

RESOLUTION NO. 19-192

A RESOLUTION OF THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY (CRA), APPROVING THE ATTACHED ASSIGNMENT OF LEASE AND CONSENT OF LESSOR FROM McGRAIL & ROWLEY, INC. (ASSIGNOR) TO RED HOSPITALITY & LEISURE KEY WEST, LLC, A DELAWARE LIMITED LIABILITY COMPANY REGISTERED IN FLORIDA (ASSIGNEE) FOR THE TICKET BOOTH LOCATED AT LAZY WAY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 19-144 the CRA approved the original Lease Agreement with McGrail & Rowley, Inc. d/b/a Sebago Watersports; and

WHEREAS, City staff recommends approval of an assignment of lease from McGrail & Rowley, Inc. to RED Hospitality and Leisure Key West, LLC, a Delaware limited liability company registered in Florida ("Assignee"), a wholly owned subsidiary of RED Hospitality and Leisure, LLC, a Delaware limited liability company registered in Florida ("Guarantor"); and

NOW, THEREFORE, BE IT RESOLVED BY THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY, AS FOLLOWS:

Section 1: That the attached Assignment of Lease Agreement and Consent of Lessor from McGrail & Rowley, Inc. to RED Hospitality & Leisure Key West, LLC, a Delaware limited liability company registered in Florida for the Ticket Booth located at Lazy Way is hereby approved.

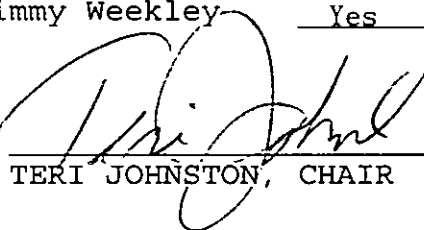
Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Agency.

Passed and adopted by the Caroline Street Corridor and Bahama Village Community Redevelopment Agency at a meeting held this 18th day of June, 2019.

Authenticated by the presiding officer and Clerk of the Agency on June 18th, 2019.

Filed with the Clerk June 19, 2019.

Chair Teri Johnston	<u>Yes</u>
Vice Chair Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


TERI JOHNSTON, CHAIR

ATTEST:


CHERYL SMITH, CITY CLERK

Executive Summary



TO: Key West Bight Management District Board
Caroline Street Corridor and Bahama Village
Community Redevelopment Agency

CC: Jim Scholl; Doug Bradshaw

FR: Marilyn D. Wilbarger, CCIM

DT: June 3, 2019

RE: Lease Assignment for the Ticket Booth on Lazy Way Lane

ACTION STATEMENT:

The city has received a request from the tenant McGrail and Rowley, Inc. to approve a lease assignment for the Ticket Booth on Lazy Way Lane to RED Hospitality & Leisure Key West, LLC, a newly formed Delaware Limited Liability Company which is a wholly owned subsidiary of RED Hospitality & Leisure, Inc. a Delaware Limited Liability Company.

RED Hospitality & Leisure, LLC is an indirect subsidiary of Ashford, INC (NYSE AINC), which is the external advisor of Ashford Hospitality Trust (NYSE AHT) and Braemar Hotels & Resorts, Inc. (NYSE: BHR). Ashford counts The Pier House and La Concha resorts among its over \$6B in assets under management and shares a vested interest in the local community and tourism market. There is a corporate organizational chart attached for your reference.

RED Hospitality & Leisure, LLC provides resort services, including destination services, watersports, beach and recreation operations, destination management services, and transportation under several subsidiary brands in the US Virgin Islands, namely Cruz Bay Watersports which has served the USVI market for over 30 years and is one of the largest and most diversified watersports companies in the territory.

RED Hospitality and Leisure identified Sebago Watersports due in large part to its quality reputation, successful operations and quality management team. RED intends to maintain the continuity of the Sebago Watersports brand, including its management team post acquisition.

HISTORY:

The CRA entered into a five-year lease for the demised premises that will expire in May of 2025. The current tenant, McGrail and Rowley, Inc., LLC has entered into a purchase agreement with the Assignee and is requesting a simple assignment meaning that no terms or conditions of the lease change for the remainder of the lease term.

The leases provide for the assignment as described in Section 10 excerpted here, as follows:

"10. ASSIGNMENT AND HYPOTHECATION - This Lease is not transferable or LANDLORD which may be withheld and shall be at the sole discretion of the LANDLORD.

Any assignment or sub-letting, even with LANDLORD'S consent shall not relieve TENANT from liability for payment of Rent or from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not

be deemed to be a waiver of any of the agreements of this Lease or to be consent to the assignment for the benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior consent of LANDLORD. In the event TENANT wishes to assign this Lease and LANDLORD consents to such assignment, LANDLORD may charge a reasonable fee, not to exceed \$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. Any assignment, transfer, hypothecation, mortgage, or subletting without LANDLORD'S written consent shall give LANDLORD the right to terminate this Lease and to re-enter and repossess the Demised Premises and the LANDLORD'S right to damages shall survive.

If the TENANT is a corporation, then a sale or transfer of a controlling interest in the corporation by sale of stock or otherwise shall constitute an assignment for purposes of this provision."

The proposed Assignee's parent organization RED Hospitality & Leisure, LLC has provided historical financials as well as 1st quarter 2019 financial statements that are attached for your reference. Additionally, the most recent SEC Form 10-Q filing for Ashford, Inc. (NYSE AINC) is attached.

FINANCIAL STATEMENT:

The current tenant has met all of the financial obligations of the lease and the rent will continue pursuant to the existing lease. The financial safeguards in the lease, namely the required letter of credit in an amount equal to six months base rent that the Assignee must provide as additional security, ensure that rent will be paid for an adequate period of time to regain possession in the event of a default. Additionally, RED Hospitality & Leisure LLC. will guaranty the complete performance of all of the covenants and obligations of the Assignee.

CONCLUSION:

This lease assignment is contingent upon the completion of the sale between the Assignor and Assignee of the business known as Sebago Watersports. The effective date of the assignment is the date of the closing of this transaction. The requested action is permitted under the terms of the lease, at the sole discretion of the Landlord, and the current tenant is not relieved from liability if the assignee defaults in its obligations under the terms of the lease therefore the financial risk to the City is minimized. The business is highly successful in a very desirable location that would attract substantial interest should there ever be an opportunity to offer it for lease.

ATTACHMENTS:

Lease Assignment and Consent of Lessor

Lease: City resolution 19-144

1st Quarter 2019 Financial Statements RED Hospitality & Leisure LLC

Historical Financial Statements RED Hospitality & Leisure LLC

10Q Ashford, Inc.

ASSIGNMENT OF LEASE AGREEMENT AND CONSENT OF LESSOR

THIS ASSIGNMENT (this "Assignment") is made this 28th day of June, 2019, by and between McGrail & Rowley, Inc., a Florida corporation ("Assignor") and RED Hospitality & Leisure Key West, LLC, a Delaware limited liability company registered in Florida ("Assignee") a wholly owned subsidiary of RED Hospitality & Leisure, LLC, a Delaware limited liability company registered in Florida ("Guarantor").

A. Assignor, as tenant, and the Caroline Street Corridor and Bahama Village Community Redevelopment Agency as landlord ("Landlord") have previously entered into that certain lease dated May 7, 2019 per Resolution 19-144, (the "Lease"), a copy of which is attached hereto as Exhibit "A". The Lease pertains to real property commonly referred to as the ticket booth located on Lazy Way Lane in the Historic Seaport, Key West, in Monroe County, Florida, and more particularly described on Exhibit B of the lease, which is attached hereto and incorporated by reference.

B. 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 hereof.

NOW THEREFORE, in consideration of the mutual terms and conditions herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignor hereby assigns and transfers unto Assignee all of its right, title, and interest in and to the Lease, subject to all the conditions and terms contained therein.

2. Assignor herein expressly represents and warrants that (a) it is the lawful and sole owner of the lessee's interest assigned herein, (b) Assignor's interest in the Lease is free from all encumbrances, and (c) Assignor has not received any written notice from Landlord that Assignor has failed to perform all the duties and obligations or failed to make any payments required under the Lease.

3. Assignor herein expressly acknowledges, pursuant to paragraph 10 of the Lease, that this Assignment shall not relieve Assignor from liability for payment of rent or from the obligation to keep and be bound by the terms, conditions, and covenants contained in the Lease, provided, however, no such liability shall extend beyond the expiration of the current expiration date of the initial Term (as defined in the Lease) which is **May 31, 2025**.

4. 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.

5. This Assignment is contingent upon the completion of the sale between Assignor and Assignee of the business known as "Sebago Watersports". References herein to the "effective date" shall mean the date of the closing of the aforementioned sale transaction.

6. Assignee agrees to indemnify, defend and hold Assignor and its legal representatives, successors and assigns harmless from and against any and all losses,

damages, claims, demands, suits, judgments, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs), suffered or incurred by any of said indemnitees under or in connection with the Lease arising on or after the effective date hereof. Assignor agrees to indemnify, defend and hold Assignee and its legal representatives, successors and assigns harmless from and against any and all losses, damages, claims, demands, suits, judgments, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs), suffered or incurred by any of said indemnitees under or in connection with the Lease and arising prior to the effective date hereof.

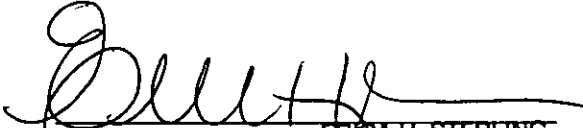
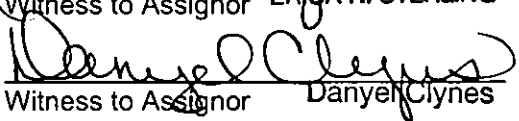
7. No later than the effective date of this Assignment, Assignee herein expressly agrees to provide to Landlord a letter of credit from a federally insured bank in favor of Landlord or a bond, as security for the faithful performance by Assignee of the terms, conditions and covenants of the Lease. The amount of the letter of credit or bond, as approved by Landlord, shall be **\$13,000.00**.

8. In the event Assignee files any form of bankruptcy, Landlord shall be entitled to immediate termination of the automatic stay provisions of 11 U.S.C. §362, granting Landlord complete relief and allowing Landlord to exercise all of its legal and equitable rights and remedies, including, without limitation, the right to terminate the Lease and dispossess Assignee from the Premises in accordance with Florida law. Additionally, Assignee agrees not to directly or indirectly oppose or otherwise defend against Landlord's effort to gain relief from any automatic stay. Landlord 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 Landlord 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).

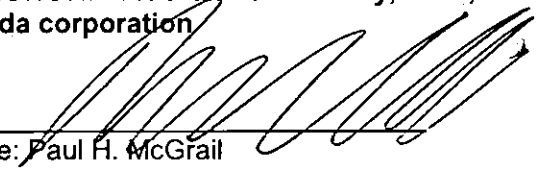
9. The Guarantor does hereby absolutely, unconditionally and irrevocably guarantee to the City the full and complete performance of all of Assignee's covenants and obligations under the Lease and full payment by Assignee of all rentals, additional charges and other charges and amounts required to be paid hereunder during the entire term. Guarantor's obligations hereunder shall be primary and not secondary and are independent of the obligations of the Assignee.

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

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


Witness to Assignor **ERICA H. STERLING**

Witness to Assignor **Danyel Clynes**

ASSIGNOR: McGrail & Rowley, Inc., a Florida corporation

By: 
Name: **Paul H. McGrail**
Title: **Director**

By: 
Name: **Sean G. Rowley**
Title: **Director**

ASSIGNEE: RED Hospitality & Leisure Key West, LLC, a Delaware limited liability company


Witness to Assignee

Witness to Assignee

By: _____
Name: **Chris Batchelor**
Title: **President**

GUARANTOR: RED Hospitality & Leisure, LLC, a Delaware limited liability company

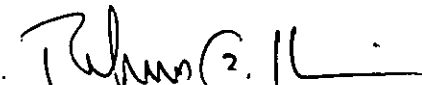
By: **Ashford Inc., its Manager**



Witness to Guarantor



Witness to Guarantor

By: 
Name: **Robert G. Haiman**
Title: **Executive Vice President, General Counsel and Secretary**

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

ASSIGNOR: McGrail & Rowley, Inc., a Florida corporation

Witness to Assignor

By: _____
Name: Paul H. McGrail
Title: Director

Witness to Assignor

By: _____
Name: Sean G. Rowley
Title: Director

ASSIGNEE: RED Hospitality & Leisure Key West, LLC, a Delaware limited liability company

Diane Douglas

Witness to Assignee

[Signature]

Witness to Assignee

By: [Signature]
Name: Chris Batchelor
Title: President

GUARANTOR: RED Hospitality & Leisure, LLC, a Delaware limited liability company

By: Ashford Inc., its Manager

Witness to Guarantor

By: _____
Name: Robert G. Haiman
Title: Executive Vice President, General Counsel and Secretary

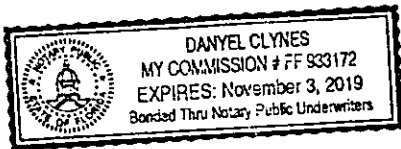
Witness to Guarantor

ASSIGNOR ACKNOWLEDGMENT

State of Florida }
County of Monroe }

I HEREBY CERTIFY that on this day Paul H. McGrail and Sean G. Rowley personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, _____ to me personally known or who provided Florida driver's license as photo identification, and who executed the foregoing instrument and he acknowledged before me that he executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this 28th day of June, 2019.



Danyel Clynes
Notary Public, State of Florida
My Commission Expires:

Territory of U.S. Virgin Islands ASSIGNEE ACKNOWLEDGMENT

District of St. Thomas/St. John

State of _____

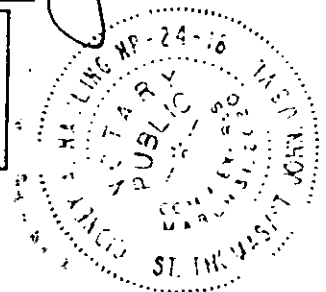
County of _____

I HEREBY CERTIFY that on this day Chris Batchelor personally appeared before me an officer duly authorized to administer oaths and take acknowledgements, _____ to me personally known or who provided FL Driver License as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this 26th day of June, 2019

Cidney A. Hamling
Notary Public, State of _____
My Commission Expires: _____

CIDNEY A. HAMLING
Notary Public
District of St. Thomas/St. John
Territory of U.S. Virgin Islands
NP-24-16
My Commission Expires March 31, 2020



GUARANTOR ACKNOWLEDGMENT

State of _____ }
County of _____ }

I HEREBY CERTIFY that on this day Robert G. Haiman personally appeared before me an officer duly authorized to administer oaths and take acknowledgements, _____ to me personally known or who provided _____ as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this ____ day of _____, 20__.

Notary Public, State of _____
My Commission Expires: _____

ASSIGNEE ACKNOWLEDGMENT

State of _____ }
County of _____ }

I HEREBY CERTIFY that on this day Chris Batchelor personally appeared before me an officer duly authorized to administer oaths and take acknowledgements, _____ to me personally known or who provided _____ as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this ____ day of _____, 20__.

Notary Public, State of _____
My Commission Expires: _____

GUARANTOR ACKNOWLEDGMENT

State of Texas }
County of Dallas }

I HEREBY CERTIFY that on this day Robert G. Haiman personally appeared before me an officer duly authorized to administer oaths and take acknowledgements, _____ to me personally known or who provided _____ as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this 26th day of June, 2019.



Ruth Shumway

Notary Public, State of Texas
My Commission Expires: 4/21/20

CONSENT OF LANDLORD

I, Teri Johnston, Mayor of the City of Key West, the landlord named in that certain lease dated May 7, 2019 per Resolution 19-144, herein expressly consent to the Assignment so long as the sale between Assignor and Assignee of the business known as "Sebago Watersports" is completed on or before July 19th 2019 failing which this Consent shall be deemed null and void, of no force or effect and withdrawn.

I also consent to the agreement by 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 Assignee as tenant in the place of McGrail and Rowley, Inc. alone. Landlord hereby agrees that (i) any security deposit delivered by Assignor to Landlord in connection with the Lease will be returned to Assignor within 15 days following the effective date of the Assignment and (ii) a fee will be charged by Landlord in connection with the Assignment and Landlord's consent thereto.

Defined terms used in this Consent of Landlord shall have the meanings ascribed to such terms in the Assignment of Lease by and between McGrail and Rowley, Inc., as assignor and RED Hospitality and Leisure Key West, LLC, as assignee, to which this Consent of Landlord is attached.

LANDLORD:

Caroline Street Corridor and Bahama Village
Community Redevelopment Agency

Erin Mitchell
Witness as to Landlord

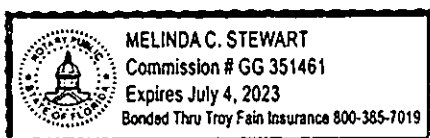
Teri Johnston
Teri Johnston, Chairwoman

[Signature]
Witness as to Landlord

State of Florida
County of Monroe }

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, Teri Johnston to me personally known or who provided personally known as photo identification, and who executed the foregoing instrument and he acknowledged before me that he executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this 17th day of July, 2019.



Melinda Stewart
Notary Public, State of Florida
My Commission Expires: 7/4/2023

Exhibit A

RESOLUTION NO. 19 - 144

A RESOLUTION OF THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY (CRA) APPROVING THE ATTACHED "LEASE AGREEMENT" BETWEEN THE CRA AND MCGRAIL & ROWLEY, INC. D/B/A SEBAGO WATERSPORTS FOR THE BOOTH LOCATED AT LAZY WAY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, at its meeting of April 10, 2019, the Key West Bight Management District Board recommended approval of the attached lease with McGrail & Rowley, Inc. d/b/a Sebago Watersports;

BE IT RESOLVED BY THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY, AS FOLLOWS:

Section 1: That the attached "Lease Agreement" between the CRA and McGrail & Rowley, Inc. a/b/a Sebago Watersports for the booth located at Lazy Way, is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Agency.

Passed and adopted by the Caroline Street Corridor and Bahama Village Community Redevelopment Agency at a meeting held this 7th day of May, 2019.

Authenticated by the presiding officer and Clerk of the Agency on May 9, 2019.

Filed with the Clerk May 9, 2019.

Chair Teri Johnston	<u>Yes</u>
Vice Chair Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


TERI JOHNSTON, CHAIR

ATTEST:


CHERYL SMITH, CITY CLERK

Executive Summary



TO: Key West Bight Board
Community Redevelopment Agency

CC: Jim Scholl, Doug Bradshaw

FR: Marilyn Wilbarger, RPA, CCIM

DT: April 1 2019

RE: McGrail and Rowley, Inc. Lease Renewal for Ticket Booth on Lazy Way Lane

ACTION STATEMENT

This is a request to approve a lease renewal for Mc Grail & Rowley, Inc DBA Sebago Watersports for the booth located on Lazy Way Lane.

HISTORY

The lease for the booth located on Lazy Way Lane will expire at the end of August and the Tenant has requested a lease renewal that is proposed based upon the following terms:

Demised Premises: Lazy Way booth containing 96 square feet

Use: Sales, ticketing and check in for patrons of tenant for vessels operated by tenant in the Historic Seaport and the sale of tickets for businesses conducted within the Historic Seaport by landlord's other tenants.

Term: Commencing September 1, 2019 for 5 years and nine months to be co-terminus with the Tenant's lease for Unit I on Lazy Way

Rent: \$2122.38 plus CPI per month in base rent in year one

Increase: CPI increase in base rent annually

Additional Rent: Tenant shall pay its pro-rate share of common area maintenance, taxes, and insurance

Percentage Rent: None

Utilities: Tenant shall pay for all utility usage.

