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PART I of II

SUBLEASE AGREEMENT

between

FERRY LANDING ASSOCIATES, LLC

(Landlord)

and

IL FORNAIO (AMERICA) CORPORATION

(Tenant)

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S U B L E A S E

THIS SUBLEASE ("Lease") is made and entered into as of October 22, 1997, by and between FERRY LANDING ASSOCIATES, LLC, a California limited liability company (the "Landlord"), and IL FORNAIO (AMERICA) CORPORATION, a Delaware corporation d/b/a IL FORNAIO (the "Tenant") with reference to the following facts:

A. Landlord entered into that certain lease dated October 21, 1997, (the "Master Lease") with the San Diego Unified Port District, a public corporation (the "District") covering property generally located at 1431 Marine Way, Coronado, California (the "Property"), and more particularly described in the Master Lease. Tenant acknowledges receipt of a copy of the Master Lease, which is on file in the office of the District Clerk as Document No. 36616. The provisions of the Master Lease, while not attached hereto, are nonetheless incorporated herein by this reference.

B. Landlord has the right to construct a commercial complex on the Property (the "Project") in accordance with the terms and conditions of the Master Lease.

C. Under Paragraph 9 of the Master Lease, Landlord has the right to sublease all or part of the Property for uses permitted under the Master Lease, subject to the prior consent of the District, evidenced by resolution first had and obtained in each instance.

1. PREMISES

1.1 Description of Premises. In consideration of the amounts to be paid and the terms, covenants and conditions to be kept, performed and satisfied by Tenant under this Lease, Landlord leases to Tenant and Tenant hires from Landlord the certain premises ("Premises") consisting of approximately seven thousand five hundred (7,500) square feet of unimproved property upon which Tenant is to construct a building and other improvements, situated in the Project and more particularly described in EXHIBITS A through D attached, consisting of: (i) the legal description of the Property (EXHIBIT A); (ii) a plot plan showing the proposed Project (EXHIBIT B); (iii) a plot plan showing the Premises and dimensions thereof (EXHIBIT C); and (iv) the Common Area described in Paragraph 17 (EXHIBIT D).

1.2 Project Construction. Landlord, at Landlord's own cost and expense, shall construct certain improvements to the Project in accordance with the provisions set forth on EXHIBIT E attached to this Lease (the "Landlord's Work").

1.3 Premises Construction. Tenant, at Tenant's own cost and expense, but with an allowance of \$1,300,000 from Landlord, shall construct certain improvements to the Premises, both of an exterior and interior nature, in accordance with the provisions set forth in EXHIBIT F (the "Tenant's Work and Landlord Allowance"). No major construction shall be commenced upon the Premises by Tenant until Tenant has deposited into an escrow account acceptable to

Landlord an amount equal to seventy-five percent (75%) of the estimated cost of construction, with any interest earned to accrue to Tenant, and any cost thereof to be paid by Tenant.

2. DISTRICT CONSENT, LANDLORD'S TITLE AND CONSTRUCTION REQUIREMENTS

2.1 District's Consent. Tenant acknowledges the rights and obligations of the parties under this Lease are subject to District's prior consent of this executed Lease and of Tenant as a sublessee. Following execution of this Lease, Landlord shall request and use its best efforts to obtain District's consent. Tenant shall pay up to Four Hundred Dollars (\$400.00) of the costs and fees charged by District to Landlord and/or Tenant for processing this Lease. If for any reason District consent is not obtained, this Lease shall be of no further force or effect, and no obligation shall have been incurred by either Landlord or Tenant.

2.2 Master Lease, District and State Rights. Tenant expressly agrees that all rights under this Lease shall be subject to the Master Lease and any amendments thereto and all prior exceptions, reservations, restrictions, easements, rights-of-way, licenses and other matters of record now existing which affect the Property or the Premises in any manner. This Lease is subject to any and all rights, present and future, of the State of California and the United States of America to exercise dominion over the Premises and the adjoining public waterways.

2.3 Landlord's Title. Landlord warrants and represents that it has a good, valid and lawful leasehold estate in the Property and the Premises for the entire Term, subject to the termination provisions in the Master Lease.

2.3.1 Landlord warrants that it has authority to make this Lease for the Original Term (as defined in Paragraph 3) and any Extended Term (as defined in Paragraph 24) and that the Property comprising the Project and the Premises are free and clear of all restrictions, encumbrances, easements, and zoning or other ordinances which might in any manner or extent (i) prevent or have a materially adverse effect upon the use of the Premises as defined in Paragraph 5; (ii) disturb Tenant's peaceful and quiet possession of the Premises and the Common Area; and (iii) disturb normal utility and roadway easements in and around the Project and the Premises. All warranties and covenants of Landlord in this Paragraph 2.3.1 are subject to those restrictions, encumbrances and easements referenced in the Master Lease.

2.4 Project Construction. Landlord represents that it shall construct the Project in accordance with the requirements of District pursuant to Paragraphs 4(a) and (b) of the Master Lease, subject to Unavoidable Delays (as defined in EXHIBIT E) and complete Project construction no later than June 30, 1998. The completion of Project construction means the completion of the driven pile-supported foundation system, which has been certified by Landlord's engineer as adequate for Tenant's use as approved by Landlord.

3. TERM

3.1 Original Term. The original term of this Lease shall be for a period (the "Original Term"), commencing (the "Commencement Date") on the earlier of either: (i) the date Tenant opens the Premises for business; or (ii) the date which is two hundred eight (208) days after the date of Landlord's completion of Project construction. The Original Term shall extend for a period of fifteen (15) years, unless earlier terminated as herein provided. When the Commencement Date is determined, Landlord and Tenant shall execute a written declaration certifying said date; provided, however, the failure to do so will not affect the Commencement Date.

3.1.1 If the Commencement Date is other than the first day of a calendar month, the Original Term shall begin on the first day of the following calendar month. All the terms and provisions of this Lease shall apply during the period from the Commencement Date to the beginning of the Original Term, except that the Base Rent (as defined in Paragraph 4) for such period shall be prorated on a daily basis and shall be due and payable to Landlord on the Commencement Date.

3.1.2 The term Lease Year as used in this Lease shall refer to each twelve (12) month period during the Original Term and any Extended Term, except that the first Lease Year shall begin on the Commencement Date and end twelve (12) months following the first day of the Original Term and the last Lease Year shall end when this Lease expires or terminates.

3.1.3 Whenever the word Term is used in this Lease, it shall include the Original Term as well as any Extended Term.

3.2 Possession after Expiration of Term. Should Tenant, with the consent of Landlord, remain in possession of the Premises after the expiration of the Term, or fail to give notice of Tenant's intention to exercise any Option (as defined in Paragraph 24) to extend the Lease at the expiration of the Original Term or any Extended Term, and remain in possession of the Premises after such expiration, then Tenant's occupancy shall be subject to the terms of Paragraph 28.1.

4. RENT

4.1 Rent. Tenant agrees to pay to Landlord, beginning on the Commencement Date and thereafter during the Original Term, as rent for the use and occupancy of the Premises, in lawful money of the United States and without deduction, setoff, prior notice or demand, at 1511 Marine Way, Coronado, California 92118 or at such other address as Landlord may from time to time designate in writing, the following:

4.1.1 Base Rent. For each year of the Original Term, Tenant shall pay to Landlord as and for minimum monthly rent (the "Base Rent") the fixed sum of \$16,667 per month. The Base Rent shall be payable monthly in advance on the first day of each calendar month of the Term.

4.1.2 Percentage Rent. Tenant will pay to Landlord as additional rent during the Term, at the times and in the manner specified below, percentage rent ("Percentage Rent") equal to the amount by which the aggregate of the percentages specified below of Tenant's Lease Year-to-date Gross Sales (as defined in Paragraph 4.4) for each of the categories specified below exceeds the Lease Year-to-date Base Rent paid by Tenant to Landlord:

(i) Seven percent (7%) of food, including catering and any service charge for catering, that is sold from any restaurant, bakery or delicatessen located on the Premises.

(ii) Eight percent (8%) of alcoholic and nonalcoholic beverages consumed on the Premises.

(iii) Six and one-half percent (6.5%) of alcoholic and nonalcoholic beverages sold for consumption off the Premises.

(iv) Eight and one-half percent (8.5%) of gifts, novelties, souvenirs, clothing, luggage, jewelry, cigars, cigarettes, candy, sundries and incidentals of any kind.

(v) Twenty-eight and one-half percent (28.5%) of any commission or other compensation paid to Tenant for the right to install or operate on the Premises coin-operated vending or service machines or devices, including telephones or eight and one-half percent (8.5%) of the gross income from any such coin-operated machines or devices owned, rented or leased by Tenant.

(vi) Thirteen and one-half percent (13.5%) of or from any and all other activities and businesses allowed under this Lease and not otherwise provided for in this Paragraph.

4.1.3 Monthly Percentage Rent Statements and Payments. Within ten (10) days after the end of each calendar month of the Term, Tenant shall furnish to Landlord, in a form prescribed or approved by Landlord, a written statement certified by Tenant to be correct, showing at a minimum (i) Tenant's Gross Sales for the immediately preceding calendar month; (ii) Gross Sales Lease Year-to-date; (iii) separate monthly and Lease Year-to-date Gross Sales figures for each of the sales categories identified in Paragraph

4.1.2; and (iv) separate monthly and Lease Year-to-date figures showing the Base Rent and Percentage Rent previously paid by Tenant during the Lease Year. Concurrently with the rendering of each monthly statement, Tenant shall pay to Landlord the amount, if any, by which the Lease Year-to-date Percentage Rent exceeds the total Base Rent and Percentage Rent previously paid by Tenant during the Lease year.

4.2 Tenant's Certificate Upon Early Termination. In the event of earlier termination of this Lease, Tenant covenants and agrees to deliver to Landlord within thirty (30) days immediately following such earlier termination of this Lease a final certified statement by a duly authorized financial officer of the Tenant certifying the amount of Gross Sales for the preceding Lease Year and the amount of Gross Sales made since the last certified statement pursuant to Paragraph 4.1.3.

4.3 Tenant's Books.

4.3.1 Tenant shall keep full and accurate records, double entry books of account or other methods of account to be approved in writing by Landlord and District and other pertinent data documenting Tenant's Gross Sales and the Gross Sales of any subtenant, licensee or concessionaire and such books and records shall be kept for a period of three (3) years after the close of each calendar year. Said records must be supported by source documents of original entry such as sales invoices, cash register tapes, purchase invoices or other pertinent documents. All retail sales shall be recorded by means of cash registers which display to the customer the amount of the transaction and automatically issue a receipt. All cash registers shall be equipped with sales totalizer counters for all sales categories, as herein provided, and sequential transaction counters which are locked in, constantly accumulating, and which cannot be reset. Said registers shall further contain tapes upon which sales details and sequential transaction numbers are imprinted. Beginning and ending sales totalizer readings shall be made a matter of daily record. Other types of cash registers may be used by Tenant with the written approval of Landlord and District. In the event of admission charges or rentals, Tenant shall issue serially numbered tickets for each such admission or rental and shall keep an accurate record of said tickets both issued and unissued. All of Tenant's books of account, records and documentation related to this Lease or business operations conducted within or from the Premises shall be kept either at the Premises or at such other locations as are acceptable to Landlord and District, and Landlord and District shall have the right at any and all reasonable times to examine and audit said books and records without restriction for the purpose of determining their accuracy and the accuracy of monthly statements of Gross Sales submitted and of rental paid to Landlord. Tenant's failure to keep such books of account, records and documentation and make them available for inspection by Landlord and District is a breach of this Lease and cause for termination. Landlord shall have the discretion to require the installation of any additional accounting methods or controls required by District or Landlord. In the event Tenant does not make available the original records and books of account at the Premises or within the limits of San Diego County,

Tenant agrees to pay all necessary travel expenses incurred by Landlord and District in conducting an audit at the location where said records and books of account are maintained. The receipt by Landlord of any statement or any payment or percentage rental for any period shall not bind Landlord as to the correctness of the statement or the payment.

4.3.2 Landlord's audits shall be at Landlord's expense except as provided in this Paragraph 4.3.2. In the event it is determined by Landlord's audit of Tenant's records and accounts that Tenant has understated its Gross Sales, whether intentionally or unintentionally, Tenant will pay to Landlord any Base Rent or Percentage Rent due plus interest on such payments from the date the same should have been paid at the interest rate provided in this Lease. In the event Landlord's and/or District's audit discloses that the Gross Sales were understated by five percent (5%) or more, the cost of such audits as determined by Landlord and/or District, including all reasonable expenses incurred as a result of such audits shall also be paid by Tenant immediately. Notwithstanding the foregoing, should Landlord and Tenant disagree as to any alleged discrepancy in either Base Rent or Percentage Rent then Tenant's records and accounts shall be audited by an independent nationally certified public accounting firm selected by Landlord and such firm's audit shall be deemed to be conclusive as between the Landlord and Tenant. "Independent" as used in this Paragraph 4.3.2 shall mean a firm that is not at the time nor has not, within three (3) years prior to such time been employed by Landlord. If the independent audit discloses that Gross Sales were understated by five percent (5%) or more, the cost of such audit, including all reasonable expenses incurred as a result of the audit shall be paid by Tenant to Landlord. Landlord agrees not to divulge to any person or persons, firm or corporation the amount of Tenant's Gross Sales in the Premises, provided that Landlord shall have the right to disclose Tenant's certified statements required under Paragraph 4.1.3 to District and to any prospective purchasers of the Premises or any existing or prospective mortgagee or to any governmental entity lawfully compelling disclosure thereof.

4.4 Gross Sales. The term Gross Sales as used in this Lease shall mean receipts by Tenant from all sales categories identified in Paragraph 4.1.2 and all other goods or services from business conducted upon or from the Premises by Tenant's agents, licensees, or sublessees and whether such sales are for cash or credit. If any one or more departments or other divisions of Tenant's business in the Premises shall be sublet by Tenant or conducted by any person, firm or corporation other than Tenant, then there shall be included in Gross Sales for the purpose of determining Base Rent and Percentage Rent, all the Gross Sales of such departments or divisions, in the same manner and with the same effect as if the business or sales of such departments and divisions of Tenant's business had been conducted by Tenant itself. Each charge or sale upon installment or credit shall be treated as a sale in the month during which such charge or sale shall be made, irrespective of the time when Tenant shall receive payment (whether full or partial) therefor. Without limiting the foregoing, Gross Sales shall also include:

4.4.1 All admission, entry, catering and other fees and charges of any kind or nature received by Tenant, its agents, sublessees, concessionaires, or licensees, (including, but not limited to, deposits accepted by Tenant);

4.4.2 Any manufacturer's or importer's excise tax included in the prices of goods sold, even though Tenant may be the manufacturer or importer of such goods, regardless of whether the amount of excise tax is stated as a separate charge; and

4.4.3 Proceeds from business interruption insurance or other similar insurance.

4.5 Exclusions from Gross Sales. Gross Sales shall not include:

4.5.1 The amount of any discounts or allowances, credits, refunds or exchanges;

4.5.2 Sales of trade fixtures, bulk sales of stock-in-trade, or operating equipment after use thereof in the conduct of Tenant's business in the Premises;

4.5.3 All sums and credits received in settlement of claims for loss or damage to merchandise;

4.5.4 Proceeds of casualty insurance claims; and

4.5.5 Sales or excise taxes payable by Tenant to any governmental agency as a direct result of operations under this Lease. The amount of such taxes shall be shown on the books and records elsewhere herein required to be maintained;

4.5.6 Returns to shippers and manufacturers;

4.5.7 Sales to Tenant's employees of uniforms, T-shirts, hats, etc., for which Tenant receives no profit but is reimbursed a reasonable carrying charge;

4.5.8 Promotional items for which Tenant receives no payment or any other consideration whatsoever;

4.5.9 The exchange of merchandise between restaurants and other operations of Tenant where such exchanges are made solely for the convenient operation of Tenant's entire business and not for the purpose of consummating a sale which has been made at, in, on, or from the Premises or for the purpose of depriving Landlord of the benefit of a sale which otherwise would have been made at, in, on or from the Premises.

4.6 Refunds, Bad Debt Losses and Credit Card Fees. Refunds shall be deducted from current Gross Sales when incurred. Bad debt losses and credit card transaction fees shall not be deducted from Gross Sales; provided, however, Landlord shall provide Tenant with a credit

of three and twenty-five one-hundredths percent (3.25%) of credit card transaction fees paid by Tenant against Percentage Rent due; provided, however, this credit will not affect the rental obligations Landlord owes to District under the Master Lease, nor will this credit apply in the event District acquires Landlord's interest in this Lease.

4.7 Common Area Costs, Taxes and Insurance Expenses. Beginning on the Commencement Date and for the balance of the Term, Tenant shall pay, as additional rent, Tenant's specified share of (a) all Common Area Costs as defined in Paragraph 17, (b) all taxes and assessments levied or assessed against the Project as described in Paragraph 12, and (c) all insurance costs of Landlord with respect to the Project. Tenant's specified share of the foregoing costs and expenses shall be paid as set forth in Paragraph 17.

4.8 Delinquency Compensation Charge. Tenant recognizes that the failure to pay rent when due will cause Landlord to incur certain costs, including without limitation, processing and accounting charges, delinquent rent charges imposed upon Landlord under the Master Lease, late charges under any mortgage or deed of trust encumbering the Property and the loss to Landlord of the use of the funds. If any installment of Base Rent, Percentage Rent, Common Area Cost, or other monetary charge due hereunder from Tenant to Landlord is not paid on or before its due date more than twice within any twelve (12) month period, Tenant agrees to pay to Landlord a delinquency compensation charge for each subsequent late payment of an installment within the same twelve-month period in an amount equal to five percent (5%) of each such installment. Upon five (5) days written notice that said installment is past due, the Tenant shall pay to Landlord the delinquency compensation charge without further notice or demand. Tenant agrees the delinquency compensation charges are reasonable under the circumstances existing at the time this Lease is executed. Tenant understands that the payment of the delinquency compensation charge for any delinquent rent represents compensation to Landlord for damages incurred by reason of the failure to receive the rent when due. Tenant's obligation to pay the delinquency compensation charge does not alter or preclude Landlord's right and option to exercise any right or remedy Landlord may have under this Lease or otherwise for Tenant's failure to pay any rent or other amount when due. Landlord's election not to include a demand for the payment of any such delinquency compensation charge in any notice to pay any delinquency, shall not constitute a waiver by Landlord of its right to collect any such delinquency compensation charge.

4.9 Interest on Rent. Any amount of Base Rent, Percentage Rent, Common Area Cost, or other monetary charge due hereunder from Tenant to Landlord and not paid when due, shall bear interest at the rate provided in this Lease.

5. USE OF PREMISES

5.1 Authorized Use. Tenant shall have use of the Premises for the purpose of conducting an Italian restaurant business under the trade name "Il Fornaio", serving pizza from a wood burning oven, specialty or gourmet coffee and pastries, with a bar serving beer, wine

and distilled spirits and with live entertainment at Tenant's option, provided all necessary District and governmental approvals and permits for said latter use have been obtained by Tenant. Live entertainment shall be limited to that customarily found in similar restaurant businesses and Landlord shall have the arbitrary right to withhold consent to any such entertainment to be conducted within the Premises but outside any building constructed thereon. Tenant shall not and is expressly prohibited from using the Premises for any other purpose or use whatsoever, whether it is purported to be in addition to or in lieu of the particular exclusive use expressed in this Paragraph 5, without the prior written consent of Landlord and District. Tenant shall actively and continuously use and operate the Premises for the use expressly provided for in this Paragraph 5. Nothing contained in this Paragraph or otherwise in this Lease shall be construed as the grant to Tenant of an exclusive right to operate a restaurant in the Project. Tenant acknowledges that another restaurant will be operated on the Property and that the type of food to be offered by that restaurant has been disclosed to Tenant and Tenant agrees not to offer a menu similar to that offered by the other restaurant and Landlord represents to Tenant that any lease for another restaurant on the Property will contain a reciprocal provision that does not allow that other restaurant to offer a menu similar to Tenant's. Landlord will not allow any carts or stands within the Project to sell coffee.

