



**LEASE**

Between

**U.S. DEPARTMENT OF INTERIOR**

**National Park Service**

And

**LESSEE**

**MOONBEAM GREAT KILLS MARINA LLC**  
**a New York Limited Liability Company**

For the Premises known as The Great Kills Marina

3270 Hylan Blvd  
Staten Island, NY 10306

NPS LCS ID# N/A  
Lease Number GATE 1770 1105 2019 STIS

In the Staten Island Unit of  
Gateway National Recreation Area

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**THIS LEASE** is made and entered into by and between the United States Department of the Interior (DOI),

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acting through the National Park Service (NPS), an agency of the United States of America (Lessor), and Moonbeam Great Kills Marina LLC<sup>1</sup> (Lessee).

**WITNESSETH THAT:**

**WHEREAS**, Congress designated Gateway National Recreation Area (GATE or Park Area) as a unit of the national park system; and

**WHEREAS**, the Park Area contains property that has been determined suitable for leasing under 36 Code of Federal Regulations Part 18; and

**WHEREAS**, the Lessor has determined that the use and occupancy of the property that is made available under this Lease is consistent with the requirements of Part 18 of Title 36 of the Code of Federal Regulations and with the Park Area's General Management Plan; and

**WHEREAS**, the Lessee desires to lease the property on the terms and conditions set forth in this Lease, including, without limitation, the terms and conditions of the Exhibits attached hereto as of the Commencement Date and those Exhibits which become attached to this Lease during its term as identified herein; and

**WHEREAS**, the Lessee was selected in response to "Request for Proposals: Great Kills Marina," dated \_\_\_\_\_.

**NOW THEREFORE**, in consideration of their mutual promises, the Lessor and Lessee hereby agree as follows:

**SECTION 1. DEFINITIONS**

As used in this Lease, the following defined terms are applicable to both singular and plural forms.

**1.1 Additional Rent** – refers to all forms of Rent or other fees required by this Lease other than the Annual Rent required by Section 5 hereof.

**1.2 Affiliate of Lessee** – means any person or entity directly or indirectly controlling, controlled by, or under common control with Lessee, or, any entity owned in whole or part, directly or indirectly, by Lessee.

**1.3 Alterations** – means any Improvements made to the Premises by Lessee in accordance with the terms of this Lease other than Initial Improvements.

**1.4 Annual Rent** -means the Base Rent and any Percentage Rent to be paid annually to Lessor by Lessee as described in Section 5 hereof.

**1.5 Applicable Laws** – means all present and future laws, statutes, requirements, ordinances, judgments,

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<sup>1</sup> **MOONBEAM GREAT KILLS MARINA LLC**, a New York limited liability company, validly formed on **June 27, 2019**, U.S. Federal Employer Identification № **84-2233011**, which is owned and controlled by **Steven V. Maksin and Moonbeam Leasing & Management LLC**. **MOONBEAM GREAT KILLS MARINA LLC** has a registered address at 3649 Erie Boulevard East, DeWitt, New York 13214; with a business address at 3260 Flatbush Avenue, Brooklyn, NY 11234; with a mailing address at 155 Oceana Drive East, Suite PH2D, Brooklyn, NY 11235.

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regulations, and administrative and judicial determinations (that are applicable by their own terms to the Premises or the Lessee), even if unforeseen or extraordinary, of every governmental or quasi-governmental authority, court or agency claiming jurisdiction over the Premises now or hereafter enacted or in effect (including, but not limited to, Part 18 and the Park Area's General Management Plan, environmental laws and those relating to accessibility to, usability by, and discrimination against, disabled individuals), and all covenants, restrictions, and conditions now or hereafter of record which may be applicable to the Lessee or to all or any portion of the Premises, or to the use, occupancy, possession, operation, and maintenance, or alteration, repair or restoration of any portion of the Premises, 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.

**1.6 Approved Costs** – means costs (including, without limitation, General and Administrative Costs), approved by Lessor as being no higher than those prevailing in the locality of the Premises, required for the construction of Initial Improvements or Alterations, and otherwise reasonable.

**1.7 Assignment** – means the transfer, whether it is direct or indirect, voluntary or by operation of law, assignment, sale, or conveyance, of the Lessee's leasehold estate, or the Lessee's rights under this Lease in whole or part. Such transfer may be designated as a sale, conveyance, or an assignment. The sale, conveyance, or assignment (including by consolidation, merger or reorganization) of a controlling interest in the Lessee (if such entity is a corporation), or any sale or other transfer of a controlling interest in the partnership interests (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, is an Assignment. For a corporate entity, the term "controlling interest" means an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the Lessee so as to permit exercise of managerial authority over the actions and operations of the Lessee. For a partnership, limited partnership, joint venture, limited liability Company, or individual entrepreneur(s), "controlling interest" means the beneficial ownership of the capital assets of the Lessee so as to permit exercise of managerial authority over the actions and operations of the Lessee.

