File No. 260690 **Committee Item No.** 12
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight **Date:** July 16, 2026
Board of Supervisors Meeting: **Date:** _____

Cmte	Board	
☐	☐	**Motion**
☒	☐	**Resolution**
☐	☐	**Ordinance**
☐	☐	**Legislative Digest**
☐	☐	**Budget and Legislative Analyst Report**
☐	☐	**Youth Commission Report**
☐	☐	**Introduction Form**
☐	☐	**Department/Agency Cover Letter and/or Report**
☐	☐	**MOU - FY2022-2024 - Clean**
☐	☐	**MOU - FY2022-2024 - Redline**
☐	☐	**Grant Information Form**
☐	☐	**Grant Budget**
☐	☐	**Subcontract Budget**
☐	☐	**Contract / DRAFT Mills Act Agreement**
☐	☐	**Form 126 – Ethics Commission**
☐	☐	**Award Letter**
☐	☐	**Application**
☐	☐	**Public Correspondence**

OTHER

☒	☐	DRAFT Settlement Agreement
☒	☐	PRT Memo 050826 and PRT Comm Reso No. 26-26 051226
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Prepared by: Monique Crayton **Date:** July 10, 2026
Prepared by: _____ **Date:** _____
Prepared by: _____ **Date:** _____

[Settlement Agreement - Bauer's Intelligent Transportation, Inc. - Port to Receive $3,218,996]

Resolution authorizing the Port of San Francisco to execute the settlement agreement between the Port Commission and Bauer's Intelligent Transportation, Inc. ("Bauer") to resolve outstanding claims, satisfy two terminated agreements, settle debt in excess of $6,900,982 and allow Bauer to continue and extend its tenancy under Lease No. L-15004 for premises at Pier 50 ("Premises") in exchange for Bauer: 1) paying Port $859,309; 2) installing a fire suppression sprinkler system in Pier 50, Shed C; 3) paying Port $2,430,477.56 ($2,359,687 plus finance fee equal to 3%) over 60 months; and 4) accepting the jurisdiction of the Superior Court of San Francisco County, which obligations are enforceable through a stipulated judgment.

WHEREAS, California Statutes of 1968, Chapter 1333 (as amended, the "Burton Act") and Charter, Sections 4.114 and B3.581, empower the San Francisco Port Commission ("Port" or "Port Commission") with the power and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction in the City and County of San Francisco; and

WHEREAS, The Port entered into Lease No. L-15004 dated November 30, 2011, with Bauer's Intelligent Transportation, Inc., a California corporation ("Tenant" and "Bauer") for office and operational space at Pier 50, Sheds A and C (the "Pier 50 Lease"); and

WHEREAS, The Port entered into Lease No. L-16206 dated November 1, 2016, with Tenant for office space at 401 Terry Francois Boulevard, Suite 212 (the "401 Terry Francois Boulevard Lease"), and Parking Agreement 003805 dated September 20, 2016, for bus parking at Pier 96 (the "Pier 96 License"); and

WHEREAS, The 401 Terry Francois Boulevard Lease and the Pier 96 License were terminated and ultimately the properties were surrendered to the Port on May 31, 2022 and February 16, 2026, respectively, with outstanding balances remaining under both agreements; and

WHEREAS, The Pier 50 Lease expired on May 10, 2022, and Tenant has remained in possession of the premises in holdover status without Port consent and has failed to pay all amounts due under the Pier 50 Lease; and

WHEREAS, The Port and Tenant have reached an agreement on the terms of a settlement agreement, a copy of which is on file with the Clerk of the Board (the "Settlement Agreement"), to resolve all outstanding financial obligations under the aforementioned leases and license, and to establish terms for Tenant's continued occupancy at Pier 50 until May 31, 2032, including safety upgrades; and

WHEREAS, The Settlement Agreement requires that the Port file an unlawful detainer case against Bauer, that Bauer affirmatively accept the jurisdiction of the Superior Court of San Francisco County over the case, and that Bauer and the Port sign a stipulated judgment as a mechanism to protect the Port's interests in the event of default; and

WHEREAS, The Port and Bauer wish to settle their dispute in a manner that allows Tenant to continue its occupancy at Pier 50 under the terms and conditions detailed in the Settlement Agreement to avoid protracted disputes, and the uncertainties of unsettled litigation; and

WHEREAS, At its May 12, 2026 meeting, the Port Commission adopted Resolution No. 26-28, approving the Settlement Agreement, subject to approval by the Board of Supervisors ("Board"); and

WHEREAS, The Port and Tenant now wish to enter into a settlement agreement requiring Tenant to: 1) pay a settlement fee totaling $859,309 to the Port, which will be

deemed to fully and finally resolve the debts related to the 401 Terry Francois Boulevard Lease and the Pier 96 License, and reduce the outstanding balance under the Pier 50 Lease, 2) design and install a fire suppression sprinkler system in Pier 50, Shed C, for which upon the Port will provide up to $2,000,000 in rent credits upon successful completion of the project, 3) pay the Port $2,430,477.56 ($2,359,687 plus finance fee equal to 3%) via 60 monthly installments, and 4) affirmatively accept the jurisdiction of the Superior Court of San Francisco County over an unlawful detainer case to be filed by the Port upon execution of the Settlement Agreement, all as described in the memorandum accompanying Port Commission Resolution No. 26-28 and more particularly detailed in the Settlement Agreement on file with the Clerk of the Board in File No. _____; now, therefore be it

RESOLVED, That the Board hereby approves the Settlement Agreement, and authorizes the Acting Executive Director of the Port, or the Acting Executive Director's designee, to execute the Settlement Agreement and related documentation, each in the form approved by the City Attorney and in substantially the same form on file with the Clerk of the Board in File No. _____; and, be it

FURTHER RESOLVED, That approval of and authorization by the Board to enter into and execute the Settlement Agreement shall expire and have no further force or effect unless exercised within 30 days of the effective date of this Resolution (or on the next business day if the authority would otherwise expire on a Saturday, Sunday, or City holiday); and be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Port Executive Director to enter into any other additions, amendments, or other modifications to the Pier 50 Lease that the Executive Director, in consultation with the City Attorney, determines, when taken as a whole, to be in the best interest of the Port, do not materially increase the obligations or liabilities of the City or the Port, and are necessary or advisable to complete the transactions which this Resolution contemplates and effectuate the purpose and intent of this

Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such documents; and, be it

FURTHER RESOLVED, That within 30 days of the execution of the Settlement Agreement by all parties, the Port shall provide a copy of the Settlement Agreement to the Clerk of the Board for inclusion in the official file.

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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("**Agreement**"), dated for reference purposes only as of _____, 2026, is made by and between the City and County of San Francisco, a municipal corporation ("**City**") operating by and through the San Francisco Port Commission ("**Port**"), and Bauer's Intelligent Transportation, Inc., a California corporation ("**Bauer**"). At times, Port or Bauer may be referred to in this Agreement individually as a "**Party**," or collectively as the "**Parties**." This Agreement shall become binding and effective as of the latest date by which it has been signed by all Parties and approved as set forth in Section 17, below (the "**Effective Date**").

RECITALS

A. **Pier 50**. Port and Bauer entered into Lease No. L-15004, dated for reference purposes as of November 30, 2011 and as amended from time to time, in which Bauer agreed to lease from Port, and Port agreed to lease to Bauer certain premises located at Pier 50 sheds A and C comprised of office, shed space, a fenced paved yard and dock space for office, bus maintenance, storage and parking, in San Francisco, California (the "**Pier 50 Lease**"). The term of the Pier 50 Lease expired on May 10, 2022, and the tenancy has continued on a month-to-month basis. A true and correct copy of the Pier 50 Lease is attached hereto as Exhibit A, and incorporated by reference.

B. **401 Terry Francois Boulevard**. Port and Bauer entered into Lease No. L-16206, dated November 1, 2016, in which Bauer agreed to lease from Port, and Port agreed to lease to Bauer certain premises located at 401 Terry Francois Boulevard comprised of office space, in San Francisco, California (the "**401 TFB Lease**"). The 401 TFB Lease expired in December 2021. Bauer vacated the premises on May 31, 2022. A true and correct copy of the 401 TFB Lease is attached hereto as Exhibit B, and incorporated by reference.

C. **Pier 96 Parking**. Port and Bauer entered into a Parking Agreement, dated September 20, 2016, in which Bauer agreed to license from Port, and Port agreed to license to Bauer thirty (30) parking spaces located at Pier 96 for bus parking, in San Francisco, California (the "**Pier 96 Parking Agreement**"). A true and correct copy of the Pier 96 Parking Agreement is attached hereto as Exhibit C, and incorporated by reference. The Pier 96 Parking Agreement, together with the 401 TFB Lease, and the Pier 50 Lease, are referred to collectively as the "**Bauer Agreements**."

D. On March 6, 2025, Port served Bauer with a 3-day notice to pay rent or quit for the Pier 50 Lease.

E. On January 26, 2026, Port served Bauer with a 3-day notice to quit for the Pier 96 Parking Agreement.

F. The Parties agree that Bauer owes outstanding rent and license fees to Port under the Bauer Agreements, but dispute the exact amounts.

G. The Parties agree that it is in each of their interests to avoid the uncertainty and expense of significant litigation to resolve underlying disputes related to the Bauer Agreements and instead have reached this global settlement and compromise of the

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matters encompassed in this Agreement, without any admission in law of fact by either Party.

H. On _____ 2026, by Resolution __-__, the San Francisco Port Commission approved the terms of this Agreement and authorized the Port Executive Director or the Executive Director's designee to execute this Agreement.

I. On _____, 2026, by Resolution __-__, the San Francisco Board of Supervisors approved the terms of this Agreement.

J. The Parties agree and affirm that the following are, individually and collectively, each a material condition to Port's approval of this Agreement:

1. Prior to execution of this Agreement, Port received a business plan from Bauer setting forth its marketing, management, operating and financial plans for operating its business at the Pier 50 Lease premises through December 31, 2030; and

2. Bauer vacated the Pier 96 Parking Agreement premises on February 16, 2026; and

3. Bauer will pay the "**Initial Settlement Payment**" equal to Eight Hundred Fifty-Nine Thousand Three Hundred Nine Dollars ($859,309), which the Port will receive contemporaneously with its execution of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree to resolve all disputes set forth in this Agreement on the terms and conditions that are set forth below.

AGREEMENT

1. **Resolution of the 401 TFB Lease**. As a condition precedent to this Agreement and as described in Recital J of this Agreement, Bauer paid to Port $121,261 to settle the amount owed under the 401 TFB Lease, which amount is included in the Initial Settlement Payment. In consideration of the receipt of the Initial Settlement Payment and the other covenants and conditions of this Agreement, the Port waives collection of any accrued interest, finance charges, and late fees related to the 401 TFB Lease, and Port deems all rents, fees, and other amounts owed to Port by Bauer related to the 401 TFB Lease to be fully and finally resolved and satisfied.

2. **Resolution of the Pier 96 Parking Agreement**.

a. As a condition precedent to this Agreement and as described in Recital J of this Agreement, Bauer vacated and surrendered to Port any and all space held or occupied under the Pier 96 Parking Agreement free and clear of all personal property and of any encumbrance.

b. Contemporaneously with the execution of this Agreement and as described in Recital J of this Agreement, Bauer paid to Port $126,750 to settle all amounts owed under the Pier 96 Parking Agreement, which amount is included in the Initial Settlement Payment. After application of Bauer's security deposit and in consideration of the receipt of the Initial Settlement Payment and the other covenants and conditions of this Agreement, Port waives collection of any interest, finance charges, and late fees

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related to the Pier 96 Parking Agreement, and Port deems all rents, fees, and other amounts owed to Port by Bauer related to the Pier 96 Parking Agreement to be fully and finally resolved and satisfied.

3. **Resolution of the Pier 50 Lease**.

a. Security Deposit Increase. Contemporaneously with the execution of this Agreement and as described in Recital J of this Agreement, Bauer paid to Port $111,298, which amount is included in the Initial Settlement Payment and is to be held by Port as part of the Security Deposit (as that term is defined) under the Pier 50 Lease. The Parties acknowledge that part of this amount constitutes an increase in the Security Deposit under the Pier 50 Lease.

b. Lump Sum Payment Towards Amount Owed. Contemporaneously with the execution of this Agreement, Bauer has paid to Port $500,000, which amount is included in the Initial Settlement Payment and will immediately be applied by Port against the amount owed by Bauer under the Pier 50 Lease.

c. Settlement of Amount Owed under the Pier 50 Lease. Subject to Bauer's timely compliance with its obligations set forth in this Agreement, Port agrees to settle the amount owed under the Pier 50 Lease as described below in this Section 3.c.

1. Reduction of Amount Owed. Port will deem the outstanding rental balance under the Pier 50 Lease to be $2,359,686.95 (the "**Compromised Balance**"). For reference purposes, the Compromised Balance consists of the sum asserted by Port of outstanding rent, utility and permit costs, late fees, interest, and finance charges; less the lump sum payment described in Section 3.b, the contingent waiver of late fees and finance charges described below in subsection 3.c.2(D), and:

(A) Waiver. Port's waiver of rent (e.g., rent relief) in the amount of $438,524 under the Pier 50 Lease.

(B) Retroactive Rent Restatement. Port and Bauer's mutual and retroactive restatement of the amounts of rent owed under the Pier 50 Lease effective June 1, 2022 through the Effective Date, which is described in Table 1 (Retroactive Restatement of Rent under the Pier 50 Lease), below.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Table 1. Retroactive Restatement of Rent under the Pier 50 Lease

Period	Restated Rent (per month)
June 1, 2022 – May 31, 2023	$110,109
June 1, 2023 – May 31, 2024	$117,974
June 1, 2024 – May 31, 2025	$125,839
June 1, 2025 – May 31, 2026	$141,569
June 1, 2026 – Effective Date	$157,299

2. Compromised Balance Repayment. Port agrees to accept minimum monthly installment payments from Bauer towards repayment of the Compromised Balance, provided however, if Bauer elects to pay the Compromised Balance in installments, Port will immediately assess a one-time administration fee of $70,790.61 (the "**Administration Fee**"), which equals three percent of the Compromised Balance. Each installment payment shall be paid to Port concurrent with and in addition to monthly rent under the Pier 50 Lease.

(A) First Installment. Bauer must pay the first installment payment no later than the first day of the first month after completion of the Project defined in Section 3.d of this Agreement and provided that Project credits are applied.

(B) Minimum Payment. The minimum monthly payment to repay the Compromised Balance and Administration Fee is Forty Thousand Five Hundred Eight Dollars and equals: the sum of the Compromised Balance and the Administration Fee, divided by sixty and rounded to the nearest whole dollar (the "**Minimum Payment**"). The calculation of the Minimum Payment is shown below.

$$\frac{\$2{,}359{,}686.95 \text{ (Compromised Balance)} + \$70{,}790.61 \text{ (Administration Fee)}}{60} = \textbf{\$40,508} \text{ (Minimum Payment)}$$

(C) Acceleration. If the Pier 50 Lease is terminated by Port for an uncured default by Bauer or is terminated by Bauer other than "with cause" as described below, each remaining Minimum Payment shall immediately be accelerated, and shall be due and payable to Port pursuant to the Stipulated Judgment as described in Section 4.b, below. Notwithstanding Section 3.8 of the Pier 50 Lease, if Bauer terminates the Pier 50 Lease because a force majeure event (as described in Section 5.e, below) physically precludes Bauer's use and occupancy of the Premises for more than 90 consecutive days (which termination by Bauer shall be considered "with cause"), then each remaining Minimum Payment shall not be accelerated for such termination and

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Bauer shall continue to timely pay to Port the Minimum Payment on the first of each month until Bauer has paid sixty Minimum Payments to Port.

(D) Waiver of Late Fees and Finance Charges. In consideration of the receipt of the Initial Settlement Payment, the acceleration provision, stipulated judgment, and the other covenants and conditions of this Agreement, Port waives collection of any interest, finance charges, and late fees related to the Pier 50 Lease that may have accrued on or before the Effective Date.

d. Sprinklers in Pier 50 Shed. Bauer agrees to construct and install at its sole cost and expense a fire suppression sprinkler system in Pier 50, Shed C, so long as the tenancy continues and subject to and in accordance with the terms set forth in this Section 3.d of this Agreement (the "**Project**").

1. Construction Timeline. Bauer shall exercise due diligence and good faith in the construction and installation of the Project, and shall adhere to the following deadlines below, subject only to extension in accordance with subsections 3.d.1(A) through (C) inclusive, of this Agreement or by the Port Executive Director, or the Executive Director's designee, in their reasonable discretion.

(A) Permit Application. Bauer shall submit a completed permit application for the Project to Port within thirty (30) calendar days of the enactment of legislation by the Board of Supervisors approving this Agreement, or show good cause to the Port, to be determined in the Port Director or Port Director's designee's reasonable discretion, for any delay to submit the permit application. The permit application shall include a cost estimate from the state-licensed contractor that intends to complete the Project within the timeline below, that will pay a prevailing wage, and that is otherwise reasonably agreeable to Port. Bauer shall timely pay all permit fees, and ensure that the permit application includes all documents required by code or law. Bauer agrees to promptly respond to any and all comments and/or requests for more information from relevant regulatory agencies regarding the permit application, and shall exercise due diligence to facilitate the issuance of all necessary permits without delay.

(B) Construction Commencement. Bauer shall commence construction within 30 days of final permit issuance and receipt of all relevant government approvals necessary to commence construction or show good cause to the Port, to be determined in the Port Director or Port Director's designee's reasonable discretion, for any delay to commence construction.

(C) Construction Completion. Bauer shall complete construction, including final inspection and sign-off, within three hundred sixty-five (365) calendar days of the enactment of legislation by the Board of Supervisors approving this Agreement, or show good cause to the Port, to be determined in the Port Director or Port Director's designee's reasonable discretion, for any delay to construction completion.

2. Contingent, Prospective Rent Credits. If Bauer meets all deadlines described in this Agreement relating to the Project (including permit application, construction commencement, and construction completion), then Port shall allocate prospective rent credits to Bauer in the amount of its actual costs of Project construction,

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

as reasonably verified by Port, up to a maximum total credit amount of $2,000,000. Any rent credits shall be applied prospectively and on a monthly basis to the extent available to offset Bauer's monthly rent obligations under the then-applicable Pier 50 Lease until either: (A) the rent credits are fully expended to offset one or more monthly Rent payments, or a portion thereof, or (B) the occurrence of an uncured default by Bauer of any term or condition of the Pier 50 Lease or this Agreement, in which case any unexpended rent credits will be deemed fully and finally extinguished. For the avoidance of doubt: (X) rent credits cannot be cashed out; (Y) rent credits may only be applied against the Compromised Balance if the Pier 50 Lease is either terminated by Port through no fault of Bauer or terminated by Bauer with cause (as defined in subsection 3.c.2(C), above); and (Z) nothing shall prohibit the Port from applying any rent credits to future rent obligations of Bauer under a new lease as contemplated in Section 7 of this Agreement.

3. Prevailing Wages and Working Conditions. Bauer acknowledges the Project must be treated as a "public work" as defined under California Labor Code section 1720. Bauer agrees to comply with all applicable prevailing wage requirements, including but not limited to any such requirements in the California Labor Code, the City Charter, and the City Municipal Code. Any undefined, initially capitalized term used in this Section shall have the meaning given to such term in San Francisco Labor and Employment Code Division II, Articles 101, 103, and 104 (formerly Administrative Code section 23.61). Bauer shall require its contractors and subcontractors performing labor in connection with the Project to: (A) pay workers performing such work not less than the highest prevailing rate of wages, (B) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (C) employ apprentices in accordance with San Francisco Labor and Employment Code Division II, Articles 101, 103, and 104 (collectively, "Prevailing Wage Requirements"). Bauer agrees to cooperate with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements. Bauer shall include and shall require its contractors and subcontractors (regardless of tier), to include the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Labor and Employment Code Division II, Articles 101, 103, and 104. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third-party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any contractor or subcontractor in accordance with San Francisco Labor and Employment Code Division II, Articles 101, 103, and 104. Bauer's failure to comply with its obligations under this Section shall constitute a material breach of this Agreement. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek any remedy provided by Law, including those specified in San Francisco Labor and Employment Code Division II, Articles 101, 103, and 104 against the breaching party.

4. **Unlawful Detainer Action**.

a. New Action. To protect and preserve Port's rights and interest, and to ensure compliance with this Agreement, the Parties agree:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

1. Port will serve Bauer with a new 3-day notice to pay rent or quit under the Pier 50 Lease, a true and correct copy of which is attached as Exhibit D; and thereafter

2. Port will file an unlawful detainer case against Bauer in the Superior Court of California, County of San Francisco (the "**Pier 50 Case**"), a true and correct copy of the unlawful detainer complaint is attached as Exhibit E; and

3. Within ten business days of service of the Pier 50 Case, Bauer will file an answer that accepts the jurisdiction of the court, and which may take the form of a general denial; and

4. Within ten business days of the filing of Bauer's answer, Port will file, under seal if possible, a Conditional Notice of Settlement of the Entire Case ("**Notice of Settlement**") in the Pier 50 Case. The Notice of Settlement will indicate that if and when Bauer fully complies with all terms of this Agreement, Port will move to dismiss the Pier 50 Case with prejudice.

b. Stipulated Judgment For Compromised Balance and Possession. Contemporaneous with the execution of this Agreement, the Parties shall execute a Stipulated Judgment for:

1. a money judgment in the amount of the Compromised Balance, provided however that the Compromised Balance shall be: (A) reduced by amounts paid by Bauer toward the Compromised Balance after the Effective Date of this Agreement, (B) reduced by unused Project rent credits in accordance with subsection 3.d.2, and (C) increased by any outstanding rent (plus applicable late fees and finance charges) due and owing under the Pier 50 Lease that accrued after the Effective Date of this Agreement and;

2. possession of the Pier 50 Lease premises; and

3. termination and forfeiture of any right, privilege, or tenancy under which Bauer occupied and/or possessed the Pier 50 Lease premises (the "**Stipulated Judgment**").

A true and accurate copy of the Stipulated Judgment is attached hereto as Exhibit F, and incorporated by reference. In addition to the Stipulated Judgment, the Port may file a separate action to recoup any unpaid rent (plus any applicable late fees and finance charges) due and owing under the Pier 50 Lease for periods after the Effective Date of this Agreement, which were not subject to Project credits.

c. Deferred Entry of Judgment. The Parties agree that the Stipulated Judgment will not be entered so long as Bauer fully complies with all terms of this Agreement. If Bauer fails to timely cure a default under this Agreement or the Pier 50 Lease, Port may, in addition to any other remedies available at law or equity, appear *ex parte* in San Francisco Superior Court, and request the Court enter the Stipulated Judgment. Once entered, Port may record the Stipulated Judgment and/or an Abstract

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

of Judgment, and take any steps necessary to collect all monies owed under the Judgment and recover possession of the Pier 50 Lease premises.

5. **Default**.

a. Occurrence of Default. If Bauer fails to comply with any of the terms of this Agreement, Port shall provide Bauer with a notice of default and an opportunity to cure as set forth below.

b. Email and Posted Notice of Default. Bauer consents to receiving written notice of default: (1) sent to the email addresses specified below, and (2) by affixing a copy in a conspicuous place on the front office door of Pier 50, Shed A, as the means of notice of default. Port will provide written notice of default by email to the following email addresses.

gary@bauersit.com
gschwartz@bauersit.com
martins@bauersit.com

Bauer will promptly notify Port in accordance with the notice provision (Section 29) of the Pier 50 Lease, if any of the email addresses specified above change or are replaced with a new email address. A notice of default sent and posted as described herein shall constitute sufficient and complete notice of default for purposes of this Agreement.

c. Opportunity to Cure. Bauer must cure the default within forty-five (45) calendar days after the date notice of default is both sent and a copy is affixed in a conspicuous place on the front office door of Pier 50, Shed A. If Bauer fails to timely cure the default, Port may immediately move to enter the Stipulated Judgment upon *ex parte* application setting forth the default in addition to the forfeiture described above.

d. Knowing and Voluntary Waiver of Procedural Rights. With the exception of its right to a written notice of default and forty-five (45) calendar day cure period described above, Bauer expressly agrees and acknowledges: (1) it understands the Stipulated Judgment and its implications and consequences, (2) it waives civil due process rights to further eviction notices to which it may otherwise be entitled to by law, trial, notice and hearing in the event of a default and entry of judgment hereunder, and (3) it is willing to sign the Stipulated Judgment and does so voluntarily and freely.

Initials: DS _____ DS _____

Gary S. Bauer
Chief Executive Office

Gary Schwartz
Chief Financial Officer

e. Force Majeure. If Bauer's timely performance of its obligations under subsection 3.d.1 or otherwise under this Agreement is delayed because of any of the following (each a potential "**force majeure event**"): (A) domestic or international events disrupting civil activities (such as war, acts of terrorism, insurrection, acts of the public enemy, and riots); (B) acts of nature (including floods, earthquakes, unusually

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severe weather, and resulting fires and casualties); (C) declared epidemics and other public health crises affecting the workforce by actions such as quarantine restrictions; or (D) the inability to secure necessary labor, materials, or tools (but only if Bauer has taken reasonable action to obtain such labor, materials, or tools on a timely basis) due to any of the above events or freight embargoes; all beyond the reasonable control of Bauer, then the resulting delay shall be excused for a period equal to the period of the cause for failure to timely perform. Provided further, to benefit from this provision Bauer must provide the Port with written notice prior to the date of performance of its obligation(s) under subsection 3.d.1 or otherwise under this Agreement, and which written notice must identify: (1) the force majeure event, and (2) each obligation under subsection 3.d.1 or otherwise under this Agreement about which Bauer exercises its right to delay performance in accordance with this Section 5.e.

6. **Prospective Rent; Continued Tenancy**.

a. Prospective Rent. The Parties hereby agree that notwithstanding the terms and conditions of the Pier 50 Lease and any prior notices, the monthly base rent under the Pier 50 Lease is and shall be as stated in Table 2 (Prospective Rent under the Pier 50 Lease).

Table 2. Prospective Rent under the Pier 50 Lease

Period	Prospective Rent Per Month
Effective Date of this Agreement – May 31, 2027	$157,299
June 1, 2027 – May 31, 2028	$162,017
June 1, 2028 – May 31, 2029	$166,878
June 1, 2029 – May 31, 2030	$171,884
June 1, 2030 – May 31, 2031	$177,040
June 1, 2031 – May 31, 2032	$182,351

b. Continued Tenancy. Provided that Bauer strictly complies with the terms and conditions of the Pier 50 Lease and this Agreement, Port agrees that it will not terminate the Pier 50 Lease, discontinue Bauer's tenancy, or otherwise attempt to obtain possession of the Pier 50 Lease premises without cause until the later to occur of (1) Bauer has received the benefit of any rent credits under Section 3 of this Agreement, or (2) January 1, 2032. Port's agreement not to terminate as provided in this Section 6 is not intended to create a term agreement, but is for the limited purposes of allowing the terms of the Pier 50 Lease to continue on a month-to-month basis: until any rent credit is fully applied; during the Compromised Balance repayment period under subsection 3.c.2 of this Agreement; and only so long as Tenant is in strict compliance with all terms of the Pier 50 Lease and this Agreement.

7. **New Lease Terms**. Contingent upon Bauer's successful completion of the Project described in Section 3.d of this Agreement and compliance with all other aspects of this Agreement, the Parties agree to enter negotiations for a new lease for the Pier 50

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Lease premises. The Parties intend that rent for the Pier 50 Lease premises under a new lease will be as set forth in Table 2. The Parties acknowledge that any new lease will be subject to approval by the Port Commission and Board of Supervisors, each in their sole and absolute discretion.

8. **Statutory General Release**. The Parties specifically waive and relinquish all rights and benefits afforded by section 1542 of the California Civil Code, which provides as follows:

> "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

This waiver of rights afforded by section 1542 of the California Civil Code only relates to claims and disputes concerning the total outstanding amounts under the Bauer Agreements on or before the Effective Date, the Compromised Balance, and the monthly installments of the Compromised Balance as set forth in Section 3, and does not impact any unrelated rights or obligations under the Bauer Agreements and Bauer's occupancy and use of the premises.

9. **Attorneys' Fees**. Should any legal action arise between the Parties hereto, or their successors or assigns, concerning the interpretation or enforcement of any provision of this Agreement, or the rights and duties of any person in relation thereto, the Party prevailing in such legal action or arbitration shall be entitled, in addition to such other relief that may be granted, to recover reasonable attorneys' fees and legal costs in connection therewith.

10. **Governing Law; Venue**. This Agreement shall be governed and construed, and if necessary enforced, pursuant to the laws of the State of California. Any legal suit, action, or proceeding arising out of or relating to this Agreement will be instituted in the Superior Court for the City and County of San Francisco, and each Party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The Parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Agreement has been brought in an inconvenient forum. The Parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to federal court.

11. **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original, but such counterparts, when taken together, shall constitute one agreement. Signatures of the Parties transmitted by electronic mail PDF format or electronic document signing software such as DocuSign shall be deemed to constitute originals and may be relied upon, for all purposes, as binding the transmitting Party hereto. The Parties intend to be bound by the signatures transmitted by electronic mail PDF format or electronic document signing software such as DocuSign, are aware

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that the other Party will rely on such signature, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

12. **Authority and Successor and Assigns Liability**. Each of the persons executing this Agreement on behalf of Bauer hereby covenants and warrants that Bauer is a duly authorized and existing entity, that Bauer has and is qualified to do business in California, that Bauer has full right and authority to enter into this Agreement, and that each and all of the persons signing on behalf of Bauer are authorized to do so. Bauer acknowledges that, in executing this Agreement, it is acting on its own, independent judgment informed by legal counsel. Bauer acknowledges having read this Agreement and the Stipulated Judgment attached to this Agreement, and has been advised by its attorney as to its meaning and effect. Bauer further agrees that if Bauer defaults under the terms of this Agreement and a successor entity to Bauer is formed and that performs similar functions as Bauer and/or succeeds to Bauer's existing contractual benefits or obligations, and such successor entity includes Gary S. Bauer as an employee, director, officer, or board member, then such entity will be obligated to comply with the terms of the Stipulated Judgment. Until the obligations set out in this Agreement are fully paid, the obligations remain a liability of Bauer, its successors-in-interest, and assigns.

13. **664 Jurisdiction**. Nothing in this Agreement shall be construed to prevent a Party from bringing an action for enforcement of this Agreement. The Parties hereby agree and stipulate that the Court shall retain jurisdiction of this matter pursuant to Civil Code of Procedure ("**CCP**") section 664.6. The Parties hereby agree that a stipulation will be filed with the Court before the filing of a dismissal or stipulated judgment noting this Agreement and requesting that the trial court retain jurisdiction pursuant to CCP section 664.6.

14. **Binding Effect**. This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their respective successors and assigns.

15. **Tax Consequences**. Bauer is solely responsible for seeking advice from its own legal and financial counsel on the waivers and relief provided in this Agreement, and for any liabilities that may arise therefrom. No such advice has been given by City or Port in any manner and neither City nor Port shall be in any way liable for any tax consequences incurred by Bauer arising directly or indirectly from this Agreement.

16. **Miscellaneous**.

a. Each Party acknowledges that, in executing this Agreement, it is acting on its own, independent judgment and has either been advised by legal counsel or has decided in its sole discretion not to seek legal counsel. Each Party acknowledges having read this Agreement and each of its provisions, including the mutual release as contained herein, and understands its meaning and effect. Each Party acknowledges and warrants that its execution of this Agreement is free and voluntary.

b. Each Party acknowledges that this Agreement contains and constitutes the entire agreement between the Parties with respect to the matters discussed herein. The terms of this Agreement are contractual and not a mere recital. Each Party acknowledges that the other Party has made no representations, express or

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implied, to induce that Party to enter into this Agreement, other than as expressly set forth herein.

c. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by any Party or other person, and no court or other body should consider those drafts in interpreting this Agreement.

d. No aspect of this Agreement is intended to be nor at any time shall be construed, deemed, or treated in any respect as an admission by either Party of liability for any purpose. The Parties expressly understand that this Agreement does not constitute an admission of the truth or accuracy of any of allegations made in the course of the Parties' discussions. Nothing contained herein shall operate as a representation or warranty by Port of any nature whatsoever.

e. This Agreement has been fully negotiated with the assistance of counsel (if the Party so chose) and should not be construed more strictly against one Party than another.

f. If any of the provisions of this Agreement or the application thereof is held to be invalid, its invalidity shall not affect any other provision or application of this Agreement to the extent that such other provision or application can be given effect without the invalid provision or application, and to this end, the provisions of this Agreement are declared and understood to be severable.

g. In the event of any inconsistencies between the terms of this Agreement and the Bauer Agreements, the terms of this Agreement shall prevail. Time is of the essence of this Agreement. Neither this Agreement nor any of the terms hereof may be amended or modified except by a written instrument signed by all the Parties hereto.

17. **Port Commission and Board of Supervisors Approval Required**.

a. This Agreement is subject to the approval of the San Francisco Port Commission. This Agreement shall not take effect unless and until it is approved by the San Francisco Port Commission and executed by Port.

b. Notwithstanding anything to the contrary contained in this Agreement, Bauer acknowledges and agrees that no officer or employee of City or Port has authority to commit the City or Port to this Agreement unless and until the City's Board of Supervisors shall have duly adopted a resolution approving this Agreement. Any obligations or liabilities of City or Port hereunder are contingent upon adoption of such resolution, and this Agreement shall be null and void if City's Mayor and the Board of Supervisors do not approve this Agreement, in their respective sole discretion. Approval of this Agreement by the Port Commission shall not be deemed to imply that such resolution will be enacted, nor will any such approval create any binding obligations on City.

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date(s) set forth below.

Bauer:

BAUER INTELLIGENT TRANSPORTATION, INC., a California corporation

DocuSigned by:
By: _____
4ECDEBE49C624FF...
Name: Gary S. Bauer
Title: Chief Executive Office

Date Signed: 4/30/2026

DocuSigned by:
By: _____
CE75154B7A544D9...
Name: Gary Schwartz
Title: Chief Financial Officer

Date Signed: 4/30/2026

Port:

CITY AND COUNTY OF SAN FRANCISCO, operating by and through the **SAN FRANCISCO PORT COMMISSION**

By: _____
Name: Michael Martin
Title: Acting Executive Director

Date Signed: _____

Approved as to form:

DAVID CHIU
City Attorney

By: _____
Justin Bigelow
Deputy City Attorney

Port Commission Res. ___ - ___ adopted on _____, 2026
Board of Supervisors Res./Ord. ___ - ___ enacted on _____, 2026

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

EXHIBIT A
PIER 50 LEASE

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ORIGINAL

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

LEASE NO. L-15004

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO
OPERATING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION

AND

BAUER'S INTELLIGENT TRANSPORTATION, INC.,
A CALIFORNIA CORPORATION

PIER 50

MONIQUE MOYER
EXECUTIVE DIRECTOR

SAN FRANCISCO PORT COMMISSION

DOREEN WOO HO, PRESIDENT
KIMBERLY BRANDON, VICE PRESIDENT
FRANCIS X. CROWLEY, COMMISSIONER
LESLIE KATZ, COMMISSIONER
ANN LAZARUS, COMMISSIONER

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

TABLE OF CONTENTS

		Page
1.	DEMISE	1
2.	DEFINITIONS	1
3.	PREMISES; AS-IS CONDITION	8
3.1.	Premises	8
3.2.	Relocation Option	8
3.3.	No Right to Encroach	9
3.4.	Proximity of Development Project	10
3.5.	America's Cup	10
3.6.	No Light, Air or View Easement	10
3.7.	Unique Nature of Premises	10
3.8.	As-Is Condition	11
3.9.	Port's Rights Regarding Premises	11
4.	TERM OF LEASE; TERMINATION BY PORT	11
4.1.	Term	11
4.2.	Termination Rights	11
4.3.	Waiver of Relocation Benefits	12
5.	RENT	12
5.1.	Base Rent	12
5.2.	Late Charges	13
5.3.	Returned Checks	13
5.4.	Default Interest	13
5.5.	Net Lease	13
5.6.	Additional Charges	14
5.7.	Rent Credit	14
6.	TAXES AND ASSESSMENTS	15
6.1.	Payment of Taxes	15
6.2.	Possessory Interest Tax	15
7.	SECURITY DEPOSIT	16
8.	USE OF THE PREMISES	17

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

8.1. Permitted Use 17
8.2. Prohibited Use 17
8.3. Notice of Prohibited Use Charge 18
9. COMPLIANCE WITH LAWS AND REGULATIONS 19
10. PORT ACTING AS OWNER OF PROPERTY; REGULATORY APPROVALS; COMPLIANCE WITH CITY'S RISK MANAGER'S REQUIREMENTS 19
10.1. Port Acting as Owner of Property 19
10.2. Regulatory Approvals 20
10.3. Compliance with City's Risk Manager's Requirements 20
11. MAINTENANCE AND REPAIRS 20
11.1. Tenant Maintenance and Repair Obligations 20
11.2. Port's Right to Inspect 21
11.3. Port's Right to Repair 21
11.4. Acts of Nature 22
12. UTILITIES AND SERVICES 22
12.1. Utilities 22
12.2. Services 23
12.3. On-Site Renewable Energy 23
13. IMPROVEMENTS AND ALTERATIONS 23
13.1. Port Consent Required 23
13.2. Tenant's Obligation to Construct the Initial Tenant Improvements 24
13.3. Construction Requirements 24
13.4. Improvements Part of Realty 26
13.5. Removal of Improvements 26
13.6. Removal of Non-Permitted Improvements 26
13.7. Signs 26
13.8. Port's Alterations 26
14. LIENS 27
15. HAZARDOUS MATERIALS 27
15.1. Requirements for Handling 27
15.2. Tenant Responsibility 27
15.3. Tenant's Environmental Condition Notification Requirements 27
15.4. Requirement to Remediate 29

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

15.5. Port's Right to Audit 29
15.6. Notification of Asbestos 29
15.7. Notification of Lead 30
15.8. Failure to Comply 31
15.9. Survival 31
15.10. Storm Water Pollution Prevention 31
15.11. Presence of Hazardous Materials 31
16. INSURANCE 31
16.1. Required Insurance Coverage 31
16.2. Claims-Made Policies 33
16.3. Annual Aggregate Limits 33
16.4. Payment of Premiums 33
16.5. Waiver of Subrogation Rights 33
16.6. General Insurance Matters 33
17. DAMAGE AND DESTRUCTION 35
17.1. Damage and Destruction 35
17.2. Waiver 35
18. EMINENT DOMAIN 36
18.1. General 36
18.2. Partial Takings 36
18.3. Taking of the Facility 36
18.4. Temporary Takings 36
18.5. Award; Waiver; Termination of Lease; Rent and Award 36
19. INDEMNITY AND EXCULPATION 36
19.1. General Indemnity 36
19.2. Hazardous Materials Indemnity 37
19.3. Scope of Indemnities 37
19.4. Exculpation 38
19.5. Effect of Waivers 38
20. ASSIGNMENT AND SUBLETTING 38
20.1. Transfer to Affiliate 38
20.2. Transfer to Non-Affiliate 39
20.3. Sublease 40

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

20.4. Transfer Agreement Requirements 40
20.5. Transfer Audit 41
20.6. Acknowledgement 41
20.7. Transfer Definitions 41
21. DEFAULT BY TENANT 41
22. PORT'S REMEDIES 42
22.1. Tenant's Right to Possession Not Terminated 42
22.2. Termination of Tenant's Right to Possession 43
22.3. Appointment of Receiver 44
22.4. Port's Right to Cure Tenant's Default 44
22.5. Port's Options for Hazardous Materials Default 44
22.6. No Accord and Satisfaction 44
22.7. Waiver of Redemption 44
22.8. Habitual Late Payer 44
22.9. Remedies Not Exclusive 45
23. LITIGATION EXPENSES; ATTORNEYS' FEES 45
23.1. Litigation Expenses 45
23.2. Appeals 45
23.3. City Attorney 45
24. PORT'S ENTRY ON PREMISES 45
24.1. Entry for Inspection 45
24.2. General Entry 45
24.3. Emergency Entry 46
24.4. No Liability 46
24.5. Nondisturbance 46
25. SURRENDER AND QUITCLAIM 46
25.1. Surrender 46
25.2. Quitclaim 46
25.3. Abandoned Property 47
25.4. Survival 47
26. HOLDING OVER 47
26.1. Terms of Holdover Tenancy 47
26.2. With Consent 47

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

26.3. Without Consent 47
26.4. Renewal Letter of Credit 47
27. MINERAL RESERVATION 48
28. CITY AND PORT REQUIREMENTS 48
28.1. Nondiscrimination 48
28.2. Requiring Health Benefits for Covered Employees 49
28.3. First Source Hiring 50
28.4. Local Business Enterprises 50
28.5. Resource-Efficient Facilities and Green Building Requirements 50
28.6. Prohibition of Tobacco Sales and Advertising 50
28.7. Prohibition of Alcoholic Beverages Advertising 51
28.8. Graffiti Removal 51
28.9. Pesticide Prohibition 51
28.10. MacBride Principles Northern Ireland 52
28.11. Tropical Hardwood and Virgin Redwood Ban 52
28.12. Preservative-Treated Wood Containing Arsenic 52
28.13. Notification of Limitations on Contributions 52
28.14. Sunshine Ordinance 52
28.15. Conflicts of Interest 53
28.16. Drug-Free Workplace 53
28.17. Wages and Working Conditions 53
28.18. Public Transit Information 53
28.19. Food Service Waste Reduction Ordinance 53
29. NOTICES 53
30. MISCELLANEOUS PROVISIONS 54
30.1. California Law 54
30.2. Entire Agreement 54
30.3. Amendments 54
30.4. Severability 54
30.5. Interpretation of Lease 54
30.6. Successors 55
30.7. Real Estate Broker's Fees 55
30.8. Counterparts 55

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

30.9. Authority 55
30.10. No Implied Waiver 55
30.11. Time is of Essence 56
30.12. Cumulative Remedies 56
30.13. Survival of Indemnities 56
30.14. Relationship of the Parties 56
30.15. No Recording 56
30.16. Additional Written Agreement Required 56
31. LIMITATION ON DAMAGES 56
31.1. No Recourse Beyond Value of Facility 56
31.2. Non-Liability of City Officials, Employees and Agents 56
31.3. Limitation on Port's Liability Upon Transfer 56
32. TENANT ESTOPPEL CERTIFICATES 57
33. APPROVAL OF BOARD OF SUPERVISORS 57

EXHIBITS AND SCHEDULES

EXHIBIT A **DESCRIPTION OF PREMISES**
EXHIBIT B **COMMENCEMENT DATE AND EXPIRATION DATE MEMORANDUM**
EXHIBIT C **ESTOPPEL CERTIFICATE**
EXHIBIT D **RULES AND REGULATIONS**
EXHIBIT E **OPERATIONS PLAN**
EXHIBIT F **PARKING SPACES**
EXHIBIT G **WORK LETTER**

SCHEDULE 1 **ASBESTOS NOTIFICATION AND INFORMATION**
SCHEDULE 2 **SUBSTRUCTURE REPORT(S)**
SCHEDULE 3 **FEMA DISCLOSURE NOTICE**

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

BASIC LEASE INFORMATION

Lease Date:	November 30, 2011
Lease Number:	**L-15004**
Landlord or Port:	City **and County of San Francisco**, a municipal corporation, operating by and through the **San Francisco Port Commission**
Landlord's Address:	Port of San Francisco Pier 1 San Francisco, California 94111 Attention: Director of Real Estate Telephone: (415) 274-0400 Facsimile: (415) 274-0494
Tenant:	Bauer's Intelligent Transportation, Inc., a California Corporation
Tenant's Contact Person:	Gary Bauer
Tenant's Address:	Bauer's Intelligent Transportation, Inc. Pier 50 Shed A San Francisco, CA 94158
Tenant's Billing Address:	Bauer's Intelligent Transportation, Inc. Pier 50 Shed A San Francisco, CA 94158 Telephone: (415) 522-1212 Facsimile: (415) 263-4033 Email: garys@bauersIT.com
Contact Information for Tenant's Agent for Service of Process:	Gary Bauer Bauer's Intelligent Transportation Pier 50 Shed A San Francisco, CA 94158
Premises:	Pier 50 Portions of Sheds A and C and outdoor space as more fully described in ***Exhibit A*** attached and incorporated.
Facility:	Pier 50 San Francisco, California 94158

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Premises Rentable Square Footage:	The Premises consists of the following parcels at Pier 50: Parcel A: approx. 4,370 square feet of office space in Shed A, and Parcel B: approx. 68,777 square feet of shed space in Shed C, and Parcel C: approx. 50,347 square feet of outside paved fenced yard and dock space adjacent to Shed C, and all alterations and improvements thereto, including without limitation, the Port-owned vehicle wash rack in Parcel B.
Length of Term:	One Hundred and Twenty (120) months
Commencement Date:	The date after approval of this Lease by the Board of Supervisors and upon full execution by the Port. Port and Tenant shall execute a Commencement Date and Expiration Date Memorandum substantially in the form attached hereto as ***Exhibit B***, confirming the Commencement Date and Expiration Date, but either party's failure to do so shall not affect the commencement or expiration of the Term.
Rent Commencement Date:	The first day of the eighth (8^{th}) month after the Commencement Date.
Expiration Date:	One Hundred Twenty (120) months from the Commencement Date.

Monthly Base Rent:	Months	Approx. Sq. Ft.	Monthly Base Rate Per Sq. Ft.	Total Monthly Base Rent
Parcel A: Parcel B: Parcel C: Total Monthly Rent	8-12	4,370 68,777 50,347	$1.26 $.55 $.15	$ 5,506.20 $37,827.35 $ 7,552.05 $50,885.60
Parcel A: Parcel B: Parcel C: Total Monthly Rent	13-24	4,370 68,777 50,347	$1.30 $.60 $.20	$ 5,681.00 $41,266.20 $10,069.40 $57,016.60
Parcel A: Parcel B: Parcel C: Total Monthly Rent	25-36	4,370 68,777 50,347	$1.35 $.65 $.23	$ 5,899.50 $44,705.05 $11,579.81 $62,184.36
Parcel A: Parcel B: Parcel C: Total Monthly Rent	37-48	4,370 68,777 50,347	$1.40 $.75 $.25	$ 6,118.00 $51,582.75 $12,586.75 $70,287.50

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Parcel A: Parcel B: Parcel C: Total Monthly Rent	49-60	4,370 68,777 50,347	$1.46 $.85 $.28	$ 6,380.20 $58,460.45 $14,097.16 $78,937.81
Parcel A: Parcel B: Parcel C: Total Monthly Rent	61-72	4,370 68,777 50,347	$1.50 $.90 $.29	$ 6,555.00 $61,899.30 $14,600.63 $83,054.93
Parcel A: Parcel B: Parcel C: Total Monthly Rent	73-85	4,370 68,777 50,347	$1.56 $.95 $.30	$ 6,817.20 $65,338.15 $15,104.10 $87,259.45
Parcel A: Parcel B: Parcel C: Total Monthly Rent	86-97	4,370 68,777 50,347	$1.62 $1.00 $.31	$ 7,079.40 $68,777.00 $15,607.57 $91,463.97
Parcel A: Parcel B: Parcel C: Total Monthly Rent	98-109	4,370 68,777 50,347	$1.68 $1.05 $.32	$ 7,341.60 $72,215.85 $16,111.04 $95,668.49
Parcel A: Parcel B: Parcel C: Total Monthly Rent	110-120	4,370 68,777 50,347	$1.73 $1.10 $.33	$ 7,560.10 $75,654.70 $16,614.51 $99,829.31

Security Deposit:	Port shall retain Tenant's existing Security Deposit of $44,118.23 under Lease No. L-13562 dated as of January 1, 2004 for reference purposes between Bauer's California Coach and Service, Inc. and Port for space at Pier 27 (the "**Prior Lease**") for use as a Security Deposit under this Lease as of the Commencement Date. No later than the first day of the 16th month of the Term, Tenant shall increase its Security Deposit by $55,711.08 to a total of $99,829.31. No later than the first day of the 61st month of the Term, Tenant shall increase its Security Deposit by $99,829.31 which at Tenant's option may be secured by an irrevocable standby Letter of Credit on a form and from a financial institution acceptable to the Port, in its reasonable discretion as further described in Section 7.1.
Permitted Use	The Premises shall be used solely for the following uses and no other purpose without the express written consent of the Port: Parcel A: general purpose office space; Parcel B: storage, maintenance, and washing of company vehicles along with related operations including non-permanent office trailers for personnel. Fueling of

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	company vehicles is allowed only in the manner approved in and in compliance with the Operations Plan; Parcel C: parking and storage of company and employee vehicles only; occasional parking of Invitee's (including customer's) vehicles is permitted from time to time provided that (A) such parking is directly related to Tenant's business and (B) Tenant does not charge for such parking. Prior to initiating operations that involve storage or Handling of Hazardous Materials, Tenant shall obtain the following for the Premises: San Francisco Department of Public Health Hazardous Materials Unified Program Agency Permit; and California Department of Toxics Substances Control EPA ID Number for hazardous waste.
Additional Prohibited Uses:	In addition to, and without limiting, the Prohibited Uses specified in Section 8.2 below, Tenant shall be prohibited from using the Premises for any of the following activities: (a) Special Events as defined in the Port Building Code unless Tenant has obtained Port's consent and the proper permits; and (b) Retail sales or business of any nature. Port shall have all remedies set forth in this Lease, and at law or equity in the event Tenant performs any of the Prohibited Uses.
Operations Plan:	Prior to the Commencement Date, Tenant must prepare and maintain an Operations Plan acceptable to the Port, in its reasonable discretion, including the following elements consistent with Laws, industry standards, best management practices and good house-keeping: spill prevention and response; allowable vehicle maintenance and repair activities; fueling of company vehicles; and storage and Handling of Hazardous Materials (including a list of specific materials to be used and best management practices). The Port-approved Operations Plan will be attached and incorporated as ***Exhibit E***. Failure to comply with the Operations Plan is a breach of this Lease. Port may, from time to time, review Tenant's Operations Plan and make recommendations for revisions. All revisions to the Operations Plan, whether initiated by Port or Tenant, are subject to Port approval, in its reasonable discretion.
Port's Asbestos Removal Action:	No later than the Commencement Date, Port shall abate asbestos-containing floor tiles in Shed A (Parcel A). In all other respects, Tenant shall accept the Premises "as is" in accordance with Section 3.8 and Port shall have no further obligations for actions or improvements.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Initial Tenant Improvements:	Tenant, at its sole cost and expense, must complete the following Initial Tenant Improvements ("**Initial Tenant Improvements**") as described in the Work Letter attached as ***Exhibit G***: building core and shell improvements and general office buildout in Shed A and plumbing, lighting and electrical upgrades, and installation of telephone and data cabling, security cameras and fencing, and new bathrooms in Shed C. The Premises must meet ADA, ingress and egress requirements, and requirements of the Port Building Code. The Initial Tenant Improvements shall remain on the Premises upon expiration or earlier termination of this Lease. Tenant estimates the total cost of the Initial Tenant Improvements to be approximately $687,357.72. Subject to the conditions of Section 5.6, Tenant shall be entitled to a rent credit not to exceed Five Hundred Fifteen Thousand Dollars $515,000 to be taken monthly against Monthly Base Rent as described in this Section for the core and shell portions of the Initial Tenant Improvements ("**Rent Credit**"). In months 8 -12 of the Term, Tenant may deduct up to $50,885.60 per month for a total of up to a maximum of $254,428.00 Rent Credit in Lease Year 1. In months 13-17 of the Term, Tenant may deduct up to $57,016.60 per month for a total of a maximum Rent Credit of $260,572.00 in Lease Year 2. If warranted by unforeseen contingencies in Tenant's Completion of the Initial Tenant Improvements, the Port's Executive Director may, in her or his sole and absolute discretion, adjust the timeframe for allowing or allocating Rent Credits between months or Lease Years, but in no event shall Tenant be entitled to any monthly Rent Credit that exceeds the Monthly Base Rent for that month or a total Rent Credit of $515,000 under this Lease. Other than explicitly provided herein, Tenant agrees and acknowledges that it will not receive rent credit, concessions or other consideration from Port for the Initial Tenant Improvements regardless of the ultimate cost of the Initial Tenant Improvements. The Initial Tenant Improvements shall be completed in accordance with Section 13 below and the Work Letter attached as ***Exhibit G***.
Tenant Guaranty:	In an amount equal to 100% of the construction costs of the Initial Tenant Improvements for core and shell which are subject to Rent Credits in a form acceptable to Port as described in the Work Letter.
Contractor's Bond:	In an amount equal to 100% of the construction costs of the Initial Tenant Improvements for core and shell which are subject to Rent Credits in a form acceptable to Port as described in the Work Letter.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Maintenance and Repair:	Port shall be responsible for the maintenance and repair of the exterior structure and substructure of Sheds A and C and the sump pump in Parcel B. Tenant shall be responsible for all other maintenance and repair for the entire Premises, including without limitation: existing and new Alterations and Improvements, including the Initial Tenant Improvements, Utilities, roll up doors, fencing, paving, gates and security system and Port-owned vehicle wash rack.
Utilities:	Tenant shall be responsible for it's pro rata share of all utilities and all other services to be furnished on, in or to the Premises. Any utilities that are not separately metered including electrical, water and sewer charges, shall be pro-rated by Port on a percentage basis and paid by Tenant either as Additional Rent to Port or directly to the utility provider, as directed by Port in its sole discretion as further described in Section 12 below.
Location of Asbestos in Facility:	See ***Schedule 1*** attached hereto.
Substructure:	See ***Schedule 2*** attached hereto.
Rules & Regulations:	See ***Exhibit D*** attached hereto.
Development Project:	SF Giants Development Project at SWL 337; Port of SF / Forest City Development Project Pier 70; Pier 50 Substructure Repair project.
Prior Lease:	The parties agree that as of the Commencement Date, the Prior Lease is hereby terminated; provided, however, that the parties shall continue to be liable for any obligations under the Prior Lease which have accrued prior to the date of termination and any obligations which by their terms survive the termination or expiration of the Prior Lease.
Additional Parking:	Tenant may use seven (7) spaces directly in front of the Pier 50 Shed A office space (Parcel A) for employee vehicle parking only at no additional charge as outlined on ***Exhibit F***. Tenant shall be responsible for all repair and maintenance of these 7 parking spaces. Tenant acknowledges that this Lease does not include other parking rights or spaces. The Port is in the process of reviewing and establishing a parking program, including rates, for the parking area(s) adjacent to the Shed. Once the program is finalized by the Port Commission, Tenant may enter into a separate agreement for parking spaces on the Port's approved form for any additional spaces that may be offered to Tenant by the Port.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Waiver and Release:	In addition to provisions of Section 19 of this Lease, in exchange for the consideration received hereunder, and as a material part of Port's consideration for entering this Lease, Tenant, on behalf of itself and its agents, hereby fully and irrevocably releases, discharges, and covenants not to sue or to pay the attorneys' fees and other litigation costs of any party to sue, City, including Port, or any and all of their agents with respect to any and all liabilities, injuries, losses, costs, claims, demands, rights, causes of action, judgments, settlements, damages, liens, fines, penalties and expenses, including without limitation, direct and vicarious liability of any kind in connection with the mutual termination of the Prior Lease, including money damages, compensation, penalties, liens, fines, interest, attorneys' fees, costs, equitable relief, mandamus relief, specific performance, or any other relief ("**Termination Claims**"). Tenant understands and expressly accepts and assumes the risk that any facts concerning the Termination Claims released in this Section might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this Section shall remain effective. Therefore, with respect to the Termination Claims released in this Section, Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR. BY PLACING ITS INITIALS BELOW, TENANT SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASE MADE ABOVE AND THE FACT THAT TENANT WAS REPRESENTED BY COUNSEL WHO EXPLAINED THE CONSEQUENCES OF THE RELEASE AT THE TIME THIS AGREEMENT WAS MADE, OR THAT TENANT HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, BUT DECLINED TO DO SO. Initials: _____ Tenant
Lease Prepared By:	Jay Edwards, Senior Property Manager

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

LEASE AGREEMENT

This Lease Agreement, dated for reference purposes only as of the Lease Date set forth in the Basic Lease Information, is by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as landlord, and the Tenant identified in the Basic Lease Information ("**Tenant**"). The basic lease information (the "**Basic Lease Information**"), the exhibits, schedule and the Lease Agreement are and shall be construed as a single instrument and are referred herein as this "**Lease**". In event of any conflict or inconsistency between the Basic Lease Information and the Lease Agreement, the Basic Lease Information will control.

1. DEMISE.

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, Port does hereby lease to Tenant, and Tenant does hereby hire and take from Port, the Premises upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. DEFINITIONS.

Definitions used in this Lease, are found in the specified locations in this Lease or are set forth below. Definitions that are not capitalized below are not capitalized when used in this Lease.

"**ACMs**" is defined in Section 15.6 below.

"**ADA**" means the Americans with Disabilities Act, a federal law codified at 42 U.S.C. §§ 12101 et seq., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented.

"**Additional Rent**" means all taxes, assessments, insurance premiums, operating and maintenance charges, fees, costs, expenses, liabilities and obligations of every description which Tenant assumes or is obligated to pay or discharge pursuant to this Lease, together with every fine, penalty, interest or other charge which may be added for non-payment or late payment, whether payable to Port or to other persons, parties or entities designated herein.

"**Affiliate**" means: (i) a Person that Controls or is Controlled by Tenant, or is Controlled by the same Person that Controls Tenant; or (ii) if Tenant is a natural Person, any designated successor by trust, will, or court order following Tenant's death or incapacity.

"**Affiliate Transfer**" means a Transfer from Tenant to an Affiliate meeting the requirements of Section 20.1.

"**Agents**" when used with reference to either party to this Lease or any other person, means the officers, directors, employees, agents, and contractors of the party or other person, and their respective heirs, legal representatives, successors, and assigns.

"**Alterations**" means any alterations, installations, improvements, or additions to any Improvements or to the Premises.

"**Anniversary Date**" means the first and each subsequent anniversary of the Commencement Date; provided, however, that if the Commencement Date is not the first day of a month, then each Anniversary Date shall be calculated from the first day of the thirteenth (13th) month after the Commencement Date.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Assignment**" means a proposed or actual Transfer of Tenant's rights, title, and interest in all or any part of the Premises under a contractual assignment or an assignment by operation of Law.

"**Award**" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

"**Base Rent**" means the monthly Base Rent specified in the Basic Lease Information and described further in Section 5.1 hereof.

"**BCDC**" means the Bay Conservation and Development Commission.

"**Books and Records**" means all of Tenant's books, records, and accounting reports or statements relating to its business, this Lease, and the operation and maintenance of the Premises, including cash journals, rent rolls, general ledgers, income statements, bank statements, income tax schedules relating to the Premises and any other bookkeeping documents used in Tenant's business operations for the Premises, whether maintained by Tenant or a third-party contractor.

"**business day**" means any week day during which businesses are generally open for business, excluding local, state, and federal holidays observed by Port.

"**Cal-OSHA**" is defined in Section 15.6 below.

"**Certificate of Completion**" is the certificate of final completion of the Initial Tenant Improvements and occupancy issued by Port allowing for commencement of the Permitted Use.

"**Changes**" is defined in Section 10.2 below.

"**City**" means the City and County of San Francisco, a municipal corporation.

"**Claims**" means all liabilities, injuries, losses, costs, claims, demands, rights, causes of action, judgments, settlements, damages, liens, fines, penalties and expenses, including without limitation, direct and vicarious liability of any kind for money damages, compensation, penalties, liens, fines, interest, attorneys' fees, costs, equitable relief, mandamus relief, specific performance, or any other relief.

"**Commencement Date**" means the date on which the Term commences as specified in the Basic Lease Information.

"**Commission**" means the San Francisco Port Commission.

"**Common Areas**" means all areas outside of the Premises and within the boundaries of the Facility that are not now or hereafter exclusively leased or exclusively permitted to other tenants or permittees, and that are designated by Port from time to time for the general common use or convenience of Port, Tenant, or other tenants of Port, and the respective authorized Agents and Invitees of the same. The Common Areas include, without limitation, driveways, delivery areas, pedestrian walkways, service corridors accessing loading docks, utility rooms, and other areas or improvements provided or designated by Port for common use. The Common Areas shall not include any parking areas located outside the boundaries of the Facility.

"**Completion**" in reference to the Initial Tenant Improvements is defined in the Work Letter. "**Completion**" in reference to any Subsequent Alteration means the issuance of a Certificate of Completion.

"**Conduct Code**" is defined in Section 28.13 below.

"**Concession**" is defined in Section 30.8 below.

"**Control**" means a Person that: (a) owns or has the right to acquire 50 percent or more (25 percent or more if publicly traded) of each class of equity interests in the second Person or 50 percent or more (25 percent or more if publicly traded) of each class of interests that have the

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

right to nominate, vote for, or otherwise select the members of the governing body that directs or causes the direction of substantially all of the management and policies of the second Person; or (b) otherwise has the right to direct or cause the direction of substantially all of the management and policies of the second Person.

"**Core Benefits**" is defined in Section 28.1(c) below.

"**CPA**" means an independent certified public accounting firm acceptable to Port in its reasonable discretion.

"**Date of Taking**" means the earlier of **(i)** the date upon which title to the portion of the Property taken passes to and vests in the condemnor or **(ii)** the date on which Tenant is dispossessed.

"**disturbed or removed**" is defined in Section 13.3(g) below.

"**Encroachment Area**" is defined in Section 3.3 below.

"**Encroachment Area Charge**" is defined in Section 3.3 below.

"**Environmental Laws**" means any Laws relating to Hazardous Material (including its Handling, Release, or Remediation) or to human health and safety, industrial hygiene, or environmental conditions in the environment, including structures, soil, air, bay water, and groundwater, and any environmental mitigation measure adopted under Environmental Law affecting any portion of the Facility.

"**Environmental Regulatory Action**" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"**Environmental Regulatory Agency**" means the United States Environmental Protection Agency, OSHA, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the San Francisco Bay Regional Water Quality Control Board, Cal-OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, the San Francisco Public Utilities Commission, Port, or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"**Environmental Regulatory Approval**" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the Premises and any closure permit.

"**Exacerbate**" **or** "**Exacerbating**" when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission. "**Exacerbation**" has a correlating meaning. The term Exacerbate does not include the mere discovery of the presence of Hazardous Materials, provided that Tenant complies with all Lease provisions and Laws related to such discovery.

"**Excess Rent**" means Sublease rent and any other sums paid or payable to Tenant under a Sublease, excluding the value of goodwill, in excess of Tenant's concurrent Rent obligation for the Sublease premises.

"**Expiration Date**" means the date on which the Term expires as specified in the Basic Lease Information.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Event of Default**" is defined in 21 below.

"**Facility**" means the pier, building or other structure in or on which the Premises are located.

"**Facility Systems**" means the plumbing, electrical, fire protection, life safety, security and other mechanical, electrical, communications systems of the Facility.

"**financial statements**" mean a current balance sheet and profit and loss statements that have been reviewed or examined by a CPA.

"**Habitual Late Payer**" means Tenant has received (a) at least two (2) notices of monetary default, or (b) at least three (3) notices of default within a twelve (12) month period.

"**Handle**" or "**Handling**" means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

"**Hard costs**" is defined in Section 11.3 below.

"**Hazardous Material**" means any substance, waste, or material that is now or in the future designated by any Regulatory Agency to be capable of posing a present or potential risk of injury to human health or safety, the environment, or property. This definition includes anything designated or defined in any Environmental Law as hazardous, hazardous substance, hazardous waste, toxic, pollutant, or contaminant; any asbestos, ACMs, and PACMs, whether or not part of the structure of any existing Improvements on the Premises, any Improvements to be constructed on the Premises by or on behalf of Tenant, or occurring in nature; and other naturally-occurring substances such as petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

"**Hazardous Material Claim**" means any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties, or the Premises or the Facility, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence or Release of any Hazardous Materials, including, without limitation, Losses based in common law. Hazardous Materials Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, any other part of the Facility, or other Port property, the loss or restriction of the use or any amenity of the Premises, any other part of the Facility, or other Port property, and attorneys' fees and consultants' fees and experts' fees and costs.

"**Hazardous Material Condition**" means the presence, Release, or threatened Release of Hazardous Materials in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises.

"**HEPA**" is defined in Section13.3(g) below.

"**Improvements**" means any and all buildings, structures, fixtures or other improvements constructed or installed on the Premises or any other part of the Facility, including without limitation, the Initial Tenant Improvements, any Subsequent Alteration and those improvements or alterations constructed by or on behalf of Tenant pursuant to this Lease (including, without limitation, any trailers, signs, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings and landscaping).

"**Improvement Costs**" is defined in Section 4.2 below.

"**Improvements Pertaining to the Realty**" means machinery or equipment installed for use on the Property that cannot be removed without a substantial economic loss or without substantial damage to the property on which it is installed, regardless of the method of installation. In determining whether particular property can be removed "without a substantial

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

economic loss," the value of the property in place considered as part of the realty should be compared with its value if it were removed and sold.

"**Indemnified Parties**" is defined in Section 19.1 below.

"**Indemnify**" means to indemnify, protect, defend, and hold harmless forever. "**Indemnification**" and "**Indemnity**" have correlating meanings.

"**Initial Tenant Improvements**" is defined in the Basic Lease Information.

"**Interest Rate**" is defined in Section 5.4 below.

"**Investigate**" or "**Investigation**" when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be Released in, on, under or about the Premises, any other part of the Facility, other Port property, or the environment, and includes, without limitation, preparation and publication of site history, sampling, and monitoring reports, performing equipment and facility testing such as testing the integrity of secondary containment and above and underground tanks, and sampling and analysis of environmental conditions before, during, and after Remediation begins and continuing until the appropriate Environmental Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"**Invitees**" means Tenant's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, assignees, subtenants, and any other person whose rights arise through them, except that for the purposes of Article 20 (Assignment and Subletting), "**Invitees**" excludes Tenant's licensees, assignees, subtenants, and any other person whose rights arise through them.

"**Late Charge**" means a fee equivalent to fifteen percent (15%) of Rent that is due and unpaid.

"**Law**" means any present or future law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, policy (including the Waterfront Land Use Plan), and Regulatory Approval of any Regulatory Agency with jurisdiction over any portion of the Premises and any and all recorded and legally valid covenants, conditions, and restrictions affecting any portion of the Facility, whether in effect when this Lease is executed or at any later time and whether or not within the present contemplation of the parties, as amended from time to time.

"**Lease**" is defined in the preamble to this Lease.

"**Non-Affiliate**" means a Person that is not an Affiliate.

"**Notice of Removal**" is defined in Section 13.5 below.

"**Notice to Cease Prohibited Use**" is defined in Section 8.3 below.

"**Notice to Vacate**" is defined in Section 3.3 below.

"**Official Records**" means the official records of the City and County of San Francisco.

"**OSHA**" is defined in Section 15.6 below.

"**PACMs** " is defined in Section 15.6 below.

"**Person**" means any natural person, corporation, limited liability entity, partnership, joint venture, or governmental or other political subdivision or agency.

"**Pesticide Ordinance**" is defined in Section 28.9 below.

"**Port**" means the San Francisco Port Commission.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Port program or project**" shall mean (a) any development or renovation, by public and/or private parties, of the building, pier or seawall lot in or on which the Premises is located (including, but not limited to the Event as described in Section 3.5 and any Development Project described in the Basic Lease Information), or (b) with respect to any areas owned by Port or under Port's jurisdiction between and including Piers 80-96, maritime uses (by way of example only and not as a limitation, cargo shipping, fishing, passenger cruises, ship repair, ferries and excursion boats, historic ships and recreational boating).

"**Port representative**" means Port, a City auditor, or any auditor or representative designated by Port.

"**Port Work**" is defined in Section 13.8 below.

"**Premises**" means the real property described in Section 3.1 below and depicted on Exhibit A.

"**preservative–treated wood containing arsenic**" is defined in Section 28.12 below.

"**prevailing party**" is defined in Section 23.1 below.

"**Prohibited Use(s)**" is defined in Section 8.2 below.

"**Regulatory Agency**" means the municipal, county, regional, state, or federal government and their bureaus, agencies, departments, divisions, courts, commissions, boards, officers, or other officials, including the Bay Conservation and Development Commission, any Environmental Regulatory Agency, Port (in its regulatory capacity), other departments, offices, and commission of the City and County of San Francisco (each in its regulatory capacity), Port's Chief Harbor Engineer, the Dredged Material Management Office, the State Lands Commission, the Army Corps of Engineers, the United States Department of Labor, the United States Department of Transportation, or any other governmental agency now or later having jurisdiction over Port property.

"**Regulatory Approval**" means any authorization, approval, license, registration, or permit required or issued by any Regulatory Agency.

"**Release**" when used with respect to Hazardous Materials means any actual or imminent spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Premises, any other part of the Facility, other Port property, or the environment.

"**Relocation Space**" is defined in Section 3.2 below.

"**Remediate**" or "**Remediation**" when used with respect to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with applicable Environmental Laws and any additional Port requirements. "**Remediation**" also includes the creation of a remedial work plan to be approved by the appropriate Environmental Regulatory Agency when required.

"**Renewable Energy System**" is defined in Section 12.3 below.

"**Rent**" means the Base Rent, Additional Rent and all other sums payable by Tenant to Port hereunder, including, without limitation, any Late Charge assessed pursuant to Section 5.2 below and any interest assessed pursuant to Section 5.4 below.

"**Rent Commencement Date**" means the date on which the payment of Rent commences as specified in the Basic Lease Information.

"**Repair Period**" means two hundred ten (210) days after the date of damage to the Premises or the Facility by fire or other casualty.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Rules and Regulations**" means the Rules and Regulations, if any, applicable to the Facility, set forth in ***Exhibit D*** attached hereto, as may be amended from time to time.

"**saltwater immersion**" is defined in Section 28.12 below.

"**Security Deposit**" means the amount specified in the Basic Lease Information and as further described in Section 7.

"**Sublease**" means a proposed or actual Transfer of all or any part of the Premises under a sublease or a sub-sublease.

"**Subletting Expenses**" means verifiable, and reasonable brokerage commissions incurred in connection with a Sublease and the costs of any new tenant improvements for which Tenant is responsible under the Sublease.

"**Subsequent Alteration**" means all alterations, installations, Improvements, repairs to and reconstruction, replacement, addition, expansion, restoration, alteration or modification of any Improvements, or any construction of additional Improvements, following completion of the Initial Tenat Improvements pursuant to the Work Letter.

"**SWPPP**" is defined in Section 15.10(a) below.

"**Taking**" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

"**Tenant**" means the party identified as Tenant in the Basic Lease Information.

"**Tenant's Property**" means all furniture, trade fixtures, office equipment, and articles of movable personal property installed in the Premises by or for the account of Tenant, and any Improvements or Alterations constructed on or affixed to the Premises if designated under this Lease as Tenant's Property, in either case without cost to Port.

"**Term**" is defined in Section 4.1 below.

"**trade fixtures**" means those items of personalty, furniture, equipment, machinery used in trade by Tenant which are customarily removed without damage to the Premises at the end of a lease term in the ordinary course of businesses of the type operated by Tenant at the Premises.

"**Transfer**" means any of the following events or proposed events, whether voluntary, involuntary, or by operation of Law: (a) Tenant sells, assigns, encumbers, subleases, or otherwise transfers any of its interest in this Lease or in the Premises; (b) any Person other than Tenant occupies or claims a right of possession to any part of the Premises; (c) Tenant dissolves, merges, consolidates, or otherwise reorganizes, or sells, assigns, encumbers, or otherwise transfers cumulatively or in the aggregate 50 percent or more (25 percent or more if publicly traded) of its equity interests or business assets, such as goodwill, inventory, and profits; or (d) any subtenant, assignee, or other Transferee of Tenant sells, assigns, encumbers, sub-subleases, or otherwise Transfers any of its interest in its Sublease or premises.

"**Transfer Agreement**" means all document(s) effecting or evidencing Tenant's proposed sale, assignment, encumbrance, sublease, or other Transfer.

"**Transfer Date**" means the effective date of a Transfer.

"**Transfer Notice**" means Tenant's prior written notice to Port of an intent to Transfer to a Non-Affiliate, specifying: (a) the Transferee's name, address, other contact information, and, if the Transferee is not a natural Person, its form of organization and the identity of each Person with Control of the Transferee; (b) the proposed Transfer Date and a full description of the Transfer Terms; (c) a description of the Transferee's proposed use of the Premises, including any required or desired Alterations or Improvements to the Premises that the Transferee may

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

undertake in order to facilitate its proposed use; and (d) a list of the Transferee's personal, business, and credit references.

"**Transfer Terms**" means the terms and conditions in the proposed or final Transfer Agreement, as appropriate in context.

"**Transferee**" means the Person to which Tenant makes or proposes to make a Transfer.

"**Utilities**" means electricity, water, gas, heat, sewers, oil, telecommunication services and all other Utilities.

"**Waiving Party**" is defined in Section 16.5 below.

"**Work**" when used in reference to construction is defined in Section 13.3(c) below.

"**worth at the time of the reward**" is defined in Section 22.2 below.

3. PREMISES; AS-IS CONDITION.

3.1. *Premises*.

(a) Subject to the provisions of this Lease, Port hereby leases to Tenant, and Tenant hereby leases from Port, the Premises in the Facility identified in the Basic Lease Information. The Premises has the address and contains the square footage specified in the Basic Lease Information. The location and dimensions of the Premises are depicted on ***Exhibit A*** attached hereto and incorporated herein by reference (the "**Premises**"). Port and Tenant agree and acknowledge that any statement of rentable or usable (if applicable) square footage set forth in this Lease is an approximation which Port and Tenant agree is reasonable and that the usable square footage of the Premises may be less than the rentable square footage of the Premises. Port and Tenant further agree and acknowledge that the rentable square footage of the Premises shall be used at all times to calculate the Base Rent due and payable by Tenant under this Lease and neither the Base Rent nor any other economic term based on rentable square footage shall be subject to revision whether or not the actual rentable or usable square footage is more or less.

(b) Tenant shall have the non-exclusive right to use, together with other tenants, the Common Areas. All of the Common Areas shall at all times be subject to the exclusive control, regulation, and management of Port. Port shall have the right to construct, maintain, and operate lighting facilities on all Common Areas; to patrol all Common Areas; to temporarily close any Common Areas for maintenance, repairs or alterations; from time to time to change the area, level, location and arrangement of Common Area facilities; to use the Common Areas and restrict access and use of the same during the maintenance, repair, construction or reconstruction of buildings, additions or improvements; to erect buildings, additions and improvements on the Common Areas from time to time; and to restrict parking by tenants, their Agents and Invitees. Port may operate and maintain the Common Areas and perform such other acts and make such other changes at any time and from time to time in the size, shape, location, number and extent of the Common Areas or any of them as Port in its sole discretion shall determine, provided, however, that no exercise by Port of its rights hereunder shall unreasonably restrict access to the Premises.

3.2. ***Relocation Option***. At any time up to the last twelve (12) months of the Term, Port may relocate Tenant from the Premises to reasonably comparable space ("**Relocation Space**") within the Facility or on Port property at Port's expense upon sixty (60) days' prior written notice to Tenant. From and after the date of the relocation, "**Premises**" shall refer to the Relocation Space into which Tenant has moved and the Base Rent shall be adjusted based on the rentable square footage of the Relocation Space. Port shall pay Tenant's reasonable costs for moving Tenant's Property and printing and distributing notices to Tenant's customers of Tenant's change of address and three (3) months supply of stationery showing the new address. In addition, within sixty (60) days after Tenant's surrender under this Section, Port agrees to pay Tenant a portion of the costs of the Initial Tenant Improvements incurred and documented by Tenant prior

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

to the delivery of Port's termination notice which were not previously reimbursed to Tenant through the Rent Credit allowed by this Lease. Such costs shall be determined by the value attributable to any alterations, additions and improvements in any Port building permits for such work obtained by Tenant and which are approved in advance in writing by a Port Property Manager to the extent supported by reasonable evidence of such expenditures provided by Tenant. If no building permits are required for such work, value shall only be attributed to such alterations, additions or improvements if the value is approved in writing by a Port Property Manager prior to the commencement of the work and if the cost is supported by reasonable evidence of such expenditures provided by Tenant. The portion of the costs paid by Port shall be a fraction, of which the numerator shall be the number of months remaining in the initial term of the Lease after Tenant surrenders the Premises, and the denominator shall be the number of months in the initial term of this Lease, or for work undertaken following the Commencement Date, the number of months beginning at the second month following the Port's approval of the improvements and ending at the Expiration Date of the initial term of the Lease.

3.3. ***No Right to Encroach.***

(a) If Tenant (including, its Agents, Invitees, successors and assigns) uses or occupies space outside the Premises without the prior written consent of Port (the "**Encroachment Area**"), then upon written notice from Port ("**Notice to Vacate**"), Tenant shall immediately vacate such Encroachment Area and, if Tenant has not vacated the Encroachment Area within 5 business days of the Notice to Vacate, pay as Additional Rent for each day Tenant used, occupied, uses or occupies such Encroachment Area, an amount equal to the rentable square footage of the Encroachment Area, multiplied by the higher of the (i) highest rental rate then approved by the San Francisco Port Commission for the Premises or the Facility, or (ii) then current fair market rent for such Encroachment Area, as reasonably determined by Port (the "**Encroachment Area Charge**"). If Tenant uses or occupies such Encroachment Area for a fractional month, then the Encroachment Area Charge for such period shall be prorated based on a thirty (30) day month. In no event shall acceptance by Port of the Encroachment Area Charge be deemed a consent by Port to the use or occupancy of the Encroachment Area by Tenant, its Agents, Invitees, successors or assigns, or a waiver (or be deemed as waiver) by Port of any and all other rights and remedies of Port under this Lease (including Tenant's obligation to Indemnify Port as set forth in the last paragraph of this Section), at law or in equity.

(b) In addition, Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of the initial Notice to Vacate plus the actual cost associated with a survey of the Encroachment Area. In the event Port determines during subsequent inspection(s) that Tenant has failed to vacate the Encroachment Area, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00) for each additional Notice to Vacate, if applicable, delivered by Port to Tenant following each inspection. The parties agree that the charges associated with each inspection of the Encroachment Area, delivery of each Notice to Vacate and survey of the Encroachment Area represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises, issuance of each Notice to Vacate and survey of the Encroachment Area. Tenant's failure to comply with the applicable Notice to Vacate and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity.

(c) In addition to Port's rights and remedies under this Section, the terms and conditions of the indemnity and exculpation provision set forth in Section 19 below shall also apply to Tenant's (including, its Agents, Invitees, successors and assigns) use and occupancy of the Encroachment Area as if the Premises originally included the Encroachment Area, and Tenant shall additionally Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Encroachment Area including, without limitation, any loss or liability resulting from any Claims against Port made by any tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to

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lease any portion of the Encroachment Area to any such tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

(d) All amounts set forth in this Section shall be due within three (3) business days following the applicable Notice to Vacate and/or separate invoice relating to the actual cost associated with a survey of the Encroachment Area. By placing their initials below, each party specifically confirms the accuracy of the statements made in this Section 3.3 and the reasonableness of the amount of the charges described in this Section 3.3.

Initials: _____ Port _____ Tenant

3.4. ***Proximity of Development Project.*** Tenant acknowledges that during the Term, the Development Project described in the Basic Lease Information is scheduled to be, or may be, constructed on property in the immediate vicinity of the Premises. Tenant is aware that the construction of such project and the activities associated with such construction will generate certain adverse impacts which may result in some inconvenience to or disturbance of Tenant. Impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of such inconvenience or disturbance.

3.5. ***America's Cup.*** Tenant acknowledges that the Golden Gate Yacht Club has selected San Francisco as the host city for the 34th America's Cup. The selection could result in activities and impacts, all of which are subject to review under the California Environmental Quality Act. The potential activities and impacts include events related to the America's Cup, which will include the 34th America's Cup match, anticipated to occur in 2013, pre-match races, possible future successive defense(s) of the America's Cup, related events and potential long-term development uses, to be determined after the racing events in 2013 (collectively the "**Event**"). The Event, if held, will be, or may be, on property, including land and water, in the immediate vicinity of the Premises. Tenant is aware that the Event as proposed will include construction projects, racing in the Bay, and public and private events. The activities associated with the Event, if held, are expected to create certain impacts, some of which may result in some inconvenience to or disturbance of Tenant.

Impacts of the Event may include, but are not limited to, increased pedestrian, vessel, vehicle and truck traffic, traffic delays and re-routing of street traffic, loss of street and public parking, temporary re-routing or interruption of land and water transit, dust, dirt, land- and water-based construction, dredging, and other noise and visual obstructions. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of impacts, inconvenience or disturbance as a result of the Event.

3.6. ***No Light, Air or View Easement.*** This Lease does not include an air, light, or view easement. Any diminution or shutting off of light, air or view by any structure which may be erected on lands near or adjacent to the Facility or by any vessels berthed near the Facility shall in no way affect this Lease or impose any liability on Port, entitle Tenant to any reduction of Base Rent or Additional Rent, or affect this Lease in any way or Tenant's obligations hereunder.

3.7. ***Unique Nature of Premises.*** Tenant acknowledges that: (a) the Facility is located along the waterfront in a building on a pier and/or wharf, supported by a partially-submerged substructure in a marine environment, which was originally built approximately 100 years ago; and/or (b) Port's regular maintenance may involve activities, such as pile driving, that create noise and other effects not normally encountered in locations elsewhere in San Francisco due to the unique nature of the Premises; and (c) Port cannot guarantee that piers, decks, wharves, and aprons will be suitable for leased occupancy during the entire Term of the Lease.

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3.8. ***As-Is Condition.*** Tenant acknowledges and agrees that Tenant is familiar with the Premises, the Premises are being leased and accepted in their "as-is" condition, without any improvements or alterations by Port, without representation or warranty of any kind, and subject to all applicable laws governing their use, occupancy and possession. Tenant represents and warrants to Port that Tenant has received and reviewed the FEMA disclosure notice attached as ***Schedule 3*** and a copy of the report(s), if any, relating to the substructure and/or structure of the Facility, as further described in ***Schedule 2*** attached hereto. Tenant further represents and warrants to Port that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Premises and the suitability of the Premises for Tenant's business and intended use. Tenant acknowledges and agrees that neither Port nor any of its agents have made, and Port hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the premises, the physical or environmental condition of the Premises or the Facility (including, but not limited to the substructure), the present or future suitability of the Premises for Tenant's business, or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

3.9. ***Port's Rights Regarding Premises.*** Port shall have the full right and authority to make, revoke, impose, and amend any comercially reasonable Rules and Regulations pertaining to and reasonably necessary for the proper use, operation and maintenance of the Facility. If no Rules and Regulations currently exist for the Facility, Tenant agrees to be bound by any Rules and Regulations Port later imposes on the Facility upon reasonable notice to Tenant. Tenant acknowledges receipt of a copy of the Rules and Regulations currently in force for the Facility and agrees to abide by them. Tenant also acknowledges that Port's exercise of any of its rights regarding the Premises and other Port property in the vicinity of the Premises will not entitle Tenant to any abatement or diminution of Rent.

