

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 27, 2024

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

GL S-5474

Hawaii

Consent to Extension and Amendment of Sub-sublease, After-the-Fact, under General Lease No. S-5474, Waikoloa Beach Association, Lessee, Global Resort Partners, Sublessee, and Hawaii Nautical Inc., Sub-sublessee, Anaehoomalu Bay, South Kohala, Hawaii, Tax Map Key (3) 6-9-007: seaward of 011.

APPLICANT:

Global Resort Partners (GRP), a Hawaii general partnership, as **Sublessee**, and Hawaii Nautical Inc. (HNI), a Hawaii corporation, as **Sub-Sublessee**.

LEGAL REFERENCE:

Section 171-36(a)(6), Hawaii Revised Statutes, as amended.

"Revision to Sublease Rent Participation Policy" adopted by the Board of Land and Natural Resources (Board) on May 26, 2000, agenda item D-24, as amended by "Resubmittal: Amendment to the Sublease Rent Participation Policy" approved by the Board on January 26, 2001, under agenda item D-8, and as further amended by "Modification of Staff Recommendation in Board Action of January 26, 2001, Item D-8, As Amended," on August 24, 2012, under agenda item D-14.

LOCATION:

Portion of Government lands of Anaehoomalu Bay situated at Waikoloa, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-9-07: seaward of 011, as shown on the attached map labeled **Exhibit A**.

AREA:

1.852 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

LEASE CHARACTER OF USE:

Waikoloa Beach Association - Right, privilege and authority to construct, use (non-exclusive), maintain, and repair five (5) commercial moorings (A to E), five (5) day-use moorings, a stern mooring, and an ingress/egress corridor at Anaehoomalu Bay.

SUBLEASE CHARACTER OF USE

Non-exclusive use of easement moorings C and E.

SUB-SUBLEASE CHARACTER OF USE

Non-exclusive use of easement moorings C and E.

TERM OF LEASE:

40 years, commencing on 8/9/1991 and expiring on 8/8/2031. The next rental reopening is scheduled for 08/08/2026.

TERM OF SUBLEASE:

40 years, commencing on 8/9/1991 and expiring on 8/8/2031.

TERM OF SUB-SUBLEASE (**EXPIRED**):

- a. Initial Term: 1 year, commencing on July 6, 2018, and ending on July 5, 2019. Board of Land and Natural Resources, 6/8/2018 D-3.
- b. Option Term: 5 years, commencing on or about July 5, 2019, and ending on July 5, 2024.

TERM OF SUB-SUBLEASE (**PROPOSED**):

- c. Extended Term: Extension of previous term for some 7 years, commencing on July 6, 2024, and ending on July 31, 2031.

ANNUAL LEASE RENTAL:

\$5,240.00 per annum or a percentage rent of the gross receipts¹ to be paid by March 31st of each year for the period covering the previous calendar year, whichever is higher.

ANNUAL SUBLEASE RENTAL:

The terms and conditions of the sublease agreement require the Sublessee to pay the annual rent as set forth in the lease terms and conditions.

ANNUAL SUB-SUBLEASE RENTAL (EXPIRED):

Note: Sub-sublease is referred to as a License Agreement with subsequent License Fee by GRP and HNI.

a. Initial Term:

| Period | License Fee |
|---------------------------------|--|
| Months 1 and 2 of the Term | The greater of: <ul style="list-style-type: none">• Minimum Rent: \$2,000 per month; or;• Percentage Rent: 10% of HNI's monthly gross revenues. |
| Months 3 through 5 of the Term | The greater of: <ul style="list-style-type: none">• Minimum Rent: \$3,500 per month, or;• Percentage Rent: 10% of HNI's monthly gross revenues |
| Months 6 through 12 of the Term | The greater of: <ul style="list-style-type: none">• Minimum Rent: \$4,500 per month, or;• Percentage Rent: 10% of HNI's monthly gross revenues |

b. Option Term: 5 years, commencing on the date following the expiration of the initial term agreement.

| Period | License Fee |
|---------------------------|---|
| Year 1 of the Option Term | The greater of: <ul style="list-style-type: none">• Minimum Rent: 85% of the average monthly License Fee paid in 2018, or \$6,300 per month, whichever is greater; or• Percentage Rent: 10% of HNI's monthly gross revenues. |
| Year 2 of the Option Term | The greater of: <ul style="list-style-type: none">• Minimum Rent: 85% of the average monthly License Fee paid in 2019, or \$6,615 per month, whichever is greater; or• Percentage Rent: 10% of HNI's monthly gross revenues |
| Year 3 of the Option Term | The greater of: <ul style="list-style-type: none">• Minimum Rent: 85% of the average monthly License Fee paid in 2020, or \$6,945 per month, whichever is greater; or• Percentage Rent: 10% of HNI's monthly gross revenues |

¹ The term "gross receipts" means all receipts, income, and revenue derived from, related to, or connected with the operations permitted by the lease of non-exclusive easement excluding, however, State excise tax collected.

