

LEASE

Agreement No. _____

This Lease ("Lease") is made as of this ____ day of _____ 2025, by and between the CITY OF SANTA BARBARA (hereinafter called "Landlord"), and XXXXXXXXXXXX (hereinafter called "Tenant").

The following are attached hereto as Exhibits and hereby made a part of this Lease as though fully set forth herein.

EXHIBIT A - Lease Area
EXHIBIT B - Nondiscrimination Certificate
EXHIBIT C - Water and Energy Conservation Guidelines
EXHIBIT D - Tidelands Grant
EXHIBIT E - Personal Guaranty

Lease and Agreements

In consideration of the rents to be paid hereunder and of the agreements, covenants and conditions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. BASIC LEASE TERMS

A. [§101] Premises

Upon and subject to the terms, covenants and conditions hereof, Landlord hereby leases and demises to Tenant, and Tenant hereby leases and takes from Landlord, the Premises which is the real property and improvements described in the attached Exhibit "A" which is incorporated by this reference as though fully set forth herein. It is mutually agreed that the leasing hereunder is upon and subject to the terms, covenants and conditions hereof, and that Tenant covenants, as a material part of the consideration of this Lease, to keep, perform and observe each and all of said terms, covenants and conditions by Tenant to be kept, performed or observed, and that this Lease is made upon the condition of such performance.

As used herein, the term "Premises" shall mean and include approximately 154 square feet of second floor office space of the interior of the "Building Shell" which portion is crosshatched on Exhibit "A", attached hereto and made a part hereof by this reference, designated as 125 Harbor Way #21.

B. [§102] Term

The term of this Lease shall commence on August 01, 2025 ("Commencement Date") and terminate on March 30, 20XX ("Termination Date").

Tenant shall have the right and option to extend the Lease on the same terms, conditions, limitations, and provisions contained in this Lease, for one (1) two-year term commencing on the expiration of the initial lease term, provided that Tenant is and has been a "Tenant in good standing," which is defined as a Tenant who is and always has been in continuous compliance with the terms and conditions of this Lease, and applicable local, state and federal laws during the entire term of this Lease and any extensions of this Lease. Notwithstanding the foregoing, Tenant shall not have the right to exercise any option to extend while in default of this. An event of default is defined in Section 1101. An event of default that is corrected without the requirement of a notice of default or demand for correction by Landlord shall not be considered an event of default for the purposes of this paragraph. The occurrence of one or more events of default, which require correction, but which are corrected within 10 days after a demand for correction or notice of default from Landlord shall not impair Tenant's right to exercise this option to extend the term, so long as there are not more than two such events in any one calendar year during the term of this Lease.

Tenant must give written notice of its intent to exercise the option to extend at least ninety (90) but not more than one hundred eighty (180) days prior to the expiration of the initial term.

C. Title and Condition of the Premises

[§103] Title to the Premises

Landlord represents to Tenant that Landlord holds Title of the premises free and clear of all recorded liens, encumbrances, covenants, assessments, easements, leases and taxes, except as are consistent with this Lease and except as may be set forth in the Tidelands Grant by the State of California to the City of Santa Barbara, a copy of which is attached hereto as Exhibit "D".

[§104] Condition of Premises

Except as otherwise specifically provided in this Lease, the Premises shall be conveyed to Tenant in "as-is" condition. It shall be the sole responsibility of Tenant, at Tenant's sole expense, to investigate and determine the conditions of the Premises, the condition of the existing improvements on the Premises and the suitability of such conditions for the business to be conducted by Tenant.

Landlord does not represent and is not aware that the Premises has been issued a disability access inspection certificate, as described in subdivision (e) of Section 55.53. Tenant is advised of the following pursuant to California Civil Code § 1938, "A Certified Access Specialist (CAsp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CAsp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CAsp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested

by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." Tenant is responsible for cost of compliance with applicable law, including compliance with all applicable accessibility standards.

D. §105] Rent

Tenant shall pay to Landlord, without abatement, deduction or offset whatsoever in lawful money of the United States of America, at 132-A Harbor Way, Santa Barbara, CA 93109, or to such other person or at such other place as Landlord may from time to time designate by notice to Tenant, rent during the term of this Lease in accordance with the following Sections.

1. §106] Base Rent

Beginning with the Commencement Date and continuing throughout the term of the Lease, Tenant shall pay to Landlord a monthly Base Rent of \$600.00. Minimum monthly rent shall be referred to hereinafter as the "Base Rent". Tenant shall pay the

Base Rent to Landlord in advance on the first day of each month. Base Rent for fractional months shall be appropriately prorated.

Base Rent shall be adjusted upward, but not downward, commencing March 01, 2022, and each March 01 thereafter during the term of this Lease by using the Consumer Price Index (CPI) ("Urban Wage Earners and Clerical Workers") for Los Angeles-Riverside-Orange County Area, for September and dividing it by the CPI, same index, for the preceding September and multiplying the product times the current year's minimum annual Base Rent to obtain the succeeding year's minimum annual Base Rent.

a. Method of Payment: If any payment of Base Rent made by check, draft or money order is returned to Landlord due to insufficient funds, or otherwise, more than once in any given five (5) year period, Landlord shall have the right at any time thereafter, upon written notice to Tenant, to require Tenant to make all subsequent Base Rent payments by cashier's or certified check.

2. §108] Late Charges

Tenant recognizes that late payment of Base Rent or any other payment due hereunder from Tenant to Landlord will result in administrative and other additional expenses to Landlord, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Tenant therefore agrees that if Base Rent or any other payment due hereunder from Tenant to Landlord remains unpaid ten (10) days after said payment is due, Tenant shall pay to Landlord a late charge equal to fifteen percent (15%) of the amount of the delinquent Base Rent or other payment, which late charge shall be added to and become part of the delinquent Base Rent or

any other payment. Tenant agrees that such amount is a reasonable estimate of the loss and expense to be suffered by Landlord as a result of such late payment by Tenant and may be charged by Landlord to defray such loss and expense. The provisions of this Section 108 in no way relieve Tenant of the obligation to pay Base Rent, or other payments on or before the date on which they are due, nor do the terms of this Section 108 in any way affect Landlord's remedies pursuant to Article XI hereof in the event any Base Rent or other payment is unpaid after the due date.

3. [§109] No Set-Offs

Base Rent, and any and all other payments payable hereunder to or on behalf of Landlord shall be paid without notice or demand and without set-off, counter-claim, abatement, suspension, deferment, deduction or defense.

II. USE, OPERATION AND MAINTENANCE OF THE PREMISES

A. Use

1. [§201] Use of the Premises

Tenant shall use the Premises exclusively as an administrative and accounting office in support of the XXXXXXXXXXXX, and for no other use without the prior written approval of the Waterfront Director.

2. [§202] Nondiscrimination

In addition, Tenant agrees to comply with the Certificate of Non-discrimination, attached as Exhibit B and incorporated herein.

a. If Tenant provides any aid, service or benefit to others on the Landlord's behalf, Tenant shall, in the provision of such aid, service or benefit, observe and comply with applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Tenant shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the Landlord.

b. If Tenant is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Tenant shall observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Tenant. All of Tenant's activities must be in accordance with these laws, ordinances, codes and regulations, and Tenant shall be solely responsible for complying therewith.

3. [\$203] Restrictions Upon Use

Tenant agrees that, in connection with the use and operation of the Premises, it will not:

a. Use or permit the use of any advertising medium employing sound amplifying devices and or technology, including but not limited to, loudspeakers, phonographs, public address systems, sound amplifiers, radios or broadcasts within the Premises in such manner that any sounds reproduced, transmitted or produced shall be directed beyond the interior of the Premises, and will keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the interior of the Premises;

b. Cause or permit objectionable odors to emanate or be dispelled from the Premises;

c. Permit any use of the Premises or any part thereof in a manner likely to injure the reputation of the Waterfront and Harbor;

d. Permit undue accumulations of garbage, trash, rubbish or any other refuse;

e. Permit or provide any outside seating except at the sole discretion of Landlord;

f. Permit any use of the Premises, or acts done by Tenant, which will cause a cancellation of any insurance policy covering the Harbor, or any part thereof, or any building or improvements thereon, any article which may be prohibited by any insurance policies covering the Waterfront area, said buildings or improvements;

g. Waste water, gas, electricity or any other utilities;

h. Permit the use of vending machines or any type of currency, ticket, token or coin-operated video game or machine.

4. [\$204] Other Use Obligations

a. No Improvements: Tenant agrees that no improvement shall be erected, placed upon, operated or maintained within the Premises, nor any business or activity conducted or carried on therein or therefrom, in violation of the terms of this Lease, or in violation of any regulation, order of law, statute, bylaw or ordinance of a governmental agency having jurisdiction over the Premises.

b. Signs: All signs shall be installed maintained and permitted in accordance with the Sign Regulations of the Santa Barbara Municipal Code and, in addition, shall be approved by the City Administrator. "Sign" shall have the meaning set forth in said Sign Regulations.

c. Governmental Requirements: Tenant shall at all times comply with and shall pay all costs and expenses which may be incurred or required to be paid in order to comply with any and all laws, statutes, ordinances, which govern, apply to or are promulgated with respect to the operation and use of the Premises by Tenant in connection with its business. Specifically, but without limiting the generality of the foregoing, Tenant shall make any alterations or additions required to be made to or safety appliances or devices required to be maintained or installed in or about the interior of all improvements located upon the Premises under any laws, statutes and ordinances, now or hereafter adopted, enacted or made and applicable to the Premises.

d. Lighting: The Premises shall be lighted for security purposes during hours of darkness in a manner at least equivalent to the security lighting provided in similar properties on Harbor Way, unless Landlord consents to a lesser amount of lighting in writing or unless to do so is contrary to any law, statute, ordinance or final judgment of any court having jurisdiction then in effect, in which event, the standards so prescribed shall be adhered to while in effect.

B. [§205] Operation

The parties recognize and acknowledge that the manner in which the Premises is used and operated is of critical concern to Landlord, and to the Santa Barbara Waterfront by reason of (a) the prominence of the location of the Premises, (b) the impact which the Tenant's operation is expected to have upon surrounding properties and upon the operation of the Harbor.

In order to give Landlord assurance as to the manner in which the Premises will be used and operated, Tenant agrees that, at all times during the term of this Lease, Tenant shall maintain a first class business with a level of quality and character of operation which is at least comparable to other locations in the Santa Barbara area with the same use and/or equal to that of Tenant's other locations, if any.

C. [§206] Landlord's Obligations - Repairs

Landlord shall maintain the Building Shell, defined as the concrete pad and foundation, bearing and exterior walls, and roof of the building in which the Premises is located.

If repairs, rebuilding or replacement obligations of Landlord hereunder or under the terms of any lease affecting the building in which the Premises is located require closure of all or a portion of the area occupied by the Tenant to the public, it shall be done in a manner to perform in the public interest. Should repair, reconstruction or building of any harbor facility require Landlord to close the Premises to public access, Landlord agrees that such work shall be completed in a manner to perform in the public interest. Landlord shall have no liability to Tenant for lost business caused by an interruption of access to the Premises. However, should the Landlord by its sole action prevent public access to the Premises for more than 72 hours under circumstances not covered by business interruption insurance, and the business would be open but for the Landlord's action, the Tenant shall be entitled to a daily offset equal to 1/30 of the

minimum monthly rent for each day after the first 72 hours until public access to the Premises is restored by the Landlord.

No offset shall be available to Tenant once public access is restored by Landlord. No offset shall be made available following restoration of access or after completion of improvements that are Landlord's obligation to provide, regardless of whether or not all of the Tenant's improvements are completed and regardless of any delay to the Tenant's improvement work caused by, or on account of, the work done by Landlord.

D. [\$207] Tenant's Obligations

Except as provided in Section 206 Tenant, at its sole cost and expense, shall maintain the Premises and the interior improvements of the Premises in good condition and repair. Except as provided in Section 206, Landlord shall have no responsibility to maintain the Premises or the interior improvements of the Premises. Tenant shall be responsible for keeping the area within ten (10) feet of all customer entrances clean of rubbish and litter. Without limiting the generality of the foregoing, Tenant's obligation to maintain and repair hereunder shall exist throughout the term of this Lease. Tenant shall be responsible for maintenance of all glass windows and glass doors, screens, screen doors, doors, and locks. Tenant shall be responsible for maintenance of all electrical and plumbing services and facilities on the customer side of the utility meter. Tenant shall also be responsible for electrical conduits, circuit breakers, conductors, ground equipment, outlets, switches, light bulbs, ballasts and all other associated electrical devices on the customer side of the meter. Tenant shall be responsible for maintenance of all telephone, cable TV and other communications equipment and services on the customer side of the outlet box or junction provided by Landlord or the utility company.