4. TERM OF LEASE; TERMINATION BY PORT.

4.1. ***Term.*** The term of this Lease (the "**Term**") shall be for the period of months specified in the Basic Lease Information commencing on the Commencement Date and expiring on the Expiration Date. If the Commencement Date and Expiration Date occur on a date other than the Commencement Date and the Expiration Date set forth in the Basic Lease Information, then promptly following the actual Commencement Date, Port and Tenant shall execute a Commencement Date and Expiration Date Memorandum substantially in the form attached hereto as ***Exhibit B***, confirming the actual Commencement Date and Expiration Date, but either party's failure to do so shall not affect the commencement or expiration of the Term.

If Port is unable to deliver possession of the Premises to Tenant on or before the Commencement Date, then the validity of this Lease shall not be affected thereby and Port shall not be liable to Tenant for any Claims resulting therefrom, and Tenant waives all provisions of any Laws to the contrary. In such case, the Term and regular payments of Rent shall not commence until Port delivers possession of the Premises. Notwithstanding anything to the contrary above, if Port's inability to deliver possession of the Premises on the estimated Commencement Date results from Tenant's or its Agents' acts or omissions, then Base Rent and Additional Rent payable by Tenant hereunder shall commence on the date when Port would have delivered possession of the Premises but for such acts or omissions.

4.2. ***Termination Rights.***

(a) Port has the right to terminate this Lease under this Section when the Premises are needed in connection with a Port program or project. Port may exercise this right without liability or expense, except as specifically set forth in this Subsection, upon ninety (90) days' prior written notice. Tenant agrees and shall be required to surrender possession of the Premises by the end of the 90-day period.

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(b) Port has the right to terminate the Lease under this Section if Port determines, in its sole and absolute discretion, that the condition of the Facility's structures, substructure or utilities has deteriorated to a condition that would create a foreseeable risk of hazard to health or safety. Port may exercise this right without liability or expense, except as specifically set forth in this Subsection. Port will attempt to provide Tenant with no less than ninety (90) days' prior written notice of termination under this Subsection, but reserves the right to terminate this Lease upon any shorter notice that the Port in its sole and absolute discretion determines is justified given the risk of hazard. Tenant agrees and shall be required to surrender possession of the Premises by the end of the notice period, except as provided in this Subsection.

(i) For a period ending fifteen (15) calendar days after receipt of Port's notice of termination, Tenant may request Port's consent, in Port's sole and absolute discretion, to allow Tenant to make the repairs required by Port in accordance with this Lease and any additional conditions reasonably imposed by Port, in consideration of Concessions from Port. If Port consents, Port's notice of termination will be deemed rescinded and of no further effect.

(c) Within sixty (60) days after Tenants surrender under this Section, Port agrees to pay Tenant a portion of those expenses which are documented by Tenant as having been incurred by Tenant prior to the delivery of Port's termination notice in making alterations, additions and improvements to the Premises which were approved in advance and in writing by Port and which were not previously reimbursed to Tenant through rent credits, rent abatement or other form of compensation ("**Improvement Costs**"). Such Improvement Costs shall be determined by the value attributable to any alterations, additions and improvements in any Port building permits for such work obtained by Tenant and which are approved in advance in writing by a Port Property Manager to the extent supported by reasonable evidence of such expenditures provided by Tenant. If no building permits are required for such work, value shall only be attributed to such alterations, additions or improvements if the value is approved in writing by a Port Property Manager prior to the commencement of the work and if the cost is supported by reasonable evidence of such expenditures provided by Tenant. The portion of the Improvement Costs paid by Port shall be a fraction, of which the numerator shall be the number of months remaining in the initial term of the Lease after Tenant surrenders the Premises, and the denominator shall be the number of months in the initial term of this Lease, or for work undertaken following the Commencement Date, the number of months beginning at the second month following the Port's approval of the improvements and ending at the Expiration Date of the initial term of the Lease. In no event shall Port be responsible for paying any moving or relocation expense or other expense incurred by Tenant due to any termination under this Section, except that, Port shall pay Tenant's reasonable costs for moving Tenant's Property and printing and distributing notices to Tenant's customers of Tenant's change of address and three (3) months supply of stationery showing the new address.

4.3. ***Waiver of Relocation Benefits.*** Except as provided in Sections 3.2 and 4.2(c), to the extent allowed by applicable Law, Tenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect, except as specifically provided this Lease.

Initials: _____ Port _____ Tenant

5. RENT.

Tenant shall pay to Port, in the manner herein described, the following Rent:

5.1. ***Base Rent.*** Throughout the Term, Tenant shall pay to Port the Base Rent set forth in the Basic Lease Information. Tenant shall make the first payment of Base Rent in advance, on or before the first day of the eighth (8th) month after the Commencement Date and from and after

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the Rent Commencement Date, shall pay the Base Rent, in advance, on or before the first day of each calendar month throughout the Term. If the Rent Commencement Date is other than the first day of the month, or the Expiration Date is other than the last day of the month, the Base Rent for those months shall be apportioned based on a thirty (30) day month.

5.2. ***Late Charges***. Tenant acknowledges that late payment by Tenant to Port of Rent or other sums due under this Lease will cause Port increased costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Accordingly, a Late Charge will be paid by Tenant for any Rent that remains due and unpaid, plus any attorneys' fees incurred by Port by reason of Tenant's failure to pay Rent when due under this Lease. Additionally, in the event Tenant is notified by Port that Tenant is considered to be a Habitual Late Payer, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) upon written notification from Port of Tenant's Habitual Late Payer status. The parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of any late payment. Such charges may be assessed without notice and cure periods and regardless of whether such late payment results in an Event of Default. Amounts due under this Section are in addition to, not in lieu of, amounts due under Section 5.4 below.

5.3. ***Returned Checks***. If any check for a payment for any Lease obligation is returned without payment for any reason, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) and the outstanding payment shall be subject to a Late Charge and default interest.

5.4. ***Default Interest***. Any Rent, if not paid within five (5) days following the due date, shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under Law (the "**Interest Rate**"). However, interest shall not be payable on Late Charges incurred by Tenant nor on any amounts on which Late Charges are paid by Tenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant.

5.5. ***Net Lease***. It is the purpose of this Lease and intent of Port and Tenant that all Rent shall be absolutely net to Port, so that this Lease shall yield to Port the full amount of the Rent at all times during the Term, without deduction, abatement or offset. Except as otherwise expressly set forth in this Lease, under no circumstances, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties shall Port be expected or required to incur any expense or make any payment of any kind with respect to this Lease or Tenant's use or occupancy of the Premises, including any Improvements. Without limiting the foregoing, but except as expressly provided to the contrary in this Lease, Tenant shall be solely responsible for paying each item of cost or expense of every kind and nature whatsoever, the payment of which Port would otherwise be or become liable by reason of Port's estate or interests in the Premises and any Improvements, any rights or interests of Port in or under this Lease, or the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation, use or occupancy of the Premises, any Improvements, or any portion thereof. No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, or shall otherwise relieve Tenant from any of its obligations under this Lease, or shall give Tenant any right to terminate this Lease in whole or in part, except as otherwise expressly provided in this Lease. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of payment of such sums, on account of any such occurrence or situation, provided that such waiver shall not affect or impair any right or remedy expressly provided Tenant under this Lease.

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5.6. ***Additional Charges.*** Without limiting Port's other rights and remedies set forth in this Lease, at law or in equity, in the event Tenant fails to submit to the appropriate party, on a timely basis, the items identified in Sections 15.4(a), 15.8, 15.10, 28.1(d), and 32 below, or to provide evidence of the required insurance coverage described in Section 16 below, then upon 5 business day's written notice from Port of such failure, unless Tenant cures, Tenant shall pay, as Additional Rent, an amount equaling One Hundred Dollars ($100.00). In the event Tenant fails to provide the necessary document within the time period set forth in the initial notice and Port delivers to Tenant additional written notice requesting such document, then Tenant shall pay to Port, as Additional Rent, an amount equaling One Hundred Fifty Dollars ($150.00) for each additional written notice Port delivers to Tenant requesting such document. The parties agree that the charges set forth in this Section 5.6 represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Tenant's failure to provide the documents identified in this Section 5.6 and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity.

By placing their initials below, each party specifically confirms the accuracy of the statements made in this Section 5.6 and the reasonableness of the amount of the charges described in this Section 5.6.

Initials: _____ _____

Port Tenant

5.7. ***Rent Credit.***

(a) Tenant shall be entitled to Rent Credit not to exceed $515,000 for the actual cost of core and shell improvements to be taken monthly against Base Rent otherwise due, as described in the Basic Lease Information and in this Section.

(b) After substantial Completion of the approved Initial Tenant Improvements, as defined in the Work Letter, Tenant shall deliver to Port an itemized statement of the actual costs expended by Tenant on the core and shell portions of the Initial Tenant Improvements, accompanied by documentation reasonably satisfactory to Port evidencing all said expenditures. Such appropriate proofs of expenditure shall include, without limitation, (i) copies of canceled checks, (ii) copies of executed contracts, (iii) invoices for labor services and/or materials marked "Paid"; or otherwise evidenced as having been paid; bills of lading marked "Paid"; other bills, contracts and receipts for goods, materials and/or services marked "Paid", (iv) and such other proofs of expenditure as may be reasonably approved by Port, and (v) unconditional lien waivers from all the general contractors and all subcontractors and suppliers for the particular items of the Initial Tenant Improvements covered by the rent credit request. All such proofs of expenditure must be attributable directly to work or materials performed, constructed or installed in connection with the core and shell improvements as shown in the Work Letter Attachment 1. Costs expended for the Initial Tenant Improvements that are eligible for rent credits shall not include items related to Tenant's trade fixtures, office equipment and supplies, furniture, communications facilities (whether voice or data) or any other items of personalty not intended to be affixed to or become a part of the Facility or Facility Systems, nor any fees, exactions, impositions, or similar charges imposed as a condition to permit approval. To the extent Tenant (through its employees, contractors, or any party in which Tenant has a direct financial interest) performs any of the labor for the Improvements, the costs for such labor shall be no more than the commercially reasonable, market-rate labor charges typically charged for such work by parties in an arms-length transaction. In no event shall the cost of any construction management fees, general administrative costs or other forms of mark-up be eligible for rent credits. Furthermore, in no event shall maintenance, repair and/or replacement costs of the Initial Tenant Improvements be eligible for rent credits. Upon receipt of and based upon said statement and accompanying documentation which substantiate the actual construction costs expended, Port in its reasonable discretion shall determine in writing the Initial Tenant

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Improvements Cost eligible for rent credits and Tenant may apply such rent credits in accordance with this Section.

(c) Except as may be adjusted by the Port's Executive Director as provided in the Basic Lease Information, any unapplied or unused portion of the allocated monthly or annual maximum rent credit as described in the Basic Lease Information shall remain the property of Port at the end of the relevant month or Lease Year, and shall not carry over to any subsequent month or Lease Year, and Tenant shall have no interest in said funds. Other than as set forth in this Section, Port shall have no obligation to provide, and Tenant shall not be entitled to, a rent credit, tenant improvement allowance or any other form of reimbursement or credit in connection with the Initial Tenant Improvements. Rent credits cannot be applied retroactively.

(d) Notwithstanding anything to the contrary contained herein, in no event shall Tenant receive any rent credit in the event Tenant is in default, or an event has occurred which, with the passage of time or the giving of notice, or both, would constitute a default. Upon the occurrence of a Tenant Event of Default during period Tenant is eligible for rent credits, Tenant's right to apply any rent credit shall cease and shall not be reinstated until the Tenant Event of Default is cured. In no event shall the cessation in the application of the rent credit against any Base Rent extend the rent credit period.

(e) Tenant agrees and acknowledges that any right or claim Tenant may have to any form of rent credit that has not yet been actually applied against Base Rent ("**unused rent credit**") shall, upon the earlier to occur of (i) a default by Tenant of any term or condition of this Lease, (ii) Tenant's failure to submit to Port within thirty (30) days following substantial Completion of the Initial Tenant Improvements, evidence of expenditures related to the Initial Tenant Improvements, as described in Section 5.6 (b); or (iii) the expiration or earlier termination of this Lease excluding any holdover period (with or without Port consent), be immediately terminated, without notice, and Port shall have no liability or obligation to pay or credit Tenant all or any portion of the unused rent credit.

6. TAXES AND ASSESSMENTS.

6.1. ***Payment of Taxes.*** During the Term, Tenant agrees to pay, when due, to the proper authority any and all real property and personal taxes, general and special assessments, license fees, permit fees and all other governmental charges of any kind or nature whatsoever, including without limitation all penalties and interest thereon, levied or assessed on the Premises, on Tenant's Property, the leasehold or subleasehold estate or Tenant's use of the Premises, whether in effect at the time this Lease is entered into or which become effective thereafter, and all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Premises. Tenant shall not permit any such taxes, assessments or other charges to become a defaulted lien on the Premises or the Improvements thereon; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and provided, further, that Tenant may, through such proceeding as Tenant considers necessary or appropriate, contest the legal validity or the amount of any tax, assessment or similar charge so long as such assessment or charge does not become a defaulted lien. In the event of any such dispute, Tenant shall indemnify and hold Port, City, and their Agents harmless from and against all losses, damages, costs, or expenses, including attorneys' fees, resulting therefrom.

6.2. ***Possessory Interest Tax.*** Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. Tenant further recognizes and understands that any sublease or assignment permitted under this Lease and any exercise of any option to renew or other extension of this Lease may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Tenant agrees to pay taxes of any kind, including, but not limited to, possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay

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all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by Law, all of which shall be paid when the same become due and payable and before delinquency. Tenant agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same. San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute) require that the City and County of San Francisco report certain information relating to this Lease, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction and that Tenant report certain information relating to any assignment of or sublease under this Lease to the County Assessor within sixty (60) days after such assignment or sublease transaction. Tenant agrees to provide such information as may be requested by the City or Port to enable the Port to comply with this requirement within thirty (30) days of a request in writing by Port to do so.

Initials: _____

Tenant

7. SECURITY DEPOSIT.

(a) Tenant shall pay to Port upon execution of this Lease, in addition to the advance payment of the first month's Base Rent, the Security Deposit, in cash, in the sum specified in the Basic Lease Information, as security for the faithful performance by Tenant of all terms, covenants and conditions of this Lease. If Base Rent is increased beyond the amount set forth in the Basic Lease Information for the last year of the Term, then from and after such increase, Tenant shall increase the amount of the Security Deposit to maintain the same ratio of the Security Deposit to Base Rent as existed on the date immediately prior to such Base Rent increase. Any increase in the Security Deposit shall be delivered to Port on the same date that such increase in Base Rent is first due.

Tenant agrees that Port may (but shall not be required to) apply the Security Deposit in whole or in part to (a) pay any sum due to Port under this Lease; (b) compensate Port for any expense incurred or damage caused by Tenant, its Agents or Invitees; (c) cure any default by Tenant; or (d) cure, or attempt to cure, any failure of Tenant to perform any other covenant, term or condition contained herein. Tenant shall immediately upon demand pay Port a sum equal to the portion of the Security Deposit expended or applied by Port. Port shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to any interest on the Security Deposit. Nothing contained in this Section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this Lease or provided by law or equity.

Tenant hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that Port may apply all or any portion of the Security Deposit in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any Agent or Invitee of Tenant, and that following a default by Tenant, all or any portion of the Security Deposit may be retained by Port following a termination of this Lease and applied to future damages, including damages for future Rent, pending determination of the same.

(b) If Tenant elects to provide the final portion of the Security Deposit in the form of a letter of credit as specified in the Basic Lease Information, the provisions of this subsection and subsections (c)-(e) below apply (the "**Letter of Credit**"). Neither the Letter of Credit nor any portion of the proceeds ("**LC Proceeds**") will be deemed an advance of Rent, an advance of any other payment due to Port under this Lease, a security deposit subject to the California Civil Code, or a measure of Port's damages upon an Event of Default. Port will not be required to keep LC Proceeds segregated from its other funds or to deposit them into an interest-bearing account;

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(c) The Letter of Credit must:

(i) be in a form acceptable to Port and issued by a bank otherwise reasonably satisfactory to Port (the "**Issuer**");

(ii) be replaced, renewed, or extended at least sixty (60) days before any expiration date stated in the Letter of Credit, if necessary to ensure that the full LC Value is available to Port at all times until sixty (60) days after the Expiration Date;

(iii) be Issuer's irrevocable, unconditional independent and binding obligation to honor any draw, including partial and multiple draws, presented to Issuer at sight upon the presentation at a branch in San Francisco of Port's signed statement to the Issuer (1) stating that a default of the Secured Obligations has occurred and is continuing under this Lease, and any applicable grace period has expired or Port is otherwise entitled to draw on the Letter of Credit; or (2) requesting an extension of the Letter of Credit's expiration date to the maximum time allowed, or, in the alternative, a draw of the full LC Value, because Tenant has not presented Port with a replacement, renewal, or extension as required under this Section, all in accordance with applicable rules; and

(iv) be freely transferable upon Port's (or Port's successors') delivery of any documents required by Issuer confirming a transfer.

(d) Port may use any portion of LC Proceeds in a manner consistent with use of the Security Deposit as described above. If Port makes a draw in any amount, Tenant must deliver to Port an amendment to the Letter of Credit or a replacement Letter of Credit providing Port with the full LC Value within five (5) business days after notice from Port to Tenant specifying the amount of the draw and the particular purpose to which the LC Proceeds were applied.

(e) Tenant agrees that Port

(i) may apply all or any portion of the LC Proceeds in a manner consistent with manner consistent with use of the Security Deposit as described above;

(ii) may retain all or any portion of the LC Proceeds in a manner consistent with use of the Security Deposit as described above;

(iii) will have until two (2) months after the Expiration Date (or later date of Port's acceptance of Tenant's surrender of the Premises) to return any LC Proceeds drawn but not applied towards Port costs or damages; and

(iv) will have no further liability to Tenant with respect to the Letter of Credit or LC Proceeds following a transfer of the beneficial interest to a transferee in accordance with the Issuer's requirements.

8. USE OF THE PREMISES.

8.1. ***Permitted Use***. The Premises shall be used and occupied only for the Permitted Use specified in the Basic Lease Information and for no other purpose.

8.2. ***Prohibited Use***. Tenant agrees that the following activities, by way of example only and without limitation, and any other use that is not a Permitted Use (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"), are inconsistent with this Lease, are strictly prohibited and are considered Prohibited Uses:

(a) any activity, or the maintaining of any object, which is not within the Permitted Use;

(b) any activity, or the maintaining of any object, which will in any way increase the existing rate of, affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

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(c) any activity or object which will overload or cause damage to the Premises;

(d) any activity which constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus which can be heard or seen outside the Premises;

(e) any activity which will in any way injure, obstruct or interfere with the rights of other tenants in the Facility or of owners or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

(f) use of the Premises for residential, sleeping or personal living quarters and/or "Live/Work" space;

(g) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Port, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Port;

(h) the operation, use, or berthing of any vessels, watercraft or floating barges owned or operated by Tenant;

(i) Tenant's employment of any maritime workers within the Premises for loading, unloading, building, repairing, dismantling, or longshoring of any vessel;

(j) except as provided in the Basic Lease Information or the Operations Plan and in strict compliance with the Operations Plan, any vehicle and equipment maintenance, including but not limited to fueling, changing oil, transmission or other automotive fluids;

(k) the storage of any and all excavated materials, including but not limited to dirt, concrete, sand, asphalt, and pipes;

(l) except in connection with the Initial Tenant Improvements, the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials;

(m) except as provided in the Basic Lease Information or the Operations Plan, the washing of any vehicles or equipment;

(n) the placement of any object, machinery or equipment on any portion of the Premises that exceeds the load restrictions, if any, described in the Basic Lease Information; or

(o) any other Prohibited Uses identified in the Basic Lease Information, if any.

8.3. ***Notice of Prohibited Use Charge.*** In the event Port determines after inspection of the Premises that Prohibited Uses are occurring on the Premises, then Tenant shall immediately cease the Prohibited Use and shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of 5 business day's written notice to Tenant to cease the Prohibited Use ("**Notice to Cease Prohibited Use**"), if Tenant has not ceased the Prohibited Use within 5 business days of the Notice to Cease Prohibited Use. In the event Port determines in subsequent inspection(s) of the Premises that Tenant has not ceased the Prohibited Use, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00) for each additional Notice to Cease Prohibited Use delivered to Tenant. The parties agree that the charges associated with each inspection of the Premises and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises and Tenant's failure to comply with the applicable Notice to Cease Prohibited Use and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity.

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By placing their initials below, each party specifically confirms the accuracy of the statements made in this Section 8.3 and the reasonableness of the amount of the charges described in this Section 8.3.

Initials: _____ Port _____ Tenant

9. COMPLIANCE WITH LAWS AND REGULATIONS.

Tenant, at Tenant's sole cost and expense, promptly shall comply with all Laws relating to or affecting the condition, use or occupancy of the Premises and shall comply with all Laws relating to Tenant's specific use of the Facility and all Rules and Regulations, if any, in effect either at the time of execution of this Lease or which may hereafter be in effect at any time during the Term, whether or not the same are now contemplated by the parties. Tenant further understands and agrees that it is Tenant's obligation, at Tenant's sole cost and expense, to cause the Premises and Tenant's activities and operations conducted thereon, to be in compliance with the ADA. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Alterations and Improvements strictly complies with all requirements of the ADA. If Tenant's use or occupancy of the Premises triggers a requirement to remove barriers or perform other work to any part of the Facility outside of the Premises to comply with the ADA, then, at Port's sole election, Port or Tenant will perform the work at Tenant's sole cost and expense.

The parties acknowledge and agree that Tenant's obligation to comply with all Laws as provided herein is a material part of the bargained for consideration under this Lease. Tenant's obligation under this Section 9 shall include, without limitation, the responsibility of Tenant to make substantial or structural repairs and Alterations to the Premises, regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or Port, the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Laws involved, and whether the Laws involved is related to Tenant's particular use of the Premises. Any Alteration or Improvements made by or on behalf of Tenant pursuant to the provisions of this Section 9 shall comply with the provisions of Section 13 below. Except as otherwise expressly set forth in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Lease in whole or in part or to seek redress against Port, except to the extent Tenant may have remedies against Port pursuant to this Lease or applicable Law. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

10. PORT ACTING AS OWNER OF PROPERTY; REGULATORY APPROVALS; COMPLIANCE WITH CITY'S RISK MANAGER'S REQUIREMENTS.

10.1. ***Port Acting as Owner of Property***. Tenant understands and agrees that Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a Regulatory Agency of the City with certain police powers. By entering into this Lease, Port is in no way modifying or limiting the obligation of Tenant to obtain any required Regulatory Approvals from Regulatory Agencies, and to cause the Premises to be used and occupied in accordance with all Laws and required Regulatory Approvals. Examples of Port actions as a Regulatory Agency include Port Commission approval of entitlements to develop Port property, Port staff issuance of building and other construction-related permits, Port staff issuance of licenses and regulation of certain sidewalks and streets, and the Chief Harbor Engineer's actions to protect public health and safety.

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10.2. ***Regulatory Approvals.*** Tenant understands that Tenant's operations on the Premises, changes in use, or Improvements or Alterations to the Premises (individually and collectively, "**Changes**") may require Regulatory Approvals, including Regulatory Approvals issued by Port in its capacity as a Regulatory Agency.

Tenant shall be solely responsible for obtaining any Regulatory Approvals, and Tenant shall not seek any Regulatory Approval without first obtaining the prior written approval of Port. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Tenant. Tenant shall be solely responsible for complying with any and all conditions imposed by Regulatory Agencies as part of a Regulatory Approval; provided, however, Tenant shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port), if the Port is required to be a co-permittee under such permit or other entitlement, or if the conditions or restrictions it would impose on the project could affect use or occupancy of the Facility or Port's interest therein or would create obligations on the part of Port (whether on or off of the Premises) to perform or observe, unless in each instance Port has previously approved such conditions in writing, in Port's sole and absolute discretion.

Any fines or penalties imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Tenant, and Port shall have no liability, monetary or otherwise, for any fines and penalties. To the fullest extent permitted by Law, Tenant agrees to indemnify and hold City, Port and their Agents harmless from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which City or Port may incur as a result of Tenant's failure to obtain or comply with the terms and conditions of any Regulatory Approval.

Without limiting the terms and conditions of Sections 10.1 and 10.2, by initialing below, Tenant agrees and acknowledges that (i) Port has made no representation or warranty that Regulatory Approvals to allow for the Changes, if any, can be obtained, (ii) although Port is an agency of the City, Port has no authority or influence over any Regulatory Agency responsible for the issuance of such required Regulatory Approvals, (iii) Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Facility and not as a Regulatory Agency of the City with certain police powers, and (iv) Tenant is solely responsible for obtaining any and all required Regulatory Approvals in connection with any Changes. Accordingly, Tenant understands that there is no guarantee, nor a presumption, that any required Regulatory Approvals will be issued by the appropriate Regulatory Agency and Port's status as an agency of the City shall in no way limit the obligation of Tenant to obtain approvals from any Regulatory Agencies (including Port) that have jurisdiction over the Facility. Tenant hereby releases and discharges Port from any liability relating to the failure of any Regulatory Agency (including Port) from issuing any required Regulatory Approval.

Initials: _____
Tenant

10.3. ***Compliance with City's Risk Manager's Requirements.*** Tenant shall not do anything, or permit anything to be done, in or about the Premises that would be prohibited by or increase rates under a standard form fire insurance policy or subject Port to potential premises liability. Tenant shall faithfully observe, at no cost to Port, any and all requirements of City's Risk Manager with respect to Tenant's use and occupancy of the Premises, so long as such requirements do not unreasonably interfere with Tenant's use of the Premises or are otherwise connected with standard prudent commercial practices of other landlords.

11. MAINTENANCE AND REPAIRS.

11.1. ***Tenant Maintenance and Repair Obligations.*** Unless otherwise set forth in the Basic Lease Information, Tenant shall at all times during the Term, including any period of early entry if any under this Lease, or occupancy or use of the Premises by Tenant under another lease

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or license with Port, and at its sole cost and expense, maintain, repair and replace in good and working order, condition and repair the Premises and all Improvements and Alterations thereon, including, but not limited to, glazing. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the Premises nor to any Improvements or Alterations now or hereafter located thereon. Tenant hereby waives all rights to make repairs at Port's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect.

Notwithstanding any maintenance obligations of Port that may be set forth in the Basic Lease Information, in the event that Tenant, its Agents or Invitees cause any damage to the Premises or any other property within Port's jurisdiction, Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefor. Tenant shall not make, nor cause or suffer to be made any repairs or other work for which a permit is required by an applicable building code, standard or regulation, including, without limitation, the Port Building Code, the Port Facility Code, or of any rule or regulation of Port without first obtaining Port's prior written consent and a permit therefor.

11.2. ***Port's Right to Inspect.*** In the event that damage or deterioration to the Premises or any portion thereof which is Tenant's obligation to maintain results in the same not meeting the standard of maintenance required by Port for such uses as Tenant is making of the Premises, then Tenant shall have the independent responsibility for, and shall promptly undertake, maintenance or repair of the Premises and complete the same with due diligence. Without limiting Section 24 below, Port may make periodic inspections of the Premises and may advise Tenant when maintenance or repair of the Premises is required, but such right of inspection shall not relieve Tenant of its independent responsibility to maintain such Premises and Improvements in a condition as good as, or better than, their condition at the Commencement Date, excepting ordinary wear and tear.

11.3. ***Port's Right to Repair.*** In the event Tenant fails to maintain the Premises in accordance with Sections 11.1 and 11.2 above, or Tenant fails to promptly repair any damage to the Facility caused by Tenant or its Agents, Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefore. If the cost (including, but not limited to, salaries of Port staff and attorneys' fees) of any such repairs or replacements made at Tenant's expense is in excess of Two Thousand Dollars ($2,000), then Tenant shall pay to Port an administrative fee equal to ten percent (10%) of the total "**Hard costs**" of the work. "**Hard costs**" shall include the cost of materials and installation, but shall exclude any costs associated with design, such as architectural fees.

With respect to any work where the total hard costs of such work are less than Two Thousand Dollars ($2,000), Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200) upon delivery of the initial notice relating to Tenant's failure to maintain the Premises in accordance with Section 11 ("**Maintenance Notice**"). In the event Port determines during subsequent inspection(s) that Tenant has failed to maintain the Premises in accordance with Section 11, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300) for each additional Maintenance Notice, if applicable, delivered by Port to Tenant following each inspection. Parties agree that the charges associated with each inspection of the Premises and delivery of each Maintenance Notice represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises and issuance of each Maintenance Notice. Tenant's failure to comply with the applicable Maintenance Notice and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity. The amounts set forth in this Section 11.3 shall be due within three (3) business days following delivery of the applicable Maintenance Notice.

Initials: _____
Tenant

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For purposes of this Lease, the term "**ordinary wear and tear**" shall not include any deterioration in the condition or diminution of the value of any portion of the Premises and/or the Facility in any manner whatsoever related to directly, or indirectly, to Tenant's failure to comply with the terms and conditions of this Lease.

11.4. ***Acts of Nature.*** Nothing contained herein shall require Port to repair or replace the Premises or the Improvements thereon as a result of damage caused by acts of war, earthquake, tidal wave or other acts of nature, except that this provision shall not affect any obligation to make repairs to the Premises pursuant to Section 0 in the event of any damage or destruction of the Premises.

12. UTILITIES AND SERVICES.

12.1. ***Utilities.*** Tenant shall make arrangements and shall pay all charges for all Utilities to be furnished on, in or to the Premises or to be used by Tenant.

Tenant shall be obligated, at its sole cost and expense, to repair and maintain in good operating condition all utilities serving the Premises (whether within or outside the Premises and regardless of who installed same). Upon request by Port, Tenant shall assess and submit a report detailing the conditions of Utilities prepared by a qualified licensed professional. Tenant shall coordinate with Port and impacted Port tenants, if necessary, with respect to maintenance and repair of any off-Premises utility infrastructure, including providing advance notice of maintenance and repair requirements. If Tenant requests Port to perform such maintenance or repair, whether emergency or routine, Port shall charge Tenant for the cost of the work performed at the then prevailing standard rates, and Tenant agrees to pay Port promptly upon billing. Tenant shall pay for repair of utilities located outside the Premises (regardless of who installed the same) which are damaged by or adversely affected by Tenant's use of such utility and shall be responsible for all damages, liabilities and claims arising therefrom.

Tenant will not, without the written consent of Port, which consent may be granted or withheld in Port's sole and absolute discretion, use any apparatus or device in the Premises, including without limitation, electronic data processing machines and machines using current in excess of 110 volts or which will in any way increase the amount of electricity usually furnished or supplied for use of the Premises. If Tenant shall require electric current in excess of that usually furnished or supplied for the Premises, Tenant shall first procure the written consent of Port, which Port may refuse, in its sole and absolute discretion, to the use thereof, and Port may cause an electric current meter to be installed in the Premises so as to measure the amount of electric current consumed for any such other use. The cost of any such meter and of installation, maintenance, and repair thereof shall be paid for solely by Tenant and Tenant agrees to pay to Port promptly upon demand therefor by Port for all such electric current consumed, as shown by the meter, at the rates charged for such service by the City and County of San Francisco or the local public utility, as the case may be, furnishing the same, plus any additional expense incurred in keeping account of the electric current so consumed.

The parties agree that any and all utility improvements (not including telephone wiring and equipment) shall become part of the realty and are not trade fixtures or Tenant's Property. Port makes no representation or warranty that utility services, including telecommunications services, will not be interrupted. Port shall not be liable in damages or otherwise for any failure or interruption of any utility services, including telecommunications services, furnished to the Premises. No such failure or interruption shall constitute a basis for constructive eviction, nor entitle Tenant to terminate this Lease or abate Rent. Tenant hereby waives the provisions of California Civil Code Section 1932(1), 1941, and 1942, or any other applicable existing or future Laws permitting the termination of this Lease due to such interruption, failure or inability.

In the event any Law imposes mandatory or voluntary controls on Port, the Facility, or the property or any part thereof, relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions, or the provision of any other utility

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or service provided with respect to this Lease, or in the event Port is required or elects to make alterations to any part of the Facility in order to comply with such mandatory or voluntary controls or guidelines, such compliance and the making of such alterations shall in no event entitle Tenant to any damages, relieve Tenant of the obligation to pay the full Base Rent and Additional Rent reserved hereunder or to perform each of its other covenants hereunder or constitute or be construed as a constructive or other eviction of Tenant. Port shall have the right at any time to install a water meter in the Premises or otherwise to measure the amount of water consumed on the Premises, and the cost of such meter or other corrective measures and the installation and maintenance thereof shall be paid for by Tenant.

Without Port's prior written consent, which Port may give or refuse in its sole and absolute discretion, Tenant shall not place or install in the Premises any equipment that weighs in excess of the normal load-bearing capacity of the floors of the Facility or the pier, as applicable, and as may be further described in the Basic Lease Information. If Port consents to the placement or installation of any such machine or equipment in the Premises, Tenant, at no cost to the Port, shall reinforce the floor of the Premises, pursuant to plans and specifications approved by Port and otherwise in compliance with Section 13 below, to the extent necessary to assure that no damage to the Premises or the Facility or weakening of any structural or substructural supports, as the case may be, will be occasioned thereby.

12.2. ***Services.*** Tenant shall make arrangements and shall pay all charges for all services to be furnished on, in or to the Premises or to be used by Tenant, including, without limitation, garbage and trash collection, janitorial service and extermination service.

12.3. ***On-Site Renewable Energy.*** At any time during the Term, Port shall have the right, at its sole and absolute discretion, to install, or cause another party to install, a renewable energy system, using sources such as solar (photovoltaic or solar thermal power), wind, tidal or biofuel power (**"Renewable Energy System"**) on the roof of the Facility or otherwise on or near the Premises for the purpose of supplying power to the Facility or other locations. Unless the cost per kilowatt of power to Tenant from such Renewable Energy System is greater than the cost per kilowatt Tenant would otherwise pay for power, Tenant shall purchase all or a portion of its power needs from the operator of the Renewable Energy System.

Initials: _____
Tenant

13. IMPROVEMENTS AND ALTERATIONS.

13.1. *Port Consent Required.*

(a) Tenant shall not make nor cause or suffer to be made, any Alterations or Improvements to the Premises (i) without the prior written consent of Port, which consent shall not be unreasonably withheld; provided, however, that Port shall have the right in its sole and absolute discretion to consent or to withhold its consent to any Alterations or Improvements which affect the structural portions of the Premises, the Facility or the Facility Systems, and (ii) until Tenant shall have procured and paid for all Port and other Regulatory Approvals of the various Regulatory Agencies having jurisdiction over the Premises, including, but not limited to, any building or similar permits required by Port or its Chief Harbor Engineer in the exercise of its jurisdiction with respect to the Premises.

(b) As a condition to giving consent, Port may require Tenant to provide Port, at Tenant's sole cost and expense, one or more financial guarantees, each in a form and issued by a bank or surety acceptable to Port, such as: (i) a standby letter of credit or bond; and (ii) a payment and performance bond from Tenant's Contractors naming Port as co-obligee, each in a principal amount up to one hundred fifty percent (150%) but not less than one hundred percent (100%) of the estimated costs of the Alteration or Improvement, to ensure Port against any liability for mechanics' and materialmen's liens, stop notices and to ensure completion of work.

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(c) At least thirty (30) days before commencing any Alterations or Improvements to the Premises, Tenant shall notify Port. Tenant's notice shall be accompanied by Final Construction Documents for the Alterations or Improvements, if applicable. Port shall have the right to object to any the Alterations or Improvements within sixty (60) days after receipt of notice from Tenant. Port's failure to notify Tenant of Port's objection within the 60-day period shall be deemed Port's disapproval of the Alterations.

(d) None of the following will constitute Alterations or Improvements requiring Port's consent, unless the installation will affect Facility Systems or the structure of the building: (i) installation of furnishings, trade fixtures, equipment, or decorative improvements; (ii) painting the interior of the Premises; and (iii) carpeting the Premises.

13.2. ***Tenant's Obligation to Construct the Initial Tenant Improvements.*** Tenant shall construct the Initial Tenant Improvements in accordance with, and subject to all the terms, covenants, conditions and restrictions in the Work Letter. Any Subsequent Alteration shall be performed in accordance with this Section.

13.3. ***Construction Requirements***. All Subsequent Alterations to the Premises made by or on behalf of Tenant shall be subject to the following conditions, which Tenant covenants faithfully to perform:

(a) All Subsequent Alterations shall be performed in a good and workmanlike manner in accordance with plans and specifications previously approved by Port in writing and in compliance with the applicable building, zoning and other applicable Laws, including, but not limited to, compliance with the ADA, and in compliance with the terms of and conditions imposed in any Regulatory Approval or any permit or authorization for the Premises.

(b) All Subsequent Alterations shall be performed at the sole cost and expenses of Tenant, with reasonable dispatch and prosecuted to completion, and only by duly licensed and bonded contractors or mechanics approved by Port, and subject to any conditions that Port may reasonably impose.

(c) Tenant, while performing any Subsequent Alterations, construction or maintenance or repair of the Improvements including of the Initial Tenant Improvements (for purposes of this Section only, "**Work**"), shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining portions of the Premises and Improvements and the surrounding property, or the risk of injury to members of the public, caused by or resulting from the performance of its Work. Tenant shall undertake commercially reasonably measures to minimize damage, disruption or inconvenience caused by the Work and make adequate provision for the safety and convenience of all persons affected by the Work. Dust, noise and other effects of the Work shall be controlled using commercially-accepted methods customarily used to control deleterious effects associated with construction projects in populated or developed urban areas. Tenant shall erect appropriate construction barricades substantially enclosing the area of such construction and maintain them until the Work has been substantially completed, to the extent reasonably necessary to minimize the risk of hazardous construction conditions.

(d) At the completion of any Work described in this Section, Tenant shall furnish to Port one reproducible "as built" drawing of all Alterations and Improvements made in the Premises. If Tenant fails to provide such as-built drawings to Port within sixty (60) days after completion of the Improvements, Port, after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Port's choice of "as-built" drawings, at Tenant's sole cost, to be paid by Tenant to Port within thirty (30) days after Port's request therefor.

(e) Tenant expressly acknowledges that interior and exterior Alterations (including but not limited to any repair, alteration, improvement, or construction to the interior or exterior of the Facility) are subject to review by Port for consistency with the design polices and

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criteria set forth in the Waterfront Land Use Plan, Design and Access Element. In addition, Tenant expressly acknowledges that for any proposed interior or exterior Alteration of Port properties that more than fifty (50) years of age, Tenant may be required to prepare a Historic Resources Evaluation Report ("**HRER**") to determine whether the property is eligible or potentially eligible for listing as a historic resource. The HRER must be prepared by a qualified historic preservation professional and submitted to Port for review and must include sufficient research and documentation to substantiate whether the property is an eligible or a potentially eligible historic resource or of no historical value or significance. For proposed interior or exterior Alterations to Port properties determined to be eligible or potentially eligible for listing as historic resources, the HRER must also analyze the proposed Alterations for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties, which are published by the National Park Service and posted on its website at http://www.nps.gov/history/hps/tps/Standards/index.htm ("**Secretary's Standards**"). Port reserves the right to disapprove Alterations that are found to be inconsistent with the Secretary of the Interior's Standards or to work with Tenant to modify the proposed Alterations to achieve greater consistency with the Secretary's Standards. Tenant also expressly acknowledges that Alterations that are inconsistent with the Secretary's Standards may require additional regulatory review and approval by Port or other Regulatory Agencies with jurisdiction over the Facility.

(f) Without limiting Section 15 below (Hazardous Materials), in the event that asbestos-containing materials ("**ACM**") are determined to exist in or about the Premises, Tenant shall ensure that all Alterations and Improvements and any asbestos related work, as further defined in California Health & Safety Code Section 25914.1(b), is performed in compliance with all laws relating to asbestos, including but not limited to California Occupational Safety and Health (OSHA) regulations found in Title 8 of the California Code of Regulations, Sections 1502 and 1529. Additionally, Tenant shall distribute notifications to all employees and contractors as required pursuant to California Health & Safety Code Sections 25915 et seq. informing them of the existence of ACM and that moving, drilling, boring, or otherwise disturbing ACM may present a health risk and should not be attempted by an unqualified employee. No Alterations or Improvements affecting ACM-containing areas or any asbestos related work shall be performed without Port's prior written consent in each instance.

(g) Tenant, on behalf of itself and its Agents or Invitees, shall comply with all requirements of the San Francisco Building Code, Section 3423, and all other Laws, including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when the work of Alterations or Improvements disturbs or removes lead-based or presumed lead-based paint (as described below). Tenant and its Agents or Invitees shall give to Port three (3) business days prior written notice of any disturbance or removal of lead-based or presumed lead-based paint. Further, Tenant and its Agents or Invitees, when disturbing or removing lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("**HEPA**") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers, without Port's prior written consent; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool, without Port's prior written consent; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the interior and exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3423 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the surfaces of such buildings. Under this Section 13.3(g), lead-based paint is "**disturbed or removed**" if the work of Alterations or Improvements involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an interior or exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

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13.4. ***Improvements Part of Realty***. Except as set forth in Section 13.5 below, all Alterations and Improvements constructed on or affixed to the Premises by or on behalf of Tenant shall immediately upon construction or installation become part of the realty owned by Port and shall, at the end of the Term hereof, remain on the Premises without compensation to Tenant. Tenant may not remove any such property at any time during or after the Term unless Port so requires as further provided in Section 25 below (Surrender) below.

13.5. ***Removal of Improvements***. Prior to the Expiration Date or earlier termination of this Lease, Port shall give written notice to Tenant (herein "**Notice of Removal**") specifying the Alterations or Improvements that are designated as Tenant's Property as defined in this Lease or as may be specifically provided in the relevant permits or plans approved by Port, which Tenant shall be required to remove and relocate or demolish and remove from the Premises in accordance with Section 25. Any such removal is subject to the requirements of this Section, including the requirement to obtain a Port building or similar permit. If termination of this Lease is the result of loss or destruction of the Premises or any Improvements thereon, Port shall deliver the Notice of Removal to Tenant within a reasonable time after the loss or destruction. Tenant shall be obligated at its own expense to remove all Alterations or Improvements specified in the Notice of Removal, including without limitation all telephone wiring and equipment installed by Tenant. Tenant shall promptly repair, at its own expense, in good and workmanlike fashion any damage occasioned thereby. If Tenant fails to complete any required demolition or removal on or before the termination of this Lease, Port may perform such removal or demolition at Tenant's expense, and Tenant shall reimburse Port within three (3) business days after demand therefor.

13.6. ***Removal of Non-Permitted Improvements***. If Tenant constructs any Alterations or Improvements to the Premises without Port's prior written consent or without complying with Section 13.2 above, then, in addition to any other remedy available to Port, Port may require Tenant to remove, at Tenant's expense, any or all such Alterations or Improvements and to promptly repair, at Tenant's expense and in good workmanlike fashion, any damage occasioned thereby. Tenant shall pay to Port all special inspection fees as set forth in any applicable building code, standard or regulation, including, without limitation, the Port Building Code, for inspection of work performed without required permits. The foregoing obligation of Tenant to reimburse Port for all cost and expenses incurred by Port in connection with Tenant's failure to comply with the provisions of Section 13 shall survive the expiration or earlier termination of this Lease.

13.7. ***Signs***. Tenant shall not install business signage, awnings or other exterior decoration or notices on the Premises without Port's prior written consent. Any sign that Tenant is permitted to place, construct or maintain on the Premises shall comply with all Laws relating thereto, including but not limited to Port's Tenant Sign Guidelines and building permit requirements, and Tenant shall obtain all Regulatory Approvals required by such Laws. Port makes no representation with respect to Tenant's ability to obtain such Regulatory Approval. Tenant shall have the right to install a sign no larger than the size of the previous tenant's sign in the same location and Tenant agrees to seek all necessary approvals for such a sign. Tenant, at its sole cost and expense, shall remove all signs placed by it on the Premises at the expiration or earlier termination of this Lease.

13.8. ***Port's Alterations***. Port reserves the right at any time to make Alterations, additions, repairs, deletions or improvements to the Common Areas or any other part of the Facility, the Facility Systems, or adjacent Port property ("**Port Work**"). Port shall use commercially reasonable efforts to conduct any of the foregoing activities in a manner that, to the extent reasonably practicable, will minimize inconvenience or disturbance to Tenant; Port will have no obligation to minimize inconvenience or disturbance to Tenant for Port Work when the Port Work is necessary, in Port's sole and absolute discretion, to maintain Port property in safe, hazard-free condition. In no event will inconvenience or disturbance caused by Port Work constitute an actual or constructive eviction of Tenant, entitle Tenant to any abatement or

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diminution of Rent, or otherwise relieve Tenant from any of its obligations under this Lease. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of any inconvenience or disturbance occasioned by Port Work.

14. LIENS.

Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant or its Agents. In the event that Tenant shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record, Port shall have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including without limitation, payment of the claim giving rise to such lien. All sums paid by Port for such purpose, plus interest at the Interest Rate, and all reasonable expenses incurred by Port in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Port by Tenant upon demand. Port shall have the right to post on the Premises any notices that Port may deem proper for the protection of Port, the Premises, and the Facility, from mechanics' and materialmen's liens. Tenant shall give to Port at least fifteen (15) days' prior written notice of commencement of any Alteration, repair or construction on the Premises. Tenant agrees to indemnify, defend and hold Port, City and their respective Agents harmless from and against any claims for mechanic's, materialmen's or other liens in connection with any Alterations, repairs or construction on the Premises, or materials furnished or obligations incurred by or for Tenant.

Without limiting the foregoing, Tenant shall not create, permit or suffer any liens or encumbrances affecting any portion of the Premises, the Facility or Port's interest therein or under this Lease.

15. HAZARDOUS MATERIALS.

15.1. ***Requirements for Handling***. Except as provided in the Basic Lease Information or Operations Plan, neither Tenant nor its Agents or Invitees may Handle or permit any other person to Handle any Hazardous Material in, on, under or about the Premises, any other part of the Facility, or other Port property, subject only to the following exceptions, provided that Handling is at all times in full compliance with all Environmental Laws: janitorial and office supplies in limited amounts customarily used for general office purposes.

15.2. ***Tenant Responsibility***. Tenant agrees to protect its Agents and Invitees in its operations on the Premises from hazards associated with Hazardous Materials in accordance with all Environmental Laws and also agrees, for itself and on behalf of its Agents and Invitees, that during its use and occupancy of the Premises, each of them:

(a) will not permit any Hazardous Materials to be present in, on, under or about the Premises, any other part of the Facility, or other Port property except as permitted under Section 15.1;

(b) will not cause or permit any Hazardous Material Condition; and

(c) will comply with all Environmental Laws relating to the Premises and any Hazardous Material Condition, and will not engage in or permit any activity at the Premises, any other part of the Facility, other Port property, or in the operation of any vehicles or vessels used in connection with the Premises in violation of any Environmental Laws.

15.3. ***Tenant's Environmental Condition Notification Requirements***.

(a) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, of and when Tenant learns or has reason to believe Hazardous Materials were Released or, except as allowed under Section 15.1, Handled, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels that Tenant or

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

its Agents or Invitees use during Tenant's occupancy of the Premises, whether or not the Release or Handling is in quantities that would be required under Environmental Laws to be reported to an Environmental Regulatory Agency.

(b) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, and contemporaneously provide Port with an electronic copy, of:

(i) Any notice of the Release or Handling of Hazardous Materials, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises that Tenant or its Agents or Invitees provides to an Environmental Regulatory Agency;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that Tenant or its Agents or Invitees receives from any Environmental Regulatory Agency;

(iii) Any other Environmental Regulatory Action that is instituted or threatened by any Environmental Regulatory Agency against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises;

(iv) Any Hazardous Materials Claim that is instituted or threatened by any third party against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises; and

(v) Any notice of the termination, expiration, or substantial amendment of any Environmental Regulatory Approval needed by Tenant or its Agents or Invitees for their operations at the Premises.

(c) Tenant must notify Port of any meeting, whether conducted face-to-face or telephonically, between Tenant and any Environmental Regulatory Agency regarding an Environmental Regulatory Action. Port will be entitled to participate in any such meetings at its sole election.

(d) Tenant must notify Port of any Environmental Regulatory Agency's issuance of an Environmental Regulatory Approval. Tenant's notice to Port must state the issuing entity, the Environmental Regulatory Approval identification number, and the date of issuance and expiration of the Environmental Regulatory Approval. In addition, Tenant must provide Port with a list of any plan or procedure required to be prepared and/or filed with any Environmental Regulatory Agency for operations on the Premises, including a "Spill Pollution Control and Countermeasure Plan." Tenant must provide Port with copies of any of the documents within the scope of this section upon Port's request.

(e) Tenant must provide Port with copies of all communications with Environmental Regulatory Agencies and all non-privileged communications with other persons regarding potential or actual Hazardous Materials Claims arising from Tenant's or its Agents' or Invitees' operations at the Premises. Upon Port's request, Tenant must provide Port with a log of all communications withheld under a claim of privilege that specifies the parties to and subject of each withheld communication.

(f) Port may from time to time request, and Tenant will be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner that complies with all Environmental Laws.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

15.4. ***Requirement to Remediate.***

(a) Tenant's Remediation obligations under this subsection are subject to subsection (b).

(i) After notifying Port in accordance with Section 15.3(a), Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease, any Hazardous Material Condition occurring during the Term or while Tenant or its Agents or Invitees otherwise occupy any part of the Premises. Tenant must obtain Port's approval of a Remediation work plan, whether or not required under Environmental Laws, then begin Remediation actions immediately following Port's approval of the work plan and continue diligently until Remediation is complete, as determined by Port, in its sole discretion.

(ii) In addition to its obligations under clause (i), before this Lease terminates for any reason, Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease: (A) any Hazardous Material Condition caused by Tenant's or its Agents' or Invitees' Handling Hazardous Materials during the Term; and (B) any Hazardous Material Condition discovered during Tenant's occupancy that any Regulatory Agency requires to be Remediated if Remediation would not have been required but for Tenant's use of or Changes to the Premises.

(iii) If Environmental Laws governing Remediation require a remedial action plan, Tenant must provide a draft of its plan to Port for comment and approval before submittal to the appropriate Environmental Regulatory Agency, and a copy of the final plan as submitted.

(iv) In all situations relating to Handling or Remediating Hazardous Materials, Tenant must take all actions that are reasonably necessary in Port's sole judgment to protect the value of the Premises or the Facility, such as obtaining Environmental Regulatory Approvals related to Hazardous Materials and taking measures to remedy any deterioration in the condition or diminution of the value of any portion of the Premises or the Facility in any manner related directly, or indirectly to Hazardous Materials.

(b) Unless Tenant or its Agents or Invitees Exacerbate the Hazardous Material Condition, Tenant will not be obligated to Remediate any Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Tenant's occupancy of the Premises; or (ii) arising before the Commencement Date or the date of Tenant's first use of the Premises, whichever is earlier.

15.5. ***Port's Right to Audit.*** Port will have the right, but not the obligation, to inspect and audit the Premises for any Hazardous Materials, including the right to Investigate, at reasonable times under Section 24. Port's failure to inspect or obtain samples or to detect conditions attributable to Tenant's operations if an inspection is conducted may not be deemed to be a release of any liability for any Hazardous Materials subsequently determined to be Tenant's responsibility under this Lease.

15.6. ***Notification of Asbestos.*** Port hereby notifies Tenant, in accordance with the United States Occupational Safety and Health Administration ("**OSHA**") Asbestos Rule (1995), 59 Fed. Reg. 40964, 29 CFR §§ 1910.1001, 1926.1101 (as amended, clarified and corrected) (OSHA Asbestos Rule); California Health and Safety Code §§ 25915-259.7 and the Division of Occupational Safety and Health of the California Department of Industrial Relations ("**Cal-OSHA**") General Industry Safety Order for Asbestos, 8 CCR § 5208, of the presence of asbestos-containing materials ("**ACMs**") and/or presumed asbestos-containing materials ("**PACMs**") (as such terms are defined in Cal-OSHA General Industry Safety Order for Asbestos), in the locations identified in the summary/table, if any, set forth in ***Schedule 1*** attached hereto.

This notification by Port is made pursuant to a building inspection survey(s), if any, performed by Port or its contractors qualified to perform an asbestos building survey identified in

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

the summary/table, if any, set forth in ***Schedule 1*** attached hereto. Such survey(s), monitoring data and other information are kept at Port of San Francisco, Pier 1, San Francisco, California, 94111 and are available for inspection upon request.

Tenant hereby acknowledges receipt of the notification specified in the first paragraph of Section 15.6 hereof and the notice or report attached as ***Schedule 1*** hereto and understands, after having consulted its legal counsel, that it must make its employees and contractors aware of the presence of ACMs and/or PACMs in or about the Premises in order to avoid or minimize any damage to or disturbance of such ACMs and/or PACMs. Tenant further acknowledges its obligations under Cal-OSHA General Industry Safety Order for Asbestos to provide information to its employees and contractors regarding the presence of ACMs and PACMs at the Premises and to provide a training program for its employees that conforms with 8 CCR § 5208(j)(7)(C).

Tenant agrees that its waiver of Claims set forth in Section 19 below (Indemnity and Exculpation) is given with full knowledge of the presence, or possibility, of asbestos in or about the Premises and/or the Facility and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of asbestos in or about the Premises may limit Tenant's ability to construct Alterations to the Premises without Tenant first performing abatement of such asbestos. The presence of asbestos in the Premises and/or the Facility and the removal or non-removal by Port of all or a portion of the asbestos in the Facility, whether in the Premises or elsewhere in the Facility, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, (iii) constitute or be construed as a constructive or other eviction of Tenant, or (iv) constitute or be construed as a breach of Port's covenant assuring Tenant's quiet enjoyment of the Premises.

Notwithstanding any other provisions of this Lease, Tenant agrees to defend and indemnify Port for Tenant's acts or omissions that result in (1) asbestos-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA General Industry Safety Order for Asbestos and/or exposures to asbestos.

15.7. ***Notification of Lead.*** Port hereby notifies Tenant of the potential presence of lead-containing and presumed lead-containing materials in the Premises or Facility. Disturbance or removal of lead is regulated by among other Laws, 29 CFR §§ 1910.1025, 1926.62; California Health & Safety Code §§ 105185-105197 and 105250-105257; Cal-OSHA Construction Safety Order for Lead, Title 8 CCR § 1532.1; Title 17 CCR Chapter 8; and San Francisco Building Code § 3423.

Tenant agrees that its waiver of Claims set forth in Section 19 below is given with full knowledge of the presence, or possibility, of lead in or about the Premises and/or the Facility and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of lead in or about the Premises may limit Tenant's ability to perform any Improvements or Alterations to the Premises without Tenant first performing abatement of such lead. The presence of lead in the Premises and/or the Facility and the removal or non-removal by Port of all or a portion of the lead, whether in the Premises or elsewhere in the Facility, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, (iii) constitute or be construed as a constructive or other eviction of Tenant, or (iv) constitute or be construed as a breach of Port's covenant assuring Tenant's quiet enjoyment of the Premises. Notwithstanding any other provisions of this Lease, Tenant agrees to defend and indemnify Port for its acts or omissions that result in (1) lead-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA Construction Safety Order for Lead and/or exposures to lead.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

15.8. ***Failure to Comply.*** Failure to comply with Section 15 shall constitute a material default under the Lease. In the event of such default, Port shall have all rights available under the Lease and at law or equity including, without limitation, the right to either:

(a) Terminate this Lease and collect damages Port incurs as a result of such default, including, without limitation, Remediation costs incurred by Port resulting from the Remediation of any Hazardous Materials present in, on or under the Premises, the Facility, any other Port property; or

(b) Continue this Lease and require Tenant to Remediate such Hazardous Materials at the Tenant's sole cost and expense.

15.9. ***Survival.*** Tenant's obligations under Section 15 shall survive the expiration or earlier termination of the Lease.

15.10. ***Storm Water Pollution Prevention.***

(a) Tenant must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("**SWPPP**"), and conducting storm water monitoring and reporting. Tenant's SWPPP and a copy of a Notice of Intent for Tenant's Premises must be submitted to Port's Real Estate Division before beginning on-site.

(b) In addition to requiring compliance with the permit requirements under Subsection (a), Tenant shall comply with the post-construction stormwater control provisions of the Statewide General Permit for Discharge of Stormwater from Small Municipalities and the San Francisco Stormwater Design Guidelines, subject to review and permitting by the Port's Engineering Division.

15.11. ***Presence of Hazardous Materials.*** California Law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant is hereby advised that Hazardous Materials (as herein defined) may be present on or near the Premises, including, but not limited to vehicle fluids, janitorial products, tobacco smoke, and building materials containing chemicals, such as lead and formaldehyde. Further, the following known Hazardous Materials are present on the property: asbestos in building, if any, as described in ***Schedule 1*** attached hereto, and the Hazardous Materials described in: Assessment of Suspect Asbestos-Containing Materials at the Pier 50, Administration Building, 401 China Basin, Clayton Environmental Consultants, March 20, 1996; Limited Hazardous Materials Survey, Pier 50, Shed C, IHI Environmental, July 17, 1998; and Removal of Underground Tank, 300 China Basin, Harding Lawson Associates, September 21, 1987, copies of which have been delivered to or made available to Tenant. By execution of this Lease, Tenant acknowledges that the notice set forth in this section satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. Tenant must disclose the information contained in this Section 15.11 to any subtenant, licensee, transferee, or assignee of Tenant's interest in this Lease. Tenant also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

16. INSURANCE

16.1. ***Required Insurance Coverage.*** Tenant, at its sole cost and expense, shall maintain, or cause to be maintained, throughout the Term, the following insurance:

(a) General Liability Insurance. Comprehensive or commercial general liability insurance, with limits not less than One Million Dollars ($1,000,000.00) each occurrence combined single limit for bodily injury and property damage, including coverages for contractual liability, independent contractors, broad form property damage, personal injury, products and completed operations, fire damage and legal liability with limits not less than Two Hundred Fifty Thousand Dollars ($250,000.00) and explosion, collapse and underground (XCU) coverage

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

during any period in which Tenant is conducting any activity on or Alteration or Improvement to the Premises with risk of explosion, collapse, or underground hazards. This policy must also cover non-owned and for-hire vehicles and all mobile equipment or unlicensed vehicles, such as forklifts.

(b) Automobile Liability Insurance. Comprehensive or business automobile liability insurance with limits not less than One Million Dollars ($1,000,000.00) each occurrence combined single limit for bodily injury and property damage, including coverages for owned and hired vehicles and for employer's non-ownership liability, which insurance shall be required if any automobiles or any other motor vehicles are operated in connection with Tenant's activity on the Premises or the Permitted Use. If parking is a Permitted Use under this Lease, Tenant must obtain, maintain, and provide to Port upon request evidence of personal automobile liability insurance for persons parking vehicles at the Premises on a regular basis, including without limitation Tenant's Agents and Invitees.

(c) Worker's Compensation; Employer's Liability; Jones Act; U.S. Longshore and Harborworker's Act Insurance. Worker's Compensation Insurance, U.S. Longshore and Harborworker's Act Insurance and Jones Act Insurance with Employer's Liability limit not less than One Million Dollars ($1,000,000.00) for each accident, injury or illness, on employees eligible for each. In the event Tenant is self-insured for the insurance required pursuant to this Section 16.1(c), it shall furnish to Port a current Certificate of Permission to Self-Insure signed by the Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California. Notwithstanding the foregoing, so long as Tenant complies with Sections 8.2(h) and 8.2(i) above, Tenant shall not be required to maintain insurance for claims under the Jones Act or U.S. Longshore and Harborworker's Act, respectively.

(d) Property Insurance; Earthquake and Flood Insurance. Tenant shall maintain property insurance policies with coverage at least as broad as Insurance Services Office ("**ISO**") form CP 10 30 06 95 ("**Causes of Loss – Special Form**", or its replacement), including earthquake, subject to provisions of Section 16.6(b), and flood, subject to the provisions of Section 16.6(c), in an amount not less than one hundred percent (100%) of the then-current full replacement cost of the Improvements and other property being insured pursuant thereto (including building code upgrade coverage).

(e) Construction Activities. At all times during any period of the Initial Tenant Improvements and all Subsequent Alterations subject to Section 13,

(i) Tenant shall require Tenant's contractor to maintain (a) commercial general liability insurance with limits of not less than Three Million Dollars ($3,000,000) combined single limit for bodily injury and property damage (including personal injury and death), and contractor's protective liability; and products and completed operations coverage in an amount not less than Five Hundred Thousand Dollars ($500,000) per incident, One Million Dollars ($1,000,000) in the aggregate; (b) comprehensive automobile liability insurance with a policy limit of not less than One Million Dollars ($1,000,000) each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, "**any auto**", and insuring against all loss in connection with the ownership, maintenance and operation of automotive equipment that is owned, hired or non-owned; (c) worker's compensation with statutory limits and employer's liability insurance with limits of not less than One Hundred Thousand Dollars ($100,000) per accident, Five Hundred Thousand Dollars ($500,000) aggregate disease coverage and One Hundred Thousand Dollars ($100,000) disease coverage per employee. Tenant shall cause Tenant's Agents (other than Tenant's contractor) to carry such insurance as shall be reasonably approved by Port taking into account the nature and scope of the work and industry custom and practice.

(ii) In addition, Tenant shall carry "**Builder's All Risk**" insurance on a form reasonably approved by Port, in the amount of one hundred percent (100%) of the

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

completed value of all new construction, insuring all new construction, including all materials and equipment incorporated in, on or about the Premises, and in transit or storage off-site, that are or will be part of the permanent Improvements, against "**all risk**" and "special form" hazards.

(iii) Tenant shall require all providers of professional services, including architectural, design, engineering, geotechnical, and environmental professionals under contract with Tenant for any Improvements or any Alterations to maintain professional liability (errors or omissions) insurance, with limits not less than One Million Dollars ($1,000,000.00) each claim and aggregate, with respect to all professional services provided to Tenant therefor.

(f) Business Interruption Insurance. Tenant shall maintain business interruption insurance for loss caused by any of the perils or hazards set forth in and required to be insured pursuant to Sections 16.1(c), 16.1(d) and 16.1(e) above, with a limit of not less than the annual Rent applicable immediately prior to the hazard causing the loss.

(g) Other Coverage. Such other insurance or different coverage amounts as is required by Law or as is generally required by commercial owners of buildings similar in size, character, age and location as the Facility, as may change from time to time, or as may be required by the City's Risk Manager.

16.2. ***Claims-Made Policies***. If any of the insurance required in Section 16.1 above is provided under a claims-made form of policy, Tenant shall maintain such coverage continuously throughout the Term and without lapse for a period of three (3) years beyond the termination of this Lease, to the effect that should occurrences during the Term give rise to claims made after termination of this Lease, such claims shall be covered by such claims-made policies.

16.3. ***Annual Aggregate Limits***. If any of the insurance required in Section 16.1 above is provided under a form of coverage which includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be double the occurrence limits specified herein.

16.4. ***Payment of Premiums***. Tenant shall pay the premiums for maintaining all required insurance.

16.5. ***Waiver of Subrogation Rights***. Notwithstanding anything to the contrary contained herein, Port and Tenant (each a "**Waiving Party**") each hereby waives any right of recovery against the other party for any loss or damage sustained by such other party with respect to the Facility or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party, to the extent such loss or damage is covered by insurance which is required to be purchased by the Waiving Party under this Lease or is actually covered by insurance obtained by the Waiving Party. Each Waiving Party agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Facility or the Premises; provided, the failure to obtain any such endorsement shall not affect the above waiver.

16.6. ***General Insurance Matters***.

(a) All liability insurance policies required to be maintained by Tenant hereunder shall contain a cross-liability clause, shall name as additional insureds by written endorsement the "**CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS,**" shall be primary to any other insurance available to the additional insureds with respect to claims arising under this Lease, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the company's liability.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(b) As to earthquake insurance:

(i) during construction of the Initial Tenant Improvements, such insurance shall be in an amount at least equal to the maximum amount as is available at rates that are commercially reasonable for owners or operators of comparable businesses located in the City and County of San Francisco, from recognized carriers (with a deductible of up to but not to exceed five percent (5%) of the then-current, full replacement cost of the Improvements or other property being insured pursuant thereto (including building code upgrade coverage and without any deduction being made for depreciation).

(ii) from and after Completion of the Initial Tenant Improvements, such insurance shall be in an amount at least equal to One Hundred percent (100%) of the maximum probable loss that would be sustained by the Premises as a result of an earthquake measuring 8.0 on the Richter Scale, as determined not less frequently than every 5 years by the City's Risk Manager, and at rates that are commercially reasonable for owners or operators of comparable businesses located in the City and County of San Francisco.

(c) As to flood insurance only:

(i) During construction of the Initial Tenant Improvements, such insurance shall be in an amount at least equal to the maximum amount as is available at rates that are commercially reasonable for owners or operators of comparable businesses located in the City and County of San Francisco, from recognized insurance carriers (with a deductible up to, but not to exceed fifteen percent (15%) of the then-current, full replacement cost of the Improvements or other property being insured pursuant thereto (including building code upgrade coverage and without any deduction being made for depreciation);

(ii) from and after Completion of the Improvements, such insurance shall be in an amount at least equal to the amount available at rates that are commercially reasonable for owners or operators of comparable businesses located in the City and County of San Francisco, from recognized insurance carriers, and at rates that are commercially reasonable for owners or operators of comparable businesses located in the City and County of San Francisco.

(d) All insurance policies required to be maintained by Tenant hereunder shall be issued by an insurance company or companies reasonably acceptable to Port with an AM Best rating of not less than A-VIII and authorized to do business in the State of California. Tenant's compliance with this Section shall in no way relieve or decrease Tenant's liability under this Lease.

(e) All insurance policies required to be maintained by Tenant hereunder shall be endorsed to provide for thirty (30) days prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to Tenant and Port.

(f) Tenant shall deliver to Port certificates of insurance and additional insured policy endorsements in a form satisfactory to Port evidencing the coverages required herein, together with evidence of payment of premiums, on or before the Commencement Date, and upon renewal of each policy not less than thirty (30) days before expiration of the term of the policy. Tenant shall, upon Port's request, promptly furnish Port with a complete copy of any insurance policy required hereunder.

(g) Not more often than every year and upon not less than sixty (60) days prior written notice, Port may require Tenant to increase the insurance limits set forth in Section 16.1 above if Port finds in its reasonable judgment that it is the general commercial practice in San Francisco to carry insurance in amounts substantially greater than those amounts carried by Tenant with respect to risks comparable to those associated with the use of the Premises.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

17. DAMAGE AND DESTRUCTION.

17.1. ***Damage and Destruction.*** If the Premises or the Facility is damaged by fire or other casualty, then Port shall repair the same provided that funds for such repairs are appropriated by Port, in its sole discretion, for such purpose and that such repairs can be made within the Repair Period. In the event such conditions are satisfied, this Lease shall remain in full force and effect except that so long as such damage or casualty is not attributable to Tenant, its Agents or Invitees, Tenant shall be entitled to a proportionate reduction of Base Rent during the Repair Period based upon the extent to which such damage and the making of such repairs materially interferes with Tenant's use or occupancy of the Premises less any insurance proceeds Tenant receives, or would have received if Tenant complied with the requirements set forth in Section 16 above, which proceeds are to be applied against the payment of Rent during any Repair Period.

Port shall use its commercially reasonable efforts to notify Tenant within ninety (90) days after the date of such damage whether or not such repairs can be made within the Repair Period, and Port's determination thereof shall be binding on Tenant. If such repairs cannot be made within the Repair Period, Port shall have the option to notify Tenant of: (a) Port's intention to repair such damage and diligently prosecute such repairs to completion within a reasonable period after the Repair Period, subject to appropriation of funds, in which event this Lease shall continue in full force and effect and the monthly Base Rent shall be reduced as provided herein; or (b) Port's election to terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by Port. In case of termination, the monthly Base Rent shall be reduced as provided above, and Tenant shall pay such reduced monthly Base Rent up to the date of termination.

If Port elects not to appropriate funds for such repair, Port shall give written notice to Tenant within sixty (60) days after the date Port elects not to appropriate funds of its election to terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by Port. In case of termination, the monthly Base Rent shall be reduced as provided above, and Tenant shall pay such reduced monthly Base Rent up to the date of termination.

If at any time during the last six (6) months of the Term, the Premises or the Facility is damaged or destroyed, then either Port or Tenant may terminate this Lease by giving written notice to the other party of its election to do so within thirty (30) days after the date of the occurrence of such damage; provided, however, Tenant may terminate only if such damage or destruction substantially impairs its use or occupancy of the Premises for the Permitted Use. The effective date of termination shall be specified in the notice of termination, which date shall not be more than thirty (30) days from the date of the notice.

Notwithstanding anything to the contrary in this Lease, (i) Port shall have no obligation to repair the Premises or the Facility, (ii) Tenant shall not be entitled to any abatement of Rent, and (iii) Tenant shall not be entitled to terminate this Lease, in the event the damage or destruction is attributable to any act or omission of Tenant, its Agents, or Invitees. In no event shall Port be required to repair any damage to Tenant's Property or any paneling, decorations, railings, floor coverings, or any Improvements or other Alterations installed or made on the Premises by or at the expense of Tenant including without limitation, the Initial Tenant Improvements. In the event the Premises or the Facility is substantially damaged or destroyed and Port intends to rebuild for public purposes inconsistent with this Lease, Port may terminate this Lease upon written notice to Tenant.

17.2. ***Waiver.*** Port and Tenant intend that the provisions of Section 0 govern fully in the event of any damage or destruction and accordingly, Port and Tenant each hereby waives the provisions of Section 1932, subdivision 2, Section 1933, subdivision 4, Sections 1941 and 1942 of the Civil Code of California or under any similar Law now or hereafter in effect.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

18. EMINENT DOMAIN.

18.1. ***General.*** If all or part of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, this Lease shall terminate as to any portion of the Premises so taken or conveyed on the Date of Taking.

18.2. ***Partial Takings.*** If (a) a part of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, and (b) Tenant is reasonably able to continue the operation of Tenant's business in that portion of the Premises remaining, and (c) Port elects to restore the Premises to an architectural whole, then this Lease shall remain in effect as to the portion of the Premises remaining, and the Base Rent payable from the Date of Taking shall be reduced by an amount that is in the same ratio to the Base Rent as the value of the area so taken bears to the total value of the Premises immediately before the Date of Taking. If, after a partial taking, Tenant is not reasonably able to continue the operation of its business in the Premises or Port elects not to restore the Premises to an architectural whole, this Lease may be terminated by either Port or Tenant by giving written notice to the other party no earlier than thirty (30) days prior to the Date of Taking and no later than thirty (30) days after the Date of Taking. Such notice shall specify the date of termination which shall be not less than thirty (30) or more than sixty (60) days after the date of notice.

18.3. ***Taking of the Facility.*** If any substantial portion of the Facility is taken under the power of eminent domain or conveyance in lieu thereof, whether any portion of the Premises is taken or not, Port shall have the right to terminate this Lease by written notice to Tenant within thirty (30) days of the Date of Taking.

18.4. ***Temporary Takings.*** Notwithstanding anything to the contrary contained in Section 18, if a taking occurs with respect to all or any part of the Premises for a limited period of time, this Lease shall remain unaffected thereby and Tenant shall continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease. Tenant shall be entitled to receive that portion of any award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by Tenant for the period of the taking, and Port shall be entitled to receive the balance of any award.

18.5. ***Award;Waiver; Termination of Lease; Rent and Award.*** Upon termination of this Lease in its entirety pursuant to Section 18.3, or pursuant to an election under Section 18.2, then: (i) Tenant's obligation to pay Rent shall continue up until the date of termination and thereafter shall cease, and (ii) Port shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease and any Improvements Pertaining to the Realty), and Tenant shall have no claim against Port for the value of any unexpired term of this Lease, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's Property. Port and Tenant intend that the provisions of Section 18 shall govern fully in the event of condemnation and accordingly, Port and Tenant each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.110, 1265.120, 1265.130, and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

19. INDEMNITY AND EXCULPATION.

19.1. ***General Indemnity.*** Tenant shall Indemnify Port, City, including, but not limited to, all of their respective boards, commissions, departments, agencies, and other subdivisions, and their respective Agents (collectively, "**Indemnified Parties**") from, and, if requested, shall defend them, without cost to the Indemnified Parties, against any and all Claims, direct or vicarious liability, damage, injury or loss arising directly or indirectly out of: (a) any accident, injury to or death of any person, including any Agents and/or Invitees of Tenant, or loss or damage to or destruction of any property occurring in, on or about the Premises or the Facility,

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

from any cause whatsoever, or (b) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease, including the provisions of Section 20, or (c) the use, occupancy, manner of use or occupancy, or condition of the Premises or the activities therein by Tenant, its Agents, or Invitees, or (d) any construction or other work undertaken by Tenant on the Premises whether before or during the Term, or (e) any acts, omissions or negligence of Tenant, its Agents or Invitees, in, on or about the Premises, or the Facility.

19.2. ***Hazardous Materials Indemnity.***

(a) In addition to its obligations under Section 19.1, Tenant, for itself and on behalf of its Agents and Invitees, agrees to Indemnify the Indemnified Parties from any and all Claims and Hazardous Materials Claims that arise as a result of: (i) any Hazardous Material Condition, except (A) where caused by the Indemnified Parties' sole willful misconduct or (B) arising before the Commencement Date or the date of Tenant's first use of the Premises, whichever is earlier, except to the extent covered in (ii); and (ii) Tenant's Exacerbation of any Hazardous Material Condition.

(b) Tenant's obligation to Indemnify the Indemnified Parties includes: (i) costs incurred in connection with any Investigation or Remediation requested by Port or required by any Environmental Regulatory Agency and to restore the affected area to its condition before the Release; (ii) damages for diminution in the value of the Premises or the Facility; (iii) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises or the Facility; (iv) damages arising from any adverse impact on marketing the space; (v) sums paid in settlement of Claims, Hazardous Materials Claims, Environmental Regulatory Actions, including fines and penalties; (vi) natural resource damages; and (vi) attorneys' fees, consultant fees, expert fees, court costs, and all other litigation, administrative or other judicial or quasi-judicial proceeding expenses. If Port pays any costs within the scope of this section, Tenant must reimburse Port for Port's costs, plus interest at the Interest Rate from the date Port incurs each cost until paid, within three (3) business days after Port's payment demand. Tenant's obligations hereunder shall survive the expiration or earlier termination of this Lease.

19.3. ***Scope of Indemnities.*** The Indemnification obligations of Tenant set forth in this Lease shall be enforceable regardless of the active or passive negligence of the Indemnified Parties, and regardless of whether liability without fault is imposed or sought to be imposed on the Indemnified Parties. The Indemnification obligations of Tenant set forth in this Lease shall be enforceable except to the extent that such Indemnity is void or otherwise unenforceable under applicable law in effect on, or validly retroactive to, the date of this Lease. The Indemnification obligations of Tenant set forth in this Lease includes all Claims, including loss predicated in whole or in part, upon the active or passive negligence of the Indemnified Parties. Except as specifically provided otherwise, the Indemnification obligations of Tenant set forth in this Lease shall exclude claims, liability, damage or loss resulting solely and exclusively from the willful misconduct of the Indemnified Parties which is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on, Tenant, its Agents or Invitees.

In addition to Tenant's obligation to Indemnify the Indemnified Parties, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Indemnified Parties from any Claim which actually or potentially falls within the Indemnification obligations of Tenant set forth in this Lease, even if the allegations are or may be groundless, false or fraudulent. Tenant's obligation to defend shall arise at the time such claim is tendered to Tenant by the Indemnified Parties and shall continue at all times thereafter.

The Indemnification obligations of Tenant set forth in this Lease shall include without limitation, Indemnification from all Claims. This Indemnification by Tenant shall begin from the first notice that any claim or demand is or may be made. The provisions of Section 19 shall survive the expiration or earlier termination of this Lease.

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19.4. ***Exculpation.*** Tenant, as a material part of the consideration to be rendered to Port, hereby waives any and all Claims against the Indemnified Parties, and agrees to Indemnify the Indemnified Parties from any Claims for damages to goods, wares, goodwill, merchandise, equipment or business opportunities and by persons in, upon or about the Premises or the Facility for any cause arising at any time, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any intentionally harmful acts committed solely by the Indemnified Parties.

The Indemnified Parties shall not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims for, any injury, loss or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying adjoining premises or any part of the Facility adjacent to or connected with the Premises, (ii) theft, (iii) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Facility Systems, (v) Facility defects, and (vi) any other acts, omissions or causes. Nothing in this Section 19.4 shall relieve the Indemnified Parties from liability caused solely and directly by the gross negligence or willful misconduct of the Indemnified Parties, but the Indemnified Parties shall not be liable under any circumstances for any consequential, incidental or punitive damages.

19.5. ***Effect of Waivers.*** Tenant, on behalf of itself and its Agents, hereby fully and irrevocably releases, discharges, and covenants not to sue or to pay the attorneys' fees and other litigation costs of any party to sue, Port, or any and all of Port's Agents with respect to any and all Claims arising directly or indirectly from the actual or alleged facts or circumstances of the process leading to this Lease prior to the Effective Date.

Tenant understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this Lease shall remain effective. Therefore, with respect to the Claims released in this Lease, Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

BY PLACING ITS INITIALS BELOW, TENANT SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASE MADE ABOVE AND THE FACT THAT TENANT WAS REPRESENTED BY COUNSEL WHO EXPLAINED THE CONSEQUENCES OF THE RELEASE AT THE TIME THIS LEASE WAS MADE, OR THAT TENANT HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, BUT DECLINED TO DO SO.

Initials: _____
Tenant

20. ASSIGNMENT AND SUBLETTING.

20.1. ***Transfer to Affiliate.***

(a) Tenant may make an Affiliate Transfer without obtaining Port's consent, but only if Tenant gives Port: (i) prior written notice at least 20 business days before the Transfer Date; and (ii) copies of all documentation evidencing Tenant's relationship with the Affiliate and the Transfer Agreement within 5 days after the actual Transfer Date.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(b) Port will have the right to: (i) request additional documentation and information relating to Tenant's relationship with the Transferee for 3 months after Tenant has delivered all documents required under Subsection (a); and (ii) object to the Affiliate Transfer on the grounds that the Transferee is not an Affiliate as defined in this Lease, if written notice is delivered to Tenant within 3 months after Port's receipt of all required and requested information.

20.2. ***Transfer to Non-Affiliate.***

(a) Except for an Affiliate Transfer, Tenant must obtain Port's prior written consent to any Transfer, which Port will not withhold unreasonably.

(i) Tenant agrees that any of the following will be a reasonable basis for Port to withhold its consent: (1) at the time Tenant requests Port's consent, an Event of Default, or an event that with notice or the passage of time or both would constitute an Event of Default if not cured, has occurred and remains uncured; (2) the Transfer is an Assignment or a Sublease by a Transferee of Tenant; (3) the Transferee's financial condition is or may become insufficient to support all of the financial and other obligations of this Lease; (4) the Transferee's intended use of the Premises is inconsistent with this Lease or otherwise will affect any Port interest materially and adversely; (5) the nature of the Transferee's use of the Premises would involve an increased risk of the Handling or Release of Hazardous Materials or of fire or other casualty; (6) the business reputation or character of the Transferee or any of its Affiliates is not reasonably acceptable to Port; (7) the Transferee is not likely to conduct a business in the Premises of a quality substantially equal to Tenant's or otherwise reasonably acceptable to Port; or (8) Tenant has not cured an Event of Default or an event that with notice or the passage of time or both would constitute an Event of Default if not cured.

(ii) Tenant also agrees that Port will have the right to impose reasonable conditions to a requested consent to a Transfer, which may include: (1) requiring the Transferee to assume all of Tenant's obligations under this Lease; and (2) giving Port the right to terminate without notice all of Tenant's then-existing Subleases if this Lease is terminated before the existing Subleases expire.

(b) At least 60 days before any Transfer to a Non-Affiliate, Tenant must give Port a Transfer Notice and the following: (i) financial statements for the 3 years before the Transfer Date (or each year of the proposed Transferee's existence, if shorter) for the Transferee and for any other Person who will be liable for Tenant's obligations under this Lease; (ii) Tenant's current financial statements; (iii) a copy of the proposed Transfer Agreement; and (iii) the Transferee's completed pre-screening and leasing application. In addition, Tenant must provide: (1) any other information, documentation, or evidence that Port requests to enable Port to evaluate the Transfer and the Transferee; and (2) if any of the Transfer Terms are modified before the Transfer Date, a new Transfer Notice and all relevant documentation for any modified Transfer Terms. Tenant's Transfer Notice will not be complete until Tenant has provided Port with all information required under this Subsection.

(i) For up to 30 days after receipt of the complete Transfer Notice, Port will have the right to: (1) terminate this Lease as of the proposed Transfer Date; (2) sublease or take an assignment from Tenant of the interest that Tenant proposes to Transfer, on the same terms and conditions as stated in the Transfer Agreement; and (3) negotiate and contract directly with the Transferee on terms acceptable to Port in its sole and absolute discretion.

(c) If Port consents to the Transfer, Tenant must close the Transfer on the Transfer Terms stated in the Transfer Notice within 90 days after Port notifies Tenant of Port's consent. If the Transfer Agreement does not close within the 90-day period, then Port's consent will expire, unless Tenant gives Port a new Transfer Notice, in which case Port again will be entitled to exercise any of the options under this Section.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(d) Any Transfer that does not comply with this Section fully will constitute an incurable Event of Default and will be void as to Port and this Lease. Port's consent to one Transfer will have no effect with respect to any other Transfer.

(e) Tenant agrees to reimburse Port for all costs, including attorneys' fees, that Port incurs to review, investigate, process, document, disapprove, or approve any Transfer request.

20.3. ***Sublease***. In addition to all requirements in Section 20.2, the following provisions apply to any Transfer in the form of a Sublease.