FINANCIAL STATEMENT:

The rent is at a market rate for the booth space. The tenant is current on all of the rent with no outstanding amounts owed and the tenant has made all rental payment under the current lease. The lease also provides for a security deposit and personal guaranty from Paul McGrail and Sean Rowley as security for the payment of rent.

CONCLUSION: The CRA has a satisfactory leasing experience with the tenant with no lease violations and staff recommends approval of the lease renewal.

ATTACHMENTS:

Draft Lease

Corporate Filing

Personal Guaranties



Department of State / Division of Corporations / Search Records / Detail By Document Number /

Detail by Entity Name

Florida Profit Corporation
MCGRAIL & ROWLEY, INC.

Filing Information

Document Number L19579
FE/EIN Number 65-0158356
Date Filed 10/02/1989
State FL
Status ACTIVE
Last Event REINSTATEMENT
Event Date Filed 10/14/1996

Principal Address

205 ELIZABETH STREET UNIT 1
KEY WEST, FL 33040

Changed: 04/20/2011

Mailing Address

205 ELIZABETH STREET UNIT 1
KEY WEST, FL 33040

Changed: 04/20/2011

Registered Agent Name & Address

MCGRAIL, PAUL H
328 SIMONTON STREET
KEY WEST, FL 33040

Name Changed: 04/26/2007

Address Changed: 06/30/2003

Officer/Director Detail

Name & Address

Title D

ROWLEY, SEAN G.
328 SIMONTON ST.
KEY WEST, FL

IRB U

MCGRAIL, PAUL H.
328 SIMONTON ST.
KEY WEST, FL

Annual Reports

Report Year	Filed Date
2016	04/12/2016
2017	04/11/2017
2018	04/19/2018

Document Images

04/19/2018 - ANNUAL REPORT	View image in PDF format
04/11/2017 - ANNUAL REPORT	View image in PDF format
04/12/2016 - ANNUAL REPORT	View image in PDF format
03/30/2015 - ANNUAL REPORT	View image in PDF format
04/30/2014 - ANNUAL REPORT	View image in PDF format
05/01/2013 - ANNUAL REPORT	View image in PDF format
04/10/2012 - ANNUAL REPORT	View image in PDF format
04/20/2011 - ANNUAL REPORT	View image in PDF format
04/27/2010 - ANNUAL REPORT	View image in PDF format
04/27/2009 - ANNUAL REPORT	View image in PDF format
04/14/2008 - ANNUAL REPORT	View image in PDF format
04/26/2007 - ANNUAL REPORT	View image in PDF format
04/25/2006 - ANNUAL REPORT	View image in PDF format
04/14/2005 - ANNUAL REPORT	View image in PDF format
04/20/2004 - ANNUAL REPORT	View image in PDF format
06/30/2003 - Reg. Agent Change	View image in PDF format
04/25/2003 - ANNUAL REPORT	View image in PDF format
04/18/2002 - ANNUAL REPORT	View image in PDF format
04/17/2001 - ANNUAL REPORT	View image in PDF format
05/16/2000 - ANNUAL REPORT	View image in PDF format
04/29/1999 - ANNUAL REPORT	View image in PDF format
03/24/1998 - ANNUAL REPORT	View image in PDF format
04/14/1997 - ANNUAL REPORT	View image in PDF format
04/27/1995 - ANNUAL REPORT	View image in PDF format

GUARANTY

This Guaranty is made this 29th day of April, 2019 in accordance with the Lease Agreement (hereinafter Agreement) dated _____, 2019 by and between the City of Key West (hereinafter City) and McGrail and Rowley, Inc. (hereinafter Tenant) and Paul H. McGrail and Sean G. Rowley (hereinafter Guarantors) for the Demised Premises (hereinafter Premises) located at the Ticket Booth on Lazy Way Lane in Key West, Florida.

In consideration of granting the use of the Premises to Tenant, and other good and valuable consideration, Guarantors does hereby covenant and agree that:

- (a) The Guarantors do hereby absolutely, unconditionally and irrevocably guarantee to the City the full and complete performance of all of Tenant's covenants and obligations under the Agreement and full payment by Tenant of all rentals, additional charges and other charges and amounts required to be paid hereunder during the entire term. Guarantors' obligations hereunder shall be primary and not secondary and are independent of the obligations of the Tenant.
- (b) A separate action or actions may be brought and prosecuted against Guarantors, whether or not action is brought against Tenant or whether Tenant shall be joined in any such action or actions. At the City's option, the Guarantors may be joined in any action or proceeding commenced by the City against Tenant in connection with and based upon any covenants and obligations under the Agreement, and the Guarantors hereby waive any demand by City and/or prior action by City of any nature whatsoever against Tenant.
- (c) The Guarantors consent to forbearance, indulgences and extensions of time on the part of the City being afforded to Tenant, the waiver from time to time by City of any right or remedy on its part as against Tenant. The Guarantors hereby agree that no act or omission on the part of the City shall affect or modify the obligation and liability of the Guarantors hereunder.
- (d) This Guaranty shall remain and continue in full force and effect, notwithstanding (i) any alteration of the Agreement by parties thereto, whether prior or subsequent to the execution hereof, (ii) any renewal, extension, modification or amendment of the Agreement, (iii) any subletting of the Demised Premises or assignment of Tenant's interest in the Agreement.
- (e) The Guarantors' obligations hereunder shall remain fully binding although City may have waived one or more defaults by Tenant, extended the time of performance by Tenant, released, returned, or misapplied other collateral given later as additional security (including other guarantees) and released Tenant from the performance of its obligations under the Agreement.
- (f) In the event any action or proceeding be brought by City to enforce this Guaranty, or City appears in any action or proceeding in any way connected with or growing out of this Guaranty, then and in any such event, the Guarantors shall pay to City reasonable attorney's fees, but only if City is the prevailing party. The Guarantors in any suit

brought under this Guaranty do hereby submit to the jurisdiction of the courts of the State of Florida and to the venue in the circuit court of Monroe County, Florida.

(g) This Guaranty shall remain in full force and effect notwithstanding the institution by or against Tenant or bankruptcy, reorganization, readjustment, receivership or insolvency proceedings of any nature, or in the disaffirmance of the Agreement an any such proceedings or otherwise.

(h) This Guaranty shall be applicable to and binding upon the heirs, representatives, successors and assigns of City, Tenant and the Guarantors.

IN WITNESS WHEREOF, the Guarantors have caused the foregoing Guaranty to be executed on this 29th day of April 2019.

Witness:

Guarantor: Paul H. McGrail

By: [Signature]

by: [Signature]

Name: MANLY WILBARGER

Name: Paul H. McGrail

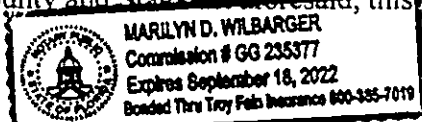
Date: 4/29/19

Date: 4/29/19

State of Florida }
County of Monroe }

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, Paul H. McGrail, to me personally known or who provided as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this 29th day of April, 2019



[Signature]
Notary Public, State of Florida

My Commission Expires:

Witness:

Guarantor: Sean G. Rowley

By: [Signature]

by: [Signature]

Name: MARILYN WILBARGER


Name: Sean G. Rowley

Date: 4/29/19

Date: 4/29/19

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, Susan Rowley, to me personally known or who provided _____ as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same individually and for the purposes therein expressed.

Notary Public, State of Florida

 **MARILYN D. WILBARGER**
Commission # GG 235377
Expires September 18, 2022
Bonded Thru Troy Falls Insurance 800-365-7019

Lease Agreement

Between

**Caroline Street Corridor and Bahama Village
Community Redevelopment Agency**

as Landlord

and

McGrail and Rowley, Inc.

as Tenant

Dated 5-7-19

THIS LEASE is made as of the 7th day of May, 2019 by and between the LANDLORD and TENANT identified below:

1. INFORMATION PROVISIONS: Information provisions in this section are intended to provide a summary of the corresponding sections of this lease and are in no way inclusive of the complete terms and conditions of this lease.

1.1 LANDLORD'S NAME & MAILING ADDRESS:

Caroline Street Corridor and
Bahama Village Community
Redevelopment Agency,
P.O. Box 1409
Key West, FL 33040

1.2 TENANT'S NAME & MAILING ADDRESS:

McGrail and Rowley, Inc.
205 Elizabeth Unit I
Key West, FL 33040

TENANT'S TRADE NAME: Sebago Watersports

1.3 GUARANTOR (S) AND ADDRESS: Paul H. McGrail 328 Simonton Street Key West, FL 33040 and Sean G. Rowley 328 Simonton Street Key West, FL 33040

1.4 DEMISED PREMISES (Section 2): as per **EXHIBIT "A"** booth located on located on Lazy Way Lane in the Historic Seaport (hereinafter referred to as the "Property").

98 NET USABLE SQUARE FEET COMPRISED OF:

TICKET/CHECK-IN BOOTH

PROPORTIONATE SHARE OF THE TOTAL NET USABLE SQUARE FEET:

TENANT'S Proportionate Share is based upon TENANT'S Net Usable Square Feet as it relates to the Total Net Usable Square Feet of the Property

Property Common Area is defined as all facilities furnished by the LANDLORD and designated for the general use in common, with other occupants of the Property, including TENANT, their officers, agents, employees and customers, and the general public, including but not limited to any of the following which may have been furnished by LANDLORD: lavatories, parking areas, driveways, entrances, and exits thereto, pedestrian sidewalks and ramps, landscapes areas, and other similar facilities, and all areas which are located within the Property and which are not leased to tenants.

1.4.1 EXPANSION/RIGHT OF FIRST REFUSAL: None

1.5 TERM (Section 3.): FIVE (5) YEARS NINE MONTHS to be co-terminus with the TENANT'S Lease for Unit I on Lazy Way.

1.5.1 COMMENCEMENT DATE: September 1, 2019 as acknowledged by TENANT'S written

statement

- 1.5.2 **RIGHT TO TERMINATE:** This Agreement is expressly contingent upon the existence of a Lease Agreement between Landlord and Tenant for the operation of Tenant's Sebago Water Sports business in the Historic Seaport. In the event that the Tenant's said Lease Agreement for Tenant's business ceases to be in effect for any reason, including, but not limited to, expiration, termination, or default, this Lease Agreement shall be cancelled, terminated, and of no further force or effect.. or upon default as provided herein
- 1.5.3 **RIGHT TO RENEW:** This Lease may be renewed upon rent and terms to be negotiated by the parties and in accordance with the City of Key West Code of Ordinances.
- 1.6 **MINIMUM RENT FOR TERM (Section 4):** The base rent and base rent increases for the term and any renewals thereof as **per EXHIBIT "B"** attached hereto and incorporated herein. Every year thereafter throughout the term of the lease the minimum base rent shall be adjusted annually on the anniversary date of the lease by the increase in Consumer Price Index for all Urban Consumers as published by the United States Department of Labor. In no event shall the minimum base rent be decreased.
 - 1.6.1 **ADDITIONAL RENT:** Tenant shall pay its Proportionate share of CAM, Real Estate Taxes, Insurance, Sales, Use or Excise Taxes together with Management and Administrative fees estimated as **per EXHIBIT "B"**, and any and all other sums of money or charges required to be paid by TENANT pursuant to the provisions of this lease.
 - 1.6.2 **RENT PAYMENT DUE DATE:** Payable in advance on the first (1st) of each and every month of the term hereof.
 - 1.6.3 **LATE CHARGE:** 15% of the amount in arrears if received after the fifth day of each and every month together with an administrative fee of \$50.00 for processing late payments.
 - 1.6.4 **PERCENTAGE RENT:** None
 - 1.6.5 **HOLD OVER RENT:** As provided by Section 83.53 Florida Statutes, as may be amended, based upon the Minimum Base Rent during the last year of the lease term.
 - 1.6.6 **RENT CONCESSIONS:** None
- 1.7 **SECURITY DEPOSIT (Section 5):** Equal to one month's base rent.
- 1.8 **PERMITTED USE (Section 6):** Sales, ticketing and check in for patrons of TENANT for vessels operated by TENANT in the Historic Seaport and the sale of tickets for businesses conducted within the Historic Seaport by LANDLORD'S other tenants. TENANT expressly agrees that TENANT will not place or store anything outside of the booth.
- 1.9 **INSURANCE:** (Section 9) \$2,000,000.00 aggregate and \$1,000,000.00 per occurrence commercial liability minimum aggregate
- 1.10 **ASSIGNMENT OR SUBLETTING:** (Section 10) Allowed with LANDLORD'S

approval

- 1.11 UTILITIES: (Section 17) The TENANT shall pay for all utilities associated with the use of the Demised Premises.

INITIALS: LANDLORD

TJ

TENANT

[Signature]

WITNESSETH:

That the LANDLORD and the TENANT, for and in consideration of the keeping by the parties of their respective obligations hereinafter contained, as well as for one dollar (\$1.00) and other good and valuable consideration by each of the parties unto the other, in hand paid simultaneously with the execution and delivery of these presents, the receipt of which is hereby acknowledged, have agreed as follows:

2. DEMISED PREMISES - Upon the terms and conditions hereinafter set forth, and in consideration of the payment from time to time by the TENANT of the rents hereinafter set forth, and in consideration of the performance continuously by the TENANT of each and every one of the covenants and agreements hereinafter contained by the TENANT to be kept and performed, the LANDLORD does hereby lease, let, and demise unto the TENANT, and the TENANT does hereby lease of and from the LANDLORD, the following Demised Premises situated, lying, and being in Monroe County, Florida: That portion of the Property outlined and/or crosshatched on Exhibit "A" which depicts the Net Usable Square Feet of the Demised Premises. The Net Usable Square Feet is defined as all interior floor space, any second floor space, storage, covered dining areas and commercially used outdoor areas or any other area set aside for the exclusive use and economic benefit of the Tenant and containing the approximate dimensions and area measured in accordance with the published BOMA/ANSI standard for calculating net usable floor area for stores. It is agreed that the Net Usable Square Feet for the purpose of any calculations which are based on Net Usable Square Feet is as stated in Section 1.4. It is agreed that TENANT'S Proportionate Share is based upon TENANT'S Net Usable Square Feet as it relates to the Total Net Usable Square Feet of the Property. LANDLORD reserves the right to re-measure the Demised Premises from time to time and to adjust the TENANT'S Net Usable Square Feet and the rent or rental rate applied to the square footage as determined by any re-measurement or change in use. TENANT accepts the Demised Premises in an "as is", "where is" condition and acknowledges that LANDLORD has no obligations for any construction or improvements in connection with TENANT'S occupancy of the Demised Premises.

LANDLORD reserves the right from time to time with good cause, upon at least sixty (60) days advance written notice to relocate TENANT to other Demised Premises within the Property, prior to or during the term of this Lease, so long as usable area so substituted equals or exceeds the usable area of the Demised Premises; provided however that TENANT shall have the right at its sole option and as its sole remedy, to terminate the Lease upon sixty (60) days advance written notice which right must be exercised, if at all, within fifteen (15) days after receipt of LANDLORD'S relocation notice, which relocation notice may be withdrawn by LANDLORD within ten (10) days after LANDLORD'S receipt of TENANT'S termination notice, in which event TENANT'S attempted termination shall be null and void and the lease shall continue in full force and effect in accordance with its terms. In the event LANDLORD shall relocate TENANT to other space within the Property, LANDLORD shall pay the reasonable relocation costs of TENANT in connection therewith, but LANDLORD shall not have any other liability with respect to any such relocation.

Property Common Area is defined as all facilities furnished by the LANDLORD and designated for the general use in common, with other occupants of the Property, including TENANT, their officers, agents, employees and customers, and the general public, including but not limited to any of the following which may have been furnished by LANDLORD: lavatories, parking areas, driveways, entrances, and exits thereto, pedestrian sidewalks and ramps, landscapes areas, and other similar facilities, and all areas which are located within the Property and which are not leased to tenants.

Expansion/Right of First Refusal – None

3. TERM - The term of this Lease shall be for five (5) years nine months which shall commence on September 1, 2019 and shall end at midnight on May 31, 2025 to be co-terminus with TENANT'S lease for Unit I on Lazy Way, unless sooner terminated as provided for herein. Upon occupancy TENANT shall furnish LANDLORD a written statement stating the TENANT has accepted the Demised Premises for occupancy and setting forth the actual commencement and expiration dates of the Lease. TENANT'S written statement shall become attached to and incorporated into this lease as Exhibit "D". In the absence of TENANT'S written statement the lease term shall remain as stated above. A Lease Year is the twelve-month period beginning on the commencement date of each year and ending at the conclusion of the same date one year later. If possession of the Demised Premises shall for any reason not be delivered to Tenant on the Commencement Date, this Lease shall nevertheless continue in full force and effect, and no liability whatsoever shall arise against LANDLORD out of any delay other than the abatement of rent.

3.1 This Agreement is expressly contingent upon the existence of a Lease Agreement between Landlord and Tenant for the operation of Tenant's Sebago Water Sports business in the Historic Seaport. In the event that the Tenant's said Lease Agreement for Tenant's business ceases to be in effect for any reason, including, but not limited to, expiration, termination, or default, this Lease Agreement shall be cancelled, terminated, and of no further force or effect. or upon default as provided herein

3.2 Right to Renew – This Lease may be renewed upon rent and terms to be negotiated by the parties in accordance with the City of Key West Code of Ordinances. The rent and terms of the renewal term must be acceptable to both the LANDLORD and the TENANT in their absolute discretion and must be set forth in written addendum to this Lease.

4. RENT - The base rent and base rent increases for the term and any renewals thereof as per **EXHIBIT "B"** attached hereto and incorporated herein. Every year thereafter throughout the term of the lease the minimum base rent shall be adjusted annually on the anniversary date of the lease by the increase in Consumer Price Index for all Urban Consumers as published by the United States Department of Labor. In no event shall the minimum base rent be decreased. All rentals provided for herein shall be payable in advance, without prior demand therefore and without deductions or setoffs for any reason whatsoever on the first day of each and every month of the term hereof.

4.1 Late Charges. Any monthly rental not received by the fifth day of the month shall incur a late fee equal to fifteen percent 15% of the amount in arrears. In addition, all payments received after the due date shall incur a **\$50.00** administrative fee to cover the costs of collecting and processing late payments. LANDLORD shall have no obligation to accept less than the full amount of all installments of rental, additional rental or other amounts

due hereunder and interest thereon which are due and owing by TENANT to LANDLORD. If LANDLORD accepts less than the full amount owing, LANDLORD may apply the sums received toward such TENANT'S obligations, as LANDLORD shall determine in its sole discretion, without waiving LANDLORD'S remedies for default.

- 4.2 Interest on Rent. Rent and additional rent not paid within fifteen (15) days of when due shall bear interest from the date due until paid at the highest rate permitted by law.
- 4.3 Obligation to Survive. TENANT'S obligation to pay rent that is accrued and unpaid hereunder shall survive the expiration or termination of the Lease.
- 4.4 The rent reserved under this Lease for the term hereof shall be and consist of:

(a) Beginning with the commencement date and throughout the term of this Lease, TENANT agrees to pay to the LANDLORD as and for minimum rent for the Demised Premises the annual amount, in equal monthly installments, in advance, on the first day of each and every calendar month, as per **EXHIBIT "B"**. In the event the rent commencement date is other than the first day of a calendar month, the rent for the partial first calendar month of the term will be prorated on a daily basis and payable on the commencement date.

(b) Simultaneously with each such payment, TENANT agrees to pay to LANDLORD any sales, use or excise tax imposed or levied against rent or any other charge or payment required hereunder to be made by TENANT which tax has been imposed or levied by any governmental agency having jurisdiction thereof, this shall include any new taxes imposed during the term of this Lease which are in addition to or in substitution for any such tax which is presently imposed.

(c) Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT'S Proportionate Share, as stated in Section 1.4, of Common Area Maintenance Charges in Monthly Installments as specified herein.