Tenant shall be responsible for all mechanical equipment, as well as ancillary connections to the equipment, including, but not limited to, electrical, gas and water utility service, vents, drains, supporting structures and aesthetic architectural structures.

Tenant shall initiate repairs to all structures necessitated by utility malfunction for which Tenant is responsible within twelve (12) hours of initial discovery and pursue the repairs diligently until completion, subject to the approval of the Waterfront Director.

Tenant shall keep the Premises within ten feet of the Premises clean, sanitary, and functional at all times. No offensive materials, sand or refuse matter nor any substance constituting any unnecessary, unreasonable or unlawful fire hazard or material detrimental to the public health shall be permitted on or within ten (10) feet of the Premises. Tenant shall see that all garbage or refuse is collected as often as necessary to maintain the Premises in a clean and sanitary condition. All garbage shall be placed in an approved trash enclosure designated by Landlord.

E. [\$208] Landlord's Right to Repair

If Tenant fails to maintain or make repairs or replacements as required herein, Landlord may notify Tenant in writing of said failure. Should Tenant fail to

correct the situation within a reasonable time thereafter, as established by Landlord, Landlord may make the necessary correction and the cost thereof, including, but not limited to, the cost of labor, materials and equipment and administration, shall be paid by Tenant within ten (10) days of receipt of a statement of said cost from Landlord. Landlord may, at its option, choose other remedies available herein, or by law.

III. LAWS, TAXES AND UTILITIES

A. [§301] Compliance with Laws

Tenant agrees to comply with all City, State, and federal laws, rules and regulations, now or hereinafter in force, pertaining to Tenant's use of the Premises pursuant to this Lease. Tenant shall, at its sole cost and expense, comply with and shall cause all its operators, licensees and customers to comply with the Uniform Fire Code in connection with the prevention of fire or the correction of hazardous conditions, which apply to the Premises.

Tenant shall comply with each and every requirement of all policies of public liability, fire and other insurance, which at any time may be in force with respect to the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action or proceeding against it, whether Landlord be a party thereto or not, that Tenant has violated any such ordinance or statute in the use of the Premises shall be conclusive of that fact as between Landlord and Tenant.

B. Taxes and Assessments

1. [§302] Generally

Tenant acknowledges and agrees that this Lease may create a possessory interest subject to property taxation. Tenant agrees to pay and discharge, as additional rent for the Premises during the term of this Lease, before delinquency, all taxes (including, without limitation, possessory interest taxes associated with the Premises and the execution of this Lease), assessments, fees, levies, license and permit fees and other governmental charges of any kind or nature whatsoever, general and special, ordinary and extraordinary, foreseen, and unforeseen or hereinafter levied or assessed in lieu of or in substitution of any of the foregoing (all of the foregoing collectively called "taxes" for all purposes under this Lease) which are or may be at any time or from time to time during the term of this Lease levied, charged, assessed or imposed upon or against the Premises, or against any of Tenant's personal property now or hereafter located thereon, or which may be levied, charged, assessed or imposed upon or against the leasehold estate created hereby or which may be imposed upon any taxable interest of Tenant acquired pursuant to this Lease on account of any taxable possessory right which Tenant may have acquired pursuant to this Lease, or which may be levied upon or measured by the rent payable hereunder, including, without limitation, any gross receipts tax levied by the City of Santa Barbara, the State of California, the federal government or any other governmental body with respect to receipt of such rent by Landlord whether or not the same shall have been in the express contemplation of Landlord and Tenant.

2. [§303] Additional Rent

In the event the Premises or any possessory interest therein, should at any time be subject to ad valorem taxes or privilege taxes levied, assessed or imposed on such property, Tenant shall pay taxes upon the assessed value of the entire Premises and not merely upon the assessed value of its leasehold interest.

3. [§304] Evidence of Non-payment

The certificate, advice, receipt or bill of the appropriate official designated by law to make or issue the same or to receive payment of any such taxes, of nonpayment of such taxes shall be prima facie evidence that such taxes are due and unpaid or have not been paid at the time of the making or issuance of such certificate, advice, receipt or bill.

4. [§305] Landlord's Attorney-in-Fact

Landlord appoints Tenant the attorney-in-fact of Landlord for the purpose of making all payments to be made by Tenant pursuant to any of the provisions of this Lease to persons or entities other than Landlord. Tenant shall provide Landlord with satisfactory evidence of payment. In case any person or entity to whom any sum is directly payable by Tenant under any of the provisions of this Lease shall refuse to accept payment of such sum from Tenant, Tenant shall thereupon give written notice of such fact to Landlord and shall pay such sum directly to Landlord at the address specified in Section 1402 hereof, and Landlord shall thereupon pay such sum to such person or entity.

5. [§306] Landlord's Right to Cure

If Tenant, in violation of the provisions of this Lease, shall fail to pay and to discharge any taxes, Landlord may (but shall not be obligated to) pay or discharge such taxes, and the amount paid by Landlord and the amount of all costs, expenses, interest and penalties connected therewith, including attorneys' fees, together with interest at the maximum rate permitted by law shall be deemed to be and shall be payable by Tenant as additional rent and shall be reimbursed to Landlord by Tenant on demand.

6. [§307] Permitted Contests

Tenant shall not be required to pay, discharge or remove any taxes (including penalties and interest) upon or against the Premises or any part thereof, so long as Tenant shall in good faith contest the same or the validity thereof by appropriate legal proceedings and shall give to Landlord prompt notice in writing of such contest at least ten (10) days before any delinquency occurs, provided that said legal proceedings shall operate to prevent the collection of the taxes so contested, or the sale of the Premises or any part thereof, to satisfy the same, and provided, further, that Tenant shall, prior to the date such taxes are due and payable, have given such reasonable

security as may be required from time to time in order to ensure the payment of such taxes to prevent any sale, foreclosure or forfeiture of the Premises or any part thereof, by reason of such nonpayment. Such security shall be not less than a sum equal to one and one-quarter times the amount of such taxes and all penalties, fines and interest which may be assessed thereon and may be in the form of a bond issued by a surety acceptable to Landlord.

In the event of any such contest and the final determination thereof adversely to Tenant, Tenant shall, before any fine, interest, penalty or cost may be added thereto for nonpayment thereof, pay fully and discharge the amounts involved in or affected by such contest, together with any penalties, fines, interest, costs and expenses that may have accrued thereon or that may result from any such contest by Tenant, and after such payment and discharge by Tenant, Landlord will promptly return to Tenant such security as Landlord shall have received in connection with such contest. Any such proceedings to contest the validity or amount of taxes or to recover back any taxes paid by Tenant shall be brought by Tenant, at Tenant's expense, in the name of Tenant; provided, however, that if any such proceeding shall be brought by Tenant, Tenant shall indemnify and save harmless Landlord against any and all loss, cost or expense of any kind (including, but not limited to, reasonable attorneys' fees and expenses) which may be imposed upon or incurred by Landlord in connection therewith.

C. [\$308] Services and Utilities

1. Except as otherwise provided in this Lease, Landlord shall provide all required utilities up to a point on the Premises convenient to and at the discretion of Landlord, and may arrange for separate meters to monitor the consumption of utilities on the Premises. Landlord shall not be liable for the failure or malfunction of utilities or services to the Premises.

2. Tenant shall pay promptly as the same become due and payable all charges, costs, bills and expenses of and for telephone, cable, internet and all other services and utilities of whatever kind furnished or supplied to or used by Tenant or any other party in connection with the use, occupancy, maintenance or operation of the Premises or any part thereof. Tenant hereby expressly waives any and all claims against Landlord for compensation, damages, payments or offset based upon or with respect to any and all loss or damage now or hereafter sustained by Tenant by reason of any defect, deficiency, failure or impairment of whatever kind or nature in any service or utility furnished or supplied to or used by Tenant or any other party in connection with the use, occupancy, maintenance or operation of the Premises or any part thereof. Such services and utilities shall include, without limitation, the wires leading to or inside the Premises, for cable or telephone services.

3. Tenant shall pay a \$25.00 utility fee to Landlord each month.

IV. CONSTRUCTION AND LIENS

A. [\$401] Additional Construction, Alterations and Repairs

Prior to making any alterations to the Premises, Tenant shall obtain the written approval of the Waterfront Director.

B. [\$402] General Construction Standards

1. All Tenants' construction, alteration or repair work permitted herein shall be accomplished expeditiously and diligently. Tenant shall take all necessary measures to minimize any damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected thereby. Tenant shall repair, at its own cost and expense, any and all damage caused by such work and shall restore the area upon which such work is performed to a condition, which is equal to or better than the condition which existed prior to the beginning of such work. In addition, Tenant shall pay (or cause to be paid) all costs and expenses associated therewith and shall indemnify and hold Landlord harmless from all damages, losses or claims attributable to the performance of such work. Dust, noise and other effects of such work shall be controlled using the best accepted methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area.

2. Any remodeling or reconstruction work undertaken on any existing building shall at all times be of first quality construction and architectural design and in accordance with plans therefore submitted to and approved by Landlord. Any remodeling or reconstruction of any building shall conform to the original design concepts so that the exterior of all buildings, including, without limitation, the exterior elevations and color thereof, and all other improvements, will be architecturally and aesthetically compatible and harmonious with the other buildings and improvements in the surrounding area to create a uniform general plan for the Premises and the surrounding area, to the satisfaction of the City of Santa Barbara design review boards.

C. [\$403] Remodeling and Replacement with the Same Facilities

Notwithstanding anything to the contrary contained in this Lease, no requirement for Landlord's consent for any plan or proposal for any construction work on the Premises shall apply in the case of reconstruction of buildings or improvements which have been damaged or destroyed by fire or other casualty or which have become worn out or obsolete, so long as any such reconstruction will not substantially alter the design, size, height, bulk, suitability for allowed uses, and exterior appearance of the improvements as they existed prior to the event or condition requiring reconstruction, and provided that notice of intent to reconstruct or construct is given by Tenant to Landlord at least thirty (30) days prior to the commencement of any work thereon, except in the case of emergency reconstruction or repair in which case the Tenant shall have the obligation to obtain all the necessary approvals and permits prior to any construction or reconstruction.

V. OWNERSHIP OF IMPROVEMENTS

A. [\$501] Ownership During Term

Title to the Building Shell shall remain in City. All improvements to real property constructed on the Premises by Tenant as permitted or required by this Lease shall, during this Lease term, be and remain the property of Tenant, provided however, that Tenant shall have no right to waste, destroy, demolish or remove the improvements, and provided, further, that Tenant's rights and powers with respect to the improvements are subject to the terms and limitations of this Lease.

B. [\$502] Ownership at Termination

1. At the expiration or sooner termination of this Lease term, Landlord may, at Landlord's election, demand the removal from the Premises, at Tenant's sole cost and expense, of all improvements, fixtures, and/or furnishings, as specified in the notice provided for below. A demand to take effect at the normal expiration of the term shall be effected by notice given at least thirty (30) days before the expiration date. A demand to take effect on any other termination of this Lease shall be effectuated by notice given concurrently with notice of such termination or within ten (10) days after such termination.

2. Any fixtures or furnishings not removed by Tenant within thirty (30) days of the termination of this Lease shall be deemed to be abandoned by Tenant and shall, without compensation to Tenant, then become the Landlord's property, free and clear of all claims to or against them by Tenant or any third party.

3. Upon termination of this Lease, whether by expiration of the term or otherwise, all improvements not required to be removed by Tenant as hereinabove provided shall, without compensation to Tenant, then remain Landlord's property, free and clear of all claims to or against them by Tenant or any third party.

4. Tenant shall defend and indemnify Landlord against all liability and loss arising from any such claims or from Landlord's exercise of the rights conferred by this Section 502.

5. Notwithstanding any provision in this Lease to the contrary, in the event Tenant fails to remove any property as demanded by Landlord, then Landlord after ten days written notice to Tenant, and without waiving or releasing Tenant from any obligation of Tenant hereunder, may (but shall not be required to) place such property in storage for the account of and at the expense of Tenant in which event the provisions of Section 1105 shall be applicable.

VI. ASSIGNMENT AND SUBLETTING

A. [\$601] Assignment and Subletting

In view of the fact that the Premises constitutes a major and indispensable component of the Waterfront Department's plan for the Harbor and that, therefore, the

identity of the Tenant of the Premises is of the utmost concern to the Landlord, Tenant, its successors and assigns, shall not assign, either voluntarily or by operation of law, its interest in this Lease to all or any part of the Premises or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Premises without the prior written consent of Landlord, which consent may be withheld in the sole and absolute discretion of Landlord. Tenant shall not have the right to sublease or sublet under any circumstances, and any attempt to sublease shall be a breach of this Lease. .