| | |
|---------------------------|---|
| Year 4 of the Option Term | The greater of: <ul style="list-style-type: none"> • Minimum Rent: 85% of the average monthly License Fee paid in 2021, or \$7,295 per month, whichever is greater; or • Percentage Rent: 10% of HNI’s monthly gross revenues |
| Year 5 of the Option Term | The greater of: <ul style="list-style-type: none"> • Minimum Rent: 85% of the average monthly License Fee paid in 2022, or \$7,660 per month, whichever is greater; or • Percentage Rent: 10% of HNI’s monthly gross revenues |

SUB-SUBLEASE RENTAL (PROPOSED):

- a. During the Extended Term, HNI shall pay the following License Fee to GRP.

| Period | License Fee |
|----------------------------------|--|
| July 6, 2024, to July 31, 2024 | 26/31 multiplied by the greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from July 6, 2023, to July 5, 2024; or (ii) \$13,000.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2024, to July 31, 2025 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from July 6, 2023, to July 5, 2024; or (ii) \$13,000.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2025, to July 31, 2026 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2024, to July 31, 2025; or (ii) \$13,390.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |

| August 1, 2026, to July 31, 2027 | <p>The greater of:</p> <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2025, to July 31, 2026; or (ii) \$13,792.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
|----------------------------------|--|
| Period | License Fee |
| August 1, 2027, to July 31, 2028 | <p>The greater of:</p> <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2026, to July 31, 2027; or (ii) \$14,205.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2028, to July 31, 2029 | <p>The greater of:</p> <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2027, to July 31, 2028; or (ii) \$14,630.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, to July 31, 2030 | <p>The greater of:</p> <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2028, to July 31, 2029; or (ii) \$15,070.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2030, to July 31, 2031 | <p>The greater of:</p> <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2029, to July 31, 2030; or (ii) \$15,522.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |

- b. The License Fee set forth above shall be payable on all the same terms and conditions as are described in the License Agreement. See License Agreement attached as **Exhibit B**.

DCCA VERIFICATION:

SUBLESSOR: *Waikoloa Beach Assn.*

| | | |
|---|--------------|--------------|
| Place of business registration confirmed: | YES <u>X</u> | NO <u> </u> |
| Registered business name confirmed: | YES <u>X</u> | NO <u> </u> |
| Good standing confirmed: | YES <u>X</u> | NO <u> </u> |

SUBLESSEE: *Global Resort Partners*

| | | |
|---|--------------|--------------|
| Place of business registration confirmed: | YES <u>X</u> | NO <u> </u> |
| Registered business name confirmed: | YES <u>X</u> | NO <u> </u> |
| Good standing confirmed: | YES <u>X</u> | NO <u> </u> |

SUB-SUBLESSEE: *Hawaii Nautical, Inc.*

| | | |
|---|--------------|--------------|
| Place of business registration confirmed: | YES <u>X</u> | NO <u> </u> |
| Registered business name confirmed: | YES <u>X</u> | NO <u> </u> |
| Good standing confirmed: | YES <u>X</u> | NO <u> </u> |

REMARKS:

Lease:

At its meeting of August 9, 1991, under agenda item F-7, the Board of Land and Natural Resources (Board) approved the Term, Non-exclusive Easements covering offshore waters and submerged lands for the right to construct, use, maintain and repair five (5) commercial mooring, five (5) day-use moorings, a stern mooring, and an ingress/egress corridor. Grant of Term Easement No. S-5474 (GL S-5474) was issued for a period of forty (40) years effective August 9, 1991, through August 8, 2031. Although this document was issued as a lease of easement for mooring purposes, there is no specific provision regarding subletting.

The initial rent for GL S-5474 was set at \$156 per annum or a percentage rent of the gross receipts, whichever is higher. However, for the first fifteen years only, percentage rent of the gross receipts was not applicable. Rental reopenings were scheduled for the 15th, 25th and 35th years of the easement term. With regards to the percentage rent, the term “gross receipts” is defined as all receipts, income, and revenue derived from, related to, or connected with the operations permitted by this non-exclusive easement.

A rental reopening in 2006 established the fair market rent at \$5,900 per annum or 3% of gross receipts, whichever was higher, for the 10-year period beginning August 9 through August 8, 2016.

Sublease:

Waikoloa Beach Association (WBA) entered into a Beach Concession Access Agreement for a portion of the beach at Anaehoomalu Bay to HRW Limited Partnership (HRW). HRW assigned its interest under that Beach Concession Access Agreement to Global

Resort Partners (GRP) in 1993. After GL S-5474 was granted in 1997, the Beach Concession Access Agreement was amended in 2002 to include the right to use Moorings C and E. The sublease rent paid by GRP is based on the fixed and percentage rent WBA pays for the use of moorings C and E. The Board consented to the sublease at its meeting of June 8, 2018, agenda Item D-3, which was approved as amended.

