STATE OF HAWAIʻI
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaiʻi 96819

February 27, 2026

Chairperson and Members
Board of Land and Natural Resources
State of Hawaiʻi
Honolulu, Hawaiʻi

Land Board Members:

SUBJECT: Consent to Sublease under Harbor Lease No. H-82-4, GKM, Inc., Lessee, to Precision Marine Power Inc., Sublessee, situated at Honokohau Small Boat Harbor, Kealakehe, Kona, Hawaiʻi, Tax Map Key: (3) 7-4-008:042 (por.).

APPLICANT:

GKM, Inc. a Hawaiʻi corporation, as Sublessor, whose mailing address is 74-425 Kealakehe Parkway, Kailua-Kona, Hawaiʻi, 96740 to:

Precision Marine Power, Inc., a Hawaiʻi corporation, as Sublessee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Honokōhau Small Boat Harbor situated at Kealakehe, Kona, Hawaiʻi, identified by Tax Map Key: (3) 7-4-008:042, as shown on the attached map labeled **Exhibits A-1** and **A-2**.

CHAPTER 343, HRS – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaiʻi Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Type 1: "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing", and Part 1, Item No. 40: "Leases of state land involving negligible or no expansion or change of use beyond that previously existing."

The proposed action involves the issuance of a sublease for a property that is zoned urban and industrial and located within the existing Honokōhau Small Boat Harbor area. The surrounding area is also a part of the larger Kona District of the Island of Hawai‘i. The subject property and surrounding area have all been heavily disturbed and developed which does not make this a sensitive environment. Further, the proposed action is consistent with the historical and existing uses of the site and surrounding area, therefore, no cumulative adverse impacts are anticipated as a result of the issuance of a sublease.

Therefore, Staff recommends that the issuance of the subject sublease be considered a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

LEASE AREA:

Total lease area is 177,860 square feet, more or less, consisting of fast and submerged lands.

SUBLEASE AREA:

385 square feet, more or less

TRUST LAND STATUS:

Section 5(b) lands of the Hawai‘i Admission Act
DHHL 30% entitlement lands pursuant to the Hawai‘i State Constitution: No

LEASE CHARACTER OF USE:

GKM, Inc., Lease No. H-82-4 relating to "use" reads, in relevant part:

"for the construction of certain improvements which shall be used principally for marine or marine-related activities which shall include the following:

Sales:

1. Marine hardware and supplies
2. Marine paints and other finish material

Services:

1. The construction, operation, and maintenance of a boat haul-out facility for boat repair and storage
2. Repair facility for the maintenance and repair of boats
3. Marine workshop facilities

4. Rigging and swaging for vessels
5. Administrative offices for boat repair and storage facilities
6. The submerged land shall be used exclusively for the berthing of vessels for servicing and repair and the adjacent land area for use as a work dock area

The following additional marine-related activities may also be conducted within the demised premises upon prior written approval by the Lessor.

Sales:

1. Sailboats and power boats and other watercraft (new and brokerage)
2. Charts, maps, and nautical publications
3. Navigation instruments and supplies
4. Marine electrical and electronic gear and radios
5. Fishing tackle, lures, ice, and fresh bait
6. Outboard and inboard engines and supplies.

Services:

1. Sail making, canvas goods and repair
2. Repair and maintenance of marine electrical and electronic equipment
3. Marine surveys
4. The construction, operation and maintenance of vessels and marine equipment storage facilities
5. Scuba/skin diving services associated with marine repair and salvage
6. Repair and maintenance of marine instruments and navigation equipment
7. Marine upholstery, draperies, and interior finishes
8. Repair facility for the maintenance and repair of boats
9. Cold storage facility or icehouse
10. Vending machines for the sale of sandwiches, snacks, hot and cold drinks, candies, cigarettes, etc.
11. Other related activities as approved in writing by the Lessor

The Lessee is made aware that the Lessor does not guarantee that the additional permitted activities listed above shall be for the exclusive use of the Lessee within the boundaries of the Honokohau Small Boat Harbor."

SUBLEASE CHARACTER OF USE:

Satellite sales office in support of Authorized Marine Dealership for: Cummins, CAT Marine, ZF Transmissions, TwinDisc Transmissions, Scania, Nanni, Yanmar Industrial, and Cummins/Onan.

TERM OF LEASE:

Fifty-five (55) years:

- Original term of thirty-five (35) years commencing April 1, 1984, and ending on March 31, 2019.
- At its meeting on March 24, 2006, under agenda item J-1, the Board of Land and Natural Resources ("Board") approved a twenty (20) year lease extension commencing April 1, 2019, and ending on March 31, 2039.

TERM OF SUBLEASE:

3 years, start date to be determined by Board approval, see attached sublease, **Exhibit B.**

ANNUAL RENTAL:

Rent for the first 5 years was set at $25,000.00 per year and is renegotiated at 5-year intervals.

Original Lease Term (35 Years)

April 1, 1984, to March 31, 1989 - $25,000/year
April 1, 1989, to March 31, 1994 - $60,000/year
April 1, 1994, to March 31, 1999 - $60,000/year
April 1, 1999, to March 31, 2004 - $60,000/year
April 1, 2004, to March 31, 2009 - $70,500/year
April 1, 2009, to March 31, 2014 - $70,500/year
April 1, 2014, to March 31, 2019 - $120,184/year

Extended Lease Term (20 Years)

April 1, 2019, to March 31, 2024 - $200,000/year
April 1, 2024, to March 31, 2029 - $226,070/year
April 1, 2029, to March 31, 2034 – Rent reopens
April 1, 2034, to March 31, 2039 – Rent reopens

ANNUAL SUBLEASE RENTAL:

Precision Marine Power, Inc.: $16,434.96

DCCA VERIFICATION:

SUBLESSOR:

Place of business registration confirmed:	YES	X	NO
Registered business name confirmed:	YES	X	NO
Good standing confirmed:	YES	X	NO

SUBLESSEE:

Place of business registration confirmed:	YES X	NO
Registered business name confirmed:	YES X	NO
Good standing confirmed:	YES X	NO

REMARKS:

Harbor Lease No. H-82-4 (hereinafter the "Lease") was sold at public auction in 1982 to Gentry-Pacific, LTD. ("Gentry"). The lease was executed on April 8, 1983, with term of thirty-five years beginning April 1, 1984, and ending March 31, 2019.

On August 11, 1988, Gentry-Pacific, Ltd. assigned the lease to Gentry Properties.

On October 15, 2002, Gentry Properties assigned the lease to GKM, Inc.

At its meeting held on March 24, 2006, under agenda item J-1, the Board agreed to the extension of the lease for an additional twenty years, from April 1, 2019, through March 31, 2039.

At its meeting held on June 12, 2020, under agenda J-2, the Board approved the mediated rent settlement of $200,000 per year for the period commencing April 1, 2019, and ending March 31, 2024.

On July 9, 2025, GKM, Inc. agreed to the rental reopening of $226,070.00 for the next 5-years commencing retroactively on April 1, 2024, and ending March 31, 2029; for lease No. H-82-4, GKM, Inc.

The proposed sublease requires the sublessee to carry liability insurance naming the lessee and lessee's agent as additional insured. DOBOR also requires that the State of Hawai‘i be named as additional insured on the sublessee's liability insurance policy.

Staff consulted with the Hawaii District Land Office, who concur with our request to Consent to this Sublease.

The sublease applicant has not had a lease, permit, easement, or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

That the Board consent to the sublease under Harbor Lease No. H-82-4 between GKM, Inc., as Sublessor, and Precision Marine Power, Inc. as Sublessee, for space 24A, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as de minimis actions.

2. The standard terms and conditions of the most current consent to sublease form, as may be amended from time to time;

3. Require sublessee to name the State of Hawai‘i as additional insured;

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,

MEGHAN L. STATTS, Administrator
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:

RYAN K.P. KANAKA‘OLE, Acting Chairperson
Board of Land and Natural Resources

Attachments:

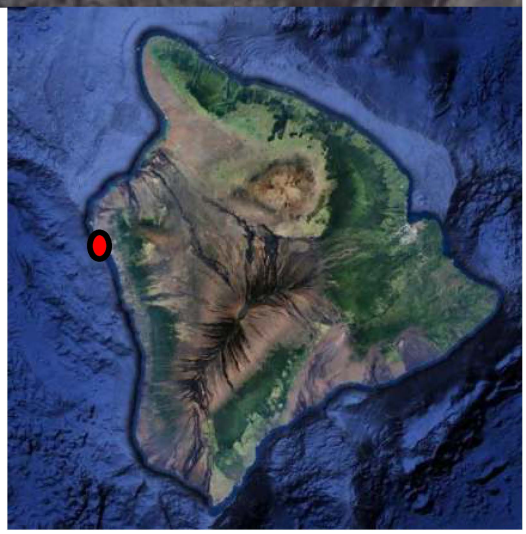
Exhibit A-1 Site Location
Exhibit A-2 Site Location
Exhibit B GKM, Inc. Sublease - Precision Marine Power, Inc.

Exhibit A-1

GKM, Inc.

Honokohau Small Boat Harbor





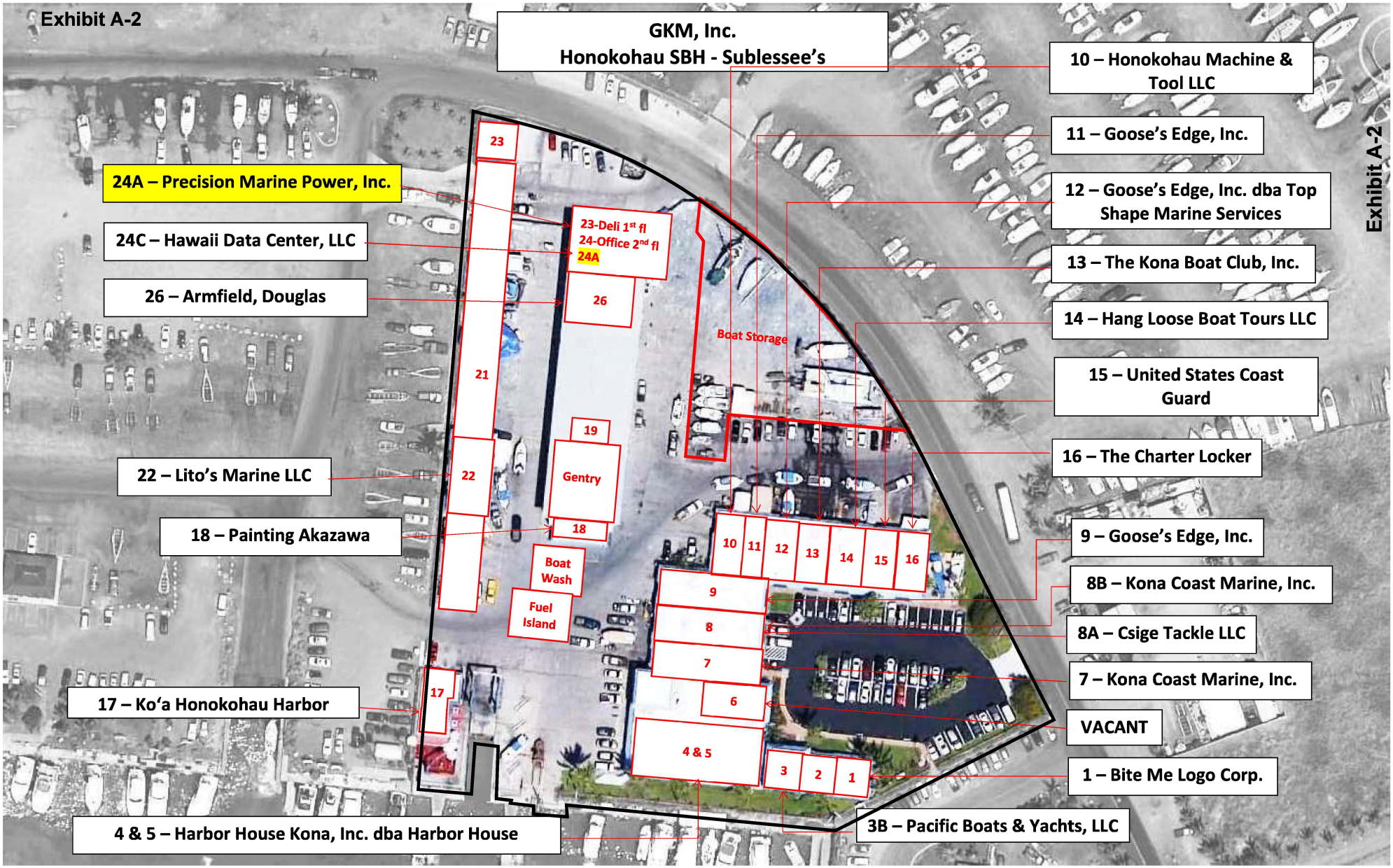


Exhibit A-2
GKM, Inc.
Honokohau SBH - Sublessee's
24A – Precision Marine Power, Inc.
24C – Hawaii Data Center, LLC
26 – Armfield, Douglas
22 – Lito's Marine LLC
18 – Painting Akazawa
17 – Ko'a Honokohau Harbor
4 & 5 – Harbor House Kona, Inc. dba Harbor House
10 – Honokohau Machine & Tool LLC
11 – Goose's Edge, Inc.
12 – Goose's Edge, Inc. dba Top Shape Marine Services
13 – The Kona Boat Club, Inc.
14 – Hang Loose Boat Tours LLC
15 – United States Coast Guard
16 – The Charter Locker
9 – Goose's Edge, Inc.
8B – Kona Coast Marine, Inc.
8A – Csige Tackle LLC
7 – Kona Coast Marine, Inc.
VACANT
1 – Bite Me Logo Corp.
3B – Pacific Boats & Yachts, LLC
23
23-Deli 1st fl
24-Office 2nd fl
24A
26
21
22
19
Gentry
18
Boat Wash
Fuel Island
17
Boat Storage
10
11
12
13
14
15
16
9
8
7
6
4 & 5
3
2
1
Exhibit A-2

GKM, INC. DBA THE YARD
SUBLEASE

SPACE No. 24A

Lessor: GKM, INC.
Lessee: Precision Marine Power, Inc.

