

LICENSE FOR NONFEDERAL USE OF DEPARTMENT OF THE NAVY REAL PROPERTY THIS LICENSE TO USE THE U.S. GOVERNMENT PROPERTY HEREIN DESCRIBED IS ISSUED BY THE DEPARTMENT OF THE NAVY TO THE LICENSEE NAMED BELOW FOR THE PURPOSE HEREIN SPECIFIED UPON THE TERMS AND CONDITIONS SET FORTH BELOW AND IN THE ATTACHED GENERAL PROVISIONS. BY ITS EXECUTION, THE LICENSEE AGREES TO COMPLY WITH ALL THOSE TERMS, CONDITIONS, AND GENERAL PROVISIONS.		1a. WORK ORDER NO: 1350422 ALL CORRESPONDENCE MUST REFERENCE: 1b. FILE NO: 1c. LICENSE (CONTRACT) NO: N69450-14-RP-00030	
2. PROPERTY LOCATION (<i>Installation Name and Address</i>) Truman Annex, Naval Air Station Key West		3. DATES COVERED FROM: 1 MAR 2014 THROUGH: 31 AUG 2014 Provided Licensee has delivered the required insurance certificates to the Licensor.	
4. DESCRIPTION OF PREMISES (<i>Room and building numbers where appropriate</i>) Approximately 800 feet of the outer portion of the Mole Pier at Truman Annex (See EXHIBIT A, "LICENSED PREMISES")			
5. PURPOSE AND USE AUTHORIZED (<i>Specific use, times and recurring/part-time basis, and land use controls</i>) Temporary use of the Mole Pier as an alternate dock to berth cruise ships (also see Special Provision 2)			
6. LICENSOR UNITED STATES OF AMERICA BY THE SECRETARY OF THE NAVY		6a. NAVY/USMC LOCAL REPRESENTATIVE (<i>Name, Title, Address, Telephone, Email</i>) LDCR Patrick D. Meagher, Public Works Officer PWD Key West P.O. Box 9007, BLDG A-629 Lexington and Langley Key West, Florida 33040-9002	
7. LICENSEE (<i>Name, Address, Telephone Email</i>) City of Key West 3132 Flagler Ave. Key West, Florida 33040		7a. LOCAL REPRESENTATIVE OF LICENSEE (<i>Name, Title, Address, Telephone, Email</i>) Same as Block #7 Mr. Bob Vitas, City Manager 305-809-3888 bvitas@keywestcity.com	
8. CASH PAYMENT BY LICENSEE			
a. AMOUNT (<i>Each payment</i>) See Special Provisions, Paragraph 1	b. FREQUENCY PAYMENTS DUE See Special Provisions, Paragraph 1	c. FIRST DUE DATE See Special Provisions, Paragraph 1	d. SEND PAYMENT TO: (<i>Name and Mailing Address</i>) See Special Provisions, Paragraph 1
9. EXHIBITS: The following are attached and incorporated into this License - A. Map of Licensed Premises B. General Provisions C. Environmental Condition of Property (ECP) D. Joint Inspection and Inventory Report (Non-Environmental) E. Special Provisions			
10. EXECUTION OF LICENSE			
FOR THE SECRETARY OF THE NAVY	NAME: Timothy T. Yonce Real Estate Contracting Officer	SIGNATURE:	DATE:
LICENSEE I represent that I am authorized to bind Licensee	NAME: Mr. Bob Vitas, City Manager Key West, Florida	SIGNATURE:	DATE:

EXHIBIT A

The Licensed Premises

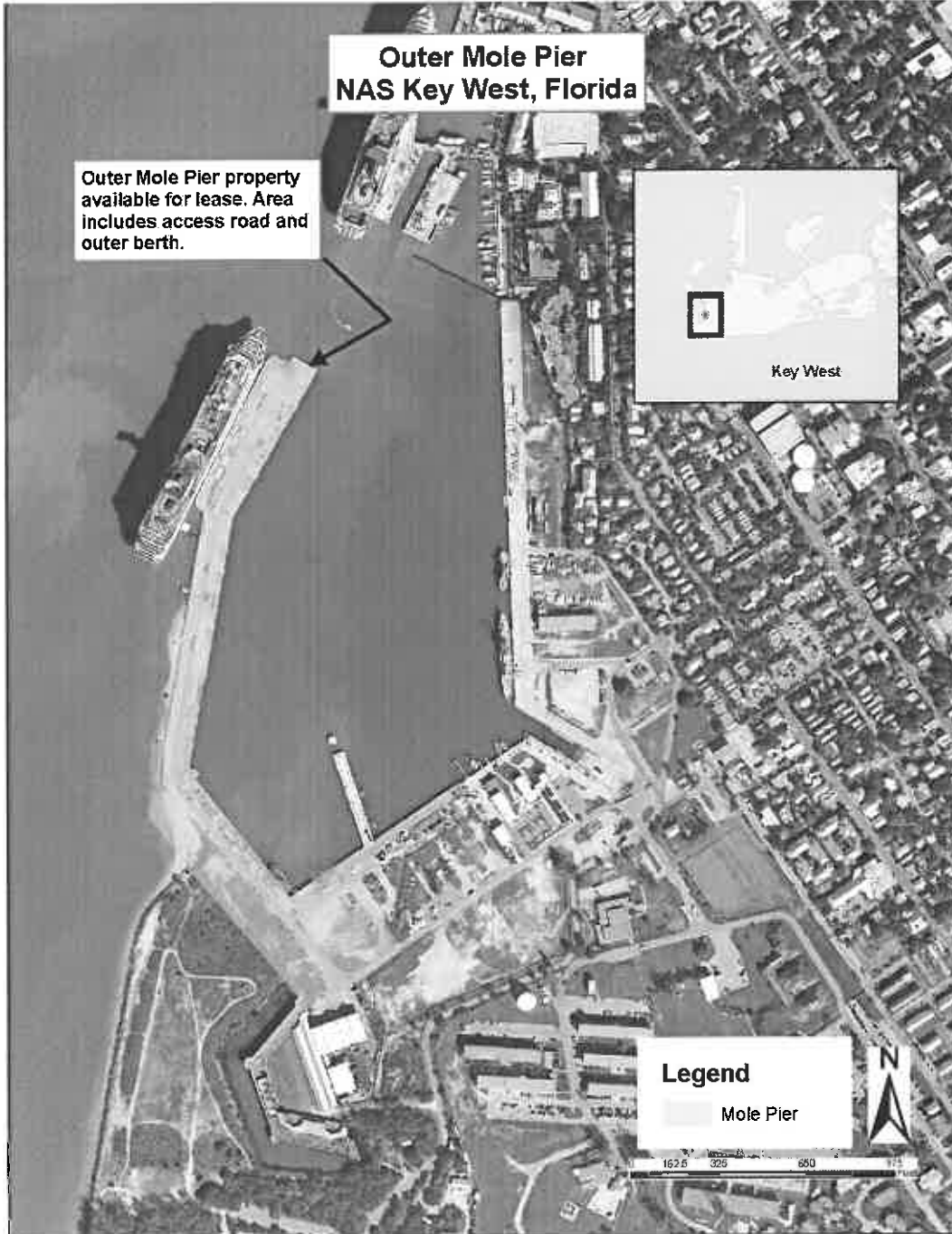


EXHIBIT B

GENERAL PROVISIONS TO LICENSE FOR NON-FEDERAL USE OF REAL PROPERTY

1. USE OF AND ACCESS BY LICENSEE. The Licensor grants to the Licensee the right to use the premises or facilities described in block 4 and **Exhibit "A"** ("Licensed Premises"), together with the necessary rights of ingress and egress authorized by the Installation Commanding Officer. The Licensee and its invitees and contractors agree to absorb all costs, including time and expense, associated with gaining access to the Installation under the RAPIDGATE or similar program. Any parking that accompanies the use of, and any routes of access to and from, the Premises are subject to change at the sole discretion of the Installation Commanding Officer.

2. TERM. This License shall be effective for the period stated in block 3 and is revocable at any time without notice at the option and discretion of the Licensor or its authorized representative.

3. USE OF PREMISES. The use of the Premises shall be limited to the purposes specified in block 5, and no other.

4. ASSIGNMENT/TRANSFER OF RIGHTS. This License is neither assignable nor transferable by the Licensee, and grants no interest in the real property of the Licensor.

5. UTILITIES AND SERVICES. If utilities and services are furnished to the Premises, the Licensee agrees to reimburse the Licensor for the cost as determined by the Licensor in accordance with applicable statutes and regulations.

Reimbursement for Utilities and Services			
Amount (Each Payment)	Frequency Payments Due	First Due Date	To (Mailing Address)
Utilities / Services Furnished Are:		<input type="checkbox"/> None	<input type="checkbox"/> HVAC/ Steam Heat
<input type="checkbox"/> Electricity	<input type="checkbox"/> Gas/Oil	<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Garbage/Refuse/Recycling
<input type="checkbox"/> Telephone	<input type="checkbox"/> Internet	<input type="checkbox"/> Other:	

6. PROTECTION AND MAINTENANCE OF PREMISES. The Licensee, at its own cost and expense, shall protect, maintain, and keep the Premises under its control in good order. Licensee is responsible for repairing any damage to the Premises caused by Licensee, or its agents, employees, contractors, guests or invitees.

7. IMPROVEMENTS AND RESTORATION. No additions to, or alterations of, the Premises shall be made without the prior consent of the Licensor. Upon revocation or surrender of this License, to the extent directed by the Licensor, the Licensee shall remove all alterations, additions, betterments and improvements made, or installed, and restore the Premises to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.

8. INDEMNIFICATION.

a. The Licensee releases the Licensor and its employees from liability for death or injury to persons at the Premises.

b. The Licensee, to the extent allowed by law, agrees to release and hold the Licensor and its employees harmless from, and to indemnify and defend them against, loss or damage to property caused by or arising from its use of the Premises, regardless of any contributory fault of the Licensor.

c. The Licensee shall indemnify and save harmless the Licensor, its officers, agents, servants and employees from, and defend it and them against, all liability under the Federal Tort Claims Act (28 U.S.C. §§ 2671 and 2680) or otherwise, for death or injury to all persons, or loss or damage to the property of all persons resulting from its use of the Premises.

EXHIBIT B

GENERAL PROVISIONS TO LICENSE FOR NON-FEDERAL USE OF REAL PROPERTY

d. The Licensee agrees that the Licensor, its officers, agents and employees shall be released from all liability on all suits, claims, actions or demands in any way related to or arising under the Licensee's use of the property. This release includes, but is not limited to, all environmental suits, claims, and enforcement actions, whether arising during the Licensee's construction on or use of the property, or after such use has ended.

