

CONFIDENTIAL SETTLEMENT AGREEMENT

This Settlement Agreement by and among: JEFFREY EPSTEIN and L.S.J., LLC (hereinafter "OWNERS") and MIDNIGHT EXPRESS POWER BOATS, INC. (hereinafter "MIDNIGHT EXPRESS") shall be deemed effective on the date on which all parties have signed this Settlement Agreement.

WHEREAS, prior to January, 2007, OWNERS owned one 1985 37-foot Midnight Express Cuddy vessel, Hull Identification Number MXJ37053F585 ("Old Hull");

WHEREAS, on or about January, 2007, OWNERS contracted with MIDNIGHT EXPRESS to complete certain modifications to the Old Hull;

WHEREAS, on or about December 1, 2008, MIDNIGHT EXPRESS reported that these modifications to the Old Hull had been completed;

WHEREAS, on or about January 7, 2009, MIDNIGHT EXPRESS invoiced OWNERS for the work undertaken by MIDNIGHT EXPRESS to the Old Hull in the amount of Twenty-Six Thousand Eight Hundred Twenty and 51/100 Dollars (\$26,820.51);

WHEREAS, on or about April 1, 2009, OWNERS advised MIDNIGHT EXPRESS that MIDNIGHT EXPRESS had not completed the modifications contracted for to the Old Hull to their satisfaction;

WHEREAS, on or about April 8, 2009, OWNERS refused to pay the MIDNIGHT EXPRESS invoice in the amount of Twenty-Six Thousand Eight Hundred Twenty and 51/100 Dollars (\$26,820.51);

WHEREAS, this Settlement Agreement is intended to resolve a disputed matter and is not an admission or assignment of liability on the part of either company, its individual directors, officers or employees, past or present;

WHEREAS, the events set forth above are not binding or admissible for evidentiary purposes, but for informational purposes only;

WHEREAS, the parties to this Settlement Agreement now wish to amicably resolve any and all claims the parties may have against each other in their entirety;

NOW, THEREFORE, in consideration of the mutual undertaking made herein, the receipt and adequacy of which is hereby acknowledged, the parties stipulate and agree as follows:

- i) OWNERS shall enter a stipulation to dismiss with prejudice, all parties to bear their own fees and costs, all claims and/or lawsuits filed against MIDNIGHT EXPRESS which may be currently pending.
- ii) OWNERS stipulate and agree to not file any lawsuits or claim any damages related to any work undertaken or completed by MIDNIGHT EXPRESS related to the Old Hull contract dated January, 2007.
- iii) MIDNIGHT EXPRESS shall release OWNERS from any financial obligation to MIDNIGHT EXPRESS in the amount of Twenty-Six Thousand Eight Hundred Twenty and 51/100 Dollars (\$26,820.51), which reflects the outstanding invoice dated January 7, 2009 for the work undertaken by MIDNIGHT EXPRESS related to the Old Hull.
- iv) MIDNIGHT EXPRESS will build a new 39' hull and deck for OWNERS ("New Hull"), which is further set out in the Purchase and Sales Agreement attached hereto as Exhibit A and incorporated by reference into this Settlement Agreement in full.

- v) MIDNIGHT EXPRESS will power the New Hull solely with the OWNERS' motors and rigging taken from the Old Hull.
- vi) In addition to the hull of the New Hull and installing and mounting the engines from the Old Hull to the New Hull, MIDNIGHT EXPRESS shall provide the following additional items to the New Hull: an aluminum arch top; bilge pumps; navigational lights; bow thruster; and other miscellaneous items as further set out in more detail in Exhibit 1 to the Purchase and Sale Agreement attached and incorporated hereto as Exhibit A.
- vii) In consideration of the foregoing, OWNERS will pay, free of all bank charges, One Hundred Eighteen Thousand Eight Hundred Twenty Dollars (\$118,820.00) plus provide clear, unencumbered title, free of charters, encumbrances, mortgages and maritime liens or any other debts whatsoever to the Old Hull, including the vessel and all her appurtenances, as a trade-in to MIDNIGHT EXPRESS.
- viii) OWNERS agree to defend, indemnify and hold harmless MIDNIGHT EXPRESS from and against all consequences of any and all claims made against the Old Hull which have been incurred or attached prior to the time of delivery to MIDNIGHT EXPRESS.
- ix) MIDNIGHT EXPRESS provides the New Hull to OWNERS "as is, where is." MIDNIGHT EXPRESS expressly disclaims any and all warranties, expressed or implied, including, but not limited to, the warranties of merchantability, fitness or warranty for a particular purpose, or use.
- x) The parties to this Settlement Agreement hereby agree that in consideration of and upon execution of this Agreement, they shall also execute a Mutual Release, a