Sub-sublease (License Agreement):

GRP entered into a lease agreement with Hawaii Nautical Inc. (HNI) for use of moorings C and E (Exhibit B). HNI may only use the moorings for boats to take resort guests on scuba diving, snorkeling, sightseeing, and cruising trips in waters having reasonable proximity to the Hilton Waikoloa Village and Waikoloa Beach Resort. Any other use shall require prior consent from GRP. The initial term was for 1 year, commencing on July 6, 2018, and ending on July 5, 2019. HNI exercised an option to extend the term for an additional 5-years ending on July 5, 2024. Subject sub-sublease was approved by the Board meeting on June 8, 2018, under agenda item D-3, as amended.

By letter dated May 20, 2024, GRP made a request to extend its sub-sublease with HNI that was set to expire on July 5, 2024. However, this did not give staff adequate time to process the request by expiration date. As such, the above parties continued current operations while WBA's request was being processed. This was with the understanding that staff would request the Board to consent to extension retroactive to the July 5, 2024, expiration date of the prior sub-sublease.

GRP additionally seeks an amendment to the sub-sublease, as extended, to provide that HNI's right to use moorings is limited to the following vessels:

- a. one (1) catamaran, not exceeding fifty-four (54) feet in length and having a draft of no more than five (5) feet and a capacity to carry not more than forty-nine (49) passengers and six (6) crew persons; and
- b. one (1) dive boat, not exceeding forty-seven (47) feet in length with a draft of no more than five (5) feet and the capacity to carry no more than forty-nine (49) passengers and four (4) crew persons.

Summary:

Staff believes there is precedence for the State to participate in sublease rents because GL S-5474 provides for percentage rent. The Department's current general lease form contains a subletting provision stating that the sublessee's gross receipts are to be considered in determining WBA's percentage rent due. Under GL S-5474 as drafted and current Board policy, staff believes that the percentage rent provided for under GL S-5474 should include the gross receipts that HNI derives from the moorings C and E. As such, it is staff's recommendation that any extension and amendment of current sub-sublease be conditioned on WBA including the gross receipts HNI derives from moorings C and E in the calculation of percentage rent due from WBA.

RECOMMENDATIONS:

That the Board consent to the extension and amendment of Sub-sublease under Grant of Term Easement No. S-5474 between Waikoloa Beach Association, as Sublessor, and Global Resort Partners, as Sublessee, and Hawaii Nautical, Inc. as Sub-sublessee subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:

1. The standard terms and conditions of the most current consent to extension and amendment of sublease and sub-sublease form, as may be amended from time to time;
2. The consent to sub-sublease between GRP and HNI for the extended period of July 6, 2024, through July 31, 2031, shall be made retroactive to July 5, 2024;
3. The gross receipts Hawaii Nautical, Inc. derives from its operations on moorings C and E shall be included in the calculation of gross receipts due to the State under Grant of Term Easement No. S-5474;
4. Review and approval by the Department of the Attorney General; and
5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



GH

Pua Ishibashi
Land Agent

APPROVED FOR SUBMITTAL :