9. INSURANCE. See Special Provisions, Paragraph 7.

10. DAMAGE TO THE PREMISES.

a. In the event of damage, including damage by contamination, to any Government property by the Licensee, its officers, agents, servants, employees, or invitees, the Licensee, at the election of the Licensor, shall promptly repair, replace, or make monetary compensation for the repair or replacement of that property to the satisfaction of the Licensor. That obligation includes any damage discovered from the physical condition and environmental condition inspections notwithstanding the expiration or earlier termination or revocation of this License.

b. In the event that any item or part of the Premises shall require repair, rebuilding or replacement (collectively, "repair") resulting from loss or damage, the risk of which is assumed under this License, the Licensee shall promptly give notice to the Licensor and, to the extent of its liability as provided in this paragraph, shall either compensate the Licensor for any loss or damage within thirty (30) days of receipt of a statement, or repair the lost or damaged item or items of the Premises, as the Licensor may elect. If the cost of repair exceeds the liability of the Licensee for any loss or damage, the Licensee shall effect the repair if required to do so by the Licensor, and the excess of cost shall be reimbursed to the Licensee by the Licensor within thirty (30) days of receipt of a statement provided that appropriations are available for that purpose. In the event the Licensee shall have effected any repair that the Licensee is required to effect, the Licensor shall direct payment to the Licensee of so much of the proceeds of any insurance carried by the Licensee and made available to the Licensor on account of loss of or damage to any item or part of the Premises that may be necessary to enable the Licensee to effect the repair. In the event the Licensee shall not have been required to effect the repair, and the insurance proceeds allocable to the loss or damage that has created the need for the repair have been paid to the Licensee, the Licensee shall promptly refund to the Licensor the amount of the proceeds.

11. OFFICIALS NOT TO BENEFIT. No member of, or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this License or to any benefit that may arise from it; but this provision shall not be construed to extend to this License if made with a corporation for its general benefit.

12. COVENANT AGAINST CONTINGENT FEES. The Licensee warrants that it has not employed any person to solicit or obtain this License upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Licensor the right to annul this License or in its discretion to recover from the Licensee the amount of that commission, percentage, brokerage or contingent fee in addition to the consideration for this license. This warranty shall not apply to commissions payable by the Licensee upon contracts or sales obtained or made through *bona fide* established commercial or selling agencies maintained by the Licensee for the purpose of acquiring business.

13. NON-DISCRIMINATION. In connection with the performance of work under this License, the Licensee agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. Non-discrimination shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Licensee agrees to post in conspicuous places available for employees and applicants for employment, notices to be provided by the Licensor setting forth the provisions of the nondiscrimination clause. The Licensee further agrees to insert the foregoing provision in all subcontracts for work under this License, except subcontracts for standard commercial supplies or raw materials.

14. APPLICABLE RULES AND REGULATIONS.

EXHIBIT B

GENERAL PROVISIONS TO LICENSE FOR NON-FEDERAL USE OF REAL PROPERTY

a. All activities authorized under this License shall be subject to rules and regulations regarding supervision or otherwise, that may, from time to time, be prescribed by the local representative of the Licensor.

b. Upon request, the Licensee shall submit to the Licensor evidence of compliance with local, state, and Federal environmental laws and regulations.

15. **FEDERAL FUNDS.** This License does not obligate the Licensor to expend any appropriated funds. Nothing in this License is intended or should be interpreted to require any obligation or expenditure of funds in violation of the Anti-Deficiency Act (31 U.S.C. § 1341).

16. **STORAGE OF TOXIC OR HAZARDOUS CHEMICALS.** Storage, treatment, or disposal of toxic or hazardous materials on the Premises is prohibited except as authorized by the Licensor in accordance with 10 U.S.C. § 2692. Any hazardous materials that the Licensor authorizes the storage, treatment, or disposal of in connection with the use of the Premises shall be identified on a Hazardous Materials List and made a part of this License. Any such approved storage, treatment, or disposal of toxic or hazardous material by Licensee on the Premises shall be strictly limited to that material required or generated in connection with the authorized and compatible use of the Premises and shall be conducted in a manner consistent with the best interest of national defense as determined by the Secretary of the Navy and applicable law and regulations. As and to the extent caused by or attributable to the Licensee, Licensee shall have continued financial and environmental responsibility or liability for any and all direct or indirect consequences of the storage, treatment, or disposal of toxic or hazardous material within the Premises. Licensee will manage, control and dispose of its hazardous waste and hazardous materials in accordance with Federal, state, and local laws. In addition, Licensee shall implement the environmental requirements of applicable facility plans including but not limited to Spill Plans, Emergency Response Plans, and Hazardous Waste Management Plans. In the event the Licensor approves the storage, treatment, or disposal of toxic or hazardous materials, the Licensee shall obtain insurance or post a bond in an amount sufficient to cover possible cleanup costs.

17. **ENVIRONMENTAL CONDITION OF PREMISES.** **Exhibit "C"**, Environmental Condition of Property, sets forth the existing environmental condition of the Premises as represented by a baseline survey conducted by the Licensor. Licensee is hereby made aware of the notifications contained in **Exhibit "C"** and shall comply with all restrictions set forth therein.

18. **JOINT INSPECTION AND INVENTORY REPORT (NON-ENVIRONMENTAL).** A Joint Inspection and Inventory Report (JIIR) has been conducted by representatives of the Licensor and the Licensee documenting the condition of the Premises. The report is attached to this License and made a part hereof as **Exhibit "D"**. The Premises shall be delivered to the Licensee on an "As Is, Where Is" basis, and, as such, Licensor makes no warranty relative to the Premises as to its usability generally or as to its fitness for any particular purpose. Any safety and/or health hazards identified and listed as such in the JIIR shall be corrected at the Licensee's expense prior to use and occupancy of the relevant portion of the Premises. Such safety and/or health hazards shall be limited to those identified in the JIIR. In the event this License is terminated and the parties have not agreed to enter into a new License, or another agreement, Licensee shall return the Premises to the Licensor in the same condition in which it was received, reasonable wear and tear and Acts of God excepted. Licensee may, at its expense and with prior written approval of the Licensor: (a) replace any personal property with personal property of like kind and utility, (b) replace any personal property in a good and workmanlike manner, and (c) dispose of any worn out, obsolete or non-functioning personal property, in accordance with applicable laws and regulations. Licensor shall not unreasonably withhold or delay granting its approval to Licensee's request for such actions.

19. **ADMINISTRATIVE COSTS.** At the termination or expiration of this License, at the Licensor's discretion, Licensee shall be responsible for administrative costs associated with completing a final inspection of the premises and updating the Environmental Condition of Property.

20. **NOTICES.** Correspondence concerning this License shall be provided to both the Local Representative identified in Block 6a. and the Real Estate Contracting Officer identified in Block 10.

21. **STATEMENT OF COMPLIANCE.** Pursuant 10 U.S.C. § 2662:

EXHIBIT B

GENERAL PROVISIONS TO LICENSE FOR NON-FEDERAL USE OF REAL PROPERTY

- a. This license is not subject to the requirements of this section; or,
- b. This license is subject to the requirements of this section and said requirements have been met.

22. ADDITIONS, MODIFICATIONS AND DELETIONS. Prior to the execution of this License, the following provisions were added, modified or deleted: See Special Provisions (Exhibit "E")

EXHIBIT C

Environmental Condition of Property (ECP) Document

Installation: _____ _____
Parcel/Site Location and Description: _____ _____ _____
Proposed Real Estate Action Description: _____ _____ _____
Site Summary Information 1. Information regarding site uses and any hazardous materials, contamination, or conditions. All available and pertinent files, records, reports and aerial photographs were reviewed and, where necessary, a site inspection and/or personal interviews were conducted to document the environmental conditions of the property to support the proposed real estate action. A summary of the conditions, sources of information (including location), and any required use restrictions are provided for each environmental condition.
A. Parcel/Site Uses: Prior Uses: _____ _____ Current Uses: _____ _____ Future Uses: _____ _____
B. Contaminants: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown If yes, identify contaminant and media: _____ Source of information: _____ _____ Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please identify and explain in detail in Section 2 below.
C. Hazardous Materials Use: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown Hazardous Materials Storage: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown Type of HM: _____ Type of Use and/or Storage: _____ Source of information: _____ _____ Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please identify and explain in detail in Section 2 below.
D. Treatment, Storage, Disposal of Hazardous Waste: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown Source of information: _____ _____ Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please identify and explain in detail in Section 2 below.
E. Underground Storage Tanks: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown UST No. _____ Gals. _____ Source of information: _____ _____ Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please identify and explain in detail in Section 2 below.
F. Above-Ground Storage Tanks: <input type="checkbox"/> Yes <input type="checkbox"/> No AST No. _____ Gals. _____ Source of information: _____ _____ Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please identify and explain in detail in Section 2 below.

<p>G. Presence of Polychlorinated Biphenyl's (PCB's): <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>H. Asbestos: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>If yes: <input type="checkbox"/> Friable <input type="checkbox"/> Non-friable <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>I. Lead Paint: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>J. Radon: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>K. Radiological Materials: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>L. Solid/Bio-Hazardous Waste: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>M. Munitions and Explosives of Concern: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>N. Threatened or Endangered Species: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>O. Natural or Cultural Resources: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>
<p>P. Use of Adjacent Property:</p> <p>Current Use: _____</p> <p>Past Use: _____</p> <p>Source of information: _____</p> <p>Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please identify and explain in detail in Section 2 below.</p>

Q. Has the site had any Notices of Violation? <input type="checkbox"/> Yes <input type="checkbox"/> No. If yes, please explain:
Source of information:
Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please identify and explain in detail in Section 2 below.
R. Additional information or comments regarding questions shown above (attach sheet(s) if additional room is needed):
Source of information:
Restrictions or Land Use Controls: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please identify and explain in detail in Section 2 below.
2. List of Land Use Controls required for Real Estate Action:

EXHIBIT D



JOINT INSPECTION AND INVENTORY REPORT (JIIR)

Name of Installation: NAS KEY WEST UIC N00213
Location: TRUMAN ANNEX AREA TRUMAN ANNEX WATERFRONT
Date of Inspection: / /
iNFADS current: Yes / No
Contract Number: N69450-14-RP-00030
Commencement Date: 3/1/2014
Termination Date: 8/31/2014
Options: N/A
Grantee: NAS Key West
Grantor: City of Key West
Type of In/Outgrant: Out-License
Intended use: Cruise ship berthing at the Mole Pier

Physical Condition of the Property

1. Grantor is presently using the property for the following purpose(s):

2. Property (is) / (is not) suitable for Grantee's intended use (Circle one).

3. Describe any/all present property uses that would be incompatible with Grantee's intended use:

4. Describe and document any major physical conditions that need to be corrected

5. List and describe any safety concerns that need to be addressed

6. Describe any/all items discovered in the physical inspection that do not comply with the terms and conditions of the agreement

The following personnel have inspected the premises on (Date) _____ and agree to the findings and conditions listed on this report:

NAVFAC

GRANTEE

Inspected By: _____

Inspected By: _____

Signed: _____

Signed: _____

Additional

Comments: _____

EXHIBIT E

SPECIAL PROVISIONS

1. CONSIDERATION.

1.1. Rent. Licensee will pay rent in the amount of forty percent (40%) of the gross dockage fee per ship, per port call, payable in arrears, no later than the tenth (10th) day of each month. Licensee must pay rent in the form of cash or in-kind consideration, at GOVERNMENT'S direction.