(a) Until the occurrence of an Event of Default, Tenant will have the right to receive and collect rents from the Sublease. The Sublease must require the Transferee to pay the rent and other sums due under the Sublease directly to Port upon receiving Port's written notice that Tenant is in default under this Lease, a copy of which Port will deliver to Tenant. Tenant agrees that it will hold in trust for Port's benefit any Sublease rent or other sums that Tenant collects from the Transferee after Port's notice to the Transferee, and Tenant will be obligated to forward the same to Port immediately upon receipt. Port's collection of rents and other sums under this Section will not constitute Port's acceptance of attornment by the Transferee.

(b) Tenant agrees to pay to Port immediately upon receipt all Excess Rent, less Subletting Expenses, as Additional Rent. In calculating Excess Rent, Subletting Expenses will be amortized on a straight-line basis over the term of the Sublease, without interest. For example, if: (i) the term of the Sublease is 5 years; (ii) Sublease rent is $5,000 per month; (iii) Tenant's concurrent Rent payable for the Sublease premises is $3,000 per month; (iv) Tenant's Subletting Expenses are $15,000 in brokerage commissions and $15,000 for new tenant improvements for the Sublease premises, then the amount of Excess Rent Tenant must pay to Port in connection with the Sublease is $1,500 per month, as shown in the calculation below.

Term of Sublease:	5 years x 12 months = 60 months
Subletting Expenses:	$15,000 + $15,000 = $30,000
Amortized Subletting Expenses:	$30,000/60 months = $500/month
Excess Rent:	$5,000/month - $3,000/month = $2,000/month
Additional Rent:	$2,000/month - $500/month = $1,500/month

20.4. ***Transfer Agreement Requirements***. Any Transfer Agreement must include the provisions set forth below.

(a) The Transferee's express assumption of, and acknowledgement and agreement that the Transferee will be jointly and severally liable for, all of Tenant's obligations under this Lease;

(b) The Indemnification clause and waiver of claims provisions in Section 19;

(c) Insurance provisions requiring that all of the Transferee's liability and other insurance policies name "***The City and County of San Francisco, the San Francisco Port Commission, and their officers, agents, employees, and representatives***" as additional insureds and acknowledging Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Transferee's are conducted;

(d) A provision stating that if this Lease is terminated for any reason, the Transferee's right to possession under the Transfer Agreement will terminate; and

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(e) A provision under which the Transferee expressly waives any and all relocation assistance and benefits in connection with this Lease to the extent permitted by applicable Laws.

20.5. ***Transfer Audit.*** Tenant agrees to make its Books and Records available to, and cooperate with, any Port representative for the purpose of conducting an audit of the accuracy of Tenant's financial reporting on the Transfer for a period of no less than one year after the Expiration Date. If an audit reveals that Tenant has overstated Subletting Expenses or any other costs in connection with a Transfer, Tenant must pay Port promptly upon demand the difference between the amount Tenant deducted and the amount it should have deducted, plus interest at the Interest Rate from the Transfer Date until paid. As used in this section, Tenant includes Affiliates where applicable.

20.6. ***Acknowledgement.*** Tenant acknowledges and agrees that Port's rights with respect to Transfers are reasonable limitations for purposes of California Civil Code Section 1951.4 and waives any Claims arising from Port's actions under this Section 20.

20.7. ***Transfer Definitions.*** For the purpose of this Section, references to this Lease and the Premises mean this Lease and the Premises to the extent Tenant's leasehold interest is affected by a Transfer. Other applicable definitions are in Section 2.

21. DEFAULT BY TENANT.

Any of the following shall constitute an event of default (the "**Event of Default**") by Tenant hereunder:

(a) failure to pay to Port any Rent or other sum payable hereunder when due, and such default continues for a period of three (3) days following written notice from Port. Notwithstanding the foregoing, Port shall not be required to provide such notice more than twice during any 12-month period, and any such failure by Tenant after Tenant has received two (2) such notices in such 12-month period shall constitute an Event of Default by Tenant hereunder without any further action by Port or opportunity of Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure; or

(b) abandonment or vacation of the Premises by Tenant; or

(c) failure to use the Premises solely for the Permitted Use, as determined by Port in its sole and absolute discretion and such failure continues for a period of three (3) calendar days following written notice from Port; provided, however, that notwithstanding the foregoing, failure to use the Premises solely for the Permitted Use shall, at Port's sole and absolute discretion, be deemed an incurable breach of this Lease, allowing Port to immediately terminate this Lease without notice or demand to Tenant; or

(d) failure by Tenant to execute and deliver to Port the estoppel certificate within the time period and in the manner required by Section 32 below, and Tenant's failure to cure the foregoing default within five (5) days following written notice from Port; or

(e) a Transfer, or attempted Transfer, of this Lease or the Premises by Tenant contrary to the provision of Section 20 above; or

(f) failure to provide evidence of insurance coverage complying with the provisions of Section 16 above, failure to maintain any insurance required to be maintained by Tenant pursuant to this Lease, or if any such insurance shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease and Tenant's failure to deliver evidence of such coverage or failure to reinstate such coverage, all within three (3) business days following written notice from Port; or

(g) failure by Tenant to comply with the provisions of Section 15 above and Tenant's failure to cure the foregoing default within twenty-four (24) hours following written notice from Port. If such default cannot reasonably be cured within such twenty-four (24) hour

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

period, Tenant shall not be in default of this Lease if Tenant commences to cure the default within such twenty-four (24) hour period and diligently and in good faith continues to cure the default, provided, however, in no event shall Tenant have more than thirty (30) days to cure such default; or

(h) without limiting the provisions of Sections 21(c) or 21(g) above, failure by Tenant to comply with Laws and Tenant's failure to cure the foregoing default within forty-eight (48) hours following written notice from Port; or

(i) failure by Tenant to discharge any lien or encumbrance placed on the Facility or any part thereof in violation of this Lease within ten (10) days after the date such lien or encumbrance is filed or recorded against the Facility or any part thereof, or if Tenant has no knowledge of such lien, then Tenant shall discharge such lien or encumbrance within fifteen (15) days following Tenant's knowledge of such lien or encumbrance; or

(j) delivery to Tenant of three (3) or more notices of default, irrespective of whether Tenant actually cures such default within the specified time period, may, at the sole and absolute discretion of Port, be deemed an incurable breach of this Lease allowing Port to immediately terminate this Lease without further notice or demand to Tenant; or

(k) failure by Tenant to observe, keep or perform any of the other terms, covenants, agreements or conditions contained in this Lease and required to be observed or performed by Tenant, and such failure continues for a period of fifteen (15) days after written notice by Port, provided that if such default is not capable of cure within such fifteen (15) day period, Tenant shall have a reasonable period to complete such cure if Tenant promptly undertakes action to cure such default within such fifteen (15) day period and thereafter diligently prosecutes the same to completion within sixty (60) days after the receipt of notice of default from Port. Port shall not be required to provide such notice more than twice in any twelve (12) month period with respect to any material non-monetary defaults and after the second notice in any calendar year, any subsequent failure by Tenant during such twelve (12) month period shall automatically constitute an Event of Default hereunder; or

(l) Tenant shall become bankrupt or insolvent or make a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or bring or have brought against Tenant any action or proceedings of any kind under any provision of the U.S. Bankruptcy Code or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not discharged from the same within sixty (60) days thereafter; or

(m) a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days; or

(n) this Lease or any estate of Tenant under this Lease shall be levied upon by any attachment or execution and such attachment is not stayed or lifted within sixty (60) days; or

(o) Tenant has been notified by Port that Tenant is considered a Habitual Late Payer.

22. PORT'S REMEDIES.

Upon default by Tenant, Port shall, without further notice or demand of any kind to Tenant or to any other person, have the following remedies:

22.1. ***Tenant's Right to Possession Not Terminated.*** Port has the remedy described in Section 1951.4 of the California Civil Code (a landlord may continue the lease in effect after a tenant's breach and abandonment and recover rent as it becomes due, if the tenant has the right to sublet and assign subject only to reasonable limitations) under which it may continue this Lease in full force and effect and Port may enforce all of its rights and remedies under this Lease, including the right to collect Rent when due. During the period Tenant is in default, Port may

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enter the Premises without terminating this Lease and relet them, or any part of them, to third parties for Tenant's account. Tenant shall be liable immediately to Port for all reasonable costs Port incurs in reletting the Premises, including, but not limited to, broker's commissions, expenses of remodeling the Premises required by the reletting and like costs. Reletting can be for a period shorter or longer than the remaining Term, at such rents and on such other terms and conditions as City deems advisable. Tenant shall pay to Port the Rent due under this Lease on the dates the Rent is due, less the Rent Port receives from any reletting. In the event that Port shall elect to so relet, then rentals received by Port from such reletting shall be applied in the following order: (i) to reasonable attorneys' fees incurred by Port as a result of a default and costs in the event suit is filed by Port to enforce such remedies; (ii) to the payment of any indebtedness other than Rent due hereunder from Tenant to Port; (iii) to the payment of any costs of maintaining, preserving, altering and preparing the Premises for subletting, the other costs of subletting, including but not limited to brokers' commissions, attorneys' fees and expenses of removal of Tenant's Personal Property, trade fixtures and Alterations; (iv) to the payment of Rent due and unpaid hereunder; (v) to the payment of future Rent and other sums payable by Tenant hereunder as the same may become due and payable hereunder; and (vi) the balance, if any, shall be paid to Tenant upon (but not before) expiration of the Term. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of Rent hereunder, be less than the Rent payable during the month by Tenant hereunder, then Tenant shall pay such deficiency to Port. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Port, as soon as ascertained, any costs and expenses incurred by Port in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting. No act by Port allowed by this Section 22.1 shall terminate this Lease unless Port notifies Tenant that Port elects to terminate this Lease. After Tenant's default and for as long as Port does not terminate Tenant's right to possession of the Premises, if Tenant obtains Port's consent Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability.

22.2. ***Termination of Tenant's Right to Possession.*** Port may terminate Tenant's right to possession of the Premises at any time. No act by Port other than giving notice of termination to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Port's initiative to protect Port's interest under this Lease shall not constitute a termination of Tenant's right to possession. If Port elects to terminate this Lease, Port has the rights and remedies provided by California Civil Code Section 1951.2, including the right to recover from Tenant the following.

(a) The worth at the time of award of the unpaid Rent which had been earned at the time of termination; plus

(b) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(c) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could be reasonably avoided; plus

(d) Any other amounts necessary to compensate Port for the detriment proximately caused by Tenant's default, or which, in the ordinary course of events, would likely result, including, but not limited to, attorneys' fees and court costs, the costs of carrying the Premises such as repairs, maintenance, taxes and insurance premiums, utilities, security precautions and the reasonable costs and expenses incurred by Port in (i) retaking possession of the Premises; (ii) cleaning and making repairs and alterations necessary to return the Premises to good condition and preparing the Premises for reletting; (iii) removing, transporting and storing any of Tenant's Property left at the Premises (although Port shall have no obligation so to do); and (iv) reletting the Premises, including, without limitation, brokerage commissions, advertising

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costs and attorneys' fees. Efforts by Port to mitigate the damages caused by Tenant's breach of the Lease do not waive Port's rights to recover damages upon termination.

The "**worth at the time of award**" of the amounts referred to in Sections 22.2(a) and 22.2(b) above shall be computed by allowing interest at an annual rate equal to the lesser of the Interest Rate or the maximum non-usurious rate Port is permitted by Law to charge. The "worth at the time of award" of the amount referred to in Section 22.2(c) above shall be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

22.3. ***Appointment of Receiver***. If Tenant is in default of this Lease, Port shall have the right to have a receiver appointed to collect Rent and conduct Tenant's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Port to terminate this Lease.

22.4. ***Port's Right to Cure Tenant's Default***. Port, at any time after Tenant commits a default, may, at Port's sole option, cure the default at Tenant's cost. If Port at any time, by reason of Tenant's default, undertakes any act to cure or attempt to cure such default that requires the payment of any sums, or otherwise incurs any costs, damages, or liabilities, (including without limitation, attorneys' fees), all such sums, costs, damages or liabilities paid by Port shall be due immediately from Tenant to Port at the time the sum is paid, and if paid by Tenant at a later date shall bear interest at the lesser of the Interest Rate or the maximum non-usurious rate Port is permitted by Law to charge from the date such sum is paid by Port until Port is reimbursed by Tenant.

22.5. ***Port's Options for Hazardous Materials Default***. If Tenant's Event of Default arises from Tenant's failure to comply with its Remediation obligations under Section 15 above, in addition to its other remedies at law, in equity, and under this Lease, Port may elect at its sole discretion any of the following remedies.

(a) Port may terminate this Lease and collect damages Port incurs as a result of the Event of Default, including Port's costs to Remediate any Hazardous Materials.

(b) Port may keep this Lease in effect and require Tenant to Remediate the Hazardous Materials at the Tenant's sole cost.

(c) Port may deem Tenant to have held over, and Tenant will be required to pay Rent as increased under Section 26.2 until the Premises are Remediated. If Port elects this remedy, only Port's notice to Tenant confirming termination of this Lease and accepting Tenant's surrender of the Premises will terminate this Lease or any holdover tenancy. No other Port acts or conduct, such as accepting the keys to the Premises, will constitute an acceptance of Tenant's surrender of the Premises.

22.6. ***No Accord and Satisfaction***. No payment by Tenant or receipt by Port of an amount less than the Rent due under this Lease shall be deemed to be other than "on account" of the earliest Rent due; nor shall any endorsement or statement on any check or payment, or letter accompanying such check or payment, be deemed an accord and satisfaction. Port may accept any such partial payment or tender without prejudice to its right to recover the balance of any amount due and to pursue any other remedy herein provided at Law or in equity.

22.7. ***Waiver of Redemption***. Tenant hereby waives, for itself and all persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Port takes possession of the Premises by reason of any default of Tenant hereunder.

22.8. ***Habitual Late Payer***. In the event Tenant is deemed to be a Habitual Late Payer, in addition to any other remedies available to Port, Port may require that Tenant enter into direct

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electronic payment arrangements and/or Port may require payments of Rent be made in advance on a quarterly basis.

22.9. ***Remedies Not Exclusive.*** The remedies set forth in Section 22 are not exclusive; they are cumulative and in addition to any and all other rights or remedies of Port now or later allowed by Law. Tenant's obligations hereunder shall survive any termination of this Lease.

23. LITIGATION EXPENSES; ATTORNEYS' FEES.

23.1. ***Litigation Expenses.*** The prevailing party in any action or proceeding (including any cross-complaint, counterclaim, or bankruptcy proceeding) against the other party by reason of a claimed default, or otherwise arising out of a party's performance or alleged non-performance under this Lease, shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "**Prevailing party**" within the meaning of this Section 23 shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

23.2. ***Appeals.*** Attorneys' fees under this Section 23 shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

23.3. ***City Attorney.*** For purposes of this Lease, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

24. PORT'S ENTRY ON PREMISES.

24.1. ***Entry for Inspection.*** Port and its authorized Agents shall have the right to enter the Premises without notice at any time during normal business hours of generally recognized business days, provided that Tenant or Tenant's Agents are present on the Premises (except in the event of an emergency), for the purpose of inspecting the Premises to determine whether the Premises are in good condition and whether Tenant is complying with its obligations under this Lease.

24.2. ***General Entry.*** In addition to its rights pursuant to Section 24.1 above, Port and its authorized Agents shall have the right to enter the Premises at all reasonable times and upon reasonable notice for any of the following purposes:

(a) To perform any necessary maintenance, repairs or restoration to the Premises, or its systems including without limitation the sump pump and electrical room or to perform any services which Port has the right or obligation to perform;

(b) To serve, post, or keep posted any notices required or allowed under the provisions of this Lease;

(c) To post "**For Sale**" signs at any time during the Term; to post "**For Lease**" signs during the last six (6) months of the Term or during any period in which Tenant is in default;

(d) On an occasional basis, at all reasonable times after giving Tenant reasonable advance written or oral notice, to show the Premises to prospective tenants or other interested parties;

(e) If any Port Work or other construction is undertaken or is about to be undertaken on any property or rights of way adjacent to the Premises, and to do any other act or thing necessary for the safety or preservation of the Premises during such activities; or

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(f) To obtain environmental samples and perform equipment and facility testing.

24.3. ***Emergency Entry.*** Port may enter the Premises at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the Premises. Entry to the Premises by any of these means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the Premises, or an eviction of Tenant from the Premises or any portion of them.

24.4. ***No Liability.*** Port shall not be liable in any manner, and Tenant hereby waives any Claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Rent, arising out of Port's entry onto the Premises as provided in Section 24 or performance of any necessary or required work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof, except damage resulting solely from the willful misconduct of Port or its authorized representatives.

24.5. ***Nondisturbance.*** Port shall use its commercially reasonable efforts to conduct its activities on the Premises as allowed in Section 24 in a manner which, to the extent reasonably practicable, will minimize annoyance or disturbance to Tenant.

25. SURRENDER AND QUITCLAIM.

25.1. ***Surrender.*** Upon expiration or earlier termination of this Lease, Tenant shall surrender to Port the Premises in good order, condition, and repair (except for ordinary wear and tear occurring after the last necessary maintenance made by Tenant and except for destruction or condemnation as described in Sections 0 and 18 hereof). Ordinary wear and tear shall not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease. The Premises shall be surrendered clean, free of debris, waste, and Hazardous Materials, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Lease and any other encumbrances created by Port. On or before the expiration or earlier termination of this Lease, Tenant at its sole cost shall remove from the Premises, and repair any damage caused by removal of, Tenant's Property, including any signage and Alterations and Improvements specified in Port's Notice of Removal. Except for those designated in Port's Notice of Removal, Alterations and Improvements shall remain in the Premises as Port property.

If the Premises are not surrendered at the end of the Term or sooner termination of this Lease, and in accordance with the provisions of this Section 25 and Section 13.5, Tenant shall continue to be responsible for the payment of Rent (as the same may be increased pursuant to Section 26.3 below until the Premises are surrendered in accordance with these Sections, and Tenant shall Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any costs of Port to obtain possession of the Premises; any loss or liability resulting from any Claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each instance, reasonable attorneys' fees and costs.

No act or conduct of Port, including, but not limited to, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Port to Tenant confirming termination of this Lease and surrender of the Premises by Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

25.2. ***Quitclaim.*** Upon the expiration or earlier termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Tenant or Port, become the property of Port, free and clear of all liens and without payment therefore by Port and shall

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

be surrendered to Port upon such date. Upon or at any time after the expiration or earlier termination of this Lease, if requested by Port, Tenant shall promptly deliver to Port, without charge, a quitclaim deed to the Premises and any other instrument reasonably requested by Port to evidence or otherwise effect the termination of Tenant's leasehold estate hereunder and to effect such transfer or vesting of title to the Premises or any that Port agrees are to remain part of the Premises.

25.3. ***Abandoned Property.*** Any items, including Tenant's Property, not removed by Tenant as required herein shall be deemed abandoned. Port may retain, store, remove, and sell or otherwise dispose of abandoned Tenant's Property, and Tenant waives all Claims against Port for any damages resulting from Port's retention, removal and disposition of such property; provided, however, that Tenant shall be liable to Port for all costs incurred in storing, removing and disposing of abandoned Tenant's Property and repairing any damage to the Premises or the Facility resulting from such removal. Tenant agrees that Port may elect to sell abandoned Tenant's Property and offset against the sales proceeds Port's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993, the benefits of which Tenant waives.

25.4. ***Survival.*** Tenant's obligation under this Section 25 shall survive the expiration or earlier termination of this Lease.

26. HOLDING OVER.

26.1. ***Terms of Holdover Tenancy.*** Any holding over after the expiration of the Term shall not constitute a renewal of this Lease, but be deemed a month-to-month tenancy upon the terms, conditions, and covenants of this Lease, except as provided in this Section. Either party may cancel the month-to-month tenancy upon thirty (30) days written notice to the other party. Tenant shall Indemnify Port from and against any and all loss or liability resulting from Tenant's delay in surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

26.2. ***With Consent.*** If Tenant holds over with the prior written consent of Port, monthly Base Rent shall be equal to one hundred fifty percent (150%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease; provided that if both Tenant and Port desire to enter into a new lease or extend the existing term of this Lease but have not yet executed such new lease or extension solely due to Port's delay to produce such document, then the monthly Base Rent during such holdover period shall be equal to the higher of the: (a) Base Rent payable in the month immediately preceding the expiration of this Lease, or (b) the then current rate for the Facility approved by the Port Commission, together with any monthly charge of Additional Rent payable under this Lease.

26.3. ***Without Consent.*** If Tenant holds over without the prior written consent of Port, monthly Base Rent shall equal two hundred percent (200%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease.

26.4. ***Renewal Letter of Credit.*** During any holding over period after the expiration of the original Term (whether with or without the consent of Port), Tenant shall deliver to Port, a new Letter of Credit or certificate of renewal or extension (collectively, "**Renewal LC**") at least ninety (90) days prior to the then current LC Expiration Date, without any action whatsoever on the part of Port, extending the then current LC Expiration Date by an additional year. Failure to provide such Renewal LC shall entitle Port to draw on the Letter of Credit and Port shall hold the proceeds of such draw as Letter of Credit Proceeds pursuant to Section 7(c) above.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

27. MINERAL RESERVATION.

The State of California, pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises. In accordance with the provisions of these Statutes, Port and Tenant shall and hereby do grant to the State of California the right to explore, drill for and extract subsurface minerals, including oil and gas deposits, from such area.

In no event shall Port be liable to Tenant for any Claims arising from such exploration or drilling, nor shall such exploration or drilling constitute an actual or constructive eviction of Tenant, or entitle Tenant to any abatement or diminution of Rent or otherwise relieve Tenant from any of its obligations under this Lease.

28. CITY AND PORT REQUIREMENTS.

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this Lease are incorporated by reference as though fully set forth in this Lease. The descriptions below are not comprehensive but are provided for notice purposes only; Tenant is charged with full knowledge of each such ordinance and policy and any related implementing regulations as they may be amended from time to time. Tenant understands and agrees that its failure to comply with any provision of this Lease relating to any such code provision shall be deemed a material breach of this Lease and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this Lease shall have the meanings ascribed to them in the cited ordinance.

28.1. *Nondiscrimination*.

(a) Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under this Chapter 12B or 12C of the San Francisco Administrative Code or in retaliation for opposition to any practices forbidden under Chapter 12B or 12C of the Administrative Code against any employee of Tenant, any City and County employee working with Tenant, any applicant for employment with Tenant, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant in the City and County of San Francisco.

(b) Subleases and Other Contracts. Tenant shall include in all subleases and other contracts relating to the Premises a non-discrimination clause applicable to such subtenant or other contractor in substantially the form of Section (a) above. In addition, Tenant shall incorporate by reference in all subleases and other contracts the provisions of Sections 12B.2 (a), 12B.2 (c)-(k) and 12C.3 of the Administrative Code and shall require all subtenants and other contractors to comply such provisions.

(c) Nondiscrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits (collectively "**Core Benefits**") as well as any benefits other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2 of the Administrative Code.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(d) HRC Form. On or prior to the Lease Commencement Date, Tenant shall execute and deliver to Port the "Nondiscrimination in Contracts and Benefits" form approved by the San Francisco Human Rights Commission.

(e) Penalties. Tenant understands that pursuant to Section 12B.2(h) of the Administrative Code, a penalty of $50.00 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

28.2. ***Requiring Health Benefits for Covered Employees.*** Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in Administrative Code Chapter 12Q (Chapter 12Q).

(a) For each Covered Employee Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" by the City pursuant to Section 12Q.3 of the HCAO, it shall have no obligation to comply with Section 28.2(a) above.

(c) If, within 30 days after receiving written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Tenant fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City shall have the remedies set forth in Section 12Q.5(f). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any Sublease or Contract regarding services to be performed on the Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Chapter 12Q of the Administrative Code. Tenant shall notify the Purchasing Department when it enters into such a Sublease or Contract and shall certify to the Purchasing Department that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO for each Subtenant, Contractor and Subcontractor performing services on the Premises. If any Subtenant, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 12Q.5 of the Administrative Code against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that the Contracting Department has first provided Tenant with notice and an opportunity to cure the violation.

(e) Tenant shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying the City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the requirements of the HCAO.

(g) Tenant shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

(h) Upon request, Tenant shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subtenants, Contractors, and Subcontractors.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(i) Within ten (10) business days of any request, Tenant shall provide the City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Tenant at any time during the Term. Tenant agrees to cooperate with City in connection with any such audit.

(j) If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than $25,000.00 (or $50,000.00 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed $75,000.00 in that fiscal year, then all of the Contractor's or Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed $75,000.00 in the fiscal year.

28.3. ***First Source Hiring***. The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Tenant acknowledges receiving and reviewing the First Source Hiring Program materials and requirements.

Tenant agrees to comply with the ordinance through compliance with the following:

(a) No later than thirty (30) days after full execution of this Lease, Tenant shall notify the City and County of San Francisco's Workforce Development System, Department of Human Services of all projected Entry Level Positions and the approximate date such positions will be available, by using the Job Survey Form provided by the Port of San Francisco.

(b) Tenant shall follow all requirements of the San Francisco Workforce Development System, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable.

(c) Tenant shall interview qualified applicants and use good faith in hiring applicants. Tenant shall maintain good records of recruitment and hiring process, and shall permit Port or City to audit such records upon request.

Pursuant to the ordinance, Tenant may be subject to monetary penalties for failure to comply with the ordinance.

28.4. ***Local Business Enterprises***. The Port Commission encourages the participation of local business enterprises ("**LBEs**") in Tenant's operations. Tenant agrees to consult with HRC to determine appropriate methods for promoting participation by LBEs in the Scope of Work. Architecture, Engineering, Laboratory Services (Materials Testing), Trucking and Hauling, and Security Guard Services are categories of services that may provide opportunities for certified LBE participation. City maintains a list of certified LBEs at: http://sfgov.org/site/uploadedfiles/sfhumanrights/directory/vlist_1.htm.

28.5. ***Resource-Efficient Facilities and Green Building Requirements***. Tenant agrees to comply with all applicable provisions of Environment Code Chapters 7 and 13C relating to resource-efficiency and green building design requirements.

28.6. ***Prohibition of Tobacco Sales and Advertising***. Tenant acknowledges and agrees that no sales or advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

28.7. ***Prohibition of Alcoholic Beverages Advertising***. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

28.8. ***Graffiti Removal***. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and its residents, and to prevent the further spread of graffiti.

Tenant agrees to remove all graffiti from any real property owned or leased by Tenant in the City within forty-eight (48) hours of the earlier of Tenant's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real property. The term "**graffiti**" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the Public Works Code, the Planning Code, or the Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

28.9. ***Pesticide Prohibition***. Tenant shall comply with the provisions of Section 308 of Chapter 3 of the Environment Code (the "**Pesticide Ordinance**") which (a) prohibit the use of certain pesticides on City property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (c) require Tenant to submit to Port an integrated pest management (IPM) plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with the City. In addition, Tenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

Through Port, Tenant may seek a determination from the City's Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance with respect to this Lease, as provided in Section 307 of the Pesticide Ordinance. Port

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shall reasonably cooperate with Tenant, at Tenant's sole cost and expense, if Tenant seeks in good faith an exemption under the Pesticide Ordinance.

28.10. ***MacBride Principles Northern Ireland.*** Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

28.11. ***Tropical Hardwood and Virgin Redwood Ban.*** Port and the City urge Tenant not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the Environment Code, Tenant shall not provide any items to the construction of Alterations, or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Tenant fails to comply in good faith with any of the provisions of Chapter 8 of the Environment Code, Tenant shall be liable for liquidated damages for each violation in any amount equal to the contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

28.12. ***Preservative-Treated Wood Containing Arsenic.*** Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

28.13. ***Notification of Limitations on Contributions.*** Through its execution of this Lease, Tenant acknowledges that it is familiar with Section 1.126 of the Campaign and Governmental Conduct Code (the "**Conduct Code**") which prohibits any person who contracts with the City for the selling or leasing any land or building to or from the City whenever such transaction would require the approval by a City elective officer or the board on which that City elective officer serves, from making a contribution to such an officer, or candidate for such an office, or committee controlled by such officer or candidate at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or six (6) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

28.14. ***Sunshine Ordinance.*** In accordance with Section 67.24(e) of the Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Port and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary

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financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

28.15. ***Conflicts of Interest.*** Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the California Government Code, and certifies that it does not know of any facts which would constitute a violation of these provisions, and agrees that if Tenant becomes aware of any such fact during the Term, Tenant shall immediately notify the Port.

28.16. ***Drug-Free Workplace.*** Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

28.17. ***Wages and Working Conditions.*** Tenant agrees that any person performing labor in the construction of any Alterations or Improvements to the Premises, which Tenant provides under this Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Tenant shall include in any contract for construction of such Alterations or Improvements a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Tenant shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of such Alterations or Improvements to the Premises.

28.18. ***Public Transit Information.*** Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Facility and encouraging use of such facilities, all at Tenant's sole expense.

28.19. ***Food Service Waste Reduction Ordinance.*** Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Tenant agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for-subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Tenant's failure to comply with this provision.

29. NOTICES.

Except as otherwise expressly provided in this Lease or by Law, all notices (including notice of consent or non-consent) required or permitted by this Lease or by Law must be in writing and be delivered by: (a) hand delivery; (b) first class United States mail, postage prepaid; or (c) overnight delivery by a nationally recognized courier or the United State Postal Service, delivery charges prepaid. Notices to a party must be delivered to that party's mailing address in the Basic Lease Information, unless superseded by a notice of a change in that party's mailing address for notices, given to the other party in the manner provided above, or by information provided by Tenant in Tenant's written response to Port's written request for such information.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

All notices under this Lease shall be deemed to be duly delivered: (a) on the date personal delivery actually occurs; (b) if mailed, on the business day following the business day deposited in the United States mail or, if mailed return receipt requested, on the date of delivery or on which delivery is refused as shown on the return receipt; or (c) the business day after the business day deposited for overnight delivery.

Notices may not be given by facsimile or electronic mail, but either party may deliver a courtesy copy of a notice by facsimile or electronic mail.

30. MISCELLANEOUS PROVISIONS.

30.1. ***California Law.*** This Lease is governed by, and shall be construed and interpreted in accordance with, the Laws of the State of California and City's Charter. Port and Tenant hereby irrevocably consent to the jurisdiction of and proper venue in the Superior Court for the City and County of San Francisco.

30.2. ***Entire Agreement.*** This Lease contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Lease. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this Lease. No prior drafts of this Lease or changes from those drafts to the executed version of this Lease shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this Lease.

30.3. ***Amendments.*** No amendment of this Lease or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

30.4. ***Severability.*** If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

30.5. ***Interpretation of Lease.***

(a) References in this Lease to Tenant's acts or omissions will mean acts or omissions by Tenant and its Agents and Invitees unless the context requires or specifically stated otherwise.

(b) Whenever an exhibit or schedule is referenced, it means an attachment to this Lease unless otherwise specifically identified. All exhibits and schedules are incorporated in this Lease by reference.

(c) Whenever a section, article or paragraph is referenced, it refers to this Lease unless otherwise specifically provided. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of this Lease. Wherever reference is made to any provision, term, or matter "in this Lease," "herein" or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of this Lease in the context of the reference, unless the reference refers solely to a specific numbered or lettered article, section, subdivision, or paragraph of this Lease.

(d) References to all Laws, including specific statutes, relating to the rights and obligations of either party mean the Laws in effect on the effective date of this Lease and as they are amended, replaced, supplemented, clarified, corrected, or superseded at any time during the Term or while any obligations under this Lease are outstanding, whether or not foreseen or contemplated by the parties. References to specific code sections mean San Francisco ordinances unless otherwise specified.

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(e) The terms "include," "included," "including" and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

(f) This Lease has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this Lease must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the parties, without any presumption (including a presumption under California Civil Code § 1654) against the party responsible for drafting any part of this Lease.

(g) The party on which any obligation is imposed in this Lease will be solely responsible for paying all costs and costs incurred in performing the obligation, unless the provision imposing the obligation specifically provides otherwise.

(h) Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," "waivers," "waived," waiving," etc.).

(i) References to days mean calendar days unless otherwise specified, provided that if the last day on which a party must give notice, respond to a notice, or take any other action under this Lease occurs on a day that is not a business day, the date by which the act must be performed will be extended to the next business day.

30.6. ***Successors***. The terms, covenants, agreements and conditions set forth in this Lease shall bind and inure to the benefit of Port and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns.

30.7. ***Real Estate Broker's Fees***. Port will not pay, nor will Port be liable or responsible for, any finder's or broker's fee in connection with this Lease. Tenant agrees to indemnify and hold Port harmless from any Claims, including attorneys' fees, incurred by Port in connection with any such Claim or Claims of any person(s), finder(s), or broker(s) to a commission in connection with this Lease.

30.8. ***Counterparts***. For convenience, the signatures of the parties to this Lease may be executed and acknowledged on separate pages which, when attached to this Lease, shall constitute as one complete Lease. This Lease may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same Lease.

30.9. ***Authority***. If Tenant signs as a corporation or a partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon Port's request, Tenant shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

30.10. ***No Implied Waiver***. No failure by Port to insist upon the strict performance of any obligation of Tenant under this Lease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial Rent during the continuance of any such breach shall constitute a waiver of such breach or of Port's rights to demand strict compliance with such term, covenant or

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condition. Port's consent to or approval of any act by Tenant requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Tenant. Any waiver by Port of any default must be in writing and shall not be a waiver of any other default (including any future default) concerning the same or any other provision of this Lease.

30.11. ***Time is of Essence.*** Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

30.12. ***Cumulative Remedies.*** All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

30.13. ***Survival of Indemnities.*** Termination or expiration of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, the ability to collect any sums due, nor shall it affect any provision of this Lease that expressly states it shall survive termination or expiration hereof.

30.14. ***Relationship of the Parties.*** Port is not, and none of the provisions in this Lease shall be deemed to render Port, a partner in Tenant's business, or joint venturer or member in any joint enterprise with Tenant. Neither party shall act as the agent of the other party in any respect hereunder. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

30.15. ***No Recording.*** Tenant shall not record this Lease or any memorandum hereof in the Official Records.

30.16. ***Additional Written Agreement Required.*** Tenant expressly agrees and acknowledges that no officer, director, or employee of Port or City is authorized to offer or promise, nor is Port or the City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and collectively, "Concession") without a written agreement executed by either the Executive Director of Port or the Deputy Director of Real Estate authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.

31. LIMITATION ON DAMAGES.

31.1. ***No Recourse Beyond Value of Facility.*** Tenant agrees that Tenant will have no recourse with respect to, and Port shall not be liable for, any obligation of Port under this Lease, or for any claim based upon this Lease, except to the extent of the fair market value of Port's fee interest in the Facility (as encumbered by this Lease). Tenant's execution and delivery hereof and as part of the consideration for Port's obligations hereunder Tenant expressly waives all such liability.

31.2. ***Non-Liability of City Officials, Employees and Agents.*** No elective or appointive board, commission, member, officer, employee or other Agent of City and/or Port shall be personally liable to Tenant, its successors and assigns, in the event of any default or breach by City and/or Port or for any amount which may become due to Tenant, its successors and assigns, or for any obligation of City and/or Port under this Lease. Under no circumstances shall Port, City, or their respective Agents be liable under any circumstances for any consequential, incidental or punitive damages.

31.3. ***Limitation on Port's Liability Upon Transfer.*** In the event of any transfer of Port's interest in and to the Facility, Port (and in case of any subsequent transfers, the then transferor), subject to the provisions hereof, will be automatically relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this Lease thereafter to be performed on the part of Port, but not from liability incurred by Port (or such transferor, as the case may be) on account of covenants or

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obligations to be performed by Port (or such transferor, as the case may be) hereunder before the date of such transfer.

32. TENANT ESTOPPEL CERTIFICATES.

Tenant, at any time and from time to time upon not less than ten (10) days' prior notice from Port, shall execute and deliver to Port or to any party designated by Port a certificate in substantially the same form as that attached to this Lease as ***Exhibit C***. If Tenant shall fail to provide such certificate within ten (10) days of receipt by Tenant of a written request by Port as herein provided, such failure shall, at Port's election, constitute a default under this Lease, and Tenant shall be deemed to have admitted the accuracy of any information supplied by Port to a prospective purchaser or mortgagee.

33. APPROVAL OF BOARD OF SUPERVISORS.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, TENANT ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID IF CITY'S MAYOR AND THE BOARD OF SUPERVISORS DO NOT APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

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IN WITNESS WHEREOF, PORT and TENANT execute this Lease as of the last date set forth below.

PORT: **CITY AND COUNTY OF SAN FRANCISCO,**
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Susan Reynolds
Deputy Director, Real Estate

Date Signed: 03/16/2012

TENANT: **BAUER'S INTELLIGENT TRANSPORTATION INC.,**
A CALIFORNIA CORPORATION

By: _____
Name: Gary S. Bauer
Title: CEO

Date Signed: 1/30/12

Two Corporate Officers MUST SIGN

By: _____
Name: GARY SCHWARTZ
Title: CFO

Date Signed: 1/30/12

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Name: Rona H. Sandler
Deputy City Attorney

Lease Prepared By: Jay Edwards, Senior Property Manager _____ (initial)

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

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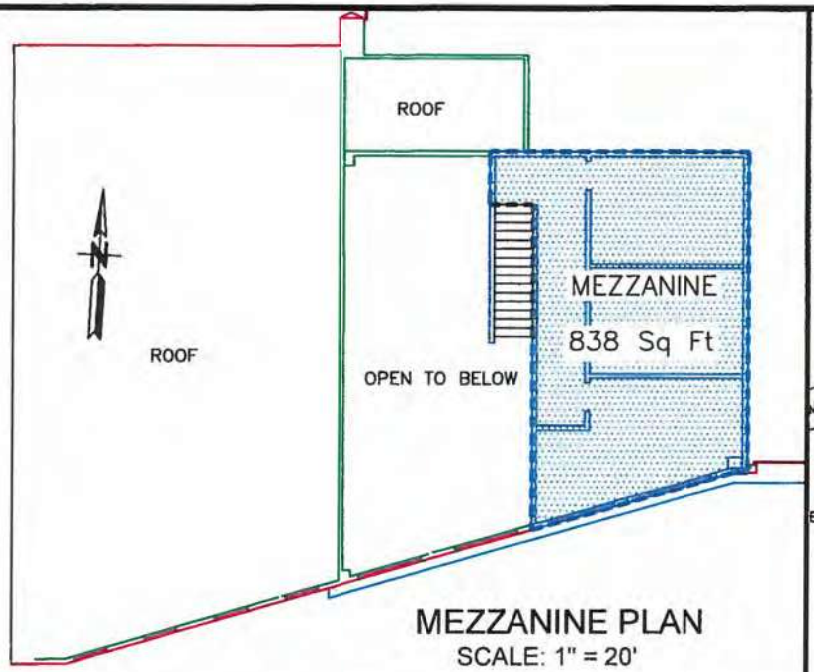
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EXHIBIT A

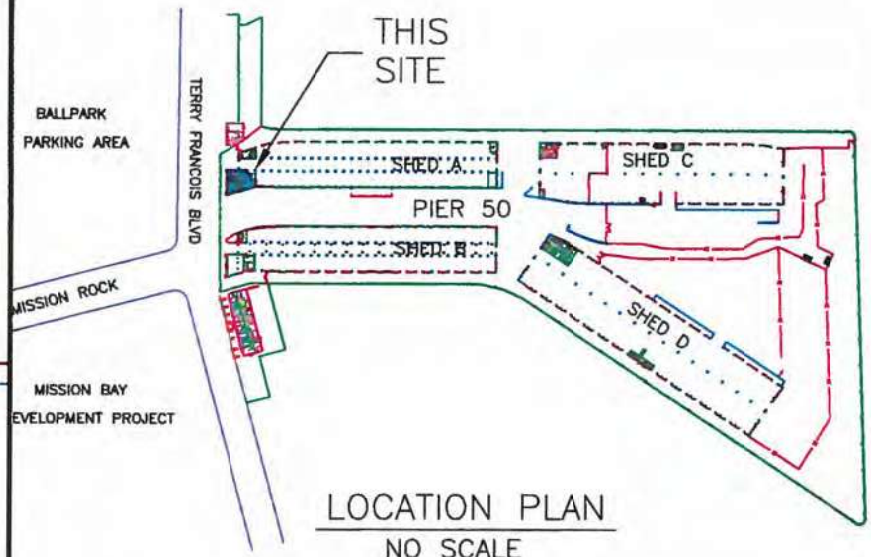
DESCRIPTION OF PREMISES

[Attachment on following page]

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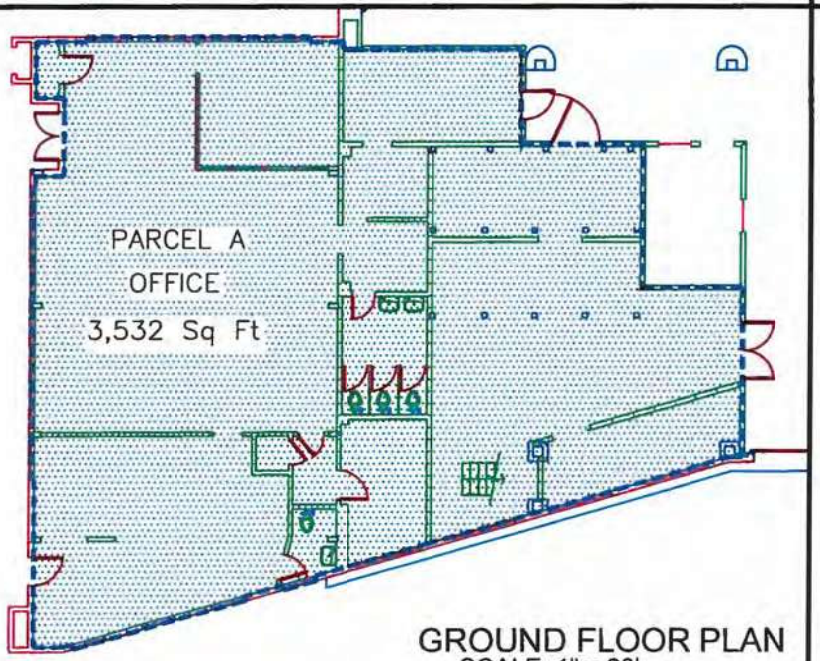
MEZZANINE PLAN
SCALE: 1" = 20'



LOCATION PLAN
NO SCALE

EXHIBIT A

INITIALS: PORT: _____ TENANT: _____ DATE: 1/30/12



GROUND FLOOR PLAN
SCALE: 1" = 20'

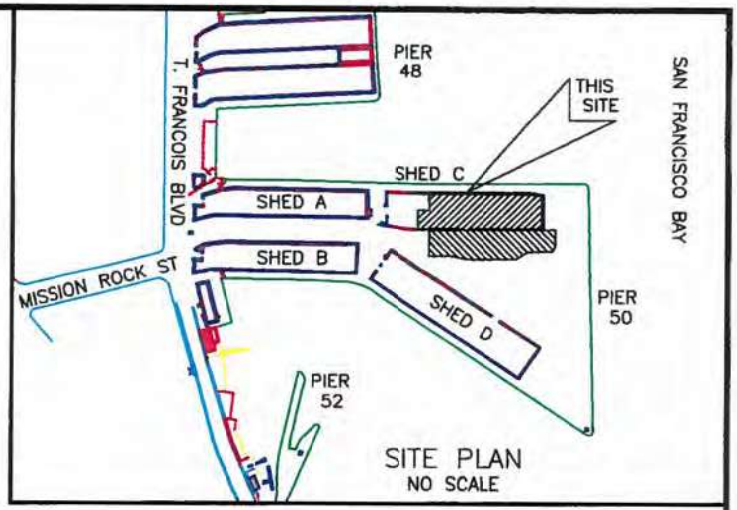
PARCEL A
PIER 50 SHED A
OFFICE = 3,532 Sq Ft
MEZZANINE = 838 Sq Ft

4,370 Sq Ft

LEASE NO. L-15004	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO. 1500-SHEDA DATE: NOV 22, 2011 SCALE: AS SHOWN SHEET NO. OF SHEETS

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INITIALS: PORT: _____ TENANT: _____ DATE: 1/30/12

EXHIBIT A-1

TOILETS

ELECTRICAL ROOM

EDGE OF DECK

SHED A

SHED C

PARCEL B
SHED SPACE
AREA = 68,777 Sq Ft

SUMP PUMP

PARCEL C
YARD SPACE
AREA = 50,347 Sq Ft

PIER 50

SHED B

SHED D

LEASE NO.		TENANT		
L-15004	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO. 1500-SHEDC	DATE: SEPT 12, 2011 SCALE: 1"= 100' SHEET NO. OF SHEETS

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Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

EXHIBIT B

COMMENCEMENT DATE AND EXPIRATION DATE MEMORANDUM

Landlord:	CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION
Tenant:	Bauer's Intelligent Transportation, Inc.
Lease Number:	L-15004
Lease Date:	November 30, 2011
Premises:	[Pier 50, Sheds A&C, Suite ____] San Francisco, California

The Commencement Date of the Lease is hereby established as May 11, 2012, the Rent Commencement Date of the Lease is hereby established as December 11, 2012 and the Expiration Date as May 10, 2022.

PORT:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Susan Reynolds
Deputy Director, Real Estate

Date Signed: 06/20/2012

Tenant:

By: _____
Name: Gary S. Bauer
Title: Pres/CEO

Date Signed: 6/20/12

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

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EXHIBIT C

TENANT ESTOPPEL CERTIFICATE

The undersigned, _____, is the tenant of a portion of the real property commonly known as [Insert Premises Address] located in San Francisco, California (the "**Property**"), and hereby certifies to **THE CITY AND COUNTY OF SAN FRANCISCO THROUGH THE SAN FRANCISCO PORT COMMISSION** ("**Port**") [and to _____ ("**Developer/Lender**")] the following:

1. That there is presently in full force and effect a lease (as modified, assigned, supplemented and/or amended as set forth in paragraph 2 below, the "Lease") dated as of _____, 20__, between the undersigned and Port, covering approximately _____ square feet of the Property (the "**Premises**").

2. That the Lease has not been modified, assigned, supplemented or amended except by:

3. That the Lease represents the entire agreement between Port and the undersigned with respect to the Premises.

4. That the commencement date under the Lease was _____, 20__, the expiration date of the Lease is _____, 20___.

5. That the present minimum monthly Base Rent which the undersigned is paying under the Lease is $_____.

6. The security deposit held by Port under the terms of the Lease is $_____ and Port holds no other deposit from Tenant for security or otherwise.

7. That the undersigned has accepted possession of the Premises and that, to the best of the undersigned's knowledge, any improvements required to be made by Port to the Premises by the terms of the Lease and all other conditions of the Lease to be satisfied by Port have been completed or satisfied to the satisfaction of the undersigned.

8. That, to the best of the undersigned's knowledge, the undersigned, as of the date set forth below, has no right or claim of deduction, charge, lien or offset against Port under the Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Lease.

9. That, to the best of the undersigned's knowledge, Port is not in default or breach of the Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Lease by Port.

10. That, to the best of the undersigned's knowledge, the undersigned is not in default or in breach of the Lease, nor has the undersigned committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Lease by the undersigned.

11. The undersigned is not the subject of any pending bankruptcy, insolvency, debtor's relief, reorganization, receivership, or similar proceedings, nor the subject of a ruling with respect to any of the foregoing.

This Certificate shall be binding upon and inure to the benefit of the undersigned, Port, [Developer/Lender] and [its/their respective] successors and assigns.

Dated: _____, 20___.

[Name of Tenant]

By:

Name:

Title:

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EXHIBIT D

RULES AND REGULATIONS

[To Be Attached for Applicable Facilities]

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OFFICE BUILDING

RULES AND REGULATIONS

Services

Port shall:

(a) Provide usual utilities, including heating as in the judgment of Port may be required for the comfortable occupancy and use of the Premises. Port shall not be responsible for the Premises temperature if Tenant does not keep entry doors, windows and window coverings in the Premises closed when requested to do so by the Port when the heating system is in operation. Tenant agrees to fully cooperate in these respects.

(b) Provide regular janitorial services to the Premises and the Building.

(c) Provide periodic pest control to the Building.

(d) Provide regular removal of standard office trash.

(e) For the Building Directory: Provide one directory strip sign for the building directory located on the first floor. The sign shall state the suite number and Tenant's name. If Tenant desires additional directory strips in this, or another floor directory, Tenant may purchase such strips at its sole expense if Port consents, and such consent shall be based on aesthetic appearance and whether there is sufficient room for additional strips as determined in Port's sole discretion.

(f) Reserve selection of a contractor for all approved signs or directory strips and how they shall be printed, painted, affixed or inscribed to the Property.

(g) Furnish Tenant, free of charge, with two (2) sets of keys to access the Premises and secured restroom facilities. Port may make a reasonable charge for any additional keys. Tenant shall not alter any lock or install a new additional lock or bolt on any door or window of the Premises. If Tenant decides to change the locks, the work shall be performed at Tenant's expense and in concert with the Port's key system. Tenant, upon vacating the premises, shall deliver to Port all keys, which have been furnished to Tenant, and in the event of loss of any keys so furnished, Tenant shall pay Port therefor.

Port reserves the right to stop service, plumbing, ventilation, heating and electrical systems when necessary by reason of accident, emergency, repairs, alterations or improvements, until such repairs, alterations or improvements have been completed. Port shall have no responsibility or liability, including liability for loss of business suffered by Tenant, for failure to supply the above utilities or services when prevented from doing so by reason of such repairs, strike, accident, laws, regulations or any cause beyond Port's reasonable control.

Except for the above utilities and services or as otherwise provided herein, Port shall not provide or be responsible for providing any other or different utilities or services to Tenant, the Premises or the Building.

Janitorial

All cleaning and janitorial services for the Building and the Premises shall be provided exclusively through Port, and except with the prior written consent of Port, no person(s) other than those approved by Port shall be employed by Tenant or permitted to enter the Property for the purpose of cleaning the same. Tenant shall not cause any unnecessary labor by carelessness or indifference to the
good order and cleanliness of the Premises. Port shall not in any way be responsible to any Tenant for any loss of property on the Premises, however occurring, or for any damage to Tenant's property by the

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janitorial service, by any other employee, tenant or other person. Tenant shall not purchase spring water, towels, janitorial or maintenance or other like service from any company or persons not approved by Port. Port shall approve a sufficient number of sources of such services to provide Tenant with a reasonable selection, but only in such instances and to such extent as Port in its judgment shall consider consistent with security and proper operation of the Building.

Obstructions Sidewalks, entrances, passages, vestibules, stairways, corridors or halls shall not be obstructed or encumbered by Tenant or used for any purpose other than ingress and egress to and from the Premises and, if the Premises are situated on the ground floor of the Building, Tenant shall further, at Tenant's own expense, keep the sidewalks and curb directly in front of the Premises clean and free from rubbish.

Appearances Tenant shall not place anything against or near glass partitions, doors or windows which may appear unsightly from outside the Premises or the Building. No awning, showcase, articles or other signs shall be attached to the outside walls or windows of the Building without the prior written consent of Port. No curtains, blinds, shades, drapes or screens shall be attached to or hung in, or used in connection with any window or door of the Premises, without the prior written consent of Port. Such awnings, signs, curtains, blinds, shades, drapes, screens and other fixtures must be of a quality, type, design, color, material and general appearance approved by Port, and shall be attached in the manner approved by Port. All lighting fixtures hung in offices or spaces along the perimeter of the Premises must be of a quality, type, design, bulb color, size and general appearance approved by Port.

Signs No sign, advertisement, notice, lettering, decoration or other thing shall be exhibited, inscribed, painted or affixed by Tenant on any part of the outside or inside of the Premises or of the Building, without the prior written consent of Port. In the event of the violation of the foregoing by Tenant, Port may remove it without any liability, and may charge the expense incurred by such removal to Tenant.

Light The sashes, sash doors, skylights, windows and doors that reflect or admit light or air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the window sills or in the public portions of the Building.

Fixtures The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no foreign substances shall be thrown therein. Tenant shall shut off all water faucets or other water apparatus at the end of each day. Tenant shall be responsible for any damage or injuries sustained by other tenants or occupants of the Building or by Port for noncompliance with this rule.

Attachments Tenant shall not mark, paint, drill into or in any way deface any part of the Premises or the Building. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of Port, and as Port may direct. If Tenant requires wiring, conduit or connections for telecommunications, computer, burglar alarm or similar services, it shall first obtain, and comply with, Port's instruction in their installation. Tenant shall not go onto the roof or install any antenna or other devices on the roof or exterior walls of the Building without Port's written permission. Tenant shall not interfere with media broadcast reception to or from the Building or elsewhere. Tenant shall repair or be responsible for the cost to repair any damage resulting from noncompliance with this rule.

Use Tenant shall not use the Premises for any business or activity other than that specified in the Lease. The Premises shall not be used for any activity disallowed by law or the Waterfront Land Use Plan.

Security No additional locks, bolts or mail slots of any kind shall be installed by Tenant, nor shall any change be made in existing locks or the mechanism thereof. Tenant must, upon the termination of the tenancy, restore to Port all keys to stores, offices and toilet rooms, either furnished to,

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or otherwise procured by Tenant, and in the event of the loss of any keys so furnished, Tenant shall pay to Port the cost thereof.

Hours Port reserves the right to exclude from the Building between the hours of 6:00 p.m. and 7:00 a.m. on all days and at all hours on Saturdays, Sundays and legal holidays, all persons who do not present proper identification or access to the Building. If Port issues passes, Tenant shall safeguard said passes and shall be responsible for all acts of persons in or about the Building who possess a pass issued to Tenant.

Sales Canvassing, soliciting, peddling and distribution of handbills in the Building is prohibited and Tenant shall cooperate to prevent the same.

Right of Entry Port reserves the right to exclude or expel from the Leased Area or Common Area any person who, in the judgment of Port, is intoxicated, under the influence of alcohol or drugs, or who shall in any manner do any act in violation of law or the rules and regulations of the Leased area. Port reserves the right to prevent access to the Building in case of invasion, mob, riot, public excitement or other commotion by closing the doors or by other appropriate action.

Noise and Odors Tenant shall not make, or permit to be made, any unseemly or disturbing noises or odors or disturb or interfere with occupants of the Building, or neighboring buildings or premises, or those doing business with them.

Animals No live animal, fish or bird of any kind shall be brought into or kept in or about the Premises or the Building, except seeing-eye dogs or other trained assistance animals.

Food Tenant shall not prepare any food nor do any cooking, operate or conduct any restaurant, luncheonette or cafeteria for the sale or service of food or beverages to its employees or to others, except that food and beverage preparation by Tenant's employees using microwave ovens or coffee makers shall be permitted provided no odors of cooking or other processes emanate from the Premises. Tenant shall not install or permit the installation or use of any vending machine or permit the delivery of any food or beverage to the Premises except by such persons and in such manner as are approved in advance in writing by Port.

Pest Control If the Premises becomes infested with vermin as a result of the use, misuse or neglect of the Premises by Tenant, its agents, servants, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant's expense, cause the same to be exterminated to the satisfaction of Port and shall employ such licensed exterminators as shall be approved in writing in advance by Port.

Cleanliness Tenant shall store all its trash and garbage within its Premises and shall place all toxic waste within appropriate containers designated by health laws and regulations. Tenant shall not throw anything out of the doors, windows or skylights or down the passageways, or leave furnishings, supplies, equipment or debris in the common areas. Tenant shall not place in any trash box or receptacle any materials that cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Port.

Hazardous Materials Neither Tenant nor any of Tenant's agents, servants, employees, contractors, visitors or licensees shall at any time bring or keep upon the Premises any flammable, combustible or explosive fluid, chemical or substance. Tenant shall not bring any Hazardous Materials onto the Premises except for those which are in general commercial use and are incidental to Tenant's business office operations and only in quantities suitable for immediate use.

Deliveries There shall not be used in any premises, or in the public halls, plaza areas, lobbies, or elsewhere in the Building, either by Tenant or by jobbers or others, in the delivery or receipt of merchandise, any hand trucks or dollies, except those equipped with rubber tires and sideguards. All

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deliveries shall be made at such reasonable hours and under such reasonable regulations as may be fixed by Port.

Equipment Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot, which such floor was designed to carry and which is allowed by law. Tenant shall not install any machine or equipment which causes noise, heat, cold or vibration to be transmitted to the structure of the building in which the Premises are located without Port's prior written consent, which consent may be conditioned on such terms as Port may require.

Moving All moving into or out of the Property shall be done at such time and in such manner as Port shall designate.

Safes All removals, or the carrying in or out of any safes, freight, furniture, construction material, bulky matter or heavy equipment of any description must take place during the hours which Port or its agent may determine from time to time. Port reserves the right to prescribe the weight and position of all safes, which must be placed upon two-inch thick plank strips to distribute the weight. The moving of safes, freight, furniture, fixtures, bulky matter or heavy equipment of any kind must be made upon previous notice to the Building Manager and in a manner and at times prescribed by him, and the persons employed by Tenant for such work are subject to Port's prior approval. Port reserves the right to inspect all safes, freight or other bulky articles to be brought into the Building and to exclude from the Building all safes, freight or other bulky articles which violate any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part.

Contractors Tenant's contractors shall, while in the Premises or elsewhere in the Building, be subject to and under the control and direction of the Building Manager (but not as agent or servant of said Building Manager or of Port).

Repairs The requirements of Tenant will be attended to only upon application at the office of the Building. Building personnel shall not perform any work or do anything outside of their regular duties unless under specific instructions from the office of the Port.

Energy Tenant shall not waste gas, electricity, water, heating or air-conditioning and agrees to cooperate fully with Port to assure the most efficient operation of the Building's heating and air-conditioning and to comply with any governmental energy-saving rules, laws or regulations of which Tenant has actual notice. Tenant shall keep corridor doors closed and, prior to leaving the Premises for the day, Tenant shall draw or lower window coverings and turn off all lights and water fixtures. Tenant shall keep its window coverings closed during any period of the day when the sun is shining directly on the windows of the Premises.

HVAC Tenant shall not use any method of heating or air-conditioning other than that supplied by Port, without the written consent of Port. Port may separately meter or sub-meter HVAC use.

Overtime Costs Tenant shall reimburse Port for the reasonable cost (including labor and resources) of providing any heat, hot water and/or air conditioning to the Premises during non-business hours when the equipment for said services must be started, operated and monitored by Port's personnel or designated agents.

Fire Safety Tenant shall install and maintain, at Tenant's sole cost and expense, an adequate, visibly marked, and at all times properly operational fire extinguisher next to any duplicating or photocopying machine or similar heat producing equipment, which may or may not contain combustible material, in the Premises.

Smoking Smoking is prohibited in the Premises and all enclosed Common Areas of the Building, including, without limitation, the main lobby, all hallways, all elevators, all elevator lobbies, all restrooms and the parking areas.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Advertising Port shall have the right to prohibit any advertising or business conducted by Tenant referring to the Building which, in Port's opinion, tends to impair the reputation of the Building or its desirability as a first class building for offices and/or commercial services and upon notice from Port, Tenant shall refrain from or discontinue such advertising.

Coin Machines Only Port shall have the right to place in and upon the common area pay phones and coin-operated machines for the sale of beverage, candy and other merchandise or service.

Parking Tenant, Tenant's agents, servants, employees, contractors, licensees, or visitors shall not park any vehicles in any driveways, service entrances, or restricted parking areas and shall comply with any other parking regulations imposed by Port from time to time.

Amendments Port reserves the right at any time to add, change or rescind any one or more of these rules and regulations or to make such other and further rules and regulations as the Port shall determine is in the best interest of the Common Area, the Tenants and their business agents and invitees. In the event of any conflict between these or any modified rules and regulations and the Lease, the terms and provisions of the Lease shall prevail.

Initials: Port _____ Tenant _____

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EXHIBIT E

OPERATIONS PLAN

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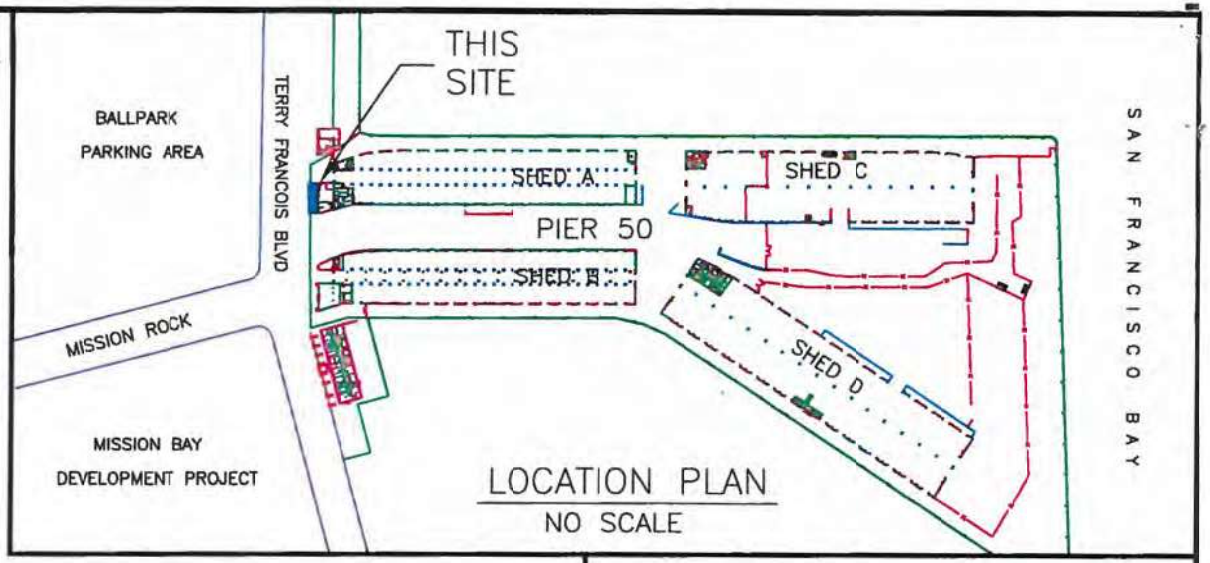
EXHIBIT F

PARKING SPACES

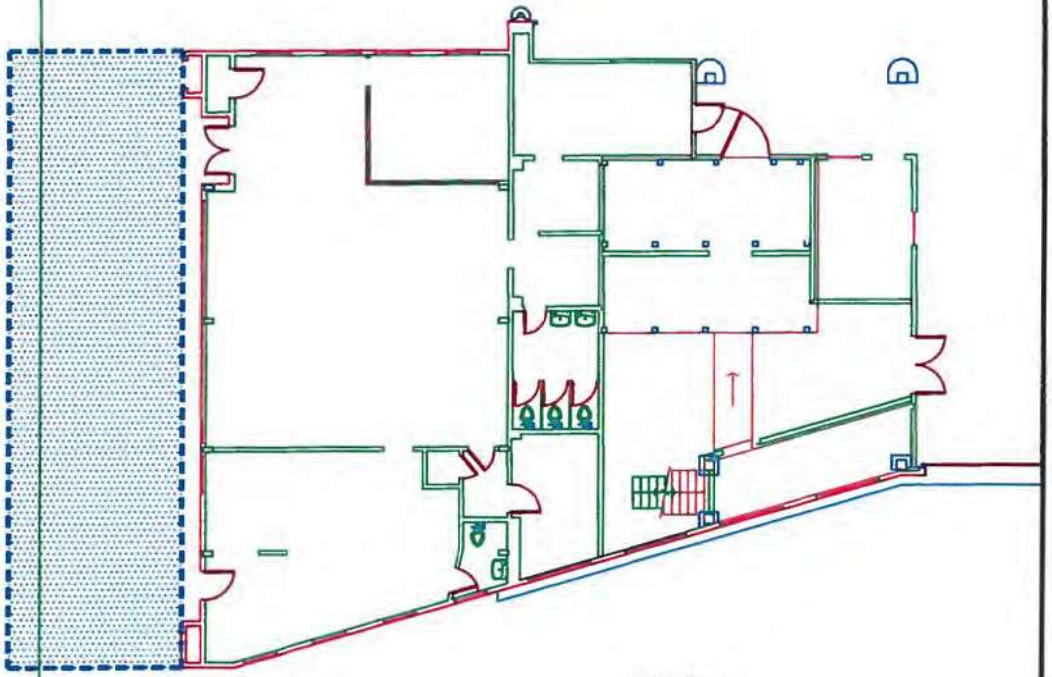
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EXHIBIT F

INITIALS: PORT: _____ TENANT: _____ DATE: 11/30/12



LOCATION PLAN
NO SCALE



PLAN
SCALE: 1" = 20'

TENANT PARKING
PIER 50 SHED A

LEASE NO.		TENANT		
L-15004	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO. 1500-SHEDA	DATE: NOV 22, 2011 SCALE: AS SHOWN SHEET NO. OF SHEETS

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Exhibit G

Work Letter

This Work Letter sets forth Tenant's obligation to construct the Initial Tenant Improvements and shall be deemed part of the Lease. The Initial Tenant Improvements are described in the pre-application submitted to Port on 9/27/11 and associated Port Building Permits and any amendments thereto and include without limitation, those improvements listed in the Basic Lease Information.

1. General Terms

1.1. ***Definitions.*** Initially capitalized terms used in this Work Letter have the meanings given them when first defined. Any initially capitalized words or acronyms used but not defined in this Work Letter shall have the same meanings as in the Lease.

1.2. ***Relationship between Work Letter and the Lease.*** This Work Letter governs Tenant's obligations to construct the Initial Tenant Improvements. This Work Letter addresses, among other matters, the scope of Tenant's obligations to design and construct the Initial Tenant Improvements, Tenant's obligations to obtain final approvals for the Initial Tenant Improvements, and the Schedule of Performance. Before the termination of this Work Letter, this Work Letter shall control in the event of any inconsistency between this Work Letter and the Lease. Upon expiry of this Work Letter, the Lease alone will govern the rights and obligations of the parties with respect to use and occupancy of the Premises.

1.3. ***Term.*** This Work Letter shall commence and become effective as of the Commencement Date and shall expire on the date that Port issues a Certificate of Completion for the Initial Tenant Improvements.

1.4. ***Lease Provisions.*** The provisions of the Lease, except where clearly inconsistent or inapplicable to this Work Letter, are incorporated into this Work Letter.

1.5. ***Extensions by Port.*** Upon the request of Tenant, Port's Executive Director may, by written instrument, extend the time for Tenant's performance of any term, covenant or condition of this Work Letter or permit the curing of any default of this Work Letter upon such terms and conditions as she or he determines appropriate, including but not limited to the time within which Tenant must perform such terms and/or conditions, provided, however, that any such extension or permissive curing of any particular default will not operate to relieve Tenant of its obligations to pay Rent or release any of Tenant's obligations nor constitute a waiver of Port's rights with respect to any other term, covenant or condition of this Work Letter or the Lease or any other default in, or breach of, the Work Letter or the Lease or otherwise effect the time with respect to the extended date or other dates for performance hereunder.

2. Construction Of Specified Tenant Improvement Work

2.1. ***Tenant's Construction Obligations.***

(a) Project Requirements. Tenant hereby agrees for itself, successors, and assignees, to complete for the benefit of the Port the construction of the Initial Tenant Improvements within Three Hundred Sixty Five (365) days of the Commencement Date. Tenant shall Complete said construction free of claims, demands, actions and liens for labor, materials or equipment furnished for the construction, and in accordance with applicable requirements of (i) all Laws; (ii) this Work Letter, including the Scope of Development and Schematic Drawings; (iii) the Port Building Code as applicable; (iv) required Regulatory Approvals; (v) the Waterfront Land Use Plan; (vi) the design approved by the Port and, if required, the Planning Commission, pursuant to Section 240 of the Planning Code; and (vii) the Lease including without limitation

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Section 16, Insurance, thereof. All such requirements are sometimes referred to collectively as the "**Project Requirements**."

(b) Scope of Development; Schedule of Performance. Tenant shall use commercially reasonable efforts to construct or cause to be constructed the Initial Tenant Improvements on the Premises within the times and in the manner set forth in this Work Letter and the scope of development comprised of the Schematic Drawings, the Schedule of Performance, the preliminary plans and any narrative description collectively, the "**Scope of Development**") attached hereto as ***Attachment 1***. All construction with respect to the Initial Tenant Improvements shall be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws. Tenant shall undertake commercially reasonable measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work. Tenant, while performing any construction with respect to the Initial Tenant Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining tenants, properties and improvements, or the risk of injury to members of the public, caused by or resulting from the performance of such construction.

(c) Costs; Private Development. Tenant shall bear all of the cost of construction of all Initial Tenant Improvements. Without limiting the foregoing, Tenant shall be responsible for performing all Premises preparation work necessary for construction of the Initial Tenant Improvements. Such preparation of the Premises shall include, among other things, asbestos and lead abatement investigation required for development or operation of the Initial Tenant Improvements, all structure and substructure work, disabled access improvements and public access improvements and tenant improvements.

2.2. ***Utilities***. Tenant, at its sole expense, shall arrange for the provision and construction of all on-Premises utilities necessary to use the Premises for the Permitted Use. Tenant and Port shall coordinate, if necessary, with respect to installation of any off-Premises utility infrastructure and design of the Initial Tenant Improvements, including providing advance notice of trenching requirements, and coordinate any modification of utilities to any adjacent Port tenants or uses.

2.3. ***Submittals after Completion***. Tenant shall furnish Port both design/permit drawings in their finalized form and "**As-Built**" Drawings, specifications and surveys with respect to the Premises (core and shell, and tenant improvements) within sixty (60) days after Completion of the Initial Tenant Improvements. If Tenant fails to provide such surveys and as-built plans and specifications to Port within such period of time, Port after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Port's choice of final surveys and as-built plans and specifications, at Tenant's sole cost, to be paid by Tenant to Port within thirty (30) days after Port's request therefor.

2.4. ***Insurance***. At all times during the construction of the Initial Tenant Improvements, in addition to the insurance required to be maintained by Tenant under the Lease, Tenant shall require Tenant's contractor to maintain (a) commercial general liability insurance with limits of not less than Three Million Dollars ($3,000,000) combined single limit for bodily injury and property damage (including personal injury and death), and contractor's protective liability; and products and completed operations coverage in an amount not less than Five Hundred Thousand Dollars ($500,000) per incident, One Million Dollars ($1,000,000) in the aggregate; (b) comprehensive automobile liability insurance with a policy limit of not less than One Million Dollars ($1,000,000) each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, "**any auto**", and insuring against all loss in connection with the ownership, maintenance and operation of automotive equipment that is owned, hired or non-owned; (c) worker's compensation with statutory limits and employer's

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liability insurance with limits of not less than One Hundred Thousand Dollars ($100,000) per accident, Five Hundred Thousand Dollars ($500,000) aggregate disease coverage and One Hundred Thousand Dollars ($100,000) disease coverage per employee. Tenant shall cause Tenant's Agents (other than Tenant's contractor) to carry such insurance as shall be reasonably approved by Port taking into account the nature and scope of the work and industry custom and practice. In addition, Tenant shall carry "**Builder's All Risk**" insurance covering the construction of the Initial Tenant Improvements as set forth in the Lease. The liability insurance shall be written on an "**occurrence**" basis and shall name Port as additional insureds (by endorsement reasonably acceptable to Port). All of the insurance required to be carried by Tenant or Tenant's Agents hereunder shall provide that it is primary insurance, and not excess over or contributory with any other valid, existing, and applicable insurance in force for or on behalf of Port, shall provide that Port shall receive thirty (30) days' written notice from the insurer prior to any cancellation or change of coverage, and shall be placed with companies which are rated A-VIII or better by Best's Insurance Guide and licensed to business in the State of California. All deductibles and self-insured retentions under Tenant's policies are subject to Port's reasonable approval, and all insurance, except workers' compensation, maintained by Tenant's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Tenant's compliance with the provisions of this Section 2.4 shall in no way limit Tenant's liability under any of the other provisions of this Work Letter or the Lease.

2.5. ***Performance Bond.*** At least five (5) business days prior to commencement of construction of the Initial Tenant Improvements, Tenant shall provide Port, at Tenant's sole cost and expense, a corporate surety payment bond and a performance bond substantially in the form attached hereto as ***Attachment 2*** obtained by each of Tenant's contractors performing work on the Initial Tenant Improvements. Each bond shall be in an amount not less than one hundred percent (100%) of the estimated costs of such work on the Initial Tenant Improvements for core and shell which are subject to Rent Credits. Each performance bond shall guarantee the contractor's faithful performance of its contract(s) with Tenant. Each payment bond shall guarantee the Contractor's payment of labor, materials, supplies and equipment used in the performance of its contract(s) with Tenant. The bonds are intended to help protect the Port against any liability for mechanics' and materialmen's liens, stop notices and to ensure completion of the work. Corporate sureties issuing these bonds shall be legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties shall have a current A.M. Best Rating not less than A-, VIII. Each corporate surety bond shall obligate the surety to Tenant and the City and County of San Francisco as co-obligees.

2.6. ***Tenant Guarantee.*** At least five (5) business days prior to commencement of construction of the Initial Tenant Improvements, Tenant shall provide Port, at Tenant's sole cost and expense, a corporate surety bond, in an amount equal to not less than one hundred percent (100%) of the estimated costs of such Initial Tenant Improvements for core and shell which are subject to Rent Credits to ensure adequate Completion of the work. Tenant's bond shall be substantially in the form attached hereto as ***Attachment 3***. Corporate sureties issuing these bonds shall be legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties shall have a current A.M. Best Rating not less than A-, VIII.

2.7. ***Compliance with Laws.*** At its sole cost and expense, Tenant shall comply (taking into account any variances or other deviations properly approved) with: (i) all Laws; (ii) all Regulatory Approvals which place requirements on the Initial Tenant Improvements; (iii) all requirements of all policies of insurance which may be applicable to the Premises as to the Initial Tenant Improvements or Tenant's Personal Property; and (iv) all other applicable Project Requirements. It is expressly understood and agreed that the performance required of Tenant by the preceding sentence shall include the obligation to make, at Tenant's sole cost and expense, all additions to, modifications of, and installations on the Premises which may be required by any Laws regulating the Premises or any insurance policies covering the Premises as to the Initial Tenant Improvements or Tenant's Personal Property. Tenant shall, promptly upon request,

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provide Port with reasonable evidence of compliance with Tenant's obligations under this Section.

2.8. ***Port and Other Governmental Permits.*** Tenant has the sole responsibility, at its sole cost and expense, for obtaining all necessary permits for the Initial Tenant Improvements and shall make application for such permits directly to the applicable Regulatory Agency; provided, however, that where Port is required to act as a co-permittee for any permit Tenant shall apply for such permit in accordance with Section 10.2, Regulatory Approvals, of the Lease.

2.9. ***Port Rights of Access.*** Without limiting the rights of Port in its regulatory capacity, Port and its Agents will have the right of access to the Premises to the extent reasonably necessary to carry out the purposes of this Work Letter, including, but not limited to, the inspection of the work being performed in constructing the Initial Tenant Improvements upon reasonable prior written notice to Tenant during regular business hours; provided, however, Port shall take such reasonable action necessary to minimize any interference with Tenant's construction activities. Port will provide Tenant promptly upon request with a copy of any written reports prepared by Port or its Agents with respect to the Initial Tenant Improvements under any such inspection, subject to withholding documents otherwise privileged or confidential. Port disclaims any warranties, representations and statements made in any such reports, will have no liability or responsibility with respect to any such warranties, representations and statements, and will not be estopped from taking any action (including, but not limited to, later claiming that the construction of the Initial Tenant Improvements is defective, unauthorized or incomplete) nor be required to take any action as a result of any such inspection.

2.10. ***Construction Signs and Barriers.*** Tenant shall provide appropriate construction barriers and construction signs, and shall post the signs on the Premises during the period of construction. The size, design, text and location of such signs and the composition and appearance of any non-moveable construction barriers shall be submitted to Port for approval before installation pursuant to Port's sign policy, which approval may not be withheld unreasonably. Failure by Port to disapprove any such submission within forty-five (45) days after submittal of all documents required or requested by Port, will be deemed to be an approval.

3. Preparation And Approval Of Plans

3.1. *The Construction Documents.*

(a) Definition of Construction Documents. The Construction Documents shall be as follows:

(i) **"Schematic Drawings"** for the Initial Tenant Improvements which shall generally include, without limitation, the following:

(1) Perspective drawings sufficient to illustrate the Initial Tenant Improvements.

(2) A site plan at appropriate scale showing relationships of the Initial Tenant Improvements with their respective uses, designating public access areas, open spaces, walkways, buildings, loading areas, streets, parking, and adjacent uses. Adjacent existing and proposed streets, piers, arcades and structures should also be shown.

(3) Building plans, floor plans and elevations sufficient to describe the development proposal, the general architectural character, and the location and size of uses.

(4) Building sections showing height relationships of those areas noted above.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(ii) **"Preliminary Construction Documents"** in sufficient detail and completeness to show that the Initial Tenant Improvements and the construction thereof shall comply with the Project Requirements, and which shall generally include, without limitation:

(1) Premises plan(s) at appropriate scale showing the buildings, streets, boat docks, walkways, and other open spaces. All land uses shall be designated. All Premises development details and bounding streets, points of vehicular and pedestrian access shall be shown.

(2) All building plans and elevations at appropriate scale.

(3) Building sections showing all typical cross sections at appropriate scale.

(4) Floor plans.

(5) Preliminary interior improvement plans.

(6) Plans for proposed public access areas showing details including but not limited to, walls, fences, railings, benches, bicycle racks, street furniture, markers, plaques, models, paving, exterior lighting, signs, and trash containers.

(7) Outline specifications for materials, finishes and methods of construction.

(8) Interior and Exterior Signage Plans.

(9) Exterior lighting plans.

(10) Material and color samples.

(11) Roof plans showing all mechanical and other equipment.

(iii) **"Final Construction Documents"** which shall include all plans and specifications required under applicable codes to be submitted with an application for a Premises Permit.

(b) Exclusion. As used in this Work Letter **"Construction Documents"** do not mean any contracts between Tenant and any contractor, subcontractor, architect, engineer or consultant.

(c) In preparing the construction Documents, Tenant shall use good faith efforts to include energy conservation and other green building improvement measures including but not limited to solar panels, energy efficient light fixtures; Energy Star appliances; recycling of demolition debris and use of recycled building materials; composting services for customers including in bathrooms (for paper towels).

3.2. ***Scope of Tenant Submissions of Construction Documents.*** The following provisions apply to all stages of Tenant's submission of Construction Documents. Each of the Construction Document stages is intended to constitute a further development and refinement from the previous stage. The elements of the Preliminary Construction Documents requiring Port's approval shall be in substantial conformance with the Schematic Drawings and the Scope of Development, and shall incorporate conditions, modifications and changes specified by Port or required as a condition of Regulatory Approvals as approved by Port. Preliminary Construction Documents shall be in sufficient detail and completeness to show that the Initial Tenant Improvements and the construction of the Initial Tenant Improvements will be in compliance with the Project Requirements and matters previously approved. The Final Construction Documents shall be a final development of, and be based upon and conform to, the approved Preliminary Construction Documents. The elements of the Final Construction Documents requiring Port approval shall incorporate conditions, modifications and changes required by Port for the approval of the Preliminary Construction Documents. The Final

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Construction Documents shall include all drawings, specifications and documents necessary for the Initial Tenant Improvements to be constructed and completed in accordance with this Work Letter.

3.3. ***Construction Document Review Procedures.***

(a) Method of Port Action/Prior Approvals. Port shall approve, disapprove or approve conditionally the Construction Documents, in writing, in accordance with the Schedule of Performance, but, in any event, within ninety (90) days after submittal, so long as the applicable Construction Documents are properly submitted in accordance with the Schedule of Performance. If Port fails to either approve or disapprove within five (5) business days after Tenant's second written request made to Port after such ninety (90) day period, the applicable Construction Documents shall be deemed disapproved.

(b) Timing of Port Disapproval/ Conditional Approval and Tenant Resubmission. If Port disapproves of the Construction Documents in whole or in part, Port in the written disapproval shall state the reason or reasons and may recommend changes and make other recommendations. If Port conditionally approves the Construction Documents in whole or in part, the conditions shall be stated in writing and a time shall be stated for satisfying the conditions. Tenant shall make a resubmittal as expeditiously as possible. Tenant may continue making resubmissions until the approval of the submissions or the time specified in any conditional approval.

3.4. ***Changes in Construction Documents.***

(a) Approval of Changes in Construction Documents. Tenant shall not make or cause to be made any material changes in any Port-approved Construction Documents without Port's express written approval in its reasonable discretion as provided in Section 3.4(b) below. Prior to making any changes that Tenant considers to be non-material to any Port-approved Construction Documents, including, without limitation, substituting materials which are the architectural equivalent as to aesthetic appearance, quality, color, design and texture, Tenant shall notify Port in writing. If Port in its reasonable discretion determines that such noticed changes are material, then such changes shall be subject to Port's approval under Section 3.4(b). Port's determination of whether such changes are material will be conclusive. Without otherwise limiting the requirements of this Section 3.4(a), any changes that cost Five Thousand Dollars ($5,000.00) or less in the aggregate and that would not otherwise affect the structural elements of the Initial Tenant Improvements shall be presumed to be non-material changes.

(b) Response. Tenant shall request in writing Port's approval in connection with all material changes to the Construction Documents. Port shall respond to Tenant in writing within thirty (30) days after receipt of Tenant's request. If Port fails to respond within five (5) business days after Tenant's second written request made to Port after the thirty (30) day period, such changes will be deemed disapproved.

3.5. ***Progress Meetings/Consultation.*** During the preparation of Construction Documents, Port staff and Tenant agree to hold regular progress meetings, as appropriate considering Tenant's Construction Document progress, to coordinate the preparation of, submission to, and review of Construction Documents by Port. Port staff and Tenant (and its applicable consultants) agree to communicate and consult informally as frequently as is reasonably necessary to assure that the formal submittal of any Construction Documents to Port can receive prompt and speedy consideration.

4. No Force Majeure

4.1. ***Completion of Construction.*** Tenant shall use its best efforts to commence, prosecute and Complete the Initial Tenant Improvements by the dates set forth in the Schedule of Performance. During the Construction Period, Tenant shall submit written progress reports to Port, in form and detail as may be required reasonably by Port, but at least on a monthly basis.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

4.2. ***No Force Majeure.*** Tenant's obligation to complete construction of the Initial Tenant Improvements as set forth in Section 4.1 above shall be final and absolute and shall not be subject to Force Majeure, Port delays, Regulatory Approval delays or any other delays.

5. Certificate Of Completion

5.1. Certificate of Completion.

(a) Issuance Process.

(i) Before issuance by Port of a Certificate of Completion for the Initial Tenant Improvements, Tenant may not occupy the Premises except for construction purposes under this Work Letter or the Lease.

