

RESOLUTION NO. 4707-20

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH SALES AT SEA LLC TO LEASE SLIPS AT THE LAKE PARK HARBOR MARINA FOR A THREE YEAR TERM FOR THE USE OF A BARGE AND MODEL UNIT FOR THE NAUTILUS MIXED-USE PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town is empowered to enter into contractual arrangements with public agencies, private corporations or other persons; and

**WHEREAS**, the Town Manager has recommended to the Commission that Sales at Sea be permitted to lease slips at the Marina to be used to dock the Barge, which shall only be used to facilitate the sales of units at the Project.; and

**WHEREAS**, Town staff is recommending that the Town Commission approve this Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:**

**Section 1.** The whereas clauses are hereby incorporated herein.

**Section 2.** The Mayor is hereby authorized and directed to execute the Agreement between the Town and Sales at Sea LLC, a copy of which is attached hereto and incorporated herein as **Exhibit “A”**

**Section 3.** This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Vice-Mayor Glas-Castro who moved its adoption. The motion was seconded by Commissioner Flaherty and upon being put to a roll call vote, the vote was as follows:

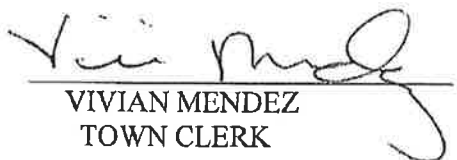
	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>✓</u>	—
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>✓</u>	—
COMMISSIONER ERIN FLAHERTY	<u>✓</u>	—
COMMISSIONER JOHN LINDEN	<u>✓</u>	—
COMMISSIONER ROGER MICHAUD	<u>✓</u>	—

The Town Commission thereupon declared the foregoing Resolution No. 47-07-20 duly passed and adopted this 15 day of July, 2020.


TOWN OF LAKE PARK, FLORIDA

BY:   
MICHAEL O'ROURKE  
MAYOR

ATTEST:

  
VIVIAN MENDEZ  
TOWN CLERK

Approved as to form and legal sufficiency:

BY:   
THOMAS J. BAIRD  
TOWN ATTORNEY



## **EXHIBIT "A"**

### **AGREEMENT TO LEASE SLIPS**

This Agreement to Lease Slips at the Lake Park Harbor Marina (Agreement) is entered into this \_\_\_\_ day of July, 2020 between Sales at Sea, LLC, located at 1571 NE 45 Street, Fort Lauderdale, FL 33334 (hereinafter "Sales at Sea") and the Town of Lake Park, located at 535 Park Avenue, Lake Park, FL 33403, (hereinafter the "Town").

### **RECITALS**

**WHEREAS**, the Town has all of the powers and authority conferred upon it pursuant to the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, pursuant to its proprietary functions and authority, the Town owns and operates a marina known as the Lake Park Harbor Marina (the "Marina") and leases slips in the Marina; and

**WHEREAS**, a mixed-use project known as Nautilus 220 (the "Project") adjacent to the Marina has received development approvals from the Town Commission;

**WHEREAS**, Sales at Sea is managing the model unit and showroom aspect of the Project, for which a model unit and showroom will be installed on top of a barge (the "Barge") and located within the Marina; and

**WHEREAS**, the Town Manager has recommended to the Commission that Sales at Sea be permitted to lease slips at the Marina to be used to dock the Barge, which shall only be used to facilitate the sales of units at the Project.

### **NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:**

1. **RECITALS.**

The above recitals are true and correct and are hereby incorporated herein.

2. **TERM.**

The term of this Agreement shall be for three years. The Agreement may be extended at the discretion of the Town Commission pursuant to a written amendment.

3. **PROPERTY SUBJECT TO LEASE.**

The property to be leased by the Town to Sales at Sea is located within the Marina and is shown on the attached Exhibit "A", a copy of which is incorporated herein. As shown in Exhibit "A", Sales at Sea shall lease the slips designated by the Town and as depicted on the attached Exhibit "1" (the "Slips"). The Slips are identified as No's: E60 through E64 (charged as 4 slips) and D59 through D55 for the floating dock installations.