In giving its consent pursuant to the above paragraph, Landlord shall, in addition to any other requirements or conditions, require compliance with the following:

1. Any proposed transferee shall have the qualifications and financial responsibility, as determined by Landlord, necessary and adequate to fulfill the obligations undertaken in this Lease by Tenant. In addition, for the purposes of this provision, the following acts of Tenant are examples of and shall be considered assignments and shall require the prior written consent of Landlord to be effective:

a. Partnership and L.L.C. Transfers If Tenant is a partnership or a California limited liability company, a transfer of capital interest to a new partner or partners (or member or members) which computed alone or cumulatively with previous transfers would result or has resulted in the transfer of ownership of a more than twenty-five percent (25%) interest in the capital on profits of the partnership or limited liability company; provided that the following transfers shall not be considered in computing whether a cumulative total of more than twenty-five percent (25%) of the capital of the partnership or limited liability company has been transferred:

(1) Transfers to persons who are related by blood or marriage to the transferring partner or member or to a trust established for the benefit of the transferring partner or member or such persons;

(2) Transfers resulting from the death of the partner or member whether such transfers are made pursuant to the will of the deceased partner or member an *inter vivos* or testamentary trust instrument or the laws of intestacy.

b. Corporations: The transfer of more than twenty-five percent (25%) of the voting stock in a corporation which is either itself the Tenant, or is a general partner in a partnership which is the Tenant; provided that the following transfers shall not be considered in computing whether a cumulative total of more than twenty-five percent (25%) of the voting stock has been transferred:

(1) Transfers to persons who are related by blood or marriage to the transferring shareholder or to a trust established for the benefit of the transferring shareholder or such persons;

(2) Transfers resulting from the death of the shareholder whether such transfers are made pursuant to the will of the deceased shareholder an *inter-vivos* trust instrument or the laws of intestacy;

2. Any proposed transferee shall have expressly assumed, by instrument in writing, for itself and its successors and assignees, and expressly for the benefit of Landlord, all of the obligations of Tenant under this Lease. Any proposed transferee shall have agreed to be subject to all of the conditions and restrictions to which Tenant is subject. However, the failure for any reason, of any transferee, or any successor in interest whatsoever to this Lease, to have assumed such obligations, shall not relieve or except such transferee or successor of or from such obligations, conditions or restrictions or deprive or limit Landlord of or with respect to any rights or remedies or controls with respect to this Lease, the Premises or any required construction of improvements. It is the intent of this Lease, to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Lease, that transfer of this Lease, or any interest herein, however consummated or occurring, and whether voluntary or involuntary, shall not operate, legally or practically, to deprive or limit Landlord of or with respect to any rights or remedies or controls provided in or resulting from this Lease with respect to the Premises and construction of improvements that Landlord would have had, had there been no such transfer or change.

3. There has been submitted to Landlord for review, and Landlord has approved, all instruments and other legal documents involved in effecting transfer of the leasehold interest.

4. A processing fee of \$3,000 has been paid to Landlord for review of each proposed assignment.

5. If, notwithstanding the provisions of this section, this Lease is assigned by operation of law in connection with any proceedings under state or federal insolvency or bankruptcy law, or any comparable law, whether for liquidation or reorganization, Landlord shall have a right of first refusal to purchase this Lease. If any trustee or debtor in possession (collectively "trustee") receives an acceptable offer to purchase this Lease, such trustee shall notify Landlord in writing of the terms of such offer. If Landlord within thirty (30) days after receipt of such notice, indicates in writing its agreement to purchase this Lease on the terms stated, the trustee shall sell and convey this Lease to Landlord on the terms stated in the notice. If the Landlord does not indicate its agreement within thirty (30) days, the trustee shall thereafter have the right to assign this Lease to the party making the offer on the terms of such offer. If such offeror does not purchase this Lease on such terms and conditions, Landlord shall have a right of first refusal to purchase this Lease in the event of any later offer for the purchase of this Lease. If an offeror purchases this Lease in connection with any proceedings under state or federal insolvency or bankruptcy law, or any comparable law, whether for liquidation or reorganization, Landlord shall have the option to purchase this Lease from such party for an amount equal to the amount such party paid for this Lease, at any time within one (1) year from the date of such offerors' purchase thereof.

Tenant represents and agrees for itself and any successor in interest of itself that without the prior written approval of Landlord, there shall be no significant change (voluntary or involuntary) in the membership, management or control of Tenant which

would prevent or impair the ability of Tenant to complete its obligations under this Lease.

Tenant shall promptly notify Landlord of any and all significant changes in the membership, management or control of Tenant whether legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership or identity of Tenant, or with respect to the identity of the parties in control of Tenant or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. This Lease may be terminated by Landlord hereof if there is any significant change in the membership, management or control of Tenant whether legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership or identity of Tenant, or with respect to the identity of the parties in control of Tenant or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information.

No assignment of any interest in this Lease made with Landlord's consent, or as herein otherwise permitted, shall be effective until there shall have been delivered to Landlord an executed counterpart of such assignment containing an agreement, in recordable form, executed by the assignor and the proposed assignee, wherein and whereby such assignee assumes due performance of the obligations on the assignor's part to be performed under this Lease to the end of the term hereof.

The consent by Landlord to an assignment hereunder shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment.

Notwithstanding an assignment by Tenant hereunder to which Landlord has consented, Tenant shall remain liable for all liabilities and obligations incurred by Tenant hereunder prior to the date of said assignment.

B. [§602] Successors and Assigns

The terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties hereto, if approved by Landlord pursuant to Section 601. If the Lease is transferred to a party not approved in advance, Landlord may terminate Lease in its sole discretion.

C. [§603] Release of Landlord

In the event of a sale, assignment, transfer or conveyance by Landlord of the Premises or its rights hereunder, the same shall operate to release Landlord from any liability incurred following the effective date of such assignment upon any of the covenants or conditions, expressed or implied, herein contained in favor of Tenant, and in such event, Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to the Premises or this Lease. This Lease shall not be affected by any such sale, assignment, transfer or conveyance, and Tenant agrees to attorn to any such purchaser or assignee.

D. [\$604] Collateral Assignment of Rents and Leases

As part of a loan arrangement with the State of California, Department of Parks and Recreation, Division of Boating and Waterways ("DBW") to fund the cost of certain improvements in Santa Barbara Harbor, Landlord has executed a Collateral Assignment of Rents and Leases ("Assignment") in favor of DBW. The Assignment is binding on Tenant and Tenant agrees to comply therewith. A copy of the Assignment is available upon written request from Landlord.

VII. INSURANCE AND INDEMNIFICATION

A. [\$701] Required Insurance Policies

Tenant shall maintain and keep in force during the term of this Lease, for the mutual benefit of Landlord and Tenant, at Tenant's sole cost and expense, the following insurance applicable to the Premises:

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations with limits of no less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If a general aggregate limit applies, either the aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation:** In accordance with the provisions of the California Labor Code, Tenant is required to be insured against liability for Workers' Compensation or to undertake self-insurance. Statutory Workers' Compensation and Employers' Liability of at least \$1,000,000 shall cover all Tenant's staff while performing any work incidental to the performance of this agreement.
3. **Property insurance** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision. The policy shall include business interruption coverage, with adequate limits to cover the term of this agreement.

If the Tenant maintains higher coverage limits than the amounts shown above, then the City requires and shall be entitled to coverage for the higher coverage limits maintained by the Tenant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Tenant's obligations to rebuild or replace shall be as set forth in Article IX (DESTRUCTION).

B. [§702] General Insurance Policy Requirements

Each insurance policy shall contain, or be endorsed to contain, the following five (5) provisions:

1) *Additional Insured Status*

The City of Santa Barbara, its officers, employees, and agents, shall be covered as additional insured on the Commercial General Liability and the Automobile Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Tenant including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Tenant. Additional Insured coverage shall be provided in the form of an endorsement to the Tenant's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85). A copy of the endorsement evidencing that the City of Santa Barbara has been added as an additional insured on the policy, must be attached to the certificate of insurance.

2) *Subcontractors*

Tenant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Tenant shall ensure that the City is an additional insured on insurance required from subcontractors. For Commercial General Liability coverage subcontractors shall provide coverage with a format at least as broad as Insurance Services Office form CG 20 38 04 13.

3) *Notice of Cancellation*

A provision that coverage will not be cancelled or subject to reduction without written notice given to the Waterfront Director, addressed to 132-A Harbor Way, Santa Barbara, California 93109 and the City Clerk, addressed to P.O. Box 1990, Santa Barbara, California 93102-1990.

4) *Primary Coverage*

For any claims related to this contract, the Tenant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be excess of the Tenant's insurance and shall not contribute with it.

5) *Waiver of Subrogation*

Tenant hereby agrees to waive rights of subrogation which any insurer of Tenant may acquire from Tenant by virtue of the payment of any loss. Tenant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. Tenant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Tenant, its employees, agents and subcontractors.

Acceptability of Insurers

All insurance coverage shall be placed with insurers that have a current rating from AM Best of no less than A: VII; and are admitted insurance companies in the State of California. All other insurers require prior approval of the City.

Coverage Limits Specifications

Approval of the insurance by City or acceptance of the certificate of insurance by City shall not relieve or decrease the extent to which the Tenant may be held responsible for payment of damages resulting from Tenant's services or operation pursuant to this Agreement, nor shall it be deemed a waiver of City's rights to insurance coverage hereunder.

If, for any reason, Tenant fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this Agreement and obtain damages from the Tenant resulting from said breach. Alternately, City may purchase such required insurance coverage, and without further notice to Tenant, City may deduct from sums due to Tenant any premium costs advanced by City for such insurance.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the Tenant shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Tenant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Evidence of Coverage

Tenant must provide evidence that it has secured the required insurance coverage before execution of this agreement. A Certificate of Insurance supplied by the City or the appropriate ACORD and Insurance Services Office forms evidencing the above shall be completed by Tenant's insurer or its agent and submitted to the City prior to execution of this Agreement by the City.

Tenant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Tenant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Insurance Revisions: Landlord shall retain the right at any time to review the coverage, form and amount of insurance required hereby. If, in the opinion of Landlord, the insurance provisions in this Lease do not provide adequate protection for Landlord and for

members of the public using the Site, Landlord may require Tenant to obtain insurance sufficient in coverage, form and amount to provide adequate protection.

Landlord's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required.

The procuring of such required policy or policies of insurance shall not be construed to limit Tenant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, Tenant shall be obligated for the full and total amount of any damage, injury or loss caused by negligence or neglect connected with this Lease or with use or occupancy of the Site.

C. [\$703] Hold Harmless and Indemnification

Tenant shall investigate, defend, indemnify and hold the City of Santa Barbara and its respective officers, agents and employees harmless from and against all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorneys' fees) which may be imposed upon, incurred by or asserted against the City of Santa Barbara or its respective officers, agents and employees arising out of or in any way connected to Tenant's possession or use of the Premises.

In case any action or proceeding is brought against Landlord or the City of Santa Barbara or its respective officers, agents and employees by reason of any such claim, Tenant, upon written notice from the City of Santa Barbara, shall at Tenant's expense resist and defend such action or proceeding by counsel approved by the City of Santa Barbara in writing.

VIII. SURRENDER; HOLDING OVER

A. [\$801] Surrender of Premises

1. At least ninety (90) days before the last day of the term hereof, Tenant shall give to Landlord a written notice of its intention to surrender the Premises on that date. Nothing contained herein shall be construed as an extension of the term hereof or as consent of Landlord to any holding over by Tenant.

2. At the end of the term, or other sooner termination of this Lease, Tenant will surrender and deliver to Landlord the possession of the Premises, together with all fixtures and improvements, in good order, condition and repair, free and clear of all occupancies, and free and clear of all liens and encumbrances other than those, if any, presently existing or created by Landlord, without payment or allowance whatsoever by Landlord on account of any such improvements. Tenant may, upon or prior to the termination of this Lease, remove, at Tenant's sole cost and expense, all movable furniture, trade fixtures and equipment belonging to Tenant, provided that upon any such removal, Tenant, at Tenant's sole cost and expense, shall repair all damage, of any kind or nature, caused by such removal. Property not so removed shall be deemed abandoned by

Tenant, and title to the same shall thereupon immediately pass to Landlord without payment or allowance whatsoever by Landlord on account of such property. At Landlord's sole discretion and upon Landlord's written request, Tenant shall remove, at Tenant's sole cost and expense, any and all improvements constructed or installed by or at the expense of Tenant, and, at no cost and expense to Landlord, Tenant shall repair or cause the repair of any damage resulting from such removal.

