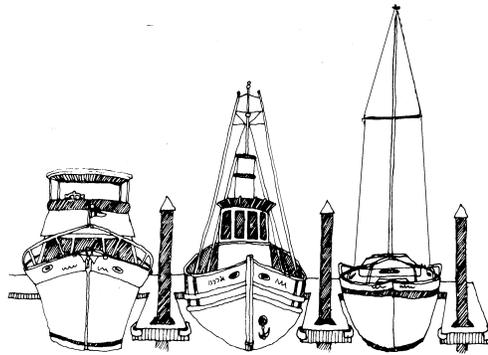


Santa Cruz Port District

**REQUEST FOR PROPOSALS**  
**Building Lease – 333-B Lake Avenue**



**Submit Proposals to:**            **Santa Cruz Port District**  
   **135 5th Avenue**  
   **Santa Cruz, CA 95062**

**Bid Proposals Due by:**            **2 pm, Wednesday, December 22, 2021**

Santa Cruz Port District  
Building Lease – 333-B Lake Avenue  
**Request for Proposals**

**1. Introduction**

Santa Cruz Port District operates Santa Cruz Harbor, and desires to enter into a lease for the tenancy and operation of a bait shop and sportfishing supply store at 333-B Lake Avenue, Santa Cruz, CA, and is seeking proposals from qualified candidates. The existing tenant, Bayside Marine, will be bidding for the new lease. The Santa Cruz Port District, an independent special district, is a political subdivision of the State of CA and operates under Sec. 6200 of the CA Harbors and Navigation Code. This lease bid is being conducted under Sec. 72.0 of the CA Harbors and Navigation Code, and Sec. 6066 of the Gov't Code.

The Santa Cruz Harbor is a major attraction to locals and tourists visiting the Santa Cruz area. The harbor serves beach goers, fishermen, tourists, and casual visitors.

The existing usable space is approximately 1,100 square feet in size and is shown on the drawings included in Exhibit 'A', Premises Diagram. The leasehold area also includes approximately 1,750 square feet of paved area adjacent to the southerly and easterly sides of the building which may be used by the tenant for storage or other uses if approved by the Port District. The lease does not include equipment, fixtures or furnishings owned by the current tenant. A 60 square foot storage shed may be included in the lease at an additional cost to the tenant.

Metered parking is available within the Santa Cruz Harbor.

**2. Scope of Services**

The District, as landlord, currently leases out a bait shop/sportfishing supply store at the site. After review of responses to this Request for Proposals, the District will select a tenant to operate a bait shop/sportfishing supply store at this location for a period of five (5) years beginning February 1, 2022. The selected operator shall sign a copy of the Sample Lease that forms part of this Proposal Package, and a personal guarantee will be required from each principal of the business.

The selected operator may apply for an extension of the lease term for an additional three (3) years, by submitting written notice of such request not later than six (6) months prior to the expiration of the initial term provided. The District will have discretion to grant such extension, subject to its procurement regulations in force at the time and compliance by the lessee with the terms of the lease granted.

The minimum base rent shall be \$3,134/month for the retail store, \$144/month for the storage shed, and \$752/month for paved lot area, increased annually by the San Francisco-Oakland-Hayward Consumer Price Index. Rent subject to review and adjustment if necessary to be consistent with market rates for similar establishments in the Santa Cruz area.

The District desires a retail establishment offering quality products and services to sportfishermen, available to locals and tourists on a year-round basis. The District further requires safety, cleanliness and a service quality commensurate with the atmosphere which the District is seeking to promote throughout the harbor. The District reserves the right to select an operator on criteria that will include but not be limited to rental amount.

Parking for management and deliveries is limited to available metered parking within the Santa Cruz Harbor and nearby on-street parking. All other parking will be subject to the terms available to members of the general public, which may involve payment. No other parking benefits will be included in the lease. The District will work with the successful bidder on any changes to parking arrangements that may arise in the future.

### **3. Selection Process Timetable**

This Request for Bid Proposals will be made available to any qualified person choosing to respond. Each responder will be required to attend a mandatory on-site pre-submission meeting for prospective bidders at:

10:00 a.m. Friday, December 17, 2021  
333-B Lake Avenue (currently dba Bayside Marine), Santa Cruz, CA 95062

Proposals will not be considered from any bidders not in attendance at the pre-submission meeting.

Sealed proposals must be submitted to Holland MacLaurie, Port Director, Santa Cruz Port District, 135 5<sup>th</sup> Avenue, Santa Cruz, CA 95062, no later than 2:00 p.m. on Wednesday, December 22, 2021.

The District reserves the right to waive any irregularities in any proposal, and to reject any and all proposals. Any proposal submitted must remain open for acceptance by the District for a minimum of sixty (60) days after the deadline for submission of proposals.

The timetable for the selection process shall be:

- i. Date of mandatory on-site pre-submission meeting: December 17, 2021, at 10:00 a.m.
- ii. Date proposals due: December 22, 2021, no later than 2:00 p.m.
- iii. Date of approval of selected bidder: January 19, 2022
- iv. Date of award and execution of Lease: *TBD*

### **4. Qualification and Evaluation of Bid Proposals**

Bidders must be capable of operating/capitalizing a bait shop/sportfishing supply operation. Bidder must demonstrate minimum qualifications including not less than five (5) years' experience as owner/operator of a similar specialty operation in a visitor-serving area with seasonal fluctuations in traffic.

Selection of the successful bidder will not be based on cost consideration and the highest rental proposal alone. The District will evaluate proposals on the factors described below in "Bidder Qualifications" below.

The District reserves the right to place responding bidders onto a short-list and conduct interviews only with those placed on that short-list.

Failure to comply with the requirements of this RFP may result in the rejection of a proposal, or the District may decline to consider any such proposal. Bidders may include additional material or information in addition to the required responses to this RFP, but the District reserves the right to make its selection solely on the criteria identified in this RFP.

Proposals will be considered by the Santa Cruz Port Commission within approximately 30 days of bid opening. The lease will be awarded, if awarded, to the highest responsible bidder best suited for operating within the Santa Cruz Harbor.

## 5. Proposer's Information

Bidders shall submit a confidential proposal in the format included in this RFP. Bidders whose proposals are not accepted may request and receive back from the District the original of their submitted information. The successful bidder's information shall be kept in confidence by the District to the widest possible extent allowed by the laws of the State of California.

## 6. Submittals

All costs associated with the preparation of a response to this RFP, and all costs associated with any visits or interviews conducted in connection with this RFP shall be the entire cost and responsibility of the bidder. The District neither offers nor assumes any responsibility for any costs incurred by any party in reviewing this RFP or responding to this RFP.

Proposal packets are available for a **non-refundable deposit in the amount of \$15.00 (plus \$10.00 if mailed)** at the Santa Cruz Port District office, 135 5<sup>th</sup> Ave, Santa Cruz, CA 95062, (831) 475-6161.

The minimum response submittal shall consist of:

Two (2) copies of proposals shall be submitted in a sealed envelope bearing on the outside the words "**Response to Proposal for Lease at 333-B Lake Avenue – Santa Cruz Harbor**" to Holland MacLaurie, Port Director, Santa Cruz Port District, 135 5<sup>th</sup> Avenue, Santa Cruz, CA 95062, no later than the date and time set forth above in the Selection Process Timetable; and shall contain:

- Information required by this RFP; and
- Completed copies of the Proposer's Information; and
- Detailed responses to each of the items required in the Bid Format set forth above.
- Signed copy of the attached sample lease document

## 7. Proposer's Qualifications

### Criteria for use in selection process.

1. Capacity of the operation (experience in retail business)
2. Capacity of funding (including amount of rent bid and sufficient cash flow to meet operational costs)
3. Capital (net worth: sufficient working capital)
4. Collateral (amount of assets the company and guarantor owns that could be used to pay the lease if the business failed)
5. Character (the integrity and reputation of the tenant/owners)
6. Credit (the credit history of the operator and its owners with banks, vendors, etc.)

**Information the proposer must submit for District's review**

1. a. As relates to payment to the District.
  - i. Base Rent by Year
  - ii. Capital Improvements by Tenant
  - iii. Financial statements and tax returns
- b. Projected gross sales broken into percentages of sales of:
  - i. Retail
  - ii. Food
  - iii. Non-alcoholic beverages
  - iv. Alcoholic beverages
2. Proposed products and pricing
3. Proposed operating hours by season
4. Credit rating by D&B or other agencies
5. Current or past judgments, lawsuits, bankruptcy or litigation relating to business operation
6. Rental payment history
7. Business license payment history
8. Compliance with sales tax returns and payments
9. No violation of previous lease agreements
10. No past indication of conflict with landlords and/or other tenants
11. EEOC compliance
12. Name of Business
13. Assignment of assets to guarantee lease, if applicable
14. Bidders and Guarantor's resume and financial condition through submission of tax forms or CPA prepared financial disclosures
15. If corporation, list of Board of Directors; if other form of business entity, list operating partners or managers
16. Interest in any other business ventures whether sole proprietorship, partnership or corporation

## **8. Summary of Lease Terms**

### **Term**

5 years (February 1, 2022, to January 31, 2027, with two three-year options)

### **Lease Option**

Two 3-year options, to January 31, 2033

### **Base / Percentage Rent**

Minimum base rent \$3,134/month, increased annually by the SF-Oak-Hayward CPI. Rent subject to review with exercise of option(s). First increase to be applied April 1, 2022.

**Approval by CDBW:** The lease is subject to the approval of the State of California Department of Boating and Waterways (CDBW).

