

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Lands End Restaurant Properties

Food and Beverage Operations

Lease No. L-GOGA010-22

at

Golden Gate National Recreation Area

Covering the Period from DATE through DATE

TABLE OF CONTENTS

1. DEFINITIONS..... 1

2. LEASE OF THE PREMISES 12

3. ACCEPTANCE OF THE PREMISES; EXISTING PERSONAL PROPERTY 15

4. TERM 16

5. RENT 16

6. IMPOSITIONS 18

7. RECORDS AND AUDIT 19

8. NET LEASE; NO COUNTERCLAIM OR ABATEMENT..... 20

9. LANDLORD NOT OBLIGATED TO PAY LESSEE EXPENSES 21

10. USE OF THE PREMISES 21

11. MAINTENANCE; PRESERVATION MAINTENANCE 26

12. UTILITIES..... 28

13. IMPROVEMENTS AND ALTERATIONS CONDITIONS PRECEDENT 28

14. DESIGN OF INITIAL IMPROVEMENTS AND ALTERATIONS..... 29

15. EVIDENCE OF FUNDS FOR ALTERATIONS 31

16. CONSTRUCTION OF INITIAL IMPROVEMENTS, ALTERATIONS 31

17. PERMITS AND APPROVALS..... 34

18. EXCAVATION, SITE, AND GROUND DISTURBANCE 34

19. OWNERSHIP OF IMPROVEMENTS..... 35

20. LIMITATION ON EFFECT OF APPROVALS 36

21. COMPLIANCE WITH APPLICABLE LAWS; NEPA; NHPA 36

22. HAZARDOUS MATERIALS 37

23. INSURANCE..... 40

24. DAMAGE OR DESTRUCTION..... 46

25. INDEMNITY 48

26. LIENS 49

27. TRANSFER AND SUBLETTING..... 50

28. TRANSFER BY LANDLORD..... 52

29. RIGHT TO ESTOPPEL CERTIFICATES 52

30. DEFAULTS 52

31. REMEDIES 53

32. LETTER OF CREDIT 55

33. SURRENDER AND VACATE THE PREMISES 56

34. HOLDING OVER 57

35. LESSEE TERMINATION RIGHT 57

36. REPRESENTATIONS AND WARRANTIES OF LESSEE 57

37. REPRESENTATIONS AND WARRANTIES OF LESSOR..... 58

38. COMPLIANCE WITH CIVIL RIGHTS AND EQUAL OPPORTUNITY LAWS 58

39. NOTICES..... 58

40. LANDLORD’S RIGHT TO CURE DEFAULTS 59

41. LANDLORD’S RIGHT TO EXHIBIT THE PREMISES..... 59

42. NO PARTNERSHIP OR JOINT VENTURE..... 59

43. NO SUBORDINATION 60

44. ANTI-DEFICIENCY ACT 60

45. GENERAL PROVISIONS 60

EXHIBITS

- EXHIBIT A: DEPICTION OF PREMISES
- EXHIBIT B: FURNITURE, FIXTURES, & EQUIPMENT
- EXHIBIT C: INVENTORY AND CONDITION REPORT
- EXHIBIT D: PREMISES IDENTIFYING NAMES
- EXHIBIT E: ENVIRONMENTAL INFORMATION
- EXHIBIT F: REPLACEMENT VALUE FOR CONSTITUENT PREMISES
- EXHIBIT G: NPS HEALTHY FOOD CHOICE STANDARDS AND SUSTAINABLE FOOD CHOICE GUIDELINES FOR FRONT COUNTRY OPERATIONS
- EXHIBIT H: LICENSED MARKS
- EXHIBIT I: INITIAL IMPROVEMENTS WORK AGREEMENT
- EXHIBIT J: FORM LOOKOUT VISITOR CENTER COMMON AREA EXPENSE AGREEMENT

THIS LEASE (Lands End Restaurant Properties) (“**Lease**”) is made and entered into and effective as of _____, 20____ (the “**Commencement Date**”), by and between the United States Department of the Interior, acting through the National Park Service, an agency of the United States of America, acting through the Regional Director, hereinafter, together with their successor or successors in office or their duly appointed representatives (collectively, “**Lessor**” or sometimes “**NPS**”) and _____, a _____ (“**Lessee**”).

RECITALS

This Lease is entered into upon the following facts, understandings and intentions of Lessor and Lessee, sometimes collectively referred to herein as the “**Parties**,” and individually as a “**Party**”:

A. Golden Gate National Recreation Area (“**Park**”) is administered by the Secretary of the Department of the Interior through the National Park Service pursuant to 54 U.S.C. Section 100101 et seq., and the Act Establishing the Golden Gate National Recreation Area in the State of California, 16 U.S.C. Section 460bb et seq, Public Law 92-589, 86 Stat. 1229 (1972).

B. Congress designated the Park as a unit of the national park system.

C. 54 U.S.C. § 102102 and 36 Code of Federal Regulations (“**CFR**”) Part 18 authorize the Secretary of the Department of the Interior to negotiate and enter into leases, under certain circumstances, for the use of buildings and Associated Property administered as part of the National Park System.

D. The Premises (as defined below) has been determined suitable for leasing under 36 CFR Part 18.

E. Lessor has determined that the use and occupancy of the Premises for the use contemplated in this Lease is consistent with the purposes established by law for the Park, the Sutro Historic District Comprehensive Design Plan and Environmental Assessment (defined below), the purposes of the Golden Gate National Recreation Area Authorization Act, the requirements of Part 18 of Title 36 of the Code of Federal Regulations, and is compatible with the public interest.

G. Lessor has determined that this Lease will not result in degradation of the purposes and values of the Park, will not deprive the Park of property necessary for appropriate park protection, interpretation, visitor enjoyment, or administration of the Park, and the Lease will contribute to the preservation of historic property located within the Park.

H. Lessee desires to lease the Premises (as defined below) from Lessor, and Lessor has agreed to lease the Premises to Lessee, on the terms, agreements, covenants, conditions and provisions set forth in this Lease for the purposes provided in this Lease.

J. This Lease is entered into under the authority of, and subject to, 36 CFR Part 18.

NOW THEREFORE, in consideration of the foregoing, the rents to be paid under this Lease and all of the terms, agreements, covenants, conditions and provisions contained in this Lease, the Parties hereby agree as follows:

1. DEFINITIONS

As used in this Lease, the following terms will have the following meanings applicable, as appropriate, to both the singular and plural forms of the defined terms:

1.1 “**Additional Rent**” is as defined in Section 5.1 of this Lease.

1.2 “**Adjustment Date**” is as defined in Section 5.2(a) of this Lease.

1.3 “**Affected Property**” is as defined in Section 22.4 of this Lease.

1.4 “**Affiliate(s)**” means, all entities or persons controlled by or under common control, through one or more entities, with Lessee or any entity owned in whole or part, directly or indirectly, by Lessee.

1.5 “**Agency**” means any federal, state, or local agency, department, commission, board, bureau, office or other governmental authority having jurisdiction.

1.6 “**Agents**” means directors, officers, partners, members, employees, contractors, consultants, or agents of a Party.

1.7 “**Alterations**” means any construction, modifications, rehabilitation, reconstruction, restoration, or other improvements or alterations (including demolition) of or to the Premises or any portion thereof made by or on behalf of Lessee, any Affiliate, or Occupants, other than the Initial Improvements.

1.8 “**Alterations Cost**” means the costs associated with the design and construction of the Alterations, including, without limitation, the cost of all labor, materials, and fixtures (but not Trade Fixtures) supplied by the contractor and subcontractors; taxes, permits, licenses, fees, charges and levies imposed by governmental authorities; fees paid to engineers, architects, interior designers, and space planners to prepare plans, specifications and drawings for the work; the reasonable cost of on-site inspection, administration and supervision of the design and construction process, financing, and insurance; and recording and filing fees required by the construction.

1.9 “**Annual Report**” means a report that is satisfactory to NPS, which will include but is not limited to (a) audited financial statements certified by a certified public accountant that is independent of Lessee and Affiliates, prepared on an annualized basis showing Gross Revenues and the Rent Roll for the preceding Lease Year for purposes of calculating Percentage Rent, in addition to accounting for all other payments made to Lessor, such as Base Rent; (b) a statement by Lessee that the use of the Premises by Lessee’s Affiliates, Agents, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term is consistent with this Lease, (c) a statement describing any material change in the status of Initial Improvements as of the end of such Lease Year, (d) report of fire safety, physical security, occupational health, and related matters; (e) statement of contractor diversity and workforce diversity, advancement, training, and educational opportunities, in addition to a report on training employees about issues pertaining to operating in the Park; (f) report on all Maintenance activities, including but not limited to Building Maintenance, Preservation Maintenance, Minor Alterations, Alterations, and Improvements; and (g) third-party certification of sustainable food programs.

1.10 “**Applicable Laws and Requirements**” mean all present and future laws, statutes, requirements, judgments, regulations, rules, guidelines, administrative and judicial determinations (that are applicable by their own terms to the Premises or the Lessee) ordinances, codes, orders, and the like, even if unforeseen or extraordinary, and all amendments thereto (collectively, “Laws”), of any Agency to the extent of its jurisdiction relating to or affecting this Lease, the design and construction of the Initial Improvements or Alterations or the management, use and operation of the Premises by Lessee, Affiliates, Agents, employees, guests, visitors, invitees, Occupants or other persons or entities, even if compliance therewith necessitates structural changes to the Premises or results in interference with the use or enjoyment of all or any portion of the Premises, including, but not limited to:

- a. Those laws and regulations pertaining to the Park, including but not limited to 54 U.S.C. Section 100101 et seq., 16 U.S.C. Section 460bb et seq., and 36 CFR Chapter I;
- b. Those laws and regulations pertaining to reporting, licensing, permitting, investigation, remediation or abatement of emissions, discharges, or releases (or threatened emissions, discharges or releases) of Hazardous Materials in or into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials;
- c. Those laws and regulations pertaining to the protection of the environment or the health or safety of employees or the public, including without limitation the most current Food Code adopted by the U.S. Food and Drug Administration (“FDA”);
- d. Those laws and regulations regarding alcohol sales, including without limitation, the State of California Alcoholic Beverage Control Act;
- e. Those laws and regulations pertaining to the protection or restoration of natural or cultural resources, including, without limitation the NHPA and the Secretary of the Interior’s Standards;
- f. Those laws and regulations pertaining to leasing, historic leasing, historic preservation tax certification, and the treatment of historic properties, including, but not limited to, 36 CFR Parts 18, 67, 68 and 800, and the Secretary of the Interior’s Standards;
- g. Those laws and regulations pertaining to construction requirements listed in the Golden Gate Project Handbook (defined below);
- h. Those laws and regulations pertaining to taxes, assessments, rates, charges, fees, municipal liens, levies, excises or imposts;
- i. All licenses and permits issued by, and consistency and other determinations and approvals made by, governmental agencies pertaining to the Premises;
- j. The General Management Plan;
- k. All applicable mitigation measures (including potential mitigation measures from NHPA compliance, and if applicable, future NEPA review);
- l. All plans required to be prepared by Lessee pursuant to Applicable Laws and Requirements or this Lease approved by Lessor;
- m. Those laws and regulations related accessibility to, usability by, and discrimination against disabled individuals;
- n. Those laws and regulations related to nondiscrimination, including nondiscrimination in employments;
- o. Those laws and regulations related to distribution, possessions or use of controlled substances; and
- p. All covenants, restrictions, and conditions now or hereafter of record.

1.11 “**Associated Property**” means lands and structures (e.g. parking lots, retaining walls, walkways, infrastructure facilities), related to a building or buildings and their functional use and occupancy serving the Premises.

1.12 “**Base Rent**” is as defined in Section 5.2 of this Lease.

1.13 “**Building Maintenance**” means maintenance of the Premises, including but not limited to, the roof, all structural and non-structural portions of the Improvements, all utility systems, the Fixtures and the Trade Fixtures, in such manner as to keep the Premises, including, but not limited to, the Fixtures and the Trade Fixtures, in good, safe, and sanitary order, condition, and repair (permitting reasonable wear and tear) in compliance with Applicable Laws and Requirements.

1.14 “**Certificate of Occupancy**” means a document issued by Lessor that confirms that Lessor’s requirements for full occupancy and use of the Initial Improvements or Alterations, as applicable, have been completed.

1.15 “**Commencement Date**” is defined in Section 4.1 of this Lease.

1.16 “**Commercially Reasonable Insurance Rates**” means with respect to insurance coverage, that such coverage is commercially available from companies admitted or approved to do business in the state of California, with a financial rating of at least A-VIII, as rated by the A.M. Best Key Rating Guide, at rates and on terms such that it is/would be purchased by similarly situated owners or operators of similar properties listed on the National Register of Historic Places in the San Francisco Bay Area of California.

1.17 “**Conservancy**” means Lessor’s nonprofit cooperating association, the Golden Gate National Parks Conservancy.

1.18 “**Constituent Premises**” means each of the Restaurant Premises, the Lookout Café Premises and the Parking Lot Premises, individually.

1.19 “**Construction Contract**” is as defined in Section 13.1(c) of this Lease.

1.20 “**Construction Documents**” means schematic design and review documents, design development review drawings and construction documents and permit drawings as described in the Golden Gate Project Handbook and any other documents upon which Lessee and its contractors will rely on, in building the Initial Improvements or Alterations other than Minor Alterations, as applicable. The Construction Documents will include, as applicable, (without limitation) final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also commonly known as “working drawings”).

1.21 “**Controlling Interest**” means: (a) in the case of a corporate entity, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital (or, if applicable, the like applicable to a nonprofit corporation) of the Lessee, or Occupant so as to permit exercise of managerial authority over the actions and operations of the Lessee, permitted assignee, or Occupant, of a majority of the Board of Directors of Lessee, permitted assignee or Occupant; and (b) in the instance of a partnership, limited partnership, joint venture, limited liability company, or individual entrepreneurship, beneficial ownership of the capital assets of Lessee, permitted assignee or Occupant so as to permit exercise of managerial authority over the actions and operations of Lessee, permitted assignee or Occupant.

1.22 “**Environmental Damages**” means all claims, demands, damages, injuries, losses, penalties, fines, costs (including reasonable consultant fees and expert fees), liabilities, causes of action, judgments, expenses and the like, of any nature whatsoever and by whomever made, incurred at any time after Lessor leases and lets the Premises to Lessee that relate to the presence or release of any Hazardous Materials in, under or into the air, buildings, paved surfaces, sanitary sewers, stormwater drainage systems, surface water, groundwater, or land at, on, about, under or within the Premises and to the extent that they arise directly or indirectly from or in connection with the use of Premises by Lessee, Affiliates, Agents, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term.

1.23 “**Event of Default**” is as defined in Section 30.1 of this Lease.

1.24 “**Excluded Contractor**” means any person or entity debarred, suspended, proposed for debarment or suspension, or declared ineligible by any agency or instrumentality of the United States or by the General Accounting Office or otherwise excluded from procurement or nonprocurement programs of the United States or any agency or instrumentality thereof, and (a) included on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the United States General Services Administration, or successor compilation of similar information; or (b) which Lessor has advised Lessee within ten (10) days after request from Lessee would be an Excluded Contractor but which is not on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

1.25 “**Exhibit**” each of the exhibits referenced in this Lease is attached hereto and incorporated herein.

1.26 “**Expiration Date**” is as defined in Section 4.1 of this Lease.

1.27 “**Fair Market Value Rent**” means the most probable rent, as of a specific date, in cash or in terms equivalent to cash, for which the property to be leased, under the terms and conditions of the Lease, should rent for its highest and best permitted use after reasonable exposure in a competitive market under all conditions requisite to a fair leasing opportunity, with the Lessor and the Lessee each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

1.28 “**FF&E**” means all furniture, fixtures and equipment placed or installed by Lessee or its Occupants in, on or about the Premises, including, without limitation, all Fixtures, Trade Fixtures and Personal Property.

1.29 “**Fixtures**” means all fixtures, equipment, and machinery permanently attached to and forming a part of the Premises, required or necessary for use and occupancy of the Premises, and including all parts of the operating systems of the Premises, such as heating, air conditioning, built-in refrigeration, cooking, ventilation, sprinkler, alarm, water, waste, and electrical, provided that the term “Fixtures” will not include Trade Fixtures.

1.30 “**Force Majeure**” means an act, event, or condition that can be neither anticipated nor controlled and that objectively prevents the Lessee from performing one or more of its obligations under this Lease. The term “Force Majeure” does not include any act, event, or condition that the Lessee reasonably may anticipate or control; it does not include market conditions, economic conditions, or the Lessee’s financial inability to perform its obligations under this Lease; and it does not include changes in Applicable Laws, except that, in the Lessor’s sole discretion, it may include orders issued by a governmental entity with jurisdiction over the Premises that prevents the Lessee’s use or occupancy of the Premises for the authorized purposes set forth in Section 10 of this Lease.

1.31 “**General Management Plan**” means that certain 2014 Golden Gate National Recreation Area General Management Plan, as amended, revised, or superseded, and adopted by NPS.

1.32 “**Golden Gate Project Handbook**” means that certain Golden Gate Project Handbook, Park Partner Rehabilitation and New Construction Projects, as amended, revised, or superseded, and adopted by NPS. If a provision of the Golden Gate Project Handbook conflicts with a provision of this Lease, the Lease provision will control.

1.33 “**Gross Revenues**” means the gross dollar amount generated by the sale of all goods, merchandise, and services sold or rendered upon or from the Premises and through its on-line channels by Lessee, its Subtenants, licensees, concessioners and Affiliates, whether for cash or on credit. Gross Revenues includes, but is not limited to, all amounts from the following: (a) any order that originate and is accepted by Lessee on or from the Premises, including any order that is delivered or filled from a location other than the Premises (including its on-line channels), or is solicited by an employee of Lessee or otherwise on behalf of Lessee at a location outside the Premises; (b) any order that is received at or billed from the Premises by mail, e-mail, telefax, computer, telephone, or other similar device, (c) unless otherwise excluded by this Section, any other transaction that Lessee would, in the ordinary course of its business, attribute to its business on the Premises, including a transaction involving a finance charge or customer deposit that is not refunded to a customer, and (d) any proceeds from business interruption or business income loss insurance. Any installment, sale or credit sale by Lessee will be deemed a sale at the full sale price in the month during which the sale occurs regardless of when Lessee actually received payments for the sale. The following matters may be excluded or deducted as the case may be from Gross Revenues; (i) the selling price of all merchandise returned by customers, purchased at the Premises and accepted for full credit, or the amount of discounts and allowances made therefore; (ii) goods returned to sources; (iii) sales taxes, so-called luxury taxes, consumers’ excise taxes, gross receipts taxes and other similar taxes now or hereinafter imposed upon the sale of merchandise or services, collected from customers and remitted by Lessee to the taxing authority; (iv) sales of fixtures, equipment or property which do not constitute stock in trade; (v) gratuities to waiters and bartenders; however total exclusions or deductions must not exceed 1% of the annual gross revenues.

1.34 “**Hazardous Materials**” means any material or other substance (including storage tanks and Preexisting Hazardous Materials):

- a. That requires investigation, correction, or abatement under Applicable Laws and Requirements;
- b. The presence of which is governed by any Applicable Laws and Requirements as being hazardous or harmful to human health or the environment;
- c. That is or becomes defined as a “hazardous waste,” “extremely hazardous waste,” “restricted hazardous waste,” “hazardous substance,” “pollutant,” “contaminant,” “toxic contaminant” under any Applicable Laws and Requirements;
- d. That is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous or is or becomes regulated by any Agency under any Applicable Laws and Requirements;
- e. The presence of which poses or threatens to pose a hazard to the environment or to the health or safety of persons

f. That contains, without limitation of the foregoing, gasoline, diesel fuel or other petroleum hydrocarbons or volatile organic compounds;

g. That contains, without limitation of the foregoing, polychlorinated biphenyls (PCBs), asbestos, asbestos-containing materials, lead-based paints, urea formaldehyde foam insulation; pesticides; or

h. That contains or consists of, without limitation of the foregoing, radon gas.

1.35 “**Historic Preservation Certification Requirements**” means those requirements set forth in 36 CFR Part 67.

1.36 “**Historic Property**” means building and land located within the boundaries of the Park that are part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

1.37 “**Historical Valuation Coverage**” means the cost to repair or replace damaged components or materials of the Premises, using like materials and workmanship, giving consideration to duplicating the original texture, color, appearance and function, and as much as possible restoring the damaged property to the condition existing immediately prior to the loss consistent with the Historic Preservation Certification Requirements, if applicable, and the Secretary of the Interior’s Standards.

1.38 “**Impositions**” are all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises or imposts, whether general or special, or ordinary or extraordinary, of every name, nature and kind whatsoever, if any, lawfully imposed by any Agency, or other authority or entity, that may be levied, assessed, charged or imposed or may be or become a lien or charge upon the Premises or any part thereof; or upon the rent or income of Lessee; or upon the use or occupancy of the Premises; or upon the possessory interest in the Premises; or upon this transaction or any document creating or transferring an estate or interest of Lessee in the Premises; or upon any improvements or Fixtures; or upon the leasehold estate of Lessee; or upon Lessor by reason of its ownership of the fee underlying this Lease but excluding taxes on the revenue or income of Lessor from this Lease. Impositions also include, but are not limited to, the payment of any bonds or charges imposed or required by any Agency, or other authority or entity, by reason of the proposed or actual use, treatment, storage, discharge or disposal of Hazardous Materials on or from the Premises by Lessee, or any Occupant claiming through Lessee.

1.39 “**Improvements**” mean the buildings, together with all Fixtures, improvements and appurtenances of every kind and description now located or hereafter erected, newly constructed, or placed upon the Premises, including the Initial Improvements, and any and all Alterations, renewals, and replacements thereof, additions thereto and substitutions therefor, including any basement and subgrade areas of the aforesaid Improvements, as any of the same may be reduced or diminished by any condemnation, excluding, however, Trade Fixtures and Lessee’s Personal Property.

1.40 “**Initial Improvements**” means the initial renovation, Rehabilitation, Restoration and Reconstruction work necessary for Lessee to open in the Premises for the uses permitted under this Lease, including, without limitation, all ancillary landscaping and other improvements as approved by Lessor, and the installation of all Trade Fixtures and other FF&E necessary for Lessee to open in the Premises for the uses permitted under this Lease, all as more fully described in the Initial Improvements Work Agreement.

1.41 “**Initial Improvements Work Agreement**” means the Initial Improvements Work Agreement attached as **Exhibit I** to this Lease.

1.42 “**Inventory and Condition Report**” is a document contained in **Exhibit C** to this Lease that describes the Personal Property owned by the Lessor and made available to the Lessee for the Lessee’s use under this Lease and the condition of the Premises as of the Commencement Date.

1.43 “**Interest Rate**” means the percentage of interest charged based on the current value of funds to the United States Treasury as published periodically in the Treasury Financial Manual. If the Treasury Financial Manual is discontinued or revised during the term of this Lease, such other federal publication with which it is replaced will be used in order to obtain substantially the same result as would be obtained if the Treasury Financial Manual had not been discontinued.

1.44 “**IRB**” means the Investment Review Board.

1.45 “**Lease**” means this Lease, including all conditions, exhibits, modifications, amendments, and extensions thereof.

1.46 “**Lease Year**” means a calendar year as follows:

a. The first Lease Year will commence upon the Commencement Date and end on December 31 of that calendar year provided, however, that if the Commencement Date occurs after June 30 of any calendar year, the first Lease Year will commence upon the Commencement Date and end on December 31 of the following calendar year.

b. Each subsequent Lease Year will be a full calendar year and commence on the January 1 following the expiration of the preceding Lease Year, and will end on the December 31 thereafter, or on the last day of the Term, whichever occurs first. The final Lease Year may be less than a full calendar year.

1.47 “**Lessee**” means _____, and its successors and assigns approved by Lessor in accordance with this Lease.

1.48 “**Lessee’s Proportionate Share**” means, with respect to the Lookout Café Premises, the ratio that the square footage of the Lookout Café Premises bears to the square footage of the entire Land’s End Lookout Visitor Center building, as the same may be modified from title-to-time, expressed as a percentage. The parties acknowledge and agree that as of the date hereof Lessee’s Proportionate Share is twenty-one percent (21%).

1.49 “**Lessor’s Agents**” means Lessor’s employees, contractors, or agents.