(ii) After Tenant has completed the construction of the Initial Tenant Improvements in accordance with all the provisions of this Work Letter, including, but not limited to, the Project Requirements, Tenant may request a Certificate of Completion for the Initial Tenant Improvements in writing. Port shall act on Tenant's request within sixty (60) days of receipt.

(iii) Port's issuance of any Certificate of Completion does not relieve Tenant or any other Person from any obligations to secure or comply with any Regulatory Approval of any agency (including Port) that may be required for the occupancy or operation of the Initial Tenant Improvements.

(b) ***Condition to Approval.*** If there remain uncompleted (i) finishing details, minor omissions, decorations and mechanical adjustments of the type normally found on an architectural "**punch list**", (ii) landscaping, (iii) exterior finishes (to the extent Tenant can demonstrate to Port's reasonable satisfaction that such exterior finishes would be damaged during the course of later construction of Interior Improvements), or (iv) any other item that Port approves in writing in its sole and absolute discretion (collectively "**Deferred Items**"), Port may reasonably condition approval upon provision of security or other assurances in form, substance and amount satisfactory to Port that all the Deferred Items will be completed in a timely fashion. Such security may include a letter of credit (in a form and issued by an institution acceptable to Port) in the amount of one hundred ten percent (110%) of the cost of completion of the Deferred Items as reasonably determined by Port. The obligations set forth in this subsection shall survive a termination of the Lease.

(c) ***Definition of Completed.*** For purposes of this Work Letter and Port's issuance of a Certificate of Completion in accordance with the provisions of Section 5.1(a) above, "**Completed**" means completion by Tenant of all aspects of the Initial Tenant Improvements as the case may be in accordance with the Project Requirements, and in compliance with all Regulatory Approvals needed for the occupancy and development of the Project or provision of security satisfactory to Port for Deferred Items under Section 5.1(b), and issuance of applicable certificates of occupancy for all of the Initial Tenant Improvements. The "**Completion Date**" shall mean the date of issuance of the applicable Certificate of Completion for all of the Initial Tenant Improvements.

6. Termination Of Lease

6.1. ***Plans and Data.*** If the Lease terminates as a result of an Event of Default by Tenant before Completion of the Initial Tenant Improvements, Tenant shall assign and deliver to Port (without cost to Port) any and all copies of reports in its possession regarding the Premises and all Construction Documents in the possession of or prepared for Tenant, for the contracting of the Initial Tenant Improvements within thirty (30) days after written demand from Port. Port may use said reports and Construction Documents for any purpose whatsoever relating to the Premises; provided, however, Port shall release Tenant and Tenant's contractor, architect, engineer, agents, employees and other consultants from any Losses arising out of Port's use of such reports and Construction Documents except to the extent such contractor, architect,

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

engineer, agent, employee or other consultant is retained by Port to complete the Initial Tenant Improvements. Tenant shall include in all contracts and authorizations for services pertaining to the planning and design of the Initial Tenant Improvements an express agreement by the Person performing such services that Port may use such reports or Construction Documents as provided in this Section 6.1 without compensation or payment from Port in the event such reports or Construction.
Documents are delivered to Port under the provisions of this Section 6.1, provided that Port agrees (i) not to remove the name of the preparer of such reports of Construction Documents without the preparer's written permission or (ii) to remove it at their written request.

6.2. ***Return of Premises***. If the Lease terminates pursuant to this Section 6, Tenant shall, at its sole expense and as promptly as practicable, return the Premises to Port in a safe condition, and unless otherwise requested by Port, shall promptly remove all Improvements, loose building materials and debris present at the Premises resulting from Tenant's construction activities. In the event that Tenant is required to return the Premises as aforesaid, Tenant shall obtain those permits customary and necessary to enter upon the Premises in order to complete such work and shall otherwise comply with applicable Law. In such event, Port shall cooperate with Tenant in Tenant's efforts to obtain such permits, provided that Port will not be required to expend any money or undertake any obligations in connection therewith. The provisions of this Section shall survive any termination of the Lease.

Attachments
Attachment 1 Scope of Development
Attachment 2 Form Of Performance Bond & Payment (Labor And Material) Bond
Attachment 3 Form of Tenant's Surety bond

Initial:
Port:
Tenant:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Attachment 1

Scope of Development
[to be attached]

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

CANYON CONSTRUCTION

Pier 50 : Bauer IT
Pier 50 Bldg A & C
San Francisco, CA 9411

21-Sep-11

PHASE	COST	DESCRIPTION	Grand Total
1		GENERAL REQUIREMENTS	
10		MOBILIZATION TOTAL	$ -
11		SUPERVISION (ON-SITE)	
11	110	PROFESSIONAL FEES	$ -
11	120	PROJECT MANAGER	$ 13,354.25
11	130	FOREMAN	$ -
11	140	CLERICAL/PAYROLL	$ -
11	150	PROJECT COORDINATOR	$ 10,116.86
11	160	SUPERINTENDENT	$ 40,487.43
11	190	SUPERVISION - MISC.	$ -
11		SUPERVISION TOTAL	$ 63,938.54
12		PERMITS/FEES/LICENSES TOTAL	$ -
13		TEMPORARY UTILITIES	
13	310	JOBSITE TOILET	$ 279.44
13	320	JOBSITE TELEPHONE	$ 139.72
13	330	TEMP ELECTRIC POWER	$ -
13	340	TEMP WATER SERVICE	$ -
13	390	TEMP UTILITIES - MISC	$ -
13		TEMPORARY UTILITIES TOTAL	$ 419.15
14		TEMPORARY FACILITIES TOTAL	$ -
15		CLEAN UP	
15	510	PROGRESSIVE CLEANING	$ 9,535.43
15	520	FINAL INTERIOR CLEANING	$ -
15	530	FINAL EXTERIOR CLEANING	$ -
15	540	DEBRIS BOXES	$ 3,143.66
15	580	DEBRIS OFFHAUL, DUMP FEE	$ -
15	590	CLEAN UP - MISC.	$ -
15		CLEAN UP TOTAL	$ 12,679.08
16		EQUIPMENT RENTAL TOTAL	$ -
17		SCAFFOLDING	
17	171	SCAFFOLDING	$ 489.01
17	790	SCAFFOLDING - MISC.	$ 349.30
17		SCAFFOLDING TOTAL	$ 838.31
18		CONSUMABLES	
18	810	TEMPORARY FENCING	$ -
18	820	PHOTOGRAPHY	$ -
18	830	SMALL TOOLS	$ -
18	840	SAFETY SUPPLIES	$ -
18	850	CONSTRUCITON SIGNS	$ -
18	860	PROTECTION- FINISH SURFACES	$ 3,842.25
18	890	CONSUMABLES - MISC	$ 419.15
18		CONSUMABLES TOTAL	$ 4,261.40
19		GENERAL REQ - MISC	
19	910	GENERAL LABOR	$ -
19	920	MATERIAL PROCUREMENT	$ 1,348.91
19	930	BACK CHARGES	$ -
19	940	MATERIAL HANDLING	$ 28,756.00
19	950	CALL BACK WORK	$ -
19	960	COMPLETION WORK	$ -
19	970	FINAL PUNCHLIST WORK	$ -
19	990	GENERAL REQ - MISC	$ -
19		GENERAL REQ - MISC TOTAL	$ 30,104.91
1		GENERAL REQUIREMENTS TOTAL	$ 112,241.40
2		SITEWORK	
20		DEMOLITION	
20	10	DEMO TREES, FENCING, ETC	$ -
20	20	DEMO - BUILDING C	$ 4,200.00
20	30	DEMO MAIN BUILDING	$ 25,247.03
20	40	DEMO - CONCRETE SLABS	$ 1,575.00
20	50	DEMO - POWER WASH CONCRETE	$ 630.00
20	60	DEMO - STRUCTURAL	$ -
20	70	DEMO ASBESTOS ABATEMENT	$ -

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

CANYON CONSTRUCTION

Pier 50 : Bauer IT
Pier 50 Bldg A & C
San Francisco, CA 9411

21-Sep-11

PHASE	COST	DESCRIPTION	Grand Total	
20	90	SITEWORK - MISC	$	-
20		DEMOLITION TOTAL	$	31,652.03
21		SITE PREPARATION TOTAL	$	-
22		EARTHWORK TOTAL	$	-
23		PIERS, CASSON, PILINGS TOTAL	$	-
24		SHORING, BULKHEADS, RET TOTAL	$	-
25		PAVING & WALKS TOTAL	$	-
26		SITE UTILITIES - PERM		
26	610	WATER DISTRIBUTION	$	2,100.00
26	620	GAS/FUEL DISTRIBUTION	$	-
26	630	ELECTRIC	$	8,400.00
26	640	TELEPHONE	$	-
26	650	COMMUNICATIONS/SECURITY/	$	-
26	660	SEWER - SUBCONTRACTOR	$	-
26	670	SEWER - GENERAL	$	-
26	680	SEWER - SEPTIC SYSTEM	$	-
26	690	SITE UTILITIES - MISC	$	-
26		SITE UTILITIES - PERM TOTAL	$	10,500.00
27		DRAINAGE TOTAL	$	-
28		SITE IMPROVEMENTS		
28	810	IRRIGATION	$	-
28	820	FOUNTAINS/PONDS/POOLS	$	-
28	830	FENCING & GATES	$	11,970.00
28	840	WALKS, ROAD & PARKING	$	-
28	890	SITE IMPROVEMENTS - MISC	$	-
28		SITE IMPROVEMENTS TOTAL	$	11,970.00
29		LANDSCAPING TOTAL	$	-
2		SITEWORK TOTAL	$	54,122.03
3		CONCRETE		
31		CONCRETE FORMWORK		
31	110	FOUNDATIONS	$	-
31	120	SLABS	$	-
31	130	WALLS & COLUMNS	$	-
31	140	STEPS/STAIRS	$	-
31	190	CONCRETE FORMWORK - MISC	$	10,215.60
31		PATCH AND REPAIR CONCRETE	$	10,215.60
32		CONCRETE REINFORCEMENT TOTAL	$	-
33		CAST-IN-PLACE CONC & PLA TOTAL	$	-
34		PRECAST CONCRETE TOTAL	$	-
35		CEMENTITIOUS DECKS TOTAL	$	-
36		GROUT TOTAL	$	-
37		CONC RESTORATION/CLEANIN TOTAL	$	-
38		MASS CONCRETE TOTAL	$	-
39		STRIPPING FORMWORK TOTAL	$	-
3		CONCRETE TOTAL	$	10,215.60
4		MASONRY TOTAL	$	-
5		METALS TOTAL	$	-
6.0		ROUGH CARPENTRY SUMMARY		
60		ROUGH HDWR,FSTNRS,ADHESV TOTAL	$	-
61		ROUGH CARPENTRY		
61	110	LAYOUT	$	-
61	120	LOFT FLOOR FRAMING	$	16,632.65
61	130	STAIR TO LOFT FRAMING	$	-
61	140	VERTICAL FRAMING	$	-
61	150	SHED "C" FRAMING (bathrooms)	$	-
61	160	ROOF FRAMING	$	-
61	170	TRUSSES	$	-
61	180	PLYWOOD SHEATHING	$	-
61	190	ROUGH CARPENTRY MISC.	$	-
61		ROUGH CARPENTRY TOTAL	$	16,632.65
62		GLU-LAM BEAM, TRUSS, TMBR TOTAL	$	-
6.0		ROUGH CARPENTRY SUMMARY TOTAL	$	16,632.65

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

CANYON CONSTRUCTION

Pier 50 : Bauer IT
Pier 50 Bldg A & C
San Francisco, CA 9411

21-Sep-11

PHASE	COST	DESCRIPTION	Grand Total
6.3		FINISH CARPENTRY SUMMARY TOTAL	$ -
7		THERMAL&MOISTURE PROTCTN	
71		WATER & DAMP PROOFING TOTAL	$ -
72		INSULATION / FIREPROOFING	
72	210	BUILDING INSULATION	$ 4,725.00
72	220	FLOORS	$ -
72	230	WALLS	$ -
72	240	CEILINGS	$ -
72	250	ROOF & DECK INSULATION	$ -
72	260	EXT INSLATN & FINISH SYS	$ -
72	270	FIREPROOFING	$ -
72	290	INSULATN/FIREPRFNG MISC	$ -
72		INSULATION / FIREPROOFING TOTAL	$ 4,725.00
73		SHINGLES & ROOF TILES TOTAL	$ -
74		PREFAB. ROOFING & SIDING TOTAL	$ -
75		MEMBRANE ROOFING	
75	510	BITUMINOUS ROOFING	$ -
75	520	PREPARED ROLL ROOFING	$ -
75	530	MOD. BITUMEN SHEET	$ 2,625.00
75	540	FLUID APPLIED ROOFING	$ -
75	550	PROTECTD MEMBRANE ROOFING	$ -
75	560	ROOF MNTCE & REPAIRS	$ -
75	570	TRAFFIC TOPNG-ELASTC MEM	$ -
75	590	MEMBRANE ROOFING MISC	$ -
75		MEMBRANE ROOFING TOTAL	$ 2,625.00
76		FLASHING & SHEET METAL TOTAL	$ -
77		ROOF SPECIALTIES&ACCESS. TOTAL	$ -
78		SKYLITES	
78	810	SKYLITES	$ 7,912.40
78	890	SKYLITES OPERATORS	$ 3,593.23
78		SKYLITES TOTAL	$ 11,505.63
79		CAULKING,SEALANTS&GASKTS TOTAL	$ -
7		THERMAL&MOISTURE PROTCTN TOTAL	$ 18,855.63
8		DOORS, WINDOWS & GLASS	
81		METAL DOORS & FRAMES TOTAL	$ -
82		WOOD DOORS & FRAMES	
82	210	WOOD DOORS	$ -
82	220	STORAGE DOORS	$ 1,555.35
82	250	DOOR FRMES&HRDWR ACCESS	$ -
82	290	WOOD DOORS&FRAMES MISC	$ -
82		WOOD DOORS & FRAMES TOTAL	$ 1,555.35
83		SPECIAL DOORS TOTAL	$ -
84		ENTRANCES & STOREFRONTS TOTAL	$ -
85		METAL SASH/WINDOWS TOTAL	$ -
86		WOOD & PLASTIC WINDOWS TOTAL	$ -
87		FINISH HARDWARE	
87	710	PANIC HARDWARE/CLOSURES	$ -
87	720	STORAGE DOOR HARDWARE	$ 617.63
87	730	WEATHERSTRIPPING & SEALS	$ -
87	740	ELECTRICAL LOCKING SYS	$ -
87	750	DOOR & WINDOW ACCESS	$ -
87	790	FINSIH HARDWARE MISC	$ -
87		FINISH HARDWARE TOTAL	$ 617.63
88		GLASS & GLAZING	
88	810	GLASS	$ 5,145.00
88	820	MIRRORS	$ 1,470.00
88	840	PLASTIC GLAZING	$ -
88	850	GLAZING ACC.	$ -
88	890	GLASS & GLAZING MISC.	$ -
88		GLASS & GLAZING TOTAL	$ 6,615.00
89		GLAZED CURTAIN WALLS	
89	910	GLAZED CURTAIN WALLS	$ 21,463.65

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

CANYON CONSTRUCTION

Pier 50 : Bauer IT
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21-Sep-11

PHASE	COST	DESCRIPTION	Grand Total	
89	990	GLAZD CURTAIN WALLS MISC	$	18,856.20
89		GLAZED CURTAIN WALLS TOTAL	$	40,319.85
8		DOORS, WINDOWS & GLASS TOTAL	$	49,107.83
9		FINISHES		
91		METL FRMNG,FURNG&SUPPRTS TOTAL	$	-
92		LATH/PLASTR/STUCCO/DRYWL		
92	210	LATH & PLASTER, GENERAL	$	-
92	220	LATH&PLASTR,REPAIR/PATCH	$	-
92	230	STUCCO, GENERAL	$	-
92	240	STUCCO, REPAIRNG&PATCHNG	$	-
92	250	DRYWALL,GENRL & SMOOTHWL	$	46,282.80
92	260	METAL STUD FRAMING	$	18,207.00
92	270	DRYWALL, SKIPTROWELED	$	-
92	280	DRYWALL, REPAIR/PATCHING	$	-
92	290	LATH/PLSTR/STUC/DWL MISC	$	-
92		LATH/PLASTR/STUCCO/DRYWL TOTAL	$	64,489.80
93		TILE		
93	310	CERAMIC TILE	$	8,400.00
93	320		$	-
93	330	QUARRY TILE	$	-
93	340	PAVER TILE	$	-
93	350	GLASS MOSAICS	$	-
93	360	PLASTIC TILE	$	-
93	370	METAL TILE	$	-
93	390	TILE MISC.	$	-
93		TILE TOTAL	$	8,400.00
94		TERRAZO TOTAL	$	-
95		ACCOUSTICAL TREATMENT TOTAL	$	-
96		UNIT FLOORING		
96	610	WOOD FLOORING	$	-
96	620	STONE FLOORING	$	-
96	630	BRICK FLOORING	$	-
96	640	PRESD CONCRET UNIT FLRNG	$	-
96	650	VYNL FLOORING	$	-
96	680	CARPET / VINYL	$	9,616.20
96	690	VINYL BASE	$	1,680.00
96		UNIT FLOORING TOTAL	$	11,296.20
97		SPECL FLOORING&TREATMNTS		
97	710	SPECIAL FLOORING	$	3,675.00
97	720	SPECIAL TREATMENTS	$	-
97	790	SPL FLRNG &TRTMNTS MISC.	$	-
97		SPECL FLOORING&TREATMNTS TOTAL	$	3,675.00
98		SPECIAL COATINGS		
98	810	SPECIAL COATINGS	$	-
98	890	SPL COATINGS MISC	$	-
98		SPECIAL COATINGS TOTAL	$	-
99		PAINTING & WALL COVERING		
99	910	PAINTING GENERAL	$	30,817.50
99	920	EXTERIOR PAINTING	$	3,396.80
99	930	INTERIOR PAINTING	$	-
99	940	TRANSPARENT FINISHES	$	-
99	950	SANDBLAST BEAMS	$	4,042.50
99	960	TOUCH-UP	$	-
99	970	WATER SEALERS	$	-
99	980	WALL COVERINGS	$	-
99	990	PAINTNG&WL COVRNG MISC	$	-
99		PAINTING & WALL COVERING TOTAL	$	37,156.80
9		FINISHES TOTAL	$	125,017.80
10		SPECIALITIES		
101		SPECIALITIES		
101	150	TOILET PARTITIONS	$	5,880.00
101	190	SPECIALTIES MISC.	$	-

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CANYON CONSTRUCTION

Pier 50 : Bauer IT
Pier 50 Bldg A & C
San Francisco, CA 9411

21-Sep-11

PHASE	COST	DESCRIPTION	Grand Total
101		SPECIALITIES TOTAL	$ 5,880.00
103		PREFAB.FIREPLACES&STOVES TOTAL	$ -
104		SIGNAGE TOTAL	$ -
105		BUILDING SPECIALTIES	
105	530	FIRE EXTINGUISHERS	$ 506.40
105	540	POSTAL SPECIALTIES	$ -
105	590	BLDG SPECIALTIES MISC	$ -
105		BUILDING SPECIALTIES TOTAL	$ 506.40
108		TOILET&BATH ACCESSORIES	
108	810	SHOWER & TUB DOORS	$ -
108	820	BATH ACCESSORIES	$ 4,057.80
108	830	T.P. HOLDERS	$ -
108	840	SOAP TRAYS	$ -
108	850	TOWEL BARS	$ -
108	860	CURTAIN RODS	$ -
108	890	TOILET&BATH ACC. MISC	$ -
108		TOILET&BATH ACCESSORIES TOTAL	$ 4,057.80
109		WARDRBE&CLOSET SPCLTIES TOTAL	$ -
10		SPECIALITIES TOTAL	$ 10,444.20
11		EQUIPMENT TOTAL	$ -
12		FURNISHINGS	
123		MANUFACTURED CASEWORK	
123	310	KITCHEN CABINETS	$ 3,532.80
123	320	BATH CABINETS	$ -
123	390	MANUFCTRD CSWRK MISC	$ -
123		MANUFACTURED CASEWORK TOTAL	$ 3,532.80
124		COUNTERTOPS TOTAL	$ -
125		WINDOW TREATMENT TOTAL	$ -
12		FURNISHINGS TOTAL	$ 3,532.80
13		SPECIAL CONSTRUCTION TOTAL	$ -
14		CONVEYING SYSTEMS TOTAL	$ -
15		MECHANICAL	
150		GENERAL MECHANICAL TOTAL	$ -
153		FIRE PROTECTION	
153	310	FIRE PROTECTION	$ 9,511.20
153	390	FIRE PROTCTN MISC.	$ -
153		FIRE PROTECTION TOTAL	$ 9,511.20
154		PLUMBING, GENERAL	
154	410	PIPING	$ 36,251.25
154	411	PIPING - WATER	$ 3,062.40
154	412	PIPING - SEWER	$ -
154	413	PIPING - GAS	$ -
154	419	PIPING MISC.	$ -
154	440	FIXTURES	$ 8,925.00
154	441	FIXTURES-1 PC. SHWR UNIT	$ 5,460.00
154	490	PLUMBING-Misc	$ -
154		PLUMBING, GENERAL TOTAL	$ 53,698.65
155		HVAC	
155	510	HEATING, GAS	$ 24,631.20
155	511	CENTRAL FORCED AIR HEATR	$ -
155	512	WALL OR FLOOR HEATER	$ -
155	520	VENTILATION	$ -
155	990	HVAC MISC.	$ -
155		HVAC TOTAL	$ 24,631.20
15		MECHANICAL TOTAL	$ 87,841.05
16		ELECTRICAL	
161		ELECTRICAL, GENERAL	
161	110	WIRING	$ 51,887.40
161	120	LIGHT FIXTURES	$ 16,012.50
161	130	EQUIPMENT	$ -
161	190	ELECTRICAL, GRNRL, MISC.	$ -
161		ELECTRICAL, GENERAL TOTAL	$ 67,899.90

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CANYON CONSTRUCTION

Pier 50 : Bauer IT
Pier 50 Bldg A & C
San Francisco, CA 9411

21-Sep-11

PHASE	COST	DESCRIPTION	Grand Total	
166		SPECIAL SYSTEMS TOTAL	$	-
167		COMMUNICATIONS		
167	720	SMOKE ALARM SYSTEM	$	7,399.20
167	740	CABLING	$	16,574.25
167	760	INTERCOM SYSTEM	$	-
167	770	AUDIO SYSTEMS	$	-
167	780	TELEVISION	$	-
167	790	COMMUNCATNS MISC.	$	8,347.50
167		COMMUNICATIONS TOTAL	$	32,320.95
168		ELECTRICAL HEATING TOTAL	$	-
169		CONTROLS/TESTING/REPAIR TOTAL	$	-
16		ELECTRICAL TOTAL	$	100,220.85
Cost Totals			$	568,231.84
Overhead			$	58,823.18
Profit			$	29,411.59
Sub Total			$	676,466.61
General Liability Insurance			$	10,891.11
Grand Total			$	687,357.72
		Core and Shell Costs - Port costs	$	584,430.16
		Tenant Improvement Costs	$	102,927.56

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Attachment 2

Form Of Performance Bond &
Payment (Labor And Material) Bond

Know All Men By These Presents, That Whereas, _____ has awarded to: _____ hereinafter designated as the "**Principal**", a Contract, dated _____ for _____.

Whereas, said Principal is required under the terms of said Contract to furnish a Bond for the faithful performance of said Contract; and to furnish a separate Bond for the payment of any materials, provisions, or other supplies, used in, upon, for or about the performance of the Work contracted to be done;

Now, Therefore, we the Principal and _____ as Surety, are firmly bound unto _____, the City and County of San Francisco acting by and through the San Francisco Port Commission in the penal sum of

(Performance Bond) _____ And **(Payment Bond)** _____

lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents for a performance bond and an equal and separate penal sum for a separate payment bond. The conditions of this obligation is such that if the said principal does well and faithfully performs all the conditions and covenants of said Contract, according to the true intent and meaning thereof, upon its part to be kept and performed, then the above obligation is to be null and void, otherwise to remain in full force and effect.

(PERFORMANCE BOND)
THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said Contract, including the provisions for liquidated damages in the said Contract, any changes, additions or alterations thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless _____, the City and County of San Francisco acting by and through the San Francisco Port Commission, and their respective officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

(PAYMENT BOND)
THE CONDITION OF THIS OBLIGATION IS SUCH, that if said principal, its heirs, executors, administrators, successors or assigns, of its subcontractor or subcontractors, shall fail to pay for any materials, provisions, or other supplies, used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor thereon of any kind, or for amounts due the Unemployment Insurance Act with respect to such work or labor, then the surety of this Bond will pay for same, in an amount not exceeding the sum specified in this Bond, and in case suit is brought upon this Bond will also pay a reasonable attorney's fee, to be fixed by the Court.
This Bond shall inure to the benefit of _____ and any and all persons, companies, corporations, political subdivisions and state agencies, entitled to file claims under the provisions of California Civil Code section 3247 et seqitur

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And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same and no inadvertent overpayment of progress payments shall in any way affect its obligations on these Bonds, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications or of any inadvertent overpayment of progress payments.

In Witness Whereof, the above-bounden parties have executed this instrument under their seal this ____day of _____, 201_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Approved as to form:
Dennis J. Herrera
City Attorney

By: _____
Deputy City Attorney

Principal:

By: _____

Name: _____

Title: _____

Surety:

By: _____

Name: _____

Title: _____

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Attachment 3

[SURETY]

KNOW ALL MEN BY THESE PRESENTS, That we [Tenant] as Principal (hereinafter called Principal), and ___[Surety]_, as Surety (hereinafter called Surety), are held and firmly bound unto the City and County of San Francisco and The Port of San Francisco, of San Francisco, California, as Obligee, in the full and just sum of [_____] ($_____) Dollars, lawful money of the United States of America to be paid to the said Obligee, successors or assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal and Port have entered into a written Lease No. [ ] dated [ ] for reference purposes for [ ], San Francisco, California (the "**Lease**") with the Obligee for Completion of the Initial Tenant Improvements as defined in the Lease as more specifically set forth in said Lease, to which reference is hereby made.

WHEREAS, in no event shall Surety's liability under this bond exceed the bond penalty stated above.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall well and truly perform and carry out the covenants, terms, and conditions of said Lease, then this obligation to be void; otherwise to remain in full force and effect.

Sealed with our seals and dated this ____ day of _____ 20____.

Witness:

_____

_____(SEAL)
PRINCIPAL

_____

_____(SEAL)
SURETY

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By _____
Deputy City Attorney

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SCHEDULE 1

ASBESTOS NOTIFICATION AND INFORMATION NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

[Attachment on following page(s)]

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

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NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR: Pier 50 Shed A
FOR PERIOD THROUGH: April 2011

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to building built before 1979 where the owner knows that the building contains asbestos-containing materials; it does not require that a building be surveyed to determine the presence of asbestos.

WHAT IS ASBESTOS?

Asbestos is a naturally occurring group of fibrous minerals which have been used extensively in public buildings, apartment buildings and homes. Asbestos was incorporated into pipe insulation, acoustic plaster, acoustic tile, duct and furnace insulation, floor tiles, textiles and hundreds of other building materials. In most City buildings, asbestos is located in insulation on piping systems, acoustic plaster on ceilings, acoustic ceiling tiles, vinyl asbestos floor tiles, and structural fireproofing.

This notification includes the results of any air monitoring or bulk sampling for asbestos that has been conducted in your building during the previous calendar quarter. (This notice may also include older information of asbestos samples, for your information.)

WHY IS ASBESTOS HAZARDOUS?

Asbestos is a concern because of the potential health risks associated with breathing asbestos fibers. It is important for you to know that most people with asbestos-related diseases were asbestos workers before 1972. These workers were repeatedly exposed to high levels of asbestos each working day with little or no protection. Asbestos workers today are required to follow specific work practices and wear appropriate protection to minimize exposure.

Significant exposure to asbestos fibers can lead to asbestosis and certain forms of cancer. Asbestosis is one of the many dust-related lung diseases. It is associated with chronic exposure to relatively high levels of asbestos and is characterized by the permanent deposition of asbestos fibers in the respiratory tract. The earliest and most prominent clinical finding, breathlessness upon exertion, rarely becomes apparent until at least a decade of exposure.

In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

A summary of the results of recent asbestos bulk sampling or air monitoring is attached to this notice.

A variety of exposure standards and health action levels have been established for various purposes:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

The Occupational Safety and Health Administration (OSHA) asbestos standards (Title 29 of the Code of Federal Regulations), which apply to employees who actually work with asbestos, mandate a permissible exposure limit (PEL) of 0.1 fibers per cubic centimeter of air (f/cc) determined as an 8 hour time weighted average (TWA) and an excursion limit of 1 f/cc as a 30 minute TWA. When employees are exposed at these levels, OSHA and Cal/OSHA (Title 8 of the California Code of Regulations) require medical monitoring and other control methods.

The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail, or pin anything onto, sand, move bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

City employees required to enter areas and perform work activities that might involve the disturbance of asbestos materials have been trained in the proper procedures to minimize exposure. Work that requires major disturbances of asbestos materials (such as removal) is performed under specifications which include work practice procedures, removal techniques, clean up and clearance air sampling.

If any construction, maintenance, or remodeling is conducted in an area of the building where there is the potential for employees to come in contact with, or release or disturb asbestos containing building materials, it is required that the area be posted with a clear and conspicuous warning sign. The warning sign must read:

"CAUTION. ASBESTOS
CANCER AND LUNG DISEASE HAZARD
DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT"

Much of this information may be new to you. If you have questions about asbestos, you may call the Department of Public Health Toxic Substances Control Program at 252-3800 to answer your questions.

This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

The following pages are a summary of asbestos bulk sampling or air monitoring results that have been conducted at Pier 50 Shed A. Copies of the full sampling report(s) are available for review and photocopying at the Port of San Francisco Environmental Health and Safety Office (Pier 1, S.F.) between the hours of 8 a.m. and 5 p.m. The asbestos coordinator for this building is Tim Felton who can be reached at (415) 274-0582.

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PORT of San Francisco Asbestos Summary

Facility# 1500

Pier 50 **Shed A**

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
2/3/2006	Bathroom at North-West end	The gray 9 x 9 floor tile was found to contain 3% chrysotile asbestos.	Asbestos containing tile was removed in the entryway, mop closet, and mens bathroom by Bluewater in March 2006. Remaining brown tile is assumed to contain asbestos. Do not distrurb in any way.	No

Initial:
Port:
Tenant:

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NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR: Pier 50 Shed B
FOR PERIOD THROUGH: April 2011

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to building built before 1979 where the owner knows that the building contains asbestos-containing materials; it does not require that a building be surveyed to determine the presence of asbestos.

WHAT IS ASBESTOS?

Asbestos is a naturally occurring group of fibrous minerals which have been used extensively in public buildings, apartment buildings and homes. Asbestos was incorporated into pipe insulation, acoustic plaster, acoustic tile, duct and furnace insulation, floor tiles, textiles and hundreds of other building materials. In most City buildings, asbestos is located in insulation on piping systems, acoustic plaster on ceilings, acoustic ceiling tiles, vinyl asbestos floor tiles, and structural fireproofing.

This notification includes the results of any air monitoring or bulk sampling for asbestos that has been conducted in your building during the previous calendar quarter. (This notice may also include older information of asbestos samples, for your information.)

WHY IS ASBESTOS HAZARDOUS?

Asbestos is a concern because of the potential health risks associated with breathing asbestos fibers. It is important for you to know that most people with asbestos-related diseases were asbestos workers before 1972. These workers were repeatedly exposed to high levels of asbestos each working day with little or no protection. Asbestos workers today are required to follow specific work practices and wear appropriate protection to minimize exposure.

Significant exposure to asbestos fibers can lead to asbestosis and certain forms of cancer. Asbestosis is one of the many dust-related lung diseases. It is associated with chronic exposure to relatively high levels of asbestos and is characterized by the permanent deposition of asbestos fibers in the respiratory tract. The earliest and most prominent clinical finding, breathlessness upon exertion, rarely becomes apparent until at least a decade of exposure.

In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

A summary of the results of recent asbestos bulk sampling or air monitoring is attached to this notice.

A variety of exposure standards and health action levels have been established for various purposes:

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The Occupational Safety and Health Administration (OSHA) asbestos standards (Title 29 of the Code of Federal Regulations), which apply to employees who actually work with asbestos, mandate a permissible exposure limit (PEL) of 0.1 fibers per cubic centimeter of air (f/cc) determined as an 8 hour time weighted average (TWA) and an excursion limit of 1 f/cc as a 30 minute TWA. When employees are exposed at these levels, OSHA and Cal/OSHA (Title 8 of the California Code of Regulations) require medical monitoring and other control methods.

The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail, or pin anything onto, sand, move bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

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This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

The following pages are a summary of asbestos bulk sampling or air monitoring results that have been conducted at Pier 50 Shed B. Copies of the full sampling report(s) are available for review and photocopying at the Port of San Francisco Environmental Health and Safety Office (Pier 1, S.F.) between the hours of 8 a.m. and 5 p.m. The asbestos coordinator for this building is Tim Felton who can be reached at (415) 274-0582.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

PORT of San Francisco Asbestos Summary

Facility# 1500

Pier 50 **Shed B**

Survey Date	Room or Area	Condition of Suspect Material or Description of ACM	Handling Precautions and Restrictions	Abated
3/20/2007	Southwest office, Main room, north and west walls	The white finish coat on the concrete walls was found to contain 7% chrysotile asbestos.(RGA March 2007)	Do not drill into, cut into, damage or disturb this material.	No
3/20/2007	Southwest office. Main and back room and perimeter walls.	The joint compound on the drywall was found to contain 7% chrysotile asbestos. (RGA March 2007)	Do not drill into, cut into, damage or disturb this material.	No
6/4/1997	Pier Apron	The insulated pipe running along the deck in a box was sampled. Analysis by PLM found no asbestos in the insulation, but the gaskets at the pipe joints contain 70% asbestos. (NF-352)	Do not disturb pipe gasket material. If pipe is to be removed, a licensed asbestos abatement contractor must remove gaskets.	No
5/13/1997	Roof	Patching and caulking compounds on the roof were analyzed by PLM and contain 3-25 % chrysotile asbestos. Felt along the bottom of the clearstory windows was analyzed by PLM and contains 20% crysotile asbestos. (NF-346, NF-350)	Do not disturb these materials in any way.	No

Initial:
Port:
Tenant:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR: Pier 50 Shed C
FOR PERIOD THROUGH: April 2011

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to building built before 1979 where the owner knows that the building contains asbestos-containing materials; it does not require that a building be surveyed to determine the presence of asbestos.

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In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

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A variety of exposure standards and health action levels have been established for various purposes:

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The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail, or pin anything onto, sand, move bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

City employees required to enter areas and perform work activities that might involve the disturbance of asbestos materials have been trained in the proper procedures to minimize exposure. Work that requires major disturbances of asbestos materials (such as removal) is performed under specifications which include work practice procedures, removal techniques, clean up and clearance air sampling.

If any construction, maintenance, or remodeling is conducted in an area of the building where there is the potential for employees to come in contact with, or release or disturb asbestos containing building materials, it is required that the area be posted with a clear and conspicuous warning sign. The warning sign must read:

"CAUTION. ASBESTOS
CANCER AND LUNG DISEASE HAZARD
DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT"

Much of this information may be new to you. If you have questions about asbestos, you may call the Department of Public Health Toxic Substances Control Program at 252-3800 to answer your questions.

This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

The following pages are a summary of asbestos bulk sampling or air monitoring results that have been conducted at Pier 50 Shed C. Copies of the full sampling report(s) are available for review and photocopying at the Port of San Francisco Environmental Health and Safety Office (Pier 1, S.F.) between the hours of 8 a.m. and 5 p.m. The asbestos coordinator for this building is Tim Felton who can be reached at (415) 274-0582.

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PORT of San Francisco Asbestos Summary

Facility# 1500

Pier 50 **Shed C**

Survey Date	Room or Area	Content of Survey / Description of ACM	Handling Procedures and Restriction	Abated
7/6/1998	Exterior Walls, Upper Portion	Exterior corrugated asbestos-cement (Transite) panels are assumed to contain asbestos. Material found to be in good condition. (IH 7/17/98)	Do not drill into, cut into, sand, remove or disturb this material.	No
4/3/1997	Offices, Second Floor	Floor tiles were analyzed by PLM and found to contain 3-4% chrysotile asbestos. (NF-343)	A licensed asbestos abatement contractor removed floor tiles., Other floor tiles remaining in the building are assumed to contain asbestos.	No

Initial:
Port:
Tenant:

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IHI

LIMITED
HAZARDOUS MATERIALS SURVEY

PORT OF SAN FRANCISCO
PIER 50, SHED C
SAN FRANCISCO, CALIFORNIA

E N T A L

Property
Pier 50
7/17/98
0190

Port of San Francisco
Environmental Health & Safety

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

IHI
ENVIRONMENTAL

LIMITED
HAZARDOUS MATERIALS SURVEY

PORT OF SAN FRANCISCO
PIER 50, SHED C
SAN FRANCISCO, CALIFORNIA

IHI Project No. 98B-2105

July 17, 1998

Submitted to:

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City and County of San Francisco
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PENNSYLVANIA · 1960
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SALT LAKE CITY EMERYVILLE PHOENIX DENVER

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Hazardous Materials Survey and Assessment
Port of San Francisco
Pier 50, Shed C
San Francisco, California

Executive Summary

A hazardous materials survey was conducted by IHI Environmental (IHI), Emeryville, California, at Pier 50, Shed C, San Francisco, California. The survey was completed on July 6, 1998. The survey was requested by Roberto Aguirre of the San Francisco Department of Public Works (SFDPW) Bureau of Construction Management, and coordinated through Ellen Dehr of the Port of San Francisco (Port).

At the request of the Port, the areas surveyed were limited to the Westar office restroom, the women's restroom, and sections of the bays 36-38, as indicated on drawings provided by the Port.

The surveyed areas of suspect asbestos-containing materials did not contain any asbestos. Lead was detected at concentrations exceeding the HUD threshold of 0.5% in seven paints sampled. The paints on the metal corrugated draft stops and the rolling doors are flaking and deteriorated. The other lead-based paints are in fair to good condition.

I. Asbestos-Containing Materials

None of the suspect asbestos-containing materials sampled in the facility contained any asbestos.

The exterior transite panels are assumed to contain asbestos. This material is not present in the immediate area of the proposed scope of work, but is adjacent to the proposed work area. This material was found to be in good condition at the time of the inspection.

The laboratory analytical results of sampled suspect asbestos-containing material is included in the tables in Appendix A.

II. Lead-Based Paint

Lead-based paint was identified at concentrations above the HUD threshold of 0.5% in seven paints in the proposed work area. The silver and orange paint layers on the metal corrugated draft stop, located in bay 36, contain 6.28% lead by weight. This paint was in poor condition (due to weathering). The silver, white, and orange paint layers on the trusses, located in bays 36 and 38, contains 21.02% and 31.15% lead by weight respectively; the black and orange paint layers on column 36, contains 37.96 lead by weight; and the gray and orange paint layers on rolling doors and door frame, located in bay 38, contains 6.10%, 16.39%, and 13.35% lead by weight

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respectively. The other paints sampled found detectable lead, but at less than the HUD threshold of 0.5% lead. These paints were in fair to good condition.
The lead survey is included in Section 4.0. A table of all locations with results of the paint chip sample analyses is included in Appendix B.

The presence of lead, and lead-based paint, requires that special precautions be taken during any construction or demolition work to ensure that individuals involved in the work are adequately protected against excessive exposure to lead-containing dust. Cal/OSHA regulates lead exposures for the construction industry in 8 CCR 1532.1. Compliance with this standard should be specifically required of any persons involved in construction or demolition activities. In addition, the California Department of Health Services (DHS) requires certified workers and supervisors when abating paint, as well as certain other requirements. The City and County of San Francisco Exterior Lead Paint Ordinance also applies to exterior lead-based paint on this facility.

Soil and settled dust wipe samples were not collected during this project.

III. Other Hazardous Materials

Other hazardous materials were not evaluated during this survey. Other hazardous materials in the proposed work area may include pre-existing dirt or residue on the floor.

IV. Comments and Recommendations

1. None of the suspect asbestos-containing materials sampled in this survey contained any asbestos. These materials can be removed or disturbed under normal demolition (non-asbestos) procedures. The results of this survey do not necessarily extend to other materials found in the facility.

2. The transite exterior panels are assumed to contain asbestos. This material is not present in the immediate area of the proposed scope of work, but is adjacent to the proposed work area. The transite panels should not be impacted by the proposed work. This material should be included in the facility's Operations & Maintenance (O&M) program.

3. The damaged lead-based paint, and any lead-based paint which is likely to be disturbed during the proposed work, should be removed and properly disposed, or otherwise stabilized. Any removal or abatement should be done by a licensed contractor and workers with California Department of Health Services (DHS) interim certification in lead-related construction. All contractors and subcontractors should be notified of the presence of the lead-based paint.

4. Other potential hazardous materials unique to this facility should be properly removed and/or managed during the proposed renovation.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

5. Any employees, visitors, and contractors entering this structure should be notified of the presence and condition of the lead-based paints in accordance with applicable regulations.

V. Cost Estimates

No asbestos-containing materials are present in the proposed work area, so no asbestos abatement costs are applicable. Lead abatement costs are not estimated at this time, as the scope of lead-based paint removal and the method of removal are not yet determined.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Table of Contents

Section	Title	Page #
1.0	Introduction	1
2.0	Area Description	1
3.0	Asbestos Materials Survey	1
3.1	Building Survey	1
3.2	Bulk Sample Collection	2
3.3	Sample Analysis	2
3.4	Bulk Sample Analytical Results	2
3.5	Asbestos-Containing & Non-Asbestos-Containing Materials	2
3.6	Damage Assessment of Asbestos-Containing Materials	3
3.7	Response Actions	3
3.8	Inaccessible Areas / Materials	4
4.0	Lead Survey	4
4.1	Background	4
4.2	Paint Chip Sampling	4
4.3	Damaged Lead-Based Paints	5
4.4	Lead in Soil Sampling	6
4.5	Lead in Dust Sampling	6
4.6	OSHA Specific Requirements	6
4.7	Waste Disposal Requirements	6
5.0	Other Site Conditions	7
6.0	Limitations and Exclusion of Warranty	7

Appendices

A. Asbestos Data Tables
   - Table A-1 - Asbestos-Containing Materials
   - Table A-2 - Non-Asbestos-Containing Materials
   - Table A-3 - Bulk Sample Analytical Results

B. Lead Data Table
   - Table B-1 - Lead Paint Chip Analytical Results (AAS)

C. Asbestos Laboratory Analytical Reports

D. Lead Laboratory Analytical Reports

E. Abatement Cost Estimation

F. Sample Locations

G. Asbestos-Containing Material Locations

H. IHI Employee Certifications

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Hazardous Materials Survey and Assessment
Port of San Francisco
Pier 50, Shed C
San Francisco, California

1.0 Introduction

On July 6, 1998, IHI Environmental (IHI), Emeryville, California, conducted a hazardous materials survey at Pier 50, Shed C, San Francisco, California. The survey was requested by Roberto Aguirre of the San Francisco Department of Public Works (SFDPW) Bureau of Construction Management, and coordinated through Ellen Dehr of the Port of San Francisco (Port).

The survey was completed by Joffrey Kabiling, Environmental Specialist, and John Heim, CIH, Senior Industrial Hygienist. Mr. Kabiling is a State of California Department of Occupational Safety and Health (Cal/OSHA) Site Surveillance Technician (accreditation #95-1760) and is interim-certified by the California Department of Health Services (DHS) Lead-Related Construction in Inspection/Risk Assessment (#I771). Mr. Heim is a Cal/OSHA Certified Asbestos Consultant (#94-1492) and DHS Lead-Related Construction Inspector/Risk Assessor (#I765).

The purpose of the survey was to identify the existence, extent, and condition of both friable and non-friable asbestos-containing materials (ACM) and lead-based paints (LBP) prior to a planned renovation project in the facility. The presence of other materials which may impact the planned work were noted when found. Recommendations for corrective action are provided.

2.0 Area Description

Pier 50 contains at least five separate structures. This survey was limited to the proposed scope of work in Shed C, located on the northeast corner of the pier. The structure constructed of a steel and concrete frame with concrete slab floor. The interior walls of the shed are concrete and wood.

The shed contains several interior structures which are of wood frame and siding. These structures include an administration office, shop structure, and restroom structures.

3.0 Asbestos Building Materials Survey

3.1 Building Survey

The survey areas were visually inspected for asbestos-containing material (ACM). All accessible surfaces, and structures were examined. Suspected ACM was touched to determine friability, where accessible.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Suspect ACM was identified and assessed in terms of homogeneous areas. A homogeneous area was defined as a single material, uniform in texture and appearance, installed at one time, and unlikely to consist of more than one type or formulation of material.

3.2 Bulk Sample Collection

Bulk samples were collected from accessible homogeneous areas of suspect ACM for subsequent laboratory analysis to determine actual asbestos content. Sampling was conducted in a manner that minimized damage to the building, did not leave any unsightly marks, and did not create a health hazard for building occupants or inspectors.

The number of samples collected from each homogeneous area generally followed the EPA Asbestos Hazard Emergency Response Act (AHERA) regulations. Though they do not legally apply to this property, the AHERA regulations provide the most comprehensive and acceptable guidelines for conducting asbestos materials surveys. One or more samples of non-friable miscellaneous materials were collected, depending upon the type and quantity of the material. Locations of samples are recorded on the site map in Appendix F.

3.3 Sample Analysis

Bulk samples were analyzed using polarized light microscopy (PLM) in accordance with the EPA Interim Method for the Determination of Asbestos in Bulk Insulation Samples, EPA-600/M4-82-020. Samples were analyzed by Micro Analytical Laboratories, Inc., of Emeryville, California, which is accredited under the National Institute of Standards and Technology - National Voluntary Laboratory Accreditation Program (NVLAP) for bulk asbestos sample analysis (accreditation #101872).

3.4 Bulk Sample Analytical Results

Analytical results of the bulk samples are summarized in Table A-3 (Appendix A). Laboratory analytical reports are included in Appendix C of this report.

Asbestos-containing materials and non-asbestos materials are listed in Tables A-1 and A-2 in Appendix A. The tables of Appendix A are:

Table A-1 - Asbestos-Containing Materials
Table A-2 - Non-Asbestos-Containing Materials
Table A-3 - Bulk Sample Analytical Results

3.5 Asbestos-Containing and Non-Asbestos-Containing Materials

Homogeneous areas of building materials are considered to be ACM if the laboratory analysis shows the material to contain greater than 0.1% asbestos. Table A-1, located

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

in Appendix A of this report, lists all homogeneous areas that were analyzed for asbestos content, as determined by PLM analysis. Table A-1 also includes those materials assumed to contain asbestos.

No asbestos-containing materials were identified within the proposed work area.

Homogeneous areas of suspect ACM are identified as *non*-ACM if the laboratory analysis shows the material to contain no detectable levels of asbestos. Table A-2, located in Appendix A of this report, lists all homogeneous areas that were found to be non-ACM.

Friable asbestos material is defined by AHERA and the National Emissions Standard for Hazardous Air Pollutants (NESHAP) as any material containing more than 1% asbestos, as determined by the PLM method, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. NESHAP specifies that if the asbestos content of a sample is less than 10%, the asbestos content of the sample must either be verified by point counting, or assumed to contain greater than 1% asbestos and treated as such.

The NESHAP and AHERA regulations define ACM as material containing greater than or equal to 1% asbestos by weight; materials containing less than 1% asbestos are not ACM under NESHAP and AHERA. However, Cal/OSHA worker protection regulations define asbestos-containing material to be any material greater than 0.1% asbestos by weight.

Any other suspect materials found during the renovation or demolition which were not uncovered during this survey should be immediately evaluated for the presence of asbestos.

3.6 Damage and Hazard Assessment of Asbestos-Containing Materials

Each homogeneous area of ACM was assessed for existing damage and potential for future damage. No asbestos-containing materials were identified within the proposed work area in Shed C.

The exterior transite panels are assumed to contain asbestos. This material is not present in immediate area of proposed scope of work, but it is adjacent to the proposed work area, and should not be impacted by the proposed scope of work. This material was in good condition at the time of the inspection.

3.7 Response Actions

No asbestos-containing materials were identified within the proposed work area. The materials in these areas can be removed or disturbed under normal demolition (non-asbestos) procedures.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

The exterior transite panels are assumed to contain asbestos. The material should be included in the facility's Operations & Maintenance (O&M) program.

3.8 Inaccessible Areas / Materials

The following areas and/or materials were inaccessible during the asbestos survey and were not inspected:

Inaccessible Locations
- Ceiling spaces above the administration and restroom structures.

Inaccessible Materials
- None known

4.0 LEAD AND LEAD-BASED PAINT SURVEY

4.1 Background

Paints and coatings within the areas of the survey were sampled and analyzed for the presence of lead. The purpose of the sampling was to identify lead-containing paints which may be impacted by the proposed renovation project.

The U.S. Department of Housing and Urban Development (HUD) is the agency responsible for assessing publicly owned housing for LBP hazards and they have developed and defined the procedures used for measuring LBP in the residential setting. The *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (HUD Guidelines), dated June 1995, represent the state-of-the-art procedures in LBP inspections, and are the most comprehensive methods available for assessing LBP in residential properties. Although the HUD Guidelines do not strictly apply to non-HUD facilities they do provide an industry standard for the testing and assessment of lead in soil, dust, and paint.

4.2 Paint Chip Sampling

A limited lead-based paint (LBP) inspection was carried out using paint-chip sampling and subsequent laboratory analysis. A total of four (14) paint-chip samples were collected from surface coatings on structural and building components.

Paint-chip sampling and analysis resulted in seven (7) sample exceeding the U.S. Department of Housing and Urban Development (HUD) definition of lead-based paint (i.e., 0.5% by weight or 5,000 ppm). Seven other samples had detectable concentrations of lead, though less than 0.5% lead by weight.

High Lead Content (≥ 0.5% lead by weight) as determined by AAS analysis

- Silver, white, and orange paint layers, on trusses;
- White and orange paint layers, on metal corrugated draft stops;

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

- Black and orange paint layers, on metal columns; and
- Gray and orange paint layers on metal rolling door and door frames (interior and exterior surfaces).

Moderate or Low Lead Content (<0.5% lead by weight) as determined by AAS analysis

- Blue, white, and green paint layers, on wood door in Westar office men's room;
- White and green paint layers, on wood door frame in Westar office men's room;
- White, red, and green paint layers, on plaster wall in Westar office men's room;
- White paint on wood door frame and wall in women's restroom structure;
- White and pink paint layers, on plaster wall in women's restroom structure; and
- Gray coating on concrete floor in women's restroom structure.

Paint-chip sample analysis was performed by Micro Analytical Laboratories, Inc. (MAL) of Emeryville, California. MAL has fulfilled the requirements for the Environmental Lead Laboratory Accreditation Program (ELLAP) as recognized by the American Industrial Hygiene Association (AIHA) and established under Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (ID #11150).

Paint-chip samples were prepared by the hotplate digestion method and analyzed by Flame Atomic Absorption Spectrometry (FAAS). Laboratory analysis was administered in accordance with EPA's *"Standard Operating Procedures for Lead in Paint by Hotplate or Microwave-based Acid Digestion and Atomic Absorption or Inductively Coupled Plasma Emission Spectrometry"* (EPA/600/8-91/213, NTIS Document No. PB92-114172).

The analytical results of the paint-chip sampling conducted at this facility are presented in Appendix B of this report. Paint-chip sample collection locations are recorded on the floor plan diagrams found in Appendix F of this report. The lead in paint analysis reports are located in Appendix D of this report.

No X-Ray Fluorescence (XRF) Spectrophotometry was conducted during this survey.

4.3 Damaged lead-based paints

The silver and orange paint layers on the metal corrugated draft stop, located in bay 36, contains 6.28% lead by weight. This paint was in poor condition due to flaking and deterioration from weather exposure. The paints on the interior surfaces of the rolling doors and door frames, which contain 6.10 to 16.39% lead, were also in poor condition. The other paints were found in good to fair condition.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

4.4 Lead in Soil Sampling

Soil samples were not collected during this project.

4.5 Lead in Dust Sampling

Settled dust wipe samples were not collected during this project.

4.6 OSHA Specific Requirements

The presence of lead, and lead-based paint, requires that special precautions be taken during any construction or demolition work to ensure that individuals involved in the work are adequately protected against excessive exposure to lead-containing dust. Cal/OSHA regulates lead exposures for the construction industry in 8 CCR 1532.1. Compliance with this standard should be specifically required of any persons involved in construction or demolition activities. While a building component may contain lead within a paint at concentrations less than the HUD regulatory level of 1.0 mg/cm^2 (or 5,000 ppm), sanding, heating, grinding, or other disturbance of such surfaces, can still result in airborne lead dust levels exceeding the Cal/OSHA permissible exposure limit (PEL).

Cal/OSHA regulations include additional requirements for LBP abatement and training accreditation for those involved in LBP abatement and project management.

The California Department of Health Services (DHS) passed emergency regulations in March 1998 which require certified workers and supervisors for lead-based paint abatement, containment measures, and clearances. These requirements apply to paints above 0.5% lead.

4.7 Waste Disposal Requirements

The California Department of Toxic Substances Control (DTSC) does not generally consider intact painted building materials to be hazardous waste. As such DTSC would not require the disposal of the debris as a hazardous waste. The determination is dependent, in part, upon the physical state of the waste. If the paint is separated from the building material during the demolition or dismantling of the building, (e.g., chemically or physically removed) then the paint waste should be evaluated independently from the building material to determine proper disposal management.

The waste generated from the cleanup of the damaged lead-based paint on the draft stops and rolling doors, as well as any paints removed during the renovation, will likely be a California hazardous waste, as the analytical results of the paint chip sampling exceed the California hazardous waste criteria.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

5.0 OTHER SITE CONDITIONS

Other potential hazardous materials unique to this facility should be properly removed or managed during the proposed scope of work.

6.0 LIMITATIONS AND EXCLUSION OF WARRANTY

This hazardous materials survey and assessment was performed using procedures and a level of diligence typically exercised by professional consultants performing similar services. However, asbestos-containing material (ACM), lead-based paint, and other hazardous materials can be present in a structure, but not identified using ordinary investigative procedures.

No hazardous materials survey can completely eliminate uncertainty regarding the presence of ACM or LBP or other hazardous materials. IHI's level of diligence and investigative procedures are intended to reduce, but not eliminate, potential uncertainty regarding the presence of hazardous materials. The procedures used for this survey attempt to establish a balance between the competing goals of limiting investigative costs, time, and building damage, and reducing the uncertainty about unknown conditions. Therefore, the determinations in this report should not be construed as a guarantee that all hazardous materials present in the subject property have been included in this report.

This report presents IHI's professional determinations, which are dependent upon information obtained during performance of consulting services. IHI assumes no responsibility for omissions or errors resulting from inaccurate information provided by sources outside of IHI.

No warranty or guarantee, expressed or implied, is made regarding the findings, conclusions or recommendations contained in this report. The limitations presented above supersede the requirements or provisions of all other contracts or scopes of work, implied or otherwise, except those stated or acknowledged herein.



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Appendix A

Asbestos Data Tables

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Table A-1: Asbestos-Containing Materials

Homog. Area #	Homogeneous Area	Locations of Material	Quantity	% Asbestos	Friability	Condition
M02	Transite exterior panels	Exterior, upper tier walls	not quantified	Assumed Asbestos	Nonfriable	Good

This material is not present in immediate area of proposed scope of work, but is adjacent to the proposed work area. This material should not be impacted by the proposed scope of work. This material is assumed to contain asbestos.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Table A-2: Non-Asbestos Containing Materials

Area #	Homogeneous Area Description	Material Locations	Reference Samples
S01	Cementitious wall plaster	Westar office restroom and women's restroom (walls and ceiling)	50, 51, 52, 53

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Table A-3: Bulk Sample Analytical Results

Sample #	Homog. Area #	Homogeneous Area	Sample Location	Analytical Results (%)
2105-0706- 50	S01	Cementitious wall plaster	Women's restroom - north wall	Paint & plaster: none detected
2105-0706- 51	S01	Cementitious wall plaster	Westar office restroom - at doorway	Paint & plaster: none detected
2105-0706- 52	S01	Cementitious wall plaster	Westar office restroom - in janitor's area	Paint & plaster: none detected
2105-0706- 53	S01	Cementitious wall plaster	Westar office - NW corner next to sink	Paint & plaster: none detected

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Appendix B

Lead Data Tables

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Table B-1: Paint Chip Analytical Results (AAS)

Sample #	Paint/Coating	Component	Substrate	Location	Analytical Results (%)
2105-0706- 01	Silver/white/orange paint layers	Truss	Metal	Truss adjacent to column 38	31.15%
2105-0706- 02	White/orange paint layers	Corrugated draft stop	Metal	Draft stop adjacent to column 36	6.28%
2105-0706- 03	Silver/white/orange paint layers	Truss	Metal	Truss adjacent to column 36	21.02%
2105-0706- 04	Black/orange paint layers	Column	Metal	Column 36	37.96%
2105-0706- 05	Blue/white/green paint layers	Door	Wood	Westar office, men's restroom entrance	0.03%
2105-0706- 06	White/green paint layers	Door frame	Wood	Westar office, men's restroom doorway	0.08%
2105-0706- 07	White/red/green paint layers	Wall	Cementitious plaster	Westar office, men's restroom wall (baseboard level)	0.39%
2105-0706- 08	Gray/orange paint layers	Rolling door	Metal	Rolling door 38 interior face	6.10%
2105-0706- 09	Gray/orange paint layers	Rolling door frame	Metal	Rolling door 38 interior door frame	13.35%
2105-0706- 10	Dark gray/orange paint layers	Rolling door	Metal	Rolling door 38 exterior face	16.39%
2105-0706- 11	White paint	Door frame	Wood	Women's restroom entrance door	0.06%
2105-0706- 12	White/pink paint layers	Wall	Cementitious plaster	Women's restroom north wall	0.08%
2105-0706- 13	Gray coating	Floor	Concrete	Women's restroom floor	0.01%
2105-0706- 14	White paint	Wall	Wood	Women's restroom exterior wall	0.26%

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Appendix C

Asbestos Laboratory Analytical Reports

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MICRO ANALYTICAL LABORATORIES, INC.

BULK ASBESTOS ANALYSIS BY PLM

1098

IHI Environmental
1260 45th Street, Suite L
Emeryville, CA 94608

PROJECT:
S.F.D.P.W. PIER 50
PROJECT NO. 98B-2105

Date Sampled 7/6/98
Date Received 7/7/98
Date Analyzed 7/7/98
Total Samples 4
Micro Log In **57524**

SAMPLE INFORMATION	ASBESTOS MINERALS QUANTITY	ASBESTOS MINERALS TYPE	NON ASBESTOS FIBERS QUANTITY	NON ASBESTOS FIBERS TYPE	NON FIBROUS MATERIALS / ADDITIONAL LAB DATA
Client: 2105-0706-50 Micro: 57524-01 Analyst: HD BK WOMENS' RESTROOM NORTH WALL CEMENTITIOUS PLASTER WALL	See Descriptions	PAINT: ND PLASTER: ND			BINDER QUARTZ ROCK FRAGMENTS SYNTHETIC MATERIAL QC Result*: A
Client: 2105-0706-51 Micro: 57524-02 Analyst: HD WESTAR OFFICE, MENS' RESTROOM DOORWAY ENTRANCE	See Descriptions	PAINT: ND PLASTER: ND			BINDER QUARTZ ROCK FRAGMENTS SYNTHETIC MATERIAL
Client: 2105-0706-52 Micro: 57524-03 Analyst: HD WESTAR OFFICE, MENS' RESTROOM JANITOR'S OFFICE	See Descriptions	PAINT: ND PLASTER: ND			BINDER QUARTZ ROCK FRAGMENTS SYNTHETIC MATERIAL
Client: 2105-0706-53 Micro: 57524-04 Analyst: HD WESTAR OFFICE, N.W. CORNER NEXT TO MENS' RESTROOM TO SINK	See Descriptions	PAINT: ND PLASTER: ND			BINDER QUARTZ ROCK FRAGMENTS SYNTHETIC MATERIAL

Technical Supervisor: Baojia Ke 7/7/98

Baojia Ke, Ph. D.

Analysis method: Polarized Light Microscopy (PLM), EPA/600/R-93/116, 1993. ND: None detected by PLM. Units: area percent. Weight percent cannot be determined by PLM visual estimation or by point counting. Asbestos fibers with diameter less than approximately 0.25 micrometers cannot be detected by PLM. The absence of asbestos in dust samples, and in some non-friable materials, including floor tiles, cannot be conclusively established by PLM, and should be independently confirmed by Transmission Electron Microscopy (TEM). Only dominant non-fibrous materials are indicated; other miscellaneous particles are present in most samples. Preparation (all samples): grinding, milling; teasing bundles apart; drying moisture, if present, by hotplate heating. Acid dissolution, ashing, or other techniques may be applied to some complicated samples; if so, it is noted in the report. Notes are made if point counting is used; otherwise, asbestos is quantified by calibrated visual estimation. The detection limit is material dependent. The lower and upper quantitation limits of PLM are 1% and 100%, respectively. The MCL (Maximum Contaminant Level), per CCR Title 22, Sec. 66261.24(a)(2)(A), is 1.0% asbestos. The Cal-OSHA definition of asbestos-containing construction material is 0.1% asbestos; however, determination of asbestos content at this level cannot be done by PLM, and requires TEM re-analysis.Individual layers of heterogeneous samples are analyzed separately; asbestos percentages are reported for individual layrs. Composite asbestos percentages on multilayered samples are applicable only to layered wall systems (sheetrock, joint compound, and related materials). *Quality Control (QC) Codes: A = all materials confirmed (re-analysis is within acceptance limits); B = no asbestos detected in lab blank (NIST SRM 1876 Fibrous Glass); C = all materials confirmed after multiple result resolutions. NIST / NVLAP Accreditation (Bulk Asbestos) Lab Code: #101872. This report must not be used to claim product endorsement by NIST or any agency of the U.S. Government. This report must not be reproduced except in full, with the approval of Micro Analytical Laboratories, Inc. This report pertains only to the listed samples, as submitted to and analyzed by Micro Analytical Laboratories, Inc.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

MICRO ANALYTICAL LABORATORIES, INC.

5900 HOLLIS STREET, SUITE M, EMERYVILLE, CALIFORNIA 94608
(510) 653-0824 - (510) 653-1361 - FAX

57524

1098

Job Site

P.O. Number 98B-2105

Type Bulk

TEM PLM PCM AA(Pb)

IHI Environmental
1260 45th Street, Suite L
Emeryville, CA 94608-2907
(510) 923-1661 fax: (510) 923-1468

SF DPW
Pier 50
Bulk Samples

Number of Samples 4

Turn Around Time 24 HRS

Micro ID #	Client ID#	Location / Description	Date Sampled	Time Total	on/off Minutes	Average L.P.M.	Total Liters	Filter Pore Size
	2105-0704-50	womens restroom northwall, cementitious plaster wall	7/6	:	:			
	2105-0704-51	westar office, men's restroom doorway entrance		:	:			
	2105-0704-52	westar office, men's restroom janitor's office		:	:			
	2105-0704-53	westar office, NW corner next men's restroom to sink		:	:			
				:	:			
				:	:			
				:	:			
				:	:			
				:	:			
				:	:			

Return Samples to Client: Yes ____ No ____

Notes: Fax result

Ann Nguyen 7/6/98

Relinquished By — Date / Time

Mark Olivares 7/6/98 18:30

Received By — Date / Time

Relinquished by — Date / Time

Received By — Date / Time

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Appendix D

Lead Laboratory Analytical Reports

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

MICRO ANALYTICAL LABORATORIES, INC.

FLAME AA - LEAD IN PAINT - EPA SOP (1991)

1098
IHI Environmental
1260 45th Street, Suite L
Emeryville, CA 94608

PROJECT:
S.F.D.P.W. PIER 50
PAINT CHIPS
PROJECT NO. 98B-2105

Micro Log In **57530**
Total Samples 10
Date Sampled 7/6/98
Date Received 7/7/98
Date Reported 7/7/98

Sample ID	Lead Concentration Weight Percent	Lead Concentration mg/kg (ppm)	Detection Limit (mg/kg)
Client: 2105-0706-01 Lab: 57530-01 COL. 36 TRUSS SILVER, WHITE, ORANGE	31.15%	311,538	5,601
Client: 2105-0706-02 Lab: 57530-02 COL. 36 CORR. DRAFT STOP WHITE, ORANGE	6.28%	62,785	778
Client: 2105-0706-03 Lab: 57530-03 COL. 36 TRUSS SILVER, WHITE, ORANGE	21.02%	210,243	5,071
Client: 2105-0706-04 Lab: 57530-04 COL. 36 CENTER COLUMN BLACK , ORANGE	37.96%	379,590	6,751
Client: 2105-0706-05 Lab: 57530-05 WESTAR OFFICE, MENS' ROOM, ENTRANCE DOOR BLUE, WHITE, GREEN	0.03%	321	54

Technical Supervisor: F. Rameznazaden 7/7/98 Analyst: HC

Farid Rameznazaden, M.S.

AIHA ELLAP Accredited Laboratory, ID #11150. Samples are analyzed by Flame Atomic Absorption Spectrometry in accordance with EPA's "Standard Operating Procedures for Lead in Paint by Hotplate- or Microwave-based Acid digestions and Atomic Absorption or Inductively Coupled Plasma Emission Spectrometry" (1991), EPA/600/8-91/213, NTIS Document No. PB92-114172. Samples are prepared by hotplate digestion with nitric acid and hydrogen peroxide, and analyzed by Flame AA. This report must not be reproduced except in full, with the approval of Micro Analytical Laboratories, Inc., and pertains only to the samples analyzed. Unit explanations: mg = milligrams; kg = kilograms; ppm = parts per million. N/A = Not Applicable.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

MICRO ANALYTICAL LABORATORIES, INC.

FLAME AA - LEAD IN PAINT - EPA SOP (1991)

1098
IHI Environmental
1260 45th Street, Suite L
Emeryville, CA 94608

PROJECT:
S.F.D.P.W. PIER 50
PAINT CHIPS
PROJECT NO. 98B-2105

Micro Log In **57530**
Total Samples 10
Date Sampled 7/6/98
Date Received 7/7/98
Date Reported 7/7/98

Sample ID	Lead Concentration Weight Percent	Lead Concentration mg/kg (ppm)	Detection Limit (mg/kg)
Client: 2105-0706-06 Lab: 57530-06 WESTAR OFFICE, MENS' ROOM WALK DOORWAY WHITE, GREEN	0.08%	844	59
Client: 2105-0706-07 Lab: 57530-07 WESTAR OFFICE, MENS' ROOM WALL BASEBOARD LEVEL WHITE, RED, GREEN	0.39%	3,919	58
Client: 2105-0706-08 Lab: 57530-08 INTERIOR DOOR 38 ON METAL GRAY, ORANGE	6.10%	60,987	671
Client: 2105-0706-09 Lab: 57530-09 INTERIOR DOOR 36 FRAME ON METAL GRAY, ORANGE	13.35%	133,481	883
Client: 2105-0706-10 Lab: 57530-10 EXTERIOR DOOR 38 ON METAL DARK GRAY, ORANGE	16.39%	163,945	894

Technical Supervisor: _____ 7/7/98 Analyst: HC
Farid Ramezanzadeh, M.S.

AIHA ELLAP Accredited Laboratory, ID #11150. Samples are analyzed by Flame Atomic Absorption Spectrometry in accordance with EPA's "Standard Operating Procedures for Lead in Paint by Hotplate- or Microwave-based Acid digestions and Atomic Absorption or Inductively Coupled Plasma Emission Spectrometry" (1991), EPA/600/8-91/213, NTIS Document No. PB92-114172. Samples are prepared by hotplate digestion with nitric acid and hydrogen peroxide, and analyzed by Flame AA. This report must not be reproduced except in full, with the approval of Micro Analytical Laboratories, Inc., and pertains only to the samples analyzed. Unit explanations: mg = milligrams; kg = kilograms; ppm = parts per million. N/A = Not Applicable.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

MICRO ANALYTICAL LABORATORIES, INC.

5900 HOLLIS STREET, SUITE M, EMERYVILLE, CALIFORNIA 94608
(510) 653-0824 - (510) 653-1361 - FAX

57532

1098

Job Site

P.O. Number 98B-2105

Type Paint chips
TEM FLM FCM AA(Pb)

Number of Samples 10

Turn Around Time 24 Hrs.

IHI Environmental
1260 45th Street, Suite L
Emeryville, CA 94608-2907
(510) 923-1661 fax: (510) 923-1468

SFDPW
Pier 50
Paint chips

Micro ID #	Client ID#	Location / Description	Date Sampled	Time Total	on/off Minutes	Average L.P.M.	Total Liters	Filter Pore Size
	2105-0706-01	Col. 36 Truss, silver, white, orange	7/6	:	:			
	2105-0706-02	Col. 36 Corr. draft stop, white orange		:	:			
	2105-0706-03	Col. 36 Truss, silver, white, orange		:	:			
	2105-0706-04	Col. 36 center colum, black, orange		:	:			
	2105-0706-05	Westar office, men's room, entrance door, blue, white, green		:	:			
	2105-0706-06	Westar office, men's room walk doorway, white, green		:	:			
	2105-0706-07	Westar office, men's room, wall baseboard level, white, red, green		:	:			
	2105-0706-08	Interior door 38 on metal gray, orange		:	:			
	2105-0706-09	Interior door 38 frame on metal gray, orange		:	:			
	2105-0706-10	Exterior door 38 on metal, dark gray, orange.		:	:			

Return Samples to Client: Yes ____ No ____

Notes: Fax results.

Ann Nguyen 7/6/98
Relinquished by Date / Time

Mark Oliviera 7/6/98 18:30
Received By Date / Time

Relinquished by Date / Time

Received By Date / Time

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

MICRO ANALYTICAL LABORATORIES, INC.

FLAME AA - LEAD IN PAINT - EPA SOP (1991)

1098
IHI Environmental
1260 45th Street, Suite L
Emeryville, CA 94608

PROJECT:
S.F.D.P.W. PIER 50
PAINT CHIPS
PROJECT NO. 98B-2105

Micro Log In **57529**
Total Samples 4
Date Sampled 7/6/98
Date Received 7/7/98
Date Reported 7/7/98

Sample ID	Lead Concentration Weight Percent	Lead Concentration mg/kg (ppm)	Detection Limit (mg/kg)
Client: 2105-0706-11 Lab: 57529-01 WOMENS' RESTROOM DOOR FRAME, WHITE	0.06%	608	49
Client: 2105-0706-12 Lab: 57529-02 WOMENS' RESTROOM NORTH WALL, WHITE ON PINK	0.08%	800	43
Client: 2105-0706-13 Lab: 57529-03 WOMENS' RESTROOM CONCRETE FLOOR, GRAY	0.01%	54	46
Client: 2105-0706-14 Lab: 57529-04 WOMENS' RESTROOM EXTERIOR WALL, WHTIE	0.26%	2,590	44

Technical Supervisor: _____ 7/7/98 Analyst: HC
Farid Ramezanzadeh, M.S.

AIHA ELLAP Accredited Laboratory, ID #11150. Samples are analyzed by Flame Atomic Absorption Spectrometry In accordance with EPA's "Standard Operating Procedures for Lead in Paint by Hotplate- or Microwave-based Acid digestions and Atomic Absorption or Inductively Coupled Plasma Emission Spectrometry" (1991), EPA/600/8-91/213, NTIS Document No. PB92-114172. Samples are prepared by hotplate digestion with nitric acid and hydrogen peroxide, and analyzed by Flame AA. This report must not be reproduced except in full, with the approval of Micro Analytical Laboratories, Inc., and pertains only to the samples analyzed. Unit explanations: mg = milligrams; kg = kilograms; ppm = parts per million. N/A = Not Applicable.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

MICRO ANALYTICAL LABORATORIES, INC.

5900 HOLLIS STREET, SUITE M, EMERYVILLE, CALIFORNIA 94608
(510) 653-0824 - (510) 653-1361 - FAX

57529

1098

Job Site

SFDPW
Pier 50
Paint Chips

P.O. Number 988-2105

Type Paint Chips
TEM PLM PCM AA(Pb)

Number of Samples 4

Turn Around Time 24 HRS

IHI Environmental
1260 45th Street, Suite L
Emeryville, CA 94608-2907
(510) 923-1661 fax: (510) 923-1466

Micro ID #	Client ID#	Location / Description	Date Sampled	Time Total	on/off Minutes	Average L.P.M.	Total Liters	Filter Pore Size
	2105-0706-11	Women's restroom, door frame white	7/6	:	:			
	2105-0706-12	Women's restroom, north wall, white on pink		:	:			
	2105-0706-13	Women's restroom, concrete floor, gray		:	:			
	2105-0706-14	Women's restroom, exterior wall white.		:	:			
				:	:			
				:	:			
				:	:			
				:	:			
				:	:			
				:	:			

Return Samples to Client: Yes ____ No ____

Notes: Fax results

Ann Nguyen 7-6-98
Relinquished by Date / Time

Mark Olivares 7/6/98 18:30
Received By Date / Time

Relinquished by Date / Time

Received By Date / Time

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Appendix E

Abatement Cost Estimation

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

No known asbestos-containing materials are within the proposed work area

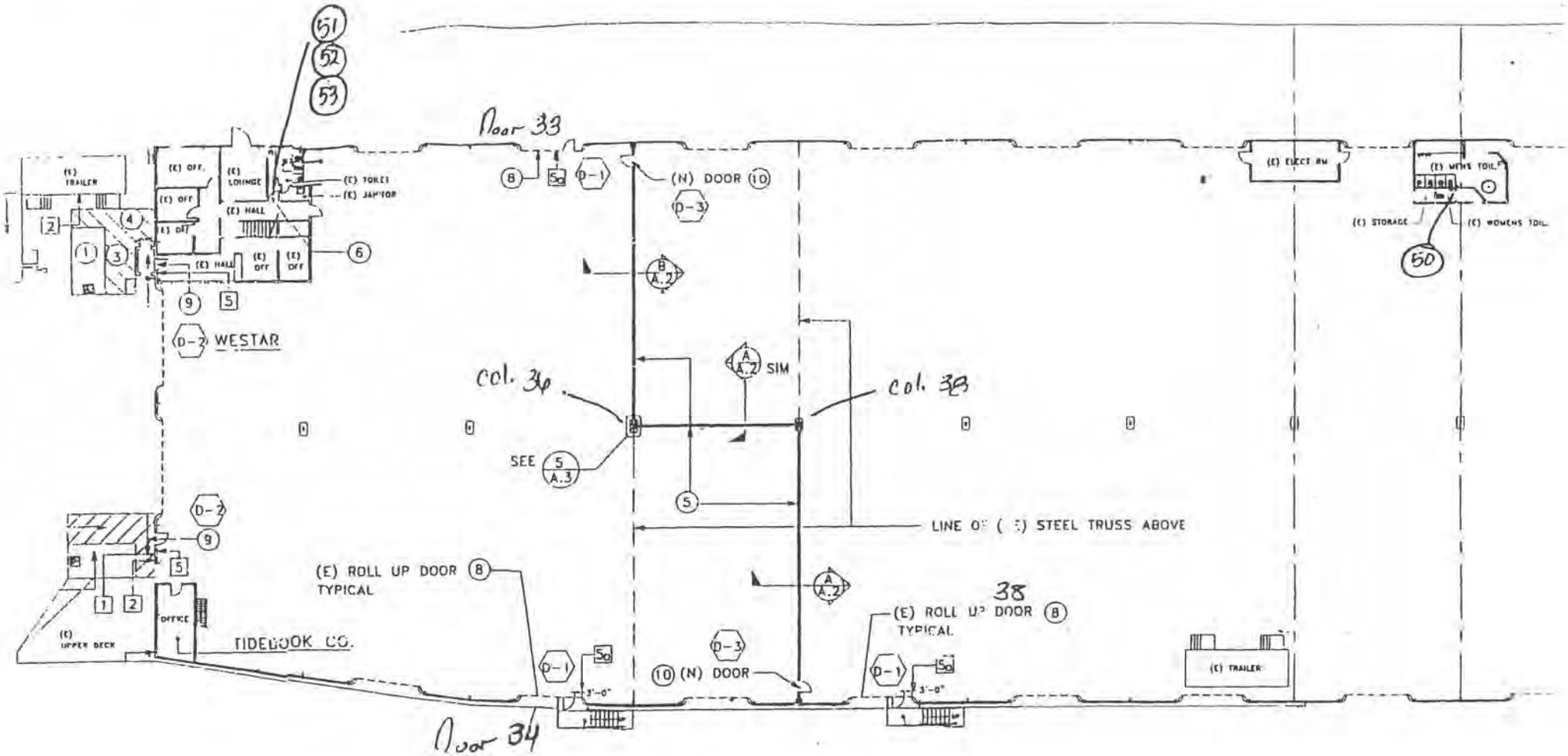
See Executive Summary for discussion of lead-based paint abatement costs

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Appendix F

Asbestos and Lead Sample Locations

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

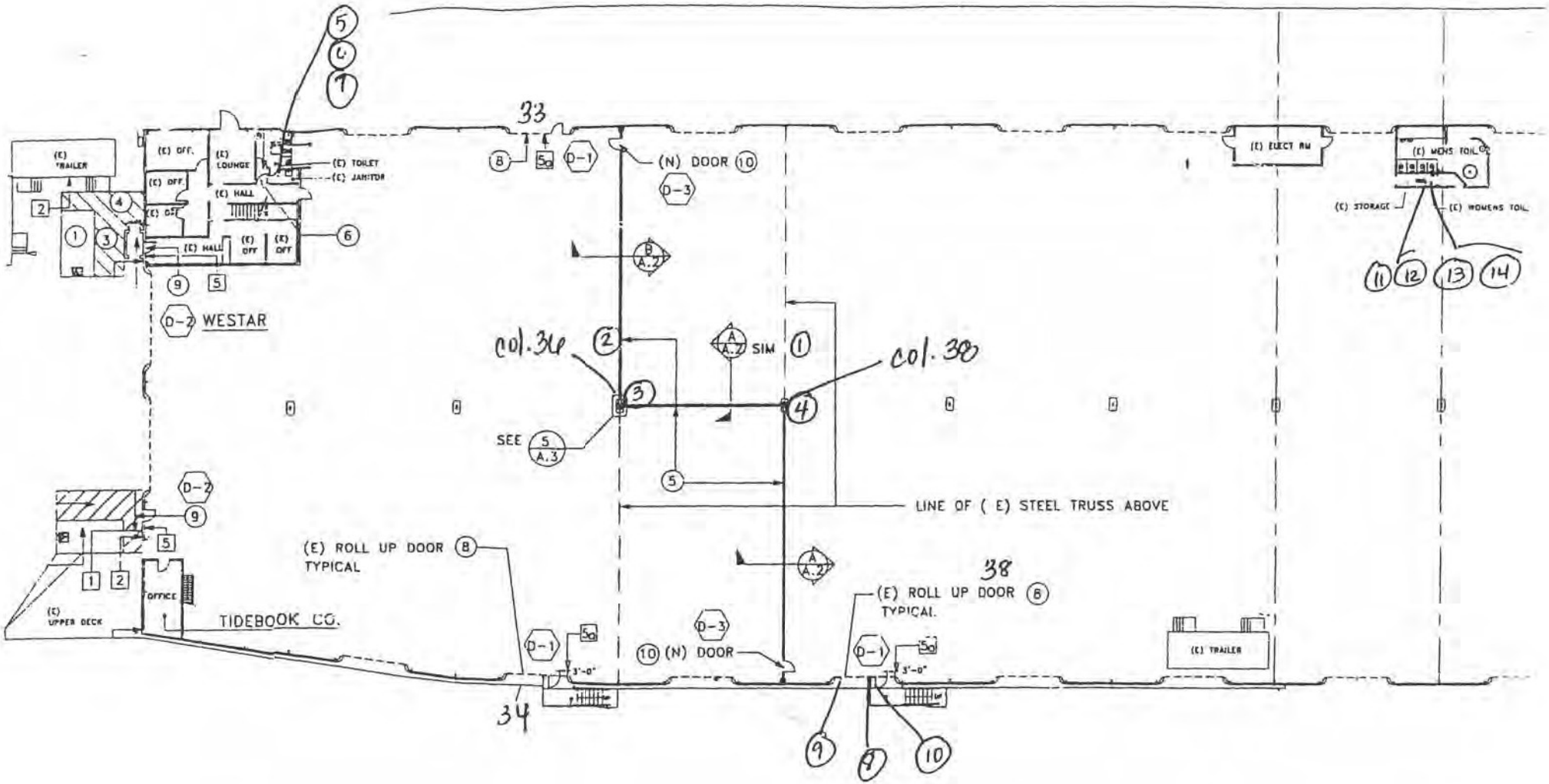


98B-2105
Pier 50, Shed D
Limited Hazardous Materials Survey
July 9, 1998

(#) indicates bulk sample location

Suspect Asbestos-Containing Material Bulk Sample Locations

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780



98B-2105
Pier 50, Shed D
Limited Hazardous Materials Survey
July 9, 1998

Paint Chip Sample Locations

(#) indicates paint chip sample location

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Appendix G

Asbestos-Containing Material Locations

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

No known asbestos-containing materials are within the proposed work area

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Appendix H

IHI Employee Certifications

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
ASBESTOS CONSULTANT CERTIFICATION UNIT
2211 Park Towne Circle, Suite 1
Sacramento, CA 95825
(916) 574-2993 FAX (916) 483-0572

506161760T 108 June 19, 1998

Joffrey Kabiling
80 Maynard Street
San Francisco CA 94112

Dear Certified Asbestos Consultant or Technician:

Enclosed is your certification card. **To maintain your certification, please abide by the rules printed on the back of the certification card.**

Your certification is valid for a period of one year. If you wish to renew your certification, you must apply for renewal at least 60 days before the expiration date shown on your card.

Please hold and do not send copies of your required AHERA refresher renewal certificates to the Division until you apply for renewal of your certification.

Please inform the Division of any changes in your mailing address or work address within 15 days.