**Contact:** Port Director Holland MacLaurie, Santa Cruz Port District, 135 5<sup>th</sup> Ave, SC, CA 95062, tel. (831) 475-6161

LEASE AGREEMENT BETWEEN  
SANTA CRUZ PORT DISTRICT COMMISSION,

AS LANDLORD

AND

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AS TENANT

FOR

MARINE RETAIL BUSINESS

IN SANTA CRUZ HARBOR

AT 333 B LAKE AVENUE, SANTA CRUZ, CALIFORNIA

DATED: \_\_\_\_\_, 2022

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- Exhibit “B” Guaranty

**SANTA CRUZ PORT DISTRICT  
LEASE AGREEMENT**

THIS LEASE is made and entered into effective as of February 1, 2022, ("Effective Date"), by and between the SANTA CRUZ PORT DISTRICT COMMISSION, a political subdivision, 135 5th Avenue, Santa Cruz, California, 95062, hereafter referred to as "Landlord," and \_\_\_\_\_ hereafter referred to as "Tenant." Landlord and Tenant are hereinafter referred to individually as "Party" or collectively as the "Parties."

RECITALS

A. Landlord is the owner of those certain premises (the "Premises") consisting of approximately 1,200 square feet of improved building space at 333 Lake Avenue, Unit B, approximately 60 square feet of storage space easterly of and adjacent to the restroom building located near "O" Dock, and approximately 1,750 square feet of paved area southerly and easterly of and adjacent to 333 Lake Avenue, Unit B, on the east side of Santa Cruz Harbor in the City and County of Santa Cruz, State of California. The Building and the Premises are more particularly shown and described in Exhibit "A" attached hereto and incorporated herein by this reference.

B. The building has been improved to allow operation of marine related retail which shall include sales of bait, tackle, and accessories used in sportfishing. The paved exterior area to the south and east of the building may be used by tenant for rental (sub-lease) to others for storage of small boats and trailers or for storage of supplies and stock for the retail business. The leasehold areas are shown in Exhibit A, "Premises."

C. Landlord desires to lease the Premises to Tenant for the operation of a marine related retail therein, by entering into this Lease, which has an Effective Date of February 1, 2022.

D. The leased areas comprise a total of 1,200 SF of improved building space, 60 SF of storage space, and 1,750 SF of paved area, which are collectively referred to as the "Premises" shown in Exhibit A.

E. Landlord desires to lease the Premises to Tenant for the operation of a marine related retail operation in accordance with all terms and conditions of this Lease.

AGREEMENT TERMS

NOW, THEREFORE, in furtherance of the foregoing Recitals, which are incorporated herein, and in consideration of the mutual covenants contained herein, Landlord and Tenant hereby agree as follows:

1. Lease of Premises.

(a) Effective February 1, 2022, Landlord hereby agrees to lease the Premises to Tenant, and Tenant agrees to lease the Premises from Landlord, for the designated term, at the rental, and upon the other terms and conditions contained herein.

2. Tenant Improvements. Tenant shall purchase at its expense, and install or construct on the Premises, at its sole cost and expense, any equipment, furnishings and improvements required for the operation of (marine retail business name) to properly conduct the business ("Tenant Improvements"). All proposed improvements must be pre-approved, in writing by Landlord, properly permitted by the City of Santa Cruz and any and all other regulatory agencies with permitting jurisdiction prior to construction or installation, and in compliance with all applicable laws.

3. Term:

(a) Term. The term of this Lease commences as of February 1, 2022, and shall continue hereunder until midnight on January 31, 2027, for a period of five (5) years, unless sooner terminated as provided herein. The term of this Lease is hereinafter referred to as the "Lease Term" or "Term."

(b) Option to Extend Lease. Provided that Tenant is not in material default of any part of this Lease at the time of the exercise of the option, Tenant shall have two options to extend the term of this Lease. The option terms shall be three (3) years from February 1, 2027, through January 31, 2030, and February 1, 2030, through January 31, 2033. Tenant may exercise the options, by giving Landlord notice of its exercise of the option to extend the Lease Term no earlier than one year prior to expiration of the Term, and no later than six (6) months prior to the expiration of the Term.

4. Title to Improvements. Free and clear title to any and all improvements and fixtures purchased or constructed by Tenant and installed upon the Premises shall upon such termination vest in Landlord without additional cost or expense to Landlord, and Tenant shall execute such additional documents as Landlord may reasonably require effectuating such transfer of title. Notwithstanding the foregoing, Tenant shall have the right to remove furniture, equipment and trade fixtures that are not fixed to the Premises during the thirty (30) days following the termination of the Lease and will retain title to any items removed.

5. Rent.

(a) Fixed Minimum Rent or "Base Rent". Beginning on the Effective Date, Tenant shall pay to Landlord each month a fixed amount of rent ("Fixed Minimum Rent" or "Base Rent") for the Premises which shall initially be equal to Three Thousand Eight Hundred and Eighty Six Dollars (\$3,886.00) for the Building and paved area inclusive at 333 Lake Avenue, Unit B, and \$144 per month for the storage shed located behind the restrooms located near O Dock, as adjusted as hereinafter provided.

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(b) Adjustments to Base Rent. On April 1 (“Adjustment Date”), and each year thereafter on April 1 for the term of this Lease, the Base Rent in effect for the month immediately preceding the Adjustment Date shall be adjusted in accordance with the increase in the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-Hayward Metropolitan Area, (All Items) for the preceding calendar year. In no event shall the Base Rent for any year be less than the Base Rent for the preceding year.

(c) Percentage Rent. *Section deleted.*

(d) Lease Year. The term “lease year” means the period during the lease term commencing on April 1<sup>st</sup> of each year and ending at midnight on March 31<sup>st</sup> of the next succeeding year. The term “lease month” means the period from the 1st day of each calendar month during the lease term through the last day of the calendar month.

(e) Payment of Fixed Minimum Rent. The Fixed Minimum Rent shall be payable monthly in advance, without notice, offset, or abatement, by the first day of each calendar month of the Lease Term. All rent and other sums payable by Tenant hereunder shall be paid to Landlord in currency of the United States of America (or by personal check unless Landlord otherwise notified Tenant) at Landlord’s address set forth in Paragraph 23 hereof, or at such other place as Landlord may from time to time designate in writing.

(f) Delinquent Payment. Rent payments received on or after the 21<sup>st</sup> day of the month shall be deemed Delinquent Payments. A delinquency fee in the then current amount as set by the Landlord’s Board of Port Commissioners shall be applied to any delinquent payment. In addition, interest in the then current amount as set by the Landlord’s Board of Port Commissioners shall be applied on the last day of each month to the unpaid balance until paid in full.

(g) Security Deposit. Tenant will, no later than twenty (20) days prior to the commencement date of this Lease, deposit with Landlord a sum equivalent to one month’s Base Rent for the Premises as security for the faithful performance by Tenant of all of its obligations hereunder. If Tenant fails to pay rent or any other sums due hereunder, or otherwise defaults with respect to any provision of this Lease, Landlord may use, apply, or retain all or any portion of the Deposit for the payment of any rent or other sum in default, or to compensate Landlord for the payment of any other sum which Landlord may become obligated to spend by reason of Tenant’s default, or to compensate Landlord for any expenditures, loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of the Deposit, Tenant shall within ten (10) days after written demand therefor, deposit with Landlord an amount in cash sufficient to restore the Deposit to the full amount hereinabove stated. Landlord shall not be required to keep the Deposit separate from its general funds. The Deposit, less any portion thereof which Landlord is entitled to retain, shall be returned, without payment of interest, to Tenant within thirty (30) days after the later of expiration of the term hereof or the date on which Tenant vacates the Premises.

(h) Personal Guarantee. All amounts due under this Lease and any amendments to this Lease entered into by and between Landlord and Tenant shall be subject to the personal guarantee attached here to as Exhibit B and incorporated herein by this reference. The parties shall release the

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guarantee if and when a guarantor is no longer a constituent of Tenant, provided the guarantee obligations have been assumed by a replacement guarantor and Landlord has approved such replacement guarantor. In the event of the death of a guarantor, Tenant shall provide a replacement guarantor within sixty (60) days of the death of the guarantor, which guarantor shall be subject to Landlord's approval.

(i) Rent Review. Prior to any Option being binding on Landlord, Landlord shall review the current Base Rent to determine Base Rent is equal to fair market rent. If Landlord in its sole discretion determines that an adjustment is necessary to bring the rent up to fair market rent, Landlord shall within thirty (30) days of Tenant's notice of intent to exercise the option provide Tenant with written notice of the new base rent. If Landlord does not provide notice, Base Rent for the first year of the Extended Term shall be the same as the prior year and the Option shall be binding. If Landlord provides notice of a rent increase, Tenant shall have ten (10) days after receipt of written notice to withdraw its exercise of the Option. If Tenant does not provide notice of withdrawal of the exercise of Option within ten (10) days of receiving notice of the new Base Rent, the Option shall be binding on tenant and the Base Rent shall be as set forth in the Landlord's notice.

### 6. Use.

(a) Permitted Use. Tenant shall use the Premises solely for the business of conducting therein a marine retail business, functioning primarily to provide bait and tackle and other supplies serving sportfishermen. Tenant shall be further permitted to sublease space within the Premises for the purposes of storing small boats and boat trailers provided such storage does not interfere with pedestrian or vehicle travel or parking areas, and does not impinge upon same as determined by Landlord. Tenant shall not use or permit to be used by other, areas not included in the Premises for any purpose including servicing or storage of boats, trailers, or vehicles.

(b) Outdoor/Public Areas. Landlord is the owner of the outside areas surrounding and adjacent to the Premises described herein. The outside areas adjacent to the Building are not included in the Premises leased. Tenant does not hold any ownership or vested property interest in these public areas by virtue of this Lease. Use of ground floor patio/sidewalk/asphalt areas adjacent to the Building may be available by special permit as reviewed and issued by Landlord at Landlord's sole discretion and subject to all applicable fees and conditions.

(c) Condition of Premises. Tenant acknowledges that it recognizes the uniqueness of the Premises and adjacent outdoor areas, and accepts them in their current and disclosed "AS IS, IN ITS CURRENT CONDITION, WITH ALL FAULTS" condition existing on the Effective Date of this Agreement, subject to all applicable zoning, city, county, or state laws, ordinances and regulations affecting the use of the Premises and adjacent outdoor area.

(d) Provision of Services. Tenant shall maintain the necessary personnel, facilities and equipment, at all times during the Lease Term to conduct a marine retail operation on the Premises.