4. **TERMINATION.**

(a) Sales at Sea may terminate the Agreement prior to the end of the Term by providing the Town with 60 days advance written notice of its intention to do so. Upon the notice of termination, Sales at Sea shall immediately begin such preparations as may be necessary to remove the Barge and restore the leased slips to the original condition prior to the Barge and model unit being docked in the Slips at the Marina. The restoration shall be subject to the inspection and approval of the Town. The inspection shall include: restoration of all the fixed docks that had been removed and any other required work in order for the Marina to be restored to its original condition.

(b) The Town may terminate this Agreement in the event Sales at Sea fails to timely pay the rent due by giving 60 days advance written notice of its intention to do so. If the Town notices its intention to terminate the Lease, Sales at Sea shall vacate the Slips prior to the 60<sup>th</sup> day of the notice and restore the leased area to a condition deemed suitable as determined by the Town.

5. **DEPOSIT.**

Sales at Sea shall deposit with the Town a security deposit in the amount of \$5,760 within 2 business days of the approval of the Lease by the Town Commission.

6. **RENT.**

Sales at Sea shall pay a monthly slip rental fee for slips E60 through E64 based upon \$18.00/ft. of dock space times the linear footage of the Slips identified above, currently estimated to be \$5,760 per month (80 feet in length x \$18ft x 4). If it is determined at any time throughout the term of this contract that additional slips will be rendered unusable, particularly in the D-dock area where slips D59 through D55 will be replaced with floating docks, additional rent shall be charged at a per slip rate as determined by the Marina pursuant to the prevailing rates. In addition to, and also as part of its rent, Sales at Sea shall pay the Town \$90.00/month per slip for the cost of electricity (110/30amp), currently estimated to be \$3,240 annually, for the cost of electricity during term of the Lease.

7. **PARKING.**

The Town shall designate 8 parking spaces for the exclusive use by Sales at Sea, its employees and prospective customers. The parking spaces are included with the Rent. The Town reserves the right, in its reasonable discretion to decrease the number of parking spaces designated for Sales at Sea based on user demand or to designate other parking spaces for Sales

at Sea's use at the auxiliary parking lot located on the west side of Lake Shore Drive adjacent to the Marina's entrance.

8. **SIGNS.**

Subject to the Town's advance approval, Sales at Sea may put up signs to identify its designated parking spaces. The costs of installation and maintenance of the signs shall be solely the responsibility of the Sales at Sea.

9. **MODIFICATIONS TO SLIPS.**

Sales at Sea shall only be permitted to modify the location of the Slips subject to this Agreement by a written amendment approved by the Town Commission. An amendment to the location of the Slips shall, at a minimum require Sales at Sea to present to the Town any and all approvals and/or permits which may be required by the Town or other any regulatory agencies. The removal of any fixed docks within areas that are not occupied by the Barge shall be replaced with floating docks. The Marina vessels should not be blocked in any way by any of the Sales at Sea activities. Once the Site is vacated by Sales at Sea, any fixed docks removed for the Barge shall be replaced with floating docks, and any areas by the Barge shall be restored. Sales at Sea shall bear all associated costs and liability for the work.

10. **TRASH CONTAINERS.**

Sales at Sea shall provide and maintain trash containers to adequately serve its operations within the Slips at the Marina. The number, size and location of the trash containers shall be subject to the approval of the Town Manager or his designee. Storage of trash outside of the trash containers is prohibited. Sales at Sea shall dispose of the trash in its trash containers on a daily basis in a dumpster designated by the Town.

11. **STORAGE LOCKERS.**

Sales at Sea may maintain a sufficient number of secure storage lockers on its property, which may be placed on the seawall facing the leased slips. The number and location of the storage lockers shall be subject to the approval of the Town Manager, or his designee.

