59th Annual International Boat Show

THIS IS AN AGREEMENT, entered into on this _____, 2018, between:

THE CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, hereinafter referred to as "City"

and

YACHTING PROMOTIONS, INC., a Florida Corporation, hereinafter referred to as "Applicant."

WHEREAS, subject to the terms hereof, Applicant has requested approval from the City to conduct the 59th Annual Fort Lauderdale International Boat Show, or other title as agreed to by the parties herein, which includes a five (5) day boat show, consisting of yacht builders, designers to exotic cars, brokerage yachts and a wide variety of boats collectively hereinafter referred to as the "Event."

WHEREAS, in accordance with the terms hereof, Applicant shall provide the required certificates of insurance and agrees to indemnify and hold harmless the City of Fort Lauderdale for any damage to persons or property that occurs as a sole and direct result of the actions or inactions of Applicant in connection with and/or as a result of the operation of said Event; and

WHEREAS, pursuant to City's Code of Ordinances, in order to conduct such Event, Applicant and City wish to enter into this Agreement; and

WHEREAS, on October 9, 2018 the City Commission by motion authorized the City Manager to execute this Agreement with Yachting Promotions, Inc. for the 59th Annual Fort Lauderdale International Boat Show;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. RECITALS AND EXHIBITS INCORPORATED. The foregoing recitals are true and correct as are the Exhibits attached hereto and incorporated herein by this reference.

2. DEFINITIONS. For the purposes of this Agreement and the various covenants, conditions, terms and provisions that follow, the Definitions set forth below are assumed to be true and correct and are therefore agreed upon by the parties:

a. "Agreement" means this Agreement between the City and Applicant, including all of the attached and referenced Exhibits, as the same may be amended in writing from time to time, with an original on file with the City Clerk.

b. "Applicant" means Yachting Promotions, Inc. authorized to do business in the State of Florida.

c. "City" means the City of Fort Lauderdale, Florida, a municipal corporation of the State of Florida, of which the City Commission is its governing body.

d. "Contract Administrators" means the City of Fort Lauderdale's City Manager for the City or his/her designee.

e. "City Manager" means the City of Fort Lauderdale's City Manager or his or her designee.

f. "Event Impact Areas" means the areas outside the Event Site that are directly impacted by the Event and because of the impact to these areas, mitigating services are provided at the sole cost of the Applicant including, without limitation, police services, emergency medical services, traffic control, crowd control and trash removal. The Event Impact Areas shall be determined by the City in consultation with Applicant and may change over time as the attendance at the event or the use of mass transit service changes. In the event of a disagreement between Applicant and the City regarding the Event Impact Areas, the City Manager's decision shall be final as to the determined Event Impact Areas.

g. "Event Period" means the time periods as follows and as more fully described in Exhibit "A":

Set Up: Monday, October 1, 2018 through Tuesday, October 30, 2018

Event:Wednesday, October 31, 2018 through Sunday, November 4, 2018

Breakdown of Event: Monday, November 5, 2018 to Tuesday, November 20, 2018

The term "Breakdown" shall mean the use of heavy equipment, machinery or vehicles which use backup alarms in the deconstruction of the event structures in a manner that may produce noise or otherwise disturb area residents. The term Breakdown shall not include the cleanup or wind-down of event operations in a manner that does not involve heavy equipment and machinery. The Event Period may be revised upon the mutual consent of the City Manager and the Applicant.

h. "Event Site" means collectively the area used to hold the Event as more specifically described in Exhibit "B."

i. "Maintenance of Traffic Plan" shall have the meaning given to such term in Section 5 of the Agreement and more specifically described in Exhibit D.

j. "Public Safety Plan" shall have the meaning given to such term in Section 5.

k. "Repair" shall mean any work (including all third party labor, supplies, materials and equipment) reasonably necessary to repair, restore, or replace any equipment, building, structure or any other component of the Event Site, if such work is solely necessitated by any damage or destruction, including any damage or destruction resulting from the acts or omissions of other parties, including licensees or invitees of the Applicant, related to the Event. Repairs shall also include work necessitated by damage or destruction caused by the negligence of the Applicant and/or their agents, employees, contractors or subcontractors.

l. "Site Plan" shall have the meaning given to such term in Section 7.

m. "Term" shall have the meaning given to such term in Section 4.

3. PERMISSION TO USE. Subject to the terms hereof, Applicant is hereby authorized and entitled to use the portions of the Event Site owned by the City during the Event Period in order to conduct the Event. It is the responsibility of the Applicant to obtain permission from the owner of the portions of the properties described in the Site Plan not owned by the City. The right to use the Event Site does not imply that the Applicant is automatically allowed to close the streets and transportation corridors that are defined as part of the Event Site. Other City properties, if appropriate and mutually agreed upon in writing by the City and Applicant, may also be used for the Event. Upon request, the City Manager or designee shall have the right to approve or deny the use of promotional materials and advertising for the Event, which approval shall not be unreasonably withheld. If, upon review, the City Manager or designee denies the use of certain promotional materials, the City shall identify with specificity the basis for such denial and the Applicant shall use best efforts to remove the specifically restricted materials from future publication. All alcohol sales during the Event shall be governed in accordance with all applicable Florida Statutes and sections of the City of Fort Lauderdale Code of Ordinances.