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(e) Continuous Use. Tenant shall continuously and uninterruptedly during the Lease Term, during all normal business hours, and on such days as a majority of the other businesses in the Santa Cruz Small Craft Harbor are open for business, occupy and use the entire Premises for the purpose of operating a marine retail operation on the Premises. Tenant shall at all times employ its best business judgment, efforts, and abilities to so operate the business conducted by Tenant on the Premises in a manner calculated to service adequately the public demand for the goods and services included within the business permitted herein.

(f) Refuse Disposal. Tenant shall be entitled to use designated refuse facilities provided in the harbor area for the disposal of dry refuse generated from Tenant's operations on the Premises, which facilities shall be situated at the location designated from time to time by Landlord. Tenant shall collect, sort and recycle refuse materials in accordance with the City of Santa Cruz Solid Waste and Recycling requirements.

(g) Hazardous Materials.

(i) Tenant warrants and agrees that no goods, merchandise, or materials shall be kept, stored, or sold in such a manner as to create any unusual hazard on the Premises; and no offensive or dangerous trade, business, or occupation shall be conducted thereon, and nothing shall be done on the Premises which will cause an increase in the rate of or cause a suspension or cancellation of the insurance upon the Premises or upon adjacent properties or improvements thereon.

(ii) No machinery or apparatus shall be used or operated on the Premises which will in any way injure the Premises, or adjacent properties or improvements thereon.

(iii) Tenant, at its sole cost and expense, shall comply with all Laws (as defined herein) affecting the Premises relating to the storage, placement, use and disposal of Hazardous Materials by Tenant, its agents, employees, invitees or contractors. Tenant shall be solely responsible for and shall defend, indemnify, and hold Landlord, its officers, directors, employees and its agents (collectively, the "Landlord Indemnified Parties") harmless from and against any and all claims, judgments, losses, orders, demands, causes of action, directives from environmental regulatory agencies, costs and liabilities, including without limitation attorneys' fees and costs, arising out of or in connection with the storage, placement, use or disposal of Hazardous Materials on or about the Premises by Tenant, its officers, directors, agents, employees, invitees, or contractors.

(iv) If the presence of Hazardous Materials introduced to the Premises by Tenant, its officers, directors, agents, employees, invitees or contractors results in contamination or deterioration of any improvements, water, soil, or other environmental media, then Tenant, at its sole cost and expense, shall promptly take any and all action necessary to investigate and clean up such contamination and restore the Premises and to the condition existing prior to the introduction of any Hazardous Materials.

(v) The term "Laws" shall mean any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipal, county, state, federal or other government agency or authority having jurisdiction over the parties to this

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Lease or the Premises, or both, in effect either at the date this Lease is fully executed or any time during the Term of this Lease.

(vi) As used herein, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States government. The term "Hazardous Materials" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos; (vii) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317); (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601), and any amendments or successor statutes thereto.

(vii) The obligations of Tenant under subparagraphs 6(g)(i) through 6(g)(viii) shall survive the expiration of the Lease Term.

(viii) Tenant shall indemnify the Landlord Indemnified Parties from any damages suffered by any of the Landlord Indemnified Parties, including, without limitation, cleanup costs, as a result of the generation, use, storage, transport or release of Hazardous Materials by Tenant in, on or about the Premises or the Property. Prior to bringing or allowing any Hazardous Materials to be brought onto the Premise, Tenant shall notify Landlord as to the identity of said materials and the safeguards to be used in connection therewith. Landlord shall be entitled, in its sole discretion, to refuse to allow Hazardous Materials to be brought onto the Premises. Landlord's consent to the introduction of any hazardous material onto the Premises (i) shall not release Tenant from its duty to indemnify the Landlord Indemnified Parties for any damages resulting from such materials, (ii) shall not be deemed to waive Landlord's right to disapprove of any subsequent introductions of hazardous materials onto the Premises whether of the same or of a different nature than the material to which Landlord consented, and (iii) may be revoked at any time, in Landlord's sole discretion, whereupon Tenant shall remove such materials from the Premises within five (5) days of receipt of Landlord's demand for removal. In all events, if any hazardous materials become located upon the Premises for any reason other than as consented to by Landlord in accordance with the foregoing procedure, Tenant shall immediately notify Landlord as to the same.

(h) Effect on Navigable Waters. Under federal law, no construction, installation, dredging, filling, or other activity which would have an effect on navigation may be conducted in or adjoining navigable waters without a permit therefore first being issued by the Secretary of the Army. The Port Director in his/her sole discretion determines whether any proposed facility of Tenant may be construed to have an effect on navigation. In the event the Port Director so determines, Tenant shall prepare at its expense a permit application for submittal by Landlord in Landlord's name to the Corps of Engineers, United States Army. The permit application shall be prepared in strict conformity with regulations published by the United States Army.

(i) Non-permitted Uses. Tenant shall not permit the Premises to be used for any purpose not described in Paragraph 6(a), or for any unlawful purpose; and Tenant shall not perform, permit, or suffer any act of omission or commission upon or about the Premises which would result in a nuisance or a violation of the laws and ordinances of the United States, State of California, or City of Santa Cruz, as the same may be now or hereafter in force and effect. Without limiting the generality of the foregoing, Tenant specifically agrees not to cause or permit generation of unreasonable levels of noise from any activity on the Premises which might disturb live-a-board slip licensees or residential neighbors of the Port District from 10 p.m. until 6:00 a.m. each day during the Lease Term.

(j) Compliance with Laws. Tenant shall abide by all applicable Laws, rules, codes, regulations, resolutions, ordinances and statutes of Landlord, the City of Santa Cruz, County of Santa Cruz, California Coastal Commission, State of California, or other governmental body where applicable, respecting the use, operation, maintenance, repair or improvement of the Premises and equipment therein, and shall pay for any and all licenses or permits required in connection with the use, operation, maintenance, repair, or improvement of the Premises. Landlord shall have no responsibility for obtaining any such licenses or permits, and shall have no liability to Tenant (nor shall Tenant have any right to terminate the Lease or receive abatement of rent or other charges) if Tenant, for any reason, is unable to obtain any such permits. Tenant acknowledges that Landlord has made no warranties or representations to Tenant regarding the suitability of the Premises for Tenant's intended use, and Tenant waives all claims against the Landlord Indemnified Parties regarding the suitability of the Premises for Tenant's intended uses.

7. Ownership of Improvements.

(a) Title. All structures, buildings, improvements, additions, and fixtures now existing or hereafter constructed, erected, or installed in or upon the Premises, and all alterations and additions thereto, shall be deemed a part of the Premises and title shall be vested in Landlord, and upon expiration or sooner termination of the Lease Term shall remain upon and be surrendered with the Premises as part thereof.

(b) Liens. Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Tenant. Tenant shall indemnify and hold Landlord harmless against liability, loss, damage, cost, and all other expenses (including but without limitation, attorneys' fees) arising out of claims of lien for work performed or materials or supplies furnished at the request of Tenant or persons claiming under Tenant.

8. Construction of Improvements.

(a) No Landlord Improvements. Landlord shall not be obligated to install or construct any improvements, additions, or alterations (collectively "improvements") on the Premises during the Lease Term.

(b) Tenant Improvements. All improvements, additions, or alterations Tenant may desire in the future shall be done in accordance with the provisions of this Paragraph 8(b). Tenant shall make, at its sole cost and expense, changes, alterations, or additions in and to Tenant Improvements and structures on the Premises that may be required by any applicable Laws (including, but not limited to, the ADA from time to time). Tenant shall not construct any improvements to or modify the Premises in any way without the prior written consent of Landlord which shall not be unreasonably withheld. Any improvements to the Premises which are permitted by Landlord shall be installed or constructed by Tenant at Tenant's sole cost and expense; provided that, before commencing the installation or construction of any improvements on the Premises Tenant shall submit to Landlord, for Landlord's approval, final plans, specifications, construction contract and related documents, and a site plan prior to applying for any permits for such improvements. Upon obtaining Landlord's approval, which will not be unreasonably withheld, Tenant shall not amend or otherwise change such plans, specifications, construction related documents, or site plan without first obtaining Landlord's approval of such amendment or change. Tenant shall be solely responsible for obtaining all other governmental permits or approvals required for the installation or construction of any such improvements to the Premises, including, but not limited to, Coastal Commission approval, and approval of the City or County of Santa Cruz. Landlord shall have no liability whatsoever for Tenant's inability or failure to obtain any such permits or approvals, and shall provide copies of same to Landlord prior to commencing any work.

Tenant shall give at least thirty (30) days' advance notice to Landlord before actually commencing any improvement work on the Premises so that Landlord can post a notice of non-responsibility, if Landlord so chooses. Tenant shall call Landlord to request inspections at regular intervals as determined by Landlord, but in no event less than biweekly. Upon completion of any such improvements, Tenant shall deliver to Landlord a complete set of "as-built" plans respecting such improvements.

(c) Contractor Requirements. Tenant shall use licensed and insured contractors and any contract between Tenant and any contractor relating to any improvement work is subject to Landlord's prior approval in accordance with all of the following:

(i) Any contract between Tenant and any contractor relating to any improvement work is subject to Landlord's prior approval and shall contain release, defense and indemnity provisions in Landlord's favor to the fullest extent permitted by law in a form to be approved by Landlord, substantially similar to: "Contractor agrees to defend, indemnify, and hold harmless the Landlord, its officials, officers, directors, and employees from and against any damage, claim, liability, expense (including attorney fees and costs) in any way related to the acts or omissions of Contractor, its employees or agents on Landlord's property, except where caused by the sole negligence or willful misconduct of Landlord."

(ii) Contractor's insurance shall at a minimum meet the requirements applicable to Tenant as it relates to construction as set forth in Paragraph 10, and include Landlord, its officials, officers, directors, employees and volunteers as additional insureds, and a waiver of subrogation in Landlord's favor.

(d) Reasonable Measures During Construction. Tenant shall take all reasonably 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. Dust, noise and other effects of such work shall be controlled by Tenant using methods customarily utilized in order to control deleterious effects associated with construction.