5.2 Operating Standards. The operating standards of the restaurant shall at no time be of any lesser quality than those established system-wide for restaurants operated by Tenant under the same trade name or style.

5.3 Compliance with Law. Except with respect to hazardous substances and environmental conditions that arose prior to Tenant's occupancy of the Premises, Tenant shall at all times, and at Tenant's sole cost and expense, comply with and conform to all municipal, district, city, county, state and federal laws, regulations, requirements or orders, present or future, which in any way relate to the condition, licensing, use or occupancy of the Premises.

5.4 Waste. Tenant agrees not to waste or suffer any waste upon the Premises, nor to use or permit the Premises to be used for any noxious, unlawful or offensive trade or business, nor to cause, maintain or permit any nuisance upon the Premises, nor cause or permit any act which obstructs or interferes with the use and enjoyment of the Project by other tenants or their patrons including, without limitation, unusually loud live, recorded or reproduced entertainment.

5.5 Nondiscrimination. Tenant agrees at all times to fully comply with all laws prohibiting discrimination against any person or class of persons by reason of sex, color, race, religion, handicap or national origin. If the use provided for in this Lease allows the Tenant to offer accommodations or services to the public, such accommodations or services shall be offered by the Tenant to the public in accordance with applicable law. In complying with all such laws, including, without limitation, the Americans With Disabilities Act of 1990, Tenant shall be solely responsible for such compliance and required programs and there shall be no allocation of any such responsibility between Landlord and Tenant.

5.6 Easements. This Lease and all rights given hereunder are subject to all easements and rights-of-way (including, but not limited to, the public access rights-of-ways and public utility easements described and delineated on EXHIBITS A and B) previously granted or reserved by the District and/or Landlord in, to, or over the Premises for any purpose whatsoever, and also shall be subject to future easements and rights-of-way for access, gas, electricity, water, sewer, drainage, telephone, telegraph, television transmission, and other Tenant or public facilities as may be determined from time to time by Landlord and/or District to be in the best interests of the development of the tidelands. Landlord agrees that an effort shall be made so that such future easements and rights-of-way shall be so located and facilities installed as to produce a minimum amount of interference to the business of Tenant. Tenant shall not be entitled to any monetary payment or other remuneration for any such future easements.

5.7 Banners. Tenant further agrees that no banners, pennants, flags, eye-catching spinners or other advertising devices, nor any temporary signs shall be permitted to be flown, installed, placed, or erected on the Premises without written consent of the Landlord and the Executive Director of District.

5.8 Seating. The parties acknowledge that the Premises have been approved with a maximum seating capacity of two hundred twenty-six (226) seats inside and fifty (50) seats outside.

6. UTILITIES

6.1 Utility Payment. From and after the date Tenant commences construction of Tenant's Work, Tenant agrees that it shall contract in its own name and pay all charges for sewer, water, fuel, gas, telephone, electricity, refuse disposal, CATV, satellite television, grease trap cleanout and other utilities used or consumed in the Premises before the charges for the same become delinquent. If such charges are not paid when due, Landlord may pay the same and any amount so paid shall thereupon become due to Landlord from Tenant as additional rent. All costs and expenses for the installation, connection, disconnection and maintenance of such utility services shall be the sole responsibility of Tenant. Unless caused by Landlord's negligence, Landlord shall not be liable for damages or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of water, gas, electricity, sewer and sanitation or any other service or utility, nor shall any such interruption, reduction, disruption, curtailment or failure constitute or be deemed to constitute constructive eviction of Tenant or relieve Tenant from its obligations under this Lease.

7. INSURANCE—WAIVER OF SUBROGATION—INDEMNITY

7.1 Fire and Extended Coverage.

7.1.1 During the period of Tenant's construction of Tenant's Work at the Premises and until the Commencement Date, Tenant, at its sole cost and expense, shall maintain Builder's Risk Insurance in an amount sufficient to assure replacement of Tenant's Work in progress, inclusive of the value of the Landlord Allowance. Said insurance shall name Landlord and its mortgagees, as additional insureds, as their interests may appear.

7.1.2 Whenever and as often as any damage occurs, the entire amount payable under said insurance policy will be first applied to the cost of any repairs to or restoration of Tenant's Work, improvements and contents in and on the Premises before using any portion thereof for any other purpose. Any excess portion of funds remaining after the cost of repairs or restoration are paid shall belong to the Tenant, Landlord and its mortgagees, as their interests may appear; provided that Landlord and its mortgagees shall have no interest in any portion of such funds attributable to Tenant's furniture, stock-in-trade, personal property and inventories.

7.1.3 Landlord shall, as part of Common Area Costs (as defined in Paragraph 17.5), provide for sufficient amounts of fire and casualty insurance for all buildings, structures and other improvements within the Project and the Common Area. All such Landlord's insurance shall provide that any loss shall be payable to Landlord, its mortgagees, and District, as their interests may appear. At Tenant's request, Landlord shall not obtain insurance for floods or earthquakes.

7.1.4 Damage or destruction to the Premises or any portion thereof, by reason of any casualty, including without limitation fire, earthquake, flood, act of God, or the elements, shall not annul or void this Lease. Tenant hereby expressly waives the provisions of Section 1932(2) and 1933(4) of the California Civil Code or any statute or law now or hereafter in effect which provides for the automatic termination of a leasehold interest, or provides a tenant with the right to terminate its tenancy upon the partial or total damage to or destruction of the leasehold estate. If the Premises are damaged by fire, the elements, acts of God or other casualty, the damage shall be repaired in accordance with the provisions of Paragraph 16.

7.1.5 In the event of any damage to the Premises covered by insurance, Landlord and Tenant shall within thirty (30) days of notice thereof file proof(s) of loss with the insurance carrier and proceed with the collection of the claim under said policies of insurance without delay. The Tenant shall further proceed as promptly as possible, utilizing its own funds and applicable proceeds of any insurance, with the repairing or rebuilding of the interior of any building constructed on the Premises, in accordance with the provisions of Paragraph 16.

7.1.6 The Builder's Risk Insurance policy to be maintained by Tenant shall be in a form and from an insurer reasonably satisfactory to Landlord. The policy shall

provide that before changing or canceling any coverage the insurance company issuing the same shall give Landlord and its mortgagees at least thirty (30) days' prior written notice thereof. Duplicate certificates of such insurance policy shall be delivered to Landlord. The first such policy shall be issued at least ten (10) days prior to the date Tenant commences construction of Tenant's Work and all renewals thereof shall be issued at least ten (10) days prior to the expiration of the then existing policy. If Tenant has not secured said insurance or evidenced the securing of such insurance by the delivery of original certificates thereof by such date, Landlord may do so and Tenant shall be liable for the cost thereof as additional rent.

7.2 Public Liability and Property Damage Insurance. Tenant shall, at its own cost during the period of construction of Tenant's Work and at all times during the Term, maintain occurrence form commercial general liability insurance covering premises, operations and contractual liability assumed by Tenant in this Lease, including the liability assumed by Tenant under the indemnity provision in Paragraph 7.11, in the amount of not less than \$2,000,000 combined single limit for bodily injury, personal injury, products liability and property damage, with an insurance company or companies satisfactory to Landlord and licensed to do business in California. If alcoholic beverages are served or sold at the Premises, Tenant shall also obtain Liquor Liability coverage in the amount of not less than \$1,000,000.

7.2.1 Tenant will, at least ten (10) days prior to commencement of construction of Tenant's Work, deposit with Landlord certificate(s) showing such insurance to be in force. All such insurance policies will name, or be endorsed to name, Landlord and District, and their respective officers, officials, and employees as additional insureds and protect Landlord and District, and their respective officers, officials and employees against any legal costs in defending claims. All such insurance policies will be endorsed to state that coverage will not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to Landlord and District. Any deductibles or self-insured retentions must be declared and acceptable to both Landlord and District. If the deductibles or self-insured retentions are unacceptable to Landlord or District, Tenant shall have the option of either: (i) reducing or eliminating such deductible or self-insured retentions as they related to Landlord and District and their respective officers, officials and employees or (ii) procuring a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7.2.2 If Tenant has not secured such insurance (or evidenced the securing of such insurance by delivery of original insurance certificates) within ten (10) days following written notice from Landlord to Tenant, Landlord may secure the same and Tenant shall pay to Landlord the cost of renewal as additional rent.

7.3 District Insurance Requirements. Tenant acknowledges that District has the right at any time to review the coverage, form and amount of insurance required of Landlord under the Master Lease. If, in the opinion of District, the insurance provisions in the Master Lease

do not provide adequate protection for District and/or for members of the public using the Project, District may require that insurance sufficient in coverage, form and amount to provide adequate protection be obtained. In such event, Tenant agrees, at its own cost, to obtain insurance sufficient in coverage, form and amount to satisfy District's requirements, if any, with respect to the Premises and not the Common Area. Landlord shall notify Tenant in writing of changes in insurance coverage required by District and, if Tenant does not deposit certificates evidencing acceptable insurance policies with Landlord incorporating such changes within thirty (30) days of receipt of such notice, Landlord shall have the right to secure such additional insurance and Tenant shall be liable for the cost thereof as additional rent.

7.4 Lack of Insurance Coverage. If Tenant fails or refuses to maintain insurance as required in this Lease, or fails to provide proof of insurance, Landlord has the right to declare this Lease in default without further notice to Tenant and Landlord shall be entitled to exercise all legal remedies.

7.5 No Limit to Liability. The procuring of such required policies of insurance shall not be construed to limit Tenant's liability hereunder, nor to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding the procuring of said policies of insurance, Tenant shall be obligated for the full and total amount of any damage, injury or loss caused by negligence or neglect connected with this Lease or with the use or occupancy of the Premises.

7.6 Use and Insurance Cancellation. Tenant agrees not to use the Premises in any manner that will result in cancellation of any insurance Landlord may have on the Premises or the Project, or that will cause cancellation of any other insurance coverage for the Premises or the Project. Except for cooking fuels and other materials customarily used by Tenant in its restaurant operations, Tenant further agrees not to keep on the Premises or permit to be kept, used or sold thereon, anything prohibited by any fire or other insurance policy covering the Premises. Tenant agrees to pay Landlord, upon demand, the amount equal to any increase in premiums paid by Landlord for insurance carried and maintained by Landlord as a result of any activity or use of the Premises by Tenant, whether or not such activity or use has been consented to by Landlord. Tenant shall, at its sole cost and expense, comply with any and all requirements, regarding the Premises, of any insurance organization which are necessary for maintaining fire and other insurance coverage at reasonable costs. Certificates in a form acceptable to Landlord evidencing the existence of the necessary insurance policies shall be kept on file with Landlord during the Term.

7.7 Hazardous Activities. If Tenant commits, permits or causes the conduct of any activity or the bringing or operation of any equipment on or about the Premises creating unusual hazards, Tenant shall procure and maintain daily on such activity or operation insurance sufficient to cover the risks represented by the unusual hazards. This requirement for unusual hazard insurance shall not constitute a waiver of Landlord's right to demand the removal, cessation or abatement of any such activity or operation.

7.8 Workers and Employees. Tenant shall carry and maintain insurance against liability arising on account of injuries or deaths to workers or employees of Tenant on the Premises or any installation or other improvements of Tenant in an amount not less than the minimum required under applicable California and federal law. Such insurance shall not name Landlord and District and other respective officers, officials and employees as additional insureds, but shall contain a waiver of subrogation with respect to any claim against them.

7.9 Waivers of Subrogation. Landlord and Tenant hereby waive any rights each may have against the other on account of any loss or damage suffered by Landlord or Tenant, as the case may be, to their respective property, the Premises, or to the building constructed thereon or any of its contents, arising from any risk generally covered by fire and extended coverage insurance. Each party, on behalf of their respective insurance companies insuring the property of either the Landlord or the Tenant against any such loss, hereby waives any right of subrogation that it may have against the other. The foregoing waivers of subrogation shall be operative only so long as available in the State of California and do not invalidate any such policy.

7.10 Destruction Due to Risk Not Covered By Insurance. If, during the Term, Tenant's Work is totally or partially destroyed from a risk not covered by the insurance described in Paragraph 7.1 of this Lease, this Lease shall not terminate except as expressly provided in Paragraph 16.2, and Tenant shall restore Tenant's Work in accordance with the provisions of Paragraph 16, provided Landlord contributes to the cost to restore Tenant's work in the same ratio that Landlord originally contributed to Tenant's Work.

7.11 Tenant's and Landlord's Indemnification. Tenant shall defend, indemnify and hold harmless Landlord, its officers, officials and employees from and against any and all liability, action, claim, damage and expense including reasonable attorneys' fees incurred in defense thereof and costs arising after the date of this Lease and throughout the Term, which may be imposed upon or incurred by or asserted against Landlord by reason of any accident, injury to or death of any person or any damage to property of any kind whatsoever and to whomever belonging, (except as set forth in Paragraph 7.9), including without limitation Tenant or its employees, occurring on or about the Premises, and caused by Tenant's, its agents', servants', or employees' negligence or willful act or failure to act or by Tenant's negligent construction of Tenant's Work or repair or maintenance of those portions of the Premises required by this Lease to be repaired or maintained by Tenant or by Tenant's breach of this Lease. Landlord shall defend, indemnify and hold harmless Tenant, its officers, officials and employees from and against any and all liability, action, claim, damage and expense, including reasonable attorneys' fees incurred in defense thereof and costs arising after the date of this Lease and throughout the Term which might be imposed upon or incurred by or asserted against Tenant by reason of any accident, injury to or death of any person or any damage to property of any kind whatsoever and to whomever belonging (except as set forth in Paragraph 7.9), including without limitation Landlord and its employees, occurring on or about the Common Area or that portion of the Premises required by this Lease to be repaired or maintained by Landlord and caused by

Landlord's, its agents', servants', or employees' negligence or willful act or failure to act or by Landlord's negligent construction of the Project or those portions of the Premises required by this Lease to be repaired or maintained by Landlord.

7.12 Nonliability of District or Landlord. Except as set forth in Paragraph 7.11, neither Landlord nor District shall be liable to Tenant for any damages to Tenant or Tenant's property from any cause whatsoever and Tenant waives all claims against Landlord or District for damages to person(s) or property arising for any reason, except for those claims arising out of Landlord's or District's sole gross negligence or willful misconduct or Landlord's or its agents', servants' or employees' gross negligence or wilful misconduct.

8. ALTERATIONS BY TENANT

8.1 Alterations. Other than Tenant's Work, Tenant agrees that it will not make any alterations, additions, improvements or changes requiring the approval of District (collectively "Alterations") in or to the Premises without the prior written consent of Landlord and District. In the event that Landlord and District consent to Tenant's requested Alterations, Tenant shall be responsible for the entire cost and expense of such Alterations.

8.2 Construction Requirements. The plans and specifications for any Alterations will be submitted to Landlord and District for approval in the same manner as set forth on EXHIBIT F. All Alterations shall be under the supervision of a competent architect or licensed engineer and made in accordance with plans and specifications previously approved in writing by Landlord and District. All work with respect to any Alterations must be done in a good and workmanlike manner and diligently prosecuted to completion to the end that the Premises shall at all times be a complete unit except during the period of Alteration work. Upon completion of such work, Tenant shall have recorded in the office of the County Recorder where the Project is located, a Notice of Completion, as required or permitted by law, and Tenant shall deliver to Landlord, within ten (10) days after completion of said work, a copy of the building permit and certificate of occupancy with respect thereto. All Alterations shall be performed and done strictly in accordance with the laws and ordinances relating thereto. Tenant shall have the Alterations work performed in such a manner as to not obstruct the access to the Premises of any other tenant in the Project.

8.3 Insurance for Permitted Alterations. In the event that Tenant shall make any permitted Alterations to the Premises under the provisions of this Paragraph 8, Tenant agrees to carry such insurance as required by Paragraph 7 covering any such Alterations, it being expressly understood and agreed that none of such Alterations shall be insured by Landlord under the insurance it may carry for the Project unless required by District, nor shall Landlord be required under the provisions of Paragraph 16 to reinstall any such Alterations.

8.4 Title and Removal. Any Alterations shall at the option of Landlord and upon approval of District be removed by Tenant upon the expiration or earlier termination of this

Lease. Landlord may exercise said option as to any or all Alterations either before or within fifteen (15) days after the expiration or earlier termination of this Lease. If Landlord exercises such option and Tenant fails to remove such Alterations within thirty (30) days after the expiration or earlier termination of this Lease, Landlord shall have the right to have such Alterations removed at the expense of Tenant. As to any Alterations that Landlord does not exercise said option for removal, the same shall become a part of the Premises, shall become the property of Landlord without any payment to Tenant and shall remain upon and be surrendered with the Premises upon the expiration or earlier termination of this lease. During any period of time employed by Tenant under this paragraph to remove any Alterations, Tenant shall pay the Base Rent and Percentage Rent to Landlord in accordance with this Lease, which Base Rent and Percentage Rent shall be prorated on a daily basis.

8.5 Alterations not Including Equipment. For the purposes of this paragraph, Alterations shall not include changes, additions, or deletions of furniture, trade fixtures, and equipment covered by Paragraph 11.

9. MECHANICS' LIENS

9.1 Tenant's Covenants. Tenant agrees that it will pay, or cause to be paid, all costs for work done by it, or caused to be done by it, on the Premises, and Tenant will keep the Premises free and clear of all mechanics liens and other such liens on account of work done for Tenant or persons claiming under Tenant. Tenant agrees to and shall at all times save Landlord and District free and harmless and indemnify them against all liability loss, damage, costs, attorneys' fees and all other expenses on account of claims for labor or materials used in connection with improvements, repairs or alterations in the Premises.

9.2 Bond. In the event any lien or levy of any nature whatsoever is filed against the Premises or the leasehold interest of Tenant, Tenant shall, upon written request of Landlord, remove such lien or levy within thirty (30) days or deposit with Landlord a bond conditioned for the payment in full of all claims upon which such lien already has been filed. Such bond shall be acknowledged by Tenant as principal, and by a corporation, licensed by the Insurance Commissioner of the State of California to transact the business as a fidelity and surety insurance company, as surety. Landlord shall have the right to declare this Lease in default in the event the bond required by this Paragraph 9 has not been deposited with Landlord within five (5) days after receipt of Landlord's written request therefor.

9.3 Right to Cure. If Tenant shall be in default in paying any charge for which a mechanic's lien claim and suit to foreclose the lien have been filed, and shall not have given Landlord security to protect the Property, Landlord and District from liability for such claim of lien, Landlord may (but shall not be required to) pay said claim and any costs, and the amount so paid, together with reasonable attorneys' fees incurred in connection therewith, shall be immediately due and owing from Tenant to Landlord, and Tenant shall pay the same to Landlord with interest at the rate provided in this Lease from the date of Landlord's payments.

9.4 Notice of Lien. Should any claim of lien be filed against the Premises or any action affecting the title to the Property be commenced, the party receiving notice of such lien or action shall forthwith give the other party written notice thereof.

9.5 Notice of Nonresponsibility. Landlord or its representatives shall have the right to go upon and inspect the Premises at all reasonable times and shall have the right to post and keep posted thereon notices of nonresponsibility or other such notices which Landlord may deem to be proper for the protection of Landlord's interest in the Premises. Tenant shall, before the commencement of any work which might result in any such lien, give to Landlord written notice of its intention to do so in sufficient time to enable the posting of such notices.

10. SIGNS

10.1 Project Signs. Landlord, at its sole cost and expense, shall, with District's prior written approval, erect and maintain during the Term, suitable signage for the Project which signage shall refer to Tenant's business. Landlord shall also provide and maintain, with District's prior written approval, suitable and adequate direction signage for the public and other business guests and invitees of Tenant.