1.2. Licensee shall provide to the GOVERNMENT a written monthly accounting of monies received from Licensee's use of the Leased Premises in a form which comports with Generally Accepted Accounting Practices (GAAP) or the Government Accounting Standards Board (GASB).

1.3. Licensee will keep complete and accurate books and records of all income and expenses related to this License and the Licensed Premises, including without limitations, copies of checks, bills, receipts, estimates, invoices, statements, stubs, audits, ledgers, reports, transaction registers, schedules, correspondences and all related supporting documentation (collectively referred to hereinafter as the "Account Records"). Without limiting the generality of the foregoing, the PARTIES agree that Account Records specifically includes, but is not limited to , records of (a) all income earned as a result of cruise ship berthing at the Licensed Premises; (b) all expenses associated with the Licensee's operation, maintenance, repair, construction or alteration of the Licensed Premises; (c) all rental payments to the GOVERNMENT, whether by cash or in-kind consideration; and (d) with respect to rent paid in the form of in-kind consideration, a complete record of all transactions affecting the deposit account established. Licensee shall provide GOVERNMENT with a complete copy of the Account Records no later than seven (7) calendar days following receipt of the GOVERNMENT's written request for same.

1.4. Cash. Cash rent is payable in arrears on a monthly basis and is due on or before the tenth (10th) day of each month. Rent payments not received on or before the tenth (10th) day of each month are late. LICENSEE shall pay cash rent by valid check or money order made payable to "U.S. Treasury," citing the License Contract Number tendered to:

Commanding Officer
Naval Facilities Engineering Command Southeast
Attn: Real Estate Contracting Officer
P.O. Box 30A, Building 903, Room 260
Naval Air Station
Jacksonville, FL 32212-0030
(License Contract No: N69450-14-RP-00030)

1.5. In-Kind. At the GOVERNMENT's direction, in lieu of paying rent either totally or partially in cash, LICENSEE shall pay rent to the GOVERNMENT in-kind. Pursuant to 10 U.S.C § 2667, acceptable types of in-kind consideration include: (1) the alteration, repair, or improvement of the Licensed Premises as part or all of the payment of the consideration for the License, hereinafter referred to as "In Kind consideration (2) maintenance, protection, repair, alteration, improvement, or

restoration (including environmental restoration) of facilities under the control of the Commander, Navy Region Southeast; (3) construction of new facilities; (4) providing facilities; (5) provision or payment of utility services; (6) provision of real property maintenance services; and (6) providing other services relating to activities that will occur on the Licensed Premises that the Assistant Secretary of the Navy (Energy, Installations and Environment) (ASN) (EI&E) considers appropriate. In-kind consideration shall in no event include any item of protection, maintenance, improvement or repair which is solely incidental to Licensee's use of the Licensed Premises hereunder and which Licensee is obligated to perform by Paragraph 9, PROTECTION AND MAINTENANCE OF LICENSED PREMISES, or other provisions of this License, such as, but not limited to, security, garbage and trash collection and disposal, or clean-up work. At the GOVERNMENT's direction, in-kind consideration shall be performed within Monroe County, Florida.

1.5.1. Licensee will establish a separate, single-purpose, Licensee-controlled, interest-bearing deposit account at an insured depository institution. At the GOVERNMENT's direction, Licensee will deposit rental proceeds to be used for in-kind consideration into said deposit account. All interest accrued to this deposit account shall belong to the GOVERNMENT. At the end of each year that this License is in effect, Licensee shall submit to the Real Estate Contracting Officer ("RECO") a check made payable to the United States Treasury for the total amount of interest accrued to the deposit account for that year. Licensee shall use deposit account funds to pay approved costs for in-kind projects and services.

1.5.2. GOVERNMENT and Licensee shall meet, telephonically or in-person, on an as-needed basis, but not less than quarterly from the date of inception of this License to review and amend, if necessary, the established list of specific in-kind projects or services that will be performed. Disagreements between the RECO and Licensee regarding in-kind projects or services shall be elevated to the Commanding Officer, NAVFAC Southeast and a City official of equivalent authority for resolution.

1.5.3. For each in-kind project or service proposed, an estimated cost to perform the work must be included with the project or service description, which cost will be drawn from an estimate submitted by either Party. The estimated cost shall be broken down by material, subcontract cost, labor, equipment, overhead, and general and administrative expense. Projects or services shall be selected by GOVERNMENT and scheduled so that the value of the work to be performed is not less than the rent obligations of Licensee accrued or the Net Present Value (NPV) of FMV future rents from the current License term. Authorization to proceed will occur only through written approval from the GOVERNMENT, in the form of a written letter by the RECO. A "not to exceed cost ceiling" (amount authorized) will be established by the approval letter. The RECO may, upon request, with supporting rationale from Licensee, increase the "not to exceed cost ceiling." That request must be submitted prior to Licensee incurring any cost in excess of the established "not to exceed cost ceiling" and sufficiently in advance to allow for RECO review of the requirement, and in any event, not less than ten (10) days prior to the date authorization is required. Licensee shall not be obligated to incur costs in excess of the "not to exceed cost ceiling."

1.5.4. The incurred cost of performing a project or service will be subject to GOVERNMENT audit. Should the audited cost be less than the "not to exceed cost ceiling," Licensee's rent obligation will be credited only for the audited cost and Licensee shall be authorized to

pay only the audited cost from the deposit account. In the event that the audited, allowable incurred cost of a project or service exceeds the amount authorized, such excess cost shall be subject to the approval of the RECO. Subsequent to RECO approval, excess cost shall be deemed to be additional cost of performing the work and will be credited to accrued rent reduction. Should the excess cost not be approved by the RECO, then the amount not so approved shall not be credited to the LICENSEE as a credit against accrued rent or be paid from the deposit account.

1.5.5. Nothing in this License shall preclude Licensee from contracting with a third party for performance of in-kind work. LICENSEE shall require any contractor to procure a penal bond in an amount not less than the estimated cost of the work contracted for. Prior to commencing the proposed work, Licensee shall be solely responsible for obtaining any environmental permits required, independent of any existing permits. Copies of all required construction permits shall be delivered to the GOVERNMENT.

1.5.6. GOVERNMENT retains the right of technical review of any proposed work to be performed or personal property to be delivered. A GOVERNMENT representative may oversee the work solely for the benefit of GOVERNMENT and confirm satisfactory completion to the Commanding Officer, NAVFAC Southeast. The RECO must provide a written final acceptance of the work performed in order for Licensee to receive rent reduction credit for the work performance and/or pay the project cost from the deposit account. Title to any improvements constructed or personal property furnished shall vest in GOVERNMENT upon the RECO's acceptance. Any bills of sale, purchase receipts, written warranties, and other indicia or documents of ownership shall be delivered to the GOVERNMENT upon its acceptance of the improvement or personal property. Written warranties shall include, but not be limited to, a warranty that work performed conforms to the contract requirements and is free of any defect in equipment, material, or design or workmanship, and that Licensee or Licensee's contractor will remedy any failure to conform or any defect promptly and at its sole expense. Additionally, any warranty must agree that Licensee or Licensee's contractor shall remedy any damage to GOVERNMENT owned or controlled real or personal property when that damage results from either contractor failure to conform to contract requirements or any defect of equipment, material, workmanship, or design. All warranties shall name the United States of America, acting by and through the Department of the Navy, NAVFAC Southeast, as an additional beneficiary. Licensee shall enforce all warranties for the benefit of GOVERNMENT if directed by GOVERNMENT. Upon completion of any in-kind project or service and acceptance by the GOVERNMENT, the GOVERNMENT shall issue a modification to this License approving the final amount of in-kind credit.

1.5.7. Each month, Licensee will provide GOVERNMENT with the documents identified on the Schedule of Monthly Deliverable Documents attached hereto as **ATTACHMENT A**, as may be modified by GOVERNMENT from time-to-time.

1.5.8. Upon termination of this License for any reason, Licensee shall not be entitled to a refund of its costs paid for a project the performance of which has not been approved by the RECO or the Commanding Officer, NAVFAC Southeast, and a final accounting will be performed and the balance of any rent accrued and still payable to GOVERNMENT, along with the balance in the in-kind deposit account, will be due on demand by valid check or money order. Notwithstanding termination, GOVERNMENT reserves the right to have a final accounting performed at any time during the course

of the License term and request that the value of any rent accrued up to that date and not already contractually obligated to any specific project or service to be performed, be paid by valid check or money order to the United States Treasury on demand. Upon termination, at GOVERNMENT's option, Licensee shall complete any work or service already contracted for, or if otherwise directed by GOVERNMENT, LICENSEE shall terminate any contract and pay all accrued rent in by valid check or money order.

1.5.9. "Actual Costs" as used herein, shall mean the sum of: (a) direct labor costs, and (b) direct material costs, when Licensee has incurred such costs directly in the performance of any approved or directed by the Naval Air Station Key West Public Works Officer (PWO) (hereinafter referred to as the "Local GOVERNMENT Representative"). When Licensee contracts with the third parties for performance of any item of In-Kind Consideration, "Actual Cost," as used herein, shall mean the amount of such contracts as shall have been approved in advance by the Local GOVERNMENT Representative.

1.6. The amount of consideration shall be re-negotiable prior to the renewal of this License.

1.7. During the term of this License, Licensee will use its best efforts to work with the GOVERNMENT in maximizing the potential revenues from the Mole Pier for the Licensee and for the GOVERNMENT

1.8. Monthly Deliverables. In addition to the rent payment, no later than the tenth (10th) day of each month Licensee will submit to the Government the following deliverables regarding ship berthing activity occurring that month and during the previous month:

- a. A cover letter accounting for the forty percent (40%) of gross receipts per ship, per port call, received during the previous month;
- b. A ship berthing schedule for the previous month and the current month, and;
- c. A United States Custom Service General Declaration Form 1301 for each ship berthed at the Mole Pier for the previous month.
- d. Bank Statement reflecting monthly deposit

Sample monthly deliverables are included in **ATTACHMENT A**.