(e) Comply with Labor Laws. It shall be the obligation of Tenant (and any contractor and/or subcontractor under Tenant) to comply with and conform to all applicable State of California labor laws, rules and regulations (including, but not limited, prevailing wage laws and requirements and the Parties agree that Tenant shall be liable for any violation thereof.

(f) Americans With Disabilities Act. Throughout the term of this Lease, Tenant acknowledges and expressly accepts full responsibility and shall incur all costs and expenses for compliance with the requirements of the Americans with Disabilities Act (ADA) and any other local, state or federal law or regulation regarding the accessibility of the Premises by disabled individuals. Tenant agrees to release, indemnify, defend and hold Landlord (and its officers, directors, employees and agents) harmless for any claim, loss, expense or liability arising from Tenant's failure to fully comply with all such laws or regulations.

9. Taxes and Assessments.

(a) Payable by Tenant. Tenant shall pay directly to the taxing authority during each year or partial year during the Term hereof, all real and personal property taxes, general and special assessments, use and possessory taxes, environmental protection charges, and other charges of every kind or description whatsoever, foreseen or unforeseen, levied on or assessed against the Premises, improvements or personal property therein, the leasehold estate or any subleasehold estate permitted by Landlord. Tenant shall pay each installment of such taxes and assessments prior to the date such installment becomes delinquent. The taxes and assessments to be paid by Tenant hereunder shall be prorated at the end of the Lease Term, in order that Tenant will pay only the proportionate part of said taxes and assessments attributable to the period of the Lease Term. Tenant shall pay all supplemental or escape assessment levied or assessed against the Premises.

(b) Substitute Taxes. If at any time during the Lease Term, under the laws of the United States of America, the State of California, or any political subdivision thereof in which the Premises are located, a tax on rent or other charge by whatever name called, is levied, assessed, or imposed against Landlord, or against the rent payable hereunder to Landlord, as a substitute in whole or in part for any of the taxes described in Paragraph 9(a), Tenant, to the extent such substitute tax or other charge relieves Tenant from the payment of taxes provided for herein, shall pay such tax or other charge in the manner provided in this Paragraph 9.

10. Insurance.

(a) Landlord's Insurance. Landlord shall procure and maintain in full force and effect at all times during the Term of this Lease, fire and extended coverage insurance satisfactory to Landlord covering the Premises and all improvements therein in an amount not less than eighty percent (80%) of the actual replacement cost thereof. The insurance provided for in this Paragraph 10(a) shall, in Landlord's sole and absolute discretion, provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils ("special form"), and loss of rents covering Base Rent for a period of up to twelve (12) months, and shall contain an inflation endorsement. Insurance proceeds thereunder shall be payable to Landlord. Landlord is not responsible for any damage to Tenant's property and shall have no obligation to insure against loss by Tenant to Tenant's leasehold improvements, fixtures, furniture, or other personal property in or about the Premises occurring from any cause whatsoever and Tenant shall have no interest in the proceeds of any insurance carried by Landlord. Landlord shall be entitled to carry any such insurance in the form of a blanket policy covering Tenant's property in addition to the Premises. Landlord may, at Landlord's sole discretion, bill Tenant for the cost of the above-described insurance in an amount proportional to the square footage of the Premises as calculated from Landlord's inventory of insured spaces and the premiums charged by Landlord's insurer for all of the square footage of buildings covered by such insurance policy. The Tenant's share of such insurance premiums shall be Additional Rent and shall be payable within fifteen (15) days of receipt of an invoice for such Additional Rent. Landlord, in its sole discretion, may allow Tenant to pay such Additional Rent in 12 equal monthly installments or may require Tenant to pay such Additional Rent in one installment.

(b) Tenant's Insurance. During the Term of the Lease, Tenant shall maintain, at its sole cost and expense, the following insurance policies:

(i) "All Risk" Property Insurance covering risks of loss normally insured under a "special form" policy, covering Tenant's leasehold improvements, fixtures, equipment, furniture and other personal property in or about the Premises. Such insurance shall be maintained with limits no less than \$1,000,000 or in an amount sufficient to cover not less than one hundred percent (100%) of the full replacement value thereof (whichever is greater) with no coinsurance penalty provision. Landlord shall be a loss payee as its interests shall appear.

(ii) Commercial General Liability Insurance protecting Landlord and Tenant against liability for bodily injury and property damage, including completed operations, contractual liability coverage and products liability, as well as "personal and advertising injury" liability occasioned by any occurrence in, on, about, or related to the Premises in an amount not less than Two Million Dollars (\$2,000,000) each occurrence and annual aggregate. Such policy shall also include liquor liability coverage. Tenant shall cause Landlord, its employees, officials, officers, directors, agents and volunteers to be named as an additional insured under such policy.

(iii) Workers' Compensation and Employer's Liability Insurance as required by applicable law against liability arising on account of injuries or death to workers or employees on the Premises or any improvement of Tenant. Such workers' compensation insurance shall be in amounts at least equal to the maximum liability of Tenant, its agents, and contractors under the Workers' Compensation Insurance and Safety Act of the State of California and the Federal Longshore and

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Harbor Workers' Compensation Act, as applicable. Tenant shall also maintain Employer's Liability insurance with limits no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease, \$1,000,000 disease – policy limit, \$1,000,000 disease – each employee. Such insurance shall include a waiver of subrogation in favor of Landlord.

(iv) Automobile Liability on an "Any Auto" Basis: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 combined single limit each occurrence/per accident for bodily injury and property damage.

(v) If Tenant commits permits or causes the conduct of any activity or the bringing or operation of any equipment on or about the Premises creating unusual hazards, Tenant shall promptly, upon notice from Landlord, procure and maintain in force during such activity or operation insurance sufficient to cover the risks represented thereby. Landlord's demand for unusual hazard insurance shall not constitute a waiver of Landlord's right to demand the removal, cessation or abatement of such activity or operation.

(vi) Tenant shall procure, at Tenant's own cost and expense other insurance in amounts from time to time reasonably required by Landlord against other insurable risks if at the time they are commonly insured against for premises similarly situated.

(vii) All policies shall be placed with insurers admitted or eligible to do business in the State of California and rated A VIII or better by A.M. Best. All policies shall include a provision that prior written notice of policy cancellation, or for non-payment of premium will be provided. Tenant shall furnish Landlord with Certificates of Insurance showing evidence of the required insurance upon execution of this Lease and thereafter upon renewal or replacement of policies.

(c) Waiver of Subrogation. Tenant and Landlord each hereby waives any and all rights of recovery against the other, and against the officers, employees, agents and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against under any property insurance policy in force at the time of such loss or damage to the extent of the insurance proceeds actually paid in connection therewith. Tenant and Landlord shall, upon obtaining any of the policies of insurance required or desired hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of rights of recovery is contained in this Lease, and shall each use their best efforts to cause the insurer for each such policy to waive in writing any rights of subrogation it may have against the other party.

(d) Submittal of Policies. Tenant agrees to deposit with Landlord, at Landlord's request, a copy of each such policy or policies required hereunder and to keep such insurance in effect and the policy or policies therefore on deposit with Landlord during the entire Term of this Lease.

(e) Review of Coverage. Landlord shall retain the right at any time to review the coverage, form, and amount of the 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 Premises, Landlord may require Tenant, its contractor, or subcontractor to obtain (or may obtain at Tenant's expense) 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.

(f) Changes in Coverage. Landlord reserves the right to modify these requirements with notice to Tenant, including, but not limited to, limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

(g) Primary Policy. The insurance provided by the Tenant, its contractors, and/or subcontractors shall apply as primary insurance without qualification and that any other insurance maintained by Landlord shall be in excess only and shall not be called upon to contribute with the insurance of Tenant, its contractors, or subcontractors.

(h) Policy Limits. The limits of insurance described herein are not intended as a limitation of liability under this Lease. Tenant, its contractors and subcontractors may obtain higher limits in its discretion. If Tenant, its contractors, and/or subcontractors maintain higher limits than the minimums shown above, Landlord requires and shall be entitled to coverage for the higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Landlord.

(i) No Limit on Indemnity. The procuring of such required policy or policies of insurance shall not be construed to limit Tenant's liability hereunder or to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, Tenant shall be obligated 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 Premises.

(j) Landlord's Remedies. In case of failure on the part of Tenant to procure or to maintain in effect any insurance which Tenant is required to carry as provided in this Paragraph 10, Landlord may, but is not required to, at its discretion, and in addition to any other remedies it may have upon failure of Tenant to procure or to maintain in effect any insurance which Tenant is required to carry as provided in this Paragraph 10, procure or renew such insurance and pay any and all premiums therefore and all monies so paid by Landlord shall be repaid by Tenant to Landlord upon demand.

11. Indemnification.

(a) Tenant's Hold Harmless. To the fullest extent permitted by law and except as expressly stated otherwise herein, Tenant hereby indemnifies Landlord, its employees, elected officials, officers, attorney, agents and volunteers (collectively, the "Landlord Indemnified Parties") against and holds them harmless from any and all claims, damage, cost, liability, or expense, including but not limited to attorneys' fees and costs of suit, resulting from or arising out of Tenant's use of the Premises, Tenant's default in the performance of any obligation of Tenant under this Lease, any act or failure to act of Tenant or any employees, agents, contractors, customers, or other invitees of Tenant occurring in or about the Premises, or construction of any improvements by Tenant in the Premises. Such indemnification specifically includes without limitation any damage to property or injury or death to any person arising from the use of the Premises by Tenant or from the failure of Tenant to keep the Premises in good condition, order and repair. Tenant expressly agrees to exercise due care in the handling of fuel or any other flammable materials in, on, or around the Premises. Tenant shall maintain on the Premises adequate firefighting equipment, which shall remain under the use, control, maintenance, and repair of Tenant.