12. **SPECIAL EVENTS.**

Sales at Sea shall be solely responsible for securing its property in the event the Town, or an entity permitted by the Town hosts a special event on the adjacent Marina walkway.

13. **NOTICES**

All notices required herein shall be made to the parties at these addresses:

To Sales at Sea:

**The Sales at Sea Group, LLC**

1571 NE 45 Street

Fort Lauderdale, Florida 33334

To Town:

**THE TOWN OF LAKE PARK**

Town Manager

535 Park Avenue

Lake Park, Florida 33403

14. **ATTORNEY'S FEES; COSTS.**

In the event either party to this Agreement retains an attorney to enforce the performance any of the terms of this Agreement whether or not legal proceedings are commenced, then the prevailing party in any such legal or code enforcement proceeding shall be entitled to recover its attorney fees and costs from the other party.

15. **GOVERNING LAW/VENUE.**

This Agreement shall be governed by the laws of the State of Florida. Venue for any cause of action arising out of this Agreement shall lie in the 15<sup>th</sup> Judicial District in and for Palm Beach County, Florida, or the United States District Court, Southern District of Florida, West Palm Beach, Florida.

16. **ASSIGNMENT.**

This Agreement may not be assigned by Sales at Sea without the written approval of the Town.

17. **SUCCESSORS AND ASSIGNS.**

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and permitted assigns.

18.. **SEVERABILITY.**

In the event that any sentence, section, paragraph or portion of this Agreement shall be held by a court to be invalid for any reason, such invalidity shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

19. **TOWN DOES NOT WAIVE SOVEREIGN IMMUNITY.**

Pursuant to the execution of this Agreement, the Town does not intend to, nor does it waive the protections of sovereign immunity afforded to it pursuant the Florida constitution and § 768.28, Fla. Stat.

20. **MAINTENANCE OF THE SLIPS.**

Sales at Sea shall be solely responsible for maintaining the Barge and the Slips in a safe condition for its guests, invitees, the public, employees, agents, the public or visitors; and for properly securing the Barge at all times such that it can safely sustain tides, winds and other elements and conditions. Sales at Sea shall be liable for its own actions or negligence should it cause any personal injuries, deaths, or other damages to persons, their property, or Town property. The Town disclaims all liability to the Sales at Sea and/or it's guests, invitees, employees, agents, the public, and contractors, insurers or underwriters, and/or third persons, for damages and/or losses from any cause whatsoever, specifically including any negligence. Sales at Sea acknowledges and agrees that in the event of any claims, then by paragraph 21 and this paragraph, the Town's elected and appointed officials, employees and representatives are hereby absolved from any liability with respect to the use of the Slips by Sales at Sea.

21 **INDEMNIFICATION.**

Sales at Sea, it's heirs, successors and assigns hereby agree to hold the Town harmless and to protect, indemnify and defend the Town and its elected and appointed officers, employees, agents from and against, any and all claims, losses, liabilities, penalties, fines, or damages of any

kind for personal injury, loss of life, property damage or other losses caused by or as a direct or indirect result of any acts and/or omissions of the Sales at Seas, and/or it's employees, invitees, guests, agents, trespassers, animals, and specifically including the negligence of the Town, its elected and appointed officials, and employees, or by reason of any other matter or occurrence, including but not limited to, the violation of environmental laws, laws pertaining to hazardous materials or any illegal discharge into the Marina waters, hurricanes, storms, terrorist acts, war, fire, theft, vandalism, collision, and from water, wind, weather and its effects.