B. [§802] Holding Over

If Tenant shall retain possession of the Premises or any part thereof without Landlord's prior written consent following the expiration or sooner termination of this Lease for any reason, then Tenant shall pay to Landlord for each day of such retention double the amount of the daily Base Rent in effect on the date of such expiration or termination. Tenant shall also indemnify and hold Landlord harmless from any loss or liability resulting from delay by Tenant in surrendering the Premises, including, without limitation, any claims made by any succeeding Tenant founded on such delay. Alternatively, if Landlord in its sole discretion gives written notice to Tenant of Landlord's election thereof, such holding over shall constitute renewal of this Lease on a month to month basis. Except after delivery by Landlord of such written notice, acceptance of rent by Landlord following expiration or termination shall not constitute a renewal of this Lease and nothing contained in this Section 802 shall waive Landlord's right of re-entry or any other right. Unless Landlord exercises the option hereby given to it, Tenant shall be only a Tenant at sufferance, whether or not Landlord accepts any rent from Tenant while Tenant is holding over without Landlord's written consent.

IX. DESTRUCTION

A. [§901] Total Destruction

If, during the term, the basic building structure is totally destroyed, rendering the Premises unusable, either the Tenant or the Landlord can terminate this lease immediately by giving notice to the other party. Such notice must be given within ten days of the destruction.

B. [§902] Landlord's Right To Terminate on Partial Destruction

Multi-tenant Building

If there is destruction to the building in which the Premises is located that exceeds thirty-three per cent (33)% of the then replacement value of the building, Landlord can elect to terminate this lease whether or not the Premises is destroyed, as long as Landlord terminates the leases of all tenants in the building.

C. [§903] Abatement or Reduction of Rent

In case of destruction, for any risk covered under the business interruption insurance required of Tenant under Section 701, Tenant shall pay Landlord rent for the twelve (12) month period following the destruction. After said twelve (12) month period,

there shall be total abatement of rent until the Premises is fully restored and usable by Tenant. Should Landlord terminate this Lease under Section 902, any rent paid by Tenant during said twelve (12) month period shall be rebated to Tenant by Landlord.

D. [§904] Waiver of Civil Code Sections

Tenant waives the provisions of Civil Code §1932(2) and Civil Code §1933(4) with respect to any destruction of the Premises.

X. EMINENT DOMAIN

A. [§1001] Definition of Taking

The term “taking” as used herein means the exercise by any governmental or other permitted authority of the power of eminent domain or the exercise of any similar governmental power to take and any purchase or other acquisition in lieu of condemnation, including, but not limited to, a voluntary sale or conveyance in lieu of condemnation.

B. [§1002] Total Taking

In the case of a taking (other than for temporary use or of only the leasehold estate hereunder) of the fee of the entire Premises, this Lease shall terminate as of the date on which such taking shall be effective. In case of a taking (other than for temporary use or of only the leasehold estate hereunder) of such substantial part of the Premises as shall result, in the good faith judgment of Tenant, in the Premises remaining after such taking (even if restoration were made) being economically unsuitable for the use being made of the Premises at the time of such taking, Tenant, at its option, may terminate this Lease by written notice given to Landlord within sixty (60) days after such taking. Any taking of the Premises of the character referred to in this Section 1002, which results in the termination of this Lease, is referred to as a “total taking.”

C. [§1003] Partial Taking

In the event of a taking of a portion of the Premises which is not a total taking (a “partial taking”), then and in that event:

1. This Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such partial taking, without any abatement of Base Rent, Percentage Rent or any other payment payable hereunder; and,

2. Tenant will promptly commence and complete (subject to delay, hindrance or prevention by reason of any of the causes mentioned in Article XII [Section 1200 et seq.]) restoration of the Premises as nearly as possible to its condition and character immediately prior to such partial taking, except for any reduction in area caused thereby; provided that, in the case of a partial taking for temporary use, Tenant shall not be required to effect such restoration until such partial taking is terminated. Such

restoration shall be performed in a good and workmanlike manner and undertaken in accordance with plans and specifications submitted to and approved by Landlord in accordance with Sections 401 and 402 hereof, and otherwise in accordance with the applicable provisions of this Lease.

D. [§1004] Application of Awards

Awards and other payments on account of a taking (less costs, fees and expenses incurred by Landlord, and Tenant in connection with the collection thereof) shall be applied as follows:

1. Net awards and payments received on account of taking, other than (a) a taking for temporary use, (b) a taking of only the leasehold estate hereunder, or (c) a total taking, shall be held and applied to pay the cost of restoration of the Premises. The balance, if any, remaining after restoration shall be divided between Landlord and Tenant as they may agree and, in the absence of such agreement, such balance shall be paid to Landlord and Tenant in the ratio, as nearly as practicable, which (a) the sum of (1) the then fair market value of Landlord's reversionary interest in the improvements and (2) the fair market value of the land, valued as unencumbered by this Lease, unimproved and to be used for the uses specified in this Lease bears to (b) the then fair market value of Tenant's interest in the improvements for the remainder of the term of this Lease, provided, however, that Tenant's share of any such balance shall be applied first to any payment of any past due Base Rent, Percentage Rent or any other payment payable hereunder, including, without limitation, any past due tax payments.

2. Net awards and payment received on account of (a) a taking for temporary use or (b) a taking of only the leasehold estate created by this Lease shall be paid to Tenant, except that:

a. If any portion of any such award or payment is made by reason of any damage to or destruction of the Premises, and there exists in this Lease on obligation to restore said Premises, such portion shall be held and applied to pay the cost of restoration thereof; and

b. If any portion of any award or payment on account of a taking for temporary use relates to a period beyond the date of termination of this Lease term, such portion shall be paid to Landlord; and

c. If, at any time such award becomes payable to Tenant, any Base Rent, Percentage Rent or other payments payable hereunder (including, without limitation, any tax payments) shall be due and unpaid, such award shall be first applied to the payment thereof.

3. With the exception of payments to tenant for loss of business goodwill and Tenant improvements at cost less depreciation in accordance with the Internal Revenue Code, any award and payment received on account of a total taking shall be paid to the Landlord, including any and all payments for leasehold bonus value, fixtures and equipment not considered Tenant improvements and severance damages.

E. [§1005] Notice of Taking

In case of a taking of all or any part of the Premises or the commencement of any proceeding or negotiations which might result in such taking, the party having notice of such taking or of the commencement of any such proceeding or negotiations shall promptly give written notice thereof to the other party. Landlord and Tenant shall jointly prosecute their claims for an award in a single proceeding. Landlord and Tenant shall not prosecute separate claims for an award, except that Tenant and any subtenant may prosecute separate claims for awards for moving expenses or on account of the taking of any removable trade fixtures or for the unamortized portion of any leasehold improvements made by any subtenant, but only to the extent that any such separate award shall not diminish the award made to Landlord and Tenant in respect of their joint claim.

F. [§1006] Disbursement of Awards on Partial Taking

All awards or other payments received on account of a partial taking shall be paid to the Landlord, to be held and disbursed in the same manner as insurance proceeds, except that any portion of such award(s) remaining after completion of any restoration shall be disbursed by the Landlord to the parties pursuant to subsection 1 of Section 1004.

XI. DEFAULT

A. [§1101] Default by Tenant

1. Any of the following occurrences or acts shall constitute an "Event of Default" under this Lease:

a. If Tenant fails to pay the rent when due as described herein. Landlord may give Tenant notice to pay all sums due within three (3) days, and if such payment is not made within three (3) days, Landlord may terminate the tenancy without discharging any amount due. If Tenant at any time during the term (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, in law, in equity or before any administrative tribunal which have or might have the effect of preventing Tenant from complying with the terms of this Lease) shall fail (1) to make payment of any installment of Base Rent or of any other payment herein specified to be paid by Tenant, when due or (2) to observe or perform any of Tenant's other covenants, agreements or obligations hereunder; and if any such default shall not be cured as to any default referred to in clause (1) within ten (10) days after receipt of written notice thereof by Tenant or as to any default referred to in clause (2) with the exception of an abandonment which shall have no applicable cure period, within thirty (30) days after Landlord shall have given to Tenant written notice specifying such default (or, in the case of any default referred to in clause (2) which cannot with diligence be cured within such thirty-day period, if Tenant shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with diligence, it being intended, in connection with a default not susceptible of being cured with diligence within such thirty-day period, that the

time within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with diligence); or

b. If Tenant shall file a petition in bankruptcy or for reorganization or for any arrangement pursuant to any present or future federal bankruptcy act or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent or shall make an assignment for the benefit of its creditors or shall admit in writing its inability to pay its debts generally as they become due, or if a petitioner or answer proposing the adjudication of Tenant as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within sixty (60) days after the filing thereof; or

c. If a receiver, trustee or liquidator of Tenant or of all or substantially all of the property of Tenant or of the Premises shall be appointed in any proceeding brought by Tenant, or if any such receiver, trustee or liquidator shall be appointed in any proceeding brought against Tenant and if such receiver, trustee or liquidator shall not be discharged within sixty (60) days after such appointment, or if Tenant shall acquiesce in or consent to such appointment; or

d. If Tenant shall be liquidated or dissolved or shall begin proceedings toward its liquidation or dissolution; or

e. If Tenant shall fail:

(1) To timely pay any taxes when due; or

(2) To observe or perform any of Tenant's other covenants, agreements or obligations under any agreement with Landlord relating to taxes; or

f. If Tenant shall commit or suffer to be committed any waste or impairment of the Premises or any part thereof; or

g. If Tenant shall alter the improvements in any manner, except as expressly permitted by this Lease; or

h. If Tenant shall fail to maintain insurance as required by this Lease; or

i. If Tenant shall engage in any financing except as approved by Landlord and permitted by the terms of this Lease, or any other transaction creating any mortgage on the Premises, or place or suffer to be placed thereon any lien or other encumbrance to the premises, or suffer any levy or attachment to be made thereon; or

j. If Tenant uses the Premises for purposes other than those provided for in this Lease without the prior written approval of Landlord; or

k. If Tenant fails to be open for business on the Premises for more than seventy-two consecutive hours, except in the case of such closures as may be allowed or provided for by this Lease, (hereafter "abandonment.") An abandonment shall constitute an automatic event of default and forfeiture of this Lease and entitle Landlord to reenter and retake the premises pursuant to the provisions of Section 1101 (2) without allowing Tenant a period to cure the event of default; or

l. If Tenant fails to comply with any applicable laws as evidenced by a notice of violation issued by the applicable enforcement agency. In the case of health or fire agency enforcement, an event of default shall occur when the Tenant receives a notice of a violation of health or fire regulations and fails to cure the violation within the initial time period set by the enforcement agency in its first notice of violation; or

m. If Tenant fails to obtain written approval of the Waterfront Director before construction, renovation or repair of any portion of the Premises and fails to conform to and abide by all rules and regulations relative to the Premises and uses herein authorized, which Premises and uses are subject at all times to applicable rules, regulations, resolutions, ordinances and statutes of the City of Santa Barbara, County of Santa Barbara, State of California, the Federal Government and all other governmental agencies when applicable; or

n. If Tenant fails to obtain all required permits or licenses for repair, construction or renovation of any portion of the Premises or use therein from the regulatory body having jurisdiction thereof before such repair or use is undertaken; or

o. If Tenant attempts to assign, lease, or sublease any part of the Premises without Landlord's advanced approval;

2. Upon the occurrence of any such Event of Default, in addition to any and all other rights or remedies of Landlord hereunder or by law or in equity, it shall be, at the option of Landlord, without further notice or demand of any kind to Tenant or any other person:

a. The right of Landlord to declare the term hereof ended and to terminate this Lease, in which event Tenant shall promptly surrender possession of the Premises to Landlord, and pay to Landlord all Base Rent and all other payments due Landlord hereunder to the date of such termination. If Tenant does not so promptly surrender the Premises, Landlord shall have the immediate right to re-enter the Premises and take possession thereof including the right to refuse to permit and to deny the right of the Tenant to remove any or all of Tenant's movable furniture, trade fixtures, equipment, improvements or personal property, notwithstanding any other provision of this Lease, located in, or upon the Premises, and take exclusive possession of same as a guarantee of payment for past due rents, without any obligation or liability to the Tenant, and remove all persons therefrom, and Tenant shall have no further claim thereon or thereunder.

b. The right of Landlord, without terminating this Lease, to enter the Premises and occupy the whole or any part thereof for and on account of Tenant and to collect said rent and any other rent that may thereafter become payable, to refuse, notwithstanding any other term or provision of this Lease, to permit and to deny the right of

Tenant to remove any or all of Tenant's movable furniture, trade fixtures, equipment, improvements or personal property located in, on or upon the Premises, and to use and take exclusive possession of same without payment to Tenant or cost to Landlord for so long as Landlord so occupies the Premises or until this Lease is terminated pursuant to subsection c. below; and

c. The right of Landlord, even though it may have re-entered the Premises pursuant to subsection b. above, to thereafter elect to terminate this Lease.