**1.8 Balance Available for Offset** – means the portion of Percentage Rent which Lessee may apply pursuant to Section 5.4 hereof.

**1.9 Building Foundation** - means the lower portion of a building, usually located below grade, necessary to support a superstructure. Building Foundations do not include concrete slabs or pads necessary to support utilities or other uses incidental to the use of the Leased Premises.

**1.10 Certificate of Completion** – A written document from the Lessor stating that Initial Improvements or Alterations are complete and acceptable.

**1.11 Certificate of Completion Report** – means the document that describes and identifies the Initial Improvements after issuance of a Certification of Completion, which, when issued, shall become part of this Lease as Exhibit F hereto. Such Report, among other matters will identify any Fixtures installed as part of the project.

**1.12 Commencement Date** – means the first day of the Lease Term as stated in Section 4 of this Lease.

**1.13 Construction Documents** – refers collectively to all drawings, plans, specifications, and similar documents associated with the construction of Initial Improvements or Alterations.

**1.14 Encumbrance** – means the direct or indirect, voluntary or by operation of law, encumbrance, pledge, mortgage, or other hypothecation of the Lessee's interest or rights under this Lease and/or the

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Premises or Lessee's leasehold estate.

**1.15 Exhibit(s)** – means documents which are attached to this Lease as additional terms and conditions of this Lease as of the Commencement Date and those documents which become attached hereto during its term as Exhibits as of the later of the date of issuance by the Lessor and the date of acceptance by Lessee,

**1.16 Expiration Date** – means the last day of the Lease Term as stated in Section 4 of this Lease.

**1.17 Fixtures** – A Fixture is an article in the nature of Personal Property which has been so annexed to the Premises as to be regarded as a part of the realty.

**1.18 General and Administrative Costs** – or G&A, are costs necessary for the construction of Initial Improvements or Alterations that are not directly related to labor and building materials. Such costs may include, but are not limited to, architecture, engineering, planning, including compliance with the National Environmental Policies Act (NEPA, 42 USC 4321 et seq.), and permits.

**1.19 Gross Revenue** means the entire amount of Lessor's revenues (and the revenues of any Affiliate of Lessee) derived from this Lease or any Sublease hereunder, such amount as determined in accordance with generally accepted accounting principles consistently applied. Gross revenues also include, as applicable and without limitation, rent paid by other tenants, tenant payments in lieu of rent, tenant reimbursements, and payments under a loss of rents insurance policy or provision. Also included in Gross Revenues are receipts from all mechanical or other vending devices placed on the Premises by the Lessee or under authority from the Lessee.

**1.20 Hazardous Materials** – means any material or other substance: (a) that requires investigation or correction under Applicable Laws; (b) that is or becomes defined as a hazardous waste, hazardous substance, pollutant, or contaminant, under Applicable Laws; (c) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated under Applicable Laws; (d) that, without limitation of the foregoing, contains gasoline, diesel fuel or other petroleum hydrocarbons; (e) that, without limitation of the foregoing, contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or (f) without limitation of the foregoing, contains radon gas. The term Hazardous Materials as used in this Lease includes Pre-Existing Hazardous Materials unless otherwise stated in a particular provision of this Lease.

**1.21 Hazardous Materials Occurrence** – means any use, treatment, keeping, storage, sale, release, disposal, migration, transport, or discharge of any Hazardous Materials from, on, under, or into the Premises or other Park Area property that occurs during the Lease Term.

**1.22 Historic Property** – means building (s) and land located within the boundaries of the Park Area 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.

**1.23 Improvements** – means physical changes to the Premises, including, without limitation, modification, rehabilitation, physical enhancement, and/or restoration of the Premises.

**1.24 Initial Improvements** – means the Improvements to the Premises to be made by Lessee upon commencement of this Lease as described in Exhibit D to this Lease.

**1.25 Interest Rate** – means the percentage of interest charged based on the current value of funds to the United States Treasury that is published annually in the Federal Register or successor publication.

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**1.26 Inventory and Condition Report** – means the document contained in Exhibit A to this Lease that describes and identifies the Fixtures and Equipment in the Premises and the condition of the Premises as of the Commencement Date.

**1.27 Lease Term** – is the term of this Lease as stated in Section 4 of this Lease.

**1.28 Lease Year** – means a year of the Lease Term. The first Lease Year shall commence on the Commencement Date and shall end on the expiration of the twelfth full calendar month following thereafter. Each subsequent Lease Year shall commence on the next day following the expiration of the preceding Lease Year, and shall end on the expiration of the twelfth full calendar month following thereafter, or on the last day of the Lease Term, whichever occurs first.

**1.29 Lessor Improvements** – means Improvements to the Premises which may be made by Lessor during the term of this Lease.

**1.30 Maintenance and Repair** – “Maintenance” means the preservation of, and prevention of a decline to the Premises from, existing conditions; “Repair” means mending, fixing, or restoring the Premises to good condition after decay, injury, or dilapidation; “Replace” (or “Replacement”) means providing a substitute in place of an item which is broken, worn out, or irreparable.