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Exhibit B Term, Use, Security Deposit and Monthly Base Rent
Exhibit C Property Maintenance and Operating Expenses; Taxes and Assessments
Exhibit D Special Terms
Personal Guaranty of Lease Addendum

THIS SUBLEASE (lease) is made this _____ day of _____, 2025, by and between GKM, INC., a Hawaii corporation, whose post office address is 74-425 Kealakehe Parkway, Kailua-Kona, Hawaii 96740, hereinafter called the "Lessor," and Precision Marine Power, Inc., whose address is 74-5616 Alapa Street, B1, Kailua Kona, Hawaii, 96740, hereinafter called the "Lessee", who agree as follows:

ARTICLE I
GRANT

1.1 **Premises; Common Areas**. The Lessor leases to the Lessee, and the Lessee hires from the Lessor, those certain premises more particularly shown and outlined in red on **Exhibit A** attached hereto, and all improvements thereon and therein (the "premises"), within the GKM, INC. situate in the District of North Kona, County and State of Hawaii, on real property identified on the tax maps of the Third Taxation Division of the State of Hawaii as Tax Map Key (3) 7-4-008:042 (Tax Map Key 7-4008:042 and the improvements thereon shall hereafter be collectively referred to as the "Property"). Lessor and Lessee acknowledge that the square footage of the premises set forth above in **Exhibit A** and in **Exhibit C** is merely an approximation of the actual area of the premises. Notwithstanding that the square footage set forth in **Exhibit A** and in **Exhibit C** is an approximation, Lessee agrees that the stated figure shall govern in any question relating to the area of the premises, whether or not the actual square footage of the premises is the same as the approximate square footage set forth in **Exhibit A** and in **Exhibit C**. The square footage figure set forth in **Exhibit A** and in **Exhibit C** shall serve as the base figure in determining the pro-rata rent reduction/abatement in the event of damage, condemnation or other circumstance requiring such reduction, abatement or other adjustment of rent as provided in this lease.

In addition to the premises, Lessee shall have, as an appurtenance thereto, full right of access to the premises over and across any common entrances, sidewalks, halls, corridors, parking areas and stairways on the Property (the "common areas"), subject, however, in every case to (i) Lessee's observance and performance of its covenants, obligations, promises and agreements set forth in this lease, and (ii) the rights of Lessor reserved in the common areas as described below. All common areas shall at all times be subject to the exclusive control and management of Lessor and shall be subject to such rules and regulations as Lessor may adopt and promulgate from time to time. Lessee will not use the common areas in such a way as to impede or interfere with the operation of the Property, or with Lessor or any tenant therein or thereon. Lessor shall have the right, in its sole discretion, to increase or reduce the common areas, to rearrange the parking spaces and improvements in the common areas and to make any other changes therein from time to time. There shall be no reduction of Lessee's monthly base rent or any other charges hereunder for any change to the common areas.

1.2 **Acceptance of the Premises**. As of the date the Lessor delivers the premises to the Lessee, Lessee accepts possession of the premises in their "as is, where-is" condition as set forth in Section 5.6. After the commencement date, Lessee shall be solely responsible and liable for the repair, restoration and maintenance of the premises as provided in this lease.

1.3 **Quiet Enjoyment**. Upon payment of the rent and observance and performance of the conditions and agreements on the part of the Lessee to be observed and performed, the Lessee shall peaceably hold and enjoy the premises for the term of the lease without hindrance or interruption by the Lessor or any other person lawfully claiming by, through or under the Lessor except as expressly provided herein.

1.4 **Special Terms**. Any special terms (the Special Terms) applicable to this lease are set forth in **Exhibit D** attached hereto. Upon payment of the rent and observance and performance of the conditions and agreements on the part of the Lessee to be observed and performed, the Lessee shall peaceably hold and enjoy the premises for the term of the lease without hindrance or interruption by the Lessor or any other person lawfully claiming by, through or under the Lessor except as expressly provided herein.

ARTICLE II
TERM

2.1 **Term**. The term of this lease shall commence (the "commencement date") and terminate (the "termination date") on the dates stated in **Exhibit B** attached hereto (the term). If Lessor, for any reason other than the negligence or willful misconduct of Lessee, cannot deliver access to the premises to Lessee on or before the commencement date, this lease shall not be void or voidable, and Lessor shall not be liable to Lessee for any loss or damage resulting from Lessor's failure to deliver the premises to Lessee. However, during such a period of non-delivery, the rent (i.e., monthly base rent and additional rent) payable under this lease shall be abated until Lessors offers occupancy of the premises to Lessee.

2.2 **Option to Extend the Term**. If Lessee shall have the right to extend the term of this lease, such extension shall be upon the terms and provisions set forth in the Option Addendum, if any, attached hereto. Such extension, if any, shall be upon the same terms and conditions of this lease, excepting for this option and the monthly base rent.

ARTICLE III
RENT; SECURITY DEPOSIT

3.1 **Monthly Base Rent**. Commencing on the commencement date and for each and every calendar month during the term, Lessee shall pay to the Lessor, on or before the first (1st) day of each month, in advance, at Lessor's address, monthly base rent as set forth in **Exhibit B** attached hereto. The monthly base rent, additional rent, security deposit and all other sums payable under this lease to Lessor by Lessee, which security deposit and other sums shall constitute additional rent hereunder, are collectively referred to herein as the "rent." Lessee specifically acknowledges and agrees that the amount of the monthly base rent and other rent set forth in this lease are negotiated figures and shall govern whether or not the actual square footage of the premises is the same as the approximate square footage set forth in **Exhibit A** and in **Exhibit C**.

3.2 **Additional Rent.**

(a) In addition to the monthly base rent, commencing on the commencement date, Lessee agrees to monthly pay, as additional rent, a percentage share of all Property maintenance and operating expenses as hereinafter defined. Lessee's percentage share of the Property maintenance and operating expenses is set forth in **Exhibit C** attached hereto. Lessee shall have no right to withhold, deduct or offset any amount from the additional rent even if the actual square footage of the premises is less than the approximate square footage of the premises set forth in **Exhibit A** and in **Exhibit C** above.

(b) As used in this Section 3.2, "Property maintenance and operating expenses" shall include, without limitation: (i) Lessor's overhead expenses pertaining to the Property and the common areas; (ii) costs of non-structural repairs, line painting, landscaping and irrigation, electricity, maintenance of parking areas, bulb replacement, cleaning up, sweeping and janitorial service; and cost of garbage and refuse removal, and any repairs, improvements or replacements required by law; (iii) costs of any repairs, alterations, modifications, amendments, additions and/or improvements to the Property and/or the premises, not otherwise paid for by any tenant of the Property, necessary, required or appropriate in order to bring the Property and/or the premises into compliance with the requirements, policies and/or procedures of "The Americans with Disabilities Act of 1990," 42 U.S.C. 12101 et. seq., and/or any rules and/or regulations promulgated with respect thereto; (iv) all billing, security, management and legal expenses incurred or paid by Lessor relating to the protection, maintenance and operation of the Property, the common areas and/or the premises not separately payable by any other tenant of the Property; (v) any utility charges for the Property, the common areas and/or the premises not separately metered to or paid for by any tenant of the Property; (vi) the costs of liability, fire and other property damage insurance, including any deductibles payable by the Lessor thereunder, which Lessor shall, in its sole discretion, deem necessary and/or appropriate with respect to the premises, the Property, the common areas and/or Lessee and/or Lessee's business, fixtures, equipment, installations and/or operations in the premises, common areas and/or Property; and (vii) any other costs which the Lessor shall conclude, in its sole discretion, are reasonable and necessary for maintaining and operating the common areas and/or the Property.

(c) Lessee's percentage share of the Property maintenance and operating expenses described in this Section 3.2 above shall be computed on an annual basis, at the beginning of each calendar year, and, to the extent such expenses are not fixed or known in advance, shall be estimated by the Lessor for the ensuing year. Lessee shall pay such expenses, as additional rent, pro-rata throughout the calendar year, in advance, with the monthly base rent, subject to reconciliation and adjustment as provided below. The Lessor shall notify Lessee of Lessee's share of the Property maintenance and operating expenses for the coming calendar year as soon as reasonably possible after the beginning of each year. In the event Lessee's lease term shall commence or end at any other time than the beginning or end of a calendar year, Lessee's additional rent under this Section 3.2 shall be adjusted pro-rata for such shortened period. Lessor shall have the right, in the event of unusual or extraordinary maintenance and operating expenses, to assess and collect, as additional rent, either as a one time or continuing charge, additional sums under this Section 3.2 to pay such expenses without affecting the Lessee's liability for the monthly sums hereinabove described.

(d) A statement of Lessee's percentage share of the Property maintenance and operating expenses described in this Section 3.2 shall be provided annually to Lessee within one hundred twenty (120) days of each calendar year end. If the Property maintenance and operating expenses according to such statement shall differ from the Property maintenance and operating expenses estimated by Lessor as provided above, the Property maintenance and operating expenses according to such statement shall be deemed correct and an appropriate adjustment shall be made in the additional rent by prompt payment by Lessee of any deficiency or, in the event of an excess, an adjustment of additional rent thereafter due to Lessor under this Section 3.2 to provide Lessee with reimbursement over a period of time not to exceed twelve (12) months. Notwithstanding the preceding, however, Lessors failure to provide Lessee with a statement of the Property maintenance and operating expenses by the date provided above shall in no way excuse Lessee from its obligation to pay its pro rata share of the Property maintenance and operating expenses or constitute a waiver of Lessor's right to bill and collect such pro rata share of the Property maintenance and operating expenses from Lessee as provided in this Section 3.2.

3.3 **Place of Payment**. The Lessee will pay the rent in legal tender of the United States of America to the Lessor at the address set forth above or at such other address as the Lessor may from time to time designate in writing to the Lessee at the times and in the manner previously set forth and without any deduction, notice, or demand.

3.4 **Security Deposit**. Lessee shall deliver a security deposit to Lessor in the amount set forth in Exhibit B attached hereto. This security deposit shall be held by Lessor, without liability for interest, as security for the faithful performance by Lessee of all of the terms, covenants, and conditions of this lease to be kept and performed by Lessee during the term of this lease. If Lessee fails to keep and perform any of the terms, covenants and conditions of this lease to be kept and performed by Lessee, including the payment of rent or any other sum to Lessor, then Lessor, at its option, may appropriate and apply the entire deposit, or so much of the deposit as may be necessary, to compensate Lessor for any overdue rent or other sum or any loss or damage sustained or suffered by Lessor due to such breach by Lessee. Should the entire deposit, or any portion thereof, be so appropriated and applied by Lessor for the payment of losses, damages, overdue rent or other sums due and payable to Lessor by Lessee hereunder, then Lessee shall, upon the written demand of Lessor, forthwith remit to Lessor a sufficient amount to restore the security deposit to the original sum deposited. Lessee's failure to do so within five (5) days after receipt of such demand shall constitute a breach of this lease. If Lessee complies with all of such terms, covenants, and conditions and promptly pays all of the rent and all other sums payable by Lessee to Lessor under this lease as they fall due, then the security deposit shall be returned, without interest, to Lessee at the end of the term of this lease, or upon earlier termination of this lease. Lessor may transfer and/or deliver the security deposit, as such, to the purchaser of the reversion of this lease, in the event that the reversion is sold and thereupon Lessor shall be discharged from any further liability to Lessee in reference thereto.