4. TERM. The Term of this Agreement shall commence upon execution of this Agreement and expire upon all obligations being completed by the Applicant as described herein.

5. PUBLIC SAFETY PLAN FOR THE EVENT. Because of the physical size of the Event and the number of people that may attend, City shall arrange for all necessary personnel to provide public safety at the Event Site and Event Impact Areas. The parties will consult with each other in regard to the levels of security including the scaling down of such services for the set up and tear down of the Event. City reserves the right to require, in good faith, that additional services be provided, at the sole cost to Applicant, to ensure the appropriate level of public safety. These services shall include, without limitation, crowd control, traffic management, fire rescue, ocean rescue, emergency medical services, and police services. Applicant is required to provide signage, traffic barricades, and cones to facilitate public safety and will set up and remove at no cost to the City.

a. The Applicant shall provide a Public Safety Plan to City no later than twenty-five (25) days prior to the date of the Event, and the Public Safety Plan shall be incorporated into this Agreement and marked as Exhibit "C". This plan shall include, but not be limited to, the Applicant's planned actions to respond to and mitigate various potential criminal and emergency incidents which may occur during the Event. After receiving the final private security and Event Public Safety Plan from the Applicant, the City shall work with the Applicant in order to properly determine the number of personnel necessary to effectively and efficiently carry out the Public Safety Plan. City shall develop an anticipated budget for the Public Safety Plan and other City services, and provide the anticipated budget to the Applicant not more than ten (10) days following receipt of the Public Safety Plan. In the event of a disagreement between Applicant and the City regarding the number of personnel required for the Public Safety Plan and the anticipated budget of the Public Safety Plan, the City Manager shall seek to resolve such disagreement by taking into account the best interest of the public's safety and the reasonable cost for implementing the Public Safety Plan. The City Manager's decision shall be final as to the appropriate level of staffing for the Public Safety Plan and the anticipated budget for the Public Safety Plan. City agrees to include in its anticipated budget to the Applicant the number of proposed on-site City personnel that will be assigned during the Event as allowed by Florida Statute.

The parties will act in good faith to keep the other party notified of the latest information and any new developments or incidents that might cause additional public safety personnel to be deployed to the Event. Both parties agree that an essential element of the Event Public Safety Plan includes a procedure, mutually agreed upon in advance; the Applicant must follow during the Event to record the number of participants within the Event Site at any given time. Participant numbers must be real time and verifiable by City public safety personnel. In the event the primary participant count process fails during the Event, the Applicant must have a contingency process in place and readily available for activation to assure accurate continuation of participant counts. This contingency procedure along with the initial participant verification procedure shall be included and approved by the City in advance and as part of the Public Safety Plan. The Contract Administrator or City police/fire personnel shall have the right to request participant numbers from the Applicant at any time throughout the course of the Event.

b. Not less than twenty (20) days prior to the date of the Event, Applicant shall provide to the City a MOT Plan, incorporated into this Agreement and marked as Exhibit "D," containing a construction and automotive and pedestrian traffic flow schedule detailing the opening and closing times for all streets, lanes, pedestrian walkways and traffic corridors and outlining the use of any and all variable message signs for the City's review and approval. No additional street, lane or traffic corridor closures will be permitted unless included in the MOT Plan and approved by the City. Applicant agrees to provide the City with emergency access to all areas included in the Event Site to ensure the safety and welfare of the community.

c. The cost for any additional services or expansion of services requested by Applicant, in writing, shall be an expense to Applicant and City shall be paid for all costs and expenses in association with any such additional or expansion of services provided to Applicant. Expansion of services means enhancements of activities, any changes in the type of activities provided or changes in parameters of Event or the Event Site, caused by or requested by Applicant, including physical location and boundaries that result in an increase in the City's cost to provide all necessary services.

d. Should Applicant request non-critical public safety services, such as a police escort, or if such services are beyond the City's ability to provide, Applicant may make such arrangements and coordinate these services with the City. The cost for these additional services shall be an expense to Applicant, and all such costs and expenses shall be paid to City within the time frame as set forth in Section 21, Reimbursement of Costs and Expenses.

e. In the event of an emergency or disaster during the Event, at the Event site or as a direct result from the Event activities, that requires public safety resources beyond the original Public Safety Plan, it shall be the responsibility of the Applicant to reimburse the City's reasonable additional cost to respond to such emergency or disaster that the City would not have otherwise incurred had such Event not been taking place. This section shall not apply to any natural disaster, act of terrorism, or act of God that may occur at the Event Site during the Event including, without limitation, a hurricane, lightning strike, tornado or any other such causes whatsoever beyond the control of the parties and unrelated to the Event.

f. Applicant acknowledges that traffic control plans shall accommodate the ingress and egress to residences during the course of the Event.