The Common Area Maintenance Charges are based on the Estimated Common Area Maintenance Charges attached hereto as **EXHIBIT "B"**. These charges are only estimates. The TENANT shall be responsible for all Common Area Maintenance Charges actually incurred on a pro rata assessment basis. Any increase in the common area charges shall result in an increase in the TENANT'S Common Area Maintenance Charges. Common Area Maintenance Charges for controllable expenses assessed after the base year shall not increase in any given year by more than 5% of the previous year's common area assessment for controllable expenses. The base year for the purpose of limiting increases in Common Area Maintenance Charges shall be the first year of the term of this lease. This limitation shall apply only to those services included in the base year's common area charges. Any services charged for that are not included in the base year's charges shall not be limited by this 5% cap nor shall they be included for determining this 5% cap.

Common Area Maintenance Charges shall include any and all expenses reasonably incurred in the operation and maintenance of the Property Common Area including but not limited to management and administrative fees, salaries and compensation paid in connection with operations, maintenance and administration, amortization (including interest) of equipment and facilities acquired and used for maintenance, to reduce energy usage, to otherwise reduce operating costs or common area seasonal decorating or

redecorating. Major capital improvements will not be included in Common Area Maintenance Charges unless those improvements reduce expenses and if so the improvements will be amortized over the useful life of the equipment as determined by the manufacturers' specifications or IRS depreciation regulations.

Monthly installments shall be due and payable on the 1st day of each calendar month during the Term. The installments set forth herein represent TENANT'S Proportionate Share of the estimated Common Area Maintenance Charges at the Commencement Date. Thereafter, LANDLORD shall, prior to the beginning of each calendar year, estimate the expected Common Area Maintenance Charges for the coming calendar year and TENANT'S Proportionate Share thereof, 1/12th of which shall constitute the Monthly Installments for such year; provided such installments shall never be lower than the installments specified herein. Within 90 days after the end of each year, LANDLORD shall calculate the actual Common Area Maintenance Charges paid or payable during the prior calendar year, and there shall be an adjustment between LANDLORD and TENANT so that LANDLORD shall receive the actual amount of TENANT'S annual Proportionate Share for said year. If TENANT'S Proportionate Share is less than the amount paid by TENANT during the prior year, LANDLORD shall, at its option, pay TENANT the difference between the amount received and the amount actually due, or credit such difference against TENANT'S next succeeding installments. If TENANT'S Proportionate Share is greater than the amount paid by TENANT during the prior year, TENANT shall pay LANDLORD the difference between the amount paid by TENANT and the amount actually due upon LANDLORD billing TENANT for same. LANDLORD agrees to keep, at its principal office, records relating to said Common Area Maintenance Charges. TENANT shall have the right to audit said records for the sole purpose of ascertaining the correctness of said Charges. Such audit shall be made during normal business hours; not unreasonably interfere with LANDLORD'S office operations; shall be performed by TENANT, TENANT'S chief financial officer, or a CPA selected by TENANT; shall not be made more often than once during each calendar year; and shall be limited to the preceding calendar year. If TENANT desires to audit said records as aforesaid, TENANT shall notify LANDLORD 30 days in advance thereof, commence said audit within 60 days of said notice, and once commenced, diligently complete the same. If any such audit shows the amount of such charges to TENANT was overstated, LANDLORD shall refund any such overcharge.

Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT'S Proportionate Share as stated in Section 1.4 of the Real Estate Tax Expense which shall include all real estate taxes and assessments both general and special imposed by federal, state or local governmental authority or any other taxing authority having jurisdiction over the Property against the land, buildings, store rooms, Common Areas and all other improvements within the Upland Property (excluding any public area which will not be taxed and excluding the Marina), together with any and all expenses incurred by LANDLORD in negotiations, appealing or contesting such taxes and assessments. Real Estate Tax Expense shall not include any additional charges or penalties incurred by LANDLORD due to late payment of Real Estate Taxes. In the event that any of the public area excluded later becomes taxable or is determined to be taxable then it shall be included for purposes of determining TENANT'S proportionate share.

TENANT'S Proportionate Share of Real Estate Taxes shall be paid as part of the Common Area Charges provided for herein. The 5% cap limitation provided for in Section 3(c)

shall not be applicable to this particular common area charge.

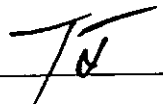
Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT'S Proportionate Share as stated in Section 1.4, of the Insurance Expenses which shall include all insurance premiums incurred by the LANDLORD in insuring the Property including hazard and liability insurance for any and/or all buildings, improvements and common areas.

TENANT'S Proportionate Share of Insurance expenses shall be paid as part of the Common Area Charges provided for herein. The 5% cap limitation provided for in Section 3(c) shall not be applicable to this particular common area charge.

Should any governmental taxing authority acting under any present or future law, ordinance or regulation, levy, assess or impose a tax, excise and/or assessment (other than an income or franchise tax) upon or against the rentals payable by TENANT to LANDLORD, whether by way of substitution for, or in addition to, any existing tax on land and buildings or otherwise, or any other substitute tax, the proceeds of which are to be used to fund the same governmental functions as were funded by ad valorem taxes, TENANT shall be responsible for and reimburse LANDLORD for the amount thereof, as the case may be, as additional rent, 7 days before the date that any penalty or interest would be added thereto for non-payment or, at the option of LANDLORD, the same shall be payable in the manner provided for in the preceding paragraph. Substitute taxes as referred to above in this Section shall include, without limitation, any surtax on parking spaces.

Initial here if applicable

LANDLORD



TENANT



(d) Percentage Rent is intentionally deleted

(e) Additional Rent. Any and all other sums of money or charges required to be paid by Tenant pursuant to the provisions of this Lease, whether or not the same be so designated, shall be considered as "Additional Rent", and shall be payable and recoverable in the same manner as Rent. However, such Additional Rent shall be due upon demand and failure to pay such additional rent within seven (7) days shall be deemed a material breach of this lease. If Landlord shall make any expenditure for which Tenant is liable under this Lease and for which Tenant has not paid, the amount thereof shall be deemed Additional Rent due and payable by as indicated above. In addition to the foregoing rent, all other payments to be made by TENANT shall be deemed to be and shall become additional rent hereunder whether or not the same be designated as such and it shall be due and payable upon demand together with interest thereon at the highest rate permissible by law from their due date until the date it is paid. The LANDLORD shall have the same remedies for TENANT'S failure to pay said additional rental the same as for non-payment of rent. LANDLORD, at its election, shall have the right to pay or do any act which requires the expenditure of any sums of money by reason of the failure or neglect of TENANT to perform any of the provisions of this Lease, and in the event LANDLORD shall, at its election, pay such sums or do such acts requiring the expenditure of monies, TENANT agrees to pay LANDLORD, upon demand, all such sums, and the sums so paid by LANDLORD and any expenses incurred by LANDLORD in the payment of such sums together with interest thereon at the highest rate permitted by law from their due date through the date they are paid by

TENANT shall be deemed additional rent and shall be payable and collectible as such. Rent shall be made payable to the LANDLORD as stated in Section 1.1 hereof.

(f) Holding Over. It is agreed that in the event of TENANT holding over after the termination of this lease, thereafter the tenancy shall be from month to month in the absence of a written agreement to the contrary; the TENANT shall pay to LANDLORD a monthly occupancy charge as provided by Section 83.53 Florida Statutes, as may be amended, based upon the Minimum Base Rent during the last year of the lease term for each month from the termination or expiration of this Lease until the Demised Premises are delivered to the LANDLORD in the condition required herein, and LANDLORD'S right to damages for such illegal occupancy shall survive. In addition, TENANT shall pay all other charges payable by TENANT under this Lease

(g) Rent Concessions. None

5. **SECURITY** - TENANT simultaneously with the execution and delivery of this Lease, will deposit with the LANDLORD the sum equal to one month's current minimum rent as per **EXHIBIT "B"** and as stated in Section 1.7 hereof, the receipt of which is hereby acknowledged, which sum shall be retained by LANDLORD as security for the payment by TENANT of the rents herein agreed to be paid by TENANT and for the faithful performance by TENANT of the terms, conditions and covenants of this Lease. It is agreed that LANDLORD, at LANDLORD'S option, may at any time apply said sum or any part thereof toward the payment of the rents and any other sum payable by TENANT under this Lease, and/or toward the performance of each and every covenant under this Lease. but such covenants and TENANT'S liability under this Lease shall thereby be discharged only pro tanto; that TENANT shall remain liable for any amounts that such sum shall be insufficient to pay; that LANDLORD may exhaust any or all rights and remedies against TENANT before resorting to said sum, but nothing herein contained shall require or be deemed to require LANDLORD to do so; that, in the event this deposit shall not be utilized for any of such purposes, then such deposit shall be returned by LANDLORD to TENANT within sixty (60) days after the expiration of the term of this Lease. TENANT shall deposit with LANDLORD such additional sums which may be necessary to replace any amounts expended there from by LANDLORD pursuant hereof, so that there shall always be a security deposit in the sum first set forth above. The Security deposit provided for herein shall be held by the LANDLORD in a non-interest bearing account and may be co-mingled by the LANDLORD at the LANDLORD'S sole discretion.

6. **USE OF THE DEMISED PREMISES** -TENANT shall use the Demised Premises for the purposes of:

Sales, ticketing and check in for patrons of TENANT for vessels operated by TENANT in the Historic Seaport and the sale of tickets for businesses conducted within the Historic Seaport. TENANT expressly agrees that TENANT will not place or store anything outside of the booth.

TENANT further agrees:

(a) To operate 100% of the Demised Premises for the entire term of this lease during all reasonable hours established by LANDLORD, pursuant to the highest reasonable standards of its Business category, maintaining a substantial stock of appropriate merchandise on display, with sufficient personnel to service its trade.

- (b) With respect to the Property, not to display any merchandise, solicit business or distribute advertising material beyond the Demised Premises, nor in any manner use any part of the Common Areas for purposes other than for their intended common use and not to obstruct any part thereof.
- (c) Not to display any banners, pennants, searchlights, window signs, balloons, or similar temporary advertising media on the exterior of the Demised Premises.
- (d) Not to commit waste in the Demised Premises or Common Areas and to keep the Demised Premises and immediate adjacent areas including, without limitation, adjacent sidewalks, in a safe, neat, clean and orderly condition and to maintain and repair any lighting or signs under any canopy immediately in front of the Demised Premises.
- (e) Not to use the Demised Premises or permit the same to be used in any manner which violates any law, ordinance or constitutes a nuisance; for lodging purposes; that may injure the reputation of the Property or annoy, inconvenience or damage its patrons or other TENANT'S; or that would constitute an extra-hazardous use or violate any insurance policy of TENANT, LANDLORD or any other TENANT in the Property or increase the cost thereof.
- (e) To keep all garbage, refuse and solid waste inside the Demised Premises in the kind of containers specified by LANDLORD, or to place the same outside the Demised Premises, prepared for collection, in the manner and at the times and places designated by LANDLORD or the appropriate disposal company. TENANT agrees not to burn or permit any burning of garbage or refuse on the Demised Premises or any part of the Property. TENANT further agrees that, upon LANDLORD'S instruction, TENANT shall separate garbage for recycling and deposit the separate garbage in the receptacle designated by LANDLORD. TENANT further agrees to make every effort to recycle all glass, metal, paper and plastic refuse and solid waste. Sort glass by colors and metal and paper by type and deposit in the appropriate recycling containers provided by the LANDLORD.
- (g) TENANT shall contract directly with the pertinent governmental authority or disposal company and shall be responsible for all fees and costs of removal and disposal of solid waste, garbage, and refuse, including but not limited to, impact fees and dumpster rental. TENANT shall indemnify, save harmless and defend LANDLORD from and against any loss, claim, injury, damage or expense arising out of or related to the generation, storage, or removal or disposal of TENANT'S garbage, refuse or solid waste.
- (h) To use its best efforts to cause all trucks serving the Demised Premises to load and unload from the hours of 7:00 a.m. to 11:00 a.m. and not to permit such trucks to service through the front entrance of the Demised Premises except when no other entrance is available.
- (i) To take no action that would: (i) violate LANDLORD'S contracts if any, affecting the Property (including without limitation the use restrictions contained in LANDLORD'S leases with its Anchor Tenants, which restrictions have been explained to TENANT); or (ii) cause any work stoppage, picketing or cause any manner or interference with LANDLORD or other Tenants, occupants, customers or any person lawfully in and upon

the Property.

(j) Not to use amplified music or any other noise making machinery or devices that in LANDLORD'S determination is harmful to the building or disturbing to other Tenants.

(k) To abide by and observe all reasonable rules and regulations established from time to time by LANDLORD and LANDLORD'S insurance carrier with respect to the operation of the Property and it's Common Areas. Rules and regulation are attached and incorporated herein as **EXHIBIT "C"**.

(l) Not to conduct any auction, fire, bankruptcy or selling-out sale on or about the Demised Premises except in strict compliance with City Code Chapter 18.

(m) To pay its proportionate share of any and all maintenance contracts wherein LANDLORD elects to purchases goods and services for the benefit of the entire Property including but not limited to LANDLORD directing all pest extermination at such intervals and service levels that LANDLORD deems appropriate.

(n) TENANT shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials which TENANT or it agents brought onto the Property. TENANT shall not allow storage or use of such materials or substances in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into the Demised Premised or the Property any such materials or substances except to use in the ordinary course of TENANT'S business, and then only after written notice is given to LANDLORD of the identity of such substances or materials. Without limitation, hazardous substances and materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq., any applicable state or local law and the regulations adopted under these acts. In addition, TENANT shall execute affidavits, representations and the like from time to time at LANDLORD'S request concerning TENANT'S best knowledge and belief regarding the presence of hazardous substances or materials in the Demised Premises. In all events, TENANT shall indemnify LANDLORD in the manner elsewhere provided for in this Lease against any liability resulting from any release of hazardous substances or materials in the Demised Premises or Property by TENANT or it agents, while TENANT is in possession or caused by TENANT or persons acting under TENANT which is due to hazardous substances that TENANT or its agents brought onto the Demised Premises or Property.

6.1 **Use of the Common Areas** -TENANT has the non-exclusive right to use the common areas solely for the purposes for which they were designed. The common areas may also be used by anyone else LANDLORD has or hereinafter in its sole discretion grants the right to use them.

7. **COVENANT OF QUIET POSSESSION** - So long as TENANT pays all of the rent and charges due herein, TENANT shall peaceably and quietly have, hold, and enjoy the Demised Premises throughout the term of this Lease without interference or hindrance by LANDLORD or any person claiming by, through, or under LANDLORD.

8. INDEMNIFICATION - To the fullest extent permitted by law, the TENANT expressly agrees to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnitees") from any and all liability for damages, including, if allowed by law, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, caused in whole or in part by any act, omission, or default by TENANT or its subcontractors, material men, or agents of any tier or their employees, arising out of this agreement or its performance, including any such damages caused in whole or in part by any act, omission or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the TENANT or its subcontractors, material men or agents of any tier or their respective employees.

The indemnification obligations under this Agreement shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the TENANT under Workers' Compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the TENANT or of any third party to whom TENANT may subcontract a work. This indemnification shall continue beyond the date of termination of the Agreement.

9. TENANT'S INSURANCE - At TENANT'S sole cost and expense, TENANT is to secure, pay for, and file with the LANDLORD, during the entire Term hereof, an occurrence form commercial general liability policy, covering the Demised Premises and the operations of TENANT and any person conducting business in, on or about the Demised Premises in a at least the following minimum amounts with specification amounts to prevail if greater than minimum amount indicated. Notwithstanding any other provision of this Lease, TENANT shall provide the minimum limits of liability coverage as follows:

Commercial General Liability	\$2,000,000	Aggregate
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$300,000	Fire Damage/Legal

TENANT shall also procure the following insurance coverage:

- (i) "All risk" property insurance, with minimum limits equal to the full replacement value of the structure being leased including property damage, hazard and theft coverage, and a replacement cost endorsement insuring TENANT'S improvements and betterments, fixtures, furnishings, equipment and any other property belonging to TENANT.
- (ii) Workers compensation and Employers Liability coverage as required by the provisions of Florida statute.
- (iii) Full liquor liability coverage with minimum limits of \$1,000,000.00

Any consignment agreement used by TENANT must provide that consignor acknowledge that the LANDLORD does not have any liability whatsoever for any damage which may be done to items left in the Demised Premises on consignment. The TENANT must provide the LANDLORD with a copy of any consignment agreement used by TENANT regarding Demised Premises. LANDLORD shall not be responsible for damage to any property belonging to TENANT or consignor. TENANT completely indemnifies the LANDLORD with regard to any claims made by any consignor for any reason. From time to time during this Lease, at LANDLORD'S request, TENANT shall (i) procure, pay for and keep in full force and effect such other insurance as LANDLORD shall require and (ii) increase the limits of such insurance as LANDLORD may reasonably require.

Any general liability or other policy insuring the LANDLORD does not provide any contributing or excess coverage for TENANT. The policies TENANT procures for TENANT'S exposure are the only coverage available to TENANT.

TENANT shall furnish an original Certificate of Insurance indicating, and such policy providing coverage, to LANDLORD named as "Additional Insured" on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, INCLUDING A "Waiver of Subrogation" clause in favor of LANDLORD on all policies. TENANT will maintain the General Liability coverage summarized above with coverage continuing in full force including the "additional insured" endorsement until at least 3 years beyond the termination of this Lease.

TENANT's insurance policies shall be endorsed to give 30 days written notice to LANDLORD in the event of cancellation or material change, using form CG 02 24, or its equivalent.

All policies of insurance required to be carried by TENANT pursuant to this Lease shall be written by responsible insurance companies authorized to do business in Florida with an AM Best rating of A-VI or better. Any such insurance required to be carried by TENANT hereunder may be furnished by TENANT under any blanket policy carried by it or under a separate policy therefore. Certificates shall be delivered to LANDLORD prior to the commencement of the Term of this Lease and, upon renewals, but not less than sixty (60) days prior to the expiration of such coverage. In the event TENANT shall fail to procure such insurance, LANDLORD may, at its option, procure the same for the account of TENANT, and the cost thereof shall be paid to LANDLORD as an additional charge upon receipt by TENANT of bills therefore, together with an administrative fee equal to fifteen (15%) percent to cover the cost of the LANDLORD'S efforts to procure such policy.

Certificates of Insurance submitted to LANDLORD will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. **PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.**

10. ASSIGNMENT AND HYPOTHECATION - This Lease is not transferable or assignable and may not be hypothecated nor sublet without the prior written consent of the LANDLORD which may be withheld and shall be at the sole discretion of the LANDLORD.

Any assignment or sub-letting, even with LANDLORD'S consent shall not relieve TENANT from liability for payment of Rent or from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not be deemed to be a waiver of any of

the agreements of this Lease or to be consent to the assignment for the benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior consent of LANDLORD. In the event TENANT wishes to assign this Lease and LANDLORD consents to such assignment, LANDLORD may charge a reasonable fee, not to exceed \$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. Any assignment, transfer, hypothecation, mortgage, or subletting without LANDLORD'S written consent shall give LANDLORD the right to terminate this Lease and to re-enter and repossess the Demised Premises and the LANDLORD'S right to damages shall survive.

If the TENANT is a corporation, then a sale or transfer of a controlling interest in the corporation by sale of stock or otherwise shall constitute an assignment for purposes of this provision.

11. SUBORDINATION - This Lease, and all rights of TENANT hereunder, are and shall be subject and subordinate to all mortgages, bond indentures and any other financing instrument (hereinafter referred to as security agreements) which may now or hereafter affect the Demised Premises and to each and every advance made or hereafter to be made under such security agreements and to all renewals, modifications, replacements and extensions of such security agreements and spreaders and consolidations of such security agreements. This paragraph shall be self operative and no further instrument of subordination shall be required to make it effective, however, TENANT shall promptly execute and deliver any instrument reasonably requested to evidence such subordination.