22. **NO BAILMENT.**

This Agreement is for the leasing of dockage space only. **No bailment relationship between the Tenant and the Town shall be deemed to arise out of this Agreement for any reason.**

23. **INSURANCE.**

Sales at Sea shall maintain full general liability insurance coverage with minimum limits of liability of **\$500,000.00 for Personal use Vessels and \$1,000,000.00 Commercial use Vessels**, combined single limits, and bodily injury and property damage liability per occurrence. The coverage shall specifically include but not be limited to, premises and operations; broad form property damage; and personal injury. The insurance shall cover all property damage, personal injury or death arising from or connected with, the use of the Marina, Slip, the Vessel, and the mooring of the Vessel, by Sales at Sea and it's employees, family members, guests, agents, crew, invitees, and permittees. The insurance policy shall provide that Sales at Sea's insurance shall at all times be primary, regardless of whether or not the Town has any collectible insurance. The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ or above. PRIOR TO EXECUTION OF THE AGREEMENT, THE SALES AT SEA SHALL PROVIDE THE TOWN WITH A COPY OF THE INSURANCE CERTIFICATE EVIDENCE THAT THE IT MAINTAINS COVERAGE IN THE AMOUNTS SPECIFIED AND REQUIRED HEREIN. THE CERTIFICATE SHALL INDICATE THAT THE TOWN IS LISTED AS AN ADDITIONAL INSURED. NO LATER THAN 30 DAYS PRIOR TO EXPIRATION OF THE CERTIFICATE, SALES AT SEA SHALL PROVIDE TO THE TOWN EVIDENCE OF RENEWAL, OR A NEW CERTIFICATE EVIDENCING COVERAGE AND INCLUDING THE TOWN AS AN ADDITIONAL INSURED. SALES AT SEA SHALL PROVIDE THE TOWN ANY AMENDMENTS



TO ANY CERTIFICATE OF INSURANCE OR NOTICE OF CANCELLATION OF COVERAGE. Should a lapse in the insurance coverage required herein occur during the term of this Agreement, Sales at Sea agrees to be personally liable for any occurrence outlined in this Agreement including all property damage, personal injury or death arising from or connected with, the use of the Marina, Slips, and the mooring of the Barge and its property, by Sales at Sea it's employees, invitees, guests, and agents.

24. **WAIVER.**

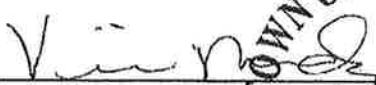
Any waiver by either party hereto of any one or more of the covenants, conditions, or provisions of this Agreement, shall not be construed to be a waiver of any subsequent or other breach of the same or any covenant, condition or provision of this Agreement.


25. **ENTIRE AGREEMENT.**

This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, oral or written, relating to said subject matter. This Agreement may only be modified by written amendment executed by the Town and Sales at Sea.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement as of the day and year last executed below.


ATTEST:

By:   
Vivian Mendez, Town Clerk

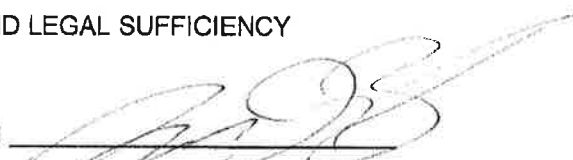


The seal is circular with the text "TOWN OF LAKE PARK" at the top, "SEAL" in the center, and "FLORIDA" at the bottom.

TOWN OF LAKE PARK

By:   
Michael O'Rourke, Mayor  
Date: 7/24/20

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By:   
Thomas J. Baird, Town Attorney


WITNESSES:

  
\_\_\_\_\_

Print Name: Nadia Di Tommaso

Print Name: \_\_\_\_\_

SALES AT SEA, LLC

By:   
\_\_\_\_\_ PETER BAYTARIAN

Print Name: Peter Baytarian

Title: Manager

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**EXHIBIT “1”**

*Description of the Property to be Leased (Slips)*

**SEE NEXT PAGE**

**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**561-881-3318**  
**RECEIPTS TRANSMITTAL FORM**

DATE: 7/16/2020  
 RECEIVED FROM: Sales at Sea

Town of Lake Park  
 07/16/2020 14:09  
 4156507  
 PMSM  
 CHECK: 1193  
 TOTAL

AMOUNT  
 5,760.00  
 5,760.00  
 5,760.00

This space reserved for receipt  
 Do not mark here

PERMIT NUMBER 20-000 or Other Identifying Info	318		
	105 LAKE SHORE DRIVE		

ACCT #

**CODES**

**1. PERMITS**

- (a) Building Permit Application for Zoning and/or PW review ONLY (no surcharge)
- (b) BUILDING PERMIT OR REVISION W/MINIMUM SURCHARGE
- (c) BUILDING PERMIT OR REVISION (OTHER ) VALUED \$2,500 - \$249,999  
 BUILDING PERMIT - VALUED BETWEEN \$250,000 AND OVER  
 Permit (a) and (b) penalty Mark an "X" 

#			
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- (d) SURCHARGES (2.5% OF PERMIT FEE, MINIMUM OF \$4.00) Over-ride >> 

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- (e) ADMINISTRATIVE FEE FOR BUILDING PERMITS
- (f) AFTER HOURS INSPECTION/REQUEST FOR B.O. SERVICES
- (g) RE-INSPECTION OR RE-INSTATEMENT FEES
- (h) SIGNAGE PERMIT

BLDPW	001-322.115			
BLDPR	SPLIT			
BLDPZ	30/70 SPLIT			
BP250	50/50 SPLIT			
BLDPN	001-329.152	\$ -	\$ -	\$ -
BLDSR	001-208.300	\$ -	\$ -	\$ -
SURPN	001-329.153	\$ -	\$ -	\$ -
ADMBP	SPLIT			
BOINS	001-229.150			
INSPT	SPLIT			
SNPMT	001-329.200			

**2. AVAILABLE**

**3. COPIES**

No of Pages	#1	#2	#3
Maps			
Single sided (\$0.15 per page)			
Color copies (\$0.50 per page)			
Plans (\$2.00 per page) *			
Plans (color \$4.00 per page) *			

\* Minimum \$10.00

COPYS				
COPYS				
COPBP	001-341.900	\$ -	\$ -	\$ -

**4. ADMINISTRATIVE COSTS FOR PUBLIC RECORDS REQUEST**

- 5. GARAGE SALE PERMIT
- 6. SPECIAL EVENT PERMIT

PRADM	001-341.905			
GRGSL	001-369.100			
SEPMT	001-322.500			

**7. CODE COMPLIANCE**

- (a) ADMINISTRATIVE COSTS (including application fees)
- (b) FINES
- (c) PARKING VIOLATIONS
- (d) INTEREST
- (e) BANK REGISTRATION FEE

FNADM	001-354-110			
FINCV	001-354.100			
FINPK	001-354.135			
INTRT	001-361.130			
BNKRE	001-342.520			

**8. REVIEW FEE SCHEDULE**

- (a) Reso. 74-09-19 

Fee Sch.			
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- (b) DEPOSIT - PLAN REVIEW ESCROW
- (c) PROJECT NAME: \_\_\_\_\_

PLNRV	001-342.510			
PLNES	001-220.100			

**9. BUSINESS TAX RECEIPTS**

- (a) ZONING CERTIFICATE
- (b) INSPECTIONS FOR RENTAL BTR'S
- (c) BUSINESS TAX RECEIPT FEES
- (d) TRANSFER FEE
- (e) OUTSIDE CONTRACTOR & EXTRA DECAL

OCAFE	001-316.120			
BTRIN	001-329.225			
OCCLI	001-316.100			
OCCTF	001-316.100			
EXTDC	001-316.130			

**10. ZONING DETERMINATION LETTER REQUEST**

CONFE	001-316.110			
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**TOTAL** \$ - \$ - \$ -

COMMENTS:

Grand Total \$ 5,760.<sup>00</sup>