6. STREET CLOSINGS: City reserves the right to approve all street closings, including those streets and transportation corridors that are defined as part of the Event Site, in association with the Event and any requests for street closings should be included with the MOT Plan that is submitted by Applicant. Applicant agrees to coordinate and make the appropriate arrangements with any merchants or residents affected by any street closures to ensure they are provided sufficient and reasonable access to their businesses and residences.

7. SITE PLAN: Not less than twenty-five (25) days prior to the date of the Event, Applicant shall provide to the City the following:

a. For the Event Site and Event Impact Areas, a detailed Site Plan for the Event showing locations that will be designated for Applicant's exclusive use, detailing the locations of any tents, sanitary facilities, parking, stages, booths, concessions, alcoholic beverage service areas, etc. and the boundary lines of any fences, barriers etc. to be constructed at the Event Site, and the times when such borders, fences and/or facilities will be constructed, operated and dismantled. Such Site Plan shall be subject to the review and approval by the appropriate City

departments, such approval not to be unreasonably withheld or delayed. Any additional changes made to the Site Plan by Applicant, after reviewed by the appropriate City departments, must be approved by the City, which such approval will not be unreasonably withheld or delayed. A final inspection will be conducted by the City immediately prior to the Event to ensure that the location of all tents, booths, sanitary facilities, stages, etc. are in accordance with the City approved site plan and code regulations. The Site Plan shall be incorporated into this Agreement and marked as Exhibit "E."

b. A description of all activities and events to occur at the Event Site and Event Impact Areas including permissible activities and any maintenance of the waterline fence, barrier and borders during the Event.

c. The cellular and business phone numbers of the individuals in charge of the various aspects of the Event.

d. Copies of all appropriate permits and licenses required by the City's Sustainable Development Department and Fire Department. These permits include, but are not limited to, permits necessary for tents, merchandise, food and beverage vendors, electrical connections, and any other County or State permits.

8. NON-PUBLIC SAFETY SERVICES: City shall provide, as necessary, oversight, coordination and direction, but not supervision, of Applicant's employees or contractors related to Event transportation, setup, storage, maintenance, Repair or replacement of property, cleanup and breakdown of Event Site including removal of barricades and safety cones.

9. MAINTENANCE OF EVENT SITE AND EVENT IMPACT AREAS:

a. Applicant shall be responsible for and shall provide sufficient temporary public sanitary facilities as to meet the requirements established by the Department of Sustainable Development Department and zoning department. Applicant shall provide daily service of the facilities at all times during the Event Period. The cost of such temporary public sanitary facilities shall be an expense to Applicant and all costs and expenses for facilities furnished by the City to Applicant shall be paid to City within the time frame as set forth in Section 21, Reimbursement of Cost and Expenses.

b. Applicant shall be responsible for all cleanup costs and expenses associated with the removal of trash and debris that accumulates on any portion of Event Site or in the designated Event Impact Areas. All trash shall be collected and removed throughout the Event with final cleanup being completed within 24 hours of the Event completion, or within established time frames as agreed to by City. The requirement to remove trash and debris includes street sweeping. Applicant will cover and reimburse City for all costs associated with trash and debris removal within the Event Site and Event Impact Areas.

c. In the event the Applicant wishes to utilize temporary mobile cellular

communication (service boosting) towers, which can also benefit public safety by increasing the E-911 capabilities of the specific service provider, the Applicant must notify the City Police and Fire Departments and agrees that the contracted equipment provider with whom they procure such equipment, services etc. will work closely with the City Radio Engineers to confirm the temporary towers will not interfere with the City or County public safety radio frequencies.

10. PARKING AND TRANSIT SERVICES: It will be the responsibility of Applicant to arrange and coordinate all parking at City facilities and any transit services from these facilities to the Event Site. All proposed shuttle routes and bus stops shall be approved by the City as part of the MOT Plan. City agrees to invoice Applicant at the approved special event parking rate of $10 dollars on a non-event day and $20_ on the days of the Event. All parking lot requests must be in writing at twenty (20) days in advance of the Event. An estimate of parking charges will be provided to Applicant no more than five (5) days after receiving written requests. Applicant understands that the approved special event parking rate is a daily rate and may not be prorated. Requests to change an issued City parking invoice must be made in writing prior to the end of the Event.

