

## **SUBLEASE**

This Sublease (this "Sublease") is made and entered into as of February 11, 2019 (the "Effective Date") by and between Humboldt Bay Harbor, Recreation and Conservation District, a California public entity, having an address of 601 Startare Drive, Eureka, California 95501, as Sublessor (hereinafter "Landlord"), and California Marine Investments LLC, a Delaware limited liability company, having an address of 511 Congress Street, Portland, Maine 04101, as Sublessee (hereinafter "Tenant"). Collectively, Landlord and Tenant may be referred to herein as the "Parties".

## **RECITALS**

WHEREAS, Landlord is a California public entity duly organized and existing under Appendix 2 of the California Harbors and Navigation Code for the purposes stated in Section 4 thereto.

WHEREAS, Landlord owns the fee simple interest to the Demised Premises (as defined below).

WHEREAS, Landlord leases the Demised Premises to the Humboldt Bay Development Association, Inc. ("HBDA" or "Association"), a California non-profit public benefit corporation, pursuant to that certain Ground Lease effective March 9, 2016, for a term of 65 years commencing March 9, 2016 (the "Ground Lease"), a copy of which is attached hereto as Exhibit C and incorporated herein by this reference.

WHEREAS, reference is made to that certain Credit Agreement dated as of March 9, 2016, by and among New Markets Community Capital XVII, LLC, a Delaware limited liability company ("NMCC"), as lender, CNMC SUB-CDE 69, LLC, a Delaware limited liability company ("CNMC"), as lender, and HBDA, as borrower, dated March 9, 2016, under which HBDA entered into that certain Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing dated March 9, 2016 in favor of NMCC and CNMC (collectively referred to herein as the "Leasehold Mortgage").

WHEREAS, HBDA, as landlord, leases back the Demised Premises to Landlord, as tenant, pursuant to that certain Operating Lease, effective March 9, 2016, for a term of 30 years commencing on March 9, 2016 (subject to three (3), ten (10) year extension periods as set forth therein) (the "Operating Lease"), a copy of which is attached hereto as Exhibit D and incorporated herein by this reference.

WHEREAS, on the terms and conditions stated herein, and subject to Tenant's exercise of the Option set forth in Rider A attached hereto, Tenant desires to sublease from Landlord the Demised Premises for the use, development and operation of an aquaculture facility, as more particularly described herein.

NOW THEREFORE, for adequate consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

## **ARTICLE ONE** **Demised Premises**

**Section 1.1** Upon the proper and timely exercise of the Option set forth in Rider A, hereto, Landlord, for and in consideration of the rents and additional rents hereinafter reserved, and upon and subject to the terms, conditions, covenants and agreements hereinafter set forth, by these presents does hereby GRANT, DEMISE AND SUBLEASE unto Tenant the Land (as defined in Rider A attached hereto and incorporated herein by this reference), TOGETHER WITH any and all buildings, structures and improvements presently on the Land (subject to the terms and conditions of this Sublease) and those buildings, structures and improvements hereafter erected on the Land by Tenant (it being understood that Tenant has no obligation to erect any buildings, structures or other improvements on the Land); TOGETHER with all and singular the appurtenances, rights, privileges and easements now or hereafter appertaining thereto; ALL of said property being hereinafter collectively called the "Demised Premises."

**Section 1.2** Notwithstanding Section 1.1, above, and subject to Tenant's rights in Section 5.5 of Rider A, Landlord shall retain during the Option Period and Term all rights to use, access, maintain, and repair any and all utilities in place as of the Effective Date or later installed by Landlord in accordance with the terms and conditions of this Sublease that run over, under, or through the Demised Premises to or for the benefit of Landlord, including, but not limited to, all fire suppression infrastructure, water lines, sewer lines, and continued use of the existing leach field (for so long as such leach field remains in

place) and septic system on the Demised Premises as shown on Exhibit B attached hereto. Notwithstanding the foregoing, such rights are conditioned upon Landlord and its agents, employees and contractors working in harmony and not unreasonably interfering with or delaying Tenant or any of its agents, employees or contractors in the use, development and operation of the Project.

**Section 1.3** Notwithstanding Section 1.1, above, Landlord reserves for itself a twenty-foot (20') wide non-exclusive utility corridor along the southern most portion of the Demised Premises to, at its sole cost and expense, install, access, use, operate, repair, and maintain public and/or private utilities under or above ground for the benefit of Landlord or any third party. The approximate location of the non-exclusive utility corridor is shown on Exhibit B attached hereto. Notwithstanding the foregoing, installation of any utilities within the utility corridor is conditioned upon Landlord providing reasonable prior Notice (as hereinafter defined) to Tenant of same (including confirmation that the location of such utility corridor shall be as approximately shown on Exhibit B), and Landlord and its agents, employees and contractors working in harmony and not unreasonably interfering with or delaying Tenant or any of its agents, employees or contractors in the use, development and operation of the Project.

## **ARTICLE TWO**

### **Term**

**Section 2.1** TO HAVE AND TO HOLD the Demised Premises for a term of thirty (30) years commencing on the Commencement Date (as defined in Rider A) and expiring at midnight on the last day of the calendar month in which the thirtieth (30th) anniversary of the Commencement Date occurs, unless this Sublease shall sooner end and terminate or be extended (as may be extended or earlier terminated, the "Term"). For the purpose hereof, a "Lease Year" shall be each successive period of twelve (12) calendar months during the Term, with the first Lease Year commencing on the Commencement Date and expiring on the one year anniversary of the Commencement Date (or, if the Commencement Date occurs on any day other than the first day of a calendar month, the last day of the calendar month in which the one year anniversary of the Commencement Date occurs).

**Section 2.2** Tenant shall have the option to extend the Term for two (2) additional ten (10) year periods upon written Notice to Landlord given not less than six (6) months prior to the expiration of the then-current Term.

## **ARTICLE THREE**

### **Use of Demised Premises**

**Section 3.1** Tenant may, at its sole cost and expense, use, develop, alter and operate the Demised Premises for an aquaculture facility and related, associated and ancillary uses and improvements, and, subject to the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, and the terms and conditions of the (i) Operating Lease, (ii) Ground Lease, and (iii) New Markets Tax Credit Rider and the Commercial Lease Rider – Job Creation Reporting Requirement, as such riders are attached hereto as Exhibit D and incorporated herein by this reference, any other use or purpose allowed by the Ground Lease and Operating Lease (for so long as the New Markets Tax Credit Rider, Commercial Lease Rider – Job Reporting Requirement, Ground Lease and Operating Lease are in full force and effect), and applicable law (any such use, the "Project"), including any use or purpose for which Tenant may obtain any Governmental Approval (hereinafter defined). Notwithstanding anything herein to the contrary, regardless of whether such activity is allowed by the Operating Lease (for so long as the Operating Lease is in full force and effect) or law, Tenant and any of its assignees or subtenants are prohibited from using the Demised Premises to conduct any commercial activity relating to the cultivation, processing, testing, distributing, selling, or other activity involving cannabis or cannabis products.

**Section 3.2** Tenant may pursue any application, approval, authorization, permit, special permit, site plan approval, waiver, variance or relief from zoning or other land use law, ordinance, rule or regulation as Tenant may deem necessary or desirable for the use, development and operation of the Project (collectively, "Governmental Approvals"). Notwithstanding the foregoing to the contrary, Tenant shall not initiate or otherwise pursue any zoning reclassification of the Demised Premises or use the Demised Premises in a manner which would result in such use becoming a nonconforming use under the then applicable zoning ordinance (as distinguished from a use of the Demised Premises that is legally conforming at the time the applicable Governmental Approvals are obtained and thereafter becomes legally nonconforming through a change in the applicable zoning ordinance not initiated or pursued by Tenant). Landlord shall cooperate with Tenant, and not contest or otherwise interfere with, any proposed, lawful use of the Demised Premises, including by executing upon request any documentation required by the applicable Governmental Authority (hereinafter defined) related to Tenant's development, use or occupancy of the Demised Premises. Landlord acknowledges that Tenant may integrate the Demised Premises or parts thereof into a development project involving adjacent property not owned or controlled by Landlord and Landlord irrevocably

consents thereto; provided, however, that Landlord's consent shall not extend to any action proposed to be taken by Tenant to subdivide, merge, or otherwise adjust the legal boundary of the Demised Premises, and any such proposed action shall require Landlord's prior written consent, which may be withheld in its sole discretion.

**Section 3.3** Landlord and Tenant agree that if any Governmental Authority shall require the execution and delivery of any instrument to evidence or consummate the dedication of any street or right of way adjoining the Demised Premises, and/or if any Governmental Authority or any public utility company shall require the execution and delivery of any rights of way and easements, in, over, under, through or adjoining the Demised Premises to provide any necessary or desirable utility, service or facility for the benefit of the Demised Premises, then both such parties will execute, acknowledge and deliver, any such instrument or document as may be required, subject to the mutual good faith determination of Landlord and Tenant as to the location on the Demised Premises of any such rights of way and easements, and provided that HBDA obtains the approval of the beneficiaries under the Leasehold Mortgage to such instrument or document and such instrument or document does not conflict with the terms of the Leasehold Mortgage, Ground Lease or Operating Lease (in each case for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect).

**Section 3.4** Tenant shall use the Demised Premises in compliance with all applicable laws, statutes, ordinances, rules, regulations, orders, recorded covenants and restrictions, the terms and conditions of the Leasehold Mortgage, the Ground Lease and the Operating Lease (for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect), and the requirements of any fire insurance underwriters or rating bureaus, now or later in effect. Tenant shall not commit any waste or any public or private nuisance upon the Demised Premises.

**Section 3.5** All terms and conditions of the Operating Lease are incorporated into and made a part of this Sublease as if Landlord were the master-landlord, Tenant the master-tenant, and the Demised Premises the Property (as defined in the Operating Lease), except to the extent that any such terms and conditions are inapplicable to the terms of this Sublease. Landlord assumes and agrees to perform the tenant's obligations under the Operating Lease during the Option Period and the Term to the extent that these obligations are applicable to the Demised Premises. Tenant will not commit or suffer any act or omission that will violate any of the provisions of the Operating Lease. Landlord will use best efforts to cause HBDA to perform its obligations under the Operating Lease for the benefit of Tenant.

## **ARTICLE FOUR**

### **Annual Rent**

**Section 4.1** From and after the Commencement Date until the expiration of the Term, Tenant covenants and agrees to pay to Landlord rent ("Annual Rent") in the amounts set forth in Section 6.2 of Rider A hereto, which Annual Rent shall be payable in equal monthly installments on or before the first day of each calendar month during the Term. On each anniversary of the Commencement Date (each such date being referred to herein as a "Change Date"), the Annual Rent shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers - All Items as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the West Region (base year 1982-84=1001) (the "Index") from the Change Date to the current Change Date. The Annual Rent as so increased shall remain in effect until the next succeeding Change Date. If the Index has not been published as of the applicable Change Date, then Tenant shall continue to pay the Annual Rent at the rate for the preceding Lease Year until such time as the applicable Index is published, and the parties shall make an adjustment, retroactive to the Change Date, and the shortfall, if any, shall be due and payable with Tenant's first monthly installment of Annual Rent that is due and payable at least thirty (30) days after the applicable Index is published. In the event that the Index is no longer utilized or published by the U.S. Department of Labor, the nearest equivalent index actually published (as reasonably determined by Landlord and Tenant) shall be utilized. In the event that the Term begins on a day other than the first day of a Lease Year and/or ends on a day other than the last day of a Lease Year, the applicable monthly installment(s) of Annual Rent shall be prorated based on the number of days in such month(s).

**Section 4.2** All amounts payable under Section 4.1, as well as all other amounts payable by Tenant to Landlord under the terms of this Sublease during the Term ("Additional Rent") and collectively with Annual Rent, the "Rent", shall be paid at the address of Landlord set forth in Section 13.2, or at such other place as Landlord may designate by Notice to Tenant.

**Section 4.3** Tenant shall deposit with Landlord within ten (10) business days following the Commencement Date an amount equal to the first monthly installment of Annual Rent as a security deposit, which shall be held by Landlord, without interest, as security for the performance of Tenant's covenants and obligations under this Sublease, it being expressly understood and agreed that the deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon the occurrence of any default by Tenant beyond the expiration of any applicable notice and cure periods,

Landlord may, from time to time and without prejudice to any other remedy provided by this Sublease or by law, use that security deposit to the extent necessary to make good any arrears of rent or other payments or liability caused by the uncured default. Tenant shall pay to Landlord on demand the amount that was applied in order to restore the security deposit to the amount then required under this Sublease. If Landlord transfers the Demised Premises during the Term, Landlord shall pay the Security Deposit to any subsequent owner in conformity with the provisions of Section 1950.7 of the California Civil Code and/or any successor statute. Although the security deposit shall be deemed the property of Landlord, all or any remaining balance of the security deposit shall promptly be returned by Landlord to Tenant within thirty (30) days after the expiration or termination of this Sublease and a determination that all of Tenant's obligations under this Sublease have been fulfilled. If less than all of the security deposit is to be returned by Landlord, Landlord shall prepare a final accounting thereof and submit same to Tenant concurrent with its return of any remaining balance of the security deposit (or, if no remaining balance, promptly following the preparation thereof).

## **ARTICLE FIVE**

### **Taxes**

**Section 5.1** Tenant agrees that it will pay and discharge, or cause to be paid and discharged, punctually as and when the same shall become due and payable without penalty, all real estate taxes, personal property taxes and all other governmental impositions and charges of every kind and nature whatsoever (collectively, "Tax" or "Taxes") which apply to the period of time from and after the Commencement Date and continuing thereafter throughout the Term and shall be or become due and payable, and which shall be levied, assessed or imposed upon or against the Demised Premises or any improvements thereon. In the event that the Demised Premises constitutes only a portion of a tax parcel, Tenant's obligation to pay Taxes hereunder shall be determined proportionately based on the portion of the tax parcel that comprises the Demised Premises, as reasonably determined by Landlord and Tenant. Tenant expressly acknowledges that any increase in tax or assessment charged or levied against the Demised Premises as a result of this Sublease during the Term shall be included, without limitation, in Tenant's obligations to pay under this Section 5.1.

**Section 5.2** Nothing contained in this Sublease shall require Tenant to pay any estate, inheritance, gift, succession, capital levy or transfer tax of Landlord, any assessment, tax, fee, levy or charge imposed in connection with any transfer or change in ownership of the Demised Premises or the real property of which the Demised Premises comprises a part thereof, or any income, excess profits or revenue tax or any other tax, assessment, charge or levy upon the Rent payable by Tenant under this Sublease.

**Section 5.3** Any Tax relating to a fiscal period of the taxing authority which is partly within the Term and partly subsequent to the Term shall, whether or not such Tax shall be assessed, levied, imposed or become a lien upon the Demised Premises or shall become payable during the Term, be apportioned between Landlord and Tenant as of the expiration of the Term, so that Landlord shall pay the portion of such Tax applicable to the period after the expiration of the Term, and Tenant shall pay the remainder thereof.

**Section 5.4** Tenant shall have the right to contest the amount or validity, in whole or in part, of any Tax, or to seek a reduction in the valuation of the Demised Premises as assessed for real estate or personal property tax purposes. Any contest as to the validity or amount of any Tax, or assessed valuation upon which such Tax was based, whether before or after payment, may be made by Tenant in the name of Landlord and/or of Tenant, as Tenant shall determine, and Landlord agrees that it will, at Tenant's expense, cooperate with Tenant in any such contest, subject to Tenant's obligation to pay all costs and expenses related to any such contest and pay Landlord the reasonable administrative cost incurred by Landlord (and/or Landlord's employees/agents) related to assisting with any such contest. Tenant shall be entitled to any refund of any such Tax and penalties or interest thereon.

**Section 5.5** Tenant is hereby notified by Landlord that the possessory interest created hereunder may be subject to a possessory interest tax or property taxation when created, pursuant to Sections 107 to 107.6 of the California Revenue and Taxation Code or other applicable law, and that Tenant and/or the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interests. Tenant agrees and acknowledges that it has actual notice pursuant to Section 107.6 of the California Revenue and Taxation Code that it may be required to pay a possessory interest tax as a result of this Sublease and the subletting to Tenant of the Demised Premises. Tenant hereby acknowledges that it has actual knowledge of the possible existence of a possessory interest tax and has read the provisions of Sections 107 to 107.6 of the California Revenue and Taxation Code. From and after the Commencement Date and continuing thereafter throughout the Term, Tenant shall pay all possessory interest taxes levied by any governmental agencies by reason of this Sublease or Tenant's possession of the Demised Premises.

## **ARTICLE SIX**

### **Repairs and Maintenance**

**Section 6.1** Except as may be expressly set forth in this Sublease, during the Term, Tenant shall, at its sole cost and expense, maintain the Demised Premises, including, but not limited to, any Alterations or other improvements constructed, used, or placed by Tenant in good condition and repair. Tenant shall deliver to Landlord physical possession of the Demised Premises at the end of the Term, or any extension of the Term, or any earlier termination of this Sublease, in good condition and repair, reasonable wear and tear and use and loss by fire or other casualty or by earthquake or other act of God excepted.

**Section 6.2** Except as may be expressly set forth in this Sublease, Landlord shall not be required to make any alterations, repairs, additions or improvements, or to furnish any services or facilities of any kind, to the Demised Premises or any improvements thereon. As soon as reasonably possible following the Effective Date and during the Diligence Period, Landlord, at Landlord's sole cost and expense, shall remove all existing non-structural metal, scraps, and debris from the surface of the Demised Premises that do not constitute Pre-existing Abatement Work (as defined below).

**Section 6.3** Tenant waives the provisions of California Civil Code §§ 1941 and 1942 and any other law that would require Landlord to maintain the Demised Premises in a tenantable condition or would provide Tenant with the right to make repairs and deduct the cost of those repairs from the Rent or other sums due to Landlord under this Sublease.

## **ARTICLE SEVEN**

### **Public Utilities and Services**

**Section 7.1** Tenant agrees to pay or cause to be paid all charges for utilities or services provided to the Demised Premises and any improvements thereon throughout the Option Period and Term, in each case to the extent such utilities or services are used by Tenant. Except as may be expressly set forth in this Sublease, Tenant expressly agrees that Landlord is not required to furnish to Tenant or any other occupant of the Demised Premises any utilities or services of any kind. Landlord, upon Tenant's request and at Tenant's sole expense, will join with Tenant in any application for obtaining or continuing any of the foregoing utilities or services so long as Landlord does not thereby become jointly or severally obligated to pay for any such charges for utilities or services; provided, however, if such utility or service provider requires Landlord to be jointly or severally obligated, Landlord shall join with Tenant so long as Landlord and Tenant in good faith enter into a mutually acceptable agreement between themselves whereby Tenant agrees that Landlord shall not be jointly or severally obligated.

## **ARTICLE EIGHT**

### **Tenant's Improvements and Alterations**

**Section 8.1** Provided that Tenant obtains any required Governmental Approvals (including any Government Approvals required to be obtained from Landlord in its role as a public entity and regulatory authority), Tenant shall have the right in its sole discretion at any time during the Term to make, at its cost and expense, any repairs, replacements, additions, betterments, changes, alterations, modifications, renovations, or restorations to the Demised Premises, including the development and construction of any improvements, structures or buildings thereon, and, subject to Landlord's written consent which shall not be unreasonably withheld, conditioned or delayed, to demolish, remove or raze any such improvements, structures or buildings constructed by Tenant (collectively, "Alterations"). Alterations shall be deemed to include, without limitation, the right of Tenant to relocate any utility lines under, upon or above the Demised Premises, subject to any required Government Approval, whether or not such utility lines were installed by Tenant, provided that if any such utility lines service Landlord or any of its property, no interruption of such utility service may occur.

**Section 8.2** Landlord agrees that at the request of Tenant, Landlord will, at Tenant's sole cost and expense, either (a) file any applications or petitions, in which Tenant will join if required, or (b) join in any applications or petitions filed by Tenant, to obtain all approvals, licenses and permits required from any town, city, county, state and federal governments and of each and every department, entity, bureau and duly authorized official thereof and of any successor or future governmental authority, department, entity, bureau and duly authorized official thereof, and of the local board of fire underwriters having jurisdiction and/or any other corporation, body or organization possessing similar authority and exercising similar functions (collectively, "Governmental Authorities") for any Alterations and will actively support such applications and petitions; provided, however, that any permit required to be obtained from Landlord in its role as a regulatory authority shall be considered by the Commissioners of Landlord as any other application from a third party would be considered and the Commissioners of Landlord have the discretion to deny or require conditions as may be appropriate as a regulatory agency. Tenant shall be solely responsible for the preparation of all such applications or petitions, and subject to Tenant's prior written approval, shall reimburse Landlord for the actual reasonable costs incurred by Landlord related to the assistance provided by Landlord's

outside counsel, third party engineers, consultants and professionals (exclusive of Landlord's staff and any of Landlord's administrative costs and overhead).

**Section 8.3** Title to all improvements constructed by Tenant shall vest in Tenant until the expiration or earlier termination of this Sublease, whereupon title to the improvements shall vest in Landlord. Upon the expiration or earlier termination of this Sublease, Tenant shall remove any and all improvements constructed by Tenant as may be directed by Landlord in a Notice delivered to Tenant at least ninety (90) days prior to the expiration or earlier termination of this Sublease; provided, however, Landlord shall only be permitted to direct Tenant to remove any such improvements if the useful life of any such improvements, as determined by a mutually approved architect or engineer, as applicable, is less than ten (10) years from the date of expiration or earlier termination of this Sublease.

## **ARTICLE NINE**

### **Casualty**

**Section 9.1** Should the whole or any part of the improvements then on the Demised Premises be partially or wholly damaged by a casualty after the Commencement Date, Tenant shall have the option to terminate this Sublease effective as of the date of the casualty upon Notice to Landlord, in which event the parties shall have no further rights or obligations hereunder, other than those that are expressly stated to survive the expiration or termination hereof. Whether or not Tenant elects to terminate this Sublease, and subject to Landlord's right to direct the removal of any improvements constructed or installed by Tenant pursuant to Section 8.3, above, and contingent upon Tenant's procurement of insurance and maintenance of active and enforceable policies of insurance on the improvements as recited in Section 13.18 of this Sublease, below, Tenant shall not be required to restore or rebuild the damaged improvements.

## **ARTICLE TEN**

### **Condemnation**

**Section 10.1** In the event that the Demised Premises, or any part thereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between Landlord, Tenant and those authorized to exercise such right (any such matters being herein referred to as a "Taking"), Landlord, Tenant and any leasehold mortgagee shall have the right to participate in any Taking proceedings or agreement for the purpose of protecting their interests hereunder. Each party so participating shall pay its own expenses therein.

**Section 10.2** In the event of a Taking, Tenant shall have the option to terminate this Sublease effective as of the date of such Taking upon Notice to Landlord, in which event the parties shall have no further rights or obligations hereunder, other than those that are expressly stated to survive the expiration or termination hereof. Whether or not Tenant elects to terminate this Sublease, Tenant shall not be required to restore or rebuild any affected improvements.

**Section 10.3** In the event of a Taking, and subject to any contrary provisions in the Leasehold Mortgage, Ground Lease, or Operating Lease, which contrary provisions shall control (for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect), any award, compensation or insurance proceeds to which Landlord and Tenant may become entitled shall be allocated in the following order of priority: (i) to Master Landlord under the Operating Lease for the value of the Demised Premises and leasehold interest under the Operating Lease; (ii) to Tenant, for its interest in any improvements on the Demised Premises; (iii) to Tenant, for the value of its leasehold interest in the Demised Premises; and (iv) to Landlord, for the value of its fee and leasehold interests, as applicable, in the Demised Premises.

**Section 10.4** Subject to any contrary provisions in the Leasehold Mortgage, Ground Lease, or Operating Lease (for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect), the rights of Landlord and Tenant regarding any condemnation shall be determined as provided in this Article 10, and each party hereby waives the provisions of Section 1265.130 of the California Code of Civil Procedure, and the provisions of any similar law hereinafter enacted, allowing either party to petition any court to terminate this Sublease and/or otherwise allocate condemnation awards between Landlord and Tenant in the event of a Taking of all or any portion of the Demised Premises.

## **ARTICLE ELEVEN**

### **Assignment, Leasing and Mortgages**

**Section 11.1** Without Tenant's prior written approval, which may be withheld in Tenant's sole and absolute discretion, and except for the Leasehold Mortgage, which Tenant acknowledges, Landlord shall not (a) directly or indirectly cause or permit any mortgage, deed of trust, lien, assessment lien, assessment, obligation, interest, encumbrance or encroachment or liability whatsoever to be placed against (whether recorded or not) the Demised Premises or take any other action that could adversely affect title to the Demised Premises during the Option Period or the Term, or (b) enter into any

agreement or commitment to do any of the foregoing. Notwithstanding the foregoing, the foregoing shall not apply to any lien or assessment lien placed against the Demised Premises as a result of Tenant's failure to pay any and all taxes, assessments, or charges for utilities or other services required to be paid by Tenant pursuant to this Sublease or any matters of record affecting title to the Demised Premises existing as of the Commencement Date. Nothing herein shall be construed to prevent Landlord from encumbering, in any manner, the remainder of the legal parcel containing the Demised Premises (*i.e.*, the portion of such legal parcel outside of the Demised Premises), pledging as collateral any rental income from the legal parcel containing the Demised Premises, or subdividing the legal parcel containing the Demised Premises to make the Demised Premises a separate legal parcel (so long as such subdivision does not result in the Demised Premises becoming a portion or all of more than one legal parcel); provided in each case that any such encumbrance, pledge or subdivision (i) does not diminish any of Tenant's rights or protections under this Sublease or increase any cost, expense or liability (actual, potential or otherwise) of Tenant under this Sublease, and (ii) does not unreasonably interfere with or delay Tenant or any of its agents, employees or contractors in the use, development and operation of the Project.

**Section 11.2** Tenant shall have the right, with the consent of Landlord (which consent shall not be unreasonably withheld, conditioned or delayed) and, to the extent required under the Ground Lease, Operating Lease, and Leasehold Mortgage, the consent of the Association and/or the beneficiaries of the Leasehold Mortgage (for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect), from time to time, to assign its interest in this Sublease, mortgage, pledge, hypothecate or otherwise encumber its interest in this Sublease, or sublet the whole or any portion or portions of the Demised Premises for the use and purposes permitted under this Sublease. Any assignment consented to by Landlord shall not be effective until Tenant has delivered to Landlord an executed counterpart of the document evidencing the assignment that is in form and substance reasonably satisfactory to Landlord (which document shall evidence that the assignee is subject to all of the terms and conditions of this Sublease). Notwithstanding the foregoing to the contrary, Tenant may, without Landlord's prior written consent, sublet the Demised Premises or assign this Sublease, in each case for the use and purposes permitted under this Sublease, to (i) a subsidiary, affiliate, division, corporation or joint venture controlling, controlled by or under common control with Tenant, (ii) a successor entity resulting from a merger, consolidation, or nonbankruptcy reorganization by Tenant, or (iii) a purchase of all or substantially all of the assets of the parent company of Tenant. Upon request of Tenant, Landlord agrees to promptly thereafter enter into any commercially reasonable instrument customarily required by any leasehold mortgagee of Tenant concerning this Sublease.

**Section 11.3** Any attempted assignment or sublease without Landlord's consent (in each case for which Landlord's consent is required) shall constitute a default without any additional notice or cure period and shall be voidable at Landlord's option. Landlord's consent to any one assignment or sublease shall not constitute a waiver of the provisions of Section 11.2 as to any subsequent assignment or sublease or a consent to any subsequent assignment or sublease (in each case for which Landlord's consent is required). No assignment or sublease, even with the consent of Landlord if such consent is so required, shall relieve Tenant of the obligation to pay the Rent and to perform all of the other obligations to be performed by Tenant hereunder. The acceptance of Rent by Landlord from any person shall not be deemed to be a waiver by Landlord of any provision of this Sublease, nor to be a consent to any assignment or sublease. Landlord's consent to any assignment or sublease shall not constitute an acknowledgment that no default exists under this Sublease, nor shall consent be deemed a waiver of any existing default, except as otherwise stated by Landlord at the time.