(b) Tenant's Waiver of Claims. Tenant hereby waives all claims against Landlord Indemnified Parties for damage to any property, goods, wares, or merchandise of Tenant stored in, upon, or about the Premises, and for injury to persons in, upon, or about the Premises from any cause whatsoever arising at any time, except as may be caused by the willful misconduct of Landlord. Landlord shall not be liable to Tenant for any damage caused by any person, in, upon, or about the Premises, whether a customer of Tenant or otherwise. Tenant expressly waives any claims against Landlord for damage to Tenant's business on the Premises or loss of goodwill or any other damage to Tenant arising from complete or partial closure of the Santa Cruz Harbor at any time and from time to time, whether such closure shall result from inclement weather, excess deposits of sand in the harbor, natural disaster, pandemic, emergency, construction or repair work, or any other reason whatsoever. Landlord shall have no obligation or responsibility to prevent any such closures of the Santa Cruz Harbor; provided that, in the event any such closure shall be due to insufficient funding of Landlord, Landlord shall make a good faith effort to keep the Santa Cruz Harbor open during the portion of the year the public makes greatest use of harbor facilities.

(c) Landlord's Hold Harmless. Landlord hereby indemnifies and holds Tenant harmless from and against any and all damage to property or injury or death to any person and occurring in, on or about the "Public Areas" as shown and described on Exhibit "A" hereto, but only in proportion to and to the extent caused by Landlord's sole negligence or willful misconduct.

12. Maintenance and Repairs.

(a) Tenant's Obligations. Subject to Paragraph 15 below relating to damage and destruction, and subject to Landlord's maintenance responsibilities set forth in Paragraph 12(c) below, throughout the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain the Premises and every part thereof, and all fixtures, machinery and equipment located in or on the Premises and utilized in the conduct of Tenant's business in first class condition, order and repair, and in accordance with all applicable laws, rules, ordinances, orders and regulations of (1) municipal, county, state, federal, and other governmental agencies and bodies having or claiming jurisdiction of the Premises and all their respective departments, bureaus, and officials; and (2) all insurance companies insuring all or any part of the Premises or improvements or both. For purposes of this paragraph, the obligation to repair includes the obligation to replace as and when reasonably necessary. Without limiting the foregoing, Tenant at Tenant's sole cost shall maintain in good and safe condition, order and repair, and replace as and when necessary, all improvements made by Tenant to the Premises. Tenant shall be solely responsible for paying the full cost of repairing any damage caused by Tenant Improvements.

(b) Outside Areas. Tenant acknowledges that the cleanliness and neat and attractive appearance of the interior and exterior of the Building and all other areas of the Premises are a material concern of Landlord. Accordingly, Tenant shall continuously exercise diligence throughout the Lease Term in keeping the Premises and any second story deck area and other outside areas within an approximate twenty-five foot radius of the Premises that are not part of the fishery leasehold area, in a clean, sanitary and attractive condition. Tenant shall arrange for regular and prompt disposal of garbage generated by Tenant's operations on the Premises, and shall not permit garbage or refuse or associated equipment or supplies to accumulate in or around the Premises. Tenant shall not cause or permit odors that Landlord in its reasonable discretion determines are offensive to emanate from the Premises and/or outside areas.

(c) Landlord's Obligations. Notwithstanding anything to the contrary contained in this Paragraph 12, and subject to the provisions of Paragraph 15 below relating to damage and destruction, Landlord shall maintain in good condition, order and repair and replace if and when necessary:

(i) the structural portions of the exterior walls of the Building;

(ii) the exterior surface of such walls and roof to the mid-way plane between the interior and exterior surfaces of such walls and roof (including any conduits situated within such walls), including exterior paint and texturing and the roof membrane,

(iii) the structural portions of the second floor and first story floor of the Building, including any plywood subfloor, except to the extent any such maintenance is necessitated by damages due to the negligence or greater culpability of any tenant occupying the first floor of the Building (or a portion thereof).

(iv) plumbing, electrical and mechanical systems serving the entirety of the Building, except to the extent any such maintenance is necessitated by damages due to the negligence or greater culpability of Tenant.

Landlord shall have no obligation to maintain or repair under this Paragraph 12(c) until a reasonable amount of time after receipt by Landlord of notice from Tenant of the need therefore, specifying the nature of the maintenance or repair needed. The parties agree that no more than thirty (30) days to begin maintenance or repair is a reasonable amount of time under this provision.

13. Utilities. Tenant shall pay promptly as the same become due and payable all bills and costs for water, gas, electricity, telephone, cable, internet, refuse, sewer service charges, and any other utilities or services supplied to the Premises via separate meter or as apportioned by Landlord. Tenant shall also pay for all costs and connection charges for services and/or utilities it desires expanded or added to those presently available for Tenant's use. If additional garbage containers are required, Tenant shall arrange for bins and service from Santa Cruz Municipal Utilities at Tenant's sole cost and expense. Tenant shall use energy-saving fixtures wherever practicable, and shall cooperate in any conservation efforts undertaken by Landlord to reduce costs associated with utilities provided to Tenant at Landlord's expense. Landlord shall not be liable to Tenant for any interruption or failure of any utility or other services to the Premises.

14. Assignment, Subletting and Licensing.

(a) Landlord's Consent Required. Tenant shall not assign, sublease, mortgage, pledge, hypothecate, encumber, license, or transfer the Premises or any part thereof, or this agreement or any rights or obligations hereunder, or grant any permit to any person(s) to use the Premises for any purpose not expressly stated within this Lease without Landlord's written consent, which is subject to Landlord's sole and absolute discretion.

(b) Permitted Assignments, Subleases and Licenses. No assignment, sublease, or other transfer of the portion of the Premises under this Lease, which is used for a marine retail operation shall be allowed.

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(1) Sublease Assignments and Subleases. No sublessee, licensee or assignee may sublease or assign any interest in the Lease without first obtaining Landlord's written consent thereto. Tenant agrees to provide Landlord with all terms and conditions of any agreement between Tenant and its sublessee, assignee, or other transferee.

(2) Sublease Rents or License Payments. If Tenant shall enter into an assignment, sublease or license ("Transfer") hereunder:

(i) Tenant shall pay to Landlord fifty percent (50%) of the monthly rent or consideration payable by a subtenant or assignee to Tenant for the Transfer, which is in excess on a per square foot basis, of Tenant's Base Rent payable to Landlord (hereinafter, the "Excess Transfer Amount"). This Excess Transfer Amount shall be due and payable monthly to Landlord commencing with the Transfer date and in accordance with Paragraph 5 (e) of this Lease and shall be subject to delinquent fees in accordance with Paragraph 5 (f).

(c) Encumbrances. Neither Tenant nor any Transfer shall allow any encumbrance of all or any portion of the Premises.

(d) Corporation or Partnership. The assignment, pledge for security purposes, or other transfer during the Lease Term of any class of voting stock or other controlling interest in said corporation (whether in a single transaction or a series of transfers) which in the aggregate exceeds fifty percent (50%) of such class of stock or other controlling interest shall be deemed to be an assignment within the meaning of this Lease. If Tenant becomes a partnership, and Landlord consents thereto, the assignment, pledge, for security purposes, or other transfer during the Lease term of any interest in the partnership of a general or limited partner thereof, shall be deemed an assignment within the meaning of this Lease.

### 15. Damage or Destruction.

(a) Partial Damage-Insured. Subject to the provisions of Paragraphs 15(b) and 15(c), if the Premises or any improvements therein are damaged, such damage involves damage to the Building to the extent of less than eighty percent (80%) of the then replacement value thereof (excluding excavations and foundations of the Building), such damage was caused by an act or casualty covered under an insurance policy provided for in Paragraph 10, and the proceeds of such insurance received by Landlord are sufficient to repair the damage (or in the event any lender shall require such insurance proceeds to be applied to pay any sums owed under its loan), Landlord shall at Landlord's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect.

(b) Partial Damage-Under or Uninsured. Subject to the provisions of Paragraphs 15(a) and 15(d), if at any time during the term hereof the Premises or any improvements are damaged, such damage involves damage to the Building to the extent of less than eighty percent (80%) of the then replacement value thereof (excluding excavations and foundations of the Building), and the insurance proceeds received by Landlord are not sufficient to repair such damage, or such damage was caused by an act or casualty not covered under an insurance policy, Landlord may at Landlord's option either (a) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (b) give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to cancel and

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terminate this Lease as of the date of the occurrence of such damage. In the event Landlord elects to give such notice of Landlord's intention to cancel and terminate this Lease, Tenant shall have the right, within ten (10) days after receipt of such notice, to agree in writing on a basis satisfactory to Landlord to pay for the entire cost of repairing such damage less only the amount of insurance proceeds, if any, received by Landlord, in which event this Lease shall continue in full force and effect, and Landlord shall proceed to make such repairs as soon as reasonably possible. If Tenant does not give such notice within such ten (10) day period this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

(c) Total Destruction. If at any time during the term hereof either the Premises or the improvements contained therein are damaged from any cause, whether or not covered by the insurance provided for in Paragraph 10, and such damage involves damage to the Building to the extent of eighty percent (80%) or more of the replacement value thereof (excluding excavations and foundations of the Building), including any total destruction required by any authorized public authority, this Lease shall at the option of Landlord terminate as of the date of such total destruction. Landlord shall exercise its right to terminate this Lease by delivery of notice to Tenant within thirty (30) days after the date that Tenant notifies Landlord of the occurrence of such damage. In the event Landlord does not elect to terminate this Lease, Landlord shall at Landlord's expense repair such damage as soon as reasonably possible, and this Lease shall continue in full force and effect.

(d) Damage Near End of Term. If the Premises or the improvements therein are destroyed or damaged in whole or part during the last year of the term of this Lease, Landlord may at Landlord's option cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of Landlord's election to do so within thirty (30) days after the date of occurrence of such damage.

(e) Abatement of Rent. Notwithstanding anything to the contrary contained elsewhere in this Lease, if the Premises are partially damaged and Landlord repairs or restores them pursuant to the provisions of this agreement Paragraph 15, the Base Rent payable hereunder for the period commencing on the occurrence of such damage and ending upon completion of such repair or restoration shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired during the period of repair; provided that, nothing herein shall be construed to preclude Landlord from being entitled to collect the full amount of any rental loss insurance proceeds if such rental loss insurance is then carried with respect to the Premises. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration.