If the holder of any such security instrument shall succeed to the rights of LANDLORD under this Lease, then at the request of such party so succeeding to the LANDLORD'S rights and upon such successor LANDLORD'S written agreement to accept TENANT'S attornment, TENANT shall attorn to such successor LANDLORD and will execute such instruments as may be necessary or appropriate to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as if it were a direct Lease between the successor LANDLORD and TENANT upon all the terms, conditions, and covenants as are set forth in this Lease and shall be applicable after such attornment.

TENANT shall deliver to LANDLORD or the holder of any such security instrument or auditors, or prospective purchaser or the owner of the fee, when requested by LANDLORD, a certificate to the effect that this Lease is in full force and that LANDLORD is not in default therein, or stating specifically any exceptions thereto. Failure to give such a certificate within ten business days after written request shall be conclusive evidence that the Lease is in full force and effect and LANDLORD is not in default and in such event, TENANT shall be stopped from asserting any defaults known to TENANT at that time.

12. CONDEMNATION

(a) It is further understood and agreed that if at any time during the continuance of this Lease the legal title to the Demised real estate or the improvements or buildings located thereon or any portion thereof be taken or appropriated or condemned by reason of eminent domain, there shall be such division of the proceeds and awards in such condemnation proceedings and such abatement of the fixed rent and other adjustments made as shall be just and equitable under the circumstances. If the LANDLORD and the TENANT are unable to agree upon what division of the condemnation award, abatement of fixed rent, or other adjustments are just and equitable within thirty (30) days after such award has been

made, then the matters in dispute shall, by appropriate proceedings, be submitted to a court having jurisdiction of the subject matter of such controversy for its decision and determination of the matters in dispute. If the legal title to the entire Demised Premises be wholly taken by condemnation, or if the portion taken will prevent the Demised Premises from being used for the purpose the TENANT intends, this Lease shall be canceled.

(b) In general, it is the intent and agreement of the parties that upon condemnation, the parties hereto shall share in the condemnation award to the extent that they would be entitled to receive compensation and damages under the Florida law for the depreciation, damage, or destruction of their interests by the exercise of the right of eminent domain. In no event shall TENANT be permitted to receive a share based on the value of the land or buildings, and/or improvements.

13. TENANT'S DEFAULT

(a) If the TENANT shall fail to pay any of the taxes or assessments herein provided for; or in case of the sale of or forfeiture of the Demised Premises or any part thereof during the demised term for non-payment of any tax or assessment; or in case the TENANT shall fail to keep insured the building or improvements which are now or which may at any time hereafter be upon the Demised Premises, as herein provided for; or shall fail to spend insurance money, as herein provided for; or if the TENANT shall fail to perform any of the covenants of this Lease by it to be kept and performed; then, in any of such events, except in the event of non payment of rent, upon ten (10) business days written notice, within which the TENANT may cure, and upon its failure to cure, it shall and may be lawful for the LANDLORD, at its election, to declare the demised term ended and to re-enter upon said Demised Premises, building, and improvements situated thereon, or any part hereof, either with or without process of law, the TENANT hereby waiving any demand for possession of the Demised Premises and any and all buildings and improvements then situated thereon. In the event of nonpayment of rent, LANDLORD may assert its right of notice and eviction pursuant to Chapter 83, Florida Statutes.

(b) Or, the LANDLORD may have such other remedies as the law and this instrument afford, and the TENANT covenants and agrees that upon the termination of said demised term, at such election of the said LANDLORD, or in any other way, TENANT will surrender and deliver up the Demised Premises and property (real and personal) peaceably to the LANDLORD, its agent, or attorneys, immediately upon the termination of the said demised term. If the TENANT, its agents, attorneys, or shall hold the Demised Premises or any part thereof, one (1) day after the same should be surrendered according to the terms of this Lease, it shall be deemed guilty of forcible detainer of the Demised Premises under the statute and shall be subject to eviction or removal, forcibly or otherwise, with or without process of law.

(c) BANKRUPTCY OF TENANT. IN THE EVENT TENANT FILES ANY FORM OF BANKRUPTCY, LANDLORD SHALL BE ENTITLED TO IMMEDIATE TERMINATION OF THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. §362, GRANTING THE LANDLORD COMPLETE RELIEF AND ALLOWING THE LANDLORD TO EXERCISE ALL OF HIS LEGAL AND EQUITABLE RIGHTS AND REMEDIES, INCLUDING, WITHOUT LIMITATION, THE RIGHT TO TERMINATE THIS LEASE AND DISPOSSESS TENANT FROM THE DEMISED PREMISES IN ACCORDANCE WITH FLORIDA LAW. ADDITIONALLY, TENANT AGREES NOT

TO DIRECTLY OR INDIRECTLY OPPOSE OR OTHERWISE DEFEND AGAINST THE LANDLORD'S EFFORT TO GAIN RELIEF FROM ANY AUTOMATIC STAY. THE LANDLORD 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 LANDLORD 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. TENANT 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).

(d) Where the alleged default consists of some alleged violation of any term of this Lease, other than the payments of money, including rent, the LANDLORD may not declare this Lease in default until such violation shall have continued for ten (10) days after the LANDLORD shall have given the TENANT written notice of such violation, and TENANT shall not have undertaken, during said ten (10) day notice period, to cure said violation by vigorous and affirmative action, provided, however, that nothing herein contained shall be construed as precluding the LANDLORD from having such remedy as may be and become necessary in order to preserve the LANDLORD'S right and interest of the LANDLORD in the Demised Premises and in this Lease, even before the expiration of the grace or notice periods provided for in this paragraph, if, under particular circumstances then existing, the allowance of such grace or the giving of such notice would prejudice or endanger the rights and estate of the LANDLORD in this Lease and in the Demised Premises. With respect to the payment of the insurance premiums, the same must be paid at least fifteen (15) days prior to the time when the policies would lapse for the failure to pay premiums thereon, and evidence of such payment given to the LANDLORD without any written notice being required to be served upon the TENANT in connection therewith.

(e) All default and grace periods shall be deemed to run concurrently and not consecutively.

(f) It is mutually covenanted and agreed that the various rights, powers, options, elections, privileges, and remedies of the LANDLORD contained in this Lease shall be construed as cumulative and no one of them shall be construed as being exclusive of the other or exclusive of any rights or priorities allowed by law.

(g) It is further covenanted and agreed by and between the parties hereto that the right given to the LANDLORD in this Lease to collect the rent that may be due under the terms of this Lease by any proceeding under same, or the right to collect any additional rent, money, or payments due under the terms of this Lease by any proceedings under same, or the right given the LANDLORD to enforce any of the terms and provisions of this Lease shall not in any way affect the right of such LANDLORD to declare this Lease void and the terms ended hereby, as herein provided, when default is made in the payment of said rent or when default is made by the TENANT in any of the terms and provisions of this Lease.

(h) In the event of litigation in connection with this Lease, the prevailing party shall be entitled to recover from the losing party as part of an order, judgment, or award that may be rendered, all of the prevailing party's costs and expenses of such litigation, including

without limitation reasonable attorney's fees and costs, through and including all trial and appellate levels and post-judgment proceedings.

14. TENANT'S REPAIRS - The TENANT covenants and agrees with the LANDLORD that during the continuance of this Lease, the TENANT shall be solely responsible for maintaining the Demised Premises in a clean, sanitary and safe condition in accordance with the laws of the State of Florida and in accordance with all directions, rules and regulations of all inspectors, governmental departments and agencies having jurisdiction over the Demised Premises to ensure a good state of repair of the Demised Premises and all furnishings, including any special equipment brought, placed, or installed upon the Demised Premises by TENANT; nor will the TENANT suffer or permit any strip, waste, or neglect of any building or such personal property to be committed; and the TENANT will repair, replace, and renovate the said real and personal property as often as it may be necessary in order to keep the building or buildings and the personal property which is subject to the LANDLORD'S lien, in good repair and condition. In the event that improvements or repairs are contemplated prior to or at the beginning of or during TENANT'S occupancy, then this provision shall apply to the condition of the property as of the last repair, improvement or renovation.

In the event that LANDLORD shall deem it necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the Demised Premises or of the property (unless the same result from TENANT'S act, neglect, default or mode of operation, in which event LANDLORD shall make all such repairs, alterations or improvements at TENANT'S sole cost and expense), then the same shall be made by LANDLORD with reasonable dispatch, and should the making of such repairs, alterations and improvements cause any interference with TENANT'S use of the Demised Premises, such interference shall not relieve TENANT from the performance of its obligations hereunder nor shall such interference be deemed an actual or constructive eviction or partial eviction or result in abatement of rental.

15. ALTERATIONS

TENANT shall not make any alterations, additions or improvements to the Demised Premises (whether or not the same may be structural in nature) without LANDLORD'S prior written consent. All alterations, additions, or improvements made to the Demised Premises, except movable furniture and equipment installed at TENANT'S expense, shall be the property of the LANDLORD and remain upon and be surrendered with the Demised Premises at the expiration of the term of this Lease; provided, however, that LANDLORD may require TENANT to remove any additions made at TENANT'S request to the Demised Premises and to repair any damage caused by such removal, and provide further, that if TENANT has not removed its property and equipment within ten (10) days after the expiration or termination of this Lease, LANDLORD may elect to retain the same as abandoned property.

In the event TENANT shall request LANDLORD'S permission, and LANDLORD shall permit TENANT to perform any alterations, additions, improvements or repairs to the Demised Premises, TENANT shall (i) submit its plans and specifications to LANDLORD for its approval prior to the commencement of any construction, (ii) obtain all necessary permits prior to the commencement of any construction, (iii) only use contractors approved by LANDLORD, (iv) not permit any construction liens to be placed or remain on the Demised Premises. In the event a construction lien shall be filed against the Demised Premises as a result of work undertaken by TENANT, TENANT shall within ten (10) days of receiving notice of such lien, discharge the lien of record either by payment of the indebtedness to the lien claimant or by filing a bond as security therefore. All such

work made by or on behalf of TENANT shall be performed in such manner as LANDLORD may designate and in accordance with all applicable laws and regulations of governmental authorities having jurisdiction over the same. All such work by TENANT or its contractors shall not interfere with, impede or delay any work by LANDLORD or its contractors, tenants or TENANT'S contractors. All contractors engaged by TENANT shall be bondable, licensed contractors, possessing good labor relations, and capable of performing quality workmanship.

16. EQUIPMENT, FIXTURES AND SIGNS

(a) All furnishings, fixtures, trade fixtures, equipment, and signs used on the Demised Premises by TENANT but provided by LANDLORD, will, at all times, be, and remain, the property of LANDLORD. Provided that this Lease is in good standing and subject to the LANDLORD'S lien for rent, TENANT will have the right to remove any furniture or fixtures provided by TENANT, or any part thereof, from the Demised Premises during the term of this Lease, at the expiration thereof, or within a reasonable time thereafter, provided, however, that TENANT, in so doing, does not cause any irreparable damage to the Demised Premises, and provided further, that TENANT will pay or reimburse LANDLORD for the reasonable expense of repairing damage caused by such removal.

(b) All TENANT signs shall be approved by the LANDLORD and must meet all applicable codes. The exact location, style, text, and color(s) of the sign shall be agreed upon by the LANDLORD, in writing, prior to TENANT'S installation. LANDLORD'S approval shall not be unreasonably withheld or delayed.

17. ADDITIONAL COVENANTS OF THE TENANT

(a) The TENANT shall pay for all utilities associated with the use of the Demised Premises including, but not limited to, water, electricity, sewer, gas and waste, (if applicable). In the event that a separate bill for the Demised Premises is not available for one or more of the utility services required by the Demised Premises, then the TENANT shall pay a pro-rated share of that particular utility bill based on a calculation of the ratio of the square footage of the Demised Premises and the total square footage of the Premises covered by that particular utility bill. In the event that the TENANT shall be billed for a pro-rated share, the LANDLORD shall provide TENANT a utility bill each month and TENANT shall pay the amount due to LANDLORD within ten (10) days of its receipt.

(b) The TENANT covenants and agrees with the LANDLORD that no damage or destruction to any building or improvement by fire, windstorm, or any other casualty shall be deemed to entitle the TENANT to surrender possession of the Demised Premises or to terminate this Lease or to violate any of its provisions or to cause any abatement or rebate in the rent then due or thereafter becoming due under the terms hereof, unless otherwise specifically provided for herein. If the Lease be canceled for the TENANT'S default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation of the Lease, be deemed immediately to become absolute and unconditional property of the LANDLORD. In the event of destruction to the Demised Premises by casualty or hazard, LANDLORD will have the option of canceling the Lease, or repairing the building, and in the event that the LANDLORD elects to repair the building, an appropriate abatement of rent will occur.

- (c) The TENANT shall be responsible for the all utility systems as well as data, cable and telecommunications.
- (d) The TENANT shall be responsible for maintaining the entire booth structure.
- (e) The TENANT covenants and agrees with the LANDLORD that nothing in this Lease contained shall ever be construed as empowering the TENANT to encumber or cause the LANDLORD to encumber the title or interest of the LANDLORD.
- (f) The TENANT covenants and agrees with the LANDLORD that, at the termination of this Lease, the TENANT will peaceably and quietly deliver unto the LANDLORD, possession of the Demised Premises and all buildings and improvements or Art in Public Places installations located thereon, as well as the TENANT'S interest in fixtures and equipment appertaining thereto.
- (g) The TENANT agrees not to make any internal changes or exterior changes or alterations without written approval of the LANDLORD. This provision does not apply to TENANT'S trade fixtures and/or other non-permanent fixtures on the interior of the Demised Premises.

18. LANDLORD'S RIGHT OF ENTRY - The LANDLORD or its agents shall have the right to enter upon the Demised Premises at all reasonable times to examine the condition and use thereof, provided only that such right shall be exercised in such manner as not to interfere with the TENANT in the conduct of the TENANT'S business on said Demised Premises. If the said Demised Premises are damaged by fire, windstorm, or by any other casualty which caused the Demised Premises to be exposed to the elements, then the LANDLORD may enter upon the Demised Premises to make emergency repairs. LANDLORD may enter upon the Demised Premises to make renovations and repairs of a non-emergency nature by giving reasonable notice to the TENANT, and in such a manner as to minimize any inconvenience to both parties.

19. TENANT'S ACCEPTANCE - The TENANT accepts the Demised Premises and improvements thereon in an as is condition and all improvements and additions shall be at the sole expense of the TENANT except as may be otherwise provided for in this Lease.

20. MISCELLANEOUS PROVISIONS - It is mutually covenanted and agreed by and between the parties as follows:

- (a) That no waiver of a breach of any of the covenants in this Lease contained shall be construed to be a waiver of all succeeding breach of the same covenant.
- (b) That time is of the essence in every particular and particularly where the obligation to pay money is involved.
- (c) That all arrearages in the payment of rent or in the repayment to the LANDLORD of any sums which the LANDLORD may have paid in order to cure a default of the TENANT (as elsewhere herein provided for), shall bear interest from the date when due and payable at the highest rate permitted by law until paid.
- (d) That no modification, release, discharge, or waiver of any provision hereof shall be of any force, effect, or value unless in writing and signed by the persons who are then

LANDLORD and TENANT.

(e) That all covenants, promises, conditions, and obligations contained herein or implied by law, or covenants running with the land, shall attach to and be binding upon the heirs, executors, administrators, successors, legal representatives, and assigns of each of the parties to this Lease.

(f) That this instrument contains the entire agreement between the parties as of this date, and that the execution hereof has not been induced by either of the parties by representations, promises or understandings not expressed herein, and that there are not collateral agreements, stipulations, promises, or understandings whatsoever between the respective parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument.

(g) That when either of the parties desire to give notice to the other or others in connection with and according to the terms of this Lease, such notice shall be deemed given when it shall have been deposited in the U.S. Registered or Certified mail with sufficient postage pre-paid thereon to carry it to its addressed destination. Said notice shall be addressed as follows:

AS TO LANDLORD: PROPERTY MANAGEMENT
CITY OF KEY WEST
P.O. BOX 6434
KEY WEST, FL 33040

AS TO TENANT: MCGRAIL AND ROWLEY INC.
205 ELIZABETH UNIT I
KEY WEST, FL 33040

When the parties on either side (LANDLORD or TENANT) consists of more than one person, notice or default by one of the persons on that side shall constitute notice or default by all of the persons on that side.

(h) This Lease and the provisions thereof shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

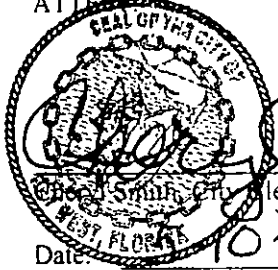
(i) The parties agree to waive trial by jury in any action between them arising out of or in any way connected with this lease or TENANT'S use or occupancy of the Demised Premises. The venue for any action brought under this lease shall lie in the State Court of Monroe County, Florida.

(j) If the TENANT or TENANTS are signing in a capacity other than as individuals, then the LANDLORD may require personal guarantees from individuals as the LANDLORD deems necessary.

(k) LANDLORD may delegate its decision-making authority regarding any provision of this Lease to an Advisory Board.

(l) This Lease is the result of negotiations between the parties and shall not be interpreted in favor of or to the detriment of either party due to its draftsmanship.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing Lease to be executed on the day and year first above written.

ATTEST

Debra Smith, City Clerk
Date: 5-10-2019

LANDLORD: Caroline Street Corridor and
Bahama Village Community Redevelopment
Agency

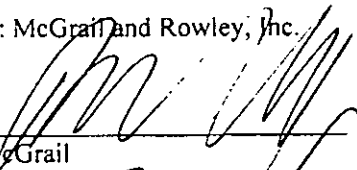

Teri Johnston, Chairwoman

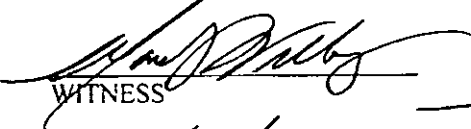
Date: 5-10-2019

TENANT: McGrail and Rowley, Inc.