10.2 Tenant's Signs. With the prior written approval of Landlord, which approval shall not be unreasonably withheld, Tenant may erect, maintain and, from time to time, remove Tenant's signs in or upon the Premises, as the Tenant may deem necessary or desirable. Tenant agrees to obtain all appropriate District and other governmental approvals and permits for Tenant's signs, marquees or awnings. Landlord will provide its reasonable assistance in securing such governmental approval and permits. Landlord agrees to execute promptly any consents or applications for permission to erect such signs as may be required by any governmental authorities.

10.3 Restrictions. Tenant shall not display, paint or place or cause to be displayed, painted or placed, any handbills, bumper stickers or other advertising devices on any vehicle parked in the Common Area of the Project, whether belonging to Tenant or to Tenant's agents, or to any other person; nor shall Tenant distribute, or cause to be distributed in the Project, any handbills or other advertising devices. Tenant agrees that no banners, pennants, flags, eye-catching spinners or other advertising devices nor any temporary signs shall be permitted to be flown, installed, placed or erected on the Premises without the prior written consent of Landlord and District. Tenant will cooperate by appropriately decorating the Premises for Project promotional, public relations and special events and holidays such as Christmas, Easter, Valentine's Day, Halloween, Thanksgiving and other special days selected by Landlord from time to time.

11. FURNITURE, FIXTURES AND EQUIPMENT

11.1 Installation. Tenant may install its trade fixtures and equipment, and may from time to time during the Term replace and alter its trade fixtures and equipment.

11.2 Removal. Trade fixtures and equipment of any kind placed on the Premises by Tenant shall be removed by Tenant prior to the expiration or earlier termination of this Lease; provided, however, Tenant agrees to repair any and all damage occasioned by the removal thereof. If any such trade fixtures or equipment are not removed within fifteen (15) days after the expiration or termination of this Lease, the same may be considered abandoned and shall thereupon become the property of Landlord without cost to Landlord and without any payment to Tenant; except that Landlord shall have the right to have the same removed at the expense of Tenant. During any period of time employed by Tenant under this paragraph to remove trade fixtures and equipment, Tenant shall pay the Base Rent and Percentage Rent to Landlord in accordance with this Lease, which Base Rent and Percentage Rent shall be prorated on a daily basis.

11.3 Personal Property Taxes. Tenant shall pay before delinquency all taxes, including sales and use taxes, assessments, license fees and public charges levied, assessed or imposed upon its business operations as well as upon its merchandise, fixtures, equipment and personal property. If any such items of property are assessed with property of Landlord, then, and in such event, such assessment shall be divided between Landlord and Tenant to the end that Tenant shall pay only its equitable portion of such assessment. Landlord shall determine the basis of prorating any such assessment and such determination shall be binding upon both Landlord and Tenant. No taxes, assessments, fees or charges referred to in this Paragraph 11.3 shall be considered as taxes or assessments under the provisions of Paragraph 12.

12. TAXES AND ASSESSMENTS

12.1 Taxes. Beginning on the Commencement Date, Tenant shall pay as part of the Common Area Costs, its specified share of all taxes and assessments levied, assessed or charged upon the Property and the Project.

12.2 Taxes Defined. Under this Lease, the term "taxes and assessments" shall include any form of tax or assessment, license fee, license tax, commercial rental tax, possessory interest tax, levy, charge, penalty or similar imposition by any authority having power to tax, including, any municipal, district, city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement or special assessment district, on any legal or equitable interest of Landlord, District or Tenant in the Property and the Project, including, without limitation:

12.2.1 Any assessment, tax, fee, levy or charge in substitution, partially or totally, of any assessment, tax, fee, levy or charge on land, buildings, waterways, or

property it being acknowledged by Tenant and Landlord that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formally provided without charge to property owners or occupants, and it being the intention of Tenant and Landlord that any and all such new and increased assessments, taxes, fees, levies and charges be included within the definition of "taxes and assessments" for the purposes of this Lease.

12.2.2 Any assessment, tax, fee, levy or charge allocable to or measured by the area of the Project or the Property, any gross income tax or excise tax levied by the state, city or federal government, or any political subdivision thereof, with respect to the receipt of rent, or upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of the Project. In the event and to the extent any tax is imposed in substitution or in lieu of a tax or assessment, any increase in any tax or assessment, such tax shall, for the purposes of this Lease, be considered taxes and assessments regardless of the source from which it is collected.

12.3 Exclusions. Notwithstanding Paragraph 12.2 above, Tenant will have no obligation to pay increases in taxes and assessments (whether the increases result from increased rate, valuation, or both) attributable to transfer of Landlord's interest in the Property or the Project or additional improvements to the Project unless constructed for Tenant's primary benefit or for the common benefit of Tenant and other tenants in the Project.

13. ASSIGNMENT OR SUBLEASE

13.1 Lease is Personal. The purpose of this Lease is to transfer possession of the Premises to Tenant for Tenant's personal use in return for rent and other consideration to be given by Tenant to Landlord. Tenant acknowledges and agrees that (a) Tenant's business skills and philosophy were an important inducement to Landlord for entering into this Lease, (b) Tenant has entered into this Lease in order to acquire the Premises for its own personal use and not for the purpose of obtaining the right to transfer any of its rights under this Lease to others, and (c) Tenant's right to transfer as provided in this Paragraph 13 is subordinate and incidental to the underlying purpose of this Lease.

13.2 No Transfer Without Consent. Tenant shall not assign, sublet, enter into a license or concession agreement for, hypothecate or otherwise divest itself of this Lease or any of its rights hereunder or permit any third party or parties other than Tenant, its subsidiaries, authorized agents, employees, invitees and visitors to occupy, manage or operate the Premises or any portion thereof (collectively a "transfer") without Landlord's and District's prior written consent. Landlord agrees that it will not withhold such consent provided Tenant fully complies with the provisions of Paragraphs 13.3 and 13.4 and Landlord's requirements thereunder. Any attempted transfer without Landlord's advance written consent shall constitute a default

hereunder and shall be void *ab initio* so as not to confer any rights upon any third person. The provisions of Paragraph 13.3 constitute the sole means by which such consent may be requested.

13.3 Procedure for Requesting Consent. If Tenant desires at any time to effect a transfer it must first notify Landlord in writing of its desire to do so and shall submit in writing to Landlord: (i) the name of the third party concerned; (ii) the nature of the third party's business proposed to be carried on in the Premises; (iii) the terms and provisions of the proposed transfer; and, (iv) such financial information as Landlord may reasonably request concerning the third party. Submission to Landlord by Tenant of an assignment, sublease or other document for a transfer subject to Landlord's and District's approval, accompanied by the information set forth above, shall constitute a request for Landlord's consent under this Paragraph 13.3.

13.4 Conditions of Authorization. As conditions precedent to Landlord's consent to Tenant's transfer, Landlord may require any or all of the following:

(a) Tenant shall remain fully liable under this Lease during the unexpired term hereof;

(b) Tenant shall provide Landlord with evidence reasonably satisfactory to District respecting the relevant business experience and financial responsibility of the third party concerned and evidence that such third party's anticipated Gross Sales for the premises will equal or exceed the average of Tenant's Gross Sales during the three (3) full Lease Years immediately preceding the date of Tenant's request for a transfer;

(c) Written agreement from any third party concerned that in the event Landlord gives such third party notice that Tenant is in default under this Lease, such third party shall thereafter make all payments otherwise due Tenant directly to Landlord, which payments will be received by Landlord without any liability of Landlord except to credit such payment against those due under this Lease, and any such third party shall agree to attorn to Landlord or its successors and assigns should this Lease be terminated for any reason; provided however, that in no event shall Landlord or its successors or assigns be obligated to accept such attornment.

(d) Any such transfer and consent shall be effected on forms approved by Landlord as to form and substance;

(e) Tenant shall not then be in default hereunder in any respect;

(f) Such third party shall agree in writing to assume, be bound by and perform all of the terms, covenants and conditions of this Lease which could reasonably be construed as applicable to such third party;

(g) Such third party's proposed use of the Premises shall be the same as Tenant's permitted use;

(h) Landlord shall not be bound by any provision of any agreement pertaining to Tenant's transfer;

(i) Tenant shall deliver to Landlord such number of executed copies of any and all written instruments evidencing or relating to Tenant's transfer as Landlord shall reasonably request.

Tenant hereby acknowledges and agrees that the above conditions imposed upon the granting of Landlord's consent are reasonable and Landlord's imposition of such conditions shall under no circumstances impair or limit Landlord's rights and remedies under California Civil Code Section 1951.4 or any related, successor or similar provision of law.

13.5 [INTENTIONALLY LEFT BLANK]

13.6 No Waiver. Landlord's consent to Tenant's transfer on any one occasion shall apply only to the specific transaction thereby authorized and such consent shall not be construed as a waiver of the duty of Tenant or any transferee to obtain Landlord's consent to any other or subsequent transfer or as modifying or limiting Landlord's rights hereunder in any way. Landlord's acceptance of rent or any other payment directly from any third party shall not be construed as a waiver of any of Landlord's rights or as Landlord's agreement to accept the attornment of any third party in the event of a termination of this Lease. In no event shall Landlord's enforcement of any provision of this Lease against any third party be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person.

13.7 Change of Control. If a transfer by sale, assignment, death or incompetency, mortgage, trust, operation of law, or otherwise of any shares, voting rights or ownership interest results in a change in the identity of the persons or entities exercising, or who may exercise, effective control of Tenant, unless such change results from the trading of shares listed on a recognized public stock exchange ("Change of Control"), then such Change of Control shall be deemed a transfer within the meaning and provisions of this Paragraph 13 and shall be subject to the terms hereof.

13.8 Consent to Approved Third Parties. In the event that Landlord and District gives their consent to a transfer, such consented to third party must in turn apply to Landlord and District for their consent to subsequent transfers, in which case the provisions of this Paragraph 13 shall apply as fully as possible to such third party (including this Paragraph 13.8 in the case of more remote transfers) provided, however, that as an additional condition of the granting of Landlord's consent the Premises will not, in Landlord's opinion, thereby become unduly fractionalized.

14. TENANT'S CONDUCT OF BUSINESS.

14.1 Operating Covenants. Except for force majeure events (Paragraph 29.6), Tenant covenants and agrees that it will continuously and uninterruptedly from and after its initial opening for business operate and conduct within the Premises the business which it is permitted to operate and conduct under the provisions of Paragraph 5, except while the Premises are untenable by reason of fire or other casualty, keep and maintain within and upon the Premises an adequate stock of merchandise and trade fixtures to service and supply the usual and ordinary demands and requirements of its customers, and keep the Premises in a neat, clean and orderly condition.

14.2 Operating Days and Hours. Recognizing that it is in the interests of both Tenant and Landlord to have regulated hours of business for all of the Project, Tenant agrees that commencing with the opening for business by Tenant in the Premises and for the remainder of the Term, Tenant shall, unless otherwise approved by Landlord or provided above, be open for business Three Hundred and Sixty-Five (365) days a year. Tenant shall open for business daily no later than 11:30 a.m. and close no earlier than 10:00 p.m. It is agreed, however, that the foregoing provisions shall be subject to any shorter hours of operation prescribed by any governmental regulations which may govern the operations or business of Landlord or Tenant.

14.3 Policy of District. It is the policy of District that prevailing wage rates shall be paid to all persons who are employed by Tenant on the tidelands of District. If, during the construction of Tenant's restaurant, Tenant must pay higher wages than it would otherwise have to pay because of this policy, Landlord will reimburse Tenant for this increase.

14.4 Equal Employment Opportunity and Nondiscrimination. Tenant agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Constitution, the California Fair Employment and Housing Act and any other applicable federal, state or local laws and regulations now existing or hereinafter enacted, requiring equal employment opportunities or prohibiting discrimination, including, without limitation, laws and regulations prohibiting discrimination because of race, color, ancestry or national origin, religion, age, sex or disability. Upon reasonable notice, Tenant shall make available for inspection and copying all of its records relevant to compliance with this provision.

Tenant's compliance with the equal employment opportunity provisions of this Lease is an express condition hereof and any failure by Tenant to so comply and perform shall be a default as provided in said Lease and Landlord may exercise any right as provided therein and as otherwise provided by law.

15. MAINTENANCE AND REPAIRS

15.1 Maintenance. Except as otherwise provided in Paragraph 17 with respect to the Common Area, Tenant shall, at its sole cost and expense at all times during the Term, keep and

maintain the Premises, including without limitation Tenant's signs, entrances and exits, plate glass, glazing and skylights, plumbing and other fixtures, equipment and appliances, including heating, ventilating and air conditioning equipment, plumbing lines exclusively serving the Premises, interior walls, ceilings and floors, any patio and terraces and service areas and related walls, fences and appurtenances comprising a part of the Premises, in good, safe, healthy and sanitary order, condition and repair to the satisfaction of Landlord and in compliance with all applicable laws. The maintenance of all glass, both exterior and interior is at the sole risk of Tenant and any glass broken or damaged shall be promptly replaced at Tenant's sole cost and expense with glass of the same size, same kind and the same, or better, quality. The water and wash closets and other plumbing fixtures within the Premises shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags or other substances shall be deposited therein. Any grease stoppage repairs or other damages resulting from any misuse of the plumbing fixtures by Tenant, Tenant's servants, employees, agents, visitors or licensees shall be borne by the Tenant.

15.2 Landlord's Right to Inspect. For the purpose of keeping the Premises in a good, safe, healthy and sanitary condition, Landlord shall always have the right, without the duty, to enter, view, inspect and determine the condition of and protect its interests in, the Premises; except in case of emergency, Landlord shall provide Tenant with at least twenty-four (24) hours' notice and conduct such activities in a manner designed to disrupt Tenant's business as little as possible and, to that end, to conduct such activities when Tenant is not open for business; the foregoing restrictions do not apply to the District, which also has the right, without the duty, to inspect the Premises. If inspection discloses that the Premises are not in the condition described, Tenant must perform the necessary maintenance work within ten (10) days after written notice from Landlord. If at any time Landlord determines that the Premises are not in the condition described, Landlord may require Tenant to file and pay for a faithful performance bond or suitable letter of credit, to assure prompt correction without additional notice. The amount of this bond or suitable letter of credit shall be adequate, in Landlord's opinion, to correct the unsatisfactory condition. Notwithstanding the foregoing, Landlord shall not be required at any time to maintain or to make any improvements or repairs whatsoever on or for the benefit of the Premises that are the obligation of the Tenant under this Lease, or to maintain or repair any utilities located within the Premises but serving other portions of the Project. Landlord shall not be liable to Tenant for any damage or interruption in Tenant's business caused by such maintenance or repairs.

15.3 Landlord's Right to Enter and Repair. Tenant agrees Landlord may enter the Premises and make any necessary repairs to the Premises and perform any work thereon (i) which may be necessary to comply with any laws, ordinances, rules or regulations of any public authority or of any similar body, or the requirements of the insurers of Tenant, Landlord or District; (ii) that Tenant is obligated to make under the terms of this Lease; or (iii) that Landlord deems necessary to prevent any waste or deterioration of the Premises, if the Tenant does not repair or cause such repairs to be performed within ten (10) days after receipt of the written demand for such repairs from Landlord, unless the nature of the repair will reasonably

require more than ten (10) days to complete, in which event Tenant must have commenced such repair within the ten-day period and proceed diligently to complete such repair. During the last six (6) months of the Term or at any time after Tenant is in default under this Lease, Landlord may enter the Premises for the purposes of exhibiting the Premises to prospective tenants. During the progress of any work on the Premises by Landlord, Landlord or its agents may keep and store upon the Premises all necessary materials, tools and equipment and Landlord shall not be liable for any inconvenience, annoyance, disturbance, loss of business or other damage to Tenant, and the obligations of Tenant under this Lease shall not be affected. Landlord's rights under this Paragraph 15.3 shall not impose any duty on Landlord to make any such repairs, nor constitute a waiver of Tenant's failure to do the same. If Landlord makes or causes to be made any repairs which Tenant is obligated to make under Paragraph 15.3, Tenant shall pay to Landlord as additional rent upon demand the cost of such repairs, plus a supervision fee equal to ten percent (10%) of such costs, the total of which shall bear interest at the rate provided in this Lease.

15.4 Tenant's Waiver. Tenant waives the provisions of any law permitting repairs by a tenant at the expense of Landlord, including all rights by a tenant at the expense of Landlord, including all rights of Tenant under Sections 1941 and 1942 of the California Civil Code.

16. RECONSTRUCTION

16.1 Insured Casualty. In the event of damage to or destruction of the Premises by fire, the elements, acts of God, or any other cause, (provided Landlord is insured for such damage or destruction), Landlord shall commence repair, reconstruction and restoration of the Premises and shall prosecute the same diligently to completion, and this Lease shall continue in full force and effect. In the event of such reconstruction of the Premises, upon completion of said reconstruction, Tenant, at its sole cost and expense, shall commence repair, reconstruction and restoration of Tenant's leasehold improvements, and replacement of its stock in trade, fixtures, furniture, furnishings and equipment. Tenant shall diligently prosecute such installation to completion. Repair, replacement or reconstruction of the Premises and other improvements shall be done in accordance with plans approved by Landlord and District.

16.2 Uninsured Casualty. In the event of uninsured damage or destruction to the Premises that constitutes thirty-three percent (33%) or more of the value of the Premises immediately before the damage or destruction, Landlord shall have the option, subject to the prior written consent of District, of repairing, reconstructing and restoring the Premises. In the event that Landlord determines to repair and reconstruct the Premises, Landlord shall provide Tenant with written notice thereof and Tenant shall have thirty (30) days following receipt thereof to elect, by notice in writing to Landlord, to terminate the Lease. If Tenant does not timely exercise its option, upon completion of repair and reconstruction by landlord, Tenant, at its sole cost and expense, shall commence repair, reconstruction and restoration of Tenant's leasehold improvements, and replacement of its stock in trade, fixtures, furniture, furnishings and equipment. Tenant shall diligently prosecute such installation to completion. In the event

that Landlord determines not to repair and reconstruct the Premises, Landlord shall give written notice to Tenant of such determination within ninety (90) days of the event of damage or destruction, and this Lease shall thereupon terminate. Base Rent and expenses shall be prorated to the date of such termination and the unpaid Percentage Rent and any other charges or assessments shall be computed and paid to the date of such termination. If this Lease is terminated by the exercise of such option, neither Tenant nor Landlord shall be under any duty or obligation to repair damage to or restore the Premises and Landlord shall have any rights to which it would be entitled under the provisions of Paragraph 11.2.

16.3 Abatement of Rent. In the event that Landlord undertakes such repair and reconstruction, as set forth in this Paragraph 16, Tenant shall continue the operation of its business on the Premises during any such period to the extent reasonable and practicable from the standpoint of prudent business management, and the obligation of Tenant hereunder to pay Base Rent, Percentage Rent and Common Area Costs and all other charges provided for in this Lease shall, after appropriate adjustment to reflect any interferences, remain in full force and effect. Notwithstanding the foregoing, should Tenant be required to close its business operations conducted at the Premises in their entirety for a period of three (3) or more days from the date of any damage or destruction and during the period of Landlord's repair and reconstruction thereof, then Tenant shall not be obligated to pay Base Rent, Percentage Rent and Common Area costs during any such period of closure. Tenant shall not be entitled to any compensation or damages from Landlord for loss of use of the whole or any part of the Premises, Tenant's personal property or any inconvenience or annoyance occasioned by such damage, repair, reconstruction or restoration.

16.4 Waiver. With respect to any partial or total destruction which Landlord is obligated to restore or may restore under the provisions of this Lease, the provisions of California Civil Code Section 1932(2) and Section 1933(4) are hereby waived by Tenant.