3. Tenant further acknowledges and agrees that the service by Landlord of any notice pursuant to the unlawful detainer or similar such statute of the State of California and the surrender of possession pursuant to such notice shall not be deemed to be a termination of this Lease. Tenant hereby irrevocably appoints Landlord as agent and attorney-in-fact of and for Tenant to so enter upon the Premises in the Event of Default by Tenant hereunder, to remove any and all furniture and personal property whatsoever situated upon the Premises, and to place such furniture and personal property in storage for the account of and at the expense of Tenant. In the event that Tenant shall not have paid the cost of such storage after ninety (90) days, Landlord may, at its discretion, sell any or all of such furniture and personal property at public or private sale in such manner and at such times and places as Landlord in its sole discretion may deem proper, without notice to Tenant or any demand upon Tenant. If Landlord so elects to sell such furniture and personal property, Landlord shall apply the proceeds of such sale first, to the cost and expenses of such sale, including reasonable attorneys' fees actually incurred, second, to the payment of the costs of or charges for removing and storing any such furniture and personal property, third, to the payment of any other sums of money which may then or thereafter be due to Landlord from Tenant under any of the terms of this Lease, and fourth, the balance, if any, to Tenant. Tenant hereby waives all claim for damages that may be caused by Landlord's re-entering and taking possession of the Premises or removing and storing furniture and personal property as herein provided, and will save Landlord harmless from any losses, costs or damages occasioned thereby. No such re-entry shall be considered or construed to be a forcible entry as the same is defined in the Code of Civil Procedure of the State of California.

4. Should Landlord elect to terminate this Lease pursuant to any of the provisions of above, Landlord may recover from Tenant as damages:

a. The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

b. Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by Landlord in maintaining or preserving the Premises after such default, preparing the Premises for reletting to a new tenant, any repairs or alterations to the Premises for such reletting, leasing commissions or other costs necessary or proximate to reletting the Premises; plus

c. At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of California.

As used hereinabove, the term "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. For purposes of determining Landlord's damages under this subsection 4, the annual rent payable hereunder shall be deemed to be equal to the average rent paid by Tenant for the calendar year immediately preceding the date of Tenant's default.

5. Trade Fixtures and Equipment. Notwithstanding Section 501 and 502, if an Event of Default occurs, all of Tenant's fixtures, equipment, improvements, additions, alterations shall remain on the Premises and in that event, and continuing during the length of said default, Landlord shall have the right to take the exclusive possession of same and to use same without payment to Tenant or any other party.

6. Remedies Not Exclusive. No right or remedy herein conferred upon or reserved to Landlord or Tenant is intended to be exclusive of any other right or remedy, except as expressly stated herein, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute, except such rights or remedies as are expressly limited herein.

7. Waiver of Rights of Redemption. Tenant hereby waives for itself and all those claiming under it all rights which it may have under any present or future constitution, statute or rule of law (a) to redeem the Premises after termination of Tenant's right of occupancy by order or judgment of any court or by any legal process or writ or (b) which exempts property from liability for debt or for distress for rent.

8. Termination Upon Two or More Defaults. In the event Landlord issues two (2) or more Notices of Default to Tenant in any twelve (12) month period, Landlord may terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant:

a. The worth at the time of award of any unpaid rent and other charges which had been earned at the time of such termination; and

b. Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by Landlord in maintaining or preserving the Premises after such default, preparing the Premises for re-letting to a new Tenant and any repairs or alterations to the Premises.

B. [§1102] Right of Landlord to Perform

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any abatement of rent. Subject to any rights of Tenant to contest, if Tenant shall fail to pay any sum of money, other than Base Rent, required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue for fifteen (15) days after notice thereof by Landlord, Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such act on Tenant's part to be made or performed as in this Lease provided. All sums so paid by Landlord and all necessary incidental costs and expenses, together with interest thereon at the rate of ten (10%) percent per annum from the date of such payment by Landlord shall be payable, as additional rent to Landlord on demand, and Tenant covenants to pay any such sums, and Landlord shall have, in addition to any other right or remedy of Landlord, the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of the rent.

If Tenant fails to maintain quality of character and operation in the manner specified in this Lease, then:

1. Landlord shall notify Tenant in writing, specifying the complaint and, if possible, requesting means of cure.

2. If Tenant has not cured the condition specified in the complaint within thirty (30) days after receipt of notice, or if cure cannot be achieved within thirty (30) days and Tenant has not commenced cure and is not proceeding diligently, then:

a. Landlord may re-enter the Premises without terminating this Lease and, as Tenant's attorney-in-fact, cure the default for the account of Tenant; and

b. If sums of money are expended by Landlord, Tenant agrees to repay such sums immediately upon demand and, if not paid, said sums shall bear interest at the rate of ten (10%) per annum until paid. All said sums shall constitute additional rent due hereunder.

C. [§1103] Personal Service Nature of Tenant's Obligations

Tenant acknowledges that the Premises constitutes a major and indispensable component of Santa Barbara City Waterfront Department's plan for the Harbor and that, therefore, the identity and qualifications of the Tenant as an ocean related service business as further described in paragraph [§ 201], Use of the Premises, is of the utmost concern to the City of Santa Barbara. The parties acknowledge that pursuant to this Lease, Tenant is, to a significant degree, performing personal services for Landlord and that the provisions in this Lease relating to assignment and default are based upon the particular and unique circumstances under which this Lease is made.

D. [§1104] Default by Landlord

In the event Landlord shall fail to perform or observe any of the covenants or provisions contained in this Lease on the part of Landlord to be performed or observed within thirty (30) days after written notice from Tenant to Landlord specifying the particulars of such default or breach of performance, or if more than thirty (30) days shall be reasonably required because of the nature of the default, if Landlord shall fail to proceed diligently to cure such default after such notice, then in that event, Tenant shall have all rights and remedies provided by law.

E. [§1105] Abandonment -Title to Fixtures and Equipment

If Tenant shall abandon, subject to Section 1101(k), vacate or surrender said Premises or be dispossessed by process of law, or otherwise, any furniture, trade fixtures, business equipment or other personal property belonging to Tenant and left on the Premises shall, at the option of Landlord, be deemed to be abandoned and title thereto shall thereupon pass to Landlord without any payment or allowance whatever by Landlord on account of such property. In such event such property may be retained by Landlord as Landlord's property or be disposed of, without accountability, in such manner as Landlord elects, or if Landlord shall give written notice to Tenant to remove such property, such property shall be removed by Tenant at Tenant's sole cost and expense.

F. [§1106] No Recourse

Tenant, other than judicial award, agrees that it shall have no recourse with respect to any obligation of Landlord under this Lease, or for any claim based upon this Lease, or otherwise, against any incorporator, shareholder, officer, director or attorney, past, present or future of Landlord, or against any other person than Landlord, and against Landlord only to the extent of the value of the land and improvements, whether by virtue of any constitution, statute, rule of law, rule of equity, enforcement of any assessment as penalty, or by reason of any matter prior to the execution and delivery of this Lease, or otherwise, all such liability, by Tenant's execution and delivery hereof and as part of the consideration for Landlord's obligations hereunder being expressly waived.

XII. [§1200] UNAVOIDABLE DELAY; FORCE MAJEURE

If either party shall be delayed or prevented from the performance of any act required by this Lease by reason of war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restriction or priority; unusually severe weather; inability to secure necessary labor, materials or tools; acts of the other party; acts or failures to act of any public or governmental agency or entity (except acts or failures to act of Landlord shall not excuse performance by Landlord); or any other similar causes, without fault and beyond the reasonable control of the party claiming an extension of time to perform, performance of such act shall be excused for the period of the delay, provided,

however, that nothing in this Section 1200 shall excuse Tenant from the prompt payment of any Base Rent or other monetary charges required of Tenant, and provided, further, that the party delayed or prevented from the performance of any act as above described has notified the other of such delay or prevention within thirty (30) days of the inception thereof, and has thereafter kept said party regularly informed of the status of such delay or prevention.

XIII. [§1300] ENTRY BY LANDLORD

A. Landlord and its agents may enter and examine the Premises at all reasonable times in order to determine whether Tenant is in compliance with the provisions hereof. Landlord will exercise this right of inspection in a way that will cause as little interference, inconvenience, and disturbance to Tenant's operation as possible.

B. Landlord and its authorized representatives reserve and shall have the right to enter upon the Premises at all reasonable times to inspect the same, to make necessary repairs and adjustments, to show said Premises to prospective purchasers, mortgagees or tenants or to post notices, including, without limitation, notices of non-responsibility, all of the foregoing without abatement of rent. Except in the event of an emergency, Landlord shall use all reasonable efforts to limit such entry to regular business hours after giving reasonable notice to Tenant of the time and purpose of the entry. In the event of an emergency, Landlord shall have the right to use any and all means which Landlord may deem necessary or proper to open any doors in order to obtain entry to any portion of the Premises, and any entry to the Premises, or portions thereof obtained by Landlord by any of said means or otherwise, shall not under any circumstances be construed or deemed to be forcible or unlawful entry into or detainer of, the Premises or an eviction, actual or constructive of Tenant from the Premises or any portions thereof.

XIV. GENERAL

A. [§1400] Estoppel Certificates

Landlord or Tenant, as the case may be, shall execute, acknowledge and deliver to or for the benefit of the other or to or for the benefit of any Lender, at any time, from time to time, at the expense of the party requesting a certificate as herein below described, promptly upon request, its certificate certifying (1) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications), (2) the dates, if any, to which all rents due hereunder have been paid, (3) whether there are then existing any charges, offsets or defenses against the enforcement by Landlord or Tenant of any agreement, covenant or condition hereof on the part of the other party to be performed or observed (and, if so, specifying the same), and (4) whether there are then existing any defaults by Tenant and known by Landlord in the performance or observance by Tenant of any agreement, covenant or condition hereof on the part of Tenant to be performed or observed and whether any notice has been given to Tenant of any default which has not been cured (and, if so, specifying the same). Any such certificate may be relied upon by a prospective purchaser, mortgagee or trustee or

beneficiary under a deed of trust of the Premises or the leasehold estate hereunder or any part thereof.

B. [§1401] Waiver

No waiver of any default under this Lease shall constitute or operate as a waiver of any subsequent default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege or option under this Lease shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege or option hereunder. No waiver of any provision hereof by Landlord or Tenant shall be deemed to have been made unless and until such waiver shall have been reduced to writing and signed by Landlord or Tenant, as the case may be. The receipt and acceptance by Landlord of rent with knowledge of any default under this Lease shall not constitute or operate as a waiver of such default.

Failure by Landlord or Tenant, as the case may be, to enforce any of the terms, covenants or conditions of this Lease for any length of time or from time to time shall not be deemed to waive or decrease the right of Landlord to insist thereafter upon strict performance by Tenant.

C. [§1402] Notices

If at any time after the execution of this Lease, it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally or by depositing the same in the registered or certified United States mail, return receipt requested, postage prepaid and (1) if intended for Landlord shall be addressed to:

City Clerk
City of Santa Barbara
PO Box 1990
Santa Barbara, California 93102-1990

with a copy to:

Waterfront Director
City of Santa Barbara
132-A Harbor Way
Santa Barbara, California 93109

and (2) if intended for Tenant shall be addressed to:

XXXXXXXXXXXX
Business Owner Name
125 Harbor Way #21
Santa Barbara, CA 93109

or to such other address as either party may have furnished to the other in writing as a place for the service of notice. Any notice so mailed shall be deemed to have been given as of the time the same is deposited in the United States mail.

D. [§1403] Corporate Authority

If Tenant signs as a corporation, Tenant covenants that each of the persons executing this Lease on behalf of Tenant is a duly authorized and existing officer of the corporation, that Tenant has, is and shall remain during the term of this Lease qualified to do business in the State of California, that the corporation has full right and authority to enter into this Lease and that each, both or all of the persons signing on behalf of the corporation were authorized to do so. Upon Landlord's request, Tenant shall provide Landlord with evidence reasonably satisfactory to Landlord confirming the foregoing covenants and warranties.

E. [§1404] No Light, Air or View Easement

Tenant covenants and agrees that no diminution of light, air or view by any structure which may hereafter be erected (whether or not by Landlord) shall entitle Tenant to any reduction or abatement of Base Rent or other amount payable under this Lease, result in any liability of Landlord to Tenant or in any other way affect this Lease or Tenant's obligations hereunder.

F. [§1405] Landlord's Covenant of Quiet Enjoyment

Landlord hereby covenants to Tenant that Landlord has good and marketable fee simple title to the Premises, free and clear of all claims, liens and encumbrances except the Tidelands Grant restrictions. Upon Tenant paying the Base Rent and other amounts payable hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall peaceably hold and quietly enjoy the Premises for the entire term hereof without hindrance, molestation or interruption by Landlord or any party claiming through or under Landlord.

G. [§1406] No Joint Venture

It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture between Landlord and Tenant or between Landlord and any other party or cause Landlord to be responsible in any way for the debts or obligations of Tenant or any other party.

