
Lease Agreement

between

CITY OF KEY WEST

as Landlord

and

GRM ENTERPRISES, INC.

as Tenant

Dated _____

THIS LEASE is made as of the ____ day of _____, 20__ by and between the LANDLORD and TENANT identified below:

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

1.1 LANDLORD'S NAME & MAILING ADDRESS:
CITY OF KEY WEST
1300 WHITE STREET
KEY WEST, FL 33040

1.2 TENANT'S NAME & MAILING ADDRESS:
GRM ENTERPRISES, INC.
P.O.BOX 1238
KEY WEST, FLORIDA 33040

TENANT'S TRADE NAME: Fury Glass Bottom Boat

1.3 GUARANTOR (S) AND ADDRESS: George Rich, P.O. Box 1238, Key West, FL 33040

1.4 DEMISED PREMISES (Section 2): **as per EXHIBIT "A" located at 2 Duval Street (hereinafter referred to as the "Property") and including the single vessel docking facility contiguous to the upland Demised Premises**

407 NET USABLE SQUARE FEET OF UPLAND PROPERTY PER MONROE COUNTY PROPERTY APPRAISER PARCEL ID 00072082-000400

EXPANSION/RIGHT OF FIRST REFUSAL: None

1.5 TERM (Section 3.): TEN (10) YEARS

1.5.1 COMMENCEMENT DATE: JUNE 1, 2022 as acknowledged by TENANT'S written statement

1.5.2 RIGHT TO TERMINATE: None

1.5.3 RIGHT TO RENEW: Per Key West Code of Ordinances Sec.2-941. Leases

1.6 MINIMUM RENT FOR TERM (Section 4): The base rent and base rent increases for the term and any renewals thereof as **per EXHIBIT "B"** attached hereto and incorporated herein.

1.6.1 ADDITIONAL RENT: Tenant shall pay Real Estate Taxes, Insurance, Sales, Use or Excise Taxes together with any Management and Administrative fees, and any and all other sums of money or charges required to be paid by TENANT pursuant to the provisions of this lease.

- 1.6.2 RENT PAYMENT DUE DATE: Payable in advance on the first (1st) of each and every month of the term hereof.
- 1.6.3 LATE CHARGE: 15% of the amount in arrears if received after the fifth day of each and every month together with an administrative fee of \$50.00 for processing late payments.
- 1.6.4 PERCENTAGE RENT: 6% of TENANT'S Gross Sales in excess of the "Percentage Rent Base Amount" **as per EXHIBIT "B"**.
- 1.6.5 HOLD OVER RENT: 150% of the Minimum Base rent during the last year of the expiring term.
- 1.6.6 RENT CONCESSIONS: None
- 1.7 SECURITY DEPOSIT (Section 5): Tenant currently has a security deposit on file in the amount of \$8,500.00. An additional amount of \$4,686.29 will be required in accordance with paragraph 5 below.
- 1.8 PERMITTED USE (Section 6): A tour boat operations facility for passenger check-in and ticket sales for and in conjunction with the one slip docking facility to be used exclusively for mooring of TENANT'S commercial tour boat/sightseeing vessel and no other purpose.
- 1.9 INSURANCE: (Section 9) One (\$1,000,000) Million Dollar commercial liability minimum per person/occurrence, Three (\$3,000,000) Dollars for more than one person arising out of one incident and shall include pollution liability with a minimum limit of \$800,000, all risk property insurance, including property damage, hazard and theft coverage.
- 1.10 ASSIGNMENT OR SUBLETTING: (Section 10) Permitted with LANDLORD'S approval
- 1.11 UTILITIES: (Section 17) TENANT shall pay for all utilities

INITIALS: LANDLORD_____ TENANT_____

WITNESSETH:

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

2. DEMISED PREMISES - Upon the terms and conditions hereinafter set forth, and in consideration of the payment from time to time by the TENANT of the rents hereinafter set forth, and in consideration of the performance continuously by the TENANT of each and every one of the covenants and agreements hereinafter contained by the TENANT to be kept and performed, the LANDLORD does hereby lease, let, and demise unto the TENANT, and the TENANT does hereby lease of and from the LANDLORD, the following Demised Premises situated, lying, and being in Monroe County, Florida: That portion of the Property outlined and/or crosshatched on Exhibit "A" which depicts the Net Usable Square Feet of the Demised Premises. **Additionally, the single vessel docking facility contiguous to the upland Demised Premises shall also be considered part of**

the Demised Premises under the terms of this lease.

The Net Usable Square Feet is defined as all interior floor space, any second floor space, storage, covered dining areas and commercially used outdoor areas or any other area set aside for the exclusive use and economic benefit of the Tenant and containing the approximate dimensions and area. It is agreed that the Net Usable Square Feet for the purpose of any calculations which are based on Net Usable Square Feet is as stated in Section 1.4. LANDLORD reserves the right to re-measure the Demised Premises from time to time and to adjust the TENANT'S Net Usable Square Feet and the rent or rental rate applied to the square footage as determined by any re-measurement or change in use. TENANT accepts the Demised Premises in an "as is", "where is" condition and acknowledges that LANDLORD has no obligations for any construction or improvements in connection with TENANT'S occupancy of the Demised Premises. **TENANT acknowledges having inspected the dockage space rented by this Agreement, and hereby accepts it in "as is" condition for berthing the above-described vessel TENANT agrees that LANDLORD makes no warranty, guarantee, or assertion of any kind whatsoever concerning the condition of the docks, piling, piers, walks, gangways, ramps or berthing gear, and will not be responsible for injuries of any nature or cause including LANDLORD'S negligence, to persons or property on LANDLORD'S property.**