2. USE OF PREMISES.

2.1. The sole purpose for which the Licensed Premises may be used, in the absence of prior written approval by the Government for any other use, is for docking of cruise ships. This License may be terminated by Government as provided by the terms of this License, and Licensee agrees to and acknowledges such terms.

2.2. Licensee will not undertake any activity that may affect a historic or archeological property, including excavation, construction, alteration or repairs of the Licensed Premises, without the approval of the contracting officer and compliance with Sec. 106 of the National Historic Preservation Act, 16 U.S.C. 470(f). Buried cultural materials may be present on the Licensed Premises. If such materials are encountered, Licensee will stop work immediately and notify the RECO.

2.3. Licensee will ensure that its use of the Licensed Premises under this License will not interfere with Government operations at or around the Licensed Premises. Government use of the Licensed Premises will take priority over Licensee's use of the Licensed Premises. The Commanding Officer, NAS Key West shall provide notice to the City concerning pending interference as soon as possible to minimize displacement of cruise ships from the Licensed Premises. Licensee will not have claim against the Government on account of any interference with Licensee's use of the Licensed Premises.

2.4. Licensee will ensure that all shuttle passengers are notified that littering on Navy property is not allowed; at the end of each day of cruise ship use of the Mole Pier, Licensee will pick up litter on the shuttle route and Mole Pier and dispose of off Navy property.

3. **ACCESS BY GOVERNMENT.** In addition to access required under Paragraph 10, at all reasonable times throughout the term of this License, Government shall be allowed access to the Licensed Premises for any purpose Licensee will have no claim on account of any entries against Government or any Government officer, agent, employee or contractor, provided, however, that nothing in this License will be deemed to prejudice the rights of Licensee under any contract, other agreement or law including, but not limited to the Federal Tort Claims Act. All keys to the buildings and Licensed Premises occupied by Licensee will be made available to Government upon request.

4. **NON INTERFERENCE WITH GOVERNMENT OPERATIONS.** Licensee will not conduct operations or activities, or make any alterations, that would interfere with or otherwise restrict Government operations, environmental clean-up, or restoration actions by Government, U. S. Environmental Protection Agency ("EPA"), state environmental regulators, or their contractors. Cleanup, restoration, or testing activities for environmental purposes by those entities shall take priority over Licensee's use of the Licensed Premises in the event of any conflict. However, Government will take reasonable steps to prevent interference with Licensee's use of the Licensed Premises.

5. **ENVIRONMENTAL PROTECTION PROVISIONS.**

5.1. **Compliance with Law.** Licensee will comply, at its sole cost and expense, with the Federal, state, and local laws, regulations, and standards that are or may become applicable to Licensee's activities on the Licensed Premises.

5.2. **Permits.** Licensee will be solely responsible for obtaining at its cost and expense any environmental permits required for its operations under this License, independent of any existing permits.

5.3. **Indemnification.** LICENSEE WILL, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, INDEMNIFY AND HOLD HARMLESS GOVERNMENT FROM, AND DEFEND GOVERNMENT AGAINST, ANY DAMAGES, COSTS, EXPENSES, LIABILITIES, FINES, OR PENALTIES RESULTING FROM RELICENSES, DISCHARGES, EMISSIONS, SPILLS, STORAGE, TREATMENT, DISPOSAL, OR ANY OTHER ACTS OR OMISSIONS BY LICENSEE, ITS OFFICERS, AGENTS, EMPLOYEES, OR CONTRACTORS, OR LICENSEES, OR THE INVITEES OF ANY OF THEM, GIVING RISE TO GOVERNMENT LIABILITY, CIVIL OR CRIMINAL, OR RESPONSIBILITY UNDER FEDERAL, STATE, OR LOCAL ENVIRONMENTAL

LAWS. This paragraph shall survive the termination of this License, and Licensee's obligations under this paragraph will apply whenever Government incurs costs or liabilities for Licensee's actions of the types described in this paragraph

5.4. Inspection. Government's rights under this License specifically include the right for Government officials to inspect upon reasonable notice the Licensed Premises for compliance with environmental, safety, and occupational health laws and regulations, whether or not Government is responsible for enforcing them. Those inspections may be made without prejudice to the right of duly constituted enforcement officials to make them. Government normally will give Licensee twenty-four (24) hours prior notice of its intention to enter the Licensed Premises unless it determines the entry is required for safety, environmental, operations, or security purposes. Licensee will have no claim on account of any entries against The United States or any related officer, agent, employee, or contractor.

5.5. Asbestos. Government is not responsible for any abatement, removal, or containment of asbestos. If Licensee intends to make any Improvements that require the abatement, removal, or containment of asbestos, an appropriate asbestos management plan must be incorporated in the alterations plan to be submitted to the Commander/Commanding Officer. The asbestos management plan will identify the proposed disposal site for the asbestos.

5.6. Abatement of Asbestos. Government shall be responsible for the removal or containment of asbestos or asbestos-containing material (collectively, "ACM") existing in the Licensed Premises on the term beginning date as identified in the ECP attached to this License when that ACM is damaged or deteriorated to the extent that, through normal use, it is a source of airborne fibers in quantities that pose a threat to human health ("damaged or deteriorated ACM"). Government agrees to abate all that existing damaged or deteriorated ACM as stated in this paragraph. Government may choose the most economical means of abating damaged or deteriorated ACM, which may include removal or containment, or a combination of removal and containment. The foregoing Government obligation does not apply to ACM that is not damaged or deteriorated at the time Licensee takes possession of the Licensed Premises and that may become damaged or deteriorated by Licensee's activities. If ACM during the period of this License becomes damaged or deteriorated through the passage of time, or as a consequence of Licensee's activities under this License, including but not limited to any emergency, shall be abated by Licensee at its sole cost and expense. Notwithstanding Paragraph.12, in an emergency, Licensee will notify Government as soon as practicable of its emergency ACM responses. Licensee will be responsible for monitoring the condition of existing ACM on the Licensed Premises for deterioration or damage and accomplishing repairs pursuant to this License.

5.7. Environmental Liability of Licensee. Notwithstanding any other provision of this License, Licensee does not assume any liability or responsibility for environmental impacts and damage caused by Government's use of toxic or hazardous wastes, substances, or materials on any portion of the installation, including the Licensed Premises. Licensee has no obligation under this License to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use or release of any toxic or hazardous wastes, substances, or materials on or from any part of the installation, including the Licensed Premises, which occurred prior to the first day of Licensee's occupation or use of each portion of, or any building, facility, or other improvement on, the License Premises under any instrument entered into between the Parties, or the term beginning date,

whichever is earlier. Further, Licensee has no obligation under this License to undertake environmental response, remediation, or cleanup relating to that use or release.

5.7.1. For the purposes of this paragraph, “defense” or “environmental response, remediation, or cleanup” includes liability and responsibility for the costs of damage, penalties, legal, and investigative services relating to such use or release. “Occupation or use” shall mean any activity or presence (including preparation and construction) in or upon such portion of, or such building, facility, or other improvement on, the Licensed Premises.

5.7.2. This paragraph does not relieve Licensee of any obligation or liability it might have or acquire with regard to third parties or regulatory authorities by operation of law.

5.7.3. This paragraph shall survive the expiration or termination of this License.

5.8. No Liability for Interference. Licensee expressly acknowledges that it fully understands that some or all of the response actions to be undertaken with regard to the Federal Facilities Agreement (“FFA”), if applicable, or the ERP, may impact Licensee’s quiet use and enjoyment of the Licensed Premises. Licensee agrees that notwithstanding any other provision of this License, Government assumes no liability to Licensee should implementation of the FFA, if applicable, or the ERP, or other hazardous waste cleanup requirements, whether imposed by law, regulatory agencies, or the Navy or the Department of Defense, interfere with Licensee’s use of the Licensed Premises. Licensee will have no claim against The United States or any of its officers, agents, employees, or contractors on account of any interference, whether due to entry, performance of remedial or removal actions, or exercise of any right with regard to the FFA, if applicable, or the ERP, or under this License or otherwise.

5.9. Response or Remedial Actions. Licensee agrees to comply with the provisions of any health or safety plan in effect under the ERP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representatives designated by Licensee. Licensee or assignees, and any licensees, or invitees of it or them, shall have no claim on account of entries against the Government or any of its officers, agents, employees, contractors, or subcontractors.

5.10. Storage of Hazardous Wastes. Licensee will comply with all applicable Federal, state, and local laws, regulations, and other requirements relating to occupational safety and health, the handling and storage of hazardous materials, and the proper generation, handling, accumulation, treatment, storage, disposal, and transportation of hazardous wastes. Licensee will not treat, store, transport, or dispose of hazardous waste unless Licensee is in possession of any required permit issued to it under the Resource Conservation and Recovery Act, as amended (“RCRA”). Licensee will not treat, store, transport, or dispose of any hazardous waste under, pursuant to, or in reliance upon any permit issued to Government

5.11. Environmental Records. Licensee will maintain and make available to Government all records, inspection logs, and manifests that track the generation, handling, storage, treatment, and disposal of hazardous waste, as well as all other records required by applicable laws and requirements.

Licensor reserves the right to inspect the Licensed Premises and Licensee's records for compliance with Federal, state, local laws, regulations, and other requirements relating to the generation, handling, storage, treatment, and disposal of hazardous waste, as well as to the discharge or release of hazardous substances. Violations will be reported by Licensor to appropriate regulatory agencies, as required by applicable law. Licensee will be liable for the payment of any fines and penalties that may accrue as a result of the actions of Licensee.

5.12. Spill Plans. If hazardous waste, fuel, chemicals, or other regulated hazardous substances will be present on the Licensed Premises, Licensee will prepare a completed and approved plan prior to commencement of operations on the Licensed Premises for responding to hazardous waste, fuel, and other chemical spills. The plan shall comply with all applicable requirements and shall be updated from time to time as may be required to comply with changes in site conditions or applicable requirements, and where required, shall be approved by all agencies having regulatory jurisdiction over the plan. The plan shall be independent of Navy spill prevention and response plans. Licensee will not rely on use of the installation's personnel or equipment in execution of its plan. Licensee will file a copy of the approved plan and approved amendments thereto with the Commander/Commanding Officer within fourteen (14) days of approval. Notwithstanding the foregoing, should Licensor provide any personnel or equipment, whether for initial fire response or spill containment or otherwise on request of Licensee, or because Licensee was not, in the sole opinion of Government, conducting timely cleanup actions, Licensee agrees to reimburse Government for its costs in accordance with all applicable laws and regulations.