RT

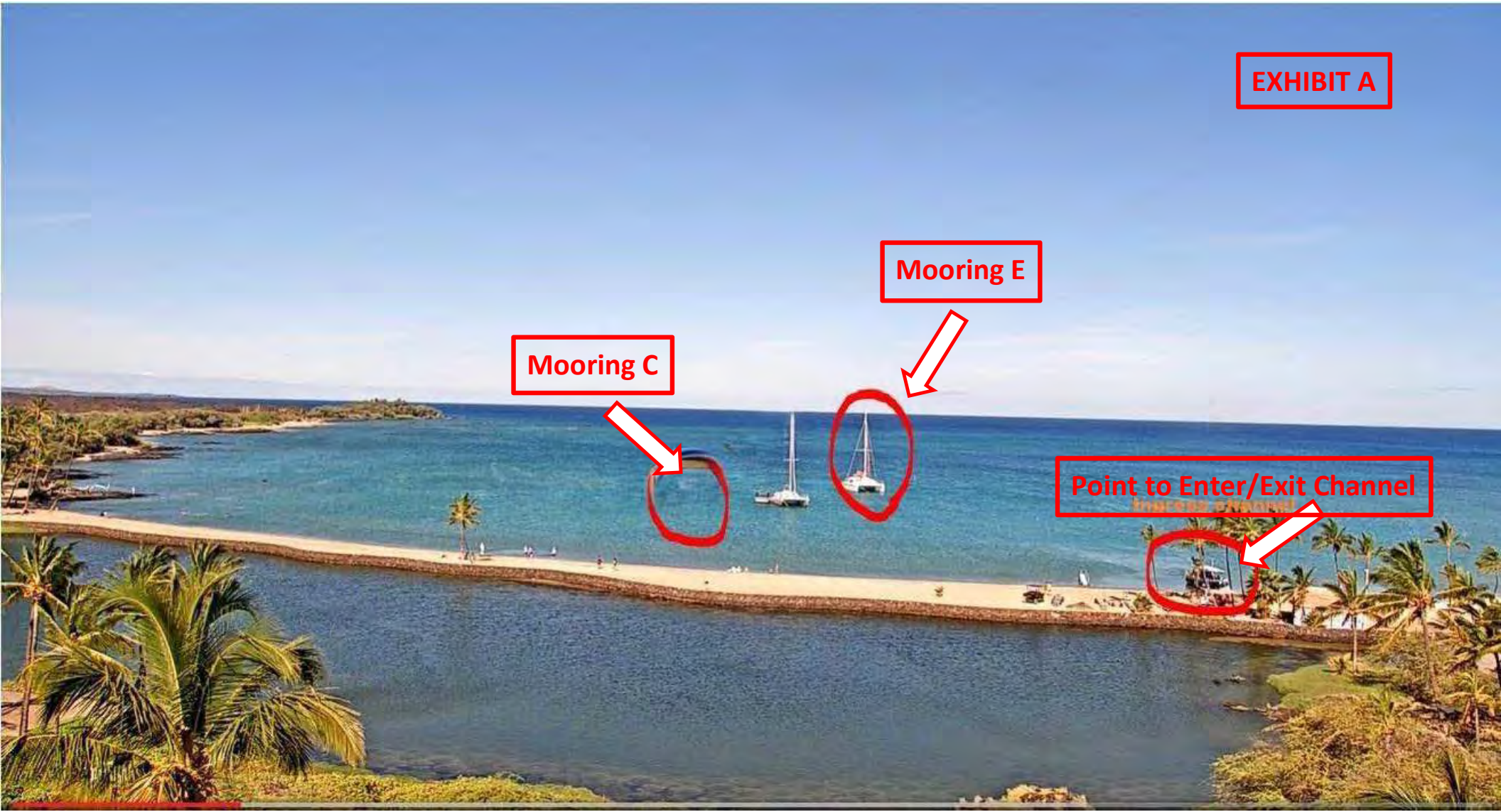
Dawn N. S. Chang
Chairperson

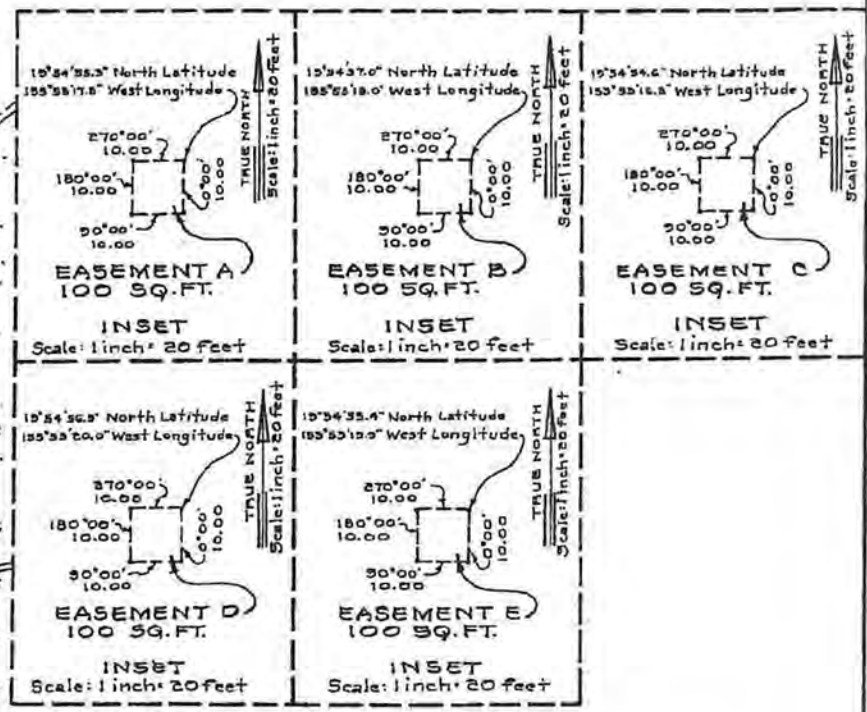
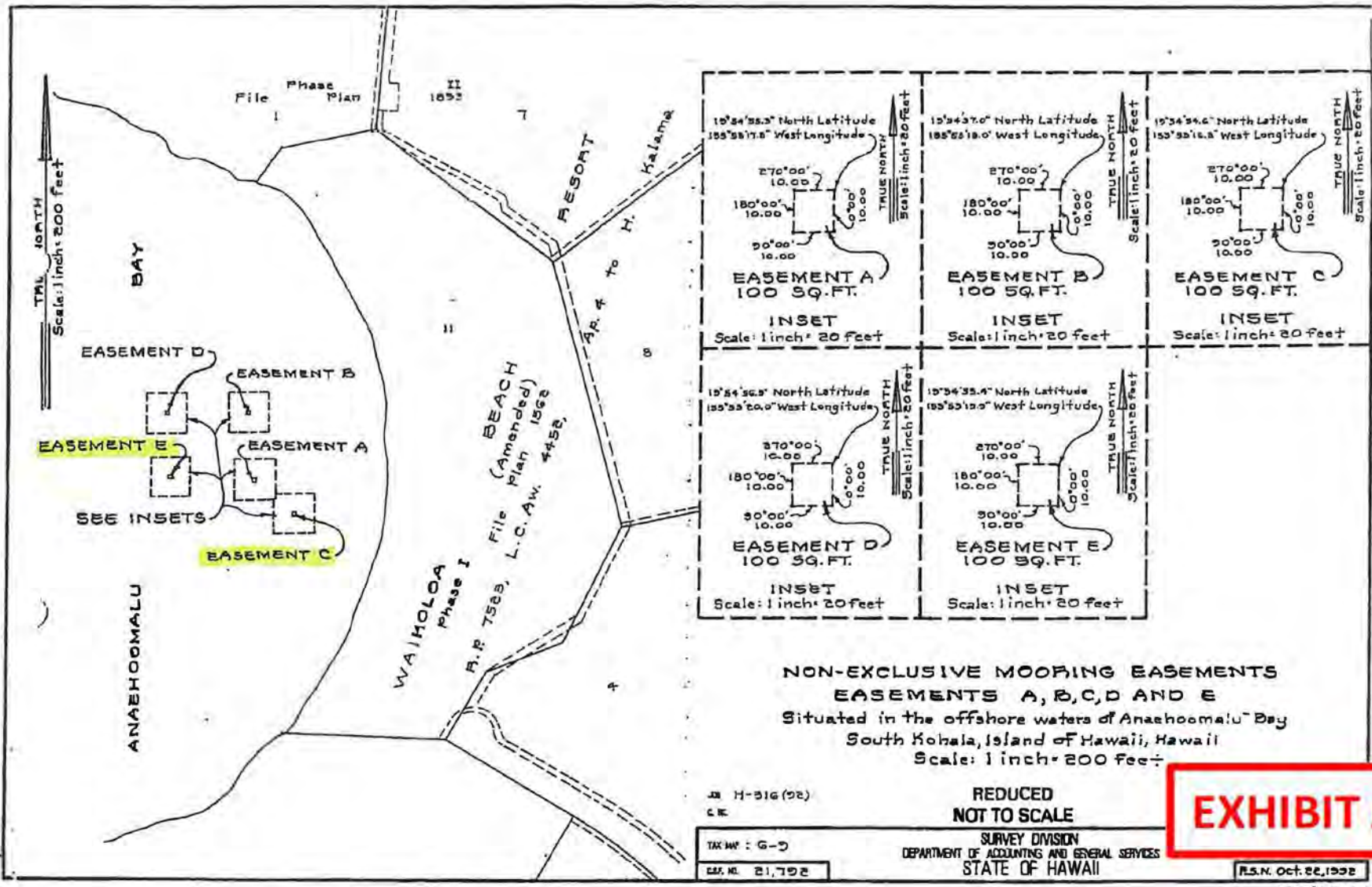
EXHIBIT A

Mooring C

Mooring E

Point to Enter/Exit Channel





NON-EXCLUSIVE MOORING EASEMENTS
 EASEMENTS A, B, C, D AND E
 Situated in the offshore waters of Anaeoomalū Bay
 South Kohala, Island of Hawaii, Hawaii
 Scale: 1 inch = 200 feet

JA H-316 (92)
 C R

REDUCED
 NOT TO SCALE

TAX MAP : G-3
 MAP NO. 21,792

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

EXHIBIT A

R.S.N. Oct. 22, 1992

11" X 17" = 130 SP.