Sincerely,

Rick Axe

Rick Axe, CIH
Senior Industrial Hygienist

RA/dor

Attachment

cc: File

State of California
Division of Occupational Safety and Health
Certified Site Surveillance Technician
Joffrey R Kabiling
Name
Certification No. 95-1760
Expires on 6/23/99
This certification was issued by the Division of Occupational Safety and Health as authorized by Sections 7180 et seq. of the Business and Professions Code.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

State of California
Division of Occupational Safety and Health

Certified Site Surveillance Technician

Ann M. Nguyen
Name



Certification No. **98-2332**

Expires on **2/4/99**

This certification was issued by the Division of Occupational Safety and Health as authorized by Sections 7180 et seq. of the Business and Professions Code.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
ASBESTOS CONSULTANT CERTIFICATION UNIT
2211 Park Towne Circle, Suite 1
Sacramento, CA 95825
(916) 574-2993 FAX (916) 483-0572

408241492C Ca

John Heim
941 Marlesta Road
Pinole CA 94564

July 23, 1997

Dear Certified Asbestos Consultant or Technician:

Enclosed is your certification card. **To maintain your certification, please abide by the rules printed on the back of the certification card.**

Your certification is valid for a period of one year. If you wish to renew your certification, you must apply for renewal at least 60 days before the expiration date shown on your card.

Please hold and do not send copies of your required AHERA refresher renewal certificates to the Division until you apply for renewal of your certification.

Please inform the Division of any changes in your mailing address or work address within 15 days.

Sincerely,

Rick Axe, CIH
Senior Industrial Hygienist

RA/dor

Attachment

cc: File

State of California
Division of Occupational Safety and Health
Certified Asbestos Consultant
John Robert Heim
Name



Certification No. 94-1492
Expires on 09/21/98
This certification was issued by the Division of Occupational Safety and Health as authorized by Sections 7180 et seq. of the Business and Professions Code

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR: Pier 50 Shed D
FOR PERIOD THROUGH: April 2011

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to building built before 1979 where the owner knows that the building contains asbestos-containing materials; it does not require that a building be surveyed to determine the presence of asbestos.

WHAT IS ASBESTOS?

Asbestos is a naturally occurring group of fibrous minerals which have been used extensively in public buildings, apartment buildings and homes. Asbestos was incorporated into pipe insulation, acoustic plaster, acoustic tile, duct and furnace insulation, floor tiles, textiles and hundreds of other building materials. In most City buildings, asbestos is located in insulation on piping systems, acoustic plaster on ceilings, acoustic ceiling tiles, vinyl asbestos floor tiles, and structural fireproofing.

This notification includes the results of any air monitoring or bulk sampling for asbestos that has been conducted in your building during the previous calendar quarter. (This notice may also include older information of asbestos samples, for your information.)

WHY IS ASBESTOS HAZARDOUS?

Asbestos is a concern because of the potential health risks associated with breathing asbestos fibers. It is important for you to know that most people with asbestos-related diseases were asbestos workers before 1972. These workers were repeatedly exposed to high levels of asbestos each working day with little or no protection. Asbestos workers today are required to follow specific work practices and wear appropriate protection to minimize exposure.

Significant exposure to asbestos fibers can lead to asbestosis and certain forms of cancer. Asbestosis is one of the many dust-related lung diseases. It is associated with chronic exposure to relatively high levels of asbestos and is characterized by the permanent deposition of asbestos fibers in the respiratory tract. The earliest and most prominent clinical finding, breathlessness upon exertion, rarely becomes apparent until at least a decade of exposure.

In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

A summary of the results of recent asbestos bulk sampling or air monitoring is attached to this notice.

A variety of exposure standards and health action levels have been established for various purposes:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

The Occupational Safety and Health Administration (OSHA) asbestos standards (Title 29 of the Code of Federal Regulations), which apply to employees who actually work with asbestos, mandate a permissible exposure limit (PEL) of 0.1 fibers per cubic centimeter of air (f/cc) determined as an 8 hour time weighted average (TWA) and an excursion limit of 1 f/cc as a 30 minute TWA. When employees are exposed at these levels, OSHA and Cal/OSHA (Title 8 of the California Code of Regulations) require medical monitoring and other control methods.

The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail, or pin anything onto, sand, move bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

City employees required to enter areas and perform work activities that might involve the disturbance of asbestos materials have been trained in the proper procedures to minimize exposure. Work that requires major disturbances of asbestos materials (such as removal) is performed under specifications which include work practice procedures, removal techniques, clean up and clearance air sampling.

If any construction, maintenance, or remodeling is conducted in an area of the building where there is the potential for employees to come in contact with, or release or disturb asbestos containing building materials, it is required that the area be posted with a clear and conspicuous warning sign. The warning sign must read:

"CAUTION. ASBESTOS
CANCER AND LUNG DISEASE HAZARD
DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT"

Much of this information may be new to you. If you have questions about asbestos, you may call the Department of Public Health Toxic Substances Control Program at 252-3800 to answer your questions.

This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

The following pages are a summary of asbestos bulk sampling or air monitoring results that have been conducted at Pier 50 Shed D. Copies of the full sampling report(s) are available for review and photocopying at the Port of San Francisco Environmental Health and Safety Office (Pier 1, S.F.) between the hours of 8 a.m. and 5 p.m. The asbestos coordinator for this building is Tim Felton who can be reached at (415) 274-0582.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

PORT of San Francisco Asbestos Summary

Facility# 1500

Pier 50 **Shed D**

Survey Date	Room or Area	Content of Survey / Description of ACM	Handling Procedure and Restrictions	Abated
7/14/1997	Administration Office Ceiling	Heat shields between light fixtures and ceiling (50% chrysotile) in good condition. (IHI 8/8/97)	Removal of light fixtures, if necessary, must be performed by a licensed asbestos abatement contractor.	No
7/14/1997	Exterior Walls, Upper Portion	Exterior corrugated asbestos-cement (Transite) panels (25% chrysotile) in good condition. (IHI 8/8/97)	Do not cut into, drill into, sand, remove or disturb Transite panels.	No
7/14/1997	Administration Office Structure	Electrical wire insulation is assumed to contain asbestos. (IHI 8/8/97)	Prior to renovation or demolition of the facility, any concealed wire insulation likely to be impacted should be assessed for the presence of asbestos.	No
6/4/1997	Pier Apron	The insulated pipe running along the deck in a box was sampled. Analysis by PLM found no asbestos in the insulation, but the gaskets at the pipe joints contain 70% asbestos. (NF-352)	Do not disturb pipe gasket material. If pipe is to be removed, a licensed asbestos abatement contractor must remove gaskets.	No
6/6/1996	Shed D Roof	Eight samples were taken from the roof and one was found to contain 10% chrysotile asbestos using PLM. (NF-324)	Do not cut into, drill into, sand, remove or disturb these materials.	No

Initial:
Port:
Tenant:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR: 401 Terry Francois /Pier 50 Admin
FOR PERIOD THROUGH: April 2011

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to building built before 1979 where the owner knows that the building contains asbestos-containing materials; it does not require that a building be surveyed to determine the presence of asbestos.

WHAT IS ASBESTOS?

Asbestos is a naturally occurring group of fibrous minerals which have been used extensively in public buildings, apartment buildings and homes. Asbestos was incorporated into pipe insulation, acoustic plaster, acoustic tile, duct and furnace insulation, floor tiles, textiles and hundreds of other building materials. In most City buildings, asbestos is located in insulation on piping systems, acoustic plaster on ceilings, acoustic ceiling tiles, vinyl asbestos floor tiles, and structural fireproofing.

This notification includes the results of any air monitoring or bulk sampling for asbestos that has been conducted in your building during the previous calendar quarter. (This notice may also include older information of asbestos samples, for your information.)

WHY IS ASBESTOS HAZARDOUS?

Asbestos is a concern because of the potential health risks associated with breathing asbestos fibers. It is important for you to know that most people with asbestos-related diseases were asbestos workers before 1972. These workers were repeatedly exposed to high levels of asbestos each working day with little or no protection. Asbestos workers today are required to follow specific work practices and wear appropriate protection to minimize exposure.

Significant exposure to asbestos fibers can lead to asbestosis and certain forms of cancer. Asbestosis is one of the many dust-related lung diseases. It is associated with chronic exposure to relatively high levels of asbestos and is characterized by the permanent deposition of asbestos fibers in the respiratory tract. The earliest and most prominent clinical finding, breathlessness upon exertion, rarely becomes apparent until at least a decade of exposure.

In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

A summary of the results of recent asbestos bulk sampling or air monitoring is attached to this notice.

A variety of exposure standards and health action levels have been established for various purposes:

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The Occupational Safety and Health Administration (OSHA) asbestos standards (Title 29 of the Code of Federal Regulations), which apply to employees who actually work with asbestos, mandate a permissible exposure limit (PEL) of 0.1 fibers per cubic centimeter of air (f/cc) determined as an 8 hour time weighted average (TWA) and an excursion limit of 1 f/cc as a 30 minute TWA. When employees are exposed at these levels, OSHA and Cal/OSHA (Title 8 of the California Code of Regulations) require medical monitoring and other control methods.

The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail, or pin anything onto, sand, move bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

City employees required to enter areas and perform work activities that might involve the disturbance of asbestos materials have been trained in the proper procedures to minimize exposure. Work that requires major disturbances of asbestos materials (such as removal) is performed under specifications which include work practice procedures, removal techniques, clean up and clearance air sampling.

If any construction, maintenance, or remodeling is conducted in an area of the building where there is the potential for employees to come in contact with, or release or disturb asbestos containing building materials, it is required that the area be posted with a clear and conspicuous warning sign. The warning sign must read:

"CAUTION. ASBESTOS
CANCER AND LUNG DISEASE HAZARD
DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT"

Much of this information may be new to you. If you have questions about asbestos, you may call the Department of Public Health Toxic Substances Control Program at 252-3800 to answer your questions.

This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

The following pages are a summary of asbestos bulk sampling or air monitoring results that have been conducted at 401 Terry Francois /Pier 50 Admin. Copies of the full sampling report(s) are available for review and photocopying at the Port of San Francisco Environmental Health and Safety Office (Pier 1, S.F.) between the hours of 8 a.m. and 5 p.m. The asbestos coordinator for this building is Tim Felton who can be reached at (415) 274-0582.

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois **All of the Facility**
Pier 50 Administrative Building

Survey Date	Rooms or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
10/24/2008	Crawlspace below 1st floor	The pipe insulation and associated debris was found to contain 50% chrysotile asbestos. This material was abated in the bathroom walls during 2009 remodel. (Protech December 2008)	Do not disturb this material in anyway.	No
10/24/2008	1st floor hallways under carpet	The blue 9" x 9" vinyl floor tile was found to contain 2% chrysotile asbestos and the black mastic associated with the floor tile was found to contain 10% chrysotile asbestos. (Protech December 2008)	Do not drill, sand, cut or remove the floor tile.	No
10/24/2008	1st floor main lobby entry	The white 12" x 12" vinyl floor tile in the checkerboard pattern was found to contain 3% chrysotile asbestos. (Protech December 2008)	Do not drill, sand, cut or remove the tile.	No
10/24/2008	1st floor, main entry lobby	The black 12" x 12" vinyl floor tile in the checkerboard pattern was found to contain less than 1% chrysotile asbestos. (Protech December 2008)	Do not drill, sand, cut into or remove the floor tile.	No
10/24/2008	1st floor hallways, not in bathrooms	The brown/tan mastic on the vinyl base cove was found to contain 3% chrysotile asbestos. (Protehc December 2008)	Do not remove the base cove or disturb the mastic.	No

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois **All of the Facility**
Pier 50 Administrative Building

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restriction	Abated
10/24/2008	Throughout 1st floor.	The gypsum board, tape and joint compound on the wall and ceiling were found to contain trace (<1%) crysotile asbestos.(Protech Deember 2008)	Do not damage, drill into or sand this material.	No
10/24/2008	1st floor bathrooms and utility closets boiler rooms and hallways.	The gypsum board on the walls and ceilings was found to contain trace (Protech, Dec 2008)		No
10/24/2008	1st floor boiler room	The insulation covering the expansion tank was found to contain 20% chrysotile asbestos and 15% amosite asbestos. (Protech December 2008)	Do not disturb this material in any way.	No
10/24/2008	1st floor boiler room	The boiler insulation located under the metal boiler covering was found to contain 50% chrysotile asbestos. (Protech December 2008)	Do not disturb this material in any way.	No
10/24/2008	Crawl space under 1st floor	The pipe elbow insulation was found to contain 20% chysotile asbestos and 2-5% amosite asbestos. This material was abated in December 2009 on the west side of the building under and between men's and woman's restrooms. It was reinsulated. (Protech December 2008)	Do not disturb remaining unlabeled material in any way.	No

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois
Pier 50 Administrative Building

All of the Facility

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
8/12/1994	Various Areas	The domestic hot water piping insulation was found to contain 40% chrysotile asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb pipe insulation.	No
8/12/1994	Office 128 Room 129, and 2nd Floor Attic	The lay in ceiling tiles were found to contain 2% chrysotile asbestos.(Clayton 3/20/96)	The ceiling should not be disturbed in any way. This includes drilling into, cutting, screwing or nailing through the material.	No
8/12/1994	Roof	The roofing including asphalt and gravel, roof flashing, and penetration mastic are assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No
8/12/1994	Throughout	The heating hot water piping insulation, gray heat shields under the fluorescent light fixtures, were found to contain 40% chrysotile asbestos. The floor tiles and associated mastics, baseboard mastic, fire door insulation, and undamaged ceiling board and joint/tape compound were all assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No
8/12/1994	Crawlspace Area 10 and 10K	The domestic hot water fitting insulation was found to contain 40% chrysotile asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb pipe insulation.	No

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois **All of the Facility**
Pier 50 Administrative Building

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
8/12/1994	Boiler Room 130	The Aircell under the hot water fitting insulation found to contain 40% chrysotile asbestos. The expansion tank insulation was found to contain 30% chrysotile and 35% amosite asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb insulation.	No
8/12/1994	Janitors Closet 112 and Boiler Room 30	The gray cementicious wall and ceiling plaster was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No
8/12/1994	Building Exterior	The exterior cementitious stucco and window putty was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No
8/12/1994	Restrooms 107, 131, 203, and 207	The ceramic floor tile grout, mastic, vapor barrier as well as the ceramic wall tile grout and mastic was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb the flooring.	No
8/12/1994	Office 212	The mastic under feet of the elevated computer floor and mastic associated with non-asbestos ceiling tile was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No
8/12/1994	2nd Floor Attic 225	The flexible duct joint was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb the flexible duct joint.	No

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois **All of the Facility**
Pier 50 Administrative Building

Survey Date	Rooms or Area	Contents of Survey Description of ACM	Handling Procedures and Restrictions	Is Abated
8/12/1994	1st Floor Corridor and Office 128	The damaged wall board, ceiling board and joint/tape compound were found to contain 2% chrysotile asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb wallboard and related materials.	No
5/25/1990	Room on SW corner of First Floor	Survey conducted to determine the presence of asbestos in any other materials in the room before remodeling begins. The linoleum flooring and the mastic were found to contain 2% and 5% chrysotile asbestos respectively. (NF-155)	The baseboard and mastic were removed but the floor tile and mastic was left. Do not cut into, drill into, sand, remove or disturb linoleum.	No

Initial:
Port:
Tenant:

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SCHEDULE 2

SUBSTRUCTURE REPORT(S)

[Attachment on following page(s)]

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BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Facility Name: Pier 50 Shed A
FIN: 1500-SHEDA-ALL
Inspection Number: 1500-SHEDA-ALL-2011 **Report Posting Date:** 1/19/11
Inspector's Name: Sherban A. Duncan, P.E. **Affiliation:** Port of San Francisco
Inspection Date: 01/06/2011 Start Time: 1:00 P.M. End Time: 2:30 P.M.
Purpose of Inspection-(periodic insp., maritime request, real estate request, tenant move-in, tenant move-out, etc.): periodic inspection

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Rating Criteria:
Green – Unrestricted use. May require some minor repair, or minimal barricading.
Yellow – Restricted use. May require further review, may require load limits, limiting access and barricading until repairs completed.
Red – Unsafe notice. Shall be barricaded to prevent public access and use.

Overall Rating: Green **XX** Yellow Red

Immediate Actions: N.A.

Required Repairs: N.A.

Condition Assessment Summary:

Condition	Yes	No	More Review Needed
1) Collapse, partial collapse, off foundation		X	
2) Major building element significantly damaged		X	
3) Severe cracking of walls, obvious distress		X	
4) Parapet or other falling hazard		X	
5) Severe ground or slope movement present		X	
6) Other hazard present		X	

Comments:

Attachments:
Appendix A- Facility Data
Appendix B- Photographs
Appendix C-Structural Rating Map

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Appendix A-Facility Data

Name of Facility: Pier 50 Shed A
Facility Code: 1500
Address:
Lease Number(s):

Building Data

Building Structure FIN: 1500-SHEDA-ALL
No. of stories: 1
Support over water: yes
Support over land: no
Construction type (Wood, concrete, steel, masonry or combination): wood, concrete, combination
Occupancy Type (Commercial, office, industrial, assembly, residential, emergency service, etc.): industrial

Detailed Building Description (If available):

- Built in the '20s
- Various storage spaces
- Exterior precast concrete walls
- Wood board roof sheathing with wood purlinsover wood truss framing on interior wood posts

Substructure/Foundation Data:

Substructure FIN: 1500-SUBST-ALL
Piling type: wood, concrete jacket, and wrapped wood
Substructure Deck Type: wood
Apron Type: wood

Detailed Substructure Description (if available)

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BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Appendix B- Photographs

FIN: 1500-SHEDA-ALL Inspection Date: 01/06/2011

Facility Name: Pier 50 Shed A

Inspection Number: 1500-SHEDA-ALL-2011



Photo 1. Concrete spalling at southeast end



Photo 2. Spalling and exposed rebar at east elevation

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Appendix B- Photographs

FIN: 1500-SHEDA-ALL Inspection Date: 01/06/2011

Facility Name: Pier 50 Shed A

Inspection Number: 1500-SHEDA-ALL-2011



Photo 3. Concrete spalling and corroded metal edge at south elevation

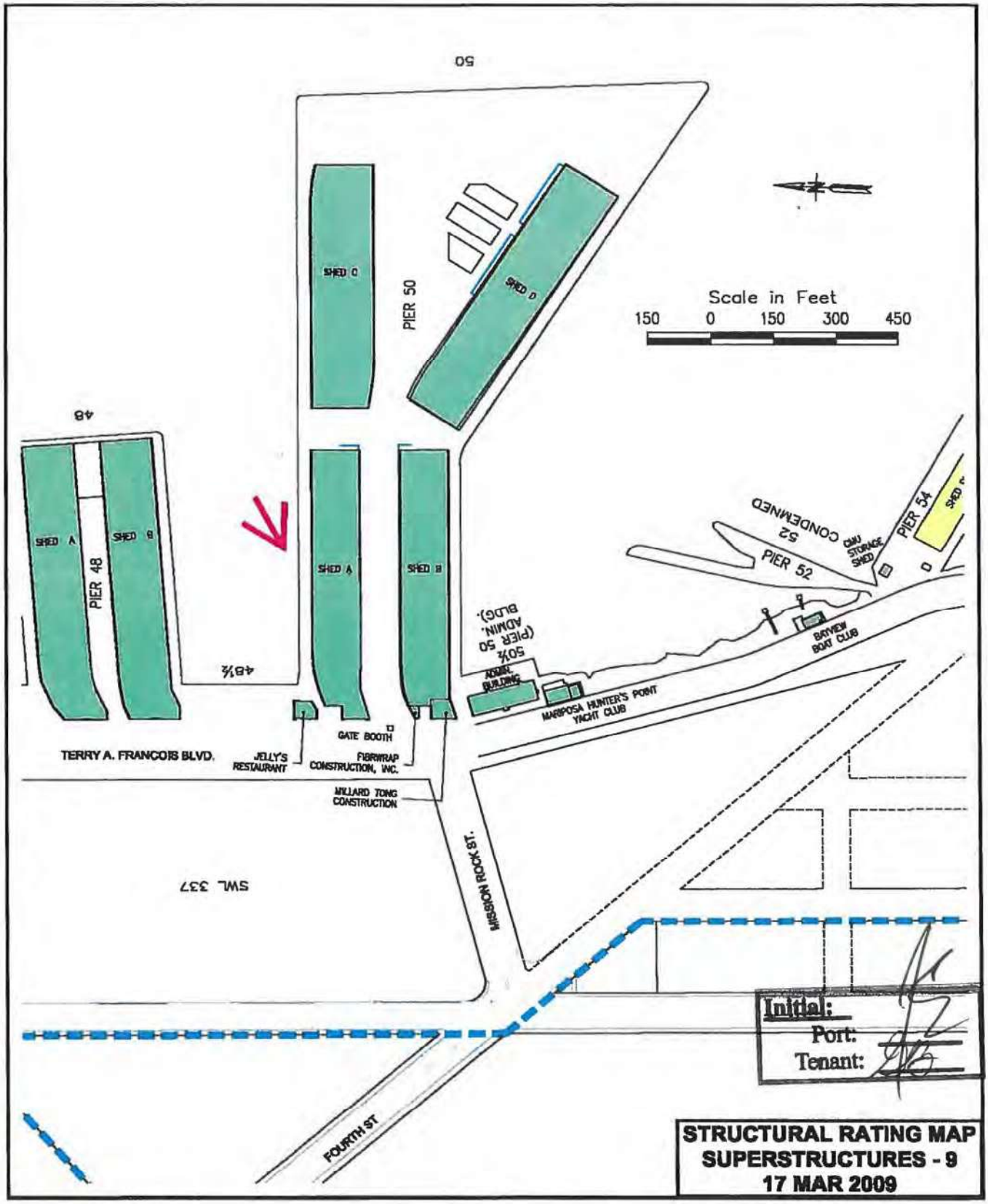


Photo 4. Peeled paint from roof wood trusses

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BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Appendix C-Structural Rating Map



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BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Facility Name: Pier 50 Shed C
FIN: 1500-SHEDC-ALL
Inspection Number: 1500-SHEDC-ALL-2011 **Report Posting Date:** 2/1/11
Inspector's Name: Sherban A. Duncan, P.E. **Affiliation:** Port of San Francisco
Inspection Date: 1/31/11 Start Time: 15:30 P.M. End Time: 16:30 P.M.
Purpose of Inspection-(periodic insp., maritime request, real estate request, tenant move-in, tenant move-out, etc.): periodic inspection

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Rating Criteria:
Green – Unrestricted use. May require some minor repair, or minimal barricading.
Yellow – Restricted use. May require further review, may require load limits, limiting access and barricading until repairs completed.
Red – Unsafe notice. Shall be barricaded to prevent public access and use.

Overall Rating: Green **XX** Yellow Red

Immediate Actions: N.A.

Required Repairs: N.A.

Condition Assessment Summary:

Condition	Yes	No	More Review Needed
1) Collapse, partial collapse, off foundation		X	
2) Major building element significantly damaged		X	
3) Severe cracking of walls, obvious distress		X	
4) Parapet or other falling hazard		X	
5) Severe ground or slope movement present		X	
6) Other hazard present		X	

Comments:
1) Canopy wood board sheathing appears decayed in some areas

Attachments:
Appendix A- Facility Data
Appendix B- Photographs
Appendix C-Structural Rating

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Appendix A-Facility Data

Name of Facility: Pier 50 Shed C
Facility Code: 1500
Address:
Lease Number(s):

Building Data

Building Structure FIN: 1500-SHEDC-ALL
No. of stories: 1
Support over water: yes
Support over land: no
Construction type (Wood, concrete, steel, masonry or combination): wood, steel, concrete, combination
Occupancy Type (Commercial, office, industrial, assembly, residential, emergency service, etc.): office and industrial

Detailed Building Description (If available):

- One story building built in 1948
- Boat parts storage and car receiving facility
- Exterior concrete walls
- Wood board roof sheathing with wood purlins over steel truss framing on interior steel posts
- Attached canopy with wood board roof panels and metal purlins

Substructure/Foundation Data:

Substructure FIN: 1500-SUBST-ALL
Piling type: wood and concrete
Substructure Deck Type: concrete
Apron Type: concrete and wood

Detailed Substructure Description (if available)

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BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Appendix B- Photographs

FIN: 1500-SHEDC-ALL
Facility Name: Pier 50 Shed C
Inspection Number: 1500-SHEDC-ALL -2011

Inspection Date: 1/31/11



Photo 1. Partial west elevation



Photo 2. Partial west elevation

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Appendix B- Photographs

FIN: 1500-SHEDC-ALL
Facility Name: Pier 50 Shed C
Inspection Number: 1500-SHEDC-ALL -2011

Inspection Date: 1/31/11



Photo 3. East elevation



Photo 4. Interior, looking west

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Appendix B- Photographs

FIN: 1500-SHEDC-ALL
Facility Name: Pier 50 Shed C
Inspection Number: 1500-SHEDC-ALL -2011

Inspection Date: 1/31/11



Photo 5. North elevation



Photo 6. South elevation

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Appendix B- Photographs

FIN: 1500-SHEDC-ALL
Facility Name: Pier 50 Shed C
Inspection Number: 1500-SHEDC-ALL -2011

Inspection Date: 1/31/11

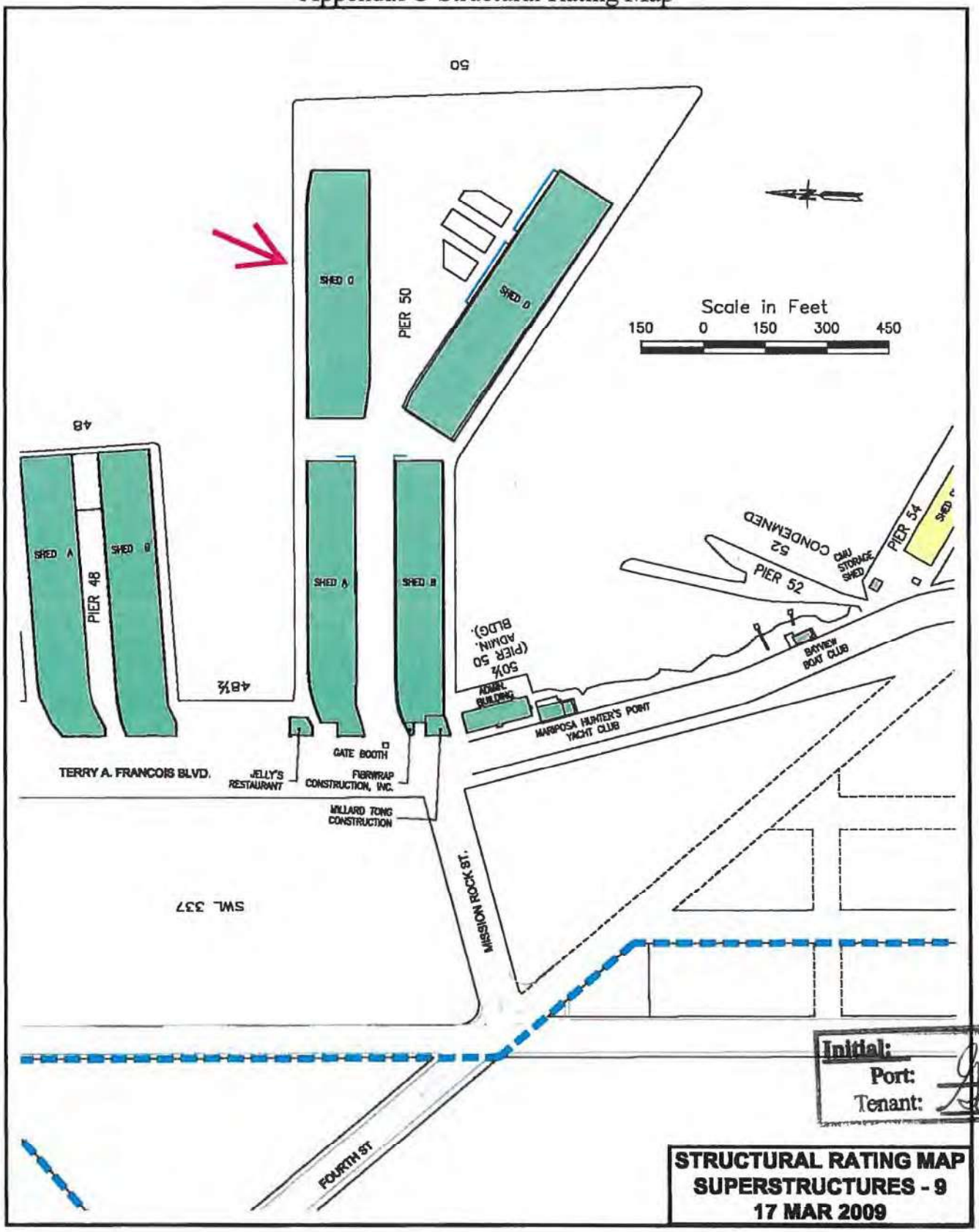


Photo 7. Partial east elevation

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BUILDING RAPID EVALUATION SAFETY ASSESSMENT FORM (rev. 7-2009)

Appendix C-Structural Rating Map



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PORT OF SAN FRANCISCO

MEMORANDUM

TO: Port Deputy Directors **DATE:** 12-23-02

FROM: Ed Byrne/Uday Prasad

SUBJECT: Rapid Structural Assessment--Pier 50-Substructure

cc: Nita Mizushima Ken Hayes

In accordance with the Port's Facility Assessment Notification Protocol, this message transmits to you the Rapid Structural Assessment report for the substructure of Pier 50. Several drawings follow immediately after this memo. The drawings no. 1 and no. 2 show structural evaluation ratings for the substructure and drawings no. 3 and no. 4 shows traffic flow plan

Rating Criteria:
Green – Unrestricted use. May require some minor repair, or minimal barricading.
Yellow – Restricted use. May require limiting access and barricading until repairs completed.
Red – Unsafe notice, should be barricaded to prevent public access and use.

Summary of Findings:

1) Substructure under sheds A and B---The concrete deck and piles are in fair condition and has been given green rating. However at several locations, some minor spalls and cracks were noted which should be repaired in near future.

2) Mission Rock Extension:- The substructure is in good condition and has been given green rating.

3) Substructure between sheds A and B--This area supports access road to pier 50 sheds. There are three railroad tracks on the top, which are no longer in use. A portion of the substructure between railroad tracks has severe deterioration and has been given red (unsafe) rating. However the areas directly under the railroad tracks are in good condition and have been given green rating. See drawings no. 3 and no. 4 for traffic flow plan and installation of bull rails around unsafe areas.

4) The superstructures and aprons alongside Sheds A & B were not inspected and will be scheduled in the near future

Please let me know if you have any questions.

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PORT OF SAN FRANCISCO

SUBSTRUCTURE RAPID EVALUATION SAFETY ASSESSMENT FORM

Substructure Description: **Name:** Pier 50 **Location Code**: 1500 **Piling:** Wood XX Concrete XX Steel Concrete Jacket XX Wrapped Wood **Substructure:** Concrete Slab XX Concrete Beams XX Steel Beams Wood **Apron:** Concrete XX Wood XX	**Overall Rating:** INSPECTED (Green) **XX (Under sheds A and B and Mission Rock ext.)** REQUIRES REVIEW (Yellow) UNSAFE NOTICE (RED) **Between sheds A and B (between RR tracks)** **Inspector Name:** EFB/UP **Affiliation:** Port **Inspection Date (M/D/Y)**: 12-17-02 **Time:** PM

Condition Assessment

Condition	Yes	No	More Review Needed	Comments
1) Severe seawall failure		X		The valley substructure between sheds A and B has severe deterioration in concrete beams/slab. The area directly under the sheds A and B and Mission Rock extension appears to be in good condition.
2) Many missing piles		X		
3) Many significantly damaged piles		X		
4) Significant beam deterioration	X			
5) Significant slab deterioration	X			
6) Other hazard present		X		

Recommendations:

	No further action required
X	Detailed Structural evaluation required: Area between Sheds A and B requires detailed structural evaluation.
	Detailed Geotechnical evaluation required:
X	Barricades required in the following areas: A portion of the area between sheds A and B will require barricades to keep vehicles off the unsafe areas.
	Apron
	Other

Comments:
Aprons need to be inspected in the near future.

Photos Available: **Yes XX** **No**

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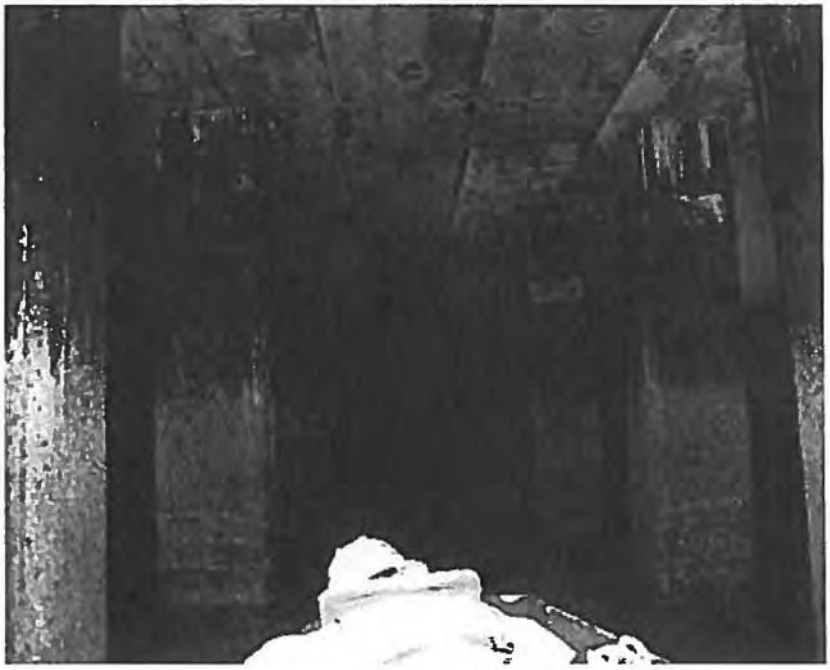


Photo 1--The substructure deck and piles under Mission Rock extension--Good condition



Photo 2--Substructure Deck under sheds (A and B)--areas repaired in past for minor spalls

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780



Photo 3---Deterioration in concrete beam under sheds



Photo 4--Deterioration in concrete beam under sheds

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780



Photo 5--Deterioration in concrete slab under sheds



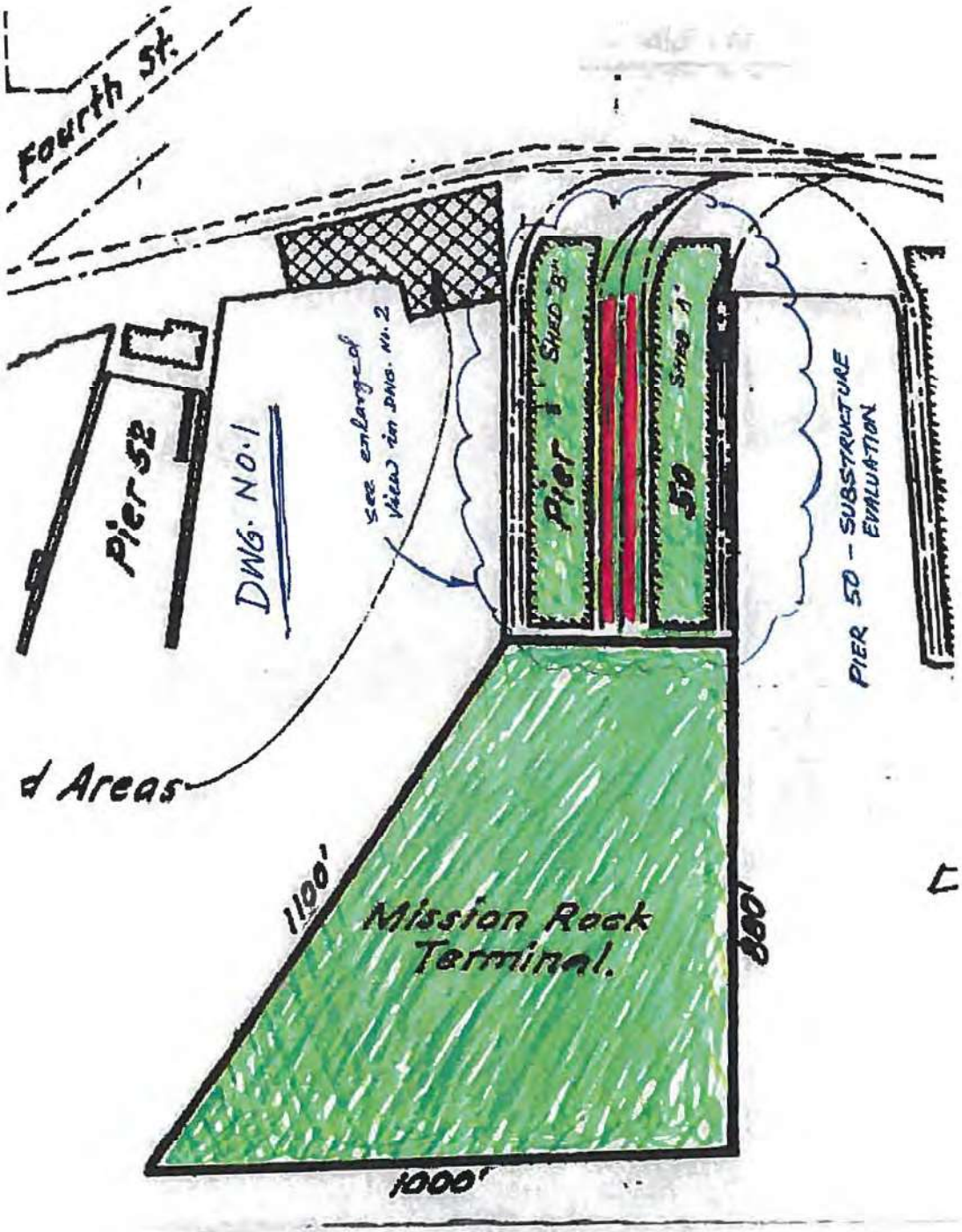
Photo 5--Deterioration in concrete slab-substructure between sheds A and B-- (typical throughout)

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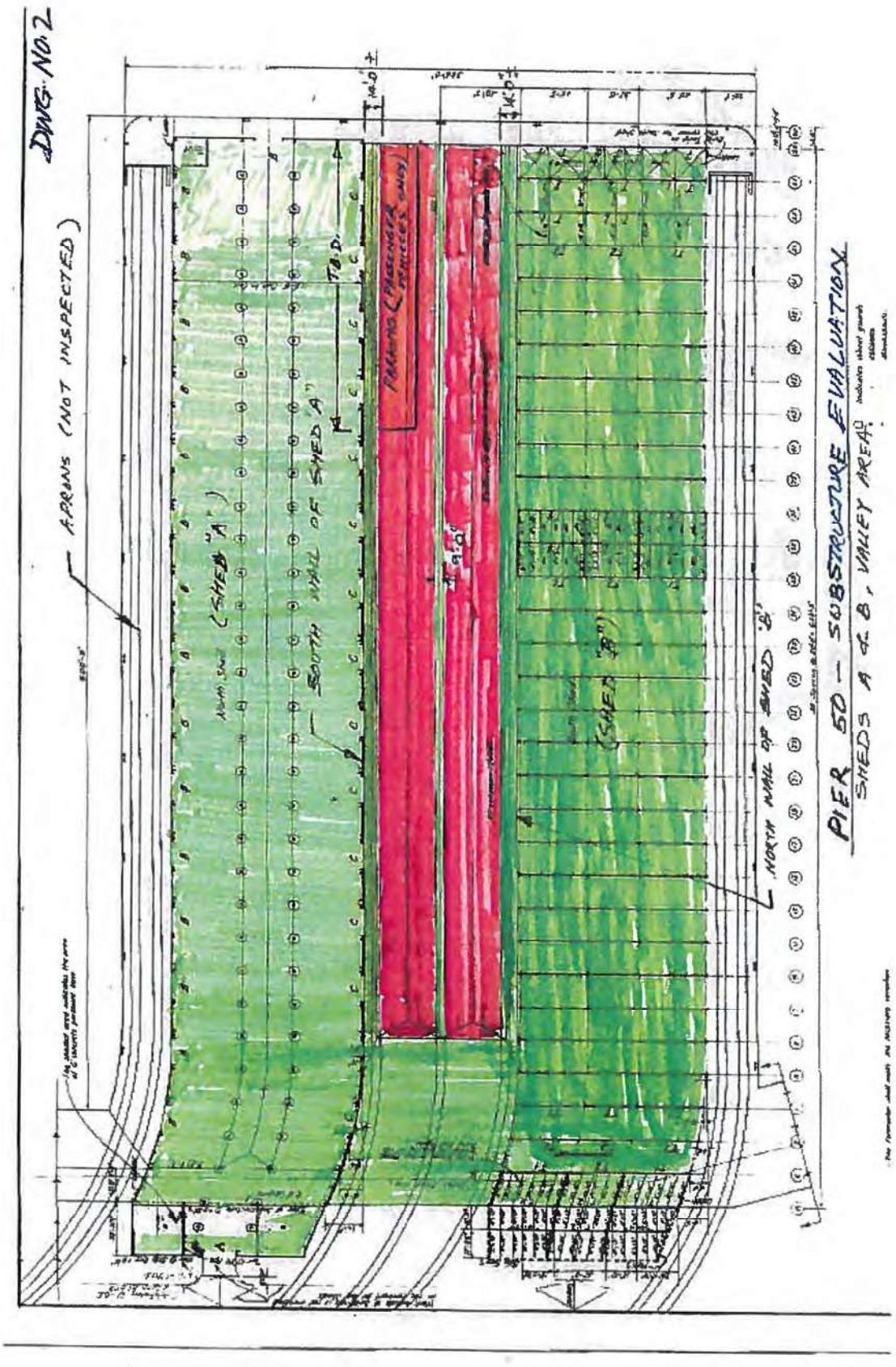


Photo 6--Cracked concrete beams and slab--substructure between sheds A and B and between RR tracks--Severe deterioration

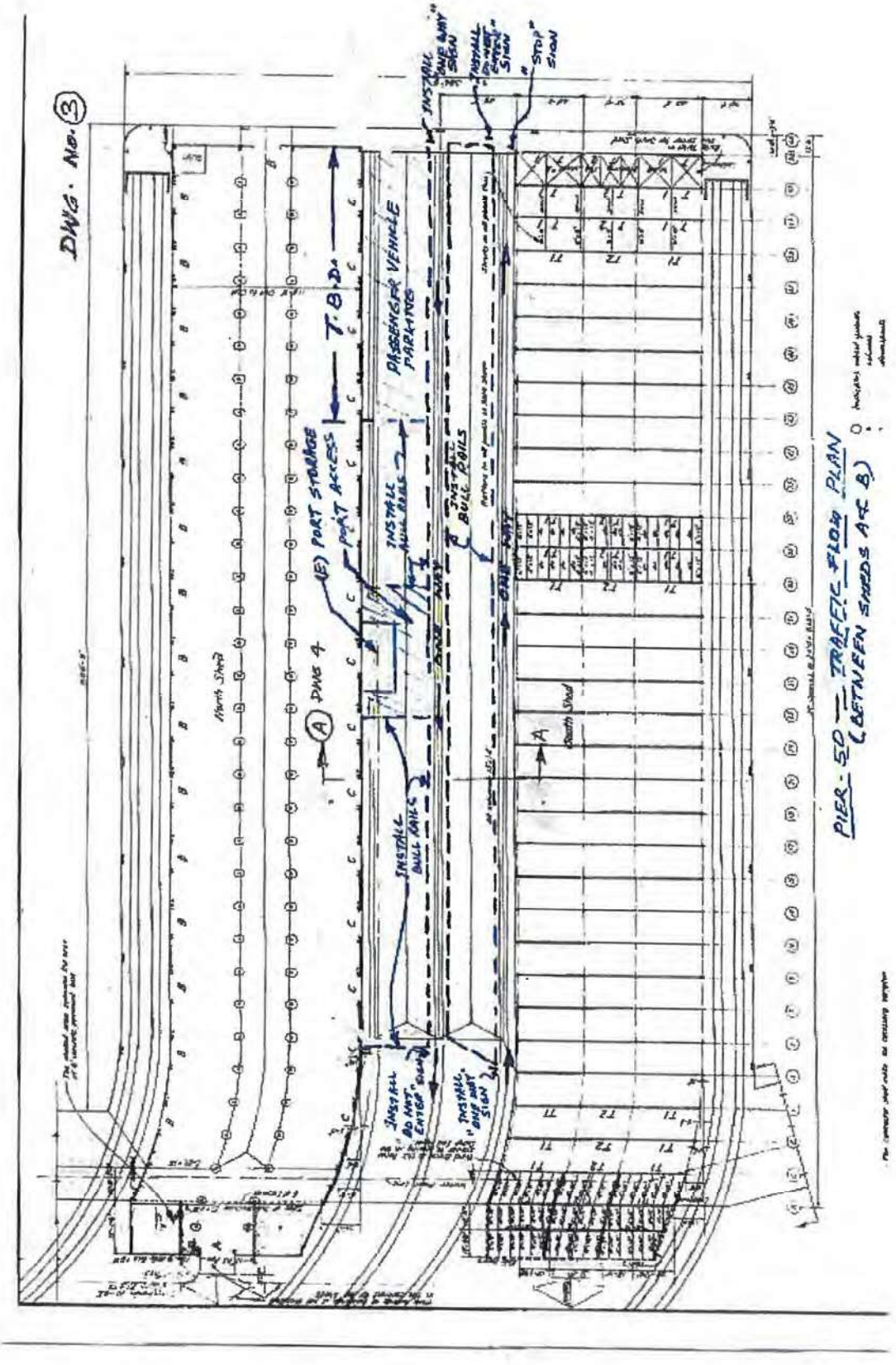
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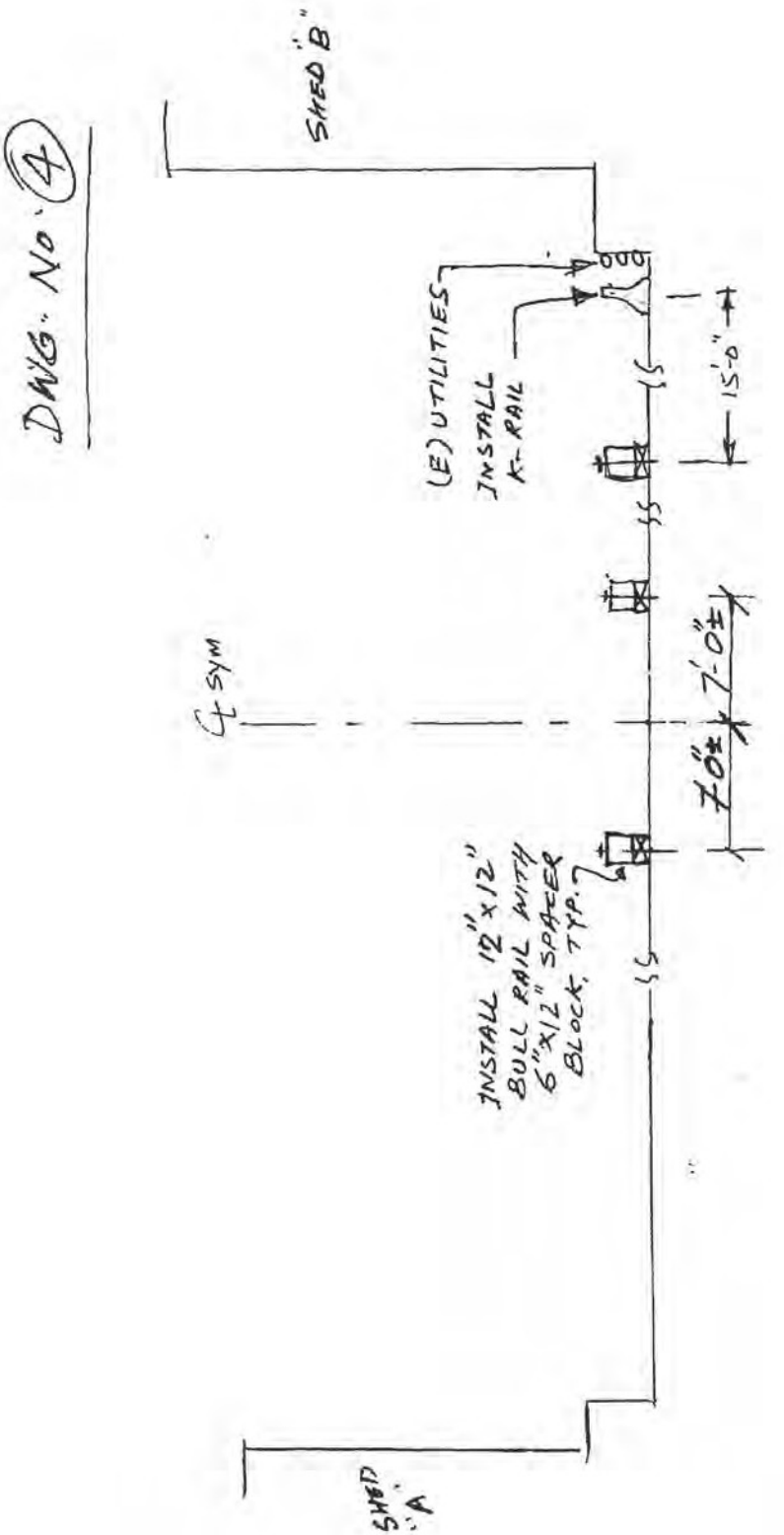
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Tenant:

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1. EXECUTIVE SUMMARY

The City and County of San Francisco, Port of San Francisco (Port) has retained Winzler & Kelly Consulting Engineers (W&K) to perform a visual observation, structural condition assessment and evaluation and to provide repair design alternatives for the Valley Substructure at Pier 50 in San Francisco. Pier 50 is a working pier and is an important structure due to its location and tenant operations. Port maintenance facilities are located at Pier 50 and these maintenance operations are required to be available during emergency situations.

Originally designed and constructed during the 1920s, Pier 50 initially was about 660 feet long in an east-west direction and 350 feet wide with two transit sheds (Sheds A and B) located on the north and south sides of the pier. The "valley" area is located between these two sheds and is about 100 feet wide. The valley originally formed a rail transportation path and link with vessels berthing at the east end of the pier. The substructure beneath these railways is substantial, necessary to support the relatively heavy railroad vehicles.

Later, the Pier was extended substantially with a much larger structure extension to the east, north and south. The original valley area remains today; however, the rail lines have been removed and the valley is subject to much lighter highway vehicle loads. The valley substructure has deeper dimensions, is closer to the water, and is thus subject to more long-term damage than other areas of the pier. Hence, the Port has focused on this area of Pier 50 for assessment and subsequent repair. Due to the extensive substructure damage presently existing, the sections above the railway support structure remain open to vehicular traffic whereas all other areas of the valley substructure have been closed to such traffic.

This document represents the final report for the structural assessment and repair alternatives and strengthening study for Pier 50 Valley substructure. The following report addresses the existing condition of the pier structure, investigates the potential cause of the damage, provides conceptual repairs and includes a vertical load assessment and review of strengthening alternatives. Budgetary-level estimate of the construction cost for the damage repairs required and retrofit alternatives will be included in a subsequent conceptual engineering design report. An investigation of the effects of lateral loads on the Pier 50 Valley substructure consisting of inertial loads due to earthquake will also be included in a subsequent conceptual engineering report for seismic upgrades.

An above and below-water limited visual inspection of the Pier 50 Valley substructure was conducted and the results will be used to generate conceptual repairs and an associated construction cost estimate for the damage observed. The resulting conceptual repairs and cost estimates will be presented in another subsequent report.

The pier has sustained damage as a result of weathering factors due to the marine environment and vessel impacts at in the past at the east end of the original pier. Typical damage observed consists of heavily spalled concrete sections and exposed

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reinforcing steel on structural members consisting of piles, pile caps and beams and the valley underdeck. Piles generally appear to be in good condition except for a few piles that have sheared completely or have significant shear cracks at the pile head. These damaged piles are primarily located within a few column lines of the sea wall at the west end of the pier. The seawall structure is in good condition.

Due to the deterioration observed on the structural elements comprising the pier underdeck and beams and as a result of the structural analyses performed, it has been determined that the maximum allowable live load applied on the pier areas presently bounded by K-rails in its present condition should be limited to 35 pounds per square foot (psf). Single concentrated loads without this area load should be limited to 300 pounds over a one square foot area. These load limits are defined as the loading in addition to the self-weight of the structure. Crowds should not be permitted to assemble on these pier areas during a public event. Vehicles should not be driven or parked on these presently barriered areas of the pier. This also precludes HS-20 loading in these presently barriered areas.

The Pier 50 valley substructure requires structural repairs as a result of the deterioration of the concrete sustained due to exposure to the marine environment. In the absence of any repairs, the deterioration will continue to advance at an accelerated pace. Failure to address the concrete deterioration will result in a structure that is no longer serviceable, requiring closure of the entire pier valley area due to safety concerns.

Due to the age of the structure, the entire original pier most likely does not meet current lateral load resisting requirements for waterfront structures and will likely suffer significant damage during a seismic event. Various structural deficiencies exist for resistance to lateral loads and are discussed in the subsequent report.

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SCHEDULE 3

FEMA Disclosure Notice

The Federal Emergency Management Agency ("**FEMA**") is revising Flood Insurance Rate Maps ("**FIRMs**") for San Francisco Bay Area communities. As part of this effort, FEMA plans to prepare a FIRM for the City and County of San Francisco for the first time. That process may have significant impacts for developing new buildings and reconstructing or repairing existing buildings on certain parts of the San Francisco waterfront.

FIRMs identify areas that are subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood"). FEMA refers to the flood plain that is at risk from a flood of this magnitude as a special flood hazard area ("**SFHA**").

Because FEMA has not previously published a FIRM for the City and County of San Francisco, there are no identified SFHAs within San Francisco's geographic boundaries. FEMA has completed the initial phases of a study of the San Francisco Bay. On September 21, 2007, FEMA issued a preliminary FIRM of San Francisco for review and comment by City. FEMA has tentatively identified SFHAs along City's shoreline in and along the San Francisco Bay consisting of "A zones" (areas subject to inundation by tidal surge) and "V zones" (areas subject to the additional hazards that accompany wave action). These zones generally affect City property under the jurisdiction of the City of San Francisco and other areas of the San Francisco waterfront, including parts of Mission Bay, Hunters Point Shipyard, Candlestick Point, Treasure and Yerba Buena Islands and an area adjacent to Islais Creek. City has submitted comments on the preliminary FIRM to FEMA.

FEMA prepares the FIRMs to support the National Flood Insurance Program ("**NFIP**"), a federal program that enables property owners, businesses, and residents in participating communities to purchase flood insurance backed by the federal government. Participation in the NFIP is based on an agreement between the local government and the federal government that requires the local government to adopt and enforce a floodplain management ordinance to reduce future flood risks. As part of the floodplain management ordinance, the local jurisdiction must impose significant restrictions on construction of new or substantially improved structures located in SFHAs and ban construction of certain new structures seaward of the mean high tide line, unless appropriate variances can be granted. Federally backed lenders must require the purchase of flood insurance for residential and commercial structures located in SFHAs. Otherwise, purchase of flood insurance is voluntary.

In August 2008, the San Francisco Board of Supervisors adopted Ordinance No. 188-08, a floodplain management ordinance governing new construction and substantial improvements in flood prone areas of San Francisco and authorizing the City's participation in NFIP. In accordance with the ordinance, the City Administrator's Office has issued maps of flood prone areas. Specifically, the ordinance requires that any new construction or substantial improvement of structures in city-designated flood zones be constructed in accordance with specified requirements intended to minimize or eliminate flood hazard risks. NFIP regulations allow a local jurisdiction to issue variances to its floodplain management ordinance under certain narrow circumstances, without jeopardizing the local jurisdiction's eligibility in the NFIP. However, the particular projects that are granted variances by the local jurisdiction may be deemed ineligible for federally-backed flood insurance by FEMA.

Additional information on this matter can be found on FEMA's website at the following links:

http://www.fema.gov/plan/prevent/fhm/index.shtm

http://www.fema.gov/business/nfip/index.shtm

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The legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14.

In addition, FEMA publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines."

Additional information about the San Francisco legislation can be found on the city's website (http://www.sfgov.org), File Nos. 080823 (floodplain management ordinance) and 080824 (NFIP participation resolution).

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

ORIGINAL

FIRST AMENDMENT TO LEASE NO. L-15004

This First Amendment to Lease No. L-15004 (this "**First Amendment**"), dated for reference purposes only as of July 29, 2013 is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), operating through the SAN FRANCISCO PORT COMMISSION ("**Port**"), as landlord, and Bauer's Intelligent Transportation, Incorporated, a California Corporation, as tenant ("**Tenant**").

RECITALS

A. Port and Tenant entered into Port Lease No. L-15004 dated November 30, 2011 for references purposes ("**Lease**") only for that certain real property located at Pier 50 in the City and County of San Francisco, State of California consisting of: Parcel A: approximately 4,370 square feet of office space in Shed A; Parcel B: approximately 68,777 square feet of shed space in Shed C; Parcel C: approximately 50,347 square feet of outside paved fenced yard and dock space. The Lease commenced on May 11, 2012 and will expire on May 10, 2022.

B. The Tenant now desires and Port agrees to add the following to the leased Premises: Parcel A approximately 158 rentable square feet of office space in Shed A; and Parcel D: approximately 1,579 of shed space in Shed A. These parcels will be added to the Lease as of the Effective Date of this First Amendment for the remainder of the Term on the terms specified in this First Amendment. In addition, this First Amendment would designate the approximately 1,579 square feet of Shed space as "Parcel D". This First Amendment will also update certain provisions of the Lease to the current standard lease provisions and add new City and Port requirements.

C. Tenant is in Good Standing.

D. The original Lease and this First Amendment shall collectively be referred to as the "**Lease**". All capitalized terms used herein but not otherwise defined shall have the meaning given to them in the original Lease.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, Port and Tenant hereby amend the original Lease as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.

2. New Parcels. The Basic Lease Information in Section 1 of the Lease shall be revised as follows:

(a) The entire paragraph of Section BLI-2, Premises Rentable Square Footage, of the Lease shall be deleted and replaced with the following:

> "The Premises shall consist of the following parcels in Pier 50:
> Parcel A: approx. 4,528 square feet of shed space in Shed A, and
>
> Parcel B: 68,777 square feet of shed space in Shed C, and
>
> Parcel C: 50,347 square feet of shed space of outside paved fenced yard and dock space adjacent to Shed C, and all alterations and improvements thereto, including without limitation, the Port owned vehicle wash rack in Parcel B.
>
> Parcel D: 1,579 square feet of shed space in Shed A,

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3. Except as explicitly provided herein, all other provisions of the Lease apply to Parcels A and D.

4. Exhibit A shall be replaced with "***Exhibit A (Revised)***" attached to this First Amendment.

5. Monthly Base Rent, of BLI-2 in the Lease is hereby deleted in and replaced with the following schedule. As shown, Rent for Parcels A, B, C and D will commence on the Effective Date of this First Amendment.

Monthly Base Rent:	Months	Approx. Sq. Ft.	Monthly Base Rate Per Sq. Ft.	Total Monthly Base Rent
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	8-12	4,528 68,777 50,347 1,579	$1.26 $.55 $.15 $.80	$ 5,705.28 $37,827.35 $ 7,552.05 $ 1,263.20 $52,347.88
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	13-24	4,528 68,777 50,347 1,579	$1.30 $.60 $.20 $.82	$ 5,886.40 $41,266.20 $10,069.40 $ 1,294.78 $58,516.78
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	25-36	4,528 68,777 50,347 1,579	$1.35 $.65 $.23 $.84	$ 6,112.80 $44,705.05 $11,579.81 $ 1,326.36 $63,724.02
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	37-48	4,5128 68,777 50,347 1,579	$1.40 $.75 $.25 $.86	$ 6,339.20 $51,582.75 $12,586.75 $ 1,357.94 $71,866.64
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	49-60	4,528 68,777 50,347 1,579	$1.46 $.85 $.28 $.88	$ 6,610.88 $58,460.45 $14,097.16 $ 1,389.52 $80,558.01
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	61-72	4,528 68,777 50,347 1,579	$1.50 $.90 $.29 $.90	$ 6,792.00 $61,899.30 $14,600.63 $ 1,421.10 $84,713.03
Parcel A: Parcel B: Parcel C:	73-85	4,528 68,777 50,347	$1.56 $.95 $.30	$ 7,063.68 $65,338.15 $15,104.10

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Parcel D: Total Monthly Rent		1,579	$.92	$ 1,452.68 $88,958.61
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	86-97	4,528 68,777 50,347 1,579	$1.62 $1.00 $.31 $.94	$ 7,335.36 $68,777.00 $15,607.57 $ 1,484.26 $93,204.19
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	98-109	4,528 68,777 50,347 1,579	$1.68 $1.05 $.32 $.96	$ 7,607.04 $72,215.85 $16,111.04 $ 1,515.84 $97,449.77
Parcel A: Parcel B: Parcel C: Parcel D: Total Monthly Rent	110-120	4,528 68,777 50,347 1,579	$1.73 $1.10 $.33 .98	$ 7,833.44 $75,654.70 $16,614.51 $ 1,547.42 $101,650.07

6. Security Deposit, of BLI-3 in the Lease is hereby deleted in and replaced with the following:

"Port has retained Tenant's existing Security Deposit of $44,118.23 for use as Security Deposit under this Lease as of the Commencement Date. No later than the 16th month of the Term, Tenant shall increase its Security Deposit by an additional $57,531.84 to a total of $101,650.07. No later the first day of the 61st month of the Term, Tenant shall increase its Security Deposit by an additional $101,650.07 which at Tenant's option may be secured by an irrevocable standby Letter of Credit on a form and from a financial institution acceptable to the Port, in its reasonable discretion as further described in Section 7.1.

In addition, Tenant shall provide to Port an additional Security Deposit of Ninety Thousand Dollars ($90,000) cash to be used to secure its obligations under the Operations Plan attached as ***Exhibit E***. This amount is subject to the provisions of Section 7. Tenant has provided $45,000 to Port pursuant to this provision and shall provide the remaining balance of $45,000 no later than June 12, 2014."

7. As Is Condition. Tenant acknowledges and agrees that Tenant is familiar with the Parcel D, and that the Parcel D is being leased and accepted in their "as-is" condition, without any improvements or alterations by Port, without representation or warranty of any kind, and subject to all applicable laws governing their use, occupancy and possession. Tenant represents and warrants to Port that Tenant has received and reviewed the FEMA disclosure notice attached as ***Schedule 3*** and a copy of the report(s), if any, relating to the substructure and/or structure of the Facility, as further described in ***Schedule 2*** attached to the Lease. Tenant further represents and warrants to Port that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Parcels D and the suitability of the Parcel D for Tenant's business and intended use. Tenant acknowledges and agrees that neither Port nor any of its agents have made, and Port hereby disclaims, any representations or

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warranties, express or implied, concerning the rentable area of the premises, the physical or environmental condition of the Parcel D or the Facility (including, but not limited to the substructure), the present or future suitability of the Parcel D for Tenant's business, or any other matter whatsoever relating to the Parcels D, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

8. Development Project. The entire paragraph of Section BLI-6, Development Project, of the Lease shall be deleted and replaced with the following:

"SF Giants Development Project at SWL 337; Port of SF / Forest City Development Project at Pier 70; Pier 50 Substructure Repair Project; the Port of SF / Golden State Warriors at Pier 30-32 development project."

9. Rooftop Antenna. Port hereby grants to Tenant during the Term of this Lease and for the limited purposes and subject to the terms and conditions set forth below, a non-exclusive revocable license on and over the roof and other areas of Pier 50 Shed A and C ("Building") necessary to install antennae and necessary associated wiring for wireless internet access ("Tenant's Equipment") in a location mutually agreeable to Port and Tenant, subject to any necessary Regulatory Approvals, including a building or encroachment permit issued by Port. Tenant's use of licensed areas shall be subject to all the terms and conditions of this Lease and Tenant shall have the obligations and liabilities as if the licensed areas are included in the Premises under Sections 3.8, 9-11, 13, 16, 19 and 25 of the Lease. The license granted to Tenant hereunder is for the sole purpose of constructing, maintaining, restoring, replacing and operating Tenant's Equipment, including any necessary conduits, only in connection with Tenant's Permitted Uses under this Lease and Tenant shall not have the right to install any other equipment outside of the Premises, including without limitation a telecommunications (cell) site or any other equipment that can be used for any commercial purpose. The license includes the right of ingress and egress through the Building during non-business hours for access to or from the Premises and Tenant's Equipment, provided that Tenant must notify the Port's designated person set forth above at least 24 hours in advance of any access and shall comply with all reasonable requirements of such designated person with respect to Tenant's requested access. In the event of an emergency, Tenant shall have the right to enter the licensed areas provided it makes good faith efforts if possible to notify Port in advance of such entry. Tenant's Equipment shall be Tenant's Property and shall be removed from the Building on or before the Expiration Date.

10. Section 3.10 is added to the Lease to read as follows:

"3.10. ***Accessibility Inspection Disclosure***. California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the portions of the Premises added by this First Amendment have not been inspected by a CASp."

11. Section 28.13 (Notification Limitations on Contributions) of the Lease is hereby deleted and replaced with the following:

"28.13. ***Notification of Limitations on Contributions***. Through its execution of this Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the

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City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Tenant further acknowledges that the prohibition on contributions applies to each Tenant; each member of Tenant's board of directors, and Tenant's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Tenant; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Tenant further agrees to provide to City the name of each person, entity or committee described above."

12. FEMA Notice. Schedule 3 is hereby deleted and replaced with Schedule 3 (Revised) attached hereto.

13. Entire Agreement. This First Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to the subject matter of the First Amendment are superseded in their entirety by this First Amendment. No prior drafts of this First Amendment or changes between those drafts and the executed version of this First Amendment shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider such drafts in interpreting this First Amendment.

14. Miscellaneous. This First Amendment shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This First Amendment is made for the purpose of setting forth certain rights and obligations of Tenant and the Port, and no other person shall have any rights hereunder or by reason hereof as a third party beneficiary of otherwise. This First Amendment may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this First Amendment that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. As amended hereby, the Lease is hereby ratified and confirmed in all respects. In the event of any inconsistencies between the terms of this First Amendment and the Lease, the terms of this Amendment shall prevail. Time is of the essence of this First Amendment. This First Amendment shall be governed by the laws of the State of California. Neither this First Amendment nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

15. Full Force and Effect. Except as specifically amended herein, the terms and conditions of the Original Lease shall remain in full force and effect.

16. Effective Date. The Effective Date of this First Amendment is May 11, 2012.

[Signatures on following pages]

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IN WITNESS WHEREOF, Port and Tenant execute this First Amendment to Lease No. 15004 at San Francisco, California, as of the last date set forth below.

PORT: **CITY AND COUNTY OF SAN FRANCISCO,**
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Susan Reynolds
Deputy Director, Real Estate

Date Signed: 09/03/2013

TENANT: **BAUER'S INTELLIGENT TRANSPORATION, INC.,**
A CALIFORNIA CORPORATION

Two Corporate Officers MUST SIGN

By: _____
Name: Gary S. Bauer
Title: Pres/CEO

Date Signed: 8/28/13

By: _____
Name: GARY SCHWARTZ

Date Signed: 8/28/13

APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney

By: _____
Rona H. Sandler
Deputy City Attorney

Amendment Prepared By: Jay Edwards, Senior Property Manager _____ (initial)

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Exhibit A (Revised)

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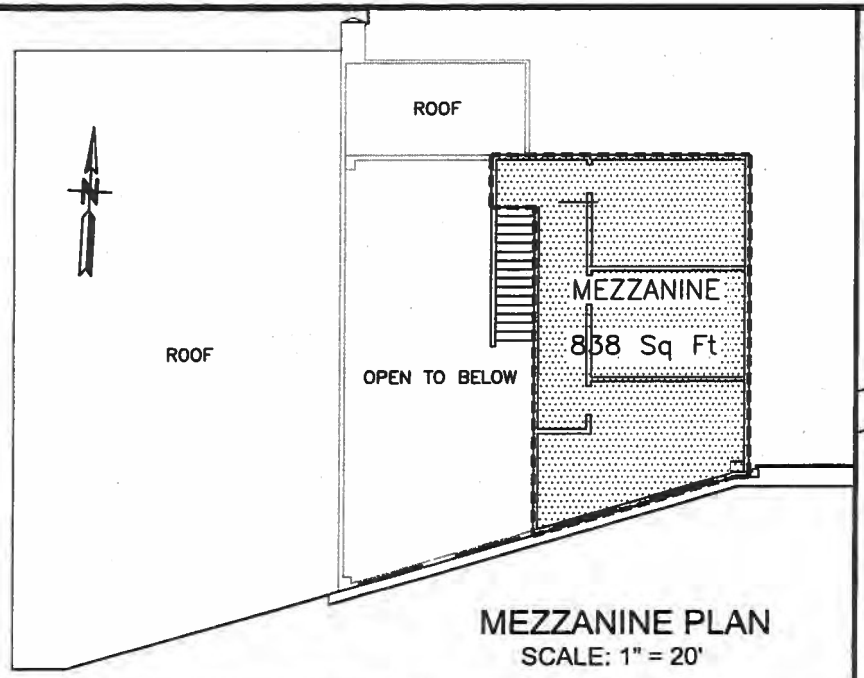
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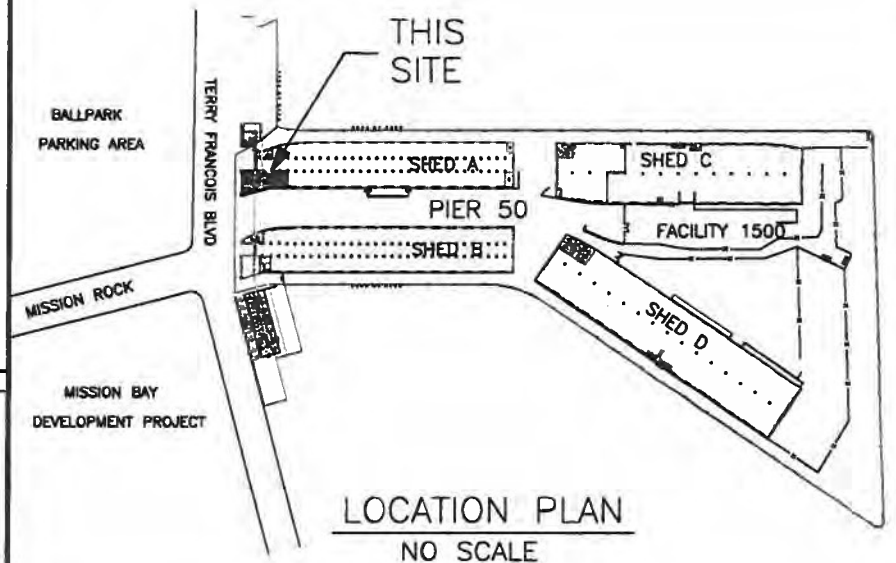
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EXHIBIT A (REVISED)

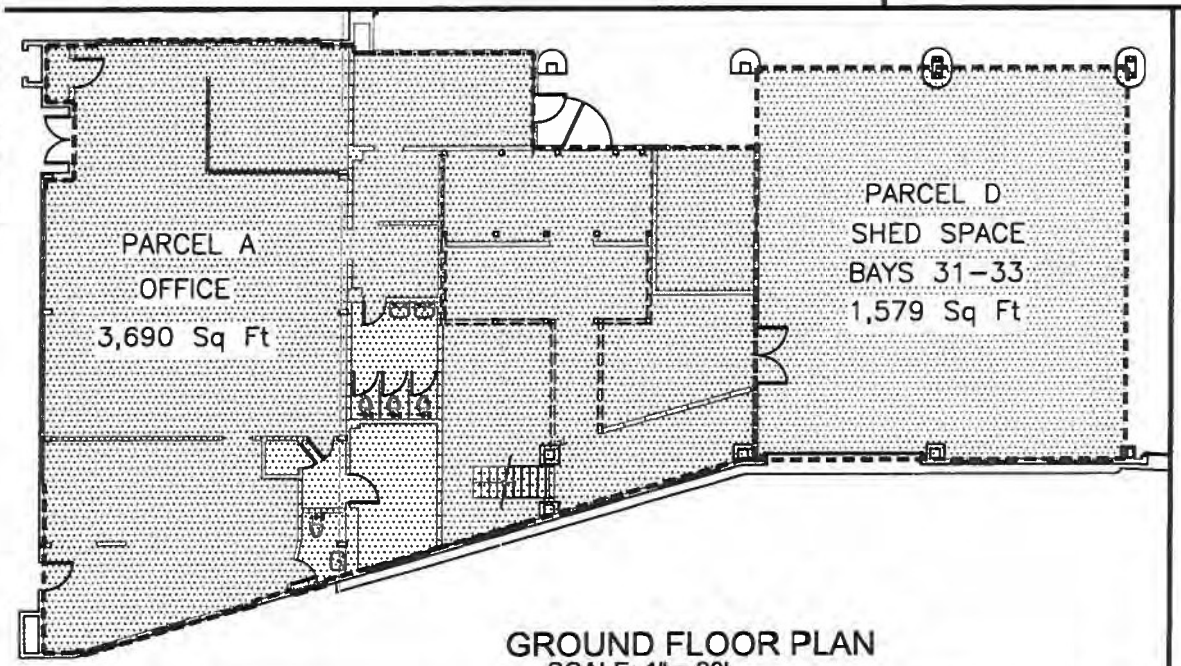
INITIALS: PORT: _____ TENANT: _____ DATE: 8/29/13



MEZZANINE PLAN
SCALE: 1" = 20'



LOCATION PLAN
NO SCALE



GROUND FLOOR PLAN
SCALE: 1" = 20'

BAUER INTELLIGENT TRANSPORTATION

PARCEL A
OFFICE = 3,690 Sq Ft
MEZZANINE = 838 Sq Ft
4,528 Sq Ft

PARCEL D
SHED SPACE
BAYS 31–33 = 1,579 Sq Ft

LEASE NO. L–15004	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: E. LAMB PLACE CODE NO. 1500–SHEDA DATE: SEPT 10, 2012 SCALE: AS SHOWN SHEET NO. OF SHEETS

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Schedule 3 (Revised)

FEMA Disclosure Notice

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The federal legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14. FEMA also publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines." Additional information on this matter can be found on FEMA's website at the following links:

http://www.fema.gov/plan/prevent/fhm/index.shtm

http://www.fema.gov/business/nfip/index.shtm

Additional information about the San Francisco legislation can be found on the city's website (http://www.sfgov.org).

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SETTLEMENT AGREEMENT FOR LEASE L-15004

This Settlement Agreement for Lease No. L-15004 (the "**Agreement**"), dated for reference purposes only as of February 28, 2020, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), operating through the SAN FRANCISCO PORT COMMISSION (the "**Port**"), as landlord, and Bauer's Intelligent Transportation, Inc., a California Corporation as tenant ("**Tenant**").

RECITALS

A. Port and Tenant entered into Lease No. L-15004 dated November 30, 2011 for reference purposes only for that certain real property located at Pier 50 in the City and County of San Francisco, State of California, as amended ("**Lease**").

B. According to Port's accounting, as of February 27, 2020, Tenant is arrears in Rent due under the Lease in the amount of $199,232.29 including late charges, fees and interest assessed per the Lease. Port and Tenant wish to enter into this Agreement to resolve the Port's claim for outstanding Rent in exchange for Tenant's payment of $174,233.29 in satisfaction of the outstanding rent and the other terms and conditions stated in this Agreement, along with Tenant's payment of Rent now due for March 2020. Tenant acknowledges that Port is only willing to make such a concession as a one-time accommodation to enable Tenant to become and stay current on rent and that no additional concessions will be offered.

C. All capitalized terms used herein but not otherwise defined shall have the meaning given to them in the Lease.

NOW THEREFORE, in consideration of the mutual covenants herein and for other good and valuable consideration, the Port and Tenant agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.

2. Payments. In exchange for Tenant's payment of (a) $174,233.29 of Rent, late charges and fees accrued under the Lease prior to February 27, 2020 and (b) $103,061.81 of Rent due for March 2020, no later than March 4, 2020, Port agrees to waive the remaining $24,999.00 in Rent, late charges, fees and interest charges.

3. Mutual Releases.

Tenant, for itself and on behalf of its officers, employees, owners, successors, and assigns, if any, and on behalf of its agents and invitees, hereby agrees to fully and forever release and discharge the City and County of San Francisco, its elective and/or appointive boards, agents, employees, departments, commissioners, and officers, including without limitation the San Francisco Port Commission ("**City Releasees**") from any and all claims, actions, causes of action, liabilities, damages, loss of business or profits, demands, attorneys' fees, expenses and costs (including without limitation court costs) of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, which have existed or may have existed, or which do exist, or which hereafter shall or may exist, and which arise out of or are in any way related to any of the transactions, occurrences, acts or omissions related to the Lease or the matters described in this Agreement.

Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Tenant hereby waives application of Section 1542 of the Civil Code. Tenant understands and acknowledges that, as a consequence of this waiver of Section 1542, even if Tenant should eventually suffer additional or further loss, damages or injury arising out of or in any way related to any of the events which gave rise to this Agreement, or any of them, Tenant will not be permitted to make any claims to recover for such loss, damages or injury. Tenant acknowledges that it intends these consequences even as to claims that may exist as of the date of this Agreement but which Tenant does not know exist, and which, if known, would materially affect Tenant's decision to execute this Agreement, regardless of whether Tenant's lack of knowledge is

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the result of ignorance, oversight, error, negligence, or any other cause.

Port, for itself and on behalf of its and City's officers, employees, owners, successors, and assigns, if any, and on behalf of its agents and invitees, hereby agrees to fully and forever release and discharge Tenant, its elective and/or appointive boards, agents, employees, ("**Tenant Releasees**") from any and all claims, actions, causes of action, liabilities, damages, loss of business or profits, demands, attorneys' fees, expenses and costs (including without limitation court costs) of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, which have existed or may have existed, or which do exist, or which hereafter shall or may exist, and which arise out of or are in any way related to claims related to Rent under the Lease prior to February 27, 2020.

Port waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Port hereby waives application of Section 1542 of the Civil Code. Port understands and acknowledges that, as a consequence of this waiver of Section 1542, even if Port should eventually suffer additional or further loss, damages or injury arising out of or in any way related to any of the events which gave rise to this Agreement, or any of them, Port will not be permitted to make any claims to recover for such loss, damages or injury. Port acknowledges that it intends these consequences even as to claims that may exist as of the date of this Agreement but which Port does not know exist, and which, if known, would materially affect Port's decision to execute this Agreement, regardless of whether Port's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

The terms of this Section 3 shall survive the expiration or earlier termination of this Agreement.

4. No Release or Waiver of Tenant. Except as expressly provided herein, this Agreement shall not (a) release or discharge the Tenant from any liability, whether past, present or future, under the Lease (including but not limited to the payment of rent and any indemnification, hold harmless or exculpation obligations, or (b) be construed to waive any breach by Tenant, or any of Port's rights thereunder, or to enlarge or increase Port's obligations thereunder.

5. No Representation or Warranty by Port. Nothing contained herein shall operate as a representation or warranty by Port of any nature whatsoever.

6. Rights Are Cumulative. The liability of Tenant and all rights, powers, and remedies of Port under this Agreement shall be cumulative and not alternative, and such rights, powers, and remedies given to Port by law or in equity.

7. Authority. If Tenant signs as a corporation, each of the persons executing this Agreement on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Agreement, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon Port's request, Tenant shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

8. Entire Agreement. Each party acknowledges that this Agreement contains and constitutes the entire agreement between the parties. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to the subject matter of the Agreement are superseded in their entirety by this Agreement. No prior drafts of this Agreement or changes between those drafts and the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider such drafts in interpreting this Agreement. The terms of this Agreement are contractual and not a mere recital. Each party acknowledges that the other party has made no representations, express or implied, to induce that party to enter into this Agreement, other than as expressly set forth herein.

9. Execution. Each party acknowledges that, in executing this Agreement, it is acting on its own, independent judgment and advised by its legal counsel. Each party acknowledges having read this Agreement and each of its provisions and understands its meaning and effect. Each party acknowledges and warrants that its execution of this Agreement is free and voluntary. This Agreement has been fully negotiated with the assistance of counsel and should not be construed more strictly against one party than another.

10. This Agreement has been fully negotiated with the assistance of counsel and should not be construed more strictly against one party than another.

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11. No Admission. No aspect of this Agreement is intended to be nor at any time shall be construed, deemed, or treated in any respect as an admission by either party of liability for any purpose. The parties expressly understand that this Agreement does not constitute an admission of the truth or accuracy of any of allegations made in the course of the parties' discussions.

12. Severability. If any of the provisions of this Agreement or the application thereof is held to be invalid, its invalidity shall not affect any other provision or application of this Agreement to the extent that such other provision or application can be given effect without the invalid provision or application, and to this end, the provisions of this Agreement are declared and understood to be severable.

13. Conflict. In the event of any inconsistencies between the terms of this Agreement and the Lease, the terms of this Agreement shall prevail. Time is of the essence of this Agreement. This Agreement shall be governed by the laws of the State of California. Neither this Agreement nor any of the terms hereof may be amended or modified except by a written instrument signed by all the Parties hereto.