**Section 11.4** In addition to all terms and conditions in this Sublease, Tenant acknowledges and agrees that this Sublease is subject and subordinate in all respects to the Leasehold Mortgage, the Ground Lease, and the Operating Lease (for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect); provided, however, as a condition precedent to the commencement of the Term, such subordination is conditioned upon the agreement of such lessors and beneficiaries to execute a recordable subordination, non-disturbance and attornment agreement (each, an "SNDA") in such form as any such lessors and beneficiaries may reasonably require and which is otherwise acceptable to Tenant in its reasonable discretion, and any party thereto shall be entitled to record such agreement. The subordination of this Sublease to any ground or operating leases, mortgages and/or deeds of trust which hereafter affect the legal parcel on which the Demised Premises is located is conditioned upon the agreement of any such lessor or lender to execute a recordable subordination, non-disturbance and attornment agreement in such form as any such lessor or lender may reasonably require and which is otherwise acceptable to Tenant in its reasonable discretion, and any party thereto shall be entitled to record such agreement.

**Section 11.5** Subject to the terms and conditions of this Sublease, nothing in this Sublease shall be construed to prevent the HBDA from transferring its leasehold interest in the Demised Premises back to Landlord.

## **ARTICLE TWELVE**

### **Event of Default**

**Section 12.1** If Tenant shall default in the payment of Rent or Additional Rent when and as the same shall be due and payable and such default shall continue for a period of thirty (30) days after receipt by Tenant of Notice thereof from Landlord, Landlord may terminate this Sublease thirty (30) days following receipt of such Notice by Tenant; provided, however, Tenant may void such termination by curing the Rent default prior to the expiration of such thirty (30) day period. Tenant acknowledges that late payment of sums due under this Sublease will cause Landlord to incur costs not contemplated by this Sublease, the exact amount of which will be extremely difficult to ascertain. Therefore, if any sum due from Tenant is not received by Landlord within five (5) business days after the due date, then without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to five percent (5%) of the unpaid portion (or all) of the overdue sum. The parties agree that the late charge represents a fair and reasonable estimate of the costs Landlord will incur because of late payment by Tenant. Acceptance of the late charge by Landlord shall not constitute a waiver of Tenant's default for the overdue sum, nor prevent Landlord from exercising any of the other rights and remedies in this Sublease.

**Section 12.2** If Tenant shall fail to perform any of the covenants, conditions, or provisions of this Sublease to be performed by Tenant, other than those requiring payment to Landlord, and such default shall continue for a period of thirty (30) days after receipt by Tenant of Notice thereof from Landlord, subject to compliance with applicable legal requirements, Landlord may terminate this Sublease thirty (30) days following receipt of such Notice by Tenant; provided, however, if the nature of Tenant's failure reasonably requires more than thirty (30) days for the cure to be completed, Tenant shall not be deemed to be in default if Tenant commences to cure within thirty (30) days of its receipt of the Notice and thereafter diligently prosecutes the cure to completion.

**Section 12.3** In addition to the defaults described above in Sections 12.1 and 12.2, the following events shall also constitute an event of default, and the occurrence of any such event shall permit Landlord, subject to compliance with applicable legal requirements, to immediately terminate this Sublease: (a) the making by Tenant of any general assignment for the benefit of creditors; (b) Tenant's becoming a "debtor" as defined in 11 U.S.C.A. § 101 or any successor statute, unless, in the case of a petition filed against Tenant, it is dismissed, rescinded or reversed within one hundred twenty (120) days after filing; (c) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets at the Demised Premises or of Tenant's interest in this Sublease, where the appointment is not rescinded or reversed within sixty (60) days of the appointment; and (d) the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Demised Premises or of Tenant's interest in this Sublease, where the attachment, execution or seizure is not discharged within sixty (60) days after the occurrence thereof.

**Section 12.4** In the event Landlord fails to perform its obligations under this Sublease, Landlord shall not be in default until such time as Tenant shall have first given Landlord Notice specifying the nature of such failure to perform its obligations, and then only after Landlord shall have had thirty (30) days following its receipt of such Notice within which to perform such obligations; provided that, if longer than thirty (30) days is reasonably required in order to perform such obligations, Landlord shall have such longer period so long as Landlord commences to cure within thirty (30) days of its receipt of the Notice and thereafter diligently prosecutes the cure to completion. In the event of Landlord's default beyond the expiration of any applicable notice and cure period, subject to compliance with applicable legal requirements, and in addition to all other rights and remedies provided at law or in equity or otherwise provided in this Sublease, Tenant may proceed to immediately terminate this Sublease.

**Section 12.5** Notwithstanding anything to the contrary in this Sublease, neither party shall be liable for any special, incidental, punitive or consequential damages by reason of any default hereunder, whether or not the defaulting party is notified that such damages may occur; provided, however, it being understood that Landlord's remedies as provided in Section 12.6, below, are not considered special, incidental, punitive or consequential damages.

**Section 12.6** Upon the occurrence of Tenant's uncured default under this Sublease, Landlord, in addition to any other rights or remedies available to Landlord at law or in equity, shall have the right to:

- (a) terminate this Sublease and all rights of Tenant hereunder by giving Tenant written notice that this Sublease is terminated, in which case Landlord may recover from Tenant the sum of:
  - (i) the worth at the time of award of any unpaid Rent that had been earned at the time of termination;



- (ii) the worth at the time of award of the amount by which (A) the unpaid Rent that would have been earned after termination until the time of award exceeds (B) the amount of such Rent loss, if any, as Tenant proves could have been reasonably avoided;
  - (iii) subject to California Civil Code Section 1951.2(c), the worth at the time of award of the amount by which (A) the unpaid Rent for the balance of the Term after the time of award exceeds (B) the amount of Rent loss, if any, as Tenant proves could be reasonably avoided;
  - (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Sublease or that, in the ordinary course of things, would be likely to result therefrom; and
  - (v) all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law. As used in clauses (i) and (ii) of this subsection (a), the "worth at the time of award" is computed by allowing interest at the rate of lesser of ten percent (10%) per annum or the highest rate permitted by law. As used in clause (iii) of this subsection (a), the worth at the time of award is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%); or
- (b) continue this Sublease, and from time to time, without terminating this Sublease, either (i) recover all rent and other amounts payable as they become due or (ii) relet the Demised Premises or any part of the Demised Premises on behalf of Tenant for any term, at any rent, and pursuant to any other provisions as Landlord deems advisable, all with the right, at Tenant's cost, to make alterations and repairs to the Leased Premises.
  - (c) Upon the occurrence of an uncured default, Landlord shall also have the right, with or without terminating this Sublease, to re-enter the Demised Premises and remove all persons and property from the Demised Premises. Landlord may cause property so removed from the Demised Premises to be stored in a public warehouse or elsewhere at the expense and for the account of Tenant.
  - (d) None of the following remedial actions, singly or in combination, shall be construed as an election by Landlord to terminate this Sublease unless Landlord has in fact given Tenant written notice that this Sublease is terminated or unless a court of competent jurisdiction decrees termination of this Sublease: any act by Landlord to maintain or preserve the Demised Premises; any efforts by Landlord to relet the Demised Premises; any re-entry, repossession, or reletting of the Demised Premises; or any re-entry, repossession, or reletting of the Demised Premises by Landlord pursuant to this Section. If Landlord takes any of the previous remedial actions without terminating this Sublease, Landlord may nevertheless at any time after taking any remedial action terminate this Sublease by written notice to Tenant.
  - (e) If Landlord relets the Demised Premises, Landlord shall apply the revenue as follows: first, to the payment of any indebtedness, other than Rent due from Tenant to Landlord; second, to the payment of any cost of reletting, including without limitation finder's fees and leasing commissions; third, to the payment of the cost of any maintenance and repairs to the Demised Premises; and fourth, to the payment of Rent and other amounts due and unpaid under this Sublease. Landlord shall hold and apply the residue, if any, to payment of future amounts payable under this Sublease as they become due. Should revenue from reletting during any month, after application pursuant to the foregoing provisions, be less than the sum of (i) Landlord's expenditures for the Demised Premises during that month and (ii) the amounts due from Tenant under this Sublease during that month, Tenant shall pay the deficiency to Landlord immediately upon demand.
  - (f) Except insofar as this is inconsistent with or contrary to any provisions of this Sublease, no right or remedy conferred upon or reserved to either party is intended to be exclusive of any other right or remedy given now or later or existing at law or in equity or by statute. Except to the extent that either party may have otherwise agreed in writing, no waiver by that party of any violation or nonperformance by the other party of any obligations, agreements, or covenants shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by

either party to exercise a remedy for any violation or nonperformance by the other party be deemed a waiver by that party of rights or remedies with respect to that violation or nonperformance.

**ARTICLE THIRTEEN**  
**Miscellaneous Provisions**

**Section 13.1 Invalidity of Particular Provisions.** If any term or provision of this Sublease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Sublease shall be valid and be enforced to the fullest extent permitted by law.

**Section 13.2 Notices.** All notices and other communications required or permitted hereunder (collectively, "Notices") shall be in writing and shall be sent by registered or certified mail, or overnight delivery by a nationally recognized public or private carrier, return receipt requested, postage prepaid, addressed to the party to receive such Notice at the address set forth below:

If to Landlord, to: Humboldt Bay Harbor, Recreation and Conservation District  
601 Startare Drive  
Eureka, California 95501

If to Tenant, to: California Marine Investments LLC  
511 Congress Street  
Portland, Maine 04101

With a copy to: Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.  
Century Plaza Towers  
2029 Century Park East, Suite 3100  
Los Angeles, California 90067  
Attn: Brandon Barker

Either party may, by Notice given as aforesaid, change its address or add any additional addresses for all subsequent Notices. Notices shall be deemed given on the date of receipt or refusal to accept delivery. Notices may be given by the counsel of either party hereto.

**Section 13.3 Quiet Enjoyment.** Landlord covenants that Tenant shall quietly have and enjoy the Demised Premises during the Term of this Sublease, without hindrance or molestation by anyone claiming by, through or under Landlord; subject, however, to the exceptions, reservations and conditions of this Sublease.

**Section 13.4 Confidentiality.** Subject to the requirements of the California Public Records Act, the Ralph M. Brown Act, and any other applicable laws or regulations regarding the disclosure of records held or actions taken by a public entity, each party agrees that it shall keep confidential the terms of this Sublease, the documents and information supplied by the other party to it and all information, surveys, reports, tests and studies relating to the Demised Premises obtained by either party before or after the Effective Date (collectively, the "Confidential Information"). Disclosure of Confidential Information by either party shall not be prohibited if that disclosure is information that is or becomes a matter of public record (including records deemed public records under applicable local, state or federal law) or public knowledge from sources other than the other party or its agents, employees, contractors, consultants or attorneys. Notwithstanding the foregoing, either party may disclose otherwise Confidential Information where disclosure (i) is required by applicable law or by an order of a court or other Governmental Authority having jurisdiction after giving reasonable Notice to the other party with, to the extent practicable, adequate time for such other party to seek a protective order; (ii) is reasonably necessary and is made to that party's or its affiliate's employees, members, officers, directors, attorneys, accountants or other advisors who are advised of the confidential nature of such information; or (iii) is required to enforce the rights and remedies under this Sublease of either Tenant or Landlord. Nothing contained herein shall prohibit or restrict Tenant from disclosing information as may be required in connection with Tenant's application to obtain any Governmental Approvals to use, develop and operate the Project. Nothing contained herein shall prohibit or restrict Landlord, a California public entity, from disclosing any records or information required to be disclosed pursuant to applicable local, state, or federal laws. Concurrent with the full execution and delivery of this Sublease, each of Landlord and Tenant shall execute, acknowledge and deliver a memorandum of sublease, in substantially

the form attached hereto as Exhibit F and incorporated herein by reference, and either party shall be entitled to record the same. Notwithstanding the foregoing to the contrary, Landlord shall have the right to make this Sublease publicly at the Public Meeting during which the Commissioners consider ratification and approval in accordance with law by the Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District, a California public entity.

**Section 13.5 Entire Agreement.** This Sublease and the documents referred to herein contain the entire agreement between the parties pertaining to the subject matter hereof, and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. This Sublease cannot be changed or terminated orally.

**Section 13.6 Brokers.** Each party hereby represents and warrants to the other party that it has not dealt with any broker or agent in connection with this Sublease and covenants to pay, hold harmless and indemnify the other party from and against any and all costs, expense or liability (including legal fees incurred in defending against any claim) for any compensation, commission and charges claimed by any broker or agent with respect to this Sublease or the negotiation hereof or otherwise arising from a breach of the foregoing warranty.

**Section 13.7 Successors and Assigns.** The covenants, conditions and agreements in this Sublease shall bind and inure to the benefit of Landlord and Tenant and their respective legal representatives, successors and permitted assigns.

**Section 13.8 No Merger.** It is the intent and purpose of the parties hereto that this Sublease shall remain in full force and effect until duly terminated and shall not be deemed to have merged with the interest of Landlord created by virtue of any lien upon the Demised Premises or any other interest therein or any portion thereof held by Landlord.

**Section 13.9 Governing Law.** This Sublease shall be construed in accordance with and shall be governed by the laws of the State of California, without regard to any conflicts of laws principles.

**Section 13.10 Estoppel Certificate.** Landlord shall, without charge, at any time and from time to time, within ten (10) days after Tenant's request, certify by written instrument duly executed and acknowledged in recordable form and deliver to Tenant or to any leasehold mortgagee or assignee or any proposed mortgagee or assignee, or any other person interested in this Sublease specified by Tenant, such information about this Sublease as may be reasonably requested.

**Section 13.11 Rider A.** In the event of any conflict between the terms and conditions of this Sublease and the terms and conditions of Rider A attached hereto, the terms and conditions of Rider A shall govern and control.

**Section 13.12 Accessibility.** In accordance with California Civil Code Section 1938, Landlord hereby informs Tenant that as of the Effective Date, none of the buildings within the Demised Premises have been inspected by a Certified Access Specialist (as defined in California Civil Code section 55.52(3)). California Civil Code Section 1938(e) provides:

"A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

Tenant shall, at Tenant's sole cost and expense, pay the cost of any expenses relating to compliance with the Americans with Disabilities Act or California counterpart of same with respect to any and all improvements made by Tenant to the Demised Premises during the Term.

**Section 13.13 Further Assurances.** Each party hereto agrees to execute and deliver such other documents and instruments, and to take such other actions, as may commercially reasonably be required and which may be necessary to effectuate the agreements set forth in this Sublease; provided, however, that such additional documents, instruments or actions do not impose upon either party any obligations, duties, liabilities or responsibilities which are not expressly provided for in this Sublease.

**Section 13.14 Landlord and Tenant Representations.** Each person executing this Sublease on behalf of Landlord represents and warrants to Tenant that: (a) Landlord holds the leasehold interest under the Operating Lease in and to the real property of which the Demised Premises is a part and has full right and authority to enter into this Sublease and to perform all of Landlord's obligations under this Sublease; and (b) each person (and both persons if more than one signs) signing this Sublease on behalf of Landlord is duly and validly authorized to do so. Each person executing this Sublease on behalf of

Tenant represents and warrants to Landlord that: (i) Tenant has full right and authority to enter into this Sublease and to perform all of Tenant's obligations under this Sublease; and (ii) each person (and both persons if more than one signs) signing this Sublease on behalf of Tenant is duly and validly authorized to do so. Each party's execution, delivery, and performance under this Sublease does not: (y) except as to Landlord as expressly set forth in Section 13.21 below, require any consent or approval not heretofore obtained under any partnership agreement, operating agreement, articles of incorporation, bylaws or other organizational or formation document; or (z) conflict with, or constitute a breach or default or permit the acceleration of obligations under any agreement, contract, loan, lease, or other document by which Landlord, Association or Tenant is or the Demised Premises is bound or regulated.

**Section 13.15 Hazardous Materials.** For so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect, Tenant shall comply with all laws and regulations and all provisions of the Ground Lease, Operating Lease, and Leasehold Mortgage relating to the storage, use and disposal of any Hazardous Materials (as defined in Rider A) at the Demised Premises by Tenant. In no event shall Tenant be liable for any costs or expenses related to the removal, cleaning, abatement or remediation of Hazardous Materials existing in, at, on, under, about or adjacent to the Demised Premises prior to the Commencement Date and which are discovered by Tenant or any of its employees, agents or contractors during the Diligence Period (defined in Rider A hereto), it being acknowledged and agreed that in the event such pre-existing Hazardous Materials are discovered by Tenant or any of its employees, agents or contractors during the Diligence Period, unless such pre-existing Hazardous Materials constitute Pre-Existing Abatement Work (as defined in the immediately succeeding sentence, and of which Tenant shall have no responsibility therefor), Tenant may elect to abate the Hazardous Materials at its sole cost and expense or terminate this Sublease (with no obligation to abate same). Nothing in this Lease shall obligate Landlord to remove, clean, abate, or remediate any Hazardous Materials or other environmental condition of the Demised Premises; provided, however, Landlord, at Landlord's sole cost and expense, shall be solely responsible for completing during the Diligence Period that work set forth in that certain written Contract between Kern Construction and Landlord For Redwood Marine Terminal II Debris Pile Cleanup, dated December 18, 2018 ("Pre-existing Abatement Work"). Landlord shall be the sole responsible and reporting party to all Governmental Authorities in connection with the Pre-Existing Abatement Work and any "open cases" related thereto (including, without limitation, with the North Coast Regional Water Quality Control Board), and Landlord shall provide Notice to Tenant promptly following the determination by the Governmental Authorities that the Pre-Existing Abatement Work has been fully remedied and any such "open cases" related thereto have been closed, together with supporting documentation related thereto. In the event that the resolution and closure of any Pre-Existing Abatement Work requires the implementation of a soil, groundwater or other management or treatment plan thereafter, Tenant shall have the right to review and comment on same prior to its issuance and implementation. Tenant shall be expressly liable for, and shall indemnify and defend Landlord from and against any and all liabilities related to, any and all Hazardous Materials utilized by Tenant on the Demised Premises, including, but not limited to, Tenant's failure to comply with all laws and regulations and all provisions of the Ground Lease, Operating Lease, and Leasehold Mortgage relating to the storage, use and disposal of any Hazardous Materials (for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect). Landlord shall be expressly liable for, and shall indemnify and defend Tenant from and against any and all liabilities related to, (i) the Pre-Existing Abatement Work, and (ii) any and all Hazardous Materials utilized by Landlord on the Demised Premises, including, but not limited to, Landlord's failure to comply with all laws and regulations and all provisions of the Ground Lease, Operating Lease, and Leasehold Mortgage relating to the storage, use and disposal of any Hazardous Materials (for so long as the Leasehold Mortgage, Ground Lease and Operating Lease are in full force and effect).

**Section 13.16 Intentionally Omitted.**

**Section 13.17 Indemnity.** Tenant agrees to indemnify, defend (through counsel of the Landlord's choosing), and hold Landlord, and Landlord's employees, elected officials, agents and contractors harmless from all third-party liability, penalties, losses, damages, costs, expenses, causes of action, claims, or judgments arising by reason of any death, bodily injury, personal injury, or property damage resulting from: (i) any cause occurring in or about or resulting from an occurrence in or about the Demised Premises during the Option Period or Term and resulting from the use or occupancy of the Demised Premises by Tenant or its sub-tenants, assignees, employees, agents, or contractors, including, but not limited to, Tenant's storage, use and disposal of any Hazardous Materials therein or any violation by Tenant of any local, state, or federal law or regulation; (ii) the negligence or willful misconduct of Tenant or Tenant's agents, employees, or contractors, wherever it occurs, or (iii) a default by Tenant hereunder beyond the expiration of any applicable notice and cure period, except in each case to the extent caused by, arising by, or resulting from, the negligence or willful misconduct of Landlord or its employees, agents, or contractors. Landlord agrees to indemnify, defend (through counsel of the Tenant's choosing), and hold Tenant, and Tenant's employees, agents and contractors harmless from all third-party liability, penalties, losses, damages, costs, expenses, causes of action, claims, or judgments arising by reason of any death, bodily injury, personal injury, or property damage resulting from: (i) any cause occurring in or about or resulting from an occurrence in or about the Demised Premises during the Option Period or Term

and resulting from the use or occupancy of the Demised Premises by Landlord or its employees, agents, or contractors, including, but not limited to, Landlord's storage, use and disposal of any Hazardous Materials therein or any violation by Landlord of any local, state, or federal law or regulation; (ii) the negligence or willful misconduct of Landlord or Landlord's agents, employees, or contractors, wherever it occurs, or (iii) a default by Landlord hereunder beyond the expiration of any applicable notice and cure period, except in each case to the extent caused, arising by or resulting from the negligence or willful misconduct of Tenant or its employees, agents, or contractors. The provisions of this Section 13.17 shall survive the expiration or sooner termination of this Sublease.

**Section 13.18 Insurance.** Tenant shall, at Tenant's expense, obtain and keep in force during the Option Period and Term of this Sublease commercial general liability insurance, including property damage, against liability for bodily injury, personal injury, death, and damage to property occurring on the Demised Premises and arising out of the use thereof by Tenant or its agents, employees or contractors, with combined single limit coverage of at least \$1,000,000.00 per occurrence and a general aggregate combined single limit of bodily injury and property damage liability of at least \$2,000,000.00; that policy shall include contractual liability, insuring Tenant's performance of its indemnification obligations contained in this Sublease. The policy of insurance: (i) shall name Landlord and any other parties in interest that Landlord reasonably designates, which may include, without limitation, HBDA and the beneficiaries of the Leasehold Mortgage, as additional insureds; (ii) shall be primary insurance that provides that the insurer shall be liable for the full amount of the loss without the right of contribution from any other insurance coverage of Landlord; (iii) shall be in a form reasonably satisfactory to Landlord; (iv) shall be carried with companies reasonably acceptable to Landlord; (v) shall not have a "deductible" in excess of any amount reasonably approved by Landlord; (vi) shall contain a cross liability endorsement; and (vii) shall contain a "severability" clause. Within five (5) business days after Tenant has received notice from its insurer or otherwise has actual knowledge of any cancellation, lapse or change in its insurance policy, it shall provide Notice to Landlord of same. If Tenant has in full force a blanket policy of liability insurance with the same coverage for the Demised Premises as described in this Section 13.18, that blanket insurance shall satisfy the requirements of this Section 13.18, provided that the blanket policy specifically states the address of the Demised Premises as being covered. A copy of each policy evidencing the insurance required to be carried by Tenant pursuant to this Section 13.18 or a certificate of the insurer, which evidences the coverage required by this Section 13.18 and which contains the specified provisions, shall be delivered to Landlord prior to the time Tenant takes possession of the Demised Premises and upon renewal of those policies, not less than thirty (30) days prior to the expiration of the term of the coverage.

During the Term, Tenant, at Tenant's expense, shall maintain fire and property damage insurance in so-called special form coverage insuring Tenant (and such others as Landlord may designate upon Notice to Tenant) against loss from physical damage to Tenant's personal property, inventory, and trade fixtures, the electrical substation described in Section 5.2 of Rider A, and/or any Alterations made or constructed by Tenant to or within the Demised Premises with coverage of not less than one hundred percent (100%) of the full actual replacement cost thereof. Such fire and property damage insurance shall be written in so-called "all risk" form, excluding only those perils commonly excluded from such coverage by Tenant's then property damage insurer, and shall provide coverage for physical damage to the Tenant's improvements on the Land so insured for up to the entire full actual replacement cost thereof.

Landlord shall, at Landlord's expense, obtain and keep in force during the Option Period and Term commercial general liability insurance, including property damage, against liability for bodily injury, personal injury, death, and damage to property occurring on the Demised Premises and arising out of the use thereof by Landlord or its agents, employees or contractors, with combined single limit coverage of at least \$1,000,000.00 per occurrence and a general aggregate combined single limit of bodily injury and property damage liability of at least \$2,000,000.00. During the Option Period and Term, Landlord, at Landlord's expense, shall maintain fire and property damage insurance in so-called special form coverage insuring Landlord against loss from physical damage to Landlord's personal property, inventory, and trade fixtures within the Demised Premises (if any), and any improvements not made or constructed by Tenant (excepting the electrical substation described in Section 5.2 of Rider A but subject to reimbursement to Tenant for its insurance premiums related thereto as set forth therein) to or within the Demised Premises, with coverage of not less than one hundred percent (100%) of the full actual replacement cost thereof. Such fire and property damage insurance shall be written in so-called "all risk" form, excluding only those perils commonly excluded from such coverage by Landlord's property damage insurer, and shall provide coverage for physical damage to Landlord's improvements on the Land so insured for up to the entire full actual replacement cost thereof.

Notwithstanding any other language of this Sublease to the contrary, Landlord and Tenant each waive their respective rights to recover from the other for any and all loss of or damage to their respective property if such loss or damage is covered, or required by this Sublease to be covered, by a valid and collectible insurance policy. Each party shall obtain an endorsement acknowledging such waiver, if necessary, from their insurance company(s) evidencing compliance with this provision.

**Section 13.19 Holding Over.** At the end of the Term, or any extension thereof, if Tenant holds over for any reason, it is hereby agreed that in the absence of a written agreement to the contrary, that tenancy shall be from month-to-month only and not a renewal of this Sublease, nor an extension for any further term. In that case, Tenant shall pay Rent in an amount equal to the Rent payable immediately prior to the end of the Term or any extension, and the month-to-month tenancy shall be subject to every other term, covenant, and condition contained in this Sublease that is consistent with and not contrary to a month-to-month tenancy. Either party shall have the right to terminate such month-to-month tenancy on at least thirty (30) days' prior Notice.

**Section 13.20 Environmental Review.** Landlord has determined that the approval of this Sublease is exempt from the provisions of the California Environmental Quality Act ("CEQA"). Within five (5) business days following the Effective Date, and subject to prior review and approval by Tenant, Landlord shall file the Notice of Exemption with the Humboldt County Clerk, the State Office of Planning and Research, and/or any other applicable Governmental Authorities. Landlord shall provide Notice to Tenant promptly following the occurrence of the final approval or disapproval of the CEQA exemption, together with copies of all relevant documentation related thereto. In the event any claim, action, or proceeding is instituted against Landlord, and/or its officers, agents and employees, by any third party on account of the processing or approval of this CEQA exemption (including but not limited to any alleged defect in any environmental review and mitigation), Tenant shall defend, indemnify and hold harmless Landlord, and/or its officers, agents and employees from any such claim, action or proceeding. This obligation is limited to, the payment of all costs of defense, and any amounts awarded by the Court by way of damages or otherwise, including any reasonable attorney fees and court costs. Landlord may elect to participate in such litigation at its sole discretion and at its sole expense. Notwithstanding the foregoing to the contrary, in the event that any such claim, action, or proceeding is instituted, or Tenant would otherwise be obligated to defend, indemnify or hold harmless Landlord and/or its contractors, agents and employees, in lieu of any such obligation, Tenant shall have the right to terminate this Sublease upon Notice to Landlord, in which event Tenant shall have no obligations under this Section 13.20.

**Section 13.21 Ratification.** This Sublease shall have no force and effect until fully ratified and approved in accordance with law by the Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District, a California public entity, and by the beneficiaries of the Leasehold Mortgage as required by the provisions thereof. Landlord and Association shall diligently, and without delay, seek approval of this Sublease from the beneficiaries of the Leasehold Mortgage. Landlord shall provide Notice to Tenant promptly following its receipt of the approval of such beneficiaries; if Landlord does not provide Notice to Tenant of its receipt of such approval within ninety (90) days following the Effective Date, which ninety (90) day period may be extended by up to an additional sixty (60) days at Landlord's discretion upon Notice received by Tenant from Landlord prior to the expiration of such ninety (90) day period (and so long as Landlord is otherwise continuing to work diligently to obtain such approval), this Sublease shall, at Tenant's option upon Notice to Landlord prior to Tenant's receipt of Notice from Landlord of its receipt of such approval, thereupon be deemed terminated and of no further force or effect, and neither party shall have any further rights, obligations, or liabilities hereunder, except for those rights, obligations, or liabilities which expressly survive the expiration or earlier termination of this Sublease.