ARTICLE IV
TAXES AND OTHER CHARGES

4.1 **Property Taxes and Assessments**. The Lessee will pay directly to Lessor a percentage share of all real and personal property taxes and assessments of every description for which the premises and the Property, and the improvements on the premises and the Property, or the Lessor or the Lessee in respect of the premises or the Property or the improvements on the premises or the Property, are now or during the term may be assessed or become liable, whether assessed to or payable by the Lessor or the Lessee. Lessee's percentage share of such taxes and assessments is set forth in **Exhibit C** attached hereto. All such taxes shall be prorated between the Lessor and the Lessee as of the commencement and expiration, respectively, of the term, and with respect to any assessment made under any betterment or improvement law which may be payable in installments, the Lessee shall be required to pay only such installments of principal, together with interest on the unpaid balance, as shall become due and payable during the term.

4.2 **General Excise Tax; Conveyance Tax.** The Lessee shall pay to the Lessor with each payment of rent or any other payment hereunder which is subject to the general excise tax on gross income imposed by the State of Hawaii and all similar taxes imposed from time to time on the Lessor with respect to the rent and other payments (whether actually or constructively received) in the nature of a gross receipts tax, sales tax, privilege tax or the like (excluding net income taxes), whether imposed by the United States of America, the State of Hawaii or the County of Hawaii, an amount which, when added to such rent or other payments, shall yield to the Lessor, after deduction of all such taxes payable by the Lessor with respect to all such rent or other payments, a net amount equal to that which the Lessor would have realized if no such tax had been imposed. Lessee will also pay any conveyance taxes imposed by the State of Hawaii in respect of this lease.

4.3 **Master Lease Rent**. The monthly base rent set forth in Section 3.1 above includes a portion of the rent payable by Lessor under the Master Lease ("Master Lease Rent") described in Section 17.16 below as of the commencement date of this lease. If at any time after the commencement date, the Lessors Master Lease Rent for the Property increases over the amount of the Master Lease Rent as of the commencement date, then in such event, as of the date of such increase to Lessor, Lessees share of the Property maintenance and operating expenses payable under Section 3.2 above shall increase by an amount derived by multiplying the amount of the increase in the Master Lease Rent by the Lessee's percentage share set forth in Section 4.1 above. Lessee shall pay such percentage share of the increased Master Lease Rent as additional rent.

4.4 **Substitute Taxes and Additional Taxes**. The Lessee shall not be required to pay any taxes measured by the net income or inheritance, estate or transfer taxes of the Lessor. If at any time during the term the State of Hawaii or any political subdivision or agency or the federal government levies or assesses against the Lessor a tax, fee, or excise on: (i) rents, (ii) the area of the premises, (iii) the occupancy of the Lessee, (iv) any personal property tax, or (v) any other tax, fee, or excise, however described, including, without limitation, a so-called value added tax, as a direct substitution in whole or in part for, or in addition to, any real property taxes or excise tax, Lessee shall pay that tax, fee, or excise on rents before delinquency. The Lessee's share of any such tax, fee, or excise shall be determined by the Lessor unless separately assessed or allocated by the tax assessor.

4.5 **Utilities and Other Services**. The Lessee will pay directly all charges, duties, rates, and other outgoings of every description for electricity, gas, water, telephone, refuse collection, sewage disposal or any other utilities or services to the premises.

4.6 **Right of Contest**. The Lessee shall have the right to contest the amount, validity or application of any tax, rate, assessment, lien, attachment, judgment, encumbrance, imposition, duty, charge or other outgoing payable by Lessee under this lease by any appropriate proceedings commenced before the disputed item becomes delinquent in the name of Lessee or in the name of Lessor if required by law, provided that (i) such proceeding shall be brought in good faith and diligently prosecuted, (ii) the Lessee shall pay all expenses thereof, and (iii) Lessee shall indemnify, defend and hold the Lessor harmless from and against all claims, demands and liability based on or arising from the Lessee's noncompliance with the matter which is the subject of such contest.

ARTICLE V
USE OF THE PREMISES

5.1 **Specific Use Allowed**. The premises shall be occupied and used by the Lessee only for the purpose(s) set forth in **Exhibit B** attached hereto and for no other purposes without the prior written consent of the Lessor. The Lessee shall not use or suffer or permit the premises in whole or part to be operated or to be used for any other purpose or purposes.

5.2 **Improvements Required By Law**. The Lessee will at its own expense make, build, rebuild, and maintain any and all improvements which may be required by law or private agreement to be made, built, rebuilt, and maintained upon or adjoining or in connection with or for the use of the premises in whole or in part. If such improvements shall be built, maintained, or rebuilt by the Lessor, the Lessee shall reimburse the Lessor its costs upon demand.

5.3 **Compliance with Law**. The Lessee shall, at Lessee's expense, comply with all laws concerning the premises or the Lessee's use of the premises, including, without limitation, all requirements, policies and/or procedures of "The Americans with Disabilities Act of 1990," 42 U.S.C. Section 12101 et. seq., and/or any rules and/or regulations promulgated with respect thereto, and all applicable laws pertaining to air and water quality, hazardous materials, waste disposal, air emissions and other environmental matters, and all zoning and land use matters, and the obligation to alter, maintain or restore the premises in compliance with laws relating to the condition, use or occupancy of the premises during the term.

5.4 **Waste or Nuisance**. The Lessee shall not use the premises in any manner that will constitute waste, nuisance or unreasonable annoyance.

5.5 **Vacation and Abandonment**. The Lessee shall not vacate or abandon the premises at any time during the term.

5.6 **Condition of the Premises**. As of the commencement date, the Lessee has

examined and accepts the premises in their existing condition and shall be solely responsible for the adequate design, construction, and repair of all improvements now or hereafter made thereon. Except as specifically provided in this lease, the Lessee shall be solely responsible for obtaining at its expense (i) all utility services and connections and any other services or facilities required for or in connection with the use of the premises, and (ii) any governmental zoning, classification, approval, or consent required by law for or in connection with the use of the premises. Lessee agrees that (i) neither Lessor nor any employee, representative or agent of Lessor, has made any representation concerning the suitability of the premises for the conduct of the Lessees business nor has there been any other representations covering the physical condition of the premises; (ii) Lessees acceptance of the premises evidenced by Lessees entry and the possession thereof shall constitute unqualified proof that the premises are, as of the date of commencement of Lessees occupancy thereof , in a tenantable and good condition; and (iii) Lessee shall be deemed to have waived any patent or latent defect in the premises except those latent defects in the premises discovered by Lessee during the period of any contractors warranty covering such defective condition.

5.7 **Hazardous Materials**.

(a) As used herein, the term "hazardous material" shall mean any substance or material which has been determined by any state, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property, including all of those materials and substances designated as hazardous or toxic by the County in which the premises are located, the U.S. Environmental Protection Agency, the Consumer Product Safety Commission, the U.S. Food and Drug Administration, the Hawaii Department of Health, or any other governmental agency now or hereafter authorized to regulate materials and substances in the environment.

(b) Lessee agrees not to introduce any hazardous material in, on or adjacent to the premises without (i) obtaining Lessor's prior written approval, (ii) providing Lessor with thirty (30) days prior written notice of the exact amount, nature, and manner of intended use of such hazardous materials, and (iii) complying with all applicable federal, state and local laws, rules, regulations, policies and authorities relating to the storage, use, disposal and clean-up of hazardous materials, including, but not limited to, the obtaining of all proper permits.

(c) Lessee shall immediately notify Lessor of any inquiry, test, investigation, or enforcement proceeding by, against or directed at Lessee or the premises concerning a hazardous material. Lessee acknowledges that Lessor shall have the right, at its election, in its own name or as Lessee's agent, to negotiate, defend, approve, and appeal, at Lessee's expense, any action taken or order issued with regard to a hazardous material by any applicable governmental authority.

(d) If Lessee's storage, use or disposal of any hazardous material in, on or adjacent to the premises results in any contamination of the premises, the soil, surface water, groundwater, air, or sea, above, under or around the premises (i) requiring remediation under federal, state or local statutes, ordinances, regulations or policies, or (ii) at levels which are unacceptable to Lessor, in Lessor's sole and absolute discretion, Lessee agrees to clean-up the contamination immediately, at Lessee's sole cost and expense. Lessee further agrees to indemnify, defend and hold Lessor harmless from and against any claims, suits, causes of action, costs, damages, loss and fees, including attorneys' fees and costs, arising out of or in connection with (i) any clean-up work, inquiry or enforcement proceeding relating to hazardous materials heretofore, currently or hereafter

used, stored or disposed of by Lessee or its agents, employees, contractors or invitees on or about the premises, and (ii) the use, storage, disposal or release by Lessee or its agents, employees, contractors or invitees of any hazardous materials on or about the premises.

(e) Notwithstanding any other right of entry granted to Lessor under this lease, Lessor shall have the right to enter the premises or to have consultants enter the premises throughout the term of this lease at reasonable times for the purpose of determining: (1) whether the premises are in conformity with federal, state and local statutes, regulations, ordinances and policies, including those pertaining to the environmental condition of the premises; (2) whether Lessee has complied with this Section 5.7; and (3) the corrective measures, if any, required of Lessee to ensure the safe use, storage and disposal of hazardous materials. Lessee agrees to provide access and reasonable assistance for such inspections. Such inspections may include, but are not limited to, entering the premises with machinery for the purpose of obtaining laboratory samples. Lessor shall not be limited in the number of such inspections during the term of this lease. If, during such inspections, it is found that Lessee's use of hazardous materials constitutes a violation of this lease, Lessee shall reimburse Lessor for the cost of such inspections within ten (10) days of receipt of a written statement therefor. If such consultants determine that the premises are contaminated with hazardous material or in violation of any applicable environmental law, Lessee shall, in a timely manner, at its expense, remove such hazardous materials or otherwise comply with the recommendations of such consultants to the reasonable satisfaction of Lessor and any applicable governmental agencies. If Lessee fails to do so, Lessor, at its sole discretion, may, in addition to all other remedies available to Lessor under this lease and at law and in equity, cause the violation and/or contamination to be remedied at Lessee's sole cost and expense. The right granted to Lessor herein to inspect the premises shall not create a duty on Lessor's part to inspect the premises, or liability of Lessor for Lessee's use, storage or disposal of hazardous materials, it being understood that Lessee shall be solely responsible for all liability in connection therewith.

(f) Lessee shall surrender the premises to Lessor upon the expiration or earlier termination of this lease free of hazardous materials and in a condition which complies with all governmental statutes, ordinances, regulations and policies, recommendations of consultants hired by Lessor, and such other reasonable requirements as may be imposed by Lessor.

(g) Lessee's obligations under this Section 5.7 and all indemnification obligations of the lessee under this lease shall survive the expiration or earlier termination of this lease.

(h) Lessor makes no representation, covenant or warranty to Lessee, its successors and assigns, regarding whether or not the premises are in full or partial compliance with any federal, state or local environmental statutes, regulations and ordinances or any other environmental requirements in any way relating to or affecting the premises or storage of hazardous materials.

5.8 **Rules and Regulations**. Lessor shall have the right to promulgate rules and regulations to police, regulate traffic in and control parking and common area use (including controlled access and employee parking), restrict tenant advertising and displays within the Property and otherwise regulate and control the Property, and amend the same from time to time, with respect to the use and operation of the Property which shall be binding upon Lessee on notice to Lessee. In enforcing the rules and regulations, Lessor shall have all remedies provided in this lease for a breach of the term of this lease, and all other legal and equitable remedies. Lessor shall not be liable to Lessee or any other person for any nonobservance or nonperformance of these rules

and regulations nor shall Lessor be liable to Lessee or any other person on account of Lessor's enforcement or nonenforcement of the rules and regulations. Lessor shall also have the right to enact and enforce reasonable monetary fines and penalties for any violation of the rules and regulations promulgated by Lessor and Lessee shall be liable to Lessor for such fines and penalties incurred by Lessee or Lessee's employees, contractors or suppliers as additional rent under this lease.