1.50 “**Lookout Café Premises**” means that certain café space consisting of approximately 445 square feet location within the building referred to as the Land’s End Lookout Visitor Center, as the same is delineated on **Exhibit A** hereto.

1.51 “**Lookout Visitor Center Common Area Expenses**” means (i) all Impositions that may be assessed, levied, confirmed, imposed or become a lien upon the Land’s End Lookout Visitor Center or any part thereof or the real property on which the same is located, (ii) costs incurred to maintain, repair and replace the non-exclusive portions of the Lookout Visitor Center, including, without limitation, the restrooms, the exterior courtyard seating area, and all other exterior hardscaped areas, and (iii) the costs of all utilities consumed by or attributable to the non-exclusive portions of the Lookout Visitor Center.

1.52 “**Lookout Visitor Center Common Area Expense Agreement**” is defined in Section 5.7 below.

1.53 “**Maintenance**” means all maintenance activities required to be performed by Lessee pursuant to this Lease, including Building Maintenance, and Preservation Maintenance.

1.54 “**Marks**” is as defined in Section 2.8(a) of this Lease.

1.55 “**Minor Alterations**” means each Alteration (or group of Alterations, if occurring substantially at the same time and as part of a single project) of or to the Premises by Lessee made after completion of Initial Improvements applicable to the area of the Alterations, the Alterations Cost of which, as approved by Lessor, does not exceed Five Thousand Dollars (\$5,000), stated in 2021 dollars, adjusted at the beginning of each Lease Year based on increases in the CPI during the period between the Commencement Date and the beginning of each such Lease Year; provided that such Alterations are limited to interior decoration (exclusive of historic property elements), repainting, re-carpeting, and installation of Trade Fixtures and equipment and will not include Preservation Maintenance or Alterations of historic property.

1.56 “**NEPA**” means the National Environmental Policy Act, 42 U.S.C. Sections 4321-4370d.

1.57 “**NHPA**” means the National Historic Preservation Act of 1966, 54 U.S.C. Section 300101 et seq., and all regulations promulgated thereunder as such statute and regulations may be amended, and any successor act or regulations.

1.58 “**NPS**” means the National Park Service.

1.59 “**Occupant**” means any Subtenant, operator, licensee, franchisee, concessioner, permittee, or other party entitled to use or occupy the Premises by Sublease, operating agreement, license, franchise agreement, concession agreement, permit, or other agreement, other than this Lessee. The term “Occupant” does not include guests, patrons, and invitees.

1.60 “**Ownership Rights**” is as defined in Section 2.8(c) of this Lease.

1.61 “**Park**” is as defined in Recital A above.

1.62 “**Parking Lot Premises**” means that certain portion of the parking lot located on Point Lobos Avenue consisting of approximately 23,179 square feet and containing sixty (60) parking spaces, as the same is delineated on Exhibit A hereto.

1.63 “**Party**” means one of the two parties to this Lease and their respective successors and assigns.

1.64 “**Percentage Rent**” is as defined in Section 5.3(a) of this Lease.

1.65 “**Personal Property**” means all furniture, equipment, appliances, apparatus, inventory, supplies, and all other property placed on the Premises by Lessee, or its Occupants that neither are permanently attached to nor form a part of the Premises, whether leased or owned by Lessee, or its Occupants, including without limitation, (a) all FF&E exclusive of Fixtures, and (b) all of Lessee’s right, title and interest in any of Lessee’s tangible personal property now or hereafter used in connection with the use and operation of the Premises.

1.66 “**Preexisting Hazardous Materials**” means Hazardous Materials that existed in, on, adjacent to, or under the Premises prior to the Commencement Date, whether such substances were within the definition of Hazardous Materials as used in this Lease as of the Commencement Date or

subsequently become included within such definition. Notwithstanding anything to the contrary in the foregoing, Preexisting Hazardous Materials will not include asbestos, asbestos-containing materials, lead-based paints, or pesticides.

1.67 “**Premises**” means the real property and Improvements to be leased pursuant to the Lease, which consists of the Restaurant Premises, the Lookout Café’ Premises, and, subject to Section 2.7 of this Lease, the Parking Lot Premises, as the same is delineated on **Exhibit A** hereto.

1.68 “**Preservation**” means the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

1.69 “**Preservation Maintenance**” means the act or process of applying preservation treatment to a site or structure. It includes housekeeping and routine and cyclic work scheduled to mitigate wear and deterioration without altering the appearance of the resource, repair or replacement-in-kind of broken or worn-out elements, parts, or surfaces so as to keep the existing appearance and function of the site or structure, and emergency stabilization work necessary to protect damaged historic fabric from additional damage.

1.70 “**Preservation Maintenance Plan**” is a document that sets forth a plan, including a time schedule, for Preservation Maintenance of the Premises, including, without limitation, Lessee’s ongoing compliance with the Historic Preservation Certification Requirements, if applicable, and Applicable Laws and Requirements.

1.71 “**Reconstruction**” means the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

1.72 “**Rehabilitation**” means the act or process of making possible an efficient compatible use for a property through repair, alterations and additions while preserving those portions or features that convey its historical, cultural or architectural values. Rehabilitation may, at NPS’ direction, include Preservation, Reconstruction, or Restoration.

1.73 “**Rehabilitation Handbook**” means that certain Park Partner Rehabilitation Handbook as amended, revised, or superseded and adopted by NPS.

1.74 “**Rent**” is as defined in Section 5.1 of this Lease.

1.75 “**Rent Roll**” means a full and complete list of all Occupants of Lessee, and all licensees, contractors and subcontractors of Lessee and its Occupants providing services by or on the Premises and for each Occupant, contractor or subcontractor a full and complete description of the license, Sublease or other occupancy agreement terms, including but not limited to term, annual rent, Occupant improvements, escalation clauses, concessions, inducements, options to renew, amendments to Sublease or other occupancy agreement, and any other information regarding a Sublease or other occupancy agreement as Lessor may from time to time reasonably prescribe.

1.76 “**Respond**” means investigate, remove, removal, remedy, remediate, remediation, and monitor Hazardous Materials, all such terms (including the terms “removal” and “remedial action”) include enforcement activities related thereto. “Remove” or “removal” means the cleanup or removal of released Hazardous Materials from the environment, such actions as may be necessary taken in the event of the threat of release of Hazardous Materials into the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of Hazardous Materials, the disposal of removed material, or taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threat of release. The terms “remedy” or “remediate or remediation” mean those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a Hazardous Material into the environment, to prevent or minimize the release of Hazardous Materials so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment.

1.77 “**Response**” means the same as Respond as defined above.

1.78 “**Response Action**” means all actions taken to Respond, including, without limitation, investigations, removals, remediation, maintenance, notification, and monitoring.

1.79 “**Response Costs**” means all costs incurred while undertaking a Response Action.

1.80 “**Restaurant Premises**” means the building complex located at 1090 Point Lobos Avenue, San Francisco, CA and all associated facilities and structures, including, without limitation, all parking lots, retaining walls, walkways and infrastructure facilities, which is comprised of two primary attached buildings consisting of 27,496 square feet, a lower outdoor deck consisting of approximately 11,200 square feet, an upper outdoor deck consisting of approximately 1,400 square feet, walkways, retaining walls, and building infrastructure as the same is delineated on Exhibit A-2 hereto.

1.81 “**Restoration**” means the act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

1.82 “**Secretary of the Interior’s Standards**” means collectively (a) the standards for historic preservation codified in 36 CFR Part 68, as amended; (b) the Secretary of the Interior’s Standards for the Treatment of Historic Properties (U.S. Department of the Interior, Heritage Preservation Services, Washington, D.C. 1996); and (c) the Secretary’s Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior, Heritage Preservation Services, Washington, D.C. 1997); as any of the same may be amended by the United States Department of the Interior from time to time.

1.83 “**Sublease**” means any occupancy of all or a portion of the Premises pursuant to an occupancy agreement the substance of which constitutes a sublease (or sub-sublease) of this Lease.

1.84 “**Substantial Completion**” means the work of constructing Initial Improvements or Alterations, as applicable, is substantially complete and the applicable constructed facility or improvement is operable as a usable facility or improvement.

1.85 “**Subtenant**” means a subtenant pursuant to a Sublease.

1.86 “**Temporary Certificate of Occupancy**” means a Certificate of Occupancy issued by Lessor with conditions for final completion and allowing for partial occupation or partial use of the Initial Improvements or Alterations, as applicable.

1.87 “**Term**” is as defined in Section 4.1 of this Lease.

1.88 “**Termination Date**” means the Expiration Date or such earlier date as this Lease is terminated pursuant to any provision of this Lease.

1.89 “**Trade Fixtures**” means those items, or categories of items, whether owned by Lessee or leased by Lessee from parties other than Lessor, that are affixed to the Improvements and constitute fixtures (or would constitute fixtures but for Lessee’s rights to remove them pursuant to this Lease) and are readily removable: kitchen equipment, audio-visual equipment, office equipment, and communications equipment, and all other equipment reasonably agreed to by Lessor and Lessee at the time of its installation; but in any event excluding the mechanical (including heating, ventilating and air conditioning, built-in refrigeration, cooking and ventilation systems), elevator, fire detection, alarm and sprinkler, illumination, electrical, and plumbing fixtures and systems in the Improvements, and components thereof, all of which excluded items will be deemed to be Fixtures.

1.90 “**Transfer**” means the direct or indirect, voluntary or by operation of law, sale, assignment, subletting, encumbering, pledge or other transfer or hypothecation of Lessee’s, or any permitted assignee’s (under Section 27 below) or Occupant’s interest in or rights with respect to the Premises or Lessee’s leasehold estate therein. Any sale or other transfer, including by consolidation, merger or reorganization, of a Controlling Interest in Lessee or any permitted assignee under Section 27 below or Occupant, if such entity is a corporation, or any sale or other transfer of a Controlling Interest in the partnership interests of such entity, if such entity is a partnership, whether in a single transfer or in a series of related transfers, and whether directly or by sales or transfers of underlying partnership or corporate ownership interests, will be deemed a Transfer. Notwithstanding the foregoing definition of “Transfer,” a “Transfer” will not include a transfer of an interest in Lessee to its Affiliate if there is no change in Controlling Interest and if Lessee provides written notice to Lessor of all such transfers. Notwithstanding anything to the contrary in this Lease, Lessee is not authorized to encumber, pledge, mortgage or otherwise hypothecate (i) Lessee’s leasehold estate, (ii) some or all of the Lessee’s interests or rights under this Lease, nor (iii) the Premises themselves.

2. LEASE OF THE PREMISES

2.1 Lease of the Premises

In accordance with the powers granted by Congress and under the authority of 36 C.F.R. Part 18, Lessor hereby leases the Premises to Lessee, and Lessee hereby leases from Lessor, upon and subject to the terms, agreements, covenants, conditions and provisions of this Lease, the Premises, excepting and reserving unto Lessor:

a. The right to enter in, on, over, and across the Premises parking areas and drive aisles, including, without limitation, access through traffic control systems installed by Lessee, for purposes of vehicular ingress and egress of (i) emergency and law enforcement vehicles, (ii) maintenance vehicles, (iii) transit use, and (iv) utility inspection, installation, maintenance, repair, replacement, and meter reading by Lessor and utility providers.

i. The right to issue an authorization to a separate entity or individual(s) for the placement and operation of the historic camera obscura structure (which is managed separate from

this Lease) and to enter the Premises for these purposes, provided that Lessee is responsible for maintaining the Premises located under the camera obscura.

b. The right, at all reasonable times (and for areas closed to the public, upon reasonable prior written notice to Lessee under the circumstances, given by the Superintendent of the Park or their designee, reciting the reasons for the entry at least thirty (30) days in advance where feasible (except in case of emergency or if an Agency or public or private utility has access pursuant to Applicable Laws and Requirements)), and subject to the rights of Lessee's invitees in the Premises, to enter and to permit any Agency, public or private utilities and other persons to enter upon the Premises as may be necessary as determined in Lessor's reasonable judgment for the purposes of (i) using, operating, maintaining, replacing, inspecting, and relocating any existing underground wells, water, natural gas, steam, storm, storm sewer and sanitary sewer lines, telephone and electric power lines, conduits and facilities, and flood control facilities; (ii) using, installing, operating, maintaining, renewing, replacing, inspecting, and relocating underground wells, water, natural gas, steam, storm, storm sewer and sanitary sewer lines, telephone and electric power lines, conduits and facilities, and flood control facilities required by Applicable Laws and Requirements or mandated by governmental entities; (iii) using, installing, operating, maintaining, renewing, replacing, inspecting, and relocating wells and other equipment as reasonably required for environmental monitoring or Response purposes; or (iv) investigating or testing as is reasonably necessary in the opinion of Lessor and to Respond or undertake Response Actions in connection with Preexisting Hazardous Materials. Lessor must use reasonable efforts to permit no such entry to materially interfere with the use or stability of any building or improvement on the Premises. Lessee will comply with the Golden Gate Project Handbook to provide emergency access to Lessor to any secured areas within the Premises.

c. The right at all times (and for areas within buildings or closed to the public, upon reasonable prior written notice to Lessee under the circumstances, given by the Superintendent or their designee) to enter upon the Premises at any reasonable time for the purpose of inspection and inventory and when otherwise deemed necessary for the protection of interests of Lessor or for the purposes of the administration of this Lease or the Park, and Lessee will have no claim of any character on account thereof against Lessor or any officer, agent, or employee thereof, except to the extent of any damage caused by the negligent or willful misconduct of the foregoing persons. Lessor will have the right to make, without prior notice thereof, semi-annual inspections for compliance with public health and safety standards. Lessor may make follow-up inspections to ensure compliance therewith. Lessor retains the right to close or otherwise secure the Premises, or close or secure access thereto, when immediate danger to life, public health, property, or Park resources is discovered on such inspections or follow-up inspections. To the extent feasible, Lessor will provide reasonable notice of such closure. Lessee hereby waives any claims for damages for any injury or inconvenience to or interference with Lessee's use and occupancy of the Premises, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by Lessor's exercise of its rights under this Lease or by Lessor's actions to manage or protect Park resources and visitors, except to the extent caused by the negligence or willful misconduct of Lessor.

d. Exclusive rights to all oil, gas, hydrocarbons, and other minerals in, under, or on the Premises, and ownership of any current or future water rights applicable to the Premises.

2.2 Waiver

Lessee hereby waives any claims for damages for any injury or inconvenience with the Lessee's use and occupancy of the Premises, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by Lessor's exercise of its rights under this Lease or by the Lessor's actions taken for management and protection of the Park's resources and visitors.

2.3 Applicable Laws and Requirements

This Lease, including all of its provisions, is subject to, and Lessee will at all times comply with, to all Applicable Laws and Requirements, and all liens, encumbrances, restrictions, rights and conditions of law or of record or otherwise actually known to Lessee.

2.4 Easements

a. The Lessor may grant such rights-of-way for utilities as the Lessee may require in connection with the use and occupancy of the Premises.

b. The privileges granted herein are further expressly subject to all existing and future easements, licenses, and rights-of-way, including, without limitation, easements and rights-of-way granted by Lessor to any utility subsequent to the Effective Date.

c. The Lessee may not grant any type of easement or other rights-of-way over, under, on, or through the Premises.

2.5 Ownership of the Premises

This Lease does not vest in Lessee any fee interest in the Premises. Title to the Premises at all times is with and will remain solely with, the Lessor.

2.6 Historic Property

Portions of the Premises are managed as Historic Property.

2.7 Non-Exclusive Nature of Parking Lot Premises

Notwithstanding the foregoing or anything to the contrary contained in this Lease, Lessee acknowledges and agrees that the Parking Lot Premises is leased to Lessee hereunder on a non-exclusive basis and that Lessee's rights in and to the Parking Lot Premises under this Lease are and will at all times be limited solely to the right to use such Premises for valet parking in accordance with Section 10.1(c) below, seven (7) days a week, during the hours of 5:00 P.M. and 10:00 P.M., Pacific Time. At all times, the Parking Lot Premises will be fully open to and available for use by the public for self-parking.

2.8 National Park Service Trademark License

a. The unique nature of a NPS lease blends commercial enterprise with the treasured historic, cultural, and natural assets that the Director is responsible for protecting. Lessor hereby grants to Lessee a royalty-free, non-exclusive, non-transferable license to use the marks as listed in **Exhibit H** (the "**Marks**"), for use solely to carry out the services described under this Lease in manner that promotes NPS goals and values as stated herein. Lessee will have the right to sub-license the Marks in order to carry out services described under this Lease upon written approval of Lessor and under same or substantially similar terms as contained herein. Any use of any Mark intended to identify the NPS, or one of the Constituent Premises, will inure to the benefit of the NPS. This license will cease upon termination or expiration of this Lease, or as otherwise determined by Lessor or by law. This license does not constitute a compensable interest to Lessee.

b. Lessee acknowledges the maintenance of the high quality of the services, materials, products, and merchandise produced, sold, or otherwise prepared for public dissemination pursuant to or

in order to carry out services required under this Lease, as well as the control by Lessor over their nature, quality, and manner of delivery or distribution, are material conditions of this Lease. Lessee will maintain the distinctiveness of the Marks, the image of the NPS brand, and the image and high quality of the services, materials, products, and merchandise bearing the Marks licensed herein. Marks may be used and appear together with other marks used in connection with Lease-related goods and services but must stand by themselves. Lessee will immediately cease use of a Mark used in association with the services provided under this Lease on request of the NPS.

c. Lessee acknowledges the NPS is the sole and exclusive owner of all right, title and interest in and to its Marks, including those licensed hereunder, as well as to all combinations, forms, and derivatives, which must be approved by Lessor. Lessee further acknowledges, represents and warrants that it has not acquired and will not acquire (whether by operation of law, by this Lease, or otherwise) any right, title, interest or ownership (collectively "**Ownership Rights**") in or to any NPS Marks or any part thereof. Should any Ownership Rights become vested in Lessee, Lessee agrees to assign, and hereby assigns, all such Ownership Rights to the NPS free of consideration. Lessee will immediately provide and execute all documents reasonably requested by the NPS to effectuate and record each such assignment. Lessee will not, during the term of this Lease or at any time thereafter, do anything which, in Lessor's sole judgment, could in any way damage the validity and subsistence of the Marks. Lessee will not attack, dispute, or challenge the NPS' Ownership Rights in or to the Marks, nor will Lessee assist others in so doing.

3. ACCEPTANCE OF THE PREMISES; EXISTING PERSONAL PROPERTY

3.1 As Is Condition of the Premises

a. Lessee hereby expressly accepts the Premises and all improvements thereon in their existing "as is" condition and acknowledges that in entering into this Lease, Lessee does not rely on, and Lessor does not make, any express or implied representations or warranties as to any matters including, without limitation, the suitability of the soil or subsoil; any characteristics of the Premises or improvements thereon; the suitability of the Premises for the intended use; the likelihood of deriving trade from or other characteristics of the Premises; the economic or programmatic feasibility of Lessee's use and occupancy of the Premises; title to the Premises; Hazardous Materials (including Preexisting Hazardous Materials) on or in the vicinity of the Premises; variations of weather, tides, and other conditions as a result of the Premises' proximity to the coast; or any other matter. Lessee has satisfied itself as to such suitability and other pertinent matters by Lessee's own inquiries and tests into all matters relevant in determining whether to enter into this Lease. Prior to entering into this Lease, Lessee in the exercise of due diligence has made a through, independent examination of the Premises and all matters relevant to Lessee's decision to enter into this Lease, and Lessee is thoroughly familiar with all aspects of the Premises and is satisfied that they are in an acceptable condition and meet Lessee's needs. In the exercise of its due diligence, Lessee has taken into account the Inventory and Condition Report (**Exhibit C**) and acknowledges that it is complete and accurate.

b. Lessee is responsible for all Construction Documents, Initial Improvements, Alterations, FF&E, and Maintenance during the Term as necessary for complete operational functionality of the Premises during the Term, including but not limited to maintenance, repair, or replacement of site and landscape improvements. Lessee understands and expressly agrees that Lessor's approval of Construction Documents and Lessor's provision of the Certificate of Occupancy or Temporary Certificate of Occupancy or any Lessor approval of Lessee's completion of Initial Improvements, Alterations, Building Maintenance, or Preservation Maintenance does not make nor imply any representation or warranty by Lessor that the Premises complies with all Applicable Laws and Requirements.

c. Lessee acknowledges it has received copies, or copies have been made available to Lessee, of the environmental reports and studies listed on **Exhibit E** attached hereto.

3.2 Existing Personal Property

Lessor has determined that all Personal Property existing in the Premises as of the Commencement Date, if any, is obsolete and without value. Lessee may use or dispose of such existing Personal Property at Lessee's sole discretion, provided, however, that if Lessee elects to dispose of all or a portion of such existing Personal Property, Lessee must provide Lessor with written notice of such election prior to such disposal and will dispose of such Personal Property, at Lessee's sole cost and expense and in accordance with all Applicable Laws and Requirements.

4. TERM

4.1 The term of this Lease ("**Term**") will be for a period of _____ () years, commencing on the date first written above in the preamble to this Lease (the "**Commencement Date**") and expiring on [INSERT DATE] (the "**Expiration Date**") or on such earlier date as this Lease may be terminated as hereinafter provided.

5. RENT

5.1 Rent

In addition to all other amounts and charges due under this Lease, Lessee hereby agrees to pay to Lessor each Lease Year as set forth herein, in lawful money of the United States of America, without abatement, deduction counterclaim, set-off or offset except as specifically set forth in this Lease, an absolute net rental ("**Rent**"). As used in this Lease, the term "**Rent**" includes Base Rent, Percentage Rent, Additional Rent and all other charges and other amounts whatsoever payable by Lessee pursuant to this Lease. The term "**Additional Rent**" includes all payments, charges and other amounts whatsoever due and payable by Lessee to Lessor under this Lease after the Commencement Date.

5.2 Base Rent; Adjustment

a. In addition to all other amounts and charges due under this Lease, Lessee hereby agrees to, pay to Lessor throughout the Term a base rent (the "**Base Rent**") for the Premises as follows:

- i. For Lease Year 1, Lessee will pay \$0 in Base Rent
- ii. For Lease Year 2, Lessee will pay \$235,292 in Base Rent
- iii. For Lease Year 3, Lessee will pay \$363,598 in Base Rent
- iv. For Lease Year 4, Lessee will pay \$499,443 in Base Rent
- v. Commencing on the first day of Lease Year 5, and annually on the first day of each Lease Year thereafter, throughout the Term ("**Adjustment Date**"), the Base Rent increases by an amount equal to three percent (3.0%) of the Base Rent payable for the immediately preceding Lease Year.
- vi. All Base Rent is payable in equal monthly installments in advance, on the first day of each calendar month, without prior demand, offset or deduction.

5.3 Percentage Rent

a. Commencing on the Commencement Date, in addition to all other amounts and charges due under this Lease, Lessee will pay to Lessor as part of the total Rent a percentage rent (“**Percentage Rent**”) for the Premises for each Lease Year; provided that Percentage Rent is payable by Lessee only to the extent that Percentage Rent calculated pursuant to this Section exceeds Base Rent (for avoidance of doubt, it is the intent of the Parties that if the Percentage Rent amount for any Lease Year exceeds the Base Rent amount for such Lease Year, Lessee pays the applicable Percentage Rent amount in lieu of Base Rent for such year, and if Percentage Rent amount for any Lease Year does not exceed the Base Rent amount for such Lease Year, Lessee pays Base Rent and not Percentage Rent). The Percentage Rent is four percent (4.0%) [or TBD] of Lessee’s Gross Revenues for Lease Years 1-3; five percent (5.0%) [or TBD] of Lessee’s Gross Revenues for Lease Years 4-5; and six percent (6.0%) [or TBD] of Lessee’s Gross Revenues for all further Lease Years.

b. Although the Percentage Rent due is reconciled by calculation at the end of each Lease Year, the Percentage Rent is payable in monthly installments on a projected basis during each Lease Year, in arrears, due within the fifteen (15) days after the end of each calendar month, without offset or deduction, with the first payment due on the fifteenth (15th) day after the end of the first applicable month following the Commencement Date.

c. Within fifteen (15) days after the end of each calendar month, Lessee must furnish to Lessor a statement of Gross Revenues (“**Percentage Rent Statement**”) for the preceding calendar month showing in all reasonable detail the computation of the Percentage Rent for the period covered by such payment. Each monthly statement must be signed and certified to be correct by Lessee or its authorized representative. If Lessor receives the Percentage Rent payment but does not receive the Percentage Rent Statement therewith, such failure, until cured, will be treated as a late payment of Percentage Rent, subject to a late charge as provided in Section 5.5 below.

d. At the end of each Lease Year, Lessee must furnish to Lessor, in accordance with Section 7.2 of this Lease, the Annual Report, which report must contain audited financial statements prepared by a certified public accountant for such Lease Year. Promptly after Lessee’s submission of such Annual Report, the Parties will make any adjustment necessitated by any deficiencies or overpayment in the monthly payments. If Lessee has not paid Lessor a sufficient Percentage Rent for the Lease Year, then Lessee will pay any deficiency(ies) at the time of submittal of the Annual Report. If Lessee’s payments for the preceding Lease Year exceed the amount actually due to Lessor, the amount of the overpayment will be credited to the next installment(s) of Percentage Rent, or other amounts next due under this Lease.