**Section 13.22 Ground Lease and Operating Lease.**

(a) Each of Landlord and Association represents and warrants to Tenant that (i) it has provided to Tenant a true and correct copy of the Ground Lease and the Operating Lease and there are no leases of the Land superior to the Ground Lease, (ii) there is no default by Landlord or Association under the Ground Lease or the Operating Lease, and (iii) this Sublease is permitted under the Ground Lease and Operating Lease, subject to approval of the beneficiaries of the Leasehold Mortgage as set forth in Section 13.21, above. So long as this Sublease is in effect, (A) Landlord and Association shall comply with the Ground Lease and the Operating Lease, subject to Tenant's compliance with its obligations under this Sublease, (B) neither Landlord nor Association shall exercise any rights to terminate the Ground Lease or Operating Lease, and (C) neither Landlord nor Association shall amend or modify the Ground Lease or Operating Lease or consent to any amendment or modification of the Ground Lease or Operating Lease in any manner which would adversely affect Tenant's rights under this Sublease or increase Tenant's obligations under this Sublease. Landlord will promptly notify Tenant of any default by Association under the Ground Lease or Operating Lease, Association will promptly notify Tenant of any default by Landlord under the Ground Lease or Operating Lease, and Landlord and Association will promptly deliver to Tenant a copy of any notice received from Association or Landlord, respectively, claiming a default by Landlord or Association, respectively, under the Ground Lease or Operating Lease. Tenant shall commit no act or use the Demised Premises in such a manner that would cause Landlord or Association to be in default under the Ground Lease, Operating Lease, or Leasehold Mortgage.

(b) In the event of a Master Lease Termination (as defined below) prior to the termination of this Sublease, Landlord (as to the Ground Lease) and Association (as to the Operating Lease), as applicable, will notify Tenant in writing of such event, and Landlord or Association, as applicable, agrees to continue this Sublease with the same force and effect as if Landlord or Association, as applicable, as landlord, and Tenant, as tenant, had entered into a lease as of the effective date of such Master Lease Termination for a term equal to the then unexpired Term of this Sublease and containing the same terms and conditions as those contained in this Sublease. In such event, Tenant shall attorn to Landlord or Association, as applicable, and Landlord or Association, as applicable, and Tenant shall have the same rights, obligations and remedies thereunder as were had by Landlord and Tenant hereunder prior to the effective date of such Master Lease Termination. Such lease between Landlord or Association, as applicable, and Tenant shall be deemed to include the right of Tenant to exercise any extension options set forth in this Sublease. As applicable, Landlord hereby agrees that in the event of a Master Lease Termination, Landlord shall immediately pay or transfer to Association any security deposit, Rent or other sums then held by Landlord under this Sublease.

(c) "Master Lease Termination" means any event, which by voluntary or involuntary act or by operation of law, might cause or permit the Association to be dissolved or the Ground Lease or the Operating Lease to be terminated, expired, be canceled, be foreclosed against, or otherwise come to an end, including, without limitation, (a) a default by Landlord or Association under the Ground Lease or Operating Lease or of any of the terms or provisions thereof; (b) foreclosure proceedings brought by the holder of any mortgage or deed of trust to which the Ground Lease or Operating Lease is subject; (c) the termination of Landlord's or Association's leasehold estate by dispossession proceeding or otherwise; and (d) a surrender by Association of the Premises (as defined in the Ground Lease) or a surrender by Landlord of the Leased Premises (as defined in the Operating Lease), in each case during the Option Period or Term of this Sublease. A "Master Lease Termination" does not include a termination of the Operating Lease or Ground Lease caused as a result of Tenant's default under this Sublease beyond the expiration of any applicable notice and cure periods.

(d) Each of Landlord and Association agrees that in any case where the rights conferred upon Tenant in this Sublease require the approval or consent of Landlord or Association, prior to taking of any action, Landlord and Association, as applicable, shall use commercially reasonable good faith efforts to obtain the approval or consent of Association and Landlord, respectively. Each of Landlord and Association agrees that in any case where the rights conferred upon Tenant in this Sublease require the approval or consent of the beneficiaries of the Leasehold Mortgage, or any future mortgagee or beneficiary, Landlord and Association shall use commercially reasonable good faith efforts to obtain the approval or consent of the beneficiaries of the Leasehold Mortgage, or any future mortgagee or beneficiary, as the case may be.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Sublease as of the day and year first above written.


LANDLORD:

HUMBOLDT BAY HARBOR, RECREATION AND  
CONSERVATION DISTRICT

By:   
Name: Greg Dale  
Title: President, Board of Commissioners

TENANT:

CALIFORNIA MARINE INVESTMENTS LLC,  
a Delaware limited liability company

By:   
Name: Erik Heim  
Title: President

Association hereby executes this Sublease as of the day and year first above written solely with respect to Sections 3.3, 11.4, 13.21 and 13.22 above, and Section 5.8 of Rider A below:

ASSOCIATION:

HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.

By:   
Name: Richard Marks  
Title: President



## **Rider A**

### **ARTICLE ONE**

#### **Conditions to Sublease**

**Section 1.1** Landlord shall deliver, and Tenant shall accept, possession of the Demised Premises upon the fulfillment of each of the conditions set forth in items (a) – (f) below (collectively, the “Conditions”) to the satisfaction of Tenant, in Tenant’s sole discretion (the “Commencement Date”). If at any time prior to the Commencement Date, any Conditions remain unfulfilled, Tenant shall have the right in Tenant’s sole discretion to waive any such unfulfilled Conditions by written Notice to Landlord and take possession of the Demised Premises, whereupon the Commencement Date shall be deemed to have occurred. Upon the occurrence of the Commencement Date, Landlord and Tenant shall execute a written instrument stating the date thereof and the expiration date of the Term. Notwithstanding the foregoing or anything else to the contrary, Tenant shall have no obligation to accept possession of the Demised Premises unless the Conditions have been fulfilled to Tenant’s satisfaction, in Tenant’s sole discretion.

(a) The Diligence Period (as defined below) shall have expired and Tenant shall not have terminated the Sublease in accordance with Section 2.6 below.

(b) The Permit Application Period (as defined below) shall have expired and Tenant shall not have terminated the Sublease in accordance with Section 3.3 below.

(c) The Option Period (as defined below) shall have expired and Tenant shall not have terminated the Sublease in accordance with Section 4.1 below; provided, however, if all Discretionary Governmental Approvals (as defined below) have been issued to Tenant, unless Tenant elects to terminate the Sublease within forty-five (45) days following its receipt of the last of such Discretionary Governmental Approvals, Conditions (a) and (b) above, and this Condition (c), shall be deemed satisfied and, upon such satisfaction of Conditions (a) and (b) above, and this Condition (c), the Commencement Date shall be deemed to have occurred, provided that Conditions (d), (e) and (f), below, have been previously satisfied.

(d) Landlord shall have obtained and delivered to Tenant the approval and/or endorsement of the Commission as described in Section 5.1 below.

(e) Tenant shall have received the executed SNDAs from such lessors and beneficiaries as described in Section 11.4 of the Sublease.

(f) Landlord shall have obtained the approval of the beneficiaries of the Leasehold Mortgage as described in Section 13.21 of the Sublease.

### **ARTICLE TWO**

#### **Due Diligence**

**Section 2.1** Commencing on the Effective Date and continuing for a period of 180 days thereafter, unless further extended by Tenant as hereinafter provided or until the Sublease is earlier terminated (as may be extended or earlier terminated, the “Diligence Period”), Tenant and its employees, agents and representatives (together with the equipment or machinery of any such party) shall have a license for access to the Demised Premises at all reasonable times for the purpose of conducting inspections and tests of the Demised Premises, including, without limitation, surveys, architectural, engineering, water quality and capacity, geo-technical, environmental and hydrogeological inspections and tests (including test pits, sampling, borings and drilling), and any other due diligence investigations, tests or analyses that Tenant may deem necessary or desirable for Tenant’s development, use and operation of the Project (collectively, the “Due Diligence”); provided that all such Due Diligence shall be conducted by Tenant in compliance with Tenant’s responsibilities set forth in Section 2.2 below. Such license shall include the right of Tenant and its employees, agents and representatives to remove trees, construct roads and alter terrain (collectively, “Terrain Work”) to accommodate any equipment or machinery of such party. If after the expiration of the Diligence Period, Tenant has been unable to complete any Due Diligence to Tenant’s satisfaction, Tenant shall have the right to extend the Diligence Period for up to two (2) additional 90-day periods, in each case by written Notice to Landlord prior to the expiration of the then-current Diligence Period; provided, however, that any extension of the Diligence Period shall not operate to extend the Option Period defined in Section 4.1, below.

**Section 2.2** In conducting any Due Diligence of the Demised Premises, Tenant and its employees, agents and representatives shall: (i) comply with all applicable laws; (ii) promptly pay when due the costs of all Due Diligence done with regard to the Demised Premises; (iii) not permit any liens to attach to the Demised Premises by reason of the exercise of its

rights hereunder; and (iv) promptly repair any damage to the Demised Premises and restore any areas disturbed resulting directly from any Due Diligence substantially to their condition prior to the performance of such Due Diligence.

**Section 2.3** Except for Landlord's negligence, gross negligence or willful misconduct or any matter arising from the mere discovery of a pre-existing condition at the Demised Premises (including, without limitation, any Pre-Existing Condition), Tenant hereby agrees to indemnify, defend (through counsel of Landlord's choosing) and hold Landlord harmless from, all third-party claims, liabilities, damages, losses, costs, expenses (including, without limitation, reasonable attorneys' fees), actions and causes of action arising out of personal injury and/or property damage caused by or arising from any entry onto the Demised Premises by, or any Due Diligence performed by, Tenant, its employees, agents and/or representatives. The provisions of this Section 2.3 shall survive the termination of the Sublease.

**Section 2.4** During the Diligence Period, Tenant shall obtain and maintain, at its expense: (i) statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than \$1,000,000.00, which insurance must contain a waiver of subrogation; (ii) Commercial General Liability coverage with available limits of not less than \$2,000,000.00 in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Sublease; (iii) business automobile liability insurance with available limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence; and (iv) such other insurance as Landlord may reasonably require. Such policy(ies) shall provide primary (and not merely contributory coverage) to Landlord and shall name Landlord and any other parties in interest that Landlord reasonably designates as additional insureds. Prior to any access to the Demised Premises as described in Section 2.1 above, Tenant shall provide Landlord with a certificate(s) of insurance evidencing such insurance policies.

**Section 2.5** In order to facilitate Tenant's Due Diligence, Landlord will promptly, but in any event no later than ten (10) days after the Effective Date, supply Tenant with any and all information relating to the Demised Premises (including, without limitation, title information, surveys, environmental tests, studies and reports, engineering studies, tax bills, legal notices, permits, approvals and such other information as Tenant may reasonably request) in Landlord's possession or under Landlord's control. Additionally, upon Tenant's request from time to time, Landlord shall promptly thereafter make available to Tenant its engineers, planners and other staff to assist Tenant in its evaluation of the Demised Premises, including, without limitation, the environmental condition of same.

**Section 2.6** Tenant may, for any reason or for no reason, terminate this Sublease at any time prior to the expiration of the Diligence Period upon delivery of Notice to Landlord, whereupon all obligations of the parties hereto shall cease and the Sublease shall be terminated and the parties shall have no further rights or obligations under the Sublease, other than those that are expressly stated to survive the expiration or termination of the Sublease.

### **ARTICLE THREE**

#### **Permit Application**

**Section 3.1** From and after the Effective Date until March 30, 2020, unless further extended by Tenant as hereinafter provided or until the Sublease is earlier terminated (as may be extended or earlier terminated, the "Permit Application Period"), Tenant shall have the right to apply for any Governmental Approvals from any Governmental Authorities necessary or desirable for the development, use and operation of the Project. The process, sequence and schedule for pursuing the Governmental Approvals shall be determined by Tenant; provided that Tenant shall, in Tenant's good faith reasonable business judgment, commence pursuit of the Governmental Approvals and file the necessary applications therefor as soon as reasonably practicable.

**Section 3.2** If prior to the expiration of the Permit Application Period, Tenant is subject to delays in applying for Governmental Approvals, Tenant shall have the right to extend the Permit Application Period for one (1) ninety (90) day period, by delivery of written Notice to Landlord on or before March 30, 2020; provided, however, that the extension shall not operate to extend the Option Period defined in Section 4.1, below.

**Section 3.3** If, after having used commercially reasonable efforts to do so, Tenant is unable to apply for any Governmental Approvals from any Governmental Authorities prior to the expiration of the Permit Application Period, then Tenant may terminate the Sublease by Notice to Landlord prior to the expiration of the Permit Application Period, whereupon all obligations of the parties hereto shall cease and the Sublease shall be terminated and the parties shall have no further rights or obligations under the Sublease, other than those that are expressly stated to survive the expiration or termination of the Sublease. For the purposes hereof, commercially reasonable efforts shall not require Tenant to continue its permit application efforts if Tenant determines in its good faith reasonable business judgment that any Governmental

Approvals for the Project cannot reasonably be obtained on terms which make the Project feasible. For the purposes hereof, "obtained" shall mean the applicable Governmental Approval has been issued in final form, with terms and conditions acceptable to Tenant in its sole discretion (including any offsite requirements), and all applicable appeal periods have expired without an appeal having been filed or any such appeal has been finally resolved to Tenant's satisfaction.

**Section 3.4** It shall be Tenant's responsibility to obtain, and to pay for, all Governmental Approvals necessary or desirable for the development, use and operation of the Project. Landlord shall cooperate with Tenant as reasonably necessary (including signing applications in a timely manner) to apply for and obtain such Governmental Approvals; provided that Tenant shall promptly reimburse Landlord for all reasonable costs incurred by Landlord in connection with Landlord's cooperation.

## **ARTICLE FOUR**

### **Option Period**

**Section 4.1** From and after the Effective Date until the last day of the thirty-sixth (36th) full calendar month following the Effective Date, unless further extended by Tenant as hereinafter provided or until the Sublease is earlier terminated (as may be extended or earlier terminated, the "Option Period"), Tenant shall have the right to diligently pursue all final, unappealable Governmental Approvals from any Governmental Authorities necessary or desirable for the development, use and operation of the Project. For purposes of this Section 4.1, "Discretionary Governmental Approvals" shall mean (i) a final, unappealable Coastal Development Permit issued to Tenant by the California Coastal Commission authorizing Tenant to develop the Demised Premises for the Project, (ii) a final, unappealable discharge permit(s) issued to Tenant by the appropriate Government Authorities authorizing Tenant to discharge up to six (6) million gallons per day through the ocean outfall pipe (as described in Section 5.1 below), and (iii) any other final, unappealable discretionary (as opposed to ministerial) Governmental Approvals determined by Tenant to be necessary for the development, use and operation of the Project of which Tenant becomes aware during the Option Period (in which case Tenant shall provide Notice to Landlord of such additional discretionary Governmental Approvals, which discretionary Governmental Approvals shall thereafter be deemed Discretionary Governmental Approvals). For purposes of the immediately preceding sentence, a Governmental Approval shall be deemed "ministerial" if the issuance of the Governmental Approval in question is not subject to the discretion of the applicable Governmental Authority (i.e., the Governmental Authority is required to issue the Governmental Approval provided that it receives any required payment and documentation, which documentation is not subject to discretionary review). If, after having used commercially reasonable efforts to do so, Tenant has not obtained the Discretionary Governmental Approvals from the Governmental Authorities prior to the expiration of the Option Period, then Tenant may terminate the Sublease by Notice to Landlord prior to the expiration of the Option Period, whereupon all obligations of the parties hereto shall cease and the Sublease shall be terminated and the parties shall have no further rights or obligations under the Sublease, other than those that are expressly stated to survive the expiration or termination of the Sublease. For the purposes hereof, commercially reasonable efforts shall not require Tenant to continue its permitting efforts if Tenant determines in its good faith reasonable business judgment that all Discretionary Governmental Approvals for the Project cannot reasonably be obtained on terms which make the Project feasible. For the purposes of this Section 4.1, "obtained" shall mean the applicable Discretionary Governmental Approval has been issued in final form, with terms and conditions acceptable to Tenant in its sole discretion (including any offsite requirements), and all applicable appeal periods have expired without an appeal having been filed or any such appeal has been finally resolved to Tenant's satisfaction. If prior to the expiration of the Option Period, Tenant is unable to obtain the Discretionary Governmental Approvals from any Governmental Authorities necessary to Tenant for the development, use and operation of the Project, and such delay is outside of the reasonable control of Tenant to remedy (it being acknowledged and agreed that payment of any amount required to be paid by Tenant shall not be deemed a delay outside of the reasonable control of Tenant to remedy), Tenant shall have the right to extend the Option Period for one (1) one hundred eighty (180) day period, by delivery of Notice to Landlord on or before the expiration of the Option Period. Notwithstanding the foregoing to the contrary, if Tenant is diligently pursuing or defending any legal appeals of the Governmental Approvals, the Option Period shall toll until the final resolution of such appeals, not to exceed one (1) year from the last day of the thirty-sixth (36th) full calendar month following the Effective Date. For the avoidance of doubt, Tenant shall have the right, but not the obligation (unless required by law for the proposed use), to apply for any Governmental Approvals following the expiration of the Permit Application Period.

**Section 4.2** From and after the Effective Date until the expiration of the Option Period or any earlier termination of the Sublease, Tenant covenants and agrees to pay to Landlord Twenty Thousand Dollars (\$20,000) (the "Option Fee"), in annual installments, with the first such installment due and payable within ten (10) business days following the Effective

Date and each subsequent installment due and payable on or before each anniversary of the Effective Date thereafter, including any extension of the Option Period pursuant to Section 4.1, above. In the event that the Term commences such that the Option Period ends on a day other than the anniversary of the Effective Date, the Option Fee for such portion of such twelve (12) month period shall be prorated based on the number of days in such twelve (12) month period, and Landlord shall credit against the first monthly installment of Annual Rent any overpayment of the Option Fee. If the Sublease is terminated at the end of the Option Period (i.e., the Term does not commence), and the Option Period ends on a day other than the anniversary of the Effective Date, the Option Fee for such partial year of the Option Period shall not be prorated or reimbursed to Tenant. The Option Fee has been bargained for and agreed to as separate and independent consideration for Tenant's option to sublease the Demised Premises, it is fully earned by Landlord upon its receipt thereof, and it is non-refundable under any circumstance, including the early termination of the Sublease or upon the Commencement Date, whenever it may occur. The Option Fee shall be paid at the address of Landlord set forth in Section 13.2 of the Sublease, or at such other place as Landlord may designate by Notice to Tenant.

## **ARTICLE FIVE**

### **Additional Use Areas and Rights**

**Section 5.1** Landlord hereby grants to Tenant the non-exclusive right throughout the Term to access and use Landlord's ocean outfall pipe as identified and depicted on Exhibit B to discharge up to six (6) million gallons per day of the more than thirty (30) million gallons per day capacity of such pipe. Prior to any discharge, Tenant shall, at its sole cost and expense, apply for and obtain all required discharge permits and comply at all times with the terms of said permits and the terms of the master discharge permit held by Landlord, a true and correct copy of which has been provided to Tenant prior to the Effective Date. Notwithstanding the foregoing, Tenant understands and agrees that Landlord's right to grant to Tenant a non-exclusive right to access and use Landlord's ocean outfall pipe is subject to the terms and conditions of Landlord's lease (the "Pipe Lease") with the California State Lands Commission (the "Commission") last executed on August 11, 2015, including the term of the Pipe Lease, which is currently set to expire on August 13, 2038. Landlord will use best efforts to obtain an extension of said term, but Landlord provides no warranty that said term will be extended. In the event that said term is not extended, Landlord shall provide Notice to Tenant of same within ten (10) business days following the determination that said term will not be extended, and Tenant shall thereafter have the right to terminate the Sublease within ninety (90) days following receipt of such Notice. Prior to the Commencement Date, Landlord shall, at its sole cost and expense, obtain the written approval and/or endorsement of the Commission to expressly approve the access and use rights granted to Tenant in this Section 5.1 and provide to Tenant a copy of such approval and/or endorsement upon Landlord's receipt thereof. Landlord agrees that in any case where the rights conferred upon Tenant in this Section 5.1 require the approval or consent of the Commission prior to taking of any action, Landlord shall use commercially reasonable good faith efforts to obtain the approval or consent of the Commission. Landlord represents and warrants to Tenant that (i) it has provided to Tenant a true and correct copy of the Pipe Lease, and (ii) there is no default by Landlord or the Commission under the Pipe Lease. So long as this Sublease is in effect, (A) Landlord shall comply with the Pipe Lease, subject to Tenant's compliance with its obligations under this Sublease, (B) Landlord shall not exercise any rights to terminate the Pipe Lease, and (C) Landlord shall not amend or modify the Pipe Lease or consent to any amendment or modification of the Pipe Lease in any manner which would adversely affect Tenant's rights under this Sublease or increase Tenant's obligations under this Sublease, except to the extent any modification or amendment to the Pipe Lease is (i) required by the terms of the Pipe Lease or (ii) required by changes in applicable California law or regulation, including without limitation any regulatory change imposed by or governing the California State Lands Commission. Landlord will promptly notify Tenant of any default by Landlord or the Commission under the Pipe Lease and Landlord will promptly deliver to Tenant a copy of any notice received by Landlord claiming a default by Landlord under the Pipe Lease. In the event the Pipe Lease is terminated, expired, canceled, foreclosed against, or otherwise comes to an end for any reason or no reason prior to the termination of the Sublease, Landlord will provide Notice to Tenant of such event within ten (10) business days of such event, and Tenant shall have the right within ninety (90) days following receipt of such Notice to terminate the Sublease. If Tenant elects to terminate the Sublease for any reason set forth in this Section 5.1, notwithstanding Section 8.3 of the Sublease to the contrary, Tenant shall not be required to remove any and all improvements constructed by Tenant at the Demised Premises. The cost of such use by Tenant of Landlord's ocean outfall pipe shall be determined by a rate study prepared by Landlord, which rate study shall be completed by Landlord and provided to Tenant within ninety (90) days after the Effective Date, provided that the cost shall not exceed the cost generally assessed to other users of such pipe (proportionate to the amount of discharge, if and as applicable) and shall be without the imposition of a markup or other administrative charge. Not more frequently than one (1) time in any consecutive sixty (60) month period, the rate charged to Tenant may be subject to adjustment to reflect the then-current fair market use rate as determined by a further rate study, which rate study shall be completed by Landlord and provided to Tenant, provided that the cost shall not exceed the cost generally assessed to other

users of such pipe (proportionate to the amount of discharge, if and as applicable) and shall be without the imposition of a markup or other administrative charge. In connection with any discharge by Tenant into such pipe, Tenant shall receive and remain in compliance with any required Governmental Approvals pertaining to its use of same. Tenant shall obtain Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed, as to the location of any infrastructure required to be installed to connect to the ocean outfall pipe. So long as the following does not unreasonably interfere with Tenant's right to discharge up to six (6) million gallons per day through the outfall pipe and is otherwise in compliance with the Pipe Lease, Landlord retains the right in its sole and absolute discretion to grant third parties the rights to discharge through the outfall pipe.

**Section 5.2** Landlord hereby grants to Tenant the right throughout the Term to access and use Landlord's electric substation as identified and depicted on Exhibit B for up to eighteen (18) of the twenty (20) megawatts of same currently available to Landlord. The cost of such use by Tenant shall be Five Hundred Thousand Dollars (\$500,000.00), payable to Landlord, in advance, within thirty (30) days following the Commencement Date. Tenant shall be responsible for providing its own power to such substation and, to the extent power is supplied to the electrical substation by any public or private utility company, Tenant shall be directly responsible for paying any and all charges imposed by the utility company. In the event Tenant elects to lease the real property described as "Option 2" in Exhibit A (defined below), Tenant shall provide Landlord, its employees, agents, and contractors, the unobstructed right of access to the electrical substation so that Landlord can make full use of those megawatts reserved unto itself herein. Tenant shall insure (as described in the Sublease) and keep the electrical substation in good condition and repair throughout the Term of the Sublease, provided that Landlord and/or any third party user of the electrical substation shall be responsible for its proportionate share of such insurance, repair and maintenance costs based on the megawatts reserved and actually used during the preceding six (6) month period by Landlord and/or any third party user, as the case may be. Either Landlord or Tenant may, upon prior Notice to the other party and at the electing party's sole cost and expense and for its own use, increase the megawatt capacity of the electrical substation by installing additional transformers, provided that any such increase shall not result in any interruption in service to, or unreasonable interference with, the other party's use. Neither party may decrease the megawatt capacity of the electrical substation below twenty (20) megawatts without the other party's prior written consent in its sole and absolute discretion.

**Section 5.3** Landlord hereby grants to Tenant the non-exclusive right throughout the Term to access and use Landlord's dock as identified and depicted on Exhibit B. The dockage, moorage, wharfage, and other fees to use such dock shall be the tariffs of same established by the Commissioners of Landlord, as such tariffs may be amended from time to time in accordance with Landlord's ordinances, provided that any such tariffs charged to Tenant shall be imposed on a reasonable, uniform and non-discriminatory basis and shall not exceed the tariffs charged to any other third party users of such dock (on a proportionate basis, if and as applicable).

**Section 5.4** Provided Tenant provides written Notice to Landlord on or before the Commencement Date of its intention to use the salt water well, Landlord hereby grants to Tenant the non-exclusive right throughout the Term to access and use Landlord's salt water well as identified and depicted on Exhibit B. Pursuant to Section 8.1 of the Sublease, Tenant may install additional salt water wells at the Demised Premises, provided that Tenant receives and remains in compliance with any required Governmental Approvals pertaining to its use of same. In the event Tenant elects not to use the salt water well, Landlord shall retain all right to access, use, maintain, and repair the salt water well throughout the Term; provided, however, notwithstanding the foregoing to the contrary, at Tenant's discretion upon prior Notice to Landlord but without Landlord's consent, Tenant shall have the right during the Term, at its sole cost and expense, to construct over or otherwise alter or remove the salt water well in connection with its use, development and operation of the Project.

**Section 5.5** Landlord hereby grants to Tenant the exclusive right throughout the Term, in Tenant's sole discretion, to use, alter, relocate or remove any utility, water and/or fire suppression lines at the Demised Premises provided that there is no interruption of utility, fire suppression or water service to Landlord or any of its property. In the event that any of such lines serve any of Landlord's buildings located outside of the Demised Premises, and Tenant elects to remove any of such lines serving such buildings, Tenant shall be required to install a new ten inch (10") line in a location mutually and reasonably agreed upon by Landlord and Tenant, if and to the extent then required by any applicable fire authorities.

**Section 5.6** Landlord hereby grants to Tenant the non-exclusive right throughout the Term to access and use, at no additional cost or expense to Tenant, Landlord's septic tank and leach field as identified and depicted on Exhibit A so long as Tenant shall receive and remain in compliance with any required Governmental Approvals pertaining to its use of same. Tenant, at Tenant's sole discretion, may abandon its use of such septic tank and leach field, provided that Tenant has

previously, or concurrently therewith, connects into the proposed future Samoa Wastewater Treatment Plant (or alternative sewage system in compliance with law), at Tenant's sole cost and expense. Subject to the terms and conditions of the Sublease, and provided that Landlord does not unreasonably interfere with or delay Tenant or any of its agents, employees or contractors in the use, development and operation of the Project, at all times during the Term, Landlord shall have the right to access, use, repair, or maintain the existing septic tank and leach field (for so long as such leach field remains in place) on the Demised Premises.