11. CONSTRUCTION OF FACILITIES, STRUCTURES, CANOPIES, TENTS AND CONCESSION STANDS:

a. Applicant shall be allowed to construct and maintain on the Event Site, such facilities and structures that are necessary for the Event including, but not limited to, fences, barriers, grandstands and signs as approved by the City and at such locations as approved by the City.

b. All such structures, facilities, concession stands and canopies may be erected beginning on Monday, October 1, 2018 at 6a.m. and deliveries related thereto can be made to the Event Site. All such structures must be removed within seventy-two (72) hours following the conclusion of the Event. Except where such structures, facilities, concession stands, canopies and tents are permitted by this Agreement, the same shall not otherwise interfere with the normal operations of the property. Applicant shall be permitted to erect canopies, tents, stages and/or concession stands to sell additional merchandise for the Event at City-approved locations. Any setup or tear down of such structures at the Event Site shall be in accordance with the terms contained in the City's Noise Ordinance No. C-08-37.

c. Applicant is hereby granted permission to erect canopies, tents, and concession stands, at such locations in accordance with the approved Site Plan. It is further agreed and specifically understood that permission to erect such canopies, tents and concession stands, as aforementioned is conditioned upon Applicant complying with the following:

(1) Within seven (7) days of the Event Period, Applicant shall file with the City Manager a detailed C o n c e s s i o n P l a n specifying the locations, hours, dates and types of concessions that will operate during the Event. The Concession Plan shall identify and list the

individuals, corporations, partnerships or other entities that are or will be operating such concessions, tents or canopies at the Event Site. Any and all third party vendors with which Applicant contracts for the sale or distribution of alcohol shall submit a copy of the vendors liquor liability license at this time.

(2) Applicant shall obtain approval by the City Fire Department and file with its application evidence that such canopies, tents, awnings and/or concession stands which are to be used during the period of time encompassed by this Agreement are of fireproof material and will not constitute a fire hazard. City's Sustainable Development Department must review and approve the proposed use of any temporary structure used in association with the Event in accordance with the standard criteria as outlined in the City's Code of Ordinances and Florida building code.

d. All construction, installations and services, including electrical hook-ups, shall be made at Applicant's expense and approved in advance by the City's Sustainable Development Department. If electricity is required, Applicant shall negotiate arrangements for such service with the City or a licensed contractor. This cost shall be an expense to Applicant and, if furnished by City, shall be paid to City within the time frame as set forth in Section 21, Reimbursement of Costs and Expenses.

e. Unless Applicant receives prior specific written permission by the City Manager, no construction or installations shall involve the use of stakes or other material that may break the surface or deface any infrastructure such as asphalt, concrete, brick or any plant material.

f. Applicant and City will agree to the list of all-access passes for City employees required to work at the event and shall be distributed for the Event at least five (5) days prior to the Event. Additionally, Applicant shall provide an operations tent to be utilized by the City of Fort Lauderdale during the Event days. Location of this operations tent shall be determined by the City.

12. MAINTENANCE OF AND PAYMENT FOR DAMAGE TO PROPERTY.

a. No more than three (3) days prior to the Event, City and Applicant shall inspect and document the condition of the Event Site and Event Impact Areas. It shall be the responsibility of the Applicant during the initial walk through inspection to point out to the City the areas of disrepair. At the conclusion of the Event, City and Applicant shall inspect the condition of the Event Site and Event Impact Areas and City shall inform Applicant of all necessary Repairs. Applicant shall make all necessary Repairs to restore the Event Site and Event Impact Areas to a condition equal to that existing prior to the Event.

b. Applicant agrees to Repair all core drilling holes in the asphalt, concrete, and all other paved and unpaved surfaces, made to facilitate the erection of barriers, stages, fences, tents and other improvements to the Event Site and Event Impact

Areas, according to City standards, as determined by the City Manager in his sole discretion, within seventy-two (72) hours after the conclusion of the Event.

c. Applicant shall be responsible for damage to all plants, shrubs, trees, other landscaped areas, paved surfaces, and to any and all structures located or situated upon any portion of the Event Site or Event Impact Areas. Applicant shall be responsible for the costs to Repair any part of the Event Site or Event Impact areas that are damaged during the Event Period as a result of the negligence and/or wrongful acts of Applicant or Applicant's agents, employees, contractors, subcontractors, invitees, licensees, or attendees. Applicant shall be responsible, at Applicant's sole expense, for the repair or loss of its officers', contractors', subcontractors', and agents' personal property, except for repairs of such property caused by the negligence or willful misconduct of the City or its officers, employees or agents.

d. It is further agreed that if damage is found to exist, as a result of the Applicant's or its agents, employees, contractors, subcontractors, invitees, licensees, or attendees negligence during the Event Period, City shall furnish Applicant with a written report of such damage by the close of business on the Friday following the Event. The report shall estimate the cost to remedy such damage. Applicant arranges for such damages to be repaired by a third party, such cost shall be paid by Applicant to City within fourteen (14) days after Applicant receives the City's invoice of the cost of said damage.

13. SECURITY OF APPLICANT'S PROPERTY. All construction materials, equipment, goods, signs and any other personal property of Applicant shall be protected solely by Applicant. Applicant acknowledges and agrees that City assumes no responsibility, whatsoever, for any such item and that the security and protection of any such item from theft, vandalism, the elements, acts of God, or any other cause, are strictly the responsibility of Applicant, unless caused by the wrongful or negligent acts of the City or its officers, employees or agents.