true copy of which is annexed hereto as Exhibit B, and to exchange originals of same.

- xi) The parties, their respective representatives and/or their attorneys (if applicable) represent and agree that they will keep this Settlement Agreement and its terms completely confidential, will not disclose this Settlement Agreement or the terms and the amount of the settlement in any litigation or arbitration, and will not disclose any information concerning the terms of this Settlement Agreement to anyone except (a) to any third parties who might fund all or a portion of this settlement; (b) to the parties' successors-in-interest; (c) as required by law; (d) as required by court order or in response to a request for information from a government or regulatory entity having jurisdiction over the matters giving rise to the claim; and (e) only to the extent necessary, to be disclosed to persons engaged in the preparation and filing of federal, state or local tax returns.
- xii) If a court, administrative agency or third party issues a subpoena or orders production of the Settlement Agreement, the recipient of the subpoena or order shall promptly notify the other party to this Settlement Agreement of the pendency of such subpoena or order and shall cooperate with the other party hereto in efforts to obtain an order preventing the disclosure of the Settlement Agreement.
- xiii) The parties acknowledge and agree that the foregoing is a resolution of disputed claims, and that the Agreement shall not be considered an admission of liability or responsibility with respect to the allegations set forth herein.

- xiv) This Settlement Agreement shall be construed under the laws of the State of Florida and any action to interpret or enforce its terms shall be brought and maintained only in the State or Federal Courts in Broward County, Florida. This Agreement supersedes and nullifies Section 10 of the Purchase and Sale Agreement (Exhibit A) titled, "DISPUTES", which is null and void.
- xv) If any provision of this Settlement Agreement is found to be ambiguous or contradictory, the language of this Settlement Agreement supersedes and is binding and is controlling over any language found within the Purchase and Sale Agreement entered between the parties, attached hereto as Exhibit A.
- xvi) If any provision of this Settlement Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such determination shall not affect or impair the validity, legality or enforceability of the remaining provisions herein.
- xvii) In any action to enforce the terms of this Settlement Agreement, the prevailing party shall be entitled to recoup all of its costs and fees, including without limitation, its attorney's fees from the non-prevailing party.
- xviii) Each party to this Settlement Agreement will be responsible for its own costs, expenses and legal fees incurred in connection with this Settlement Agreement.
- xix) The persons signing this Settlement Agreement are authorized, empowered and have the capacity to sign this Settlement Agreement and to bind their agents, successors, representatives, heirs and assigns, as the case may be, to the terms of this Settlement Agreement.

- xx) The parties agree hereto that each has reviewed this Settlement Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafter party shall not apply to the interpretation of this Settlement Agreement.
- xxi) The parties to this Settlement Agreement agree to cooperate in signing any additional documents or take any further efforts that may be needed to effectuate the terms of this Settlement Agreement.
- xxii) This Settlement Agreement contains the entire agreement between the parties to the Settlement Agreement, and supersedes all prior decisions, letters, correspondence, and/or discussions between the parties with respect to the subject matters addressed in this Settlement Agreement, all of which are merged into this Settlement Agreement.

IN WITNESS WHEREOF, the parties have caused this Settlement Agreement to be executed, through its duly authorized representative.

Dated: _____, 2009

By: _____
JEFFREY EPSTEIN, individually

L.S.J., LLC, a Delaware Corporation

By: _____
Name:
Title:

MIDNIGHT EXPRESS POWER BOATS, INC., a
Delaware Corporation

By: _____
Name: Harris Glaser
Title: Vice President