**Section 5.7** Landlord hereby grants to Tenant the non-exclusive right throughout the Term to access and use Landlord's "sea chest" as identified and depicted on Exhibit B, so long as Tenant shall receive and remain in compliance with any required Governmental Approvals pertaining to its use of same. Tenant shall have the right to use at least 3,000 gallons per minutes of the 5,500 gallons per minutes capacity of such "sea chest." In connection with such use by Tenant, Landlord shall grant to Tenant a utility corridor in an area reasonably agreed upon by Landlord and Tenant to and from the "sea chest" and to and from the Demised Premises. Tenant, at Tenant's sole cost and expense, shall have the right to install, operate and maintain any wiring, piping and associated infrastructure in connection with its use of the "sea chest," including, without limitation, the right to reconfigure any existing wiring and piping to accommodate Tenant's use. The cost of such use by Tenant shall be the applicable tariff adopted by the Commissioners of Landlord, as such tariff may be amended from time to time in accordance with Landlord's ordinances, provided that any such tariff charged to Tenant shall be imposed on a reasonable, uniform and non-discriminatory basis and shall not exceed the tariff charged to any other third party users of such "sea chest" (on a proportionate basis, if and as applicable).

**Section 5.8** For each of the foregoing rights granted to Tenant in this Section 5, to the extent that any of the same involves access or use rights which are located or exist outside of the Demised Premises, on or before the Commencement Date, and provided Landlord and/or the Association obtains the required approvals under the Leasehold Mortgage, Ground Lease, and Operating Lease, as applicable (which Landlord and/or the Association shall use commercially reasonable good faith efforts to obtain), Landlord and Tenant shall execute, acknowledge and deliver a recordable easement(s) for the duration of the Term on a form reasonably acceptable to Landlord and Tenant to evidence such rights during the Term. Either party shall be entitled to record the same.

## **ARTICLE SIX**

### **Land**

**Section 6.1** Upon written Notice by Tenant to Landlord on or before the expiration of the Option Period, Tenant shall, in addition to the "Lease Area" identified and depicted in Exhibit A, at Tenant's sole discretion, elect to sublease the following additional real property: (i) the real property identified and depicted as "Option 1" on Exhibit A; and/or (ii) the real property identified and depicted as "Option 2" on Exhibit A; and/or (iii) the real property identified and depicted as "Option #3" on Exhibit A. Upon such election, the real property so elected to be subleased by Tenant shall be deemed the "Demised Premises" or "Land" under the Sublease. Within ten (10) business days following such election by Tenant, Landlord and Tenant shall execute and deliver a written instrument to confirm such election and make any conforming changes to the Sublease to evidence same. In the event Tenant elects to sublease the real property identified and depicted as "Option 3" on Exhibit A, Tenant shall not obstruct, prevent, or otherwise hinder the use of the public right of way known as Vance Avenue, as such public right of way is shown on Exhibit A.

**Section 6.2** On and after the Commencement Date, and subject to the terms and conditions of Section 4.1 of the Sublease, Tenant shall pay Annual Rent to Landlord for the Demised Premises elected to be subleased by Tenant pursuant to Section 6.1 of this Rider A. The Annual Rent rate for the real property identified and depicted as "Lease Area" on Exhibit A shall be One Hundred and Fifty Nine Thousand One Hundred and Twenty Eight Dollars (\$159,128.00) per annum. Subject to Tenant's election pursuant to Section 6.1, above, Tenant shall pay the following Annual Rent per annum for each option area: (i) Seventeen Thousand Seven Hundred and Twenty One Dollars (\$17,721.00) for the real property identified and depicted as "Option 1" on Exhibit A; (ii) Eight Thousand Two Hundred and Seventeen Dollars (\$8,217.00) for the real property identified and depicted as "Option 2" on Exhibit A; and (iii) Twelve Thousand Four Hundred and Twenty Dollars (\$12,420.00) for the real property identified and depicted as "Option 3" on Exhibit A. For purposes of example only, if Tenant elects to sublease that real property identified and depicted as "Option 1" and "Option 3" on Exhibit A, the Annual Rent per annum shall equal \$189,269.00 (i.e., \$159,128.00 plus \$17,721.00 plus \$12,420.00). The foregoing Annual Rent amounts for each option are based on a rate of Five Hundred Dollars (\$500) per acre per month, and such amounts are subject to re-measurement by Landlord and Tenant and re-confirmation by the Parties prior to the Commencement Date. In the written instrument to be executed by the Parties pursuant to Section 1.1 of this Rider A to confirm the Commencement Date

and the expiration date of the Term, the Parties shall also re-confirm the Annual Rent amounts for the first Lease Year of the Term.

**Section 6.3** In the event that Tenant elects to sublease "Option 1" and/or "Option 2" as identified and depicted on Exhibit A, within ninety (90) days following the Commencement Date, Tenant shall elect to either (i) permit Landlord and third parties to retain access over the "Road" identified in Exhibit B for access to that portion of the legal parcel outside of the Demised Premises, (ii) commence the construction, at Tenant's sole cost and expense for the benefit of Landlord, of the 50 foot wide access road realignment depicted in Exhibit B (which road shall be constructed by a licensed and qualified contractor and properly permitted by any necessary Government Authorities and Tenant shall use diligent efforts to complete as soon as reasonably possible), or (iii) have Landlord construct, for the benefit of Landlord, the 50 foot wide access road realignment depicted in Exhibit B (which road shall be constructed by a licensed and qualified contractor and properly permitted by any necessary Government Authorities and Landlord shall use diligent efforts to complete as soon as reasonably possible). If Tenant elects item (iii) above, Tenant shall reimburse Landlord for the actual, reasonable costs incurred by Landlord to construct same within thirty (30) days after receipt of Notice from Landlord together with a reasonable substantiation of the costs so incurred. If Tenant elects item (ii) or (iii) above, Tenant shall permit Landlord and third parties access over the "Road" identified in Exhibit B for access to that portion of the legal parcel outside of the Demised Premises until the construction of the alternative access road is complete.

## **ARTICLE SEVEN**

### **Hazardous Materials**

**Section 7.1** As used herein, the term "Hazardous Materials" shall mean any toxic or hazardous substance, material or waste or any pollutant or infectious or radioactive material, including but not limited to those substances, materials or wastes regulated now or in the future under any of the following statutes or regulations and any and all of those substances included within the definitions of "hazardous substances," "hazardous materials," "hazardous waste," "hazardous chemical substance or mixture," "imminently hazardous chemical substance or mixture," "toxic substances," "hazardous air pollutant," "toxic pollutant," or "solid waste" in the (a) Comprehensive Environmental Response, Compensation and Liability Act of 1990 ("CERCLA" or "Superfund"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. § 9601 et seq., (b) Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. § 6901 et seq., (c) Federal Water Pollution Control Act ("FSPCA"), 33 U.S.C. § 1251 et seq., (d) Clean Air Act ("CAA"), 42 U.S.C. § 7401 et seq., (e) Toxic Substances Control Act ("TSCA"), 14 U.S.C. § 2601 et seq., (f) Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., (g) Carpenter-Presley-Tanner Hazardous Substance Account Act ("California Superfund"), Cal. Health & Safety Code § 25300 et seq., (h) California Hazardous Waste Control Act, Cal. Health & Safety code § 25100 et seq., (i) Porter-Cologne Water Quality Control Act ("Porter-Cologne Act"), Cal. Water Code § 13000 et seq., (j) Hazardous Waste Disposal Land Use Law, Cal. Health & Safety codes § 25220 et seq., (k) Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety code § 25249.5 et seq., (l) Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety code § 25280 et seq., (m) Air Resources Law, Cal. Health & Safety Code § 39000 et seq., and (n) regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules. Hazardous Materials shall also mean any and all other biohazardous wastes and substances, materials and wastes which are, or in the future become, regulated under applicable laws for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including, without limitation, (i) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents, (ii) any petroleum products or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls, (v) flammable explosives, (vi) urea formaldehyde, (vii) radioactive materials and waste, and (viii) materials and wastes that are harmful to or may threaten human health, ecology or the environment.

**EXHIBIT A**





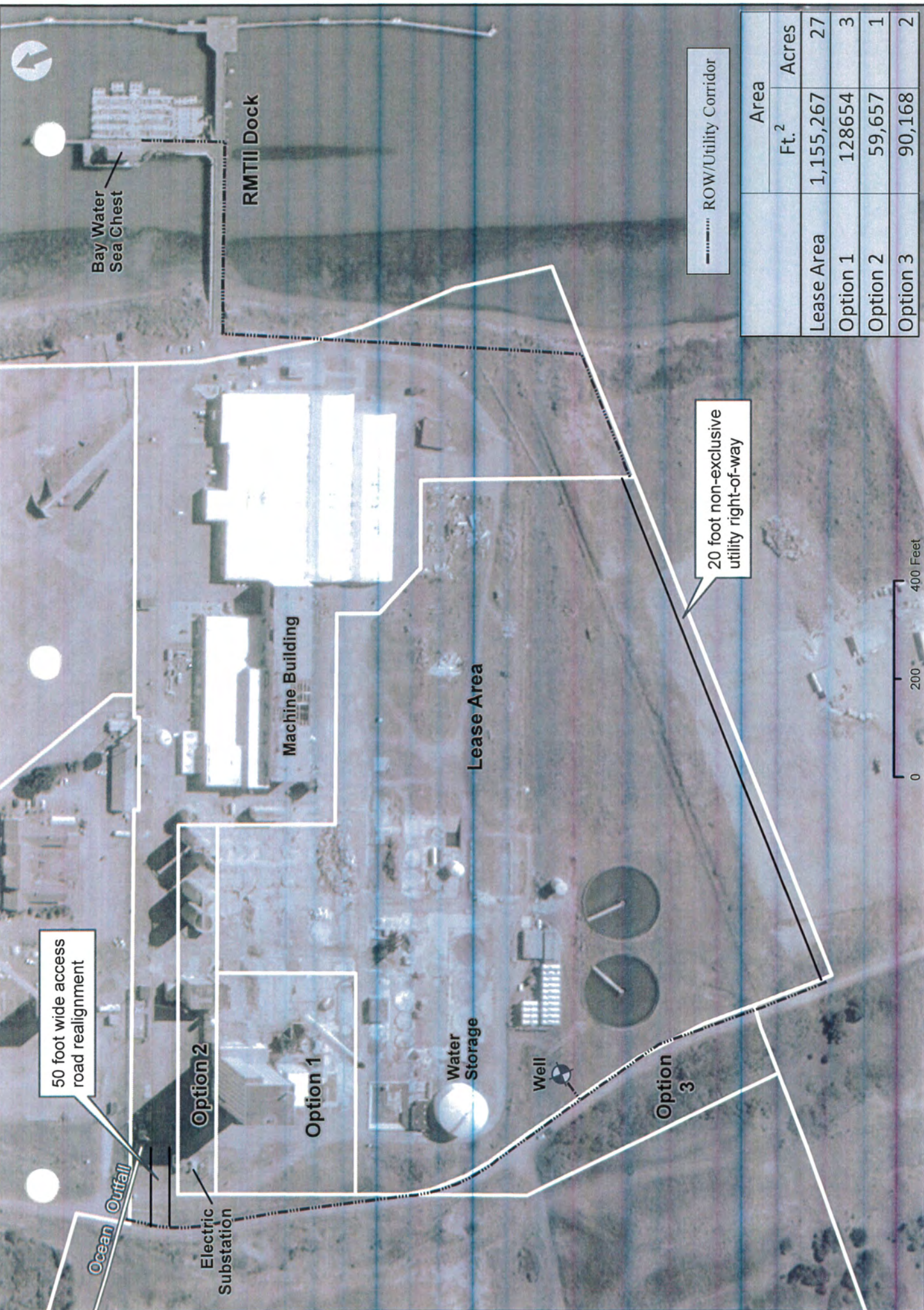
Note: Dimensions are approximate and not surveyed.

	Area	
	Ft. <sup>2</sup>	Acres
Lease Area	1,155,267	27
Option 1	128654	3
Option 2	59,657	1
Option 3	90,168	2



**EXHIBIT B**





ROW/Utility Corridor

20 foot non-exclusive utility right-of-way

	Area	
	Ft. <sup>2</sup>	Acres
Lease Area	1,155,267	27
Option 1	128654	3
Option 2	59,657	1
Option 3	90,168	2

**EXHIBIT C**



## GROUND LEASE

THIS GROUND LEASE (hereinafter the "Lease") is entered into as of March 9, 2016 (the "Lease Commencement Date") between HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, a California public entity whose address is 601 Startare, Eureka, California 95502 (hereinafter the "Landlord"), and HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC., a California nonprofit public benefit corporation, whose address is P.O. Box 1030, Eureka, California 95501 (hereinafter the "Tenant").

### RECITALS

A. Landlord owns the fee simple interest in two (2) parcels of land, all located in Samoa, California, as more particularly described in Exhibit A attached hereto and in the improvements located thereon (together with any and all rights, privileges, and advantages belonging thereto, the "Premises").

B. Tenant desires to lease the Premises from Landlord pursuant to the terms of this Lease, and to hold, maintain, operate, and assign or sublease its leasehold interest in the Premises as permitted hereunder.

C. Reference is made to that certain Credit Agreement, by and between New Markets Community Capital XVII, LLC, a Delaware limited liability company ("NMCC"), as lender, CNMC SUB-CDE 69, LLC, a Delaware limited liability company ("CNMC"), as lender and Tenant, as borrower, dated March 9, 2016 (the "QLICI Loan Agreement").

### AGREEMENT

Landlord and Tenant hereby agree as follows:

1. Lease of Premises. Landlord, for and in consideration of rents, covenants and agreements reserved in this Lease, does hereby lease to Tenant the Premises.

2. Term of Lease. The Premises are leased to Tenant for a term of sixty-five (65) years (the "Term") beginning as of the Lease Commencement Date.

3. Rent and Other Payments.

(a) In addition to the consideration payable for the granting of this Lease recited in Sections 3(b) and 4 below for the Term, Tenant shall pay to Landlord a fixed amount of rent in the amount of Three Million Nine Hundred Six Thousand and NO/100 Dollars (\$3,906,000.00), payable in full on the Lease Commencement Date (the "Base Rent").

(b) The parties hereto understand and agree that this is a so-called "triple net" lease and that, with the exception only of obligations expressly imposed upon Landlord in this Lease, Tenant shall pay (or cause to be paid) any and all costs and expenses, and shall perform (or cause to be performed) all obligations, relating to the ownership, use, occupancy, operation, maintenance and repair of, and maintenance of insurance on, and payment of taxes or assessments of any sort with respect to, the Premises and all such payments shall be deemed additional rent for purposes of this Lease whether paid directly to Landlord or to others ("Additional Rent"). Additional Rent paid directly to others shall be paid on or before the initial due date thereof. Additional Rent paid directly to Landlord for any period shall be paid within thirty (30) days after Landlord provides Tenant with a written statement of the estimated or

actual Additional Rent due for such period; Landlord will provide Tenant with a final adjustment statement within ninety (90) days after the close of each calendar year. In addition, during the Term of this Lease, Landlord shall have no obligations or duties with respect to the Premises, except such as are expressly imposed upon Landlord in this Lease.

4. Insurance Coverages.

(a) **Liability Insurance.** Tenant shall, at its own cost and expense, carry (or cause to be carried by subtenants) commercial general liability insurance including bodily injury, death and property damage liability, insurance against any and all claims, including all legal liability to the extent insurable and imposed upon the Tenant and all court costs and reasonable attorneys' fees and expenses, arising out of or connected with the possession, use, leasing, operation, maintenance or condition of the Premises in such amounts as are generally available at commercially reasonable premiums and are generally required by institutional lenders for properties comparable to the Premises but in any event for a combined single limit of One Million and No/100 Dollars (\$1,000,000) and at least Two Million and No/100 Dollars (\$2,000,000) in the aggregate.

(b) **Property Insurance.** While the QLICI Loan Agreement is in effect, Tenant shall maintain policies of insurance in accordance with the QLICI Loan Agreement, and naming Landlord as an additional insured. Upon termination of the QLICI Loan Agreement, Tenant shall maintain policies of insurance covering loss of or damage to the Premises in the full amount of its replacement value.

5. Utilities and Taxes.

(a) During the Term, Tenant shall be responsible for furnishing, at its own expense, heat, water, electricity, and all other utilities with respect to the Premises.

(b) Tenant shall pay, or cause to be paid as Additional Rent, all taxes, or any installments thereof, if any, including (without limitation) special and general assessments and all other governmental impositions and charges of every kind and nature, which shall or may during the Term of this Lease come due and payable with respect to the Premises or any part thereof under or by virtue of all present or future laws, ordinances, requirements, orders, directives, rules or regulations of the federal, state or local governments and of all other governmental authorities whatsoever. Tenant shall be responsible for the payment of any such taxes relating to the personal property of Tenant located on the Premises. Landlord and Tenant shall cooperate with each other (including in connection with the submission of required applications) to afford Tenant, as promptly as practicable and to the extent applicable, the benefit of any statute, rule or regulation available to Tenant from time to time that would reduce or defer, or exempt Tenant or Landlord from its obligation to pay, taxes attributable to the Premises or Tenant's personal property thereon.

6. Compliance with Laws; Maintenance. Tenant shall comply with all federal, state and local laws, statutes, codes, ordinances, orders, rules and regulations applicable to the Premises and the use and operation of the Premises by Tenant pursuant to this Lease, including without limitation, all environmental laws and handicapped access laws (the "Applicable Laws"). Tenant shall, at its own cost and expense, be solely responsible for the maintenance repair and replacement of the Premises.

7. Indemnification. Tenant shall indemnify, defend, save and hold Landlord harmless from any and all claims, causes of action, liabilities and other losses or expenses of

whatever nature, including costs of litigation and reasonable attorneys' fees, whether for injury to person or damage to property by reason by any accident or happening on the Premises, unless caused by the negligence or willful misconduct of Landlord or its agents, servants or employees or as specifically set forth in Section 12(b) below.

8. Damage or Destruction. In the event that any portion of the Premises are damaged or destroyed by fire or other casualty while the QLICI Loan Agreement is in effect, the insurance proceeds shall be used in accordance with the QLICI Loan Agreement. In all other circumstances that any portion of the Premises are damaged or destroyed by fire or other casualty, Tenant shall, to the extent insurance proceeds are available, restore the Premises as nearly as practicable to the condition immediately prior to such damage or destruction.

9. Eminent Domain. In the event that the Premises or any portion thereof shall be taken by any authority under the power of eminent domain while the QLICI Loan Agreement is in effect, any condemnation proceeds or awards related thereto shall be distributed and applied in accordance with the QLICI Loan Agreement. In all other circumstances that the Premises or any portion thereof shall be taken by any authority under the power of eminent domain, the application of any such proceeds or awards related thereto shall be delivered first to Tenant up to the fair market value of its leasehold interest in the Premises or portion thereof taken, and any remaining proceeds shall be delivered to Landlord, and to the extent proceeds from the condemnation are available, Tenant shall repair any damage to the Premises caused by the condemnation and restore the Premises as nearly as practicable to the condition immediately prior to such taking.

10. Alterations and Improvements. Tenant shall not make any alterations, additions or improvements to the Premises without Landlord's prior written consent (which shall not be unreasonably withheld), except Tenant shall have the right to make non-structural alterations, additions and improvements in the Premises at its own expense without Landlord's consent. All readily removable fixtures, partitions and equipment owned and installed by Tenant shall continue at all times to remain the personal property of Tenant, and at or prior to the expiration of the Term of this Lease, Tenant shall have the right to remove the same from the Premises at its own cost and expense, it being agreed that if as a result of such removal the Premises are damaged, Tenant shall fully repair such damage at its expense. Any alterations, additions or improvements shall be completed in a good and workmanlike manner, in accordance with all Applicable Laws.

11. Mechanic's Liens. Tenant shall pay when due all claims for labor and material furnished to the Premises. Tenant shall give Landlord prior written notice of any work on the Premises, regardless of whether Landlord's consent to such work is required. Landlord may elect to record and post notices of non-responsibility on the Premises. If Tenant causes any improvements, alterations, or repairs to be made to the Premises, Landlord shall not under any circumstances be liable for any labor or materials furnished, or to be furnished, to Tenant and no mechanics' lien or other liens for any such labor or materials shall attach to or affect the reversionary or other estate or interest of Landlord in and to the Premises. Tenant further agrees to indemnify and hold harmless Landlord against any and all costs Landlord may suffer on account of same.

12. Hazardous Substances.

(a) Tenant (i) shall not cause or permit any Hazardous Substances to be placed, held, located or disposed of on, under or at the Premises or any part thereof (except for such Hazardous Substances as may be commonly and legally used or stored at the Premises

as a consequence of the operation of Building for the Permitted Uses, but only so long as Tenant complies or causes compliance with all applicable rules and regulations concerning the use or production of such Hazardous Substances), and (ii) shall not cause or permit any contamination by Hazardous Substances of the Premises or any part thereof.

(b) Landlord and Tenant hereby agree that Landlord shall be obligated for removal or clean up of any existing Hazardous Substances placed, held, located or disposed of on, under or at the Premises or any part thereof, where such Hazardous Substance was existing on or prior to the Lease Commencement Date (each, an "Preexisting Environmental Condition"). Further, Landlord shall indemnify Tenant and hold Tenant harmless for any and all claims, causes of action, liabilities and other losses or expenses of whatever nature arising from any Preexisting Environmental Condition.

13. Tenant's Default. Any of the following shall constitute a default by Tenant under this Lease: (a) default by Tenant in the payment of any additional rent as required by Sections 3 and 4 of this Lease, and the continuation of such default for thirty (30) days after written notice to Tenant pursuant to Section 16; or (b) default by Tenant in the payment or performance of any other liability, obligation, or covenant of Tenant to Landlord under this Lease, and the continuation of such default for thirty (30) days after written notice to Tenant pursuant to Section 16, or such longer period not in excess of thirty (30) days as Tenant may reasonably require to cure such default so long as Tenant has commenced and is diligently pursuing a cure. Upon any default by Tenant, Landlord shall have the right to maintain an action in law or equity to require compliance with this Lease; provided, however, that Landlord acknowledges and agrees that the sole remedies for a default while any Leasehold Mortgage is outstanding shall be only specific performance and monetary damages, and not termination of this Lease.

14. Subordination. Landlord may enter into mortgages of its fee simple interest in the Premises only with the prior written consent of Tenant, provided that all such mortgages shall be subject and subordinate in all respects to this Lease, and to the rights of any Leasehold Mortgagee for the full Term hereof. Landlord agrees that it shall provide any such mortgagee with an accurate copy of this Lease, and any amendments thereto. In the event of the enforcement by Landlord's mortgagee of the remedies provided for by law or by such mortgage, Tenant shall automatically become the tenant of said successor in interest, without change in the terms or other provisions of this Lease.

15. Leasehold Mortgagees. Tenant shall have the right from time to time to apply for and obtain mortgage loan financing for the Premises and to grant to the providers of such financing (each, a "Leasehold Mortgagee") leasehold mortgages (each, a "Leasehold Mortgage"), assignments of leases and rents and such other security instruments covering and affecting all or any portion of the Premises as Tenant may deem necessary or appropriate. Landlord acknowledges that (i) Tenant has entered into that certain Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing dated on or about the date hereof in favor of NMCC and CNMC, which is a "Leasehold Mortgage" as such term is used in this Lease, and (ii) that each of NMCC and CNMC are a "Leasehold Mortgagee" as such term is used in this Lease.

(a) No Modification or Termination by Tenant. During the term of any Leasehold Mortgage, this Lease shall not be (i) amended or modified or (ii) terminated or canceled by Tenant hereunder, or by the giving of any notice by Tenant hereunder nor shall Landlord accept a surrender of Tenant's leasehold interest, unless such amendment, modification, termination, surrender or cancellation is consented to in writing in advance by any



Leasehold Mortgagee. Any such attempted amendment or modification, termination, surrender or cancellation without such prior written assent shall be void.

(b) Additional Documentation. Landlord will execute and deliver, within twenty (20) days of Tenant's request therefor, estoppel certificates or such other similar certificates as may be reasonably requested from any Leasehold Mortgagees, affirming such facts with respect to this Lease as may be required by parties to such financing and offering, among other matters: (1) indicate the aggregate amount of all payments that have been made by Tenant and, further categorize and tabulate these payments as payments towards Base Rent and payments in addition to Base Rent; and (2) certify that (i) this Lease is unmodified and in full force and effect (or, if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (ii) that Base Rent has been paid, and that no other payments are due under this Lease (or if Base Rent or other payments are due, the nature and amount of the same), and (iii) whether, to the actual knowledge of such party, there exists any uncured default by the other party, or any defense, offset, or counterclaim against the other party, and, if so, the nature of such default, defense, offset or counterclaim. Furthermore, Landlord agrees, promptly after submission, to execute, acknowledge and deliver any normal and customary agreements modifying this Lease reasonably requested by Leasehold Mortgagee, provided that such modifications do not decrease Tenant's obligations or increase Landlord's obligations pursuant to this Lease.

(c) Landlord agrees that each Leasehold Mortgagee shall be entitled to exercise any and all rights and remedies available to such Leasehold Mortgagee under its Leasehold Mortgage, under any other documents which govern the agreement between such Leasehold Mortgagee and Tenant and under applicable laws, including, without limitation, foreclosure, appointment of a receiver, acceptance of a deed in lieu of foreclosure, all without notice to or consent of Landlord. Notwithstanding any provision herein to the contrary, Landlord agrees that a Leasehold Mortgagee shall be entitled to sell or transfer the Premises to any third party in accordance with the terms and conditions of its Leasehold Mortgage and applicable laws and such third party shall succeed to all of Tenant's rights, title and interest in, to and under the this Lease without further notice to or consent of Landlord; provided that such third party, if requested by Landlord, agrees to be bound by, and subject to, the terms and conditions of this Lease.

(d) Mortgagee's Time to Cure. Landlord shall provide a copy of any notice, including a notice of Default ("Default Notice"), provided to Tenant under the terms of this Lease to the Leasehold Mortgagee, and no notice by Landlord to Tenant under this Lease shall be deemed to have been duly given unless and until a copy has been given to the Leasehold Mortgagee. After receipt of the Default Notice, the Leasehold Mortgagee shall have the same period given in this Lease to Tenant, at its election, to remedy or cause to be remedied the default of Tenant cited, plus (i) in the case of a default in the payment of any monetary amount, an additional period of thirty (30) days, and (ii) in the case of any other default, an additional period of one hundred twenty (120) days, and if such default cannot with reasonable diligence be cured within such additional one hundred twenty (120) day period, an additional time thereafter sufficient to cure the default, provided that such cure is initiated prior to the expiration of such additional one hundred twenty (120) day period and thereafter the curing of the same is prosecuted with diligence. If the Leasehold Mortgagee must be in possession of the Premises to cure the default, it shall have an additional one hundred twenty (120) days within which to either (i) obtain possession of the Premises (including possession by a receiver) and cure such default or (ii) institute foreclosure proceedings to acquire Tenant's interest and prosecute such proceedings with diligence. Notwithstanding the foregoing, if Tenant is the subject of any of the

insolvency proceedings and Leasehold Mortgagee is legally prevented from paying such sums or curing such defaults within the times above set forth, then such one hundred twenty (120) day period shall be extended until one hundred twenty (120) days after the earlier of the dismissal of the proceedings or the Leasehold Mortgagee obtaining a lifting of the automatic stay or other court order allowing it to obtain possession of the Premises or foreclose on the Premises. Until the expiration of such periods, Landlord will not exercise its remedy to terminate this Lease, but shall be permitted to exercise its other remedies provided for hereunder or under applicable law to secure the Premises to safeguard the public and avoid or limit waste or deterioration of the Premises, if Tenant has abandoned the Premises and no Leasehold Mortgagee has secured the Premises. Landlord shall accept performance by any Leasehold Mortgagee with the same effect as if any default under this Lease had been cured by Tenant, it being agreed that each Leasehold Mortgagee shall have the right, but not the obligation, to cure any default of Tenant hereunder, and that performance by or caused by a Leasehold Mortgagee shall be accepted as if the same had been done or caused to be done by Tenant.