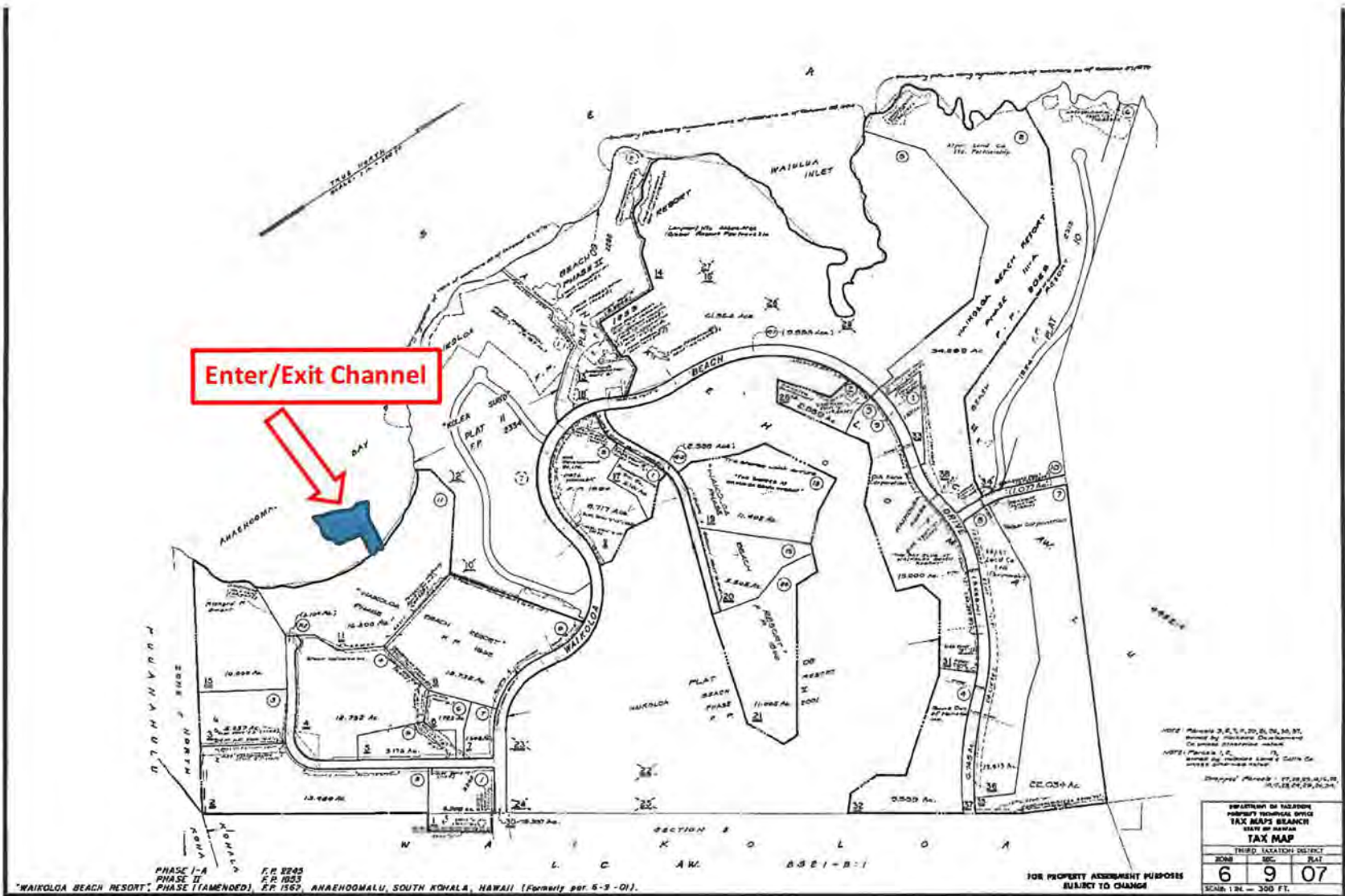


Figure 1

EXHIBIT A

FIRST AMENDMENT AND EXTENSION OF LICENSE AGREEMENT

THIS FIRST AMENDMENT AND EXTENSION OF LICENSE AGREEMENT (this “**First Amendment**”) is made as of May 16, 2024 (the “**Amendment Date**”) by and between **GLOBAL RESORT PARTNERS**, a Hawaii general partnership, whose mailing address is 69-425 Waikoloa Beach Drive, Waikoloa, Hawaii 96738 (“**GRP**”), and **HAWAII NAUTICAL INC.**, a Hawaii corporation, whose mailing address is 46-471 Hololio Street, Kaneohe, Hawaii 96744 (“**HNI**”). GRP and HNI are sometimes individually referred to in this First Amendment as a “**Party**” and together as the “**Parties**.”

RECITALS

A. GRP is the ground lessee of a portion of the land underlying the hotel and resort property known as the Hilton Waikoloa Village (the “**Resort**”) located at Anaehoomalu, South Kohala, Island and State of Hawaii. The Resort consists of a Hilton hotel operation managed by Hilton Management LLC (“**Hotel Manager**”), a subsidiary of Hilton Worldwide Holdings Inc., and a timeshare operation being developed, marketed, and managed by Hilton Grand Vacations Company or its subsidiaries.

B. The State of Hawaii Department of Land and Natural Resources (“**DLNR**”) and Waikoloa Beach Association, a Hawaii non-profit corporation (“**WBA**”) entered into that certain Lease of Non-Exclusive Easement S-5474 dated May 12, 1997 (the “**Easement Document**”), which was recorded in the Bureau of Conveyances of the State of Hawaii (the “**Bureau**”) as Document No. 97-069529. The Easement Document gives WBA certain rights to use the beach area fronting Anaehoomalu Bay (Lot 11 of File Plan 1562), which is located approximately 3,000 feet to the south of the Resort (the “**Beach Lot**”), and five commercial moorings located near the Beach Lot in Anaehoomalu Bay.

C. Per Section 1 of the Easement Document, the term of the Easement Document is currently scheduled to expire on August 8, 2031.