5.13. RCRA Compliance. Licensee will comply with the hazardous waste permit requirements under the RCRA or its state equivalent and any other applicable laws, rules, and regulations. Licensee will provide at its own expense hazardous waste storage facilities that comply with all laws and regulations that it may need for storage. Government hazardous waste storage facilities will not be available to Licensee. Any violation of the requirements of this paragraph will be deemed a material breach of this License.

5.14. Accumulation Points. Navy accumulation points for hazardous and other wastes shall not be used by Licensee, and Licensee will not permit its hazardous waste to be commingled with hazardous waste of the Navy.

5.15. Discharge of Fill. Licensee will not discharge, or allow the discharge of, any dredged or fill material into any waters or wetlands on the Licensed Premises except in compliance with the express written consent of the Commander/Commanding Officer.

5.16. Pesticides. Prior to the storage, mixing, or application of any pesticide, as that term is defined under the Federal Insecticide, Fungicide, and Rodenticide Act, Licensee will prepare a plan for storage, mixing, and application of pesticides (Pesticide Management Plan). The Pesticide Management Plan shall be sufficient to meet all applicable Federal, state, and local pesticide requirements. Licensee will store, mix, and apply all pesticides within the Licensed Premises only in strict compliance with the Pesticide Management Plan. The pesticides will only be applied by a licensed applicator.

5.17. National Pollutant Discharge Elimination System ("NPDES") Permit. Licensee will comply with all requirements of the Federal Water Pollution Control Act, as amended, the NPDES, and any applicable State or local requirements. If Licensee discharges wastewater to a publicly owned treatment works, Licensee will submit an application for its discharge prior to the start of this License. Licensee will be responsible for meeting all applicable wastewater discharge permit standards. Licensee will not discharge wastewater under the authority of any NPDES permit, pretreatment permit, or any other permit issued to the installation. Licensee shall make no use of any septic tank installed on the installation without the prior written consent of Licensor.

5.18. Radioactive Materials. Licensee must notify Licensor of its intent to possess, store, or use any licensed or licensable source or byproduct materials, as those terms are defined under the Atomic Energy Act, as amended, and its implementing regulations; of Licensee's intent to possess, use, or store radium; and of Licensee's intent to possess or use any equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulations, at least sixty (60) days prior to the entry of such materials or equipment upon the installation. Upon notification, Licensor may impose requirements, including prohibition of possession, use, or storage that is deemed necessary to adequately protect health and the human environment. Thereafter, Licensee must notify Licensor of the presence of all licensed or licensable source or byproduct materials, of the presence of all radium, and of the presence of all equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulation; provided, however, that Licensee need not make either of the above notifications to Licensor with regard to source and byproduct material that is exempt from regulation under the Atomic Energy Act. Licensee will not, under any circumstances, use, own, possess, or allow the presence of special nuclear material on the Licensed Premises.

5.19. Improvements and Environmental Cleanup. Licensee further agrees that it will give Licensor prior written notice accompanied by a detailed written description of all proposals for any improvements that may impede or impair any activities under the ERP, or the FFA if applicable. The notice and accompanying written description of those proposals will be delivered to Licensor sixty (60) days in advance of the commencement of any Improvements. The detailed written description must include the effect that planned Improvements may have on site soil and groundwater conditions and the cleanup efforts contemplated under the ERP and the FFA, if applicable. Notwithstanding the preceding three sentences, Licensee will be under no obligation to give advance written notice of any Improvements that will be undertaken totally within any structure located on the Licensed Premises, provided that the work will not impede or impair any activities under the ERP or the FFA, if applicable. However, any work below the floor of any structure within any Area of Special Notice that will involve excavating in and/or disturbing concrete flooring, soil and/or groundwater, or will impede or impair any activities under the ERP or the FFA, if applicable, will be subject to the sixty (60) day notice requirement imposed by this paragraph.

5.20. FFA [IF APPLICABLE]. Government acknowledges that the installation has been identified as a National Priorities List Site under Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"). Licensee acknowledges that Government has delivered to it a copy of the FFA entered into by EPA, the state, and the Navy, and will deliver to Licensee a copy of any amendments to it. Licensee agrees that should any conflict arise between the terms of such agreement as it presently exists or may be amended ("FFA," "Interagency Agreement" or "IAG") and the provisions of this License, the terms of the FFA will take precedence. Licensee further

agrees that notwithstanding any other provision of this License, Government assumes no liability to Licensee should implementation of the FFA interfere with Licensee's use of the Licensed Premises. Licensee will have no claim on account of any interference against The United States or any of its officers, agent, employees, or contractors, other than for abatement of rent.

5.21. Environmental Access. Government, EPA, and the state and their respective officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to Licensee to enter upon the Licensed Premises for the purposes enumerated in this subparagraph, and for other purposes consistent with any provision of the FFA, if applicable:

5.21.1. To conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test pitting, testing soil borings, and other activities related to the ERP or the FFA, if applicable;

5.21.2. To inspect field activities of Government and its contractors and subcontractors in implementing the ERP or the FFA, if applicable;

5.21.3. To conduct any test or survey required by the EPA or the state relating to the implementation of the FFA, if applicable, or environmental conditions at the Licensed Premises or to verify any data submitted to the EPA or state by Government relating to those conditions;

5.21.4. To conduct, operate, maintain, or undertake any other response or remedial action as required or necessary under the ERP or the FFA, if applicable, including, but not limited to, monitoring wells, pumping wells, and treatment facilities.

5.21.5. To monitor any environmental restrictive use covenants and the effectiveness of any other land use or institutional control established by the Navy on the Licensed Premises, either by itself, by its contractor, by any public entity, including the state, or by a private entity registered in the state to monitor environmental covenants.

6. TERMINATION.

6.1. Termination by Government. At any time and for any reason or no reason, Government shall have the right to terminate this License in whole or in part, without liability, and regardless of any lack of breach by Licensee of any of the terms and conditions of this License.

6.2. National Emergency. In the event of a national emergency declared by the president or the congress, Government may terminate this License immediately, without notice to Licensee.

6.3. Breach of Terms by Licensee. In the event of breach by Licensee of any of the terms, conditions, or obligations of this License, Government shall have the right to terminate for breach or offer a period for cure. Unless Government determines that immediate notice of termination, or a shorter period of time for cure, is required for safety, environmental, operational, or security purposes, Licensee will be afforded thirty (30) calendar days from the receipt of Government's notice of intent to terminate to complete the performance of the obligation or otherwise cure the breach and avoid notice of termination of this License. Government may grant a reasonable extension of time to complete the cure. In the event that Government shall elect to terminate this License on account of the breach by

Licensee, Government will issue a notice of termination, and Government shall be entitled to recover, and Licensee will pay to Government:

6.3.1. The reasonable costs incurred in resuming possession of the Licensed Premises;

6.3.2. The reasonable costs incurred in performing any outstanding obligation on the part of Licensee existing prior to or upon termination;

6.3.3. An amount equal to the aggregate of any maintenance obligations, and charges assumed under this License and not paid or satisfied, with amounts being due and payable at the time when those obligations and charges would have accrued or become due and payable if this License had not been terminated, provided, however, that charges denominated as "rent" under Paragraph 1 will not accrue beyond sixty (60) days after the later of (a) the date the Licensed Premises are vacated by Licensee and restored to their original condition, or (b) the date of issuance of notice of termination.

6.3.4. In the event that a notice of termination for breach is disputed and it is later determined that Licensee was not in breach or that the breach was excusable, the notice of termination will be effective as a notice of termination under this Paragraph and the rights and obligations of the parties will be the same as if the termination had been issued upon any required notice.

6.4. Federal Requirement. In the event all or any part of the Licensed Premises is required for Federal use, or if Licensee's use of it is not consistent with Federal program purposes, Government may terminate the License, or any needed part of the Licensed Premises, if it is practical to terminate a part, upon ninety (90) days' written notice to Licensee.

6.5. Termination by Licensee. Licensee may terminate this License at any time upon thirty (30) days written notice to the RECO.

7. INSURANCE.

7.1. Licensee will, without prejudice to any other rights of Government, bear all risk of loss or damage or destruction to the Licensed Premises, including any buildings, improvements, fixtures, or other property on it, arising from any causes whatsoever, with or without fault by Government. During the entire period this License will be in effect, Licensee, at no expense to Government, agrees to carry and maintain in effect at all times during the term of this License the following insurance coverage:

7.1.1. Property insurance coverage against loss or damage by perils covered by Insurance Services Office ("ISO") special cause of loss form or its equivalent in an amount not less than One Hundred Percent (100%) of the full replacement cost of the buildings, building improvements, improvements to the land, fixtures, and personal property on the Licensed Premises. The policies of insurance carried in accordance with this condition shall contain a "Replacement Cost Endorsement." The full replacement cost shall be determined every five years, except in the event of substantial changes or alterations to the Licensed Premises undertaken by Licensee as permitted under the provisions of this License.

7.1.2. If the Licensed Premises are located in a state, or an area of a state, which is prone to suffer property loss and damage from earthquake, flood, windstorm, or rainstorm, and if required by Government, a special risks or perils endorsement from a commercial insurer or from a state or Federal program, in amounts and with limitations and deductibles satisfactory to Government.

7.1.3. Commercial general liability insurance using the most recent occurrence form or its equivalent, covering bodily injury, premises, operations, products, completed operations, and independent contractors and for the contractual liability assumed by Licensee, and will afford immediate protection at the time that the term of this License begins, and at all times during the term of this License, with single limit bodily injury coverage of \$5 million each occurrence, with single-limit property damage in the amount of \$5 million each occurrence, and with single-limit fire/legal liability coverage in the amount of \$5 million each occurrence. The value of the structure for fire coverage will be determined every five (5) years.

7.1.4. If Licensee owns or Leases business vehicles that will be operating on, to, or from the Licensed Premises or military land, those vehicles must be registered and insured in accordance with installation requirements.

7.1.5. If and to the extent required by law, workers' compensation and employer's liability or similar insurance in form and amounts required by law.

7.1.6. If there is an airport operator on the Licensed Premises, airport operator's liability insurance, including, but not limited to, insurance against contractual liability assumed under this License by Licensee, regarding claims or causes of action arising in connection with use of the Licensed Premises and its improvements as an airfield or airport, affording protection with limits of liability of \$5 million.

7.2. During the entire period this License will be in effect, Licensee will either carry and maintain the insurance required below at its expense, or require any contractor performing work on the Licensed Premises to carry and maintain the following at no expense to Government

7.2.1. The property insurance coverage required under subparagraph 7.1 above, which will include the general property form that provides coverage in connection with any construction or work permitted under this License.