ARTICLE VI
ALTERATIONS

6.1 **Construction/Alteration**. Lessee shall not make any additions or alterations to the premises, or install or cause to be installed any exterior lighting, exterior shades or awnings, colored or tinted glass, window tinting, exterior antennas, radio or satellite dishes or receivers, or make any changes to the exterior of the premises or any part of the common areas without first obtaining the written approval of the Lessor therefor. The Lessee shall present plans and specifications for such work at the time approval is sought and any construction which is performed by Lessee in the premises or on the Property shall be performed only in accordance with the plans and specifications previously approved by Lessor and using a contractor licensed in the State of Hawaii. All improvements, fixtures and equipment installed by Lessee in the premises and any common areas shall be new or completely reconditioned and acceptable in all respects to Lessor for use in the premises and the common areas. The Lessee shall pay all costs of construction done by or for it on the premises and will keep the premises, building other improvements and land of which the premises are a part free and clear of all liens of mechanics and materialmen. Notwithstanding the fact that any such alterations and improvements may become an integral part of the premises and/or the Property, such alterations and improvements shall not be deemed a rent substitute or any other payment to or for the benefit of Lessor. Lessor expressly reserves the exclusive right to the use of the roof and the exterior walls of the premises and the building in which the premises are located.

6.2 **Bond Against Liens**. Prior to commencing any construction or alterations to the premises having a construction cost in excess of $5,000.00, the Lessee shall furnish evidence satisfactory to the Lessor that the Lessee is financially able to pay the contractor and, if required by Lessor, Lessee shall furnish a bond in an amount, in a form and with a surety acceptable to the Lessor, naming the Lessor and the Lessee as obligees and insuring completion of the proposed work free and clear of all liens.

6.3 **Removal and Restoration by Lessee**. Any alterations made shall remain on and be surrendered with the premises on expiration or termination of this lease, except that the Lessee, if not in default, may remove any trade fixtures installed on the premises and shall repair any damage caused by removal.

6.4 **Improvements Required by Law**. During the term, the Lessee will pay all costs and expenses of making, building, maintaining and repairing any and all improvements which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the premises, including, without limitation, all requirements, policies and/or procedures of "The Americans with Disabilities Act of 1990," 42 U.S.C. Section 12101 et. seq., and/or any rules and/or regulations promulgated with respect thereto.

6.5 **Signs**. Without the prior written consent of Lessor, Lessee shall not place or permit to be placed (i) any sign, advertising material or lettering upon the exterior of the premises or (ii) any sign advertising material or lettering upon the exterior or interior surface of any door or window within the premises, or at any point inside the premises, such that the same may be visible from outside the premises. Upon request of Lessor, Lessee will immediately remove any sign, advertising material or lettering that Lessee has placed or permitted to be placed in violation of this Section 6.5 and if Lessee fails so to do, Lessor may enter the premises and remove such sign, advertising material or lettering at Lessee's expense. Subject to the Lessor's and approval, Lessee shall have the right to erect signs of a size and type allowed by the County Code. Lessee's signs shall be installed at Lessee's own risk and expense and Lessee agrees to maintain said signs in good state of repair and to save Lessor harmless from any loss, cost or damage which may have been caused by the erection, existence, maintenance and removal of such signs. Upon the expiration or earlier termination of this lease, Lessee shall remove all of Lessee's signs at Lessee's own expense and repair all damage resulting from the placement or removal of signs. The Lessor shall have sole authority and discretion with regard to any off-premises or centralized signs or directories within the Property. Lessee shall not install any paintings, murals, sculptures, mosaics or other works of visual art in the premises that cannot be removed without destroying, damaging or modifying such art without Lessor's prior written approval and consent, which may be withheld for any reason including, without limitation, Lessee's failure to provide Lessor with written waivers under 17 U.S.C. 113(d) by the creators of such art of their rights thereto.

ARTICLE VII
MAINTENANCE

7.1 **Repair and Maintenance by Lessee**. The Lessee shall at its cost at all times maintain the premises in good condition including, without limitation, all personal property of the Lessee, signs, windows, lighting and plumbing fixtures, interior painting, and floor covering, excepting reasonable wear and tear and destruction by unavoidable casualty not required to be insured against.

7.2 **Lessee's Failure to Maintain**. The Lessee will permit Lessor and its agents to enter the premises and examine the state of repair and condition at all reasonable times during the term and will correct and repair at its expense those defects required by this lease to be repaired by the Lessee. If the Lessee does not maintain and repair the premises as soon as reasonably possible after written demand, the Lessor may make such repairs without liability to the Lessee for any loss or damage to the Lessee's merchandise, fixtures or other property or to the Lessee's business. If the Lessor is required to make repairs, the Lessor may add the cost of such repairs to the next rental due, including annual interest at one percent per month on the cost from date of completion of repairs, and the Lessee shall pay the same as additional rental.

7.3 **Repair and Maintenance by Lessor**. Lessor shall keep all structural portions of the premises and Property in good condition and repair during the term of this lease. In this connection, structural portions of the premises shall mean the foundation, columns, girders, supports, load-bearing walls and roof. The cost of maintenance of such structural portions of the premises and Property, and the cost of repairs and/or replacement of such structural portions of the premises and Property shall be a maintenance and operating expense of the Property. Notwithstanding anything to the contrary herein, Lessor shall not be required to make any repairs occasioned by the act or negligence of Lessee, its agents, employees, subtenants, licensees and concessionaires. Lessee waives the provisions of any law permitting Lessee to make repairs at Lessor's expense. If Lessor is required to make alterations, improvements, additions, modifications and/or repairs to structural or nonstructural portions of the Property or the premises by reason of Lessee's negligent acts or omissions to act, or Lessee's failure to comply with or perform any covenant, condition, term or agreement contained in this lease, including Lessee's obligation to comply with the requirements and standards of "The Americans with Disabilities Act of 1990," Lessor may add the cost of such alterations, improvements, additions, modifications and/or repairs to the rent which shall thereafter become due, and Lessee shall pay the same as additional rental. The phrase "structural portions of the Property, as above used, shall not be so construed as to require Lessor to make repairs to the interior surfaces thereof unless the damage to such interior surface resulted from Lessor's acts or omissions or defects otherwise required to be kept in repair by Lessor.

ARTICLE VIII
DISCLAIMER OF LIABILITY AND INDEMNITY

8.1 **Disclaimer of Liability**. Lessee assumes all risk of personal injury, death or property damage occurring on the premises. The Lessee waives all claims against the Lessor for damages to persons or property arising for any reason except that the Lessor shall be liable to the Lessee for damage to the Lessee resulting from the gross negligence or willful acts of the Lessor. The Lessee will hold all goods, material, fixtures, equipment, machinery and other tangible property on the premises at its risk and hold the Lessor harmless from any loss or damage to the Lessee's property from any cause. Lessor shall not be liable to Lessee for any damage or loss, including loss or interruption to Lessee's business or services, occasioned by any service provided by Lessor under this Lease or electricity, plumbing, gas, water, air conditioning, sprinkler or other pipes and sewage systems, or the loss, interruption or stoppage thereof, or by the bursting, leaking, overflowing or running over of any tank, washstand, closet, waste or other pipes in or about the premises or the property, nor for any damage occasioned by water coming into the premises from any source whatsoever, or for any damage or injury arising from any acts or neglect of the other lessees of, or any other persons on, the Property or of any adjacent property, or of the public, unless such damage or loss shall result from a wanton and willful act or gross negligence of Lessor. All property of Lessee kept or stored on the premises or in any common area shall be kept or stored at the risk of Lessee only, and Lessee shall hold Lessor harmless from any claims arising out of damage to the same, including subrogation claims by Lessee's insurance carriers unless such damage shall be caused by the wanton and willful act or gross negligence of Lessor. In no event shall Lessor be liable to Lessee, its principals, agents or employees for lost profits or any other consequential damages suffered by Lessee, its principals, agents or employees from any cause, unless such losses or damages shall result from a wanton and willful act or gross negligence of Lessor.

8.2 **Indemnity.** The Lessee will indemnify the Lessor from and against all loss, costs, expenses and liability for injury or death to persons or damage to property occurring in, on or about the premises, whether the claims are made by officers, partners, employees or agents of either party and whether arising out of any accident, fire, nuisance or failure to maintain, unless such damage was caused by the wanton and willful act or gross negligence of the Lessor. The Lessor shall hold harmless the Lessee from all claims and demands for injury or death to persons or damage to property arising out of the gross negligence or willful acts or omissions of the Lessor. Each party shall also hold the other party harmless from all costs and expenses, including attorney's fees, arising in connection with such claims. The provisions of this Section 8.2 shall survive the expiration, termination, assignment or cancellation of this lease.

8.3 **Indemnity-Hazardous Materials Claims**. The Lessee will indemnify the Lessor against and hold the Lessor harmless from all reasonable expenses (including reasonable fees of legal counsel), losses, damages (including foreseeable or unforeseeable consequential damages) and liabilities incurred by the Lessor which may arise out of or may be directly or indirectly attributable to (i) the use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, discharge, disposal or presence of any Hazardous Material on, within, under or about the premises, and (ii) the Lessor's investigation and handling (including the defense) of any Hazardous Materials Claims, whether or not any lawsuit or other formal legal proceeding shall have been commenced in respect of such claims. The provisions of this Section 8.3 shall survive the expiration, termination, assignment or cancellation of this lease.

ARTICLE IX
INSURANCE

9.1 **Public Liability and Property Damage Insurance**. Lessee shall take out and keep in force during the term of this ease, at Lessee's expense, commercial general liability insurance on an "occurrence" not "claims made" basis, with coverage in the minimum amount of ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) for property damage and in the amount of ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) per occurrence with a TWO MILLION AND NO/100 DOLLARS ($2,000,000.00) annual aggregate limit for personal injury or death to one or more persons or a single limit policy of not less than TWO MILLION AND NO/100 DOLLARS ($2,000,000.00) naming Lessor and Lessor's agent, if any, as additional insureds. If Lessee's use of the premises shall include the sale or service of alcoholic beverages, Lessee's liability insurance shall include a liquor liability endorsement naming Lessor and Lessor's agent, if any, as additional insureds.

9.2 **Insurance Of Premises and Improvements**. The Lessee will at its expense during the entire term cause the improvements now or hereafter located on the premises to be insured under a "Special Form" policy against loss or damage by earthquake, hurricane, flood, fire with extended coverage, inflation guard, vandalism and malicious mischief endorsements and demolition clause, if applicable, to the extent of the full replacement cost without deduction for depreciation. The insurance policy or policies shall be issued in the name of the Lessor, the Lessee and their mortgagees and made payable to the Lessor and the Lessee as their interests may appear for use and disposition as herein provided.

9.3 **Insurance on Contents**. During the entire term the Lessee shall, at its sole cost and

expense, maintain or cause to be maintained on all of its fixtures, furnishings and equipment which may be from time to time located on the premises and on all fixtures, furnishings and equipment of others which are in Lessee's possession and which are located on the premises under a "Business Personal Property of Insured" policy or policies with extended coverage endorsement or its equivalent to the extent of their full replacement cost. The proceeds shall be payable to Lessor, but if this lease is and remains in effect, such proceeds shall be used for the repair or replacement of the furniture, fixtures, equipment and other personal property of the Lessee.

9.4 **Requirements of Policies.** All policies of insurance required in this lease:

(a) Shall be affected by valid and enforceable policies issued by responsible insurance companies authorized to do business in the State of Hawaii with a financial rating of "A" (Excellent) or better, and with a policyholder's rating of Class VI or better as rated in the most recent edition of Best's Insurance Reports.

(b) Shall contain an agreement by the insurer that the policy constitutes primary insurance, without contribution.

(c) Shall provide that the policies shall not be canceled or materially altered without at least thirty days' prior written notice to the Lessor.

(d) Shall, unless impracticable to obtain and waived in writing by the Lessor:

(i) Provide that the liability of the insurer shall not be affected by, and that the insurer shall not claim any right of setoff, counterclaim, apportionment, proration or contribution by reason of, any other insurance obtained by the Lessor.

(ii) Contain no provision relieving the insurer from liability for loss occurring while the hazard to any buildings is increased, whether or not within the knowledge or control of the Lessor or the Lessee or because of any breach of warranty or condition or any other act or neglect by the Lessor or the Lessee or any tenant or any other persons under either of them.

(e) Contain a standard mortgagee clause.

The insurance required by this lease may be affected by a policy or policies of blanket insurance which may cover other properties or locations not constituting a part of the premises or located thereon, provided that (i) evidence of the underlying policy satisfactory to the Lessor shall be deposited with the Lessor and (ii) upon written request of the Lessor, such blanket policy shall irrevocably allocate to the premises (both realty and personally severally) as the first payable loss under such policy the specific amount of coverage required to be carried by the Lessee under this lease.