14. APPLICANT'S CONTRACTS: Applicant agrees to be solely responsible for all contracts or agreements of any nature including, without limitation, those for entertainment and vendors for the Event. All contracts for the Event shall be negotiated by Applicant and secured at the sole expense of Applicant. City shall not be named as a party in any contract for the Event and City shall have no obligation to ensure payment to any individual or entity for goods and/or services provided in conjunction with such Event.

15. SUBLEASES, ASSIGNMENTS, OR TRANSFERS: Applicant or any of the principals of the corporation shall not assign, sublease or transfer any of its obligations and/or rights under this Agreement, in whole or in part, to any person, business or entity, without the prior written approval of City, such approval not to be unreasonably withheld or denied. Any such action by Applicant will result in immediate cancellation and termination of this Agreement by City.

16. LICENSES AND PERMITS; COPYRIGHTS, PATENTS AND TRADEMARKS: Applicant agrees to secure and pay for all licenses and permits required by any

governmental agency having jurisdiction over the Event Site. City acknowledges and agrees that Applicant will contract with third party vendor(s) for any dispensing, serving, sale and/or distribution of alcohol at/during the event, and shall cause any such third party to obtain any applicable permits and licenses as may be required for the service, sale and/or distribution of alcohol at/during the event. Additionally, if Applicant intends to use any item which is or may be protected from infringement, such as but without limitation, copyrights, patents and trademarks, if requested by City, Applicant shall provide City ten (l0) days in advance of the first date of property use, evidence showing that the applicable licenses, permits and/or permission have been secured and, if applicable, all fees have been paid in full by Applicant. The provisions of this paragraph specifically apply to the American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music Incorporated ("BMI") and any other similar organization that may require written permission and payment of a fee for use of protected material. Applicant shall ensure that all performance payments required to be made under such licenses are made promptly and directly to the licensing organizations. Copies of all said licenses or reports shall be submitted to City upon request. In the event Applicant fails to submit the licenses or reports as required herein or the documentation is not satisfactory to City, Applicant shall be responsible for payment to City for all license fees incurred by the City in connection with the Event. City shall have no responsibilities to any performing rights licensing organizations for any performance during the Event.

17. STANDARDS OF CONDUCT; COMPLIANCE WITH RULES, REGULATIONS, ORDINANCES: Applicant agrees that at all times it will conduct its activities with full regard for public safety and will observe and abide by all federal, state and local laws, the federal and state constitutions, and all rules, regulations and ordinances of City and any other governmental agency having jurisdiction including, without limitation, those relating to noise, building, zoning, gambling, fire protection, liquor regulation, sanitation and food facilities and hours of operation. Applicant shall further take all precautions and use due care to conduct its operations in a safe and prudent manner with respect to its agents, employees and visitors to the Event.

18. INSURANCE:

During the term of this Agreement, Applicant at its sole expense, shall provide insurance of such a type and with such terms and limits as noted below. Providing and maintaining adequate insurance coverage is a material obligation of Applicant. Applicant shall provide the City a certificate of insurance evidencing such coverage. Applicant's insurance coverage shall be primary insurance as respects to the City for all applicable policies. The limits of coverage under each policy maintained by Applicant shall not be interpreted as limiting Applicant's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in Florida and possess an A.M. Best rating of A-, VII or better, subject to the approval of the City's Risk Manager.

The coverages, limits and/or endorsements required herein protect the primary interests of the City, and these coverages, limits and/or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types and limits of

coverage to protect the Applicant against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Applicant under this Agreement.

The following insurance policies/coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $1,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $1,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The City, a political subdivision of the State of Florida, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Applicant. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, or volunteers.

Liquor Liability

Applicant shall provide evidence of coverage for liquor liability in an amount not less than $1,000,000 per occurrence. If the Commercial General Liability policy covers liquor liability (e.g. host or other coverage), the Applicant shall provide written documentation to confirm that coverage already applies to this Agreement.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles operated by Applicant, for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident. Such coverage shall not include vehicles not operated by Applicant.

If the Applicant does not own vehicles, the Applicant shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any firm performing work on behalf of the City must provide Workers' Compensation insurance. Exceptions and

exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

The Applicant and its insurance carrier waives all subrogation rights against the City, a political subdivision of the State of Florida, its officials, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC00 03 13 Waiver of our Right to Recover from Others or equivalent.

Applicant must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore and Harbor Workers' Compensation Act or Jones Act, if applicable.

Watercraft Liability

Coverage must be afforded in an amount not less than $1,000,000 per occurrence and must cover the utilization of watercraft, including Bodily Injury and Property Damage arising out of ownership, maintenance, or use of any watercraft, including owned, non-owned, and hired. Notwithstanding the forgoing, such coverage shall not include watercraft, not operated by Applicant.