7.2.2. Fire and any other applicable insurance provided for in this paragraph which, if not then covered under the provisions of existing policies, will be covered by special endorsement related to any Improvements, including all materials and equipment incorporated in, on, or about the Licensed Premises (including excavations, foundations, and footings) under an ISO special cause-of-loss, completed value, builder's risk form or its equivalent; and

7.2.3. Workers' compensation for Licensee and any contractor of Licensee.

7.3. All policies of insurance that this License requires Licensee or any other contractor to purchase and maintain, or cause to be purchased and maintained under this Paragraph, will be

underwritten by insurers authorized to underwrite insurance in the state where the Licensed Premises are located, and that have a rating of at least B+ by the most recent edition of *Best's Key Rating Guide*. **IN ALL POLICIES**, Government shall be named as additional insured and loss payee for its interest in, but not limited to, the Licensed Premises and any personal property included with the Licensed Premises (under ISO forms CG 2011 and CG 2028 or their equivalents). Government shall appear in all policies as "The United States of America, c/o Commanding Officer, NAVFAC Southeast, PO Box 30, B903, NAS Jacksonville, Florida, 32212-0030, and payments for losses shall be made to "United States Treasury." All policies shall state (a) that no cancellation, reduction in amount, or material change in coverage shall be effective until at least sixty (60) days after receipt by Government of written notice; (b) that the insurer shall have no right of subrogation against Government; and (c) shall be reasonably satisfactory to Government in all other respects, including, without limitation, the amounts of coverage and deductibles from time to time. In no circumstances will Licensee be entitled to assign to any third party rights of action that Licensee may have against Government. Notwithstanding the foregoing, any cancellation of insurance coverage based on nonpayment of the premium shall be effective only upon thirty (30) days' written notice to Government. Licensee understands and agrees that cancellation of any insurance coverage required to be carried and maintained by it or contractor under this paragraph will constitute a failure to comply with the terms of this License, and Government shall have the right to terminate this License upon receipt of any cancellation notice, but only if Licensee fails to cure noncompliance to the extent allowed under Paragraph 11.

7.4. Licensee will deliver, or cause to be delivered upon execution of this License and PRIOR TO ENTRY on or occupancy of the Licensed Premises or the commencement of any Improvements (and thereafter not less than thirty (30) days prior to the expiration date of each policy furnished under this paragraph, to Government a certificate or certificates of insurance evidencing the coverage and deductibles required by this paragraph.

7.5. In the event that any item or part of the Licensed Premises shall be damaged or destroyed, the risk of which is assumed by Licensee under Paragraph 7.1, Licensee will promptly give notice to Government. Licensee will, as soon as practicable after the casualty; restore damaged or destroyed property as nearly as possible to the condition that existed immediately prior to the loss or damage. All repair and restoration work under this Paragraph will comply with the provisions of this License, including any notice and approval requirements.

7.6. Notwithstanding any other provision of this License, Licensee may, with the prior consent of the RECO, self-insure any risk for which insurance coverage is required under this License; provided, however, that if Licensee's statutory limits of liability or other impediments to the assumption of liability are less than the limits of insurance required in this License, Licensee will obtain commercial coverage that is sufficient in amount and nature to satisfy the insurance requirements of this License when added to any self-insurance. In order to obtain the consent of Government to self-insure, Licensee will deliver to Government a writing setting forth the limitations and impediments, if any, to which Licensee's self-insurance is subject, Licensee's source of funds to pay any claim from any risk for which insurance is required under this License (including its most recent audited financial statement), and any other information that Government may require to assess Licensee's request. If commercial insurance is required for any purpose, the provisions of Paragraph

7.1.3 shall apply; however, the total amount of commercial insurance and self-insurance shall meet the dollar limitations contained in this paragraph.

7.7. If Government at any time believes that the limits or extent of coverage or deductibles for any of the insurance required in this License are insufficient, it may determine the proper and reasonable limits and extent of coverage and deductibles and deliver notice of that coverage or deductibles to Licensee. Licensee will thereafter carry insurance with the limits and extent of coverage and deductibles as determined by Government until further change.

8. LABOR PROVISIONS.

8.1. Equal Opportunity. During the term of this License, Licensee agrees as follows with regard to all employees located at, or involved with, the Licensed Premises:

8.1.1. Licensee will not discriminate against any employee or applicant for employment because of race, color, age, marital status, handicap, religion, sex, or national origin. Licensee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, marital status, handicap, religion, sex, or national origin. That action shall include, but not be limited to, employment, upgrading, demotion, or transfer, retention or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, selection for training, including apprenticeship. Licensee agrees to post in conspicuous places available to employees and applicants for employment notices furnished by Government containing the provisions of this nondiscrimination clause.

8.1.2. Licensee will, in all solicitations or advertisements for employees placed at the Licensed Premises by or on behalf of Licensee, state that all qualified applicants will receive consideration for employment without regard to age, marital status, handicap, race, color, religion, sex, or national origin.

8.1.3. Licensee will send to each labor union or representative of workers for the Licensed Premises with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by Government, advising the labor union or worker's representative of commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

8.1.4. Licensee will comply with all provisions of Exec. Order No. 11,246 of September 24, 1965, as amended by Exec. Order No. 11,375 of October 13, 1967 (the "Executive Order"), and of the rules, regulations, and relevant orders of the Secretary of Labor as it relates to the Licensed Premises.

8.1.5. Licensee will furnish all information and reports required by the Executive Order, and by the rules, regulations, and orders of the Secretary of Labor or pursuant to it, and will permit access to its books, records, and accounts by Government and the Secretary of Labor for purposes of ascertaining compliance with those rules, regulations, and orders.

8.1.6. In the event of Licensee's noncompliance with this Equal Opportunity clause or with any of the applicable rules, regulations, or orders, this License may be canceled, terminated, or suspended in whole or in part and Licensee may be declared ineligible for further Government

contracts in accordance with procedures authorized in the Executive Order, and other sanctions may be imposed and remedies invoked, all as contained in the Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8.2. Contract Working Hours and Safety Standards Act (40 U.S.C. §§ 327-330) (the "Act").

This License, to the extent that it is a contract of a character specified in the Act and is not covered by the Walsh-Healy Public Contracts Act (41 U.S.C. §§ 35-45) or the Davis-Bacon Act (40 U.S.C. §§ 3141-3148), is subject to the following provisions and exceptions of the Act and to all other sections and exceptions of that law as they apply to employment at the Licensed Premises:

8.2.1. Licensee will not require or permit any laborer or mechanic in any workweek in which he/she is employed on any work on the Licensed Premises to work in excess of 40 hours on work subject to the contents provisions of the Act unless the laborer or mechanic receives compensation at a rate not less than one and one-half times his/her basic rate of pay for those excess hours. The "basic rate of pay," as used in this clause, shall be the amount paid per hour, exclusive of the employer's contribution or cost for fringe benefits and any cash payment made in lieu of affording fringe benefits, or the basic hourly rate contained in the wage determination, whichever is greater.

8.2.2. In the event of any violation of the preceding sub-paragraph, Licensee will be liable to any affected employee for any amounts due, and to Government for liquidated damages. The liquidated damages shall be computed for each individual laborer or mechanic employed in violation of Paragraph 8.2.1 above, in the sum of \$200 for each calendar day on which the employee was required or permitted to be employed in excess of the standard workweek of 40 hours without payment of the required overtime wages.

8.3. **Convict Labor.** In connection with the performance of work required by this License, Licensee agrees not to employ any person undergoing a sentence of imprisonment at hard labor.

8.4. **Davis-Bacon Act.** All construction workers, laborers, and mechanics employed by Licensee contractor(s), and each of its subcontractors and sub-subcontractors, who perform work are covered by the Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141-3148, and the implementing regulation at, 29 C.F.R. pt. 5, (together, the "Davis-Bacon Act"), and shall be paid wages and rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. To the extent that there is not a prevailing wage for a particular labor category and the Davis-Bacon Act permits a negotiated wage to be paid, the negotiated wage may be paid. Licensee will cause its general contractor(s) to comply and assure compliance by its subcontractors and sub-subcontractors.

9. **AUDIT.** This License will be subject to audit by any cognizant Government agency. Licensee will make available to those agencies for use in those audits all records that it maintains that are related this License and copies of all reports required to be filed under this License.

10. **INTEREST.** Notwithstanding any other provision of this License, unless paid within thirty (30) calendar days, all amounts that become payable by Licensee to Government under this License (net of any applicable tax credit under the Internal Revenue Code) will bear interest from the date due. The rate of interest will be the Current Value of Funds Rate published by the Secretary of the Treasury under the Debt Collection Act of 1982 (31 U.S.C. § 3717). Amounts will be due upon the earliest of (a) the date fixed by this License, (b) the date of the first written demand for payment, consistent with

this License, including demand consequent upon default termination, (c) the date of transmittal by Government to Licensee of a proposed supplemental agreement to confirm completed negotiations fixing the amount, or (d) if this License allows for revision of prices, the date of written notice to Licensee stating the amount of refund payable in connection with a pricing proposal or in connection with a negotiated pricing agreement not confirmed by License supplement.

11. AGREEMENT. This License will not be modified except in a single writing that is signed by both Licensee and Government. No oral statements or representation made by, or for, on behalf of either Licensee or Government shall be a part of this License. Should conflict arise between the provisions of this License and any attachment to it, or any other agreement between Government and Licensee, the provisions of this License will take precedence.

12. FAILURE TO INSIST ON COMPLIANCE. The failure of Government to insist in any one or more instances upon performance of any of the terms, covenants, or conditions of this License will not be construed as a waiver or relinquishment of Government's right to the future performance of any of those terms, covenants, or conditions and Licensee's obligations for their future performance will continue in full force and effect.

13. DISPUTES.

13.1. This License is subject to the provisions of the Contract Disputes Act of 1978, as amended, (41 U.S.C. § 7101-7112) (the "Disputes Act").

13.2. Except as provided in the Disputes Act, all disputes arising under or relating to this License will be resolved under this clause and the provisions of the Disputes Act.

13.3. "Claim", as used in this clause, means a written demand or written assertion by Licensee or Government seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of License terms, or other relief arising under or relating to this License. A claim arising under this License, unlike a claim relating to this License, is a claim that can be resolved under a License clause that includes the relief sought by the claimant. However, a written demand or written assertion by Licensee seeking the payment of money exceeding \$100,000 is not a claim under the Disputes Act until certified as required by Paragraph 13.4.2. A voucher, invoice, or other routine request for payment that is not in dispute is not a claim under the Disputes Act. The request may be converted to a claim under the Disputes Act by complying with the submission and certification requirements of this clause, if it is disputed either for liability or amount or is not acted upon in a reasonable time.