WITNESS

Date: 4/29/19

By: 
Paul H. McGrail


WITNESS

Date: 4/29/19

By: 
Sean G. Rowley

Date: 4/29/19

EXHIBIT "A" Demised Premises, Site Plan

Demised Premises

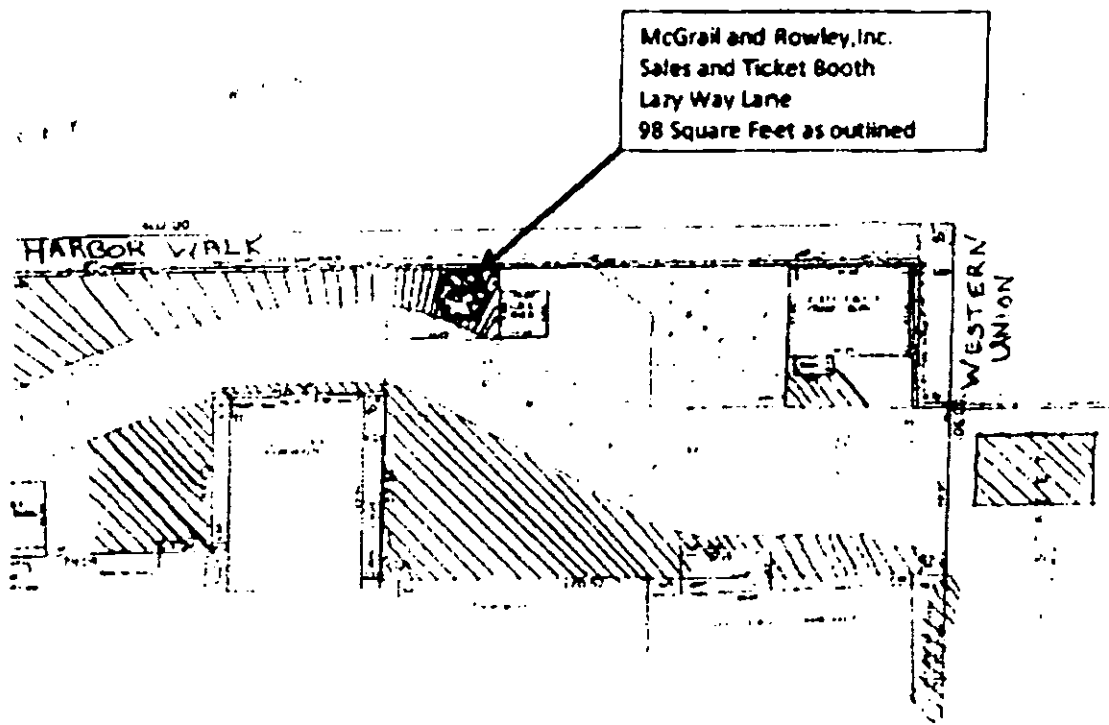


EXHIBIT "B" Rent Schedule

EXHIBIT "B"

Tenant Trade Name:	McGrail and Rowley, Inc.	Square Feet	98	CAM	
Location:	Lazy Way Booth	Square Feet	98	BASE RENT	
Contact:	Paul McGrail, Sean Rowley	Term	9/1/19- 5/31/2025		

YEAR #	Period Beginning	Base Rent	Base Rent	Tax, Ins., CAM \$4.05	Tax, Ins., CAM	Total Rent Before Sales Tax	Sales Tax	Total Rent With Tax	TOTAL RENT
		Annual	Monthly	Annual	Monthly	Monthly	Monthly	Monthly	ANNUAL
	Current rent	\$25,468.56	\$2,122.38	\$396.90	\$33.08	\$2,155.46	\$161.66	\$2,317.11	\$27,805.37
1	September 1, 2019	CPI							
2	September 1, 2020	CPI							
3	September 2, 2021	CPI							
4	September 2, 2022	CPI							
5	September 2, 2023	CPI							
6	September 1, 2024	CPI							

Tax, Insurance and CAM are estimated based upon most recent actual costs

EXHIBIT "C" Rules and Regulations

1. TENANT shall not use any area outside of the demised premises as shown on Exhibit A or any portion of any common area or any parking areas for or any other purpose whatsoever including but not limited to the storage of goods, inventory, equipment, materials, whether or not said area is inside a building or outdoors.

EXHIBIT "D"

TENANT shall furnish LANDLORD a written statement stating the TENANT has accepted the Demised Premises for occupancy and setting forth the actual commencement and expiration dates of the Lease. In the absence of TENANT'S written statement the lease term shall remain as stated herein.

GUARANTY

This Guaranty is made this 29th day of April, 2019 in accordance with the Lease Agreement (hereinafter Agreement) dated _____, 2019 by and between the City of Key West (hereinafter City) and McGrail and Rowley, Inc. (hereinafter Tenant) and Paul H. McGrail and Sean G. Rowley (hereinafter Guarantors) for the Demised Premises (hereinafter Premises) located at the Ticket Booth on Lazy Way Lane in Key West, Florida.

In consideration of granting the use of the Premises to Tenant, and other good and valuable consideration, Guarantors does hereby covenant and agree that:

- (a) The Guarantors do hereby absolutely, unconditionally and irrevocably guarantee to the City the full and complete performance of all of Tenant's covenants and obligations under the Agreement and full payment by Tenant of all rentals, additional charges and other charges and amounts required to be paid hereunder during the entire term. Guarantors' obligations hereunder shall be primary and not secondary and are independent of the obligations of the Tenant.
- (b) A separate action or actions may be brought and prosecuted against Guarantors, whether or not action is brought against Tenant or whether Tenant shall be joined in any such action or actions. At the City's option, the Guarantors may be joined in any action or proceeding commenced by the City against Tenant in connection with and based upon any covenants and obligations under the Agreement, and the Guarantors hereby waive any demand by City and/or prior action by City of any nature whatsoever against Tenant.
- (c) The Guarantors consent to forbearance, indulgences and extensions of time on the part of the City being afforded to Tenant, the waiver from time to time by City of any right or remedy on its part as against Tenant. The Guarantors hereby agree that no act or omission on the part of the City shall affect or modify the obligation and liability of the Guarantors hereunder.
- (d) This Guaranty shall remain and continue in full force and effect, notwithstanding (i) any alteration of the Agreement by parties thereto, whether prior or subsequent to the execution hereof, (ii) any renewal, extension, modification or amendment of the Agreement, (iii) any subletting of the Demised Premises or assignment of Tenant's interest in the Agreement.
- (e) The Guarantors' obligations hereunder shall remain fully binding although City may have waived one or more defaults by Tenant, extended the time of performance by Tenant, released, returned, or misapplied other collateral given later as additional security (including other guarantees) and released Tenant from the performance of its obligations under the Agreement.
- (f) In the event any action or proceeding be brought by City to enforce this Guaranty, or City appears in any action or proceeding in any way connected with or growing out of this Guaranty, then and in any such event, the Guarantors shall pay to City reasonable attorney's fees, but only if City is the prevailing party. The Guarantors in any suit

brought under this Guaranty do hereby submit to the jurisdiction of the courts of the State of Florida and to the venue in the circuit court of Monroe County, Florida.

(g) This Guaranty shall remain in full force and effect notwithstanding the institution by or against Tenant or bankruptcy, reorganization, readjustment, receivership or insolvency proceedings of any nature, or in the disaffirmance of the Agreement an any such proceedings or otherwise.

(h) This Guaranty shall be applicable to and binding upon the heirs, representatives, successors and assigns of City, Tenant and the Guarantors.

IN WITNESS WHEREOF, the Guarantors have caused the foregoing Guaranty to be executed on this 29th day of April 2019.

Witness:

By: [Signature]

Name: Mary Wilbarger

Date: 4/29/19

State of Florida }
County of Monroe }

Guarantor: Paul H. McGrail

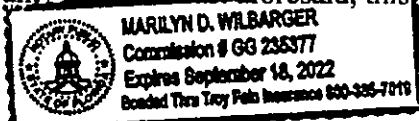
by: [Signature]

Name: Paul H. McGrail

Date: 4/29/19

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, Paul H. McGrail, to me personally known or who provided [Signature] as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this 29th day of April, 2019.



[Signature]
Notary Public, State of Florida

My Commission Expires:

Witness:

By: [Signature]

Name: Mary Wilbarger

Date: 4/29/19

Guarantor: Sean G. Rowley


by: [Signature]

Name: Sean G. Rowley

Date: 4/29/19

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, Susan Rowley, to me personally known or who provided _____ as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same individually and for the purposes therein expressed.

Notary Public, State of Florida

 **MARLYN D. WILBARGER**
Commission # GG 235377
Expires September 18, 2022
Bonded Three Troy Felt Insurance 850-385-7019

Lease Agreement

Between

**Caroline Street Corridor and Bahama Village
Community Redevelopment Agency**

as Landlord

and

McGrail and Rowley, Inc.

as Tenant

Dated 5-7-19

THIS LEASE is made as of the 7th day of May, 2019 by and between the LANDLORD and TENANT identified below:

1. INFORMATION PROVISIONS: Information provisions in this section are intended to provide a summary of the corresponding sections of this lease and are in no way inclusive of the complete terms and conditions of this lease.

1.1 LANDLORD'S NAME & MAILING ADDRESS:

Caroline Street Corridor and
Bahama Village Community
Redevelopment Agency,
P.O. Box 1409
Key West, FL 33040

1.2 TENANT'S NAME & MAILING ADDRESS:

McGrail and Rowley, Inc.
205 Elizabeth Unit I
Key West, FL 33040

TENANT'S TRADE NAME: Sebago Watersports

1.3 GUARANTOR (S) AND ADDRESS: Paul H. McGrail 328 Simonton Street Key West, FL 33040 and Sean G. Rowley 328 Simonton Street Key West, FL 33040

1.4 DEMISED PREMISES (Section 2): as per **EXHIBIT "A"** booth located on located on Lazy Way Lane in the Historic Seaport (hereinafter referred to as the "Property").

98 NET USABLE SQUARE FEET COMPRISED OF:

TICKET/CHECK-IN BOOTH

PROPORTIONATE SHARE OF THE TOTAL NET USABLE SQUARE FEET:

TENANT'S Proportionate Share is based upon TENANT'S Net Usable Square Feet as it relates to the Total Net Usable Square Feet of the Property

Property Common Area is defined as all facilities furnished by the LANDLORD and designated for the general use in common, with other occupants of the Property, including TENANT, their officers, agents, employees and customers, and the general public, including but not limited to any of the following which may have been furnished by LANDLORD: lavatories, parking areas, driveways, entrances, and exits thereto, pedestrian sidewalks and ramps, landscapes areas, and other similar facilities, and all areas which are located within the Property and which are not leased to tenants.

1.4.1 EXPANSION/RIGHT OF FIRST REFUSAL: None

1.5 TERM (Section 3.): FIVE (5) YEARS NINE MONTHS to be co-terminus with the TENANT'S Lease for Unit I on Lazy Way.

1.5.1 COMMENCEMENT DATE: September 1, 2019 as acknowledged by TENANT'S written

statement

- 1.5.2 **RIGHT TO TERMINATE:** This Agreement is expressly contingent upon the existence of a Lease Agreement between Landlord and Tenant for the operation of Tenant's Sebago Water Sports business in the Historic Seaport. In the event that the Tenant's said Lease Agreement for Tenant's business ceases to be in effect for any reason, including, but not limited to, expiration, termination, or default, this Lease Agreement shall be cancelled, terminated, and of no further force or effect. or upon default as provided herein
- 1.5.3 **RIGHT TO RENEW:** This Lease may be renewed upon rent and terms to be negotiated by the parties and in accordance with the City of Key West Code of Ordinances.
- 1.6 **MINIMUM RENT FOR TERM (Section 4):** The base rent and base rent increases for the term and any renewals thereof as **per EXHIBIT "B"** attached hereto and incorporated herein. Every year thereafter throughout the term of the lease the minimum base rent shall be adjusted annually on the anniversary date of the lease by the increase in Consumer Price Index for all Urban Consumers as published by the United States Department of Labor. In no event shall the minimum base rent be decreased.
- 1.6.1 **ADDITIONAL RENT:** Tenant shall pay its Proportionate share of CAM, Real Estate Taxes, Insurance, Sales, Use or Excise Taxes together with Management and Administrative fees estimated as per **EXHIBIT "B"**, and any and all other sums of money or charges required to be paid by TENANT pursuant to the provisions of this lease.
- 1.6.2 **RENT PAYMENT DUE DATE:** Payable in advance on the first (1st) of each and every month of the term hereof.
- 1.6.3 **LATE CHARGE:** 15% of the amount in arrears if received after the fifth day of each and every month together with an administrative fee of \$50.00 for processing late payments.
- 1.6.4 **PERCENTAGE RENT:** None
- 1.6.5 **HOLD OVER RENT:** As provided by Section 83.53 Florida Statutes, as may be amended, based upon the Minimum Base Rent during the last year of the lease term.
- 1.6.6 **RENT CONCESSIONS:** None
- 1.7 **SECURITY DEPOSIT (Section 5):** Equal to one month's base rent.
- 1.8 **PERMITTED USE (Section 6):** Sales, ticketing and check in for patrons of TENANT for vessels operated by TENANT in the Historic Seaport and the sale of tickets for businesses conducted within the Historic Seaport by LANDLORD'S other tenants. TENANT expressly agrees that TENANT will not place or store anything outside of the booth.
- 1.9 **INSURANCE:** (Section 9) \$2,000,000.00 aggregate and \$1,000,000.00 per occurrence commercial liability minimum aggregate
- 1.10 **ASSIGNMENT OR SUBLETTING:** (Section 10) Allowed with LANDLORD'S

approval

1.11 UTILITIES: (Section 17) The TENANT shall pay for all utilities associated with the use of the Demised Premises.

INITIALS: LANDLORD

TJ

TENANT

[Signature]

WITNESSETH:

That the LANDLORD and the TENANT, for and in consideration of the keeping by the parties of their respective obligations hereinafter contained, as well as for one dollar (\$1.00) and other good and valuable consideration by each of the parties unto the other, in hand paid simultaneously with the execution and delivery of these presents, the receipt of which is hereby acknowledged, have agreed as follows:

2. **DEMISED PREMISES** - Upon the terms and conditions hereinafter set forth, and in consideration of the payment from time to time by the TENANT of the rents hereinafter set forth, and in consideration of the performance continuously by the TENANT of each and every one of the covenants and agreements hereinafter contained by the TENANT to be kept and performed, the LANDLORD does hereby lease, let, and demise unto the TENANT, and the TENANT does hereby lease of and from the LANDLORD, the following Demised Premises situated, lying, and being in Monroe County, Florida: That portion of the Property outlined and/or crosshatched on Exhibit "A" which depicts the Net Usable Square Feet of the Demised Premises. The Net Usable Square Feet is defined as all interior floor space, any second floor space, storage, covered dining areas and commercially used outdoor areas or any other area set aside for the exclusive use and economic benefit of the Tenant and containing the approximate dimensions and area measured in accordance with the published BOMA/ANSI standard for calculating net usable floor area for stores. It is agreed that the Net Usable Square Feet for the purpose of any calculations which are based on Net Usable Square Feet is as stated in Section 1.4. It is agreed that TENANT'S Proportionate Share is based upon TENANT'S Net Usable Square Feet as it relates to the Total Net Usable Square Feet of the Property. LANDLORD reserves the right to re-measure the Demised Premises from time to time and to adjust the TENANT'S Net Usable Square Feet and the rent or rental rate applied to the square footage as determined by any re-measurement or change in use. TENANT accepts the Demised Premises in an "as is", "where is" condition and acknowledges that LANDLORD has no obligations for any construction or improvements in connection with TENANT'S occupancy of the Demised Premises.

LANDLORD reserves the right from time to time with good cause, upon at least sixty (60) days advance written notice to relocate TENANT to other Demised Premises within the Property, prior to or during the term of this Lease, so long as usable area so substituted equals or exceeds the usable area of the Demised Premises; provided however that TENANT shall have the right at its sole option and as its sole remedy, to terminate the Lease upon sixty (60) days advance written notice which right must be exercised, if at all, within fifteen (15) days after receipt of LANDLORD'S relocation notice, which relocation notice may be withdrawn by LANDLORD within ten (10) days after LANDLORD'S receipt of TENANT'S termination notice, in which event TENANT'S attempted termination shall be null and void and the lease shall continue in full force and effect in accordance with its terms. In the event LANDLORD shall relocate TENANT to other space within the Property, LANDLORD shall pay the reasonable relocation costs of TENANT in connection therewith, but LANDLORD shall not have any other liability with respect to any such relocation.

Property Common Area is defined as all facilities furnished by the LANDLORD and designated for the general use in common, with other occupants of the Property, including TENANT, their officers, agents, employees and customers, and the general public, including but not limited to any of the following which may have been furnished by LANDLORD: lavatories, parking areas, driveways, entrances, and exits thereto, pedestrian sidewalks and ramps, landscapes areas, and other similar facilities, and all areas which are located within the Property and which are not leased to tenants.

Expansion/Right of First Refusal – None

3. **TERM** - The term of this Lease shall be for five (5) years nine months which shall commence on September 1, 2019 and shall end at midnight on May 31, 2025 to be co-terminus with TENANT'S lease for Unit I on Lazy Way, unless sooner terminated as provided for herein. Upon occupancy TENANT shall furnish LANDLORD a written statement stating the TENANT has accepted the Demised Premises for occupancy and setting forth the actual commencement and expiration dates of the Lease. TENANT'S written statement shall become attached to and incorporated into this lease as Exhibit "D". In the absence of TENANT'S written statement the lease term shall remain as stated above. A Lease Year is the twelve-month period beginning on the commencement date of each year and ending at the conclusion of the same date one year later. If possession of the Demised Premises shall for any reason not be delivered to Tenant on the Commencement Date, this Lease shall nevertheless continue in full force and effect, and no liability whatsoever shall arise against LANDLORD out of any delay other than the abatement of rent.

3.1 This Agreement is expressly contingent upon the existence of a Lease Agreement between Landlord and Tenant for the operation of Tenant's Sebago Water Sports business in the Historic Seaport. In the event that the Tenant's said Lease Agreement for Tenant's business ceases to be in effect for any reason, including, but not limited to, expiration, termination, or default, this Lease Agreement shall be cancelled, terminated, and of no further force or effect. or upon default as provided herein

3.2 Right to Renew – This Lease may be renewed upon rent and terms to be negotiated by the parties in accordance with the City of Key West Code of Ordinances. The rent and terms of the renewal term must be acceptable to both the LANDLORD and the TENANT in their absolute discretion and must be set forth in written addendum to this Lease.

4. **RENT** - The base rent and base rent increases for the term and any renewals thereof as per **EXHIBIT "B"** attached hereto and incorporated herein. Every year thereafter throughout the term of the lease the minimum base rent shall be adjusted annually on the anniversary date of the lease by the increase in Consumer Price Index for all Urban Consumers as published by the United States Department of Labor. In no event shall the minimum base rent be decreased. All rentals provided for herein shall be payable in advance, without prior demand therefore and without deductions or setoffs for any reason whatsoever on the first day of each and every month of the term hereof.

4.1 Late Charges. Any monthly rental not received by the fifth day of the month shall incur a late fee equal to fifteen percent 15% of the amount in arrears. In addition, all payments received after the due date shall incur a **\$50.00** administrative fee to cover the costs of collecting and processing late payments. LANDLORD shall have no obligation to accept less than the full amount of all installments of rental, additional rental or other amounts

due hereunder and interest thereon which are due and owing by TENANT to LANDLORD. If LANDLORD accepts less than the full amount owing, LANDLORD may apply the sums received toward such TENANT'S obligations, as LANDLORD shall determine in its sole discretion, without waiving LANDLORD'S remedies for default.

4.2 Interest on Rent. Rent and additional rent not paid within fifteen (15) days of when due shall bear interest from the date due until paid at the highest rate permitted by law.

4.3 Obligation to Survive. TENANT'S obligation to pay rent that is accrued and unpaid hereunder shall survive the expiration or termination of the Lease.

4.4 The rent reserved under this Lease for the term hereof shall be and consist of:

(a) Beginning with the commencement date and throughout the term of this Lease, TENANT agrees to pay to the LANDLORD as and for minimum rent for the Demised Premises the annual amount, in equal monthly installments, in advance, on the first day of each and every calendar month, as per **EXHIBIT "B"**. In the event the rent commencement date is other than the first day of a calendar month, the rent for the partial first calendar month of the term will be prorated on a daily basis and payable on the commencement date.

(b) Simultaneously with each such payment, TENANT agrees to pay to LANDLORD any sales, use or excise tax imposed or levied against rent or any other charge or payment required hereunder to be made by TENANT which tax has been imposed or levied by any governmental agency having jurisdiction thereof, this shall include any new taxes imposed during the term of this Lease which are in addition to or in substitution for any such tax which is presently imposed.

(c) Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT'S Proportionate Share, as stated in Section 1.4, of Common Area Maintenance Charges in Monthly Installments as specified herein.

The Common Area Maintenance Charges are based on the Estimated Common Area Maintenance Charges attached hereto as **EXHIBIT "B"**. These charges are only estimates. The TENANT shall be responsible for all Common Area Maintenance Charges actually incurred on a pro rata assessment basis. Any increase in the common area charges shall result in an increase in the TENANT'S Common Area Maintenance Charges. Common Area Maintenance Charges for controllable expenses assessed after the base year shall not increase in any given year by more than 5% of the previous year's common area assessment for controllable expenses. The base year for the purpose of limiting increases in Common Area Maintenance Charges shall be the first year of the term of this lease. This limitation shall apply only to those services included in the base year's common area charges. Any services charged for that are not included in the base year's charges shall not be limited by this 5% cap nor shall they be included for determining this 5% cap.