D. WBA and GRP are parties to that certain: (1) Beach Concession Access Agreement dated September 12, 1988 between WBA and HRW Limited Partnership (“**HRW**”), as predecessor in interest to GRP (the “**1998 Agreement**”), a short form of which was recorded in the Bureau as Document No. 93-183746, as assigned to GRP pursuant to that certain Assignment and Assumption of Concession Agreement dated November 5, 1993 by and between HRW and GRP, recorded in the Bureau as Document No. 93-183747; (2) Amendment to Beach Concession Access Agreement dated as of August 21, 2002 between WBA and GRP (the “**First Amendment to Beach Concession Access Agreement**”); and (3) Second Amendment to Beach Concession Access Agreement dated August 22, 2002 between WBA and GRP (the “**Second Amendment to Beach Concession Access Agreement**”). The 1998 Agreement, as amended by the First Amendment to Beach Concession Access Agreement and the Second Amendment to Beach Concession Access Agreement, is referred to in this First Amendment as the “**Access Agreement**.”

E. Under the Access Agreement, GRP has rights to use the Beach Lot and two of the five commercial moorings in Anaehoomalu Bay, designated as Moorings C and E (Moorings C and E are together referred to in this First Amendment as the “**Moorings**”).

F. As required under Paragraph 5 of the Easement Document, DLNR (by and through the State of Hawaii Board of Land and Natural Resources (the “**Board**”)) consented to the Access Agreement pursuant to that certain unrecorded Consent to Sublease of Easements C and E under Lease of Non-Exclusive Easement S-5474 dated July 1, 2019.

G. GRP and HNI are licensor and licensee, respectively, under that certain: (1) unrecorded License Agreement dated February 22, 2018, under which GRP granted HNI a non-exclusive license to use the Moorings for certain uses for an initial one-year term beginning on July 6, 2018 and ending on July 5, 2019, with one (1) option to extend the term for an additional five (5) years (the “**Original License Agreement**”); (2) letter agreement dated July 19, 2018, under which GRP and HNI confirmed the commencement date of the Original License Agreement and the license fees payable during the initial term and the extended term of the Original License Agreement; and (3) letter from HNI to GRP dated May 1, 2019, under which HNI timely exercised its option to extend the term of the Original License Agreement through July 5, 2024 (collectively, the “**License Agreement**”)

H. Paragraph 14 of the 1998 Agreement, as amended by the First Amendment to Beach Concession Access Agreement, provides that GRP (as successor in interest to HRW) may not assign any of its rights under the Access Agreement without the written consent of WBA, which consent shall not be unreasonably withheld, and may not assign any rights to use the Moorings without the prior consent of DLNR in accordance with the provisions of the Easement Document.

I. DLNR (by and through the Board) consented to the License Agreement pursuant to that certain unrecorded Consent to Sub-Sublease of Easements C and E under Lease of Non-Exclusive Easement S-5474 dated July 1, 2019.

J. Section 4.b of the Original License Agreement provided that HNI may use the Moorings for the mooring of the following vessels: (i) one (1) catamaran, not exceeding fifty-four (54) feet in length with a draft of no more than five (5) feet and the capacity to carry not more than forty-nine (49) passengers and six (6) crew persons; and (ii) one (1) dive boat, not exceeding forty (40) feet in length with a draft of no more than five (5) feet and the capacity to carry not more than twenty (20) passengers and four (4) crew persons.

K. Section 4.c of the Original License Agreement provided that GRP would use commercially reasonable efforts to seek approval from WBA for the use of a larger catamaran and a larger dive boat at the Moorings, and that upon such approval, Section 4.b of the Original License Agreement would be automatically amended without the necessity of documentation to permit the larger approved boat(s).

L. In a letter dated January 11, 2019 from WBA to GRP, WBA expressly consented to HNI’s use of a larger dive boat of up to forty-seven (47) feet in length with a draft of no more than

five (5) feet and the capacity to carry no more forty-nine (49) passengers and four (4) crew persons. HNI has since begun using a larger dive boat as approved.

M. GRP and HNI now desire to further amend the License Agreement (subject to the consent of WBA and DLNR) to: (i) further extend the term of the License Agreement; (ii) set forth the minimum license fee and percentage license fee due from HNI to GRP during the extended term (if applicable); and (iii) confirm the specifications of the vessels that HNI is permitted to moor at the Moorings under the License Agreement.

NOW, THEREFORE, GRP and HNI hereby agree as follows:

AGREEMENTS

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the License Agreement.

2. **Extension of License Term.** Subject to the satisfaction of the requirements set forth in Section 5 below, the term of the License Agreement is hereby extended for an additional period commencing on July 6, 2024, and expiring on July 31, 2031 (the “**Extended Term**”), unless sooner terminated in accordance with the provisions set forth in the License Agreement.

