

FIRST AMENDMENT TO LEASE

This First Amendment to Lease (this "*First Amendment*"), dated as of October 14, 2013 (the "*Effective Date*"), is by and between **OAKLAND MARITIME SUPPORT SERVICES, INC.**, a California corporation ("*Tenant*") and **THE CITY OF OAKLAND**, a municipal corporation ("*City*") (together, the "*Parties*").

RECITALS

A. City is the fee simple owner of the real property commonly known as the former Oakland Army Base, Oakland, county of Alameda, state of California, including the approximately 217,800 square feet (which includes approximately 2,000 square feet for the Maintenance Area) of fenced yard space at 2240 Wake Avenue, Oakland, California (the "*Premises*")

B. On August 26, 2013, the Parties entered into a Lease for the Premises (the "*Lease*").

C. Tenant and City desire to amend the Lease to realign the specific boundaries of the Premises, increase the size of the Premises, increase the Rent accordingly and provide additional language regarding a future access road on the terms and conditions set forth herein.

NOW THEREFORE, for good and valuable consideration paid by Tenant to City and in consideration of the agreements between the parties hereto, the parties agree as follows:

1. **Terms.** All capitalized terms used in this First Amendment that are not otherwise defined herein shall have the same meanings as in the Lease.

2. **Premises.** Section 1.2 is hereby amended to read:

1.2 Premises. Approximately 243,936 square feet of fenced yard space at 2240 Wake Avenue, Oakland, California at the Army Base and designated on Exhibit B (the "*Premises*"). The statements of square footage herein will be binding on the parties for the purposes of this Lease.

3. **Monthly Rent.** Section 1.4 is hereby amended to read:

1.4 Base Rent: \$25,822.37 per month (226,512 asphalted square feet x 11.4 cents)

4. **Utilities.** Section 6 is hereby amended to read:

6. **Utilities.**

6.1 **Provision of Utilities.** During the Term of this Lease, and provided Tenant has not committed an Event of Default hereunder, the City may, at its sole and absolute discretion and option, provide electric and potable water

services for the Premises through the Port of Oakland. City reserves the right to change the rates charged Tenant for such utilities from time to time following not less than fifteen (15) days prior written notice. In the event City elects to terminate provision of any utility service provided under this Lease, the City will provide at least thirty (30) days written notice to Tenant, and Tenant will assume responsibility for obtaining and paying directly for all such service.

6.2 Monthly Statement. Within 15 days following Tenant's receipt of a monthly statement, Tenant will pay to City its proportionate share of the cost of producing and/or supplying the utilities and other services furnished by Landlord, as well as the costs of operation and maintenance of such utilities and the related administrative costs of City (the "*Utility Payments*"). Such Utility Payments will be included in Additional Rent. Any separate metering of utilities required by City or by its designated utility provider will be the responsibility of Tenant and at Tenant's cost, unless otherwise agreed by City in writing.

6.3 Condition of Systems. Tenant acknowledges that the utility facilities and distribution systems were installed and previously owned by the Army and may not be in compliance with public utility or other statutory or regulatory code requirements and may not have been maintained consistent with industry standards. City cannot, therefore, guarantee the continuity of utility service nor the quality or quantity of service supplied.

6.4 Interruptions of Utility Services. City will not be liable or responsible to Tenant or any other person or entity who may occupy the Premises from time to time, or to any other tenant or otherwise (i) if any utility becomes unavailable from or is rationed by any public utility company, public authority or any other person or entity supplying or distributing such utility, (ii) for any disruption in any utility service caused by the making of any repairs or improvements or by any cause beyond Landlord's reasonable control, and (iii) for a failure to provide utility commodity of any specific quantity or quality. Any such interruption or failure to provide a specific quantity or quality of utility service will not constitute a termination of this Lease, or an eviction of Tenant, and/or give Tenant the right to reduce or abate Rent.

5. Fence and Access Road Installation. Section 11.1 ("Repairs and Maintenance") subsection (b) is hereby amended to read:

(b) **Tenant Responsibility.** Tenant will provide, at its cost and expense, all labor, supervision, materials, supplies, and equipment necessary for the repair and maintenance of the Premises, including, without limitation, the repair and maintenance of the City-installed fence and k-rail, mobile office unit on the Premises. Tenant's repair and maintenance responsibilities include janitorial, internal security and refuse disposal, the maintenance of all interior doors, walls, and windows, ceiling tiles, flooring, the interior surfaces of the exterior walls, and the plumbing, electrical, heating, air conditioning and ventilating equipment and fixtures within the Premises and all

telecommunications equipment and intrabuilding network cabling within the Premises. If the Premises is a "single tenant" building, then Tenant will also, at its cost and expense maintain the grounds, facilities, equipment and any utility infrastructure directly serving or situated within the Premises.

6. **Governing Law.** This First Amendment shall be governed by, and interpreted in accordance with, the law of the State of California.


7. **No Broker.** Tenant represents and warrants that Tenant has not dealt with any real estate broker, sales person or finder representing Lease in connection with this Lease, and no such person initiated or participated in the negotiation of this First Amendment on behalf of Tenant. No other commission is payable by City to any other broker, finder or sales person acting on behalf of Tenant, and Licensee hereby agrees to indemnify and hold Lincesor harmless from and against any and all liabilities and claims for commissions and fees arising out of a breach of Tenant's foregoing representation.

8. **No Other Modifications.** All prior agreements, understandings, and discussions with respect to the subject matter set forth in this First Amendment are hereby superseded by this First Amendment. Except as modified by the terms of this First Amendment, all provisions of the Lease shall remain unchanged and are in full force and effect, and shall continue to be binding on the parties hereto. Subsequent to the Effective Date, the Lease and this Amendment shall be read as one document.


9. **Certification of Lease Status.** Tenant hereby represents and warrants that, as of the date of execution of this First Amendment, there exists no defense or offset by Tenant to the enforcement of the Lease by Landlord, and that City is not, as of the date of execution of this Amendment, in default in the performance of any obligation of City under the Lease, nor, to the knowledge of Tenant, has any event occurred which, with the passage of time, or the giving of notice, or both, would constitute a default or breach of the Lease by Landlord.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed by their duly authorized representatives as of the date first stated above.

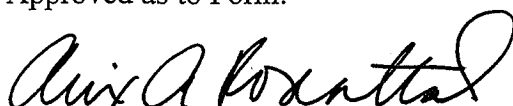
CITY OF OAKLAND, a municipal corporation

By: 
Deanna J. Santana
City Administrator

OAKLAND MARITIME SUPPORT SERVICES, INC., a California corporation

By: 
Bill Aboudi
President

Approved as to Form:


Office of City Attorney
COUNSEL TO THE CITY