Common Area Maintenance Charges shall include any and all expenses reasonably incurred in the operation and maintenance of the Property Common Area including but not limited to management and administrative fees, salaries and compensation paid in connection with operations, maintenance and administration, amortization (including interest) of equipment and facilities acquired and used for maintenance, to reduce energy usage, to otherwise reduce operating costs or common area seasonal decorating or

redecorating. Major capital improvements will not be included in Common Area Maintenance Charges unless those improvements reduce expenses and if so the improvements will be amortized over the useful life of the equipment as determined by the manufacturers' specifications or IRS depreciation regulations.

Monthly installments shall be due and payable on the 1st day of each calendar month during the Term. The installments set forth herein represent TENANT'S Proportionate Share of the estimated Common Area Maintenance Charges at the Commencement Date. Thereafter, LANDLORD shall, prior to the beginning of each calendar year, estimate the expected Common Area Maintenance Charges for the coming calendar year and TENANT'S Proportionate Share thereof, 1/12th of which shall constitute the Monthly Installments for such year; provided such installments shall never be lower than the installments specified herein. Within 90 days after the end of each year, LANDLORD shall calculate the actual Common Area Maintenance Charges paid or payable during the prior calendar year, and there shall be an adjustment between LANDLORD and TENANT so that LANDLORD shall receive the actual amount of TENANT'S annual Proportionate Share for said year. If TENANT'S Proportionate Share is less than the amount paid by TENANT during the prior year, LANDLORD shall, at its option, pay TENANT the difference between the amount received and the amount actually due, or credit such difference against TENANT'S next succeeding installments. If TENANT'S Proportionate Share is greater than the amount paid by TENANT during the prior year, TENANT shall pay LANDLORD the difference between the amount paid by TENANT and the amount actually due upon LANDLORD billing TENANT for same. LANDLORD agrees to keep, at its principal office, records relating to said Common Area Maintenance Charges. TENANT shall have the right to audit said records for the sole purpose of ascertaining the correctness of said Charges. Such audit shall be made during normal business hours; not unreasonably interfere with LANDLORD'S office operations; shall be performed by TENANT, TENANT'S chief financial officer, or a CPA selected by TENANT; shall not be made more often than once during each calendar year; and shall be limited to the preceding calendar year. If TENANT desires to audit said records as aforesaid, TENANT shall notify LANDLORD 30 days in advance thereof, commence said audit within 60 days of said notice, and once commenced, diligently complete the same. If any such audit shows the amount of such charges to TENANT was overstated, LANDLORD shall refund any such overcharge.

Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT'S Proportionate Share as stated in Section 1.4 of the Real Estate Tax Expense which shall include all real estate taxes and assessments both general and special imposed by federal, state or local governmental authority or any other taxing authority having jurisdiction over the Property against the land, buildings, store rooms, Common Areas and all other improvements within the Upland Property (excluding any public area which will not be taxed and excluding the Marina), together with any and all expenses incurred by LANDLORD in negotiations, appealing or contesting such taxes and assessments. Real Estate Tax Expense shall not include any additional charges or penalties incurred by LANDLORD due to late payment of Real Estate Taxes. In the event that any of the public area excluded later becomes taxable or is determined to be taxable then it shall be included for purposes of determining TENANT'S proportionate share.

TENANT'S Proportionate Share of Real Estate Taxes shall be paid as part of the Common Area Charges provided for herein. The 5% cap limitation provided for in Section 3(c)

shall not be applicable to this particular common area charge.

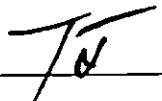
Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT'S Proportionate Share as stated in Section 1.4, of the Insurance Expenses which shall include all insurance premiums incurred by the LANDLORD in insuring the Property including hazard and liability insurance for any and/or all buildings, improvements and common areas.

TENANT'S Proportionate Share of Insurance expenses shall be paid as part of the Common Area Charges provided for herein. The 5% cap limitation provided for in Section 3(c) shall not be applicable to this particular common area charge.


Should any governmental taxing authority acting under any present or future law, ordinance or regulation, levy, assess or impose a tax, excise and/or assessment (other than an income or franchise tax) upon or against the rentals payable by TENANT to LANDLORD, whether by way of substitution for, or in addition to, any existing tax on land and buildings or otherwise, or any other substitute tax, the proceeds of which are to be used to fund the same governmental functions as were funded by ad valorem taxes, TENANT shall be responsible for and reimburse LANDLORD for the amount thereof, as the case may be, as additional rent, 7 days before the date that any penalty or interest would be added thereto for non-payment or, at the option of LANDLORD, the same shall be payable in the manner provided for in the preceding paragraph. Substitute taxes as referred to above in this Section shall include, without limitation, any surtax on parking spaces.

Initial here if applicable

LANDLORD



TENANT



(d) Percentage Rent is intentionally deleted

(e) Additional Rent. Any and all other sums of money or charges required to be paid by Tenant pursuant to the provisions of this Lease, whether or not the same be so designated, shall be considered as "Additional Rent", and shall be payable and recoverable in the same manner as Rent. However, such Additional Rent shall be due upon demand and failure to pay such additional rent within seven (7) days shall be deemed a material breach of this lease. If Landlord shall make any expenditure for which Tenant is liable under this Lease and for which Tenant has not paid, the amount thereof shall be deemed Additional Rent due and payable by as indicated above. In addition to the foregoing rent, all other payments to be made by TENANT shall be deemed to be and shall become additional rent hereunder whether or not the same be designated as such and it shall be due and payable upon demand together with interest thereon at the highest rate permissible by law from their due date until the date it is paid. The LANDLORD shall have the same remedies for TENANT'S failure to pay said additional rental the same as for non-payment of rent. LANDLORD, at its election, shall have the right to pay or do any act which requires the expenditure of any sums of money by reason of the failure or neglect of TENANT to perform any of the provisions of this Lease, and in the event LANDLORD shall, at its election, pay such sums or do such acts requiring the expenditure of monies, TENANT agrees to pay LANDLORD, upon demand, all such sums, and the sums so paid by LANDLORD and any expenses incurred by LANDLORD in the payment of such sums together with interest thereon at the highest rate permitted by law from their due date through the date they are paid by

TENANT shall be deemed additional rent and shall be payable and collectible as such. Rent shall be made payable to the LANDLORD as stated in Section 1.1 hereof.

(f) Holding Over. It is agreed that in the event of TENANT holding over after the termination of this lease, thereafter the tenancy shall be from month to month in the absence of a written agreement to the contrary; the TENANT shall pay to LANDLORD a monthly occupancy charge as provided by Section 83.53 Florida Statutes, as may be amended, based upon the Minimum Base Rent during the last year of the lease term for each month from the termination or expiration of this Lease until the Demised Premises are delivered to the LANDLORD in the condition required herein, and LANDLORD'S right to damages for such illegal occupancy shall survive. In addition, TENANT shall pay all other charges payable by TENANT under this Lease

(g) Rent Concessions. None

5. **SECURITY** - TENANT simultaneously with the execution and delivery of this Lease, will deposit with the LANDLORD the sum equal to one month's current minimum rent as per **EXHIBIT "B"** and as stated in Section 1.7 hereof, the receipt of which is hereby acknowledged, which sum shall be retained by LANDLORD as security for the payment by TENANT of the rents herein agreed to be paid by TENANT and for the faithful performance by TENANT of the terms, conditions and covenants of this Lease. It is agreed that LANDLORD, at LANDLORD'S option, may at any time apply said sum or any part thereof toward the payment of the rents and any other sum payable by TENANT under this Lease, and/or toward the performance of each and every covenant under this Lease. but such covenants and TENANT'S liability under this Lease shall thereby be discharged only pro tanto; that TENANT shall remain liable for any amounts that such sum shall be insufficient to pay; that LANDLORD may exhaust any or all rights and remedies against TENANT before resorting to said sum, but nothing herein contained shall require or be deemed to require LANDLORD to do so; that, in the event this deposit shall not be utilized for any of such purposes, then such deposit shall be returned by LANDLORD to TENANT within sixty (60) days after the expiration of the term of this Lease. TENANT shall deposit with LANDLORD such additional sums which may be necessary to replace any amounts expended there from by LANDLORD pursuant hereof, so that there shall always be a security deposit in the sum first set forth above. The Security deposit provided for herein shall be held by the LANDLORD in a non-interest bearing account and may be co-mingled by the LANDLORD at the LANDLORD'S sole discretion.

6. **USE OF THE DEMISED PREMISES** -TENANT shall use the Demised Premises for the purposes of:

Sales, ticketing and check in for patrons of TENANT for vessels operated by TENANT in the Historic Seaport and the sale of tickets for businesses conducted within the Historic Seaport. TENANT expressly agrees that TENANT will not place or store anything outside of the booth.

TENANT further agrees:

(a) To operate 100% of the Demised Premises for the entire term of this lease during all reasonable hours established by LANDLORD, pursuant to the highest reasonable standards of its Business category, maintaining a substantial stock of appropriate merchandise on display, with sufficient personnel to service its trade.

- (b) With respect to the Property, not to display any merchandise, solicit business or distribute advertising material beyond the Demised Premises, nor in any manner use any part of the Common Areas for purposes other than for their intended common use and not to obstruct any part thereof.
- (c) Not to display any banners, pennants, searchlights, window signs, balloons, or similar temporary advertising media on the exterior of the Demised Premises.
- (d) Not to commit waste in the Demised Premises or Common Areas and to keep the Demised Premises and immediate adjacent areas including, without limitation, adjacent sidewalks, in a safe, neat, clean and orderly condition and to maintain and repair any lighting or signs under any canopy immediately in front of the Demised Premises.
- (e) Not to use the Demised Premises or permit the same to be used in any manner which violates any law, ordinance or constitutes a nuisance; for lodging purposes; that may injure the reputation of the Property or annoy, inconvenience or damage its patrons or other TENANT'S; or that would constitute an extra-hazardous use or violate any insurance policy of TENANT, LANDLORD or any other TENANT in the Property or increase the cost thereof.
- (e) To keep all garbage, refuse and solid waste inside the Demised Premises in the kind of containers specified by LANDLORD, or to place the same outside the Demised Premises, prepared for collection, in the manner and at the times and places designated by LANDLORD or the appropriate disposal company. TENANT agrees not to burn or permit any burning of garbage or refuse on the Demised Premises or any part of the Property. TENANT further agrees that, upon LANDLORD'S instruction, TENANT shall separate garbage for recycling and deposit the separate garbage in the receptacle designated by LANDLORD. TENANT further agrees to make every effort to recycle all glass, metal, paper and plastic refuse and solid waste. Sort glass by colors and metal and paper by type and deposit in the appropriate recycling containers provided by the LANDLORD.
- (g) TENANT shall contract directly with the pertinent governmental authority or disposal company and shall be responsible for all fees and costs of removal and disposal of solid waste, garbage, and refuse, including but not limited to, impact fees and dumpster rental. TENANT shall indemnify, save harmless and defend LANDLORD from and against any loss, claim, injury, damage or expense arising out of or related to the generation, storage, or removal or disposal of TENANT'S garbage, refuse or solid waste.
- (h) To use its best efforts to cause all trucks serving the Demised Premises to load and unload from the hours of 7:00 a.m. to 11:00 a.m. and not to permit such trucks to service through the front entrance of the Demised Premises except when no other entrance is available.
- (i) To take no action that would: (i) violate LANDLORD'S contracts if any, affecting the Property (including without limitation the use restrictions contained in LANDLORD'S leases with its Anchor Tenants, which restrictions have been explained to TENANT); or (ii) cause any work stoppage, picketing or cause any manner or interference with LANDLORD or other Tenants, occupants, customers or any person lawfully in and upon

the Property.

(j) Not to use amplified music or any other noise making machinery or devices that in LANDLORD'S determination is harmful to the building or disturbing to other Tenants.

(k) To abide by and observe all reasonable rules and regulations established from time to time by LANDLORD and LANDLORD'S insurance carrier with respect to the operation of the Property and it's Common Areas. Rules and regulation are attached and incorporated herein as **EXHIBIT "C"**.

(l) Not to conduct any auction, fire, bankruptcy or selling-out sale on or about the Demised Premises except in strict compliance with City Code Chapter 18.

(m) To pay its proportionate share of any and all maintenance contracts wherein LANDLORD elects to purchases goods and services for the benefit of the entire Property including but not limited to LANDLORD directing all pest extermination at such intervals and service levels that LANDLORD deems appropriate.

(n) TENANT shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials which TENANT or it agents brought onto the Property. TENANT shall not allow storage or use of such materials or substances in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into the Demised Premised or the Property any such materials or substances except to use in the ordinary course of TENANT'S business, and then only after written notice is given to LANDLORD of the identity of such substances or materials. Without limitation, hazardous substances and materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq., any applicable state or local law and the regulations adopted under these acts. In addition, TENANT shall execute affidavits, representations and the like from time to time at LANDLORD'S request concerning TENANT'S best knowledge and belief regarding the presence of hazardous substances or materials in the Demised Premises. In all events, TENANT shall indemnify LANDLORD in the manner elsewhere provided for in this Lease against any liability resulting from any release of hazardous substances or materials in the Demised Premises or Property by TENANT or it agents, while TENANT is in possession or caused by TENANT or persons acting under TENANT which is due to hazardous substances that TENANT or its agents brought onto the Demised Premises or Property.

6.1 **Use of the Common Areas** -TENANT has the non-exclusive right to use the common areas solely for the purposes for which they were designed. The common areas may also be used by anyone else LANDLORD has or hereinafter in its sole discretion grants the right to use them.

7. **COVENANT OF QUIET POSSESSION** - So long as TENANT pays all of the rent and charges due herein, TENANT shall peaceably and quietly have, hold, and enjoy the Demised Premises throughout the term of this Lease without interference or hindrance by LANDLORD or any person claiming by, through, or under LANDLORD.

8. INDEMNIFICATION - To the fullest extent permitted by law, the TENANT expressly agrees to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnitees") from any and all liability for damages, including, if allowed by law, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, caused in whole or in part by any act, omission, or default by TENANT or its subcontractors, material men, or agents of any tier or their employees, arising out of this agreement or its performance, including any such damages caused in whole or in part by any act, omission or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the TENANT or its subcontractors, material men or agents of any tier or their respective employees.

The indemnification obligations under this Agreement shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the TENANT under Workers' Compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the TENANT or of any third party to whom TENANT may subcontract a work. This indemnification shall continue beyond the date of termination of the Agreement.

9. TENANT'S INSURANCE - At TENANT'S sole cost and expense, TENANT is to secure, pay for, and file with the LANDLORD, during the entire Term hereof, an occurrence form commercial general liability policy, covering the Demised Premises and the operations of TENANT and any person conducting business in, on or about the Demised Premises in a at least the following minimum amounts with specification amounts to prevail if greater than minimum amount indicated. Notwithstanding any other provision of this Lease, TENANT shall provide the minimum limits of liability coverage as follows:

Commercial General Liability	\$2,000,000	Aggregate
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$300,000	Fire Damage/Legal

TENANT shall also procure the following insurance coverage:

- (i) "All risk" property insurance, with minimum limits equal to the full replacement value of the structure being leased including property damage, hazard and theft coverage, and a replacement cost endorsement insuring TENANT'S improvements and betterments, fixtures, furnishings, equipment and any other property belonging to TENANT.
- (ii) Workers compensation and Employers Liability coverage as required by the provisions of Florida statute.
- (iii) Full liquor liability coverage with minimum limits of \$1,000,000.00

Any consignment agreement used by TENANT must provide that consignor acknowledge that the LANDLORD does not have any liability whatsoever for any damage which may be done to items left in the Demised Premises on consignment. The TENANT must provide the LANDLORD with a copy of any consignment agreement used by TENANT regarding Demised Premises. LANDLORD shall not be responsible for damage to any property belonging to TENANT or consignor. TENANT completely indemnifies the LANDLORD with regard to any claims made by any consignor for any reason. From time to time during this Lease, at LANDLORD'S request, TENANT shall (i) procure, pay for and keep in full force and effect such other insurance as LANDLORD shall require and (ii) increase the limits of such insurance as LANDLORD may reasonably require.

Any general liability or other policy insuring the LANDLORD does not provide any contributing or excess coverage for TENANT. The policies TENANT procures for TENANT'S exposure are the only coverage available to TENANT.

TENANT shall furnish an original Certificate of Insurance indicating, and such policy providing coverage, to LANDLORD named as "Additional Insured" on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, INCLUDING A "Waiver of Subrogation" clause in favor of LANDLORD on all policies. TENANT will maintain the General Liability coverage summarized above with coverage continuing in full force including the "additional insured" endorsement until at least 3 years beyond the termination of this Lease.

TENANT's insurance policies shall be endorsed to give 30 days written notice to LANDLORD in the event of cancellation or material change, using form CG 02 24, or its equivalent.

All policies of insurance required to be carried by TENANT pursuant to this Lease shall be written by responsible insurance companies authorized to do business in Florida with an AM Best rating of A-VI or better. Any such insurance required to be carried by TENANT hereunder may be furnished by TENANT under any blanket policy carried by it or under a separate policy therefore. Certificates shall be delivered to LANDLORD prior to the commencement of the Term of this Lease and, upon renewals, but not less than sixty (60) days prior to the expiration of such coverage. In the event TENANT shall fail to procure such insurance, LANDLORD may, at its option, procure the same for the account of TENANT, and the cost thereof shall be paid to LANDLORD as an additional charge upon receipt by TENANT of bills therefore, together with an administrative fee equal to fifteen (15%) percent to cover the cost of the LANDLORD'S efforts to procure such policy.

Certificates of Insurance submitted to LANDLORD will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. **PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.**

10. ASSIGNMENT AND HYPOTHECATION - This Lease is not transferable or assignable and may not be hypothecated nor sublet without the prior written consent of the LANDLORD which may be withheld and shall be at the sole discretion of the LANDLORD.

Any assignment or sub-letting, even with LANDLORD'S consent shall not relieve TENANT from liability for payment of Rent or from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not be deemed to be a waiver of any of

the agreements of this Lease or to be consent to the assignment for the benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior consent of LANDLORD. In the event TENANT wishes to assign this Lease and LANDLORD consents to such assignment, LANDLORD may charge a reasonable fee, not to exceed \$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. Any assignment, transfer, hypothecation, mortgage, or subletting without LANDLORD'S written consent shall give LANDLORD the right to terminate this Lease and to re-enter and repossess the Demised Premises and the LANDLORD'S right to damages shall survive.

If the TENANT is a corporation, then a sale or transfer of a controlling interest in the corporation by sale of stock or otherwise shall constitute an assignment for purposes of this provision.

11. SUBORDINATION - This Lease, and all rights of TENANT hereunder, are and shall be subject and subordinate to all mortgages, bond indentures and any other financing instrument (hereinafter referred to as security agreements) which may now or hereafter affect the Demised Premises and to each and every advance made or hereafter to be made under such security agreements and to all renewals, modifications, replacements and extensions of such security agreements and spreaders and consolidations of such security agreements. This paragraph shall be self operative and no further instrument of subordination shall be required to make it effective, however, TENANT shall promptly execute and deliver any instrument reasonably requested to evidence such subordination.

If the holder of any such security instrument shall succeed to the rights of LANDLORD under this Lease, then at the request of such party so succeeding to the LANDLORD'S rights and upon such successor LANDLORD'S written agreement to accept TENANT'S attornment, TENANT shall attorn to such successor LANDLORD and will execute such instruments as may be necessary or appropriate to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as if it were a direct Lease between the successor LANDLORD and TENANT upon all the terms, conditions, and covenants as are set forth in this Lease and shall be applicable after such attornment.