3. **License Fee.**

a. During the Extended Term, HNI shall pay the following License Fee to GRP:

| Period | License Fee |
|---------------------------------|---|
| July 6, 2024 to July 31, 2024 | 26/31 multiplied by the greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from July 6, 2023 to July 5, 2024; or (ii) \$13,000.00 per month. • Percentage License Fee: 10% of HNI’s monthly Gross Revenues. |
| August 1, 2024 to July 31, 2025 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from July 6, 2023 to July 5, 2024; or (ii) \$13,000.00 per month. • Percentage License Fee: 10% of HNI’s monthly Gross Revenues. |

| Period | License Fee |
|---------------------------------|--|
| August 1, 2025 to July 31, 2026 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2024 to July 31, 2025; or (ii) \$13,390.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2026 to July 31, 2027 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2025 to July 31, 2026; or (ii) \$13,792.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2027 to July 31, 2028 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2026 to July 31, 2027; or (ii) \$14,205.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2028 to July 31, 2029 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2027 to July 31, 2028; or (ii) \$14,630.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |
| August 1, 2029 to July 31, 2030 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2028 to July 31, 2029; or (ii) \$15,070.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |

| Period | License Fee |
|---------------------------------|--|
| August 1, 2030 to July 31, 2031 | The greater of: <ul style="list-style-type: none"> • Minimum License Fee: The greater of (i) 85% of the average monthly License Fee paid during the period from August 1, 2029 to July 31, 2030; or (ii) \$15,522.00 per month. • Percentage License Fee: 10% of HNI's monthly Gross Revenues. |

b. The License Fee set forth above shall be payable on all the same terms and conditions as are described in the License Agreement.

4. Confirmation of Vessel Sizes and Specifications. The Parties acknowledge and agree that HNI's right to use the Moorings for the mooring of vessels under the License Agreement is specifically limited to the following vessels:

- a. one (1) catamaran, not exceeding fifty-four (54) feet in length and having a draft of no more than five (5) feet and a capacity to carry not more than forty-nine (49) passengers and six (6) crew persons; and
- b. one (1) dive boat, not exceeding forty-seven (47) feet in length with a draft of no more than five (5) feet and the capacity to carry no more than forty-nine (49) passengers and four (4) crew persons.

5. Subject to Consents from DLNR and WBA. This First Amendment shall not be effective unless and until GRP has received written approval of this First Amendment from WBA, DLNR has also approved this First Amendment, and *all* of the following conditions have been satisfied:

- a. WBA has provided its written consent to this First Amendment;
- b. the Board has provided its written consent to this First Amendment; and
- c. HNI has received all other approvals required for HNI to continue to operate its business at the Moorings and in Anaehoomalu Bay pursuant to the terms of this First Amendment, including, but not limited to, any consents, permits, or licenses required by DLNR or the Board.

GRP shall promptly notify HNI when GRP receives the approvals described in Sections 5.a and 5.b, and HNI shall promptly notify GRP when HNI receives the approvals described in Section 5.c. If either Party fails to obtain the foregoing approvals on or before July 5, 2024, then this First Amendment will automatically terminate, and the Term of the License Agreement will be deemed to have expired on July 5, 2024.

6. **Ratification.** Except as modified by this First Amendment, the License Agreement is hereby ratified and confirmed and remains in full force and effect.

7. **Conflicts.** If there is any inconsistency between the provisions of this First Amendment and any provision of the License Agreement, the terms and provisions of this First Amendment shall govern and control.

8. **Governing Law; Jurisdiction and Venue.** This First Amendment shall be governed by and construed according to the laws of the State of Hawaii. Jurisdiction and venue for any and all disputes or matters of interpretation arising out of this First Amendment shall be exclusively in the state and federal courts in Hawaii, to the exclusion of all other possible forums or venues.

9. **Entire Agreement.** Except for the License Agreement, this First Amendment constitutes the entire agreement between HNI and GRP pertaining to the subject matter of this First Amendment and supersedes all prior or contemporaneous, written or oral negotiations, agreements, correspondence, and understandings between HNI and GRP regarding the subject matter of this First Amendment.

10. **Counterparts; Facsimile or Electronic Signature.** This First Amendment may be executed in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. Facsimile documents executed, scanned, and transmitted electronically (*e.g.*, an emailed .PDF) and electronic signatures (*e.g.*, DocuSign) shall be deemed original signatures for purposes of this First Amendment and all matters related thereto, with such facsimile, scanned, and electronic signatures having the same legal effect as original signatures.

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SIGNATURES APPEAR ON THE NEXT PAGE]

IN WITNESS WHEREOF, the undersigned Parties have executed this First Amendment as of the Amendment Date.

GRP:

GLOBAL RESORT PARTNERS,
a Hawaii general partnership

By: Global Resort Partners GP LLC,
a Delaware limited liability company,
its general partner

By: 
Name: Sean M. Dell'Orto
Title: Vice President and Treasurer

HNI:

HAWAII NAUTICAL, INC.,
a Hawaii corporation

By: _____
Name: Gina Mangieri
Title: Vice President

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