

SUBLEASE MODIFICATION AGREEMENT & AMENDMENT OF SUBLEASE

This Sublease Modification Agreement & Amendment of Sublease (the "**Modification Agreement**") is entered into as of _____, 2022 ("**Amendment Effective Date**") and amends that certain Sublease ("**Sublease**") dated July 7, 1995, between SHM SOUTH BAY, LLC, a Delaware limited liability company, as successor in interest to Chula Vista Marina, LP, as Chula Vista Marina/RV Park, Ltd. ("**Lessor**") and STERLING MARINA MANAGEMENT, LLC, a Texas limited liability company, as successor in interest to Bill Muncey Industries, Inc., a California corporation ("**Lessee**"), as amended by that certain Sublease Modification Agreement dated as of May 28, 1997, that certain Sublease Modification Agreement dated February 15, 2000, that certain Sublease Modification Agreement & Amendment of Sublease dated April 3, 2002, that certain First Addendum to Sublease Modification Agreement & Amendment of Sublease dated as of May 21, 2002, the November 24, 2021 extension letter (referred to in Recital C below), that certain Sublease Modification Agreement & Amendment of Sublease dated January 31, 2022, and that certain Consent, Estoppel, Assignment and Assumption Agreement dated April 1, 2022 among Lessee, Bill Muncey Industries, Inc. and Chula Vista Marina L.P. (collectively referred to as the "**Original Sublease**"). The Original Sublease, as amended by this Sublease Modification, is referred to as the "**Sublease**".

RECITALS

A. The Sublease is a sublease under that certain Lease dated November 3, 1981, as amended (the "**Original Master Lease**"), between Lessor's predecessor in interest and the San Diego Unified Port District ("**Master Lessor**"), of which the Premises are a part, which Original Master Lease is being amended and restated in its entirety on or about the date hereof pursuant to that certain Amended and Restated Lease between Lessor and Master Lessor, which Amended and Restated Lease is dated as of _____, 2022 (as amended or otherwise modified, the "**Master Lease**").

B. The parties desire to amend the Original Sublease to incorporate terms required by the Master Lessor as a condition to Master Lessor's approval of this Modification Agreement, prior modifications of the Sublease and the assignment of the Sublease by Bill Muncey Industries, Inc. to Lessee.

Now, therefore, the parties agree as follows:

1. Capitalized terms used but not otherwise defined herein have the meanings assigned to such terms in the Original Sublease.

2. The Original Sublease is amended to insert the following new Article 45:

"45. Master Lease.

45.1.1 Lessor and Lessee acknowledge and agree that Lessor's rights to the Premises are pursuant to the Master Lease. Lessor and Lessee both acknowledge and agree that notwithstanding anything to the contrary stated or implied in this Lease (as the same has and may be amended), this Lease shall at all times be subject and subordinate, in all respects, to the Master Lease, and this Lease is a sublease being created under the authority of the Master Lease, the terms of which shall be incorporated into this Lease.

45.1.2 In no event shall Lessee have any rights under this Lease which have not been granted to Lessor under the Master Lease nor may Lessee take any action under this Lease that would violate any term, provisions, requirement, or condition of the Master Lease. Lessor and Lessee acknowledge and agree that nothing contained in this Lease shall

in any way amend or modify any of the rights and obligations of Master Landlord and Lessor under, nor be used in the interpretation of any provision of, the Master Lease.

45.1.3 Lessor and Lessee understand and agree that nothing contained in this Lease shall be binding on or enforceable against Master Landlord, nor will Master Landlord incur any liability arising out of or relating to this Lease and Lessor and Lessee hereby release and agree to jointly and severally indemnify and hold Master Landlord harmless from and against any litigation, claim, action, proceeding, loss, damage, cost, expense (including, without limitation, all attorneys' fees and consultant/expert fees), award, fine, penalty or judgment arising out of, or relating to, this Lease.

45.1.4 Lessee agrees, that if the Master Lease terminates, or if Master Landlord succeeds to Lessor's estate in the Premises, Lessee shall, at the option of Master Landlord (in Master Landlord's sole and absolute discretion), attorn to and recognize Master Landlord as Lessee's landlord under this Lease, provided that Master Landlord shall not (a) be liable for any act or omission or negligence of Lessor, (b) be subject to any counterclaim, offset or defense which theretofore accrued to such Lessee against Lessor, (c) be bound by any payment of rent or other sums of money for more than one (1) month in advance or any security deposit (unless actually received by Master Landlord), (d) be obligated to perform any work in the Premises under this Lease, (e) in the event of a casualty, be obligated to repair or restore any Improvements (as defined in the Master Lease), (f) in the event of a Taking (as defined in the Master Lease), be obligated to repair or restore any Improvements (as defined in the Master Lease), (g) be obligated to make any payment to such Lessee, or (h) be bound by any obligations that Master Landlord lacks the capacity to perform. Lessee shall promptly execute and deliver any instrument Master Landlord may reasonably request to evidence such attornment.

45.1.5 Upon early termination of the Master Lease, Lessor shall pay over to Master Landlord all sums held by Lessor for the benefit of Lessee or as security under the terms of this Sublease. Lessee agrees to make all payments of rent and other sums of money due under this Lease to Master Landlord during the existence of a default under the Master Lease and following written notice of the same from Master Landlord, and Master Landlord shall apply said payments made to all rent that is due and payable to Master Landlord pursuant to the Master Lease, and any remaining amounts will be held and applied to future rent payable under this Master Lease."

3. Except as is expressly set forth herein, the parties make no other amendments to the Sublease. The Original Sublease, as amended by this Modification Agreement, shall constitute the entire agreement between the parties. Without limiting the foregoing, the parties acknowledge that all terms of the Original Sublease remain in full force and effect, amended only as set forth in paragraph 2 above.

4. This Modification Agreement may be executed in multiple counterparts which shall together constitute a single document. However, this Modification Agreement shall not be effective unless and until all counterpart signatures have been obtained. A facsimile transmission or a scanned PDF via email of an original signature shall be binding hereunder.

4. This Modification Agreement is subject to the approval of the Master Lessor.

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IN WITNESS WHEREOF, Lessor and Lessee have executed this Modification Agreement as of the day and year first above written.

LESSOR:

SHM SOUTH BAY, LLC,
a Delaware limited liability company

By: _____

Name:

Title:

LESSEE:

STERLING MARINA MANAGEMENT, LLC,
a Texas limited liability company

By: Jack E. Fiano

Name: Jack E. Fiano

Title: Manager