

**AGREEMENT FOR AMENDMENT OF LEASE
AMENDMENT NO. 19**

THIS AGREEMENT FOR AMENDMENT OF LEASE AMENDMENT NO. 19 ("**Amendment 19**") is entered into as of _____, 20____ (the "**Effective Date**"), by and between the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation ("**Lessor**"), and Chula Vista Marina, LP, a California limited liability company (as successor-in-interest to Chula Vista Marina/RV Park, LTD., "**Lessee**"). Lessor and Lessee may each be referred to in this Amendment 19 as a "**Party**" or collectively as the "**Parties**".

RECITALS:

WHEREAS, on November 3, 1981, Lessor and Lessee entered into that Lease of certain tidelands in the City of Chula Vista, California, which Lease is on file in the Office of the Clerk as Document No. 14244 (as amended by that Agreement for Amendment of Lease Amendment No. 1 dated March 9, 1982 on file in the Office of the Clerk as Document No. 14573, that Agreement for Amendment of Lease Amendment No. 2 dated September 28, 1982 on file in the Office of the District Clerk as Document No. 15233, that Agreement for Amendment of Lease Amendment No. 3 dated November 16, 1982 on file in the Office of the District Clerk as Document No. 15344; that Agreement for Amendment of Lease Amendment No. 4 dated September 5, 1985 on file in the Office of the District Clerk as Document No. 18562; that Agreement for Amendment of Lease Amendment No. 5 dated February 18, 1988 on file in the Office of the District Clerk as Document No. 21815; that Agreement for Amendment of Lease Amendment No. 6 dated June 7, 1988 on file in the Office of the District Clerk as Document No. 22283; that Agreement for Amendment of Lease Amendment No. 7 dated April 4, 1989 on file in the Office of the District Clerk as Document No. 23583; that Agreement for Amendment of Lease Amendment No. 8 dated September 25, 1990 on file in the Office of the District Clerk as Document No. 25799; that Agreement for Amendment of Lease Amendment No. 9 dated April 29, 1991 on file in the Office of the District Clerk as Document No. 26861; that Tenth Amendment to Lease dated June 8, 1994 on file in the Office of the District Clerk as Document No. 31418; that Agreement for Amendment of Lease Amendment No. 11 dated August 9, 1994 on file in the Office of the District Clerk as Document No. 31702; that Twelfth Amendment of Lease dated December 28, 1994 on file in the Office of the District Clerk as Document No. 32242; that Agreement for Amendment of Lease Amendment No. 13 dated May 23, 1995 on file in the Office of the District Clerk as Document No. 32893; that Agreement for Amendment of Lease Amendment No. 14 dated December 17, 1996 on file in the Office of the District Clerk as Document No. 35278; that Agreement for Amendment of Lease Amendment No. 15 dated August 26, 1997 on file in the Office of the District Clerk as Document No. 36366; that Agreement for Amendment of Lease Amendment No. 16 dated July 14, 1998 on file in the Office of the District Clerk as Document No. 37763; and that Agreement for Amendment of Lease Amendment No. 17 dated July 1, 2003 on file in the Office of the District Clerk as Document No. 46182, the "**Original Lease**"; and

WHEREAS, on July 10, 2007, Lessor and Lessee entered into that Agreement for Amendment of Lease Amendment No. 18 on file in the Office of the District Clerk as Document No. 52198 ("**Amendment 18**"); and

WHEREAS, the Original Lease, as amended by Amendment 18, shall be collectively referred to herein as the "**Lease**"; and

WHEREAS, a disagreement has arisen between Lessor and Lessee with respect to each

Party's rights and obligations under Amendment 18; and

WHEREAS, in order to fully resolve any and all outstanding Released Claims (as defined in Section 3(a) of this Amendment 19 below), the Parties desire to amend the Lease and Lessee agrees to waive any and all such Released Claims as further set forth below; and

NOW THEREFORE, for valuable consideration, the Lease is hereby amended in the following respects and no others, and except as expressly amended, all terms, covenants, and conditions of said Lease shall remain in full force and effect:

1. **Term Extension.** Section 1 of the Lease is hereby amended and restated in its entirety as follows:

1. **TERM:** The term of the lease shall be for a period of forty-nine (49) years commencing on December 1, 1981 and ending on November 30, 2030, unless sooner terminated as herein provided.

2. **Deletion of Paragraph 44.** Paragraph 44 of the Lease as set forth in Amendment 18 is hereby deleted and of no further force and/or effect.

3. **Release and Waiver/Acknowledgement:**

a. Each Party, on behalf of itself and each of its affiliates, representatives, directors, officers, employees, shareholders, managers, members, partners, agents, attorneys, successors and assigns (collectively, the "**Releasing Parties**"), does hereby fully and without limitation release, acquit and forever discharge the other Party hereto and each of its affiliates, representatives, directors, officers, employees, shareholders, managers, members, partners, agents, attorneys, successors and assigns (collectively, the "**Released Parties**") of and from any and all manner of action or actions, cause or causes of action, claims, charges, complaints, suits, liens, rights, demands, debts, contracts, agreements, promises, commitments, damages, liabilities, losses, costs, expenses and accountings of whatever nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, fixed or contingent, in law or in equity, whether class, derivative or individual in nature, for indemnity or otherwise, which any Releasing Party now has or may have against any Released Party based on, related to, arising from, and/or in any way connected with Amendment 18 including, but not limited to, Paragraph 44 of the Lease (collectively, "**Released Claims**").