(e) The making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Lease or of the leasehold interest, nor shall the Leasehold Mortgagee be deemed to be an assignee or transferee of this Lease or of the leasehold interest so as to require any Leasehold Mortgagee to assume the performance of any of the terms, covenants or conditions on the part of Tenant to be performed hereunder, but the purchaser (including any Leasehold Mortgagee) at any foreclosure of any Leasehold Mortgage, or the assignee or transferee (including any Leasehold Mortgagee) under any assignment or transfer in lieu of the foreclosure, or purchaser or transferee following exercise of a power of sale shall be deemed to be an assignee or transferee within the meaning of this Lease, and shall be deemed to have assumed and agreed to perform all of the terms, covenants and conditions on the part of Tenant to be performed hereunder from and after the date of such purchase and assignment or transfer.

(f) In the event that a Leasehold Mortgagee or its nominee succeeds to Tenant's interest in this Lease, Landlord agrees to look solely to such interest in this Lease and to the Improvements upon the Land and to the profits and proceeds thereof for the enforcement of the obligations of Tenant hereunder, and shall never seek to recover against any other assets of the Leasehold Mortgagee.

(g) For the avoidance of doubt, each Leasehold Mortgagee is an express third party beneficiary of this Section 15 and shall be entitled to enforce the provisions hereof against Tenant and Landlord and their respective successors and assigns.

(h) Any conflict or inconsistency between the provisions of this Section 15 and provision elsewhere in this Lease shall be resolved in favor of the provisions of this Section 15.

(i) Landlord's Certifications to Leasehold Mortgagees. Landlord hereby certifies to the Leasehold Mortgagees that, as of the Lease Commencement Date:

(i) all conditions precedent to the effectiveness of this Lease have been fully satisfied. This Lease is in full force and effect, has not been assigned, modified, supplemented, amended or changed in any respect. This Lease constitutes the entire lease of the Premises and Improvements. This Lease has not been assigned, modified, supplemented or amended in any other way;

(ii) all Rent and other sums payable under this Lease due as of the date of this Lease have been paid to date;

(iii) there are no existing Defaults under this Lease, and to the best of Landlord's knowledge, there are no existing circumstances which with the passage of time, or giving of notice, or both, would give rise to a Default under this Lease; and

(iv) it has received advance written notice, in satisfaction of any notice required under this Lease, of Tenant's collateral assignment of Tenant's interest in the Premises and Improvements pursuant to the Leasehold Mortgages and the other loan documents executed in connection therewith.

16. Quiet Enjoyment; Permitted Use. Landlord covenants that upon Tenant's paying the rent herein reserved and performing and observing all the other material covenants to be performed and observed on the part of Tenant, Tenant may lawfully and peaceably use and occupy the Premises throughout the Term without hindrance or ejection by any persons lawfully claiming under Landlord to have title to the Premises (or right to use and occupy the Premises) superior to Tenant. Tenant acknowledges that it is accepting its leasehold interest subject to all encumbrances recorded of record in the Official Records of the County of Humboldt. All other portions of the Premises may be used by Tenant for any lawful purpose.

17. Waivers. The failure of Landlord to insist upon strict performance of any of the covenants or conditions of this Lease in any one or more instances shall not be construed as a waiver or relinquishment for the future of any covenants or conditions, but the same shall be and remain in full force and effect.

18. Notices. Any notice or other communication given or made pursuant to this Lease shall be in writing and shall be deemed given if (i) delivered personally or by courier, (ii) sent by overnight express delivery, or (iii) mailed by registered or certified mail (return receipt requested), postage prepaid, in all three cases to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party, any such changed address to be effective ten (10) days after the giving of notice thereof):

If to Landlord:

Humboldt Bay Harbor, Recreation and Conservation  
District  
Attn.: Mr. Jack Crider, CEO  
601 Startare Drive  
Eureka, CA 95501  
Facsimile: 707-443-0800  
E-mail: Jcrider@humboldtbay.org

With a copy to:

Mitchell, Brisso, Delaney & Vrieze LLP  
Attn.: Mr. Paul A. Brisso  
814 Seventh Street  
Eureka, CA 95501  
Facsimile: 707-444-9586  
E-mail: pbrisso@mitchelllawfirm.com:

If to Tenant:

Humboldt Bay Development Association, Inc.  
Attn.: Mr. Jack Crider  
P.O. Box 1030  
Eureka, CA 95501  
Facsimile: 707-443-0800  
E-mail: Jcrider@humboltdbay.org

All such notices and other communications shall be deemed given and received: (i) in the case of personal or local courier delivery, on the date of such delivery; (ii) in the case of delivery by overnight courier or express delivery service, on the day following dispatch; and (iii) in the case of mailing, three (3) business days after the date of mailing. For the sake of convenience and rapidity of transmission, copies of notices may be sent by telecopy transmission, but such transmission alone shall not be deemed to satisfy the notice requirements of this Lease absent actual confirmed receipt or the giving of notice by one of the other means stated above. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice or other communication.

19. Leasehold Mortgagee Approval. So long as the obligations secured by one or more Leasehold Mortgages shall not have been discharged, neither Landlord nor Tenant shall modify, amend or vary this Lease, or terminate or consent to the cancellation of this Lease without the prior written consent of all Leasehold Mortgagees.

20. Tax Matters. This Lease is intended to convey to Tenant all the benefits and burdens of ownership and to cause Tenant to be treated as the owner of the Premises for federal income tax purposes. The parties agree to treat this Lease in a manner consistent with this intention, including filing all federal income tax returns and other reports consistently with such treatment. Landlord will not claim tax credits, depreciation or any other federal or state income tax benefits with respect to the Premises, or take any action which is inconsistent with this provision. The parties agree that, for federal income tax purposes, they will treat the rent described in Sections 3(a) as the amount paid by Tenant in consideration for the acquisition of the Premises, and all other additional rent as expenses of the Tenant as owner of the Premises. Upon termination of this Lease prior to the expiration of the term of the Lease, Landlord shall reimburse Tenant an amount equal to rent pre-paid by Tenant for the remainder of the term, after deducting Landlord's damages. Notwithstanding anything to the contrary herein, Landlord shall have no right to terminate this Lease except following an uncured default as specifically set forth in Section 13.

21. Notice of Lease. Promptly upon execution and delivery hereof, Landlord and Tenant shall cause to be recorded in the Official Records of the County of Humboldt the Memorandum of Lease in the form set forth in Exhibit B attached hereto. Recordation and transfer taxes due on the execution of this Lease, if any, shall be paid by Tenant.

22. General. This Lease shall be governed by and construed in accordance with the laws of the State of California. Captions appearing in this Lease are for convenience of reference only and shall not define or limit any provisions hereof. This Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective successors and assigns. If any provision of this Lease shall to any extent be held by a court of law to be invalid or unenforceable, the remainder of this Lease shall not be affected and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. This Lease represents the entire agreement of the parties hereto with respect to the leasing of Premises.

This Lease may be executed in any number of counterparts, all of which together shall constitute one and the same document.

[Remainder of page intentionally left blank; Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

LANDLORD:

HUMBOLDT BAY HARBOR, RECREATION AND  
CONSERVATION DISTRICT, a California public  
entity

By: 

Name: Patrick Higgins

Title: President

TENANT:

HUMBOLDT BAY DEVELOPMENT  
ASSOCIATION, INC., a California nonprofit public  
benefit corporation

By: 

Name: Richard Marks

Title: President

## Exhibit A

### LEGAL DESCRIPTION OF LAND

**For APN/Parcel ID(s): 401-112-021 and 401-112-024**

---

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF HUMBOLDT, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

#### TRACT A

Those portions of Sections 16, 20 and 21, Township 5 North, Range 1 West, Humboldt Meridian, more particularly described as follows:

#### PARCEL ONE

PARCEL A as shown on Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the County Recorder of said Humboldt County in Book 69 of Surveys, pages 106 and 107.

EXCEPTING THEREFROM an undivided one-half interest in and to all minerals, coal, oils, petroleum and kindred substances and natural gas under and in said lands, as excepted in the deed from Anna G. McCormack recorded November 20, 1958 in Book 511, page 147, Humboldt County Official Records.

#### (TANKS AREA EXCEPTION)

EXCEPTING THEREFROM that portion thereof described as follows:

BEGINNING at a point on the Northerly line of Parcel A as shown on a Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the Humboldt County Recorder in Book 69 of Surveys, Pages 106 and 107, at the Southerly terminus of a course having a bearing of North 26 degrees 51 minutes 38 seconds East;  
thence along said Northerly line, North 26 degrees 51 minutes 38 seconds East, 10.37 feet;  
thence along said Northerly line, North 66 degrees 20 minutes 37 seconds West, 679.14 feet;  
thence leaving said Northerly line, South 23 degrees 48 minutes 09 seconds West, 755.82 feet;  
thence South 12 degrees 03 minutes 23 seconds East, 47.01 feet;  
thence South 66 degrees 11 minutes 51 seconds East, 680.00 feet;  
thence North 23 degrees 48 minutes 09 seconds East, 785.33 feet, more or less, to the Northerly line of said Parcel A at a point that bears South 66 degrees 15 minutes 26 seconds East from the point of beginning;  
thence North 66 degrees 15 minutes 26 seconds West, along said line, 28.95 feet, more or less, to the point of beginning.

#### PARCEL TWO

A non-exclusive easement for ingress and egress, 50 feet in width, the center line of which is described as follows:

COMMENCING on the South line of Section 16 Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Southwest corner of said Section;  
thence North 19 degrees 58 minutes 05 seconds West, 910.90 feet to the beginning of a non- tangent curve, concave to the East, having a radius of 852 feet, through which a radial line bears North 34 degrees 11 minutes 28 seconds West, said point being the true point of beginning; and running  
thence Southerly along said curve, through a central angle of 33 degrees 46 minutes 52 seconds, for a distance of 502.33 feet to a point herein identified as "Point A";  
thence continuing Southerly along said curve, through a central angle of 22 degrees 18 minutes 56 seconds, for a distance of 331.84 feet;  
thence South 00 degrees 17 minutes 16 seconds East, 129.77 feet to the South line of said Section 16.

#### PARCEL THREE

A non-exclusive easement for ingress and egress 50 feet in width, the center line being described as follows:

COMMENCING at "Point A" described above;  
thence North 63 degrees 33 minutes 05 seconds West to the East line of New Navy Base Road, as described in Book 1160 of Official Records, page 623, Humboldt County Records.

EXCEPTING THEREFROM that portion lying within the 30 foot strip of land conveyed to the Northwestern Pacific Railroad Company, a California corporation, by document recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records.

#### PARCEL FOUR

A non-exclusive easement for ingress, egress and public utility purposes in and across that portion of the 50 foot wide strip shown on said Record of Survey filed in Book 69 of Surveys, pages 106 and 107 as "CENTERLINE OF 50 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS" that lies within Parcel B shown on said Survey and also within that portion of Parcel C shown on said Survey that lies within said Section 21.

#### PARCEL FIVE

A non-exclusive easement for ingress, egress and public utility purposes in and across the west 50 feet of the following described lands:

BEGINNING at the Northwest corner of Lot 3 in Section 21 in Township 5 North, Range 1 West, Humboldt Meridian; and running  
thence South 8 minutes West on the Section line, 600 feet;  
thence East, 1410 feet to the East line of State Tide Land Survey No. 75;  
thence Northerly along the East line of said Tide Land Survey to the North line of said Lot 3; and  
thence West on the north line of said Lot, 1670 feet to the point of beginning.

#### TRACT B

##### PARCEL ONE

That portion of PARCEL B as shown on Record of Survey for Freshwater Tissue Company, LLC, filed in the Office of the County Recorder of said Humboldt County in Book 69 Surveys, Pages 106 and 107, described as follows:

BEGINNING on the Southwesterly line of said PARCEL B at a point that bears North 66 degrees 22 minutes 38 seconds West, 664.17 feet from the most Southerly corner of said PARCEL B;  
thence North 23 degrees 37 minutes 22 seconds East, 59.29 feet;  
thence North 15 degrees 56 minutes 36 seconds West, 488.72 feet;  
thence North 69 degrees 07 minutes 20 seconds East, 200.81 feet;  
thence North 82 degrees 52 minutes 03 seconds East, 196.26 feet;  
thence North 58 degrees 03 minutes 53 seconds East, 27.10 feet;  
thence North 15 degrees 06 minutes 45 seconds East, 67.42 feet;  
thence North 20 degrees 24 minutes 32 seconds West, 529.38 feet;  
thence North 76 degrees 33 minutes 34 seconds East, 33.06 feet to the Easterly line of said PARCEL B;  
thence along said Easterly line the following courses:  
North 69 degrees 30 minutes 50 seconds East, 47.32 feet,  
South 19 degrees 55 minutes 20 seconds East, 311.69 feet,  
North 84 degrees 15 minutes 50 seconds East, 43.92 feet,  
South 21 degrees 13 minutes 20 seconds East, 90.39 feet,  
South 28 degrees 58 minutes 05 seconds East, 270.98 feet,  
North 83 degrees 50 minutes 20 seconds East, 224.07 feet,  
North 73 degrees 22 minutes 00 seconds East, 153.65 feet,  
South 65 degrees 53 minutes 10 seconds East, 85.95 feet, more or less, to the 1870 mean low water line, being the line described in Book 1722 Official Records, Page 440;  
thence along said line the following courses:  
South 21 degrees 38 minutes 48 seconds West, 795.69 feet,  
South 20 degrees 52 minutes 00 seconds West, 181.39 feet to the most Southerly corner of said PARCEL B;



thence North 66 degrees 22 minutes 38 seconds West, along the Southwesterly line of said parcel, 664.17 feet to the point of beginning.

The above lands being shown as Parcel 1 on Record of Survey filed in Book 71 of Surveys, page 149, Humboldt County Records.

#### PARCEL TWO

A non-exclusive easement for ingress and egress, 50 feet in width, the center line of which is described as follows:

COMMENCING on the South line of Section 16 Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Southwest corner of said Section;  
thence North 19 degrees 58 minutes 05 seconds West, 910.90 feet to the beginning of a non- tangent curve, concave to the East, having a radius of 852 feet, through which a radial line bears North 34 degrees 11 minutes 28 seconds West;  
thence Southerly along said curve, through a central angle of 33 degrees 46 minutes 52 seconds, for a distance of 502.33 feet to a point herein identified as "Point A";  
thence continuing Southerly along said curve, through a central angle of 22 degrees 18 minutes 56 seconds, for a distance of 331.84 feet;  
thence South 00 degrees 17 minutes 16 seconds East, 129.77 feet to the South line of said Section 16.

#### PARCEL THREE

A non-exclusive easement for ingress and egress 50 feet in width, the center line being described as follows:

COMMENCING at "Point A" described above;  
thence North 63 degrees 33 minutes 05 seconds West to the East line of New Navy Base Road, as described in Book 1160 of Official Records, page 623, Humboldt County Records.

EXCEPTING THEREFROM that portion lying within the 30 foot strip of land conveyed to the Northwestern Pacific Railroad Company, a California corporation, by document recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records.

#### PARCEL FOUR

A non-exclusive easement for installation, maintenance, repair and replacement of an effluent pipe line, 200 feet in width, the center line being described as follows:

COMMENCING at a point on the West line of New Navy Base Road as described in Book 1160 of Official Records, Page 623, Humboldt County Records, which bears North 42 degrees 02 minutes West from a point which bears South 25 degrees 23 minutes West, 549.23 feet from the County Road Monument at Station 440+00 of the Survey of said road;  
thence North 42 degrees 02 minutes West to the mean high tide of the Pacific Ocean.

Excepting any portion of the easement below the line of ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline.

As created by document recorded June 11, 1999 as Instrument Number 1999-17193-12 of Official Records

#### PARCEL FIVE

A non-exclusive easement for ingress and egress over a strip of land 25 feet in width the West line being described as follows:

COMMENCING on the North line of Section 21, Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Northwest corner of said Section;  
thence South 19 degrees 58 minutes 05 seconds East, 408.98 feet.

As created by document recorded December 14, 2000 as Instrument Number 2000-26546-4 of Official Records.

#### PARCEL SIX

An easement and right of way for the perpetual non-exclusive right to use for pedestrian and vehicular traffic (including

commercial trucks and heavy equipment) on, over and along the roadways shown as the "Traffic Route" on Exhibit "B", as attached to and set forth in that certain Shared Services, Facilities, Access and Use Agreement dated as of June 30, 1998 and recorded July 2, 1998 under as Instrument Number 1998-17222 of Official Records.

In so far as the said easement and right of way affect the following described property:

The whole of fractional Section 16, according to the Official Plat of the United States Government Survey.

EXCEPTING THEREFROM:

First Exception: All right or title of Peninsula Union School District of Humboldt County, its successors or assigns, in a parcel, described as follows:

That portion of Section 16, Township 5 North, Range 1 West, Humboldt Base and Meridian, to wit:

COMMENCING at the Southeast corner of US Lot 4 in Section 9, Township 5 North, Range 1 West, Humboldt Base and Meridian;

thence South 0 degrees 50 minutes West 605.76 feet to the true point of beginning of the parcel of land to be described;

thence South 89 degrees 10 minutes East 135.90 feet;

thence South 0 degrees 50 minutes West, 531.62 feet to the Northwesterly line of the County Road;

thence along said Northwesterly line South 60 degrees 47 minutes West 287.00 feet; thence leaving said Northwesterly line North 31 degrees 49 minutes West 289.00 feet; thence South 69 degrees 30 minutes 55 seconds West 384.59 feet; thence North 0 degrees 50 minutes East 571.82 feet to a point that bears North 89 degrees 10 minutes West from the true point of beginning;

thence South 89 degrees 10 minutes East 626.71 feet to the true point of beginning.

Second Exception:

EXCEPTING FROM the foregoing described land, all interest of Northwestern Pacific Railroad Company, its successors or assigns, in a strip of land 30 feet wide lying along the line of said Company's railroad from a point on the South line of Section 16, Township 5 North, Range 1 West, Humboldt Meridian, Northeasterly by various courses and curvatures through Section 16.

Third Exception:

A strip of land 4.0 feet in width, the Easterly and Southeasterly line thereof being parallel and concentric with and distant 15.0 feet Westerly and Northwesterly, measured at right angles and radially from the following described line:

BEGINNING at a point in the South line of Section 16, Township 5 North, Range 1 West, Humboldt Base and Meridian, which is the Southerly terminus of the center line of the 30 foot wide strip of land described in Deed dated July 21, 1924, from Hammond Lumber Company to Northwestern Pacific Railroad Company recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records;

thence along said center line of the 30 foot wide strip of land described in said Deed, the following five courses:

(1) North 1 degree 35 minutes 30 seconds West 113 feet, more or less;

(2) Northerly from a tangent, which is last described course on a curve to the right having a radius of 716.34 feet, an arc distance of 493.8 feet;

(3) North 37 degrees 54 minutes 30 seconds East tangent to said curve, 112.8 feet;

(4) Northeasterly from a tangent which is last described course, on a curve to the right having a radius of 573.14 feet, an arc distance of 412.6 feet; and

(5) North 79 degrees 10 minutes 0 seconds East, tangent to last said curve, 789.0 feet to a point.

The side lines of the above described 4.0 foot wide strip of land terminate on the South in said South line of Section 16 and on the Northeast in a line drawn at right angles Northwesterly from the above described line at the Northeasterly terminus thereof.

Fourth Exception:

EXCEPTING all that portion thereof conveyed by Georgia-Pacific Corporation to the County of Humboldt by Deed dated January 28, 1971, recorded October 13, 1972, in Book 1160 Page 623, Official Records of Humboldt County, California.

Fifth Exception:

EXCEPTING THEREFROM all rights, title and interest conveyed to the Humboldt Bay Harbor, Recreation and Conservation District, a public agency, in that certain Quitclaim and Relinquishment of Interests in Real Property, executed by Louisiana Pacific Corporation, a Delaware corporation, and said Humboldt Bay Harbor, Recreation and Conservation District, a public agency, recorded December 29, 1983, in Book 1722 Page 432 Official Records of Humboldt County, subject to the effect of the Judgment on Stipulation for Entry of Judgment entered in Superior Court of California, County of Humboldt, Case No. 59058, recorded February 8, 1984, in Book 1725, at Page 1075 Official Records of Humboldt County.

#### PARCEL SEVEN

That portion of PARCEL A as shown on Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the County Recorder of said Humboldt County in Book 69 of Surveys, pages 106 and 107, described as follows:

A non-exclusive easement for ingress, egress and public utility purposes in and across a strip of land 50 feet wide, said strip being shown on said Record of Survey filed in Book 69 of Surveys, pages 106 and 107 as "CENTERLINE OF 50 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS".

AS RESERVED in the deed to Humboldt Bay Harbor Recreation and Conservation District in deed recorded August 14, 2013 as Instrument No. 2013-19083-4, Humboldt County Official Records.

**Exhibit B**  
**MEMORANDUM OF LEASE**

AFTER RECORDING, RETURN TO:  
Bocarsly Emden Cowan Esmail & Arndt LLP  
633 W. Fifth Street, 64th Floor  
Los Angeles, CA 90071  
Attn: Nichole Berklas

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## MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE (this "Memorandum") is made as of March 9, 2016, (the "Effective Date"), by and between HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, a California public entity (hereinafter referred to as "Landlord"), and HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC., a California nonprofit public benefit corporation (hereinafter referred to as the "Tenant"). Landlord and Tenant may hereinafter be referred to individually as a "Party" and collectively as "Parties."

### WITNESSETH:

WHEREAS, Landlord and Tenant have executed that certain Ground Lease (the "Ground Lease") dated as of the Effective Date for the Premises (as hereinafter defined); and

WHEREAS, the Parties wish to record this Memorandum in order to give constructive notice of the Ground Lease and of the respective Parties' interests and rights under the Ground Lease.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Leased Premises. In consideration of the payments, terms, provisions and covenants of the Ground Lease and this Memorandum, Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, subject to all of the terms and conditions contained in the Ground Lease, that certain parcel(s) of land located in Samoa, California, being more particularly described in Exhibit A hereto (the "Premises").
2. Term. Subject to and upon the conditions set forth below, the Ground Lease shall commence on the Effective Date and shall continue for a period of sixty five (65) years (the "Term").
3. Use of the Premises. Except as set forth in the Ground Lease, Tenant shall have the right to occupy, use and operate the Premises for the term of this Agreement for any use permitted by law without any disturbance or restriction by Landlord or any other persons.
4. Conflict with Ground Lease. The lease of the Premises from Landlord to Tenant is subject to all of the terms, covenants and conditions set forth in the Ground Lease, all of which are incorporated by reference in this Memorandum as though fully set forth herein. In the event of any conflict between the terms, covenants and conditions of this Memorandum and the terms, covenants and conditions of the Ground Lease, the terms, covenants and conditions of the Ground Lease shall control.

5. Counterparts. This Memorandum may be executed simultaneously or in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Memorandum effective as of the date first above written, although actually signed on the date set forth in each party's respective acknowledgment below.

LANDLORD:

HUMBOLDT BAY HARBOR, RECREATION AND  
CONSERVATION DISTRICT, a California public  
entity

By:   
Name: Patrick Higgins  
Title: President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

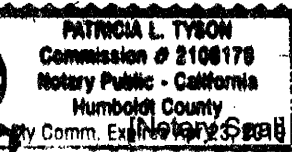
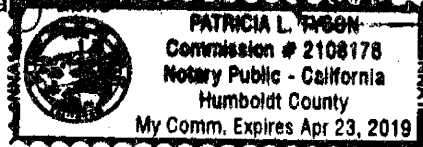
STATE OF California )  
County of Humboldt ) ss.

On February 19, 2016 before me, Patricia L. Tyson  
personally appeared Patrick Higgins who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed  
to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Patricia L. Tyson  
Signature of Notary Public



[SIGNATURE PAGE TO MEMORANDUM OF GROUND LEASE]

TENANT:

HUMBOLDT BAY DEVELOPMENT  
ASSOCIATION, INC., a California nonprofit public  
benefit corporation

By: *RM*  
Name: Richard Marks  
Its: President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

STATE OF California )  
County of Humboldt ) ss.

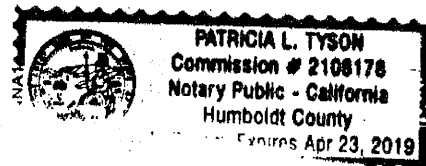
On February 24, 2016 before me, Patricia L. Tyson  
personally appeared Richard Marks who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed  
to the within instrument and acknowledged to me that he/~~she~~/they executed the same in  
his/~~her~~/their authorized capacity(ies) and that his/~~her~~/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

*Patricia L. Tyson*  
Signature of Notary Public

[Notary Seal]



[SIGNATURE PAGE TO MEMORANDUM OF GROUND LEASE]



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PREMISES**

**For APN/Parcel ID(s): 401-112-021 and 401-112-024**

---

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF HUMBOLDT, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

**TRACT A**

Those portions of Sections 16, 20 and 21, Township 5 North, Range 1 West, Humboldt Meridian, more particularly described as follows:

**PARCEL ONE**

PARCEL A as shown on Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the County Recorder of said Humboldt County in Book 69 of Surveys, pages 106 and 107.

EXCEPTING THEREFROM an undivided one-half interest in and to all minerals, coal, oils, petroleum and kindred substances and natural gas under and in said lands, as excepted in the deed from Anna G. McCormack recorded November 20, 1958 in Book 511, page 147, Humboldt County Official Records.

**(TANKS AREA EXCEPTION)**

EXCEPTING THEREFROM that portion thereof described as follows:

BEGINNING at a point on the Northerly line of Parcel A as shown on a Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the Humboldt County Recorder in Book 69 of Surveys, Pages 106 and 107, at the Southerly terminus of a course having a bearing of North 26 degrees 51 minutes 38 seconds East;  
thence along said Northerly line, North 26 degrees 51 minutes 38 seconds East, 10.37 feet;  
thence along said Northerly line, North 66 degrees 20 minutes 37 seconds West, 679.14 feet;  
thence leaving said Northerly line, South 23 degrees 48 minutes 09 seconds West, 755.82 feet;  
thence South 12 degrees 03 minutes 23 seconds East, 47.01 feet;  
thence South 66 degrees 11 minutes 51 seconds East, 680.00 feet;  
thence North 23 degrees 48 minutes 09 seconds East, 785.33 feet, more or less, to the Northerly line of said Parcel A at a point that bears South 66 degrees 15 minutes 26 seconds East from the point of beginning;  
thence North 66 degrees 15 minutes 26 seconds West, along said line, 28.95 feet, more or less, to the point of beginning.

**PARCEL TWO**

A non-exclusive easement for ingress and egress, 50 feet in width, the center line of which is described as follows:

COMMENCING on the South line of Section 16 Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Southwest corner of said Section;  
thence North 19 degrees 58 minutes 05 seconds West, 910.90 feet to the beginning of a non- tangent curve, concave to the East, having a radius of 852 feet, through which a radial line bears North 34 degrees 11 minutes 28 seconds West, said point being the true point of beginning; and running  
thence Southerly along said curve, through a central angle of 33 degrees 46 minutes 52 seconds, for a distance of 502.33 feet to a point herein identified as "Point A";  
thence continuing Southerly along said curve, through a central angle of 22 degrees 18 minutes 56 seconds, for a distance of 331.84 feet;  
thence South 00 degrees 17 minutes 16 seconds East, 129.77 feet to the South line of said Section 16.

**PARCEL THREE**

A non-exclusive easement for ingress and egress 50 feet in width, the center line being described as follows:

COMMENCING at "Point A" described above;  
thence North 63 degrees 33 minutes 05 seconds West to the East line of New Navy Base Road, as described in Book

1160 of Official Records, page 623, Humboldt County Records.