TENANT AND LANDLORD acknowledge and agree that the infrastructure and sea wall at this location must be re-constructed therefore LANDLORD reserves the right, upon at least sixty (60) days advance written notice to relocate TENANT to other Demised Premises prior to or during the term of this Lease as necessary to facilitate LANDLORD'S work, so long as usable area so substituted equals or exceeds the usable area of the Demised Premises; provided however that – (a) TENANT and LANDLORD shall negotiate in good faith and in a commercially reasonable manner as to an appropriate adjustment for rent such that the rent is consistent with market values for the relocated space; and (b) TENANT shall have the right at its sole option and as its sole remedy, to terminate the Lease upon sixty (60) days advance written notice which right must be exercised, if at all, within fifteen (15) days after receipt of LANDLORD'S relocation notice, which relocation notice may be withdrawn by LANDLORD within ten (10) days after LANDLORD'S receipt of TENANT'S termination notice, in which event TENANT'S attempted termination shall be null and void and the lease shall continue in full force and effect in accordance with its terms. In the event LANDLORD shall relocate TENANT to other space within the Property, LANDLORD shall pay the reasonable relocation costs of TENANT in connection therewith, but LANDLORD shall not have any other liability with respect to any such relocation.

Expansion/Right of First Refusal – None

3. TERM - The term of this Lease shall be for ten (10) years which shall commence on June 1, 2022 and shall end at midnight on May 31, 2032 unless sooner terminated as provided for herein. Upon occupancy TENANT shall furnish LANDLORD a written statement stating the TENANT has accepted the Demised Premises for occupancy and setting forth the actual commencement and expiration dates of the Lease. TENANT'S written statement shall become attached to and incorporated into this lease Exhibit "D". In the absence of TENANT'S written statement the lease term shall remain as stated above A Lease Year is the twelve-month period beginning on the commencement date of each year and ending at the conclusion of the same date one year later. If possession of the Demised Premises shall for any reason not be delivered to Tenant on the Commencement Date, this Lease shall nevertheless continue in full force and effect, and no liability whatsoever shall arise against

LANDLORD out of any delay other than the abatement of rent.

Right to Terminate –None

Right to Renew – Per Key West Code of Ordinances Sec.2-941 - Leases

4. RENT - All rentals provided for herein shall be payable in advance, without prior demand therefore and without deductions or setoffs for any reason whatsoever on the first day of each and every month of the term hereof.

4.1 Late Charges. Any monthly rental not received by the fifth day of the month shall incur a late fee equal to fifteen percent 15% of the amount in arrears. In addition, all payments received after the due date shall incur a **\$50.00** administrative fee to cover the costs of collecting and processing late payments. LANDLORD shall have no obligation to accept less than the full amount of all installments of rental, additional rental or other amounts due hereunder and interest thereon which are due and owing by TENANT to LANDLORD. If LANDLORD accepts less than the full amount owing, LANDLORD may apply the sums received toward such TENANT'S obligations, as LANDLORD shall determine in its sole discretion, without waiving LANDLORD'S remedies for default.

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

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

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

(a) Beginning with the commencement date and throughout the term of this Lease, TENANT agrees to pay to the LANDLORD as and for minimum rent for the Demised Premises the annual amount, in equal monthly installments, in advance, on the first day of each and every calendar month, as per **EXHIBIT "B"**. In the event the rent commencement date is other than the first day of a calendar month, the rent for the partial first calendar month of the term will be prorated on a daily basis and payable on the commencement date. Notwithstanding the immediately-preceding terms or anything else in this LEASE to the contrary, the PARTIES acknowledge and agree that the TENANT has ordered a Fair Market Rent Analysis ("ANALYSIS"). PARTIES agree that the TENANT may request an adjustment to rent for the DEMISES PREMISES upon completion of the ANALYSIS from the City Commission.

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

Commencing with the 1st day of the Term, TENANT agrees to pay, as Additional Rent, the Real Estate Tax Expense which shall include all real estate taxes and assessments both general and special imposed by federal, state or local governmental authority or any other taxing authority having jurisdiction over the Property against the land, buildings, store rooms, common areas and all other improvements together with any and all expenses incurred by LANDLORD in

negotiations, appealing or contesting such taxes and assessments. Ad valorem real property taxes for each calendar year hereunder shall be paid by the TENANT directly to the taxing authority in the month of November of that calendar year and proof of payment of same shall be delivered to LANDLORD promptly after payment.

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

Initial here if applicable

TENANT _____

LANDLORD _____

(d) In addition to the foregoing rent, TENANT agrees to pay LANDLORD as Percentage Rent a sum equal to 6% multiplied by an annual Gross Sales per Lease Year in excess of the Percentage Rent Base Amount. The Percentage Rent Base Amount is calculated by dividing the current annual Base Rent by six percent (6%). Within twenty (20) days following the end of each month of each Lease Year, TENANT shall forward to LANDLORD a statement of Gross Sales together with an accurate and complete copy of the State of Florida Department of Revenue, Sales and Use Return Form DR-15 (or such forms as the State of Florida shall hereafter substitute for said form) showing the full amount of TENANT'S Gross Receipts from the Demised Premises during the previous month. The statement of Gross Sales must be in affidavit form. TENANT is subject to a fifty-dollar (\$50.00) late submission penalty should TENANT not furnish to LANDLORD copies of Form DR-15 by the twentieth (20th) day of each month. Failure of Tenant to timely submit any monthly report shall entitle LANDLORD to estimate Gross Sales based upon available data (with a reconciliation upon receipt of the final report), and TENANT shall be obligated to pay percentage rent on such estimated Gross Sales. If by the end of any such preceding month the Gross Sales in the Demised Premises during such Lease Year shall exceed the Percentage Base Rent Amount, TENANT shall pay to LANDLORD, at the time of delivery of said Statement, an amount equal to the Percentage Rent times the Gross Sales exceeding the Percentage Rent Base Amount, less the Percentage Rent, if any, previously paid by TENANT to LANDLORD during that Lease Year. TENANT shall also furnish to LANDLORD within thirty (30) days after the expiration of each full Lease Year, a complete statement, showing in all reasonable detail the amount of Gross Sales made by TENANT from the Demised Premises during the preceding Lease Year.