14. Effective Date. This Agreement shall be effective upon full execution by the Parties ("Effective Date"). The Parties agree that Port's obligation to execute this Agreement is contingent upon Tenant's payment of the amount specified in Section 2 no later than March 4, 2020.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

BAUER'S INTELLIGENT TRANSPORTATION, A CALIFORNIA CORPORATION

By: Gary Bauer
Name: Gary S. Bauer
Title: CEO

Date Signed: 3/4/20

By: _____
Name: _____
Title: _____

Date Signed: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Michael J. Martin
Deputy Director, Real Estate and Development

Date Signed: 3/6/2020

Approved as to Form:
DENNIS J. HERRERA, City Attorney

By: _____
Rona H. Sandler
Deputy City Attorney

Agreement Prepared by: Michael Martin (initial)

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

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EXHIBIT B
401 TFB LEASE

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EXHIBIT B
401 TFB LEASE

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ORIGINAL

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

LEASE NO. L-16206

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO
OPERATING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION

AND

BAUER'S INTELLIGENT TRANSPORTATION, INC., A CALIFORNIA CORPORATION

401 TERRY A. FRANCOIS BOULEVARD

ELAINE FORBES
EXECUTIVE DIRECTOR

SAN FRANCISCO PORT COMMISSION

WILLIE ADAMS, PRESIDENT
KIMBERLY BRANDON, VICE PRESIDENT
LESLIE KATZ, COMMISSIONER
ELENI KOUNALAKIS, COMMISSIONER
DOREEN WOO HO, COMMISSIONER

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

TABLE OF CONTENTS

ORIGINAL

Page

1. DEMISE 1
2. DEFINITIONS 1
3. PREMISES; AS-IS CONDITION 8
   - 3.1. Premises 8
   - 3.2. Accessibility Inspection Disclosure 8
   - 3.3. No Right to Encroach 8
   - 3.4. Proximity of Development Project 9
   - 3.5. No Light, Air or View Easement 9
   - 3.6. Unique Nature of Premises 9
   - 3.7. As-Is Condition 10
   - 3.8. Port's Rights Regarding Premises 10
4. TERM OF LEASE; TERMINATION BY PORT 10
   - 4.1. Term 10
   - 4.2. Termination Rights 10
   - 4.3. Waiver of Relocation Benefits 11
5. RENT 11
   - 5.1. Base Rent 11
   - 5.2. Default Interest 12
   - 5.3. Late Charges/Habitual Late Payer 12
   - 5.4. Returned Checks 12
   - 5.5. Additional Charges 12
6. TAXES AND ASSESSMENTS 12
   - 6.1. Payment of Taxes 12
   - 6.2. Possessory Interest Tax 13
7. SECURITY DEPOSIT 13
8. USE OF THE PREMISES 14
   - 8.1. Permitted Use 14
   - 8.2. Prohibited Use 14
   - 8.3. Notice of Prohibited Use Charge 15

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

9. COMPLIANCE WITH LAWS AND REGULATIONS 15
10. PORT ACTING AS OWNER OF PROPERTY; REGULATORY APPROVALS; COMPLIANCE WITH CITY'S RISK MANAGER'S REQUIREMENTS 16
10.1. Port Acting as Owner of Property 16
10.2. Regulatory Approvals 16
10.3. Compliance with City's Risk Manager's Requirements 16
11. MAINTENANCE AND REPAIRS 17
11.1. Tenant Maintenance and Repair Obligations 17
11.2. Port's Right to Inspect 17
11.3. Port's Right to Repair 17
11.4. Acts of Nature 18
12. UTILITIES AND SERVICES 18
12.1. Utilities and Services 18
12.2. On-Site Renewable Energy 19
13. IMPROVEMENTS AND ALTERATIONS 19
13.1. Port Consent Required 19
13.2. Construction Requirements 20
13.3. Improvements Part of Realty 21
13.4. Removal of Improvements 22
13.5. Removal of Non-Permitted Improvements 22
13.6. All-Gender Toilet Facilities 22
13.7. Signs 22
13.8. Improvements on Roof 22
13.9. Port's Alterations 23
14. LIENS 23
15. HAZARDOUS MATERIALS 24
15.1. Requirements for Handling 24
15.2. Tenant Responsibility 24
15.3. Tenant's Environmental Condition Notification Requirements 24
15.4. Requirement to Remediate 25
15.5. Port's Right to Audit 26
15.6. Notification of Asbestos 26
15.7. Notification of Lead 27

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

15.8. Storm Water Pollution Prevention 27
15.9. Presence of Hazardous Materials 27
15.10. Survival 28
16. INSURANCE 28
16.1. Required Insurance Coverage 28
16.2. Claims-Made Policies 29
16.3. Annual Aggregate Limits 29
16.4. Payment of Premiums 29
16.5. Waiver of Subrogation Rights 29
16.6. General Insurance Matters 30
17. DAMAGE AND DESTRUCTION 30
17.1. Damage and Destruction 30
17.2. Waiver 31
18. EMINENT DOMAIN 31
18.1. General 31
18.2. Partial Takings 31
18.3. Taking of the Facility 31
18.4. Temporary Takings 32
18.5. Award; Waiver; Termination of Lease; Rent 32
19. INDEMNITY AND EXCULPATION 32
19.1. General Indemnity 32
19.2. Hazardous Materials Indemnity 32
19.3. Scope of Indemnities 33
19.4. Exculpation and Waiver 33
19.5. Survival 34
20. ASSIGNMENT AND SUBLETTING 34
20.1. Transfer to Affiliate 34
20.2. Transfer to Non-Affiliate 34
20.3. Sublease 35
20.4. Transfer Agreement Requirements 36
20.5. Notice to Port 36
20.6. Transfer Audit 36
20.7. Acknowledgement 36

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

20.8. Transfer Definitions 36
21. DEFAULT BY TENANT 37
22. PORT'S REMEDIES 38
22.1. Tenant's Right to Possession Not Terminated 38
22.2. Termination of Tenant's Right to Possession 39
22.3. Appointment of Receiver 39
22.4. Port's Right to Cure Tenant's Default 39
22.5. No Accord and Satisfaction 39
22.6. Waiver of Redemption 40
22.7. Habitual Late Payer 40
22.8. Remedies Not Exclusive 40
23. LITIGATION EXPENSES; ATTORNEYS' FEES 40
23.1. Litigation Expenses 40
23.2. Appeals 40
23.3. City Attorney 40
24. PORT'S ENTRY ON PREMISES 40
24.1. Entry for Inspection 40
24.2. General Entry 40
24.3. Emergency Entry 41
24.4. No Liability 41
24.5. Nondisturbance 41
25. SURRENDER AND QUITCLAIM 41
25.1. Surrender 41
25.2. Quitclaim 42
25.3. Abandoned Property 42
25.4. Survival 42
26. HOLDING OVER 42
26.1. Terms of Holdover Tenancy 42
26.2. With Consent 42
26.3. Without Consent 43
27. MINERAL RESERVATION 43
28. CITY AND PORT REQUIREMENTS 43
28.1. Nondiscrimination 43

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

28.2. Requiring Health Benefits for Covered Employees....44
28.3. First Source Hiring....45
28.4. Local Business Enterprises....45
28.5. Resource-Efficient Facilities and Green Building Requirements....45
28.6. Prohibition of Tobacco Sales and Advertising....45
28.7. Prohibition of Alcoholic Beverages Advertising....45
28.8. Graffiti Removal....46
28.9. Restrictions on the Use of Pesticides....46
28.10. MacBride Principles Northern Ireland....46
28.11. Tropical Hardwood and Virgin Redwood Ban....47
28.12. Preservative-Treated Wood Containing Arsenic....47
28.13. Notification of Limitations on Contributions....47
28.14. Sunshine Ordinance....47
28.15. Conflicts of Interest....48
28.16. Drug-Free Workplace....48
28.17. Prevailing Wages and Working Conditions....48
28.18. Public Transit Information....48
28.19. Food Service Waste Reduction Ordinance....49
28.20. Consideration Of Criminal History In Hiring And Employment Decisions....49
28.21. Local Hire....50
28.22. San Francisco Bottled Water Ordinance....50
28.23. Vending Machines; Nutritional Standards and Calorie Labeling Requirements; Offerings....50
29. NOTICES....51
30. MISCELLANEOUS PROVISIONS....51
30.1. California Law....51
30.2. Entire Agreement....51
30.3. Amendments....51
30.4. Severability....51
30.5. Interpretation of Lease....51
30.6. Successors....52
30.7. Real Estate Broker's Fees....52
30.8. Counterparts....52

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

30.9. Authority 52
30.10. No Implied Waiver 53
30.11. Time is of Essence 53
30.12. Cumulative Remedies 53
30.13. Survival of Indemnities 53
30.14. Relationship of the Parties 53
30.15. No Recording 53
30.16. Additional Written Agreement Required 53
31. LIMITATION ON DAMAGES 53
31.1. No Recourse Beyond Value of Facility 53
31.2. Non-Liability of City Officials, Employees and Agents 53
31.3. Limitation on Port's Liability Upon Transfer 54
32. TENANT ESTOPPEL CERTIFICATES 54

EXHIBITS AND SCHEDULES

EXHIBIT A **DESCRIPTION OF PREMISES**
EXHIBIT B **COMMENCEMENT DATE AND EXPIRATION DATE MEMORANDUM**
EXHIBIT C **ESTOPPEL CERTIFICATE**
EXHIBIT D **RULES AND REGULATIONS**
EXHIBIT E **SUMMARY OF SECRETARY'S STANDARDS**

SCHEDULE 1 **ASBESTOS NOTIFICATION AND INFORMATION**
SCHEDULE 2 **SUBSTRUCTURE REPORT(S)**
SCHEDULE 3 **FEMA DISCLOSURE NOTICE**

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

LEASE AGREEMENT
BASIC LEASE INFORMATION

Lease Date:	November 1, 2016
Lease Number:	**L-16206**
Landlord or Port:	**CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**
Landlord's Address:	Port of San Francisco Pier 1 San Francisco, California 94111 Attention: Director of Real Estate Telephone: (415) 274-0400 Facsimile: (415) 274-0494
Tenant:	**BAUER'S INTELLIGENT TRANSPORTATION, INC.**, a California Corporation
Tenant's Main Contact Person and Mailing Address:	Gary Schwartz Pier 50 San Francisco, CA 94158 Telephone: (415) 263-4020 Cell: (415) 312-6400 Facsimile: (415) 522-1600 Email: gschwartz@bauersIT.com
Tenant's Billing Contact and Address:	Gary Schwartz Pier 50 San Francisco, CA 94158 Telephone: (415) 263-4020 Cell: (415) 312-6400 Facsimile: (415) 522-1600 Email: gschwartz@bauersIT.com
Tenant's Emergency Contact and Address:	Michael Albertolle Pier 50 San Francisco, CA 94158 Telephone: (415) 522-1212 x1001 Cell: (415) 517-5466 Email: mikea@bauersIT.com

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Tenant's Insurance Contact and Address (not broker):	Gary Schwartz Pier 50 San Francisco, CA 94158 Telephone: (415) 263-4020 Cell: (415) 312-6400 Facsimile: (415) 522-1600 Email: gschwartz@bauersIT.com			
Tenant's Parking Contact and Address:	Same as Main Contact			
Contact Information for Tenant's Agent for Service of Process (including address) :	Gary S. Bauer Bauer's Intelligent Transportation, Inc. Pier 50 San Francisco, CA 94158			
Premises:	401 Terry A. Francois Blvd., Suite 212			
Facility:	Pier 50 Administration Building 401 Terry A. Francois Blvd. San Francisco, California 94158			
Premises Rentable Square Footage:	Approx. 1,343 rentable square feet of office space			
Length of Term:	Sixty (60) months			
Commencement Date:	December 1, 2016			
Rent Commencement Date:	March 1, 2017			
Anniversary Date:	December 1, 2017 and each December 1 during the Term			
Expiration Date:	November 30, 2021			
Monthly Base Rent:	Months	Sq. Ft.	Monthly Base Rate	Total Monthly Base Rent
	1-3	1,343	$0	$0 *Provided there is no Tenant Event of Default
	4-12	1,343	$3.40	$4,566.20

12/12/16 - 3/11/17

3/12/17 - 12/31/17

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

1/1/18 - 12/31/18 1/1/19 - 12/31/19 1/1/20 - 12/31/20 1/1/21 - 12/31/21	13-24	1,343	$3.50	$4,703.19
	25-36	1,343	$3.61	$4,844.29
	37-48	1,343	$3.72	$4,989.62
	49-60	1,343	$3.83	$5,139.31
	Ten Thousand Two Hundred Seventy-Eight and 62/100 Dollars ($10,278.62)			
	The Premises shall be used solely for office space and for no other purpose.			

Substructure:	See ***Schedule 2*** attached hereto.
Maintenance and Repair:	Port's responsibility, as further described in Section 11 below
Utilities:	Port's responsibility, as further described in Section 12 below
Location of Asbestos in Facility:	See ***Schedule 1*** attached hereto.
Rules and Regulations:	See ***Exhibit D*** attached hereto
Development Project:	SWL 337
Required Tenant Improvements:	No later than ninety (90) days after the Commencement Date and subject to the requirements of Section 13, Tenant shall install new carpet and paint the Premises. The improvements shall remain on the Premises upon expiration or early termination of this Lease with no cost to Port.
Parking:	Tenant acknowledges that this Lease does not include parking rights or spaces. Tenant may enter into a separate agreement for parking spaces on the Port's approved form for any spaces offered to Tenant by the Port.
Lease Prepared By:	Kimberley Beal, Commercial Property Manager

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

LEASE AGREEMENT

This Lease Agreement, dated for reference purposes only as of the Lease Date set forth in the Basic Lease Information, is by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as landlord, and the Tenant identified in the Basic Lease Information ("**Tenant**"). The basic lease information (the "**Basic Lease Information**"), the exhibits, schedule and this Lease Agreement are and shall be construed as a single instrument and are referred to herein as this "**Lease**". In the event of any conflict or inconsistency between the Basic Lease Information and this Lease Agreement, the Basic Lease Information will control.

1. DEMISE.

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, Port does hereby lease to Tenant, and Tenant does hereby hire and take from Port, the Premises upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. DEFINITIONS.

Definitions used in this Lease are found in the specified locations in this Lease or are set forth below. Definitions that are not capitalized below are not capitalized when used in this Lease.

"**ACMs**" is defined in Section 15.6 below.

"**ADA**" means the Americans with Disabilities Act, a federal law codified at 42 U.S.C. §§ 12101 et seq., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented.

"**Additional Rent**" means all taxes, assessments, insurance premiums, operating and maintenance charges, fees, costs, expenses, liabilities and obligations of every description which Tenant assumes or is obligated to pay or discharge pursuant to this Lease, together with every fine, penalty, interest or other charge which may be added for non-payment or late payment, whether payable to Port or to other persons, parties or entities designated herein.

"**Affiliate**" means: (i) a Person that Controls or is Controlled by Tenant, or is Controlled by the same Person that Controls Tenant; or (ii) if Tenant is a natural Person, any designated successor by trust, will, or court order following Tenant's death or incapacity.

"**Affiliate Transfer**" means a Transfer from Tenant to an Affiliate meeting the requirements of Section 20.1.

"**Agents**" when used with reference to either party to this Lease or any other person means the officers, directors, employees, agents, and contractors of the party or other person, and their respective heirs, legal representatives, successors, and assigns.

"**Alterations**" means any alterations, installations, improvements, or additions to any Improvements or to the Premises.

"**Anniversary Date**" means the first and each subsequent anniversary of the Commencement Date; provided, however, that if the Commencement Date is not the first day of a month, then each Anniversary Date shall be calculated from the first day of the thirteenth (13th) month after the Commencement Date.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Assignment**" means a proposed or actual Transfer of Tenant's rights, title, and interest in all or any part of the Premises under a contractual assignment or an assignment by operation of Law.

"**Award**" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

"**Base Rent**" means the monthly Base Rent specified in the Basic Lease Information and described further in Section 5.1 hereof.

"**BCDC**" means the San Francisco Bay Conservation and Development Commission.

"**Books and Records**" means all of Tenant's books, records, and accounting reports or statements relating to its business, this Lease, and the operation and maintenance of the Premises, including cash journals, rent rolls, general ledgers, income statements, bank statements, income tax schedules relating to the Premises and any other bookkeeping documents used in Tenant's business operations for the Premises, whether maintained by Tenant or a third-party contractor.

"**business day**" means any week day during which businesses are generally open for business, excluding local, state, and federal holidays observed by Port.

"**Cal-OSHA**" means the Division of Occupational Safety and Health of the California Department of Industrial Relations.

"**Changes**" is defined in Section 10.2 below.

"**City**" means the City and County of San Francisco, a municipal corporation.

"**Claims**" means all liabilities, injuries, losses, costs, claims, demands, rights, causes of action, judgments, settlements, damages, liens, fines, penalties and expenses, including without limitation, direct and vicarious liability of any kind for money damages, compensation, penalties, liens, fines, interest, attorneys' fees, costs, equitable relief, mandamus relief, specific performance, or any other relief.

"**Commencement Date**" means the date on which the Term commences as specified in the Basic Lease Information.

"**Commission**" means the San Francisco Port Commission.

"**Common Areas**" means all areas outside of the Premises and within the boundaries of the Facility that are not now or hereafter exclusively leased or exclusively permitted to other tenants or permittees, and that are designated by Port from time to time for the general common use or convenience of Port, Tenant, or other tenants of Port, and the respective authorized Agents and Invitees of the same. The Common Areas include, without limitation, driveways, delivery areas, pedestrian walkways, service corridors accessing loading docks, utility rooms, and other areas or improvements provided or designated by Port for common use. The Common Areas shall not include any parking areas located outside the boundaries of the Facility.

"**Conduct Code**" is defined in Section 28.13 below.

"**Concession**" is defined in Section 30.16 below.

"**Control**" means a Person that: (a) owns or has the right to acquire 50 percent or more (25 percent or more if publicly traded) of each class of equity interests in the second Person or 50 percent or more (25 percent or more if publicly traded) of each class of interests that have the right to nominate, vote for, or otherwise select the members of the governing body that directs or causes the direction of substantially all of the management and policies of the second Person; or (b) otherwise has the right to direct or cause the direction of substantially all of the management and policies of the second Person.

"**Core Benefits**" is defined in Section 28.1(c) below.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**CPA**" means an independent certified public accounting firm acceptable to Port in its reasonable discretion.

"**Date of Taking**" means the earlier of **(i)** the date upon which title to the portion of the Property taken passes to and vests in the condemnor or **(ii)** the date on which Tenant is dispossessed.

"**disturbed or removed**" is defined in Section 13.2(g) below.

"**Encroachment Area**" is defined in Section3.3 below.

"**Encroachment Area Charge**" is defined in Section 3.3 below.

"**Environmental Laws**" means any Laws relating to Hazardous Material (including its Handling, Release, or Remediation) or to human health and safety, industrial hygiene, or environmental conditions in the environment, including structures, soil, air, bay water, and groundwater, and any environmental mitigation measure adopted under Environmental Laws affecting any portion of the Facility.

"**Environmental Regulatory Action**" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"**Environmental Regulatory Agency**" means the United States Environmental Protection Agency, OSHA, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the San Francisco Bay Regional Water Quality Control Board, Cal-OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, the San Francisco Public Utilities Commission, Port, or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"**Environmental Regulatory Approval**" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the Premises and any closure permit.

"**Exacerbate**" **or** "**Exacerbating**" when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission. Exacerbate also includes the disturbance, removal or generation of Hazardous Materials in the course of Tenant's operations, Investigations, maintenance, repair, Improvements and Alterations under this Lease. "**Exacerbation**" has a correlating meaning.

"**Excess Rent**" means Sublease rent and any other sums paid or payable to Tenant under a Sublease, excluding the value of goodwill, in excess of Tenant's concurrent Rent obligation for the Sublease premises.

"**Expiration Date**" means the date on which the Term expires as specified in the Basic Lease Information.

"**Event of Default**" is defined in Section 21 below.

"**Facility**" means the pier, building or other structure in or on which the Premises is located.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Facility Systems**" means the plumbing, electrical, fire protection, life safety, security and other mechanical, electrical, and communications systems of the Facility.

"**financial statements**" mean a current balance sheet and profit and loss statements that have been reviewed or examined by a CPA.

"**Habitual Late Payer**" means Tenant has received (a) at least two (2) notices of monetary default, or (b) at least three (3) notices of default within a twelve (12) month period.

"**Handle**" or "**Handling**" means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

"**Hard costs**" is defined in Section 11.3 below.

"**Hazardous Material**" means any substance, waste, or material that is now or in the future designated by any Regulatory Agency to be capable of posing a present or potential risk of injury to human health or safety, the environment, or property. This definition includes anything designated or defined in any Environmental Law as hazardous, hazardous substance, hazardous waste, toxic, pollutant, or contaminant; any asbestos, ACMs, and PACMs, whether or not part of the structure of any existing Improvements on the Premises, any Improvements to be constructed on the Premises by or on behalf of Tenant, or occurring in nature; and other naturally-occurring substances such as petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

"**Hazardous Material Claim**" means any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties, or the Premises or the Facility, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence or Release of any Hazardous Materials, including, without limitation, Losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, any other part of the Facility, or other Port property, the loss or restriction of the use or any amenity of the Premises, any other part of the Facility, or other Port property, and attorneys' fees and consultants' fees and experts' fees and costs.

"**Hazardous Material Condition**" means the presence, Release, or threatened Release of Hazardous Materials in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises.

"**HEPA**" is defined in Section 13.2(g) below.

"**HRC**" means the San Francisco Human Rights Commission.

"**Improvements**" means any and all buildings, structures, fixtures or other improvements constructed or installed on the Premises or any other part of the Facility, including those constructed by or on behalf of Tenant pursuant to this Lease (including, without limitation, any trailers, signs, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings and landscaping).

"**Improvement Costs**" is defined in Section 4.2 below.

"**Improvements Pertaining to the Realty**" means machinery or equipment installed for use on the property that cannot be removed without a substantial economic loss or without substantial damage to the property on which it is installed, regardless of the method of installation. In determining whether particular property can be removed "without a substantial economic loss," the value of the machinery or equipment in place and considered as part of the realty should be compared with its value if it were removed and sold.

"**Indemnified Parties**" is defined in Section 19.1 below.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Indemnify**" means to indemnify, protect, defend, and hold harmless forever. "**Indemnification**" and "**Indemnity**" have correlating meanings.

"**Interest Rate**" means ten percent (10%) per year or, if a higher rate is legally permissible, the highest rate an individual is permitted to charge under Law.

"**Investigate**" or "**Investigation**" when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be Released in, on, under or about the Premises, any other part of the Facility, other Port property, or the environment, and includes, without limitation, preparation and publication of site history, sampling, and monitoring reports, performing equipment and facility testing such as testing the integrity of secondary containment and above and underground tanks, and sampling and analysis of environmental conditions before, during, and after Remediation begins and continuing until the appropriate Environmental Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"**Invitees**" means Tenant's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, assignees, subtenants, and any other person whose rights arise through them, except that for the purposes of Article 20 (Assignment and Subletting), "**Invitees**" excludes Tenant's licensees, assignees, subtenants, and any other person whose rights arise through them.

"**Late Charge**" means a fee equivalent to fifty dollars ($50.00).

"**Law**" means any present or future law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, policy (including the Waterfront Land Use Plan), and Regulatory Approval of any Regulatory Agency with jurisdiction over any portion of the Premises, including Regulatory Approvals issued to Port which require Tenant's compliance, and any and all recorded and legally valid covenants, conditions, and restrictions affecting any portion of the Facility, whether in effect when this Lease is executed or at any later time and whether or not within the present contemplation of the parties, as amended from time to time.

"**Lease**" is defined in the preamble to this Lease.

"**Non-Affiliate**" means a Person that is not an Affiliate.

"**Notice of Removal**" is defined in Section 13.4 below.

"**Notice to Cease Prohibited Use**" is defined in Section 8.3 below.

"**Notice to Vacate**" is defined in Section 3.3 below.

"**Official Records**" means the official records of the City and County of San Francisco.

"**OSHA**" means the United States Occupational Safety and Health Administration.

"**PACMs** " is defined in Section 15.6 below.

"**Person**" means any natural person, corporation, limited liability entity, partnership, joint venture, or governmental or other political subdivision or agency.

"**Port**" means the San Francisco Port Commission.

"**Port program or project**" shall mean (a) any development, removal or renovation, by public and/or private parties, of the building, pier or seawall lot in, on or in the vicinity of the Premises (including, but not limited to any Development Project described in the Basic Lease Information), or (b) with respect to any areas owned by Port or under Port's jurisdiction between and including Piers 80-96, maritime uses (by way of example only and not as a limitation, cargo shipping, fishing, passenger cruises, ship repair, ferries and excursion boats, historic ships and recreational boating).

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Port representative**" means Port, a City auditor, or any auditor or representative designated by Port.

"**Port Work**" is defined in Section 13.9 below.

"**Premises**" means the real property described in Section 3.1 below and depicted on ***Exhibit A***.

"**preservative–treated wood containing arsenic**" is defined in Section 28.12 below.

"**prevailing party**" is defined in Section 23.1 below.

"**Prohibited Use(s)**" is defined in Section 8.2 below.

"**Regulatory Agency**" means the municipal, county, regional, state, or federal government and their bureaus, agencies, departments, divisions, courts, commissions, boards, officers, or other officials, including BCDC, any Environmental Regulatory Agency, Port (in its regulatory capacity), other departments, offices, and commissions of the City and County of San Francisco (each in its regulatory capacity), Port's Chief Harbor Engineer, the Dredged Material Management Office, the State Lands Commission, the Army Corps of Engineers, the United States Department of Labor, the United States Department of Transportation, or any other governmental agency now or later having jurisdiction over Port property.

"**Regulatory Approval**" means any authorization, approval, license, registration, or permit required or issued by any Regulatory Agency.

"**Release**" when used with respect to Hazardous Materials means any actual or imminent spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Premises, any other part of the Facility, other Port property, or the environment.

"**Remediate**" or "**Remediation**" when used with respect to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with applicable Environmental Laws and any additional Port requirements. "**Remediation**" also includes the creation of a remedial work plan to be approved by the appropriate Environmental Regulatory Agency when required.

"**Renewable Energy System**" is defined in Section 12.2 below.

"**Rent**" means the Base Rent, Additional Rent and all other sums payable by Tenant to Port hereunder, including, without limitation, any Late Charge and any interest assessed pursuant to Section 5.

"**Rent Commencement Date**" means the date on which the payment of Rent commences as specified in the Basic Lease Information.

"**Repair Period**" means two hundred ten (210) days after the date of damage to the Premises or the Facility by fire or other casualty.

"**Rules and Regulations**" means the Rules and Regulations, if any, applicable to the Facility set forth in ***Exhibit D*** attached hereto, as may be amended from time to time.

"**saltwater immersion**" is defined in Section 28.12 below.

"**Security Deposit**" means the amount specified in the Basic Lease Information and as further described in Section 7 below.

"**Sublease**" means a proposed or actual Transfer of all or any part of the Premises under a sublease or a sub-sublease.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

"**Subletting Expenses**" means verifiable and reasonable brokerage commissions incurred in connection with a Sublease and the costs of any new tenant improvements for which Tenant is responsible under the Sublease.

"**SWPPP**" is defined in Section 15.8(a) below.

"**Taking**" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under Law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

"**Tenant**" means the party identified as Tenant in the Basic Lease Information.

"**Tenant's Property**" means all furniture, trade fixtures, office equipment, and articles of movable personal property installed in the Premises by or for the account of Tenant, and any Improvements or Alterations constructed on or affixed to the Premises if designated under this Lease as Tenant's Property, in either case without cost to Port.

"**Term**" is defined in Section 4.1 below.

"**trade fixtures**" means those items of personalty, furniture, equipment, machinery used in trade by Tenant which are customarily removed without damage to the Premises at the end of a lease term in the ordinary course of businesses of the type operated by Tenant at the Premises.

"**Transfer**" means any of the following events or proposed events, whether voluntary, involuntary, or by operation of Law: (a) Tenant sells, assigns, encumbers, subleases, or otherwise transfers any of its interest in this Lease or in the Premises; (b) any Person other than Tenant occupies or claims a right of possession to any part of the Premises; (c) Tenant dissolves, merges, consolidates, or otherwise reorganizes, or sells, assigns, encumbers, or otherwise transfers cumulatively or in the aggregate 50 percent or more (25 percent or more if publicly traded) of its equity interests or business assets, such as goodwill, inventory, and profits; or (d) any subtenant, assignee, or other Transferee of Tenant sells, assigns, encumbers, sub-subleases, or otherwise Transfers any of its interest in its Sublease or premises.

"**Transfer Agreement**" means all document(s) effecting or evidencing Tenant's proposed sale, assignment, encumbrance, sublease, or other Transfer.

"**Transfer Date**" means the effective date of a Transfer.

"**Transfer Notice**" means Tenant's prior written notice to Port of an intent to Transfer to a Non-Affiliate, specifying: (a) the Transferee's name, address, other contact information, and, if the Transferee is not a natural Person, its form of organization and the identity of each Person with Control of the Transferee; (b) the proposed Transfer Date and a full description of the Transfer Terms; (c) a description of the Transferee's proposed use of the Premises, including any required or desired Alterations or Improvements to the Premises that the Transferee may undertake in order to facilitate its proposed use; and (d) a list of the Transferee's personal, business, and credit references.

"**Transfer Terms**" means the terms and conditions in the proposed or final Transfer Agreement, as appropriate in context.

"**Transferee**" means the Person to which Tenant makes or proposes to make a Transfer.

"**Utilities**" means electricity, water, gas, heat, sewers, oil, telecommunication services and all other Utilities.

"**Waiving Party**" is defined in Section 16.5 below.

"**Work**" when used in reference to construction is defined in Section 13.2(c) below.

"**worth at the time of award**" is defined in Section 22.2 below.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

3. PREMISES; AS-IS CONDITION.

3.1. *Premises.*

(a) Subject to the provisions of this Lease, Port hereby leases to Tenant, and Tenant hereby leases from Port, the Premises in the Facility identified in the Basic Lease Information. The Premises has the address and contains the square footage specified in the Basic Lease Information. The location and dimensions of the Premises are depicted on ***Exhibit A*** attached hereto and incorporated herein by reference. Port and Tenant agree and acknowledge that any statement of rentable or usable (if applicable) square footage set forth in this Lease is an approximation which Port and Tenant agree is reasonable and that the usable square footage of the Premises may be less than the rentable square footage of the Premises. Port and Tenant further agree and acknowledge that the rentable square footage of the Premises shall be used at all times to calculate the Base Rent due and payable by Tenant under this Lease and neither the Base Rent nor any other economic term based on rentable square footage shall be subject to revision whether or not the actual rentable or usable square footage is more or less.

(b) Tenant shall have the non-exclusive right to use, together with other tenants, the Common Areas. All of the Common Areas shall at all times be subject to the exclusive control, regulation, and management of Port. Port shall have the right to construct, maintain, and operate lighting facilities on all Common Areas; to patrol all Common Areas; to temporarily close any Common Areas for maintenance, repairs or alterations; from time to time to change the area, level, location and arrangement of Common Area facilities; to use the Common Areas and restrict access and use of the same during the maintenance, repair, construction or reconstruction of buildings, additions or improvements; to erect buildings, additions and improvements on the Common Areas from time to time; and to restrict parking by tenants, their Agents and Invitees. Port may operate and maintain the Common Areas and perform such other acts and make such other changes at any time and from time to time in the size, shape, location, number and extent of the Common Areas or any of them as Port in its sole discretion shall determine; provided, however, that no exercise by Port of its rights hereunder shall unreasonably restrict access to the Premises.

3.2. *Accessibility Inspection Disclosure.*

California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises has not been inspected by a CASp.

3.3. *No Right to Encroach.*

(a) If Tenant (including, its Agents, Invitees, successors and assigns) uses or occupies space outside the Premises without the prior written consent of Port (the "**Encroachment Area**"), then upon written notice from Port ("**Notice to Vacate**"), Tenant shall immediately vacate such Encroachment Area and pay as Additional Rent for each day Tenant used, occupied, uses or occupies such Encroachment Area, an amount equal to the rentable square footage of the Encroachment Area, multiplied by the higher of the (i) highest rental rate then approved by the San Francisco Port Commission for the Premises or the Facility, or (ii) then current fair market rent for such Encroachment Area, as reasonably determined by Port (the "**Encroachment Area Charge**"). If Tenant uses or occupies such Encroachment Area for a fractional month, then the Encroachment Area Charge for such period shall be prorated based on a thirty (30) day month. In no event shall acceptance by Port of the Encroachment Area Charge be deemed a consent by Port to the use or occupancy of the Encroachment Area by Tenant, its Agents, Invitees, successors or assigns, or a waiver (or be deemed as a waiver) by Port of any and all other rights and remedies of Port under this Lease (including Tenant's obligation to Indemnify Port as set forth in the last paragraph of this Section 3.3(c), at law or in equity.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(b) In addition, Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of the initial Notice to Vacate plus the actual cost associated with a survey of the Encroachment Area. In the event Port determines during subsequent inspection(s) that Tenant has failed to vacate the Encroachment Area, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00) for each additional Notice to Vacate, if applicable, delivered by Port to Tenant following each inspection. The parties agree that the charges associated with each inspection of the Encroachment Area, delivery of each Notice to Vacate and survey of the Encroachment Area represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises, issuance of each Notice to Vacate and survey of the Encroachment Area. Tenant's failure to comply with the applicable Notice to Vacate and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity.

(c) In addition to Port's rights and remedies under this Section, the terms and conditions of the indemnity and exculpation provision set forth in Section 19 below (Indemnity and Exculpation) shall also apply to Tenant's (including, its Agents, Invitees, successors and assigns) use and occupancy of the Encroachment Area as if the Premises originally included the Encroachment Area, and Tenant shall additionally Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in surrendering the Encroachment Area including, without limitation, any loss or liability resulting from any Claims against Port made by any tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Encroachment Area to any such tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

(d) All amounts set forth in this Section shall be due within three (3) business days following the applicable Notice to Vacate and/or separate invoice relating to the actual cost associated with a survey of the Encroachment Area. By signing this Lease, each party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

3.4. ***Proximity of Development Project***. Tenant acknowledges that during the Term, a Port program or project and/or the Development Project(s) described in the Basic Lease Information, if any, is scheduled to be, or may be, constructed on property in the vicinity of the Premises. Tenant is aware that the construction of such project(s) and the activities associated with such construction will generate certain adverse impacts which may result in some inconvenience to or disturbance of Tenant. Impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of such inconvenience or disturbance.

3.5. ***No Light, Air or View Easement***. This Lease does not include an air, light, or view easement. Any diminution or shutting off of light, air or view by any structure which may be erected on lands near or adjacent to the Facility or by any vessels berthed near the Facility shall in no way affect this Lease or impose any liability on Port, entitle Tenant to any reduction of Base Rent or Additional Rent, or affect this Lease in any way or Tenant's obligations hereunder.

3.6. ***Unique Nature of Premises***. Tenant acknowledges that: (a) the Facility is located along the waterfront in a building on a pier and/or wharf, supported by a partially-submerged substructure in a marine environment, which was originally built approximately 100 years ago; and/or (b) Port's regular maintenance may involve activities, such as pile driving, that create noise and other effects not normally encountered in locations elsewhere in San Francisco due to the unique nature of the Premises; (c) there is a risk that all or a portion of the Premises will be inundated with water due to floods or sea level rise; (d) there is a risk that sea level rise will increase the cost of Substructure repairs and/or prevent or limit the ability to make repairs to

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

the Substructure; and (e) Port cannot guarantee that piers, decks, wharves, and aprons will be suitable for leased occupancy during the entire Term of this Lease.

3.7. ***As-Is Condition***. Tenant acknowledges and agrees that Tenant is familiar with the Premises, the Premises is being leased and accepted in their "as-is" condition, without any improvements or alterations by Port, without representation or warranty of any kind, and subject to all applicable Laws governing their use, occupancy and possession. Tenant represents and warrants to Port that Tenant has received and reviewed the FEMA disclosure notice attached as ***Schedule 3*** and a copy of the report(s), if any, relating to the substructure and/or structure of the Facility, as further described in ***Schedule 2*** attached hereto. Tenant further represents and warrants to Port that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Premises and the suitability of the Premises for Tenant's business and intended use. Tenant acknowledges and agrees that neither Port nor any of its agents have made, and Port hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Premises, the physical or environmental condition of the Premises or the Facility (including, but not limited to the substructure), the present or future suitability of the Premises for Tenant's business, or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

3.8. ***Port's Rights Regarding Premises***. Port shall have the full right and authority to make, revoke, impose, and amend any Rules and Regulations pertaining to and reasonably necessary for the proper use, operation and maintenance of the Facility. If no Rules and Regulations currently exist for the Facility, Tenant agrees to be bound by any Rules and Regulations Port later imposes on the Facility. Tenant acknowledges receipt of a copy of the Rules and Regulations currently in force for the Facility and agrees to abide by them. Tenant also acknowledges that Port's exercise of any of its rights regarding the Premises and other Port property in the vicinity of the Premises will not entitle Tenant to any abatement or diminution of Rent.

4. TERM OF LEASE; TERMINATION BY PORT.

4.1. ***Term***. The term of this Lease (the "**Term**") shall be for the period of months specified in the Basic Lease Information commencing on the Commencement Date and expiring on the Expiration Date. If the Commencement Date and Expiration Date occur on a date other than the Commencement Date and the Expiration Date set forth in the Basic Lease Information, then promptly following the actual Commencement Date, Port and Tenant shall execute a Commencement Date and Expiration Date Memorandum substantially in the form attached hereto as ***Exhibit B***, confirming the actual Commencement Date and Expiration Date, but either party's failure to do so shall not affect the commencement or expiration of the Term.

If Port is unable to deliver possession of the Premises to Tenant on or before the Commencement Date, then the validity of this Lease shall not be affected thereby and Port shall not be liable to Tenant for any Claims resulting therefrom, and Tenant waives all provisions of any Laws to the contrary. In such case, the Term and regular payments of Rent shall not commence until Port delivers possession of the Premises. Notwithstanding anything to the contrary above, if Port's inability to deliver possession of the Premises on the estimated Commencement Date results from Tenant's or its Agents' acts or omissions, then Base Rent and Additional Rent payable by Tenant hereunder shall commence on the date when Port would have delivered possession of the Premises but for such acts or omissions.

4.2. ***Termination Rights***.

(a) Port has the right to terminate this Lease under this Section when the Premises is needed in connection with a Port program or project. Port may exercise this right without liability or expense, except as specifically set forth in this Section, upon ninety (90) days'

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

prior written notice. Tenant agrees and shall be required to surrender possession of the Premises by the end of the 90-day period.

(b) Port has the right to terminate this Lease under this Section if Port determines, in its sole and absolute discretion, that the condition of the Facility's structures, substructure or utilities has deteriorated to a condition that would create a foreseeable risk of hazard to health or safety. Port may exercise this right without liability or expense, except as specifically set forth in this Section. Port will attempt to provide Tenant with no less than ninety (90) days' prior written notice of termination under this Subsection, but reserves the right to terminate this Lease upon any shorter notice that the Port in its sole and absolute discretion determines is justified given the risk of hazard. Tenant agrees and shall be required to surrender possession of the Premises by the end of the notice period, except as provided in this Section.

For a period ending fifteen (15) calendar days after receipt of Port's notice of termination, Tenant may request Port's consent, in Port's sole and absolute discretion, to allow Tenant to make the repairs required by Port in accordance with this Lease and any additional conditions reasonably imposed by Port, in consideration of Concessions from Port. If Port consents in writing, Port's notice of termination will be deemed rescinded and of no further effect.

(c) Within sixty (60) days after Tenant's surrender under this Section, Port agrees to pay Tenant a portion of those expenses which are documented by Tenant as having been incurred by Tenant prior to the delivery of Port's termination notice in making alterations, additions and improvements to the Premises which were approved in advance and in writing by Port and which were not previously reimbursed to Tenant through rent credits, rent abatement or other form of compensation ("**Improvement Costs**"). Such Improvement Costs shall be determined by the value attributable to any alterations, additions and improvements in any Port building permits for such work obtained by Tenant and which are approved in advance in writing by a Port Property Manager to the extent supported by reasonable evidence of such expenditures provided by Tenant. If no building permits are required for such work, value shall only be attributed to such alterations, additions or improvements if the value is approved in writing by a Port Property Manager prior to the commencement of the work and if the cost is supported by reasonable evidence of such expenditures provided by Tenant. The portion of the Improvement Costs paid by Port shall be a fraction, of which the numerator shall be the number of months remaining in the initial term of the Lease after Tenant surrenders the Premises, and the denominator shall be the number of months in the initial Term of this Lease, or for work undertaken following the Commencement Date, the number of months beginning at the second month following the Port's approval of the improvements and ending at the Expiration Date of the initial Term of this Lease. In no event shall Port be responsible for paying any moving or relocation expense or other expense incurred by Tenant due to any termination under this Section.

4.3. ***Waiver of Relocation Benefits.*** To the extent allowed by applicable Law, Tenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect, except as specifically provided in this Lease.

5. RENT.

Tenant shall pay to Port, in the manner herein described, the following Rent:

5.1. ***Base Rent.*** Throughout the Term, Tenant shall pay to Port the Base Rent set forth in the Basic Lease Information. Tenant shall make the first payment of Base Rent upon execution of this Lease and from and after the Rent Commencement Date, shall pay the Base Rent, in advance, on or before the first day of each calendar month throughout the Term. If the Rent Commencement Date is other than the first day of the month, or the Expiration Date is

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other than the last day of the month, the Base Rent for those months shall be apportioned based on a thirty (30) day month.

5.2. ***Default Interest.*** Any Rent, if not paid within five (5) days following the due date and any other payment due under this Lease not paid by the applicable due date, shall bear interest from the due date until paid at the Interest Rate. However, interest shall not be payable on Late Charges incurred by Tenant nor on other amounts to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant. Tenant shall also pay any costs, including attorneys' fees incurred by Port by reason of Tenant's failure to pay Rent or other amounts when due under this Lease.

5.3. ***Late Charges/Habitual Late Payer.*** Tenant acknowledges that late payment by Tenant to Port of Rent or other sums due under this Lease will cause Port increased costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Accordingly, if Tenant fails to pay Rent on the date due, such failure shall be subject to a Late Charge at Port's discretion. Tenant shall also pay any costs including attorneys' fees incurred by Port by reason of Tenant's failure to timely pay Rent. Additionally, in the event Tenant is notified by Port that Tenant is considered to be a Habitual Late Payer, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) upon written notification from Port of Tenant's Habitual Late Payer status. The parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of any late payment. Such charges may be assessed without notice and cure periods and regardless of whether such late payment results in an Event of Default. Payment of the amounts under this Section shall not excuse or cure any default by Tenant.

5.4. ***Returned Checks.*** If any check for a payment for any Lease obligation is returned without payment for any reason, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) and the outstanding payment shall be subject to a Late Charge as well as interest at the Interest Rate.

5.5. ***Additional Charges.*** Without limiting Port's other rights and remedies set forth in this Lease, at law or in equity, in the event Tenant fails to submit to the appropriate party, on a timely basis, the items identified in Sections: 15.3 (Tenant's Environmental Condition Notification Requirements), 15.8. (Storm Water Pollution Prevention), 28.1(d) (HRC Form), and 32 below or to provide evidence of the required insurance coverage described in Section 16 below, then upon written notice from Port of such failure, Tenant shall pay, as Additional Rent, an amount equaling One Hundred Dollars ($100.00). In the event Tenant fails to provide the necessary document within the time period set forth in the initial notice and Port delivers to Tenant additional written notice requesting such document, then Tenant shall pay to Port, as Additional Rent, an amount equaling One Hundred Fifty Dollars ($150.00) for each additional written notice Port delivers to Tenant requesting such document. The parties agree that the charges set forth in this Section 5.6 represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Tenant's failure to provide the documents identified in this Section 5.5 and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity. By signing this Lease, each party specifically confirms the accuracy of the statements made in this Section 5.5 and the reasonableness of the amount of the charges described in this Section 5.5.

6. TAXES AND ASSESSMENTS.

6.1. ***Payment of Taxes.*** During the Term, Tenant agrees to pay, when due, to the proper authority any and all real property and personal taxes, general and special assessments, license fees, permit fees and all other governmental charges of any kind or nature whatsoever, including without limitation all penalties and interest thereon, levied or assessed on

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the Premises, on Tenant's Property, the leasehold or subleasehold estate or Tenant's use of the Premises, whether in effect at the time this Lease is entered into or which become effective thereafter, and all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Premises. Tenant further recognizes and agrees that its leasehold interest may be subject to the payment of special taxes, including without limitation a levy of special taxes to finance energy efficiency, water conservation, water pollution control and similar improvements under the Special Tax Financing Law in Chapter 43 Article X of the Administrative Code. Tenant shall not permit any such taxes, assessments or other charges to become a defaulted lien on the Premises or the Improvements thereon; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and provided, further, that Tenant may, through such proceeding as Tenant considers necessary or appropriate, contest the legal validity or the amount of any tax, assessment or similar charge so long as such assessment or charge does not become a defaulted lien. In the event of any such dispute, Tenant shall Indemnify Port, City, and their Agents from and against all Claims resulting therefrom.

6.2. ***Possessory Interest Tax.*** Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. Tenant further recognizes and understands that any sublease or assignment permitted under this Lease and any exercise of any option to renew or other extension of this Lease may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Tenant agrees to pay taxes of any kind, including, but not limited to, possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by Law, all of which shall be paid when the same become due and payable and before delinquency. Tenant agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same. San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute) require that the City and County of San Francisco report certain information relating to this Lease, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction and that Tenant report certain information relating to any assignment of or sublease under this Lease to the County Assessor within sixty (60) days after such assignment or sublease transaction.

7. SECURITY DEPOSIT.

Tenant shall pay to Port upon execution of this Lease, in addition to the advance payment of the first month's Base Rent, the Security Deposit, in cash, in the sum specified in the Basic Lease Information, as security for the faithful performance by Tenant of all terms, covenants and conditions of this Lease. If Base Rent is increased beyond the amount set forth in the Basic Lease Information for the last year of the Term, then from and after such increase, Tenant shall increase the amount of the Security Deposit to maintain the same ratio of the Security Deposit to Base Rent as existed on the date immediately prior to such Base Rent increase. Any increase in the Security Deposit shall be delivered to Port on the same date that such increase in Base Rent is first due.

Tenant agrees that Port may (but shall not be required to) apply the Security Deposit in whole or in part to (a) pay any sum due to Port under this Lease; (b) compensate Port for any expense incurred or damage caused by Tenant, its Agents or Invitees; (c) cure any default by Tenant; or (d) cure, or attempt to cure, any failure of Tenant to perform any other covenant, term or condition contained herein. Tenant shall immediately upon demand pay Port a sum equal to the portion of the Security Deposit expended or applied by Port. Port shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to any interest on the Security Deposit. Nothing contained in this Section shall in any way diminish or

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be construed as waiving any of Port's other remedies set forth in this Lease or provided by law or equity.

Tenant hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that Port may apply all or any portion of the Security Deposit in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any Agent or Invitee of Tenant, and that following a default by Tenant, all or any portion of the Security Deposit may be retained by Port following a termination of this Lease and applied to future damages, including damages for future Rent, pending determination of the same.

8. USE OF THE PREMISES.

8.1. ***Permitted Use.*** The Premises shall be used and occupied only for the Permitted Use specified in the Basic Lease Information and for no other purpose.

8.2. ***Prohibited Use.*** Tenant agrees that the following activities, by way of example only and without limitation, and any other use that is not a Permitted Use (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"), are inconsistent with this Lease, are strictly prohibited and are considered Prohibited Uses:

(a) any activity, or the maintaining of any object, which is not within the Permitted Use;

(b) any activity, or the maintaining of any object, which will in any way increase the existing rate of, affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

(c) any activity or object which will overload or cause damage to the Premises;

(d) any activity which constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus which can be heard or seen outside the Premises;

(e) any activity which will in any way injure, obstruct or interfere with the rights of other tenants in the Facility or of owners or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

(f) use of the Premises for residential, sleeping or personal living quarters and/or "Live/Work" space;

(g) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Port, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Port;

(h) the operation, use, or berthing of any vessels, watercraft or floating barges owned or operated by Tenant;

(i) Tenant's employment of any maritime workers within the Premises for loading, unloading, building, repairing, dismantling, or longshoring of any vessel;

(j) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;

(k) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes;

(l) the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials;

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(m) the washing of any vehicles or equipment; or

(n) other Prohibited Uses identified in the Basic Lease Information, if any.

8.3. ***Notice of Prohibited Use Charge***. In the event Port determines after inspection of the Premises that Prohibited Uses are occurring on the Premises, then Tenant shall immediately cease the Prohibited Use and shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of written notice to Tenant to cease the Prohibited Use ("**Notice to Cease Prohibited Use**"). In the event Port determines in subsequent inspection(s) of the Premises that Tenant has not ceased the Prohibited Use, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00) for each additional Notice to Cease Prohibited Use delivered to Tenant. The parties agree that the charges associated with each inspection of the Premises and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises and Tenant's failure to comply with the applicable Notice to Cease Prohibited Use and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity. By signing this Lease, each party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

9. COMPLIANCE WITH LAWS AND REGULATIONS.

Tenant, at Tenant's sole cost and expense, promptly shall comply with all Laws relating to or affecting the condition, use or occupancy of the Premises and shall comply with all Laws relating to Tenant's specific use of the Facility and all Rules and Regulations, if any, in effect either at the time of execution of this Lease or which may hereafter be in effect at any time during the Term, whether or not the same are now contemplated by the parties. Tenant further understands and agrees that it is Tenant's obligation, at Tenant's sole cost and expense, to cause the Premises and Tenant's activities and operations conducted thereon, to be in compliance with the ADA. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Alterations and Improvements strictly complies with all requirements of the ADA. If Tenant's use or occupancy of the Premises triggers a requirement to remove barriers or perform other work to any part of the Facility outside of the Premises to comply with the ADA, then, at Port's sole election, Port or Tenant will perform the work at Tenant's sole cost and expense.

The parties acknowledge and agree that Tenant's obligation to comply with all Laws as provided herein is a material part of the bargained for consideration under this Lease. Tenant's obligation under this Section 9 shall include, without limitation, the responsibility of Tenant to make substantial or structural repairs and Alterations to the Premises, regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or Port, the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Laws involved, and whether the Laws involved are related to Tenant's particular use of the Premises. Any Alteration or Improvements made by or on behalf of Tenant pursuant to the provisions of this Section 9 shall comply with the provisions of Section 13 below. Except as otherwise expressly set forth in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Lease in whole or in part or to seek redress against Port, except to the extent Tenant may have remedies against Port pursuant to this Lease or applicable Law. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

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10. PORT ACTING AS OWNER OF PROPERTY; REGULATORY APPROVALS; COMPLIANCE WITH CITY'S RISK MANAGER'S REQUIREMENTS.

10.1. ***Port Acting as Owner of Property***. Tenant understands and agrees that Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a Regulatory Agency of the City with certain police powers. By entering into this Lease, Port is in no way modifying or limiting the obligation of Tenant to obtain any required Regulatory Approvals from Regulatory Agencies, and to cause the Premises to be used and occupied in accordance with all Laws and required Regulatory Approvals. Examples of Port actions as a Regulatory Agency include Port issuance of building, encroachment and other construction-related permits, and the Chief Harbor Engineer's actions to protect public health and safety.

10.2. ***Regulatory Approvals***. Tenant understands that Tenant's operations on the Premises, changes in use, or Improvements or Alterations to the Premises (individually and collectively, "**Changes**") may require Regulatory Approvals, including Regulatory Approvals issued by Port in its capacity as a Regulatory Agency.

Tenant shall be solely responsible for obtaining any Regulatory Approvals, and Tenant shall not seek any Regulatory Approval without first obtaining the prior written approval of Port. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Tenant. Tenant shall be solely responsible for complying with any and all conditions imposed by Regulatory Agencies as part of a Regulatory Approval; provided, however, Tenant shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port), if the Port is required to be a co-permittee under such permit or other entitlement, or if the conditions or restrictions it would impose on the project could affect use or occupancy of the Facility or Port's interest therein or would create obligations on the part of Port (whether on or off of the Premises) to perform or observe, unless in each instance Port has previously approved such conditions in writing, in Port's sole and absolute discretion.

Any fines or penalties imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Tenant, and Port shall have no liability, monetary or otherwise, for any fines and penalties. To the fullest extent permitted by Law, Tenant agrees to Indemnify City, Port and their Agents from and against any Claim which City or Port may incur as a result of Tenant's failure to obtain or comply with the terms and conditions of any Regulatory Approval.

Without limiting the terms and conditions of Sections 10.1 and 10.2, by signing this Lease, Tenant agrees and acknowledges that (i) Port has made no representation or warranty that Regulatory Approvals to allow for the Changes, if any, can be obtained, (ii) although Port is an agency of the City, Port has no authority or influence over any Regulatory Agency responsible for the issuance of such required Regulatory Approvals, (iii) Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Facility and not as a Regulatory Agency of the City with certain police powers, and (iv) Tenant is solely responsible for obtaining any and all required Regulatory Approvals in connection with any Changes. Accordingly, Tenant understands that there is no guarantee, nor a presumption, that any required Regulatory Approvals will be issued by the appropriate Regulatory Agency and Port's status as an agency of the City shall in no way limit the obligation of Tenant to obtain approvals from any Regulatory Agencies (including Port) that have jurisdiction over the Facility. Tenant hereby releases and discharges Port from any liability relating to the failure of any Regulatory Agency (including Port) from issuing any required Regulatory Approval.

10.3. ***Compliance with City's Risk Manager's Requirements***. Tenant shall faithfully observe, at no cost to Port, any and all requirements of City's Risk Manager with respect to Tenant's use and occupancy of the Premises, so long as such requirements do not

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unreasonably interfere with Tenant's use of the Premises or are otherwise connected with standard prudent commercial practices of other landlords.

11. MAINTENANCE AND REPAIRS.

11.1. ***Tenant Maintenance and Repair Obligations.*** Unless otherwise set forth in the Basic Lease Information, Tenant shall at all times during the Term, starting on the Commencement Date, including any period of early entry under this Lease, or occupancy or use of the Premises by Tenant under another lease or license with Port for the same Premises, and at its sole cost and expense, maintain, repair and replace in good and working order, condition and repair the Premises and all Improvements and Alterations thereon, including, but not limited to, glazing. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the Premises nor to any Improvements or Alterations now or hereafter located thereon. Tenant hereby waives all rights to make repairs at Port's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect. Notwithstanding any maintenance obligations of Port that may be set forth in the Basic Lease Information, in the event that Tenant, its Agents or Invitees cause any damage to the Premises or any other property within Port's jurisdiction, Tenant shall be responsible for repair and Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefor.

Tenant shall not make, nor cause or suffer to be made, any repairs or other work for which a permit is required by any applicable building code, standard or regulation, including, without limitation, the Port Building Code or of any rule or regulation of Port without first obtaining Port's prior written consent and a permit therefor.

In the event that damage or deterioration to the Premises or any portion thereof which is Tenant's obligation to maintain results in the same not meeting the standard of maintenance required by Port for such uses as Tenant is making of the Premises, then Tenant shall have the independent responsibility for, and shall promptly undertake, maintenance or repair of the Premises and complete the same with due diligence.

11.2. ***Port's Right to Inspect.*** Without limiting Section 24 below, Port may make periodic inspections of the Premises and may advise Tenant when maintenance or repair of the Premises is required, but such right of inspection shall not relieve Tenant of its independent responsibility to maintain such Premises and Improvements in a condition as good as, or better than, their condition at the Commencement Date, excepting ordinary wear and tear.

11.3. ***Port's Right to Repair.*** In the event Tenant fails to maintain the Premises in accordance with this Lease or Tenant fails to promptly repair any damage to the Facility or the Facility Systems caused by Tenant or its Agents, Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefore. If the cost (including, but not limited to, salaries of Port staff and attorneys' fees) of any such repairs or replacements made at Tenant's expense is in excess of Two Thousand Dollars ($2,000), then Tenant shall pay to Port an administrative fee equal to ten percent (10%) of the total "**Hard costs**" of the work. "**Hard costs**" shall include the cost of materials and installation, but shall exclude any costs associated with design, such as architectural fees. With respect to any work where the total hard costs of such work are less than Two Thousand Dollars ($2,000), Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200).

In addition, upon delivery of the initial notice relating to Tenant's failure to maintain the Premises in accordance with Section 11 ("**Maintenance Notice**"), Tenant shall pay, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00). In the event Port determines during subsequent inspection(s) that Tenant has failed to maintain the Premises in accordance with Section 11, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300) for each additional Maintenance Notice, if applicable, delivered by Port to Tenant following each inspection. By signing this Lease, each party specifically agrees that the charges

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associated with each inspection of the Premises and delivery of each Maintenance Notice represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises and issuance of each Maintenance Notice. Tenant's failure to comply with the applicable Maintenance Notice and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Maintenance Notice.

For purposes of this Lease, the term "**ordinary wear and tear**" shall not include any deterioration in the condition or diminution of the value of any portion of the Premises and/or the Facility in any manner whatsoever related directly or indirectly to Tenant's failure to comply with the terms and conditions of this Lease.

11.4. ***Acts of Nature.*** Nothing contained herein shall require Port to repair or replace the Premises or the Improvements thereon as a result of damage caused by acts of war, earthquake, tidal wave or other acts of nature, except that this provision shall not affect any obligation to make repairs to the Premises pursuant to Section 17 in the event of any damage or destruction of the Premises.

12. UTILITIES AND SERVICES.

12.1. ***Utilities and Services.*** Port will supply heat, light, electricity, garbage and trash collection, janitorial service and extermination service on the days and in usual and ordinary amounts generally supplied for other space in the Facility. Special demands for any of the above services, including the cost of installing, maintaining and repairing any such special service, shall be at the expense of Tenant.

Tenant understands and acknowledges that a single meter records water, gas and electricity usage at the Facility, and that Port allocates the cost to Tenant based on the size of and Permitted Uses at the Premises. Tenant agrees that: (a) Port's method of allocation is reasonable under the circumstances; (b) Tenant's only remedy if Tenant believes that costs should be reallocated due to another tenant's usage will be to request that Port consider reallocation prospectively, stating the grounds on which the request is made; and (c) Tenant will not be entitled to any abatement, diminution, reduction or suspension of payment of Rent, regardless of Port's decision regarding a request for reallocation of utility costs.

Tenant shall not, without the written consent of Port, which consent may be granted or withheld in Port's sole and absolute discretion, use any apparatus or device in the Premises using current in excess of 110 volts or which will in any way increase the amount of electricity usually furnished or supplied for use of the Premises, including without limitation, electronic data processing machines. If Tenant requires electric current in excess of that usually furnished or supplied for the Premises, Tenant shall first procure the written consent of Port, which Port may refuse, in its sole and absolute discretion, to the use thereof, and Port may cause an electric current meter to be installed in the Premises so as to measure the amount of electric current consumed for any such other use. The cost of any such meter and of installation, maintenance, and repair thereof shall be paid for solely by Tenant and Tenant agrees to pay to Port promptly upon demand therefor by Port for all such electric current consumed, as shown by the meter, at the rates charged for such service by the San Francisco Public Utilities Commission or the local public utility, as the case may be, furnishing the same, plus any additional expense incurred in keeping account of the electric current so consumed.

The parties agree that any and all utility improvements (not including telephone wiring and equipment) shall become part of the realty and are not trade fixtures or Tenant's Property. Port makes no representation or warranty that utility services, including telecommunications services, will not be interrupted. Port shall not be liable in damages or otherwise for any failure or interruption of any utility services, including telecommunications services, furnished to the Premises. No such failure or interruption shall constitute a basis for constructive eviction, nor

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entitle Tenant to terminate this Lease or abate Rent. Tenant hereby waives the provisions of California Civil Code Section 1932(1), 1941, and 1942, or any other applicable existing or future Laws permitting the termination of this Lease due to such interruption, failure or inability.

In the event any Law imposes mandatory or voluntary controls on Port, the Facility, or the property or any part thereof, relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions, or the provision of any other utility or service provided with respect to this Lease, or in the event Port is required or elects to make alterations to any part of the Facility in order to comply with such mandatory or voluntary controls or guidelines, such compliance and the making of such alterations shall in no event entitle Tenant to any damages, relieve Tenant of the obligation to pay the full Base Rent and Additional Rent reserved hereunder or to perform each of its other covenants hereunder or constitute or be construed as a constructive or other eviction of Tenant. Port shall have the right at any time to install a water meter in the Premises or otherwise to measure the amount of water consumed on the Premises, and the cost of such meter or other corrective measures and the installation and maintenance thereof shall be paid for by Tenant.

Without Port's prior written consent, which Port may give or refuse in its sole and absolute discretion, Tenant shall not place or install in the Premises any equipment that weighs in excess of the normal load-bearing capacity of the floors of the Facility or the pier, as applicable, and as may be further described in the Basic Lease Information. If Port consents to the placement or installation of any such machine or equipment in the Premises, Tenant, at no cost to Port, shall reinforce the floor of the Premises, pursuant to plans and specifications approved by Port and otherwise in compliance with Section 13 below, to the extent necessary to assure that no damage to the Premises or the Facility or weakening of any structural or substructural supports, as the case may be, will be occasioned thereby.

12.2. ***On-Site Renewable Energy.*** At any time during the Term, Port shall have the right, at its sole and absolute discretion, to install, or cause another party to install, a renewable energy system, using sources such as solar (photovoltaic or solar thermal power), wind, tidal or biofuel power ("**Renewable Energy System**") on the roof of the Facility or otherwise on or near the Premises for the purpose of supplying power to the Facility or other locations.

13. IMPROVEMENTS AND ALTERATIONS.

13.1. ***Port Consent Required.***

(a) Tenant shall not make nor cause or suffer to be made, any Alterations or Improvements to the Premises (i) without the prior written consent of Port, which consent shall not be unreasonably withheld; provided, however, that Port shall have the right in its sole and absolute discretion to consent or to withhold its consent to any Alterations or Improvements which affect the structural portions of the Premises, the Facility or the Facility Systems, and (ii) until Tenant shall have procured and paid for all Port and other Regulatory Approvals of the various Regulatory Agencies having jurisdiction over the Premises, including, but not limited to, any building or similar permits required by Port or its Chief Harbor Engineer in the exercise of its jurisdiction with respect to the Premises.

(b) As a condition to giving consent, Port may require Tenant to provide Port, at Tenant's sole cost and expense, one or more financial guarantees, each in a form and issued by a bank or surety acceptable to Port, such as: (i) a standby letter of credit or bond; and/or (ii) a payment and performance bond from Tenant's Contractors naming Port as co-obligee, each in a principal amount up to one hundred fifty percent (150%) but not less than one hundred percent (100%) of the estimated costs of the Alteration or Improvement, to ensure Port against any liability for mechanics' and materialmen's liens, stop notices and to ensure completion of work.

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(c) At least thirty (30) days before commencing any Alterations or Improvements to the Premises, Tenant shall notify Port. Tenant's notice shall be accompanied by final construction documents for the Alterations or Improvements, if applicable. Port shall have the right to object to any of the Alterations or Improvements within sixty (60) days after receipt of notice from Tenant. Port's failure to notify Tenant of Port's objection within the 60-day period shall be deemed Port's disapproval of the Alterations.

(d) None of the following will constitute Alterations or Improvements requiring Port's consent, unless the installation will affect Facility Systems or the structure of the building: (i) installation of furnishings, trade fixtures, equipment, or decorative improvements; (ii) painting the interior of the Premises; and (iii) carpeting the Premises.

13.2. ***Construction Requirements***. All Alterations and Improvements to the Premises made by or on behalf of Tenant shall be subject to the following conditions, which Tenant covenants faithfully to perform:

(a) All Alterations and Improvements shall be performed in a good and workmanlike manner in accordance with plans and specifications previously approved by Port in writing and in compliance with the applicable building, zoning and other applicable Laws, including, but not limited to, compliance with the ADA, and in compliance with the terms of and conditions imposed in any Regulatory Approval or any permit or authorization for the Premises.

(b) All Alterations and Improvements shall be performed at the sole cost and expense of Tenant, with reasonable dispatch and prosecuted to completion, and only by duly licensed and bonded contractors or mechanics approved by Port, and subject to any conditions that Port may reasonably impose.

(c) Tenant, while performing any subsequent construction or maintenance or repair of the Improvements (for purposes of this Section only, "**Work**"), shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining portions of the Premises and Improvements and the surrounding property, or the risk of injury to members of the public, caused by or resulting from the performance of its Work. Tenant shall undertake commercially reasonably measures to minimize damage, disruption or inconvenience caused by the Work and make adequate provision for the safety and convenience of all persons affected by the Work. Dust, noise and other effects of the Work shall be controlled using commercially-accepted methods customarily used to control deleterious effects associated with construction projects in populated or developed urban areas. Tenant shall erect appropriate construction barricades substantially enclosing the area of such construction and maintain them until the Work has been substantially completed, to the extent reasonably necessary to minimize the risk of hazardous construction conditions.

(d) At the completion of any Work described in this Section, Tenant shall furnish to Port one reproducible "as built" drawing of all Alterations and Improvements made in the Premises. If Tenant fails to provide such as-built drawings to Port within sixty (60) days after completion of the Improvements, Port, after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Port's choice of "as-built" drawings, at Tenant's sole cost, to be paid by Tenant to Port within thirty (30) days after Port's request therefor.

(e) Tenant expressly acknowledges that interior and exterior Alterations (including but not limited to any repair, alteration, improvement, or construction to the interior or exterior of the Facility) are subject to review by Port for consistency with the design polices and criteria set forth in the Waterfront Land Use Plan, Design and Access Element. In addition, Tenant expressly acknowledges that for any proposed interior or exterior Alteration of Port properties that are more than fifty (50) years of age, Tenant may be required to prepare a Historic Resources Evaluation Report ("**HRER**") to determine whether the property is eligible or potentially eligible for listing as a historic resource. The HRER must be prepared by a qualified

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historic preservation professional and submitted to Port for review and must include sufficient research and documentation to substantiate whether the property is an eligible or a potentially eligible historic resource or of no historical value or significance. For proposed interior or exterior Alterations to Port properties determined to be eligible or potentially eligible for listing as historic resources, the HRER must also analyze the proposed Alterations for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties, which are published by the National Park Service and posted on its website at http://www.nps.gov/history/hps/tps/Standards/index.htm ("**Secretary's Standards**") and summarized in the attached ***Exhibit E***. Port reserves the right to disapprove Alterations that are found to be inconsistent with the Secretary of the Interior's Standards or to work with Tenant to modify the proposed Alterations to achieve greater consistency with the Secretary's Standards. Tenant also expressly acknowledges that Alterations that are inconsistent with the Secretary's Standards may require additional regulatory review and approval by Port or other Regulatory Agencies with jurisdiction over the Facility.

(f) Without limiting Section 15 below (Hazardous Materials), in the event that asbestos-containing materials ("**ACM**") are determined to exist in or about the Premises, Tenant shall ensure that all Alterations and Improvements and any asbestos related work, as further defined in California Health & Safety Code Section 25914.1(b), is performed in compliance with all Laws relating to asbestos, including but not limited to, Cal-OSHA regulations found in Title 8 of the California Code of Regulations, Sections 1502 and 1529. Additionally, Tenant shall distribute notifications to all employees and contractors as required pursuant to California Health & Safety Code Sections 25915 et seq. informing them of the existence of ACM and that moving, drilling, boring, or otherwise disturbing ACM may present a health risk and should not be attempted by an unqualified employee. No Alterations or Improvements affecting ACM-containing areas or any asbestos related work shall be performed without Port's prior written consent in each instance.

(g) Tenant, on behalf of itself and its Agents or Invitees, shall comply with all requirements of the Port Building Code, Section 3424, and all other Laws, including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when the work of Alterations or Improvements disturbs or removes lead-based or presumed lead-based paint (as described below). Tenant and its Agents or Invitees shall give to Port three (3) business days prior written notice of any disturbance or removal of lead-based or presumed lead-based paint. Further, Tenant and its Agents or Invitees, when disturbing or removing lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("**HEPA**") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers, without Port's prior written consent; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool, without Port's prior written consent; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the interior and exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3424 of the Port Building Code, demonstrates an absence of lead-based paint on the surfaces of such buildings. Under this Section 13.2(g), lead-based paint is "**disturbed or removed**" if the work of Alterations or Improvements involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an interior or exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

13.3. ***Improvements Part of Realty***. Except as set forth in Section 13.4 below, all Alterations and Improvements constructed on or affixed to the Premises by or on behalf of Tenant shall immediately upon construction or installation become part of the realty owned by Port and shall, at the end of the Term hereof, remain on the Premises without compensation to

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Tenant. Tenant may not remove any such property at any time during or after the Term unless Port so requires as further provided in Section 25 (Surrender).

13.4. ***Removal of Improvements***. Prior to the Expiration Date or earlier termination of this Lease, Port shall give written notice to Tenant (herein "**Notice of Removal**") specifying the Alterations or Improvements that are designated as Tenant's Property as defined in this Lease or as may be specifically provided in the relevant permits or plans approved by Port, which Tenant shall be required to remove and relocate or demolish and remove from the Premises in accordance with Section 25. Any such removal is subject to the requirements of this Section, including the requirement to obtain a Port building or similar permit. If termination of this Lease is the result of loss or destruction of the Premises or any Improvements thereon, Port shall deliver the Notice of Removal to Tenant within a reasonable time after the loss or destruction. Tenant shall be obligated at its own expense to remove all Alterations or Improvements specified in the Notice of Removal, including without limitation all telephone wiring and equipment installed by Tenant. Tenant shall promptly repair, at its own expense, in good and workmanlike fashion any damage occasioned thereby. If Tenant fails to complete any required demolition or removal on or before the termination of this Lease, Port may perform such removal or demolition at Tenant's expense, and Tenant shall reimburse Port within three (3) business days after demand therefor.

13.5. ***Removal of Non-Permitted Improvements***. If Tenant constructs any Alterations or Improvements without Port's prior written consent or without complying with Section 13.2 above, then, in addition to any other remedy available to Port, Port may require Tenant to remove, at Tenant's expense, any or all such Alterations or Improvements and to promptly repair, at Tenant's expense and in good workmanlike fashion, any damage occasioned thereby. Tenant shall pay to Port all special inspection fees as set forth in any applicable building code, standard or regulation, including, without limitation, the Port Building Code, for inspection of work performed without required permits. The foregoing obligation of Tenant to reimburse Port for all cost and expenses incurred by Port in connection with Tenant's failure to comply with the provisions of Section 13 shall survive the expiration or earlier termination of this Lease.

13.6. ***All-Gender Toilet Facilities***. If applicable, Tenant shall comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City, including the Premises, where extensive renovations are made. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "extensive renovations" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Tenant has any question about applicability or compliance, Tenant should contact the Port's Property Manager for guidance.

13.7. ***Signs***. Tenant shall not install business signage, awnings or other exterior decoration or notices on the Premises without Port's prior written consent. Any sign that Tenant is permitted to place, construct or maintain on the Premises shall comply with all Laws relating thereto, including but not limited to, Port's Sign Guidelines, as revised by Port from time to time, and building permit requirements, and Tenant shall obtain all Regulatory Approvals required by such Laws. Port makes no representation with respect to Tenant's ability to obtain such Regulatory Approval. Tenant, at its sole cost and expense, shall remove all signs placed by it on the Premises at the expiration or earlier termination of this Lease.

13.8. ***Improvements on Roof***. Tenant shall not install any equipment on the roof or any other part of the Facility outside of the Premises without Port's prior written consent. If Port consents, then Tenant shall have a non-exclusive revocable license on and over the roof and/or other areas of the Facility necessary to install, maintain and repair the equipment in a location mutually agreeable to Port and Tenant, subject to and consistent with all necessary

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Regulatory Approvals, including a building or encroachment permit issued by Port. Port makes no representation with respect to Tenant's ability to obtain such Regulatory Approvals. Tenant's use of any licensed areas shall be subject to all the terms and conditions of this Lease and Tenant shall have the obligations and liabilities as if the licensed areas are included in the Premises under this Section, and Sections 3.7, 9-11, 13, 15, 16, 19 and 25 of this Lease. The license granted to Tenant hereunder is for the sole purpose of constructing, maintaining, restoring, replacing and operating Tenant's approved equipment, including any necessary conduits, only in connection with Tenant's Permitted Uses under this Lease and Tenant shall not have the right to install any other equipment outside of the Premises, including without limitation a telecommunications (cell) site or any other equipment that can be used for any commercial purpose. The license granted hereby includes the right of ingress and egress through the Facility during non-business hours for access to or from the Premises and Tenant's equipment, provided that Tenant must notify the Port's Property Manager at least 24 hours in advance of any access and shall comply with all reasonable requirements of such designated person with respect to Tenant's requested access. In the event of an emergency, Tenant shall have the right to enter the licensed areas provided it makes good faith efforts if possible to notify Port in advance of such entry.

13.9. ***Port's Alterations***. Port reserves the right at any time to make Alterations, additions, repairs, deletions or improvements to the Common Areas or any other part of the Facility, the Facility Systems, or adjacent Port property ("**Port Work**"). Port shall use commercially reasonable efforts to conduct any of the foregoing activities in a manner that, to the extent reasonably practicable, will minimize inconvenience or disturbance to Tenant; Port will have no obligation to minimize inconvenience or disturbance to Tenant for Port Work when the Port Work is necessary, in Port's sole and absolute discretion, to maintain Port property in safe, hazard-free condition. In no event will inconvenience or disturbance caused by Port Work constitute an actual or constructive eviction of Tenant, entitle Tenant to any abatement or diminution of Rent, or otherwise relieve Tenant from any of its obligations under this Lease. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of any inconvenience or disturbance occasioned by Port Work.

14. LIENS.

Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant or its Agents. In the event that Tenant shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record, Port shall have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including without limitation, payment of the claim giving rise to such lien. All sums paid by Port for such purpose, plus interest at the Interest Rate, and all reasonable expenses incurred by Port in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Port by Tenant upon demand. Port shall have the right to post on the Premises any notices that Port may deem proper for the protection of Port, the Premises, and the Facility, from mechanics' and materialmen's liens. Tenant shall give to Port at least fifteen (15) days' prior written notice of commencement of any Alteration, repair or construction on the Premises. Tenant agrees to Indemnify Port, City and their respective Agents from and against any Claims for mechanic's, materialmen's or other liens in connection with any Alterations, repairs or construction on the Premises, or materials furnished or obligations incurred by or for Tenant.

Without limiting the foregoing, Tenant shall not create, permit or suffer any liens or encumbrances affecting any portion of the Premises, the Facility or Port's interest therein or under this Lease.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

15. HAZARDOUS MATERIALS.

15.1. ***Requirements for Handling***. Neither Tenant nor its Agents or Invitees may Handle or permit any other person to Handle any Hazardous Material in, on, under or about the Premises, any other part of the Facility, or other Port property, subject only to the following exceptions, provided that Handling is at all times in full compliance with all Environmental Laws: janitorial and office supplies in limited amounts customarily used for general office purposes.

15.2. ***Tenant Responsibility***. Tenant agrees to protect its Agents and Invitees in its operations on the Premises from hazards associated with Hazardous Materials in accordance with all Environmental Laws and also agrees, for itself and on behalf of its Agents and Invitees, that during its use and occupancy of the Premises, each of them:

(a) will not permit any Hazardous Materials to be present in, on, under or about the Premises, any other part of the Facility, or other Port property except as permitted under Section 15.1;

(b) will not cause or permit any Hazardous Material Condition; and

(c) will comply with all Environmental Laws relating to the Premises and any Hazardous Material Condition, and will not engage in or permit any activity at the Premises, any other part of the Facility, other Port property, or in the operation of any vehicles or vessels used in connection with the Premises in violation of any Environmental Laws.

15.3. ***Tenant's Environmental Condition Notification Requirements***.

(a) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, of and when Tenant learns or has reason to believe Hazardous Materials were Released or, except as allowed under Section 15.1, Handled, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels that Tenant or its Agents or Invitees use during Tenant's occupancy of the Premises, whether or not the Release or Handling is in quantities that would be required under Environmental Laws to be reported to an Environmental Regulatory Agency.

(b) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, and contemporaneously provide Port with an electronic copy, of:

(i) Any notice of the Release or Handling of Hazardous Materials, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises that Tenant or its Agents or Invitees provides to an Environmental Regulatory Agency;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that Tenant or its Agents or Invitees receives from any Environmental Regulatory Agency;

(iii) Any other Environmental Regulatory Action that is instituted or threatened by any Environmental Regulatory Agency against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises;

(iv) Any Hazardous Material Claim that is instituted or threatened by any third party against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the Premises, the Facility, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises; and

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(v) Any notice of the termination, expiration, or substantial amendment of any Environmental Regulatory Approval needed by Tenant or its Agents or Invitees for their operations at the Premises.

(c) Tenant must notify Port of any meeting, whether conducted face-to-face or telephonically, between Tenant and any Environmental Regulatory Agency regarding an Environmental Regulatory Action. Port will be entitled to participate in any such meetings at its sole election.

(d) Tenant must notify Port of any Environmental Regulatory Agency's issuance of an Environmental Regulatory Approval. Tenant's notice to Port must state the issuing entity, the Environmental Regulatory Approval identification number, and the date of issuance and expiration of the Environmental Regulatory Approval. In addition, Tenant must provide Port with a list of any plan or procedure required to be prepared and/or filed with any Environmental Regulatory Agency for operations on the Premises, including a "Spill Pollution Control and Countermeasure Plan." Tenant must provide Port with copies of any of the documents within the scope of this section upon Port's request.

(e) Tenant must provide Port with copies of all communications with Environmental Regulatory Agencies and all non-privileged communications with other persons regarding potential or actual Hazardous Material Claims arising from Tenant's or its Agents' or Invitees' operations at the Premises. Upon Port's request, Tenant must provide Port with a log of all communications withheld under a claim of privilege that specifies the parties to and subject of each withheld communication.

(f) Port may from time to time request, and Tenant will be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner that complies with all Environmental Laws.

15.4. ***Requirement to Remediate.***

(a) Tenant's Remediation obligations under this subsection are subject to subsection (b).

(i) After notifying Port in accordance with Section 15.3(a), Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease, any Hazardous Material Condition occurring during the Term or while Tenant or its Agents or Invitees otherwise occupy any part of the Premises. Tenant must obtain Port's approval of a Remediation work plan, whether or not required under Environmental Laws, then begin Remediation actions immediately following Port's approval of the work plan and continue diligently until Remediation is complete, as determined by Port, in its sole discretion.

(ii) In addition to its obligations under clause (i), before this Lease terminates for any reason, Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease: (A) any Hazardous Material Condition caused by Tenant's or its Agents' or Invitees' Handling Hazardous Materials during the Term; and (B) any Hazardous Material Condition discovered during Tenant's occupancy that any Regulatory Agency requires to be Remediated if Remediation would not have been required but for Tenant's use of or Changes to the Premises.

(iii) If Environmental Laws governing Remediation require a remedial action plan, Tenant must provide a draft of its plan to Port for comment and approval before submittal to the appropriate Environmental Regulatory Agency, and a copy of the final plan as submitted.

(iv) In all situations relating to Handling or Remediating Hazardous Materials, Tenant must take all actions that are reasonably necessary in Port's sole judgment to protect the value of the Premises or the Facility, such as obtaining Environmental Regulatory Approvals related to Hazardous Materials and taking measures to remedy any deterioration in the

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

condition or diminution of the value of any portion of the Premises or the Facility in any manner related directly or indirectly to Hazardous Materials.

(b) Unless Tenant or its Agents or Invitees Exacerbate the Hazardous Material Condition, Tenant will not be obligated to Remediate any Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Tenant's occupancy of the Premises; or (ii) arising before the Commencement Date or the date of Tenant's first use of the Premises, whichever is earlier.

15.5. ***Port's Right to Audit.*** Port will have the right, but not the obligation, to inspect and audit the Premises for any Hazardous Materials, including the right to Investigate, at reasonable times under Section 24 (Port's Entry on Premises). Port's failure to inspect or obtain samples or to detect conditions attributable to Tenant's operations if an inspection is conducted may not be deemed to be a release of any liability for any Hazardous Materials subsequently determined to be Tenant's responsibility under this Lease.

15.6. ***Notification of Asbestos.*** Port hereby notifies Tenant, in accordance with the OSHA Asbestos Rule (1995), 59 Fed. Reg. 40964, 29 CFR §§ 1910.1001, 1926.1101 (as amended, clarified and corrected) (OSHA Asbestos Rule); California Health and Safety Code §§ 25915-259.7 and Cal-OSHA General Industry Safety Order for Asbestos, 8 CCR § 5208, of the presence of asbestos-containing materials ("**ACMs**") and/or presumed asbestos-containing materials ("**PACMs**") (as such terms are defined in Cal-OSHA General Industry Safety Order for Asbestos), in the locations identified in the summary/table, if any, set forth in ***Schedule 1*** attached hereto.

This notification by Port is made pursuant to a building inspection survey(s), if any, performed by Port or its contractors qualified to perform an asbestos building survey identified in the summary/table, if any, set forth in ***Schedule 1*** attached hereto. Such survey(s), monitoring data and other information are kept at Port of San Francisco, Pier 1, San Francisco, California, 94111 and are available for inspection upon request.

Tenant hereby acknowledges receipt of the notification specified in the first paragraph of Section 15.6 hereof and the notice or report attached as ***Schedule 1*** hereto and understands, after having consulted its legal counsel, that it must make its employees and contractors aware of the presence of ACMs and/or PACMs in or about the Premises in order to avoid or minimize any damage to or disturbance of such ACMs and/or PACMs. Tenant further acknowledges its obligations under Cal-OSHA General Industry Safety Order for Asbestos to provide information to its employees and contractors regarding the presence of ACMs and PACMs at the Premises and to provide a training program for its employees that conforms with 8 CCR § 5208(j)(7)(C).

Tenant agrees that its waiver of Claims set forth in Section 19 below (Indemnity and Exculpation) is given with full knowledge of the presence, or possibility, of asbestos in or about the Premises and/or the Facility and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of asbestos in or about the Premises may limit Tenant's ability to construct Alterations to the Premises without Tenant first performing abatement of such asbestos. The presence of asbestos in the Premises and/or the Facility and the removal or non-removal by Port of all or a portion of the asbestos in the Facility, whether in the Premises or elsewhere in the Facility, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, (iii) constitute or be construed as a constructive or other eviction of Tenant, or (iv) constitute or be construed as a breach of Port's covenant assuring Tenant's quiet enjoyment of the Premises.

Notwithstanding any other provisions of this Lease, Tenant agrees to Indemnify Port for Tenant's acts or omissions that result in (1) asbestos-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA General Industry Safety Order for Asbestos and/or exposures to asbestos.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

15.7. ***Notification of Lead.*** Port hereby notifies Tenant of the potential presence of lead-containing and presumed lead-containing materials in the Premises or Facility. Disturbance or removal of lead is regulated by, among other Laws, 29 CFR §§ 1910.1025, 1926.62; California Health & Safety Code §§ 105185-105197 and 105250-105257; Cal-OSHA Construction Safety Order for Lead, Title 8 CCR § 1532.1; Title 17 CCR Chapter 8; and Port Building Code § 3424.

Tenant agrees that its waiver of Claims set forth in Section 19 below (Indemnity and Exculpation) is given with full knowledge of the presence, or possibility, of lead in or about the Premises and/or the Facility and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of lead in or about the Premises may limit Tenant's ability to perform any Improvements or Alterations to the Premises without Tenant first performing abatement of such lead. The presence of lead in the Premises and/or the Facility and the removal or non-removal by Port of all or a portion of the lead, whether in the Premises or elsewhere in the Facility, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, (iii) constitute or be construed as a constructive or other eviction of Tenant, or (iv) constitute or be construed as a breach of Port's covenant assuring Tenant's quiet enjoyment of the Premises. Notwithstanding any other provisions of this Lease, Tenant agrees to Indemnify Port for its acts or omissions that result in (1) lead-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA Construction Safety Order for Lead and/or exposures to lead.