**1.31 Maintenance Plan** – is a document that sets forth a plan for the Lessee’s Repair and Maintenance of the Premises.

**1.32 Notice of Default** – means an instrument in writing from the Lessor to the Lessee providing notice that the Lessee is in default of the Lease.

**1.33 NPS 28** – means the National Park Service document entitled “Cultural Resource Management Guidelines” which is hereby made a part of this Lease by reference.

**1.34 Park Area** – means Gateway National Recreation Area (GATE).

**1.35 Part 18** – means Part 18 of Volume 36 of the Code of Federal Regulations.

**1.36 Personal Property** – means all furniture, equipment, appliances, and apparatus placed in or on the Premises that are neither permanently attached to or form a part of the Premises so as to be part of the realty.

**1.37 Pre-existing Hazardous Materials** – means hazardous materials (including storage tanks) that existed in, on, or under the Premises or other Park Area property prior to the Commencement Date.

**1.38 Premises** – means the property of the Park Area that is described in Section 2 of this Lease, including, without limitation, all Improvements thereon as of the Commencement Date and all Initial Improvements, Alterations and other installations or physical changes made to the Premises during the term of this Lease by any party.

**1.39 Preservation Maintenance Plan** – is a document that sets forth a plan for the Lessee’s Repair and Maintenance of Historic Property.

**1.40 Rent** – means the Annual Rent to be paid to the to the Lessor by the Lessee as described in Section 5 of this Lease and any Additional Rent this Lease may require.

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**1.41 Rent Offset** – means offsets to Percentage Rent which Lessee may make pursuant to Section 5.4 hereof.

**1.42 Secretary's Treatment Standards** – shall mean the Secretary of the Interior's Standards for Treatment of Historic Properties (36 Code of Federal Regulations Part 68) that are hereby made a part of this Lease by reference.

**1.43 Sublease** – means an agreement under which the Lessee grants a person or entity (a Sub lessee) the right to use, occupy, or possess the Premises in whole or in part.

**1.44 Substantially Damaged** – means the Premises has been damaged or destroyed to the extent that the cost of Repair or Replacement thereof shall exceed a sum constituting ninety percent (90%) of the total estimated Replacement cost of the entire Premises, as estimated by Lessor.

**1.45 Termination Date** – means the date, if any, as of which this Lease has been terminated or cancelled in accordance with its terms prior to the Expiration Date.

**1.46 Utilities** – Include but are not limited to, electric, propane, water, and wastewater. Utilities are subject to Director's Order #35B, or any applicable law, regulation, and policy, requiring NPS to recover the cost of providing Utilities and maintaining Utility infrastructure, including pursuant to 36 CFR 18.12(g). Changes to the rate or the method of calculation may be modified by the Lessor in accordance with any change to existing law, regulation, and policy.

**SECTION 2. LEASE OF PREMISES**

**2.1. Lease of Premises; Reservation of Rights**

(a) The Lessor hereby leases and demises to the Lessee under the authority of Part 18, and the Lessee hereby leases, upon and subject to the covenants and agreements contained in this Lease, the Premises described as follows and as depicted in **Exhibit C** to this Lease:

- Lands (including submerged lands) and buildings comprising the facility known as the Great Kills Marina, located at 3270 Hylan Blvd, Staten Island, NY 10306 in the Staten Island Unit of Gateway National Recreation Area, including the following:
  - The marina office structure, 250 existing boat slips, and corresponding docks and pilings, a boat storage yard, an adjacent parking lot to accommodate parking in connection with the marina activity.
  - A portion of the adjacent Beach Center Building and a corresponding concrete pad to be used as a seating area. [Note: The public sidewalk will be excluded from this area and continued public access to and from the beach is required].
  - Bulkheads and pilings associated with the land assignment.

Additionally, NPS will issue any corresponding Permits and Rights of Way necessary to undertake the installation of the required communications infrastructure. Lessee will be obligated to comply with any Terms and Conditions contained therein.

The Premises do not include, but Lessee shall have the non-exclusive right to enjoy:

- Corresponding ingress and egress

(b) Subject to all Applicable Laws and all liens, Encumbrances, restrictions, rights and conditions of



law or of record or otherwise; and

(c) Excepting and reserving to the Lessor the right, at reasonable times and (except in case of emergency) following reasonable advance notice to the Lessee, to enter and to permit any governmental agency, public or private Utilities and other persons to enter upon the Premises as may be necessary for the purposes of the administration of this Lease and/or the Park Area as determined by the Lessor and to close the Premises or any portion of the Premises when required to be closed to avoid or minimize immediate danger to life or property as otherwise required by law; and

(d) Excepting and reserving exclusive rights to the Lessor 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; and

(e) Subject to Executive Order 13658 – Establishing a Minimum Wage for Contractors and its implementing regulations, including the applicable contract clause (<https://federalregister.gov/a/2014-23533>) are incorporated by reference into this Lease.