17. COMMON AREA

17.1 Common Area Defined. The "Common Area" is approximately located as shown on EXHIBIT D. The Common Area for the purpose of this Lease includes the exterior walls, roof and skylights of any building constructed on the Premises and is also that part of the Project outside the Premises' boundary and not constructed nor improved for the specific or dedicated use of Tenant or any other tenant within the Project and is that property which Landlord has designated to be for the common use of all tenants, their guests, employees or invitees, including without limitation: parking areas, sidewalks, revetments, piers, marina slips, floats, pools, landscaping, curbs, loading areas, private streets and alleys, exterior surfaces, roofs and skylights of all or other structures now or hereafter located within the Project, and other areas and improvements that Landlord may designate, from time to time. If Landlord acquires any property adjoining the Project (property shall be considered as adjoining even if it is separated by roads, streets, easements or rights of way), Landlord shall, subject to Tenant's consent, which will not be unreasonably withheld, have the right to expand and reconfigure the Project

and the Common Area. In such event, Common Area Costs (as defined in Paragraph 17.5) shall include those applicable to any additional Project or Common Area and gross square footage of buildings available for leasing within any additional Project area shall be included in the determination of "gross square footage area" (as defined in Paragraph 17.6.3) for the Project.

17.2 Management and Control. All of the Common Area shall be subject to Landlord's sole management and control. Subject to Tenant's consent, which will not be unreasonably withheld, Landlord reserves the right to make changes from time to time in the Common Area, including, without limitation, changes in or establishing the location of driveways, entrances, exits, vehicular parking spaces, and direction of traffic flow, prohibited areas and employee parking areas and to change the building perimeters of the Project and other building and improvement locations within the Project. Landlord shall have the right to remove any person, authorized or unauthorized from the Common Area or to restrain the use thereof by such persons. Landlord may establish a system or systems of parking validation, vessel moorage control or other restrictions including a system of charges against nonvalidated user parking and vessel moorage; provided, however, should Landlord implement any such system, Tenant shall be entitled to validate up to three (3) hours parking or vessel moorage for its customers without charge. Tenant shall also have the right to provide valet parking for its customers within the Common Area.

17.3 Non-Exclusive Use and Landlord's Rules. Landlord grants to Tenant and Tenant's employees, customers, subtenants, licensees and concessionaires the non-exclusive right in common with Landlord, other tenants of the Project and other persons permitted by Landlord, to use the Common Area as constituted from time to time, subject to such reasonable rules and regulations governing Common Area use and the Project generally as Landlord may from time to time prescribe (the "Landlord's Rules"), including the designation of specific areas within the Common Area or without the Common Area in reasonable proximity thereto in which automobiles owned by Tenant, Tenant's employees, subtenants, licensees, concessionaires and suppliers shall be parked, or the partial or total prohibition of such parking within the Common Area.

17.3.1 Tenant and Tenant's employees and agents shall comply with all Landlord's Rules. Any violation by Tenant or Tenant's employees or agents of any Landlord's Rules shall constitute a default under this Lease. Landlord shall give notice to Tenant of the Landlord's Rules as they may exist from time to time, and Tenant will not be bound thereby until given a copy of same. Pursuant to Paragraph 7.11, Tenant shall indemnify and hold Landlord harmless from all claims and liabilities for Tenant's breach of Landlord's Rules. If there is a conflict between any of Landlord's Rules and any of the provisions of this Lease, this Lease shall prevail. Prior to the execution of this Lease, Landlord shall have furnished Tenant with a copy of any existing Landlord's Rules.

17.3.2 In addition to Landlord's Rules, Tenant shall use its best efforts to complete, or cause to be completed, all trash removal, deliveries, loading, unloading and

other services to the Premises prior to 11:00 a.m. of each day. Tenant shall use its best efforts to prevent delivery trucks or other vehicles servicing the Premises from parking or standing in front of, or at the rear of, the Premises from 11:00 a.m. to 9:00 p.m. each day. Tenant may not display, sell merchandise, allow carts, portable signs, devices or any other objects to be stored or to remain outside the Premises, or in the Common Area, without the prior written consent of Landlord in each instance. Tenant shall remove any of said objects maintained in violation of this Paragraph within twenty-four (24) hours of receipt of written notice to do so by Landlord or Landlord shall be entitled to remove said objects without liability to Landlord at Tenant's sole expense. No aerial, antenna, satellite dish or other receiving or transmitting device shall be erected on the roof or exterior walls of the Premises without the prior written consent of Landlord and District. Any device so installed without such written consent shall be subject to removal without notice at any time by Landlord at Tenant's sole expense. Tenant agrees that all receiving and delivery of goods and merchandise, and all removal of merchandise, and all removal of merchandise, supplies, equipment, trash and garbage, and all storage of trash and garbage, shall be made only by way of or in the areas located within the Premises.

17.3.3 Landlord covenants that Tenant and all other Project tenants shall have only a non-exclusive right to use the parking areas in the Common Area of the Project during the Term. In the event that the tenants in the Project agree (by a vote based on their pro rata interests based on the relative square footage of each of their premises) that the parking is inadequate, Landlord shall implement a form of controlled parking as specified by the tenants. The cost of controlled parking (including any necessary improvements) shall be a Common Area Cost, which shall not be subject to any annual cap on CAM charges that would otherwise apply. Any revenue from the parking would be applied to reduce Common Area Costs.

17.3.4 Landlord may temporarily close any part of the Project or the Common Area for such periods of time as may be necessary to prevent the public from obtaining prescriptive rights or to make necessary repairs, alterations or improvements.

17.4 Parking Restrictions. Tenant acknowledges and agrees that Landlord may, with District's prior written consent, partially or totally restrict parking within the Project by Tenant's employees and others. Tenant will furnish Landlord upon request a complete list of license numbers of all automobiles operated by Tenant's employees, subtenants, licensees and concessionaires.

17.5 Maintenance and Charges. Landlord shall keep and maintain or cause to be kept and maintained, the Common Area in a neat, clean, orderly condition, and state of repair, properly lighted and landscaped, and of a general standard equal to that of developments of similar type, size and cost. Tenant agrees to pay to Landlord as additional rent Tenant's specified share (defined below) of all costs and expenses (exclusive of those expenses that are Landlord's responsibility under Paragraph 15.1) incurred by Landlord in connection with the

maintenance, repair, management and operation of the Common Area, all taxes and assessments as defined in Paragraph 12 and all insurance costs of Landlord with respect to the Project (collectively, "Common Area Costs"), including without limitation all costs, expenses, fees and other sums incurred, expended or reserved in accordance with generally accepted accounting principles and property management practices for: (i) all general maintenance and repairs, pest control, resurfacing, reroofing, painting, restriping, cleaning, removal of rubbish and debris, sweeping and janitorial services; (ii) maintenance and repair of sidewalks, curbs, parking areas and private roads, including resurfacing and restriping, planting and landscaping, lighting, drainage and other utilities; (iii) directional signs and other markers and bumpers; (iv) maintenance and repair of all structures and improvements available for use in common by all tenants and the visiting public; (v) security; (vi) personnel to implement all such services and to police the automobile parking and Common Area when deemed advisable by Landlord or required by District; (vii) all real and personal property taxes and assessments thereon, including possessory interest taxes on secured or unsecured tax rolls imposed, assessed or attributed to the Property, Project or Common Area and as defined in Paragraph 12; (viii) comprehensive public liability and property damage insurance on the Project or Common Area (including any reasonable deductibility provisions therefor) in such amounts as Landlord shall determine; (ix) fire and extended coverage insurance on all structures and improvements in the Project; (x) licenses and permits; (xi) parking gates, parking personnel or other improvements in order for Landlord to implement any system for paid parking or parking by validation; (xii) seasonal and permanent decorating; and, (xiii) all other costs and expenses incurred by Landlord in the maintenance, repair and management of the Common Area and the Project generally.

17.6 Method of Payment.

17.6.1 On the Commencement Date and for the balance of the Term, Tenant shall pay Landlord, on the first day of each calendar month, an amount estimated by Landlord to be Tenant's pro rata share of monthly Common Area Costs. The foregoing estimated monthly charge may be adjusted by Landlord at the end of any calendar quarter on the basis of Landlord's experience and reasonably anticipated costs.

17.6.2 Within forty-five (45) days following the end of each calendar quarter or, at Landlord's option, each calendar year, Landlord shall furnish Tenant a statement covering the calendar quarter or year just expired, certified as correct by an authorized representative of Landlord, showing the total Common Area Costs and Tenant's pro rata share thereof for such calendar quarter or year and the payments made by Tenant for such period as set forth in Paragraph 17.6.1. If Tenant's share of the Common Area Costs exceeds Tenant's payments made pursuant to Paragraph 17.6.1, Tenant shall pay Landlord the deficiency within ten (10) days after receipt of such statement. If said payments exceed Tenant's share of the Common Area Costs, Tenant shall be entitled to offset the excess against payments next thereafter due Landlord, as set forth in Paragraph 17.6.1.

17.6.3 Tenant's pro rata share of the Common Area Costs shall be that portion thereof as the gross square footage area of the Premises bears to the total gross square footage area of the Project which is available for leasing or subleasing by Landlord. Landlord, in its sole discretion, may exclude collection of Common Area Costs from any push cart operator or other party operating a business other than from within the buildings located at the Project. The "gross square footage area" for all purposes under this Paragraph 17.6.3 shall mean the areas of the Project Common Area, the Premises and other subleasehold premises depicted in EXHIBIT C.

17.6.4 Notwithstanding anything contained in Paragraphs 17.6.1 and 17.6.2 to the contrary, in no event will Tenant's share of Common Area Costs for any lease year exceed Twenty-Eight Thousand One Hundred Dollars (\$28,100.00) for the first (1st) lease year, to be increased by one and one-half percent (1.5%) per lease year thereafter, with the exception of taxes and assessments as defined in Paragraph 12.

18. BANKRUPTCY—INSOLVENCY

18.1 Right of Termination. The filing by Tenant of any petition for relief under the provisions of Federal Bankruptcy Law, including any petition for reorganization, or the making by Tenant of a general assignment for the benefit of Tenant's creditors, or any action at the corporate or partnership level taken by Tenant to authorize either of the foregoing actions to be taken on behalf of Tenant, or the appointment of a receiver or trustee to take possession of all or substantially all of the assets of Tenant, or any action taken or suffered by Tenant under any State insolvency law now or hereafter in effect, or the taking or seizing of the Premises or any portion thereof under levy of execution or attachment against Tenant, shall constitute a breach of this Lease by Tenant and in such event Landlord may at its option terminate this Lease upon written notice to Tenant.

18.2 Automatic Transfer. It is understood and agreed that neither this Lease nor any interest herein, nor any estate hereby created, in favor of Tenant, shall pass by operation of law under any state or federal insolvency or bankruptcy act, or any similar law now or hereafter in effect, to any trustee, receiver, assignee for the benefit of creditors, or any other person whomsoever without the prior written consent of Landlord and District. Any transfer in violation of the provisions of this Paragraph 18 shall constitute a breach of this Lease by Tenant.

19. DEFAULT BY TENANT

19.1 Events of Default. The occurrence of any of the following shall constitute a default by Tenant and a breach of this Lease:

19.1.1 Failure in the submittal of any report of Gross Sales;

19.1.2 Failing or refusing to pay any amount of Base Rent, Percentage Rent, Common Area Costs or other monetary charge when due in accordance with the provisions of this Lease;

19.1.3 Abandoning the Premises by failing or refusing to occupy and operate the Premises in accordance with Paragraph 5; or,

19.1.4 Failing or refusing to perform fully and promptly any covenant or condition of this Lease, other than those specified in Paragraphs 19.1.1, 19.1.2 and 19.1.3, the breach of which the Tenant is capable of curing after reasonable notice from Landlord.

19.2 Notices. Following the occurrence of any of the defaults specified in Paragraphs 19.1.1, 19.1.2, 19.1.3 and 19.1.4, Landlord shall give Tenant a written notice specifying the nature of the default and demanding that Tenant either fully cure each such default within the time period specified in this Paragraph 19.2 for cure of such default or quit the Premises and surrender the same to Landlord:

19.2.1 For failure to submit any report of Gross Sales, three (3) days;

19.2.2 For nonpayment of Base Rent, Percentage Rent, Common Area Costs, or other monetary charge, five (5) days;

19.2.3 For abandonment of the Premises or failure to use the Premises in accordance with the provisions of Paragraph 5, five (5) days;

19.2.4 For failure or refusal to perform fully and promptly any covenant or condition of this Lease, other than those specified in Paragraphs 19.2.1, 19.2.2 and 19.2.3, ten (10) days.

19.3 Landlord's Rights and Remedies. Should Tenant fail to cure within the time period specified in Paragraph 19.2 any default specified in Paragraphs 19.1.1, 19.1.2, 19.1.3 or 19.1.4 or should Tenant vacate or abandon the Premises, Landlord may exercise any of the following rights without further notice or demand of any kind to Tenant or any other person, except as required by applicable law:

19.3.1 The right of Landlord to terminate this Lease and to re-enter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim under this Lease;

19.3.2 The right of Landlord, without declaring this Lease terminated, to re-enter the Premises and occupy the whole or any part thereof for or on account of Tenant and

to collect any unpaid rentals or other charges, which have become payable, or which may thereafter become payable; or,

19.3.3 The right of Landlord, even though it may have re-entered the Premises, to thereafter elect to terminate this Lease and all the rights of Tenant in or to the Premises.

19.3.4 Should Landlord re-enter the Premises under the provisions of Paragraph 19.3.2, Landlord shall not be deemed to have terminated this Lease, or the liability of Tenant to pay any Base Rent, Percentage Rent, Common Area Costs, or other charges thereafter accruing, or to have terminated Tenant's liability for damages under any of the provisions of this Lease, by any such re-entry or by any action, in unlawful detainer or otherwise, to obtain possession of the Premises, unless Landlord shall have notified Tenant in writing that it has so elected to terminate this Lease. Tenant covenants that the service by Landlord of any notice pursuant to the unlawful detainer statutes of the State of California and the surrender of possession pursuant to such notice shall not (unless Landlord elects to the contrary at the time of or at any time subsequent to the serving of such notices and such election as evidenced by a written notice to Tenant) be deemed to be a termination of this Lease. In the event of any entry or taking possession of the Premises pursuant to Paragraph 19.3.2, Landlord shall have the right, but not the obligation, to remove all or any part of the personal property located in the Premises and may place the same in storage at a public warehouse at the expense and risk of the owner or owners thereof.

19.4 Landlord's Damages. Should Landlord elect to terminate this Lease pursuant to the provisions of Paragraphs 19.3.1 or 19.3.3, Landlord may recover from Tenant as damages, the following:

19.4.1 The worth at the time of the award of any and all unpaid rent which had been earned at the time of such termination; plus

19.4.2 The worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rent loss that the Tenant proves could have been reasonably avoided; plus

19.4.3 The worth at the time of the award of the amount by which any and all unpaid rent for the balance of the Term after the time of award exceeds the amount of such rent loss that Tenant proves could be reasonably avoided; plus

19.4.4 Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, without limitation, any costs or expenses incurred by Landlord in (i) retaking possession

of the Premises, including reasonable attorneys' fees therefor, (ii) maintaining or preserving the Premises after such default, (iii) preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting, (iv) leasing commissions, or (v) any other costs necessary or appropriate to relet the Premises (provided that any costs under subparagraphs (iii) and (iv) shall be amortized over the term of any lease if such term extends beyond the otherwise normal expiration of this Lease; by way of example, if there is one (1) year remaining on this Lease, and the new lease is for five (5) years, such costs shall be allocated one-sixth (1/6) to this Lease); plus

19.4.5 At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of California.

19.5 Definitions. As used in Paragraphs 19.4.1 and 19.4.2, the "worth at the time of the award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in Paragraph 19.4.3, the "worth at the time of the award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent. The term "rent" as used in this Paragraph 19 shall mean the Base Rent, Percentage Rent, Common Area Costs and all other sums required to be paid by Tenant pursuant to the terms of this Lease.

19.6 Landlord's Cure of Tenant's Default. In the event Tenant fails to cure a default within the time permitted in Paragraph 19.3, Landlord shall have the right to take any action necessary or appropriate, including entering upon the Premises, to cure any default. All costs incurred by Landlord to cure any such default, including reasonable attorneys' fees, with interest, shall become immediately due and payable by Tenant upon demand as additional rent. Nothing in this Paragraph 19.6 shall preclude or limit Landlord from electing to terminate this Lease pursuant to Paragraph 19.3.3 upon written notice to Tenant.

19.7 No Waiver. The waiver by Landlord of any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition contained in this Lease. The subsequent acceptance of rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease or of any right of Landlord to a forfeiture of this Lease by reason of such breach, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No term, covenant or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing and signed by Landlord.

20. DEFAULT BY LANDLORD

20.1 Landlord's Default; No Right of Termination. Landlord shall not be charged with default in the performance of any of its obligations hereunder unless Landlord fails to perform such obligations within thirty (30) days, or such additional time as is reasonably required to

correct any such default, after written notice by Tenant to Landlord specifying Landlord's default. If Landlord's interest in and to the Premises, or any part thereof, is at any time subject to a ground lease, mortgage or deed of trust and this Lease or the rentals due hereunder are assigned in connection with such ground lease, mortgage or deed of trust and Tenant is given written notice thereof, including the address of such assignee, Tenant agrees that it will, concurrently with the giving of any notice of default to Landlord, mail a duplicate of such default notice to such assignee. Tenant further agrees that it will, prior to exercising any remedies by reason of such default give any such assignee, mortgagee or trust deed holder written notice of Landlord's failure to cure and so long as such party commences cure within ten (10) days following receipt of such notice and diligently pursues cure, the same shall be deemed a cure.

21. EMINENT DOMAIN

21.1 Taking Resulting in Termination. In the event the entire Premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Lease shall terminate and expire as of the date of such taking, and Landlord and Tenant shall each thereupon be released from any further liability accruing under this Lease.

21.1.1 In the event more than twenty-five percent (25%) of the rentable area of the Premises is taken under the power of eminent domain by any public or quasi-public authority, or if by reason of any appropriation or taking, regardless of the amount so taken, the remainder of the Premises is not satisfactory for Tenant's business operations in the opinion of either Landlord or Tenant, either Landlord or Tenant shall have the right to terminate this Lease as of the date Tenant is required to vacate a portion of the Premises, upon giving notice in writing of such election within thirty (30) days after receipt by Tenant from Landlord of written notice that said Premises have been so appropriated or taken. In the event of such termination, both Landlord and Tenant shall thereupon be released from any liability thereafter accruing under this Lease. Landlord agrees immediately after learning of any proposed appropriation or taking to give to Tenant notice in writing thereof.

21.2 Award. If this Lease is terminated in either manner as provided in Paragraph 21.1, Landlord and District, as their interests may appear, shall be entitled to the entire award or compensation in such proceedings, excepting that portion thereof relating to Tenant's Work, fixtures and personal property to which Tenant shall be solely entitled to same. The Base Rent, Percentage Rent, Common Area Costs and other charges for the last month of Tenant's occupancy shall be prorated through the date of Lease termination.

21.3 Partial Taking. If this Lease is not so terminated as a result of a partial taking, Tenant shall continue to occupy that portion of the Premises which shall not have been appropriated or taken and the parties will proceed as follows: (i) at Landlord's cost and expense and soon as is reasonably possible, Landlord will restore the Premises on the land remaining to

a complete unit of like quality and character as existed prior to such appropriation or taking; (ii) the Base Rent and Common Area Costs provided for in Paragraphs 4 and 17.6.1 shall be adjusted on an equitable basis, taking into account the relative values of the portion taken as compared to the portion remaining; and, (iii) Landlord and District, as their interests may appear, shall be entitled to the entire award or compensation in such proceedings, except that portion thereof associated with the appropriation or taking of Tenant's fixtures and personal property. Tenant hereby waives any statutory rights of termination which may arise by reason of any partial taking of the Premises under the power of eminent domain.

21.4 Transfer under Threat of Taking. For the purposes of this Paragraph 21 only, a voluntary sale or conveyance under threat and in lieu of condemnation shall be deemed an appropriation or taking under the power of eminent domain.

