lease shall be considered as Rent, and if unpaid when due shall bear interest at the greater of: (i) eighteen percent (18%) per annum or (ii) the maximum per annum interest rate permitted by law, until paid. Lessor's right to receive such interest shall not, in any way, limit any of Lessor's other remedies under this Lease or at law or equity.

(c) The provisions of this Lease shall be deemed severable from each other, and, if for any reason any section, clause, provision or part thereof is found to be illegal, invalid, unenforceable, or inoperative, such section, clause or provision or part thereof shall not affect the validity or enforceability of any other section, clause, provision or part thereof.

(d) This Lease, and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of action) shall be governed by and construed in accordance with the laws of the State of Illinois.

(e) This Lease may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) Lessee agrees to obtain all necessary permits, licenses, waivers or variances required by the City of Waukegan Prior to Utilizing this Lease.

IN WITNESS WHEREOF, this Lease has been duly executed as of the day and year first above written.

Lessee:

KEN AVELLINO, Individually and d/b/a Bristol Boat Services, Inc. and Harbor Canvas & Upholstery,

By: _____

Name: Ken Avellino

Lessor:

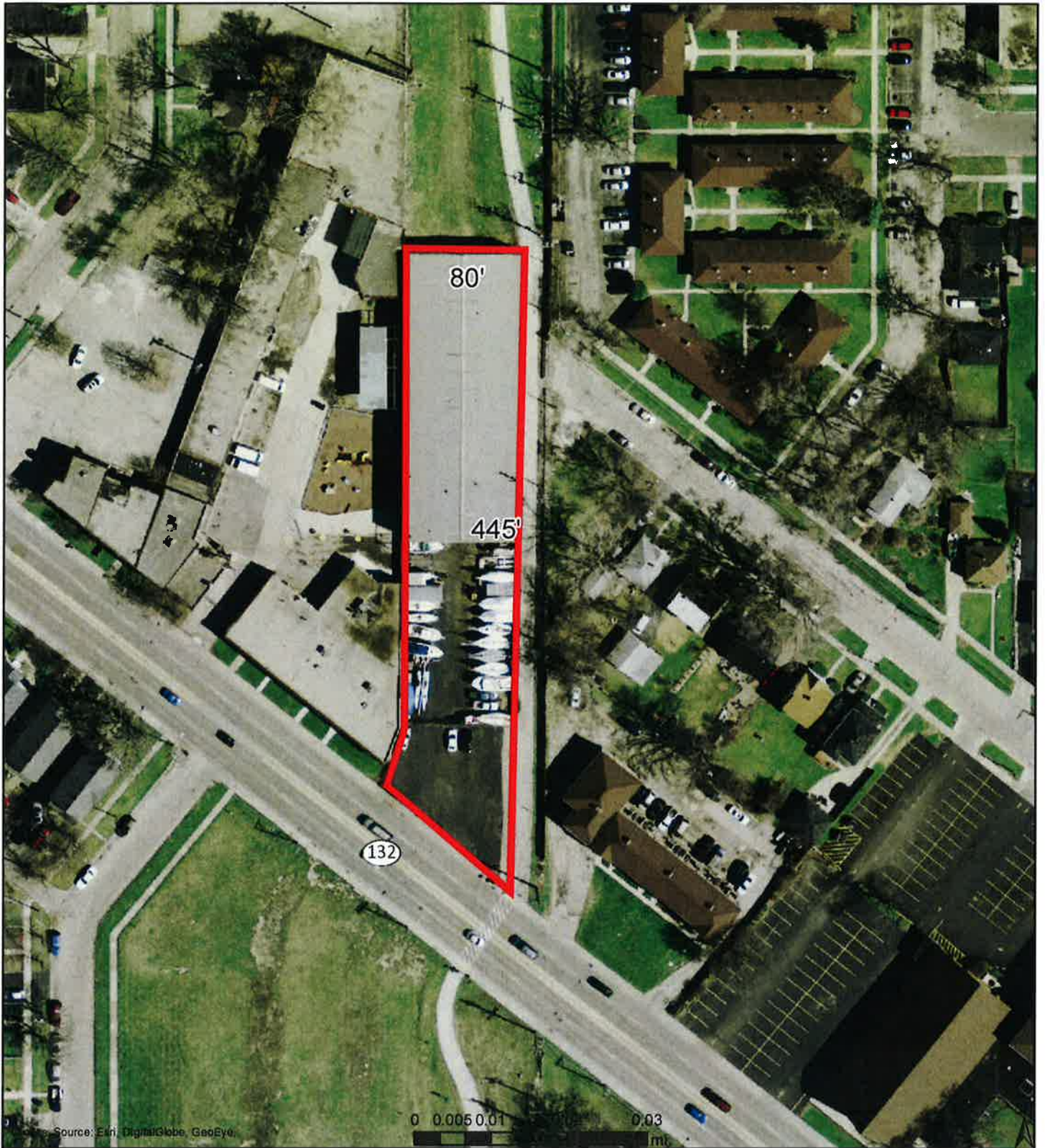
COUNTY OF LAKE,

By: _____

Name: Shane E. Schneider, P.E.

Title: Director of Transportation/County Engineer

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**THE ABOVE
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