## **2.2 Waiver**

The Lessee hereby waives any claims for damages for any injury or inconvenience to or interference 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 the Lessor's exercise of its rights under this Lease or by the Lessor's actions taken for the management and protection of the Park Area's resources and visitors.

## **2.3 Easements or Right-of-Way Permits**

Nothing contained in this Lease shall give or be deemed to give the Lessee a right to grant any type of easement or right-of-way permit affecting the Premises. Lessor agrees to execute, if otherwise appropriate as determined by the Lessor, such easements or right-of-way permits for Utilities as Lessee shall reasonably require in connection with the use and operation of the Premises.

## **2.4 Ownership of the Premises**

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

## **2.5 Historic Property**

The Premises are not Historic Property.

## **SECTION 3. ACCEPTANCE OF THE PREMISES**

### **3.1 As Is Condition of the Premises**

The Lessee agrees to lease the Premises in their existing "as is" condition as of the Commencement Date and acknowledges that in entering into this Lease, the Lessee does not rely on, and the Lessor does not make, any express or implied representations or warranties as to any matters including, without limitation, any characteristics of the Premises thereon, the suitability of the Premises for the intended use, the likelihood of deriving trade from or other characteristics of the Park Area, the economic or programmatic feasibility of the Lessee's use and occupancy of the Premises, or Hazardous Materials on or in the vicinity of the Premises.

### **3.2 Lessee's Due Diligence**

Prior to entering into this Lease, the Lessee, in the exercise of due diligence, has made a thorough, independent examination of the Premises and all matters relevant to the Lessee's decision to enter into this Lease, and the Lessee is thoroughly familiar with all aspects of the Premises and is satisfied that they are in an acceptable condition and meet the Lessee's needs, subject to the terms and conditions hereof.

### **3.3 Inventory and Condition Report**

In the exercise of its due diligence, Lessee has taken into account the Inventory and Condition Report (Exhibit A) and acknowledges that it is complete and accurate.

## **SECTION 4. LEASE TERM AND ABANDONMENT**

### **4.1 Lease Term**

The Lease Term shall be a period of up to sixty (60) years commencing on **January 1, 2020** (Commencement Date) and expiring at 11:59 p.m. on **December 31, 2079** (Expiration Date) or ending on such earlier date as this Lease may be terminated in accordance with its terms (Termination Date). On the fifth (5<sup>th</sup>), tenth (10<sup>th</sup>), twentieth (20<sup>th</sup>), twenty-fifth (25<sup>th</sup>), thirtieth (30<sup>th</sup>), fortieth (40<sup>th</sup>) and fiftieth (50<sup>th</sup>) Years of the Lease Year following the Commencement Date the Lessee shall have the option of terminating the Lease, with the Lease terminating at the end of the Lease Year in question. For the avoidance of doubt, this means that the Lessee shall have the option of terminating the Lease at the end of Lease Years 5, 10, 20, 25, 30, 40 and 50. If the Lessee desires to terminate the Lease pursuant to such option, it must provide the Lessor with notice of its intent to terminate the Lease no less than three (3) years before the end of the Lease Year in which the Lease is to terminate.

### **4.2 Abandonment**

The Lessee shall utilize and maintain the Premises in accordance with the terms of this Lease during the entire Lease Term. If Lessee fails to do so, the Lessee may be determined as in default for abandoning the Premises in accordance with the provisions of Section 18 .1. Notwithstanding the foregoing, Lessee shall not be in violation of this provision for closures due to extreme weather events, or due to a force majeure event or due to Repair or Replacement of damage or destruction of the Premises. In the event that the Premises are Substantially Damaged by a force majeure occurrence and the Lessor determines that Repair or Replacement of the Premises will take three (3) years or more, the Lessor may terminate this Lease in accordance with the termination process set forth in Section 15 hereof.

## **SECTION 5. RENT**

### **5.1 Net Lease and Rent Payments**

Except as provided in Section 5.4, all Rent shall be absolutely net to Lessor without any abatement, deduction, counterclaim, set-off or offset. Lessee shall pay all costs, expenses and charges of every kind and nature relating to the Premises, including, without limitation, all maintenance, taxes, and assessments applicable to the Premises promptly upon billing by Lessor, subject in the case of taxes and assessments to the provisions of Section 11.

- (a) All Rent payments consisting of \$10,000 or more shall be deposited electronically by the Lessee

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using the Treasury Financial Communication System. At Lessor’s option, Rent payments shall be payable by wire transfer or other electronic means to such account as Lessor may from time to time designate. Interest at the Interest Rate will be assessed on overdue Rent payments. The Lessor may also impose penalties for late Rent payments to the extent authorized by Applicable Law.