H. [§1407] Provisions Subject to Applicable Law

All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Lease invalid, unenforceable or not entitled to be recorded under any applicable law. If any term of this

Lease shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Lease shall in no way be affected thereby.

I. [§1408] Miscellaneous

1. Each party hereby agrees to indemnify the other party from and against any real estate brokerage commissions or other such obligations incurred by the indemnifying party as the result of the negotiation or execution of this Lease.

2. Tenant shall not pay any money or provide any other consideration of any kind whatsoever or employ, contract with or sublease to or with any person or entity if such payment of money or provision of other consideration would violate or would have a reasonable likelihood of violating any law, statute, ordinance, directive, regulation, decision or opinion now or hereafter enacted or promulgated by the City of Santa Barbara, the State of California or any governmental public or judicial body, agency or department relating in any manner to conflicts of interest or if such payment or provision of consideration is to a person or entity which has discretionary authority or power of any kind over the development, use or occupancy of the Premises or any part thereof or with respect to the enforcement or interpretation of this Lease.

3. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

4. Nothing in this Lease shall be construed to create any duty to, any standard of care with reference to or any liability to anyone not a party except as otherwise expressly provided herein.

5. The words "Landlord" and "Tenant" as used herein shall include a corporation and include the plural as well as the singular. Words used in the masculine gender include the feminine and neuter. If there be more than one Landlord and Tenant, the obligations hereunder imposed upon Landlord and Tenant shall be joint and several.

6. The captions used herein are for convenience of reference only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions hereof.

7. Time is of the essence of each and all of the agreements, covenants and conditions of this Lease.

8. This Lease shall be interpreted in accordance with and governed by the laws of the State of California. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against Landlord or Tenant.

9. Tenant agrees to comply with the attached Exhibit "C" - Water and Energy Conservation Guidelines.

10. The area, if any, under sidewalks, driveways or passageways adjoining the Premises or any part thereof is subject to all prior and existing rights of the City of Santa Barbara, and, furthermore, any tax, charge, assessment or rental of whatever form or nature and however denominated, which may hereafter be imposed, at any time or from time to time, by the City of Santa Barbara or by its authority or by any other public authority for the use or occupancy of such area shall be borne and paid by Tenant, except as otherwise herein expressly provided.

11. This Lease constitutes the entire agreement between Landlord and Tenant with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral and written. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing, approved by the City Council and signed by Landlord and Tenant.

12. Landlord hereby represents, by executing this Lease, that Tenant has been informed of Tenant's right to have this Lease reviewed by legal counsel of Tenant's choice and has been afforded a reasonable opportunity to seek such advice.

13. PERSONAL GUARANTY. Performance of and compliance with all terms and conditions of this Lease, particularity, but not limited to, those relating to the prompt payment of rent to the City shall be personally guaranteed to the City by Fred and Kathy Hershman in the form of a guaranty attached hereto as Exhibit E.

14. Tenant agrees that no animals under the control of tenant or Tenant's employees will be permitted in the buildings or premises within Santa Barbara Harbor as per Section 6.08.070 of the Santa Barbara Municipal Code. This Section shall not apply to any person owning or having possession, charge, custody or control of a service animal.

(signatures appear on following page)

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease by proper persons thereunto duly authorized as of the date first hereinabove written.

LANDLORD:

CITY OF SANTA BARBARA
A Municipal Corporation

Mike Wiltshire
Waterfront Director

TENANT:

Business Name

Name, Business Owner

Name, Business Owner

ATTEST:

Sarah Gorman, CMC
City Clerk Services Manager

APPROVED AS TO CONTENT:

Cesar Barrios
Waterfront Business Manager

APPROVED AS TO FORM:

Sarah J. Knecht City Attorney

By _____
John Doimas, Assistant City Attorney

BUSINESS TAX COMPLIANCE:

Certificate No. _____

By _____

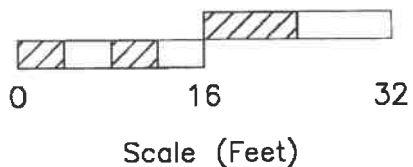
APPROVED AS TO INSURANCE:

Mark Howard, Risk Manager

2ND FLOOR
125 HARBOR WAY #21
167 SQ FT



PROPOSED LEASE AREA



LEASE AREA - Exhibit "A"
Room 21

REVISIONS	DATE: 1/8/08	APPROVED BY:	DRAWN BY: T. Lawler
	ADDRESS: Santa Barbara Harbor		SHEET NO. 1 of 1
	City of Santa Barbara		DRAWING NO.
	Waterfront Department		1250-003

Chapter 9.130

NON-DISCRIMINATORY PROVISIONS FOR LEASES

Sections:

- 9.130.010 Certificate Generally.**
- 9.130.020 Contents of Certificate.**
- 9.130.030 Application.**

9.130.010 Certificate Generally.

Consistent with a policy of non-discrimination in the use of real or personal property owned by the City of Santa Barbara a "lessee's obligation for non-discrimination certificate," as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all leases of City owned real or personal property. (Ord. 3501 §1, 1972)

9.130.020 Contents of Certificate.

The "lessee's obligation for non-discrimination" is as follows:

- A. Lessee in the use of the property which is the subject of this lease or in the operations to be conducted pursuant to the provisions of this lease, will not discriminate or permit discrimination against any person or class of persons by reason of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act - Government Code Sections 12900 - 12996) except where such discrimination is related to bona fide occupational qualification.
- B. Lessee shall furnish its accommodations and services on a fair, equal and non-discriminatory basis to all users thereof and lessee shall only charge fair, reasonable and non-discriminatory prices for each unit of service.
Lessee may make reasonable and non-discriminatory rebates, discounts or other similar price reductions to volume purchasers to the extent permitted by law.
- C. Lessee shall make its accommodations and services available to the public on fair and reasonable terms without discrimination on the basis of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act - Government Code Sections 12900 - 12996) except where such discrimination is related to bona fide occupational qualification.
- D. Lessee shall not discriminate or allow discrimination either directly or indirectly, in hiring or employing persons to work on the leased premises.
- E. Lessee agrees that it shall insert the above articles in any agreement by which said Lessee transfers any interest herein or grants a right or privilege to any person, firm or corporation to use the leased premises or to render accommodations and services to the public on the leased premises.
- F. Noncompliance with subsections A through E above shall constitute a material breach hereof and in addition to any other remedies provided by law or this lease, in the event of such noncompliance the Lessor shall have the right to terminate this lease and the interest hereby created without liability therefor, or at the election of the Lessor, the Lessor shall have the right to enforce judicially the provisions of subsections A through E of this section.

In the event the Lessee is found to have failed to comply with the provisions of subsections A through E of this section and notwithstanding any other remedy pursued by Lessor, the Lessee shall pay to the Lessor the sum of \$25.00 per day for each incident of a failure to comply. (Ord. 4465, 1987; Ord. 3501 §1, 1972)

9.130.030 Application.

This chapter shall apply to new leases only after the effective date of the ordinance codified in this chapter and shall apply to existing leases upon any renewal of the term thereof after the effective date of the ordinance codified in this chapter. (Ord. 3501 §1, 1972)

EXHIBIT C
Page 1 of 1
WATER AND ENERGY CONSERVATION GUIDELINES

Tenant agrees to comply with the following guidelines applicable to Tenant's business on potable water use at the leased Site.

1. Running water will not be used for the purpose of cleaning buildings and hard surfaces, except as necessary for health and safety reasons or for the prevention of significant deterioration of property.
2. All hoses will be continuously equipped with an automatic shutoff nozzle.
3. Vehicle washing will be by use of a bucket and brush only, with running water used only for a quick rinse.
4. Irrigation run-off and overflows will be avoided under all circumstances.
5. Irrigation shall be done only during the period between 6:00 p.m. and 10:00 a.m.
6. Leaks will be reported as soon as discovered to the Waterfront Facilities Staff at 564-5518 (Stearns Wharf) and 564-5522 (Harbor).
7. Tenant shall replace existing restaurant and kitchen equipment with energy-saving equipment as need arises for replacement of old, obsolete or worn-out equipment. Specifications for such energy-saving equipment shall include:
 - (a) Pre-rinse nozzles should be limited to less than two gallons per minute.
 - (b) Dishwashers should use less than one gallon per rack of dishes.
8. Showers, water closets and urinals shall be retrofitted, or, if new installations, shall be water saving plumbing as follows:
 - (a) Showerheads - 2 gallons per minute.
 - (b) Toilets - 1.28 gallons per flush.
 - (c) Faucet Aerators – 1.5 gpm, 2.2 gpm kitchens.
 - (d) Urinals – .5 gallon or Waterless.
9. Tenant shall avail himself of other energy conservation programs, inspections and measures offered by utility companies free of charge and shall comply with reasonable energy saving recommendations of such programs.
10. Such other restrictions of a similar nature found by the City Administrator to be a reasonable means of temporarily reducing water use during drought conditions. Such restrictions shall be in addition to any requirements of law.

EXHIBIT "D"

Section 1. There is hereby granted and conveyed to the City of Santa Barbara, a municipal corporation in the County of Santa Barbara, State of California, all the right, title and interests of the State of California, held by said state by virtue of its sovereignty, in and to all the tidelands and submerged lands (whether filled or unfilled), situated in and upon that portion of the Pacific Ocean known as Santa Barbara Channel in said county and lying between the line of mean high tide and the pier head line in said bay, as the same has been or may hereafter be established by the federal government, and between the prolongation of the west boundary line of the City of Santa Barbara into the Pacific Ocean and the prolongation of the east boundary line of the said City of Santa Barbara into the said Pacific Ocean; to be forever held by said City of Santa Barbara in trust for the uses and purposes and upon the express conditions following, to wit:

(a) That the lands shall be used by the city and its successors for purposes in which there is a general statewide interest as follows:

(1) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants, and facilities.

(3) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including but not limited to, approach takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of

terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, public parks, public playgrounds, public bathhouses and public bathing facilities, public recreation and public fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such uses, including, but not limited to, snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities, with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments,

service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas, and other compatible commercial and recreational activities and uses.

(7) For the protection of wildlife habitats, the improvement, protection and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the granted lands and the area, control of dredging or filling of the granted lands, or both, and prevention of pollution of the granted lands.

(8) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(9) For the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program for the granted tidelands and submerged lands which is consistent with the terms and conditions set forth in this act.

(b) The city, or its successors shall not at any time, grant, convey, give or alienate such lands, or any part thereof, to any individual, firm or corporation for any purposes whatever, provided, that the city, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease the lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which the lands are held by the state, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Nothing contained in this paragraph (b) shall be deemed to affect the validity or term of any franchise granted by said city under the Franchise Act of 1937, and any such franchise shall be effective with respect to the lands.

(c) The harbor shall be improved by the city without expense to the state, and it shall always remain a public harbor for all purposes of commerce, and navigation, and the state shall have at all times the right to use without charge all wharves, docks, piers, slips, quays, and other improvements constructed on the lands or any part thereof for any vessel or other watercraft or railroad, owned and operated by the state.

(d) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the city or its successors shall make no discrimination in rates, tolls or charges for any use or service in connection therewith.

(e) The State Lands Commission shall, at the cost of the city, survey and monument the granted lands and record a description and plat thereof in the office of the County Recorder of Santa Barbara County.

(f) The city shall cause to be made and filed with the State Lands Commission, annually, a copy of the certified annual audit of the city tidelands trust fund describing all rents, revenues, issues, income and expenditures in any manner hereafter arising from the granted lands or any improvements, betterments or structures thereon.

(g) There is hereby reserved to the people of the state the right to fish in the waters on the lands with the right of convenient access to the water over the lands for such purpose.

(h) Such lands are granted subject to the express reservation and condition that the state may at any time in the future use the lands or any portion thereof for highway purposes without compensation to the city, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements, betterments or structures have been placed upon the property taken by the state for such purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements,

betterments or structures taken or the damages to such interest.

Sec. 2. All of the following described property, to wit: All reclaimed or filled lands or lands formed by accretions due to artificial obstructions lying within the City of Santa Barbara and seaward of the mean high tide line of the Pacific Ocean, as the same existed on April 16, 1925, and bounded on the seaward side by the mean high tide line of the Pacific Ocean now existing and extending easterly from Santa Barbara Point to a point on the easterly city limits line where said line intersects the mean high tide line of the Pacific Ocean; which was formerly tidelands and submerged lands, is hereby declared to have ceased to be tidelands, and submerged lands, and to be free from all trusts and restrictions imposed on said lands under and by any of the provisions of this act except that said city or its successors, shall not at any time grant, convey, give or alien said lands or any part thereof, to any individual, firm, or corporation for any purpose whatsoever; provided, however, that the City of Santa Barbara, or its successors, may use, lease, rent, or otherwise let said lands, in parcels not to exceed 10 acres to any one person, firm or corporation and for limited periods not to exceed 66 years, with the right of the city to renew the same for any and all purposes which shall not interfere with the use of the tidelands of the Santa Barbara Channel lying seaward of said lands. If, during such lease, rental or other holding, such holding shall interfere with the use of any of the tidelands of Santa Barbara Channel lying seaward of said property for navigation, commerce and fisheries, or in any manner become inconsistent with the trusts under which said tidelands are held by said city, the city shall have the right to terminate such holding and compensate such holder for the loss incurred, not exceeding an amount to be agreed upon by the terms of the lease or other holding.