5.4 Payment of Rent

All payments of Rent will be in lawful money of the United States and will be deposited electronically by the Lessee using Applicable Laws and Requirements without setoff, prior notice, deduction or demand.

5.5 Late Charges

Lessee recognizes that late payment of any Base Rent, Percentage Rent, Additional Rent or other Rent due hereunder will result in administrative expenses to Lessor, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Lessee therefore agrees that if any Rent is not paid within five (5) days after it is due, the amount of such unpaid Rent will be increased by a late charge to be paid to Lessor by Lessee, as Additional Rent, in an amount equal to five percent (5%) of the amount of the delinquent Rent. In addition, any outstanding Rent, late charges

and other outstanding amounts will accrue interest at the Interest Rate, or if there is a limitation upon the rate of interest which may legally be charged in the circumstances, the maximum legal rate of interest, until paid to Lessor. Lessee agrees that such amount is a reasonable estimate of the loss and expense to be suffered by Lessor as a result of such late payment by Lessee and may be charged by Lessor to defray such loss and expense. The provisions of this Section 5.5 does not relieve Lessee of the obligation to pay Rent on or before the date it is due, or affect Lessor's remedies pursuant to Section 31 if any Rent is unpaid after it is due. In the event of nonpayment of interest or late charges on overdue Rent, Lessor will have, in addition to all other rights and remedies, the rights and remedies provided in this Lease and by Applicable Laws and Requirements for nonpayment of rent.

5.6 Excusal of Rent

In the case of a Force Majeure, the Lessor, in its sole discretion, may excuse the Lessee from its obligation to pay Rent, or a portion thereof, for a period of time that the Lessor, in its sole discretion, deems appropriate under the circumstances.

5.7 Lookout Visitor Center Common Area Expenses

In addition to all other Rent payable under this Lease, Lessee will pay to the Conservancy, in lawful money of the United States of America, without deduction or offset, Lessee's Proportionate Share of all Lookout Visitor Center Common Area Expenses. The terms for the payment of such expenses will be set forth in a separate written agreement between Lessee and the Conservancy in substantially the form attached hereto as **Exhibit J** to this Lease (the "**Lookout Visitor Center Common Area Expense Agreement**"). Lessee must enter into such an agreement with the Conservancy, which must be reviewed and approved by Lessor in writing, and deliver a copy of such fully executed agreement to Lessor within _____ days after the Commencement Date. If Lessee fails to enter into such an agreement (as approved by Lessor) with the Conservancy and deliver a copy of the same to Lessor within the timeframe noted above, then the same will be considered an Event of Default under this Lease.

6. IMPOSITIONS

6.1 Lessee's Obligation for Impositions

a. In addition to Rent and all other amounts and charges due under this Lease, Lessee covenants and agrees to bear, discharge and pay Impositions that may be assessed, levied, confirmed, imposed or that may become a lien upon the Premises as follows:

i. Lessee will pay to the relevant Agency, in lawful money of the United States, without offset or deduction, as the same become due, before delinquency, all Impositions that may be assessed, levied, confirmed, imposed or become a lien upon the Premises or any part thereof that become payable from and after the Commencement Date until the later of (A) last day of the Term hereof, or (B) the last day Lessee has possession of the Premises.

ii. Lessee will have no obligation to pay any Impositions that may be assessed, levied, confirmed, imposed or become a lien upon the Parking Lot Premises or any part thereof except to the extent that any such Impositions are assessed, levied, or imposed as a result of Lessee's use of the Parking Lot Premises.

b. If Lessee believes it is or should be entitled to an exemption from any Imposition imposed from and after the Commencement Date on the Premises, it will be Lessee's sole responsibility,

at Lessee's sole cost and expenses, to apply for and prosecute such exemption. However, Lessor agrees to cooperate with Lessee's reasonable requests to assist in any such application for exemption.

6.2 Lessee must obtain and deliver to Lessor receipts or duplicate receipts or other satisfactory evidence of payment for all Impositions required to be paid by Lessee, promptly upon payment thereof in the case of any Impositions for which a failure to pay may result in a lien upon the Premises, and, in all other cases, upon request of Lessor.

7. RECORDS AND AUDIT

7.1 Books and Records

a. Lessee must record at the time of each sales transaction in the presence of the customer, all receipts from sales or other transactions, whether for cash or credit, in a cash register, or in cash registers, having a cumulative total and which must number consecutive purchases.

b. Lessee must keep, or cause to be kept, true, accurate and complete records and double-entry books, consistently applied, from which Lessor at all times can determine the nature and amounts of Gross Revenues by item, and the Rent Roll. Without limitation of the foregoing, such records must show all transactions relative to the conduct and production of Gross Revenues and the Rent Roll and such transactions must be supported by documents of original entry. Lessee must include in any license or Sublease or any other agreement with anyone occupying the Premises or any part thereof under Lessee whose gross revenues constitute a basis for the payment of rental or fees to Lessee a provision giving Lessor the same right of examination and audit of such licensees' and Subtenant's books and records as provided in this Section 7.

c. If at any time during the Term, said books, records and accounts prove inadequate to record Gross Revenues and the Rent Roll or provide other information in the detail required under this Lease, Lessee must, upon the request of Lessor, procure and maintain such books, records and accounts as will be of a character and form adequate for said purpose.

7.2 Annual Report

Lessee will, at Lessee's sole cost and expense, prepare or cause to be prepared and furnished to Lessor an Annual Report within one-hundred twenty (120) days of the end of each Lease Year.

7.3 Lessor's Audit

a. Upon prior notice and during normal business hours, Lessee must provide Lessor access to those records relating to the Premises and Lessee's use and occupancy of the Premises under this Lease that are necessary for the purpose of conducting an audit of such records to verify the calculation and payment of Rent for any of the three (3) preceding Lease Years.

b. If Lessor determines as a result of such audit that there has been a deficiency in the payment of any Rent for any Lease Year, then such deficiency will become immediately due and payable and will bear interest at the Interest Rate from the date the payment should have been made until paid. If such audit determines that there has been an overpayment of any rentals, such overpayment will be credited against the next rents and charges due to Lessor under this Lease.

c. If Lessee disputes the findings of the audit conducted by Lessor or if the amount of deficiency is estimated by Lessor to be greater than three percent (3%) of the amount due, then, at the

request of the Lessor, upon not less than ten (10) days prior written notice and during normal business hours, Lessee will provide Lessor access to those records relating to the Premises and Lessee's use and occupancy of the Premises under this Lease that are necessary for the purpose of conducting an audit of such records by an independent certified public accountant to verify the calculation and payment of Rent for any of the three (3) preceding Lease Years. The accountant will consult with both parties during the audit process.

d. Should Lessor conduct an audit by an independent certified public accountant for the purposes of Section 7.3(c) above then Lessee must reimburse Lessor in full for Lessor's reasonable out of pocket payments for the audit by the independent certified public accountant if such audit determines that Lessee owes additional sums to Lessor and the amount of such deficiency is greater than three percent (3%) of the amount due.

e. In the event Lessor, or its duly authorized representative, is unable to conduct a proper audit as provided herein due to Lessee's failure to make available any information necessary to undertake such an audit, the parties agree that Lessor will have been deprived of an important right under this Lease and, as a result thereof, will suffer damages in an amount which is not readily ascertainable. In such event, Lessor, in addition to and not in lieu of other remedies which Lessor has under this Lease, or at law or in equity, will have the right, at its option to collect as liquidated damages and not as a penalty, an amount equal to twenty percent (20%) of the greater of (1) Percentage Rent reported for the period or periods in question, or (2) the Base Rent payable for the period or periods in question.

7.4 Access to Records

a. The Secretary of the Department of Interior and Comptroller General of the United States, or any of their duly authorized representatives, will, upon not less than ten (10) days prior written notice, at any time up until the expiration of five (5) calendar years after the expiration of this Lease, have access to and the right to examine any of the Lessee's pertinent books, documents, papers, and records, and such documents of any entity or person related to this Lease that are necessary to perform an audit and to verify Lessee's compliance with the terms and conditions of this Lease.

b. The Lessee must provide the Lessor and its agents and affiliates, including the Comptroller General of the United States, access to all books and records relating to the Premises and the Lessee's use of the Premises under this Lease for the purpose of conducting audits to verify the Lessee's compliance with the terms and conditions of this Lease for any of the five (5) preceding Lease Years. The Lessee must keep and make available to the Lessor these books and records at a location on the Premises or within the locale of the Park Area. The Lessee must, if requested by the Lessor, provide the Lessor with complete information and data concerning the Lessee's operations and operating results, including information and data regarding [specify particular types that relate to the Lessee's particular operations].

8. NET LEASE; NO COUNTERCLAIM OR ABATEMENT

8.1 All amounts and charges due to Lessor under this Lease will be absolutely net to Lessor and must be paid without assertion of any counterclaim, offset, deduction or defense and without abatement, suspension, deferment or reduction. Under no circumstances or conditions, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties, will Lessor be expected or required to make any payment of any kind whatsoever with respect to the Premises or be under any obligation or liability except as expressly set forth in this Lease.

8.2 Except as otherwise expressly provided in this Lease, this Lease will continue in full force and effect, and the obligations of Lessee under this Lease will not be released, discharged or otherwise

affected, by reason of: (a) any damage to or destruction of the Premises or any part thereof or any improvements thereon; (b) any restriction or prevention of or interference with any use of the Premises or the improvements or any part thereof; (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other proceeding relating to Lessor, Lessee or any constituent partner of Lessee or any Occupant or assignee or any action taken with respect to this Lease by a trustee or receiver, or by any court, in any proceeding; (d) any claim that Lessee or any other person has or might have against Lessor; (e) any failure on the part of Lessor to perform or comply with any of the terms, agreements, covenants, conditions and provisions in this Lease or of any other agreement with Lessee or any other person; (f) any failure on the part of any Occupant, Transferee, or other person to perform or comply with any of the terms of any Sublease or other agreement between Lessee and any such person; or (g) any termination of any Sublease, other occupancy agreement or other agreement, whether voluntary or by operation of law.

8.3 The obligations of Lessee under this Lease are separate and independent covenants and agreements except as otherwise expressly stated in this Lease. Lessee hereby waives, to the full extent permitted by Applicable Laws and Requirements, all rights now or hereafter conferred by such Applicable Laws and Requirements, to quit, terminate or surrender this Lease or the Premises or any part thereof, or to any abatement, suspension, deferment, diminution in or reduction of any monetary payments payable to Lessor under this Lease.

9. LANDLORD NOT OBLIGATED TO PAY LESSEE EXPENSES

9.1 Lessor is not obligated by the terms of this Lease and does not agree to pay, any expense or debt related to the obligations undertaken by or the operations conducted by the Lessee under the terms of this Lease. No provision of this Lease is intended to create such an obligation or agreement.

10. USE OF THE PREMISES

10.1 During the Term, Lessee will use the each of the Constituent Premises solely for the following uses:

a. Lessee will use the Restaurant Premises solely for the purpose of the operation of (i) one (1) full service, fine-dining restaurant serving food, non-alcoholic beverages and, with the appropriate Liquor License (as defined below), alcoholic beverages for the on-site consumption, (ii) one (1) casual bistro-style restaurant serving food, non-alcoholic beverages and, with the appropriate Liquor License, alcoholic beverages for the on-site consumption, (iii) banquet facilities, (iv) a retail gift shop, (v) an offsite catering service and (vi) other ancillary uses related thereto.

b. Lessee will use the Lookout Café Premises solely for the purpose of the operation of a café-style restaurant offering counter service and providing food and non-alcoholic beverages for on-site or off-site consumption.

c. Lessee will use the Parking Lot Premises solely for the purpose of the operation of a valet parking service for patrons of the Restaurant Premises.

10.2 Lessee may amend or change the authorized uses for a Constituent Premises only upon the receipt of the prior written approval of Lessor, which approval or disapproval will be given or withheld in Lessor's sole and absolute discretion. No change in the uses of the Premises will be approved unless Lessor, among other matters, determines the proposed use to be consistent with 36 CFR Part 18, the Park's General Management Plan, and all other Applicable Laws and Requirements, and that the

proposed change will not have an adverse impact on Lessor's ability to manage and protect the Park's resources and visitors.

10.3 The Parties hereby acknowledge and agree that Lessee's covenant that the Premises will be used as set forth in this Section 10 is material consideration for Lessor's agreement to enter into this Lease.

10.4 Covenant to Open and Operate

a. Lessee covenants to open for business to the Public for the entire Premises, with the Premises fully fixtured, stocked and staffed on or before the date that is _____ () days after the Commencement Date and thereafter to continuously and uninterruptedly operate from the entire Premises during the Term in accordance with the applicable operating hours set forth in Section 10.5 below; provided however, that Lessee's obligations to operate the Premises under this Section 10.4 are suspended for construction of Alterations undertaken by Lessee pursuant to this Lease or Response Actions undertaken by Lessee or Lessor, and during periods of modification of Subleased or other space for Occupant use or repair and reconstruction after damage or destruction to the Premises (or any part thereof) pursuant to Section 24 of this Lease; provided, however, all of the foregoing suspensions will be limited to the portion of the Premises actually affected thereby and for such time as is reasonably required for such Alterations or Response Actions, modification of Subleased or other space for Occupant use, or repair and reconstruction after damage or destruction, and provided that Lessee complies with all other obligations under this Lease.

b. Further, in the event of a Force Majeure, the Lessor may excuse the Lessee of its obligation of continuous operation for a period of time that the Lessor deems appropriate under the circumstances, and is conditioned upon Lessee's compliance with all other obligations under this Lease, including without limitation, payment of Rent and any other costs and expenses to Lessor, except to the extent otherwise expressly permitted by Lessor in writing.

10.5 Operation of Specific Constituent Premises

a. Restaurant Premises

i. The Restaurant Premises must be operated by Lessee under the sole identifying name listed in **Exhibit D** attached hereto and will have an identifying graphic logotype to be approved in writing by Lessor prior to use. Any change in the identifying name and or approved logotype for the Restaurant Premises by Lessee is subject to the prior written approval of Lessor. Lessee represents that the identifying name provided on **Exhibit D** attached hereto will be part of Lessee's brand in terms of cooperative marketing and advertising, sales and reservations, group benefits, procurement, and systems and operations support.

ii. After the Commencement Date, subject to the prior written approval of Lessor and compliance with all Applicable Laws and Requirements, Lessee may at its own expense, install necessary and appropriate identification signs on the exterior of the Restaurant Premises, consistent with the requirements of the Golden Gate Project Handbook and the Lessee Sign Policy provided to Lessee by Lessor. Lessee will cooperate with Lessor to develop a protocol and standard design, subject to the written approval of Lessor and consistent with the Lessee Sign Policy and any Lessor special event guidelines for the Park, for any and all temporary (removable and demountable) identification and directional signs associated with meetings, conferences, and events managed by the Lessee. Lessee may not post any other signs on the Premises without Lessor's prior written approval.

iii. After initially opening for business, Lessee will keep the Restaurant Premises open for business during at least the following hours: (A) the fine dining restaurant will be open seven (7) days a week from at least 11:30 a.m. through 9:30 p.m., providing lunch and dinner service daily, and (B) the bistro will be open seven (7) days a week from at least 9:00 a.m. through 9:30 p.m., providing breakfast, lunch and dinner service daily and (C) banquet room will provide brunch every Sunday from at least 10:00 a.m. through 4:00 p.m.

iv. Lessee will implement and maintain environmentally responsible back-of-house operations, which will include, but not be limited to, (A) a verifiable waste reduction program including a recycling program and a composting program, (B) participation in all available utility provider energy audits and implementation of all recommended water and energy conservation measures to the extent practicable, (C) annual measurement of solid waste, energy consumption and water consumption, and (D) use of environmentally preferable products to the greatest extent practicable, including using products made from recycled materials that are recyclable or biodegradable.

v. The Parties acknowledge and agree the San Francisco Bay Area has long enjoyed international acclaim and an identity as a destination for a vibrant environmentally sustainable food and dining culture. Lessor shares these regional values and strives to integrate them into Park operations, including food and beverage service provided throughout the Park. In an effort to ensure food and dining at the Park reflect this sense of place, Lessee must cooperate with Lessor to incorporate these values in its operation of the Premises by, among other things, incorporating sustainable food and beverage options into the menu's offered at the Premises in accordance with the NPS Healthy Food Choice Standards and Sustainable Food Choice Guidelines for Front Country Operations attached hereto as **Exhibit G**, and obtaining annual third-party certification of a sustainable food program.

vi. Lessee will implement and maintain a program to provide interpretative and educational information about the NPS to its patrons, which will include, but not be limited to, (A) the display of historic photographs and memorabilia as the primary decorative theme for the Premises, (B) the display of NPS brochure and other material that convey the mission of the NPS and build awareness of and connect customers to the diverse range of opportunities and resources offered within the Park, and (C) the maintenance of a website that conveys the history of the Sutro Historic District and the restaurant, that provides information about the operation of the NPS and contains a link to the NPS website, and that contains a link to the Park's website and promotes the Park's application. The content of the website required under the preceding sentence is subject to the prior approval of Lessor, which will not be unreasonably withheld or delayed, and Lessee will complete and launch such website within sixty (60) days after the Commencement Date.

b. Lookout Café Premises

i. The Lookout Café Premises will be operated by Lessee under the sole identifying name listed in **Exhibit D** attached hereto and will have an identifying graphic logotype to be approved in writing by Lessor prior to use. Any change in the identifying name and or approved logotype for the Lookout Café Premises by Lessee is subject to the prior written approval of Lessor. Lessee represents that the identifying name provided on **Exhibit D** attached hereto will be part of Lessee's brand in terms of cooperative marketing and advertising, sales and reservations, group benefits, procurement, and systems and operations support.

ii. After the Commencement Date, subject to the prior written approval of Lessor and compliance with all Applicable Laws and Requirements, Lessee may at its own expense, install necessary and appropriate identification signs on the exterior of the Lookout Café Premises, consistent with the requirements of the Golden Gate Project Handbook and the Lessee Sign Policy

provided to Lessee by Lessor. Lessee must cooperate with Lessor to develop a protocol and standard design, subject to the written approval of Lessor and consistent with the Lessee Sign Policy and any Lessor special event guidelines for the Park, for any and all temporary (removable and demountable) identification and directional signs associated with meetings, conferences, and events managed by the Lessee.

iii. After initially opening for business, Lessee will keep the Lookout Café Premises open for business during all days and all hours that the Land's End Lookout Visitor Center is open for business. As of the date hereof, the Land's End Lookout Visitor Center is open for business all days except Thanksgiving, Christmas Day, and New Year's Day, Monday through Sunday from 9:00 a.m. to 5:00 p.m. The Lookout Café Premises may not be open and operating at any time that the Land's End Lookout Visitor Center is not open to the public.

10.6 Restaurant Provisions

a. Lessee agrees to use all commercially reasonable efforts which may be necessary to minimize odors and noises emitting from the Premises. Lessee further agrees that it will, promptly upon receipt of notice from Lessor, take whatever steps may be necessary in order to comply with improvements of food, service, appearance, and the like in the Premises, as reasonably requested by Lessor from time to time; and failure so to do will be deemed to be a default hereunder, invoking all of the provisions with respect to default contained in this Lease.

b. Lessee will, at its expense: (i) have the filters in the hoods to the food processing exhaust systems removed daily and washed; (ii) have the hoods, exhaust ducts and fans scraped and cleaned, to remove all grease and other materials, a minimum of once every three (3) months, or as designated by Lessor, a record of such cleaning to be presented to Lessor; and (iii) if gas is used in the Premises, install a proper gas cut off-valve in the Premises. In the event that Lessee fails to perform the foregoing obligations, Lessor may perform, on behalf and at the expense of Lessee. In addition, Lessor has the right to access the Premises to conduct periodic inspections of the hoods, exhaust ducts and fans.

c. Lessee must contract for termite and pest extermination services, which contract will provide for the monthly application of necessary pest control materials in the Premises in conformance with NPS Integrated Pest Management policies. Lessee agrees to provide Lessor with a copy of such contract and evidence of such monthly applications. If Lessor designates the pest control contractor, Lessee agrees to use the contractor so designated for its pest control and to pay when due all charges directly to the pest contractor.

d. If Lessee fails to comply with any of the provisions of this Section 10.6, such failure to do so will be deemed to be a default of this Lease, permitting Lessor all rights with respect to default contained in this Lease. Lessor will have the same remedies (even if such payment is due to such contractor and not to Lessor) as Lessor has for nonpayment of Rent hereunder.

10.7 Liquor License

a. Lessee agrees to apply for, seek and use all diligent efforts to obtain, and to have duly approved by the appropriate governmental authorities and officials an alcoholic beverages liquor license (the "**Liquor License**") permitting Lessee to sell beer, wine, liquor and other alcoholic beverages for on-premises consumption within the Premises, subject to and in accordance with all Applicable Laws and Requirements and this Lease. Lessee will be deemed to be diligently pursuing the Liquor License if Lessee is in compliance with the following: (i) Lessee submits to the proper governmental authorities all required applications and information for the approval of the Liquor License within _____ days

after the Commencement Date, (ii) Lessee pays in a timely manner all fees required by the governmental authorities in order to obtain the Liquor License; and (iii) Lessee cooperates with the (A) governmental authorities by (1) submitting additional information or documents as required by the governmental authorities within five (5) days following request therefore, and (2) responding to any questions or comments from the governmental authorities within five (5) days following oral or written notice to Lessee of said questions or comments, as the case may be, and (B) parties to the escrow or purchase contract, if any, by timely and fully complying with the terms of the same in order to obtain the Liquor License. Lessee agrees to keep Lessor fully informed as to the status of Lessee's applications to and communications concerning the Liquor License and the actions and decisions of the appropriate governmental or transferring parties. Lessee must provide Lessor with (x) notice of (I) the actual filing date for the Liquor License or transfer of the same (as well as the contract date for any transfer), and (II) the actual date the Liquor License is issued or transferred, which notice must be accompanied by a copy of the Liquor License, and (y) a copy of the any purchase contract or escrow agreement regarding the transfer of the Liquor License (which may be redacted to remove pricing information). Lessee further agrees throughout the Term of the Lease to use all reasonable efforts and diligence to maintain the Liquor License in full force and effect and good standing.

b. At all times that Lessee sells liquor or other alcoholic beverages from the Premises, Lessee must (a) provide Lessor with a copy of the Liquor License, (b) pay all fees and keep and operate the Liquor License in good standing and in compliance with local rules and regulations and the rules and regulations of the California Department of Alcohol Beverage Control and free from liens of liquor wholesalers or others and taxes, (c) not transfer the Liquor License or the physical location of the Liquor License, or sublease the Liquor License, without the prior written consent of Lessor, which consent will not be unreasonably withheld.

c. If at any time after Lessee obtains the Liquor License, the Liquor License is suspended, denied or revoked for any reason, including non-compliance with any Legal Requirements, the same will constitute a default in Lessee's obligations hereunder, and Lessee will promptly (i) deliver to Lessor Notice of such suspension, denial or revocation, and (ii) commence the applicable appeal proceedings and proceed with all due diligence to reinstate the Liquor License. As long as Lessee has so commenced to cure or resolve the applicable issue including commencing appeal proceedings, if any, and is proceeding therewith as aforesaid, such suspension, denial or revocation will not ripen into a default, and Lessor will not have the right to terminate the Lease on account thereof, unless and until the suspension, denial or revocation has continued without the Liquor License being reinstated for ninety (90) days or more but, in the event of such suspension, denial or revocation, if Lessee fails to deliver promptly to Lessor notice thereof, or if Lessee fails promptly to commence the cure or resolution and the applicable appeal proceedings and to continue thereafter to proceed as aforesaid to cure or resolve the applicable issue, then the same will so ripen into a default at Lessor's election and upon notice thereof given to Lessee at any time while such suspension, denial or revocation continues. At the time that Lessee makes any filing with or receives a notice or any other communication regarding a hearing or in connection with any purported such non-compliance from any governmental licensing board, agency, commission or like authority with respect to the Liquor License, Lessee promptly must deliver a copy of such filing, notice or other communication to Lessor.