15.8. ***Storm Water Pollution Prevention.***

(a) Tenant must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("**SWPPP**"), and conducting storm water monitoring and reporting. Tenant's SWPPP and a copy of a Notice of Intent for Tenant's Premises must be submitted to Port's Real Estate Division before beginning operations on the Premises.

(b) In addition to requiring compliance with the permit requirements under Subsection (a), Tenant shall comply with the post-construction stormwater control provisions of the Statewide General Permit for Discharge of Stormwater from Small Municipalities and the San Francisco Stormwater Design Guidelines, subject to review and permitting by the Port's Engineering Division.

15.9. ***Presence of Hazardous Materials.*** California Law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant is hereby advised that Hazardous Materials (as herein defined) may be present on or near the Premises, including, but not limited to, vehicle fluids, janitorial products, tobacco smoke, and building materials containing chemicals, such as asbestos, naturally-occurring radionuclides, lead and formaldehyde. Further, the following known Hazardous Materials are present on the property: asbestos in building, if any, as described in ***Schedule 1*** attached hereto and the Hazardous Materials described in: Asbestos Related Work; Pier 50 Administration Building, Boiler Room; 401 Terry A Francois, North Tower Environmental, September 9, 2011; Assesment of Suspect Asbestos-Containing Materials at the Pier 50 Administration Building, 401 China Basin, Clayton Environmental Consultants, March 20, 1996; and Hazardous Materials Survey and Evaluation Report, Pier 50 Administration Building, 401 Terry A Francois, ProTech Consulting and Engineering (12/2008), copies of which have been delivered to or made available to Tenant. By execution of this Lease, Tenant acknowledges that the notice set forth in this section satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. Tenant must disclose the information contained in this Section 15.9 to any subtenant, licensee, transferee, or assignee of Tenant's interest in this Lease.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Tenant also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

15.10. ***Survival.*** Tenant's obligations under Section 15 shall survive the expiration or earlier termination of this Lease.

16. INSURANCE

16.1. ***Required Insurance Coverage.*** Tenant, at its sole cost and expense, shall maintain, or cause to be maintained, throughout the Term, the following insurance:

(a) General Liability Insurance. Comprehensive or commercial general liability insurance, with limits not less than One Million Dollars ($1,000,000.00) each occurrence combined single limit for bodily injury and property damage, including coverages for contractual liability, independent contractors, broad form property damage, personal injury, products and completed operations, fire damage and legal liability with limits not less than Two Hundred Fifty Thousand Dollars ($250,000.00), and explosion, collapse and underground (XCU) coverage during any period in which Tenant is conducting any activity on or Alteration or Improvement to the Premises with risk of explosion, collapse, or underground hazards. This policy must also cover non-owned and for-hire vehicles and all mobile equipment or unlicensed vehicles, such as forklifts.

(b) Automobile Liability Insurance. Comprehensive or business automobile liability insurance with limits not less than One Million Dollars ($1,000,000.00) each occurrence combined single limit for bodily injury and property damage, including coverages for owned and hired vehicles and for employer's non-ownership liability, which insurance shall be required if any automobiles or any other motor vehicles are operated in connection with Tenant's activity on the Premises or the Permitted Use. If parking is a Permitted Use under this Lease, Tenant must obtain, maintain, and provide to Port upon request evidence of personal automobile liability insurance for persons parking vehicles at the Premises on a regular basis, including without limitation, Tenant's Agents and Invitees.

(c) Workers' Compensation; Employer's Liability; Jones Act; U.S. Longshore and Harborworker's Act Insurance. Worker's Compensation Insurance, U.S. Longshore and Harborworker's Act Insurance and Jones Act Insurance with Employer's Liability limit not less than One Million Dollars ($1,000,000.00) for each accident, injury or illness, on employees eligible for each. In the event Tenant is self-insured for the insurance required pursuant to this Section 16.1(c), it shall furnish to Port a current Certificate of Permission to Self-Insure signed by the Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California. Notwithstanding the foregoing, so long as Tenant complies with Sections 8.2(h) and 8.2(i) above, Tenant shall not be required to maintain insurance for claims under the Jones Act or U.S. Longshore and Harborworker's Act, respectively.

(d) Personal Property Insurance. Tenant, at its sole cost and expense, shall procure and maintain on all of its personal property and Alterations, in, on, or about the Premises, property insurance on an all risk form, excluding earthquake and flood, to the extent of full replacement value. The proceeds from any such policy shall be used by Tenant for the replacement of Tenant's personal property.

(e) Construction Activities. At all times during any period of Tenant's construction of Improvements or Alterations subject to Section 13,

(i) Tenant shall require Tenant's contractor to maintain (a) commercial general liability insurance with limits of not less than Three Million Dollars ($3,000,000) combined single limit for bodily injury and property damage (including personal injury and death), and products and completed operations coverage in an amount not less than Five Hundred Thousand Dollars ($500,000) per incident, One Million Dollars ($1,000,000) in the aggregate; (b) comprehensive automobile liability insurance with a policy limit of not less

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than One Million Dollars ($1,000,000) each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, "**any auto**", and insuring against all loss in connection with the ownership, maintenance and operation of automotive equipment that is owned, hired or non-owned; (c) worker's compensation with statutory limits and employer's liability insurance with limits of not less than One Hundred Thousand Dollars ($100,000) per accident, Five Hundred Thousand Dollars ($500,000) aggregate disease coverage and One Hundred Thousand Dollars ($100,000) disease coverage per employee; and (d) owners and contractors protective liability with limits of not less than Three Million Dollars ($3,000,000) combined single limit for bodily injury and property damage (including personal injury and death). Tenant shall cause Tenant's Agents (other than Tenant's contractor) to carry such insurance as shall be reasonably approved by Port taking into account the nature and scope of the work and industry custom and practice.

(ii) In addition, Tenant shall carry "**Builder's All Risk**" insurance on a form reasonably approved by Port, in the amount of one hundred percent (100%) of the completed value of all new construction, insuring all new construction, including all materials and equipment incorporated in, on or about the Premises, and in transit or storage off-site, that are or will be part of the permanent Improvements, against "**all risk**" and "special form" hazards.

(iii) Tenant shall require all providers of professional services, including architectural, design, engineering, geotechnical, and environmental professionals under contract with Tenant for any Improvements or any Alterations to maintain professional liability (errors or omissions) insurance, with limits not less than One Million Dollars ($1,000,000.00) each claim and aggregate, with respect to all professional services provided to Tenant therefor.

(f) Other Coverage. Not more often than every year and upon not less than sixty (60) days prior written notice, Port may require Tenant to increase the insurance limits set forth above or to provide other coverage and/or different coverage amounts as may be required by Law, the City's Risk Manager or as is generally required by commercial owners of buildings similar in size, character, age and location as the Facility with respect to risks comparable to those associated with the use of the Premises.

16.2. ***Claims-Made Policies***. If any of the insurance required in Section 16.1 above is provided under a claims-made form of policy, Tenant shall maintain such coverage continuously throughout the Term and without lapse for a period of three (3) years beyond the termination of this Lease, to the effect that should occurrences during the Term give rise to claims made after termination of this Lease, such claims shall be covered by such claims-made policies.

16.3. ***Annual Aggregate Limits***. If any of the insurance required in Section 16.1 above is provided under a form of coverage which includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be double the occurrence limits specified herein.

16.4. ***Payment of Premiums***. Tenant shall pay the premiums for maintaining all required insurance.

16.5. ***Waiver of Subrogation Rights***. Notwithstanding anything to the contrary contained herein, Port and Tenant (each a "**Waiving Party**") each hereby waives any right of recovery against the other party for any loss or damage sustained by such other party with respect to the Facility or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party, to the extent such loss or damage is covered by insurance which is required to be purchased by the Waiving Party under this Lease or is actually covered by insurance obtained by the Waiving Party. Each Waiving Party agrees to cause its insurers to issue appropriate waiver

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

of subrogation rights endorsements to all policies relating to the Facility or the Premises; provided, the failure to obtain any such endorsement shall not affect the above waiver.

16.6. ***General Insurance Matters.***

(a) All liability insurance policies required to be maintained by Tenant hereunder shall contain a cross-liability clause, shall name as additional insureds by written endorsement the **"CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS,"** shall be primary and non-contributory to any other insurance available to the additional insureds with respect to claims arising under this Lease, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the company's liability.

(b) All insurance policies required to be maintained by Tenant hereunder shall be issued by an insurance company or companies reasonably acceptable to Port with an AM Best rating of not less than A-VIII and authorized to do business in the State of California. Tenant's compliance with this Section shall in no way relieve or decrease Tenant's liability under this Lease.

(c) All insurance policies required to be maintained by Tenant hereunder shall be endorsed to provide for thirty (30) days prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to Tenant and Port.

(d) Tenant shall deliver to Port certificates of insurance, additional insured policy endorsements and waiver of subrogation endorsements in a form satisfactory to and at the direction of Port, such as hard copy documentation or use of an internet-based insurance compliance tracking systems such as EXIGIS, evidencing the coverages required herein, together with evidence of payment of premiums, on or before the Commencement Date, and upon renewal of each policy not less than thirty (30) days before expiration of the term of the policy. If Port is using an internet-based insurance compliance tracking system, Tenant's broker shall complete the insurance questionnaire and submit all required documentation. Tenant shall, upon Port's request, promptly furnish Port with a complete copy of any insurance policy required hereunder.

17. DAMAGE AND DESTRUCTION.

17.1. ***Damage and Destruction.*** If the Premises or the Facility is damaged by fire or other casualty, then Port shall repair the same provided that funds for such repairs are appropriated by Port, in its sole discretion, for such purpose and that such repairs can be made within the Repair Period. In the event such conditions are satisfied, this Lease shall remain in full force and effect except that so long as such damage or casualty is not attributable to Tenant, its Agents or Invitees, Tenant shall be entitled to a proportionate reduction of Base Rent during the Repair Period based upon the extent to which such damage and the making of such repairs materially interferes with Tenant's use or occupancy of the Premises less any insurance proceeds Tenant receives, or would have received if Tenant complied with the requirements set forth in Section 16 above, which proceeds are to be applied against the payment of Rent during any Repair Period.

Port shall use its commercially reasonable efforts to notify Tenant within ninety (90) days after the date of such damage whether or not such repairs can be made within the Repair Period, and Port's determination thereof shall be binding on Tenant. If such repairs cannot be made within the Repair Period, Port shall have the option to notify Tenant of: (a) Port's intention to repair such damage and diligently prosecute such repairs to completion within a reasonable period after the Repair Period, subject to appropriation of funds, in which event this Lease shall continue in full force and effect and the monthly Base Rent shall be reduced as provided herein; or (b) Port's election to terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by Port. In

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case of termination, the monthly Base Rent shall be reduced as provided above, and Tenant shall pay such reduced monthly Base Rent up to the date of termination.

If Port elects not to appropriate funds for such repair, Port shall give written notice to Tenant within sixty (60) days after the date Port elects not to appropriate funds of its election to terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by Port. In case of termination, the monthly Base Rent shall be reduced as provided above, and Tenant shall pay such reduced monthly Base Rent up to the date of termination.

If at any time during the last six (6) months of the Term, the Premises or the Facility is damaged or destroyed, then either Port or Tenant may terminate this Lease by giving written notice to the other party of its election to do so within thirty (30) days after the date of the occurrence of such damage; provided, however, Tenant may terminate only if such damage or destruction substantially impairs its use or occupancy of the Premises for the Permitted Use. The effective date of termination shall be specified in the notice of termination, which date shall not be more than thirty (30) days from the date of the notice.

Notwithstanding anything to the contrary in this Lease, (i) Port shall have no obligation to repair the Premises or the Facility, (ii) Tenant shall not be entitled to any abatement of Rent, and (iii) Tenant shall not be entitled to terminate this Lease, in the event the damage or destruction is attributable to any act or omission of Tenant, its Agents, or Invitees. In no event shall Port be required to repair any damage to Tenant's Property or any paneling, decorations, railings, floor coverings, or any Improvements or other Alterations installed or made on the Premises by or at the expense of Tenant. Notwithstanding any other provision of this Lease, in the event the Premises or the Facility is substantially damaged or destroyed and Port intends to rebuild for a Port program or project that is inconsistent with this Lease, Port may terminate this Lease upon written notice to Tenant.

17.2. ***Waiver.*** Port and Tenant intend that the provisions of Section 17 govern fully in the event of any damage or destruction and accordingly, Port and Tenant each hereby waives the provisions of Section 1932, subdivision 2, Section 1933, subdivision 4, Sections 1941 and 1942 of the Civil Code of California or under any similar Law now or hereafter in effect.

18. EMINENT DOMAIN.

18.1. ***General.*** If all or part of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, this Lease shall terminate as to any portion of the Premises so taken or conveyed on the Date of Taking.

18.2. ***Partial Takings.*** If (a) a part of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, and (b) Tenant is reasonably able to continue the operation of Tenant's business in that portion of the Premises remaining, and (c) Port elects to restore the Premises to an architectural whole, then this Lease shall remain in effect as to the portion of the Premises remaining, and the Base Rent payable from the Date of Taking shall be reduced by an amount that is in the same ratio to the Base Rent as the value of the area so taken bears to the total value of the Premises immediately before the Date of Taking. If, after a partial taking, Tenant is not reasonably able to continue the operation of its business in the Premises or Port elects not to restore the Premises to an architectural whole, this Lease may be terminated by either Port or Tenant by giving written notice to the other party no earlier than thirty (30) days prior to the Date of Taking and no later than thirty (30) days after the Date of Taking. Such notice shall specify the date of termination, which shall be not less than thirty (30) nor more than sixty (60) days after the date of notice.

18.3. ***Taking of the Facility.*** If any substantial portion of the Facility is taken under the power of eminent domain or conveyance in lieu thereof, whether any portion of the

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Premises is taken or not, Port shall have the right to terminate this Lease by written notice to Tenant within thirty (30) days of the Date of Taking.

18.4. ***Temporary Takings***. Notwithstanding anything to the contrary contained in Section 18, if a taking occurs with respect to all or any part of the Premises for a limited period of time, this Lease shall remain unaffected thereby and Tenant shall continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease. Tenant shall be entitled to receive that portion of any award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by Tenant for the period of the taking, and Port shall be entitled to receive the balance of any award.

18.5. ***Award; Waiver; Termination of Lease; Rent***. Upon termination of this Lease in its entirety pursuant to Section 18.3, or pursuant to an election under Section 18.2, then: (i) Tenant's obligation to pay Rent shall continue up until the date of termination and thereafter shall cease, and (ii) Port shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease and any Improvements Pertaining to the Realty), and Tenant shall have no claim against Port for the value of any unexpired term of this Lease, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's Property. Port and Tenant intend that the provisions of Section 18 shall govern fully in the event of condemnation and accordingly, Port and Tenant each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.110, 1265.120, 1265.130, and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

19. INDEMNITY AND EXCULPATION.

19.1. ***General Indemnity***. Tenant shall Indemnify Port, City, including, but not limited to, all of their respective boards, commissions, departments, agencies, and other subdivisions, and their respective Agents (collectively, "**Indemnified Parties**") from, and shall defend them, without cost to the Indemnified Parties, against any and all Claims arising directly or indirectly out of: (a) any accident, injury to or death of any person, including any Agents and/or Invitees of Tenant, or loss or damage to or destruction of any property occurring in, on or about the Premises, the Facility or any other Port property, from any cause whatsoever, or (b) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease, including the provisions of Section 20, or (c) the use, occupancy, manner of use or occupancy, or condition of the Premises or the activities therein by Tenant, its Agents, or Invitees, or (d) any construction or other work undertaken by Tenant on the Premises whether before or during the Term, or (e) any acts, omissions or negligence of Tenant, its Agents or Invitees, in, on or about the Premises, the Facility or any other Port property.

19.2. ***Hazardous Materials Indemnity***.

(a) In addition to its obligations under Section 19.1, Tenant, for itself and on behalf of its Agents and Invitees, agrees to Indemnify the Indemnified Parties from any and all Claims and Hazardous Material Claims that arise as a result of: (i) any Hazardous Material Condition, and (ii) Tenant's Exacerbation of any Hazardous Material Condition.

(b) Tenant's obligation to Indemnify the Indemnified Parties includes: (i) costs incurred in connection with any Investigation or Remediation requested by Port or required by any Environmental Regulatory Agency and to restore the affected area to its condition before the Release; (ii) damages for diminution in the value of the Premises or the Facility; (iii) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises or the Facility; (iv) damages arising from any adverse impact on marketing the space; (v) sums paid in settlement of Claims, Hazardous Material Claims, Environmental Regulatory Actions, including fines and penalties; (vi) natural resource damages; and (vi) attorneys' fees, consultant

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fees, expert fees, court costs, and all other litigation, administrative or other judicial or quasi-judicial proceeding expenses. If Port pays any costs within the scope of this section, Tenant must reimburse Port for Port's costs, plus interest at the Interest Rate from the date Port incurs each cost until paid, within three (3) business days after Port's payment demand. Tenant's obligations hereunder shall survive the expiration or earlier termination of this Lease.

19.3. ***Scope of Indemnities***. The Indemnification obligations of Tenant set forth in this Lease shall be enforceable regardless of the joint or concurrent, active or passive negligence of the Indemnified Parties, and regardless of whether liability without fault is imposed or sought to be imposed on the Indemnified Parties. The Indemnification obligations of Tenant set forth in this Lease shall be enforceable except to the extent that such Indemnity is void or otherwise unenforceable under applicable Law in effect on, or validly retroactive to, the date of this Lease. Except as specifically provided otherwise, the Indemnification obligations of Tenant set forth in this Lease shall exclude Claims resulting solely from the willful misconduct or gross negligence of the Indemnified Parties.

In addition to Tenant's obligation to Indemnify the Indemnified Parties, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Indemnified Parties from any Claim which actually or potentially falls within the Indemnification obligations of Tenant set forth in this Lease, even if the allegations are or may be groundless, false or fraudulent. This Indemnification by Tenant shall begin from the first notice that any claim or demand is or may be made and shall continue at all times thereafter.

19.4. ***Exculpation and Waiver***. Tenant, as a material part of the consideration to be rendered to Port, hereby waives any and all Claims, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or gross negligence. The Indemnified Parties shall not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims for, any injury, loss or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying adjoining premises or any part of the Facility adjacent to or connected with the Premises, (ii) theft, (iii) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Facility Systems, (v) Facility defects, (vi) damages to goods, wares, goodwill, merchandise, equipment or business opportunities, (vii) Claims by persons in, upon or about the Premises, the Facility or any other Port property for any cause arising at any time, (viii) alleged facts or circumstances of the process or negotiations leading to this Lease prior to the Commencement Date, (ix) inability to use all or any portion of the Premises due to sea level rise, and (x) any other acts, omissions or causes.

Tenant understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this Lease shall remain effective. Therefore, with respect to the Claims released in this Lease, Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Tenant specifically acknowledges and confirms the validity of the release made above and the fact that Tenant was represented by counsel who explained the consequences of the release at the time this Lease was made, or that Tenant had the opportunity to consult with counsel, but declined to do so.

19.5. ***Survival.*** The provisions of Section 19 shall survive the expiration or earlier termination of this Lease.

20. ASSIGNMENT AND SUBLETTING.

20.1. ***Transfer to Affiliate.***

(a) Tenant may make an Affiliate Transfer without obtaining Port's consent, but only if Tenant gives Port: (i) prior written notice at least twenty (20) business days before the Transfer Date; and (ii) copies of all documentation evidencing Tenant's relationship with the Affiliate and the Transfer Agreement within five (5) days after the actual Transfer Date.

(b) Port will have the right to: (i) request additional documentation and information relating to Tenant's relationship with the Transferee for three (3) months after Tenant has delivered all documents required under Subsection (a); and (ii) object to the Affiliate Transfer on the grounds that the Transferee is not an Affiliate as defined in this Lease, if written notice is delivered to Tenant within three (3) months after Port's receipt of all required and requested information.

20.2. ***Transfer to Non-Affiliate.***

(a) Except for an Affiliate Transfer, Tenant must obtain Port's prior written consent to any Transfer, which Port will not withhold unreasonably.

(i) Tenant agrees that any of the following will be a reasonable basis for Port to withhold its consent: (1) at the time Tenant requests Port's consent, an Event of Default, or an event that with notice or the passage of time or both would constitute an Event of Default if not cured, has occurred and remains uncured; (2) the Transfer is an Assignment or a Sublease by a Transferee of Tenant; (3) the Transferee's financial condition is or may become insufficient to support all of the financial and other obligations of this Lease; (4) the Transferee's intended use of the Premises is inconsistent with this Lease or otherwise will affect any Port interest materially and adversely; (5) the nature of the Transferee's use of the Premises would involve an increased risk of the Handling or Release of Hazardous Materials or of fire or other casualty; (6) the business reputation or character of the Transferee or any of its Affiliates is not reasonably acceptable to Port; (7) the Transferee is not likely to conduct a business in the Premises of a quality substantially equal to Tenant's or otherwise reasonably acceptable to Port; or (8) Tenant has not cured an Event of Default or an event that with notice or the passage of time or both would constitute an Event of Default if not cured.

(ii) Tenant also agrees that Port will have the right to impose reasonable conditions to a requested consent to a Transfer, which may include: (1) requiring the Transferee to assume all of Tenant's obligations under this Lease; and (2) giving Port the right to terminate without notice all of Tenant's then-existing Subleases if this Lease is terminated before the existing Subleases expire.

(b) At least sixty (60) days before any Transfer to a Non-Affiliate, Tenant must give Port a Transfer Notice and the following: (i) financial statements for the three (3) years before the Transfer Date (or each year of the proposed Transferee's existence, if shorter) for the Transferee and for any other Person who will be liable for Tenant's obligations under this Lease;

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(ii) Tenant's current financial statements; (iii) a copy of the proposed Transfer Agreement; and (iii) the Transferee's completed pre-screening and leasing application. In addition, Tenant must provide: (1) any other information, documentation, or evidence that Port requests to enable Port to evaluate the Transfer and the Transferee; and (2) if any of the Transfer Terms are modified before the Transfer Date, a new Transfer Notice and all relevant documentation for any modified Transfer Terms. Tenant's Transfer Notice will not be complete until Tenant has provided Port with all information required under this Subsection.

(i) For up to thirty (30) days after receipt of the complete Transfer Notice, Port will have the right to: (1) terminate this Lease as of the proposed Transfer Date; (2) sublease or take an assignment from Tenant of the interest that Tenant proposes to Transfer, on the same terms and conditions as stated in the Transfer Agreement; and (3) negotiate and contract directly with the Transferee on terms acceptable to Port in its sole and absolute discretion.

(c) If Port consents to the Transfer, Tenant must close the Transfer on the Transfer Terms stated in the Transfer Notice within ninety (90) days after Port notifies Tenant of Port's consent. If the Transfer Agreement does not close within the 90-day period, then Port's consent will expire, unless Tenant gives Port a new Transfer Notice, in which case Port again will be entitled to exercise any of the options under this Section.

(d) Any Transfer that does not comply with this Section fully will constitute an incurable Event of Default and will be void as to Port and this Lease. Port's consent to one Transfer will have no effect with respect to any other Transfer.

(e) Tenant agrees to reimburse Port for all costs, including attorneys' fees, that Port incurs to review, investigate, process, document, disapprove, or approve any Transfer request.

20.3. ***Sublease.*** In addition to all requirements in Section 20.2, the following provisions apply to any Transfer in the form of a Sublease.

(a) Until the occurrence of an Event of Default, Tenant will have the right to receive and collect rents from the Sublease. The Sublease must require the Transferee to pay the rent and other sums due under the Sublease directly to Port upon receiving Port's written notice that Tenant is in default under this Lease, a copy of which Port will deliver to Tenant. Tenant agrees that it will hold in trust for Port's benefit any Sublease rent or other sums that Tenant collects from the Transferee after Port's notice to the Transferee, and Tenant will be obligated to forward the same to Port immediately upon receipt. Port's collection of rents and other sums under this Section will not constitute Port's acceptance of attornment by the Transferee.

(b) Tenant agrees to pay to Port immediately upon receipt all Excess Rent, less Subletting Expenses, as Additional Rent. In calculating Excess Rent, Subletting Expenses will be amortized on a straight-line basis over the term of the Sublease, without interest. For example, if: (i) the term of the Sublease is 5 years; (ii) Sublease rent is $5,000 per month; (iii) Tenant's concurrent Rent payable for the Sublease premises is $3,000 per month; (iv) Tenant's Subletting Expenses are $15,000 in brokerage commissions and $15,000 for new tenant improvements for the Sublease premises, then the amount of Excess Rent Tenant must pay to Port in connection with the Sublease is $1,500 per month, as shown in the calculation below.

Term of Sublease:	5 years x 12 months = 60 months
Subletting Expenses:	$15,000 + $15,000 = $30,000
Amortized Subletting Expenses:	$30,000/60 months = $500/month

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Excess Rent: $5,000/month - $3,000/month = $2,000/month

Additional Rent: $2,000/month - $500/month = $1,500/month

20.4. ***Transfer Agreement Requirements***. Any Transfer Agreement must include the provisions set forth below.

(a) The Transferee's express assumption of, and acknowledgement and agreement that the Transferee will be jointly and severally liable for, all of Tenant's obligations under this Lease;

(b) The Indemnification clause and waiver of claims provisions in Section 19 (Indemnity and Exculpation);

(c) Insurance provisions requiring that all of the Transferee's liability and other insurance policies name "***The City and County of San Francisco, the San Francisco Port Commission, and their officers, agents, employees, and representatives***" as additional insureds and acknowledging Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Transferee's are conducted;

(d) A provision stating that if this Lease is terminated for any reason, the Transferee's right to possession under the Transfer Agreement will terminate; and

(e) A provision under which the Transferee expressly waives any and all relocation assistance and benefits in connection with this Lease to the extent permitted by applicable Laws.

20.5. ***Notice to Port***. In addition to the obligations under Section 6.2, within thirty (30) days of entering into any agreement under which Tenant grants any person the right to occupy or use any portion of the Premises for any period of time, including without limitation, any assignment, sublease, license, permit, concession or vendor agreement or other agreement or renewal thereof, Tenant shall provide written notice to Port and a copy of such agreement, regardless of whether Port consent is required under this Lease for such agreement. Tenant agrees to provide such further information as may be requested by City or Port to enable compliance with reporting obligations under state Law and San Francisco Administration Code Sections 23.38 and 23.39 (or any successor ordinance).

20.6. ***Transfer Audit***. Tenant agrees to make its Books and Records available to, and cooperate with, any Port representative for the purpose of conducting an audit of the accuracy of Tenant's financial reporting on the Transfer for a period of no less than one year after the Expiration Date. If an audit reveals that Tenant has overstated Subletting Expenses or any other costs in connection with a Transfer, Tenant must pay Port promptly upon demand the difference between the amount Tenant deducted and the amount it should have deducted, plus interest at the Interest Rate from the Transfer Date until paid. As used in this section, Tenant includes Affiliates where applicable.

20.7. ***Acknowledgement***. Tenant acknowledges and agrees that Port's rights with respect to Transfers are reasonable limitations for purposes of California Civil Code Section 1951.4 and waives any Claims arising from Port's actions under this Section 20.2.

20.8. ***Transfer Definitions***. For the purpose of this Section, references to this Lease and the Premises mean this Lease and the Premises to the extent Tenant's leasehold interest is affected by a Transfer. Other applicable definitions are in Section 2.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

21. DEFAULT BY TENANT.

Any of the following shall constitute an event of default (the "**Event of Default**") by Tenant hereunder:

(a) failure to pay to Port any Rent or other sum payable hereunder when due, and such default continues for a period of three (3) days following written notice from Port. Notwithstanding the foregoing, Port shall not be required to provide such notice more than twice during any 12-month period, and any such failure by Tenant after Tenant has received two (2) such notices in such 12-month period shall constitute an Event of Default by Tenant hereunder without any further action by Port or opportunity of Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure; or

(b) abandonment or vacation of the Premises by Tenant; or

(c) failure to use the Premises solely for the Permitted Use, as determined by Port in its sole and absolute discretion and such failure continues for a period of twenty-four (24) hours following written notice from Port; provided, however, that notwithstanding the foregoing, failure to use the Premises solely for the Permitted Use shall, at Port's sole and absolute discretion, be deemed an incurable breach of this Lease, allowing Port to immediately terminate this Lease upon written notice without an opportunity to cure; or

(d) failure by Tenant to execute and deliver to Port the estoppel certificate within the time period and in the manner required by Section 32 below, and Tenant's failure to cure the foregoing default within five (5) days following written notice from Port; or

(e) a Transfer, or attempted Transfer, of this Lease or the Premises by Tenant contrary to the provision of Section 20 above; or

(f) failure by Tenant or Tenant's broker as applicable to provide evidence of insurance coverage complying with the provisions of Section 16 above, failure to maintain any insurance required to be maintained by Tenant pursuant to this Lease, or if any such insurance shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease, and Tenant's or Tenant's broker's failure to deliver evidence of such coverage or failure to reinstate such coverage, all within three (3) business days following written notice from Port; or

(g) failure by Tenant to comply with the provisions of Section 15 above and Tenant's failure to cure the foregoing default within twenty-four (24) hours following written notice from Port. If such default cannot reasonably be cured within such twenty-four (24) hour period, Tenant shall not be in default of this Lease if Tenant commences to cure the default within such twenty-four (24) hour period and diligently and in good faith continues to cure the default, provided, however, in no event shall Tenant have more than thirty (30) days to cure such default; or

(h) failure by Tenant to discharge any lien or encumbrance placed on the Facility or any part thereof in violation of this Lease within ten (10) days after the date such lien or encumbrance is filed or recorded against the Facility or any part thereof, or if Tenant has no knowledge of such lien, then Tenant shall discharge such lien or encumbrance within fifteen (15) days following Tenant's knowledge of such lien or encumbrance; or

(i) failure by Tenant to observe, keep or perform any of the other terms, covenants, agreements or conditions contained in this Lease and required to be observed or performed by Tenant and not specifically enumerated in this Section 21, and such failure continues for a period of fifteen (15) days after written notice by Port, provided that if such default is not capable of cure within such fifteen (15) day period, Tenant shall have a reasonable period to complete such cure if Tenant promptly undertakes action to cure such default within such fifteen (15) day period and thereafter diligently prosecutes the same to completion within sixty (60) days after the receipt of notice of default from Port. Port shall not be required to

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provide such notice more than twice in any twelve (12) month period with respect to any material non-monetary defaults and after the second notice in any calendar year, any subsequent failure by Tenant during such twelve (12) month period shall automatically constitute an Event of Default hereunder; or

(j) Tenant shall become bankrupt or insolvent or make a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or bring or have brought against Tenant any action or proceedings of any kind under any provision of the U.S. Bankruptcy Code or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not discharged from the same within sixty (60) days thereafter; or

(k) a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days; or

(l) this Lease or any estate of Tenant under this Lease shall be levied upon by any attachment or execution and such attachment is not stayed or lifted within sixty (60) days; or

(m) without limiting the provisions of Sections 21(c) or 21(g) above or lengthening the cure periods under those subsections, failure by Tenant to comply with Laws and Tenant's failure to cure the foregoing default within forty-eight (48) hours following written notice from Port.

22. PORT'S REMEDIES.

Upon default by Tenant, Port shall, without further notice or demand of any kind to Tenant or to any other person, have the following remedies:

22.1. ***Tenant's Right to Possession Not Terminated.*** Port has the remedy described in Section 1951.4 of the California Civil Code (a landlord may continue the lease in effect after a tenant's breach and abandonment and recover rent as it becomes due, if the tenant has the right to sublet and assign subject only to reasonable limitations) under which it may continue this Lease in full force and effect and Port may enforce all of its rights and remedies under this Lease, including the right to collect Rent when due. During the period Tenant is in default, Port may enter the Premises without terminating this Lease and relet them, or any part of them, to third parties for Tenant's account. Tenant shall be liable immediately to Port for all reasonable costs Port incurs in reletting the Premises, including, but not limited to, broker's commissions, expenses of remodeling the Premises required by the reletting and like costs. Reletting can be for a period shorter or longer than the remaining Term, at such rents and on such other terms and conditions as Port deems advisable. Tenant shall pay to Port the Rent due under this Lease on the dates the Rent is due, less the Rent Port receives from any reletting. In the event that Port shall elect to so relet, then rentals received by Port from such reletting shall be applied in the following order: (i) to reasonable attorneys' fees incurred by Port as a result of a default and costs in the event suit is filed by Port to enforce such remedies; (ii) to the payment of any indebtedness other than Rent due hereunder from Tenant to Port; (iii) to the payment of any costs of maintaining, preserving, altering, repairing and preparing the Premises for reletting, the other costs of reletting, including but not limited to brokers' commissions, attorneys' fees and expenses of removal of Tenant's Personal Property, trade fixtures and Alterations; (iv) to the payment of Rent due and unpaid hereunder; (v) to the payment of future Rent and other sums payable by Tenant hereunder as the same may become due and payable hereunder; and (vi) the balance, if any, shall be paid to Tenant upon (but not before) expiration of the Term. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of Rent hereunder, be less than the Rent payable during the month by Tenant hereunder, then Tenant shall pay such deficiency to Port. Such deficiency shall be calculated and paid monthly. No act by Port allowed by this Section 22.1 shall terminate this Lease unless Port notifies Tenant that Port elects to terminate this Lease. After Tenant's default and for as long as Port does not terminate Tenant's right to possession of the Premises, if Tenant obtains Port's

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consent Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability.

22.2. ***Termination of Tenant's Right to Possession.*** Port may terminate Tenant's right to possession of the Premises at any time. No act by Port other than giving notice of termination to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Port's initiative to protect Port's interest under this Lease shall not constitute a termination of Tenant's right to possession. If Port elects to terminate this Lease, Port has the rights and remedies provided by California Civil Code Section 1951.2, including the right to recover from Tenant the following.

(a) The worth at the time of award of the unpaid Rent which had been earned at the time of termination; plus

(b) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(c) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could be reasonably avoided; plus

(d) Any other amounts necessary to compensate Port for the detriment proximately caused by Tenant's default, or which, in the ordinary course of events, would likely result, including, but not limited to, attorneys' fees and court costs, the costs of carrying the Premises such as repairs, maintenance, taxes and insurance premiums, utilities, security precautions and the reasonable costs and expenses incurred by Port in (i) retaking possession of the Premises; (ii) cleaning and making repairs and alterations necessary to return the Premises to good condition and preparing the Premises for reletting; (iii) removing, transporting and storing any of Tenant's Property left at the Premises (although Port shall have no obligation so to do); and (iv) reletting the Premises, including, without limitation, brokerage commissions, advertising costs and attorneys' fees. Efforts by Port to mitigate the damages caused by Tenant's breach of this Lease do not waive Port's rights to recover damages upon termination.

The "**worth at the time of award**" of the amounts referred to in Sections 22.2(a) and 22.2(b) above shall be computed by allowing interest at an annual rate equal to the lesser of the Interest Rate or the maximum non-usurious rate Port is permitted by Law to charge. The "worth at the time of award" of the amount referred to in Section 22.2(c) above shall be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

22.3. ***Appointment of Receiver.*** If Tenant is in default of this Lease, Port shall have the right to have a receiver appointed to collect Rent and conduct Tenant's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Port to terminate this Lease.

22.4. ***Port's Right to Cure Tenant's Default.*** Port, at any time after Tenant commits a default, may, at Port's sole option, cure the default at Tenant's cost. If Port at any time, by reason of Tenant's default, undertakes any act to cure or attempt to cure such default that requires the payment of any sums, or otherwise incurs any costs, damages, or liabilities (including without limitation, attorneys' fees), all such sums, costs, damages or liabilities paid by Port shall be due immediately from Tenant to Port at the time the sum is paid, and if paid by Tenant at a later date shall bear interest at the lesser of the Interest Rate or the maximum non-usurious rate Port is permitted by Law to charge from the date such sum is paid by Port until Port is reimbursed by Tenant.

22.5. ***No Accord and Satisfaction.*** No payment by Tenant or receipt by Port of an amount less than the Rent due under this Lease shall be deemed to be other than "on account"

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of the earliest Rent due; nor shall any endorsement or statement on any check or payment, or letter accompanying such check or payment, be deemed an accord and satisfaction. Port may accept any such partial payment or tender without prejudice to its right to recover the balance of any amount due and to pursue any other remedy herein provided at Law or in equity.

22.6. ***Waiver of Redemption***. Tenant hereby waives, for itself and all persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Port takes possession of the Premises by reason of any default of Tenant hereunder.

22.7. ***Habitual Late Payer***. In the event Tenant is deemed to be a Habitual Late Payer, in addition to any other remedies available to Port, Port may require that Tenant enter into direct electronic payment arrangements and/or Port may require payments of Rent be made in advance on a quarterly basis.

22.8. ***Remedies Not Exclusive***. The remedies set forth in Section 22 are not exclusive; they are cumulative and in addition to any and all other rights or remedies of Port now or later allowed by Law. Tenant's obligations hereunder shall survive any termination of this Lease.

23. LITIGATION EXPENSES; ATTORNEYS' FEES.

23.1. ***Litigation Expenses***. The prevailing party in any action or proceeding (including any cross-complaint, counterclaim, or bankruptcy proceeding) against the other party by reason of a claimed default, or otherwise arising out of a party's performance or alleged non-performance under this Lease, shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "**Prevailing party**" within the meaning of this Section shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

23.2. ***Appeals***. Attorneys' fees under this Section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

23.3. ***City Attorney***. For purposes of this Lease, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

24. PORT'S ENTRY ON PREMISES.

24.1. ***Entry for Inspection***. Port and its authorized Agents shall have the right to enter the Premises without notice at any time during normal business hours of generally recognized business days, provided that Tenant or Tenant's Agents are present on the Premises (except in the event of an emergency), for the purpose of inspecting the Premises to determine whether the Premises is in good condition and whether Tenant is complying with its obligations under this Lease.

24.2. ***General Entry***. In addition to its rights pursuant to Section 24.1 above, Port and its authorized Agents shall have the right to enter the Premises at all reasonable times and upon reasonable notice for any of the following purposes:

(a) To perform any necessary maintenance, repairs or restoration to the Premises, or to perform any services which Port has the right or obligation to perform;

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(b) To serve, post, or keep posted any notices required or allowed under the provisions of this Lease;

(c) To post "**For Sale**" signs at any time during the Term; to post "**For Lease**" signs during the last six (6) months of the Term or during any period in which Tenant is in default;

(d) On an occasional basis, at all reasonable times after giving Tenant reasonable advance written or oral notice, to show the Premises to prospective tenants or other interested parties;

(e) If any excavation or other construction is undertaken or is about to be undertaken on any property or street adjacent to the Premises, to shore the foundations, footings or walls of the Premises and to erect scaffolding and protective barricades around and about the Premises as reasonably necessary in connection with such activities (but not so as to prevent or unreasonably restrict entry to the Premises), and to do any other act or thing necessary for the safety or preservation of the Premises during such excavation or other construction; or

(f) To obtain environmental samples and perform equipment and facility testing.

24.3. ***Emergency Entry***. Port may enter the Premises at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the Premises. Entry to the Premises by any of these means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion of the Premises.

24.4. ***No Liability***. Port shall not be liable in any manner, and Tenant hereby waives any Claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Rent, arising out of Port's entry onto the Premises as provided in Section 24 or performance of any necessary or required work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof, except damage resulting solely from the willful misconduct or gross negligence of Port or its authorized representatives.

24.5. ***Nondisturbance***. Port shall use its commercially reasonable efforts to conduct its activities on the Premises as allowed in Section 24 in a manner which, to the extent reasonably practicable, will minimize annoyance or disturbance to Tenant.

25. SURRENDER AND QUITCLAIM.

25.1. ***Surrender***. Upon expiration or earlier termination of this Lease, Tenant shall surrender to Port the Premises in good order, condition, and repair (except for ordinary wear and tear occurring after the last necessary maintenance made by Tenant and except for destruction or condemnation as described in Sections 17 and 18 hereof). Ordinary wear and tear shall not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease. The Premises shall be surrendered clean, free of debris, waste, and Hazardous Materials, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Lease and any other encumbrances created by Port. On or before the expiration or earlier termination of this Lease, Tenant at its sole cost shall remove from the Premises, and repair any damage caused by removal of, Tenant's Property, including any signage and Alterations and Improvements specified in Port's Notice of Removal. Except for those designated in Port's Notice of Removal, Alterations and Improvements shall remain in the Premises as Port property.

If the Premises is not surrendered at the end of the Term or sooner termination of this Lease, and in accordance with the provisions of this Section 25 and Section 13.4, Tenant shall continue to be responsible for the payment of Rent (as the same may be increased pursuant to

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Section 26.2 or 26.3 below as applicable) until the Premises is surrendered in accordance with these Sections, and Tenant shall Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any costs of Port to obtain possession of the Premises; any loss or liability resulting from any Claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each instance, reasonable attorneys' fees and costs.

No act or conduct of Port, including, but not limited to, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Port to Tenant confirming termination of this Lease and surrender of the Premises by Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

25.2. ***Quitclaim***. Upon the expiration or earlier termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Tenant or Port, become the property of Port, free and clear of all liens and without payment therefore by Port and shall be surrendered to Port upon such date. Upon or at any time after the expiration or earlier termination of this Lease, if requested by Port, Tenant shall promptly deliver to Port, without charge, a quitclaim deed to the Premises and any other instrument reasonably requested by Port to evidence or otherwise effect the termination of Tenant's leasehold estate hereunder and to effect such transfer or vesting of title to the Premises or any portion that Port agrees are to remain part of the Premises.

25.3. ***Abandoned Property***. Any items, including Tenant's Property, not removed by Tenant as required herein shall be deemed abandoned. Port may retain, store, remove, and sell or otherwise dispose of abandoned Tenant's Property, and Tenant waives all Claims against Port for any damages resulting from Port's retention, removal and disposition of such property; provided, however, that Tenant shall be liable to Port for all costs incurred in storing, removing and disposing of abandoned Tenant's Property and repairing any damage to the Premises or the Facility resulting from such removal. Tenant agrees that Port may elect to sell abandoned Tenant's Property and offset against the sales proceeds Port's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993 et seq., the benefits of which Tenant waives.

25.4. ***Survival***. Tenant's obligation under this Section 25 shall survive the expiration or earlier termination of this Lease.

26. HOLDING OVER.

26.1. ***Terms of Holdover Tenancy***. Any holding over after the expiration of the Term shall not constitute a renewal of this Lease, but shall be deemed a month-to-month tenancy upon the terms, conditions, and covenants of this Lease, except as provided in this Section. Either party may cancel the month-to-month tenancy upon thirty (30) days written notice to the other party. Tenant shall Indemnify Port from and against any and all loss or liability resulting from Tenant's delay in surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

26.2. ***With Consent***. If Tenant holds over with the prior written consent of Port, monthly Base Rent shall be equal to one hundred fifty percent (150%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease; provided that if both Tenant and Port desire to enter into a new lease or extend the existing term of this Lease but have not yet executed such new lease or extension solely due to Port's delay to produce such

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document, then the monthly Base Rent during such holdover period shall be equal to the higher of: (a) the Base Rent payable in the month immediately preceding the expiration of this Lease, or (b) the then current rate for the Facility approved by the Port Commission, together with any monthly charge of Additional Rent payable under this Lease.

26.3. ***Without Consent.*** If Tenant holds over without the prior written consent of Port, monthly Base Rent shall equal two hundred percent (200%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease.

27. MINERAL RESERVATION.

The State of California ("**State**"), pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises and Tenant acknowledges such reserved rights including necessary ingress and egress rights. In no event shall Port be liable to Tenant for any Claims arising from the State's exercise of its rights nor shall such action entitle Tenant to any abatement or diminution of Rent or otherwise relieve Tenant from any of its obligations under this Lease.

28. CITY AND PORT REQUIREMENTS.

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this Lease are incorporated by reference as though fully set forth in this Lease. The descriptions below are not comprehensive but are provided for notice purposes only; Tenant is charged with full knowledge of each such ordinance and policy and any related implementing regulations as they may be amended from time to time. Tenant understands and agrees that its failure to comply with any provision of this Lease relating to any such code provision shall be deemed a material breach of this Lease and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this Lease shall have the meanings ascribed to them in the cited ordinance.

28.1. ***Nondiscrimination.***

(a) Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under Chapter 12B or 12C of the San Francisco Administrative Code or in retaliation for opposition to any practices forbidden under Chapter 12B or 12C of the Administrative Code against any employee of Tenant, any City and County employee working with Tenant, any applicant for employment with Tenant, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant in the City and County of San Francisco.

(b) Subleases and Other Contracts. Tenant shall include in all subleases and other contracts relating to the Premises a non-discrimination clause applicable to such subtenant or other contractor in substantially the form of Section (a) above. In addition, Tenant shall incorporate by reference in all subleases and other contracts the provisions of Sections 12B.2 (a), 12B.2 (c)-(k) and 12C.3 of the Administrative Code and shall require all subtenants and other contractors to comply with such provisions.

(c) Nondiscrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits (collectively "**Core Benefits**") as well as any benefits

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2 of the Administrative Code.

(d) HRC Form. On or prior to the Lease Commencement Date, Tenant shall execute and deliver to Port the "Nondiscrimination in Contracts and Benefits" form approved by the San Francisco Human Rights Commission.

(e) Penalties. Tenant understands that pursuant to Section 12B.2(h) of the Administrative Code, a penalty of $50.00 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

28.2. ***Requiring Health Benefits for Covered Employees***. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in Administrative Code Chapter 12Q (Chapter 12Q).

(a) For each Covered Employee Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" by the City pursuant to Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Section 28.2(a) above.

(c) If, within 30 days after receiving written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Tenant fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City shall have the remedies set forth in Section 12Q.5(f). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any Sublease or Contract regarding services to be performed on the Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Chapter 12Q of the Administrative Code. Tenant shall notify the Office of Labor Standards Enforcement ("**OLSE**") when it enters into such a Sublease or Contract and shall certify to OLSE that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO for each Subtenant, Contractor and Subcontractor performing services on the Premises. If any Subtenant, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 12Q.5 of the Administrative Code against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that OLSE has first provided Tenant with notice and an opportunity to cure the violation.

(e) Tenant shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying the City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the requirements of the HCAO.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

(g) Tenant shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

(h) Upon request, Tenant shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subtenants, Contractors, and Subcontractors.

(i) Within ten (10) business days of any request, Tenant shall provide the City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Tenant at any time during the Term. Tenant agrees to cooperate with City in connection with any such audit.

(j) If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than $25,000.00 (or $50,000.00 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed $75,000.00 in that fiscal year, then all of the Contractor's or Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed $75,000.00 in the fiscal year.

28.3. ***First Source Hiring***. The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Tenant acknowledges receiving and reviewing the First Source Hiring Program materials and requirements and agrees to comply with all requirements of the ordinance as implemented by Port and/or City, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable. Tenant acknowledges and agrees that it may be subject to monetary penalties for failure to comply with the ordinance or a First Source Hiring Agreement and that such non-compliance shall be a default of this Lease.

28.4. ***Local Business Enterprises***. The Port Commission encourages the participation of local business enterprises ("**LBEs**") in Tenant's operations. Tenant agrees to consult with the Contract Monitoring Division of the City's General Services Agency to determine appropriate methods for promoting participation by LBEs. Architecture, Engineering, Laboratory Services (Materials Testing), Trucking and Hauling, and Security Guard Services are categories of services that may provide opportunities for certified LBE participation. City maintains a list of certified LBEs at: http://sfgov.org/cmd/lbe-certification-0.

28.5. ***Resource-Efficient Facilities and Green Building Requirements***. Tenant agrees to comply with all applicable provisions of Environment Code Chapter 7 relating to resource-efficiency and green building design requirements.

28.6. ***Prohibition of Tobacco Sales and Advertising***. Tenant acknowledges and agrees that no sales or advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

28.7. ***Prohibition of Alcoholic Beverages Advertising***. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and

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other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

28.8. ***Graffiti Removal.*** Tenant agrees to remove all graffiti from the Premises, including from the exterior of the Facility if included within the Premises, within forty-eight (48) hours of the earlier of Tenant's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real property. "**Graffiti**" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of this Lease or the Port Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

28.9. ***Restrictions on the Use of Pesticides.*** Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. Tenant shall not use or apply or allow the use or application of any pesticides on the Premises, and shall not contract with any party to provide pest abatement or control services to the Premises, without first receiving City's written approval of an integrated pest management plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the term of this Lease, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with the City. Tenant shall comply, and shall require all of Tenant's contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a City department. Among other matters, such provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (c) impose certain notice requirements, and (d) require Tenant to keep certain records and to report to City all pesticide use by Tenant's staff or contractors. If Tenant or Tenant's contractor will apply pesticides to outdoor areas, Tenant must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation and any such pesticide application shall be made only by or under the supervision of a person holding a valid Qualified Applicator certificate or Qualified Applicator license under state law. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

28.10. ***MacBride Principles Northern Ireland.*** Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities,

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and encourages such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

28.11. ***Tropical Hardwood and Virgin Redwood Ban.*** Port and the City urge Tenant not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the Environment Code, Tenant shall not provide any items to the construction of Alterations, or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Tenant fails to comply in good faith with any of the provisions of Chapter 8 of the Environment Code, Tenant shall be liable for liquidated damages for each violation in any amount equal to the contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

28.12. ***Preservative-Treated Wood Containing Arsenic.*** Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

28.13. ***Notification of Limitations on Contributions.*** If this Lease is subject to the approval by City's Board of Supervisors, Mayor, or other elected official, the provisions of this Section 28.13 shall apply. Through its execution of this Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Tenant further acknowledges that, if applicable, the prohibition on contributions applies to each Tenant; each member of Tenant's board of directors, and Tenant's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Tenant; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that if this Section 28.13 applies, Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 and must provide to City the name of each person, entity or committee described above.

28.14. ***Sunshine Ordinance.*** In accordance with Section 67.24(e) of the Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Port and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other

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benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

28.15. ***Conflicts of Interest.*** Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the California Government Code, and certifies that it does not know of any facts which would constitute a violation of these provisions, and agrees that if Tenant becomes aware of any such fact during the Term, Tenant shall immediately notify the Port.

28.16. ***Drug-Free Workplace.*** Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

28.17. ***Prevailing Wages and Working Conditions.*** Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Tenant shall require its contractors and subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction to: (A) pay workers performing such work not less than the highest prevailing rate of wages, (B) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (C) employ apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "**Prevailing Wage Requirements** "). Tenant agrees to cooperate with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements.

Tenant shall include and shall require its subtenants, and contractors and subcontractors (regardless of tier), to include the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any contractor or subcontractor in accordance with San Francisco Administrative Code Section 23.61. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party.

Tenant shall also pay, and shall require its subtenants, and contractors and subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), and Broadcast Services (as defined in Section 21C.9).

28.18. ***Public Transit Information.*** Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Facility and encouraging use of such facilities, all at Tenant's sole expense.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

28.19. ***Food Service Waste Reduction Ordinance.*** Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Tenant agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for-subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Tenant's failure to comply with this provision.

28.20. ***Consideration Of Criminal History In Hiring And Employment Decisions***

(a) Tenant agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "**Chapter 12T**"), which are hereby incorporated, including the remedies and implementing regulations as may be amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant shall incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and shall require all subtenants to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Tenant and subtenants shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Tenant and subtenants shall post the notice prepared by OLSE, available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

or remedies available under Chapter 12T or this Lease, including but not limited to a penalty of $50 for a second violation and $100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Lease.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact Port for additional information. Port may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

28.21. ***Local Hire***. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). Tenant Improvements and Alterations under this Lease are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than $750,000 per building permit; (ii) is in connection with the set-up, execution and strike of special events of three (3) or fewer days costing in excess of the Threshold Amount; or (iii) meets any of the other exemptions in the Local Hiring Requirements. Tenant agrees that it will comply with the Local Hiring Requirements to the extent applicable. Before starting any Tenant Improvements or Alterations, Tenant shall contact City's Office of Economic Workforce and Development ("**OEWD**") to determine the work is a Covered Project subject to the Local Hiring Requirements.

Tenant shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant shall cooperate, and require its subtenants to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

28.22. ***San Francisco Bottled Water Ordinance***. Tenant is subject to all applicable provisions of Environment Code Chapter 24 (which are hereby incorporated) prohibiting the sale or distribution of drinking water in plastic bottles with a capacity of twenty-one (21) fluid ounces or less at City-permitted events held on the Premises with attendance of more than 100 people.

28.23. ***Vending Machines; Nutritional Standards and Calorie Labeling Requirements; Offerings***. Tenant shall not install or permit any vending machine on the Premises without the prior written consent of Port. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9- 1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section shall be deemed a material breach of this Lease. Without limiting Port's other rights and remedies under this Lease, Port shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any Restaurant including any employee eating establishment located on the Premises is encouraged to ensure that at least twenty-five percent (25%) of Meals (as capitalized terms are defined in San Francisco Administrative Code section 4.9-1) offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code section 4.9-1(e), as may be amended.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

29. NOTICES.

Except as otherwise expressly provided in this Lease or by Law, all notices (including notice of consent or non-consent) required or permitted by this Lease or by Law must be in writing and be delivered by: (a) hand delivery; (b) first class United States mail, postage prepaid; or (c) overnight delivery by a nationally recognized courier or the United State Postal Service, delivery charges prepaid. Notices to a party must be delivered to that party's mailing address in the Basic Lease Information, unless superseded by a notice of a change in that party's mailing address for notices, given to the other party in the manner provided above, or by information provided by Tenant in Tenant's written response to Port's written request for such information.

All notices under this Lease shall be deemed to be duly delivered: (a) on the date personal delivery actually occurs; (b) if mailed, on the business day following the business day deposited in the United States mail or, if mailed return receipt requested, on the date of delivery or on which delivery is refused as shown on the return receipt; or (c) the business day after the business day deposited for overnight delivery.

Notices may not be given by facsimile or electronic mail, but either party may deliver a courtesy copy of a notice by facsimile or electronic mail.

30. MISCELLANEOUS PROVISIONS.

30.1. ***California Law***. This Lease is governed by, and shall be construed and interpreted in accordance with, the Laws of the State of California and City's Charter. Port and Tenant hereby irrevocably consent to the jurisdiction of and proper venue in the Superior Court for the City and County of San Francisco.

30.2. ***Entire Agreement***. This Lease contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Lease. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this Lease. No prior drafts of this Lease or changes from those drafts to the executed version of this Lease shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this Lease.

30.3. ***Amendments***. No amendment of this Lease or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

30.4. ***Severability***. If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

30.5. ***Interpretation of Lease***.

(a) References in this Lease to Tenant's acts or omissions will mean acts or omissions by Tenant and its Agents and Invitees unless the context requires or specifically stated otherwise.

(b) Whenever an exhibit or schedule is referenced, it means an attachment to this Lease unless otherwise specifically identified. All exhibits and schedules are incorporated in this Lease by reference.

(c) Whenever a section, article or paragraph is referenced, it refers to this Lease unless otherwise specifically provided. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of this Lease. Wherever reference is made to any provision, term, or matter "in this Lease," "herein" or "hereof" or words of similar

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

import, the reference will be deemed to refer to any reasonably related provisions of this Lease in the context of the reference, unless the reference refers solely to a specific numbered or lettered article, section, subdivision, or paragraph of this Lease.

(d) References to all Laws, including specific statutes, relating to the rights and obligations of either party mean the Laws in effect on the effective date of this Lease and as they are amended, replaced, supplemented, clarified, corrected, or superseded at any time during the Term or while any obligations under this Lease are outstanding, whether or not foreseen or contemplated by the parties. References to specific code sections mean San Francisco ordinances unless otherwise specified.

(e) The terms "include," "included," "including" and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

(f) This Lease has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this Lease must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the parties, without any presumption (including a presumption under California Civil Code § 1654) against the party responsible for drafting any part of this Lease.

(g) The party on which any obligation is imposed in this Lease will be solely responsible for paying all costs and expenses incurred in performing the obligation, unless the provision imposing the obligation specifically provides otherwise.

(h) Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," "waivers," "waived," waiving," etc.).

(i) References to days mean calendar days unless otherwise specified, provided that if the last day on which a party must give notice, respond to a notice, or take any other action under this Lease occurs on a day that is not a business day, the date by which the act must be performed will be extended to the next business day.

30.6. ***Successors***. The terms, covenants, agreements and conditions set forth in this Lease shall bind and inure to the benefit of Port and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns.

30.7. ***Real Estate Broker's Fees***. Port will not pay, nor will Port be liable or responsible for, any finder's or broker's fee in connection with this Lease. Tenant agrees to Indemnify Port from any Claims, including attorneys' fees, incurred by Port in connection with any such Claim or Claims of any person(s), finder(s), or broker(s) to a commission in connection with this Lease.

30.8. ***Counterparts***. For convenience, the signatures of the parties to this Lease may be executed and acknowledged on separate pages which, when attached to this Lease, shall constitute one complete Lease. This Lease may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same Lease.

30.9. ***Authority***. If Tenant signs as a corporation or a partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in

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California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon Port's request, Tenant shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

30.10. ***No Implied Waiver***. No failure by Port to insist upon the strict performance of any obligation of Tenant under this Lease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial Rent during the continuance of any such breach shall constitute a waiver of such breach or of Port's rights to demand strict compliance with such term, covenant or condition. Port's consent to or approval of any act by Tenant requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Tenant. Any waiver by Port of any default must be in writing and shall not be a waiver of any other default (including any future default) concerning the same or any other provision of this Lease.

30.11. ***Time is of Essence***. Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

30.12. ***Cumulative Remedies***. All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

30.13. ***Survival of Indemnities***. Termination or expiration of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, the ability to collect any sums due, nor shall it affect any provision of this Lease that expressly states it shall survive termination or expiration hereof.

30.14. ***Relationship of the Parties***. Port is not, and none of the provisions in this Lease shall be deemed to render Port, a partner in Tenant's business, or joint venturer or member in any joint enterprise with Tenant. Neither party shall act as the agent of the other party in any respect hereunder. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

30.15. ***No Recording***. Tenant shall not record this Lease or any memorandum hereof in the Official Records.

30.16. ***Additional Written Agreement Required***. Tenant expressly agrees and acknowledges that no officer, director, or employee of Port or City is authorized to offer or promise, nor is Port or the City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and collectively, "Concession") without a written agreement executed by either the Executive Director of Port or the Deputy Director of Real Estate authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.

31. LIMITATION ON DAMAGES.

31.1. ***No Recourse Beyond Value of Facility***. Notwithstanding anything to the contrary contained in this Lease, Tenant agrees that Tenant will have no recourse with respect to, and Port shall not be liable for, any obligation of Port under this Lease, or for any claim based upon this Lease, except to the extent of the fair market value of Port's fee interest in the Premises (as encumbered by this Lease). Tenant shall look solely to the fair market value of Port's fee interest in the Premises for the recovery of any judgment or award. By Tenant's execution and delivery hereof and as part of the consideration for Port's obligations hereunder, Tenant expressly waives all other liability. Before filing suit for an alleged default by Port, Tenant shall give Port notice and reasonable time to cure the alleged default.

31.2. ***Non-Liability of City Officials, Employees and Agents***. No elective or appointive board, commission, member, officer, employee or other Agent of City and/or Port

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shall be personally liable to Tenant, its successors and assigns, in the event of any default or breach by City and/or Port or for any amount which may become due to Tenant, its successors and assigns, or for any obligation of City and/or Port under this Lease. Under no circumstances shall Port, City, or their respective Agents be liable under any circumstances for any consequential, incidental or punitive damages.

31.3. ***Limitation on Port's Liability Upon Transfer***. In the event of any transfer of Port's interest in and to the Facility, Port (and in case of any subsequent transfers, the then transferor), subject to the provisions hereof, will be automatically relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this Lease thereafter to be performed on the part of Port, but not from liability incurred by Port (or such transferor, as the case may be) on account of covenants or obligations to be performed by Port (or such transferor, as the case may be) hereunder before the date of such transfer.

32. TENANT ESTOPPEL CERTIFICATES.

Tenant, at any time and from time to time upon not less than ten (10) days' prior notice from Port, shall execute and deliver to Port or to any party designated by Port a certificate in substantially the same form as that attached to this Lease as ***Exhibit C***. If Tenant shall fail to provide such certificate within ten (10) days of receipt by Tenant of a written request by Port as herein provided, such failure shall, at Port's election, constitute a default under this Lease, and Tenant shall be deemed to have admitted the accuracy of any information supplied by Port to a prospective purchaser or mortgagee.

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IN WITNESS WHEREOF, PORT and TENANT execute this Lease as of the last date set forth below.

PORT: **CITY AND COUNTY OF SAN FRANCISCO,**
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
~~Susan Reynolds~~ MARK LOZOVOY
ACTING Deputy Director, Real Estate

Date Signed: 12/8/16

TENANT: Bauer's Intelligent Transportation, Inc., a California Corporation

By: _____
Name: Gary S. Bauer
Title: CEO

Date Signed: 11/30/16

Two Corporate Officers MUST SIGN

By: _____
Name: GARY SCHWARTZ
Title: CFO

Date Signed: 11/30/16

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Name: Rona H. Sandler
Deputy City Attorney

Lease Prepared By: Kimberley Beal, Commercial Property Manager KB (initial)

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EXHIBIT A

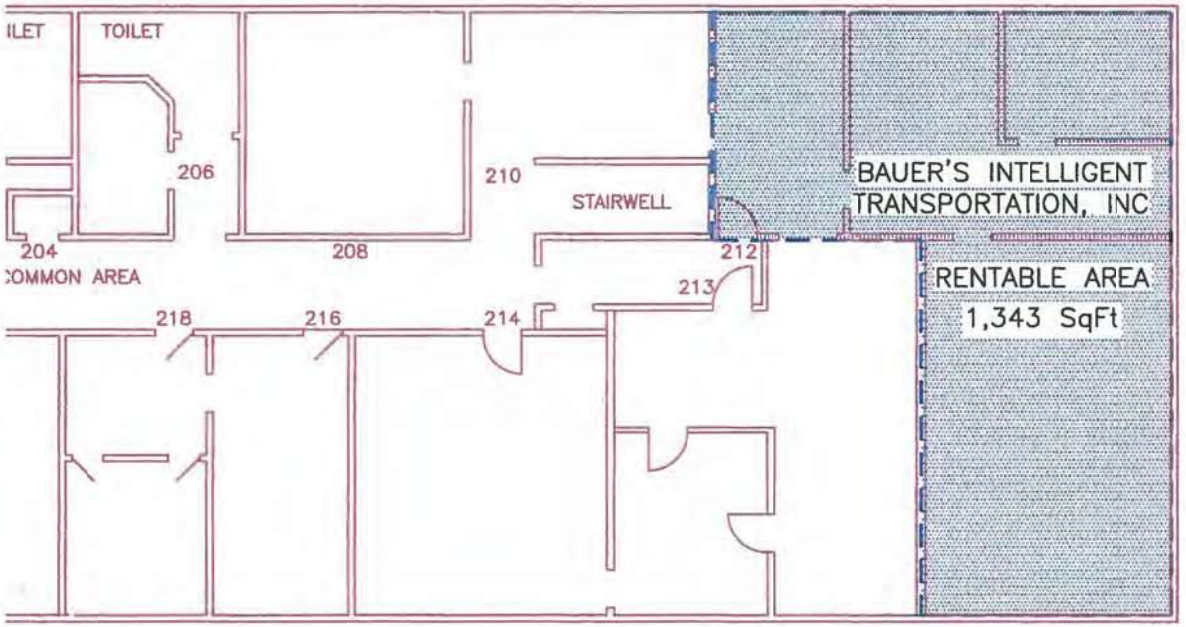
DESCRIPTION OF PREMISES

[Attachment on following page]

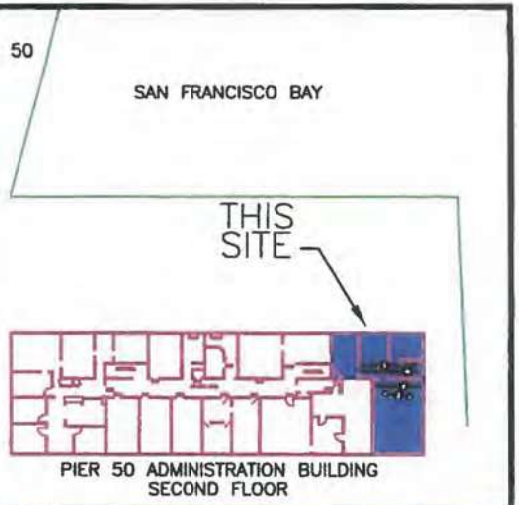
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EXHIBIT A

INITIALS: PORT KB TENANT: DB DATE: 11/30/16



PIER 50 ADMINISTRATION BUILDING – SECOND FLOOR



LOCATION PLAN

LEASE NO. L-16206	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT BAUER'S INTELLIGENT TRANSPORTATION, INC.	DRAWN BY: ECC CHECKED BY: K. BEAL PLACE CODE NO. 2505–BL001–212 DATE: OCT 24, 2016 SCALE: NONE SHEET NO. OF SHEETS

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EXHIBIT B

COMMENCEMENT DATE AND EXPIRATION DATE MEMORANDUM

Landlord: **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**

Tenant:

Lease Number:

Lease Date:

Premises: [_____, Suite _____]
San Francisco, California

The Commencement Date of the Lease is hereby established as _____, 20___, the Rent Commencement Date of the Lease is hereby established as _____, 20___ the Anniversary Date is hereby established as _____ ____, 20___ and the Expiration Date as _____ ____, 20___.

PORT: **CITY AND COUNTY OF SAN FRANCISCO,**
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Susan Reynolds
Deputy Director, Real Estate

Date Signed: _____

Tenant:

By: _____
Name: _____
Title: _____

Date Signed: _____

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EXHIBIT C

TENANT ESTOPPEL CERTIFICATE

The undersigned, _____, is the tenant of a portion of the real property commonly known as [Insert Premises Address] located in San Francisco, California (the "**Property**"), and hereby certifies to **THE CITY AND COUNTY OF SAN FRANCISCO THROUGH THE SAN FRANCISCO PORT COMMISSION** ("**Port**") [and to _____ ("**Developer/Lender**")] the following:

1. That there is presently in full force and effect a lease (as modified, assigned, supplemented and/or amended as set forth in paragraph 2 below, the "Lease") dated as of _____, 20__, between the undersigned and Port, covering approximately _____ square feet of the Property (the "**Premises**").

2. That the Lease has not been modified, assigned, supplemented or amended except by:

3. That the Lease represents the entire agreement between Port and the undersigned with respect to the Premises.

4. That the commencement date under the Lease was _____, 20__, the expiration date of the Lease is _____, 20___.

5. That the present minimum monthly Base Rent which the undersigned is paying under the Lease is $_____.

6. The security deposit held by Port under the terms of the Lease is $_____ and Port holds no other deposit from Tenant for security or otherwise.

7. That the undersigned has accepted possession of the Premises and that, to the best of the undersigned's knowledge, any improvements required to be made by Port to the Premises by the terms of the Lease and all other conditions of the Lease to be satisfied by Port have been completed or satisfied to the satisfaction of the undersigned.

8. That, to the best of the undersigned's knowledge, the undersigned, as of the date set forth below, has no right or claim of deduction, charge, lien or offset against Port under the Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Lease.

9. That, to the best of the undersigned's knowledge, Port is not in default or breach of the Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Lease by Port.

10. That, to the best of the undersigned's knowledge, the undersigned is not in default or in breach of the Lease, nor has the undersigned committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Lease by the undersigned.

11. The undersigned is not the subject of any pending bankruptcy, insolvency, debtor's relief, reorganization, receivership, or similar proceedings, nor the subject of a ruling with respect to any of the foregoing.

This Certificate shall be binding upon and inure to the benefit of the undersigned, Port, [Developer/Lender] and [its/their respective] successors and assigns.

Dated: _____, 20___.

[Name of Tenant]

By:

Name:

Title:

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EXHIBIT D

RULES AND REGULATIONS

[To Be Attached for Applicable Facilities]

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

OFFICE BUILDING

EXHIBIT D

RULES AND REGULATIONS

Services

Port shall:

(a) Provide usual utilities, including heating as in the judgment of Port may be required for the comfortable occupancy and use of the Premises. Port shall not be responsible for the Premises temperature if Tenant does not keep entry doors, windows and window coverings in the Premises closed when requested to do so by the Port when the heating system is in operation. Tenant agrees to fully cooperate in these respects.

(b) Provide regular janitorial services to the Premises and the Building.

(c) Provide periodic pest control to the Building.

(d) Provide regular removal of standard office trash.

(e) For the Building Directory: Provide one directory strip sign for the building directory located on the first floor. The sign shall state the suite number and Tenant's name. If Tenant desires additional directory strips in this, or another floor directory, Tenant may purchase such strips at its sole expense if Port consents, and such consent shall be based on aesthetic appearance and whether there is sufficient room for additional strips as determined in Port's sole discretion.

(f) Reserve selection of a contractor for all approved signs or directory strips and how they shall be printed, painted, affixed or inscribed to the Property.

(g) Furnish Tenant, free of charge, with two (2) sets of keys to access the Premises and secured restroom facilities. Port may make a reasonable charge for any additional keys. Tenant shall not alter any lock or install a new additional lock or bolt on any door or window of the Premises. If Tenant decides to change the locks, the work shall be performed at Tenant's expense and in concert with the Port's key system. Tenant, upon vacating the premises, shall deliver to Port all keys, which have been furnished to Tenant, and in the event of loss of any keys so furnished, Tenant shall pay Port therefor.

Port reserves the right to stop service, plumbing, ventilation, heating and electrical systems when necessary by reason of accident, emergency, repairs, alterations or improvements, until such repairs, alterations or improvements have been completed. Port shall have no responsibility or liability, including liability for loss of business suffered by Tenant, for failure to supply the above utilities or services when prevented from doing so by reason of such repairs, strike, accident, laws, regulations or any cause beyond Port's reasonable control.

Except for the above utilities and services or as otherwise provided herein, Port shall not provide or be responsible for providing any other or different utilities or services to Tenant, the Premises or the Building.

Janitorial

All cleaning and janitorial services for the Building and the Premises shall be provided exclusively through Port, and except with the prior written consent of Port, no person(s) other than those approved by Port shall be employed by Tenant or permitted to enter the Property for the purpose of cleaning the same. Tenant shall not cause any unnecessary labor by carelessness or indifference to the good order and cleanliness of the Premises. Port shall not in any way be responsible to any Tenant for any loss of property on the Premises, however occurring, or for any damage to Tenant's property by the janitorial service, by any other employee, tenant or other person. Tenant shall not

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purchase spring water, towels, janitorial or maintenance or other like service from any company or persons not approved by Port. Port shall approve a sufficient number of sources of such services to provide Tenant with a reasonable selection, but only in such instances and to such extent as Port in its judgment shall consider consistent with security and proper operation of the Building.

Obstructions Sidewalks, entrances, passages, vestibules, stairways, corridors or halls shall not be obstructed or encumbered by Tenant or used for any purpose other than ingress and egress to and from the Premises and, if the Premises are situated on the ground floor of the Building, Tenant shall further, at Tenant's own expense, keep the sidewalks and curb directly in front of the Premises clean and free from rubbish.

Appearances Tenant shall not place anything against or near glass partitions, doors or windows which may appear unsightly from outside the Premises or the Building. No awning, showcase, articles or other signs shall be attached to the outside walls or windows of the Building without the prior written consent of Port. No curtains, blinds, shades, drapes or screens shall be attached to or hung in, or used in connection with any window or door of the Premises, without the prior written consent of Port. Such awnings, signs, curtains, blinds, shades, drapes, screens and other fixtures must be of a quality, type, design, color, material and general appearance approved by Port, and shall be attached in the manner approved by Port. All lighting fixtures hung in offices or spaces along the perimeter of the Premises must be of a quality, type, design, bulb color, size and general appearance approved by Port.

Signs No sign, advertisement, notice, lettering, decoration or other thing shall be exhibited, inscribed, painted or affixed by Tenant on any part of the outside or inside of the Premises or of the Building, without the prior written consent of Port. In the event of the violation of the foregoing by Tenant, Port may remove it without any liability, and may charge the expense incurred by such removal to Tenant.

Light The sashes, sash doors, skylights, windows and doors that reflect or admit light or air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the window sills or in the public portions of the Building.

Fixtures The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no foreign substances shall be thrown therein. Tenant shall shut off all water faucets or other water apparatus at the end of each day. Tenant shall be responsible for any damage or injuries sustained by other tenants or occupants of the Building or by Port for noncompliance with this rule.

Attachments Tenant shall not mark, paint, drill into or in any way deface any part of the Premises or the Building. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of Port, and as Port may direct. If Tenant requires wiring, conduit or connections for telecommunications, computer, burglar alarm or similar services, it shall first obtain, and comply with, Port's instruction in their installation. Tenant shall not go onto the roof or install any antenna or other devices on the roof or exterior walls of the Building without Port's written permission. Tenant shall not interfere with media broadcast reception to or from the Building or elsewhere. Tenant shall repair or be responsible for the cost to repair any damage resulting from noncompliance with this rule.

Use Tenant shall not use the Premises for any business or activity other than that specified in the Lease. The Premises shall not be used for any activity disallowed by law or the Waterfront Land Use Plan.

Security No additional locks, bolts or mail slots of any kind shall be installed by Tenant, nor shall any change be made in existing locks or the mechanism thereof. Tenant must, upon the termination of the tenancy, restore to Port all keys to stores, offices and toilet rooms, either furnished to,

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or otherwise procured by Tenant, and in the event of the loss of any keys so furnished, Tenant shall pay to Port the cost thereof.

Hours Port reserves the right to exclude from the Building between the hours of 6:00 p.m. and 7:00 a.m. on all days and at all hours on Saturdays, Sundays and legal holidays, all persons who do not present proper identification or access to the Building. If Port issues passes, Tenant shall safeguard said passes and shall be responsible for all acts of persons in or about the Building who possess a pass issued to Tenant.

Sales Canvassing, soliciting, peddling and distribution of handbills in the Building is prohibited and Tenant shall cooperate to prevent the same.

Right of Entry Port reserves the right to exclude or expel from the Leased Area or Common Area any person who, in the judgment of Port, is intoxicated, under the influence of alcohol or drugs, or who shall in any manner do any act in violation of law or the rules and regulations of the Leased area. Port reserves the right to prevent access to the Building in case of invasion, mob, riot, public excitement or other commotion by closing the doors or by other appropriate action.

Noise and Odors Tenant shall not make, or permit to be made, any unseemly or disturbing noises or odors or disturb or interfere with occupants of the Building, or neighboring buildings or premises, or those doing business with them.

Animals No live animal, fish or bird of any kind shall be brought into or kept in or about the Premises or the Building, except seeing-eye dogs or other trained assistance animals.

Food Tenant shall not prepare any food nor do any cooking, operate or conduct any restaurant, luncheonette or cafeteria for the sale or service of food or beverages to its employees or to others, except that food and beverage preparation by Tenant's employees using microwave ovens or coffee makers shall be permitted provided no odors of cooking or other processes emanate from the Premises. Tenant shall not install or permit the installation or use of any vending machine or permit the delivery of any food or beverage to the Premises except by such persons and in such manner as are approved in advance in writing by Port.

Pest Control If the Premises becomes infested with vermin as a result of the use, misuse or neglect of the Premises by Tenant, its agents, servants, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant's expense, cause the same to be exterminated to the satisfaction of Port and shall employ such licensed exterminators as shall be approved in writing in advance by Port.

Cleanliness Tenant shall store all its trash and garbage within its Premises and shall place all toxic waste within appropriate containers designated by health laws and regulations. Tenant shall not throw anything out of the doors, windows or skylights or down the passageways, or leave furnishings, supplies, equipment or debris in the common areas. Tenant shall not place in any trash box or receptacle any materials that cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Port.

Hazardous Materials Neither Tenant nor any of Tenant's agents, servants, employees, contractors, visitors or licensees shall at any time bring or keep upon the Premises any flammable, combustible or explosive fluid, chemical or substance. Tenant shall not bring any Hazardous Materials onto the Premises except for those which are in general commercial use and are incidental to Tenant's business office operations and only in quantities suitable for immediate use.

Deliveries There shall not be used in any premises, or in the public halls, plaza areas, lobbies, or elsewhere in the Building, either by Tenant or by jobbers or others, in the delivery or receipt of merchandise, any hand trucks or dollies, except those equipped with rubber tires and sideguards. All

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deliveries shall be made at such reasonable hours and under such reasonable regulations as may be fixed by Port.

Equipment Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot, which such floor was designed to carry and which is allowed by law. Tenant shall not install any machine or equipment which causes noise, heat, cold or vibration to be transmitted to the structure of the building in which the Premises are located without Port's prior written consent, which consent may be conditioned on such terms as Port may require.

Moving All moving into or out of the Property shall be done at such time and in such manner as Port shall designate.

Safes All removals, or the carrying in or out of any safes, freight, furniture, construction material, bulky matter or heavy equipment of any description must take place during the hours which Port or its agent may determine from time to time. Port reserves the right to prescribe the weight and position of all safes, which must be placed upon two-inch thick plank strips to distribute the weight. The moving of safes, freight, furniture, fixtures, bulky matter or heavy equipment of any kind must be made upon previous notice to the Building Manager and in a manner and at times prescribed by him, and the persons employed by Tenant for such work are subject to Port's prior approval. Port reserves the right to inspect all safes, freight or other bulky articles to be brought into the Building and to exclude from the Building all safes, freight or other bulky articles which violate any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part.

Contractors Tenant's contractors shall, while in the Premises or elsewhere in the Building, be subject to and under the control and direction of the Building Manager (but not as agent or servant of said Building Manager or of Port).

Repairs The requirements of Tenant will be attended to only upon application at the office of the Building. Building personnel shall not perform any work or do anything outside of their regular duties unless under specific instructions from the office of the Port.

Energy Tenant shall not waste gas, electricity, water, heating or air-conditioning and agrees to cooperate fully with Port to assure the most efficient operation of the Building's heating and air-conditioning and to comply with any governmental energy-saving rules, laws or regulations of which Tenant has actual notice. Tenant shall keep corridor doors closed and, prior to leaving the Premises for the day, Tenant shall draw or lower window coverings and turn off all lights and water fixtures. Tenant shall keep its window coverings closed during any period of the day when the sun is shining directly on the windows of the Premises.

HVAC Tenant shall not use any method of heating or air-conditioning other than that supplied by Port, without the written consent of Port. Port may separately meter or sub-meter HVAC use.

Overtime Costs Tenant shall reimburse Port for the reasonable cost (including labor and resources) of providing any heat, hot water and/or air conditioning to the Premises during non-business hours when the equipment for said services must be started, operated and monitored by Port's personnel or designated agents.

Fire Safety Tenant shall install and maintain, at Tenant's sole cost and expense, an adequate, visibly marked, and at all times properly operational fire extinguisher next to any duplicating or photocopying machine or similar heat producing equipment, which may or may not contain combustible material, in the Premises.

Smoking Smoking is prohibited in the Premises and all enclosed Common Areas of the Building, including, without limitation, the main lobby, all hallways, all elevators, all elevator lobbies, all restrooms and the parking areas.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

Advertising Port shall have the right to prohibit any advertising or business conducted by Tenant referring to the Building which, in Port's opinion, tends to impair the reputation of the Building or its desirability as a first class building for offices and/or commercial services and upon notice from Port, Tenant shall refrain from or discontinue such advertising.

Coin Machines Only Port shall have the right to place in and upon the common area pay phones and coin-operated machines for the sale of beverage, candy and other merchandise or service.

Parking Tenant, Tenant's agents, servants, employees, contractors, licensees, or visitors shall not park any vehicles in any driveways, service entrances, or restricted parking areas and shall comply with any other parking regulations imposed by Port from time to time.

Amendments Port reserves the right at any time to add, change or rescind any one or more of these rules and regulations or to make such other and further rules and regulations as the Port shall determine is in the best interest of the Common Area, the Tenants and their business agents and invitees. In the event of any conflict between these or any modified rules and regulations and the Lease, the terms and provisions of the Lease shall prevail.

Initial:
Port: KB
Tenant:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

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EXHIBIT E

SUMMARY OF SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in a such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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Tenant:

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

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SCHEDULE 1

ASBESTOS NOTIFICATION AND INFORMATION NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

[Attachment on following page(s)]

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR: 401 Terry Francois / Facility #2505
FOR PERIOD THROUGH: March 2014

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to buildings built before 1979 where the owner knows that the building contains asbestos-containing materials: it does not require that a building be surveyed to determine the presence of asbestos.

WHAT IS ASBESTOS?

Asbestos is a naturally occurring group of fibrous minerals which have been used extensively in public buildings, apartment buildings and homes. Asbestos was incorporated into pipe insulation, acoustic plaster, acoustic tile, duct and furnace insulation, floor tiles, textiles and hundreds of other building materials. In most City buildings, asbestos is located in insulation on piping systems, acoustic plaster on ceilings, acoustic ceiling tiles, vinyl asbestos floor tiles, and structural fireproofing.

This notification includes the results of any air monitoring or bulk sampling for asbestos that has been conducted in your building during the previous calendar quarter. (This notice may also include older information of asbestos samples, for your information.)

WHY IS ASBESTOS HAZARDOUS?

Asbestos is a concern because of the potential health risks associated with breathing asbestos fibers. It is important for you to know that most people with asbestos-related diseases were asbestos workers before 1972. These workers were repeatedly exposed to high levels of asbestos each working day with little or no protection. Asbestos workers today are required to follow specific work practices and wear appropriate protection to minimize exposure.

Significant exposure to asbestos fibers can lead to asbestosis and certain forms of cancer. Asbestosis is one of the many dust-related lung diseases. It is associated with chronic exposure to relatively high levels of asbestos and is characterized by the permanent deposition of asbestos fibers in the respiratory tract. The earliest and most prominent clinical finding, breathlessness upon exertion, rarely becomes apparent until at least a decade of exposure.

In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

A summary of the results of recent asbestos bulk sampling or air monitoring is attached to this notice.

A variety of exposure standards and health action levels have been established for various purposes

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

The Occupational Safety and Health Administration (OSHA) asbestos standards (Title 29 of the Code of Federal Regulations), which apply to employees who actually work with asbestos, mandate a permissible exposure limit (PEL) of 0.1 fibers per cubic centimeter of air (f/cc) determined as an 8 hour time weighted average (TWA) and an excursion limit of 1 f/cc as a 30 minute TWA. When employees are exposed at these levels, OSHA and Cal OSHA (Title 8 of the California Code of Regulations) require medical monitoring and other control methods.

The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail or pin anything onto, sand, move, bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

City employees required to enter areas and perform work activities that might involve the disturbance of asbestos materials have been trained in the proper procedures to minimize exposure. Work that requires major disturbances of asbestos materials (such as removal) is performed under specifications which include work practice procedures, removal techniques, clean up and clearance air sampling.