22. ATTORNEYS' FEES

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Lease, the prevailing party shall be entitled to a reasonable attorney's fee and costs which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled and including, without limitation, any such fees or costs incurred on any appeal from such action or proceeding.

23. SUBORDINATION, ATTORNMENT, NONDISTURBANCE

23.1 Subordination. Subject to a nondisturbance agreement in a form satisfactory to Tenant and District, this Lease, and the rights of Tenant hereunder shall be subject and subordinate to the Master Lease and to all mortgages or deeds of trust placed upon the Premises by Landlord, and Landlord shall have the right, subject to District's consent, to encumber in any manner whatsoever any right or interest in the Premises and this Lease. Upon Landlord's request, and subject to a nondisturbance agreement in a form satisfactory to Tenant, Tenant shall subordinate this Lease and Tenant's rights hereunder to any mortgage, deed of trust, hypothecation, security instrument, or other form of encumbrance, present or future, and to any and all conditions, modifications, consolidations, extensions, renewals or replacements thereof. The Master Lease and all mortgages or deeds of trust pertaining in whole or in part to the Premises will not encumber the furniture, trade fixtures, equipment, inventory and all other personal property placed on the Premises by the Tenant.

23.2 Attornment/NonDisturbance. If any right or interest in the Premises or this Lease is sold or transferred by judicial or non-judicial sale, deed in lieu of foreclosure or any other proceeding or action commenced to enforce an encumbrance, Tenant shall attorn to such purchaser, transferee or grantee, as the case may be, and recognize such purchaser, transferee or grantee as Landlord under and for the purpose of this Lease, provided Landlord shall have obtained the attornment, recognition and nondisturbance agreements in a form satisfactory to

Tenant, executed by District and any mortgagee of Landlord, recognizing Tenant's occupancy and lease of the Premises in the event of default by Landlord under the Master Lease or any encumbrance, provided Tenant is not then in default under this Lease.

23.3 Prior Status. If any encumbrancer elects to have this Lease prior to its encumbrance, this Lease shall upon notice to Tenant be deemed prior to such encumbrance, whether this Lease is dated prior or subsequent to the date of recording of the encumbrance.

23.4 Necessary Documents. Subject to a nondisturbance agreement in a form satisfactory to Tenant, Tenant agrees to execute and deliver to Landlord within ten (10) days of Landlord's written request after all other parties have signed the nondisturbance agreement, all documents and instruments required by Landlord or any encumbrancer to make this Lease and Tenant's rights hereunder subordinate or prior to any encumbrance, as the case may be. Tenant hereby irrevocably appoints Landlord as Tenant's attorney-in-fact to execute such documents and instruments on behalf of Tenant if Tenant fails to execute and deliver such documents and instruments to Landlord within the ten (10) day period.

23.5 Estoppel Certificate. Within ten (10) days after written request of Landlord, Tenant shall execute, acknowledge and deliver to Landlord a statement certifying: (i) this Lease is unmodified and in full force and effect (or, if there have been modifications, the same is in full force and effect as modified and stating the modifications); (ii) any existing offsets or defenses against the enforcement of any provisions of this Lease (and, if so, specifying the same); (iii) the dates to which rent or other charges have been paid in advance; and, (iv) such other matters as Landlord may reasonably request. This certificate may be relied upon by any prospective purchaser, lessor, mortgagee or holder of a deed of trust on the Premises. Tenant's certification shall not preclude Tenant from asserting an existing default of Landlord against Landlord or if Tenant did not have actual knowledge of such default on the date of certification, against any other party receiving the estoppel certificate.

24. OPTION/RENT INCREASE PASS THROUGH

24.1 Extended Terms. Subject to the terms, covenants and conditions of this Paragraph 24, Tenant shall have the right (the "Option") to extend the Original Term for two (2) successive five (5) year terms (the "Extended Term(s)"). Tenant shall exercise the Option by giving Landlord written notice (the "Option Notice") at least one hundred eighty (180) days prior to the expiration of the Original or any Extended Term, as the case may be, of its intention to exercise the Option. Exercise of the Option by Tenant shall not be effective if, on the date the Option Notice is received by Landlord, or on the date the Extended term would have otherwise commenced, Tenant is in default in the performance of any term or covenant of this Lease and does not cure such default within the period permitted by paragraph 19.2. The time period within which Tenant may exercise this Option shall not be extended by reason of any such default of Tenant and, unless the Option is effectively exercised, the Lease shall end upon the expiration of the preceding term. The Option Notice will be irrevocable.

24.1.1 Subject to the provisions of Paragraph 24.2, the Base Rent per month for each Extended Term shall be the greater of the Base Rent in effect during the Lease Year month immediately preceding the commencement of each Extended Term or one-twelfth (1/12th) of the greater of (a) seventy-five percent (75%) of the aggregate average of the Base Rent and Percentage Rent paid during the three (3) Lease Years immediately preceding the commencement date of each Extended Term, or (b) Tenant's share of any increases in Landlord's Base Rent under the Master Lease in excess of the Base Rent then payable to Landlord under leases for the other buildings on the Property. Tenant shall continue to pay Base Rent at the rate in effect immediately preceding the commencement date of any Extended Term until Landlord can complete its accounting of Base Rent and Percentage Rent for the immediately preceding Lease Year and will pay any increase in Base Rent following the finalization of such accounting within ten (10) days after Landlord's billing Tenant therefor.

24.1.2 Subject to the provisions of Paragraph 24.2, Percentage Rent and the percentages of Tenant's Gross Sales as specified in Paragraph 4.1.2 used to compute Percentage Rent, shall remain as specified in said Paragraph 4.1.2 during any Extended Term.

24.2 Tenant acknowledges that the "minimum" and "percentage rents", as those terms are defined and specified in the Master Lease, payable by Landlord to District thereunder, are fixed only to September 1, 2012, and thereafter are subject to possible increase at the times and in the manner set forth in the Master Lease. In the event of any increase in Landlord's minimum or percentage rents payable under the Master Lease at any time during any Extended Term of this Lease, and notwithstanding the provisions of this Lease establishing the Base Rent and Percentage Rent as set forth in Paragraphs 4.1, 24.1.1 and 24.1.2, then Tenant's Base Rent and/or Percentage Rent, as the case may be, and at a time concurrent, shall increase by the same rate, or amount in the case of a percentage rent change. Notwithstanding the foregoing, Tenant shall only be responsible for Tenant's share (allocated among the other tenants and subtenants on the Property (including Landlord if Landlord actually occupies the premises) based on the relative square footage of each of their premises) of additional Base Rent actually paid by Landlord and for additional Percentage Rent actually paid by Landlord that is attributable to Tenant's Gross Sales.

25. HAZARDOUS SUBSTANCES

25.1 Reportable Uses Require Consent. The term "Hazardous Substance" as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or

common law theory. Hazardous Substance shall include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products or by-products thereof. Tenant shall not engage in any activity in or about the Premises which constitutes a Reportable Use (as hereinafter defined) of Hazardous Substances without the express prior written consent of Landlord and compliance in a timely manner (at Tenant's sole cost and expense) with all Applicable Requirements (as defined in Paragraph 25.4). "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank; (ii) the generation, possession, storage, use, transportation or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority; and (iii) the presence in, on or about the Premises of a Hazardous Substance with respect to which any applicable laws require that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Tenant may, without Landlord's prior consent, but upon notice to Landlord and in compliance with all Applicable Requirements, use any ordinary and customary materials reasonably required to be used by Tenant in the normal course of the uses of the Tenant permitted under this Lease, so long as such use is not a Reportable Use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage or expose Landlord to any liability therefor. In addition, Landlord may (but without any obligation to do so) condition its consent to any Reportable Use of any Hazardous Substance by Tenant upon Tenant's giving Landlord such additional assurances as Landlord, in its reasonable discretion, deems necessary to protect itself, the public, the Premises and the environment against damage, contamination or injury and/or liability therefor, including but not limited to the installation (and, at Landlord's option, removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasement) and/or the deposit of an additional Security Deposit under Paragraph 28 hereof.

25.2 Duty to Inform Landlord. If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on or under or about the Premises or any building constructed thereon, other than as previously known or consented to by Landlord, Tenant shall immediately give Landlord written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action or proceeding given to, or received from, any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to, such Hazardous Substance including but not limited to all such documents as may be involved in any Reportable Use involving the Premises. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, or under or about the Premises (including, without limitation, through the plumbing or sanitary sewer system).

25.3 Indemnification. Tenant shall indemnify, protect, defend and hold Landlord, its officers, employees and lenders, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits and attorneys and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Tenant or by anyone under Tenant's control. Tenant's obligations under this

Paragraph 25.3 shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Tenant, and the cost of investigation (including consultants' and attorneys' fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved, and shall survive the expiration or earlier termination of this Lease. No termination, cancellation or release agreement entered into by Landlord and Tenant shall release Tenant from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Landlord in writing at the time of such agreement. Landlord shall indemnify, protect, defend and hold Tenant, its officers, employees and lenders, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits and attorneys and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises prior to Tenant taking possession of the Premises.

25.4 Tenant's Compliance with Requirements. Tenant shall, at Tenant's sole cost and expense, fully, diligently and in a timely manner, comply with all "Applicable Requirements," which term is used in this Lease to mean all laws, rules, regulations, ordinances, directives, covenants, easements and restrictions of record, permits, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Landlord's engineers and/or consultants, relating in any manner to the Premises (including but not limited to matters pertaining to (i) industrial hygiene, (ii) environmental conditions created by Tenant or as a result of Tenant's use of the Premises on, in, under or about the Premises, including soil and groundwater conditions, and (iii) the use, generation, manufacture, production, installation, maintenance, removal, transportation, storage, spill or release of any Hazardous Substance by Tenant, or as a result of Tenant's use of the Premises), now in effect or which may hereafter come into effect, Tenant shall, within five (5) days after receipt of Landlord's written request, provide Landlord with copies of all documents and information, including but not limited to permits, registrations, manifests, applications, reports and certificates, evidencing Tenant's compliance with any Applicable Requirements specified by Landlord, and shall immediately upon receipt, notify Landlord in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving failure by Tenant or the Premises to comply with any Applicable Requirements.

25.5 Inspection: Compliance with Law. Landlord, District, Landlord's agents, employees, contractors and designated representatives, and the holders of any mortgages or deeds of trust on the Premises ("Lenders") shall have the right to enter the Premises at any time in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Tenant with this Lease and all Applicable Requirements (as defined in Paragraph 25.4) and Landlord and District shall be entitled to employ experts and/or consultants in connection therewith to advise Landlord and District with respect to Tenant's activities, including but not limited to Tenant's installation, operation, use, monitoring, maintenance, or removal of any Hazardous Substance on or from the Premises. The costs and expenses of any such inspections shall be paid by the party requesting same, unless a violation of Applicable Requirements or a contamination, caused or

materially contributed to by Tenant, is found to exist or to be imminent, or unless the inspection is requested or ordered by a governmental authority as the result of any such existing or imminent violation or contamination, in which case, Tenant shall upon request reimburse Landlord, District or Landlord's Lender, as the case may be for the costs and expenses of such inspections.

26. NOTICES

26.1 Notices. Any notice to be given under this Lease by one party to the other shall be in writing and hand delivered, or sent via registered mail, postage prepaid, or via facsimile to the parties at the addresses or facsimile numbers listed below, or such other address or facsimile number as a party may designate by a written notice made pursuant to this Paragraph. Notices, if sent by mail shall be deemed served two (2) days after the date of mailing or, if sent by facsimile, shall be deemed served upon dispatch.

If to Landlord:

General Counsel
Ferry Landing Associates, LLC
Post Office Box 13308
San Diego, California 92170-3308
Facsimile: (619) 239-1751

If to Tenant:

Il Fornaio (America) Corporation
1000 Sansome Street
San Francisco, California 94111
Facsimile: (415) 956-2879

26.2 Certain Default Notices. Notwithstanding anything to the contrary contained in this Paragraph 26, any notice Landlord is required or authorized to deliver to Tenant in order to advise Tenant of alleged violations of Tenant's covenants contained in Paragraph 10 (Signs), 15 (Failure of Tenant to Repair or Maintain the Premises), 17 (Improper Parking of Tenant's and Tenant's Employees' Automobiles), must be in writing, but shall be deemed to have been duly given to Tenant by delivering a copy of such notice to one (1) of Tenant's managing employees at the Premises or by mailing a copy of such notice to Tenant in the manner specified above. In the event Landlord gives notice as provided in this Paragraph 26.2 by delivering a copy to one of Tenant's managing employees at the Premises, Landlord shall also at the same time fax a copy to Tenant and deposit a copy of such notice in the United States mail, postage prepaid, addressed to Tenant at its address first specified in Paragraph 26.1; however, such mailing shall not diminish or in any way alter the effectiveness of the notice delivered to Tenant's employee.

27. WAIVER OR CONSENT LIMITATION

27.1 No waiver, benefit or privilege voluntarily given or performed by either party shall give the other party any contractual right by custom, estoppel or otherwise. Landlord's consent

to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant. The acceptance of rent or any payment after termination of this Lease shall not constitute a reinstatement, extension or renewal of the Lease or revocation of any notice or other act by Landlord.

28. MISCELLANEOUS

28.1 Holdover. This Lease shall terminate without further notice at the expiration of the Term. Any holding over by Tenant after expiration or earlier termination of this Lease shall not constitute a renewal or extension or give Tenant any rights in or to the Premises. If Tenant, with Landlord's and District's consent, remains in possession of the Premises after expiration or earlier termination of the Term or after the date in any notice given by Landlord to Tenant terminating this Lease, such possession by Tenant shall be deemed to be a month-to-month tenancy terminable on thirty (30) days prior written notice given at any time by either party. During any such month-to-month tenancy, Tenant shall pay all Base Rent, Percentage Rent, Common Area Costs and all other charges as required by this Lease. All provisions of this Lease, except those pertaining to the Term, shall apply to the month-to-month tenancy. If Tenant fails to surrender the Premises upon the expiration of this Lease, despite demand to do so by Landlord, Tenant shall indemnify and hold Landlord harmless from all loss, liability, costs and expenses, including attorneys' fees, incurred by Landlord as a result of such holdover, including without limitation any claims made by any succeeding tenant.

28.2 [INTENTIONALLY LEFT BLANK]

28.3 District Approval and Rules and Regulations.

28.3.1 District Approval. The approval or consent of the District wherever required in the Master Lease shall mean the approval or consent of the Executive Director of the San Diego Unified Port District, unless otherwise specified. Landlord's refusal to consent or approve of any matter under this Lease shall be deemed reasonable if the consent or approval of District is required and District fails or refuses to give its consent or approval, and Landlord shall have no liability to Tenant with respect to such failure or refusal.

28.3.2 District Rules and Regulations. Tenant agrees that in all activities on or in connection with the Premises and in all uses thereof, including the making of any alterations or changes and the installation of any machines, trade fixtures, appliances or equipment or other improvements, it will abide by and conform to all rules and regulations prescribed by the San Diego Unified Port District Act, any ordinance of any city wherein the Premises are located, including the Building Code thereof, and any ordinances and general rules of the District, including tariffs, and any applicable laws of the State of

California and federal government, as any of the same now exists or may hereafter be adopted or amended.

28.4 Transfer by Landlord. If Landlord or Landlord's successor in interest transfers its interest in this Lease, Landlord, or its successor in interest, shall automatically be freed and relieved from all personal liability for the performance of any obligation after the date of such transfer or conveyance provided any such transferee specifically assumes all of the duties and obligations of Landlord or Landlord's successor in interest under this Lease. Any funds in which Tenant has an interest which are in the hands of Landlord, or its successor in interest, shall be turned over to the transferee.

28.5 Time of the Essence. Time is of the essence under this Lease.

28.6 Force Majeure. The occurrence of any of the following events shall excuse such obligations of Landlord or Tenant as are thereby rendered impossible or reasonably impracticable for so long as such event continues: lockout; labor dispute; acts of God; inability to obtain labor, materials, or reasonable substitutes therefor; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental actions; civil commotions; and other causes beyond the reasonable control of the party obligated to perform. The occurrence of such events shall not, however, excuse the Tenant's obligations to pay Base Rent, Percentage Rent, Common Area Costs, or any other charge (unless the provisions of Paragraph 16 apply) nor excuse such obligations as this Lease may otherwise impose on the party to abate, remedy or avoid such event; moreover, should an act or omission of Tenant or Tenant's contractor be the principal cause of a strike, lockout and/or labor dispute, such strike, lockout or labor dispute shall not excuse Tenant's performance.

28.7 Quiet Possession. Landlord agrees that Tenant, upon paying the Base Rent, Percentage Rent, Common Area Costs and all other charges provided for in this Lease and performing all the covenants and conditions of this Lease, may quietly have, hold and enjoy the Premises from and after Landlord's delivery of the Premises to Tenant in accordance with EXHIBIT E to this Lease, and until the end of the Term; subject, however, to the provisions of Paragraphs 15.3 and 28.3, the Master Lease and any mortgages, sub-ground leases, agreements and encumbrances to which this Lease is or may become subordinate as provided herein.

28.8 Headings/Number and Gender. The captions and paragraph headings of this Lease are inserted only as a matter of convenience and no way define, limit or describe the scope of the meaning or intent of the provisions of this Lease. Words of gender shall include any other gender, singular words include the plural and the word "person" includes individuals, firms, partnerships, joint ventures, corporations, trusts and other types of entities or associations.

28.9 Governing Law and Severability. This Lease is entered into at San Diego, California, and shall be governed and construed under California laws applicable to contracts

made and to be performed entirely in California. If any provision of this Lease is invalid or contravenes California law, such provision shall be deemed not to be a part of this Lease and shall not affect the validity or enforceability of the remaining provisions.

28.10 Interest Rate/Consecutive Days. Whenever it is provided in this Lease that interest at a rate provided in this Lease shall accrue and be payable by Landlord to Tenant or by Tenant to Landlord on amounts paid or incurred by Landlord on behalf of Tenant or due and payable by Tenant to Landlord, unless otherwise specifically provided, such interest shall be at the annual rate of ten percent (10%) and shall accrue as of the date paid or incurred by Landlord on behalf of Tenant or the date due and payable by Tenant to Landlord and shall continue to accrue up to and including the date all such amounts, together with interest, are paid by Tenant to Landlord. Whenever the term "days" is used in this Lease, it shall mean consecutive days, unless otherwise specifically provided.

28.11 Binding Effect. Subject to restrictions on the rights of Tenant to transfer, assign or sublet this Lease, this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, beneficiaries, legal representatives, successors and assigns.

28.12 Amendments and Modification. This Lease may be amended or modified only by a written instrument executed by both parties. This Lease shall not be amended or modified in any respect without the prior written consent of District. Any purported amendment or modification without prior written consent shall be null and void.

28.13 Negation of Partnership. Landlord shall not become or be deemed a partner or a joint venturer with Tenant by reason of the provisions of this Lease.