(b) The Lessor may choose to, but is not obligated to, issue Lessee a Bill of Collection (BOC) identifying Rent due and owing, though any failure of the Lessor to do so shall not alleviate Lessee’s obligation to remit Rent due and owing pursuant to the terms of this Lease.

**5.2 Annual Rent - Base and Percentage Rent**

(a) Base Rent – The Lessee shall pay to Lessor Base Rent for the Premises in the aggregate annual amount of \$155,000.00 (as adjusted for CPI per Section 5.3) payable in advance of each month in twelve (12) equal monthly installments of Twelve Thousand Nine Hundred Sixteen Dollars and sixty seven cents (\$12,916.67), as adjusted for CPI per Section 5.3 below. In no event shall Lessee be allowed to pay the NPS less than the \$155,000.00 (as adjusted for CPI per Section 5.3 below) Base Rent per Lease Year, regardless of the amount of Rent Offset for which the Lessee may be eligible for in any particular year.

(b) Percentage Rent – In addition to the Base Rent identified above, Lessee shall pay to Lessor a percentage % of its annual Gross Revenue as Percentage Rent as follows:

Duration	Percentage of Gross Revenue Due
Years 1-5	10.5%
Years 6-20	10.75%
Years 21-30	11%
Years 31-40	11.25%
Years 41-50	11.75%
Years 51-60	12%

Percentage Rent shall be due on an annual basis and shall be paid by the Lessee within one hundred and twenty days (120) calendar days after the last day of the fiscal year. Percentage Rent shall be calculated based on documentation required pursuant to the reporting requirements identified in Section 7 of the Lease.

**Table 5.2.1 Example Annual Rent Payment**

YEAR	Gross Revenues	Annual Rent (base rent + percentage rent)	Base Rent	Percentage Rent	NPS Approved Offset Balance	NPS Approved Offset Balance-Year End (NPS Approved Offset minus Percentage Rent)	Adjusted Offset Balance(Return of 2% on Offset Balance)	Annual Rent Balance
1: 2020	\$1,737,183.00	\$337,404.22	\$155,000.00	\$182,404.22	\$3,772,000.00	\$3,589,595.79	\$3,661,387.70	\$155,000.00
2: 2021	\$1,771,926.66	\$344,152.30	\$158,100.00	\$186,052.30	\$3,661,387.70	\$3,475,335.40	\$3,544,842.11	\$158,100.00
3: 2022	\$1,807,365.19	\$351,035.35	\$161,262.00	\$189,773.35	\$3,544,842.11	\$3,355,068.76	\$3,422,170.14	\$161,262.00

*Revenue Growth of 2% per year, CPI increase of 2% per year (CPI used for annual base rent adjustment & return on outstanding offset balance)*

*Initial Improvements in the amount of \$3,772,000 completed in the first year, no additional off-settable improvements*

*Base rent due in equal monthly installments, Percentage rent due 120 days after end of fiscal year*

*As per Table in 5.2 (b): Percentage Rent equals 10.5% (Year 1-5)*

**5.3 Consumer Price Index Adjustment**

The Annual Rent will increase on the first day of the second Lease Year and annually thereafter during the Lease Term to reflect any proportionate cumulative increase in the Consumer Price Index (CPI), during the previous Lease Year. For purposes of this Section, CPI means the United States Department of Labor, Bureau of Labor Statistics, All Urban Consumers (CPI-U), US City Average, All Items, 1982-84=100, not seasonally adjusted, or if such index is no longer published, a successor or substitute index designated by the Lessor, that shows changes in consumer prices in the locale of the Park Area.

Adjustments to the Annual Rent shall be determined by multiplying the Annual Rent stated in Section 5.2 by the CPI index number for the month which is four months prior to the date of adjustment and dividing by the CPI index number for the month and year of the Commencement Date, and rounding the result to the nearest dollar. If the result of this formula is greater than the minimum Annual Rent set forth in Section 5.2, Lessee shall pay this greater amount as the yearly rent until the time of the next annual rental adjustment. If the product of the multiplication is less than the minimum Annual Rent, there shall be no adjustment in the yearly rent at that time and Lessee shall pay the Annual Rent set forth in Section 5.2 until the time of the next annual rental adjustment. In no event shall any rental adjustment called for in this Section result in an Annual Rent less than the Annual Rent stated in Section 5.2.