10.8 Security and Parking

a. Lessee will coordinate all security systems and programs for the Premises with Lessor.

b. Lessee is not responsible for parking enforcement within the Parking Lot Premises. Under no circumstances may the Parking Lot Premises or any other parking areas in or about the

Premises be utilized for the storage, repair or maintenance of any vehicles. Lessor is not liable for: (a) loss or damage to any vehicle or other personal property parked or located upon or within the Parking Lot Premises or any other parking areas in or about the Premises, whether pursuant to this Lease or otherwise and whether caused by fire, theft, explosions, strikes, riots, or any other cause whatsoever; or (b) injury to or death of any person in, about or around the Parking Lot Premises or any other parking areas in or about the Premises or any vehicles parked thereon whether caused by fire, theft, assault, explosion, riot or any other cause whatsoever and Lessee hereby waives any claims for, or in respect to, the above.

10.9 Prohibited Uses

a. Without limitation of the foregoing, or any other provision of this Lease, the Premises will not be used for any purpose that is in violation of any Applicable Laws and Requirements; that may be dangerous to life, limb, property or public health; that in any manner causes, creates, or results in a nuisance; that is of a nature that it involves substantial hazard, such as the manufacture or use of explosives, fireworks, chemicals or products that may explode, or that otherwise harms the health or welfare of persons or Park resources; or that results in any discharge of Hazardous Materials on the Premises in violation of Section 22 of this Lease, including but not limited to the disposing or discharging of such substances into, on or under the Premises.

b. Lessee will not, without the prior written consent of Lessor which may be withheld in its sole and absolute discretion: (i) use or permit the use of the Premises for any unauthorized sales of any items, including but not limited to outlet, second-hand, distress, fire, bankruptcy, auction, liquidation, relocation, closing, or "going out of business" sales; (ii) construct, permit to construct, or attach any equipment or furnishings to the exterior of the Premises, or any telecommunications and data communications equipment, including but not limited to satellite dishes and cellular or digital communications towers and antennae; (iii) use or permit the use of the Premises for commercial filming and photography, or any event not typically and directly associated with operation of the Premises, but excluding customary commercial filming and photography of conferences, meetings, weddings, and associated events at the Premises.

c. Lessee will not, without the prior written consent of Lessor, which consent may be withheld in its sole and absolute discretion, sell items which in Lessor's judgment would compete with certain Park-related merchandise or merchandise with the Park's or Lessor's logos that may be exclusively provided or sold by Lessor or the Conservancy.

d. Lessee will not install or maintain on any part of the Premises, including without limitation, on the roof of any Improvements, any satellite dishes, antenna or other telecommunications equipment other than that equipment which is necessary for the operation of the Premises for the uses permitted under Section 10.1 above which has been determined, in writing, by the Superintendent of the Park or their designee as necessary for the operation.

10.10 Lessor Inspection; Rules and Regulation. Lessee's activities on the Premises are subject to the general supervision and inspection of Lessor and to such rules and regulations regarding ingress, egress, safety, sanitation and security as may be prescribed by Lessor from time to time. Moreover, Lessee will maintain the Premises in good condition throughout the Term of this Lease.

11. MAINTENANCE; PRESERVATION MAINTENANCE

11.1 Commencing on the Commencement Date, Lessee must, with due diligence, at its own cost and expense and without any cost or expense to Lessor, promptly and continuously perform all

Maintenance, including all Building Maintenance; provided that the performance of Preservation Maintenance is subject to the Preservation Maintenance Plan approved in writing by Lessor pursuant to Section 11.5 below. Lessee's Maintenance obligations must include, without limitation, the following:

- a. the performance of all repairs, maintenance, replacement, upgrading, capital improvements, (whether structural or non-structural, foreseen or unforeseen, ordinary or extraordinary) necessary to maintain the Premises and the Improvements thereon in good order, condition, and repair in a manner consistent with the operation of comparable facilities in the locale of the Premises and in compliance with all Applicable Laws and Requirements;
- b. the replacement, as they become worn out or obsolete, of all FF&E;
- c. housekeeping and routine and periodic work scheduled to mitigate wear and deterioration without altering the appearance of the Premises;
- d. the repair or replacement in-kind of broken or worn out elements, parts or surfaces so as to keep the existing appearance of the Premises;
- e. scheduled inspections of all building systems on the Premises;
- f. maintaining the grounds of the Premises in good condition, including, without limitation, regular grass mowing, ornamental plantings, and avoidance or removal of unsightly storage or parking of materials, equipment, or vehicles; and
- g. the repair and maintenance of security and life safety systems as required by Applicable Laws and Requirements.

11.2 Lessee must not: (a) allow any nuisances or safety hazards to exist or be maintained in, on, over, or around the Premises; or (b) commit or permit waste upon the Premises.

11.3 Lessor is not be obligated to perform any Maintenance of any kind whatsoever of or to the Premises and Lessee hereby expressly waives any right under any Applicable Laws and Requirements that would otherwise permit Lessee to perform Maintenance or construct Alterations at Lessor's expense.

11.4 During the Term, Lessee must schedule and perform Maintenance, and construct Alterations reasonably expected to be necessary to the Premises so as to avoid deterioration, keep the Premises in good order, condition and repair, and to comply with all Applicable Laws and Requirements.

11.5 No later than one hundred twenty (120) days after the Rent Commencement Date, Lessee must submit to Lessor for review a preliminary Preservation Maintenance Plan for the Premises. Lessor will review the preliminary Preservation Maintenance Plan and approve or disapprove the Preservation and Maintenance Plan within thirty (30) days of receipt. If Lessor does not approve the preliminary Preservation Maintenance Plan, then Lessor must notify Lessee in writing of the reasons for disapproval. Lessee will promptly revise the preliminary Preservation Maintenance Plan to eliminate such objections made by Lessor and thereafter submit to Lessor a revised Preservation Maintenance Plan within fifteen (15) days of the notification of disapproval. Lessor will promptly approve or disapprove the revised Preservation Maintenance Plan. The process will repeat until Lessor approves the final Preservation Maintenance Plan, which Preservation Maintenance Plan will, upon request by Lessor, be periodically amended during the Term. Lessee will update the Preservation Maintenance Plan annually, which updates will be subject to Lessor's approval procedures set forth in this Section 11.5.

12. UTILITIES

12.1 Commencing on the Commencement Date, Lessee must pay for all utility services furnished to, or used at, the Premises, including: natural gas, electricity, water and sanitary sewer, cable, telephone and other communication services, garbage, and any Impositions thereon. Lessor will cooperate with Lessee to facilitate direct billing by utility providers to Lessee for the Premises.

12.2 Lessee must make all necessary arrangements for telecommunications services for the Premises, Lessor will cooperate with Lessee on a reasonable basis and as necessary to make arrangement for telecommunications services. Any such service provider will be subject to Lessor's approval. Lessor will use best efforts to cooperate with Lessee to determine potential locations for installation of antenna or satellite dishes which may be used by Lessee to provide necessary service to the Premises.

12.3 Lessee, at its sole cost and expense, will implement energy conservation and sustainability measures to reduce utility consumption as reasonably required by, or if proposed by Lessee, acceptable to, Lessor. Such measures may include installation of water low flow devices, stormwater inflow, infiltration and runoff reduction, and use, if available, of reclaimed water for irrigation and will not be detrimental to the maintenance of historic or cultural resources. All such energy conservation sustainability measures must be approved in writing by the Lessor prior to installation and implementation.

13. IMPROVEMENTS AND ALTERATIONS CONDITIONS PRECEDENT

13.1 Initial Improvements Conditions Precedent

a. Lessee must not undertake any construction of any Initial Improvements, or other installation of any equipment, Fixtures, Trade Fixtures or other facilities on the Premises (including temporary equipment or facilities) necessary for the Initial Improvements, without the prior written approval of Lessor, which approval for construction of the Initial Improvements will be pursuant to this Section 13.1 and the Initial Improvements Work Agreement.

b. As part of the process of obtaining approval in accordance with this Section 13.1, Lessee, at Lessee's sole cost and expense, must submit to Lessor (i) Construction Documents for approval by Lessor, (ii) evidence of availability of funds for such construction required pursuant to Section 15 of this Lease, (iii) evidence of insurance required pursuant to Section 23 of this Lease, and (iv) other relevant data as may be reasonably required by Lessor.

c. Lessee will enter into contracts for the performance and completion of the Initial Improvements with reputable contractors, which contracts must provide for the work to be performed for fixed and specified maximum amounts or allowances pursuant to the applicable approved Construction Documents. Developer must submit a copy of the construction contract for the general contractor (the "**Construction Contract**") to Lessor, certified by Lessee to be true and correct, for purposes of determining (i) that the scope and cost of work have been fixed and are consistent with the scope and cost set forth in the approved Construction Documents, and (ii) that no changes to the contract that would cause the contract to be out of compliance with this Lease may be made without the prior written consent of Lessor. Lessor will approve or disapprove the Construction Contract within fifteen (15) business days. Only upon approval by Lessor of all of the Construction Contract will this condition precedent be deemed met.

d. All proposed changes or modifications to the approved Initial Improvements must be approved by Lessor in writing. Moreover, the Parties recognize that any Initial Improvements to historic

property will only be approved if the Lessor determines that the Initial Improvements comply with the Secretary of the Interior's Standards, and further recognize that any improvements which are affixed to federal property, including without limitation, Fixtures (other than Trade Fixtures), made by or through the Lessee are the property of the Lessor.

13.2 Alterations Conditions Precedent

a. Except for Initial Improvements approved pursuant to Section 13.1, Lessee must not undertake any construction of any Alterations (other than Minor Alterations) or the installation of any equipment, Fixtures, Trade Fixtures or other facilities on the Premises (including temporary equipment or facilities) necessary for Alterations (other than Minor Alterations) without the prior written approval of Lessor, which may include approval by the National Park Service Investment Review Board, if required.

b. As part of the process of obtaining approval in accordance with this Section 13.2, Lessee, at Lessee's sole cost and expense, must submit to Lessor (i) Construction Documents for approval by Lessor, (ii) evidence of availability of funds for such construction required pursuant to Section 15 of this Lease, (iii) evidence of insurance required pursuant to Section 23 of this Lease, and (iv) other relevant data as may be reasonably required by Lessor.

c. Lessee will enter into contracts for the performance and completion of the Alterations with reputable contractors, which contracts must provide for the work to be performed for fixed and specified maximum amounts or allowances pursuant to the applicable approved Construction Documents. Developer must submit a copy of the Construction Contract to Lessor, certified by Lessee to be true and correct, for purposes of determining (i) that the scope and cost of work have been fixed and are consistent with the scope and cost set forth in the approved Construction Documents, and (ii) that no changes to the contract that would cause the contract to be out of compliance with this Lease may be made without the prior written consent of Lessor. Lessor will approve or disapprove the Construction Contract within fifteen (15) business days. Only upon approval by Lessor of all of the Construction Contract will this condition precedent be deemed met.

d. All proposed changes or modifications to the approved Alterations (other than Minor Alterations) must be approved by Lessor in writing. Moreover, the Parties recognize that any Alterations of historic property will only be approved if the Lessor determines that the Alterations comply with the Secretary of the Interior's Standards, and further recognize that any improvements which are affixed to federal property, including without limitation, Fixtures (other than Trade Fixtures), made by or through the Lessee are the property of the Lessor.

14. DESIGN OF INITIAL IMPROVEMENTS AND ALTERATIONS

14.1 Lessee must design the Initial Improvements and all Alterations in accordance with The Cliff House and Environs Design Criteria, Applicable Laws and Requirements, and sound professional design practice for renovation and Rehabilitation of a potentially historic property listed on, or potentially eligible for inclusion on, the National Register of Historic Places, and in accordance with the requirements of this Lease.

14.2 Construction Documents

a. All Construction Documents for the Initial Improvements and Alterations must be approved, in writing by the Lessor. Lessor will not approve proposed Construction Documents unless it is able to determine, among other matters, that the proposed Improvements or Alterations, as applicable, are appropriate for the Park and consistent with the requirements of Part 18, the Golden Gate Project

Handbook and other Applicable Laws and Requirements. Review and approval of proposed Improvements and Alterations is subject to any required compliance with the National Environmental Policies Act (NEPA, 42 USC 4321 et seq.) and, if the project affects Historic Property, Section 106 of the National Historic Preservation Act (Section 106, 16 USC 470F).

b. All Construction Documents for Initial Improvements and Alterations must be prepared in accordance with standards and submittal requirements set forth in NPS Director's Order No. 10A, Design and Construction Drawings, effective date April 15, 2003, as amended, and the Golden Gate Project Handbook.

c. In the preparation of Construction Documents, Lessee will review utility plans for the location of existing utilities that may be damaged by Lessee's construction on the Premises and will prevent such damage during the construction process and must promptly repair any damage that does occur. All existing "as-built" utility plans in Lessor's possession will be furnished by Lessor showing the locations of all Lessor utilities in the relevant areas. Lessee must obtain all other necessary utility plans from the appropriate public utility companies.

d. In the event of expiration or termination of this Lease, Lessee must assign and deliver to Lessor as Lessor's sole property all architectural, engineering, and other plans, drawings, specifications and studies relating to the Premises. In order to assure Lessor that it will have the legal right to use such plans, drawings, specifications and the like if Lessor becomes entitled to such items, Lessee must include in its agreements with the architects, engineers and other professionals who prepare such items and who have any proprietary rights with respect to such items (including the rights to use thereof in connection with the Premises) provisions whereby Lessee and Lessor will have the right to use such plans and other materials in connection with the Premises. In furtherance and not in limitation thereof, Lessee (referred to below as "Owner") must include in such agreements the following provisions:

"The drawings, specifications and other documents prepared by the Architect for this Project ("Documents") are instruments of the Architect's service and, unless otherwise provided in writing, the Architect will be deemed the author of these Documents and will retain all common law, statutory and other reserved rights, including the copyright. For the purposes of completing this Project or for any other purpose, Architect and its consultants hereby (i) grant to Owner and the National Park Service an irrevocable, fully paid-up, perpetual, worldwide license to copy and use such Documents for completion of this Project or for any other purpose and (ii) consent to the use by Owner and the National Park Service, and the modification by other design professionals retained by Owner or the National Park Service, of the Documents. The Architect will have no responsibility or liability to the Owner or the National Park Service with respect to any modification to the Documents made by the Owner or the National Park Service or any other design professional retained by the Owner or the National Park Service. Furthermore, except where the Architect is found to be liable for such claim, damage or loss, the Owner will hold Architect harmless from any such claim, damage or loss arising out of the modification of the Document by the Owner or the National Park Service or another design professional. The Owner and the National Park Service will be permitted to retain copies, including reproducible copies, of the Documents for information and reference in connection with the use and occupancy of the Project.

Notwithstanding the foregoing, Architect acknowledges and consents to the use and ownership by the National Park Service, or its designees or assignees, of such Documents in accordance with the Lease between Owner (as Lessee) and the National Park Service (as Lessor) for the Premises leased to Lessee associated with the Documents and Architect agrees to deliver copies of said Documents to the National Park Service upon written request from the National Park Service,

provided that the National Park Service agrees to pay the Architect's reasonable duplication expense."

14.3 Lessee must pay Lessor for all costs for construction and compliance monitoring by Lessor during the term of this Lease, and design and environmental compliance review of all Alterations (other than Minor Alterations) by Lessor during the term of this Lease, consistent the Golden Gate Project Handbook.

14.4 Lessee must, upon request, furnish Lessor with a true and correct copy of Lessee's contracts with any architect, engineer, design consultant, and any general contractor engaged in connection with this Lease for design and construction of Initial Improvements and Alterations (other than Minor Alterations) as applicable.

15. EVIDENCE OF FUNDS FOR ALTERATIONS

15.1 As required by Sections 13.1 and 13.2 and as a condition to the approval of construction of any Initial Improvements or Alterations (other than Minor Alterations), Lessee must submit to Lessor in writing appropriate document demonstrating to the satisfaction of Lessor that Lessee has available funds adequate to undertake and complete construction of the Initial Improvements or subject Alterations, as applicable, in accordance the Construction Documents therefor and all terms and conditions of this Lease.

16. CONSTRUCTION OF INITIAL IMPROVEMENTS, ALTERATIONS

16.1 Initial Improvements

a. If granted permission to proceed pursuant to Sections 13.1 above, Lessee hereby agrees and covenants to commence and prosecute diligently, at Lessee's sole cost and expense, the construction of the Initial Improvements in accordance with the Construction Documents for the Initial Improvements approved by Lessor, all in accordance with this Section 16 and the Initial Improvements Work Agreement.

b. Lessee must commence the construction of the Initial Improvements no later than _____ () days after the Commencement Date and will substantially complete construction of the Initial Improvements on or before the date that is _____ () days after the Commencement Date.

c. All design and construction of the Initial Improvements must be performed by knowledgeable parties trained and experienced in the work to be done, and must be performed by licensed contractors who meet applicable California licensing, bonding and certification requirements.

d. Until such time as Lessee is entitled to issuance of a Certificate of Occupancy, Lessee will provide Lessor with periodic progress reports, as reasonably requested by Lessor, regarding the status of completion of the Initial Improvements.

16.2 Construction of Alterations

a. If granted permission to proceed pursuant to Sections 13.2 above, Lessee hereby agrees and covenants to commence and prosecute diligently, at Lessee's sole cost and expense, the construction of Alterations (other than Minor Alterations) in accordance with the Construction Documents for the Alterations approved by Lessor, all in accordance with this Section 16.

b. All design and construction of any Alterations must be performed by knowledgeable parties trained and experienced in the work to be done and all construction of such Alterations which so require must be performed by licensed contractors who meet applicable California licensing, bonding and certification requirements.

16.3 Initial Improvements and Alterations General Construction Requirements

a. All Initial Improvements and Alterations must be done at Lessee's sole cost and expense (as between Lessor and Lessee). All construction and work must be performed in a good and workmanlike manner. Lessee must construct the Initial Improvements and Alterations in accordance with all Applicable Laws and Requirements and all approved Construction Documents and in accordance with this Section 16 and all other terms, agreements, covenants, conditions and provisions of this Lease. Lessee must construct, install, and maintain equipment and any construction facilities as part of the Initial Improvements or Alterations, as applicable, in a safe, thorough and reliable manner and in accordance with all Applicable Laws and Requirements.

b. Lessee will not construct any Initial Improvements or Alterations outside the boundaries of the Premises, except as approved by Lessor in the Construction Documents.

c. Any material change in approved Construction Documents for the Initial Improvements or any Alterations (other than Minor Alterations) or any material deviations in the actual construction of any of the Initial Improvements or any Alterations (other than Minor Alterations) from approved design elements will be subject to Lessor's prior written approval. If Lessor rejects the proposed change, then the approved Construction Documents will continue to control.

d. Lessee must prepare and maintain on the Premises on a current basis during construction of Initial Improvements or Alterations (other than Minor Alterations), as applicable, approved annotated Construction Documents showing clearly all changes, revisions and substitutions during construction.

e. Lessee must perform and complete, or cause the performance and completion of, the Initial Improvements and Alterations in accordance with Applicable Laws and Requirements, the Construction Documents therefor, the Golden Gate Project Handbook, and the terms and conditions of Lessor and all other applicable governmental determinations and approvals, including, without limitation, the Approved Alterations Budget.

16.4 Construction Completion Procedures for Initial Improvements or Alterations (other than Minor Alterations)

a. Upon Substantial Completion of the construction of Initial Improvements or Alterations, as applicable, on the Premises or any part thereof, Lessee must submit to Lessor a written notice of such completion.

b. Upon completion of construction of Initial Improvements or Alterations, as applicable, Lessee must deliver to Lessor evidence, satisfactory to Lessor, of payment of all costs, expenses, liabilities and liens arising out of or in any way connected with such construction (except for liens that are contested in the manner provided in this Lease) and final lien waivers in a form acceptable to Lessor from all person performing labor or supplying materials in connection with such work.

c. On completion of the construction of the Initial Improvements and Alterations, Lessee must provide to Lessor a complete set of "as-built" drawings showing clearly all changes,

revisions and substitutions during construction, including, without limitation, field changes and the final location of all mechanical equipment, utility lines, ducts, outlets, structural members, walls, partitions and other significant features of the Initial Improvements or Alterations, as applicable, all in a format approved by Lessor.

d. On completion of construction of the Initial Improvements or any Alterations, as applicable, Lessee must provide Lessor with a complete written inventory of all Fixtures and Trade Fixtures, which inventories will be subject to Lessor's approval. Additionally, within sixty (60) days after every fourth (4th) anniversary of the Commencement Date (commencing on the fourth (4th) anniversary of the Commencement Date), Lessee must provide Lessor with a complete written inventory of all Fixtures and Trade Fixtures, which inventories will be subject to Lessor's approval. Following Lessor's approval of any such updated inventory of Fixtures and Trade Fixtures, Lessor and Lessee will update this Lease to attach such updated inventories as **Exhibit B**.

e. Lessor, acting in its regulatory capacity, and not in its proprietary capacity as Lessor, will issue a Temporary Certificate of Occupancy after Substantial Completion of Initial Improvements or Alterations (other than Minor Alterations), as applicable, subject to "punch-list" items and upon final review to its reasonable satisfaction of the applicable construction documents, including all tests, inspections, progress reports, and other pertinent documents customarily required by the jurisdiction in which the Premises is located for the issuance of such a document. Lessor and Lessee will coordinate and consult on final issues in advance of the completion of construction to enable Lessor to promptly issue the Certificate of Occupancy for the Initial Improvements or Alterations, as applicable.

f. Lessor may issue a Temporary Certificate of Occupancy for the Initial Improvements or Alterations, as applicable, at the request of the Lessee and when construction of Initial Improvements or Alterations (other than Minor Alterations), as applicable, is completed to the point that Lessee can commence pre-opening operations without threat to life or safety. Lessee may operate any portion of the Premises undergoing Initial Improvements or Alterations, as applicable, under a Temporary Certificate of Occupancy for the Initial Improvements or Alterations, as applicable, if the Temporary Certificate of Occupancy for the Initial Improvements or Alterations, as applicable, authorizes such operations and provided that all construction necessary for the safe operation of the Premises and the protection of the life and safety of all members of the public coming on the Premises has been completed, in accordance with all Applicable Laws and Requirements and the terms of this Lease.

g. If the Initial Improvements or Alterations, as applicable, necessitate closure of an area to occupancy during the construction of such Initial Improvements or Alterations, as applicable, then in no event will Lessee open any portion of the Premises undergoing Initial Improvements or Alterations, as applicable, to the public without either (i) the issuance of a Certificate of Occupancy for the Initial Improvements or Alterations, as applicable, or (ii) the issuance of a Temporary Certificate of Occupancy for the Initial Improvements or Alterations, as applicable.

16.5 On Site Inspection

Lessor, through its employees, contractors and Agents, has the right to be on the Premises at all reasonable times during construction of Initial Improvements or Alterations, to observe all aspects of the construction and to inspect the work of the Initial Improvements or Alterations to determine that such work is in substantial conformity with the approved Construction Documents or to inspect the area for compliance with this Lease. No inspection performed or not performed by Lessor under this Lease will give or be deemed to give Lessor any responsibility or liability with respect to the work or the prosecution thereof or the design or construction of Initial Improvements or Alterations or constitute or be deemed to constitute a waiver of any of Lessee's obligations under this Lease or be construed as approval

or acceptance of the work or the prosecution thereof or the design or construction of the Initial Improvements or Alterations. Approval and acceptance of the Initial Improvements or Alterations, as applicable, will be pursuant to the provisions of this Lease pertaining to the construction approval process and issuance of Certificates of Occupancy. Lessor is under no obligation to (a) supervise the renovation, Rehabilitation, or construction, (b) inspect the Premises, or (c) except as provided in Section 22.5 below, inform Lessee of information obtained by Lessor during any inspection, and Lessee will not rely upon Lessor for any supervision, inspection, or information.