Gross Sales" shall mean the amount of sales of all merchandise or services sold or rendered at or derived from the use of the Demised Premises by TENANT or any sub-TENANT, licensee, etc. TENANT may deduct from Gross Sales: (i) any refunds to customers, provided they have been included in Gross Sales; and (ii) the amount of any sales tax levied upon retail sales and payable over to the appropriate governmental authority. TENANT agrees to keep, at its principal office, records in accordance with generally accepted accounting practices, in which said Gross Sales shall be recorded. Such records shall be open for inspection by LANDLORD or its agents, including accountants retained for that purpose, during reasonable business hours for the Term and for at least 3 years thereafter.

Pursuant to City Ordinance Section 2-872, In addition to other periodic reviews, all city leases, franchises, concessions and other agreements wherein percentage revenues are collected shall be audited at least once every three years by an external certified public accountant utilizing generally accepted accounting principles (GAAP) and in such a manner as directed by the city manager. All city leases, franchises, concessions and agreements entered into after the effective date of this ordinance shall provide for such audits without cost or expenses to the city.

If any audit shows that the amount of Gross Sales on the statement was understated by more than 1% for any year, then TENANT shall pay the Percentage Rent due for such understatement within ten (10) days after TENANT'S receipt of LANDLORD'S invoice. If such understatement is willful and/or fraudulent, LANDLORD shall have the option, upon ten (10) days notice to TENANT, to terminate this Lease on the date specified in such notice and Tenant shall remain liable for all rent and other charges under this lease for the full term hereof.

(e) **Additional Rent.** Any and all other sums of money or charges required to be paid by Tenant pursuant to the provisions of this Lease, whether or not the same be so designated, shall be considered as "Additional Rent", and shall be payable and recoverable in the same manner as Rent. However, such Additional Rent shall be due upon demand and failure to pay such additional rent within seven (7) days shall be deemed a material breach of this lease. If Landlord shall make any expenditure for which Tenant is liable under this Lease and for which Tenant has not paid, the amount thereof shall be deemed Additional Rent due and payable by as indicated above. In addition to the foregoing rent, all other payments to be made by TENANT shall be deemed to be and shall become additional rent hereunder whether or not the same be designated as such and it shall be due and payable upon demand together with interest thereon at the highest rate permissible by law from their due date until the date it is paid. The LANDLORD shall have the same remedies for TENANT'S failure to pay said additional rental the same as for non-payment of rent. LANDLORD, at its election, shall have the right to pay or do any act which requires the expenditure of any sums of money by reason of the failure or neglect of TENANT to perform any of the provisions of this Lease, and in the event LANDLORD shall, at its election, pay such sums or do such acts requiring the expenditure of monies, TENANT agrees to pay LANDLORD, upon demand, all such sums, and the sums so paid by LANDLORD and any expenses incurred by LANDLORD in the payment of such sums together with interest thereon at the highest rate permitted by law from their due date through the date they are paid by TENANT shall be deemed additional rent and shall be payable and collectible as such. Rent shall be made payable to the LANDLORD as stated in Section 1.1 hereof.

(f) **Holding Over.** It is agreed that in the event of TENANT holding over after the termination of this lease, thereafter the tenancy shall be from month to month in the absence of a written agreement to the contrary; the TENANT shall pay to LANDLORD a monthly occupancy charge equal to One Hundred Fifty (150%) Percent of the monthly rental for the last lease year for each month from the termination or expiration of this Lease until the Demised Premises are delivered to the LANDLORD in the condition required herein, and LANDLORD'S right to damages for such illegal occupancy shall survive. In addition, TENANT shall pay all other charges payable by TENANT under this Lease

(g) **Rent Concessions.** None

5. SECURITY - TENANT simultaneously with, or prior to, the execution and delivery of this Lease, has deposited with the LANDLORD the sum equal to one months current minimum rent as per **EXHIBIT "B"** and as stated in Section 1.7 hereof, the receipt of which is hereby acknowledged, which sum shall be retained by LANDLORD as security for the payment by

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

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

A tour boat operations facility for passenger check-in and ticket sales for and in conjunction with the one slip docking facility to be used exclusively for mooring of TENANT'S commercial tour boat/sightseeing vessel and no other purpose.

Said docking space is for the exclusive purpose of docking of the **Fury Glass Bottom Boat** only, or another vessel of similar size and use as a replacement for the vessel, subject to the approval of the City Manager of the City of Key West. TENANT shall not sublease said berth or conduct or allow to be conducted any other business operation from said berth without first obtaining the required approvals contained herein. Such substitution without approval is grounds for immediate lease termination.