There is hereby granted and conveyed to the City of Santa Barbara, a municipal corporation, and to its successors, all right, title and interest of the State of

California in and to the reclaimed or filled lands or lands formed by accretions due to artificial obstructions hereinbefore in the section described, subject only to the restrictions and conditions contained in this section; except that, notwithstanding any thing contained in this act, the City of Santa Barbara, is hereby authorized, notwithstanding any law to the contrary, to lease to the State of California for a period of not to exceed 99 years, or to convey to the State of California, that part of said reclaimed or filled lands or lands formed by accretions, to wit: Commencing at the most southerly end of the 14th course, as given in a description of that certain real property described in a deed to Thos. B. Dibblee dated December 16, 1876, and recorded in Book "R" at page 98 of Deeds of Santa Barbara County records; thence S. 57° 19' 20" E. 406.18 feet to the point of intersection of a curve to the left having a radius of 170.00 feet, a delta of 56° 25', the long chord of which bears S. 85° 31' 50" E. 160.71 feet, said curve being the first course as described in Parcel 5 in a deed from the State of California to the City of Santa Barbara, dated August 15, 1934, and recorded in Book 314 of the official records at page 460 of Santa Barbara County records; thence N. 66° 15' 40" E. along the semitangent of said curve 91.18 feet to the end thereof; thence N. 58° 21' 34" E. 67.80 feet to the true point of beginning; said point of beginning being a point on the line of ordinary high water mark of the Pacific Ocean as given in a deed to Thos. B. Dibblee dated December 16, 1876, herein first above mentioned; thence S. 20° 39' 20" E. 355.00 feet to a point; thence N. 69° 20' 40" E. 735.00 feet to a point; thence N. 20° 39' 20" W. 355.00 feet more or less to a point on the line of ordinary high water mark of the Pacific Ocean as described in the deed of Dibblee herein first above mentioned; thence southerly and westerly along said line of high water mark of the Pacific Ocean to the true point of beginning containing 5.99 acres more or less; upon the condition that the said property shall be improved by the erection and construction thereon of an athletic field and stadium for Santa Barbara

State College, costing not less than thirty thousand dollars (\$30,000), within three years after the date of such lease or conveyance. In the event the lands described in this paragraph are leased to the State of California as herein provided, the lease shall provide that the lands may be conveyed to the state during the term of said lease and upon such conveyance the lease shall terminate and be of no further force and effect. Whenever said lands shall be conveyed to the State of California, the conveyance may provide for the forfeiture of title to said lands to said city in the event said condition is not complied with and also in the event that the use of said property as an athletic field for such state college shall ever be discontinued by the state, for a period as long as one year.

Sec. 3. There is hereby granted and conveyed to the city of Santa Barbara, a municipal corporation, of the State of California, and to its successors, all of the right, title and interest of the State of California held by said State by virtue of its sovereignty in and to all the tidelands and submerged lands bordering upon and lying below the Pacific Ocean which are within the corporate limits of said city and seaward of the mean high tide line of the Pacific Ocean as the same now exists, to be forever held by said city by its successors in trust for the uses and purposes set forth in subdivision a of section 1 of this act, and provided that said trusts are hereby extended to permit the use of said lands for public park, parkway, highway or playground.

There is hereby reserved however for the people of the State of California an absolute right to fish in the waters of said harbor with the right of convenient access to said waters over said lands. There is hereby further excepted and reserved to the State of California all deposits of minerals, including oil and gas, to the lands granted by this act.

[added by Chapter 13, Statutes of 1937]

Sec. 4. The City of Santa Barbara is hereby authorized to grant and convey to the United States Government, or any

agency thereof, for use as a site for a naval reserve armory, that certain parcel of land heretofore granted to it by the State pursuant to this act and described as follows:

Beginning at the most easterly corner of that certain tract of land leased to the State of California by the City of Santa Barbara for a stadium site by lease dated March 24, 1938, and recorded in Book 438 at page 498 official records of Santa Barbara County, said point of beginning being the easterly end of that certain course described in said lease above referred to, as bearing north 69° 20' 40" east – 735.00' to a point; thence south 55° 39' 10" east 156.78' to the true point of beginning of the tract hereinafter described; thence first north 41° 31' 30" east – 250.00' to a point, said point being on the most westerly edge of the parapet wall of the Santa Barbara breakwater; thence second, south 48° 28' 30" east along the westerly edge of said parapet wall 160.00' to a point; thence third, south 41° 31' 30" west – 250.00' to a point; thence fourth north 48° 28' 30" west – 160.00' to the true point of beginning and containing 0.918 acres.

[added by Chapter 9 of the Fifth Extraordinary Session, Statutes of 1940]

Sec. 5. The city shall establish a separate tidelands trust fund or funds on or before December 31, 1976, and the city shall deposit in the fund or funds all moneys received directly from, or indirectly attributable to, the granted lands in the city. A statement of financial condition and operation shall be submitted by the city to the State Lands Commission on or before September 30, 1980, for the three-year period commencing on July 1, 1977 and ending on June 30, 1980, and on or before September 30 of every succeeding third year after September 30, 1980.

Sec. 6. Notwithstanding any other provision of law to the contrary, the city, acting either alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the granted lands for any or all of the following

purposes; provided, that they comply with the terms of the trust and are matters of statewide, as distinguished from local or purely private, interest and benefit:

(a) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docs, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(b) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants, and facilities.

(c) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including but not limited to approach takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(d) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(e) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, public parks, public playgrounds, public bathhouses and public bathing facilities, public recreation and public fishing piers, public recreation facilities, including,

but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(f) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of such uses, including, but not limited to, snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities, with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas, and other compatible commercial and recreational activities and uses.

(g) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the granted lands and the area, control of dredging or filling of the granted lands, or both, and prevention of pollution of the granted lands.

(h) For the promotion, by advertising and such other means as may be reasonable and appropriate, of maximum public use of the granted lands or to encourage private investment in development of the granted lands for the highest and best use in the public interest.

(i) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(j) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

Sec. 7. Such revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act.

Sec. 7.5. As to the expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the city shall file with the State Lands Commission a detailed description of such capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith, excepting preliminary planning. The State Lands Commission may, within 90 days after the time of such filing, determine and notify the city that such capital improvement is not in the statewide interest and benefit and is not authorized by the provisions of Section 6 of this act. The State Lands Commission may request the opinion of the Attorney General on the matter, and if it does so, a copy of such opinion shall be delivered to the city with the notice of its determination in the event the State Lands Commission notifies the city that such capital improvement is not authorized, the city shall not disburse any revenue for, or in connection with, such capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The city is authorized to bring suit against the state for the purpose of securing such an order or adjudication, which suit shall have priority over all other civil matters. Service shall be made upon the Executive Officer of the State Lands Commission and the Attorney General and the Attorney General shall defend the state in such suit. If judgment be given against

the state in such suit, no costs shall be recovered against it.

Sec. 8. On September 30th of each year, beginning in 1980 or in the year following the filing of the "Master Map of Granted Tideland Boundaries in California" and the "Description of Granted Tideland Boundaries" as required by subdivision (a) of Section 6367.7 of the Public Resources Code, whichever comes later, that portion of revenues in excess of five hundred thousand dollars (\$500,000), as adjusted for changes in the cost of living on September 30th of each year, remaining after current and accrued operating costs and expenditures related to the operation or the maintenance of beaches, harbors, and other tidelands trust activities have been made, shall be deemed excess revenue; provided, that any funds deposited in a reserve fund for future capital expenditures, or any funds required to service or retire general obligation or revenue bonds issues, the moneys from which have been or will be, used for purposes authorized by law, shall not be deemed excess revenue. Said cost-of-living adjustment shall be made on the basis of the United States Retail Consumer Price Index (All U.S./All Items) or any index or indices which is created to succeed said index. The base point for such adjustment shall be September 30, 1974. Capital improvements of the granted lands for purposes and uses authorized by the terms of this act may be considered as expenditures for the purpose of determining net revenues. The excess revenue, as determined pursuant to this section, shall be divided as follows: 85 percent to the State Tidelands Trust Fund in the State Treasury, and 15 percent to the city, to be deposited in the city's tidelands trust fund and used for any purpose authorized by this act.

Sec. 9. The State Lands Commission, at the request of the city, shall grant an extension of time, not to exceed 90 calendar days, for filing any report or statement required by this act which was not filed due to mistake or inadvertence.

Sec. 10. In the event that the city fails or refuses to file with the State Lands Commission any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act, or fails or refuses to carry out the terms of this act, the Attorney General shall, upon the request of the State Lands Commission, bring such judicial proceedings for correction and enforcement as are appropriate. The State Lands Commission shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

Sec. 11. The State Lands Commission shall, from time to time, recommend to the Legislature such amendments as it may deem necessary in the terms and conditions of this act.

Sec. 12. The State Lands Commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning these specific granted lands are being complied with in good faith.

Sec. 13. The State Lands Commission shall, on or before December 31st of each year, report to the Chief Clerk of the Assembly and to the Secretary of the Senate, the full details of any transaction or conditions reported to the commission pursuant to this act which it deems in probable conflict with the requirements of this act, or with any other provision of law.

Sec. 14. The Attorney General, on request by resolution of either house of the Legislature, or upon formal request of the State Lands Commission made only after a noticed public hearing at which the grantee has been given an opportunity to fully express any disagreement with the commission's findings or to describe any extenuating circumstances causing the

violation, shall bring an action in the superior court in the County of Santa Barbara to compel compliance with the terms and conditions of the grant and any other provision of law including, but not limited to, this act.

Chapter 193 (1975) an act to amend Sections 1 and 2 of, and to add Sections 5, 6, 7, 7.5, 8, 9, 10, 11, 12, 13, and 14 to, Chapter 78 of the Statutes of 1925, relating to tidelands and submerged lands, and declaring the urgency thereof, to take effect immediately. [Approved by Governor July 3, 1975. Filed with the Secretary of State July 5, 1975.]

EXHIBIT "E"
Page 1 of 7

CONTINUING GUARANTY OF THE LEASE
BETWEEN THE CITY OF SANTA BARBARA
AND
TENANT

The undersigned ("Guarantor") is executing this guaranty at the solicitation of Seacoast of Santa Barbara, Inc., (hereinafter referred to as the "Lessee") to induce the City of Santa Barbara ("Lessor") to lease certain real property to Lessee pursuant to that certain Lease Agreement between Lessor and Lessee dated _____ (the "Lease") and relating to that real property described as in Exhibit "A" to the Lease.

(1) For valuable consideration, the receipt and adequacy of which are hereby acknowledged, Guarantor unconditionally and absolutely guarantees to Lessor the due and punctual payment and performance of all of Lessee's present and future indebtedness and obligations to Lessor under the Lease, and under all modifications, amendments, renewals and extensions of the Lease, including payment to Lessor of all rents and monies due and to become due to Lessor from Lessee under the Lease in the amounts and at the times set out in the Lease, and performance of all terms, covenants and conditions of the Lease. All such indebtedness and obligations are referred to in this guaranty as the "indebtedness" and will be payable by Guarantor to Lessor or order immediately on demand in the event of any default by Lessee with respect to the indebtedness or any part thereof. All payments shall be made to Lessor at the address indicated above, or such other address as Lessor may direct in writing, in lawful money of the United States without setoff, deduction or counterclaim. Time is of the essence in the performance by Guarantor under this guaranty.

(2) Guarantor is fully aware of the financial condition of Lessee. Guarantor represents and warrants that he/she is in a position to obtain any additional information concerning Lessee as Guarantor may desire. Guarantor assumes the full responsibility for being and keeping himself/herself informed of the financial condition and assets of Lessee and of all other circumstances bearing upon the risk of nonpayment of the indebtedness which diligent inquiry would reveal. Absent a written request for such information by Guarantor, Lessor shall have no duty to advise Guarantor of information known to it regarding such condition or any such circumstances, regardless of whether Lessor has reason to believe that any such information materially increases the risk beyond that which Guarantor intends to assume or has reason to believe that such information is unknown to Guarantor or has a reasonable opportunity to communicate such information to Guarantor.