28.14 Entire Agreement. This Lease, all attached exhibits and all documents incorporated by reference as well as a July 15, 1997 letter from Landlord's counsel to Tenant's counsel discussing Gross Sales supersede all oral statements and representations and contain the entire agreement of the parties with respect to Tenant's use and occupancy of the Premises. Tenant specifically acknowledges and agrees that Landlord has not made any representation, claim or warranty to Tenant in connection with Tenant's execution of this Lease and occupancy of the Premises during the Term related to (i) the profitability or anticipated financial success of the Project; (ii) the tenant mix or composition within the Project; (iii) the identity of any particular tenant proposed to occupy space within the Project; (iv) the anticipated occupancy rate of subleasable space within the Project at any time; or (v) the opening date of any business to be operated within the Project.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

LANDLORD:

FERRY LANDING ASSOCIATES, LLC
a California limited liability company

By: 

ARTHUR E. ENGEL,
Manager

TENANT:

IL FORNAIO (AMERICA) CORPORATION,
a Delaware corporation

By: 

LAURENCE B. MINDEL,
Chief Executive Officer

EXHIBIT A

LEGAL DESCRIPTION

PARCEL NO. 1

Commencing at Station 63 on the Ordinary High Water Mark for the Bay of San Diego, as said Ordinary High Water Mark is delineated on map entitled "Map of the Lands Transferred to the San Diego Unified Port District Pursuant to Chapter 67, Statutes of 1962, 1st E.S., Vicinity of San Diego Bay, San Diego County, California," filed in the Office of the San Diego County Recorder May 28, 1976, as Miscellaneous Map No. 564, File No. 76-164686, said Station 63 lying on the northerly right-of-way line of First Street in the City of Coronado; thence leaving said Ordinary High Water Mark and along the northerly right-of-way line of First Street north $63^{\circ}03'10''$ west a distance of 45.00 feet; thence leaving said northerly right-of-way line of First Street north $26^{\circ}56'50''$ east a distance of 190.45 feet to the TRUE POINT OF BEGINNING of Parcel No. 1; thence continuing north $26^{\circ}56'50''$ east a distance of 250.11 feet; thence south $63^{\circ}03'10''$ east a distance of 25.00 feet; thence south $26^{\circ}56'50''$ west a distance of 24.57 feet; thence south $63^{\circ}03'10''$ east a distance of 60.75 feet; thence north $60^{\circ}32'15''$ east a distance of 48.80 feet; thence south $64^{\circ}10'44''$ east a distance of 82.11 feet; thence south $55^{\circ}05'57''$ east a distance of 96.34 feet; thence south $22^{\circ}45'12''$ west a distance of 85.88 feet; thence south $58^{\circ}42'38''$ east a distance of 91.81 feet; thence north $31^{\circ}27'34''$ east a distance of 94.72 feet; thence north $70^{\circ}49'31''$ east a distance of 38.64 feet; thence south $65^{\circ}37'34''$ east a distance of 134.61 feet; thence south $63^{\circ}03'10''$ east a distance of 47.19 feet to the intersection with the northerly prolongation of that line lying between Stations 60 and 61 on the said Ordinary High Water Mark; thence along said northerly prolongation and the Ordinary High Water Mark south $26^{\circ}56'50''$ west a distance of 315.19 feet to Station 61; thence north $63^{\circ}03'10''$ west a distance of 558.96 feet to Station 62; thence leaving said Ordinary High Water Mark north $26^{\circ}56'50''$ east a distance of 25.00 feet; thence north $63^{\circ}03'10''$ west a distance of 45.00 feet to the TRUE POINT OF BEGINNING of Parcel No. 1, containing 164,969 square feet or 3.79 acres of tideland area, EXCEPTING therefrom a 15.0 foot wide parcel containing 13,394 square feet or 0.31 acre described hereinafter as Parcel No. 5, the net leased area of said Parcel No. 1 granted herein being 151,575 square feet or 3.48 acres.

Also: RESERVING to lessee Parcel No. 5 as and for an access and subsurface utility easement area.

PAGE 1 of 4

DRAWN <u>JDP/MS</u> CHECKED <u>JFD</u> REVIEWED <u>[Signature]</u> APPROVED <u>[Signature]</u> SR. DIRECTOR/PUBLIC WORKS	SAN DIEGO UNIFIED PORT DISTRICT TIDELAND LEASE Within Corporate Limits of Coronado & San Diego FERRY LANDING ASSOCIATES	DATE <u>12/01/97</u> SCALE _____ REF. <u>7178</u> DRAWING NO. 057-002
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PARCEL NO. 2

Beginning at the most northwesterly corner of the above described Parcel No. 1, said corner also being the TRUE POINT OF BEGINNING of Parcel No. 2; thence north $26^{\circ}56'50''$ east a distance of 225.28 feet to the intersection with the U.S. Pierhead Line, as said U.S. Pierhead Line is now established for the Bay of San Diego and delineated on map entitled "Harbor Lines, San Diego Bay, California, File No. (D.O. Series) 426", approved by the Secretary of the Army, April 29, 1963, and filed in the Office of the District Engineer, Los Angeles, California; thence along said U.S. Pierhead Line south $58^{\circ}24'02''$ east a distance of 605.96 feet to the intersection with the northerly prolongation of that line lying between Stations 60 and 61 on the said Ordinary High Water Mark; thence leaving said U.S. Pierhead Line and along the northerly prolongation line south $26^{\circ}56'50''$ west a distance of 136.05 feet; thence leaving said northerly prolongation line north $63^{\circ}03'10''$ west a distance of 47.19 feet; thence north $65^{\circ}37'34''$ west a distance of 134.61 feet; thence south $70^{\circ}49'31''$ west a distance of 38.64 feet; thence south $31^{\circ}27'34''$ west a distance of 94.72 feet; thence north $58^{\circ}42'38''$ west a distance of 91.81 feet; thence north $22^{\circ}45'12''$ east a distance of 85.88 feet; thence north $55^{\circ}05'57''$ west a distance of 96.34 feet; thence north $64^{\circ}10'44''$ west a distance of 82.11 feet; thence south $60^{\circ}32'15''$ west a distance of 48.80 feet; thence north $63^{\circ}03'10''$ west a distance of 60.75 feet; thence north $26^{\circ}56'50''$ east a distance of 24.57 feet; thence north $63^{\circ}03'10''$ west a distance of 25.00 feet to the TRUE POINT OF BEGINNING of Parcel No. 2, containing 121,281 square feet or 2.78 acres of water covered area.

PARCEL NO. 3

Beginning at Station 63 on the above described Ordinary High Water Mark, said Station 63 lying on the northerly right-of-way line of First Street in the City of Coronado, said Station 63 also being the TRUE POINT OF BEGINNING of Parcel No. 3; thence leaving said Ordinary High Water Mark and along the northerly right-of-way line of First Street north $63^{\circ}03'10''$ west a distance of 45.00 feet; thence leaving said northerly right-of-way line of First Street north $26^{\circ}56'50''$ east a distance of 190.45 feet; thence south $63^{\circ}03'10''$ east a distance of 45.00 feet to the intersection with the northerly prolongation of that line lying

PAGE 2 of 4

DRAWN <u>JDP/MS</u> CHECKED <u>JFD</u> REVIEWED <u>William J. DeLoach</u> APPROVED <u>W. DeLoach</u> SR. DIRECTOR/PUBLIC WORKS	SAN DIEGO UNIFIED PORT DISTRICT TIDELAND LEASE Within Corporate Limits of Coronado & San Diego FERRY LANDING ASSOCIATES	DATE <u>12/01/97</u> SCALE _____ REF. <u>7178</u> DRAWING NO. <u>057-002</u>
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between Stations 62 and 63 on the said Ordinary High Water Mark; thence along said northerly prolongation and the Ordinary High Water Mark south $26^{\circ}56'50''$ west a distance of 190.45 feet to the TRUE POINT OF BEGINNING of Parcel No. 3, containing 8,570 square feet of 0.20 acre of tideland area.

PARCEL NO. 4

Beginning at the True Point of Beginning of Parcel No. 1, said point also being the TRUE POINT OF BEGINNING of Parcel No. 4; thence south $26^{\circ}56'50''$ west a distance of 190.45 feet to the northerly right-of-way line of First Street; thence along said northerly right-of-way line north $63^{\circ}03'10''$ west a distance of 30.00 feet; thence leaving said northerly right-of-way line of First Street north $26^{\circ}56'50''$ east a distance of 299.43 feet; thence south $85^{\circ}34'21''$ east a distance of 32.48 feet; thence south $26^{\circ}56'50''$ west a distance of 121.42 feet to the TRUE POINT OF BEGINNING of Parcel No. 4, containing 9,170 square feet or 0.21 acre of tideland area.

RESERVING therefrom a nonexclusive pubic pedestrian and bicycle access easement.

PARCEL NO. 5

Being an area 15.0 feet in width, lying 7.5 feet on either side of the following described center line:

Commencing at the true point of beginning of Parcel No. 1; thence north $26^{\circ}56'50''$ east a distance of 113.92 feet to the TRUE POINT OF BEGINNING of the center line of Parcel No. 5; thence along a circular arc to the left having a tangential bearing south $63^{\circ}52'55''$ east and a radius of 27.50 feet for a distance of 33.71 feet along the arc of said curve through an angle of $70^{\circ}14'40''$; thence north $45^{\circ}52'25''$ east a distance of 70.79 feet to the beginning of a curve to the right having a radius of 27.50 feet; thence 34.11 feet along the arc of said curve through an angle of $71^{\circ}04'25''$; thence south $63^{\circ}03'10''$ east a distance of 0.44 feet to the beginning of a curve to the left having a radius of 27.50 feet; thence 27.07 feet along the arc of said curve through an angle of $56^{\circ}24'35''$; thence north $60^{\circ}32'15''$ east a distance of 16.09 feet to the beginning of a curve to the right having a

PAGE 3 of 4

DRAWN <u>JDP/MS</u>	SAN DIEGO UNIFIED PORT DISTRICT TIDELAND LEASE Within Corporate Limits of Coronado & San Diego FERRY LANDING ASSOCIATES	DATE <u>12/01/97</u>
CHECKED <u>[Signature]</u>		SCALE _____
REVIEWED <u>[Signature]</u>		REF. <u>7178</u>
APPROVED <u>[Signature]</u>		DRAWING NO.
SR. DIRECTOR/PUBLIC WORKS		057-002

radius of 27.50 feet; thence 26.53 feet along the arc of said curve through an angle of $55^{\circ}17'01''$; thence south $64^{\circ}10'44''$ east a distance of 56.39 feet; thence south $55^{\circ}05'57''$ east a distance of 73.64 feet to the beginning of a curve to the right having a radius of 27.50 feet; thence 37.37 feet along the arc of said curve through an angle of $77^{\circ}51'09''$; thence south $22^{\circ}45'12''$ west a distance of 39.16 feet to the beginning of a curve to the left having a radius of 27.50 feet; thence 39.10 feet along the arc of said curve through an angle of $81^{\circ}27'50''$; thence south $58^{\circ}42'38''$ east a distance of 60.22 feet to the beginning of a curve to the left having a radius of 27.50 feet; thence 43.12 feet along the arc of said curve through an angle of $89^{\circ}49'40''$; thence north $31^{\circ}27'34''$ east a distance of 66.83 feet to the beginning of a curve to the right having a radius of 27.50 feet; thence 41.03 feet along the arc of said curve through an angle of $85^{\circ}29'15''$; thence south $63^{\circ}03'11''$ east a distance of 137.81 feet to the beginning of a curve to the right having a radius of 27.50 feet; thence 22.05 feet along the arc of said curve through an angle of $45^{\circ}56'16''$; thence south $17^{\circ}06'55''$ east a distance of 19.89 feet to the POINT OF TERMINUS of the center line of Parcel No. 5, said POINT OF TERMINUS being on the northerly prolongation of that line lying between Stations 60 and 61 on the said Ordinary High Water Mark, containing 12,680 square feet or 0.29 acre of tideland area.

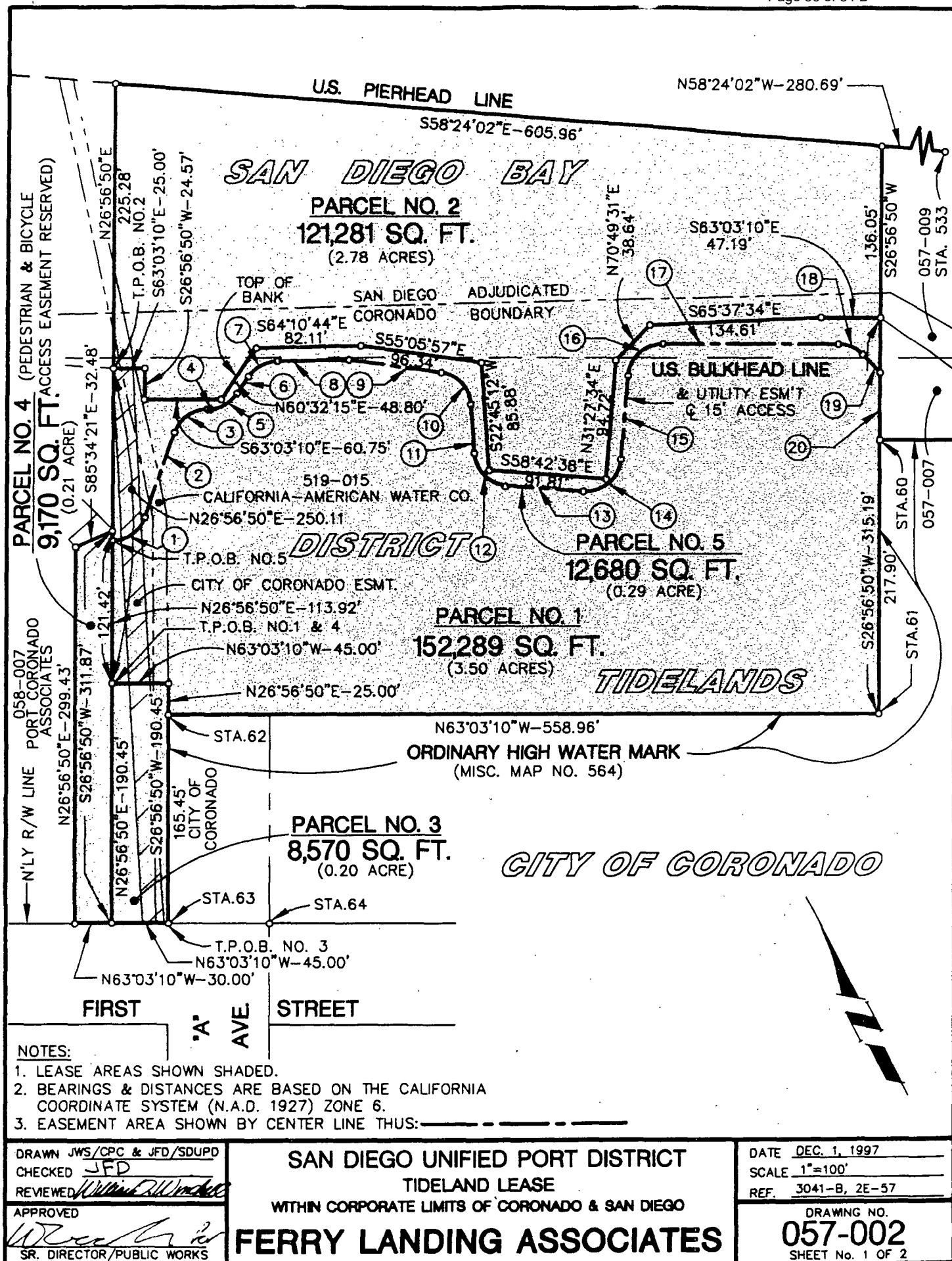
The extreme limit lines of said Parcel No. 5 are to be radiused at all center line arcs and to be prolonged or shortened at all angle points and points of intersections to ensure a uniform width throughout.

PAGE 4 of 4

DRAWN <u>JDP/MS</u> CHECKED _____ REVIEWED <u>[Signature]</u> APPROVED <u>[Signature]</u> SR. DIRECTOR/PUBLIC WORKS	SAN DIEGO UNIFIED PORT DISTRICT TIDELAND LEASE Within Corporate Limits of Coronado & San Diego FERRY LANDING ASSOCIATES	DATE <u>12/01/97</u> SCALE _____ REF. <u>7178</u> DRAWING NO. 057-002
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EXHIBIT B

PROJECT PLOT PLAN



PARCEL NO. 5 TRAVERSE DATA

- ① LENGTH 33.71 FEET; RADIUS 27.50 FEET; 70°14'40"; STARTING TANGENT TO S63°52'55"E
- ② N45°52'25"E 70.79 FEET
- ③ LENGTH 34.11 FEET; RADIUS 27.50 FEET; $\Delta=71°04'25"$
- ④ S63°03'10"E 0.44 FEET
- ⑤ LENGTH 27.07 FEET; RADIUS 27.50 FEET; $\Delta=56°24'35"$
- ⑥ N60°32'15"E 16.09 FEET
- ⑦ LENGTH 26.53 FEET; RADIUS 27.50 FEET; $\Delta=55°17'01"$
- ⑧ S64°10'44"E 56.39 FEET
- ⑨ S55°05'57"E 73.64 FEET
- ⑩ LENGTH 37.37 FEET; RADIUS 27.50 FEET; $\Delta=77°51'09"$
- ⑪ S22°45'12"W 39.16 FEET
- ⑫ LENGTH 39.10 FEET; RADIUS 27.50 FEET; $\Delta=81°27'50"$
- ⑬ S58°42'38"E 60.22 FEET
- ⑭ LENGTH 43.12 FEET; RADIUS 27.50 FEET; $\Delta=89°49'48"$
- ⑮ N31°27'34"E 66.83 FEET
- ⑯ LENGTH 41.03 FEET; RADIUS 27.50 FEET; $\Delta=85°29'15"$
- ⑰ S63°03'11"E 137.81 FEET
- ⑱ LENGTH 22.05 FEET; RADIUS 27.50 FEET; $\Delta=45°56'16"$
- ⑲ S17°06'55"E 19.89 FEET
- ⑳ N26°56'50"E 53.83 FEET

DRAWN JWS/CPC & JFD/SDUPD

CHECKED *JFD*REVIEWED *William Martin*

APPROVED


 SR. DIRECTOR/PUBLIC WORKS
SAN DIEGO UNIFIED PORT DISTRICT**TIDELAND LEASE**

WITHIN CORPORATE LIMITS OF CORONADO & SAN DIEGO

FERRY LANDING ASSOCIATES

DATE DEC. 1, 1997

SCALE 1"=100'

REF. 3041-B, 2E-57

DRAWING NO.