Coverage may be provided in the form of an endorsement to the Commercial General Liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity for Bodily Injury and Property Damage.

Insurance Certificate Requirements

a. The Applicant shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
b. The Applicant shall provide a Certificate of Insurance to the City with a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Applicant to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the Applicant shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
e. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.
f. The City shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.

g. The City shall be granted a Waiver of Subrogation on the Applicant's Workers' Compensation insurance policy.
h. The Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the certificate.

The Certificate Holder should read as follows:

City of Fort Lauderdale

100 N. Andrews Avenue

Fort Lauderdale, FL 33301

The Applicant has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the Applicant's expense.

If the Applicant's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Applicant may provide an Umbrella/Excess insurance policy to comply with this requirement.

The Applicant's insurance coverage shall be primary insurance as respects to the City, a political subdivision of the State of Florida, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers shall be excess of Applicant's insurance and shall be non-contributory.

Any exclusions or provisions in the insurance maintained by the Applicant that excludes coverage for work contemplated in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, and/or this Agreement is terminated. Any lapse in coverage shall be considered breach of contract. In addition, Applicant must provide confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of Applicant's insurance policies.

All notices of any claim/accident (occurrences) associated with this Agreement, shall be provided to the Applicant's insurance company and the City's Risk Management office as soon as practical.

It is the Applicant's responsibility to ensure that all independent and subcontractors comply with these insurance requirements. All coverages for independent and subcontractors shall

be subject to all of the requirements stated herein. Any and all deficiencies are the responsibility of the Applicant.

20. LIMITATION OF LIABILITY

a. The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of $25,000.00. Applicant hereby expresses its willingness to enter into this Agreement with Applicant's recovery from the City for any damage action for breach of contract or for any action or claim arising from this Agreement to be limited to a maximum amount of $25,000.00.

b. Accordingly, and notwithstanding any other term or condition of this Agreement, Applicant hereby agrees that the City shall not be liable to Applicant for damages in an amount in excess of $25,000.00, for any action for breach of contract or for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Article 768.28, Florida Statutes.

c. Applicant shall further provide evidence of Worker's Compensation Insurance in force for the benefit of Applicant's employees with a Certificate of Insurance no later than ten (10) days prior to use of the Event Site.

21. COSTS AND EXPENSES FOR CITY SERVICES.

a. As provided for in Section 5 above, Applicant shall plan and provide for public safety. Applicant agrees to cover all out of pocket costs and expenses incurred by the City for services provided for the Event including, without limitation, public safety, maintenance, cleanup, utility connections, breakdown and removal, storage and Repair or replacement of property, and staff time incurred as a result of the Event. Applicant agrees and understands that the off duty rate for police personnel for all special events is calculated at a three (3) hour minimum rate. There is a 24 hour cancellation requirement to avoid the three (3) hour minimum payment per officer. All payments will be paid within two (2) weeks of the payroll being submitted. Applicant agrees that positions for all security and supplemental police details for the Event should first be offered to City personnel at the detail rate. If an insufficient number of personnel are available at the detail rate, Applicant shall have the option to utilize outside Florida sworn agencies to fill the deficiency prior to the City mandating personnel to work at the overtime rate, with this request made through and coordinated by the City Police and/or Fire Rescue Departments. The Fort Lauderdale Police Department and Fire Department shall retain the command and control of their respective event operation areas at all times and any mutual aid or assisting agency personnel shall follow such command procedures. Applicant further agrees to be responsible for any capital improvements that the City must make to accommodate Applicant's

request for any building, electrical, plumbing, fire, municipal, or county code requirements. Applicant shall also be responsible for any replacement and restoration costs as set forth in Section 12, Maintenance of and Payment for Damage to Property.

b. Applicant agrees to secure a bond, cash or corporate guarantee, at Applicant's election in an amount equal to one hundred percent (100%) of the estimated cost of reimbursement for City services, to cover all costs and expenses associated with hosting the Event including, without limitation, public safety, maintenance, cleanup, utility connections, breakdown and removal, storage and Repair or replacement of property. City reserves the right to approve the bonding company or institution issuing the bond and the instrument shall be kept in full force and effect for the period of the Agreement. No later than thirty (30) days prior to the date of permission from City to first use the Event Site, Applicant shall provide the City with a valid payment bond in the amount specified above. The bond shall be written by a corporate surety company holding a Certificate of Authority from the Secretary of Treasury of the United States, executed and issued by a resident agent licensed by and having an office in the State of Florida, representing such corporate surety, providing that if Applicant fails to duly pay for any labor, materials, or other supplies used by Applicant, the surety will pay the same in the amount not exceeding the sum provided in such bond. Applicant shall also have the option to escrow the funds in an amount equal to one hundred percent (100%) of the cost of reimbursement for City services("Obligated Amount") in which case a bond would not be required by the City. The Obligated Amount shall be placed into the City of Fort Lauderdale Escrow Account to be held in escrow under the terms and conditions hereinafter set forth ("Escrow Deposit").