By executing this guaranty, Guarantor knowingly accepts the full range of risks encompassed within a contract of continuing guaranty which risks Guarantor acknowledges include the possibility that Lessee will incur additional indebtedness for which Guarantor will be liable after Lessee's financial condition or ability to pay such indebtedness has deteriorated.

(3) Guarantor authorizes Lessor, whether before or after revocation of this guaranty, without notice or demand and without affecting or impairing Guarantor's liability hereunder, from time to time to do one or more the following: (1) renew, compromise, settle, extend, increase, accelerate or otherwise change the time for payment, discharge or performance of the indebtedness or any part thereof; (b) change the terms of the indebtedness or any part thereof, including increase or decrease the rent; (c) take and hold security for the payment of the indebtedness or any part thereof or any guarantee thereof, and subordinate, exchange, modify, vary, enforce, waive, release (intentionally or unintentionally), renew or abstain from perfecting or taking advantage of any security; (d) apply any sums received from Lessee or any other person or from the disposition of any security to any indebtedness whatsoever owing from Lessee or such person or secured by such security, in such manner and order as lessor determines, and regardless of whether such indebtedness is part of the indebtedness, is secured, or is due and payable; (e) apply any sums received from Guarantor or from the disposition of any security for the obligations of Guarantor, to any of the indebtedness in such manner and order as Lessor determines, regardless of whether such indebtedness is secured or is due and payable; or (f) release, substitute or add any one or more cosigners, endorsers or other guarantors of the indebtedness.

(4) Guarantor waives: (a) all presentments, demands for performance, notices of nonperformance, protests, and all other notices, including notices of all of the following: protest, dishonor, acceptance of this guaranty, and default, partial payment or nonpayment of all or any part of the indebtedness and the existence, creation, or incurring of new or additional indebtedness; (b) any right to require Lessor to proceed against Lessee or any other person, to proceed against or exhaust any security held from Lessee or any other person for the indebtedness, to proceed against or exhaust any security held from Guarantor or any other person for this guaranty or to pursue any other remedy in Lessor's power whatsoever; (c) the benefits of any laws which provide that the obligation of a guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduce a guarantor's obligation in proportion to the principal obligation; (d) any defense arising by reason of the invalidity, legality or lack of enforceability of the indebtedness of any part thereof, or by reason of any incapacity, lack of authority, death, disability or other defense of Lessee or any other person, or by reason of the failure of Lessor to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of Lessee or any other person, or by reason of the cessation from any cause whatsoever of the liability of Lessee or any other person with respect to all or any part of the indebtedness, or by reason of any act or omission of Lessor or other which directly or indirectly results in the discharge or release of Lessee or any other person or any indebtedness or any security thereof, whether by

operation of law or otherwise; (e) any defense arising because of Lessor's election, in any proceeding instituted under the federal Bankruptcy Code, of the application of Section 1111(b)(2) of the federal Bankruptcy Code; (f) any defense based on any borrowing or grant of a security interest under Section 364 of the federal Bankruptcy Code; (g) any defense arising by reason of Lessor's failure to obtain, perfect, continue, maintain or keep in force any security interest in, lien or encumbrance upon, any property of Lessee or any other person, or by reason of any interest of lessor in any Property, whether as owner thereof or the holder of a security interest therein or lien or encumbrances thereon, being invalidated, avoided, declared void, fraudulent or preferential or otherwise set aside, or by reason of any impairment by Lessor of any right to recourse or collateral; (h) any right to require Lessor to marshal any assets in favor of Guarantor; (i) any defense based upon any failure of Lessor to give Lessee or Guarantor notice of any sale or other disposition of any property securing any or all of the indebtedness or any guarantee thereof, or any defect in any notice that may be given in connection with any sale or other disposition of any such property, or any failure of Lessor to comply with any provision of applicable law in enforcing any security interest in or lien upon any such property, including any failure by Lessor to dispose of any such property in a commercially reasonable manner; (j) any defense based upon or arising out of any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, liquidation or dissolution proceeding commenced by or against Lessee or any other person, including any discharge of, or bar against collecting, any of the indebtedness (including any interest thereon), in or as a result of any such proceeding; and (k) and defense based on dissolution or termination of, or increase, decrease or change in membership of any guarantor or Lessee which is a partnership.

(5) Guarantor expressly waives all rights of, or to subrogation, reimbursement, indemnity, exoneration; contribution, or any other rights, remedies or claims, whether contractual, legal, equitable, or otherwise, which Lessor or any other party may have or acquire, against Lessee, and waives any benefit of, and any right to participate in, any security now or hereafter held by Lessor.

(6) Lessor may, at its election, but without obligation to do so, exercise any right or remedy it may have against Lessee or any other person or any real or personal property security it holds for the indebtedness or any part thereof or any guaranty thereof, including foreclosing a trust deed judicially or nonjudicially or taking a deed, assignment or transfer in lieu of foreclosure as to any such property, without affecting or impairing in any way the liability of Guarantor hereunder except to the extent the indebtedness has been paid, even if the effect of such action is to destroy or diminish Guarantor's subrogation rights, Guarantor's right to proceed against Lessee for reimbursement, Guarantor's right to recover contribution from any other guarantor or any other right or security, and Guarantor waives any defense arising out of the absence, impairment or loss of any right of Guarantor of subrogation, reimbursement or contribution or of any other right or security, whether resulting from an election of remedies by Lessor and any act or omission by Lessor or otherwise. Without limiting the foregoing, Guarantor understands that if Lessor nonjudicially forecloses any trust deed now or hereafter securing any of the indebtedness or any part thereof, Guarantor will remain liable to Lessor for any deficiency, even though Guarantor will lose his right of subrogation, will be

unable to recover from Lessee the amount of the deficiency for which Guarantor is liable and may lose other rights, and even though Guarantor would have retained such rights if Lessor had foreclosed said trust deed by judicial rather than nonjudicial foreclosure. Without in any manner limiting the generality of the foregoing or any other provision of this guaranty, Guarantor waives the benefits of the provision of Section 2809, 2810, 2819, 2839, 2845, 2849, 2850, 2899 and 3433 of the California Civil Code and Section 350a, 580b, 580d and 726 of the California Code of Civil Procedure, and any similar or analogous statutes of this or any other jurisdiction.

(7) The obligations of Guarantor hereunder are independent of the obligations of Lessee. A separate action or actions may be brought and prosecuted against Guarantor without first proceeding against Lessee or any other person or any security held by Lessor and without pursuing any other remedy and without joining Lessee or any other person in any such action or actions. Guarantor waives the benefits of any statute of limitations affecting his/her liability hereunder or the enforcement thereof. Any payment of any indebtedness or other act which shall toll any statute of limitations applicable thereto shall also operate to toll such statute of limitations applicable to Guarantor's liability hereunder.

(8) Any indebtedness of Lessee now or hereafter held by Guarantor is hereby subordinated to the indebtedness of Lessee to Lessor; and such indebtedness of Lessee to Guarantor if Lessor so requests shall be collected, enforced and received by Guarantor as trustee for Lessor and be paid over to Lessor on account of the indebtedness of Lessee to Lessor but without reducing or affecting in any manner the liability of Guarantor under the provisions of this guaranty. Should Guarantor fail to collect proceeds of debt owed to it by Lessee and pay the proceeds to Lessor, Lessor as Guarantor's attorney-in-fact may do such acts and sign such documents in Guarantor's name as Lessor considers necessary to effect such collection.

(9) It is not necessary for Lessor to inquire into the powers of Lessee or of the officers, directors, partners or agents acting or purporting to act on its behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

(10) Guarantor agrees to pay reasonable attorneys' fees and all other costs and expenses which may be incurred by Lessor in any effort to collect or enforce the indebtedness or this guaranty.

(11) Nothing shall discharge or satisfy the liability of Guarantor hereunder except the full performance and payment of the indebtedness of Lessee to Lessor. If payment with respect to any or all of the indebtedness by any person or from any property is subsequently invalidated, avoided, declared to void, fraudulent or preferential or otherwise set aside, and is required to be repaid by Lessor to a trustee, receiver of any other party under any bankruptcy act, state or federal, common law or equitable cause or otherwise, then to the extent of such repayment the obligation or part thereof intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made. When any claim is asserted that any such payment is invalid, void,

fraudulent, preferential or otherwise subject to being set aside, Lessor may compromise or settle any such claim and to the extent of any repayment by Lessor as part of any such compromise or settlement, the obligation or part thereof intended to be satisfied shall likewise be revived and continued in full force and effect as if such payment had not been made. In each case, payments received by Lessor which are so repaid shall not discharge, satisfy or reduce the liability of Guarantor hereunder and Guarantor shall be and remain fully liable therefor.

(12) Guarantor warrants, represents and covenants to Lessor that all Guarantor's financial statements, including income statement(s) and balance sheet(s), which may have been delivered to Lessor, properly state Guarantor's financial condition, that there has been no material adverse change in the financial condition of Guarantor as reflected in the statements since the date thereof and that the statements do not fail to disclose any facts which might materially and adversely affect Guarantor's financial condition. Guarantor shall immediately give Lessor written notice of any material adverse change in his financial condition, including litigation commenced, tax liens filed, defaults claimed under his indebtedness for borrowed money or bankruptcy proceedings commenced against Guarantor by any person.

(13) This guaranty shall inure to the benefit of Lessor, its successors and assignees, and shall bind the heirs, executors, administrators, successors and assignees of Guarantor. Any married person who signs this guaranty agrees that recourse may be had against his or her separate property for all of his or her obligations hereunder. This guaranty is assignable by Lessor without notice with respect to all or any portion of the indebtedness hereby guaranteed without in any manner affecting the liability of Guarantor hereunder with respect to any indebtedness retained by Lessor and, in such event unless the context otherwise requires, the term "Lessor" as used herein shall also include such assignees.

(14) This guaranty shall be governed by and construed according to the laws of the State of California. Whenever the context so requires, the masculine gender includes the feminine or neuter, and the singular includes the plural. As used herein, "any other person" shall include, without limitation, any other guarantor of the indebtedness or any part thereof, any endorser thereof or any comaker thereof, "including" shall not be limiting, and "or" shall not be exclusive. All authorizations, consents and waivers made by Guarantor with respect to any security shall be applicable to any property leased under the Lease. If this guaranty is executed by more than one Guarantor, their obligations hereunder shall be joint and several. The invalidity or unenforceability of any one or more provisions of this guaranty will not affect any other provision.

(15) All actions or proceedings relating directly or indirectly to this guaranty shall, at the option of Lessor, be litigated in courts of the State of California or of the United States in California, located in Santa Barbara County. Guarantor consents and submits to the jurisdiction of any such court. Guarantor consents to service of process by means authorized by California or federal law. Guarantor waives any and all objections which Guarantor may have as to the jurisdiction or venue of such courts and any and all

rights Guarantor may have to transfer to change the venue of any such action or proceeding.

(16) This guaranty constitutes the entire agreement of Guarantor and Lessor with respect to the subject matter hereof and there are no promises, statements or representations of any kind or nature whatsoever other than those herein contained. No delay or failure by Lessor to exercise any right or remedy against Guarantor will be construed as a waiver of the right or remedy. The terms and provisions of this guaranty may not be waived, altered, modified or amended except by written instrument executed by Guarantor and Lessor. All rights and remedies of Lessor against Guarantor are cumulative and not exclusive and may be exercised successively or concurrently. No exercise or any right or remedy shall be deemed to be an election of remedies and preclude exercise of any other right or remedy.

(17) Any notice, demand or request to Guarantor shall be given in writing and shall be deemed given when personally served on Guarantor or mailed (first class U.S. mail postage prepaid) or delivered to Guarantor's Address for Notice set forth below. Any notice, demand or request to Lessor shall be in writing and be deemed given when received by Lessor by Personal delivery or first class U.S. mail postage prepaid at Lessor's Address for Notice set forth below.

(18) This is a continuing guaranty. Guarantor's liability under this guaranty shall continue for the entire term of the lease, all option periods and thereafter until all indebtedness is repaid in full.

(19) No person executing this guaranty is doing so in consideration of or in reliance on any other person executing this guaranty or any other guaranty of the indebtedness.

(20) There is no limitation on Guarantor's liability under this guaranty.

(Signatures appear on the following page)

GUARANTOR

By: _____
Business Owner Name

Date: ____ / ____ / ____

**GUARANTOR'S ADDRESS FOR
NOTICE:**

125 Harbor Way #21
Santa Barbara, CA 93109

LESSOR'S ADDRESS FOR NOTICE:

City of Santa Barbara
Waterfront Department
Waterfront Director
132-A Harbor Way
Santa Barbara, CA 93109

With a copy to:
Office of the City Attorney
P.O. Box 1990
Santa Barbara, CA 93102-1990