#### **5.4 Rent Offsets**

(a) Except as otherwise noted in Paragraph 6.2 (d) Changes to Authorized Uses, the Lessee may only offset against Percentage Rent payments the Approved Costs of completed Initial Improvements, subsequent completed Improvements and/or completed Alterations incurred by the Lessee in accordance with the requirements of Section 10 of this Lease. For the avoidance of doubt, the Lessee will always pay the Base Rent due for each Lease Year regardless of the amount of Rent Offset for which the Lessee may be eligible. Accordingly, the application of a Rent Offset against the Base Rent due for any Lease Year is strictly prohibited. The method and timing of such Rent Offsets against Percentage Rent will be agreed to by the Lessor and Lessee from time to time, provided that, no Rent Offsets may be made in the absence of such an agreement Lessor shall not offset any costs of any portion of the Initial Improvements or Alterations that the Lessee undertook or incurred without Lessor's prior written approval. A sample rent offset form is included as Exhibit J. Rent Offsets for which the Lessee is eligible under Section 5.4 below will be credited against the balance due and owing for Percentage Rent. Approved Rent Offsets in excess of the balance due and owing for Percentage Rent in any given year shall be credited to the Lessee and available for future Rent Offsets. The Rent Offsets credited to the Lessee will be adjusted on an annual basis for CPI at the same time and in the same percentage as Annual Rent is adjusted for CPI per Section 5.3 below. See also **Table 5.2.1 - Example Annual Rent Payment.**

(b) Lessee shall have no right or claim of compensation of any nature from the Lessor in the event of a termination, Assignment, or expiration of this Lease in accordance with its terms in circumstances where the Approved Costs of Initial Improvements and/or Alterations have not been applied by Lessee to offset Annual Rent as of the date of such termination, Assignment, or expiration of this Lease.

(c) The Lessee agrees and acknowledges that the Base Rent amount due to the Lessor under this Lease has been established based on the 250 marina boat slips that are currently available. The Lessee's costs and expenses associated with any future increase in the number of boat slips will not be eligible for a Rent Offset under the terms and conditions of the Lease.

(d) The Lessee agrees and acknowledges that in order to be eligible for a Rent Offset, the Lessee must provide detailed records including all invoices, billings, statements, receipts, canceled checks, and other such documentation that is determined sufficient at Lessor's sole discretion, to evidence the costs incurred in connection with the completed Initial Improvements and/or completed Alterations.

#### **5.5 Rent Reconsideration**

(a) If this Lease is still in effect at such time, the Rent otherwise required by this Lease shall be subject to reconsideration at the request of the Lessor or the Lessee after the end of the 25<sup>th</sup> and 40<sup>th</sup> Lease Year of this Lease in order to maintain the Rent under this Lease in an amount and structure consistent with fair market value rent. "Fair market value rent" for the purposes of this Section means the most probable rent, as of a specific date, in cash or in terms equivalent to cash, for which the Premises, under the terms and conditions of this Lease, should rent for their highest and best use permitted by this Lease 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.

(b) To request Rent reconsideration, the Lessor or Lessee must notify the other party in writing of its request within sixty (60) days after the end of the applicable Lease Year. Upon receipt of such notice, the Lessor and Lessee must negotiate in good faith a Rent adjustment to reflect the current fair market value

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rent as defined above. If, after the end of such sixty (60) day negotiation period, the parties do not come to agreement as to an appropriate Rent adjustment, the Lessee may terminate this lease in accordance with Section 4.1 of this lease "Lease Term".

**SECTION 6. USES OF PREMISES**

**6.1 Authorized Uses**

The Lessee may utilize the Premises only for the following purposes:

- Marina Services
- Boat slip rental
- Dry dock storage
- Boat Repairs and Maintenance
- Associated retail operation
- Food and beverage services; alcohol sales limited to beer and wine only
- Parking in support of authorized activities

Other uses subject to NPS approval pursuant to Section 6.2 below.

The Lessee is prohibited from undertaking or providing the following:

- Overnight occupancy, lodging, or residential use of boats is prohibited during the winter season. The winter season is defined as the period from November 1 to April 1.
- Fuel Sales
- Boat Sales

(a) Depending on the Premises' historic use, proposed use, any change in use, and corresponding legal limitations, the Premises may be subject to occupancy limits. Such occupancy limits may include determinations as to the minimum allowable occupancy period for short term residential use based on compliance with code requirements pertaining to matters such as but not limited to fire suppression and egress requirements, maximum occupancy limitations, and short term or seasonal use of the facility.

(b) Additionally, Lessee's activities on the Premises shall be subject to the general inspection of the Lessor and to such directives regarding ingress, egress, safety, sanitation, and security as may be prescribed by the GATE Superintendent from time to time.

(c) In the event Lessee desires to sell alcohol in connection with Lessee's use and occupancy of the Premises, Lessee is required to obtain the necessary authorizations and approvals from the State of New York or the local municipality prior to conducting any alcohol sales. Sale and consumption of alcohol will be strictly limited to beer and wine for consumption in the designated area specified. For the avoidance of doubt, sale and consumption of alcohol on the beach or in any other area outside the Premises (collectively, "Offsite") is strictly prohibited. Lessee will be required to monitor the area of the Premises where beer and wine is sold to ensure that patrons are aware of said prohibition and shall enforce same within the Premises, provided that Lessee has no responsibility to enforce said prohibition Offsite or with respect to alcohol not sold by Lessee. If the presence or intervention of United States Park Police ("USPP") is necessary as a result of conduct or activities occurring at the Premises and USPP bills Lessor for the time spent in doing so, Lessee will be required to pay to Lessor as Additional Rent the amount billed by USPP to Lessor within ten (10) days of receipt of a copy of the USPP invoice to Lessor. In any case, if Lessee breaches its obligations under this Section 6.2(c) and fails to cure same within the notice and cure period set forth in Section 18.1, NPS reserves the right to withdraw permissions allowing sale and consumption of alcohol on

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the Premises under the terms of the Lease notwithstanding any other condition to the contrary.