c. In the event the Applicant elects to deposit the Obligated Amount with the City of Fort Lauderdale Treasurer, who shall be the Escrow Agent, the Escrow Agent shall promptly deposit, retain and disburse the Escrow Deposit in accordance with the terms hereof or as may be directed in writing by both the Applicant and City Manager on behalf of the City or as may be directed by a court of competent jurisdiction.

d. If the Escrow Agent is in doubt as to his or her duties, the Escrow Agent shall retain the Escrow Deposit until Applicant and City, through its City Manager, collectively agree in writing to the disposition of the funds or until a court of competent jurisdiction has adjudicated the rights of Applicant and the City.

e. Any suit between Applicant and City where Escrow Agent is made a party because of acting as Escrow Agent, or in any suit where Escrow Agent interpleads the Escrow Deposit, Escrow Agent shall recover reasonable attorney's fees and costs from the Escrow Deposit, as between Applicant and City, and such fees and costs shall be charged and assessed against the non-prevailing party.

f. The parties agree that the Escrow Agent shall not be liable to any party or person for misdelivery of the Escrow Deposit or any portion thereof to Applicant or City, unless misdelivery is due to willful breach of the terms hereof or gross

negligence on the part of Escrow Agent.

g. The escrow deposit will be held until all effected departments have submitted their final invoice for the reimbursement of City services including without limitation Public Safety Services. Once the final invoice has been received, the Applicant will be notified for approval. Once approved, the release of escrowed funds earmarked for police services will be wired back to the Applicant's bank account. The Applicant shall release checks to police personnel for payment of off-duty details at the Event within three (3) business days of receiving the escrowed funds.

21. REIMBURSEMENT OF COSTS AND EXPENSES:

a. Subject to the terms hereof, Applicant shall pay City for all costs and expenses incurred by City for which Applicant is responsible hereunder within fourteen (14) days of receipt of any invoice from City. If total amount is not paid within fourteen (14) days, interest charges of four percent (4%) annual percentage rate shall be applied.

b. Should Applicant disagree with the invoice provided by the City, it shall state its reason(s) in writing and may request the City Manager to review the charges and render a decision. If Applicant does not agree with the City Manager's decision, Applicant may make a petition to the City Commission. If Applicant does not agree with the results of such review, upon the filing of a lawsuit the parties shall agree to mandatory mediation.

22. AUTHORITY OF CITY MANAGER: Applicant shall coordinate the use of Event Site in accordance with the terms hereof and the approved Site Plan, in consultation with the City Manager. The City Manager shall notify Applicant when, in the City Manager's reasonable opinion, such activities may be or are detrimental to the public or to the City, or if the City has reason to believe that Applicant, its agents, subcontractors, independent contractors and/or employees have violated any law, rule or ordinance. After consultation with Applicant, City reserves the right to eject or cause to be ejected from the Event Site any person or persons causing a disturbance and neither the City nor any of its officers, agents or employees shall be liable to Applicant for any damages that may be sustained by Applicant through the exercise by City of such right. The decision of the City Manager in such regard shall be final and binding.

23. TERMINATION: Applicant may elect, during the Term of this Agreement, to terminate this Agreement and no longer conduct the Event. If Applicant elects to terminate this Agreement, Applicant shall notify the City in writing of such election one ten (10) days prior to the date of the Event. Applicant shall be obligated to reimburse City for any out of pocket costs and expenses incurred by the City in connection with the fulfillment of the City's obligations under this Agreement. It is expressly understood that City may seek to terminate this Agreement if the City decides it is necessary to protect the public's health, safety and welfare. City may also seek to terminate this Agreement upon the breach by the Applicant of its obligations under this Agreement. If the City seeks to terminate this Agreement, the City shall provide notice of the reason for

termination as set forth in the Notice Section of this Agreement, and the Applicant shall have seventy-two (72) hours to cure the reason for the termination to the exclusive satisfaction of the City. In the event of an imminent threat to the public's health or safety, the City may terminate this Agreement at any time by providing notice as set forth in the Notice section of this Agreement.

24. BREACH: A material, monetary, breach of this Agreement by the Applicant shall be grounds for the City to terminate this Agreement, except that before such termination, the Applicant shall be entitled to ten (10) days written notice and an opportunity to cure the breach within such period. Notice of any breach may be sent by facsimile followed by hand delivery of the notice as provided in Section 30, Notice, of this Agreement.

25. FORCE MAJEURE: In the event the Event Site shall, at any time during the term of this Agreement, be destroyed or rendered unusable by fire, storm or threat of a named storm within five hundred (500) miles of the Event Site, act of terrorism, war, act of God or other disaster or epidemic, (collectively or separately, "*Force Majeure Event")*, or the Event is cancelled or postponed due to a Force Majeure Event, then either party may terminate this Agreement by providing prior written notice to the other party. In such event, each party shall be responsible for their own costs and expenses incurred prior to such termination except if the Force Majeure Event occurs during the Event Period, whereas Applicant will reimburse City for all actual costs incurred related to the Event, as otherwise provided for hereunder.