TENANT shall deliver to LANDLORD or the holder of any such security instrument or auditors, or prospective purchaser or the owner of the fee, when requested by LANDLORD, a certificate to the effect that this Lease is in full force and that LANDLORD is not in default therein, or stating specifically any exceptions thereto. Failure to give such a certificate within ten business days after written request shall be conclusive evidence that the Lease is in full force and effect and LANDLORD is not in default and in such event, TENANT shall be stopped from asserting any defaults known to TENANT at that time.

12. CONDEMNATION

(a) It is further understood and agreed that if at any time during the continuance of this Lease the legal title to the Demised real estate or the improvements or buildings located thereon or any portion thereof be taken or appropriated or condemned by reason of eminent domain, there shall be such division of the proceeds and awards in such condemnation proceedings and such abatement of the fixed rent and other adjustments made as shall be just and equitable under the circumstances. If the LANDLORD and the TENANT are unable to agree upon what division of the condemnation award, abatement of fixed rent, or other adjustments are just and equitable within thirty (30) days after such award has been

made, then the matters in dispute shall, by appropriate proceedings, be submitted to a court having jurisdiction of the subject matter of such controversy for its decision and determination of the matters in dispute. If the legal title to the entire Demised Premises be wholly taken by condemnation, or if the portion taken will prevent the Demised Premises from being used for the purpose the TENANT intends, this Lease shall be canceled.

(b) In general, it is the intent and agreement of the parties that upon condemnation, the parties hereto shall share in the condemnation award to the extent that they would be entitled to receive compensation and damages under the Florida law for the depreciation, damage, or destruction of their interests by the exercise of the right of eminent domain. In no event shall TENANT be permitted to receive a share based on the value of the land or buildings, and/or improvements.

13. TENANT'S DEFAULT

(a) If the TENANT shall fail to pay any of the taxes or assessments herein provided for; or in case of the sale of or forfeiture of the Demised Premises or any part thereof during the demised term for non-payment of any tax or assessment; or in case the TENANT shall fail to keep insured the building or improvements which are now or which may at any time hereafter be upon the Demised Premises, as herein provided for; or shall fail to spend insurance money, as herein provided for; or if the TENANT shall fail to perform any of the covenants of this Lease by it to be kept and performed; then, in any of such events, except in the event of non payment of rent, upon ten (10) business days written notice, within which the TENANT may cure, and upon its failure to cure, it shall and may be lawful for the LANDLORD, at its election, to declare the demised term ended and to re-enter upon said Demised Premises, building, and improvements situated thereon, or any part hereof, either with or without process of law, the TENANT hereby waiving any demand for possession of the Demised Premises and any and all buildings and improvements then situated thereon. In the event of nonpayment of rent, LANDLORD may assert its right of notice and eviction pursuant to Chapter 83, Florida Statutes.

(b) Or, the LANDLORD may have such other remedies as the law and this instrument afford, and the TENANT covenants and agrees that upon the termination of said demised term, at such election of the said LANDLORD, or in any other way, TENANT will surrender and deliver up the Demised Premises and property (real and personal) peaceably to the LANDLORD, its agent, or attorneys, immediately upon the termination of the said demised term. If the TENANT, its agents, attorneys, or shall hold the Demised Premises or any part thereof, one (1) day after the same should be surrendered according to the terms of this Lease, it shall be deemed guilty of forcible detainer of the Demised Premises under the statute and shall be subject to eviction or removal, forcibly or otherwise, with or without process of law.

(c) BANKRUPTCY OF TENANT. IN THE EVENT TENANT FILES ANY FORM OF BANKRUPTCY, LANDLORD SHALL BE ENTITLED TO IMMEDIATE TERMINATION OF THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. §362, GRANTING THE LANDLORD COMPLETE RELIEF AND ALLOWING THE LANDLORD TO EXERCISE ALL OF HIS LEGAL AND EQUITABLE RIGHTS AND REMEDIES, INCLUDING, WITHOUT LIMITATION, THE RIGHT TO TERMINATE THIS LEASE AND DISPOSSESS TENANT FROM THE DEMISED PREMISES IN ACCORDANCE WITH FLORIDA LAW. ADDITIONALLY, TENANT AGREES NOT

TO DIRECTLY OR INDIRECTLY OPPOSE OR OTHERWISE DEFEND AGAINST THE LANDLORD'S EFFORT TO GAIN RELIEF FROM ANY AUTOMATIC STAY. THE LANDLORD 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 LANDLORD 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. TENANT 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).

(d) Where the alleged default consists of some alleged violation of any term of this Lease, other than the payments of money, including rent, the LANDLORD may not declare this Lease in default until such violation shall have continued for ten (10) days after the LANDLORD shall have given the TENANT written notice of such violation, and TENANT shall not have undertaken, during said ten (10) day notice period, to cure said violation by vigorous and affirmative action, provided, however, that nothing herein contained shall be construed as precluding the LANDLORD from having such remedy as may be and become necessary in order to preserve the LANDLORD'S right and interest of the LANDLORD in the Demised Premises and in this Lease, even before the expiration of the grace or notice periods provided for in this paragraph, if, under particular circumstances then existing, the allowance of such grace or the giving of such notice would prejudice or endanger the rights and estate of the LANDLORD in this Lease and in the Demised Premises. With respect to the payment of the insurance premiums, the same must be paid at least fifteen (15) days prior to the time when the policies would lapse for the failure to pay premiums thereon, and evidence of such payment given to the LANDLORD without any written notice being required to be served upon the TENANT in connection therewith.

(e) All default and grace periods shall be deemed to run concurrently and not consecutively.

(f) It is mutually covenanted and agreed that the various rights, powers, options, elections, privileges, and remedies of the LANDLORD contained in this Lease shall be construed as cumulative and no one of them shall be construed as being exclusive of the other or exclusive of any rights or priorities allowed by law.

(g) It is further covenanted and agreed by and between the parties hereto that the right given to the LANDLORD in this Lease to collect the rent that may be due under the terms of this Lease by any proceeding under same, or the right to collect any additional rent, money, or payments due under the terms of this Lease by any proceedings under same, or the right given the LANDLORD to enforce any of the terms and provisions of this Lease shall not in any way affect the right of such LANDLORD to declare this Lease void and the terms ended hereby, as herein provided, when default is made in the payment of said rent or when default is made by the TENANT in any of the terms and provisions of this Lease.

(h) In the event of litigation in connection with this Lease, the prevailing party shall be entitled to recover from the losing party as part of an order, judgment, or award that may be rendered, all of the prevailing party's costs and expenses of such litigation, including

without limitation reasonable attorney's fees and costs, through and including all trial and appellate levels and post-judgment proceedings.

14. TENANT'S REPAIRS - The TENANT covenants and agrees with the LANDLORD that during the continuance of this Lease, the TENANT shall be solely responsible for maintaining the Demised Premises in a clean, sanitary and safe condition in accordance with the laws of the State of Florida and in accordance with all directions, rules and regulations of all inspectors, governmental departments and agencies having jurisdiction over the Demised Premises to ensure a good state of repair of the Demised Premises and all furnishings, including any special equipment brought, placed, or installed upon the Demised Premises by TENANT; nor will the TENANT suffer or permit any strip, waste, or neglect of any building or such personal property to be committed; and the TENANT will repair, replace, and renovate the said real and personal property as often as it may be necessary in order to keep the building or buildings and the personal property which is subject to the LANDLORD'S lien, in good repair and condition. In the event that improvements or repairs are contemplated prior to or at the beginning of or during TENANT'S occupancy, then this provision shall apply to the condition of the property as of the last repair, improvement or renovation.

In the event that LANDLORD shall deem it necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the Demised Premises or of the property (unless the same result from TENANT'S act, neglect, default or mode of operation, in which event LANDLORD shall make all such repairs, alterations or improvements at TENANT'S sole cost and expense), then the same shall be made by LANDLORD with reasonable dispatch, and should the making of such repairs, alterations and improvements cause any interference with TENANT'S use of the Demised Premises, such interference shall not relieve TENANT from the performance of its obligations hereunder nor shall such interference be deemed an actual or constructive eviction or partial eviction or result in abatement of rental.

15. ALTERATIONS

TENANT shall not make any alterations, additions or improvements to the Demised Premises (whether or not the same may be structural in nature) without LANDLORD'S prior written consent. All alterations, additions, or improvements made to the Demised Premises, except movable furniture and equipment installed at TENANT'S expense, shall be the property of the LANDLORD and remain upon and be surrendered with the Demised Premises at the expiration of the term of this Lease; provided, however, that LANDLORD may require TENANT to remove any additions made at TENANT'S request to the Demised Premises and to repair any damage caused by such removal, and provide further, that if TENANT has not removed its property and equipment within ten (10) days after the expiration or termination of this Lease, LANDLORD may elect to retain the same as abandoned property.

In the event TENANT shall request LANDLORD'S permission, and LANDLORD shall permit TENANT to perform any alterations, additions, improvements or repairs to the Demised Premises, TENANT shall: (i) submit its plans and specifications to LANDLORD for its approval prior to the commencement of any construction, (ii) obtain all necessary permits prior to the commencement of any construction, (iii) only use contractors approved by LANDLORD, (iv) not permit any construction liens to be placed or remain on the Demised Premises. In the event a construction lien shall be filed against the Demised Premises as a result of work undertaken by TENANT, TENANT shall within ten (10) days of receiving notice of such lien, discharge the lien of record either by payment of the indebtedness to the lien claimant or by filing a bond as security therefore. All such

work made by or on behalf of TENANT shall be performed in such manner as LANDLORD may designate and in accordance with all applicable laws and regulations of governmental authorities having jurisdiction over the same. All such work by TENANT or its contractors shall not interfere with, impede or delay any work by LANDLORD or its contractors, tenants or TENANT'S contractors. All contractors engaged by TENANT shall be bondable, licensed contractors, possessing good labor relations, and capable of performing quality workmanship.

16. EQUIPMENT, FIXTURES AND SIGNS

(a) All furnishings, fixtures, trade fixtures, equipment, and signs used on the Demised Premises by TENANT but provided by LANDLORD, will, at all times, be, and remain, the property of LANDLORD. Provided that this Lease is in good standing and subject to the LANDLORD'S lien for rent, TENANT will have the right to remove any furniture or fixtures provided by TENANT, or any part thereof, from the Demised Premises during the term of this Lease, at the expiration thereof, or within a reasonable time thereafter, provided, however, that TENANT, in so doing, does not cause any irreparable damage to the Demised Premises, and provided further, that TENANT will pay or reimburse LANDLORD for the reasonable expense of repairing damage caused by such removal.

(b) All TENANT signs shall be approved by the LANDLORD and must meet all applicable codes. The exact location, style, text, and color(s) of the sign shall be agreed upon by the LANDLORD, in writing, prior to TENANT'S installation. LANDLORD'S approval shall not be unreasonably withheld or delayed.

17. ADDITIONAL COVENANTS OF THE TENANT

(a) The TENANT shall pay for all utilities associated with the use of the Demised Premises including, but not limited to, water, electricity, sewer, gas and waste, (if applicable). In the event that a separate bill for the Demised Premises is not available for one or more of the utility services required by the Demised Premises, then the TENANT shall pay a pro-rated share of that particular utility bill based on a calculation of the ratio of the square footage of the Demised Premises and the total square footage of the Premises covered by that particular utility bill. In the event that the TENANT shall be billed for a pro-rated share, the LANDLORD shall provide TENANT a utility bill each month and TENANT shall pay the amount due to LANDLORD within ten (10) days of its receipt.

(b) The TENANT covenants and agrees with the LANDLORD that no damage or destruction to any building or improvement by fire, windstorm, or any other casualty shall be deemed to entitle the TENANT to surrender possession of the Demised Premises or to terminate this Lease or to violate any of its provisions or to cause any abatement or rebate in the rent then due or thereafter becoming due under the terms hereof, unless otherwise specifically provided for herein. If the Lease be canceled for the TENANT'S default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation of the Lease, be deemed immediately to become absolute and unconditional property of the LANDLORD. In the event of destruction to the Demised Premises by casualty or hazard, LANDLORD will have the option of canceling the Lease, or repairing the building, and in the event that the LANDLORD elects to repair the building, an appropriate abatement of rent will occur.

- (c) The TENANT shall be responsible for the all utility systems as well as data, cable and telecommunications.
- (d) The TENANT shall be responsible for maintaining the entire booth structure.
- (e) The TENANT covenants and agrees with the LANDLORD that nothing in this Lease contained shall ever be construed as empowering the TENANT to encumber or cause the LANDLORD to encumber the title or interest of the LANDLORD.
- (f) The TENANT covenants and agrees with the LANDLORD that, at the termination of this Lease, the TENANT will peaceably and quietly deliver unto the LANDLORD, possession of the Demised Premises and all buildings and improvements or Art in Public Places installations located thereon, as well as the TENANT'S interest in fixtures and equipment appertaining thereto.
- (g) The TENANT agrees not to make any internal changes or exterior changes or alterations without written approval of the LANDLORD. This provision does not apply to TENANT'S trade fixtures and/or other non-permanent fixtures on the interior of the Demised Premises.

18. LANDLORD'S RIGHT OF ENTRY - The LANDLORD or its agents shall have the right to enter upon the Demised Premises at all reasonable times to examine the condition and use thereof, provided only that such right shall be exercised in such manner as not to interfere with the TENANT in the conduct of the TENANT'S business on said Demised Premises. If the said Demised Premises are damaged by fire, windstorm, or by any other casualty which caused the Demised Premises to be exposed to the elements, then the LANDLORD may enter upon the Demised Premises to make emergency repairs. LANDLORD may enter upon the Demised Premises to make renovations and repairs of a non-emergency nature by giving reasonable notice to the TENANT, and in such a manner as to minimize any inconvenience to both parties.

19. TENANT'S ACCEPTANCE - The TENANT accepts the Demised Premises and improvements thereon in an as is condition and all improvements and additions shall be at the sole expense of the TENANT except as may be otherwise provided for in this Lease.

20. MISCELLANEOUS PROVISIONS - It is mutually covenanted and agreed by and between the parties as follows:

- (a) That no waiver of a breach of any of the covenants in this Lease contained shall be construed to be a waiver of all succeeding breach of the same covenant.
- (b) That time is of the essence in every particular and particularly where the obligation to pay money is involved.
- (c) That all arrearages in the payment of rent or in the repayment to the LANDLORD of any sums which the LANDLORD may have paid in order to cure a default of the TENANT (as elsewhere herein provided for), shall bear interest from the date when due and payable at the highest rate permitted by law until paid.
- (d) That no modification, release, discharge, or waiver of any provision hereof shall be of any force, effect, or value unless in writing and signed by the persons who are then

LANDLORD and TENANT.

(e) That all covenants, promises, conditions, and obligations contained herein or implied by law, or covenants running with the land, shall attach to and be binding upon the heirs, executors, administrators, successors, legal representatives, and assigns of each of the parties to this Lease.

(f) That this instrument contains the entire agreement between the parties as of this date, and that the execution hereof has not been induced by either of the parties by representations, promises or understandings not expressed herein, and that there are not collateral agreements, stipulations, promises, or understandings whatsoever between the respective parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument.

(g) That when either of the parties desire to give notice to the other or others in connection with and according to the terms of this Lease, such notice shall be deemed given when it shall have been deposited in the U.S. Registered or Certified mail with sufficient postage pre-paid thereon to carry it to its addressed destination. Said notice shall be addressed as follows:

AS TO LANDLORD: PROPERTY MANAGEMENT
CITY OF KEY WEST
P.O. BOX 6434
KEY WEST, FL 33040

AS TO TENANT: MCGRAIL AND ROWLEY INC.
205 ELIZABETH UNIT I
KEY WEST, FL 33040

When the parties on either side (LANDLORD or TENANT) consists of more than one person, notice or default by one of the persons on that side shall constitute notice or default by all of the persons on that side.

(h) This Lease and the provisions thereof shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

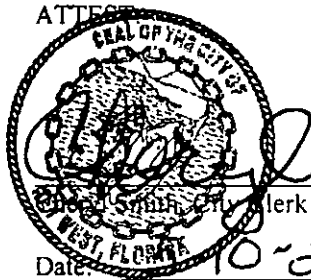
(i) The parties agree to waive trial by jury in any action between them arising out of or in any way connected with this lease or TENANT'S use or occupancy of the Demised Premises. The venue for any action brought under this lease shall lie in the State Court of Monroe County, Florida.

(j) If the TENANT or TENANTS are signing in a capacity other than as individuals, then the LANDLORD may require personal guarantees from individuals as the LANDLORD deems necessary.

(k) LANDLORD may delegate its decision-making authority regarding any provision of this Lease to an Advisory Board.

(l) This Lease is the result of negotiations between the parties and shall not be interpreted in favor of or to the detriment of either party due to its draftsmanship.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing Lease to be executed on the day and year first above written.



LANDLORD: Caroline Street Corridor and
Bahama Village Community Redevelopment
Agency

Teri Johnston
Teri Johnston, Chairwoman

Date: 5-10-2019

TENANT: McGrail and Rowley, Inc.

By: Paul H. McGrail
Paul H. McGrail

WITNESS

Date: 4/29/19

WITNESS

Date: 4/29/19

By: Sean G. Rowley
Sean G. Rowley

Date: 4/29/19

EXHIBIT "A" Demised Premises, Site Plan

Demised Premises

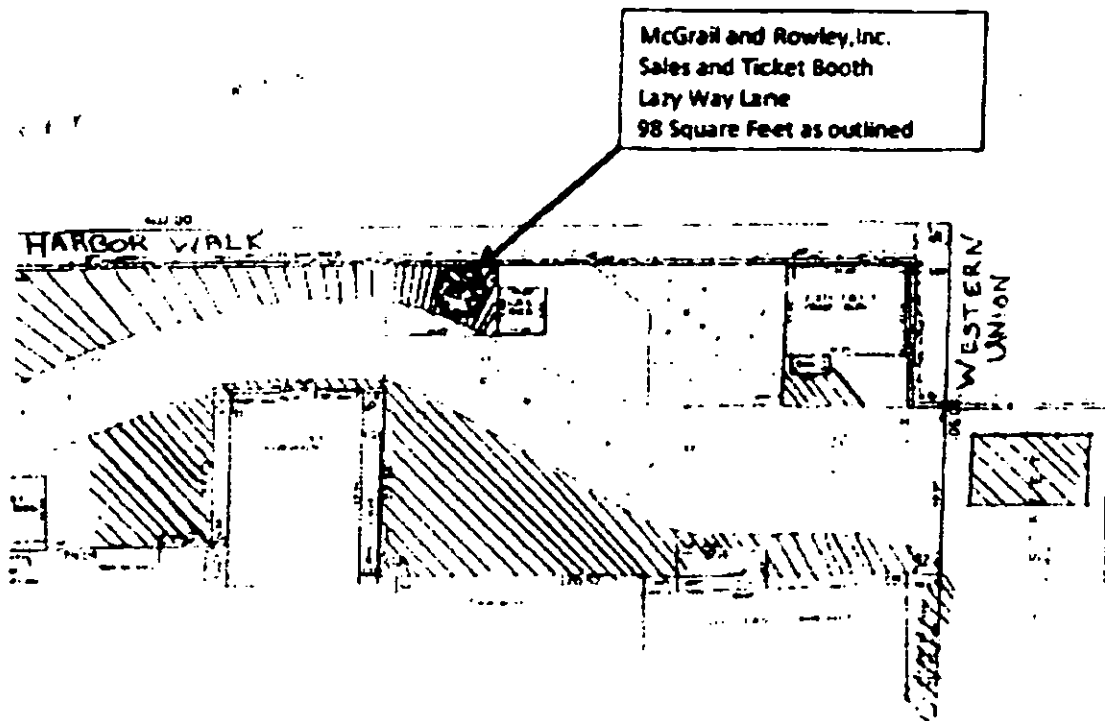


EXHIBIT "B" Rent Schedule

EXHIBIT "B"

Tenant Trade Name:	<u>McGrail and Rowley, Inc.</u>	Square Feet	<u>98</u>	CAM	
Location:	<u>Lazy Way Booth</u>	Square Feet	<u>98</u>	BASE RENT	
Contact:	<u>Paul McGrail, Sean Rowley</u>	Term	<u>9/1/19- 5/31/2025</u>		

YEAR #	Period Beginning	Base Rent	Base Rent	Tax, Ins., CAM \$4.05	Tax, Ins., CAM	Total Rent Before Sales Tax	Sales Tax	Total Rent With Tax	TOTAL RENT
		Annual	Monthly	Annual	Monthly	Monthly	Monthly	Monthly	ANNUAL
	Current rent	\$25,468.56	\$2,122.38	\$396.90	\$33.08	\$2,155.48	\$161.66	\$2,317.11	\$27,805.37
1	September 1, 2019	CPI							
2	September 1, 2020	CPI							
3	September 2, 2021	CPI							
4	September 2, 2022	CPI							
5	September 2, 2023	CPI							
6	September 1, 2024	CPI							

Tax, Insurance and CAM are estimated based upon most recent actual costs

EXHIBIT "C" Rules and Regulations

1. TENANT shall not use any area outside of the demised premises as shown on Exhibit A or any portion of any common area or any parking areas for or any other purpose whatsoever including but not limited to the storage of goods, inventory, equipment, materials, whether or not said area is inside a building or outdoors.