057-002

SHEET No. 2 OF 2

EXHIBIT C

PREMISES PLOT PLAN

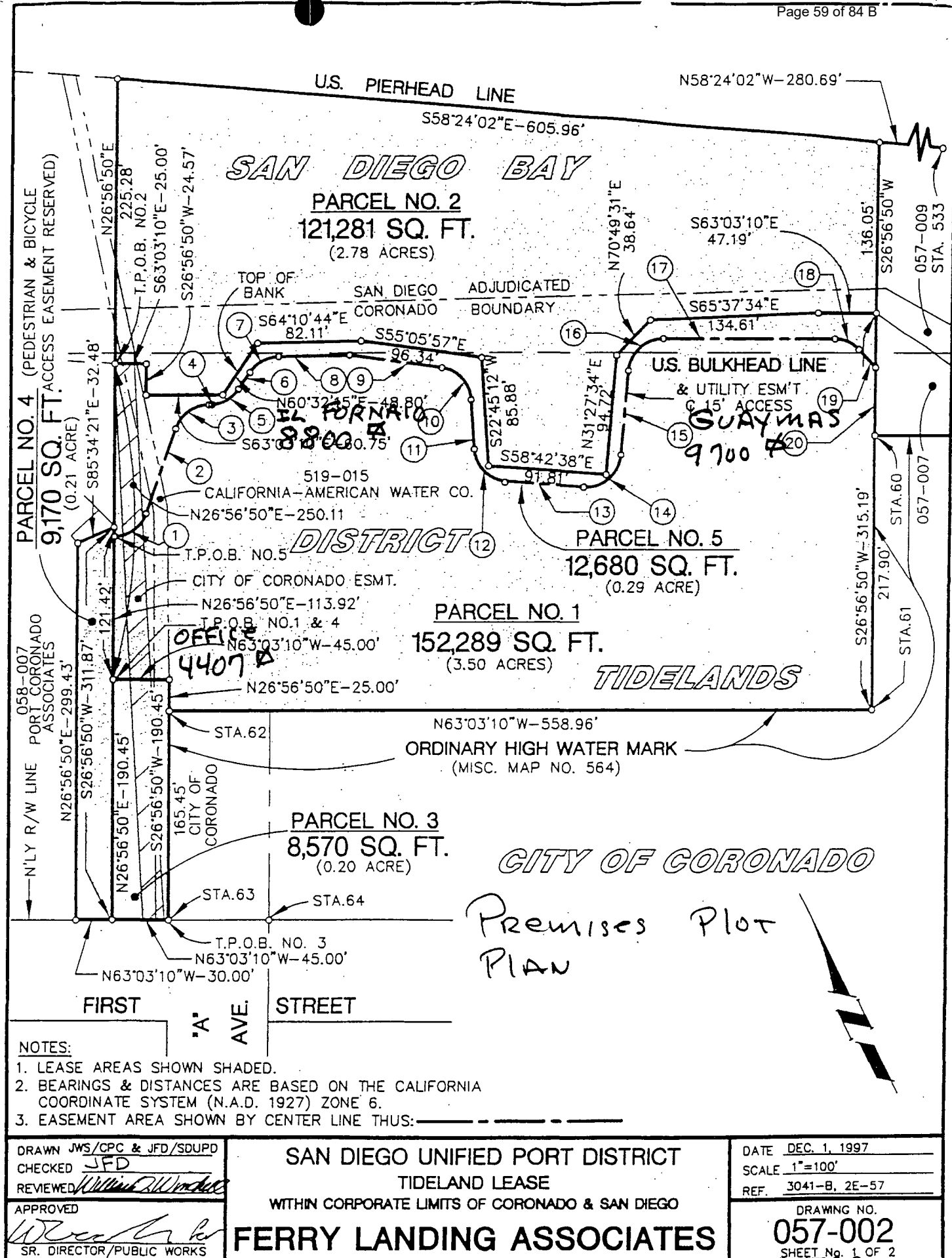


EXHIBIT C

37510

59

FINAL DRAWING TO BE SUBMITTED WHEN AVAILABLE

EXHIBIT D

COMMON AREA

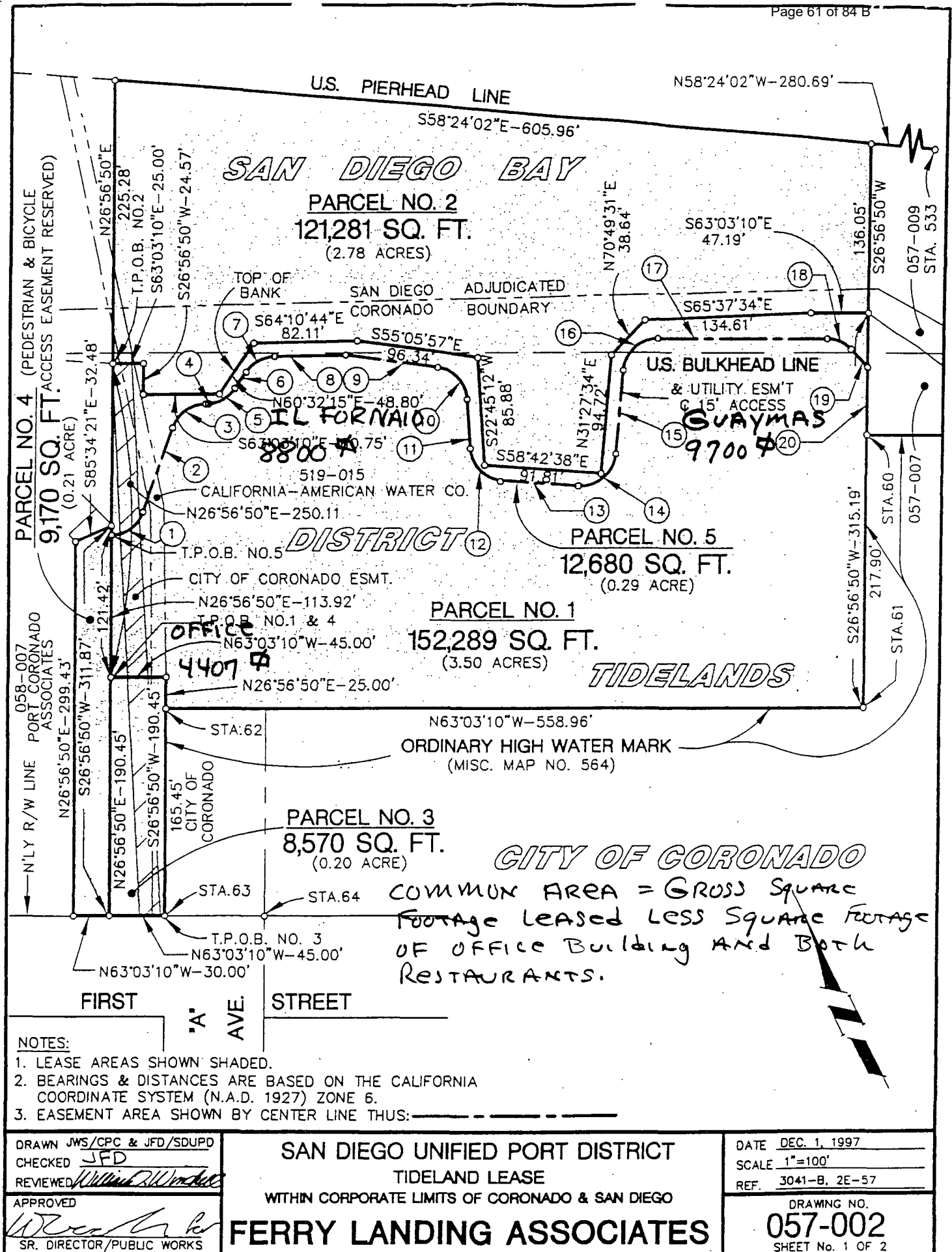


EXHIBIT D

37510

FINAL DRAWING TO BE SUBMITTED WHEN AVAILABLE 61

EXHIBIT E

LANDLORD'S WORK

Landlord shall be responsible for site work and associated improvements consisting of the following:

- **Demolition:** Including existing concrete piers, shoreline improvement and replacement, fence and gate at shoreline and existing wood dock.
- **Earthwork:** Including scarification of 12" and compaction of 90%; fine grading of the site.
- **On Site Utilities:** Stubbed to within 5' from tenants building perimeter consisting of 6" sanitary sewer line, 2" domestic water service, 208 volt/3 phase electrical service with 800 amp capacity; 2" natural gas service; telephone conduit sized to accommodate tenant's requirements; storm drain and catch basins; code required fire hydrants; exterior parking lighting.
- **Asphalt Paving:** Parking area including stall striping.
- **Site Concrete:** Including main entry, driveway, curb and gutters, bike path, sidewalks, trash enclosure pads, etc.
- **Landscape:** Including parking area and irrigation.
- **Substructure:** Drive all tenant required pre-stress concrete piles associated with the foundation system. Provide all associated pile caps and perimeter beam. (Tenant to supply and install necessary sleeves for back outs in the concrete perimeter beam necessary for Tenant's utilities required to pass through the foundation.)
- **Masonry:** Site perimeter screen wall.
- **Steel:** Including site and bike path hand rails.
- **Paint:** Screen wall only.

Additional Items:

1. **Trash Enclosure:** If the parties discover that applicable laws, rules or regulations require that the trash enclosure be fully enclosed (as opposed to three-sided), Landlord shall indemnify Tenant from the additional costs to fully enclose the trash enclosure.
2. **Exhaust Control:** If applicable laws, rules, regulations or community response (as hereinafter defined) require that Tenant's exhaust control system include a water wash system and/or electronic precipitator, Landlord shall indemnify Tenant from the

additional costs thereof, including maintenance. As used herein, the term "community response" shall be defined to mean that level of response from the neighboring community in the form of letters, petitions or other forms of protest whereby a prudent restaurant owner spending its own money would install such devices.

3. **Equipment on Roof:** With respect to the equipment to be located on the roof of the Premises, if anything more than an extension of the parapet is required to conceal said equipment under applicable laws, rules or regulations, Landlord shall indemnify Tenant from the additional costs thereof, including building an enclosure therefor, if necessary.

EXHIBIT F

TENANT'S WORK & LANDLORD'S ALLOWANCE

1. TENANT'S WORK — IN GENERAL

Tenant shall provide for the building shell and all complete Tenant improvements in accordance with Tenant's Final Approved Plans. Including but not limited to the following:

- **Construction of utility sleeves or backouts:** In concrete forms for any utility work that may pass through the foundation.
- **Grease traps:** If required by municipal authority.
- **Domestic water service:** Distribution of 2" domestic water service.
- **Fire sprinkler:** Distribution, (if required) including detector check valves, hose connections, etc.
- **Electrical system:** Distribution of 208 volt/3-phase electrical system including meter and distribution panel.
- **Natural gas distribution**
- **Telephone service distribution**
- **HVAC Components:** All required components including distribution, kitchen exhaust, make-up air, duct work, etc.
- **Enhanced Site Improvements:** (Concrete or landscape) at building perimeter.
- **Enhanced Exterior Lighting**
- **Exterior Patios:** Used by Tenant for dining.

2. LANDLORD'S ALLOWANCE

Landlord to provide allowance in an amount not to exceed \$1,300,000.

Landlord assume responsibility for any cost difference (increase) between a typical 4" slab on grade and the anticipated 12" concrete slab.

3. TENANT'S PLANS

3.1 PRELIMINARY PLANS: Within forty-five (45) days after the execution of the Lease, Tenant shall, at Tenant's sole expense, prepare and deliver to Landlord preliminary plans and specifications for the construction of the Project on the Premises ("Tenant's

Preliminary Plans"). Landlord shall have seven (7) business days within which to approve or disapprove Tenant's Preliminary Plans. If Landlord shall not have approved or disapproved Tenant's Preliminary Plans within the stated time period, Landlord's approval shall be deemed to have been given. If Landlord disapproves of Tenant's Preliminary Plans, Landlord shall detail the items specifically disapproved in writing to Tenant. Within seven (7) business days after Tenant's receipt of Landlord's specific disapproval, Tenant shall modify Tenant's Preliminary Plans to incorporate the changes requested by Landlord. Tenant shall then resubmit the revised Tenant's Preliminary Plans to Landlord for Landlord's approval which shall be given or denied in accordance with the procedure detailed in this Paragraph 3.1.

3.2 FINAL PLANS: Within ninety (90) days after Landlord's approval of Tenant's Preliminary Plans, Tenant shall, at Tenant's sole expense, prepare Tenant's final plans, specifications and working drawings for the improvement of the Project on the Premises (the "Tenant's Final Plans"), and submit the same to Landlord.

3.2.1 Tenant's Final Plans shall, as a minimum, detail Tenant's required building (interior and exterior) improvements, trade fixtures, furnishings, furniture and equipment as follows:

- a. Overall floor and partition plan designating all area uses including fixture layout;
- b. Lighting plan designating type and intensity of all lighting;
- c. Electrical plan showing the precise location for all outlets, and lighting fixtures including electrical loads prepared by a licensed electrical engineer;
- d. Plumbing plan showing type and location of all plumbing fixtures and all sewer, water, and/or gas lines;
- e. Signing plan showing the type, design, coloration and location of all signs; and,
- f. Overall design and decor, theme and color coordination, floor and wall coverings, any window coverings and special ceiling effects, or any special effects.

3.2.2 Landlord shall have seven (7) business days within which to approve or disapprove the Tenant's Final Plans; Landlord shall act reasonably in the granting or withholding its approval. If Landlord shall not have approved or disapproved the Tenant's Final Plans within the stated time period, Landlord's approval shall be deemed to have been given. In the event Landlord disapproves the Tenant's Final Plans, Landlord shall detail the items specifically disapproved in writing to Tenant. Within seven (7) business days after Tenant's receipt of Landlord's specific disapproval, Tenant shall modify the Tenant's Final Plans to incorporate the requested changes by Landlord. Tenant shall then resubmit revised Tenant's Final Plans to Landlord for Landlord's approval, which shall be given in accordance with this Paragraph 3.2.2.

3.2.3 Since Landlord is not responsible for construction of Tenant's Work, Landlord's approval of Tenant's Final Plans shall not render Landlord liable or responsible for any defect in any improvement, material, furniture, fixtures or equipment constructed by Tenant in performing Tenant's Work. The term "Tenant's Work" shall include all improvements to be made by Tenant as provided herein.

3.2.4 In the event Tenant fails or refuses to perform the Tenant's Work within the Premises, Landlord shall, in addition to all its other rights under the Lease and permitted by law, have the right, at its option, to construct the Tenant's Work in accordance with Tenant's Final Approved Plans subject to the provisions of this Paragraph 3.2.4. Landlord shall provide Tenant written notice specifying the Tenant's Work Landlord intends to perform. If Tenant fails to perform the Tenant's Work specified in Landlord's notice within thirty (30) days after receipt thereof, Landlord may construct the Tenant's Work in accordance with Tenant's Final Approved Plans and any cost or expense incurred by Landlord in the construction of Tenant's Work shall be immediately due upon Tenant's receipt of Landlord's demand for reimbursement for such costs and expenses, which amounts shall bear interest at a rate provided in this Lease. In the event Landlord elects to complete the Tenant's Work as provided in this Paragraph, Landlord will use its best efforts to ensure that the building and the Premises will be structurally sound and safe for occupancy by Tenant and built by Landlord in accordance with all applicable federal, state and local building and fire codes, laws and regulations.

3.2.5 Contemporaneously with the submission of Tenant's Final Plans to Landlord for Landlord's approval, Tenant shall submit Tenant's Final Plans to District for District's approval in accordance with Paragraph 4(b) of the Master Lease and to the City of Coronado for the City's approval. Tenant shall diligently endeavor to obtain the District's and City's approval of Tenant's Final Plans, hereinafter referred to as Tenant's Final Approved Plans.

4. TENANT'S CONSTRUCTION

4.1 Tenant shall only use such contractors as are bondable and approved in writing by Landlord. All construction shall be fully consistent with Tenant's Final Approved Plans and performed in a first class, workmanlike manner acceptable to Landlord's architect and the District. The substance of the items set forth below shall be incorporated as special conditions into the contract between Tenant and its contractors, as follows:

4.1.1 Prior to the start of Tenant's Work, Tenant shall provide Landlord (i) written notice thereof at least five (5) days prior thereto for purposes of posting appropriate notices of nonresponsibility and (ii) a construction schedule indicating the completion dates of all phases of Tenant's Work.

4.1.2 Tenant's contractor shall perform said work in a manner and at times which do not impede or delay Landlord in the completion of Landlord's Work. Any delays in the completion of Landlord's Work or the commencement of the term of the Lease and any damage to any Landlord's Work caused by Tenant's contractor shall be at the sole cost and expense of Tenant.

4.1.3 Tenant's contractor shall be responsible for the repair, replacement or clean-up of any damage done by him to other Project contractor's work which specifically includes accessways to the Tenant's Premises which may be concurrently used by others.

4.1.4 Tenant's contractor shall contain his storage of materials and his operations within the Premises and such other space as he may be assigned by Landlord. Should he be assigned space outside of the Premises, he shall move to such other space as Landlord shall direct from time to time to avoid interference or delays with other work.

4.1.5 All trash and surplus construction materials shall be stored within the Premises and shall be promptly removed from the Project.

4.1.6 Tenant's contractor shall provide temporary utilities, portable toilet facilities and portable drinking water as required for his work within the Premises and shall pay to Landlord the cost of any temporary utilities and facilities provided by Landlord at Tenant's contractor's request.

4.1.7 Tenant's contractor shall notify Landlord's project manager of any planned work to be done on weekends or other than normal job hours.

4.1.8 Tenant and Tenant's contractor are responsible for compliance with all applicable codes and regulations, all applicable safety regulations established by Landlord for the Project and Tenant further agrees to save and hold Landlord harmless for said work as provided in Paragraph 7.11 of the Lease. Prior to commencement of construction, Tenant shall submit to Landlord evidence of insurance as required in Paragraph 7 of this Lease. Said insurance shall provide that course of construction coverage and worker's compensation coverage shall be in full force and effect in the amounts specified for liability and worker's compensation in Paragraph 7 of the Lease covering all phases of Tenant's Work.

4.1.9 Tenant's contractor or subcontractors shall not post signs on any part of the Project or on the Premises.

4.1.10 Tenant shall be responsible for and shall obtain and record a Notice of Completion promptly following completion of Tenant's Work.

4.1.11 Tenant shall furnish Landlord copies of all construction contracts prior to the commencement of Tenant's Work.

4.2 Possession of the Premises by Tenant prior to commencement of the term of the Lease shall be subject to all terms and provisions of the Lease except payment of Rent and Common Area Costs.

4.3 In the event changes to the Tenant's Final Approved Plans are required by Tenant, Tenant shall, prior to the institution of any such changes, notify Landlord in writing of the nature of the changes and submit revised plans and specifications showing such changes to Landlord and District for District's written approval in accordance with Paragraph 5 of the Master Lease. In the event Tenant does not receive District's written approval, Tenant shall not institute any such changes.

4.4 Within thirty (30) days following completion of Tenant's Work, Tenant shall furnish Landlord with an itemized statement of the actual construction cost of such improvements. The statement shall be sworn to and signed by Tenant or its responsible agent under penalty of perjury.

5. COMPLETION OF LANDLORD'S WORK

5.1 The completion of Landlord's Work shall be subject to "Unavoidable Delays." "Unavoidable Delays" shall mean delays due to strikes, unavailability of materials, governmental delays, acts of God, changes in plans and specifications or manner of construction required by District, delays incurred due to Tenant's construction of Tenant's Work or other matters which are outside the reasonable control of Landlord. The date of Completion of Landlord's Work shall be extended by one day for each day of Unavoidable Delay.

FIRST AMENDMENT TO SUBLEASE

THIS FIRST AMENDMENT TO SUBLEASE ("Amendment") is made as of October 22, 1997, between **FERRY LANDING ASSOCIATES, LLC**, a California limited liability company ("Landlord"), and **IL FORNAIO (AMERICA) CORPORATION**, a Delaware corporation ("Tenant"), who agree as follows:

1. **FACT RECITALS.**

This Amendment is made with reference to the following facts:

a. **Sublease.**

Landlord and Tenant entered into that certain written Sublease dated October 22, 1997, the provisions of which, while not attached hereto, are nonetheless incorporated herein by this reference (the "Lease").

b. **Intent of the Parties.**

It is the intent of the parties to amend the Lease as set forth in this Amendment. Words and phrases as used in this Amendment shall have the same meaning as set forth in the Lease except as otherwise specifically defined herein.

2. **DESCRIPTION OF PREMISES.**

For purposes of the Lease, the Premises will be defined as having eight thousand eight hundred (8,800) square feet of unimproved property as opposed to the 7,500 square feet set forth in paragraph 1.1.

3. **PROJECT CONSTRUCTION.**

Paragraph 2.4 of the Lease entitled "Project Construction" is hereby deleted and replaced with the following:

2.4 Project Construction. Landlord represents that it shall construct the Project in accordance with the requirements of District pursuant to Paragraphs 4(a) and (b) of the Master Lease. In addition, by April 7, 1998 (the "Turn Over Date") Landlord shall complete construction of the driven pile-supported foundation system, which will be certified by Landlord's engineer as adequate for Tenant's use as approved by Landlord. Landlord intends to meet the Turn Over Date pursuant to the Design Schedule attached hereto, marked Exhibit "1" and incorporated herein by this reference (the "Design Schedule.") In order for that to be accomplished, Tenant must timely provide its design information in accordance with the schedule set forth on Exhibit "2," attached hereto and incorporated herein by this reference ("Tenant's Design Due Dates"). The parties acknowledge that some of the dates on the Design Schedule and the Tenant's Design Due Dates predate

Document No. **37510**
 Filed **MAY 05 1998**
 SD UNIFIED PORT DISTRICT Clerk's Office
 PART II of II

the Lease and this Amendment and the same are acceptable. The Turn Over Date shall be extended for (a) Unavoidable Delays (as defined in EXHIBIT F), (b) the City of Coronado and/or the District taking more than five (5) weeks to approve Landlord's plans from the date first submitted for approval (with a one (1) day extension for each day beyond the five (5) weeks), (c) Tenant's failure to timely provide information in accordance with Tenant's Design Due Dates (with a one (1) day extension for each day beyond the date due), and/or (d) delays due to rain (with the amount of extension based on the effects of rain to be subject to the mutual agreement of the parties).