(i) If NPS withdraws said permissions as provided in Section 6.1(c), Lessee may cease providing food and/or non-alcoholic beverage services in its sole discretion, subject to the following conditions:

1. The Lessee agrees to surrender the above identified portion of the Premises to NPS
2. The portion of the Premises at which the Lessee elects to cease operations must be surrendered in good condition
3. The Lessee is not eligible for rent reconsideration related to any surrender of that portion of the Premises
4. The Lessee is not eligible for any remaining rent offset otherwise applicable for Improvements already completed for this portion of the Premises.

**6.2 Changes to Authorized Uses**

(a) The Lessee may amend or change approved uses subject to the prior written approval of the Lessor. No change of the uses of the Premises shall be approved unless the Lessor, among other matters, determines the proposed use to be consistent with Part 18, GATE's General Management Plan, all other Applicable Laws, and that the proposed change will not have an adverse impact on the Lessor's ability to manage and protect GATE's resources and visitors.

(b) The Lessee shall be obligated for the cost of any appraisal required to determine the value of the Annual Rent corresponding to any proposed change in use of the Premises. Such appraisals must be obtained in accordance with the requirements set forth by the Department of the Interior (DOI), and corresponding review and approval by the Asset Valuation Services Office (AVSO) (or successor entity).

(c) Any adjustment to the value of the Annual Rent as a result of a change in the Authorized Use of the Premises under this section will be embodied in an amendment to this Lease.

(d) Lessee may propose an increase in the amount of slips for which NPS written approval is required but not guaranteed. The increase in the number of wet slips may not exceed 350 slips total. In the event NPS does in fact authorize an increase in the number of slips, construction of additional slips will require approvals from other governmental entities which is not guaranteed, and which Lessee will have to obtain at its own cost and expense. Should the Lessee obtain the necessary approvals required in connection with any increase in the number of slips, the fair market value rent for the Leased Premises will be subject to rent reconsideration (i.e. rent adjustment increase). Additionally, the Lessee's costs associated with the increase in the number of slips will not be eligible for any rent offset under the terms of the Lease.

**6.3 Applicable Laws**

The Lessee shall comply with all Applicable Laws in its use and occupancy of the Premises. Such laws, regulation and policies are stated in part in the definition of Applicable Laws set forth in this Lease, and include, but are not limited to:

- The National Environmental Policy Act (NEPA)
- Americans with Disabilities Act (ADA)
- The Architectural Barriers Act (ABBAS)
- International Existing Building Code (IEBC)
- International Residential Code (IRC)
- National Fire Protection Act (NFPA), particularly NFPA 13, NFPA 101, NFPA Section 914 Protection of Historical Structures, and the Uniform Fire Code
- Department of the Interior (DOI) Secretary of the Interior (SOI) Standards for the Treatment and Rehabilitation of Historic Properties 36 CFR 61 and 36 CFR 68
- The Uniform Building Code, State of NY Rehabilitation Subcode

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- The National Electric Code
- The Uniform Mechanical Code
- The Uniform Plumbing Code
- Uniform Federal Accessibility Standards
- Life-Safety Codes
- Uniform Code for Building Conservation and the Council of American Building Officials' (CABO)
- NPS 28: Cultural Resource Management Guideline
- The Federal Fair Housing Act
- Local Building Codes adopted by the City of New York and the State of New York

**6.4 Forbidden Uses**

In addition to the Prohibited uses identified in Section 6.1 above, in no event shall the Premises be used for any purpose that is not permissible under Part 18 or, even if so permissible, may be, all as determined by Lessor, dangerous to life, limb, property or public health; that in any manner causes or results in a nuisance; that is of a nature that it involves substantial hazard, such as the manufacture or use of explosives, chemicals or products that may explode, or that otherwise harms the health or welfare of Park Area resources and/or visitors; or that results in any discharge of Hazardous Materials in, on or under the Premises.

**6.5 Site Disturbance**

Lessee shall neither cut any timber nor remove any other landscape features of the Premises such as shrubs or bushes without Lessor's prior written consent. The Lessee shall conduct no mining or drilling operations, remove no sand, gravel or similar substances from the ground, and commit no waste of any kind.

**6.6 Protection of Cultural and Archeological Resources.**

The Lessee shall ensure that any protected sites and archeological resources on the Premises or within GATE are not disturbed or damaged by the Lessee except in accordance with Applicable Laws and only with the prior written approval of the Lessor. Discoveries of any archeological resources by the Lessee shall be promptly reported to the Lessor. The Lessee shall cease work or other disturbance, which may impact any protected site or archeological resource until the Lessor may grant approval to continue upon such terms and conditions as the Lessor deems necessary to protect the site or resource.