If any construction, maintenance, or remodeling is conducted in an area of the building where there is the potential for employees to come in contact with, or release or disturb asbestos containing building materials, it is required that the area be posted with a clear and conspicuous warning sign. The warning sign must read:

"CAUTION. ASBESTOS
CANCER AND LUNG DISEASE HAZARD
DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT"

Much of this information may be new to you. If you have questions about asbestos, you may call the Department of Public Health Toxic Substances Control Program at 252-3800 to answer your questions.

This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

The following pages are a summary of asbestos bulk sampling or air monitoring results that have been conducted at 501 Terry Francois - Facility #2505. Copies of the full sampling report(s) are available for review and photocopying at the Port of San Francisco Environmental Health and Safety Office (Pier 1, S.F.) between the hours of 8 a.m. and 5 p.m. The asbestos coordinator for this building is Tim Felton who can be reached at (415) 274-0582.

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois
Pier 50 Administrative Building

All of the Facility

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
10 24 2008	1st floor hallways under carpet	The blue 9" x 9" vinyl floor tile was found to contain 2% chrysotile asbestos and the black mastic associated with the floor tile was found to contain 10% chrysotile asbestos. (Protech December 2008)	Do not drill, sand, cut or remove the floor tile.	No
10 24 2008	1st floor main lobby entry	The white 12" x 12" vinyl floor tile in the checkerboard pattern was found to contain 3% chrysotile asbestos. (Protech December 2008)	Do not drill, sand, cut or remove the tile.	No
10 24 2008	1st floor hallways, not in bathrooms	The brown/tan mastic on the vinyl base cove was found to contain 3% chrysotile asbestos. (Protche December 2008)	Do not remove the base cove or disturb the mastic.	No
10 24 2008	Throughout 1st floor.	The gypsum board, tape and joint compound on the wall and ceiling were found to contain trace (<1%) crysotile asbestos.(Protech Deember 2008)	Do not damage, drill into or sand this material.	No
0 24 2008	1st floor bathrooms and utility closets boiler rooms and hallways.	The gypsum board on the walls and ceilings was found to contain trace (Protech, Dec 2008)		No

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois
Pier 50 Administrative Building

All of the Facility

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
10 24 2008	Crawlspace below 1st floor	The pipe elbow insulation was found to contain 20% chrysotile asbestos and 2-5% amosite asbestos. This material was abated in December 2009 by Bluewater on the west side of the building under and between men's and woman's restrooms. It was reinsulated. (Protech December 2008)	Do not disturb this material in anyway.	No
8 12 1994	2nd Floor Attic 225	The flexible duct joint was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb the flexible duct joint.	No
8 12 1994	Roof	The roofing including asphalt and gravel, roof flashing, and penetration mastic are assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No
8 12 1994	Office 128 Room 129, and 2nd Floor Attic	The lay in ceiling tiles were found to contain 2% chrysotile asbestos.(Clayton 3/20 96)	The ceiling should not be disturbed in any way. This includes drilling into, cutting, screwing or nailing through the material.	No
8 12 1994	Office 212	The mastic under feet of the elevated computer floor and mastic associated with non-asbestos ceiling tile was assumed to contain asbestos. (Clayton 3 20 96)	Do not cut into, drill into, sand, remove or disturb these materials.	No

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois
Pier 50 Administrative Building

All of the Facility

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
8/12/1994	Restrooms 203, and 207	The ceramic floor tile grout, mastic, vapor barrier as well as the ceramic wall tile grout and mastic was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb the flooring.	No
8/12/1994	Building Exterior	The exterior cementitious stucco and window putty was assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No
8/12/1994	1st Floor Corridor and Office 128	The damaged wall board, ceiling board and joint/tape compound were found to contain 2% chrysotile asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb wallboard and related materials.	No
8/12/1994	Crawlspace Area 10 and 10K	The domestic hot water fitting insulation was found to contain 40% chrysotile asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb pipe insulation.	No
8/12/1994	Throughout	The heating hot water piping insulation, gray heat shields under the fluorescent light fixtures, were found to contain 40% chrysotile asbestos. The floor tiles and associated mastics, baseboard mastic, fire door insulation, and undamaged ceiling board and joint tape compound were all assumed to contain asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb these materials.	No

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PORT of San Francisco Asbestos Summary

Facility# 2505

401 Terry Francois
Pier 50 Administrative Building

All of the Facility

Survey Date	Room or Area	Contents of Survey / Description of ACM	Handling Procedures and Restrictions	Abated
8/12/1994	Various Areas	The domestic hot water piping insulation was found to contain 40% chrysotile asbestos. (Clayton 3/20/96)	Do not cut into, drill into, sand, remove or disturb pipe insulation.	No
7/25/1990	Room on SW corner of First Floor	Survey conducted to determine the presence of asbestos in any other materials in the room before remodeling begins. The linoleum flooring and the mastic were found to contain 2% and 5% chrysotile asbestos respectively. (NF-155)	The baseboard and mastic were removed but the floor tile and mastic was left. Do not cut into, drill into, sand, remove or disturb linoleum.	No

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SCHEDULE 2

SUBSTRUCTURE REPORT(S)

[Attachment on following page(s)]

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SUBSTRUCTURE RAPID EVALUATION SAFETY ASSESSMENT FORM

(I) General

Inspection Number-(2505-2505SUB-2007-1)
Inspector's Name: David Juday
Affiliation: AGS
Inspection Date (MM/DD/YYYY): 06/19/2007
Start Time: 8:15 am
End Time: 9:15 am
Purpose of Inspection-Periodic Insp.

(II) Substructure Description and Structural Rating

Substructure Description:	Overall Rating:
Name: Administration Building 2505 Substructure **Location Code:** 2505 **Piling:** Wood Concrete **XX** Steel Concrete Jacket Wrapped Wood **Substructure:** Concrete Slab **XX** Concrete Beams **XX** Steel Beams Wood **Apron:** Concrete Wood	Green: **XX** Yellow: **XX** At 10' wide bent at south end Red:

Rating Criteria:
Green – Unrestricted use. May require some minor repair, or minimal barricading.
Yellow – Restricted use. May require further review, may require load limits, limiting access and barricading until repairs completed.
Red – Unsafe notice. Shall be barricaded to prevent public access and use.

Detailed Substructure Description (If available)

The pier has a concrete deck, beams, and girders. The piles are also concrete. There is a concrete seawall, with rip-rap covering the shore.

(III) Condition Assessment

Condition	Yes	No	More Review Needed
1) Severe seawall failure		**XX**	
2) Many missing piles		**XX**	**XX** Missing pile at corner
3) Many significantly damaged piles		**XX**	
4) Significant beam deterioration		**XX**	
5) Significant slab/decking deterioration		**XX**	
6) Other hazard present	**XX**		**XX** Note 7

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Comments-

1. Pile missing at southeast corner.
2. Spalling to slabs and beams.
3. A few piles out-of-plumb.
4. A few piles have cracks.
5. Cracks in deck.
6. Damaged pile at south west corner.
7. Edges have traffic barriers only, no pedestrian railings.

(V) Recommendations/Actions Required:

(A) Immediate Actions-

(1) Load restrictions- Not required. Paint in yellow 10' wide band at south end with following warning: MAXIMUM LOADS NOT EXCEEDING 100 PSF

(2) Barricades/Closures-

(B) Long Term Actions

The following actions are required by the Port or Tenant

(1) Detailed Structural Evaluation Required? yes
If yes, due Date- December 31, 2008

(2) Repair Plans
(i) Submit Repair Plans by March 31, 2009
(ii) Secure all permits (including BCDC, ARMY Corps, CEQA, Historic review etc)

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Figure 1: Distance view

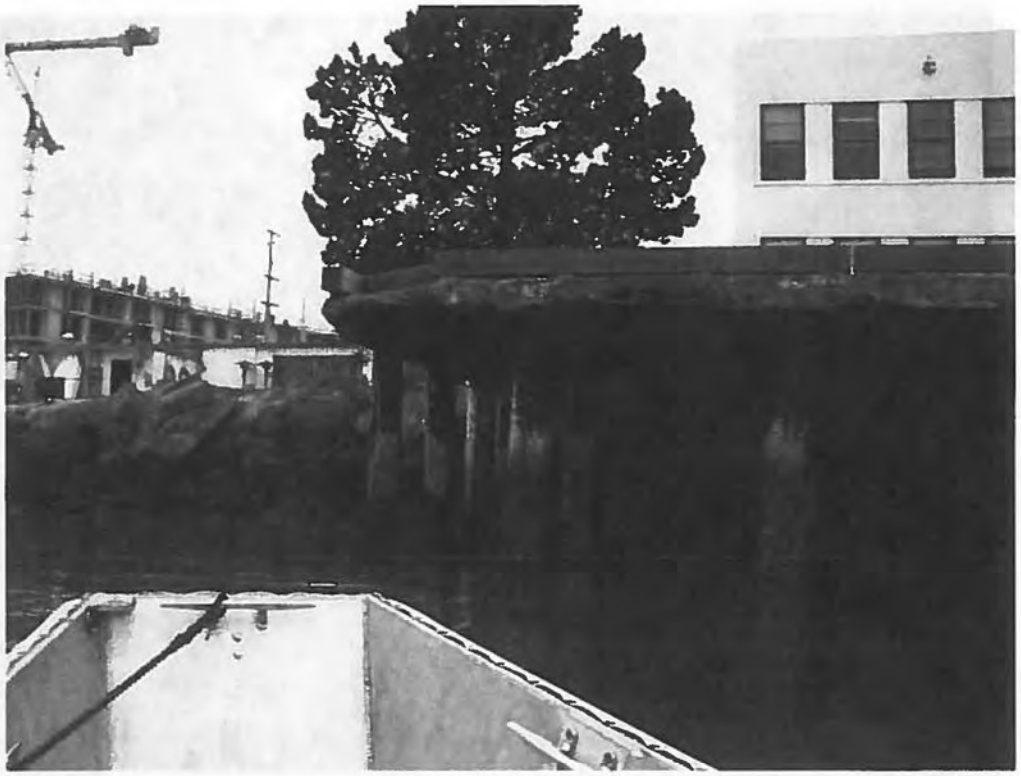


Figure 2: Pile missing from southeast corner

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Figure 3: Pile, spalling



Figure 4: Spalling at deck

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Figure 5: Pile

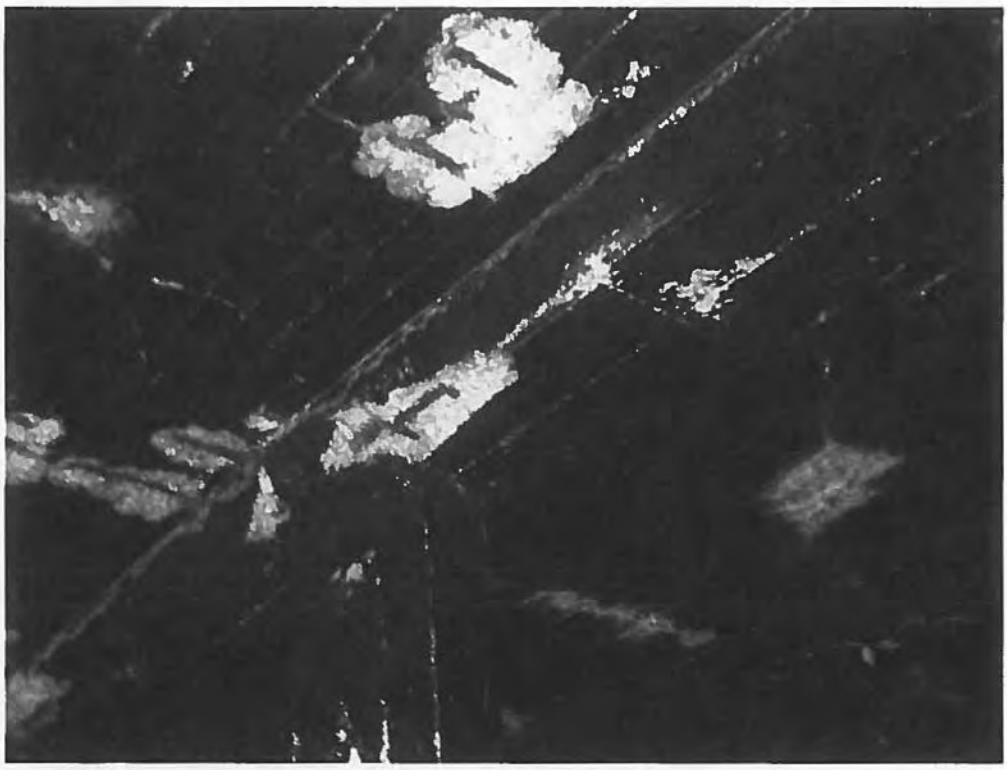


Figure 6: Spalling at deck

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Figure 7: Piles, rip-rap, seawall

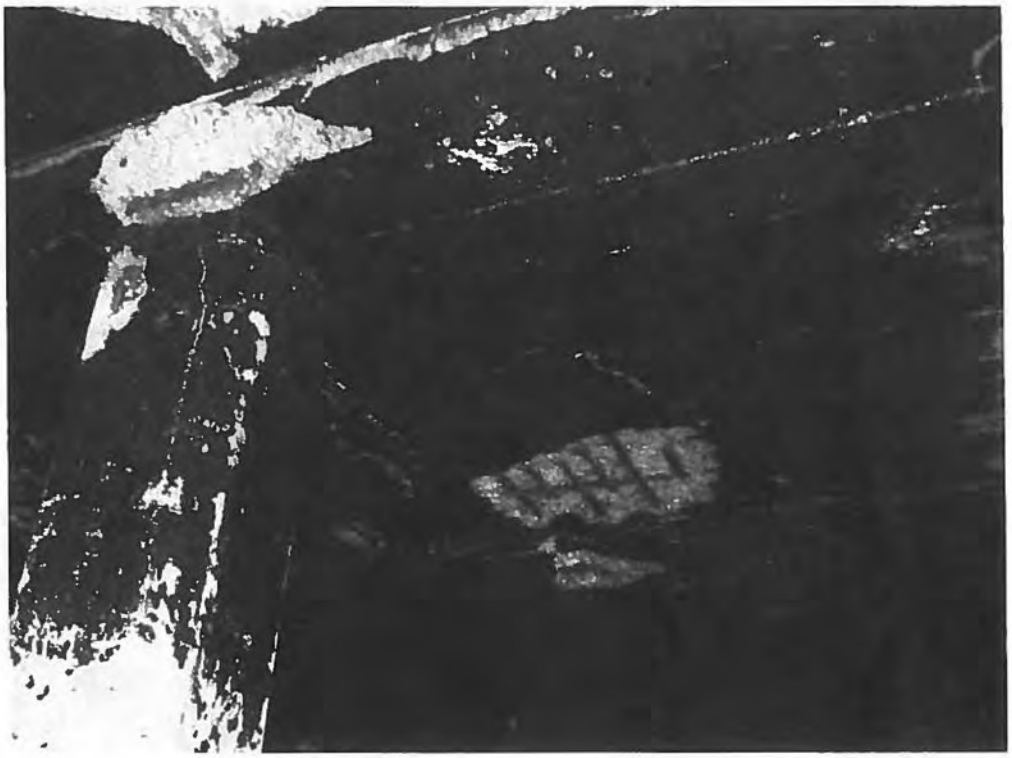


Figure 8: Spalling at deck

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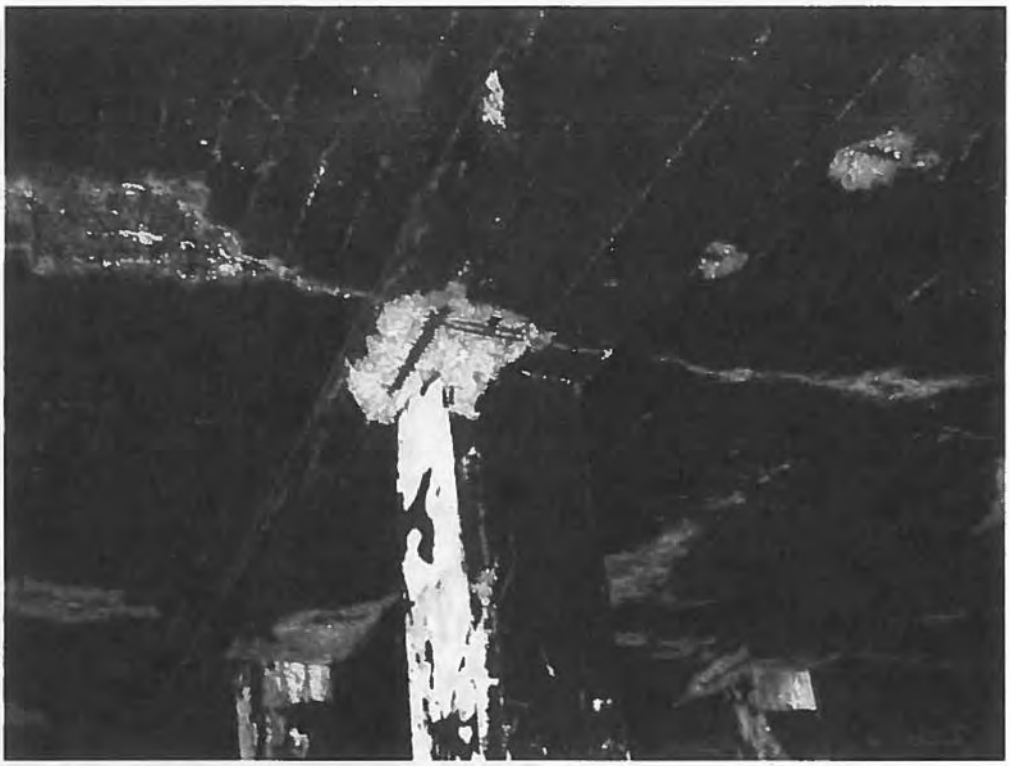


Figure 9: Spalling at girder

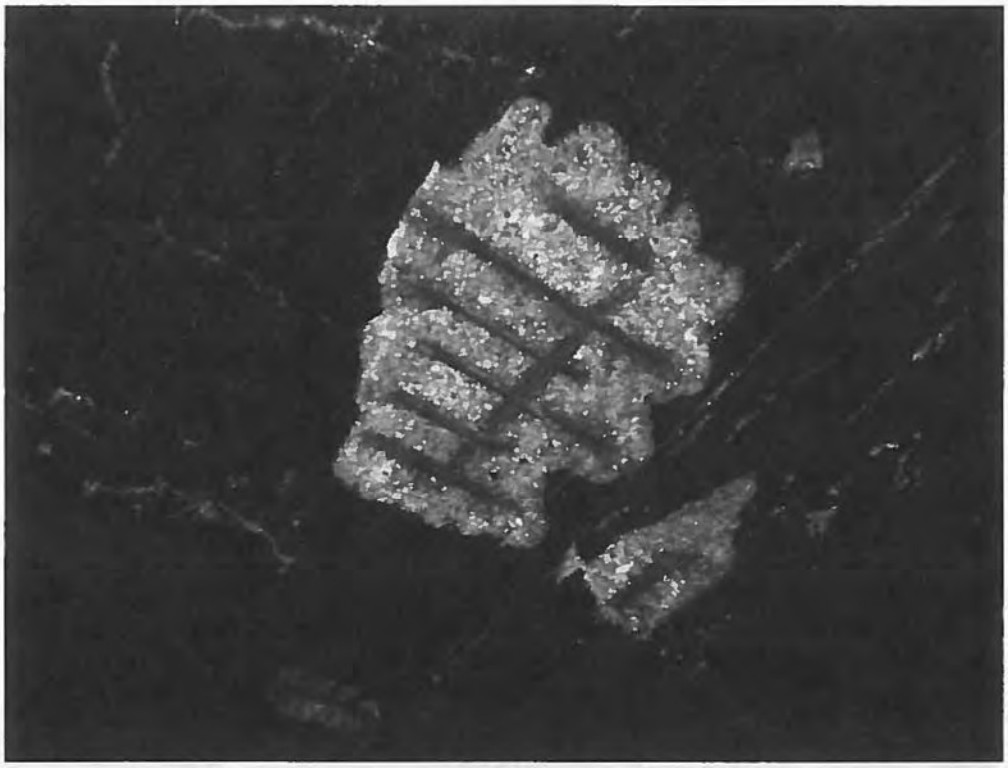


Figure 10: Spalling at deck

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Figure 11: Piles, seawall

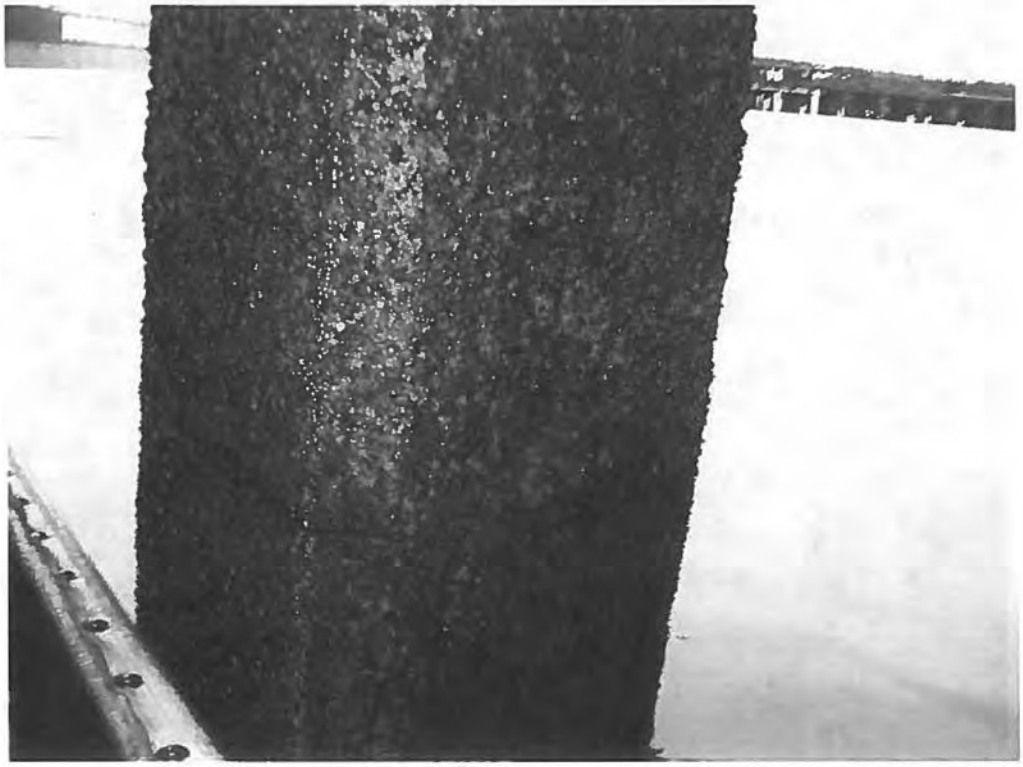


Figure 12: Crack in pile

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Figure 13: Edge of deck

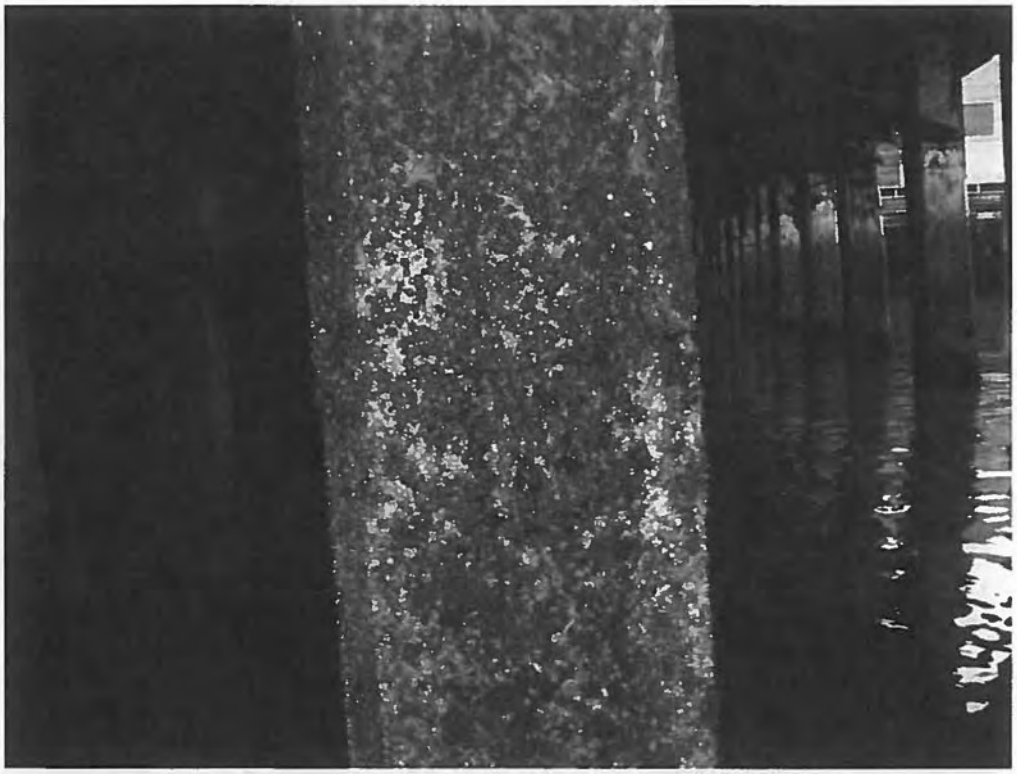


Figure 14: Crack in pile

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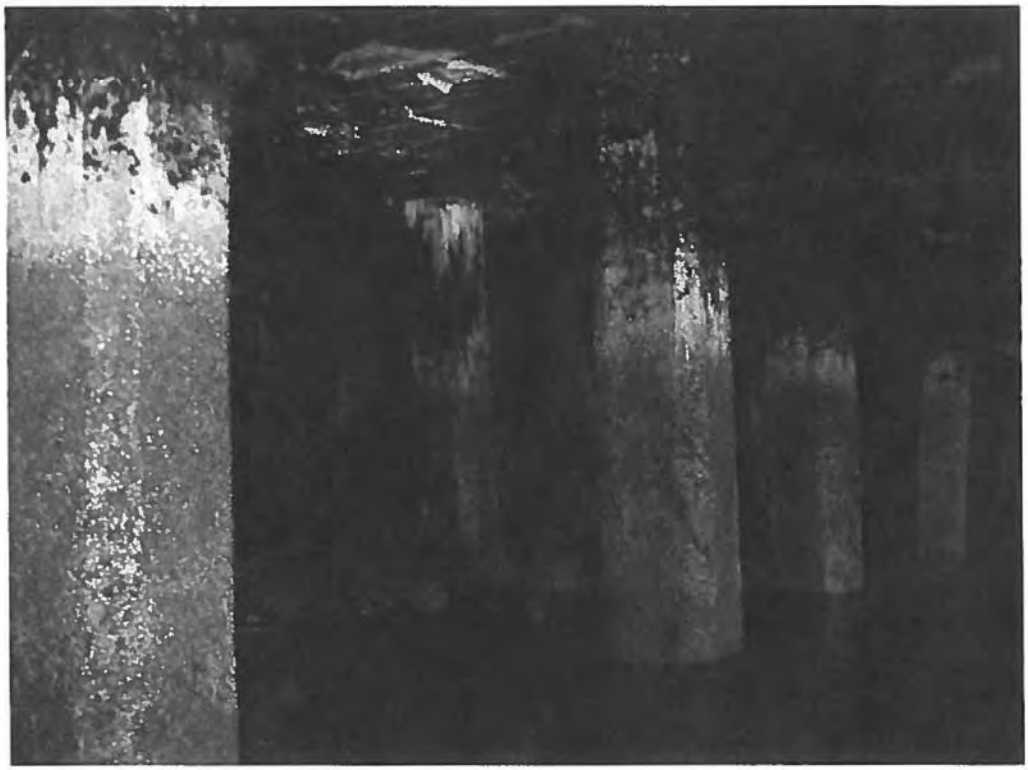


Figure 15: Piles



Figure 16: Spalling at deck, girder

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Figure 17: Crack in pile, pile out-of-plumb

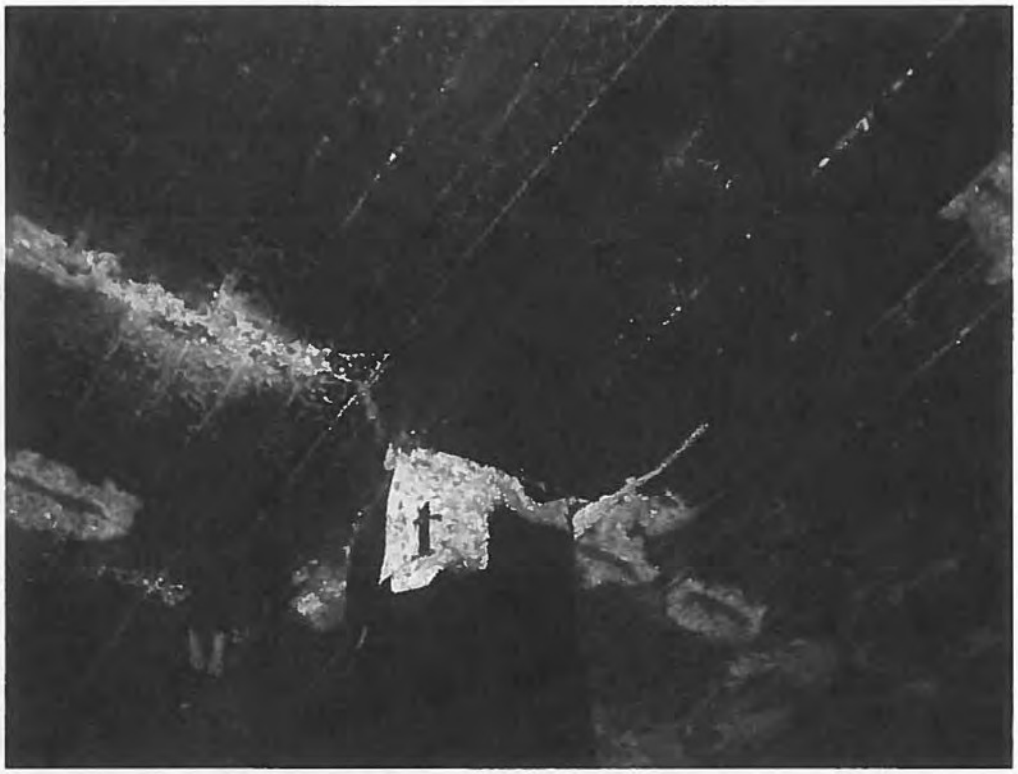


Figure 18: Spalling at pile, deck

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Figure 19: Piles, seawall



Figure 20: Spalling at deck

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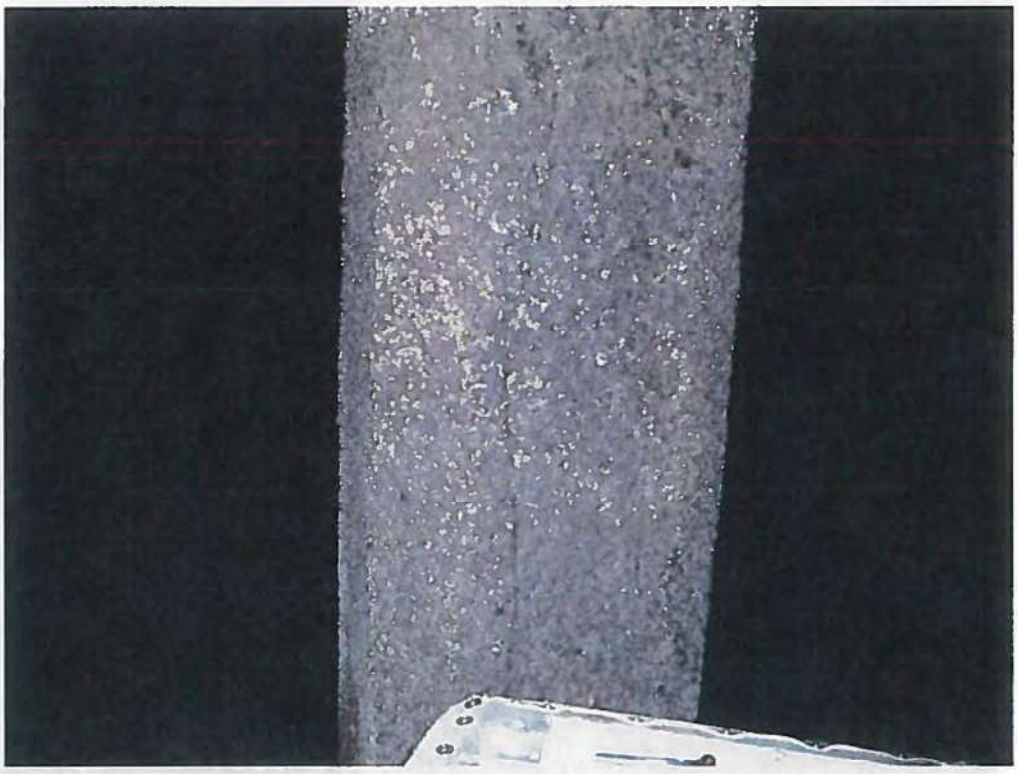


Figure 21: Crack in pile



Figure 22: Spalling at deck

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Figure 23: Edge of deck, north end



Figure 24: Seawall, undermined

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SUBSTRUCTURE RAPID EVALUATION SAFETY ASSESSMENT FORM

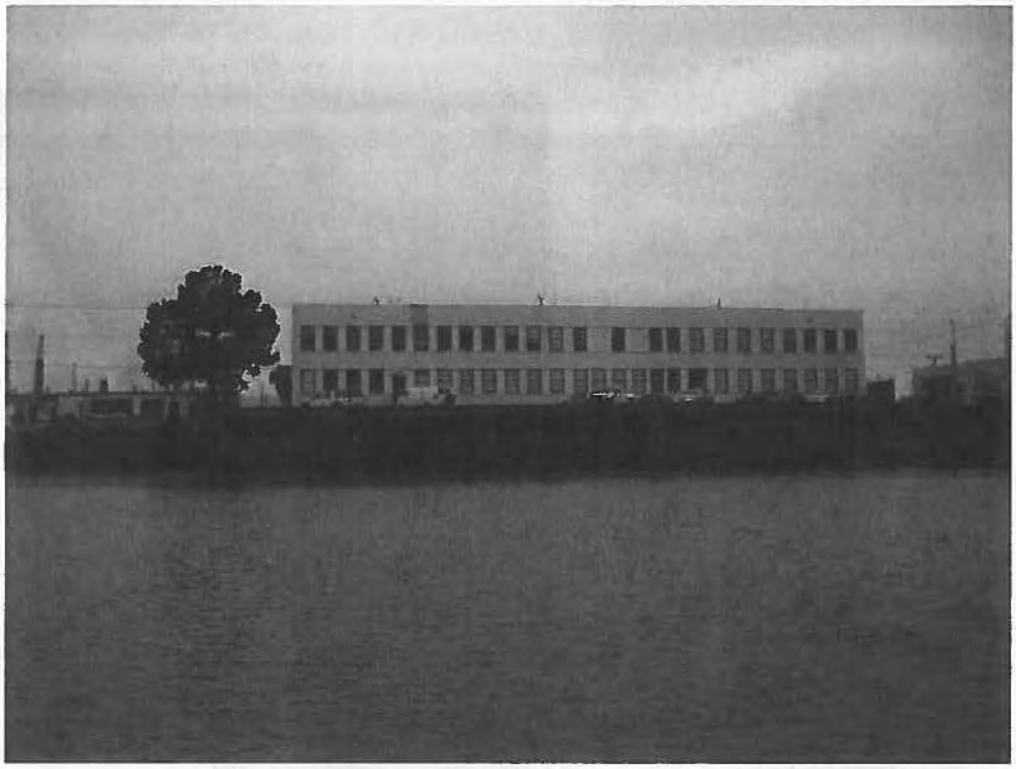
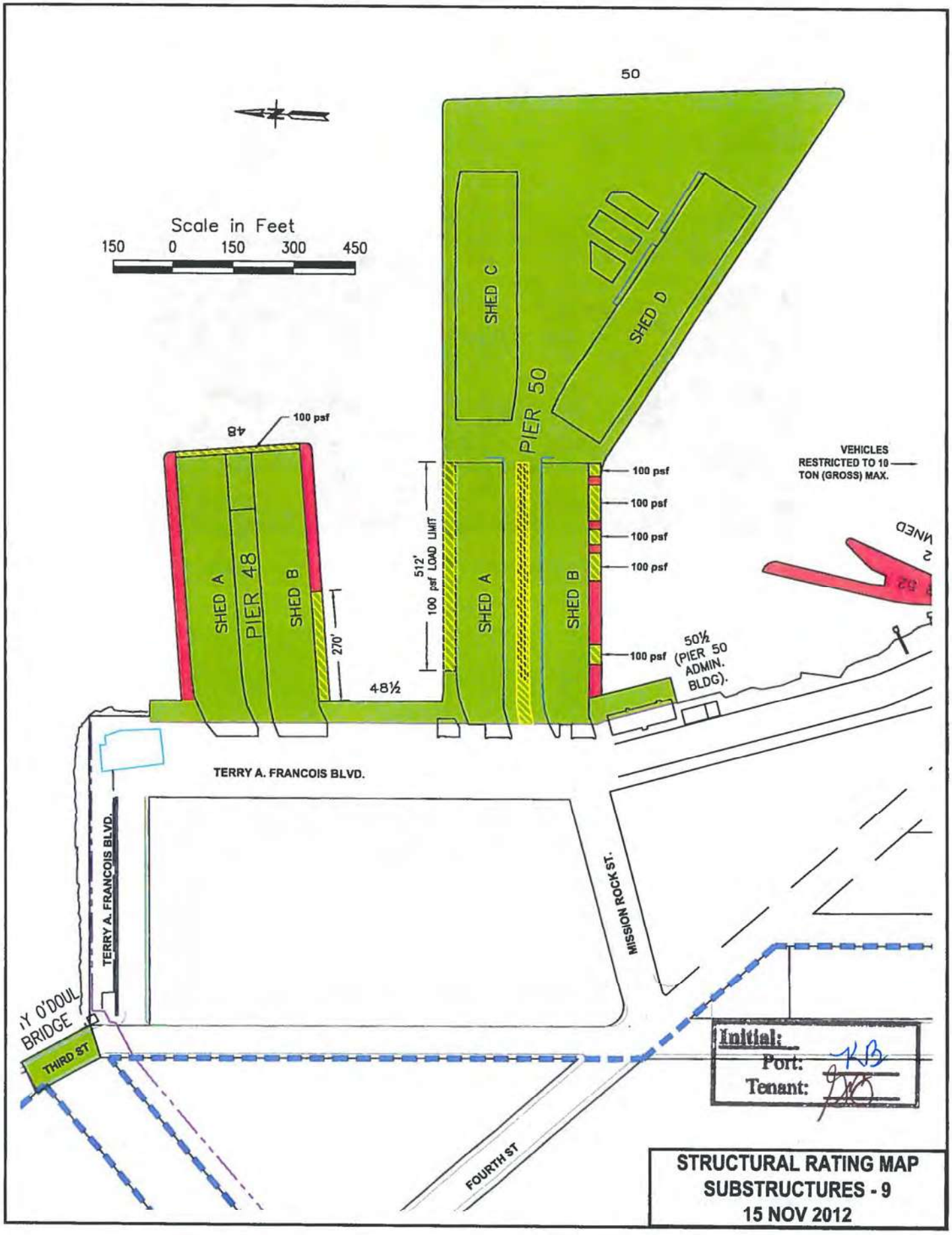


Figure 25: Distance view

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SCHEDULE 3

FEMA Disclosure Notice

The Federal Emergency Management Agency ("FEMA") is revising Flood Insurance Rate Maps ("FIRMs") for San Francisco Bay Area communities. As part of this effort, FEMA plans to prepare a FIRM for the City and County of San Francisco for the first time. That process may have significant impacts for developing new structures and reconstructing or repairing existing structures on San Francisco's waterfront.

FIRMs identify areas that are subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood"). FEMA refers to an area that is at risk from a flood of this magnitude as a special flood hazard area ("SFHA").

On September 21, 2007, FEMA issued a preliminary FIRM of San Francisco tentatively identifying SFHAs along City's shoreline in and along the San Francisco Bay consisting of "A zones" (areas subject to inundation by tidal surge) and "V zones" (areas subject to the additional hazards that accompany wave action). These zones generally affect City property under the jurisdiction of the Port of San Francisco and other areas of the San Francisco waterfront, including parts of Mission Bay, Hunters Point Shipyard, Candlestick Point, Treasure and Yerba Buena Islands, and an area adjacent to Islais Creek.

FEMA prepares the FIRMs to support the National Flood Insurance Program ("NFIP"), a federal program that enables property owners, businesses, and residents in participating communities to purchase flood insurance backed by the federal government. The San Francisco Board of Supervisors has adopted a floodplain management ordinance governing new construction and substantial improvements in flood prone areas of San Francisco and authorizing the City's participation in NFIP (as amended, the "Floodplain Ordinance"). The Floodplain Ordinance imposes requirements on any new construction or substantial improvement of structures in city-designated flood zones that are intended to minimize or eliminate flood hazard risks. NFIP regulations allow a local jurisdiction to issue variances to its floodplain management ordinance under certain narrow circumstances, without jeopardizing the local jurisdiction's eligibility in the NFIP. However, the particular projects that are granted variances by the local jurisdiction may be deemed ineligible for federally-backed flood insurance by FEMA.

FEMA is performing detailed coastal engineering analyses and mapping of the San Francisco Bay shoreline in accordance with FEMA's February 2005 Pacific guidelines for new coastal studies. The San Francisco Bay Area Coastal Study includes both regional hydrodynamic and wave modeling of the San Francisco Bay, as well as detailed onshore coastal analysis used to estimate wave runup and overtopping, as well as overland wave propagation. These onshore analyses will form the basis for potential revisions to the Base Flood Elevations (BFEs) and Special Flood Hazard Areas (SFHAs) within the coastal areas. The new coastal study will revise and update the flood and wave data based on current conditions within the coastal Flood Insurance Study reports and Flood Insurance Rate Maps for each of the nine counties. For San Francisco, the preliminary FIRMs will replace the preliminary FIRMs issued in 2007. FEMA issued preliminary FIRMs for San Francisco in November 2015, with an intended effective date in mid-2016.

The federal legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14. FEMA also publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines." Additional information on this matter can be found on the City's and FEMA's websites at the following links: http://www.fema.gov/plan/prevent/fhm/index.shtm; http://www.r9map.org/Docs/Oct13-SanFranCo-FEMA_Factsheet_rev%20(2).pdf; http://www.fema.gov/business/nfip/index.shtm; and http://www.sfgov.org.

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EXHIBIT C
PIER 96 PARKING AGREEMENT

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CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

REVOCABLE PARKING LICENSE

BY AND BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO

THROUGH THE SAN FRANCISCO PORT COMMISSION ("PORT")

THIS CONTRACT LIMITS PORT LIABILITY
PLEASE READ IT CAREFULLY

Address for Notices:

City and County of San Francisco
Port of San Francisco
Pier 1, The Embarcadero
San Francisco, CA 94111
Attn: Property Manager

1. This Revocable Parking License (the "**Agreement**"), dated for reference purposes only as of **9/20/16** is by and between **CITY AND COUNTY OF SAN FRANCISCO,** a municipal corporation (the "**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** (**"Port"**) and **Bauer's Intelligent Transportation** ("**Licensee**").

2. The City, through the Port, hereby offers to Licensee, and Licensee accepts, a nonexclusive, revocable license to use **Thirty (30)** parking space(s) in the surface parking lot located at **Pier 96** (the "**Lot**") a mobile office will be allowed to occupy the back space of the lot on the eastern side. Licensee may use the Lot for parking the vehicle(s) identified below and for no other purpose whatsoever. The Port may change the location of the Lot and/or the assigned parking space(s) addressed below, without cost or liability to the Port, by providing to Licensee not less than five (5) days prior written notice of such change, delivered to the home street address set forth below.

3. The Agreement shall be effective on October 1, 2016 ("**Effective Date**").

4. Licensee shall be entitled to use the Lot on a month-to-month basis. Licensee acknowledges and agrees that Port has expressly represented the month-to-month nature of this Agreement, and in entering this Agreement, Licensee is relying on no representation by Port, either explicit or implicit, that a term longer than thirty (30) days is expected or promised.

5. The fee for this Agreement shall be **$130.00** per month per space, plus the City parking tax of 25% per month, for a total monthly charge of **$162.50** per space, payable in lawful money of the United States of America in advance, due on the first day of each month, commencing on the Effective Date. Use of the Lot for any partial month will be prorated at the rate on one-thirtieth (1/30) of the monthly charge per day. Payments will be due by the first of each month. If a payment is not received by the 5th of the month, a $10.00 fine per space will be charged.

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6. Licensee shall pay to Port on or before the first Activity Date hereof, a security deposit in the amount of **$162.50** dollars **per space**, in cash, as security for the faithful performance by Licensee of all terms, covenants and conditions of this License. Licensee agrees that Port may (but shall not be required to) apply the security deposit in whole or in part to (a) pay any sum due to Port under this Agreement; (b) compensate Port for any damage to the Lot caused by Licensee; or (c) cure any default by Licensee. If Port uses any portion of the security deposit to cure any default by Licensee hereunder, Licensee shall immediately replenish the security deposit to the original amount. Port's obligation with respect to the security deposit is solely that of debtor and not trustee. Licensee shall not be entitled to any interest on such deposit. If Licensee is not in default at the termination of this Agreement, Port shall return the unused balance of the security deposit to Licensee after Licensee vacates the Lot. The amount of the security deposit shall in no way limit Licensee's obligations under this Agreement, and nothing contained in this section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

7. Licensee understands and agrees that the Port is offering the Lot in its "**AS IS**" condition, without representation or warranty of any kind including, without limitation, the suitability, safety, or duration of availability of the Lot for Licensee's use. The Port and/or the City shall not guard or provide security for the Lot, and Licensee shall use the Lot at its sole risk. Neither the Port or the City nor any of its commissions, departments, officers, agents or employees (collectively, "**City Parties**") shall be liable to Licensee or any person using or accessing the Lot through Licensee for anything relating to the condition of the Lot or for anything that occurs in, on, or around the Lot, including but not limited to theft, vandalism or criminal activity. Licensee, on behalf of itself and all persons who enter the Lot with or through Licensee, fully **RELEASES, WAIVES AND DISCHARGES** forever any and all claims, demands, rights, and causes of action against, and covenants not to sue the Port and/or the City for any loss, damage or injury relating to this Agreement or use of the Lot.

8. This Agreement authorizes Licensee to park one vehicle in the Lot within an assigned parking space identified below. If the Licensee uses alternate vehicles, each vehicle's license must be documented on this Agreement below. This Agreement is personal to Licensee, and may not be transferred or assigned to any other person.

9. Should Licensee encounter problems accessing the Lot or its designated parking space or has questions in general about this License, Licensee shall contact the Property Manager assigned to the Southern Waterfront at Port (415) 274-0400.

10. Licensee shall bear all costs or expenses of any kind or nature in connection with its use of the Lot.

11. Licensee shall use due and appropriate care at all times while in the Lot. Licensee shall not conduct any activities in or about the Lot that constitute waste, nuisance or unreasonable annoyance. For example purposes only, the storage by Licensee of boats, recreational vehicles, tires, or storage of automobiles that are not in operation in the Lot shall be deemed by the Port to constitute a nuisance and unreasonable annoyance.

12. Licensee shall not use or store hazardous materials of any kind at the Lot. Hazardous materials shall include but may not be limited to: fuel, motor oil, cleaning solvents, vehicle batteries, or any automotive fluids other than those entirely contained within an operational vehicle. Licensee shall not fuel, wash, maintain or service vehicles at the Lot. Licensee shall prevent leaks, spills or release of pollutants from vehicles, and prevent pollution of storm water runoff through contact with vehicles. For example purposes only, prevention practices would include but not be limited to using drip pans under parked vehicles as needed to prevent leaking oil to underlying pavement, promptly and thoroughly cleaning any leaks or spills, and keeping vehicle hoods closed. Licensee shall not use or permit any pesticide or hazardous materials to be brought upon or into the Lot. Activities as such may constitute an incurable material default of this License.

13. This Agreement contains all of the terms and conditions relating to Licensee's use of the Lot, and it may not be altered or amended except by a writing signed by each party, the Port and the Licensee.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

The City and/or its employees are not authorized to make or allow any exceptions to this Agreement. No employee may nullify or waive any terms of this Agreement. To be effective, any waiver must be in writing and signed by an authorized representative of the Port.

14. Licensee agrees to abide by all rules and terms set forth in this Agreement. Licensee further agrees to abide by any reasonable rules that may be established and posted by the Port and/or the City from time to time.

15. This Agreement may be terminated at will by the Port or the Licensee upon three (3) days' prior written notice to the other party. In the event that Licensee does not remove its vehicle and any other property of Licensee within said three (3) day period days following notification of a change in the location of the Lot, the Port and/or the City shall have right to remove the vehicle and other property at Licensee's sole cost. The Port or the City shall store any such vehicle or property in any manner permitted by law. To retrieve such vehicle or property, Licensee shall first be required to reimburse the Port or the City for any and all removal and storage costs, including costs related to removal of materials from or cleanup of the Lot resulting from Licensee's use.

16. This Agreement does not create a partnership or joint venture between the Port and/or City and Licensee as to any activity conducted by Licensee on, in or relating to the Lot.

17. Licensee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the Port, including the Lot. This prohibition includes the placement of the name of a company producing selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product.

18. This instrument (including the exhibits hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.

19. **For all stall numbers 173 to 214, by initialing this clause, Tenant acknowledges and agrees to pay for any damage done to the fence behind their stall number if damage is clearly done from their side of said fence. _____(Tenant Initials)**

VIOLATION OF THIS AGREEMENT MAY RESULT IN VEHICLE TOWING AT OWNER'S EXPENSE AND/OR IMMEDIATE TERMINATION OF PARKING PRIVILEGES.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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I, LICENSEE, HAVE READ, UNDERSTAND AND AGREE TO ABIDE BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT:

Licensee: Bauer's Intelligent Transportation

By: _____ Date: 9/23/2016
Signature

Name: Albertolle, Mike Title: Director of fleet & facilities
Last Name First Name

Business Name: _____

Business Address: Pier 50 San Francisco, Ca. 94158
Street City State Zip Code

Billing Address: Pier 50 San Francisco, Ca. 94158
Street City State Zip Code

Home Address: _____
Street City State Zip Code

Phone/Fax: (415) 522-1212, (415) 559 9286 (415) 263-4028
Work Cellular Home Fax

Email: mikea@bauersit.com

Licensee is required to provide the following information:

Make of Vehicle: _____ License Plate Number: _____

Make of Vehicle: _____ License Plate Number: _____

Make of Vehicle: _____ License Plate Number: _____

Make of Vehicle: _____ License Plate Number: _____

(If Licensee intends to park additional automobiles in Lot, please provide Make of Vehicle/License Plate Number on an additional page) TBD – list will be sent in on the 1st of October.

To be completed by Port staff:

Parking Lot: Pier 96

Parking Space No.: 30 Stalls (TBD) S/E portion of Pier

30 x $162.50 = $4,875/mo.

Reviewed by: **MONICO CORRAL**

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EXHIBIT D
3-DAY NOTICE

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

THREE-DAY NOTICE TO PAY RENT OR QUIT
POSSESSION OF THE PREMISES
(NONPAYMENT OF RENT)

VIA HAND DELIVERY, U.S. CERTIFIED MAIL, & U.S. MAIL FIRST CLASS

BAUER'S INTELLIGENT TRANSPORTATION, INC.
A CALIFORNIA CORPORATION ("TENANT")

Gary Bauer Bauer's Intelligent Transportation, Inc. Pier 50 Shed A San Francisco, CA 94158	Bauer's Intelligent Transportation, Inc. Pier 50 Shed A San Francisco, CA 94158
All Other Occupants-In-Possession, Successors, Representatives, and/or Other Parties In Interest Pier 50: Shed A, Shed C, and Yard San Francisco, CA 94158	

NOTICE IS HEREBY GIVEN of breach of that certain Lease No. L-15004 dated for reference purposes as of November 30, 2011 (as amended, the "Lease"), by which you hold possession of the premises commonly known as Pier 50 Shed A, Pier 50 Shed C, and the yard and dock space adjacent to Pier 50 Shed C in the City and County of San Francisco, as more fully described in the Lease (the "Premises") that there is now due unpaid rent for the Premises in the approximate amount of **$125,839.00** consisting of Base Rent and excluding Default Interest (each defined as Rent under Section 5 of the Lease). The estimated amount due is comprised of the amounts shown on the table below.

Due Date	Description	Base Rent	Payment Rec'd	Base Rent Balance
4/1/2025	Commercial Rent	$125,839.00	$101,605.07	$ 24,244.93
5/1/2025	Commercial Rent	$125,839.00	-	$101,605.07
Total				**$125,839.00**

WITHIN THREE (3) COURT DAYS after service of this notice, you are hereby required to either pay the rent demanded above in full or deliver possession of the Premises to the Port of San Francisco at Pier 1, San Francisco, California 94111. Payment may be made by cash or cashier's check, payable to the Port of San Francisco and must be delivered to Jennifer Gee, Lathena Sewell, or Angelina Tse, Port of San Francisco, Pier 1, San Francisco, California 94111. They – or authorized Port staff at the address and phone number identified in this paragraph – will be available to receive the payment personally, Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m. and may be reached at (415) 274-0400.

IN THE EVENT that you fail to pay in full the above stated amount of past due rent or to quit possession of and deliver the Premises within **THREE (3) BUSINESS DAYS** after service of this notice upon you, the Lessor will commence legal proceedings against you to recover possession of the Premises with all Rents due and damages (including statutory damages). Such a judgment against you may include attorneys' fees and court costs as allowed by law, and a punitive award in accordance with California law. This Notice supersedes all previous Notices to Pay or Quit, if any.

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The Lessor elects to declare a forfeiture of the Lease under which you occupy the Premises if you fail to pay the above stated amount in full within **THREE (3) BUSINESS DAYS** after service of this notice.

FURTHER NOTICE IS GIVEN that Lessor's acceptance of a partial rent payment after service of this notice upon you or after commencement of a civil action predicated upon this notice shall not constitute a waiver of any rights, including any rights Lessor may have to recover possession of the Premises.

Dated: [_____], 2026

LESSOR,

CITY AND COUNTY OF SAN FRANCISCO
acting by and through the
SAN FRANCISCO PORT COMMISSION

_____
[Port personnel]

cc: Gary Bauer: gary@bauersit.com
Gary Schwartz: gschwartz@bauersit.com

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

EXHIBIT E
UNLAWFUL DETAINER COMPLAINT

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

UD-100

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER:
NAME: David Chiu 189542; Michelle Sexton 138536; Justin Bigelow 306761
FIRM NAME: San Francisco City Attorney's Office
STREET ADDRESS: Pier 1 The Embarcadero
CITY: San Francisco STATE: CA ZIP CODE: 94111
TELEPHONE NO.: 628-652-6195 FAX NO.: 415-274-0494
EMAIL ADDRESS: justin.bigelow@sfcityatty.org
ATTORNEY FOR (*name*): City and County of San Francisco by/thr San Francisco Port Commis.

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS:
CITY AND ZIP CODE: San Francisco, CA 94102
BRANCH NAME: Civil Courthouse

PLAINTIFF: City and County of San Francisco by/thr San Francisco Port Commission
DEFENDANT: Bauer's Intelligent Transportation, Inc.
[ ] DOES 1 TO

COMPLAINT—UNLAWFUL DETAINER*

[x] **COMPLAINT** [ ] **AMENDED COMPLAINT (Amendment Number):**

CASE NUMBER:

Jurisdiction ***(check all that apply):***

[ ] **ACTION IS A LIMITED CIVIL CASE (amount demanded does not exceed $35,000)**
Amount demanded [ ] **does not exceed $10,000**
[ ] **exceeds $10,000**
[x] **ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds $35,000)**
[ ] **ACTION IS RECLASSIFIED by this amended complaint or cross-complaint** ***(check all that apply):***
[ ] **from unlawful detainer to general unlimited civil (possession not in issue).** [ ] **from limited to unlimited.**
[ ] **from unlawful detainer to general limited civil (possession not in issue).** [ ] **from unlimited to limited.**

1. *PLAINTIFF (name each):*
City and County of San Francisco by and through the San Francisco Port Commission

alleges causes of action against DEFENDANT (name each):
Bauer's Intelligent Transportation, Inc., a California corporation

2. a. Plaintiff is (1) [ ] an individual over the age of 18 years. (4) [ ] a partnership.
(2) [x] a public agency. (5) [ ] a corporation.
(3) [ ] other *(specify):*

b. [ ] Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of *(specify):*

3. a. *The venue is the court named above because defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):*
Pier 50, Shed A and Shed C, San Francisco, CA 94158

b. The premises in 3a are *(check one)*
(1) [x] within the city limits of *(name of city):* San Francisco
(2) [ ] within the unincorporated area of *(name of county):*

c. The premises in 3a were constructed in *(approximate year):*

4. Plaintiff's interest in the premises is [x] as owner [ ] other *(specify):*

5. The true names and capacities of defendants sued as Does are unknown to plaintiff.

* **NOTE:** Do not use this form for evictions after sale (Code Civ. Proc., § 1161a).

Form Approved for Optional Use
Judicial Council of California
UD-100 [Rev. January 1, 2024]

COMPLAINT—UNLAWFUL DETAINER

Civil Code, § 1940 et seq.;
Code of Civil Procedure, §§ 425.12, 1166
www.courts.ca.gov

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PLAINTIFF: City and County of San Francisco by/thr San Francisco Port Commission DEFENDANT: Bauer's Intelligent Transportation, Inc.	CASE NUMBER:

6. a. On or about *(date)*: November 1, 2024
defendant (name each):
Bauer's Intelligent Transportation, Inc.

(1) agreed to rent the premises as a [x] month-to-month tenancy [ ] other tenancy *(specify)*:
(2) agreed to pay rent of $ 17,036.60 payable [x] monthly [ ] other *(specify frequency)*:
(3) agreed to pay rent on the [x] first of the month [ ] other day *(specify)*:

b. This [x] written [ ] oral agreement was made with
(1) [x] plaintiff. (3) [ ] plaintiff's predecessor in interest.
(2) [ ] plaintiff's agent. (4) [ ] Other *(specify)*:

c. [ ] The defendants not named in item 6a are
(1) [ ] subtenants.
(2) [ ] assignees.
(3) [ ] Other *(specify)*:

d. [ ] The agreement was later changed as follows *(specify)*:

e. [x] A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. *(Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)*

f. [ ] *(For residential property)* A copy of the written agreement is **not** attached because *(specify reason)*:
(1) [ ] *the written agreement is not in the possession of the landlord or the landlord's employees or agents.*
(2) [ ] *this action is solely for nonpayment of rent (Code Civ. Proc., § 1161(2))*

7. The tenancy described in 6 *(complete (a) or (b))*
a. [x] is **not** subject to the Tenant Protection Act of 2019 (Civil Code, § 1946.2). The specific subpart supporting why tenancy is exempt is *(specify)*: The Premises is not residential .
b. [ ] is subject to the Tenant Protection Act of 2019.

8. *(Complete only if item 7b is checked. Check all applicable boxes.)*
a. [ ] The tenancy was terminated for at-fault just cause (Civil Code, § 1946.2(b)(1)).
b. [ ] The tenancy was terminated for no-fault just cause (Civil Code, § 1946.2(b)(2)) and the plaintiff *(check one)*
(1) [ ] waived the payment of rent for the final month of the tenancy, before the rent came due, under section 1946.2(d)(2), in the amount of $
(2) [ ] provided a direct payment of one month's rent under section 1946.2(d)(3), equaling $ to *(name each defendant and amount given to each)*:

c. [ ] Because defendant failed to vacate, plaintiff is seeking to recover the total amount in 8b as damages in this action.

9. a. [x] Defendant *(name each)*: Bauer's Intelligent Transportation, Inc.
was served the following notice on the same date and in the same manner:
(1) [ ] 3-day notice to pay rent or quit
(2) [ ] 30-day notice to quit
(3) [ ] 60-day notice to quit
(4) [ ] 3-day notice to quit
(5) [ ] 3-day notice to perform covenants or quit *(not applicable if item 7b checked)*
(6) [ ] 3-day notice to quit under Civil Code, § 1946.2(c) Prior required notice to perform covenants served *(date)*:
(7) [x] Other *(specify)*: Agreed to Service per Settlement

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

PLAINTIFF: City and County of San Francisco by/thr San Francisco Port Commission DEFENDANT: Bauer's Intelligent Transportation, Inc.	CASE NUMBER:

9. b. (1) On *(date):* the period stated in the notice checked in 9a expired at the end of the day.
   (2) Defendants failed to comply with the requirements of the notice by that date.
   c. All facts stated in the notice are true.
   d. [x] The notice included an election of forfeiture.
   e. [x] A copy of the notice is attached and labeled Exhibit 2. *(Required for residential property. See Code Civ. Proc., § 1166. When Civil Code, § 1946.2(c), applies and two notices are required, provide copies of both.)*
   f. [ ] One or more defendants were served (1) with the prior required notice under Civil Code, § 1946.2(c), (2) with a different notice, (3) on a different date, or (4) in a different manner, as stated in Attachment 10c. *(Check item 10c and attach a statement providing the information required by items 9a–e and 10 for each defendant and notice.)*

10. a. [ ] The notice in item 9a was served on the defendant named in item 9a as follows:
   (1) [ ] By personally handing a copy to defendant on *(date):*
   (2) [ ] By leaving a copy with *(name or description):*
   a person of suitable age and discretion, on *(date):* at defendant's
   [ ] residence [ ] business AND mailing a copy to defendant at defendant's place of residence
   on *(date):* because defendant cannot be found at defendant's residence or usual place of business.
   (3) [ ] By posting a copy on the premises on *(date):*
   [ ] AND giving a copy to a person found residing at the premises AND mailing a copy to defendant at the premises
   on *(date):*
   (a) [ ] because defendant's residence and usual place of business cannot be ascertained OR
   (b) [ ] because no person of suitable age or discretion can be found there.
   (4) [ ] *(Not for 3-day notice; see Civil Code, § 1946, before using)* By sending a copy by certified or registered mail addressed to defendant on *(date):*
   (5) [ ] *(Not for residential tenancies; see Civil Code, § 1953, before using)* In the manner specified in a written commercial lease between the parties
   b. [ ] *(Name):*
   was served on behalf of all defendants who signed a joint written rental agreement.
   c. [ ] Information about service of notice on the defendants alleged in item 9f is stated in Attachment 10c.
   d. [ ] Proof of service of the notice in item 9a is attached and labeled Exhibit 3.

11. [ ] Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
12. [x] At the time the 3-day notice to pay rent or quit was served, the amount of **rent due** was $ 125,839.00
13. [x] The fair rental value of the premises is $ 4,718.97 per day.
14. [ ] Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure section 1174(b). *(State specific facts supporting a claim up to $600 in Attachment 14.)*
15. [x] A written agreement between the parties provides for attorney fees.
16. [ ] Defendant's tenancy is subject to the local rent control or eviction control ordinance of *(city or county, title of ordinance, and date of passage):*

    Plaintiff has met all applicable requirements of the ordinances.
17. [ ] Other allegations are stated in Attachment 17.
18. Plaintiff accepts the jurisdictional limit, if any, of the court.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

PLAINTIFF: City and County of San Francisco by/thr San Francisco Port Commission DEFENDANT: Bauer's Intelligent Transportation, Inc.	CASE NUMBER:

19. **PLAINTIFF REQUESTS**

a. possession of the premises.
b. costs incurred in this proceeding:
c. [ ] past-due rent of $
d. [x] reasonable attorney fees.
e. [x] forfeiture of the agreement.
f. [ ] damages in the amount of waived rent or relocation assistance as stated in item 8: $
g. [x] damages at the rate stated in item 13 from *date:*
for each day that defendants remain in possession through entry of judgment.
h. [ ] statutory damages up to $600 for the conduct alleged in item 14.
i. [ ] other *(specify):*

20. [ ] Number of pages attached *(specify):*

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)

21. [ ] *(Complete in all cases.)* An unlawful detainer assistant [x] did **not** [ ] did for compensation give advice or assistance with this form. (*If declarant has received **any** help or advice for pay from an unlawful detainer assistant, complete a–f.*)

a. Assistant's name:
b. Street address, city, and zip code:
c. Telephone no.:
d. County of registration:
e. Registration no.:
f. Expires on *(date):*

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

See California Code of Civil Procedure Section 446(a)

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF)

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EXHIBIT F
STIPULATED JUDGMENT

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

DAVID CHIU, State Bar #189542
City Attorney
MICHELLE SEXTON, State Bar #138536
Deputy City Attorney
KELLY MANNION, State Bar #278816
Deputy City Attorney
Fox Plaza
1390 Market Street, 6th Floor
San Francisco, California 94102-5408
Telephone: (415) 554-4236
Facsimile: (415) 437-4644
E-Mail: Kelly.Mannion@sfcityatty.org

Attorneys for PLAINTIFF
CITY AND COUNTY OF SAN FRANCISCO
BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN FRANCISCO BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION, PLAINTIFF vs. BAUER'S INTELLIGENT TRANSPORTATION, INC. DEFENDANT.	Case No. CUD-26-_____ **[PROPOSED] STIPULATED JUDGMENT AND ORDER** Date Action Filed: _____, 2026 Trial Date: _____, 2026

This Stipulated Judgment and Order ("JUDGMENT") was presented before the above-captioned Court, the Honorable _____, presiding. CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation operating by and through the SAN FRANCISCO PORT COMMISSION, ("PLAINTIFF" or "CITY"), WERE REPRESENTED BY THEIR ATTORNEY, DAVID CHIU, CITY ATTORNEY, APPEARING THROUGH Deputy City Attorney KELLY MANNION. DEFENDANT BAUER'S INTELLIGENT TRANSPORTATION, INC., a California

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

corporation ("BAUER" or "DEFENDANT"), was represented by counsel of record, MARTIN SANCES, Esq.

PLAINTIFF is the owner and lessor of property, including Pier 50 in the City and County of San Francisco, California.

DEFENDANT is a tenant and occupant in possession of the Port of San Francisco premises at Pier 50 ("PREMISES"), as further described in the Pier 50 LEASE ("LEASE"), which is the subject of the above captioned unlawful detainer action.

On _____, 2026, PLAINTIFF and DEFENDANT (collectively, the "PARTIES") entered into that certain SETTLEMENT AGREEMENT to resolve this unlawful detainer action (the "SETTLEMENT AGREEMENT"). The SETTLEMENT AGREEMENT includes this JUDGMENT.

The PARTIES consent to entry of this JUDGMENT by the Court without a noticed motion, hearing, or trial.

The PARTIES agreed to present this JUDGMENT to Department 501 of the San Francisco Superior Court during the ex parte calendar, for judicial signature and entry, without an evidentiary hearing. The Parties stipulated that the Court may rely upon the allegations contained in the Complaint filed on _____, 2026, to form a factual basis upon which to issue this JUDGMENT.

The PARTIES, having stipulated to the provisions set forth herein, the Court having reviewed the provisions, the PARTIES having agreed to the issuance of this JUDGMENT, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

JURISDICTION. This Court has jurisdiction over the subject matter of this lawsuit as set forth in the COMPLAINT, and over the PARTIES to this JUDGMENT to make further orders and directions as may be necessary or appropriate for the construction, application or carrying out of the provisions, herein.

AUTHORITY. PLAINTIFF has the authority under California law and the San Francisco Municipal Codes to maintain this action on behalf of the CITY AND COUNTY OF SAN FRANCISCO concerning the conduct alleged in the COMPLAINT. The Court expressly retains

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

jurisdiction to take such further actions as may be necessary and appropriate to enforce the terms of this JUDGMENT.

JUDGMENT. IT IS ORDERED AND ADJUDGED that:

1. PLAINTIFF shall immediately have and recover from DEFENDANT, and DEFENDANT shall immediately surrender to PLAINTIFF, possession of the PREMISES Pier 50, Sheds A and C, in the City and County of San Francisco.

2. The PARTIES agree and stipulate that no stays of eviction shall be sought or granted.

3. The PARTIES agree and stipulate that the LEASE under which DEFENDANT occupied the PREMISES is forfeited, effective immediately.

4. DEFENDANT shall pay PLAINTIFF a total of **$2,359,686.95**, which includes unpaid rent, interest, and damages caused to PLAINTIFF by DEFENDANT, which amount shall be modified (increased or reduced) by the sum of: (a) the amount of funds (if any) provided by DEFENDANT to PLAINTIFF under that certain SETTLEMENT AGREEMENT against the Compromised Balance, (b) the amount of unused Project rent credits in accordance with subsection 3.d.2 of the SETTLEMENT AGREEMENT, and (c) any outstanding rent (plus applicable late fees and finance charges) that has accrued after the Effective Date of the SETTLEMENT AGREEMENT. Capitalized terms in this paragraph shall have the meanings provided in the SETTLEMENT AGREEMENT. Nothing herein shall prevent PLAINTIFF from seeking the amount of any unpaid rent that became due after the Effective Date of the SETTLEMENT AGREEMENT in a separate action.

5. Full payment shall be made within 10 days after entry of this JUDGMENT.

6. If full payment of the amount described above is not made within 10 days of entry of this JUDGMENT, legal interest at the rate of 10% interest per annum shall accrue from the date of entry of this JUDGMENT until all amounts owed, including any accrued interest, are paid in full. Partial payments shall be applied to interest before principal.

7. DEFENDANT enters into this JUDGMENT free of fraud, menace, duress, or undue influence and hereby waives all rights to challenge PLAINTIFF's right to possession.

8. The PARTIES acknowledge that they were advised by counsel throughout these settlement negotiations and in the drafting of this stipulated judgment.

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

RECORDATION AND SATISFACTION. This JUDGMENT shall be recorded in the Office of the San Francisco Assessor/Recorder. When all amounts owed are fully paid and possession of premises has been recovered, PLAINTIFF will file and record a Satisfaction of Judgment.

[SIGNATURES ON FOLLOWING PAGE.]

Docusign Envelope ID: 04C28438-752B-4B9A-9DC2-0BA2729B5780

SO STIPULATED:

Dated: _____

DAVID CHIU
City Attorney
MICHELLE SEXTON
Deputy City Attorney

By: _____
KELLY MANNION
Attorneys for PLAINTIFF
CITY AND COUNTY OF SAN FRANCISCO

BAUER'S INTELLIGENT TRANSPORTATION, INC.,
a California corporation

By: DocuSigned by: Martin Sances
MARTIN SANCES
Attorney for DEFENDANT

By: DocuSigned by:
Gary S. Bauer
Chief Executive Officer

Date Signed: 4/30/2026

By: DocuSigned by: Gary Schwartz
Gary Schwartz
Chief Financial Officer

Date Signed: 4/30/2026

IT IS SO ORDERED:

Dated:

_____
JUDGE OF THE SUPERIOR COUR

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Pier 1 The Embarcadero
San Francisco, CA 94111
www.sfport.com
415-274-0400

May 8, 2026

To:
President Gail Gilman
Vice President Stephen Engblom
Commissioner Willie Adams
Commissioner Steven Lee
Commissioner Ken McNeely

From:
Michael Martin, Acting Executive Director

DocuSigned by:
Michael Martin
20E5EEC1DEFF477...

Subject:
Request approval of a Settlement Agreement for Bauer's Intelligent Transportation, Inc. (Bauer) under Lease No. L-15004 (Pier 50, Sheds A and C), Lease L-16206 (401 Terry Francois Blvd - terminated) and Parking Agreement 003805 (Pier 96 - terminated) to resolve all balances due including Port waiver of certain rent, terms for completing safety upgrades to Pier 50, and resolution of litigation against Bauer upon compliance with the Settlement Agreement.

Acting Executive Director's Recommendation:
Approve the Attached Resolution No. 26-28

EXECUTIVE SUMMARY

Bauer's Intelligent Transportation, Inc., a California corporation ("Tenant"), has been a Port tenant for over 20 years, providing private transportation services across the Bay Area for companies needing shuttle service for employees, hospitality needs, and conventions. Tenant is currently delinquent in rent after it went out of good standing prior to the pandemic and was precluded from extending its lease for Pier 50, Sheds A and C when it expired in 2022. After years of negotiations regarding appropriate repayment terms, Port staff have reached a settlement that will address outstanding balances on all of Tenant's agreements in a fair way while setting the tenant on a path to an achievable business model, paying market rent in an improved, Fire Code-compliant facility.

Docusign Envelope ID: 68B9D6ED-0A64-447B-89CF-10BB1FA38BEE

STRATEGIC PLAN OBJECTIVES

The proposed item supports the Port's 2026-30 Strategic Plan by advancing the following goals:

Economic Growth
Completing this settlement with Tenant supports the Port's Economic Growth objective by strengthening economic stability through recovery of past due rent, securing a sustainable path for a long-standing tenant, and enabling essential fire safety improvements to a Port facility.

BACKGROUND

At the Port Commission's January 14, 2025 meeting, Port staff provided an informational update regarding settlement negotiations with Tenant. The January 14 staff report[1] provided a detailed history of this challenging negotiation and is linked below for reference.

After that hearing, Port staff renewed negotiations with Tenant. On March 6, 2026, Port staff returned to the Port Commission in executive session to discuss final settlement terms that have been reached with the tenant. The terms set forth below, and in the settlement agreement on file with the Port Commission secretary, reflect the direction received on March 6.

SETTLEMENT TERMS

The proposed settlement agreement requires approval by the Port Commission and the Board of Supervisors. The key terms of the proposed settlement are summarized as follows:

1. **401 TFB:** Tenant's proposal regarding payment of $121,261 and waiver of finance charges to settle the outstanding rent at 401 TFB is accepted.
2. **Pier 96:** Tenant's proposal regarding payment of $126,750 and waiver of finance charges to settle the outstanding rent at Pier 96 is accepted.
3. **Pier 50:**
    a. The revised retroactive rent schedule as proposed by Tenant is accepted for the period June 1, 2022 through May 31, 2026. The following table shows those rates along with the rates that would be payable under the settlement agreement through May 31, 2032:

[1] The January 14, 2025 staff report can be found at the following link https://www.sfport.com/media/10167/download?inline=

Docusign Envelope ID: 68B9D6ED-0A64-447B-89CF-10BB1FA38BEE

Period	Rent per month
June 1, 2022 – May 31, 2023	$110,109
June 1, 2023 – May 31, 2024	$117,974
June 1, 2024 – May 31, 2025	$125,389
June 1, 2025 – May 31, 2026	$141,569
June 1, 2026 – May 31, 2027	$157,299
June 1, 2027 – May 31, 2028	$162,017
June 1, 2028 – May 31, 2029	$166,878
June 1, 2029 – May 31, 2030	$171,884
June 1, 2030 – May 31, 2031	$177,040
June 1, 2031 – May 31, 2032	$182,351

b. Port grants rent relief in the amount of $438,524.

c. By accepting the revised retroactive rent schedule, Port agrees to waive a total of $1,651,392 in rent from June 2022 through May 2025.

c. Port accepts Tenant's agreement to make an upfront payment of $500,000 towards the outstanding amount owed, payable upon execution of the settlement agreement.

d. Port agrees that the remaining balance for Pier 50 through May 2025 (after applying the amounts specified in Sections 3.b and 3.c, excluding finance charges, late fees as of the date of settlement, and the required security deposit increase) is $2,359,686.95 (the "Unpaid Rent Amount").

e. Port agrees to a payment plan for the Unpaid Rent Amount. The payment plan will include a one-time administrative fee of $70,790.61 (equal to 3% of the Unpaid Rent amount), resulting in a total repayment amount of $2,430,477.56, payable in monthly installments of $40,508 over a 60-month period beginning after the sprinkler project for Pier 50 Shed C is completed.

f. The Port accepts Tenant's proposal that finance charges, attorney fees, administrative and late fees relating to the repayment amount are waived upon execution of the settlement agreement.

g. Events of default relating to the payment plan:

    i. If Tenant fails to complete the sprinkler project (described in Section 4) as of the date that is 12 months from the Board of Supervisors' approval of the settlement agreement, then all unpaid amounts relating to the Unpaid Rent Amount for the Pier 50 lease will be immediately due and payable.

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ii. The settlement agreement requires that if Tenant is late with a monthly payment plan payment by more than 45 calendar days, then all unpaid amounts relating to the Unpaid Rent Amount will be immediately due and payable. Likewise, the payments for the Unpaid Rent Amount are accelerated if Tenant is late paying rent.

h. Security Deposit: Tenant will make payment of $111,298 covering the increase in security deposit upon execution of the settlement agreement. This is separate from the payment plan terms noted above and is a condition that must be satisfied at the execution of the settlement agreement.

4. **Sprinkler Installation:**

   a. Tenant will install a fire sprinkler system approved by the Port for the entirety of Pier 50 Shed C at its own expense to comply with relevant codes governing Tenant's use of the facility, subject to standard City lease provisions regarding the performance of capital improvements on Port property.

   b. Upon satisfactory completion of the installation, Port will allocate rent credits to Tenant in the amount of its verified costs of construction, up to a maximum credit amount of $2 million.

      Such rent credits will be applied to the first month's rent following the completion of the sprinkler project and will continue to be applied to each subsequent month's rent until the rent credits are exhausted. For the avoidance of doubt, these credits are to be applied to future rent under a new lease and generally not to be applied to the "Unpaid Rent" balance of $2,359,686.95 as mentioned in 3.d.

5. **New Rent Structure:** Tenant's proposal regarding the rent structure for an additional 5-year term is accepted, contingent on successful completion of the sprinkler project and satisfaction of all other aspects of the settlement agreement.

   a. For clarity, Tenant shall remain in holdover status with limited assurances for the 5-year extension after the sprinkler installation is complete, as required under the settlement agreement, and the relevant building permits have been signed off by the appropriate regulatory authorities.

   b. Rent for the Pier 50 space for the additional term will be payable as set forth in the following table.

Period	**Rent per month**
June 1, 2026 – May 31, 2027	$157,299
June 1, 2027 – May 31, 2028	$162,017
June 1, 2028 – May 31, 2029	$166,878
June 1, 2029 – May 31, 2030	$171,884
June 1, 2030 – May 31, 2031	$177,040

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June 1, 2031-May 31, 2032	$182,351

6. **Stipulated Judgment:** The settlement agreement includes an agreement by the parties to pursue a series of court filings that will allow for an accelerated filing of a stipulated judgment for all outstanding portions of the Unpaid Rent Amount and possession of the Pier 50 premises. Enforcement of the stipulated judgment will be at the Port's election on or after the date that is 45 calendar days from the Port's issuance of a notice of default of the Settlement Terms if not cured within such period.

STAFF ANALYSIS AND RECOMMENDATION

Tenant's business has been greatly impacted by a number of lingering effects of the pandemic, including increased remote work and a decrease in convention business in the City. Port staff have reviewed Tenant's business plan and associated profit and loss projections and believe that the settlement terms are achievable, but such satisfaction will rely on the Tenant making steady growth in its business, hopefully in line with ongoing improvement in the business climate. Port staff have also reviewed an updated cost estimate for the proposed sprinkler project and have confirmed that the terms previously negotiated for the rent credits remain feasible.

As discussed previously, Port staff believes that the settlement structure Port staff has proposed, which would require the execution of court filings and a settlement agreement enforceable through a stipulated judgment filed with the San Francisco Superior Court in the event of a future breach, is in the Port's best interest in realizing partial repayment of back rent and in setting Tenant on a path to continued operations and an ongoing partnership with the Port.

RECOMMENDATION

Port staff recommends that the Port Commission approve the resolution and direct Port staff to seek approval from the Board of Supervisors in order to complete the settlement as described in this staff report and the settlement agreement.

Prepared by:
Michael Martin, Acting Port Director

Kimberley Beal, Assistant Deputy Director
Real Estate and Development

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 26-28

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate, and control the Port area of the City and County of San Francisco; and

WHEREAS, The Port entered into Lease No. L-15004 dated November 30, 2011, with Bauer's Intelligent Transportation, Inc., a California corporation ("Tenant") for office and operational space at Pier 50, Sheds A and C (the "Pier 50 Lease"); and

WHEREAS, The Port entered into Lease No. L-16206 dated November 1, 2016, with Tenant for office space at 401 Terry Francois Boulevard, Suite 212 (the "401 TFB Lease"), and Parking Agreement 003805 dated September 20, 2016 for bus parking at Pier 96 (the "Pier 96 License"); and

WHEREAS, The 401 TFB Lease and the Pier 96 License were terminated and ultimately the properties were surrendered to the Port on May 31, 2022 and February 16, 2026, respectively, with outstanding balances remaining under both agreements; and

WHEREAS, The Pier 50 Lease expired on May 10, 2022, and Tenant has remained in possession of the premises in holdover status without Port consent and has failed to pay all amounts due under the Pier 50 Lease; and

WHEREAS, The Port and Tenant have reached an agreement on the terms of a settlement agreement, a copy of which is on file with the Commission Secretary (the "Settlement Agreement"), to resolve all outstanding financial obligations under the aforementioned leases and license, and to establish terms for Tenant's continued occupancy at Pier 50 until May 31, 2032, including safety upgrades; and

WHEREAS, The Settlement Agreement also includes a stipulated judgment mechanism to protect the Port's interests in the event of default; and

WHEREAS, The parties now wish to settle their dispute in a manner that allows Tenant to continue its occupancy at Pier 50 with the intention of avoiding protracted disputes, uncertainties, and litigation; and

WHEREAS, The Settlement Agreement requires approval by the Board of Supervisors; now, therefore be it

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RESOLVED, That the Port Commission hereby approves the Settlement Agreement on file with the Port Commission Secretary, subject to approval by the Board of Supervisors; and be it further

RESOLVED, That the Port Commission recommends that the Board of Supervisors approve the Settlement Agreement; and be it further

RESOLVED, That, upon approval, the Port Commission authorizes the Executive Director to execute the Settlement Agreement and any other documents, additions, amendments, or other modifications to the Settlement Agreement or the Pier 50 Lease that the Executive Director, in consultation with the City Attorney, determines, when taken as a whole, to be in the best interest of the Port, do not materially increase the obligations or liabilities of the City or the Port, and are necessary or advisable to complete the transactions which this Resolution contemplates and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by execution and delivery by the Executive Director of such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting on May 12, 2026.

DocuSigned by:
Jenica Lin
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Secretary