26. GOVERNING LAW: This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida and shall inure to and be binding upon the parties, their successors and assigns. Venue for any action brought in state court shall be in Broward County, Florida. Venue for any action brought in Federal Court shall be in the Southern District of Florida, Fort Lauderdale Division. The parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.

27. AMENDMENT: No modification, amendment or alteration of the terms or conditions of this Agreement shall be effective unless contained in a written document duly executed by both parties, with the same formality as this Agreement.

28. WAIVER OF BREACH: Failure by City to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

29. EXTENT OF AGREEMENT: This Agreement represents the entire and integrated Agreement between City and Applicant and supersedes all prior negotiations, representations or agreements either written or oral.

30. NOTICE: Whenever any party desires to give notice to any other party, it must be given by written notice sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the place designated below and the place so designated shall remain such until they have been changed by written notice in compliance with the provisions of this section. For the present, the parties

designate the following as the respective places for giving notice:

CITY:
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301
Attn: City Manager

With a copy to:
City of Fort Lauderdale
City Attorney's Office
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

APPLICANT:
Yachting Promotions, Inc.
101 Paramount Drive, Ste. 100
Sarasota, FL 34232

With a copy to:
Yachting Promotions, Inc.
101 Paramount Drive, Ste. 100
Sarasota, FL 34232

31. SEVERANCE: In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Applicant elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

32. NON-DISCRIMINATION: In the performance of this Agreement, Applicant shall not discriminate against any vendor, concessionaire, employee, patron, visitor, attendee or customer because of sex, age, race, color, religion, ancestry, national origin or sexual orientation. In addition, to ensure that the Event is a true community event, Applicant will encourage the participation of minority groups in all aspects of the Event, including the organization, planning, implementation, concessions and support services. Applicant agrees to comply with the terms and provisions of the Americans With Disabilities Act and shall make the Event Site and Event Impact Areas accessible for persons with disabilities.

33. EMERGENCY ACCESS: Applicant agrees to provide any and all emergency access required by the City and its employees for the safety and welfare of the community and those attending the Event, and proper entrances into any gates which are locked. If, in the course of Applicant's operations, Applicant or City, or their officers, agents and/or employees, become aware of any condition in or about the Event Site or

Event Impact Areas which may be dangerous, Applicant will immediately correct such condition or cease operations upon becoming aware or being notified of such condition so as not to endanger persons or property.

34. MISCELLANEOUS PROVISIONS:

a. Applicant agrees to exercise a good faith and reasonable effort to work with the City Police Department and representatives of the adjacent Homeowners Associations to implement a plan permitting homeowner's ingress and egress to their residences during the course of the Event.

b. Applicant acknowledges that it is solely responsible for all utilities for the Event including, without limitation, electrical, water, and sewer and storm sewer hookup requirements.

c. In the Event that the City is required to file any legal action against Applicant to collect any fees due under this Agreement, City shall be entitled to its costs of collection, repairs, attorney's fees and costs and interest at the maximum rate allowable by law.

d. The Applicant shall be permitted to serve alcoholic beverages as a concession of the Event, and the Applicant may extend this right to permitted third parties, in accordance with all applicable licenses, regulatory requirements and the City of Fort Lauderdale Code of Ordinance.

e. The Applicant, after receiving permission by the City's Contract Administrator, reserves the right to add decor, including, but not limited to signage to the location or cover any existing signage, as authorized by the City of Fort Lauderdale Code of Ordinances.

f. The Applicant, after receiving permission by the City's Contract Administrator, may conduct filming anywhere at the Event site that is part of this License and shall retain all rights to such.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

CITY

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida:

By_____
LEE R. FELDMAN, City Manager

(SEAL)

ATTEST

By_____
JEFFREY A. MODERELLI,
City Clerk

Approved as to form:
ALAIN BOILEAU, City Attorney

By_____
KIMBERLY CUNNINGHAM MOSLEY,
Assistant City Attorney

APPLICANT

WITNESSES:

_____

_____
[Witness print/type name]

_____

_____
[Witness print/type name]

YACHTING PROMOTIONS, INC., a Florida for profit corporation.

_____

_____
[Print Name, check title]

☐ President ☐ Vice President
☐ Authorized Signatory (Please provide corporate authorization)

ATTEST:

_____
Secretary

_____
[Print Name]

CORPORATE SEAL

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____ as _____ of YACHTING PROMOTIONS, INC., a Florida for profit corporation, who is ☐ personally known to me or ☐ has produced _____ as identification.

(NOTARY SEAL)

_____
Notary Public, State of Florida
(Signature of Notary Taking Acknowledgment)

_____
Name of Notary Typed, Printed or Stamped

My Commission Expires: _____
Commission Number: _____