Prior to exercising any rights whatsoever pursuant to the terms of this Agreement, and at such times during the term of this Agreement as LANDLORD may request, TENANT shall furnish to LANDLORD for its review an original or certified copy of proof of its ownership or primary leasehold interest of the above vessel said proof shall consist of a lease, an original or certified copy of either a state registered title to the vessel or documentation by the U.S. Coast Guard of foreign sovereign. TENANT warrants that it owns or leases the above vessel, or will own or lease same at time of berthing in slip, and will allow inspection by LANDLORD prior to placement; in the event the vessel is not satisfactory to the LANDLORD, it may not be berthed and another vessel must be located. LANDLORD shall have prior inspection and approval rights for any other vessel to be berthed, and shall have prior inspection and approval rights regarding any change of vessel Nothing in this section is intended to prevent TENANT from leasing a vessel so long as TENANT is the sole person leasing the vessel or is the principle individual in any corporate entity or leasing same.

TENANT agrees that LANDLORD is under no obligation to furnish dockage space to any party other than the original signator of this Agreement, or to any vessel other than that described herein.

TENANT agrees that the vessel shall not be used or rented for purposes of domicile or habitation or overnight residence while moored in the dockage space. Nothing in this section is intended to prevent habitation by legitimate crew or the TENANT provided such habitation is necessary for the actual operation of the vessel for the purpose stated herein.

TENANT further agrees:

- (a) To operate 100% of the Demised Premises for the entire term of this lease during all reasonable hours established by LANDLORD, pursuant to the highest reasonable commercial standards of its Business category, maintaining a substantial stock of appropriate merchandise on display, with sufficient personnel to service its trade.
- (b) With respect to the Property, not to display any merchandise, solicit business or distribute advertising material beyond the Demised Premises, nor in any manner use any part of the common areas for purposes other than for their intended common use and not to obstruct any part thereof.
- (c) Not to display any banners, pennants, searchlights, window signs, balloons, or similar temporary advertising media on the exterior of the Demised Premises.
- (d) Not to commit waste in the Demised Premises or common areas and to keep the Demised Premises and immediate adjacent areas including, without limitation, adjacent sidewalks, in a safe, neat, clean and orderly condition and to maintain and repair any lighting or signs under any canopy immediately in front of the Demised Premises. The TENANT agrees to keep the docks clean and free and clear of debris, including the sidewalk area adjacent to the dock.
- (e) Not to use the Demised Premises or permit the same to be used in any manner which violates any law, ordinance or constitutes a nuisance; for lodging purposes; that may injure the reputation of the Property or annoy, inconvenience or damage its patrons or other TENANT'S; or that would constitute an extra-hazardous use or violate any insurance policy of TENANT, LANDLORD or any other TENANT in the Property or increase the cost thereof.

TENANT agrees to strictly comply with all federal, state, and local laws pertinent to any subject matter of this Agreement, including but not limited to those pertaining to marinas or boating, specifically including United States Coast Guard (USCG) regulations concerning pre-employment and random drug testing, USCG regulations pertaining to the number of passengers for hire and all federal and state fisheries regulations and all environmental laws and regulations including, but not limited to the discharge of black water, grey water, chemicals and grease.

(f) To keep all garbage, refuse and solid waste inside the Demised Premises in the kind of containers specified by LANDLORD, or to place the same outside the Demised Premises, prepared for collection, in the manner and at the times and places designated by LANDLORD or the appropriate disposal company. TENANT agrees not to burn or permit any burning of garbage or refuse on the Demised Premises or any part of the Property. TENANT further agrees that, upon LANDLORD'S instruction, TENANT shall separate garbage for recycling and deposit the separate garbage in the receptacle designated by LANDLORD. TENANT further agrees to make every effort to recycle all glass, metal, paper and plastic refuse and solid waste. Sort glass by colors and metal and paper by type and deposit in the appropriate recycling containers provided by the LANDLORD.

(g) TENANT shall contract directly with the pertinent governmental authority or disposal company and shall be responsible for all fees and costs of removal and disposal of solid waste, garbage, and refuse, including but not limited to, impact fees and dumpster rental. TENANT shall indemnify, save harmless and defend LANDLORD from and against any loss, claim, injury, damage or expense arising out of or related to the generation, storage, or removal or disposal of TENANT'S garbage, refuse or solid waste. TENANT'S vessel shall contain a marine sanitation device with current U.S. Coast Guard approval for marine use for vessels in addition to any

applicable regulations for the discharge of black water or grey water, chemicals or grease. Said device shall be properly installed, properly functioning, and used for all waste while the vessel or floating structure is at dock. Failure to strictly comply with the provisions of this Paragraph shall be a default under this Agreement. TENANT acknowledges the LANDLORD'S right to test any and all sanitation devices aboard any vessel using any accepted marina industry standards including but not limited to dye tests. Twenty Four (24) hour notice shall be given to the TENANT prior to any said inspection being performed.

(h) To use its best efforts to cause all trucks serving the Demised Premises to load and unload from the hours of 7:00 a.m. to 11:00 a.m. and not to permit such trucks to service through the front entrance of the Demised Premises except when no other entrance is available.

(i) To take no action that would: (i) violate LANDLORD'S contracts if any, affecting the Property or (ii) cause any work stoppage, picketing or cause any manner or interference with LANDLORD or, occupants, customers or any person lawfully in and upon the Property.

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

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

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

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

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

8. INDEMNIFICATION - TENANT does hereby agree to indemnify, defend and save LANDLORD harmless from and against any and all liability for any injury to or death of any person or persons or damage to property (including adjoining property for environmental damage) in any way arising out of or connected with the conditions, use or occupancy of the Demised Premises, or in any way arising out of the activities of TENANT, its agents, employees, licensees or invitees on the Demised Premises and/or the building and from reasonable attorney's fees, incurred by LANDLORD in connection therewith, excepting, however, liability caused by LANDLORD'S gross negligence in its failure to perform any of LANDLORD'S covenants, obligations or agreements of this Lease. Nothing herein is intended to waive the sovereign immunity afforded to City pursuant to Florida law, including section 768.28, Florida Statutes.