9.5 **Payment of Premiums and Delivery of Policies**. The Lessee shall pay all premiums and all fees and expenses for the insurance required herein when due and will deliver true and correct copies of all policies or certificates of insurance together with evidence of payment of the premiums, to the Lessor within tendays after the commencement of the term and thereafter deliver replacement policies or renewals not less than twenty days prior to the expiration dates of expiring policies. If the Lessee defaults in insuring the premises or in delivering the policies (or certificates), the Lessor, at its option but without being so obligated, may effect such insurance from year to year and pay the premiums, and the Lessee will reimburse the Lessor on demand for any premiums so paid with interest from the time of payment at the rate of one percent per month. The Lessor shall not be responsible for such insurance or for the collection of any insurance proceeds or for the insolvency of any insurer or insurance underwriter.

9.6 **Determination of Replacement Value and Additional Coverage.** The "full replacement value" of the building and other improvements to be insured hereunder shall be determined by the company issuing the insurance policy at the time the policy is initially obtained. Not more frequently than once every three years either party shall have the right to notify the other party that it elects to have the replacement value redetermined by an insurance company. The redetermination shall be made promptly and in accordance with the rules and practices of the Board of Fire Underwriters, or a like board recognized and generally accepted by the insurance company, and each party shall be promptly notified of the results by the company. The insurance policy shall be adjusted according to the redetermination.

9.7 **Review of Coverage**. The adequacy of the coverage afforded by the insurance shall be subject to review such that if that a prudent businessman in Hawaii operating a business similar to that operated by the Lessee on the premises would increase the limits of liability or hazard insurance coverage or would insure the property against additional perils when such insurance is available in Hawaii, the Lessee shall forthwith increase such coverage and/or provide insurance against such additional perils.

9.8 **Waiver of Recovery**. Lessor shall not be liable to Lessee nor to any insurance company (by way of subrogation or otherwise) insuring the Lessee for any loss or damage to any building, structure or tangible personal property, or any resulting losses under worker's compensation laws and benefits, even though such loss or damage may have been caused by the negligence of Lessor or Lessor's authorized representatives if any such loss or damage is covered by insurance benefitting Lessor or if Lessee was required to obtain insurance by this lease to cover such loss or damage. Lessee shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against Lessor in connection with any damage covered by any policy.

ARTICLE X
DAMAGE OR DESTRUCTION

10.1 **Lessor's Election**. Except as may otherwise be required by the Master Lease and/or any mortgage on the Property, if the premises or any portion of the Property should be damaged or destroyed during the term hereof by any uninsured casualty or should the Property be damaged to an extent of twenty-five percent (25%) or more of the then tax assessed value thereof, then the Lessor may either terminate this lease or elect to repair or restore said damage or destruction, in which latter event Lessor shall repair and/or rebuild the same as provided for below and the

monthly base rent shall be abated proportionately as provided herein. Lessor shall advise Lessee in writing whether it intends to rebuild or repair within ninety (90) days after the casualty. If Lessor elects not to repair or rebuild, this Lease shall terminate without further notice, in which event all further obligations of either party shall cease, effective as of the date Lessee shall cease business in the premises. If such damage or destruction occurs and this lease is not so terminated by Lessor, this lease shall remain in full force and effect, and the parties waive the provisions of any law to the contrary. The Lessor's obligation under this Section 10.1 shall in no event exceed the scope of the work done by the Lessor in the original construction of the Property and the premises. Lessee agrees during any period of reconstruction or repair of the premises and/or of the Property to continue the operation of its business on the premises to the extent reasonably practicable from the standpoint of good business practice. Except in those cases where damage or destruction to the premises shall have been caused by the fault of the Lessee, the base rent shall be abated proportionately during any period during which, by reason of any damage or destruction, there is a substantial interference with the operation of the business of Lessee in the premises, and such abatement shall continue for the period commencing with such destruction or damage and ending with the completion by the Lessor of such work of repair and/or reconstruction as Lessor has elected to do. Nothing in this Section 10.1 shall be construed to abate or diminish additional rent or abate base rent where interference with the operation of the Lessee's business shall have been a result of the Lessee's acts, omissions or other fault.

10.2 **Lessee's Obligation**. Lessee shall, in the event of any damage or destruction affecting the premises, unless this Lease shall be terminated as provided above, promptly replace or fully repair all furniture, improvements, trade fixtures, equipment, and other fixtures originally installed by Lessee. Lessor shall have no interest in the proceeds of any insurance carried by Lessee on Lessee's interest in this lease, and Lessee shall have no interest in the proceeds of and insurance carried by Lessor.

ARTICLE XI
CONDEMNATION

11.1 **Definitions**.

(a) "Condemnation" means (i) the exercise of any governmental power, whether by legal proceedings or otherwise, by a condemner and (ii) a voluntary sale or transfer by the Lessor to any condemner, either under threat of condemnation or while legal proceedings for condemnation are pending.

(b) "Date of taking" means the date the condemner has the right to possession of the property being condemned.

(c) "Award" means all compensation, damages, sums, or anything of value awarded, paid, or received on a total or partial condemnation.

(d) "Condemner" means any public or quasi-public authority or private corporation or individual having power of condemnation.

11.2 **Total Taking**. If the premises are totally taken by condemnation, this lease shall

terminate on the date of taking.

11.3 **Partial Taking of Premises**. If any portion of the premises is taken by condemnation, this lease shall remain in effect, except that the Lessee may elect to terminate this lease if the remaining portion of the premises or access thereto is rendered unsuitable for the Lessee's continued use of the premises. The Lessee must exercise this right to terminate pursuant to this by giving notice to the Lessor within fifteen days after the nature and the extent of the taking have been finally determined. If the Lessee does not terminate this lease within the fifteen-day period, this lease shall continue in full force and effect.

11.4 **Effect on Rent**. If a portion of the premises or any access thereto is taken by condemnation and this lease remains in effect, the rent shall not be reduced and all other obligations of Lessee under this lease shall remain in full force and effect.

11.5 **Restoration of Premises**. If after a partial taking of the premises this lease remains in effect, the Lessee at its cost shall accomplish all necessary restoration.

11.6 **Award - Distribution**. Except as hereinafter provided, the award received for a total or partial condemnation shall belong to and be paid to Lessor. Lessee may recover from the condemning authority such award as may be separately recovered by Lessee in its own right for its leasehold interest, and for merchandise, furniture, fixtures, equipment and other personal property of Lessee or business interruption.

ARTICLE XII
TRANSFERS

12.1 **Prohibition Against Voluntary Assignment, Subletting, and Encumbering**. The Lessee shall not voluntarily assign or encumber its interest in this lease or in the premises, or sublease all or any part of the premises, or allow any other person or entity (except authorized representatives) to occupy or use all or any part of the premises without the prior written consent of the Lessor and Master Lessor. The lessor shall in all cases have the right to determine that any proposed assignee or sublessee shall be of sound financial condition and shall use the premises only for suitable purposes. A consent by the Lessor or Master Lessor to one assignment, mortgage, subletting, occupation or use by any other person, shall not be deemed to be a consent to any subsequent assignment, mortgage, subletting, occupation or use by another person.
Any such assignment or subletting without the Lessor's and Master Lessors consent shall be void, and shall, at the option of Lessor, terminate this lease. The Lessor shall not have the right to impose any charge or fee on the Lessee with respect to any consent requested under this Section except a reasonable administrative fee of not more the $500.00 for actual attorney's fees incurred by Lessor with respect to such request.

12.2 **Change of Ownership**. If the Lessee is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, of the partner or partners owning fifty percent or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment. If the Lessee is a corporation, any dissolution, merger, consolidation, or other reorganization of the Lessee, or the transfer of a controlling percentage of the stock, or the sale of fifty percent of the value of the assets of the Lessee, shall be deemed a voluntary assignment.
If Lessee is a limited liability company, any sale or transfer of any management interest or

more than fifty percent of the ownership interest shall be deemed a voluntary assignment.

12.3 **Involuntary Assignment**. No interest of the Lessee in this lease shall be assignable by operation of law (including, without limitation, the transfer of this lease by testacy or intestacy). Each of the following acts shall be considered an involuntary assignment:

(a) If the Lessee is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which the Lessee is the bankrupt; or, if the Lessee is a partnership or consists or more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent or makes an assignment for the benefit of creditors.

(b) If a writ of attachment or execution is levied on this lease.

(c) If, in any proceeding or action to which the Lessee is a party, a receiver is appointed with authority to take possession of the premises.

12.4 **Effect of Involuntary Assignment**. An involuntary assignment shall constitute a default by the Lessee and the Lessor shall have the right to elect to terminate this lease, in which case this lease shall not be treated as an asset of the Lessee.

12.5 **Absolute Assignment of Sublease Rents**. Lessee hereby absolutely assigns and transfers to Lessor all rents and other sums due and payable to Lessee under all subleases of the premises or any portion thereof; provided that, until the occurrence of any default as described in Section 13.1 below, Lessee may receive and hold such rents. Upon the occurrence of such default, Lessor shall have the immediate right, with or without terminating this lease, to receive and collect all rents and profits due or accrued or to become due under said subleases, and said rents and profits are hereby assigned to Lessor, and Lessor is hereby irrevocably appointed the attorney-in-fact of Lessee with power in the name of Lessee or Lessor, to demand, sue for, collect, recover and receive all such rents and profits, to compromise and settle claims of rents or profits upon such terms and conditions as may seem proper, and to enter into, renew or terminate leases or tenancies, and to apply any rents and profits collected to the payment of all amounts due to Lessor under this lease, and any such application shall in all respects be binding upon Lessee for all purposes. Each and every sublease of the premises or any portion thereof shall expressly provide that the sublessee shall, upon receipt of written notice from Lessor of Lessees default under this lease, tender and pay to Lessor all rents and other sums then due and owing to the sublessor under such sublease and shall continue to pay such sums to Lessor as and when due as if Lessor were the sublessor under the sublease, and Lessee hereby acknowledges and agrees that a sublessees payment of any amounts under this Section 12.5 shall discharge such sublessees payment obligations under the sublease to the same amount, and any contractual provisions to the contrary shall be null and void as between such sublessee and Lessee. Notwithstanding the foregoing, Lessor and Lessee acknowledge and agree that any amounts collected by Lessor under this Section 12.5 in excess of amounts owed by Lessee under this lease at the time of such collection shall be held by Lessor in trust for the benefit of Lessee and Lessor shall pay over such excess amounts to Lessee upon satisfaction of all of Lessees then outstanding debts and obligations to Lessor under this lease.

12.6 **Restriction on Mortgages**. The Lessee shall not mortgage this lease or its leasehold

estate without the prior written consent of the Lessor and, if required, the Master Lessor.

12.7 **Assignment by Lessor**. If Lessor transfers or assigns its interest in this lease or in the Property to any person, Lessor shall thereby be released from any further obligations arising from and after the date of the assignment hereunder, and Lessee agrees to look solely to such successor-in-interest of Lessor for performance of such obligations. If any security given by Lessee to secure the performance of Lessee's obligations hereunder is assigned or transferred by Lessor to any such successor-in-interest, then Lessor shall thereby be discharged of any further obligation relating thereto. For the purposes of this Section, any holder of a mortgage that affects the premises or the Property at any time will be a successor-in-interest to Lessor as to the premises and the Property when it succeeds to the interest of the Lessor or any successor-in-interest, whether by voluntary sale, assignment or transfer or by way of foreclosure, deed in lieu of foreclosure or dispossession of Lessor. Lessee agrees to attorn to the assignee, transferee, or purchaser of Lessor's interest from and after the date of notice to Lessee of any such assignment, transfer or sale, in the same manner and with the same force and effect as though this lease were made, in the first instance, by and between Lessee and such assignee, transferee or purchaser. If any proceedings are instituted for foreclosure, or in the event of the exercise of the power of sale under any mortgage made by Lessor covering the premises or the Property, Lessee shall, upon such mortgagee's request, attorn to the transferee or successor-in-interest upon any such foreclosure, deed in lieu of foreclosure, sale or termination and recognize such transferee or successor-in-interest as the Lessor under this lease.

ARTICLE XIII
DEFAULT

13.1 **Lessee's Default**. The occurrence of any of the following shall constitute a default by the Lessee:

(a) Failure to pay rent when due.

(b) Abandonment of the premises (failure to occupy and operate the premises of fifteen consecutive days shall be deemed an abandonment).

(c) Failure to perform any other provision of this lease if the failure to perform is not cured within thirty days after notice has been given to the Lessee. If the default cannot reasonably be cured within thirty days, the Lessee shall not be in default of this lease if the Lessee commences to cure the default within the thirty-day period and diligently and in good faith continues to cure the default.