13.4. A claim by Licensee will be made in writing and submitted within six (6) years after accrual of the claim to Government (or specify to whom the claim should be sent), for a written decision. A claim by Government against Licensee will be subject to a written decision by Government (specify who will make the decision).

13.4.1. Licensee will deliver the certification stated in Paragraph 13.4.2.2.2 when submitting any claim:

13.4.2.1. Exceeding \$100,000; or

13.4.2.2. Regardless of the amount claimed, when using:

13.4.2.2.1. Arbitration conducted pursuant to 5 U.S.C. §§ 575-580; or

13.4.2.2.2. Any other alternative means of dispute resolution ("ADR") technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act ("ADRA").

"I certify that the claim is made in good faith; that the supporting data is accurate and complete to the best of Licensee's knowledge and belief; that the amount requested accurately reflects the License adjustment for which Licensee believes the GOVERNMENT is liable; and that I am duly authorized to certify the claim on behalf of Licensee."

13.4.3. The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

13.4.4. The certification may be executed by any person duly authorized to bind Licensee for the claim.

13.5. For Licensee claims of \$100,000 or less, the Government must, if requested in writing by Licensee, render a decision within sixty (60) days of the request. For Licensee-certified claims over \$100,000, the Government must, within sixty (60) days decide the claim or notify Licensee of the date by which the decision will be made.

13.5.1. The decision of the GOVERNMENT shall be final unless Licensee appeals or files a suit as outlined in the Disputes Act.

13.6. At the time a claim by Licensee is submitted to the (specify), or a claim by Government is presented to Licensee, the Parties may agree to use alternative means of dispute resolution. When using arbitration conducted under 5 U.S.C. § 575-580 or when using any other ADR techniques that the agency elects to handle in accordance with ADRA, any claim, regardless of amount, shall be accompanied by the certification described in Paragraph 13.4.2.2.2. and executed in accordance with Paragraph 13.4.4.

13.7. Government shall pay interest on the amount found due and unpaid by it from (1) the date the (specify) received the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in the Federal Acquisition Regulation (48 C.F.R. § 33.201), interest shall be paid from the date that the (specify) initially receives the claim. Simple interest on claims shall be paid at the rate fixed by the Secretary of the Treasury, as stated in the Disputes Act, which is applicable to the period during which the (specify) receives the claim and then at the rate applicable for each six (6) month period as fixed by the Secretary of the Treasury during the pendency of the claim.

13.8. Notwithstanding anything in this paragraph, Licensee will proceed diligently with the performance of this License pending final resolution of any request for relief, claim, appeal, or action arising under this License, and comply with any decision of the Government.

14. **LIENS.** Licensee will promptly discharge, or cause to be discharged, a valid lien, right *in rem*, claim, or demand of any kind, except one in favor of Government that at any time may arise or exist regarding the Licensed Premises or materials or equipment furnished to it, or work done on it, or to any part of it, by Licensee's use of the Licensed Premises. If the lien, right, claim, or demand shall not be promptly discharged by Licensee, or should a petition be filed by or against Licensee in bankruptcy, or should Licensee file for liquidation or make an assignment on behalf of creditors, Government reserves the right to take immediate possession without any liability to Licensee and will be responsible for any costs incurred by Government in obtaining clear title to its property due to their acts or omissions clouding the title.

15. **TAXES.** Licensee will pay to the proper authority when and as the same become due and payable all taxes, assessments, and similar charges that, at any time during the term of this License may be imposed on the Licensed Premises. 10 U.S.C. § 2667(f) contains the consent of Congress to the taxation of Licensee's interest in the Licensed Premises, whether or not the Licensed Premises are in an area of exclusive Federal jurisdiction. Should Congress consent to taxation of Government's interest in the Licensed Premises, this License will be renegotiated.

16. **SUBJECT TO EXISTING AND FUTURE EASEMENTS.** This License, is subject to all outstanding easements and rights in the nature of an easement (collectively, "easements") for the location of any type of facility over, across, in, and upon all or any part of the Licensed Premises, and to the right of Government to grant additional easements over, across, in and upon the Licensed Premises for the public interest. However, Government shall coordinate with Licensee to minimize any impact to Licensee's operations, and any additional easement shall be conditioned on the assumption by its grantee of liability to Licensee for damages that Licensee will suffer for property destroyed or rendered unusable on account of the grantee's exercise of its easement rights. There is hereby reserved to the holders of outstanding easements or which may be granted later, to any workers officially engaged in the construction, installation, maintenance, operation, repair, or replacement of facilities located on the easement area, and to any Federal, state, or local official engaged in the official inspection of that work, reasonable rights of ingress and egress over the Licensed Premises that may be necessary for the performance of their duties with regard to those facilities, subject to Paragraph 7.

17. **INGRESS, EGRESS, PARKING AND SECURITY.**

17.1. Licensee, and their employees, vendors, and invitees will be granted reasonable access to the Licensed Premises under this License. As a condition, Licensee, and their employees, vendors, and invitees, agree to adhere to all base rules and regulations regarding installation security, ingress, egress, safety and sanitation that may be prescribed from time to time by the Commander/Commanding Officer. Licensee and their employees, vendors, and business invitees, will coordinate parking with the appropriate office of the installation. Licensee and its invitees and contractors agree to absorb all costs, including time and expense, associated with gaining access to the installation under the RAPIDGATE or similar program.

17.2. Installation Security. The Licensed Premises is located on a secure Navy installation and Licensee is required to comply with all applicable security rules, regulations, and procedures issued by the Installation Commander/Commanding Officer. All employees of Licensee that are required by the installation to do so will obtain a security clearance to access the Licensed Premises. Failure to obtain the required security clearance will result in denial of access to the Licensed Premises of Licensee's employees. **Licensee agree(s) to hold harmless Government from any liability of any**

nature for financial or other losses incurred by Licensee by reason of Licensee's employee's failure to obtain security clearance for access to the Licensed Premises. The prior sentence shall survive the termination of this License.

18. ADMINISTRATION. Except as otherwise stated in this License, the RECO shall have complete charge of the administration of this License, including granting any consents and approvals hereunder it, and shall exercise full supervision and general direction insofar as the interests of Government are affected.

19. SUBCONTRACTORS AND AGENTS FOR LICENSEE. All Work involving Licensee facilities must be performed by skilled tradesmen who are accomplished at their craft and bonded against loss due to damages resulting directly or indirectly from work performed.

20. SURRENDER. Upon the expiration of this License or its prior termination, and subject to the election of Government under Paragraph 5, Licensee will quietly and peacefully remove itself and its personal property from the Licensed Premises and surrender possession to Government. However, in the event Government shall terminate this License upon less than thirty (30) days notice, Licensee will be allowed a reasonable period of time, as determined by the RECO, but in no event less than thirty (30) days from receipt of notice of termination, in which to remove all of personal property from, and terminate its operations on, the Licensed Premises. During the period prior to surrender, all obligations assumed by Licensee under this License will remain in full force and effect; provided, however, that if Government shall in its sole discretion, determine that any action is equitable under the circumstances, it may suspend, in whole or in part, any further accruals of rent, if any, or maximum amount to be expended between the date of termination of this License and the date of final surrender of the Licensed Premises. Government may, in its discretion, declare any personal property that has not been removed from the Licensed Premises upon termination as abandoned upon an additional ninety (90) days notice.

21. HEADINGS. The headings of paragraphs in this License are used solely for ease of reference. They may not be used to construe the meaning of all or any part of a paragraph.

22. DEFINED TERMS. All references to "this Agreement" and "this license" means and refers to this License for Nonfederal Use of Real Property (License Number N69450-13-RP-0008). All references to "City" and "City of Key West" means and refers to the Licensee under this License. All references to "pier", "Mole Pier" and "Premises" means and refers to the Licensed Premises defined in this License.

23. ATTACHMENTS. Attachments to this License are set forth below:

A. Example of Monthly Deliverables

Attachment A

Schedule of Monthly Deliverable Documents

Documents* to be provided to GOVERNMENT no later than the 10th of each month ("Monthly Deliverable Documents"):

1. Cover letter accounting for the rent owed to the GOVERNMENT for that month
2. Rent check payable to U.S. Treasury Department (unless paying with in-kind consideration)
3. Monthly Cruise Ship Schedule
4. U.S. Customs and Border Protection, Vessel Entrance or Clearance Statement, CBP Form 1300, for each ship berthed at the Mole Pier during the prior month
5. City of Key West US Navy Outer Mole Pier Payment Record based on Port Operations Monthly Arrived Data
6. Statement of the deposit account established by LESSEE itemizing the beginning and ending balance of the deposit account and all transactions affecting the account that occurred during the previous month (a printout of the of the account from the bank's website will suffice)

*Sample documents for #1 through #5 are attached for reference.

Cover Letter (A-1)



Post Office Box 6434
Key West, Florida 33041-6434
www.keywestcity.com

December 3, 2013

Commander, Naval Facilities Engineering Command Southeast
ATTN: Real Estate Contracting Officer
BOX 30A, Bldg. 903, Room 260
Jacksonville, Florida 32212-0030

To Whom It May Concern:

Please find enclosed payment for the License Contract No. N69450-13-RP00085 for use of the Outer Mole Pier at the Truman Annex, Naval Air Station Key West, Florida, in the amount of \$56,876.00.

The following adjustments in the payment are as indicated:

Payment 1 November - 30 November 2013 \$56,876.00

If you should have any questions please do not hesitate to call me at 305-809-3790.

Sincerely,

A handwritten signature in cursive script, appearing to read "Martha Arencibia".

Martha Arencibia
Port Coordinator
City of Key West
marencib@keywestcity.com

C: Bob Vitas, City Manager
Robin McCarthy, Realty Specialist, IPT South Atlantic NAVFAC SE


Check (A-2)

THE CITY OF KEY WEST POST OFFICE BOX 408, KEY WEST, FLORIDA 33041 19987

DATE	INVOICE NUMBER	DESCRIPTION	P.O.	AMOUNT
12/06/2013	NOVEMBER 2013	OUTER MOLE PIER		56,876.00
TOTAL				56,876.00

UNITED STATES TREASURY

REMOVE DOCUMENT ALONG THIS PERFORATION

 <p>THE CITY OF KEY WEST OPERATING ACCOUNT POST OFFICE BOX 408 KEY WEST, FLORIDA 33041</p>	<p>FIRST STATE BANK OF THE FLORIDA KEYS KEY WEST, FLORIDA 33040 89.42 870</p>		<p>19987</p>
	<p>VENDOR NUMBER 2132</p>	<p>DATE 12/06/2013</p>	

FIFTY SIX THOUSAND EIGHT HUNDRED SEVENTY SIX AND 00/100 DOLLARS *****

PAY TO THE ORDER OF: UNITED STATES TREASURY, COMR NAVAL FACILITIES ENG COMMANDER, ATTN: REAL ESTATE CONTRACTING OPER, BOX 30A, BLDG 903, ROOM 260

Boydan Vitas Jr.
Cheryl Smith

DOCUMENT CONTAINS SECURE AND SAFE INFORMATION. IT HAS THERMOCHROMIC INK WATERMARK. HOLD AT AN ANGLE TO VIEW. VOID IF NOT PRESENT.