16.6 Assignment of Warranties and Guarantees

On expiration or termination of the Lease, Lessee will assign to Lessor in a manner satisfactory to Lessor, all warranties and guarantees provided by any manufacturers, contractors, suppliers, or other parties relating to any portion or component of such Initial Improvements or Alterations.

17. PERMITS AND APPROVALS

17.1 Except as otherwise provided in this Lease, Lessee will be solely responsible for obtaining, at its sole cost and expense, the approval of any Agency for any permit or other governmental action necessary to permit the activities under this Lease. Lessor, at no expense to itself, will cooperate with Lessee to the extent reasonable to obtain all such permits and approvals. Notwithstanding the foregoing, Lessee will not submit to any person or entity, including any Agency, information regarding Lessor or Lessor's lands without Lessor's prior written approval, unless the communication of information is in response to a valid order by a court or Agency or to obtain a permit, approval or financing or is otherwise required to be released by law, in which case Lessee must immediately provide Lessor with written notice of such order or requirement, identifying the specific information released. In addition, Lessee may release such information that is necessary for Lessee to obtain insurance, and upon release of such information, Lessee must provide Lessor with written notice indicating what information was so released.

17.2 Lessee must comply with all Applicable Laws and Requirements governing construction, sanitation, licenses, and permits to do business on the Premises.

18. EXCAVATION, SITE, AND GROUND DISTURBANCE

18.1 Except as permitted as part of the Initial Improvements or Alterations, Lessee will conduct no mining or drilling operations; remove no material amount of sand, gravel or similar substances from the ground (except for foundation and utilities work); commit no waste of any kind; or in any manner materially change the contour or condition of the Premises or other Park property. Further, Lessee will not cut any timber nor remove any other landscape features of the Premises, such as shrubs or bushes without Lessor's prior written consent. Lessee must give Lessor not less than thirty (30) days written notice of the scheduled commencement of any material site and ground disturbance on or under any portion of the Premises. Written approval for excavation including, but not limited to, environmental and archaeological clearances are required prior to any digging or excavation on the Premises.

18.2 Except as permitted as part of the Initial Improvements or Alterations, Lessee will not remove or disturb or cause to be removed or disturbed any utility maintained by Lessor or a utility service provider, Preexisting Hazardous Materials, or any historical, archeological, architectural, or other cultural artifacts, relics, remains, materials or objects of antiquity encountered during site or ground disturbance. If any such items are encountered by Lessee, Lessee must immediately halt work and notify Lessor so that Lessor may evaluate the situation. The affected activity must not resume until written approval is issued

by Lessor. Lessee acknowledges that, at Lessor's sole discretion, and except where indicated in approved Construction Documents and/or the Preservation Maintenance Plan or except as authorized in writing in advance by Lessor, Lessee may be required to alter work plans to avoid damage to utilities or cultural resources and to avoid disturbance of Preexisting Hazardous Materials, and the Parties agree that while Lessor will not be liable for any costs or expenditures occasioned as a result of any delays or alterations associated therewith, Lessor will cooperate with Lessee to minimize the impact of any such delays or alterations.

18.3 The prior written approval of Lessor is required for excavation and an archaeological clearance is required prior to any digging or excavation within the Park. Where excavation is to be in archaeologically sensitive areas, an archaeologist approved by Lessor must be present at the excavation to monitor the process of digging. Hand digging will be required around any known archaeological sites or any that may be discovered during the course of excavation. When an archaeological site is discovered during the course of excavation, Lessee must cease all work or other disturbance that may impact any protected site or archeological resource until Lessor may grant approval to continue upon such terms and conditions as Lessor deems necessary to protect the site or resource. Any objects found during the course of excavation are the property of Lessor, and the recovery of these items is subject to federal law, with penalties imposed for violations.

18.4 Open excavation must be barricaded when Lessee's personnel are not present in the immediate vicinity of the work site. Under no circumstances will open excavations be allowed to remain at the completion of the work day without Lessor's prior written consent. At each location where excavation has been initiated, Lessee must ensure backfilling operations are complete prior to the end of the work day unless Lessor otherwise consents in writing. No more than two hundred (200) linear feet of open excavation may exist at any time without Lessor's prior written approval.

18.5 Lessee must maintain all excavations, embankments, stockpiles, roads, and all other work areas free from excess dust to such reasonable degree as to avoid causing a hazard or nuisance to personnel and surrounding facilities. Approved temporary methods consisting of sprinkling, or similar methods will be permitted to control dust. Dust control must be performed as the work proceeds and whenever a dust nuisance or hazard occurs.

18.6 If applicable, damaged or backfilled areas must be repaved, re-sodded or seeded and fertilized by Lessee in such a manner as to match the paving or vegetation existing prior to the damage. Paving, sod, seed, and fertilizer types and mixtures must be approved by Lessor.

19. OWNERSHIP OF IMPROVEMENTS

19.1 This Lease will vest in Lessee no property interest in the Premises or in the improvements or Fixtures thereon other than the leasehold estate created by this Lease. Title to real property and improvements and Fixtures thereon, including Initial Improvements, Alterations, Building Maintenance and Preservation Maintenance to Premises but excluding Trade Fixtures will be and remain solely in Lessor. Except as provided in Section 33.2 below, Lessor will have no interest in the Trade Fixtures and Lessee's Personal Property. Compliance with Applicable Laws and Requirements related to taxes is the sole responsibility of Lessee.

19.2 Lessor acknowledges that covenants which allow Lessor certain control and rights of approval over Trade Fixtures and Lessee's Personal Property items placed upon the Premises by Lessee are provided only to insure conformance with the terms of this Lease, but such covenants do not vest in, nor will they be construed as vesting in Lessor an ownership interest in such items.

19.3 Upon removal of Trade Fixtures or Lessee's Personal Property at any time during the Term or upon expiration of this Lease, Lessee must (a) repair all damage caused by such removal at Lessee's sole cost and expense and ensure that no safety hazard is created by such removal, (b) cause a neat appearance to remain in the area of removal, and (c) perform Preservation Maintenance of any damaged area of the Premises.

19.4 Lessor and Lessee agree that Occupants may install Personal Property related to their use of Premises and that the ownership, installation, and removal of such property by such Occupants will be governed by the terms of the Sublease or other occupancy agreement between Lessee and its Occupant. At the termination of the Sublease or other occupancy agreement, Lessee must, either at its own expense or its Occupants, remove or cause the removal of any such Personal Property and to the extent necessary or appropriate by reason of such removal, must perform Preservation Maintenance or cause the Preservation Maintenance of the applicable portion of the Premises and Building Maintenance of any affected major building systems in the manner described in Section 33 of this Lease. Lessee must repair all damage caused by such property removal in accordance with the terms of Section 19.3 above. Lessee must cause any proposed installation, improvements or Alterations of the Premises by Occupants to comply with the terms and conditions of this Lease.

20. LIMITATION ON EFFECT OF APPROVALS

20.1 All rights of Lessor in its capacity as the Lessor hereunder (as opposed to NPS acting in its regulatory capacity) to review, comment upon, approve, inspect or take any other action with respect to the Premises, Building Maintenance, Preservation Maintenance, Initial Improvements, or Alterations, or the design or construction thereof, or Response Actions, or any other matter, are expressly for the benefit of Lessor and no other party.

20.2 No review, comment, approval, inspection, right or exercise of any right to perform Lessee's obligations, or similar actions required or permitted by, of, or to Lessor under this Lease, or actions or omissions of Lessor's Agents, or other circumstances give or be deemed to give Lessor any liability, responsibility or obligation for, in connection with, or with respect to, the design and construction of Initial Improvements or Alterations, Preservation Maintenance, Building Maintenance, or management and operation of the Premises or any Response Action on, in or from the Premises or other Park property by Lessee, nor will any such approval, actions, information or circumstances relieve or be deemed to relieve Lessee of the sole obligation and responsibility for the design and construction of Initial Improvements and Alterations, Preservation Maintenance, Building Maintenance, and management and operation of the Premises and any Response Action under this Lease, if any, except as expressly provided in Section 22.7 of this Lease.

21. COMPLIANCE WITH APPLICABLE LAWS; NEPA; NHPA

21.1 Lessee, at Lessee's sole cost and expense, will promptly comply with all Applicable Laws and Requirements. Lessee must give Lessor immediate written notice of any notice of violation of Applicable Laws and Requirements received by or on behalf of Lessee and, at its sole cost and expense, Lessee will promptly rectify any such violation but will retain the right to appeal any non-final rulings prior to taking any action.

21.2 Where activities undertaken by Lessee require the preparation of compliance documents pursuant to NEPA or NHPA, Lessee must supply all necessary information to Lessor and any Agency in a timely manner. No construction or installation activities will occur until all applicable NEPA and NHPA requirements have been met.

22. HAZARDOUS MATERIALS

22.1 Lessor has furnished or made available to Lessee copies of any and all reports Lessor has in its possession or has obtained in connection with the presence of Hazardous Materials on the Premises.

22.2 Except as specifically permitted under Sections 22.8, 22.9, or 22.10 of this Lease, Lessee will not, and Lessee must ensure that Affiliates, Agents, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term will not bring, generate or otherwise use, handle, treat, store, sell, dispose of, discharge or release any Hazardous Material upon, about, beneath or from the Premises, except for limited quantities of standard office, personal care, and janitorial supplies containing chemicals categorized as Hazardous Materials brought, generated or otherwise used, handled, treated, stored, sold, disposed of, discharged and released in compliance with Applicable Laws and Requirements. All Hazardous Materials-related activities undertaken by Lessee, Affiliates, Agents, employees, guests, invitees, visitors, Occupants and other persons or entities under the control of Lessee during the Term must comply with all Applicable Laws and Requirements. Lessee will not, and Lessee must ensure that Agents, Affiliates, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term will not, permit Hazardous Materials to be commingled with the Hazardous Materials of Lessor, if any. Lessee agrees to be responsible for timely acquisition of any permit(s) required for its Hazardous Materials-related activities, if any, and must provide to Lessor, upon request, inventories of all such Hazardous Materials and any supporting documentation, including but not limited to material safety data sheets, uniform waste manifest forms, and any other pertinent permits.

22.3 (a) If either Party becomes aware of, or reasonably suspects, or receives notice or other communication concerning (i) any actual, alleged or threatened violation of any Applicable Laws and Requirements (A) by Lessee, Affiliates, Agents, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term and in connection with, or affecting, the Premises, or (B) from past or present activities of any person in connection with the Premises, or (ii) any liability of Lessee, Agents, Affiliates, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term for Environmental Damages in connection with, or affecting, the Premises, then such Party must immediately deliver to the other Party a written description of such alleged violation or liability together with copies of any documents evidencing same. Receipt of such notice will not be deemed to create any obligation on the part of Lessor to defend or otherwise respond to any such notification.

(b) Each Party must immediately advise the other in writing if at any time (i) it receives written notice of any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against that Party or the Premises pursuant to any Applicable Laws and Requirements relating to any Hazardous Materials or Preexisting Hazardous Materials (“**Hazardous Materials Law**”); (ii) it receives any claim made or threatened by any third party against that Party or the Premises relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials or Preexisting Hazardous Materials (the matters set forth in clauses (i) and (ii) above are referred to as “**Hazardous Materials Claims**”); (iii) it discovers or becomes aware of any occurrence or condition on any real property adjoining or in the vicinity of the Premises that is subject to any restrictions on the ownership, occupancy, transferability or use of the Premises under any Hazardous Materials Law; or (iv) it discovers the presence of Preexisting Hazardous Materials on, under, or adjacent to the Premises.

(d) Lessor will have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys’ fees in connection with the proceedings or actions paid by Lessee.

(e) If during the Term, Lessee or its Affiliates, Agents, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee, encounter evidence of Preexisting Hazardous Materials on the Premises, Lessee must immediately notify Lessor and must take all precautions and actions necessary to insure that any suspected Preexisting Hazardous Materials are not disturbed or exacerbated prior to clean up and remediation. Such notice must describe, to the extent known by Lessee, the location and nature of the Preexisting Hazardous Materials discovered or believed likely to be present.

22.4 Except for Response Actions related to Preexisting Hazardous Materials, Lessee must, at its sole cost and expense, promptly take all Response Actions required under Applicable Laws and Requirements by any Agency to remedy damage to the Premises or neighboring property that arises directly or indirectly from or in connection with the presence, or release of any Hazardous Materials introduced in, under, about or into the air, buildings, paved surfaces, sanitary sewers, stormwater drainage systems, surface water, groundwater, or land by Lessee or Lessee's Affiliates, Agents, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term. Such Response Actions by Lessee may include but are not limited to Response Actions of the environmental condition of the areas adversely affected ("**Affected Property**") by Lessee's breach of any of the provisions of this Lease, whether on or off of the Affected Property. Except for Response Actions related to Preexisting Hazardous Materials, Lessee must take all Response Actions required under this Lease and under Applicable Laws and Requirements and must restore the Affected Property to a condition substantially equal to that existing prior to the introduction of the Hazardous Materials upon, about, in, into, or beneath the Affected Property, in accordance with the standard of Response imposed by Applicable Laws and Requirements. (To the extent of such impacted conditions, those portions of any Affected Property that cannot be restored to substantially the preexisting condition must be restored in accordance with the standards or requirements imposed by Applicable Laws and Requirements to the degree deemed necessary or appropriate by the Agency with jurisdiction to enforce Applicable Laws and Requirements.) Lessee must proceed continuously and diligently with such Response Actions and these Response Actions must be performed in accordance with Applicable Laws and Requirements in a good, safe and workmanlike manner by one or more licensed and reputable contractors experienced in the conduct of Response Actions in areas containing significant natural and cultural resources or comparable experience. Such contractor must not be an Excluded Contractor. Lessee must pay all Response Costs in connection with such Response Actions chargeable to Lessee, including but not limited to the charges of such contractor(s), all power and utility costs, any and all taxes or fees that may be applicable to such activities, and all reasonable costs incurred by Lessor in connection with the monitoring or reviewing of such Response Actions. Lessee must promptly provide to Lessor copies of all unprivileged testing results and reports generated in connection with the aforementioned activities unless Lessor will be made a party to such Response Actions, in which case Lessee must provide Lessor with any and all such testing results and reports. Promptly upon completion of such Response Action(s), Lessee must remove all associated Personal Property, debris, materials and the like, to the reasonable satisfaction of Lessor.

22.5 Lessor, at Lessor's sole cost and expense, will have the right, but not the obligation, at all reasonable times and, except in the case of emergency, following advance notice to Lessee, to enter upon the Premises, as may be necessary as determined by Lessor in its reasonable discretion (and for areas closed to the public, upon reasonable prior written notice under the circumstances, given by the Superintendent of the Park or their designee, reciting the reasons for the entry at least thirty (30) days in advance where feasible (except in case of emergency)), to conduct inspections and non-invasive tests of the Premises to determine whether Lessee is complying with all Applicable Laws and Requirements. In connection with such inspections, Lessor will use reasonable efforts to minimize disturbance or disruption of Lessee. Lessor will have the right, but not the obligation, to retain independent professional consultants to enter the Premises to conduct such inspections and to review any report prepared by or for Lessee concerning such compliance. Upon Lessee's written request, Lessor will make available to Lessee copies

of all final reports and written data obtained by Lessor from such tests and investigations. Lessee expressly recognizes that it will have no claim against Lessor for injury, loss, or other costs occasioned by any inconvenience to or interference with Agents, Affiliates, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee use of the Premises during the Term as a result of Lessor's exercise of the rights reserved to it under this Section 22.5, except to the extent such claims are covered by federal law.

22.6 In addition to all other indemnity requirements set forth in this Lease, and except as provided in Section 22.7 below, Lessee must protect, indemnify, defend and hold the United States of America, its employees, successors, Agents and assigns harmless from and against, and reimburse the United States of America for, any and all Environmental Damages as set forth in, and accordance with, Sections 25.2, 25.4, and 25.5 of this Lease. This obligation to indemnify will survive termination of this Lease. Notwithstanding the foregoing, this obligation to indemnify will not apply, with respect to loss, damage, costs, expense, or liability arising out of or attributable to Preexisting Hazardous Materials except to the extent that: (i) the negligence or willful misconduct of Lessee's or its Agents' or other persons or entities under the control of Lessee, causes an exacerbation or migration of such Preexisting Hazardous Materials, or (ii) Lessee or its Agents' or other persons or entities under the control of Lessee, cause additional damage to the environment beyond such Preexisting Hazardous Materials.

22.7 This Lease does not create a separate obligation on the part of Lessee and in favor of Lessor to Respond to Preexisting Hazardous Materials nor does it limit or expand the rights or defenses of Lessor or the Lessee with respect to such Preexisting Hazardous Materials. Consequently, the provisions of Sections 22.4 and 22.6 above and Section 22.8 below will not apply to Preexisting Hazardous Materials except to the extent that: (a) the negligence or willful misconduct of Lessee's Agents, Affiliates, employees, guests, visitors, invitees, Occupants or other persons or entities under the control of Lessee during the Term causes an exacerbation or migration of such Preexisting Hazardous Materials, or (b) Lessee's Agents, Affiliates, employees, guests, visitors, invitees, Occupants and other persons or entities under the control of Lessee during the Term cause additional damage to the environment beyond such Preexisting Hazardous Materials due to a violation of any Applicable Laws and Requirements regarding such Preexisting Hazardous Materials, and (c) except as specifically stated in Sections 22.8 and 22.9 below. This Section does not relieve Lessee of any obligation it might have with regard to third parties or any Agency by operation of Applicable Laws and Requirements, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act.

22.8 Lessee will be designated as the generator and must arrange for the removal of any Hazardous Materials Lessee disturbs in connection with its use and operations of the Premises, in compliance with Applicable Laws and Requirements, except to the extent Lessor undertakes such designation or arrangement with respect to Preexisting Hazardous Materials. Lessee must arrange for such removal and disposal of such Hazardous Materials with appropriate licensed contractors, at Lessee's sole cost and expense.

22.9 Lessee understands and acknowledges that the Premises may contain asbestos, asbestos-containing materials, lead-based paint, and pesticides. Therefore, Lessee hereby agrees that, during the Term, any necessary costs of Response Action with respect to asbestos, asbestos-containing materials, lead-based paint, or pesticides in the Premises or in areas adjacent to the Premises for which access is necessary by Lessee in order to complete the Initial Improvements or operate or maintain the Premises, and are a result of the Lessee's actions, will be the responsibility of Lessee and Lessor will not be responsible for Response Costs associated therewith. Whenever Lessee constructs the Initial Improvements or Alterations, or performs Maintenance or installation on the Premises, Lessee must comply with all Applicable Laws and Requirements, including without limitation, Applicable Laws and Requirements related to Response to asbestos, asbestos-containing materials, lead-based paint, and

pesticides. Notwithstanding anything to the contrary in this Lease, Lessee will not be required to remove asbestos, asbestos-containing materials, lead-based paint, or pesticides unless required to do so pursuant to Applicable Laws and Requirements or if an Agency having jurisdiction over the matter requires such removal.

22.10 Should Lessee fail to perform or observe any of its obligations or agreements pertaining to Hazardous Materials for a period of thirty (30) days (or such longer period of time as is reasonably required) after notice, then Lessor will have the right, but not the duty, without limitation of any other rights of Lessor under this Lease on its own behalf or through its Agents, consultants or contractors, to enter the Premises and perform the same. Lessee agrees to reimburse Lessor for the costs thereof, and to indemnify Lessor for liabilities therefrom, as set in Section 22.6 of this Lease.

22.11 The provisions of this Section 22 will survive any termination of this Lease. Section 23 of this Lease will not limit in any way Lessee's or Lessor's obligations under this Section 22.

23. INSURANCE

Lessee, at its sole cost and expense, must procure and maintain in full force and effect the following insurance at all times during the Term, unless otherwise specified below:

23.1 Property Insurance

a. Commercial Property

Commercial property insurance insuring against perils equal to a "special form" (previously known as "all risk") or ISO special causes of loss form and covering the Premises, including existing Improvements, the finished Initial Improvements, Alterations, Fixtures, Trade Fixtures, and Lessee's Personal Property at full replacement cost. The minimum replacement value for each Constituent Premises will be as set forth on **Exhibit F** attached hereto. Lessor, to the extent of its interest, must be an additional insured and loss payee on the policy(ies). The property insurance must include adequate coverage for debris removal and ordinance or law coverage. Coverage must be provided on an agreed value basis.

b. Boiler and Machinery

Comprehensive boiler and machinery insurance insuring against loss caused by equipment breakdown or explosion of steam boilers, pipes and other objects, and covering consequential business interruption losses. Coinsurance must not apply to the coverage. Lessor, to the extent of its interest, must be an additional insured and loss payee on the policy.

c. Builder's Risk

Prior to commencement of and during any construction Lessee or Lessee's general contractor must obtain and maintain builder's risk insurance for the construction of the entire work authorized as the Initial Improvements or Alterations, as applicable, naming as additional insureds or expressly extending protection to the Lessor, Lessee, Lessee's contractors, subcontractors and Agents performing construction on the Premises. Such insurance must be written on a completed value form. If the estimated completed value of the project changes during construction, the policy must be endorsed to reflect the new estimated value. Such builder's risk insurance will insure against perils equal to a special causes of loss ("all risk") form, and include coverage for earthquake (to the extent such coverage is available at Commercially Reasonable Insurance Rates), flood if the structure is located in a Special

Flood Hazard Area (SFHA zones “A” and “V”) (to the extent such coverage is available at Commercially Reasonable Insurance Rates), and collapse, including collapse resulting from design error. Such insurance must cover the entire work, materials and equipment used in connection with the work, work in transit and stored off-site, and temporary buildings. The builder’s risk insurance must remain in effect until the earliest of: (i) the issuance of a Certificate of Occupancy for Initial Improvements or Alterations, as applicable, by Lessor, (ii) when all insureds, including Lessor, under the policy agree it may be terminated, (iii) when final payment under all Construction Contracts let in connection with the construction of Initial Improvements or Alterations, as applicable, have been made, or (iv) the date on which the insurable interests in the Premises of all insureds other than Lessor have ceased. At all times with respect to any portion of the Premises, either the insurance required by Sections 23.1(a) or 23.1(c) of this Lease must be in effect. Lessor must also be included as a loss payee.

d. Earthquake

To the extent such coverage is available at Commercially Reasonable Insurance Rates, earthquake coverage with limits as close as available to the full replacement cost of the Initial Improvements or Alterations must be provided. Lessor, to the extent of its interest, must be an additional insured and loss payee on the earthquake policy required hereby.

e. Flood

To the extent such coverage is available at Commercially Reasonable Insurance Rates, flood coverage with limits as close as available to the full replacement cost of the Initial Improvements or Alterations if the structure is located in a Special Flood Hazard Area (SFHA zones “A” and “V”) must be provided. Lessor, to the extent of its interest, must be an additional insured and loss payee on the flood policy required hereby.

f. Business Income

Business income and extra expense coverage insuring against perils equal to a special causes of loss (“all risk”) form, business income limits purchased must equal two years of expected “business income” as defined by the applicable coverage form and developed using ISO’s CP 15 – Business Income Report and Worksheet or its proprietary equivalent. The business income policy must be endorsed to include any increased period of restoration resulting from compliance with any ordinance or law.

g. Blanket Policy

The insurance required under this Section 23.1 may be part of blanket policies but only if the limits required herein will be available under such blanket policies for any event affecting the Premises. Blanket policy must not be subject to or limited by a Margin Clause. If carrier underwriting guidelines require use of a Margin Clause, the limit must be no less than 130%.