The berthing space is to be used at the sole risk of the TENANT. TENANT hereby agrees that LANDLORD shall not be liable for the care, protection or security of the vessel, its appurtenances or contents, or of any of the TENANT'S personal property, guests, passengers or invitees, or for any loss or damage of any kind to the same due to fire, theft, vandalism, collision, equipment failure, windstorm, hurricane, rains breach of contract, violations of any local, state or federal law or regulation, or other calamities. TENANT agrees that there is no warranty of any kind as to the condition of the seawall, docks, piers, walks, gangways, ramps, mooring gear or electrical and water services, and that LANDLORD is not responsible for injuries to persons or property occurring on LANDLORD'S property. TENANT, personally and for its family, heirs, and assigns, hereby releases and agrees to hold LANDLORD harmless from all liability to same for personal injury, loss of life, property damage beyond normal wear and tear. TENANT, personally and for its family, heirs, and assigns agrees to indemnify LANDLORD for all liability for personal injury, loss of life, and property damage to TENANT, its family, heirs, assigns, agents, employees, invitees and guests caused by fault of TENANT. This release and indemnification shall include, but not be limited to: (1) acts in connection with TENANT'S vessel, motors and accessories while it is on or near LANDLORD'S property including the rented space, or while it is being moved, docked, hauled, or launched; (2) loss or damage to TENANT'S vessel, motors and accessories and contents or other personal property due to fire, theft, vandalism, collision, equipment failure, windstorm, rain or hurricane or any other casualty loss; and (3) causes of action arising out of the use of any adjacent pier or docking facilities or walkways giving access thereto. TENANT further agrees to indemnify LANDLORD for all damages or losses caused by or arising from fault of TENANT'S vessel and appurtenances, personal property, guests, passengers, family or invitees; provided, however, TENANT shall have no obligation to indemnify the LANDLORD for any claims or damages arising from the LANDLORD's gross negligence or intentional misconduct. The indemnification provided herein shall include, but not to be limited to all costs, expenses and reasonable attorney's fees, including appellate attorney's fees, reasonably incurred by LANDLORD based on the foregoing; provided, however, that LANDLORD shall give TENANT written notice of any such claim within time to reasonably allow TENANT to appear and defend or pay and discharge such claim. At its option, LANDLORD may defend against such claims and by so doing shall not waive or discharge TENANT from its obligations to defend and indemnify as herein contained.

9. TENANT'S INSURANCE - TENANT agrees that LANDLORD is not in any way an insurer of TENANT'S vessel, property, family, invitees, employees, agents, passengers or guest. TENANT hereby agrees to maintain and pay for an insurance policy providing such protection and indemnity throughout the term of this Agreement. Said policy shall protect LANDLORD and TENANT from all liability for injury to any persons or property which may arise in connection with the operation of or conduct of TENANT or its vessel, equipment, agents, invitees, passengers, guests or employees. TENANT covenants and agrees with LANDLORD that TENANT shall:

A. At TENANT'S sole cost and expense, during the entire Term hereof, procure, pay for and keep in full force and effect; (i) a commercial general liability policy, covering the Demised Premises and the operations of Tenant and any person conducting business in, on or about the Demised Premises in which the limits with respect to liability and property damage shall not be less than One Million (\$1,000,00.00) Dollars for any one occurrence/person or \$3 Million (\$3,000,000) Dollars for more than one person arising out of one incident and shall include pollution liability with a minimum limit of \$800,000 (ii) all risk property insurance, including property damage, hazard and theft coverage, written at replacement cost value and a replacement cost endorsement insuring the Property, TENANT'S improvements and betterments, fixtures, furnishings, equipment and any other property belonging to TENANT; and (iii) workers compensation coverage as required by the provisions of Florida statute. Any consignment agreement used by TENANT must provide that consignor acknowledge that the LANDLORD does not have any liability whatsoever for any damage which may be done to items left in the Demised Premises on consignment. The TENANT must provide the LANDLORD with a copy of any consignment agreement used by TENANT regarding Demised Premises. LANDLORD shall not be responsible for damage to any property belonging to TENANT or consignor. TENANT completely indemnifies the LANDLORD with regard to any claims made by any consignor for any reason. From time to time during this Lease, at LANDLORD'S request, TENANT shall (i) procure, pay for and keep in full force and effect such other insurance as LANDLORD shall require and (ii) increase the limits of such insurance as LANDLORD may reasonably require.

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

C. Each policy evidencing insurance required to be carried by TENANT pursuant to this Lease shall contain the following provisions and/or clauses: (i) a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by LANDLORD; (ii) a provision naming LANDLORD and any other parties in interest as designated by LANDLORD as an additional insured (except with respect to worker's compensation insurance); and (iii) a provision that the insurer will not cancel, materially change or fail to renew the coverage provided by such policy without first giving LANDLORD thirty (30) days prior written notice.

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

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

Any assignment or sub-letting, even with LANDLORD'S consent shall not relieve TENANT from liability for payment of Rent or from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not be deemed to be a waiver of any of the agreements of this Lease or to be consent to the assignment for the benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior consent of LANDLORD. In the event TENANT wishes to assign this Lease and LANDLORD consents to such assignment, LANDLORD may charge a reasonable fee, not to exceed **\$500.00** to help offset any costs LANDLORD may have in preparing such assignment, or in examining the information, financial statements, operating history, references, etc., necessary to effectuate same. Any assignment, transfer, hypothecation, mortgage, or subletting without LANDLORD'S written consent shall give LANDLORD the right to terminate this Lease and to re-enter and repossess the Demised Premises and the LANDLORD'S right to damages shall survive.

