

## **ASSIGNMENT LEASE AGREEMENT AND CONSENT OF LESSOR**

THIS ASSIGNMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, by and between James Figuerado, Jr, as assignor, and Garrison Bight SMI, LLC, a Delaware Limited Liability Company, 17330 Preston Road, Suite 220A Dallas, TX, as assignee.

WHEREAS, the Assignor, in consideration of the covenants and agreements contained herein, assigns and transfers to Assignee the lease agreement (hereinafter "Agreement"), effective April 14, 2020, per Resolution 20-059, a copy of which is attached hereto as Exhibit "A" and incorporated by reference, that pertains to submerged land Parcel H and a portion of Parcel I, located at 711 – 717 Eisenhower Drive, Key West, in Monroe County, Florida, and more particularly described on Attachment "A" of the Lease;

WHEREAS, Assignor desires to assign all of its right, title and interest in the Lease to Assignee, Assignee desires to accept and assume the same, and Landlord is willing to consent to the proposed Assignment, all on the terms and conditions thereof.

1. The Assignor assigns and transfers unto the Assignee all of its right, title, and interest in and to the Agreement and amendment thereof, and premises, subject to all the conditions and terms contained in the Agreement and this Assignment. Copies of the Agreement are attached hereto, incorporated by reference, and more particularly described as Exhibit "A".

2. The Assignor herein expressly agrees and covenants that it is the lawful and sole owner of the interest assigned herein; that this interest is free from all encumbrances; and that it has performed all duties and obligations and made all payments required under the terms and conditions of the lease agreement.

3. Assignee herein expressly agrees to assume, perform and be liable for all of the duties and obligations of "Tenant" required by and under the terms of the Lease, including but not limited to, the obligation to pay all rent due thereunder from and after the effective date of this Assignment.

4. The Assignee herein expressly agrees to provide to the Lessor throughout the current term of the Agreement, a performance bond from a federally insured bank in favor of lessor as security for the faithful performance by assignee of the terms, conditions and covenants of the Agreement. The amount of the performance bond shall be equal to six months of the total rent pursuant to the Agreement.

5. The Assignee herein expressly agrees herein to be liable for all the duties and obligations required by the terms of the lease agreement. The Assignee expressly agrees herein to pay all rent due after the effective date of this agreement, and to assume and perform all duties and obligations required by the terms of the lease agreement.

6. This assignment is contingent upon the completion of the sale between the assignor and assignee of the business conducted on the upland property at 711 – 717 Eisenhower Drive. References herein to the “effective date” shall mean the date of the closing of the aforementioned sale transaction. References to the upland property in this Assignment and/or the Lease refer to 711 – 717 Eisenhower Drive.

7. No later than the effective date of this Assignment, Assignee herein expressly agrees to pay Landlord \$500.00 to help offset any costs Landlord may have in preparing such assignment, or in examining the information, financial statements, operating history, references, etc., necessary to effectuate same.

8. In the event assignee files any form of bankruptcy, lessor shall be entitled to immediate termination of the automatic stay provisions of 11 U.S.C. §362, granting the lessor complete relief and allowing the lessor to exercise all of its legal and equitable rights and remedies, including, without limitation, the right to terminate this lease and dispossess assignee from the demised premises in accordance with Florida law. Additionally, assignee agrees not to directly or indirectly oppose or otherwise defend against the lessor’s effort to gain relief from any automatic stay. The lessor shall be entitled as aforesaid to the lifting of the automatic stay without the necessity of an evidentiary hearing and without the necessity or requirement of the lessor to establish or prove the value of the leasehold, the lack of adequate protection of his interest in the leasehold, or the lack of equity in the same. Assignee specifically agrees and acknowledges that the lifting of the automatic stay hereunder by the appropriate bankruptcy court shall be deemed to be “for cause” pursuant to section 362(d)(1).

9. Lessor’s consent to the lease assignment is further conditioned upon the Assignee securing a lease with the Lessor for the parcel attached as Exhibit B (more commonly referred to as the corner parcel at Palm Avenue and Eisenhower Drive) at a newly established rental rate within 2 months of the date of this assignment.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURES ON FOLLOWING PAGES]**

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


**ASSIGNOR:**  
**Garrison Bight Marina, Inc.**

  
\_\_\_\_\_  
Witness to Assignor  
*Zulena Rodriguez*

By:   
\_\_\_\_\_  
Name: James Figuerado, Jr  
Title: President

State of Florida       }  
County of Monroe    }*Lee.*

Subscribed and sworn to (or affirmed) before me, by means of ☐ physical presence or  
☐ online notarization, on 12-2-2021 (date) by  
James Figuerado (name of affiant). He/She is personally known to me or has  
produced Florida Drivers License (type of  
identification) as identification.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:



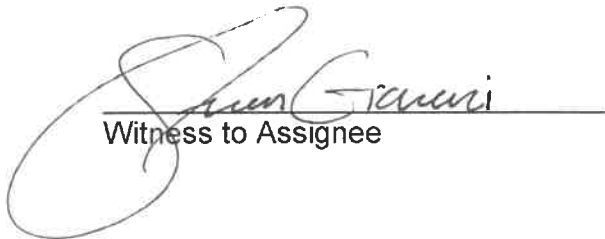
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**ASSIGNEES:**  
Garrison Bight SMI, LLC

  
Witness to Assignee

By: SMI PROPCO HOLDINGCO, LLC, a  
Delaware Limited Liability Company

Its sole member

  
Witness to Assignee

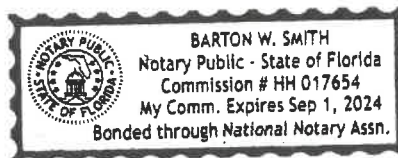
By:   
Name: David Filler  
Title: Manager Member

State of Florida     }  
County of Monroe   }

Subscribed and sworn to (or affirmed) before me, by means of ☒ physical presence or  
☐ online notarization, on 1-19-2022 (date) by  
\_\_\_\_\_ (name of affiant). He/She is personally known to me or has  
produced \_\_\_\_\_ (type of  
identification) as identification.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:



### CONSENT OF LESSOR

I, Teri Johnston, Mayor of the City of Key West, the Lessor named in the above assignment of that lease agreement executed by the City of Key West on effective April 14, 2020, per Resolution 20-059, herein expressly consent to that assignment so long as the sale between Assignor and Assignee of the business which is conducted on and from the submerged land lease on the premises known as 711 – 717 Eisenhower Drive is completed within two weeks of this assignment, failing which this Consent shall be deemed null and void, of no force or effect and withdrawn.

I also consent to the agreement by the Assignee to assume, after the effective date of the Assignment, the payment of rent and the performance of all duties and obligations as set forth in the lease and accept Assignees as tenant in the place of Garrison Bight SMI, LLC, alone.

#### LANDLORD/LESSOR:

City of Key West

\_\_\_\_\_  
Witness as to Landlord/Lessor

By: \_\_\_\_\_  
Teri Johnston, Mayor

State of Florida     }  
County of Monroe   }

Subscribed and sworn to (or affirmed) before me, by means of ☐ physical presence or ☐ online notarization, on \_\_\_\_\_ (date) by \_\_\_\_\_ (name of affiant). He/She is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

**EXHIBIT "A"**  
**LEASE AGREEMENT**