23.2 Liability Insurance

a. Environmental Liability

i. Contractor's Pollution Legal Liability

Lessee must maintain, or cause those of its contractors or Agents who handle Hazardous Materials to maintain, contractor's pollution legal liability insurance during the construction of the Initial Improvements and Alterations. Such insurance must cover liability, including Response Costs, (to parties other than Lessee, Lessee's Affiliates, and Agents) arising out of bodily injury and damage to and loss of use of property, Response Costs, investigation and defense arising from acts or omissions for which Lessee is liable under Sections 22.4 and 22.7 of this Lease, and to the extent available at Commercially Reasonable Insurance Rates, must not exclude claims arising out of lead, creosote, or asbestos. Lessor must be an additional insured on such policy, to the extent that such coverage is available at Commercially Reasonable Insurance Rates.

ii. Environmental Professional Liability

Lessee must maintain, or cause those of its contractors, consultants or Agents who provide professional environmental services to maintain professional errors and omissions and pollution liability insurance in the amount of One Million Dollars (\$1,000,000) per occurrence during the construction of the Initial Improvements and Alterations. The policy must be unique to this project/site. The policy must cover liability arising out of testing, monitoring, measuring and laboratory analyses. Lessor must be included as an insured under this policy.

iii. Hazardous Materials Disposal

Lessee must ensure that any off-site disposal facility to which Lessee or Lessee's contractors ship Hazardous Materials maintains and furnishes evidence of pollution legal liability insurance. In addition, Lessee must insure that the off-site disposal operator is duly licensed by the state where the disposal site is located and that the disposal site operator has the necessary valid permits to operate the disposal site and to receive the type of Hazardous Materials that Lessee intends to send there. In addition, Lessee must maintain, or cause those of its contractors or Agents who transport any Hazardous Materials to maintain on its automobile liability policy MCS-90 and CA 9948 endorsements, or the equivalent.

b. Commercial General Liability

Commercial general liability insurance and if necessary commercial umbrella liability with limits of not less than \$2,000,000 each occurrence with an aggregate limit of no less than \$5,000,000 must be obtained. The general liability policy must be endorsed to provide that the aggregate limit applies separately to this and each location operated by lessee. The commercial general liability policy must cover liability arising out of bodily injury, property damage, products and completed operations, personal and advertising injuries (as defined by the policy). The definition of products must be altered to include the service of food for in-house dining. Said policies must cover the Lessor and Lessor's officers, directors, and employees as additional insureds with respect to liability arising out of Lessee's operations on the Premises and the ownership, and/or maintenance and use of the Premises, using ISO Additional Insured Endorsement Form CG2026 (or a substitute providing equivalent or better coverage).

c. Liquor Liability

If Lessee sells, serves or distributes alcoholic beverages in or on the Leased Premise, Lessee must maintain the broadest available Liquor Legal Liability insurance (sometimes also known as "dram shop" insurance) policy or policies with minimum combined per occurrence and aggregate limits at least equal to the minimum limits of insurance specified in the Commercial General Liability Section above which will insure Lessee and Lessor and Lessor's designees against any and all claims, demands or actions for personal and bodily injury to, or death of, one person or multiple persons in one or more accidents, and for damage to property, as well as for damages due to loss of means of support, loss of consortium, and the like, including, without limitation, any claims mentioned in the Section 25.2, below; so that at all times Lessor will be fully protected against any claims that may arise by reason of or in connection with the sale of alcoholic beverages in and from the Premises.

d. Automobile Liability

Commercial automobile liability insurance covering owned, non-owned and hired automobiles (applying Symbol 1 – "Any Auto") with limits of not less than \$2,000,000 per accident. If applicable, Lessee must also maintain garagekeepers legal liability coverage with a limit of not less than \$1,000,000 each occurrence.

23.3 Workers' Compensation and Employer's Liability

a. Workers' compensation insurance as required by Applicable Laws and Requirements. Regardless the number of employees, workers' compensation is required.

b. Employer's liability insurance with limits no less than \$500,000 for bodily injury by accident and \$500,000 for bodily injury by disease per employee and in the aggregate.

23.4 General Insurance Program Requirements

a. Acceptable Insurance

All of the insurance required under this Lease and any reinstatement thereof pursuant to Section 28.11 below must be issued by companies admitted or approved to do business in the state of California, with a financial rating of at least A-VII, as rated by the A.M. Best Key Rating Guide. In addition, the carrier(s) providing all property insurance required pursuant to this Lease must have a demonstrated record of insuring historic properties.

b. Deductibles and Self-Insured Retentions

Any deductibles and self-insured retentions must be on Commercially Reasonable Insurance Rates, but must not exceed Ten Thousand Dollars (\$10,000) per occurrence without Lessor's prior written approval. Lessor will not be responsible for any deductible or self-insured retention amount.

c. Lessee's Insurance is Primary

All of the insurance required under this Section 23 must provide that it is primary and non-contributing with any insurance or self-insurance carried by Lessor.

d. Severability of Interests

To the extent available at Commercially Reasonable Insurance Rates, the policies required by Sections 23.2(b) and 23.2(c) of this Lease on which Lessor is an additional or named insured must contain a severability of interests with respect to Lessor as additional insured (or separation of insureds) provision. All of the policies required pursuant to Section 23.1 of this Lease and to which Lessor is an additional insured must provide on such additional insured endorsement the same protection to Lessor that is provided to a mortgagee under a standard mortgagee's clause, in that coverage as respects Lessor's interest will not be invalidated or suspended due to acts of the named insured, except as noted in the standard mortgagee's clause (lender's loss payable endorsement (Form 438BFU or equivalent)).

e. Notice of Cancellation

All policies required under this Section 23 of this Lease must provide that coverage will not be cancelled or non-renewed except after a minimum of thirty (30) days prior notice to Lessor, or, in the event of nonpayment of policy premiums by Lessee, ten (10) days' notice to Lessor.

f. Evidence of Insurance

Prior to the Commencement of the Lease or the Construction of the Initial Improvements, Lessee must furnish Lessor with insurance certificates on ACORD forms, and within sixty (60) days after Commencement of Construction, certified copies of all insurance on which Lessor is a named insured, and along with copies of required endorsements, of other insurance required under this Section 23, including without limitation, the insurance required pursuant to Section 23.15 below.

g. Claims-Made Policies

Lessee's or its contractors' or Agents' liability insurance will be provided using occurrence forms unless the required coverage is not available on an occurrence form basis. If the liability policy is a claims-made policy, the retroactive date must precede the date of Commencement of Construction of the Initial Improvements, or the date of the commencement of operations insured under the policy, whichever is earlier. Continuous coverage must be maintained under the claims-made policy, or the insured must purchase an extended reporting period of no less than five (5) years after the end of the Lease or work, to the extent available at Commercially Reasonable Insurance Rates, provided, however, the five (5) year extended reporting period will not be required for environmental liability insurance required by Section 23.2(a)(ii) above.

23.5 Waiver of Subrogation

Lessee hereby waives any and all rights of recovery against Lessor and Lessor's employees for any loss or damage to the extent these damages are insured by insurance carried by Lessee, and the insurance proceeds are actually received by the insured, including amounts within any insurance deductible or self-insured retention.

23.6 Lessee's Contractors

Lessee will be responsible for requiring that its contractors, all tiers of subcontractors, and vendors carry sufficient insurance, including, at a minimum workers' compensation, commercial general liability and business auto liability. No contractor, subcontractor, or vendor will be allowed to

commence work until evidence of the appropriate insurance coverage has been provided to Lessee and Lessor.

23.7 Changes in Insurance Requirements

No more often than once per Lease Year, the Lessor may review the insurance coverages required by this Lease, including without limitation the insurance replacement values in Exhibit F, to determine whether those coverages are sufficient to protect the Lessor's interests as owner of the Premises. If the Lessor determines that the insurance coverages are not sufficient, then the Lessor may adjust or change the required insurance, and the Lessee, at its sole expense, must obtain insurance that meets the new requirements.

23.8 No Premium Payments by Lessor

In no instance will Lessor be obligated to pay insurance policy premiums on the insurance required hereunder. The policies on which Lessor is a named insured must provide that Lessor will not be obligated to pay insurance premiums.

23.9 Availability of Policies

Lessee must provide to Lessor (a) certified copies of all insurance policies required in this Section 23 as soon as practicable, and (b) copies of certificates of liability insurance, evidences of property insurance or binders for all insurance required in this Section 23 within ten (10) business days of Lessor's written request for said copies.

23.10 Lessee's Failure to Comply

Lessee will maintain and renew, as appropriate, all policies provided for in this Lease throughout the Term, and Lessee will renew such policies before each such policy's expiration date.

23.11 Insurance Not Limit on Liability

- a. Lessee assumes full risk and responsibility for any inadequacy of insurance coverage.
- b. No approval by Lessor of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount will be construed as a representation by Lessor of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible. By requiring insurance herein, Lessor does not represent that the stated coverage and limits will necessarily be adequate to protect Lessee, and such coverage and limits will not be deemed as a limitation on Lessee's liability under the indemnities granted to Lessor hereunder.
- c. Failure of Lessor to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Lessor to identify a deficiency from evidence that is provided will not be construed as a waiver of Lessee's obligation to maintain such insurance.

23.12 Increase In Hazards/Conflict with Coverage

Lessee must not do anything, nor permit anything to be done that would: (a) invalidate or be in conflict with the provisions of any insurance policies covering the Premises or any property located therein, or (b) result in a refusal by insurance companies of good standing to insure the Premises or other property in amounts required under this Lease.

23.13 Performance and Payment Bonds

a. Scope of Requirement

Lessee will, during construction of all Alterations be responsible for, at its sole cost and expense, payment of all obligations arising under all Construction Contracts, including but not limited to, amounts for cost overruns, price increases, change orders, Force Majeure delays and the like, and for guarantees of performance and payment under such Construction Contracts, and payment in full of all claims for labor performed and materials supplied under such Construction Contracts. Any performance and payment bonds, if any, used by Lessee for these purposes must be issued by an admitted surety company licensed to do business in the State of California.

b. Notice of Claim

Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Construction Contract, if any, the Lessee must promptly furnish a copy of all pertinent documentation substantiating the request to Lessor.

23.14 Lessor Review of Proposed Policies

To the extent then available to Lessee, at least thirty (30) days before the Commencement of Construction, Lessee must provide to Lessor for its review and comment copies of all proposed insurance policies and endorsements required by this Section 23.

24. DAMAGE OR DESTRUCTION

24.1 No Termination; No Effect on Monetary Obligations

No loss or damage by fire or other causes resulting in either partial or total destruction of the Park, the Premises, the Improvements, or any other property on the Premises will, except as otherwise provided herein, operate to terminate this Lease. No such loss or damage will affect or relieve Lessee from Lessee's obligation to pay any monetary obligations under this Lease and Lessee will not be entitled to any proration or refund of same and Lessee will not be relieved or discharged from the performance and observance of any of the agreements, covenants and conditions herein contained on the part of Lessee to be performed and observed.

24.2 Evaluation of Extent and Effect of Damage

Upon the occurrence of any event of damage or destruction to the Premises, the Trade Fixtures, the Improvements or any portion thereof, Lessee must promptly undertake to determine the extent of the same and the estimated cost and time to perform any necessary Building Maintenance or Preservation Maintenance of, or construct Alterations to, such property in accordance with the provisions of this Lease to repair, rebuild, or restore the damage or destruction. Lessee must notify Lessor of its estimation of such cost and time as soon as is reasonably practicable but in no event later than ninety (90) days after the occurrence of the damage or destruction.

24.3 Damage or Destruction; Duty to Repair, Rebuild or Restore

If the Premises, the Trade Fixtures, the Improvements or any portion thereof are damaged or destroyed at any time during the Term and this Lease is not terminated pursuant to and in accordance with the terms of this Section 24 of this Lease, Lessee, as promptly as reasonably practicable and with all

due diligence, at its sole cost and expense, and in accordance with all Applicable Laws and Requirements and the requirements of this Lease, must repair, rebuild, or restore the damaged or destroyed portions of the Premises and such damaged or destroyed Fixtures, Trade Fixtures, and Personal Property necessary to operate the Premises for the purposes of this Lease. Lessee's obligations pursuant to this Section 24.3 must be performed in accordance with the provisions of Sections 12 through 16 and other applicable provisions of this Lease.

24.4 Proceeds of Insurance

a. All insurance proceeds received by or payable to any Party with respect to such damage (except proceeds of insurance covering loss or damage of Lessee's Personal Property and business interruption insurance), less actual costs and expenses incurred in connection with the collection thereof, must be held by Lessee, in a federally insured interest-bearing account, with all interest accrued thereon deemed proceeds of insurance for purposes of this Lease, and such proceeds must be applied to the costs to perform any Building Maintenance or Preservation Maintenance, or construct Alterations of the Premises or the Fixtures, as the case may be, and in accordance with all Applicable Laws and Requirements and the requirements of this Lease to repair, rebuild, or restore the damage or destruction. Lessee must pay any amount by which insurance proceeds received as a result of such damage or destruction, less the costs and expenses incurred in connection with the collection thereof, are insufficient to pay the entire cost to repair such damage or to carry out the obligations under Section 24.6 below. Notwithstanding the foregoing, if required by Lessor, an insurance trustee acceptable to Lessor will hold such proceeds for application in accordance with this Lease.

b. Proceeds of any business or rental interruption insurance carried by Lessee with respect to the Premises must be applied first to any obligations of Lessee that are due but unpaid under the Lease, including, without limitation, all Rent, with any remaining balance to be paid to Lessee.

24.5 Option to Terminate upon Damage or Destruction

In the event of any damage to or destruction of the Premises or the Improvements or any portion thereof at any time during the Term, if the cost of such repair, rebuilding, or restoration of the same to substantially the same condition as existed immediately prior to such occurrence is reasonably estimated to exceed twenty-five percent (25%) of the cost to replace the Improvements on the Premises in their entirety then Lessee will have the option to terminate this Lease, in accordance with section 24.6 of this Lease. Lessee will not have the option to terminate this Lease in whole or in part or to surrender the Premises or any portion thereof pursuant to Section 24 of this Lease unless Lessee surrenders the Premises or portion thereof to Lessor free and clear of all occupancies, tenancies, Subleases and liens, and otherwise in accordance with Section 24 of this Lease

24.6 Election to Terminate; Lessee's Obligation to Repair, Rebuild, or Restore Premises Upon Termination

Lessee must exercise its right of termination pursuant to Section 24 of this Lease by giving written notice to Lessor within ninety (90) days after determination of the extent of damage and estimated cost to repair or replacement pursuant to Section 24.2 above. If Lessee elects to terminate this Lease pursuant to Section 24 of this Lease, Lessee, at Lessee's sole cost and expense (which may include, but will not be limited to, insurance proceeds applied as set forth in this Section 24.6), and in accordance with all Applicable Laws and Requirements, must promptly demolish and remove all damaged property, except any property Lessor elects to retain on the Premises (as provided in writing by Lessor), and will cause the Premises to be in a clean, safe and sightly condition free from rubble and must take all Response Actions to the extent required under Section 22 above and Applicable Laws and Requirements

and must surrender the Premises to Lessor, in accordance with the provisions of Section 33 below, and free and clear of any and all occupancies, tenancies, Subleases and liens. If this Lease is terminated pursuant to this Section 24.6, all proceeds of insurance payable with respect to such damage to, or destruction of, the Improvements and other property located on the Premises, after payment of actual costs and expenses of collection thereof, must first be applied to the costs of such demolition and removal, and then to Response required by Section 22 above, as directed by Lessor. Lessee must, to the extent of any remaining insurance proceeds, repair or replace any improvements Lessor elects to retain on the Premises, as directed by the Lessor. The balance, if any, of insurance proceeds must be distributed as provided in Section 24.7 below. Lessee's obligations under Section 24 of this Lease will survive the termination of this Lease.

24.7 Excess Insurance Proceeds

a. If there are proceeds of insurance in excess of that required to perform the obligations required under Section 24 of this Lease, upon receipt by Lessor of satisfactory evidence that the work of Building Maintenance, Preservation Maintenance, or Alterations and construction required under Section 24 of this Lease has been fully completed and paid for in accordance with the terms and conditions of this Lease and that the last day for filing any mechanics' or materialmen's liens has passed without the filing of any, or if filed, any such lien has been released, any remaining amount of such proceeds of insurance will be paid to Lessee.

b. In the event Lessee elects the option to terminate this Lease pursuant to Section 24.6 above, if there are proceeds of insurance in excess of that required to perform the obligations required under Section 24 of this Lease, upon receipt by Lessor of satisfactory evidence that the work required under Section 24 of this Lease has been fully completed and paid for in accordance with the terms and conditions of this Lease and that the last day for filing any mechanics' or materialmen's liens has passed without the filing of any, or if filed, any such lien has been released, any remaining amount of such proceeds of insurance will be paid to Lessor, as Additional Rent, to the extent such proceeds relate to the insurance covering the Premises, Improvements, Fixtures, and Lessor's personal property, and to Lessee to the extent such proceeds relate to the insurance covering Lessee's Personal Property.

24.8 If, after damage to or destruction of the Premises, or any part thereof, there is a substantial possibility that immediate emergency repairs ("**Emergency Repairs**") are required to eliminate defective or dangerous conditions or to comply with all Applicable Laws and Requirements, Lessee must promptly undertake such Emergency Repairs after such damage or destruction as are necessary or appropriate under the circumstances to eliminate defective or dangerous conditions and to comply with all such Applicable Laws and Requirements.

25. INDEMNITY

25.1 Lessor will not be liable to Lessee, and Lessee hereby waives all claims against Lessor and Lessor's Agents for, any damage to or destruction of the Premises, including Improvements therein (including, without limitation, Trade Fixtures), or of Lessee's Personal Property or of other personal property, or for personal injuries or death sustained in connection with or as a result of the use of the Premises by Lessee, Affiliates, Agents, guests, visitors, invitees, Occupants and other persons.

25.2 Lessee shall protect, indemnify, defend and hold the United States of America, its employees, successors, Agents and assigns harmless from and against, and reimburse the United States of America for, any and all claims, demands, injuries, losses, penalties, fines, costs, liabilities, causes of action, judgements, and expenses incurred in connection with or arising in any way out of (a) this Lease, (b) the use, occupancy or manner of use or occupancy of the Premises by Lessee or any other person or

entity, (c) the design, construction, maintenance, or condition of any improvements on the Premises, (d) the condition of the Premises, (e) any accident or occurrence in, on or about the Premises from any cause whatsoever, (f) any accident or occurrence in, on or about any other portion of the Park (other than the Premises) to the extent resulting directly or indirectly from the activities that are a part of or related to Premises business and operations of Lessee, its Affiliates, Agents, directors, officers, partners, members, employees, contractors, consultants, and other persons under the control of Lessee in or about the Park, and (g) the sale of all alcoholic beverages in and from the Premises, including, without limitation, any claim arising from any act, omission or negligence of Lessee, its Affiliates, Agents, directors, officers, partners, members, employees, contractors, consultants, and other persons under the control of Lessee. The foregoing indemnity will include, without limitation, the obligation to provide all costs of defense against any indemnified claims; provided, however, that the foregoing indemnity will not apply to any claims arising by reason of the gross negligence or willful misconduct of Lessor, or Lessor's Agents. In addition, Lessee shall protect, indemnify, defend, and hold Lessor harmless from and against any and all loss, cost, damages, injury or expense arising out of or in any way related to (y) any breach of this Lease by Lessee; or (z) claims for work or labor performed, materials or supplies furnished to or at the request of Lessee or in connection with performance of any work done by or at the direction of Lessee in the Premises. Lessee expressly acknowledges and agrees that it has an immediate and independent obligation to defend Lessor from any claim that actually or potentially falls within this Section 25, regardless of whether such allegation is, or may be, groundless, fraudulent or false. Such obligation to defend and indemnify will arise at the time such claim is tendered to Lessee by Lessor and will continue until discharged through performance or judicial determination.

25.3 Lessor may be liable for negligent or wrongful acts or omissions of its employees related to this Lease only to the extent authorized by the Federal Tort Claims Act (codified as amended primarily at 28 U.S.C. §§ 2671 et seq.).

25.4 The obligations of Lessee under this Section 25 will not in any way be affected by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises.

25.5 This Section 25 will survive any termination of this Lease. The provisions of Section 23 of this Lease will not limit in any way Lessee's obligations under this Section 25.

26. LIENS

26.1 Lessee will have no power to do any act or to make any contract that may create or be the foundation for any lien, mortgage or other encumbrance upon the reversion, fee interest or other estate of Lessor or of any interest of Lessor in the Premises, except for such actions or contracts contemplated and taken in accordance with this Lease or as otherwise expressly approved in writing by Lessor.

26.2 Lessee will not suffer or permit any liens known to Lessee to stand against the Premises, the improvements thereon, or any part thereof, or the leasehold interest created by this Lease by reason of any work, labor, or services performed for or materials supplied to, or claimed to have been supplied to Lessee. If any such lien is filed at any time against the Premises, the improvements thereon, or any part thereof, Lessee will cause the same to be discharged of record within thirty (30) days after notice to Lessee of filing the same, by either payment, deposit or bond, unless such lien will be contested. If Lessee fails to discharge or contest such lien within such period and such failure will continue for a period of fifteen (15) days after notice by Lessor, then, in addition to any other right or remedy of Lessor, Lessor may to the extent permitted by Law, but will not be obligated to, procure the discharge of the same either by paying the amount claimed to be due, by deposit in court, or by bonding. All amounts paid or deposited by Lessor for any of the aforesaid purposes, and all other expenses of Lessor and all necessary

disbursements in connection therewith in defending any such action or in procuring the discharge of such lien, will constitute Additional Rent owing to Lessor and will be due and payable by Lessee to Lessor upon written demand therefor.

26.3 Nothing in this Lease is deemed to be, or be construed in any way as constituting, the consent or request of Lessor, expressed or implied, by inference or otherwise, to any person, firm or corporation, for the performance of any labor or the furnishing of any materials for any Building Maintenance, Preservation Maintenance, Initial Improvements or Alterations of or to the Premises or any part thereof, or as giving Lessee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against Lessor's interest in the Premises.

27. TRANSFER AND SUBLETTING

27.1 Lessor is entering into this Lease in reliance on the particular and unique skills and reputation of Lessee, and Lessor would not enter into this Lease except for such particular and unique skills and reputation of Lessee. Except as set forth in this Section 27, Lessee will not make Transfers or enter into Subleases or other occupancy agreements or permit other similar occupancy agreements or grant any license, concession or other right to any third party to occupy or operate of any portion of the Premises, without the express prior written permission of Lessor in its sole and absolute discretion.

27.2 With respect to proposed Subleases or other occupancy agreements, as part of the written request for approval from Lessor pursuant to Section 27.1 above, Lessee will furnish to Lessor the following information: (a) evidence satisfactory to Lessor that the proposed Occupant's use of the Subleased premises or occupied premises will be in compliance with Section 10 hereof; (b) a copy of the proposed Sublease or other occupancy agreement with the proposed Occupant; and (c) evidence satisfactory to Lessor of the proposed Occupant's financial capacity to meet its commitments under the proposed Sublease or other occupancy agreement.

27.3 Lessor will have the right to approve the form of any Transfer, Sublease, sub-Sublease, or other occupancy agreement.

27.4 With respect to proposed Transfers, Subleases, or other occupancy agreements, as part of the written request for approval for a Transfer, Sublease, sub-Sublease, or other occupancy agreement, Lessee must furnish to Lessor the following information: (i) all instruments proposed to implement the transaction; (ii) a statement as to the existence of any litigation questioning the validity of the proposed transaction; (iii) a description of the restaurant management qualifications and financial background of the proposed assignee or Occupant; (iv) a description of the ownership structure and general business standing of the proposed transferee or Occupant; and (v) such other information as Lessor may reasonably require.

27.5 With respect to a proposed Transfer (which for purposes of this Section 27.5 will include any assignment or Sublease, or change in Controlling Interest of Lessee), Lessee must, as part of the written request for approval from Lessor as set forth in Section 27.1 above, furnish to Lessor such information as Lessor may reasonably require.

27.6 Lessor may, but is not obligated to, approve or disapprove a written request for approval of a Transfer, Sublease, or other occupancy agreement. Any disapproval by Lessor will set forth a written explanation of the grounds for such disapproval. In no event, however, will the Lessor approve a Transfer or Sublease unless the Lessor has determined that the proposed Transferee or Sublessee is financially and managerially capable of carrying out the terms of this Lease.

27.7 Each Sublease must contain provisions in form and substance substantially as set forth below in this Section 27.7. By executing its Sublease, each Subtenant must be deemed to have agreed to these provisions, which reflect the definitions in this Lease. All such defined terms must be modified in the Sublease as appropriate to reflect the applicable definitions in the Sublease.