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

With respect to the single vessel docking facility contiguous to the upland Demises Premises *only*, TENANT understands and agrees that if TENANT transfers its right to use said wet slip to another party, the instrument or agreement used to transfer said wet slip shall contain a provision that requires six percent (6%) of the annual gross income derived from said instrument or agreement for the use of said wet slip be paid to the CITY who, upon receipt, shall report and transmit said amount to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. No interest in said wet slip may be further transferred in accordance with this Lease and City of Key West's Code of Ordinances unless a substantially similar provision to the one contained in the preceding sentence is placed in each succeeding instrument or agreement used to transfer said wet slip to each new wet slip renter/user/holder.

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

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

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

defaults known to TENANT at that time.

12. CONDEMNATION

(a) It is further understood and agreed that if at any time during the continuance of this Lease the legal title to the Demised real estate or the improvements or buildings located thereon or any portion thereof be taken or appropriated or condemned by reason of eminent domain, there shall be such division of the proceeds and awards in such condemnation proceedings and such abatement of the fixed rent and other adjustments made as shall be just and equitable under the circumstances. If the LANDLORD and the TENANT are unable to agree upon what division of the condemnation award, abatement of fixed rent, or other adjustments are just and equitable within thirty (30) days after such award has been made, then the matters in dispute shall, by appropriate proceedings, be submitted to a court having jurisdiction of the subject matter of such controversy for its decision and determination of the matters in dispute. If the legal title to the entire Demised Premises be wholly taken by condemnation, or if the portion taken will prevent the Demised Premises from being used for the purpose the TENANT intends this Lease shall be canceled.

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

13. TENANT'S DEFAULT

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

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

(c) BANKRUPTCY OF TENANT. IN THE EVENT TENANT FILES ANY FORM OF BANKRUPTCY, LANDLORD SHALL BE ENTITLED TO IMMEDIATE TERMINATION OF

THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. §362, GRANTING THE LANDLORD COMPLETE RELIEF AND ALLOWING THE LANDLORD TO EXERCISE ALL OF HIS LEGAL AND EQUITABLE RIGHTS AND REMEDIES, INCLUDING, WITHOUT LIMITATION, THE RIGHT TO TERMINATE THIS LEASE AND DISPOSSESS TENANT FROM THE DEMISED PREMISES IN ACCORDANCE WITH FLORIDA LAW. ADDITIONALLY, TENANT AGREES NOT TO DIRECTLY OR INDIRECTLY OPPOSE OR OTHERWISE DEFEND AGAINST THE LANDLORD'S EFFORT TO GAIN RELIEF FROM ANY AUTOMATIC STAY. THE LANDLORD SHALL BE ENTITLED AS AFORESAID TO THE LIFTING OF THE AUTOMATIC STAY WITHOUT THE NECESSITY OF AN EVIDENTIARY HEARING AND WITHOUT THE NECESSITY OR REQUIREMENT OF THE LANDLORD TO ESTABLISH OR PROVE THE VALUE OF THE LEASEHOLD, THE LACK OF ADEQUATE PROTECTION OF HIS INTEREST IN THE LEASEHOLD, OR THE LACK OF EQUITY IN THE SAME. TENANT SPECIFICALLY AGREES AND ACKNOWLEDGES THAT THE LIFTING OF THE AUTOMATIC STAY HEREUNDER BY THE APPROPRIATE BANKRUPTCY COURT SHALL BE DEEMED TO BE "FOR CAUSE" PURSUANT TO SECTION 362(D) (1).

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

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

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

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

(h) If at any time, by reason of the failure of the TENANT to keep and perform any covenant or agreement which, under the terms of this Lease, the TENANT is bound and obligated to keep and perform, it becomes necessary for LANDLORD to employ an attorney to protect the rights and

interests of the LANDLORD in the property demised or to enforce the Lease or proceed under it in any particular, then in any of such events, the TENANT will owe and will pay unto LANDLORD all costs of Court and reasonable attorneys fees incurred or expended by the LANDLORD in taking such actions, including actions taken in all trial and appellate courts.

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

In the event that LANDLORD shall deem it necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the Demised Premises or of the property (unless the same result from TENANT'S act, neglect, default or mode of operation, in which event LANDLORD shall make all such repairs, alterations or improvements at TENANT'S sole cost and expense), then the same shall be made by LANDLORD with reasonable dispatch, and should the making of such repairs, alterations and improvements cause any interference with TENANT'S use of the Demised Premises, such interference shall not relieve TENANT from the performance of its obligations hereunder nor shall such interference be deemed an actual or constructive eviction or partial eviction or result in abatement of rental. Should LANDLORD request to relocate TENANT and should TENANT agree to be relocated for any reason not covered under paragraph 2, TENANT and LANDLORD shall negotiate in good faith and in a commercially reasonable manner as to an appropriate adjustment for rent such that the rent is consistent with market values for the relocated space.