EXHIBIT "D"

TENANT shall furnish LANDLORD a written statement stating the TENANT has accepted the Demised Premises for occupancy and setting forth the actual commencement and expiration dates of the Lease. In the absence of TENANT'S written statement the lease term shall remain as stated herein.



Financial Statements Quarter 1, 2019

Profit & Loss Statement Quarter1



Island Time Watersports Caribbean Ltd.		
Profit & Loss		
Quarter 1		
Income		
-Ritz Carlton	\$	273,033
-Business Interruption		180,000
-Hotel Excursions		9,595
-Hotel Retail		2,089
-Hotel Watersports		110
-Club Excursion		44,587
-Club Retail		34,313
-Club Watersports		2,340
-Bench Passes		60,895
-Club Bench Pass		19,082
-Hotel Bench Pass Accrual		40,483
-Hotel Bench Pass		1,330
-Westin St. John		703,492
-Ferry Service		497,988
-Excursions		84,270
-Bench Service		79,387
-Retail		9,275
-Rental		23,642
-SVO & SD		8,930
-Direct Sales		304,845
-Online Sales		112,548
-In Person/ Telephone		102,870
-Private Charters		89,427
-Outside Vendors		195,529
-Ritz		111,516
-Westin		57,125
-Other		26,889
-Other Income		17,652
-Interest Income		184
-Westin Other Income		16,499
-Advertising Income		969
Total Income		1,555,447

Profit & Loss Statement Quarter 1 (Cont.)



Island Time Watersports Caribbean LLC.	
Profit & Loss	
Quarter 1	
Cost of Goods Sold	15,950
-Beverages	1,305
-Boat Supplies	64,604
-Boat Depreciation Expenses	6,052
-Commission Ritx	16,808
-Commission Westin	7,637
-Credit Card Fees	20,734
-Inventory COGS	42,449
-Fuel & Oil	47,149
-Food	20,435
-Boat Repairs	43,915
-Customs	5,452
-Port Fees	51,800
-Subcontractors - Ferry Boat	136,497
-Subcontractors - Outside Vendors	60,544
-Subcontractors -Outside Vendors-Others	4,399
-Ritx Transaction Fee	46,438
Ritx Wages	19,510
-Ritx Beach Wages	22,440
-Ritx Desk Operations Wages	4,488
-Commission Employees Ritx	78,856
Westin Wages	35,328
-Westin Watersports	24,748
-Beach Hur Westin Wages	11,095
- Westin Maintenance Wages	7,685
-Commission Westin Employees	173,623
Boat Crew	57,838
-Ferry Boat Captain	70,225
-Ferry Boat Crew	6,875
-PC Wages	21,250
-Public Trips	10,694
-Westin Trips	1,983
-Ritx Carlton Trips	230
-Virgin Gorda Transportation	4,529
-Commission SYO	
-PC Commissins	
Total Cost of Goods Sold	844,645
Gross Profit	710,802

Profit & Loss Statement Quarter 1 (Cont.)



Island Time Watersports Caribbean LLC	
Profit & Loss	
Quarter 1	
Expense	
-Advertising and Promotions	26,040
-Amortization Expense	3,832
-Automobile	649
-Bank	2,014
-Cleaning	-
-Computer and Internet	5,690
-Depreciation	3,584
-Dockage Rental	9,366
-Freight	289
-Gross Receipt Taxes	62,713
-Healthcare Insurance	9,097
-Insurance	49,330
-License, Permits, Etc.	-
-Localized Transportation	2,012
-Meals & Entertainment	2,530
-Non-Motorized Beach	360
-Other Expenses	1,700
-Professional Fees	8,306
-Rent	22,858
-Management Salaries	163,428
-Payroll Expenses	35,731
-Supplies	5,031
-Travel & Entertainment	9,030
-Uniforms	1,858
-Utilities	725
-V.I. Unemployment Insurance Exp	(5,557)
Total Expenses	420,618
Net Ordinary Income	290,184
Other Income/Expense	
-Interest Expense	(47,693)
-Other Income	48,588
Total Other Income	894
Net Income	291,078
-Depreciation	68,188
-Amortization	3,832
-Interest Expense (Income)	47,509
-Income Tax	-
EBITDA	\$ 410,608
EBITDA Margin %	26%
Transaction Costs	5,267
Other	-
Adjusted EBITDA	\$ 415,875
Adjusted EBITDA Margin %	27%

Statement of Balance Sheet Quarter 1 (Cont.)



Island Time Watersports Caribbean LLC	
Balance Sheet	
Quarter 1	
ASSETS	
Current Assets	
Checking Savings	3,533
Banco Popular	306,619
Merchants Account 03711	866,261
Merchants Account-1536	1,960
Perry Cash	1,178,374
Total Checking Savings	
Accounts Receivable	764
Due from Affiliates-DFA	1,061
Due To/From Ashford/RED Leisue	4,069
Due To/From Braemar/RED Leisue	684,529
Account Receivables - Other	690,423
Total Accounts Receivable	
Other Current Assets	
Boat Escrow	760,000
Boat Parts & Equipment	24,482
Chaim Gordon Vangers	11,982
Inventory Assets	44,270
Inventory Parts	19,912
Prepaid Insurance	132,511
Undeposited Amounts	3,321
Total Other Current Assets	
Total Current Assets	997,478
Fixed Assets	
Accumulated Depreciation	(14,974)
Accumulated Depreciation Boats	(236,100)
Annual Regisr Annuvization	(5,381)
Annual Registration	13,501
Boats	5,962,817
Furniture and Equipment	73,686
Start Up Expenses	39,393
Total Fixed Assets	5,832,942
Other Assets	
Origination Fees	
Banco Principal Origination Fee	(1,881)
Merchants Line of Credit Origiu	(2,489)
Merchants Term Loan Origination	(1,900)
Origination Fees Amortization	
Orig Fees Amort-BPPR-Long Term	38,964
Orig Fees Amort-Line of Credit	2,500
Orig Fees Amort-Merch Long Term	12,977
Origination Fees Loan 1536	13,739
Security Deposits	13,795
Total Other Assets	75,605
TOTAL ASSETS	\$ 8,774,822

Statement of Balance Sheet Quarter 1



Island Time Watersports Caribbean LLC	
Balance Sheet	
Quarter 1	
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	341,636
A/P Trade	-
Due to Affiliates	-
Accounts Payable - Other	93,272
Salaries Payable	434,908
Total Accounts Payable	
Other Current Liabilities	
Accrued Interest-Banco Popular	11,143
Accrued Interest-Merchants Loan	4,201
Accrued Interest Line of Credit	-
Boat Charters	4,670
Cur portion of Banco Principal	178,500
Cur portion of Merchants Loan	92,826
Deferred Revenue	95,077
Payroll Liabilities	3,557
Direct Deposit Liabilities	23,453
Tips Employees	(17,146)
Total Other Current Liabilities	396,280
Total Current Liabilities	831,189
Long Term Liabilities	
Line of Credit	-
Long Term Loan	
Long-term portion of Banco Prin	1,591,626
Long-term portion of Merchants Loan-1536	1,400,000
Long-term portion of Merchants	580,063
Total Long Term Liabilities	3,571,689
Total Liabilities	4,402,877
Equity	
Members Equity	
Opening Balance Equity	2,994,467
Net Income	1,100,000
Total Equity	277,478
TOTAL LIABILITIES & EQUITY	4,371,945
	\$ 8,774,822

Statement of Cash Flow



Island Time Watersports Caribbean LLC		
Statement of Cash Flow		
March 19		
OPERATING ACTIVITIES		
Net Income	\$	277,477.53
Adjustments to reconcile Net Income to net cash provided by operations:		
Account Receivables		(473,446)
Boat Escrow		(390,000)
Boat Parts & Equipment		(8,893)
Escrow Funds		225,302
Inventory Asset		(40,981)
Inventory Parts		(3,931)
Prepaid Insurance		(29,789)
Accounts Payable: A/P Trade		197,045
Salaries Payable		51,313
Accrued Interest-Merchants Loan		(65)
Accrued Interest Line of Credit		(572)
Cur portion of Banco Principal		59,500
Cur portion of Merchants Loan		1,492
Deferred Revenue		24,287
Direct Deposit Liabilities		3,557
Payroll Liabilities		7,151
Tips		(17,678)
Net cash provided by Operating Activities	\$	(118,229.43)
INVESTING ACTIVITIES		
Accumulated Depreciation		3,584
Accumulated Depreciation Boats		64,605
Annual Registration		(2,525)
Annual Registration/Annual Regist Amortization		1,925
Boats		(108,758)
Furniture and Equipment		(4,827)
Start Up Expenses		(28,361)
Orig Fees Amort-BPPR-Long Term		806
Orig Fees Amort-Line of Credit		637
Orig Fees Amort-Merch Long Term		463
Origination Fees: Origination Fees Loan 1536		(13,739)
Security Deposits		(850)
Net cash provided by Investing Activities	\$	(87,038.96)
FINANCING ACTIVITIES		
Line of Credit		(117,566)
Loan Merchants		1,400,000
Long Term Loan: Long-term portion of Banco Prin		(74,374)
Long Term Loan: Long-term portion of Merchants		(23,489)
Members Equity		127,200
Net cash provided by Financing Activities	\$	1,311,770.11
Net cash increase for period	\$	1,106,501.72
Cash at beginning of period	\$	75,192.36
Cash at end of period	\$	1,181,694.08



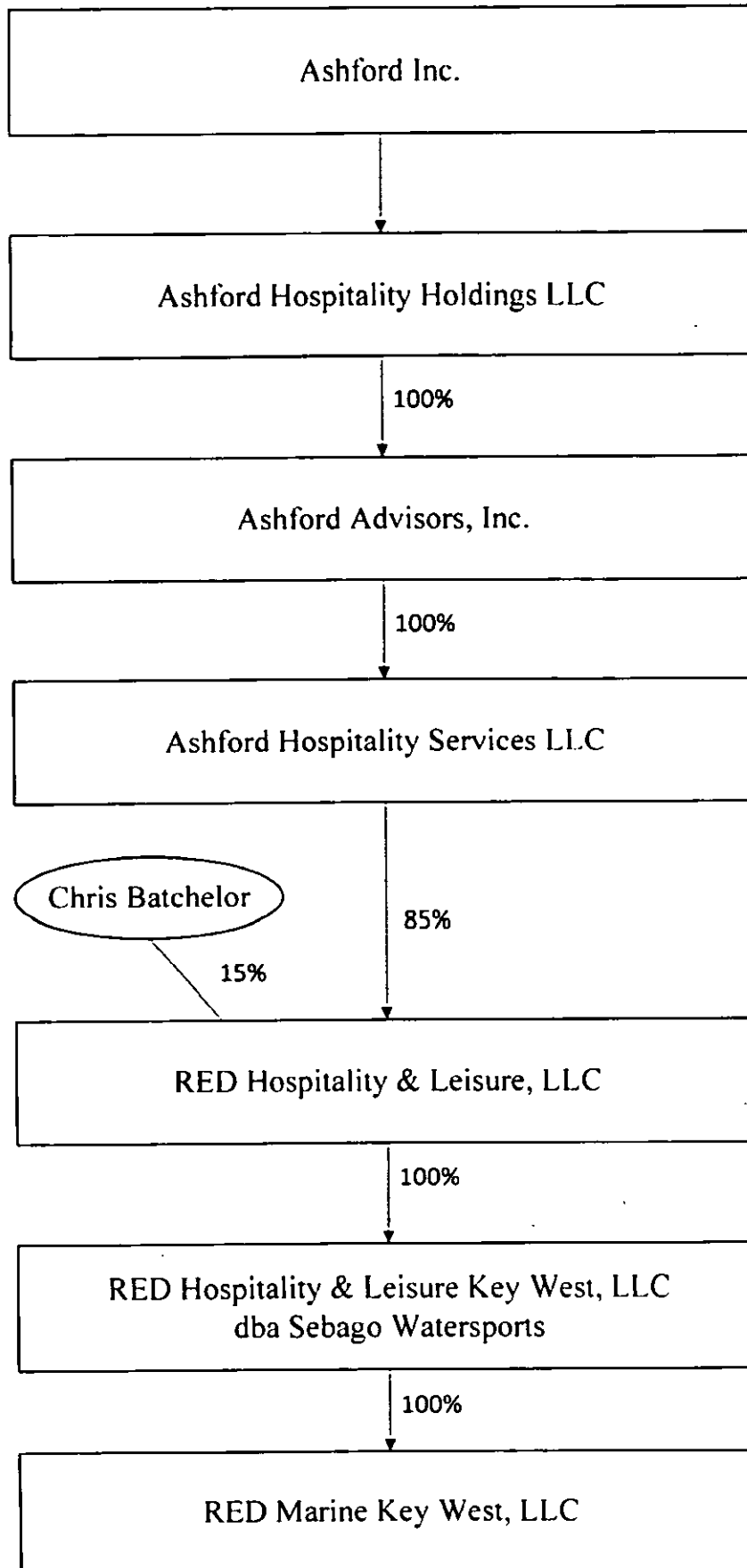
Historical Financial Statements

2015-2018 USVI Financial Summary



Income Statement	2015	2016	YTD Jul 2017	2018	Jan-19	Feb-19	Mar-19	YTD 2019
Total Revenue	\$ 5,283,696	\$ 6,440,035	\$ 4,305,687	\$ 1,395,182	\$ 465,635	\$ 489,645	\$ 599,983	\$ 1,555,263
Total COGS	1,557,254	3,277,948	2,085,679	734,371	227,546	246,319	334,340	858,215
Gross Profit	\$ 3,726,442	\$ 3,162,087	\$ 2,220,008	\$ 660,812	\$ 238,089	\$ 193,305	\$ 265,623	\$ 697,018
Gross Profit Margin %	70.5%	49.1%	51.6%	47.4%	51.1%	39.5%	44.3%	43.1%
Salaries	\$ 1,897,943	\$ 1,764,032	\$ 1,189,728	\$ 307,079	\$ 55,049	\$ 54,297	\$ 54,082	\$ 163,428
Advertising & Promotion	87,843	164,871	92,042	23,120	9,905	8,158	7,978	26,040
Insurance	161,594	77,858	73,143	71,274	18,579	15,376	15,376	49,530
Rent	763,831	121,518	67,272	51,027	11,975	11,975	8,275	32,224
Gross Receipts Tax	172,081	24,484	94,631	58,209	19,454	20,959	22,300	62,713
Other SG&A	529,752	448,250	279,701	240,274	21,186	27,713	37,983	86,882
Total Operating Expenses	\$ 3,612,544	\$ 2,401,012	\$ 1,796,517	\$ 750,984	\$ 136,147	\$ 138,477	\$ 145,993	\$ 420,618
EBIT	\$ 113,898	\$ 561,074	\$ 423,492	\$ (90,172)	\$ 101,942	\$ 54,828	\$ 119,630	\$ 276,400
Interest Expense	\$ 99,534	\$ 87,323	\$ 48,352	\$ 73,088	\$ 16,218	\$ 14,981	\$ 16,494	\$ 47,693
Interest (Income)	-	-	-	-	(184)	-	-	(184)
Other Expense / (Income)	60,168	13,350	(42,553)	(48,010)	(38,588)	(10,007)	-	(48,588)
EBT	\$ (45,804)	\$ 460,402	\$ 417,693	\$ (115,251)	\$ 124,495	\$ 49,847	\$ 103,136	\$ 277,478
Depreciation & Amortization	\$ 383,272	\$ 294,038	\$ 187,663	\$ 250,720	\$ 23,234	\$ 24,542	\$ 24,244	\$ 72,020
Interest Expense	99,534	87,323	48,352	73,088	16,034	14,981	16,494	47,509
Income Tax	-	-	-	-	-	-	-	-
EBITDA	\$ 437,002	\$ 841,763	\$ 653,708	\$ 208,557	\$ 163,763	\$ 89,371	\$ 143,874	\$ 397,008
EBITDA Margin %	8.3%	13.1%	15.2%	14.9%	35.2%	18.3%	24.0%	25.5%
One-Time Add Backs	\$ 50	\$ 50	\$ 50	\$ (84,000)	\$ 50	\$ 51,161	\$ 54,106	\$ 55,267
Adjusted EBITDA	\$ 437,002	\$ 841,763	\$ 653,708	\$ 200,557	\$ 163,763	\$ 90,532	\$ 147,980	\$ 402,275
Adjusted EBITDA Margin %	8.3%	13.1%	15.2%	14.4%	35.2%	18.5%	24.7%	25.9%

Proposed Post-Closing Structure Sebago Watersports




INCUMBENCY CERTIFICATE

I, Robert G. Haiman, Executive Vice President, General Counsel and Secretary of Ashford Inc., a Maryland corporation, hereby certify that as of this date each person listed below is a duly elected officer of said corporation, holding the office indicated below opposite his name.

<u>NAME</u>	<u>OFFICE</u>
Monty J. Bennett	Chief Executive Officer
Robert G. Haiman	Executive Vice President, General Counsel and Secretary
Deric S. Eubanks	Chief Financial Officer and Treasurer
Mark Nunneley	Chief Accounting Officer
Jeremy Welter	Co-President and Chief Operating Officer
J. Robison Hays III	Co-President and Chief Strategy Officer

IN WITNESS WHEREOF, I have hereunto set my had this 3rd day of June, 2019.



Robert G. Haiman, Executive Vice President,
General Counsel and Secretary

INCUMBENCY CERTIFICATE

I, Robert G. Haiman, Executive Vice President, General Counsel and Secretary of Ashford Inc., a Maryland corporation, Manager of RED Hospitality & Leisure, LLC, a Delaware limited liability company (the "Company"), hereby certify as of this date as follows:

1. The following constitute the managers of the Company:

Ashford Inc., a Maryland corporation

Ashford Hospitality Services LLC, a Delaware limited liability company

2. The person listed below is a duly elected officer of the Company, holding the office indicated below opposite his name:

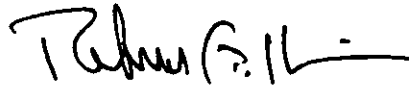
Name

Office

Chris Batchelor

President and Secretary

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of June, 2019.



Robert G. Haiman, Executive Vice President,
General Counsel and Secretary