“All terms, covenants, and provisions of this Sublease and all rights, remedies and remedies of Subtenant under this Sublease are and must at all times remain fully subject and subordinate in all respects to the Lease. If the Lease and the leasehold estate created thereby terminate, then this Sublease will terminate. In that event, Subtenant, only at the election and request of Lessor (except as Lessor has agreed otherwise in writing) and to the extent lawful under Applicable Laws and Requirements, shall attorn to Lessor, and recognize Lessor as Subtenant’s direct landlord under this Sublease, except that Subtenant acknowledges that Lessor will not be liable to the Subtenant for any security deposit or prepaid rent or funds previously paid by such Subtenant to Lessee unless such deposits are transferred to Lessor. Subtenant must execute and deliver, at any time and from time to time, upon the request of Lessee, Lessor, or any Mortgagee, any instrument necessary or appropriate to evidence such attornment.”

27.8 No Transfer, whether with or without Lessor’s consent, will relieve Lessee hereunder from its covenants and obligations under this Lease. The transferor Lessee (“**Transferor**”) will be bound by the following after any Transfer: (a) any act of Lessor, or its successors or assigns, consisting of a waiver of any of the terms or conditions of this Lease, the giving of any consent to any matter or thing relating to this Lease, or the granting of any indulgence or extension of time to the transferee may be done without notice to Transferor and without releasing Transferor from any of its obligations hereunder; (b) the obligations of Transferor hereunder will not be released by any modification of this Lease, regardless of whether Transferor consents thereto or receives notice thereof; and (c) Transferor unconditionally guarantees, without deduction by reason of setoff, defense or counterclaim, to Lessor and its successors and assigns the full and punctual payment, performance and observance by Lessee, of all of the amounts, terms, covenants and conditions in this Lease contained on Lessee’s part to be paid, kept, performed and observed.

27.9 If Lessor so requests, Lessee must pay to Lessor the reasonable cost of attorneys’ and other professional fees in connection with any request for assignment or subletting.

27.10 If Lessee Transfers this Lease or Subleases any portion of the Premises, Lessee must pay to Lessor any “transfer premium” (as hereinafter defined). In the event of a Sublease, “transfer premium” will mean one-hundred percent (100%) of all rent, additional rent or other consideration payable by such Subtenant to Lessee or on behalf of Lessee in connection with the subletting in excess of the rent, additional rent and other sums payable by Lessee under this Lease during the term of the Sublease on a per square foot basis if less than all of the Premises is subleased, less the reasonable costs actually incurred by Lessee to secure the Sublease. In the event of any Transfer other than a Sublease, “transfer premium” will mean fifty-percent (50%) of any consideration paid by the assignee to Lessee in connection with such Transfer which Lessor reasonably determines is allocable to the leasehold value of this Lease (excluding the depreciated value of Lessee’s installed Fixtures, Trade Fixtures, and Personal Property), less the reasonable costs actually incurred by Lessee to secure the Transfer. If part of the transfer premium will be payable by the Transferee or Subtenant other than in cash, then Lessor’s share of such non-cash consideration must be in such form as is reasonably satisfactory to Lessor.

27.11 No Transfer or Sublease will be effective or have any validity unless and until such Transfer or Sublease otherwise complies with this Lease and Lessor has received: (a) in the case of an assignment, an executed counterpart of the assignment and an assumption of this Lease by the assignee,

effective as of the date of assignment; (b) in the case of a Sublease, a copy of the executed Sublease complying with this Lease; and (c) in all cases, written notice of the assignee or Subtenant.

27.12 This Lease will be binding upon, inure to the benefit of, and be enforceable by assigns or any successor in interest.

28. TRANSFER BY LANDLORD

28.1 Lessor will have the right to transfer any or all of its rights and obligations under this Lease. This Lease will not be affected by any such transfer, and Lessee agrees to attorn to the purchaser or transferee.

28.2 In the event of any transfer of Lessor's interest in and to the Premises, Lessor, subject to the provisions hereof, (and in case of any subsequent transfers, the then transferor) will automatically be relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations on the part of Lessor (or such transferor, as the case may be) contained in this Lease thereafter to be performed, but not from liability incurred by Lessor (or such transferor, as the case may be) on account of covenants or obligations to be performed by Lessor (or such transferor, as the case may be) hereunder prior to the date of such transfer.

29. RIGHT TO ESTOPPEL CERTIFICATES

29.1 Each party, within twenty (20) days written request from the other party, will execute and deliver to the other party, in reasonable 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 must also state the amount of Rent by category, such as Base Rent, Percentage Rent, and Additional Rent, the dates to which the Rent has been paid in advance, and the amount of any security deposits or prepaid rent and such other matters as may be reasonably or customarily requested.

30. DEFAULTS

30.1 The occurrence of any one or more of the following events will constitute an "**Event of Default**" under the terms of this Lease (regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, in law, in equity or before any administrative tribunal which has or might have the effect of preventing Lessee from complying with the terms of this Lease):

a. Lessee fails to pay any Rent when due or perform or comply with any other term or condition of this Lease, and such failure will continue beyond the applicable cure period, if any, or, if none, for more than thirty (30) days after written notice thereof from Lessor, or if such default cannot reasonably be cured within such thirty (30) day period, Lessee has not within such period commenced with due diligence and dispatch the curing of such default, or having so commenced, has ceased, failed or neglected to prosecute or complete with diligence and dispatch the curing of such default;

b. The filing by or against Lessee of any proceedings under any state or federal insolvency or bankruptcy law, or any comparable law that is now or hereafter may be in effect, whether for liquidation or reorganization, which proceedings if filed against Lessee are not dismissed or stayed within sixty (60) days;

c. A petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor;

- d. The entry of an order for relief against Lessee under any bankruptcy or reorganization case;
- e. The filing of a petition or other proceeding against Lessee for the appointment of a trustee, receiver or liquidator;
- f. The assignment of all or any part of the property, if any, of Lessee for the benefit of creditors;
- g. The failure of Lessee to give written notice to Lessor of Lessee's intention to commence proceedings under any state or federal insolvency, bankruptcy or any comparable law that is now or hereafter may be in effect, whether for liquidation or reorganization, at least thirty (30) days prior to the commencement of such proceedings;
- h. A writ of attachment or execution is levied on this Lease which is not released within thirty (30) days;
- i. the taking by any person of the leasehold created by this Lease or any part thereof upon execution, attachment or other process of law;
- j. The Premises are abandoned or cease to be used for the uses permitted hereunder, which abandonment or cessation is not cured within thirty (30) days after notice thereof from Lessor (provided, however, that no such thirty (30) day cure period will be applicable to any such abandonment or cessation from and after the first occurrence of any such abandonment or cessation); provided, a reasonable temporary cessation of use as permitted under Section 10.4(a) above will not be deemed a cessation of use of these purposes;
- k. Lessee suffers or permits a Transfer of this Lease or any interest therein to occur in violation of this Lease, or sublets all or any portion of the Premises in violation of this Lease, which violation is not remedied within thirty (30) days after notice thereof from Lessor; or
- l. Lessee fails to comply with the Golden Gate Project Handbook, unless such failure is cured within five (5) days after notice.

31. REMEDIES

31.1 Upon an Event of Default, Lessor will have the following rights and remedies in addition to any rights or remedies available to Lessor at law or inequity, or under this Lease.

- a. All rights and remedies provided by federal and any applicable state law;
- b. The right to recover from Lessee:
 - i. The worth at the time of the award of the unpaid Rent that had been earned at the time of termination of this Lease;
 - ii. The worth at the time of the award of the amount by which the unpaid Rent which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Lessee proves could have been reasonably avoided;

iii. The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent that Lessee proves could have been reasonably avoided; and

iv. Any other amount, including, without limitation, court costs, expert witness fees, document copying expenses, exhibit preparation costs, courier expenses, postage and communication expenses necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom, including, without limitation, the costs incurred by Lessor in enforcing this Lease, whether or not any action or proceeding is commenced, including, without limitation, reasonable attorney fees and all costs, disbursements and expenses of Lessor's outside counsel, expert witness fees, transcript preparation fees and costs and document copying, exhibit preparation, courier, postage, facsimile and long distance expenses, brokers' fees or commissions, the costs of removing and storing the property of Lessee, costs incurred by Lessor in connection with reletting the Premises, or any portion thereof, and altering, installing, modifying and constructing tenant improvements required for a new Lessee, and the costs of restoration and of repairing and maintaining the Premises, all of which will constitute Additional Rent.

"The worth, at the time of the award," as used in Sections 31.1(b)(i) and (ii) above is to be computed by allowing interest at the Interest Rate at the time of award. The "worth at the time of award" of the amount referred to in Section 31.1(b)(iii) above will be computed by discounting such amount at the "discount rate" of the Federal Reserve Bank of San Francisco in effect as of the time of award plus one percent (1%) and, where rental value is a material issue, must be based upon competent appraisal evidence. Recovery of the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that the Lessee proves could be reasonably avoided must be computed pursuant to Section 31.1(b)(ii) above.

c. The right to terminate this Lease in accordance with Applicable Laws and Requirements;

d. If Lessor elects to terminate this Lease, the right and power to enter the Premises and remove therefrom all persons and property and, to store such property in a public warehouse or elsewhere at the cost of and for the account of Lessee, and to sell such property and apply such proceeds therefrom pursuant to Applicable Law.

31.2 No act by Lessor allowed by this Section 31 will terminate this Lease unless Lessor notifies Lessee in writing that Lessor elects to terminate this Lease.

31.3 In the event Lessor terminates Lessee's right to possession of the Premises pursuant to this Section 31, Lessee hereby expressly waives any and all rights to recover or regain possession of the Premises under any rights of redemption to which it may be entitled by or under any present or future federal or state law.

31.4 Upon the occurrence of an Event of Default, Lessor will have the right, but not the obligation, to take such action as reasonably necessary to cure such default. In such event, Lessor will not be liable or in any way responsible for any loss, disturbance, inconvenience or damage resulting to Lessee as a result thereof and Lessee must pay to Lessor upon demand the entire expense of the correction as Additional Rent, including, without limitation, compensation to the agents, consultants and contractors of Lessor and related expenses. Lessor may act upon shorter notice or no notice at all if necessary in Lessor's judgement to meet an emergency situation or governmental time limitation or to protect Lessor's interest in the Premises.

31.5 The remedies given to Lessor in this Section will be in addition and supplemental to all other rights or remedies which Lessor may have at law or in equity.

31.6 No failure by Lessor to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this Lease or to exercise any right or remedy upon an Event of Default, and no acceptance by Lessor of full or partial monetary obligation during the continuance of any such Event of Default, will constitute a waiver of any such Event of Default or of such term, covenant, agreement, provision, condition or limitation. No term, covenant, agreement, provision, condition or limitation of this Lease and no Event of Default under this Lease may be waived, altered or modified except by a written instrument executed by Lessor. No waiver of any Event of Default will affect or alter this Lease, but each and every term, covenant, agreement, provision, condition and limitation of this Lease will continue in full force and effect with respect to any other then existing or subsequent Event of Default.

31.7 No expiration or termination of this Lease pursuant to the terms hereof or by operation of law or otherwise and no repossession of the Premises or any part thereof pursuant to the terms hereof or by operation of law or otherwise, will relieve Lessee of its liabilities and obligations hereunder arising prior to termination of this Lease, all of which will survive such expiration, termination or repossession, including, without limitation, the rights of Lessor for indemnification for liability, personal injuries or property damage, nor will anything in this Lease be deemed to affect the right of Lessor to equitable relief.

32. LETTER OF CREDIT

32.1 Lessee must provide to Lessor, on or before the Commencement Date, an unconditional, irrevocable stand-by letter of credit in the amount of One Hundred Thousand Dollars (\$100,000.00) (hereinafter the "Letter of Credit" and the amount thereof the "LOC Amount"), naming Lessor as beneficiary. Except as otherwise expressly set forth in this Section 32, the Letter of Credit must be renewable automatically on an annual basis at the end of each Lease Year during the entire Term and must be issued by a federally insured national bank with a retail branch located in the San Francisco, California metropolitan area. The form and terms of the Letter of Credit must be subject to Lessor's prior approval and must provide, among other things, that:

a. The Letter of Credit must be automatically renewed annually unless Lessor is provided with notice of non-renewal by the issuing bank at least thirty (30) days prior to the then-expiration of the Letter of Credit;

b. Lessor will have the right to draw down an amount up to the face amount of the Letter of Credit upon presentation, at sight or by facsimile, of a written statement by Lessor that (a) Lessee is in default of this Lease beyond any applicable cure period or (b) the Letter of Credit is due to expire within the ensuing thirty (30) day period and Lessor has not received a replacement Letter of Credit in the same amount and on the same terms and conditions in the original Letter of Credit;

c. The Letter of Credit must be drawable in whole or in part, and must provide for payment in San Francisco, California on presentation of the beneficiary's drafts on sight, and otherwise from a bank and in the form acceptable to Lessor. The Letter of Credit (1) must provide for automatic annual extensions, without amendment (so-called "evergreen" provision) with a final expiry date no sooner than one hundred (100) days after the end of the Term, (2) must provide that is governed by the Uniform Customs and Practice for Documentary Credits (2007 revisions) International Chamber of Commerce Publication 600 or International Standard Practice 1998 (ISP 98), International Chamber of Commerce Practice, Publication No. 590, and (3) may be cancelable if, and only if, the issuing bank

delivers to the beneficiary at least ninety (90) days' advance written notice of the issuing bank's intent to cancel. Lessee must pay all costs, expenses, points and fees incurred by Lessee in obtaining the Letter of Credit;

d. The Letter of Credit must be honored by the issuing bank without inquiry as to the accuracy thereof and regardless of whether Lessee disputes the content of such statement; and

e. If Lessor transfers its interest in the Premises, Lessor must have the right to transfer the Letter of Credit to the transferee at no cost to Lessor and thereupon Lessor must, without any further agreement between the parties, be released by Lessee from all liability therefor, and the provisions of the Letter of Credit must apply to every transfer or assignment of the Letter of Credit to a new Lessor.

32.2 Lessee hereby knowingly and willfully, and upon advice of counsel, waives any right it may have to enjoin, declare or otherwise prohibit the issuing bank from paying, or Lessor from drawing, upon the Letter of Credit. After any draw upon the Letter of Credit, Lessee must, within five (5) days of Notice thereof from Lessor, replenish and restore the Letter of Credit to the amount set forth above. If Lessor draws upon the Letter of Credit as a result of the non-renewal of the same, Lessor may hold the proceeds of the Letter of Credit as a cash security deposit, and Lessor may use, apply on Lessee's behalf or retain (without liability for interest) the whole or any part of the security so deposited to the extent required for the payment of any Rent which may be owed hereunder, or for any sum which Lessor may expend to cure any default of Lessee including, but not limited to, any deficiency, cost, expense, or damage incurred in reletting or attempting to relet the Premises.

32.3 Lessor's draw, application or retention of the Letter of Credit must not be deemed to limit Lessor's recovery in any case or to waive any default, nor will it prevent Lessor from exercising any other right or remedy for a default. If Lessee has complied with all the terms, covenants, agreements, and conditions of this Lease, the Letter of Credit (less any amount applied as herein provided) must be returned to Lessee without interest after the Expiration Date and after surrender of possession of the Leased Premises to Lessor in accordance with the terms of this Lease.

32.4 Notwithstanding the foregoing or anything else to the contrary contained herein, following the end of the fourth Lease Year, provided that no Event of Default has occurred under this Lease, Lessor, will upon receipt of a written request from Lessee, release the Letter of Credit, provided, however, if Lessor so releases the Letter of Credit and thereafter an Event of Default occurs under this Lease, then Lessee, in addition to all other rights and remedies Lessor may have under this Lease, at law and in equity, may elect, in its sole and absolute discretion, to require Lessee to provide a new Letter of Credit, and, if Lessor elects to require such a new Letter of Credit, Lessee must provide such a new Letter of Credit (which new Letter of Credit must be in the same amount as the original Letter of Credit and must comply with and be subject to all of the terms and conditions of this Section 32) to Lessor within five (5) days after Lessee's receipt of written demand therefor from Lessor.

33. SURRENDER AND VACATE THE PREMISES

33.1 On the Termination Date or other termination of the Term, Lessee must surrender and vacate the Premises and the Fixtures, remove the Trade Fixtures and Lessee's Personal Property therefrom, and return the Premises and Improvements and all of Lessor's personal property, if any, on the Premises to as good an order and condition as that existing upon the Commencement date, or, if applicable, as that existing upon the completion of any Improvements by the Lessee (normal wear and tear excepted). All Fixtures must be in good working order and must remain attached to the Premises. Notwithstanding the removal of any Trade Fixtures, all major building systems including heating, air conditioning, electrical, security lighting, fire detection, smoke detection, building fire suppression, alarm,

drainage, water supply, elevator, escalator, and sewer must be complete and in good working order and must function as designed. Lessee must execute all documents as Lessor may deem necessary to evidence any such other termination.

33.2 If Lessee fails or neglects to remove the Trade Fixtures or Lessee's Personal Property and fails to leave the Premises in good order as described in this Section 33, then, at Lessor's option, the Trade Fixtures and Lessee's Personal Property will either become the property of Lessor without compensation therefor, or Lessor may cause it to be removed and the Premises to be repaired at the expense of Lessee, and no claim for damages against Lessor or Lessor's Agents, will be created by or made on account of such removal and repair work and all major building systems will be returned to working order at the expense of Lessee.

33.3 Ninety (90) days prior to the Termination Date, Lessee and Lessor will jointly, or Lessor will in the absence of Lessee, prepare an Inventory and Condition Report of the Premises to constitute the basis for materials and work that may be necessary to meet the conditions of this Section 33.

34. HOLDING OVER

34.1 This Lease will terminate upon the Termination Date and any holding over by Lessee after the Termination Date will not constitute a renewal of this Lease or give Lessee any rights under this Lease or in or to the Premises.

35. LESSEE TERMINATION RIGHT

35.1 Notwithstanding anything to the contrary contained in this Lease, Lessee will have the right, in its sole discretion, to terminate this Lease at any time during the three hundred sixty-five (365) day period immediately following the tenth (10th) anniversary of the Commencement Date, provided that Lessee delivers irrevocable written notice of Lessee's election to exercise such termination right at least three (3) years prior to date on which Lessee desires such termination to be effective (the "**Early Termination Date**"). On or before any such Early Termination Date, Lessee must vacate and surrender the Premises to Lessor in accordance with the terms of this Lease.

36. REPRESENTATIONS AND WARRANTIES OF LESSEE

36.1 Lessee hereby represents and warrants to Lessor as follows:

a. Lessee is a _____ [TBD] duly formed and validly existing under the laws of the State of California.

b. The Person(s) executing this Lease on behalf of Lessee has full right, power and authority to execute and deliver this Lease as Lessee's act and deed and to bind Lessee hereto.

c. Lessee has the right, power, legal capacity and authority to enter into and perform its obligations under this Lease, and to renovate, Rehabilitate, demolish, construct, develop, operate and maintain the Premises as contemplated by this Lease; all approvals or consents of any person(s) required in connection with the execution and performance of this Lease have been obtained.

d. The Lease is a legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

e. The execution and delivery of this Lease by Lessee will not result in a breach of the terms or provisions of, or constitute a default or condition or event that would, with notice or lapse of time or both, be a default, breach or violation of Lessee's organizational documents or any indenture, agreement or obligation by which Lessee is bound or any order or decree of any court or Agency to which Lessee is a party or to which it is subject, and will not constitute a violation of any law, order, rule or regulation applicable to Lessee.

f. No litigation is being threatened or prosecuted against Lessee or its members that might impair Lessee's ability to execute and deliver this Lease or perform any of its obligations hereunder.

g. Lessee has taken all necessary action to authorize the execution, delivery and performance of this Lease and this Lease constitutes the legal, valid and binding obligation of Lessee.

37. REPRESENTATIONS AND WARRANTIES OF LESSOR

37.1 Lessor hereby represents and warrants to Lessee as follows:

- a. Lessor is an Agency of the United States of America.
- b. Lessor has taken all necessary action to authorize the execution, delivery and performance of this Lease, and this Lease constitutes the legal, valid and binding obligation of Lessor.

37.2 Lessor has made no representations or warranties, direct or implied, written or verbal, with respect to the Premises or any other property owned by Lessor.

38. COMPLIANCE WITH CIVIL RIGHTS AND EQUAL OPPORTUNITY LAWS

38.1 Lessee and Lessee's Agents must comply with the requirements of: (a) Title VII of the Civil Rights Act of 1964 (as amended), as well as Executive Order No. 11246 of September 24, 1965, as amended; (b) Title V, Sections 503 and 504 of the Rehabilitation Act of September 26, 1973, P.L. 93-112 (as amended), which prohibits discrimination on the basis of disability and requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified handicapped individuals; (c) 41 CFR Chapter 60, which prescribes affirmative action requirements for government contractors and subcontractors; (d) the Age Discrimination in Employment Act of December 15, 1967, (as amended); (e) the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq.; (f) Architectural Barriers Act of 1968, 42 U.S.C. Sections 4151 et seq.; and (g) all other Applicable Laws and Requirements relating to nondiscrimination in employment and in providing facilities and services to the public, and Lessee must do nothing in advertising for employees that will prevent those covered by these laws from qualifying for such employment. In addition, the Lessee must comply with the requirements of Executive Order 13658 - Establishing a Minimum Wage for Contractors and its implementing regulations, as superseded or amended, including the applicable contract clause, codified at 29 C.F.R. pt. 10, all of which are incorporated by reference into this Lease as if fully set forth herein.

39. NOTICES

39.1 Any notice, consent or other communication required or permitted under this Lease must be in writing and must be delivered by hand, sent by nationally-recognized overnight courier, or sent by prepaid registered or certified mail with return receipt requested, and will be deemed to have been given on the earliest of (a) receipt, (b) one (1) business day after delivery to a courier for overnight expedited delivery service, or (c) five (5) business days after the date deposited in the United States mail, registered

or certified, with postage prepaid and return receipt requested (provided that such return receipt must indicate receipt at the address specified), and addressed as appropriate to the following addresses (or to such other or further addresses as the Parties may designate by notice given in accordance with this Section 38):

If to Lessor: National Park Service
U.S. Department of the Interior
Golden Gate National Recreation Area
Building 201 Fort Mason
San Francisco, CA 94123
Attention: Superintendent

If to Lessee: _____

Attention: _____

40. LANDLORD’S RIGHT TO CURE DEFAULTS

40.1 If Lessee fails or neglects to do or perform any act or thing herein provided by it to be done or performed and such failure is not cured within any applicable grace period provided in Section 31 above, then Lessor may, but will not be required to, do or perform or cause to be done or performed any other act or thing (entering upon the Premises for such purposes, if Lessor so elects), and Lessor will not be or be held liable or in any way responsible for any loss, disturbance, inconvenience, annoyance or damage resulting to Lessee, Agents, Occupants, invitees or visitors on account thereof, and Lessee must repay to Lessor upon demand the entire cost and expense thereof as Additional Rent, including, without limitation, compensation to the agents, consultants and contractors of Lessor and expenses. Lessor may act upon shorter notice or no notice at all if necessary in Lessor’s judgment to meet an emergency situation or governmental time limitation or to protect Lessor’s interest in the Premises. Any act or thing done by Lessor pursuant to the provisions of this Section 40 will not be or be construed as a waiver of any Default by Lessee, or as a waiver of any term, covenant, agreement or condition herein contained or of the performance thereof.

41. LANDLORD’S RIGHT TO EXHIBIT THE PREMISES

41.1 During the final three (3) years of the Term or at any time following receipt of a termination notice pursuant to Section 35.1, above, Lessor will have the right to enter the Premises at all reasonable times during normal business hours and after giving twenty-four (24) hours prior notice for the purposes of exhibiting the same to prospective Lessees or developing plans for conversion of the same to full Park use after expiration of the Term. Lessor will not take any action under this Section 41 that causes or is likely to cause material interference with Lessee’s use or occupancy of the Premises under the terms of this Lease.

42. NO PARTNERSHIP OR JOINT VENTURE

42.1 Lessor is not for any purpose a partner or joint venturer of Lessee in the development or operation of the Premises or in any business conducted on the Premises. Lessor will not under any circumstances be responsible or obligated for any losses or liabilities of Lessee.

43. NO SUBORDINATION

43.1 Lessor's fee interest in the Premises and this Lease must not be subject or subordinate to any liens or encumbrances hereafter affecting Lessee's interest in this Lease. Lessee must not publicize or otherwise circulate promotional or other material of any nature that states or implies endorsement of Lessee or its services or products by Lessor or any other governmental agency.