13.2 **Lessor's Remedies**. The Lessor shall have the following remedies if the Lessee commits a default. These remedies are not exclusive; they are cumulative and in addition to any remedies allowed by law or in equity.

(a) Lessee's Right to Possession Not Terminated. The Lessor may continue this lease in full force and effect as long as the Lessor does not terminate the Lessee's right to possession, and the Lessor shall have the right to collect rent when due. During the period the Lessee is in default, Lessor may enter the premises and relet them, in whole or any part, to third persons for the Lessee's account. The Lessee shall be liable immediately to the Lessor for all costs the Lessor incurs in

releting the premises, including, without limitation, brokers' commission, expenses of remodeling the premises required by the releting, and like costs. Releting may be for a period shorter or longer than the remaining term of this lease. The Lessee shall pay to the Lessor the rent due under this lease on the dates the rent is due, less the rent the Lessor receives from any releting. No act by the Lessor allowed by this shall terminate this lease unless the Lessor so notifies the Lessee.

If the Lessor elects to relet the premises as provided in this Section, rent that the Lessor receives from releting shall be applied to the payment of: (i) first, any indebtedness from the Lessee to the Lessor other than rent due from the Lessee; (ii) second, all costs, including for maintenance, incurred by the Lessor in releting; and (iii) third, rent due and unpaid under this lease. After deducting the payments referred to in this Section, any sum remaining from the rent the Lessor receives from releting shall be held by the Lessor and applied in payment of future rent as rent becomes due under this lease. In no event shall the Lessee be entitled to any excess rent received by the Lessor. If, on the date rent it due under this lease, the rent received from the releting is less than the rent due on that date, the Lessee shall pay to the Lessor, in addition to the remaining rent due, all costs, without limitation, the Lessor incurred in releting that remain after applying the rent received from the releting as provided in this Section.

(b) Lessee's Right to Possession is Terminated. The Lessor may terminate the Lessee's right to possession of the premises at any time. No act by the Lessor other than giving notice to the Lessee shall terminate this lease. Acts of maintenance, efforts to relet the premises, or the appointment of a receiver on the Lessor's initiative to protect the Lessor's interest under this lease shall not constitute a termination of Lessee's right to possession. On termination, the Lessor has the right to recover from the Lessee, in addition to any other remedies Lessor may have, any and all damages and losses Lessor may incur by reason of Lessees default, including the cost of recovering the premises, attorney's fees, and the worth at the time of such termination of the excess, if any, of the amount of rent and additional rent reserved in this lease for the remainder of the stated term over the then reasonable rental value of the premises for the remainder of the stated term, all of which amounts shall be immediately due and payable from Lessee to Lessor.

13.3 **Appointment of Receiver**. If the Lessee is in default of this lease, the Lessor shall have the right to have a receiver appointed to collect rent and conduct the Lessee's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Lessor to terminate this lease.

13.4 **Lessor's Right To Cure Lessee's Default; Interest**. The Lessor, at any time after the Lessee commits a default, can cure the default at the Lessee's cost. If the Lessor at any time, by reason of the Lessee's default or pursuant to this lease, pays any sum or does any act that requires the payment of any sum, the sum paid by the Lessor shall be due immediately from the Lessee to the Lessor at the time the sum is paid, and if paid at a later date shall bear interest at the rate of one and one-half percent (1%) per month. The sum, together with interest, shall be additional rent.

13.5 **Late Fee and Interest on Past Due Accounts**. Lessee hereby acknowledges that late payment by the Lessee of rent and other sums due under this lease will cause the Lessor to incur costs not contemplated by this lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on the Lessor by the terms of any mortgage covering the premises. Therefore, in the event the rent hereunder shall not be received by the first (1st) of the month, a late

fee computed at the rate of five percent (5%) of the rent and other sums not paid shall be automatically charged until payment is received. Any amounts owing by Lessee to Lessor under the terms of this lease shall carry interest from the date the same become due until paid at the rate of one and one-half percent (1%) per month. Said interest shall be considered as a part of the rent payable under this lease.

13.6 **Expenses of Lessor**. The Lessee will pay to the Lessor on demand all costs and expenses, including reasonable attorney's fees, incurred by the Lessor in enforcing any covenants or conditions contained in this lease, in remedying any breach by the Lessee, in collecting any delinquent rent, taxes or other charges hereunder payable by the Lessee, in recovering possession or in connection with any litigation (other than condemnation proceedings) commenced by or against the Lessee to which the Lessor shall without fault on its part to be made a party.

ARTICLE XIV
LESSOR'S ENTRY ON PREMISES

14.1 **Right of Entry**. The Lessor, Master Lessor and their authorized representatives shall have the right to enter the premises at all reasonable times upon providing the Lessee with twenty-four hours prior notice for any purpose, including, without limiting the generality of the foregoing, (a) to determine whether the premises are in good condition and whether the Lessee is complying with its obligations under this lease; (b) to do any maintenance and to make any restoration that the Lessor has the right or obligation to perform; (c) to serve, post, or keep posted any notices required or allowed under the provisions of this lease; (d) to post "for sale" signs at any time during the term, to post "for rent" or "for lease" signs during the last twelve months of the term, or during any period while Lessee is in default; (e) to show the premises to prospective brokers, agents, buyers, tenants, or persons interested in an exchange, at any time during the term; (f) to shore the foundations, footages and walls within the premises; and (g) to erect scaffolding in and protective barricades around and about the premises, but not so as to prevent entry to the premises, and to do any other act or thing necessary for the safety or preservation of the premises or the buildings and other improvements on the Property if any excavation or other construction is undertaken or is about to be undertaken on any adjacent property or nearby street; the Lessor's right under this clause (g) extends to the owner of the adjacent property on which excavation or construction is to take place and the adjacent property owner's authorized representatives. The Lessor, Master Lessor or their authorized representatives may enter at any time and without notice to the Lessee in circumstances when persons or property may be in imminent danger, provided, however, that notice of entry shall be given as soon as reasonably possible thereafter.

14.2 **No Liability for Entry**. The Lessor and Master Lessor shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Lessor's or Master Lessors entry on the premises as provided in this Article, except damage resulting from the willful or grossly negligent acts or omissions of the Lessor, Master Lessor or their authorized representatives. The Lessee shall not be entitled to an abatement or reduction of rent if the Lessor or Master Lessor exercises any rights reserved in this Article in a manner that does not materially interrupt the normal operation of the Lessee's business. The Lessor shall, to the extent reasonably possible, conduct its activities on the premises as allowed in this Article in a manner that will cause the least possible inconvenience, annoyance or disturbance to the Lessee.

ARTICLE XV
WAIVER

15.1 **Waiver**. No delay or omission in the exercise of any right or remedy of the Lessor on any default by the Lessee shall impair such a right or remedy or be construed as a waiver. The receipt and acceptance by the Lessor of delinquent rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular rent payment involved. No act or conduct of the Lessor, including, without limitation, the acceptance of the keys to the premises, shall constitute an acceptance of the surrender of the premises by the Lessee before the expiration of the term. Only a notice from the Lessor to the Lessee shall constitute acceptance of the surrender of the premises and accomplish a termination of the lease. The Lessor's consent to or approval of any act by the Lessee requiring the Lessor's consent or approval shall not be deemed to waive or render unnecessary the Lessor's consent to or approval of any subsequent act by the Lessee. Any waiver by the Lessor of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this lease.

ARTICLE XVI
SURRENDER OF PREMISES; HOLDING OVER

16.1 **Surrender of Premises**. At the expiration of the term of this lease, the Lessee shall surrender the premises in the same condition of cleanliness, repair and sightliness as the premises were in upon the commencement date of this lease. Lessee shall surrender all keys for the premises to Lessor at the place then fixed for the payment of rent and shall inform Lessor about all combinations on locks, safes and vaults, if any, in the premises. On such day, unless the Lessor shall, in its sole discretion, require the removal thereof, all buildings, structures, alterations, additions, improvements, all hard surface bonded or adhesively affixed flooring, and all fixtures on the premises other than Lessee's trade fixtures and operating equipment, shall become the property of Lessor and shall remain upon and be surrendered with the premises as a part thereof, without disturbance, molestation or injury, and without credit to Lessee, its sublessees, concessionaires or licensees. On or before the last day of the term or the sooner termination hereof, Lessee, if not then in default, shall remove all trade fixtures, operating equipment and other personal property of Lessee. In addition, if required by the Lessor, Lessee shall remove any or all buildings, structures, alterations, additions, improvements, flooring and other fixtures as Lessor shall require from the premises and repair any damage occasioned by any such removal. If Lessor is required to repair any damage caused to the premises by such removal, Lessee shall repay the Lessor for the cost of the same. Property not so removed shall be deemed abandoned by Lessee. If the premises are not surrendered at such time, Lessee shall indemnify Lessor against loss or liability resulting from delay by Lessee in so surrendering the premises, including without limitation, any claims made by any succeeding tenant based on such delay and/or Lessor's lost rental income. Lessee's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this lease.

The Lessor may retain or dispose of in any manner any buildings, structures, alterations, trade fixtures or personal property that the Lessee does not remove from the premises on expiration or termination of this lease by giving at least ten days' notice to the Lessee. Title to any such alterations, trade fixtures or personal property that the Lessor elects to retain or dispose of on expiration of the ten-day period shall vest in the Lessor. The Lessee waives all claims against the

Lessor for any damage to the Lessee resulting from the Lessor's retention or disposition of any such alterations, trade fixtures or personal property. The Lessee shall be liable to the Lessor for the Lessor's costs for storing, removing, and disposing of any buildings, structures, alterations, trade fixtures or personal property that Lessor was required, but failed, to remove.

16.2 **Liquidated Damages**. If Lessee shall, at the expiration or other termination of this lease, fail to yield possession to Lessor, Lessor shall have the option to require Lessee to pay and Lessee shall pay, as liquidated damages, for each day possession is withheld, an amount equal to double the amount of the daily monthly base rent computed on the basis of a thirty (30)-day month, together with additional rent and any other payments required under this lease.

16.3 **Holding Over**. If the Lessee, with Lessor's written consent, remains in possession of the premises after expiration or termination of the term, or after the date in any notice given by the Lessor to the Lessee terminating this lease, such possession shall be deemed to be a month-to-month tenancy terminable on thirty days' written notice given at any time by either party. All provisions of this lease except those pertaining to term shall apply to the month-to-month tenancy.

ARTICLE XVII
MISCELLANEOUS PROVISIONS

17.1 **Consent of Parties**. Except as otherwise provided herein, whenever consent or approval of either party is required, that party shall not unreasonably withhold such consent or approval and no charge shall be made for consent except for reasonable attorneys fees and out of pocket costs incurred in connection with the review and preparation of the consent.

17.2 **Exhibits--Incorporation in Lease**. All exhibits referred to are attached to the lease and incorporated by reference.

17.3 **Hawaii Law**. This lease shall be construed and interpreted in accordance with Hawaii law.

17.4 **Integrated Agreement; Modification**. This lease contains the entire agreement between the parties, and any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this lease in whole or in part unless such agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought. It is expressly understood and agreed that each and all of the provisions of this lease are conditions precedent to be faithfully and fully performed and observed by the Lessee to entitle Lessee to continue in possession of the premises hereunder; that said conditions are also covenants on the part of Lessee; and that time of performance of each is of the essence of this lease.

17.5 **Notices**. Any notice or demand which a party may or is required to give to the other party or parties to this lease shall be in writing and given to such party, or delivered by a reputable air courier service, e.g., Federal Express or UPS, which provides written evidence of delivery, addressed to it at its address set forth on the first page of this lease, or facsimile number or to such other address, facsimile number as shall be designated by one party in a written notice to the other party or parties. Each such notice or demand shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified and the appropriate confirmation is

received, (ii) if given by United States certified mail, return receipt requested with first class postage prepaid, addressed as aforesaid, upon receipt or (iii) if given by any other means, when delivered at the address specified above.

17.6 **Submission to Condominium Property Regime**. Lessor shall also have the right, without the consent of Lessee to submit all or a part of the Property of which the premises are a portion to a Condominium Property Regime under Chapter 514A of the Hawaii Revised Statutes or any successor statute and to execute and record a Declaration of Condominium Property Regime and any amendments thereto, as deemed appropriate or necessary by Lessor; provided, however, that any such submission to a Condominium Property Regime shall be subject to the Lessee's rights under this lease. Lessor shall have the right to add, delete, relocate, realign, reserve and grant all easements and rights of way over, under and on the common areas, the Property and the premises as may be necessary or desirable in connection with such submission of the Property; provided, however, that such easements and rights-of-way shall not materially impair the use of the premises by Lessee. To the extent that the joinder of Lessee shall be required in order to validate any Declaration of Condominium Property Regime or amendment contemplated therein, Lessee hereby agrees to join in and to execute the same, and for purposes of further securing the foregoing covenant, Lessee hereby irrevocably appoints Lessor as its attorney-in-fact, coupled with an interest, for purposes of executing, recording and acknowledging any such Declaration or amendment for and on behalf of Lessee.