EXCEPTING THEREFROM that portion lying within the 30 foot strip of land conveyed to the Northwestern Pacific Railroad Company, a California corporation, by document recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records.

#### PARCEL FOUR

A non-exclusive easement for ingress, egress and public utility purposes in and across that portion of the 50 foot wide strip shown on said Record of Survey filed in Book 69 of Surveys, pages 106 and 107 as "CENTERLINE OF 50 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS" that lies within Parcel B shown on said Survey and also within that portion of Parcel C shown on said Survey that lies within said Section 21.

#### PARCEL FIVE

A non-exclusive easement for ingress, egress and public utility purposes in and across the west 50 feet of the following described lands:

BEGINNING at the Northwest corner of Lot 3 in Section 21 in Township 5 North, Range 1 West, Humboldt Meridian; and running

thence South 8 minutes West on the Section line, 600 feet;

thence East, 1410 feet to the East line of State Tide Land Survey No. 75;

thence Northerly along the East line of said Tide Land Survey to the North line of said Lot 3; and

thence West on the north line of said Lot, 1670 feet to the point of beginning.

#### TRACT B

##### PARCEL ONE

That portion of PARCEL B as shown on Record of Survey for Freshwater Tissue Company, LLC, filed in the Office of the County Recorder of said Humboldt County in Book 69 Surveys, Pages 106 and 107, described as follows:

BEGINNING on the Southwesterly line of said PARCEL B at a point that bears North 66 degrees 22 minutes 38 seconds West, 664.17 feet from the most Southerly corner of said PARCEL B;

thence North 23 degrees 37 minutes 22 seconds East, 59.29 feet;

thence North 15 degrees 56 minutes 36 seconds West, 488.72 feet;

thence North 69 degrees 07 minutes 20 seconds East, 200.81 feet;

thence North 82 degrees 52 minutes 03 seconds East, 196.26 feet;

thence North 58 degrees 03 minutes 53 seconds East, 27.10 feet;

thence North 15 degrees 06 minutes 45 seconds East, 67.42 feet;

thence North 20 degrees 24 minutes 32 seconds West, 529.38 feet;

thence North 76 degrees 33 minutes 34 seconds East, 33.06 feet to the Easterly line of said PARCEL B;

thence along said Easterly line the following courses:

North 69 degrees 30 minutes 50 seconds East, 47.32 feet,

South 19 degrees 55 minutes 20 seconds East, 311.69 feet,

North 84 degrees 15 minutes 50 seconds East, 43.92 feet,

South 21 degrees 13 minutes 20 seconds East, 90.39 feet,

South 28 degrees 58 minutes 05 seconds East, 270.98 feet,

North 83 degrees 50 minutes 20 seconds East, 224.07 feet,

North 73 degrees 22 minutes 00 seconds East, 153.65 feet,

South 65 degrees 53 minutes 10 seconds East, 85.95 feet, more or less, to the 1870 mean low water line, being the line described in Book 1722 Official Records, Page 440;

thence along said line the following courses:

South 21 degrees 38 minutes 48 seconds West, 795.69 feet,

South 20 degrees 52 minutes 00 seconds West, 181.39 feet to the most Southerly corner of said PARCEL B;

thence North 66 degrees 22 minutes 38 seconds West, along the Southwesterly line of said parcel, 664.17 feet to the point of beginning.

The above lands being shown as Parcel 1 on Record of Survey filed in Book 71 of Surveys, page 149, Humboldt County Records.

#### PARCEL TWO

A non-exclusive easement for ingress and egress, 50 feet in width, the center line of which is described as follows:

COMMENCING on the South line of Section 16 Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Southwest corner of said Section;  
thence North 19 degrees 58 minutes 05 seconds West, 910.90 feet to the beginning of a non- tangent curve, concave to the East, having a radius of 852 feet, through which a radial line bears North 34 degrees 11 minutes 28 seconds West;  
thence Southerly along said curve, through a central angle of 33 degrees 46 minutes 52 seconds, for a distance of 502.33 feet to a point herein identified as "Point A";  
thence continuing Southerly along said curve, through a central angle of 22 degrees 18 minutes 56 seconds, for a distance of 331.84 feet;  
thence South 00 degrees 17 minutes 16 seconds East, 129.77 feet to the South line of said Section 16.

#### PARCEL THREE

A non-exclusive easement for ingress and egress 50 feet in width, the center line being described as follows:

COMMENCING at "Point A" described above;  
thence North 63 degrees 33 minutes 05 seconds West to the East line of New Navy Base Road, as described in Book 1160 of Official Records, page 623, Humboldt County Records.

EXCEPTING THEREFROM that portion lying within the 30 foot strip of land conveyed to the Northwestern Pacific Railroad Company, a California corporation, by document recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records.

#### PARCEL FOUR

A non-exclusive easement for installation, maintenance, repair and replacement of an effluent pipe line, 200 feet in width, the center line being described as follows:

COMMENCING at a point on the West line of New Navy Base Road as described in Book 1160 of Official Records, Page 623, Humboldt County Records, which bears North 42 degrees 02 minutes West from a point which bears South 25 degrees 23 minutes West, 549.23 feet from the County Road Monument at Station 440+00 of the Survey of said road;  
thence North 42 degrees 02 minutes West to the mean high tide of the Pacific Ocean.

Excepting any portion of the easement below the line of ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline.

As created by document recorded June 11, 1999 as Instrument Number 1999-17193-12 of Official Records

#### PARCEL FIVE

A non-exclusive easement for ingress and egress over a strip of land 25 feet in width the West line being described as follows:

COMMENCING on the North line of Section 21, Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Northwest corner of said Section;  
thence South 19 degrees 58 minutes 05 seconds East, 408.98 feet.

As created by document recorded December 14, 2000 as Instrument Number 2000-26546-4 of Official Records.

#### PARCEL SIX

An easement and right of way for the perpetual non-exclusive right to use for pedestrian and vehicular traffic (including commercial trucks and heavy equipment) on, over and along the roadways shown as the "Traffic Route" on Exhibit "B", as attached to and set forth in that certain Shared Services, Facilities, Access and Use Agreement dated as of June 30, 1998 and recorded July 2, 1998 under as Instrument Number 1998-17222 of Official Records.

In so far as the said easement and right of way affect the following described property:

The whole of fractional Section 16, according to the Official Plat of the United States Government Survey.

**EXCEPTING THEREFROM:**

First Exception: All right or title of Peninsula Union School District of Humboldt County, its successors or assigns, in a parcel, described as follows:

That portion of Section 16, Township 5 North, Range 1 West, Humboldt Base and Meridian, to wit:

COMMENCING at the Southeast corner of US Lot 4 in Section 9, Township 5 North, Range 1 West, Humboldt Base and Meridian;

thence South 0 degrees 50 minutes West 605.76 feet to the true point of beginning of the parcel of land to be described;

thence South 89 degrees 10 minutes East 135.90 feet;

thence South 0 degrees 50 minutes West, 531.62 feet to the Northwesternly line of the County Road;

thence along said Northwesternly line South 60 degrees 47 minutes West 287.00 feet; thence leaving said Northwesternly line North 31 degrees 49 minutes West 289.00 feet; thence South 69 degrees 30 minutes 55 seconds West 384.59 feet; thence North 0 degrees 50 minutes East 571.82 feet to a point that bears North 89 degrees 10 minutes West from the true point of beginning;

thence South 89 degrees 10 minutes East 626.71 feet to the true point of beginning.

Second Exception:

EXCEPTING FROM the foregoing described land, all interest of Northwestern Pacific Railroad Company, its successors or assigns, in a strip of land 30 feet wide lying along the line of said Company's railroad from a point on the South line of Section 16, Township 5 North, Range 1 West, Humboldt Meridian, Northeasterly by various courses and curvatures through Section 16.

Third Exception:

A strip of land 4.0 feet in width, the Easterly and Southeasterly line thereof being parallel and concentric with and distant 15.0 feet Westerly and Northwesternly, measured at right angles and radially from the following described line:

BEGINNING at a point in the South line of Section 16, Township 5 North, Range 1 West, Humboldt Base and Meridian, which is the Southerly terminus of the center line of the 30 foot wide strip of land described in Deed dated July 21, 1924, from Hammond Lumber Company to Northwestern Pacific Railroad Company recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records;

thence along said center line of the 30 foot wide strip of land described in said Deed, the following five courses:

(1) North 1 degree 35 minutes 30 seconds West 113 feet, more or less;

(2) Northerly from a tangent, which is last described course on a curve to the right having a radius of 716.34 feet, an arc distance of 493.8 feet;

(3) North 37 degrees 54 minutes 30 seconds East tangent to said curve, 112.8 feet;

(4) Northeasterly from a tangent which is last described course, on a curve to the right having a radius of 573.14 feet, an arc distance of 412.6 feet; and

(5) North 79 degrees 10 minutes 0 seconds East, tangent to last said curve, 789.0 feet to a point.

The side lines of the above described 4.0 foot wide strip of land terminate on the South in said South line of Section 16 and on the Northeast in a line drawn at right angles Northwesternly from the above described line at the Northeasterly terminus thereof.

Fourth Exception:

EXCEPTING all that portion thereof conveyed by Georgia-Pacific Corporation to the County of Humboldt by Deed dated January 28, 1971, recorded October 13, 1972, in Book 1160 Page 623, Official Records of Humboldt County, California.

Fifth Exception:

EXCEPTING THEREFROM all rights, title and interest conveyed to the Humboldt Bay Harbor, Recreation and Conservation District, a public agency, in that certain Quitclaim and Relinquishment of Interests in Real Property, executed by Louisiana Pacific Corporation, a Delaware corporation, and said Humboldt Bay Harbor, Recreation and Conservation District, a public agency, recorded December 29, 1983, in Book 1722 Page 432 Official Records of Humboldt County,

subject to the effect of the Judgment on Stipulation for Entry of Judgment entered in Superior Court of California, County of Humboldt, Case No. 59058, recorded February 8, 1984, in Book 1725, at Page 1075 Official Records of Humboldt County.

#### PARCEL SEVEN

That portion of PARCEL A as shown on Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the County Recorder of said Humboldt County in Book 69 of Surveys, pages 106 and 107, described as follows:

A non-exclusive easement for ingress, egress and public utility purposes in and across a strip of land 50 feet wide, said strip being shown on said Record of Survey filed in Book 69 of Surveys, pages 106 and 107 as "CENTERLINE OF 50 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS".

AS RESERVED in the deed to Humboldt Bay Harbor Recreation and Conservation District in deed recorded August 14, 2013 as Instrument No. 2013-19083-4, Humboldt County Official Records.

**EXHIBIT D**

## **OPERATING LEASE**

This Operating Lease (this "Lease") is made as of March 9, 2016 by and between HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC., a California nonprofit public benefit corporation, whose address P.O. Box 1030, Eureka, California 95501 ("Landlord"), and HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, a California public entity whose address is 601 Startare Dr., Eureka, California 95502 ("Tenant").

### **PREAMBLE**

Landlord has entered into a certain Ground Lease (the "Ground Lease"), as tenant, with Tenant, as landlord, for that certain real property more particularly described in Exhibit A attached hereto (collectively, the "Land"), and the improvements located thereon (collectively, the "Building"). The Land and the Building are collectively referred to herein as the "Property".

Subject to the Ground Lease, Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Leased Premises (as such term is defined herein).

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties agree as follows:

1. Definitions.

The following terms not otherwise defined herein shall have the meaning set forth below:

1.1 "Additional Payments" is defined in Section 2.5.

1.2 "Base Rent" shall mean rent paid by Tenant to Landlord as set forth in Section 2.4 and in accordance with the Base Rent Schedule.

1.3 "Building" shall have the meaning set forth in the Preamble.

1.4 "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

1.5 "Commencement Date" shall have the meaning set forth in Section 2.2.

1.6 "Environmental Laws" shall mean and refer to all federal, state and local laws, ordinances, rules and regulations now or at any time hereafter in effect which regulate, relate to or impose liability or standards of conduct concerning any Hazardous Substances, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 USC § 9601 et. seq.), as amended from time to time ("CERCLA"), and the Superfund Amendments and Reauthorization Act of 1986, as amended, and regulations promulgated thereunder, the Resource Conservation and Recovery Act of 1976 (42 USC § 6901 et. seq.), as amended from time to time and regulations promulgated thereunder, the Toxic Substances Control Act (15 USC § 2601 et. seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. § 3000(f) et seq.), and the Clean Air Act (42 U.S.C. § 7401 et seq.).

1.7 "Event of Default" shall have the meaning set forth in Section 7.1.

1.8 "Force Majeure Delay" shall mean any delay arising by reason of acts of God, strikes, lockouts, or other labor disputes, embargoes, quarantines, national, regional, or local disasters, failure of, or inability to obtain, utilities necessary for performance, governmental restrictions, orders, limitations, regulations, or controls, national emergencies, enemy or hostile governmental action, terrorism, insurrection, riots, civil disturbance or commotion, fire or other casualty, and other causes or events beyond the reasonable control of the party charged with performance hereunder.

1.9 "Handicapped Access Laws" shall mean any and all applicable federal, state, regional, county or local laws, statutes, rules, regulations, ordinances, decrees or orders concerning access of handicapped or disabled persons, whether now existing or hereafter enacted or promulgated, including, but not limited to, the Americans with Disabilities Act of 1990, as amended.

1.10 "Hazardous Substances" shall mean and include: (i) any friable asbestos or asbestos-containing material, polychlorinated biphenyls, dioxins or urea formaldehyde foam insulation; (ii) any petroleum or petroleum-derived products; (iii) any waste, substance, material, pollutant or contaminant designated or regulated in any way as hazardous or toxic in or for purposes of any Environmental Laws; and (iv) any substance, the presence of which, by any governmental requirement, requires special handling in its collection, storage, treatment, transportation or disposal.

1.11 "Landlord" shall have the meaning set forth in the introductory paragraph of this Lease.

1.12 "Lease" shall mean this Operating Lease, as it may be amended from time to time.

1.13 "Leased Premises" shall mean the Land and shall also include (without limitation): (i) the Building, (ii) all Tenant Improvements and (iii) any appurtenant easements.

1.14 "Leasehold Mortgage(s)" shall have the meaning set forth in Section 9.2.

1.15 "Lenders" means, collectively, CNMC SUB-CDE 69, LLC, a Delaware limited liability company, and New Markets Community Capital XVII, LLC, a Delaware limited liability company, and their respective successors and assigns, each of which is providing loans to Landlord pursuant to a certain Loan Agreement, so long as such loans are secured by an assignment of this Lease. Notwithstanding the foregoing, anytime this Lease refers to a required consent of the Lenders, the procedures and requirements relating to such consent shall be governed by the Loan Agreements and any intercreditor or subordination agreement then in effect among any of the Lenders.

1.16 "Licenses and Permits" means all licenses, permits, certificates, authorizations and agreements issued by or agreed to by any governmental authority pursuant to any law, rule, regulation, ordinance, etc., and including, but not limited to, building permits, occupancy permits and such special permits, variances and other relief as are required to permit the use and occupancy of the Leased Premises as permitted by this Lease.

1.17 "Loan Agreement" means that certain Credit Agreement dated on or about the date hereof among Landlord and the Lenders.



1.18 "Permitted Use" shall mean any use of the Leased Premises or any part thereof for (i) the expansion of the aquaculture industry using Leased Premises access to the bay, ocean and freshwater, (ii) the expansion of the wood products industry through leasing for manufacturing of wood pellets, dowels, fire logs and wood chip export, (iii) warehousing space, (iv) industrial space for steel fabrication and assembly, (v) outside storage for manufacturing business, (vi) water treatment facility space, and (vii) similar manufacturing and industrial rental use and uses appurtenant thereto. Notwithstanding anything to the contrary contained herein, a Permitted Use shall not include any trade or business, either as a principal or an ancillary business, that is an excluded business under Section 1.45D-1(d)(5)(iii) of the Regulations, including, without limitation, any one or more of the following: (i) developing or holding intangibles for sale or license; (ii) the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal activity of which is the sale of alcoholic beverages for consumption off premises; (iii) farming, as that term is defined in Section 2032A(e)(5)(a) or (b) of the Internal Revenue Code, or (iv) rental to others of Residential Rental Property. As used herein "Residential Rental Property" means any building or structure where eighty percent (80%) or more of the gross rental income from such building or structure for the taxable year is rental income from "dwelling units." For such purpose, a "dwelling units". For such purpose, a "dwelling unit" means a house or apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, or other establishment more than one half (1/2) of the units in which are used on a transient basis.

1.19 "Property" shall have the meaning set forth in the Preamble.

1.20 "Real Estate Taxes" shall mean all taxes levied or assessed against the Land or the Building by any taxing authority, and/or any payments required by a cooperation agreement providing for payments in lieu of taxes in accordance with any applicable law or regulation, and each installment of all public, special or betterment assessments, urban renewal service payments or other tax increment finance payments levied or assessed by or becoming payable to any governmental authority having jurisdiction over the Land or the Building.

1.21 "Regulations" shall mean the regulations issued by the United States Department of Treasury pursuant to the Code.

1.22 "Tenant" shall have the meaning set forth in the introductory paragraph of this Lease.

1.23 "Tenant Improvements" shall have the meaning set forth in Section 3.2.

1.24 "Term" shall have the meaning set forth in Section 2.2.

1.25 "Termination Date" shall have the meaning set forth in Section 2.2.

## 2. Leased Premises; Term; Rent.

2.1 Lease of Leased Premises. Landlord hereby leases and demises to Tenant and Tenant hereby leases from Landlord the Leased Premises, together with any and all rights, privileges, and advantages belonging to the Leased Premises or in any way appertaining to the Leased Premises, for the Term, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease. The parties acknowledge and agree that Landlord is completing certain renovations to the Leased Premise as further described in the Loan

Agreement, but, as of the date hereof, the Leased Premises are ready for use and/or occupancy.

2.2 Term. The term of this Lease (the "Term") shall be the period commencing on the date hereof (the "Commencement Date") and ending on that date thirty years after the Commencement Date (the "Termination Date"), unless sooner terminated pursuant to the terms hereof. Landlord hereby grants to Tenant the option to extend the Term for three (3) additional ten (10) year period(s) commencing when the prior term expires upon the following terms and conditions: (i) In order to exercise an option to extend, Tenant must give written notice of such election to Landlord at least thirty (30) days prior to the date that the option period would commence, and (ii) Base Rent shall be fair market value determined at the time of the exercise of the option.

2.3 Quiet Enjoyment; Permitted Uses. Landlord covenants and agrees with Tenant that, so long as no Event of Default has occurred under this Lease, Tenant shall and may, at all times during the Term, peaceably and quietly have, hold and enjoy the Leased Premises and all rights, appurtenances and privileges belonging or in any way appertaining thereto without hindrance or molestation from Landlord or any person or entity claiming by, through or under Landlord, subject to the Leasehold Mortgages and other encumbrances recorded in the Official Records of the County of Humboldt as of the date hereof. Tenant shall only use the Leased Premises for a Permitted Use.

2.4 Base Rent. Commencing on the Commencement Date and continuing throughout the Term, Tenant shall pay to Landlord, without setoff, demand, abatement or claim, base rent (the "Base Rent") in monthly installments on the [1st] day of each month, in advance, in accordance with the Base Rent Schedule attached hereto as Exhibit B.

2.5 Additional Payments. It is intended that this Lease shall at all times be a so-called "triple net lease." In order that the Base Rent shall be absolutely net to Landlord, Tenant covenants and agrees to pay or cause to be paid, all amounts payable to or for the benefit of Landlord or to third parties set forth elsewhere in this Lease (collectively, "Additional Payments"), which payments shall include without limitation payment of the following: (i) Real Estate Taxes; (ii) insurance required to be maintained by Landlord hereunder; and (iii) any other costs related to the ownership, operation, maintenance and repair of the Leased Premises. Except as otherwise set forth herein, Additional Payments shall be paid within thirty (30) days after Landlord provides Tenant with a written statement that Additional Payments are due.

2.6 Late Charge. If any sum payable hereunder remains outstanding for a period of thirty (30) days after written notice to Tenant, Tenant shall pay to Landlord a late charge equal to five percent (5%) of the overdue amount.

2.7 Operating Expenses. Except for items on account of which Additional Payments are due as provided in this Lease, Tenant shall be responsible for paying all operating expenses associated with the Property, and Landlord shall receive the Base Rent free and clear of any and all expenses associated with the operation of the Property. In addition, the following provisions shall apply so long as the Loan Agreements remain in effect:

2.7.1 This Lease shall not terminate, nor shall Tenant have the right to terminate this Lease, nor shall Tenant be entitled to any abatement or reduction of the Base Rent or Additional Payments hereunder, nor shall the obligations of Tenant hereunder be affected, by reason of any default on the part of Landlord under this Lease, or under any other agreement to which Landlord and Tenant may be parties. It is the intention of the parties hereto

that the obligations of Tenant hereunder shall be separate and independent covenants and agreements, that the Base Rent and Additional Payments, and all other sums payable by Tenant hereunder, shall continue to be payable in all events and that the obligations of Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease. Nothing hereunder shall preclude Tenant from pursuing or realizing upon its other remedies at law or in equity by reason of any default hereunder by Landlord.

2.7.2 Tenant agrees that it will remain obligated under this Lease in accordance with its terms, and that it will not take any action to terminate, rescind or avoid this Lease, notwithstanding: (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceeding affecting Landlord or any assignee of Landlord in any such proceeding; and (ii) any action with respect to this Lease which may be taken by any trustee or receiver of Landlord or of any assignee of Landlord in any such proceeding, or by any court in any such proceeding; provided that this Lease is not effectively disaffirmed in such proceedings and Tenant receives reasonable assurance thereof within a reasonable period of time and following the commencement of such proceedings.

2.7.3 If this Lease is terminated prior to the expiration of the Term on account of an Event of Default, or for any other reason whatsoever, whether by Tenant or by Landlord, Tenant shall remain liable for the entire amount of the Base Rent and Additional Payments due from Tenant under this Lease for the balance of the Term, which liability shall be reduced by the amount of rent actually collected by Landlord from any successor tenant upon the re-letting of the Premises, if any. However, upon Tenant's payment to Landlord of the Net Present Value of this Lease, Tenant shall be relieved of its liability under this Lease. For the purposes of this Section 2.7, "Net Present Value" shall mean the Base Rent and Additional Payments for the remainder of the Term, discounted to present value using the "applicable federal rate" then in effect for a period equal to the then remaining Term, as the discount factor.

2.7.4 Tenant waives all rights which may now or hereafter be conferred by applicable law (except by a final and binding judicial determination by a court of competent jurisdiction) (i) to quit, terminate or surrender this Lease, the Leased Premises or any part thereof or (ii) to any abatement, suspension, deferment or reduction of Base Rent or Additional Payments, or any other sums payable under this Lease, except as otherwise expressed provided herein.

### 3. Subleasing and Tenant Improvements.

3.1 Assignments/Subleasing. Tenant may not assign its interest in this Lease without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, and the prior written consent of the Lenders. Any attempted assignment, transfer, encumbrance or other alienation of this Lease or any interest hereunder without the prior written consent of Landlord and the Lenders shall be void and shall confer no rights to any third party transferee. Notwithstanding anything contained in this Lease to the contrary, any assignment of this Lease and any sublease hereunder shall be subject to all of the terms, provisions and conditions of this Lease, and no such assignment or sublease shall relieve Tenant of any of its obligations hereunder. Tenant shall be permitted to sublease portions of the Leased Premises pursuant to subleases meeting the Permitted Uses of this Lease, provided such subleases shall be subordinate to the terms of the Ground Lease and this Lease, shall sublease improvements in addition to land, and shall specifically prohibit any excluded business under Section 1.45D-1(d)(5)(iii) of the Regulations.

3.2 Tenant Improvements. Other than Landlord's Work, Tenant shall be responsible, at its sole cost and expense, for carrying out any and all construction, finishing work, fixture installation or other activities that it may deem necessary for Tenant to commence its activities (the "Tenant Improvements"). Tenant shall not perform any Tenant Improvements unless and until all plans and specifications relating to such Tenant Improvements and all contractors retained by Tenant to carry out such improvements comply with the terms and conditions of this Lease and are approved in writing by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed). Tenant may install trade fixtures, machinery or other trade equipment in conformity with the preceding requirements and all applicable laws and ordinances, and the same shall be removed upon the termination of this Lease.

3.3 Mechanic's Liens, Etc. If Tenant causes any improvements, alterations, or repairs to be made to the Leased Premises, Landlord shall not under any circumstances be liable for any labor or materials furnished, or to be furnished, to Tenant and no mechanics' lien or other liens for any such labor or materials shall attach to or affect the reversionary or other estate or interest of Landlord in and to the Leased Premises. Tenant further agrees to indemnify, defend and hold harmless Landlord, and Landlord's mortgagees, against any and all costs Landlord or such mortgagees may suffer on account of same. Upon request from Landlord, Tenant shall provide affidavits of payment, lien waivers or other equivalent evidence of full payment to all contractors, subcontractors and material suppliers who provide services or materials to the Leased Premises, or, if any such payment is being validly disputed, bonds or other security for same reasonably acceptable to Landlord.

3.4 Compliance with Law. Tenant shall perform all construction and other activities on the Leased Premises in compliance with all applicable laws, ordinances, codes and regulations affecting the Leased Premises or its uses, as the same may be administered by authorized governmental officials, including without limitation, Environmental Laws and Handicapped Access Laws.

3.5 Hazardous Substances. Tenant shall not cause or permit: (i) any Hazardous Substances to be placed, held, located or disposed of on, under or at the Leased Premises or any part thereof (except for such Hazardous Substances as may be commonly and legally used or stored at the Leased Premises as a consequence of the operation of Building for the Permitted Uses, but only so long as Tenant complies or causes compliance with all applicable rules and regulations concerning the use or production of such Hazardous Substances), and (ii) any contamination by Hazardous Substances of the Leased Premises or any part thereof.

#### **4. Insurance.**

4.1 Property Insurance. Landlord shall keep the Leased Premises insured for the full replacement value thereof for the benefit of Landlord, Tenant and the Lenders, as their interests may appear. All such insurance shall be in the amounts and form, shall include such coverages and endorsements, and shall be issued by such insurers, as shall be required by the Loan Agreements (but in no event shall Landlord insure the Leased Premises for less than the full replacement value thereof).

4.2 Tenant's Property Insurance. Throughout the Term, Tenant shall maintain, at Tenant's expense, insurance coverage with respect to the Tenant Improvements, and any other insurable property and equipment therein or thereon that is not covered by the insurance policy described in Section 4.1 above, in form and amounts as prudently determined by Tenant.

4.3 Tenant's Liability and Other Insurance. Unless otherwise required by the Loan Agreements, Tenant shall maintain, at its sole expense, commercial general liability insurance or similar coverage obtained through a joint powers authority of California public entities against loss or liability in connection with bodily or other personal injury, death or property damage or destruction, occurring in or on the Leased Premises and arising out of the use thereof by Tenant or its agents, employees, officers, tenants, Tenants, invitees, visitors and guests, such insurance to afford protection to the limits of not less than One Million Dollars (\$1,000,000) per occurrence (combined single limit), Two Million Dollars (\$2,000,000) general policy aggregate, together with contractual liability coverage and completed operations, all of which insurance shall, by its terms, be primary and noncontributory with respect to any other insurance carried by Landlord.

4.4 Worker's Compensation Insurance. Tenant shall maintain worker's compensation insurance as and in the amount required by law.

4.5 Requirements of Insurance. Insurance maintained by Tenant pursuant to this Lease shall:

4.5.1 for all property insurance, have attached thereto a clause making the loss payable to Tenant, Landlord and their respective mortgagees, as their respective interests may appear;

4.5.2 if available, provide for waiver of subrogation and payment of losses to Landlord, respectively, notwithstanding any act of negligence of Tenant; and

4.5.3 if available, be endorsed to provide for a minimum of thirty (30) days' notice to Tenant, Landlord and their respective mortgagees of any cancellation, non-renewal or material modification of the insurance policy, to the extent attainable, but in no event less than ten (10) days' notice of any such event.