44. ANTI-DEFICIENCY ACT

44.1 In accordance with the Anti-Deficiency Act, 31 U.S.C. Section 1341, Lessee and Lessor agree that nothing contained in this Lease will be construed as binding Lessor to expend, in any fiscal year, any sum in excess of the appropriation made by Congress or administratively allocated for that fiscal year in furtherance of the subject matter of this Lease, or to involve Lessor in any contract or other obligation for the future expenditure of money in excess of such appropriations, and nothing in this Lease may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. This Lease is subject to cancellation by the Lessor in the exercise of the sovereign authority of the United States to the extent provided by Applicable Laws and Requirements.

45. GENERAL PROVISIONS

45.1 No Congressional Conflict of Interest

No member or delegate to Congress or Resident Commissioner will be admitted to any share or part of this Lease, or to any benefit that may arise therefrom, but this provision will not be construed to extend to this Lease if made with a corporation for its general benefit.

45.2 No Third Party Beneficiaries

This Lease will not, nor be deemed nor construed to, confer upon any person or entity, other than the Parties hereto, any right or interest, including, without limiting the generality of the foregoing, any third party beneficiary status or any right to enforce any provision of this Lease.

45.3 No Preferential Renewal and Relocation Assistance

This Lease provides no right of renewal or extension to Lessee, nor does it provide Lessee with the right to the award of a new lease upon termination or expiration of this Lease, and Lessee hereby waives any preferential right of renewal of this Lease or otherwise. No rights will be acquired by virtue of this Lease entitling Lessee to claim benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646.

45.4 Memorandum of Lease

Lessee may record a Memorandum of Lease, at Lessee's cost and expense, in the Official Records of the County of San Francisco, State of California. If Lessee so elects, Lessee will at Lessee's sole expense prepare the document(s) necessary for recordation and provide such documents to Lessor for Lessor's prior written approval. Following recordation, Lessee will file a copy of the recorded Memorandum of Lease with the Superintendent of the Park and the Regional Director, National Park Service, Interior Regions 8, 9, 10, and 12.

45.5 Broker's Commissions

Lessee represents and warrants that no person, selling agency, broker, agent, or finder has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee and that Lessee has not dealt with any party as broker, agent or finder in connection with this Lease. For breach or violation of this warranty, the Lessor will have the right to immediately terminate this Lease for default. Lessee agrees to indemnify, defend and hold the United States of America and Lessor and its directors, officers, employees and agents harmless from all claims, demands, judgment, liabilities and expenses (including reasonable attorneys' fees) arising from any assertion by any person, selling agency, broker, agent, or finder based upon the acts of Lessee for any commission, percentage, brokerage, or contingent fee alleged to be due to any party in connection with this Lease. The provisions of this Section 45.5 will survive any termination of this Lease.

45.6 Severability

If one or more provisions of this Lease are held to be invalid for any reason, such invalidity will not affect any other provision of this Lease, and this Lease will be construed as if the invalid provisions had not been contained in this Lease.

45.7 Time of the Essence

Time is hereby expressly declared to be of the essence of this Lease and of each and every term, covenant, agreement, condition and provision of this Lease.

45.8 Headings

Section and Subsection headings in this Lease are for convenience only and are not to be construed as a part of this Lease or in any way limiting or amplifying the provisions of this Lease.

45.9 Lease Construed as a Whole

The language in all parts of this Lease will in all cases be construed as a whole according to its fair meaning and not strictly for or against either Lessor or Lessee. The Parties acknowledge that each party and its counsel have reviewed this Lease and participated in its drafting and therefore that the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed or applied in the interpretation of this Lease.

45.10 Meaning of Terms

Whenever the context so requires, the neuter gender will include the masculine and the feminine, and the singular will include the plural and vice versa. The use of the term "including", "include", "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

45.11 Applicable Law

The laws of the United States govern the validity, construction,

and effect of this Lease.

45.12 Entire Lease

This instrument, together with the exhibits hereto, constitutes the entire agreement between Lessor and Lessee with respect to the subject matter of this Lease and supersedes all prior offers, negotiations, communications, discussions, correspondence oral and written.

45.13 Amendments

This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by Lessor and Lessee.

45.14 Termination Not Merger

The voluntary sale or other surrender of this Lease by Lessee to Lessor, or a mutual cancellation thereof, or the termination thereof by Lessor pursuant to any provision contained in this Lease, will not work a merger, but, at the option of Lessor, will either terminate any or all existing Subleases or other occupancy agreements on the Premises, or operate as an assignment to Lessor of any or all of such Subleases or other occupancy agreements.

45.15 Time Periods

Any time period to be computed pursuant to this Lease will be computed by excluding the first day and including the last day. If the last day falls on a Saturday, Sunday or holiday, the last day will be extended until the next business day that the Lessor is open for business, but in no event will the extension be for more than three (3) calendar days. All references to days will mean calendar days unless otherwise specifically stated.

45.16 Joint and Several Liability

If there is one or more entity named as Lessee hereunder, the obligations and liabilities of the Lessee hereunder will be joint and several.

45.17 Remedies Cumulative

Any and all remedies available to Lessor for the enforcement of the provisions of this Lease are cumulative and are not exclusive, and Lessor will be entitled to pursue either the rights enumerated in this Lease or remedies authorized by law, or both. Lessee will be liable for any costs and expenses incurred by Lessor in enforcing any term of this Lease, or in pursuing legal action for the enforcement of Lessor's rights, including, but not limited, to court costs.

45.18 Non-Liability of Officials, Trustees, and Employees

a. Notwithstanding anything to the contrary in this Lease, no elective or appointive board member, trustee, officer, or employee of Lessee will be personally liable to Lessor, in the event of any default or breach by Lessee or for any obligation of Lessee under this Lease, nor will any employee of Lessor be personally liable to Lessee, its successors or assigns, in the event of any default or breach by Lessor or for any obligation of Lessor under this Lease, except as provided in Section 45.19(b) below.

b. The limitation on liability in this section does not in any way affect any rights Lessor or Lessee may have to recover any funds, damages or costs incurred as a result of fraud.

45.19 Binding Upon Successors

This Lease will be binding upon and inure to the benefit of the administrators, executors, successors in interest, and assigns of each of the Parties. However, there will be no assignment or transfer by Lessee except as permitted in Section 27 of this Lease. Any reference in this Lease to a specifically named Party will be deemed to apply to any successor, administrator, executor, successor, or assign of such Party who has acquired an interest in compliance with the terms of this Lease or under law.

45.20 Approvals

a. Whenever this Lease calls for the approval, consent, or waiver of Lessor acting in its capacity as the Lessor hereunder (as opposed to any approval, consent, or waiver required of NPS acting in its regulatory capacity), the written approval, consent, or waiver of the NPS Director or his/her delegate will constitute the approval, consent, or waiver of Lessor. For any matters requiring reasonable action on the part of Lessor or for any provisions otherwise applying a reasonableness standard to the Lessor, the terms “reasonable”, “reasonableness”, and similar terms will mean the standard applied to review of agency actions under the federal Administrative Procedure Act, 5 U.S.C. Section 706.

b. All approvals by Lessor under this Lease (excluding any approvals required of NPS in its regulatory capacity) will be subject to a sole discretion standard, except where a reasonableness standard is specifically provided.

45.21 Construction of New Buildings or Structures

The Lessee may not construct new buildings or structures on the Premises, except that, with the prior written approval of the Lessor, the Lessee may construct minor additions, buildings, or structures determined by the Lessor to be necessary for support of the uses authorized by this Lease

45.22 Counterparts

This Lease may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

IN WITNESS WHEREOF, Regional Director, National Park Service, Interior Regions 8, 9, 10, and 12, acting on behalf of the United States, in the exercise of the delegated authority from the Secretary, as Lessor, and Lessee have executed this Lease by proper persons thereunto duly authorized.

LESSOR

NATIONAL PARK SERVICE

By: _____

Name: _____

Title: _____

LESSEE

_____, a _____

By: _____

Name: _____

Title: _____

EXHIBIT A

DEPICTION OF PREMISES

[Insert Depiction of Premises]

EXHIBIT A-2

DEPICTION OF RESTAURANT PREMISES

[Insert Depiction of Premises]

EXHIBIT B

FURNITURE, FIXTURES, & EQUIPMENT

[Insert List of FF&E]

EXHIBIT C

INVENTORY AND CONDITION REPORT

[To be attached]

EXHIBIT D

PREMISES IDENTIFYING NAMES

1. The sole identifying name of the Restaurant Premises is: _____.
2. The sole identifying name of the Lookout Café Premises is: _____.

EXHIBIT E

ENVIRONMENTAL INFORMATION

[To be attached prior to Lease execution]

EXHIBIT F**REPLACEMENT VALUE FOR CONSTITUENT PREMISES**

[Values to be updated prior to Lease execution]

The following Constituent Premises are assigned to the Lessee for use in conducting its operations under this Lease.

Asset Number	Asset Description	Asset Type	Qty	Date Built	Historic (Y or N)	Insurance Replacement Value
38099	Lands End Restaurant	4100	29,418 SF	1908	Y	\$12,528,117
92437	Lands End Café (assigned area within Lands End Visitor Center)	4100	510 SF	2012	N	\$265,257

Note: the lack of value for an asset in the column for Insurance Replacement Value does not relieve the Lessee of its obligations to insure the asset according to the terms of this Lease.

EXHIBIT G

NPS HEALTHY FOOD CHOICE STANDARDS AND SUSTAINABLE FOOD CHOICE GUIDELINES FOR FRONT COUNTRY OPERATIONS

Healthy Food Standards

1. Entrees contain at least one fruit or vegetable
2. Fruits and vegetables are available as side dishes when food is a la carte
3. Where milk is served, low-fat and/or fat-free milk and dairy product options are available
4. At least 30% of beverages offered have no added sugar
5. At least one vegetarian and one non-vegetarian option are light/lite, low-fat, and/or low sodium
6. Whole grains are used in at least one vegetarian and non-vegetarian menu item
7. Half servings or reduced portion sizes are available
8. Steamed or grilled food is available for made-to-order items
9. Artificial trans-fats are absent from all foods
10. Designated symbol and key are used on menus, signs, and other media to identify “healthy choice” options
11. Signs or other materials are used to educate visitors on the importance of healthy food
12. Grab-and-go establishments place healthier options in a noticeable location where they are more likely to be purchased
13. Nutritional information is labeled or available upon request for at least the core healthy food menu items
14. “Specials” or “featured” menu items are healthy (e.g., not deep fried) options

Sustainable Food Guidelines

1. Seafood is sourced from sustainable sources
2. Fair trade and/or shade grown coffee is available
3. Seasonal, local, and regional ingredients or products are used
4. Organic menu items are available
5. Meat, seafood, and eggs are certified free of hormones and antibiotics
6. Designated symbol and key are used on menus, signs, and other media to identify “sustainable” options
7. Signs or other materials are used to educate visitors on the importance of sustainability and the sustainable components of the operation

Definitions:

Fair Trade: Fair Trade defines a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers – especially in developing countries.

Light or Lite: 21 CFR 101.56: “Light” or “lite” – term that may be used on the label or in the labeling of a meal product and a main dish product, provided that: the food meets the definition of “Low in calories”; or “Low in fat”;

and a statement appears on the principal display panel that explains whether “light” is used to mean “low fat,” “low calories,” or both.

Local or Regional: H.R.2419: ‘Locally or regionally produced agricultural food product’ – any agricultural food product that is raised, produced, and distributed in: (i) the locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or (ii) the State in which the product is produced.

Low Fat: 21 CFR 101.62: “Low fat,” “low in fat”, “contains a small amount of fat,” “low source of fat,” or “little fat” – means the food has a reference amount customarily consumed greater than 30 g or greater than 2 tablespoons and contains 3 g or less of fat per reference amount customarily consumed; or the product contains 3 g or less of total fat per 100 g and not more than 30 percent of calories from fat for meal products and main dish products.

Low Sodium: 21 CFR 101.61: “Low sodium,” or “low in sodium,” “little sodium,” “contains a small amount of sodium,” or “low source of sodium” – means the food has a reference amount customarily consumed greater than 30 g or greater than 2 tablespoons and contains 140 mg or less sodium per reference amount customarily consumed; or 140 mg or less sodium per 100 g for meal products and main dish products.

Made with Organic Ingredients: 7 CFR 205: “Made with organic ingredients” – means that the product contains at least 70 percent organic ingredients.

Organic: 7 CFR 205: “Organic” – a labeling term that refers to an agricultural product produced in accordance with the Act (The Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 et seq.)) and (associated) regulations. Note: Organic foods cannot be GMOs.

Shade-grown: Coffee grown under a canopy of trees in a manner that is supportive of environmental sustainability including providing migratory bird habitat. Shade-grown may be demonstrated through certification through non-profit organizations such as the Smithsonian Migratory Bird Center or the Rainforest Alliance.

Sustainable Seafood: The NOAA FishWatch Program defines sustainable seafood as “catching or farming seafood responsibly, with consideration for the long-term health of the environment and the livelihoods of the people that depend upon the environment.” Verifying the health and sustainability of U.S. and international fisheries is not always simple. Domestic fisheries are managed by State and Federal agencies under legally established fisheries management plans. International fisheries are managed under sovereign laws and international treaties. Guidance on how to make sustainable seafood choices is found on the NOAA FishWatch site at: www.fishwatch.gov/eating-seafood/buying-and-handling.

Whole Grains: USDA, Dietary Guidelines for Americans 2010: Whole grains - grains and grain products made from the entire grain seed, usually called the kernel, which consists of the bran, germ, and endosperm. If the kernel has been cracked, crushed, or flaked, it must retain nearly the same relative proportions of bran, germ, and endosperm as the original grain in order to be called whole grain. Many, but not all, whole grains are also a source of dietary fiber.

EXHIBIT H

DESCRIPTION OF LICENSED MARKS

Lands End	Lands End Lookout
Lookout	Merrie Way
Ocean Beach	Octagon House
Sutro Baths	Sutro Heights
Seal Rocks	Fort Miley
Sutro Park	

EXHIBIT I**INITIAL IMPROVEMENTS WORK AGREEMENT**

THIS INITIAL IMPROVEMENTS WORK AGREEMENT (this “**Work Agreement**”) is made and entered into as of this _____ day of _____, _____ (“**Execution Date**”), by and between United States Department of the Interior, acting through the National Park Service, an agency of the United States of America, acting through the Regional Director, hereinafter, together with their successor or successors in office and his, her, or their duly appointed representatives (“**Lessor**”), and _____ (“**Lessee**”), and made a part of that certain Lease between Lessor and Lessee dated _____, _____, as amended from time to time (as amended, the “**Lease**”). Unless otherwise expressly defined herein, all initially capitalized terms used herein will have the meanings ascribed to them in the Lease.

1. DESCRIPTION OF INITIAL IMPROVEMENTS

1.1. **Initial Improvements.** Lessee, at its sole cost and expense, will perform all renovation, Rehabilitation, and construction work necessary for Lessee to open the Premises for the uses permitted under this Lease, including, without limitation, all ancillary landscaping and other improvements as approved by Lessor, and the installation of all Trade Fixtures and other FF&E (collectively, the “**Initial Improvements**”). The Initial Improvements include, but are not limited to, the following:

a. **[TO BE DETERMINED]**

b.

2. PREPARATION AND APPROVAL OF CONSTRUCTION DOCUMENTS**2.1 Preparation of Construction Documents**

a. No later than thirty (30) days after the Commencement Date, Lessee must submit to Lessor complete Construction Documents clearly indicating, as applicable, all items of the Initial Improvements.

b. To accomplish the foregoing, Lessee must employ a licensed architect to prepare drawings which are professional, complete and in compliance with all Applicable Laws and Requirements and the terms and conditions of the Lease, including, without limitation, Section 14 thereof. Within twenty (20) business days after receipt of Lessee’s Construction Documents, Lessor will return the same to Lessee marked “Approved”, “Approved as Noted” or “Disapproved”, and Lessee must use its best efforts to remedy any items not approved by Lessor so as to obtain Lessor’s approval. Subject to Section 2.3, below, Lessor agrees that it will not unreasonably withhold its requested approval of Lessee’s Construction Documents. If Lessor fails to return Lessee’s Construction Documents to Lessee marked “Approved”, “Approved as Noted” or “Disapproved” within twenty (20) business days after Lessor’s receipt of Lessee’s Construction Documents, then Lessor is deemed to have “Disapproved” Lessee’s Construction Documents. Lessee’s Construction Documents, as finally revised and marked “Approved” by Lessor, will be initialed by Lessor and Lessee and once so initialed will be referred to as the “Approved Construction Documents”.

2.2 **Changes in the Work.** No changes, modifications or alterations in or to the Approved Construction Plans or Initial Improvements may be made without the prior written consent of Lessor which, subject to Section 2.3, below, Lessor agrees not to unreasonably withhold. Any charges, expenses,

and costs (including, without limitation, any additional fees which Lessee may have to pay for architectural, engineering, and other similar services) arising by reason of any change, modification or alteration in or to the Approved Construction Plans or Initial Improvements made at the request of Lessee or necessitated by applicable building codes or other Applicable Laws and Requirements will be at the sole expense of Lessee.

2.3 Lessor's Approval. Notwithstanding anything to the contrary herein, Lessor, in its sole and absolute discretion, may withhold its approval of or consent to any Construction Documents or any changes to the Approved Construction Documents proposed by Lessee that:

- a. may adversely affect or threaten the structural integrity of the building or any parts thereof;
- b. may adversely affect any of the heating, ventilating air conditioning, plumbing, mechanical, electrical, communication, or other building systems;
- c. do not comply with applicable building codes, governmental approvals and other Applicable Laws and Requirements;
- d. have not been prepared by a licensed architect or are not sufficiently detailed or complete (in Lessor's good faith opinion).

3. CONSTRUCTION OF THE INITIAL IMPROVEMENTS

3.1 Construction Standards; Permits and Certificates. Lessee will cause the Initial Improvements to be constructed and installed in compliance with: (i) all Applicable Laws and Requirements; (ii) the requirements of Lessor's insurance carriers or rating organizations; and (iii) the terms and conditions of the Lease, including, without limitation, Section 16 thereof. Lessee will obtain, at its sole cost and expense, all permits, certificates, licenses, and approvals necessary to lawfully construct and install the Initial Improvements, and Lessee must furnish Lessor with copies of all such permits, certificates, licenses, and approvals prior to the commencement of any construction or other work on the Premises.

3.2 Additional Requirements. All work performed by Lessee, Lessee's contractor, and Lessee's subcontractors will be of first class quality and will not damage the Premises. Lessee further agrees to the following:

- a. Prior to commencing any work, Lessee's or Lessee's contractor will provide Lessor with a "Construction Schedule" indicating the completion dates of all phases of the Initial Improvements. The Construction Schedule will be subject to the reasonable approval of Lessor.
- b. Any delays in the completion of the Initial Improvements and Lessee's lawful use or occupancy of the Premises will be at the sole risk and expense of Lessee, and will in no event delay or extend the applicable Rent Commencement Date or Lessee's obligation to commence paying Rent.
- c. Lessee, Lessee's contractor, and Lessee's subcontractors will be responsible for the repair, replacement and clean-up of any damage done by them.
- d. Lessor is not liable for any defects in the design, installation, or quality of the Initial Improvements or any other or future alterations or utility installations, even if Lessor approved the plans and specifications therefor, inspected the work, and consented thereto. Only new and first class

materials will be used or incorporated in the Initial Improvements and any other or future alterations or utility installations.

e. The Lessee Improvements will be installed by a duly licensed, bonded, experienced, and reputable general contractor who is not, without the prior written consent of Lessor, related to or affiliated with Lessee and who is approved by Lessor or Lessor's representative prior to contract award ("Lessee's Contractor"). All subcontractors performing any of Initial Improvements must likewise be licensed, experienced, and reputable and not related to or affiliated with Lessee and must be approved by Lessor or Lessor's representative prior to contract award ("Lessee's Subcontractors"). Lessor must be provided with copies of all contracts for any of the Initial Improvements.

f. Lessee's Contractor and Lessee's Subcontractors must be covered by worker's compensation insurance in form and with coverage limits are required by Applicable Laws and Requirements. Lessee's Contractor must also carry commercial general liability insurance, including property damages, in form and with companies as a required to be carried by Lessee under the Lease, and all of Lessee's Subcontractors must carry commercial general liability insurance, including property damage, with commercially reasonable limits. Also, Lessee or Lessee's Contractor must carry builder's risk insurance as required under the Lease.

g. Notwithstanding the foregoing, if the construction or installation of any Initial Improvements involves any structural work whatsoever, or involves any penetration of load bearing columns, walls or roof work of any kind, then Lessor may, at its sole option, require the aforementioned aspects of the Initial Improvements (or any parts thereof designated by Lessor) to be performed by a contractor selected by Lessor, in which case Lessee will pay the actual cost of such work as charged by Lessor's contractor, provided Lessee first approves the cost of such work, which approval Lessee agrees not to unreasonably withhold or delay.

h. Lessor neither undertakes, nor assumes any duty to Lessee or anyone else, to select, review, inspect, supervise, or inform Lessee or anyone else of the quality, adequacy or suitability of: (a) any plans and specifications (including, without limitation, the Approved Construction Documents) related to any construction, work or materials performed or provided by or at the request of Lessee with respect to or otherwise affecting the Premises or the building in which the same is located; (b) any architects, contractors, subcontractors, or materialmen (including, without limitation, Lessee's Contractor or Lessee's Subcontractors) employed or utilized in connection with any such construction, work or materials; or (c) the progress or course of any such construction, work or materials and its conformance or non-conformance with any plans or specifications (including, without limitation, the Approved Construction Documents) or with Applicable Laws and Requirements. Lessee acknowledges that it will rely entirely upon its own supervision and inspection in determining each and all of the foregoing.

i. Lessee acknowledges that Lessor owes no duty of care to protect Lessee, Lessee's Contractor, Lessee's Subcontractors, or anyone else against any negligent, faulty, inadequate or defective work, construction or materials associated with the Initial Improvements or Lessee's trade fixtures, or any other or future alterations or utility installations and that Lessor will not be responsible or liable to Lessee, Lessee's Contractor, Lessee's Subcontractors, or anyone else for any negligent, faulty, inadequate or defective work, construction or materials associated with the Initial Improvements or Lessee's trade fixtures or any other or future alterations or utility installations, or for any loss or damage of any kind to person or property associated with the Initial Improvements or Lessee's trade fixtures or any other or future alterations or utility installations, whether as to Lessee, Lessee's Contractor, Lessee's Subcontractors, or anyone else.

3.3 Commencement and Manner of Construction. Upon the parties' agreement upon the Approved Construction Documents (as evidenced by the parties' mutual initialing of the set of Lessee's Construction Documents marked "Approved" by Lessor), Lessee will proceed expeditiously and with all due diligence to complete the construction and installation of the Initial Improvements and Lessee's trade fixtures in a good and workmanlike manner.

3.4 Indemnification. In addition to all other indemnifications made by Lessee under the Lease, Lessee will protect, indemnify, defend and hold the United States of America, its employees, successors, agents and assigns harmless from and against, and reimburse the United States of America for, any and all claims, demands, injuries, losses, penalties, fines, costs, liabilities, causes of action, judgements, and expenses, incurred in connection with or arising in any way out of: (a) Lessee's architects, engineers, contractors, material suppliers, or subcontractors (including, without limitation, Lessee's Contractor and Lessee's Subcontractors) on or about the Premises, or (b) any other person employed or contracted for by Lessee or any of Lessee's architects, engineers, contractors, or subcontractors in connection with the Initial Improvements or Lessee's trade fixtures or utility installations. Lessee's architects, engineers, contractors, and subcontractors (including, without limitation, Lessee's Contractor and Lessee's Subcontractors) must promptly repair at their sole expense any damage which they may cause to the Premises and Lessee must ensure the same. This paragraph will survive the expiration or sooner termination of the Lease.

4. BREACH. If Lessee fails to perform any of its covenants, agreements and obligations under this Agreement, such failure will constitute a default under the Lease and will entitle Lessor to exercise any and all remedies available to Lessor under the Lease or which are otherwise available to Lessor at law, in equity or by statute.

EXHIBIT J

FORM LOOKOUT VISITOR CENTER COMMON AREA EXPENSE AGREEMENT

[To be attached prior to Lease execution]