17.7 **Rent Payable in U.S. Money**. Rent and all other sums payable under this lease must be paid in lawful money of the United States of America.

17.8 **Severability**. The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.

17.9 **Subordination of Lease**. This lease shall automatically be subordinate to any mortgage, encumbrance or deed of trust heretofore or hereafter placed upon the premises by Lessor, to any and all advances made or to be made thereunder, to the interest on the obligations secured thereby, and to all renewals, replacements and extensions thereof; provided, however, that in the event of foreclosure of any such mortgage or deed of trust or exercise of the power of sale thereunder, Lessee shall attorn to the purchaser at such foreclosure or sale, and recognize such purchaser as lessor under this lease if so requested by such purchaser. Within ten days after request therefor by Lessor, or, in the event that upon Lessor's sale, assignment or hypothecation of the Lessor's interest in land or improvements which comprise the premises, an estoppel or offset statement shall be required from Lessee, Lessee shall deliver in recordable form a certificate to any purchaser, mortgagee under such mortgage, or to Lessor, certifying (if such be the case) that this lease is in full force and effect and that there are no defenses or offsets thereto, or stating those claimed by Lessee, and stating such other facts and conditions as may be reasonably required of Lessee. In the event Lessor is refinancing the premises, Lessee agrees to deliver a current financial statement to the proposed lender. If any mortgagee or beneficiary elects to have this lease superior to its mortgage or deed of trust and gives notice of its election to Lessee, then this lease shall thereupon become superior to the lien of such mortgage or deed of trust, whether this lease is dated or recorded before or after the mortgage or deed or trust. Lessee shall execute promptly after demand, without charge, all forms, documents and instruments required by Lessor to carry out the terms of this Section.

17.10 **Singular and Plural; Pronouns**. When required by the context of this lease, the singular shall include the plural. A pronoun of one gender shall include reference to all genders as the context may require.

17.11 **Binding Effect**. Except as otherwise provided herein, this lease and each and every provision hereof shall be binding on and shall, subject to the required consent of Lessor, inure to the benefit of the parties hereto, their respective personal representatives, successors, heirs, and permitted assigns, and to each and every successor-in-interest of any party hereto, whether such successor acquires any such interest by way of gift, purchase, foreclosure, merger, or by any other method.

17.12 **Right to Estoppel Certificates**. Each party, within ten days after notice from the other party, shall execute and deliver to the other party, in recordable form, a certificate stating that this lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modifications. The certificate also shall state the amount of the base monthly rent, the dates to which the rent has been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the ten days shall be conclusive upon the party failing to deliver the certificate for the benefit of the party requesting the certificate and any successor to the party requesting the certificate, that this lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

17.13 **Attorney's, Architect's, Etc. Fees**. If Lessor and/or its agent shall, without fault, be made a party to any litigation by or against Lessee arising out of Lessee's occupancy of the premises or any act of Lessee concerning the premises or this lease, or if litigation shall be brought for recovery of possession of the premises, for the recovery of rent or any other amount due under the provisions of this lease, or because of the breach of any covenant in this lease to be kept or performed by Lessee, and a breach shall be established, the Lessee shall pay to Lessor and/or its agent all expenses incurred in connection therewith, including attorney's fees. Lessee shall also pay any and all costs and fees incurred or paid by the Lessor, including attorney's fees and the fees of architects or other professionals employed by Lessor, to review, revise or prepare any document, plan or other writing of any nature presented by or on behalf of the Lessee to Lessor for review or approval in connection with Lessee or any action by Lessee under this lease, including, without limitation, requests for consents to assignments, subleases, mortgages or other similar items, or certificates, approvals, opinions, or other agreements with respect thereto, which such items in the opinion of the Lessor require the employment of an attorney or other professional on behalf of the Lessor. Any failure of the Lessee to pay such costs or fees upon demand of the Lessor shall be deemed a default under this lease and the Lessor shall be entitled to exercise its rights on account of such default as provided above. Lessor shall not be obligated to consider, review, execute or deliver any consent, approval, certificate or other item until the costs and fees herein required to be paid by the Lessee have been paid.

17.14 **Additional Improvements Upon Property**. Lessor reserves the right, at any time, to make alterations or additions to, and to build additional stories on the building in which the premises are contained and to build in areas adjoining the premises. Lessor also reserves the right, from time to time, to construct other buildings or improvements on the Property and to make alterations or additions thereto and to build additional stories on any such buildings and to build adjoining the same and to construct controlled or elevated parking facilities. Lessor's exercise of

these rights will not require Lessor to compensate Lessee in any way, nor will it result in any liability by Lessor to Lessee or in any way affect Lessee's obligations under this lease.

17.15 **Force Majeure.** In the event that either Lessor or Lessee shall be delayed or hindered in or prevented from the performance from any act required under this lease by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, or other reason of a like nature, not the fault of the party delayed in performing the work or doing the acts required under the terms of this lease then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 17.15 shall not operate to excuse Lessee from the prompt payment of rent, or any other payments required by the terms of this lease.

17.16 **Master Lease**. This lease is subject to that certain Harbor Lease H-82-4 dated April 8, 1983, made by and between the STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION, as Lessor (the Master Lessor), and Lessor, as Lessee (the Master Lease), recorded as Document No. Assigns lease recorded in book 1779, page 314, in the Bureau of Conveyances of the State of Hawaii, as the same may hereafter be amended from time to time (the "Master Lease"). Lessee acknowledges having received and reviewed a copy of the Master Lease. If there is any conflict between the provisions of this lease and the provisions of the Master Lease, then, in every such event, the provisions of the Master Lease shall control, to the exclusion of any inconsistent provisions of this lease. Lessee covenants and agrees that it will not violate any term, covenant or condition contained in the Master Lease and on the part of Lessor to be observed and performed. Lessee acknowledges that this lease and the Lessees right to occupy and use the premises under this lease is subject to and conditioned upon the Master Lessors approval of this lease and Lessee accepts the risk that the Master Lessor will not approve this lease. In the event the Master Lessor refuses to approve this lease, this lease, and the Lessors and Lessees rights, duties and obligations under this lease, will terminate and the Lessor shall not be liable to Lessee for any loss or damage resulting from the Master Lessor's refusal to approve this lease or the termination of this lease by reason thereof.

17.17 **Trademarks**. Lessee acknowledges that Lessor is owner of all right, title and interest in and to the name and mark "THE YARD", that Lessor is owner of all right, title and interest in and to the trade name "THE YARD" apart from Lessor's exclusive rights in the words "THE YARD", and that Lessee may only use the name and mark "THE YARD" with the approval and permission of Lessor. For purposes of this Section, the name and mark "THE YARD", and any modifications of the name and mark which incorporate the words "THE YARD", are collectively referred to as the "Trademarks". Lessee agrees never to contest Lessor's title to the Trademarks or the validity of any Trademark application or registration therefor filed or obtained by Lessor. Lessee shall not use the name of Lessor, the Property, the Trademarks, or words to that effect, except for the use of "THE YARD" as a part of Lessee's address. Lessee acknowledges that Lessor shall be entitled to immediate injunctive relief against any misuse or infringement of the Trademarks by Lessee, and Lessee agrees to pay all attorneys' fees of Lessor resulting from any action taken by Lessor to terminate such misuse, infringement or other violation of this Section. In the event that Lessor changes or modifies any of the Trademarks, Lessor shall not be liable to Lessee for any cost, loss or expense whatsoever incurred by Lessee with respect thereto and Lessor shall have no obligation to purchase from Lessee any inventory, advertising materials or other property of Lessee which utilized the changed Trademark.

ARTICLE XVIII
ARBITRATION

18.1 **Arbitration of Disputes**.

(a) Submission to Arbitration. Except as otherwise provided in Subsection (d) below, in the event of any dispute or claim arising out of this lease or the parties' performance or default hereunder (other than the nonpayment of rent or other sums expressly due and payable under this lease), such dispute or claim shall be submitted to binding arbitration by a single arbitrator, pursuant to the provisions of Hawaii Revised Statutes Chapter 658A, as amended ("Chapter 658A") and this Article XIX.

(b) Appointment of Arbitrator. Except as otherwise provided in Subsection (d) below, the arbitrator shall be selected by the parties or if they are unable to agree upon the arbitrator, the arbitrator shall be appointed by the Circuit Judge of the Third Circuit Court, as provided in Chapter 658A.

(c) Arbitrator's Decision Final. The award of the arbitrator shall be final and binding subject only to confirmation, modification, correction or vacation as provided in Chapter 658Aand judgment may be entered thereon as provided in Chapter 658A; provided, however, that no such award shall provide for an award of punitive damages or other exemplary relief. The costs and fees incurred by the parties in the arbitration, and the costs of the arbitration, shall be paid by the non-prevailing party as determined by the arbitrator; the costs and fees incurred by the parties in any judicial proceeding subsequent to an award, and the cost of such proceedings, shall be paid to the prevailing party as provided in Chapter 658A.

(d) Matters That May be Pursued in Court. Notwithstanding any provision to the contrary in this Article XVIII, the parties have reserved the right to pursue, in a court of competent jurisdiction, (i) a temporary restraining order, preliminary injunction and/or specific performance, as appropriate, where the failure to enjoin a party's breach of an obligation under this lease or the failure to enforce a party's compliance with any obligation or condition of this lease will create irreparable harm to the party seeking such relief and monetary damages would be an inadequate remedy at law, and (ii) an action for summary possession and a writ to be issued therein under Hawaii Revised Statutes Chapter 666, as amended, where Lessee has failed to pay the rent or other sums due and payable under this lease. Regardless of whether the court grants or denies the request for such equitable or summary relief, all issues relating to monetary damages or costs of any type (other than the nonpayment of rent or other sums expressly due and payable under this lease) shall continue to remain subject to arbitration as provided herein.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have executed this lease on the day and year first above written.

GKM, INC., a Hawaii corporation

By _____
Name: Shane O'Brien
Its President

"LESSOR"

PRECISION MARINE POWER, INC.

By _____
Name: George T Reynolds
Its President

"LESSEE"

By _____
Name: _____
Its _____

"LESSEE"

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 18 day of April, 2025, before me personally appeared Robert Rapoza, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Name: Robert Haber
Notary Public, State of Hawaii

My commission expires: 1-9-2026

ROBERT HABER NOTARY PUBLIC Comm. No. 06-711 STATE OF HAWAII

ROBERT HABER NOTARY PUBLIC Comm. No. 06-711 STATE OF HAWAII

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 21st day of April, 2025, before me personally appeared Shane Obrien, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

LEONIE G. MELCHOR-HIROKANE NOTARY PUBLIC No. 89-540 STATE OF HAWAII

Name: LEONIE G. MELCHOR-HIROKANE
Notary Public, State of Hawaii

My commission expires: SEP 26 2025

LEONIE G. MELCHOR-HIROKANE NOTARY PUBLIC No. 89-540 STATE OF HAWAII

Doc. Date: APR 21 2025 # Pages 31
Notary Name: Leonie G. Melchor-Hirokane Third Circuit
Doc. Description: Sublease - Space 4A

Notary Signature APR 21 2025 Date
NOTARY CERTIFICATION

Lessee: Precision Marine Power, Inc.
Premises: Space No. 24a

PERSONAL GUARANTY OF LEASE ADDENDUM

PERSONAL GUARANTY by the undersigned Guarantor(s) with respect to the Sublease between **GKM, INC.**, a Hawaii corporation, Lessor, and Precision Marine Power, Inc., dated the _____ day of _____, 2025, for Space No. 24A in the THE YARD (the "Lease"):

THE UNDERSIGNED GUARANTOR(S), do hereby unconditionally guarantee to Lessor and its successors and assigns, the full and timely payment of the rent and all other amounts provided to be paid under the Lease and do also guarantee the full and timely observance and performance of all the other covenants, terms and conditions of the Lease on the part of Lessee to be observed and performed, and do hereby waive any and all notices of default, nonpayment, demand, presentment or protest and agree that any extensions, modifications or amendments of the Lease shall not in any manner release the undersigned Guarantor(s), and that Lessor may at any time, with or without notice, release any person, corporation or entity other than Lessee liable for observance or performance of any covenants required to be observed or performed under the Lease, and may extend the time for payment or modify or extend the time for compliance with any covenant of the Lease, or in any other way amend, change or modify the Lease without in any way releasing the undersigned Guarantor(s).