⑈19987⑈ ⑆067000438⑆ 0100903118⑈

Monthly Cruise Ship Schedule (A-3)

December 2013

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 10/1/2013	2 Ryndam (M) 1200-1800 ✓	3 Imagination (OM) 0730-1330 Sunshine (B) 1000-1800 530-1700	4	5 Majesty (B) 0930-1800	6 Victory (B) 0730-1400 Regatta (M) 0800-1400	7 Nieuw Amsterdam (OM) 0900-1700 Disney Magic (B) 0630-1700
8 Ecstasy (B) 1200-2000	9 Ryndam (OM) 1200-1800 Disney Wonder (B) 1030-1700	10 Imagination (OM) 0730-1330 Carnival Magic (B) 1000-1900	11 Grandeur (B) 0900-1700	12 Silver Spirit (M) 0800-1645 Majesty (B) 0930-1800	13 Constellation (B) 0700-1700	14 Serenade (B) 0800-1630
15 Constellation (B) 0700-1700	16 Disney Wonder (B) 1030-1700	17 Imagination (OM) 0730-1330 Brilliance (B) 1130-1730	18	19 Eurodam (OM) 0800-1600 Majesty (B) 0930-1800	20 Victory (B) 0730-1400	21 Nieuw Amsterdam (OM) 0900-1700 Disney Magic (B) 0630-1700
22 Constellation (B) 0700-1700	23 Freedom (B) 0800-1600 Ryndam (M) 1200-1800 ✓ Serenade (OM) 1100-1700	24 Imagination (OM) 0730-1330 Constellation (B) 0700-1700	25 Fascination (B) 0700-1500	26 Majesty (B) 0930-1800	27	28 Eurodam (B) 0800-1700
29 Noordam (OM) 0800-1700 Constellation (B) 0700-1700	30 Ryndam (M) 1200-1800 ✓ Serenade (B) 1100-1700 Fascination (OM) 0700-1500	31 Imagination (OM) 0730-1330 Brilliance (B) 1130-1730				

Customs and Border Patrol (CBP) Form 1300 (A-4)

935

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

Approved OMB No. 1551-0018
Exp. 02-28-2014

VESSEL ENTRANCE OR CLEARANCE STATEMENT

19 CFR Part 4

See back for instructions

NIEUW AMSTERDAM - CAPTAIN BAS VAN DREUMEL - DOB APRIL 5, 1973 ENTRANCE CLEARANCE

TRADE CODES (see back)						Check One: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6					
1. Manifest No. V133		2. Port Arrival/Departure KEY WEST		3. Date & Time of Arrival/Departure 11/09/2013 9:00:00AM		4. Vessel Operating Draft (in feet and inches) 26 ft 0.2 in.					
5. Nationality, Name and Type of Vessel MS NIEUW AMSTERDAM THE NETHERLANDS PASSENGER (350)			6. Vessel Built at/Year ITALY, 2010			7. Name, Address & Phone No. of Ship's Agent Caribe Nautical Services, Greta Philips-Ford 3057970284 kwastships@aol.com					
8. Name & Country of Owner HOLLAND AMERICA LINE N.V. THE NETHERLANDS				9. Name & Country of Operator HOLLAND AMERICA LINE N.V. THE NETHERLANDS							
10. Gross Tonnage 86,273		11. Net Tonnage 53,711		12. Port Arrived From/Departed For COZUMEL, MEXICO		13. IMO # 9378450	14. Official # 10204	15. Call Sign PBWQ			
14. List All Dock Locations (continue on back if necessary) NAVY MOLE PIER											
15. Particulars of Voyage (Previous and subsequent Ports of Call, include dates; underline where remaining cargo will be discharged) (Con't on back) REFER TO BACK PAGE											
16. Brief Description of Cargo NO CARGO ONBOARD/PASSENGER ONLY					17. <input type="checkbox"/> Check if Incomplete Manifest for Export <input type="checkbox"/> Check if Licensed Cargo Loaded <input checked="" type="checkbox"/> Check if Complete Manifest filed for Export						
18. No. of Crew 872		19. No. of Passengers 1,943		20. List All Carriers on board by SCAC Code HART							
21. Tonnage Mark <input type="checkbox"/> None <input type="checkbox"/> Submerged <input checked="" type="checkbox"/> Not Submerged			22. Bunkers: Type, Barrels, Value 0								
23. Load Line Expires 06/29/2015		24. Solas Certificate Expires 06/29/2014		25. Passengers Allowed Per Coast Guard Certificate 2,667		26. No. of Passengers Embarking/Disembarking 2					
27. Cert. Of Fin. Resp. No. (Water Pollution) and Exp. Date 842979-14 08/02/2016		28. Cert. Of Fin. Resp. (Passenger Death/ Injury) C-1970 EFF 06/30/2010		29. Cert. Of Fin. Resp. (Passenger Transportation Indemnification) P-1279 EFF 06/30/13 EXP 09/01/18							
30. PURPOSE OF ENTRANCE OR CLEARANCE <input type="checkbox"/> D (Discharge Foreign Cargo) <input checked="" type="checkbox"/> X (Export Cargo Aboard on Arrival) <input type="checkbox"/> L (Laden Cargo to be Discharged) <input type="checkbox"/> F (FROB - Foreign Cargo to Remain on Board) <input checked="" type="checkbox"/> N (No Cargo transactions) <input type="checkbox"/> Y (Manifest Cargo to be Laden)											
31. Print and Sign Name of Master, Authorized Agent or Officer, Date CAPTAIN BAS VAN DREUMEL								11/09/2013			
FOR CBP USE ONLY											
32. <input type="checkbox"/> CBP User Fee Paid Up*			33. <input type="checkbox"/> APHIS User Fee Paid Up*			34. <input type="checkbox"/> Tonnage Tax Paid Up *					
35. Cash Receipt, CBP 388 or Transaction No.			36. Total Fees Collected			37. Port Entered/Cleared, Time and Date					
38. CBP Officer Remarks											
39. Signature and Title of Officer Receiving Entry/Granting Clearance											

*Check boxes only if fees not collected

CBP Form 1300 (06/09)

City of Key West US Navy Outer Mole Payment Record, Monthly (A-5)

City of Key West
US Navy Outer Mole Lease Payment Record
Fiscal Year 2011-2012
Billing Report Based on Port Operations Monthly Arrival Data

	October	November	December	January	February	March	April	May	June	July	August	September	Total
Actual													
Ships	6	6	11	9	13	10	7	6	5	4	2	2	81
Passengers	13,891	14,838	26,888	18,876	28,241	24,707	18,532	15,131	13,142	10,681	5,313	4,521	194,761
Rate Per Passenger	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63	\$10.63
Gross Revenues	\$147,661	\$157,728	\$285,819	\$200,652	\$300,202	\$262,635	\$196,995	\$160,843	\$130,699	\$113,539	\$56,477	\$48,058	\$2,070,309
Less Security Surcharge Reduction													
Passengers	13,891	14,838	26,888	18,876	28,241	24,707	18,532	15,131	13,142	10,681	5,313	4,521	
Security Surcharge	\$147,661	\$157,728	\$285,819	\$200,652	\$300,202	\$262,635	\$196,995	\$160,843	\$130,699	\$113,539	\$56,477	\$48,058	
Security Surcharge Reduction	\$13,891	\$14,838	\$26,888	\$18,876	\$28,241	\$24,707	\$18,532	\$15,131	\$13,142	\$10,681	\$5,313	\$4,521	
Gross Revenues Less Security Surcharge	\$133,770	\$142,890	\$258,931	\$181,776	\$271,961	\$237,928	\$178,463	\$145,712	\$117,557	\$102,858	\$51,164	\$43,537	\$1,947,610
Navy Billing Rate	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%
Due - to Outer Mole Payment Fund	\$55,564	\$58,352	\$107,552	\$75,504	\$112,964	\$98,828	\$74,128	\$60,524	\$52,568	\$42,724	\$21,252	\$18,084	\$779,044
Dockage													
Total Feet	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Rate Per Foot	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Gross Revenues	\$3,058	\$2,947	\$5,736	\$4,142	\$6,302	\$5,157	\$3,489	\$3,088	\$2,288	\$1,830	\$915	\$915	\$39,867
Navy Billing Rate	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%
Due - Current Month	\$1,223	\$1,179	\$2,294	\$1,657	\$2,521	\$2,063	\$1,396	\$1,235	\$915	\$732	\$366	\$366	\$15,947
Total Due Navy Outer Mole Pmt. Fnd. Fund	\$56,787	\$60,531	\$109,846	\$77,161	\$116,485	\$100,891	\$75,524	\$61,759	\$63,483	\$43,456	\$21,618	\$18,450	\$794,991



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND SOUTHEAST
JACKSONVILLE, FL 32212-0030

11011
Ser OPDB/022
February 19, 2014

Mr. Bogdan Vitas, Jr.
City Manager
City of Key West
3126 Flagler Avenue
Key West, FL 33041

SUBJECT: MOLE PIER LICENSE N69450-14-RP-00030 (1 Mar – 31 Aug 2014)

Dear Mr. Vitas,

Please find enclosed three (3) copies of the Mole Pier license providing the City with continued use of the Mole Pier through August 31, 2014, or until we have received authority to fully execute the Public Benefit Lease. This license contains provisions permitting the use of in-kind consideration as well as cash payment at the Navy's discretion.

Due to the impending expiration of the current license agreement on February 28, 2014, please sign and return two (2) copies of the license to our offices no later than February 26, 2014. Upon receipt, we will provide you with a fully executed copy for your files.

If you have any questions or concerns regarding this matter, I can be reached by phone at (904) 542-6278 or by email at timothy.yonce@navy.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy T. Yonce".

TIMOTHY T. YONCE
Real Estate Contracting Officer

Enclosure: 1. Mole Pier License N69450-14-RP-00030

Copy to: Commanding Officer, NAS Key West