4.6 Contractors and Subcontractors. Tenant shall require any contractor (or subcontractor thereof) to carry commercial general liability, auto liability, workers compensation insurance with the scope of coverage and other provisions equivalent to those required of the parties hereunder; provided, however, that Landlord may, in its reasonable discretion, permit a contractor or subcontractor to provide insurance with coverage and/or limits other than as specified above in this sentence so long as such coverage and/or limits is adequate to protect Landlord in light of the contract sum and the nature of the work specified in the contract with such contractor or subcontractor. Upon request, such general liability and auto liability coverages shall include Tenant, Landlord and their respective mortgagees as certificate holders. Tenant shall obtain and keep on file certificates of insurance that show that the contractor or subcontractor is so insured and Landlord shall have the right, from time to time, upon request, to review such contractor and subcontractor information.

4.7 Certificates and Notice. Tenant shall deliver to Landlord upon execution of this Lease and annually thereafter, not less than thirty (30) days prior to the expiration of the then-current policies, certificates of insurance evidencing policies required herein and the renewals thereof. Upon Landlord's written request but no more frequently than annually, Tenant shall deliver to it complete copies of all original policies and endorsements.

## **5. Casualty and Condemnation.**

5.1 Casualty. So long as any obligations of Landlord to the Lenders remain outstanding, in the event that any portion of the Leased Premises is damaged or destroyed by fire or other casualty, the application of insurance proceeds related thereto and the restoration rights and obligations of Landlord and Tenant shall be as set forth in the loan documents governing the loans from the Lenders, subject to any recorded intercreditor and subordination agreement between the Lenders. From and after the time the obligations to the Lenders have been satisfied in full, in the event that any portion of the Leased Premises is damaged or destroyed by fire or other casualty, Landlord shall, to the extent proceeds are available, repair and restore the same as nearly as practicable to the condition immediately prior to such damage or destruction. Regardless of the extent of the damage or time required to restore the Leased Premises, Tenant shall be required to pay all of the Base Rent and Additional Payments under this Lease as each becomes due and payable.

5.2 Eminent Domain. In the event of any temporary or permanent taking of the Leased Premises, by any public or other authority, this Lease shall remain in full force and effect without any change in Tenant's obligations to make payments required hereunder. To the extent of proceeds of any taking award, Landlord shall promptly restore the Leased Premises to substantially the same condition that existed immediately prior to the taking, except for the Tenant Improvements.

## **6. Indemnification.**

### **6.1 Indemnities.**

6.1.1 Tenant covenants and agrees to indemnify Landlord, defend Landlord with counsel selected by Tenant and acceptable to Landlord in its reasonable discretion, and hold Landlord harmless from any and all liabilities, losses, claims, demands, fees and expenses of any kind or any nature whatsoever (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable experts' and attorneys' fees and expenses), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by, or asserted or awarded against Landlord arising from or occasioned by any omission, fault, neglect, breach of this Lease, or other misconduct by Tenant or otherwise growing out of or connected with Tenant's use, possession, ownership, improvement or occupation of the Leased Premises, or any part thereof, but only to the extent such injury, damage, death or loss does not arise out of or relate to any negligence or willful misconduct of Landlord or any employees, agents, officers, directors, shareholders, members and partners of Landlord, and any successors thereof.

6.1.2 Landlord covenants and agrees to indemnify Tenant, defend Tenant with counsel selected by Landlord and acceptable to Tenant in its reasonable discretion, and hold Tenant harmless from any and all liabilities, losses, claims, demands, fees and expenses of any kind or any nature whatsoever (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable experts' and attorneys' fees and expenses), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by, or asserted or awarded against Tenant arising from or occasioned by any omission, fault, neglect, breach of this Lease by Landlord, or other misconduct by Landlord or otherwise growing out of or connected with Landlord's obligations under this Lease or possession of the Leased Premises, but only to the extent such injury, damage, death or loss does not arise out of or relate to any negligence or willful misconduct of Tenant or any employees, agents, officers, directors, shareholders, members and partners of Tenant, and any successors thereof.

6.2 Notice of Claims; Survival. The party claiming the right to indemnification hereunder shall provide the other party with prompt and timely notice of any claim made or suit instituted against it or any other party of which it has knowledge, relating to any matter that in any way may result in indemnification pursuant to this Section 6. The obligations of Tenant and Landlord under this Section 6 shall survive the expiration or any earlier termination of this Lease. No party shall be liable for indemnification in connection with any settlement of any claim effected without its consent.

## **7. Default.**

7.1 Default by Tenant. The occurrence of any of the following events shall constitute an event of default ("Event of Default") by Tenant hereunder:

7.1.1 Tenant fails to pay when due any amount due hereunder or if Tenant fails to observe or perform any obligation imposed under this Lease, and shall fail to cure, correct or remedy such failure within ten (10) days after the receipt of written notice thereof in the case of failure to make any payment due hereunder or, for any other matter, thirty (30) days after the receipt of written notice thereof, unless such failure cannot be cured by the payment of money and cannot with due diligence be cured within a period of thirty (30) days, in which case such failure shall not be deemed to constitute an Event of Default so long as Tenant promptly commences and thereafter proceeds with due diligence to cure such failure and completes the curing thereof within a reasonable period of time, not to exceed an additional thirty (30) days, subject to Force Majeure Delay; or

7.1.2 any representation or warranty of Tenant set forth in this Lease, in any certificate delivered pursuant hereto, or in any notice, certificate, demand, submittal or request delivered to Landlord by Tenant pursuant to this Lease shall prove to be incorrect in any material and adverse respect as of the time when the same shall have been made and the same shall not have been remedied to the reasonable satisfaction of Landlord within thirty (30) days after written notice from Landlord.

7.2 Default by Landlord. The occurrence of any of the following events shall constitute an Event of Default by Landlord hereunder:

7.2.1 Landlord fails to observe or perform any material covenant, condition, agreement or obligation hereunder not addressed by any other event described in this Section 7.2; and shall fail to cure, correct or remedy such failure within thirty (30) days after the receipt of written notice thereof, unless such failure cannot be cured by the payment of money and cannot with due diligence be cured within a period of thirty (30) days, in which case such failure shall not be deemed to constitute an Event of Default so long as Landlord promptly commences and thereafter proceeds with due diligence to cure such failure and completes the curing thereof within a reasonable period of time, not to exceed one hundred twenty (120) days, subject to Force Majeure Delay; or

7.2.2 If any representation or warranty of Landlord set forth in this Lease, in any certificate delivered pursuant hereto, or in any notice, certificate, demand, submittal or request delivered to Tenant by Landlord pursuant to this Lease shall prove to be incorrect in any material and adverse respect as of the time when the same shall have been made and the same shall not have been remedied to the reasonable satisfaction of Tenant within thirty (30) days after written notice from Tenant.

7.2.3 Landlord's default under the Ground Lease.

## **8. Remedies.**

8.1 Following Default by Tenant. If there shall occur an Event of Default on the part of Tenant, Landlord may:

8.1.1 seek any and all remedies available at law or in equity, including without limitations damages or specific performance;

8.1.2 upon not less than thirty (30) additional days' written notice to Tenant, in addition to any of Landlord's other rights at law or in equity or as set forth elsewhere in this Lease, cure any default or breach of warranty of Tenant hereunder and perform any covenants which Tenant has failed to perform (including, at its sole discretion and without any obligation to do so, making payment of any amounts due, including without limitation, any Real Estate Taxes), and any sums reasonably expended by Landlord in curing such default or breach of warranty and performing such covenants shall be paid by Tenant to Landlord immediately upon demand, and shall be deemed Additional Payments hereunder; or

8.1.3 upon not less than thirty (30) additional days' written notice to Tenant, then Landlord may, in addition to any of Landlord's other rights at law or in equity, terminate this Lease and, in accordance with any applicable laws, take possession of the Leased Premises.

8.2 Following Default by Landlord. If there shall occur an Event of Default on the part of Landlord, then subject to the limitations provided herein, Tenant may:

8.2.1 seek any and all remedies available at law or in equity including without limitations damages or specific performance; and

8.2.2 upon not less than thirty (30) additional days' written notice to Landlord and the Lenders, in addition to any of Tenant's other rights at law or in equity or as set forth elsewhere in this Lease, cure any default or breach of warranty of Landlord hereunder and perform any covenants which Landlord has failed to perform (including, at its sole discretion and without any obligation to do so, making payment of any amounts due, including without limitation, any Real Estate Taxes), and any sums reasonably expended by Tenant in curing such default or breach of warranty and performing such covenants shall be paid by Landlord to Tenant immediately upon demand, and may be offset by Tenant against future Additional Payments or rent.

Tenant hereby agrees that any cure of any Event of Default made or tendered by any Lender shall be deemed to be a cure by Landlord and shall be accepted or rejected on the same basis as if made or tendered by Landlord.

8.3 Remedies Cumulative. Unless otherwise specifically provided in this Lease, no remedy herein shall be exclusive of any other remedy or remedies, and each such remedy shall be cumulative and in addition to every other remedy, and every power and remedy given by this Lease may be exercised from time to time and as often as may be deemed expedient by either party. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein.

## **9. Lease Priority, Mortgage Provisions and New Markets Tax Credits.**



9.1 Priority of Lease; Landlord's Right to Mortgage. This Lease is subject and subordinate to the Ground Lease, and to the lien, operation and effect of each mortgage, deed of trust, ground lease or other similar instrument granted by Landlord and covering any or all of the Leased Premises, and each renewal, modification, extension, recasting, or refinancing thereof, including the Mortgage (as such term is defined in the Loan Agreement) in favor of Lenders (each, a "Mortgage"). If Landlord's interest in the Leased Premises is acquired by any ground lessor, Lender, or purchaser at a foreclosure sale (each, a "Successor Landlord"), Tenant shall attorn to the transferee of or successor to Landlord's interest in the Premises. The foregoing subordination and attornment provisions shall be self-operative and no further instruments shall be required to effect such subordination and/or attornment; provided, however, that Tenant hereby agrees to execute within five (5) days, subject to any delays necessary for approval of the same by the Tenant's governing board, if the same is required, any and all instruments in writing which may be required by Landlord or a Leasehold Mortgagee to confirm such subordination and attornment provisions. In the event of such attornment, Tenant recognizes such Successor Landlord shall not be liable for, subject to, or bound by (a) any payment of the Rent more than one (1) rental period in advance, except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease, but only to the extent such prepayments have been delivered to such Successor Landlord, (b) any amendment of this Lease made without the consent of the holder of each mortgage or deed of trust existing as of the date of such amendment, (c) damages for any breach, act or omission of any prior landlord, (d) any offsets or defenses which Tenant might have against any prior landlord, (e) any obligations with respect to construction or completion of any improvements for Tenant's use and occupancy, or following any fire or casualty, the restoration or repair of any improvement upon the demised Premises, (f) warranties of any nature whatsoever, including any warranties respecting use, compliance with zoning, hazardous wastes or environmental laws, title, authority, habitability, fitness for purpose or possession; or (g) any assignment or subletting by Tenant made in a manner not expressly permitted under this Lease, unless such assignment or sublease was made with the consent of the holder of each mortgage or deed of trust existing as of the date of such assignment or sublease.

9.2 Tenant's Right to Mortgage. After obtaining the written consent of Landlord, the Lenders, and any mortgagee of Landlord, Tenant shall have the right from time to time to obtain mortgage loan financing for the Leased Premises and to grant to the providers of such financing leasehold mortgages, assignments of leases and rents, use restrictions and such other security instruments covering and affecting all or any portion of the Leased Premises as Tenant may deem necessary or appropriate (together, "Leasehold Mortgages"). However, no such encumbrance shall constitute a lien on Landlord's interest in the Leased Premises, and the indebtedness secured by the encumbrance shall at all times be and remain inferior and subordinate to all the conditions, covenants and obligations of this Lease, to the lien of any deed of trust, mortgage or other security instrument encumbering Landlord's interest in the Leased Premises.

9.3 New Markets Tax Credits. For so long as the Loan Agreements remain in effect, Tenant shall provide such information as may be reasonably requested by Landlord on behalf of any Lender in order to comply with requirements of the CDFI Fund with respect to New Markets Tax Credits (as such terms are defined in the Loan Agreement) program data collection.

## **10. Miscellaneous.**

10.1 Successors and Assigns. Unless otherwise required by the context, the words "Landlord" and "Tenant" shall be construed to mean the original parties, their respective

successors and assigns and those claiming through or under them respectively. The agreements and conditions in this Lease contained on the part of and to be performed and observed by Tenant shall be binding upon Tenant and its successors and assigns and shall inure to the benefit of Landlord and its successors and assigns, and the agreements and conditions in this Lease contained on the part of and to be performed and observed by Landlord shall be binding upon Landlord and its successors and assigns and shall inure to the benefit of Tenant and its successors and assigns, in each case following the granting of any consent to transfer required to be obtained pursuant to the terms hereof. The parties agree that notwithstanding any provision hereof to the contrary, no officer, director, trustee, shareholder, general or limited partner, member, manager, agent or employee of any party shall have any personal liability under this Lease, and each party agrees to look solely to the other party for performance of the obligations, conditions and covenants of this Lease.

10.2 Estoppel Certificate. Each party agrees from time to time, upon no less than ten (10) days prior notice from the other, to execute, acknowledge and deliver to the other a statement that shall: (a) indicate the aggregate amount of all payments that have been made by Tenant and, further categorize and tabulate these payments as payments towards the Base Rent and payments in addition to the Base Rent; and (b) certify that (i) this Lease is unmodified and in full force and effect (or, if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (ii) that the Base Rent has been paid, and that no other payments are due under this Lease (or if Base Rent or other payments are due, the nature and amount of the same), and (iii) whether, to the actual knowledge of such party, there exists any uncured default by the other party, or any defense, offset, or counterclaim against the other party, and, if so, the nature of such default, defense, offset or counterclaim. The statement may be relied on by any auditor, creditor and lender and by any prospective purchaser or encumbrancer of the Leased Premises or all or any part or parts of Landlord's or Tenant's respective interests under this Lease.

10.3 Intentionally Deleted.

10.4 Notice. For so long as the Loan Agreement remains in effect, the Tenant and the Landlord each agree, simultaneously with the giving of each notice hereunder, to give a duplicate copy of such notice to Lenders. Any notice or other communication given or made pursuant to this Lease shall be in writing and shall be deemed given if: (i) delivered personally or by courier; (ii) sent by overnight express delivery; or (iii) mailed by registered or certified mail (return receipt requested), postage prepaid, in all three (3) cases to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party, any such changed address to be effective ten (10) days after the giving of notice thereof):

If to Landlord:

Humboldt Bay Development Association, Inc.  
P.O. Box 1030  
Eureka, CA 95501  
Attn: Mr. Jack Crider  
Facsimile: 707-443-0800  
E-mail: Jcrider@humbolddbay.org

If to Tenant:

Humboldt Bay Harbor, Recreation and  
Conservation District  
Attn.: Mr. Jack Crider, CEO  
601 Startare Drive

Eureka, CA 95501  
Facsimile: 707-443-0800  
E-mail: Jcrider@humboldt看bay.org

With a copy to:

Mitchell, Brisso, Delaney & Vrieze LLP  
Attn.: Mr. Paul A. Brisso  
814 Seventh Street  
Eureka, CA 95501  
Facsimile: 707-444-9586  
E-mail: pbrisso@mitchelllawfirm.com

If to the Lenders:

As set forth on Exhibit C attached hereto.

All such notices and other communications shall be deemed given and received: (i) in the case of personal or local courier delivery, on the date of such delivery; (ii) in the case of delivery by overnight courier or express delivery service, on the date following dispatch; and (iii) in the case of mailing, three (3) business days after the date of mailing. For the sake of convenience and rapidity of transmission, copies of notices may be sent by telecopy transmission, but such transmission alone shall not be deemed to satisfy the notice requirements of this Lease absent actual confirmed receipt or the giving of notice by one of the other means stated above. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice or other communication.

10.5 Waiver. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, shall be deemed to be in exclusion of any other; and two (2) or more or all of such rights and remedies may be exercised at the same time, except as may be expressly provided to the contrary herein.

10.6 No Third Party Beneficiaries. Nothing contained in this Lease or any other agreement or contract between Landlord and Tenant shall be deemed or construed to create any relationship of third party beneficiary, principal and agent, limited or general partner, joint venture or any other association or relationship other than landlord-tenant, and are solely for the benefit of Landlord and Tenant and not for the benefit of any third party; except that any provision herein for the benefit of the Lenders or any of Landlord's mortgagees may be relied on by such parties.

10.7 Attorneys' Fees. If either party brings any action for damages or other relief against the other, the prevailing party shall be entitled to receive payment from the losing party of all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees. The provisions of this Section 10.7 shall be applicable in trial, arbitration and appellate proceedings. The obligation to pay fees set forth herein shall accrue on commencement of such proceedings; provided that if such proceedings are not prosecuted to judgment or final determination, each party shall bear its own attorneys' fees unless otherwise agreed in writing.

10.8 Headings. The headings used for the various articles and sections of this Lease are used only as a matter of convenience for reference, and are not to be construed as part of this Lease or to be used in determining the intent of the parties of this Lease.

10.9 Construction. Landlord and Tenant agree that all the provisions hereof are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate section thereof.

10.10 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed therein.

10.11 Counterparts. This Lease may be executed in multiple counterparts and all such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

10.12 Invalidity. If any term, covenant, provision or condition of this Lease or the application thereof to any person or circumstances shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, the application of the remaining terms, covenants, provisions and conditions of this Lease shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable, provision which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.

10.13 Exhibits. The exhibits referenced in this Lease are incorporated into this Lease by such references and are to be construed as a part of this Lease.

10.14 Entire Agreement. This instrument contains all the agreements made between the parties hereto with respect to the leasing of the Leased Premises and may not be modified in any other manner than by an instrument in writing specifically referencing such modification that is executed by the parties or their respective successors in interest.


10.15 No Merger. It is expressly understood and agreed to by the parties that the interest of Tenant under this Lease and the interest of Tenant, as landlord, under the Ground Lease are separate and distinct and shall not merge as a result of this Lease.

***[Remainder of page intentionally left blank; Signature pages follow]***

In Witness Whereof, the parties have executed this Operating Lease as of the date first written above.

LANDLORD:

HUMBOLDT BAY DEVELOPMENT  
ASSOCIATION, INC., a California nonprofit public  
benefit corporation

By:   
Name: Richard Marks  
Title: President

TENANT:

HUMBOLDT BAY HARBOR, RECREATION AND  
CONSERVATION DISTRICT, a California public  
entity

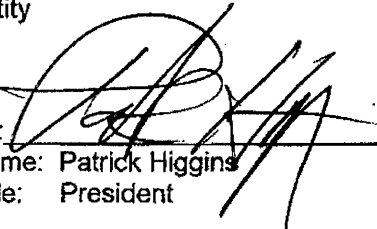
By:   
Name: Patrick Higgins  
Title: President

Exhibit A  
Description of Property

**For APN/Parcel ID(s): 401-112-021 and 401-112-024**

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THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF HUMBOLDT, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

TRACT A

Those portions of Sections 16, 20 and 21, Township 5 North, Range 1 West, Humboldt Meridian, more particularly described as follows:

PARCEL ONE

PARCEL A as shown on Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the County Recorder of said Humboldt County in Book 69 of Surveys, pages 106 and 107.

EXCEPTING THEREFROM an undivided one-half interest in and to all minerals, coal, oils, petroleum and kindred substances and natural gas under and in said lands, as excepted in the deed from Anna G. McCormack recorded November 20, 1958 in Book 511, page 147, Humboldt County Official Records.

(TANKS AREA EXCEPTION)

EXCEPTING THEREFROM that portion thereof described as follows:

BEGINNING at a point on the Northerly line of Parcel A as shown on a Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the Humboldt County Recorder in Book 69 of Surveys, Pages 106 and 107, at the Southerly terminus of a course having a bearing of North 26 degrees 51 minutes 38 seconds East;  
thence along said Northerly line, North 26 degrees 51 minutes 38 seconds East, 10.37 feet;  
thence along said Northerly line, North 66 degrees 20 minutes 37 seconds West, 679.14 feet;  
thence leaving said Northerly line, South 23 degrees 48 minutes 09 seconds West, 755.82 feet;  
thence South 12 degrees 03 minutes 23 seconds East, 47.01 feet;  
thence South 66 degrees 11 minutes 51 seconds East, 680.00 feet;  
thence North 23 degrees 48 minutes 09 seconds East, 785.33 feet, more or less, to the Northerly line of said Parcel A at a point that bears South 66 degrees 15 minutes 26 seconds East from the point of beginning;  
thence North 66 degrees 15 minutes 26 seconds West, along said line, 28.95 feet, more or less, to the point of beginning.

PARCEL TWO

A non-exclusive easement for ingress and egress, 50 feet in width, the center line of which is described as follows:

COMMENCING on the South line of Section 16 Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Southwest corner of said Section;  
thence North 19 degrees 58 minutes 05 seconds West, 910.90 feet to the beginning of a non- tangent curve, concave to the East, having a radius of 852 feet, through which a radial line bears North 34 degrees 11 minutes 28 seconds West, said point being the true point of beginning; and running  
thence Southerly along said curve, through a central angle of 33 degrees 46 minutes 52 seconds, for a distance of 502.33 feet to a point herein identified as "Point A";  
thence continuing Southerly along said curve, through a central angle of 22 degrees 18 minutes 56 seconds, for a distance of 331.84 feet;  
thence South 00 degrees 17 minutes 16 seconds East, 129.77 feet to the South line of said Section 16.

PARCEL THREE

A non-exclusive easement for ingress and egress 50 feet in width, the center line being described as follows:

COMMENCING at "Point A" described above;  
thence North 63 degrees 33 minutes 05 seconds West to the East line of New Navy Base Road, as described in Book

1160 of Official Records, page 623, Humboldt County Records.

EXCEPTING THEREFROM that portion lying within the 30 foot strip of land conveyed to the Northwestern Pacific Railroad Company, a California corporation, by document recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records.

#### PARCEL FOUR

A non-exclusive easement for ingress, egress and public utility purposes in and across that portion of the 50 foot wide strip shown on said Record of Survey filed in Book 69 of Surveys, pages 106 and 107 as "CENTERLINE OF 50 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS" that lies within Parcel B shown on said Survey and also within that portion of Parcel C shown on said Survey that lies within said Section 21.

#### PARCEL FIVE

A non-exclusive easement for ingress, egress and public utility purposes in and across the west 50 feet of the following described lands:

BEGINNING at the Northwest corner of Lot 3 in Section 21 in Township 5 North, Range 1 West, Humboldt Meridian; and running  
thence South 8 minutes West on the Section line, 600 feet;  
thence East, 1410 feet to the East line of State Tide Land Survey No. 75;  
thence Northerly along the East line of said Tide Land Survey to the North line of said Lot 3; and  
thence West on the north line of said Lot, 1670 feet to the point of beginning.

#### TRACT B

#### PARCEL ONE

That portion of PARCEL B as shown on Record of Survey for Freshwater Tissue Company, LLC, filed in the Office of the County Recorder of said Humboldt County in Book 69 Surveys, Pages 106 and 107, described as follows:

BEGINNING on the Southwesterly line of said PARCEL B at a point that bears North 66 degrees 22 minutes 38 seconds West, 664.17 feet from the most Southerly corner of said PARCEL B;  
thence North 23 degrees 37 minutes 22 seconds East, 59.29 feet;  
thence North 15 degrees 56 minutes 36 seconds West, 488.72 feet;  
thence North 69 degrees 07 minutes 20 seconds East, 200.81 feet;  
thence North 82 degrees 52 minutes 03 seconds East, 196.26 feet;  
thence North 58 degrees 03 minutes 53 seconds East, 27.10 feet;  
thence North 15 degrees 06 minutes 45 seconds East, 67.42 feet;  
thence North 20 degrees 24 minutes 32 seconds West, 529.38 feet;  
thence North 76 degrees 33 minutes 34 seconds East, 33.06 feet to the Easterly line of said PARCEL B;  
thence along said Easterly line the following courses:  
North 69 degrees 30 minutes 50 seconds East, 47.32 feet,  
South 19 degrees 55 minutes 20 seconds East, 311.69 feet,  
North 84 degrees 15 minutes 50 seconds East, 43.92 feet,  
South 21 degrees 13 minutes 20 seconds East, 90.39 feet,  
South 28 degrees 58 minutes 05 seconds East, 270.98 feet,  
North 83 degrees 50 minutes 20 seconds East, 224.07 feet,  
North 73 degrees 22 minutes 00 seconds East, 153.65 feet,  
South 65 degrees 53 minutes 10 seconds East, 85.95 feet, more or less, to the 1870 mean low water line, being the line described in Book 1722 Official Records, Page 440;  
thence along said line the following courses:  
South 21 degrees 38 minutes 48 seconds West, 795.69 feet,  
South 20 degrees 52 minutes 00 seconds West, 181.39 feet to the most Southerly corner of said PARCEL B;  
thence North 66 degrees 22 minutes 38 seconds West, along the Southwesterly line of said parcel, 664.17 feet to the point of beginning.



The above lands being shown as Parcel 1 on Record of Survey filed in Book 71 of Surveys, page 149, Humboldt County Records.

#### PARCEL TWO

A non-exclusive easement for ingress and egress, 50 feet in width, the center line of which is described as follows:

COMMENCING on the South line of Section 16 Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Southwest corner of said Section; thence North 19 degrees 58 minutes 05 seconds West, 910.90 feet to the beginning of a non-tangent curve, concave to the East, having a radius of 852 feet, through which a radial line bears North 34 degrees 11 minutes 28 seconds West; thence Southerly along said curve, through a central angle of 33 degrees 46 minutes 52 seconds, for a distance of 502.33 feet to a point herein identified as "Point A"; thence continuing Southerly along said curve, through a central angle of 22 degrees 18 minutes 56 seconds, for a distance of 331.84 feet; thence South 00 degrees 17 minutes 16 seconds East, 129.77 feet to the South line of said Section 16.

#### PARCEL THREE

A non-exclusive easement for ingress and egress 50 feet in width, the center line being described as follows:

COMMENCING at "Point A" described above; thence North 63 degrees 33 minutes 05 seconds West to the East line of New Navy Base Road, as described in Book 1160 of Official Records, page 623, Humboldt County Records.

EXCEPTING THEREFROM that portion lying within the 30 foot strip of land conveyed to the Northwestern Pacific Railroad Company, a California corporation, by document recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records.

#### PARCEL FOUR

A non-exclusive easement for installation, maintenance, repair and replacement of an effluent pipe line, 200 feet in width, the center line being described as follows:

COMMENCING at a point on the West line of New Navy Base Road as described in Book 1160 of Official Records, Page 623, Humboldt County Records, which bears North 42 degrees 02 minutes West from a point which bears South 25 degrees 23 minutes West, 549.23 feet from the County Road Monument at Station 440+00 of the Survey of said road; thence North 42 degrees 02 minutes West to the mean high tide of the Pacific Ocean.

Excepting any portion of the easement below the line of ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline.

As created by document recorded June 11, 1999 as Instrument Number 1999-17193-12 of Official Records

#### PARCEL FIVE

A non-exclusive easement for ingress and egress over a strip of land 25 feet in width the West line being described as follows:

COMMENCING on the North line of Section 21, Township 5 North, Range 1 West, Humboldt Meridian, at a point bearing South 88 degrees 32 minutes 46 seconds East, 1062.11 feet from the Northwest corner of said Section; thence South 19 degrees 58 minutes 05 seconds East, 408.98 feet.

As created by document recorded December 14, 2000 as Instrument Number 2000-26546-4 of Official Records.