4. ORIGINAL TERM.

Paragraph 3.1(ii) is revised in full to read as follows:

(ii) the date which is two hundred eight (208) days after the Turn Over Date.

5. EASEMENTS.

In the event a future easement or right-of-way is granted by District and/or Landlord in accordance with Section 5.6 of the Lease, and if that easement or right-of-way had not previously been approved by Tenant in writing, which approval shall not be unreasonably withheld, and if that easement or right-of-way materially interferes with Tenant's business, Landlord agrees to indemnify Tenant from all losses occasioned by such interference; provided, however, this provision will not affect any obligation Landlord owes to District under the Master Lease, nor will this provision apply in the event District acquires Landlord's interest in the Lease.

6. EFFECT OF AMENDMENT.

Except as otherwise set forth in this Amendment, the Lease shall remain unchanged and in full force and effect.

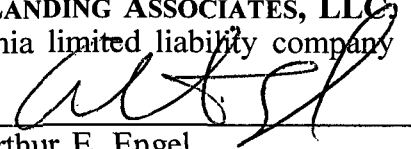
7. COUNTERPARTS.

This Amendment may be signed in one (1) or more counterparts, each of which shall constitute an original but all of which together shall be one (1) and the same document.

Landlord:

FERRY LANDING ASSOCIATES, LLC,
a California limited liability company

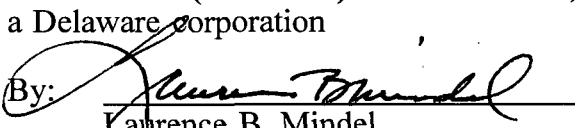
By:


Arthur E. Engel,
Manager

Tenant:

IL FORNAIO (AMERICA) CORPORATION,
a Delaware corporation

By:


Laurence B. Mindel,
Chief Executive Officer

FERRY LANDING PROJECT

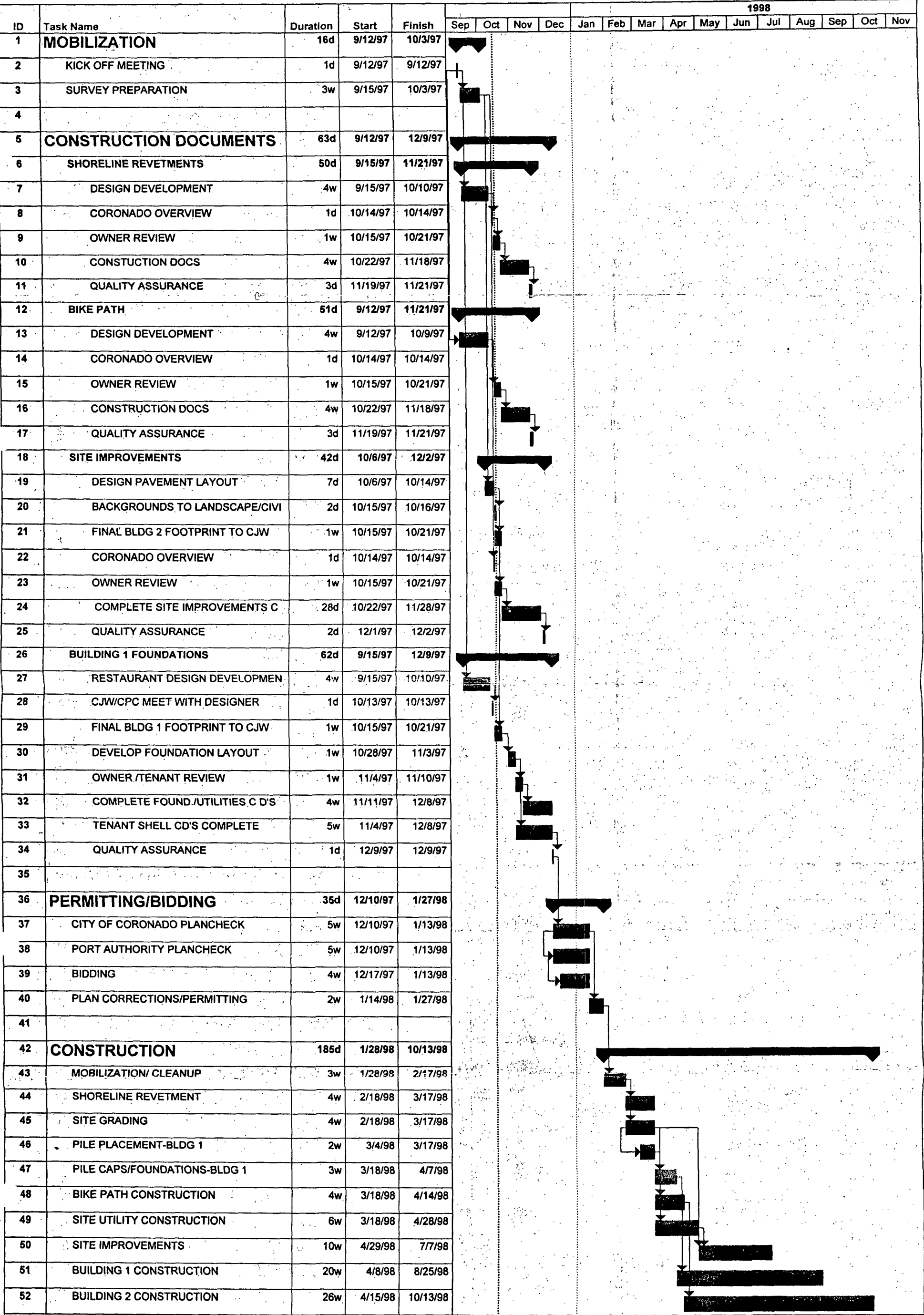
TENANT DESIGN INFO. DUE DATES

10/01/97

ID	Task Name	Duration	Start	Finish
1	Building footprint on site	7d	10/1/97	10/9/97
2	Utility points of connection @ bldg: water ,gas, electric, sewer,tele., cable tv	1d	10/10/97	10/10/97
3	Utility load requirements for building: gas, electric, water,sewer	1d	10/10/97	10/10/97
4	Desired finish 1st floor elevation relative to site grades	5d	10/10/97	10/16/97
5	Schematic structural system layout	3d	10/10/97	10/14/97
6	Exterior wall layout with final dimensions	8d	10/10/97	10/21/97
7	Main entrance location & paving layout	10d	10/17/97	10/30/97
8	Final structural framing system design with foundation loads	5d	10/15/97	10/21/97
9	Service area/ trash enclosure site layout	5d	10/22/97	10/28/97
10	Exterior building elevations to coordinate windows with landscaping	7d	10/22/97	10/30/97
11	Tenant exterior ground mounted signage locations for power/land. coord	5d	10/31/97	11/6/97
12	Outdoor patio layout and finish elevation	7d	10/22/97	10/30/97
13	Patio fencing/ enclosure layout if required	5d	10/31/97	11/6/97

FERRY LANDING DESIGN SCHEDULE

10/1/97



37510

Re Sublease from Ferry Landing]
Associates, LLC, to Il Fornaio]
(America) Corporation, dba Il]
Fornaio, and Amendment Thereof]

RESOLUTION 98-105

BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the District hereby consents to Ferry Landing Associates, LLC, subleasing to Il Fornaio (America) Corporation, dba Il Fornaio, (Sublessee) approximately 8,800 square feet of land area, plus the use of common areas (parking lot and landscape areas), of its leased premises located on Marine Way in the City of Coronado for the limited use of an Italian restaurant and bar having a maximum of 276 seats, serving a full range of Italian food, including pizza cooked in a wood-burning oven, specialty or gourmet coffee and pastries, beer, wine and distilled spirits, and at the option of Sublessee, live entertainment, provided, however, said live entertainment shall be subject to the prior express written consent of the District, and for no other purpose whatsoever, for a period of time not to exceed Fifteen (15) Years, plus Two (2) Five (5) Year options, commencing on the earlier of (i) date Sublessee opens for business, or (ii) Two Hundred Eight (208) days from the date Ferry Landing Associates, LLC, completes the pile-supported foundation system for Sublessee's building, provided, however, Ferry Landing Associates, LLC shall advise the District, in writing, of the actual commencement date of said sublease, said consent subject to the following express conditions:

1. The rental for said sublease shall be as provided in the sublease document between the parties, subject to any rental review adjustment pursuant to the master lease.

2. Ferry Landing Associates, LLC shall pay to the San Diego Unified Port District as rent a sum per month of gross income accruing to Lessee or Sublessee, as follows: Three Per Cent (3%) of the gross income from sale of food and food products; plus Three Per Cent (3%) of the gross income from off-sale beverage sales, plus Five Per Cent (5%) of the gross income from on-sale beverage sales, plus Five Per Cent (5%) of the gross income from the sale of gifts, novelties, souvenirs, cigars, cigarettes, candy, sundries and incidentals, plus Twenty Five Per Cent (25%) of the gross income derived from vending machine commissions or Five Per Cent (5%) of the gross income from said vending machine commissions if said vending machines are owned by Sublessee, plus Ten Per Cent (10%) of all other gross income. In calculating the rent to the District, the master lease shall control and in particular and without limitation gross income shall be determined as defined by said master lease, any provisions in the sublease notwithstanding.

3. Ferry Landing Associates, LLC shall require Sublessee to keep books and records and report of sales in a like manner as such are required by the provisions of the master lease. All said books and records shall be made available to the auditors of the District in San Diego County.

4. Ferry Landing Associates, LLC shall not further sublease or permit any assignment of any interest in the leased or subleased premises or any portion thereof without the express written consent of District in each instance, in accordance with the provisions contained in the master lease.

5. Sublessee shall not assign or transfer the whole or any part of the sublease or any interest therein, or further sublease the whole or any part of the subleased premises, or permit the occupancy of any part thereof by any other person, or permit transfer of the sublease or possession of the premises by merger, consolidation or dissolution, or permit sale of a controlling interest in the voting stock of Il Fornaio (America) Corporation, dba Il Fornaio, without the consent of District, evidenced by resolution first had and obtained in each instance. It is mutually understood that the

98-105

personal qualifications of the parties controlling the corporation named herein as Sublessee are significant and substantial factors for the consenting to the sublease and said parties shall maintain active control and supervision of the operations conducted on the premises.

No assignment, voluntary or involuntary, in whole or in part of the sublease or any interest therein, and no further sublease of the whole or any part of the premises and no permission to any person to occupy the whole or any part of the premises, shall be valid or effective without the consent of District, first had and obtained in each instance; provided, however, that nothing herein contained shall be construed to prevent the occupancy of said premises by an employee or business invitee of Sublessee.

6. The sublease shall not be renewed, extended, modified or amended without the prior express written consent of the District in each instance, nor shall Sublessee be permitted to hold over upon termination of the sublease.

7. The rent Ferry Landing Associates, LLC shall pay to District in accordance with Paragraph 2, above, is not set for the entire term of the sublease and said rent shall be adjusted from time to time in accordance with the rental review provisions contained in the master lease. The next such review is for the Ten (10) year rental review period commencing 1 September 2012.

8. The sublease shall be subject to the terms, covenants and conditions of the master lease, and, furthermore, in the event of any conflict or inconsistency between the sublease and the master lease, the provisions of the master lease shall govern and prevail. Nothing contained in either the sublease or this resolution shall be construed to modify or amend the master lease.

BE IT FURTHER RESOLVED that the District hereby consents to Ferry Landing Associates, LLC and Il Fornaio (America) Corporation, dba Il Fornaio, entering into a First Amendment to Sublease, said First Amendment provides for an increase in the sublease area to approximately 8,800 square feet; modifies the project construction

98-105

provision; modifies the term commencement date, and provides for the possibility of a future easement or right of way.

ADOPTED this 28th day of April, 1998.

SW
4/27/98

**San Diego Unified Port District
AGENDA SHEET****DATE:** April 16, 1998

Page 1 of 3

SUBJECT: FERRY LANDING ASSOCIATES, LLC SUBLEASE TO IL FORNAIO
(AMERICA) CORPORATION**EXECUTIVE SUMMARY:**

Ferry Landing Associates, LLC (FLA) was granted its lease at the October 21, 1997 Board meeting. Two restaurant buildings will be developed under subleases on FLA's leasehold, located east of The Ferry Landing Marketplace in Coronado. Board consent is requested for the sublease and sublease amendment that FLA has negotiated with IL Fornaio (America) Corporation (IFAC) for the most westerly restaurant. FLA has constructed a pile-supported foundation system for IFAC's building and IFAC will construct the building at an estimated cost of \$1.9 million, with \$1.3 million of the construction cost being borne by FLA. Based on IFAC's projected sales volume, during the first year of operation, the District should receive percentage rent of approximately \$140,000.

EXECUTIVE DIRECTOR'S RECOMMENDATION:

Adopt resolution granting consent to the sublease and sublease amendment

FACTUAL BACKGROUND:

FLA's lease covers property located at 1431 Marine Way in Coronado. The property is improved with a 4,407-square-foot office building. Two one-story restaurants with outdoor dining areas will be developed on the property. The westerly restaurant, which is the subject of this Agenda Sheet, will contain 8,800 square feet and will be of an "Italian Tuscany" design. The easterly restaurant, which will be the subject of a future Agenda Sheet, will contain 9,700 square feet and will be of a "Southwestern" design. FLA's lease, which is for a 40-year period

ACTION TAKEN: 04/28/98 - Res. 98-105

Agenda Sheet
Page 2 of 3

**SUBJECT: FERRY LANDING ASSOCIATES, LLC SUBLEASE TO IL FORNAIO
(AMERICA) CORPORATION**

commencing September 1, 1997, is summarized on the attached LEASE INFORMATION SUMMARY.

FLA has negotiated a sublease and sublease amendment for the 8,800-square-foot restaurant with IFAC. The sublease is for a 25-year term, including two five-year options. The term will commence on the latter of (i) IFAC opening for business or (ii) 208 days from FLA completing the pile-supported foundation system for IFAC's building. FLA will contribute \$1.3 million towards IFAC's estimated \$1.9 million building construction cost. The sublease rent is \$200,000 per year versus percentages of gross income (i.e., 7% on food, 8% for on-sale beverages, etc.). The sublease amendment provides for minor housekeeping items; e.g., redefines the term and turnover date, FLA indemnifies IFAC from future easement interference, and includes a design schedule. The sublease, as amended, is summarized on the attached SUBLEASE INFORMATION SUMMARY.

IFAC, which is owned by 230 shareholders, has been in business since 1980. Its two principal shareholders are Laurence B. Mindel, Chairman and CEO, who owns 14.3% of the stock, and Interwest Partners which owns 16.8% of the stock. IFAC will operate an Italian restaurant and bar, serving a full range of Italian food, including pizza from a wood burning oven; gourmet coffee; and pastries. IFAC has the option, subject to District approval, to provide live entertainment. The restaurant will have a maximum of 226 interior seats and 50 exterior seats.

Representatives from FLA and IFAC will be available to make a presentation at the Board meeting.

Environmental Review:

A final Environmental Impact Report (EIR) titled "Coronado Boatyard Plan Amendment - The Wharf Development" (UPD #83356-EIR-143; Document No. 12590) was certified on December 19, 1989 by Resolution 89-382.

Fiscal Impact:

The proposed subleased restaurant should generate approximately \$140,000 in rent to the District in its first year of operation.

Agenda Sheet
Page 3 of 3

**SUBJECT: FERRY LANDING ASSOCIATES, LLC SUBLEASE TO IL FORNAIO
(AMERICA) CORPORATION**

ANALYSIS:

IFAC is well-qualified to operate a tidelands restaurant. It operates 13 restaurants with bakeries in Del Mar, Irvine, Pasadena, Beverly Hills, Sacramento, San Jose, Palo Alto, Carmel, Burlingame, San Francisco, Corte Madera, Las Vegas, and Portland. IFAC's indicated net worth is \$23 million. The restaurant should be open for business by the end of 1998.

LEASE INFORMATION SUMMARY

Tenant: Ferry Landing Associates, LLC

Location: 1431 Marine Way, Coronado

Area: 170,029 sq. ft. - land
121,281 sq. ft. - water
12,680 sq. ft. - easement

Use: Two restaurants/cocktail lounges with combined maximum of 607 seats, bakery, delicatessen, fish market, maximum 2,000-sq.-ft. retail sales area, and maximum 4,407-sq.-ft. office area

Term: 9/1/97 - 8/31/2037 (40 years)

Rent: Minimum of \$72,000 during first year; \$200,000 during second year; \$210,000 during third year; \$218,000 during fourth year; \$227,000 during fifth year; \$236,000 annually during sixth through tenth years; and \$280,000 annually during 11th through 15th years versus the total of the following percentages:

Food & off-sale beverages	3%
On-sale beverages, gift cigarettes, candy, etc.	5%
Vending machine commissions	25% (5% of gross if machines tenant-owned)
Fees from itinerant vendors	20%
Office space rentals, parking fees, and miscellaneous	10%

Next Rent Review: 9/1/2012

Construction Requirements: Minimum of \$5 million construction cost. Construction to commence by 3/1/98 and be completed by 1/31/99.

Miscellaneous: Lessee is purchasing existing 4,407-sq.-ft. office bldg. for \$187,000 by 11/30/98. Lessee will construct public pedestrian/bicycle path across leasehold and receive credit for cost up to \$187,000 towards purchase price of office bldg. Lessee will receive maximum rent credit of \$50,000

for 50% of environmental remediation work. District agrees to not seek reimbursement from Lessee for \$170,000 in environmental investigation costs that it incurred. Lessee will comply with EIR project conditions and mitigation requirements. Arthur E. Engel personally guarantees lease until completion of improvements.

Improvement

Summary:

Two-story office building, paving, and fencing. Lessee will construct 8,800-sq.-ft. and 9,700-sq.ft. restaurant buildings.

SUBLEASE INFORMATION SUMMARY

Tenant:	Ferry Landing Associates, LLC		
Subtenant:	IL Fornaio (America) Corporation		
Location:	Portion of 1431 Marine Way, Coronado		
Area:	8,800 sq. ft. - land, plus use of common areas (parking lot and landscaped areas)		
Use:	Italian restaurant and bar having a maximum of 276 seats, serving a full range of Italian food, including pizza cooked in a wood-burning oven; specialty or gourmet coffee and pastries; beer, wine and distilled spirits; and, at subtenant's option, live entertainment (if subsequently approved by District)		
Term:	25 years including two five-year options commencing on the earlier of (i) date subtenant opens for business or (ii) 208 days from tenant's completion of the pile-supported foundation system for subtenant's building.		
Rent:	Minimum of \$200,000 per year (\$16,667/mo.), which will be adjusted at the commencement of each option period to the greater of (i) the then current base rent, (ii) 75% of the aggregate average of the rent paid per year during the immediately preceding three years or (iii) \$200,000 per year plus subtenant's share of any increase in minimum rent under master lease. The minimum rent is versus the total of the following percentages:		
	Food including catering, bakery, and delicatessen sales	7%	
	On-sale beverage sales	8%	
	Off-sale beverage sales	6 ½ %	
	Gifts, novelties, souvenirs, cigars, cigarettes, candy, etc.	8 ½ %	
	Vending machine commissions	28 ½ %	(8 ½ % of gross if machines tenant-owned)

Other income

13½ %

**Construction
Requirements:**

Tenant has completed the pile-supported foundation system for subtenant's building. Subtenant will receive \$1.3 million contribution from tenant towards subtenant's construction cost of restaurant building.