b. With respect to the Released Claims, each Releasing Party expressly waives all rights under Section 1542 of the California Civil Code, which reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

Lessor: _____

Lessee:  _____

With full awareness and understanding of the above provisions, each Releasing Party hereby waives any and all rights such Releasing Party may have under Section 1542 of the California

Civil Code or any other statute or common law principle of similar effect. Each Releasing Party intends to, and hereby does, release the Released Parties from any and all Released Claims which such Releasing Party does not presently know or suspect to exist at this time.

c. In connection with the Released Claims, Lessee specifically acknowledges that the effect of the releases contained in this Amendment 19 include, but are not limited to, the following: (i) any and all rights Lessee may have to a new lease, a further extension of the Lease, and/or modification of the Lease under Amendment 18 and/or Paragraph 44 are hereby null and void and of no further force and/or effect; (ii) any and all rights, if any, Lessee may have to a new lease or a further extension of the Lease pursuant to a Conceptual Development Plan approved by the Board of Port Commissioners on October 14, 2014 via Board Resolution 2014-185 are hereby null, void and of no further force and effect; and (iii) any additional extension of the Lease and/or decision to enter into a new lease for the leased premises is within the sole and absolute discretion of Lessor, which may be granted or denied for any or no reason.

d. Each Releasing Party represents and warrants to the Released Parties that there has been no assignment or other transfer of any interest in any Released Claim which such Releasing Party may have against the Released Parties, or any of them, and such Releasing Party agrees to indemnify and hold the Released Parties harmless from any liability, claims, demands, damages, costs, expenses and attorneys' fees incurred as a result of any person asserting any such assignment or transfer of any rights or Released Claims under any such assignment or transfer from such Releasing Party.

e. Each Releasing Party agrees that if it hereafter commences, joins in, or in any manner seeks relief through any suit arising out of, based upon, or relating to any of the Released Claims released hereunder, or in any manner asserts against any Released Party any of the Released Claims released hereunder, then such Releasing Party shall pay to the Released Parties against whom such suit or Released Claim is asserted, in addition to any other damages caused thereby, all attorneys' fees incurred by such Released Parties in defending or otherwise responding to said suit or Released Claim.

f. Each Releasing Party further understands and agrees that this Section 3 of this Amendment 19 shall not constitute or be construed as an admission of any liability whatsoever by any Released Party.

4. **Supersedure.** Reference is hereby made to that certain holdover letter dated October 18, 2021 and signed by Lessor (the "**Holdover Letter**") and that certain letter agreement dated September 28, 2021 signed by Lessor and Lessee with respect to settlement discussions (the "**Settlement Letter**"). The Parties both acknowledge and agree that this Amendment 19 supersedes the terms of the Holdover Letter and the Settlement Letter, and that the terms of this Amendment 19 resolve the outstanding issues referenced in the Settlement Letter.

5. **Representations and Warranties.** Each Party, on behalf of itself, represents, warrants and agrees with the others as follows:

a. It has received independent legal advice from its counsel with respect to the advisability of making the agreements provided for herein, and with respect to the advisability of executing this Amendment 19;

b. It has not relied upon any statement, representation, or promise of the other Party or of any of the attorneys or any other representatives of such other Party in executing this

Amendment 19 or making the agreements provided for herein, except for such representations and promises as set forth in this Amendment 19;

c. No Party shall be deemed to be the drafter of the Lease (as amended by this Amendment 19), or of any particular provision or provisions, and no part of the Lease (as amended by this Amendment 19) shall be construed against any Party on the basis that the particular Party is the drafter of any part of the Lease (as amended by this Amendment 19); and

d. It understands the contents hereof, and this Amendment 19 is executed voluntarily with full knowledge of its significance.

6. **Lessee's Authority.** If Lessee is a corporation, partnership, or limited liability company, each individual executing this Amendment 19 on behalf of Lessee hereby represents and warrants that Lessee is a duly formed and existing entity qualified to do business in the state in which the leased premises are located and that Lessee has full right and authority to execute and deliver this Amendment 19 and that each person signing on behalf of Lessee is authorized to do so.

7. **Binding Effect.** Each of the provisions of this Amendment 19 shall extend to and shall, as the case may require, bind or inure to the benefit not only of Lessor and of Lessee, but also of their respective heirs, successors or assigns.

8. **Time Essence.** Time is of the essence with respect to this Amendment 19 and each of its provisions.

9. **Governing Law.** Venue for any legal proceeding shall be in San Diego County, California. This Amendment 19 shall be construed and enforced in accordance with the laws of the State of California.

10. **Recitals.** The recitals first set forth above are hereby incorporated into the terms of this Amendment 19.

11. **Counterparts.** This Amendment 19 may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement. Any facsimile or copies of original signatures or signatures delivered electronically (such as .pdf, .tif, or other electronic files or via DocuSign) shall be considered and treated as if they were original signatures.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF, LESSOR AND LESSEE HAVE EXECUTED THIS AMENDMENT 19
AS OF THE EFFECTIVE DATE SET FORTH ABOVE.**

APPROVED AS TO FORM AND LEGALITY: **SAN DIEGO UNIFIED PORT DISTRICT**

GENERAL COUNSEL

By: _____
David Jones
Deputy General Counsel

By: _____
Anthony Gordon
Director, Real Estate

**Chula Vista Marina, LP,
a California limited partnership**

By: CVMRVP GP, LLC,
a California limited liability company,
its General Partner

By: INCOME PROPERTY GROUP,
a California corporation,
its Manager

By:  _____
Kevin Moriarty
President/CEO