#### PARCEL SIX

An easement and right of way for the perpetual non-exclusive right to use for pedestrian and vehicular traffic (including commercial trucks and heavy equipment) on, over and along the roadways shown as the "Traffic Route" on Exhibit "B", as attached to and set forth in that certain Shared Services, Facilities, Access and Use Agreement dated as of June 30, 1998 and recorded July 2, 1998 under as Instrument Number 1998-17222 of Official Records.

In so far as the said easement and right of way affect the following described property:

The whole of fractional Section 16, according to the Official Plat of the United States Government Survey.

**EXCEPTING THEREFROM:**

First Exception: All right or title of Peninsula Union School District of Humboldt County, its successors or assigns, in a parcel, described as follows:

That portion of Section 16, Township 5 North, Range 1 West, Humboldt Base and Meridian, to wit:

COMMENCING at the Southeast corner of US Lot 4 in Section 9, Township 5 North, Range 1 West, Humboldt Base and Meridian;

thence South 0 degrees 50 minutes West 605.76 feet to the true point of beginning of the parcel of land to be described;

thence South 89 degrees 10 minutes East 135.90 feet;

thence South 0 degrees 50 minutes West, 531.62 feet to the Northwestern line of the County Road;

thence along said Northwestern line South 60 degrees 47 minutes West 287.00 feet; thence leaving said Northwestern line North 31 degrees 49 minutes West 289.00 feet; thence South 69 degrees 30 minutes 55 seconds West 384.59 feet; thence North 0 degrees 50 minutes East 571.82 feet to a point that bears North 89 degrees 10 minutes West from the true point of beginning;

thence South 89 degrees 10 minutes East 626.71 feet to the true point of beginning.

**Second Exception:**

EXCEPTING FROM the foregoing described land, all interest of Northwestern Pacific Railroad Company, its successors or assigns, in a strip of land 30 feet wide lying along the line of said Company's railroad from a point on the South line of Section 16, Township 5 North, Range 1 West, Humboldt Meridian, Northeasterly by various courses and curvatures through Section 16.

**Third Exception:**

A strip of land 4.0 feet in width, the Easterly and Southeasterly line thereof being parallel and concentric with and distant 15.0 feet Westerly and Northwesternly, measured at right angles and radially from the following described line:

BEGINNING at a point in the South line of Section 16, Township 5 North, Range 1 West, Humboldt Base and Meridian, which is the Southerly terminus of the center line of the 30 foot wide strip of land described in Deed dated July 21, 1924, from Hammond Lumber Company to Northwestern Pacific Railroad Company recorded February 2, 1925, in Book 171 of Deeds, Page 186, Humboldt County Records;

thence along said center line of the 30 foot wide strip of land described in said Deed, the following five courses:

(1) North 1 degree 35 minutes 30 seconds West 113 feet, more or less;

(2) Northerly from a tangent, which is last described course on a curve to the right having a radius of 716.34 feet, an arc distance of 493.8 feet;

(3) North 37 degrees 54 minutes 30 seconds East tangent to said curve, 112.8 feet;

(4) Northeasterly from a tangent which is last described course, on a curve to the right having a radius of 573.14 feet, an arc distance of 412.6 feet; and

(5) North 79 degrees 10 minutes 0 seconds East, tangent to last said curve, 789.0 feet to a point.

The side lines of the above described 4.0 foot wide strip of land terminate on the South in said South line of Section 16 and on the Northeast in a line drawn at right angles Northwesternly from the above described line at the Northeasterly terminus thereof.

**Fourth Exception:**

EXCEPTING all that portion thereof conveyed by Georgia-Pacific Corporation to the County of Humboldt by Deed dated January 28, 1971, recorded October 13, 1972, in Book 1160 Page 623, Official Records of Humboldt County, California.

**Fifth Exception:**

EXCEPTING THEREFROM all rights, title and interest conveyed to the Humboldt Bay Harbor, Recreation and Conservation District, a public agency, in that certain Quitclaim and Relinquishment of Interests in Real Property, executed by Louisiana Pacific Corporation, a Delaware corporation, and said Humboldt Bay Harbor, Recreation and Conservation District, a public agency, recorded December 29, 1983, in Book 1722 Page 432 Official Records of Humboldt County,

subject to the effect of the Judgment on Stipulation for Entry of Judgment entered in Superior Court of California, County of Humboldt, Case No. 59058, recorded February 8, 1984, in Book 1725, at Page 1075 Official Records of Humboldt County.

#### PARCEL SEVEN

That portion of PARCEL A as shown on Record of Survey for Freshwater Tissue Company, LLC filed in the Office of the County Recorder of said Humboldt County in Book 69 of Surveys, pages 106 and 107, described as follows:

A non-exclusive easement for ingress, egress and public utility purposes in and across a strip of land 50 feet wide, said strip being shown on said Record of Survey filed in Book 69 of Surveys, pages 106 and 107 as "CENTERLINE OF 50 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS".

AS RESERVED in the deed to Humboldt Bay Harbor Recreation and Conservation District in deed recorded August 14, 2013 as Instrument No. 2013-19083-4, Humboldt County Official Records.

Exhibit B  
Base Rent Schedule

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

---

Period	Rent
Jan 2016	\$ -
Feb 2016	\$ -
Mar 2016	\$ -
Apr 2016	\$ -
May 2016	\$ -
Jun 2016	\$ -
Jul 2016	\$ -
Aug 2016	\$ -
Sep 2016	\$ -
Oct 2016	\$ 15,000
Nov 2016	\$ 15,000
Dec 2016	\$ 15,000
Jan 2017	\$ 15,450
Feb 2017	\$ 15,450
Mar 2017	\$ 15,450
Apr 2017	\$ 15,450
May 2017	\$ 15,450
Jun 2017	\$ 15,450
Jul 2017	\$ 15,450
Aug 2017	\$ 15,450
Sep 2017	\$ 15,450
Oct 2017	\$ 15,450
Nov 2017	\$ 15,450
Dec 2017	\$ 15,450
Jan 2018	\$ 15,914
Feb 2018	\$ 15,914
Mar 2018	\$ 15,914
Apr 2018	\$ 15,914
May 2018	\$ 15,914
Jun 2018	\$ 15,914
Jul 2018	\$ 15,914
Aug 2018	\$ 15,914
Sep 2018	\$ 15,914
Oct 2018	\$ 15,914
Nov 2018	\$ 15,914
Dec 2018	\$ 15,914

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

---

Period	Rent
Jan 2019	\$ 16,391
Feb 2019	\$ 16,391
Mar 2019	\$ 16,391
Apr 2019	\$ 16,391
May 2019	\$ 16,391
Jun 2019	\$ 16,391
Jul 2019	\$ 16,391
Aug 2019	\$ 16,391
Sep 2019	\$ 16,391
Oct 2019	\$ 16,391
Nov 2019	\$ 16,391
Dec 2019	\$ 16,391
Jan 2020	\$ 16,883
Feb 2020	\$ 16,883
Mar 2020	\$ 16,883
Apr 2020	\$ 16,883
May 2020	\$ 16,883
Jun 2020	\$ 16,883
Jul 2020	\$ 16,883
Aug 2020	\$ 16,883
Sep 2020	\$ 16,883
Oct 2020	\$ 16,883
Nov 2020	\$ 16,883
Dec 2020	\$ 16,883
Jan 2021	\$ 17,389
Feb 2021	\$ 17,389
Mar 2021	\$ 17,389
Apr 2021	\$ 17,389
May 2021	\$ 17,389
Jun 2021	\$ 17,389
Jul 2021	\$ 17,389
Aug 2021	\$ 17,389
Sep 2021	\$ 17,389
Oct 2021	\$ 17,389
Nov 2021	\$ 17,389
Dec 2021	\$ 17,389

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2022	\$ 17,911
Feb 2022	\$ 17,911
Mar 2022	\$ 17,911
Apr 2022	\$ 17,911
May 2022	\$ 17,911
Jun 2022	\$ 17,911
Jul 2022	\$ 17,911
Aug 2022	\$ 17,911
Sep 2022	\$ 17,911
Oct 2022	\$ 17,911
Nov 2022	\$ 17,911
Dec 2022	\$ 17,911
Jan 2023	\$ 38,630
Feb 2023	\$ 38,630
Mar 2023	\$ 38,630
Apr 2023	\$ 38,630
May 2023	\$ 38,630
Jun 2023	\$ 38,630
Jul 2023	\$ 38,630
Aug 2023	\$ 38,630
Sep 2023	\$ 38,630
Oct 2023	\$ 38,630
Nov 2023	\$ 38,630
Dec 2023	\$ 38,630
Jan 2024	\$ 43,520
Feb 2024	\$ 43,520
Mar 2024	\$ 43,520
Apr 2024	\$ 43,520
May 2024	\$ 43,520
Jun 2024	\$ 43,520
Jul 2024	\$ 43,520
Aug 2024	\$ 43,520
Sep 2024	\$ 43,520
Oct 2024	\$ 43,520
Nov 2024	\$ 43,520
Dec 2024	\$ 43,520

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2025	\$ 44,390
Feb 2025	\$ 44,390
Mar 2025	\$ 44,390
Apr 2025	\$ 44,390
May 2025	\$ 44,390
Jun 2025	\$ 44,390
Jul 2025	\$ 44,390
Aug 2025	\$ 44,390
Sep 2025	\$ 44,390
Oct 2025	\$ 44,390
Nov 2025	\$ 44,390
Dec 2025	\$ 44,390
Jan 2026	\$ 45,278
Feb 2026	\$ 45,278
Mar 2026	\$ 45,278
Apr 2026	\$ 45,278
May 2026	\$ 45,278
Jun 2026	\$ 45,278
Jul 2026	\$ 45,278
Aug 2026	\$ 45,278
Sep 2026	\$ 45,278
Oct 2026	\$ 45,278
Nov 2026	\$ 45,278
Dec 2026	\$ 45,278
Jan 2027	\$ 46,184
Feb 2027	\$ 46,184
Mar 2027	\$ 46,184
Apr 2027	\$ 46,184
May 2027	\$ 46,184
Jun 2027	\$ 46,184
Jul 2027	\$ 46,184
Aug 2027	\$ 46,184
Sep 2027	\$ 46,184
Oct 2027	\$ 46,184
Nov 2027	\$ 46,184
Dec 2027	\$ 46,184



**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2028	\$ 47,107
Feb 2028	\$ 47,107
Mar 2028	\$ 47,107
Apr 2028	\$ 47,107
May 2028	\$ 47,107
Jun 2028	\$ 47,107
Jul 2028	\$ 47,107
Aug 2028	\$ 47,107
Sep 2028	\$ 47,107
Oct 2028	\$ 47,107
Nov 2028	\$ 47,107
Dec 2028	\$ 47,107
Jan 2029	\$ 48,050
Feb 2029	\$ 48,050
Mar 2029	\$ 48,050
Apr 2029	\$ 48,050
May 2029	\$ 48,050
Jun 2029	\$ 48,050
Jul 2029	\$ 48,050
Aug 2029	\$ 48,050
Sep 2029	\$ 48,050
Oct 2029	\$ 48,050
Nov 2029	\$ 48,050
Dec 2029	\$ 48,050
Jan 2030	\$ 49,011
Feb 2030	\$ 49,011
Mar 2030	\$ 49,011
Apr 2030	\$ 49,011
May 2030	\$ 49,011
Jun 2030	\$ 49,011
Jul 2030	\$ 49,011
Aug 2030	\$ 49,011
Sep 2030	\$ 49,011
Oct 2030	\$ 49,011
Nov 2030	\$ 49,011
Dec 2030	\$ 49,011

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2031	\$ 49,991
Feb 2031	\$ 49,991
Mar 2031	\$ 49,991
Apr 2031	\$ 49,991
May 2031	\$ 49,991
Jun 2031	\$ 49,991
Jul 2031	\$ 49,991
Aug 2031	\$ 49,991
Sep 2031	\$ 49,991
Oct 2031	\$ 49,991
Nov 2031	\$ 49,991
Dec 2031	\$ 49,991
Jan 2032	\$ 50,991
Feb 2032	\$ 50,991
Mar 2032	\$ 50,991
Apr 2032	\$ 50,991
May 2032	\$ 50,991
Jun 2032	\$ 50,991
Jul 2032	\$ 50,991
Aug 2032	\$ 50,991
Sep 2032	\$ 50,991
Oct 2032	\$ 50,991
Nov 2032	\$ 50,991
Dec 2032	\$ 50,991
Jan 2033	\$ 52,010
Feb 2033	\$ 52,010
Mar 2033	\$ 52,010
Apr 2033	\$ 52,010
May 2033	\$ 52,010
Jun 2033	\$ 52,010
Jul 2033	\$ 52,010
Aug 2033	\$ 52,010
Sep 2033	\$ 52,010
Oct 2033	\$ 52,010
Nov 2033	\$ 52,010
Dec 2033	\$ 52,010

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2034	\$ 53,051
Feb 2034	\$ 53,051
Mar 2034	\$ 53,051
Apr 2034	\$ 53,051
May 2034	\$ 53,051
Jun 2034	\$ 53,051
Jul 2034	\$ 53,051
Aug 2034	\$ 53,051
Sep 2034	\$ 53,051
Oct 2034	\$ 53,051
Nov 2034	\$ 53,051
Dec 2034	\$ 53,051
Jan 2035	\$ 54,112
Feb 2035	\$ 54,112
Mar 2035	\$ 54,112
Apr 2035	\$ 54,112
May 2035	\$ 54,112
Jun 2035	\$ 54,112
Jul 2035	\$ 54,112
Aug 2035	\$ 54,112
Sep 2035	\$ 54,112
Oct 2035	\$ 54,112
Nov 2035	\$ 54,112
Dec 2035	\$ 54,112
Jan 2036	\$ 55,194
Feb 2036	\$ 55,194
Mar 2036	\$ 55,194
Apr 2036	\$ 55,194
May 2036	\$ 55,194
Jun 2036	\$ 55,194
Jul 2036	\$ 55,194
Aug 2036	\$ 55,194
Sep 2036	\$ 55,194
Oct 2036	\$ 55,194
Nov 2036	\$ 55,194
Dec 2036	\$ 55,194

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2037	\$ 56,298
Feb 2037	\$ 56,298
Mar 2037	\$ 56,298
Apr 2037	\$ 56,298
May 2037	\$ 56,298
Jun 2037	\$ 56,298
Jul 2037	\$ 56,298
Aug 2037	\$ 56,298
Sep 2037	\$ 56,298
Oct 2037	\$ 56,298
Nov 2037	\$ 56,298
Dec 2037	\$ 56,298
Jan 2038	\$ 57,424
Feb 2038	\$ 57,424
Mar 2038	\$ 57,424
Apr 2038	\$ 57,424
May 2038	\$ 57,424
Jun 2038	\$ 57,424
Jul 2038	\$ 57,424
Aug 2038	\$ 57,424
Sep 2038	\$ 57,424
Oct 2038	\$ 57,424
Nov 2038	\$ 57,424
Dec 2038	\$ 57,424
Jan 2039	\$ 58,572
Feb 2039	\$ 58,572
Mar 2039	\$ 58,572
Apr 2039	\$ 58,572
May 2039	\$ 58,572
Jun 2039	\$ 58,572
Jul 2039	\$ 58,572
Aug 2039	\$ 58,572
Sep 2039	\$ 58,572
Oct 2039	\$ 58,572
Nov 2039	\$ 58,572
Dec 2039	\$ 58,572

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2040	\$ 59,744
Feb 2040	\$ 59,744
Mar 2040	\$ 59,744
Apr 2040	\$ 59,744
May 2040	\$ 59,744
Jun 2040	\$ 59,744
Jul 2040	\$ 59,744
Aug 2040	\$ 59,744
Sep 2040	\$ 59,744
Oct 2040	\$ 59,744
Nov 2040	\$ 59,744
Dec 2040	\$ 59,744
Jan 2041	\$ 60,939
Feb 2041	\$ 60,939
Mar 2041	\$ 60,939
Apr 2041	\$ 60,939
May 2041	\$ 60,939
Jun 2041	\$ 60,939
Jul 2041	\$ 60,939
Aug 2041	\$ 60,939
Sep 2041	\$ 60,939
Oct 2041	\$ 60,939
Nov 2041	\$ 60,939
Dec 2041	\$ 60,939
Jan 2042	\$ 62,157
Feb 2042	\$ 62,157
Mar 2042	\$ 62,157
Apr 2042	\$ 62,157
May 2042	\$ 62,157
Jun 2042	\$ 62,157
Jul 2042	\$ 62,157
Aug 2042	\$ 62,157
Sep 2042	\$ 62,157
Oct 2042	\$ 62,157
Nov 2042	\$ 62,157
Dec 2042	\$ 62,157

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2043	\$ 63,400
Feb 2043	\$ 63,400
Mar 2043	\$ 63,400
Apr 2043	\$ 63,400
May 2043	\$ 63,400
Jun 2043	\$ 63,400
Jul 2043	\$ 63,400
Aug 2043	\$ 63,400
Sep 2043	\$ 63,400
Oct 2043	\$ 63,400
Nov 2043	\$ 63,400
Dec 2043	\$ 63,400
Jan 2044	\$ 64,668
Feb 2044	\$ 64,668
Mar 2044	\$ 64,668
Apr 2044	\$ 64,668
May 2044	\$ 64,668
Jun 2044	\$ 64,668
Jul 2044	\$ 64,668
Aug 2044	\$ 64,668
Sep 2044	\$ 64,668
Oct 2044	\$ 64,668
Nov 2044	\$ 64,668
Dec 2044	\$ 64,668
Jan 2045	\$ 65,962
Feb 2045	\$ 65,962
Mar 2045	\$ 65,962
Apr 2045	\$ 65,962
May 2045	\$ 65,962
Jun 2045	\$ 65,962
Jul 2045	\$ 65,962
Aug 2045	\$ 65,962
Sep 2045	\$ 65,962
Oct 2045	\$ 65,962
Nov 2045	\$ 65,962
Dec 2045	\$ 65,962

**HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**  
**LEASE SCHEDULE**  
**FOR THE PERIOD OCTOBER 1, 2016 THROUGH MARCH 1, 2046**

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Period	Rent
Jan 2046	\$ 67,281
Feb 2046	\$ 67,281
Mar 2046	\$ -
Apr 2046	\$ -
May 2046	\$ -
Jun 2046	\$ -
Jul 2046	\$ -
Aug 2046	\$ -
Sep 2046	\$ -
Oct 2046	\$ -
Nov 2046	\$ -
Dec 2046	\$ -
	<u>\$ 16,098,989</u>

Exhibit C

Lender Notice

(1)

If to CNMC Lender:

CNMC Sub-CDE 69, LLC  
c/o Chase Community Equity, LLC  
c/o JPMorgan Chase Bank, N.A.  
10 S. Dearborn, 19th Floor  
Mail Code: IL 1-0953  
Chicago, IL 60603-5506  
Attention: NMTC Asset Manager  
Facsimile: 312-325-5050  
Email: nmtc.reporting@chase.com

With a copy to:

JPMorgan Chase Bank, N.A.  
300 South Grand Avenue., 4th Floor  
Los Angeles, CA 90071  
Attention: Timothy C. Karp  
Facsimile: 213-621-8401  
Email: timothy.c.karp@chase.com

And:

Applegate & Thorne-Thomsen, P.C.  
626 West Jackson Blvd., Suite 400  
Chicago, IL 60661  
Attention: Debra A. Kleban  
Facsimile: 312-491-4411  
Email: dkleban@att-law.com

And copies to:

The addresses set forth under (3) below.

(2)

If to NMCC Lender:

New Markets Community Capital XVII, LLC  
c/o New Markets Community Capital, LLC  
5400 E. Olympic Boulevard, Third Floor  
Los Angeles, CA 90022  
Attention: Jose Villalobos  
Email: jvillalobos@telacu.com

With a copy to:

Manatt, Phelps & Phillips, LLP  
7 Times Square  
New York, NY 10036  
Attention: Neil S. Faden, Esq.  
Facsimile: 212-830-7328  
Email: nfaden@manatt.com

[CONTINUED NEXT PAGE]



Exhibit C (Cont'd)  
Lender Notice

And copies to: The addressee set forth under (3) below  
(3)

Copy Parties: JPMorgan Chase Bank, N.A.  
10 S. Dearborn Street, 19th Floor  
Mail Code: IL1-0953  
Chicago, IL 60603-5506  
Attention: NMTC Asset Manager  
Facsimile: 312-325-5050  
Email: nmtc.reporting@chase.com

And a copy to: JPMorgan Chase Bank, N.A.  
300 South Grand Avenue., 4th Floor  
Los Angeles, CA 90071  
Attention: Timothy C. Karp  
Facsimile: 213-621-8401  
Email: timothy.c.karp@chase.com

And a copy to: Applegate & Thorne-Thomsen, P.C.  
626 West Jackson Blvd., Suite 400  
Chicago, IL 60661  
Attention: Debra A. Kleban  
Facsimile: 312-491-4411  
Email: dkleban@att-law.com

**EXHIBIT E**

## NEW MARKETS TAX CREDIT RIDER

**THIS NEW MARKETS TAX CREDIT RIDER** (this “**Rider**”) is made and entered into as of February 11, 2019, by and among Humboldt Bay Harbor, Recreation and Conservation District, a California public entity, having an address of 601 Startare Drive, Eureka, California 95501, as Sublessor (hereinafter “Landlord”), and California Marine Investments LLC, a Delaware limited liability company, having an address of 511 Congress Street, Portland, Maine 04101, as Sublessee (hereinafter “Tenant”).

1. Tenant Prohibited Activities. Tenant represents and warrants that during the term of the Lease, it will not engage in any of the following prohibited activities in connection with the Premises: (1) the rental to others of residential rental property (as defined in Section 168(e)(2)(A) of the Tax Code); (2) the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, any race track or other facility used for gambling, facilities associated or connected to the cannabis industry, or any store where the principal business of which is the sale of alcoholic beverages for consumption off premises; (3) the development or holding of intangibles (e.g., intellectual property or contract rights) for sale or license; (4) farming (within the meaning of Section 2032A(e)(5)(A) or (B) of the Tax Code). For the avoidance of doubt, the parties acknowledge and agree that “massage parlor” shall mean and include any massage or massage-related activities, and that “facility used for gambling” shall mean and include any business that includes the sale of lottery tickets or the sale or operation of any pull-tab machines, bingo or other games of chance.

2. Miscellaneous.

a. Governing Law. This Rider shall be governed by and construed in accordance with the laws of the State of California.

b. Severability. If any provision of this Rider shall be deemed invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Rider shall not be in any way impaired.

c. Attorneys’ Fees. If legal proceedings are commenced between Tenant and Landlord in connection with this Rider and/or any transaction contemplated hereby, the non-prevailing party shall be required to reimburse the prevailing party for all legal fees, costs and expenses incurred by the prevailing party in connection therewith.


d. Incorporation of Rider into Lease. The parties hereby covenant and agree that this Rider must be attached to and is a material and non-severable part of the Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this Sublease as of the day and year first above written.

**LANDLORD:**

HUMBOLDT BAY HARBOR,  
RECREATION AND CONSERVATION  
DISTRICT

By:   
Name: Greg Dale  
Title: President, Board of Commissioners

**TENANT:**

CALIFORNIA MARINE INVESTMENTS  
LLC, a Delaware limited liability company

By:   
Name: Erik Heim  
Title: President

## COMMERCIAL LEASE RIDER- JOB CREATION REPORTING REQUIREMENT

**THIS COMMERCIAL LEASE RIDER** (this “**Rider**”) is made and entered into as of February 11, 2019, by and among Humboldt Bay Harbor, Recreation and Conservation District, a California public entity, having an address of 601 Startare Drive, Eureka, California 95501, as Sublessor (hereinafter “Landlord”), and California Marine Investments LLC, a Delaware limited liability company, having an address of 511 Congress Street, Portland, Maine 04101, as Sublessee (hereinafter “Tenant”).

1. Tenant Job Creation and Reporting Requirements. Tenant acknowledges and represents that as a material requirement of its lease that it is required to comply with certain procedures in the hiring of employees for the operation of its business relating to the creation of a certain amount of full time equivalent jobs at the leased premises, with a minimum of 25% of those jobs either filled or made available to low and moderate income persons (“Jobs”). Tenant hereby agrees as follows: (1) Tenant shall advertise and post all available Jobs at a Worksource Center operated by the County of Humboldt; (2) Tenant shall create and fill not less than \_\_\_\_\_ Jobs and shall fill not less than 25% of those Jobs with persons that qualify as low or moderate income; (3) Tenant shall complete and submit to the Landlord a written Job Certification Certificate upon reasonable notice by the Landlord to Tenant as such times as the Landlord deems reasonably necessary.

2. Miscellaneous.

a. Governing Law. This Rider shall be governed by and construed in accordance with the laws of the State of California.

b. Severability. If any provision of this Rider shall be deemed invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Rider shall not be in any way impaired.

c. Attorneys’ Fees. If legal proceedings are commenced between Tenant and Landlord in connection with this Rider and/or any transaction contemplated hereby, the non-prevailing party shall be required to reimburse the prevailing party for all legal fees, costs and expenses incurred by the prevailing party in connection therewith.

d. Incorporation of Rider into Lease. The parties hereby covenant and agree that this Rider must be attached to and is a material and non-severable part of the Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this Sublease as of the day and year first above written.

**LANDLORD:**

HUMBOLDT BAY HARBOR,  
RECREATION AND CONSERVATION  
DISTRICT

By: 

Name: Greg Dale

Title: President, Board of Commissioners

**TENANT:**

CALIFORNIA MARINE INVESTMENTS  
LLC, a Delaware limited liability company

By: 

Name: Erik Heim

Title: President

**EXHIBIT F**

PREPARED BY AND  
WHEN RECORDED RETURN TO:

RYAN T. PLOTZ

THE MITCHELL LAW FIRM, LLP  
P.O. DRAWER 1008  
814 7TH STREET  
EUREKA, CA 95501

**MEMORANDUM OF SUBLEASE**

This Memorandum of Sublease (this "Memorandum") is entered into as of February 11, 2019, by and between Humboldt Bay Harbor, Recreation and Conservation District, having an address of 601 Startare Drive, Eureka, California 95501 ("Landlord"), and California Marine Investments LLC, a Delaware limited liability company, having an address of 511 Congress Street, Portland, Maine 04101 ("Tenant"). Landlord and Tenant have entered into that certain Sublease dated as of even date herewith (the "Sublease") with respect to the Property (as defined below). It is the desire of the parties hereto to enter into this Memorandum for the purpose of recording the same and giving notice of the existence of the Sublease, as more particularly described in this Memorandum.

Parties to Sublease

Landlord: Humboldt Bay Harbor, Recreation and Conservation District  
601 Startare Drive  
Eureka, California 95501

Tenant: California Marine Investments LLC  
511 Congress Street  
Portland, Maine 04101

Date of Sublease

February 11, 2019

Description of Property

The property described on Exhibit A attached hereto (the "Property")

Term

Thirty (30) years commencing on the Commencement Date (as defined in the Sublease) and expiring on the last day of the calendar month in which the thirtieth (30th) anniversary of the Commencement Date occurs, subject to two (2) extension periods, each for a term of ten (10) years.

Purpose of Memorandum

This Memorandum is executed for the purpose of giving record notice of the fact of execution of the above described Sublease as provided for therein in lieu of recording the Sublease itself and is not intended to modify, limit or otherwise alter the terms, conditions and provisions of the Sublease.

This Memorandum shall extend to and be binding upon the parties hereto and their legal representatives, heirs, successors and assigns.

[Signatures on following page]



Executed as a sealed instrument as of the date first above written.

LANDLORD:

HUMBOLDT BAY HARBOR, RECREATION AND  
CONSERVATION DISTRICT

By: 

Name: Greg Dale

Title: President, Board of Commissioners

TENANT:

CALIFORNIA MARINE INVESTMENTS LLC,  
a Delaware limited liability company

By: 

Name: Erik Heim

Title: President