15. ALTERATIONS

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

In the event TENANT shall request LANDLORD'S permission, and LANDLORD shall permit TENANT to perform any alterations, additions, improvements or repairs to the Demised Premises, TENANT shall (i) submit its plans and specifications to LANDLORD for its approval prior to the commencement of any construction, (ii) obtain all necessary permits prior to the commencement of any construction, (iii) only use contractors approved by LANDLORD, (iv) not permit any

construction liens to be placed or remain on the Demised Premises. In the event a construction lien shall be filed against the Demised Premises as a result of work undertaken by TENANT, TENANT shall within ten (10) days of receiving notice of such lien, discharge the lien of record either by payment of the indebtedness to the lien claimant or by filing a bond as security therefore. All such work made by or on behalf of TENANT shall be performed in such manner as LANDLORD may designate and in accordance with all applicable laws and regulations of governmental authorities having jurisdiction over the same. All such work by TENANT or its contractors shall not interfere with, impede or delay any work by LANDLORD or its contractors, tenants or TENANT'S contractors. All contractors engaged by TENANT shall be bondable, licensed contractors, possessing good labor relations, and capable of performing quality workmanship.

16. EQUIPMENT, FIXTURES AND SIGNS

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

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

17. ADDITIONAL COVENANTS OF THE TENANT

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

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

(c) The TENANT shall be responsible for any air conditioning plumbing and electrical systems.

(d) The TENANT shall be responsible for maintaining the Demised Premises and all buildings and improvements located thereon

(e) The TENANT covenants and agrees with the LANDLORD that nothing in this Lease contained shall ever be construed as empowering the TENANT to encumber or cause the LANDLORD to encumber the title or interest of the LANDLORD.

(f) The TENANT covenants and agrees with the LANDLORD that, at the termination of this Lease, the TENANT will peaceably and quietly deliver unto the LANDLORD, possession of the Demised Premises and all buildings and improvements located thereon, as well as the TENANT'S interest in all fixtures and equipment appertaining thereto.

(g) The TENANT agrees not to make any internal changes or exterior changes or alterations without written approval of the LANDLORD. This provision does not apply to TENANT'S trade fixtures and/or other non-permanent fixtures on the interior of the Demised Premises.

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

TENANT agrees that LANDLORD shall have the right, upon 24 hours notice, to enter the vessel and dockage space during reasonable hours in order to determine whether TENANT is in full compliance with the terms of this Agreement and all applicable laws and regulations.

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

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

(a) That no waiver of a breach of any of the covenants in this Lease contained shall be construed to be a waiver of all succeeding breach of the same covenant.

(b) That time is of the essence in every particular and particularly where the obligation to pay money is involved.

(c) That all arrearages in the payment of rent or in the repayment to the LANDLORD of any sums which the LANDLORD may have paid in order to cure a default of the TENANT (as elsewhere herein provided for), shall bear interest from the date when due and payable at the highest rate permitted by law until paid.

(d) That no modification, release, discharge, or waiver of any provision hereof shall be of any force, effect, or value unless in writing and signed by the persons who are then LANDLORD and TENANT.

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

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

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

AS TO LANDLORD: CITY MANAGER
CITY OF KEY WEST
1300 WHITE STREET
KEY WEST, FL 33040

AS TO TENANT: GRM ENTERPRISES, INC.
P.O.BOX 1238
KEY WEST, FLORIDA 33040

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

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

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

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

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

ATTEST

LANDLORD: CITY OF KEY WEST


Cheryl Smith, City Clerk

Teri Johnston, Mayor

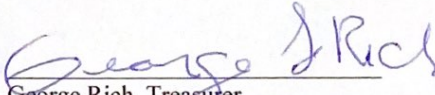
Date: _____

Date: _____

TENANT: GRM ENTERPRISES, INC.



WITNESS

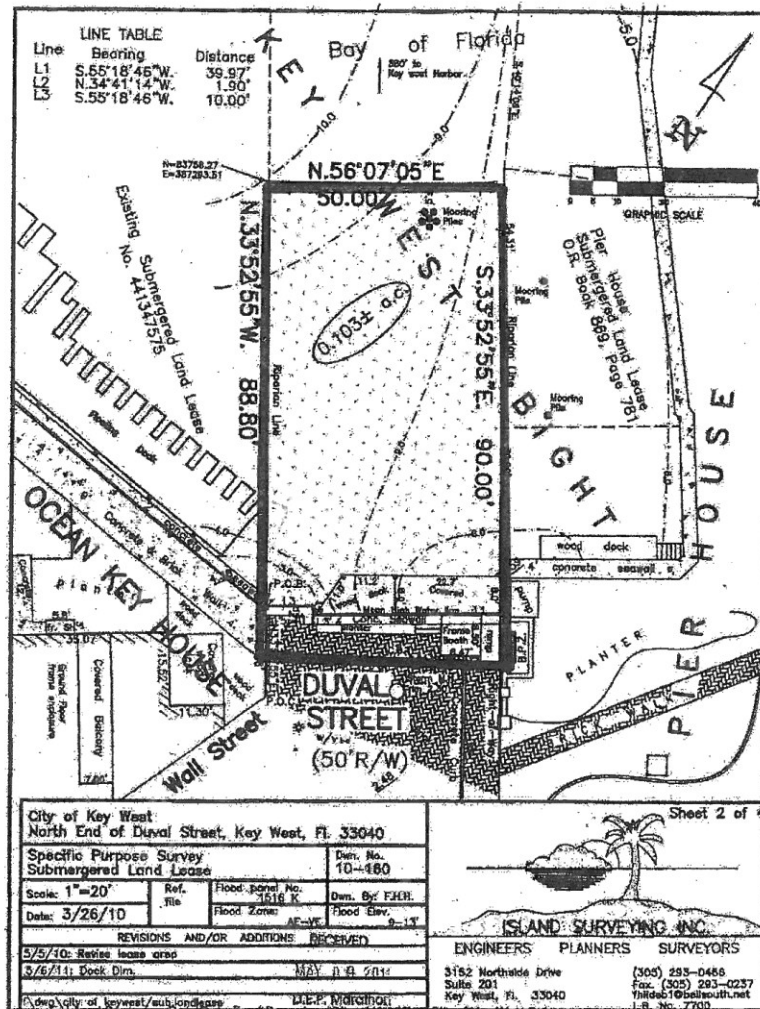


George Rich, Treasurer

Date: _____

Date: 8/8/2022

EXHIBIT "A" Demised Premises, Site Plan



SURVEYOR'S NOTES:

North arrow based on Fl. East Zone Coord.
Reference Bearing: Previous Deed
denotes existing elevation

Monumentation:
▲ = Set P.K. Nail, P.L.S. No. 2749

Elevations based on N.G.V.D. 1929 Datum
Bench Mark No.: Tidal Elevation: 5.29 (corner of Duval & Front St.)
Coordinates: Fla. East Zone 1983

Abbreviations:

Sty. = Story	o/h = Overhead	Denotes depth of
R/W = Right-of-Way	u/g = Underground	Water at Mean
p. = Plot	F.F.L. = Finish Floor Elevation	Low Water
m. = Measured	conc. = concrete	Mean Low Water (-) 0.4
d. = Dead	C.B.S. = Concrete Block Stucco	Mean High Water 0.90
M.H.W. = Mean High Water	cov'd. = Covered	This is a field survey.
Sec. = Section	wd. = Wood	
Twp. = Township	A/C = Air Conditioner	
Rge. = Range	P.O.C. = Point of Commence	
N.T.S. = Not to Scale	P.O.B. = Point of Beginning	
C. = Centerline	P.B. = Plot Back	
Elev. = Elevation	* = Light	
B.M. = Bench Mark		
□ = Concrete Utility Pole	Field Work performed on: 3/22/10	
○ = Wood utility Pole	50L.F. Lies along State Owned Lands	
—○— = Wood Utility Pole		

Shoreline: 1000' Easterly & Northerly: Concrete seawall, Sandy beach & Boulder Rip-Rap
1000' Westerly: Concrete Seawall

Certified to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

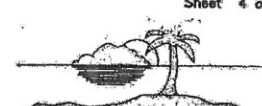
CERTIFICATION:

I HEREBY CERTIFY that the attached Specific Purpose Survey, Submerged Land Leases is true and correct to the best of my knowledge and belief; that it meets the minimum technical standards adopted by the Florida Board of Land Surveyors, Chapter 61G17-6, Florida Statute Section 422.027, and the American Land Title Association, and that there are no visible encroachments unless shown hereon.

FREDERICK H. HILDEBRANDT
Professional Land Surveyor & Mapper No. 2749
Professional Engineer No. 36810
State of Florida

NOT VALID UNLESS EMBOSSED WITH RAISED SEAL & SIGNATURE

City of Key West North End of Duval Street, Key West, FL 33040				Sheet 4 of 4	
Specific Purpose Survey Bay Bottom Lease				Dwn. No.: 10-160	
Scale: 1"=40'	Ref. file	Flood panel No. 1516 K	Dwn. By: F.H.H.		
Date: 3/26/10		Flood Zone: AE-X	Flood Elev. 13'		
REVISIONS AND/OR ADDITIONS				RECEIVED 4-13	
5/5/10, Review Leases only				MAY 10	
Fidelity of Key West Subj. Landings				D.P.P. Mervin	



ISLAND SURVEYING INC.
ENGINEERS PLANNERS SURVEYORS
3152 Northside Drive Suite 201 Key West, FL 33040
(305) 293-0466 Fax: (305) 293-0257
mhs@islandsurveying.net P.L.S. No. 7700

EXHIBIT “B” Rent Schedule

EXHIBIT "B"						
Tenant:		GRM Enterprises, Inc.				
Location:		2 Duval St.				
Contact:		Scott Saunders	Term	10 years effective 6/1/2022		
	Period Beginning	Base Rent	Sales Tax	Total Rent With Tax	TOTAL RENT	Percentage Rent Base Amount
YEAR #		Monthly	Monthly	Monthly	ANNUAL	
1	June 1, 2022	\$13,186.29	\$923.04	\$14,109.33	\$169,311.96	\$2,637,258.00
2	June 1, 2023		\$0.00	\$0.00	\$0.00	\$0.00
3	May 31, 2024		\$0.00	\$0.00	\$0.00	\$0.00
4	May 31, 2025		\$0.00	\$0.00	\$0.00	\$0.00
5	June 1, 2026		\$0.00	\$0.00	\$0.00	\$0.00
6	June 1, 2027		\$0.00	\$0.00	\$0.00	\$0.00
7	May 31, 2028		\$0.00	\$0.00	\$0.00	\$0.00
8	May 31, 2029		\$0.00	\$0.00	\$0.00	\$0.00
9	June 1, 2030		\$0.00	\$0.00	\$0.00	\$0.00
10	June 1, 2031		\$0.00	\$0.00	\$0.00	\$0.00

Annual increases will be based on CPI of anniversary date

EXHIBIT "C" Rules and Regulations

1. Except as permitted hereunder, TENANT shall not portion of the Demised Premises as shown on Exhibit A or any portion of any public area or any parking areas for or any other purpose whatsoever including but not limited to the storage of goods, inventory, equipment, materials, whether or not said area is inside a building or outdoors.

EXHIBIT “D”

TENANT’S written notice of acceptance of the Demised Premises and setting forth the commencement and expiration dates of the lease.