(f) Waiver. Tenant waives the provisions of California Civil Code Sections 1932(2) and 1933(4), and any similar or successor statutes relating to termination of leases when the thing leased is substantially or entirely destroyed, and agrees that such event shall be governed by the terms of this Lease.

(g) Tenant's Property. Landlord's obligation to rebuild or restore shall not include restoration of Tenant's equipment, merchandise, or any improvements, alterations or additions made by Tenant to the Premises.

(h) Notice of Damage. Tenant shall notify Landlord within five days after the occurrence thereof of any damage to all or any portion of the Premises. In no event shall Landlord

have any obligation to repair or restore the Premises pursuant to this Paragraph 15 until a reasonable period of time after Landlord's receipt of notice from Tenant of the nature and scope of any damage to the Premises, and a reasonable period of time to collect insurance proceeds arising from such damage (unless such damage is clearly not covered by insurance then in effect covering the Premises).

(i) Replacement Cost. The determination in good faith by Landlord of the estimated cost of repair of any damage, or of the replacement cost, shall be conclusive for purposes of this Paragraph 15.

16. Eminent Domain.

(a) Termination. In the event the whole or any part of the Premises is condemned in the lawful exercise of the power of eminent domain by any public entity, then this Lease shall terminate as to the part condemned on the date possession of that part is taken.

(b) Partial Taking Renders Economically Unfeasible. If only a part of the Premises is condemned, but such taking makes it economically unfeasible for Tenant to use the remainder of the Premises for the purposes contemplated by this Lease, then Tenant may, at its option, terminate this Lease as of the date possession of the condemned part is taken by giving written notice to Landlord of its intention within thirty (30) days following the date said possession is taken.

(c) Partial Taking with Business Continued. If only part of the Premises is condemned and this Lease is not terminated as set forth above, then this Lease shall, as to the condemned portion of the Premises, terminate as of the date possession of such portion is taken. The Base Rent shall thereupon be reduced in the same proportion that the area of the Premises taken bears to the initial total area of the Premises. The Base Rent, as so reduced, shall continue to be subject to adjustment in accordance with Paragraph 5 hereof.

(d) Repairs. Tenant shall, at its sole cost and expense and in a prompt and expeditious manner, make all necessary repairs or alterations to the remainder of the Premises so as to make them reasonably suitable for Tenant's continued occupancy for those uses and purposes contemplated by this Lease.

(e) Compensation. All compensation awarded or paid upon the total or partial taking of the fee title to the Premises or part of the Premises, or for the taking of all or any portion of the Premises, shall belong to Landlord. The Building and other improvements made by Landlord on the Premises at Landlord's expense shall belong to Landlord. Landlord shall not be entitled to any compensation paid to Tenant for costs incurred by Tenant in removing its furniture, equipment, and trade fixtures from the condemned Premises. Nor shall Landlord be entitled to any compensation paid to Tenant in the proceedings or action for such taking with respect to removal or relocation costs, or anticipated or lost profits (excluding the value of this Lease to Tenant) or damages to any personal property or detriment to the business of Tenant, or any special damages to Tenant (excluding the value of this Lease to Tenant).

17. Tenant Default. Tenant shall be deemed in default under this Lease upon occurrence of any of the following:

## DRAFT LEASE

(a) Tenant fails to pay a monetary sum when due under this Lease (provided that Tenant shall not be deemed in default if Tenant pays such sum within 10 days after notice from Landlord that such sum is overdue; and provided further that, Tenant shall not be entitled to any such 10 day grace period or notice and shall be deemed in default immediately upon failure to so pay when due if Landlord has already delivered two notices of overdue payments within the immediately preceding 12 month period;

(b) Tenant fails to perform any of its other obligations under this Lease; provided that, if such failure is of the nature that it may be cured, Tenant shall not be deemed in default if Tenant cures such failure within 20 business days, or in the event the cure can not be reasonably completed within 20 business days begins substantial efforts to cure within 20 business days, after written notice from Landlord of such failure;

(c) Tenant's interest in the Premises or the Lease, or any part thereof, is assigned or transferred, either voluntarily or by operation of law (except as expressly permitted by other provisions of this Lease), including, without limitation, the filing of an action by or against Tenant, or by any member of Tenant if Tenant is a partnership or joint venture, under any insolvency or bankruptcy laws, or if Tenant makes a general assignment for the benefit of its creditors, or;

(d) Tenant vacates, abandons, or surrenders the Premises during the lease term.

(e) Tenant fails to comply with or obtain any necessary permit or license. Tenant shall not be deemed in default if Tenant cures such failure within 20 days after notice from Landlord of such failure

(f) In the event of a default by Tenant under this Lease, Landlord may pursue such remedies as it may have for such default under law or in equity, including but not limited to the remedies set forth below.

18. Remedies. In the event of any breach or default by Tenant, Landlord may, at Landlord's option, exercise any and all rights available to a landlord under the laws of the State of California (including, but not limited to, those rights and remedies set forth in California Civil Code Sections 1951.2, 1951.4, and 1951.8), including, without limitation, the right to do any of the following:

(a) Repossession. Landlord may repossess the Premises and remove all persons and property therefrom. If Landlord repossesses the Premises because of a material breach of this Lease, this Lease shall terminate and Landlord may recover from Tenant:

(i) the worth at the time of award of the unpaid rent which had been earned at the time of termination including interest at ten percent (10%) per annum or the maximum allowed by law whichever is less;

(ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided including interest at ten percent (10%) per annum or the maximum allowed by law whichever is less;

(iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided, computed by discounting such amount by the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%); and

(iv) 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.

(b) No Repossession. If Landlord does not repossess the Premises, then this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession and Landlord may enforce all of its rights and remedies under this Lease, including the right to recover the rent and other sums due from Tenant hereunder. For the purposes of this Paragraph 18, the following do not constitute a termination of Tenant's right to possession:

(1) Acts of maintenance or preservation by Landlord or efforts by Landlord to relet the Premises; or

(2) The appointment of a receiver by Landlord to protect Landlord's interest under this Lease.

19. Attorneys' Fees. If any action at law or in equity shall be brought to recover any rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants, agreements, or conditions of this Lease, or for the recovery of the possession of the Premises, the prevailing party shall be entitled to recover from the other party, as a part of the prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered. "Prevailing party" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other party after the other party's breach or default, if such action is settled or dismissed upon the payment by the other party of the sums allegedly due or performance of the covenants allegedly breached or the plaintiff obtains substantially the relief sought by it in the action.

20. Removal of Property. Tenant hereby irrevocably appoints Landlord as agent and attorney in fact of Tenant, to enter upon the Premises, in the event of a default by Tenant hereunder, and to remove any and all furniture and personal property whatsoever situated upon the Premises, and to place such property in storage for the account of and at the expense of Tenant. In the event that Tenant shall not pay the cost of storing any such property after the property has been stored for a period of 90 days or more, Landlord may sell any or all of such 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 for the payment of any part of such charge or the removal of any such property, and shall apply the proceeds of such sale first to the costs and expenses of such sale, including reasonable attorneys' fees actually incurred; second, to the payment of the costs of or charges for storing any such 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 hereof; and fourth, the balance, if any, to Tenant.

21. Subordination.

(a) Subordination of Lease. This Lease, at Landlord's option, shall be subordinate to any mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon all or any portion of the Premises and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee or trustee shall elect to have this Lease prior to the lien of its mortgage or deed of trust, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage or deed of trust, whether this Lease is dated prior or subsequent to the date of said mortgage or deed of trust or the date of recording thereof.

(b) Execution of Documents. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage or deed of trust, as the case may be, and failing to do so within ten (10) days after written demand, does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney in fact and in Tenant's name, place and stead, to do so.

22. Landlord's Right to Reenter.

(a) Peaceable Surrender. Tenant agrees to yield and peaceably deliver possession of the Premises to Landlord on the date of termination of this Lease, regardless of the reason for such termination. Upon giving written notice of termination to Tenant, Landlord shall have the right to reenter and take possession of the Premises on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the Lease and reentry of any Premises by Landlord shall in no way alter or diminish any obligation of Tenant under the Lease terms and shall not constitute an acceptance or surrender.

(b) Waiver of Redemption and Stipulated Damages. Tenant waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Premises for any reason or in the event Landlord reenters and takes possession of the Premises in a lawful manner.

23. Reservations to Landlord. The Premises are accepted by Tenant subject to any and all existing easements and encumbrances. Landlord reserves the right to install, lay, construct, maintain, repair, and operate such sanitary sewers, drains, stormwater sewer, pipelines, manholes, and connections; water and gas conduits; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, and along any part of the Premises, and to enter the Premises for any and all such purposes. Landlord also reserves the right to grant franchises, easements, rights of way, and permits in, over, upon, through, across, and along any and all portions of the Premises. No right reserved by Landlord in this clause shall be so exercised as to interfere unreasonably with Tenant's operations hereunder.

Landlord agrees that rights granted to third parties by reason of this clause shall contain provisions that the surface of the land shall be restored as early as practicable to its original condition upon the completion of any construction. Landlord further agrees that should the exercise of these

**DRAFT LEASE**

rights temporarily interfere with the use of any or all of the Premises by Tenant, the monthly Base Rent may be reduced on a temporary basis in proportion to the temporary interference with Tenant’s use of the Premises, based on the Landlord’s sole and absolute discretion.

24. Building/Premises Closure. Tenant acknowledges and understands that for public health, welfare and safety reasons, the Building and/or Premises may be subject to closure (either full or partial) due to conditions and/or events, including, but not limited to, ocean (including, but not limited to, high surf), waterfront and/or weather related conditions, as well as Force Majeure events (as defined in Paragraph 25 - Force Majeure) (collectively “Closure Conditions”). Tenant enters into this Lease with full knowledge of the existing conditions of the Premises and its exposure to Closure Conditions, and with the understanding that at any point during the Term, Landlord may close the Building and/or Premises to public and tenant access and use (including, but not limited to Tenant’s access and/or use) due to Closure Conditions, without any liability to Tenant by virtue of such closure and/or related actions. During any such period of closure where Tenant is completely unable to access and use the Premises, Tenant shall not be in default to Landlord for failure to continuously operate pursuant to Paragraph 6.c. Use.

25. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, abnormal adverse weather conditions, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations or controls, enemy or hostile government action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of and not caused by the fault or negligence of the party obligated to perform, shall excuse the performance by such party for a period equal to that resulting from such prevention, delay or stoppage. However, nothing contained in this Paragraph shall excuse the prompt payment of rent by Tenant as required by this Lease. Tenant's obligations to make payment for rental and other charges pursuant to the terms of this Lease shall be excused or reduced only as elsewhere expressly and specifically provided in this Lease.

26. Notices. All notices, statements, demands, requests, approvals or consents given hereunder by either party to the other party shall be in writing and shall be sufficiently given and served upon the other party if served personally or if sent by first class mail of the United States Postal Service, certified, return receipt requested, postage prepaid, and addressed to the parties as follows:

Landlord: SANTA CRUZ PORT DISTRICT  
Attention: Port Director  
135 5<sup>TH</sup> Avenue  
Santa Cruz, CA 95062

Tenant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other address as any party may have furnished to the others as a place for the service of notice. Notices sent by mail shall be deemed served on the date actually received, as indicated on the return receipt.

## DRAFT LEASE

27. No Commission. Landlord and Tenant each agree that Landlord and Tenant, respectively, have not had any dealings with any realtor, broker, or agent in connection with the execution of this Lease. Tenant shall pay the commission or compensation payable to any agent or broker employed by Tenant in connection with the execution of this Lease.

28. Waiver. The waiver by Landlord or Tenant of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. Landlord's acceptance of partial payments of rent or any other sum due hereunder shall not be deemed a waiver of its right to recover the full amount of such payment and shall not be deemed an accord and satisfaction whether or not the amount due is disputed by the parties.

29. Holding Over. Any holding over after the expiration of the Term with the consent of Landlord shall be construed to be a tenancy from month to month on the same terms and conditions specified herein so far as applicable other than Base Rent which shall be increased to 150% of the current Base Rent.

30. Parking. Tenant acknowledges that all parking areas and all other common areas within the Santa Cruz Small Craft Harbor shall remain under the operation and control of Landlord. Tenant possesses no legal interests with regard to the parking areas. The manner in which such areas and facilities are operated and maintained shall be at the sole discretion of Landlord, and the use of such areas and facilities shall be subject to such rules and regulations as Landlord shall make from time to time. Landlord shall have the right to regulate access and parking and to install parking meters and/or parking pay stations in such parking areas. Tenant shall be responsible for compliance with all parking rules and regulations as may be adopted and implemented by Landlord from time to time, including, without limitation, systems of validation, shuttle transportation or any other programs which may be deemed necessary or appropriate by Landlord to control, regulate or assist parking.

31. Non-Discrimination. Tenant agrees in the conduct of Tenant's business not to discriminate against any person or class of persons by reason of sex, race, creed, national origin, age, or physical condition. Tenant shall make its accommodations and services available to all persons on equal and reasonable terms.

32. Entry by Landlord. Landlord and its agents shall be entitled to enter into and upon the Premises at all reasonable times, upon reasonable notice (except in the case of an emergency, in which event no notice shall be required), during regular business hours for purposes of inspecting or making repairs, alterations or additions to all or any portion thereof, or any other part of the Building, including the erection and maintenance of such scaffolding, canopies, fences and props as may be required, or for the purpose of posting notices of non-responsibility for alterations, additions, or repairs, and during the 180 day period prior to the expiration of this Lease, to place upon the Premises any usual or ordinary "for rent" signs and exhibit the Premises to prospective tenants at reasonable hours, all without any abatement of rent and without liability to Tenant for any injury or inconvenience to or interference with Tenant's business, quiet enjoyment of the Premises, or any other loss occasioned thereby.

33. Estoppel Certificates; Financial Statements.

(a) Estoppel Certificates. Within fifteen (15) days after request therefor by Landlord, Holder, or any prospective mortgagee or owner, Tenant agrees as directed in such reasonable request to execute an Estoppel Certificate in recordable form, binding upon Tenant, certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that this Lease as modified is in full force and effect); (ii) the dates on which rent Fixed Minimum Rent, Sublease Rent and Percentage Rent have been paid; (iii) that Tenant is in the possession of the Premises if that is the case; (iv) that Landlord is not in default under this Lease, or, if Tenant believes Landlord is in default, the nature thereof in detail; (v) that Tenant has no offsets or defenses to the performance of its obligations under this Lease (or if Tenant believes there are any offsets or defenses, a full and complete explanation thereof); (vi) that Tenant has accepted the Premises and the condition thereof and of all improvements thereto and has no claims against Landlord or any other party with respect thereto; (vii) that if an assignment of rents or leases has been served upon the Tenant by a Holder, Tenant will acknowledge receipt thereof and agree to be bound by the provisions thereof, (viii) that Tenant will give to the Holder copies of all notices required or permitted to be given by Tenant to Landlord; and (ix) to any other information reasonably requested. Tenant's failure to deliver such certificate within such time will be conclusive upon Tenant (A) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (B) that there are no uncured defaults in Landlord's performance, and (B) that not more than one month's rent has been paid in advance. Without limiting the foregoing, if Tenant fails to deliver any such certificate within such fifteen (15) day period, Landlord may deliver to Tenant an additional request for such certificate and the failure of Tenant to deliver such certificate within five days after delivery of such additional request shall be an Event of Default.

34. CASp Inspection. Landlord states that the Premises have not been inspected by a Certified Access Specialist (CASp). This notice is provided by Landlord:

"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 the construction-related accessibility standards within the premises."

Notwithstanding anything to the contrary in this Lease, (a) Tenant may elect at any time to perform a CASp inspection of the Premises at Tenant's expense; (b) any repairs or modifications necessary to correct violations of applicable construction-related accessibility standards within or about Premises are the responsibility of Tenant; (c) any construction-related accessibility improvements by Tenant or alterations of or improvements to the Premises are the responsibility of the Tenant; (d) any repairs or modifications to correct violations of applicable construction-related accessibility standards in areas which Landlord is responsible for, are the responsibility of Landlord.

35. General.

(a) Entire Agreement. This Lease, together with all Exhibits attached hereto which are incorporated herein by this reference, contains all of the terms, covenants, and conditions agreed to by Landlord and Tenant relating to the Premises and the subject matter hereof, and supersedes all promises and agreements, written or oral, by either party to the other relating in any way to the Premises which are not expressly set forth herein. Tenant is not relying on any representations or warranties made by Landlord, and acknowledges that Landlord has not made any representations or warranties to Tenant, except as may expressly be set forth herein. This Lease cannot and shall not be amended orally or in any manner other than by an agreement in writing signed by both Landlord and Tenant or their respective successors in interest.

(b) Covenants and Conditions. Each term and each provision of this Lease performable by Tenant shall be construed to be both a covenant and a condition, all of which conditions shall be for the sole benefit of Landlord.

(c) Binding on Successors. The covenants and conditions hereof, subject to the provisions as to subletting and assignment, shall apply to and bind the heirs, successors, executors, administrators, subtenants, and assigns to the parties.

(d) Joint and Several Liability. All persons who have signed this Lease shall be jointly and severally liable hereunder.

(e) Gender. When the context of this Lease requires, the masculine gender includes the feminine, a corporation, or a partnership, and the singular number includes the plural.

(f) Captions. The captions of the numbered and lettered paragraphs of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

(g) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California and venue shall be Santa Cruz County.

(h) Time of Essence. Time is of the essence as to all of the provisions of this Lease with respect to which time of performance is a factor.

(i) Partial Invalidity. If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

(j) Relationship. Tenant shall not be an agent of Landlord for any purpose, and nothing in this Lease shall be deemed to create a partnership relationship between Tenant and Landlord.

(k) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that s/he is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the

## DRAFT LEASE

board of directors of said corporation or in accordance with the bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of a resolution of the board of directors of said corporation authorizing or ratifying the execution of this Lease.

(l) No Recordation. Tenant shall not record either this Lease or a short form memorandum of this Lease.

(m) Calendar Days. All references herein to "days" shall mean calendar days unless otherwise stated.

(n) Counterparts. This Lease may be executed on one or more copies and each counterpart will be considered an original and binding to the party executing it. A scanned, electronic, facsimile or other copy of a party's signature shall be treated the same as an original.

35. State of California Harbors and Navigation Code. This Lease is adopted in accordance with California Harbors and Navigation Code Section 6270, which requires leases for periods of more than 10 years to be authorized by ordinance. Landlord held a public hearing on \_\_\_\_\_, to approve Ordinance 21-\_\_ authorizing this Lease.