The liability of Guarantor(s) hereunder shall be primary. If at any time, default shall be made by Lessee in the performance or observance of any of the terms, covenants or conditions of the Lease on Lessee's part to be kept, performed or observed, Guarantor(s) will keep, perform and observe the same, as the case may be, in place and stead of Lessee. If any right of action shall accrue to Lessor under the Lease, Lessor may, at Lessor's option, proceed against Guarantor(s) without having commenced any action or having obtained any judgment against Lessee.

The liability of Guarantor(s) hereunder shall in no way be affected by (a) the release or discharge of Lessee in any creditors', receivership, bankruptcy or other proceedings, (b) the impairment, limitation or modification of the liability of Lessee or the estate of Lessee in bankruptcy, or any remedy for the enforcement of Lessee's said liability under the Lease, resulting from the operation of any present or future provision of the Federal Bankruptcy Code or other federal and state statutes or from the decision in any court, (c) the rejection or disaffirmance of the Lease in any such proceedings, (d) the assignment or transfer of the Lease by Lessee or (e) any disability of Lessee.

Until all of the covenants and conditions of the Lease on Lessee's part to be performed and observed are fully performed and observed, Guarantor(s) (a) shall have no right of subrogation against Lessee by reason of any payments or acts or performance by Guarantor(s), in compliance with the obligation of Guarantor(s) hereunder, (b) waive any right to enforce any remedy which Guarantor(s) now or hereafter shall have against Lessee by reason of any one or more payments or acts of performance in compliance with the obligations of Guarantor(s) hereunder, and (c) subordinate any liability or indebtedness of Lessee now or hereafter held by Guarantor(s) to the obligation of Lessee to the Lessor under the Lease.

The undersigned Guarantor(s) further agree to pay all costs of enforcement of the Lease and this Guaranty, including attorneys' fees in the event that counsel is retained or suit is instituted to enforce this Guaranty.

As a further inducement to Lessor to make this Lease and in consideration thereof, Lessor and the undersigned Guarantor(s) covenant and agree that in any action or proceeding brought by either Lessor or the undersigned Guarantor(s) against the other on any matters whatsoever arising out of, under or by virtue of the terms of the Lease or this Guaranty, that Lessor and the undersigned Guarantor(s) shall and do hereby waive trial by jury.

This instrument may not be changed, modified, discharged or terminated orally or any manner other than by agreement in writing signed by Guarantor(s) and Lessor.

IN WITNESS WHEREOF, the undersigned have executed this Personal Guaranty as of the _____ day of _____, 20___.

George T Reynolds

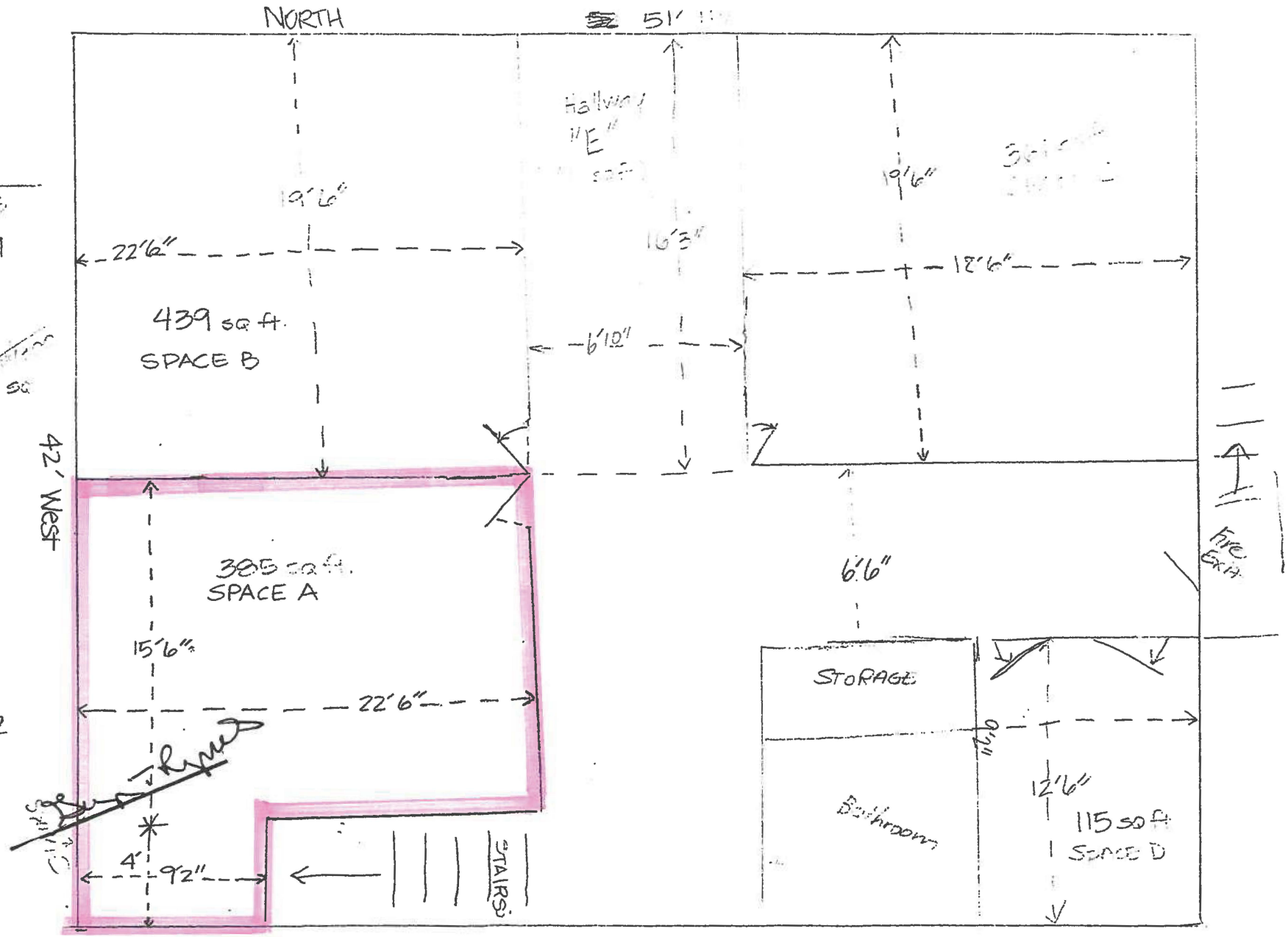
Print Name: George T Reynolds
SSAN: 244-31-5771

_____

Print Name: _____
SSAN: _____

EXHIBIT A
PREMISES AND PROPERTY

EXHIBIT "A" CONTINUED



UPSTAIRS

24 A 385

24 B 439

24 C 361

24 D 115

E hallway 111 sq

DOWNSTAIRS

STORE = 2142

Space No. 24A
Approx 385 sq. ft.

S.O.
"Lessor" Initials

"Lessee" Initials

EXHIBIT B
TERM, USE, SECURITY DEPOSIT AND MONTHLY BASE RENT

Lessee: Precision Marine Power, Inc.
Premises: Space No. 24A

Lessor and Lessee hereby agree and confirm that:

I. **TERM**:

The "commencement date" of the term ill begin on the 1st of the month following the approval of the Board of Land and Natural Resources (BLNR) approval of the Lease. The "termination date" of the term is 3 years from the "commencement date".

II. **USE**: Satellite sales office in support of Authorized Marine Dealership for: Cummins, CAT Marine, ZF Transmissions, TwinDisc Transmissions, Scania, Nanni, Yanmar Industrial and Cummins/Onan.

III. **SECURITY DEPOSIT**: $1,369.58

IV. **MONTHLY BASE RENT:**

A. As of the "commencement date", the monthly base rent is $1,369.58 per month.

B. Commencing a year from the "commencement date" (or such other date as may be agreed upon by Lessor and Lessee) and on the same day of each calendar year thereafter during the remainder of the term of this lease (the "adjustment date"), the monthly base rent shall be increased 5% or an increase equal to the Consumer Price Index, whichever is higher. If the Consumer Price Index for the twelve (12)-month period immediately preceding the adjustment date is higher it will be used and the adjusted monthly base rent shall become the monthly base rent for the next twelve (12) following-month period. The Consumer Price Index hereinabove referred to is the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers, Honolulu, Hawaii, All Items--Series A. Should the Bureau discontinue publication of its Consumer Price Index, then computation of any adjustment of the monthly base rent during each period shall be based upon the index the Bureau designates as providing the most accurate comparison with consumer prices for each period of the term of this lease, provided, however, that the adjusted monthly base rent shall in no case be less than the monthly base rent during the month immediately preceding the adjustment date.

"LESSOR" "LESSEE"

Initials Initials

EXHIBIT C
PROPERTY MAINTENANCE AND OPERATING EXPENSES, TAXES AND ASSESSMENTS
(Lessees Percentage Share)

Lessee: Precision Marine Power, Inc.
Premises: Space No. 24A

I. Approximate total square footage of areas in The Yard.

"Class I", which is Improved, Enclosed Space	=	25,793 sq. ft.
"Class II", which is Partially Improved, Roofed Space	=	12,238 sq. ft.
"Class III", which is Open Space	=	32,210 sq. ft.
Approximate total leasable sf in GKM	=	70,241 sq. ft.
Approximate common area sf in GKM	=	107,631 sq. ft.
Approximate total area sf of GKM	=	177,872 sq. ft.

II. Sections 4.1 and 4.3: Computation of Real Taxes, Assessments and Master Lease Rent.

A. Computation on land - Lessee's percentage share of real property taxes and assessments for land is computed as follows: 385 sq. ft. (Lessee's Space)/70,241 sq. ft. (Approximate total leasable square feet in The Yard) = 0.55% (Lessee's percentage share of real property taxes and assessments on all land in GKM)

B. Computation on buildings and improvements - Lessee's weighted percentage share of taxes and assessments for buildings and improvements is computed as follows:

"Class I", which is 25,793 sq. ft. (and is to be weighted 6.7) x 6.7 = 173,813 sq. ft. (which is the weighted amount of Class I improvements)

"Class II", which is 12,238 sq. ft. (and is to be weighted 2.0) x 2.0 = 24,476 sq. ft. which is the weighted amount of Class II improvements)

Total weighted amount of Class I and II improvements = 197,289 sq. ft.

385 sq. ft of Class II Area (Lessee's Space) x 2.0, which is Class I weight = 770 sq. ft. (Lessee's weighted space)/197,289 (total weighted space) = 0.39% (Lessee's percentage share of real property taxes and assessments on all buildings)

EXHIBIT D
SPECIAL TERMS

Lessee: Precision Marine Power, Inc.
Premises: Space No. 24A

Lessor and Lessee agree that the following Special Terms shall be a part of the attached GKM, Inc. dba THE YARD Sublease.

1) **Advertising**. Lessee agrees, that when advertising, Lessee shall use the full name, "The Yard" in its advertising of the business conducted by Lessee upon the premises. Lessor shall have the right to change the name of "The Yard" upon ninety (90) days written notice to Lessee. In the event of a change in the name "The Yard", Lessee agrees to advertise under the new name. Lessee agrees that any name used for the The Yard, shall be the sole property of, and belong to, the Lessor. From and after the termination or expiration of the term of the Sublease, for any reason whatsoever, Lessee shall cease using the name of The Yard, or any change thereof, for any reason.

2) **Parking.** Lessee agrees that all Precision Marine Power, Inc. employees shall not park on GKM, Inc. property. No parking of vehicles to block or inhibit operations. No overnight parking.

"LESSOR" "LESSEE"

(Initials) (Initials)

III. Section 3.2: Computation of Lessee's percentage share of Property maintenance and operating expenses.

Lessee's weighted percentage share of Property maintenance and operating expenses is computed as follows:

"Class I", which is 25,793 sq. ft. (and is to be weighted 6.7) x 6.7	=	172,813 sq. ft.
"Class II", which is 12,238 sq. ft. (and is to be weighted 2.0) x 2.0	=	24,476 sq. ft.
"Class III", which is 32,210 sq. ft. (and is to be weighted 1.0) x 1.0	=	32,210 sq. ft.
Total weighted amount of Class I, II and III spaces	=	229,499 sq. ft.

385 sq. ft. of Class II area (Lessee's Space) x 2.0, which is Class II weight = 770 sq. ft (Lessee's weighted space)/229,499 (total weighted space = 0.33% (Lessee's percentage share of Property maintenance and operating expenses)

"LESSOR"

(Initials)

"LESSEE"

(Initials)