**DRAFT LEASE**

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

ATTEST:

\_\_\_\_\_  
Holland MacLaurie  
Port Director  
Santa Cruz Port District

**LANDLORD:**

SANTA CRUZ PORT DISTRICT COMMISSION,  
a political subdivision

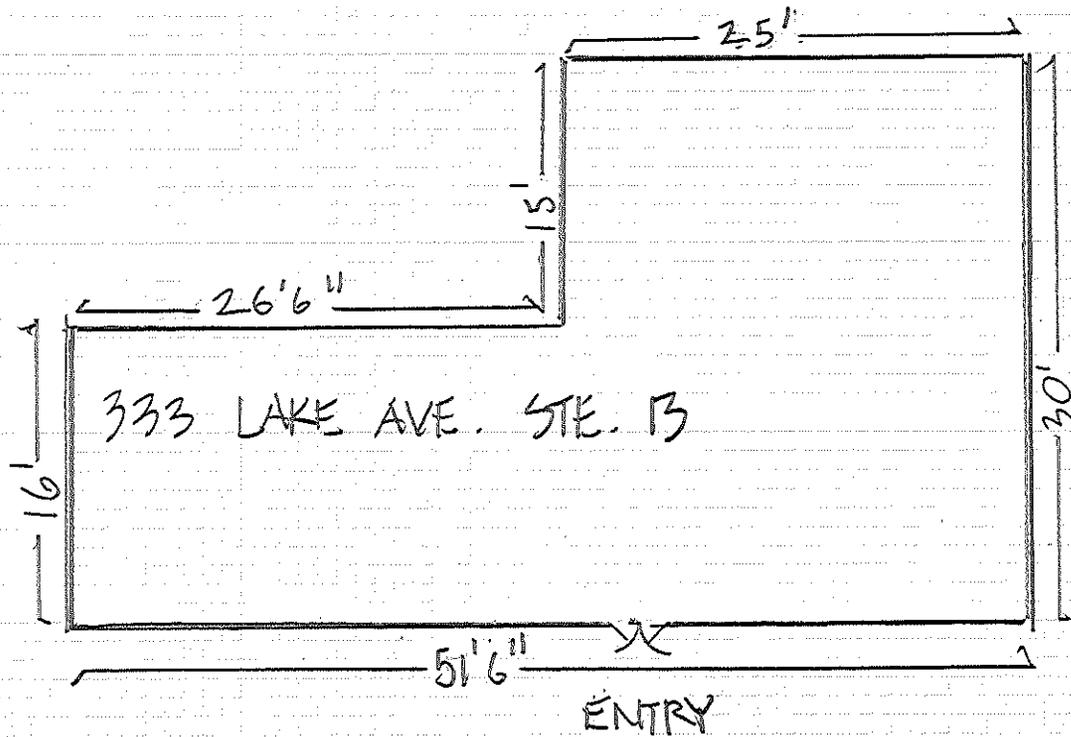
By: \_\_\_\_\_

**TENANT:**

\_\_\_\_\_

By: \_\_\_\_\_

**EXHIBIT 'A'**  
**Premises Map and Diagram**



333 LAKE AVE. STE. B

RENTABLE SPACE

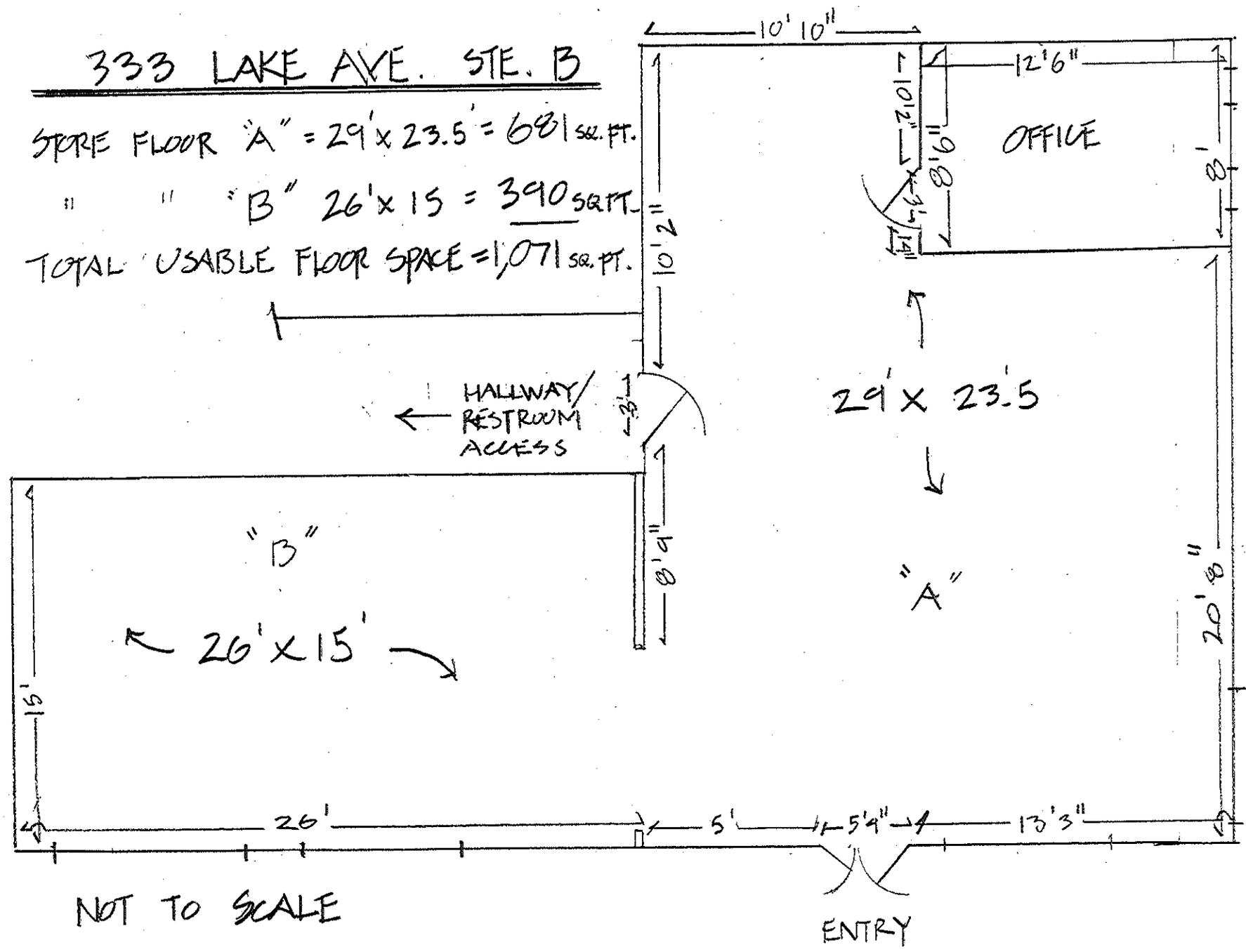
1,174 SQ. FT.

12/4/12

TOTAL SQ. FT. = 1,071

333 LAKE AVE. STE. B

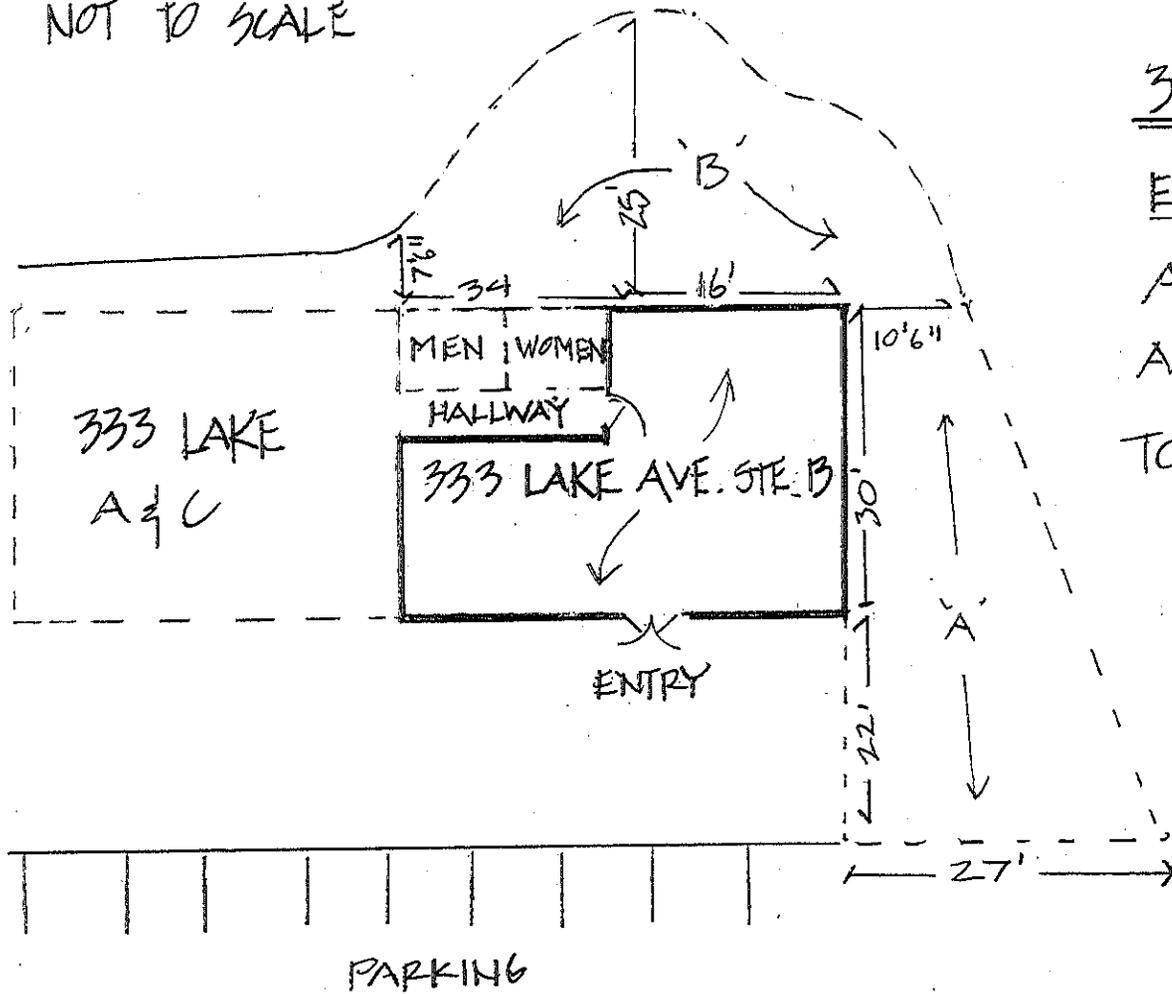
STORE FLOOR "A" = 29' x 23.5' = 681 SQ. FT.  
" " "B" 26' x 15' = 390 SQ. FT.  
TOTAL USABLE FLOOR SPACE = 1,071 SQ. FT.



NOT TO SCALE

ENTRY

NOT TO SCALE



333 LAKE AVE. STE. B

EXTERIOR LEASE PROPERTY

AREA 'A' = 763 SQ. FT.

AREA 'B' = 988 SQ. FT.

TOTAL 1,751 SQ. FT.

12/3/12