**6.7 Signs**

The Lessee may not post signs on the Premises of any nature without the Lessor's prior written approval. Any approval of a sign that may be given by the Lessor shall specify the type, size, and other appropriate conditions concerning its display. The Lessor will review the proposed layout, content, and will approve same so long as Lessor has determined same to be consistent with GATE's existing signage plan and Applicable Laws. The Lessor may post signs on the Premises as appropriate for the administration of the Park Area.

**6.8 Permits and Approvals**

Except as otherwise may be provided in this Lease, the Lessee shall be solely responsible for obtaining, at its expense, any permit or other governmental action necessary to permit its activities under this Lease as approved by the Lessor.



**SECTION 7. RECORDS AND AUDITS**

(a) The Lessee shall provide the Lessor and its agents, including without limitation, the Comptroller General of the United States, access to all Lessee books and records relating to the Premises and the Lessee's use of the Premises under this Lease during normal business hours upon forty-eight (48) hours' notice 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 shall keep and make available to the Lessor these books and records at a location in the Premises or within the locale of the Park Area. The Lessee shall, if requested by the Lessor, provide the Lessor with complete information and data concerning the Lessee's use and occupancy of the Premises.

(b) The Lessee shall, if requested by the Lessor, provide the Lessor in writing with complete information and data concerning the Lessee's operations and operating results, including without limitation, information and data requested by Lessor relating to the Lessee's particular operations.

**SECTION 8. MAINTENANCE AND REPAIR**

**8.1 Lessee's Responsibilities**

The Lessee shall be solely responsible, at the Lessee's sole expense, for the Repair and Maintenance of the Premises during the Lease Term. This responsibility includes, without limitation:

- (a) Ensuring the Premises are safe, habitable, and code compliant at all times;
- (b) The performance of all Repair and Maintenance, including Replacements (whether foreseen or unforeseen) necessary to maintain the Premises in good order, condition, and Repair, in a manner consistent with the operation of comparable facilities in the locale of the Park Area and in compliance with all Applicable Laws;
- (c) Replacing, as they become worn out or obsolete, all Fixtures.
- (d) Housekeeping and routine and periodic work scheduled to mitigate wear and deterioration without altering the appearance of the Premises;
- (e) The Repair or Replacement of in-kind or broken or worn out elements, parts, or surfaces so as to keep the existing appearance of the Premises;
- (f) Scheduled inspections of all building systems on the Premises;
- (g) Maintaining the grounds of the Premises in good condition, including, without limitation, avoidance or removal of unsightly storage or parking of materials, equipment, vehicles, disposal/disposition of abandoned or unwanted boats that become property of the Lessee, and to the extent same is not undertaken by Lessor, managed lawn and ornamental plantings;
- (h) Reimbursement of Lessor's Utility costs and Lessor's costs of infrastructure Maintenance and necessary upgrades, in accordance with NPS Director's Order #35B, any modifications thereto, and other Applicable Laws. Lessor will provide Lessee with Bills of Collection identifying Lessee's pro-rata share of costs pertaining to same;

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(i) Ensuring the Lessor and its representative has keys to the Premises or that locks are installed upon the Premises as Lessor directs (excluding safes), and that nothing impedes Lessor's access to the Premises or any government or other Lessor property.

(j) Developing and submitting to the Lessor for approval a Maintenance Plan that sets forth the Lessee's Maintenance responsibilities with regard to the Premises to ensure that the Premises are maintained to the Lessor's satisfaction during the Lease Term. The Maintenance Plan, when approved by the Lessor, shall be included as Exhibit D to this Lease without further action, and the Lessee shall comply with its terms.

**8.2 Alterations to the Premises**

Any Alterations to the Premises made in the course of Lessee's Maintenance and Repair obligations described in this Lease shall be the property of the Lessor and must be approved in advance by the Lessor in accordance with Section 10 hereof. The Approved Costs of elements of Maintenance Reserve projects that qualify as costs of Alterations under the terms of this Lease are eligible for Rent Offset pursuant to Section 5.4 hereof.

**8.3 Maintenance Reserve Account**

(a) The Lessee shall establish and manage a Maintenance Reserve Account. The funds in the Maintenance Reserve Account shall be used to carry out, on a project basis, Repair and Maintenance needs of the Premises that are non-recurring within a seven-year time frame. Such projects may include Maintenance and Repair of piers, docks, pilings, the travel lift well, foundations, building frames, window frames, sheathing, sub floors, drainage, rehabilitation of building systems such as electrical, plumbing, built-in heating and air conditioning, roof replacement and similar projects. The Lessee will carry out projects as the Lessor shall direct in writing in advance of any expenditure being made and in accordance with project proposals approved by the Lessor. No projects may be commenced until the Lessee receives written approval from the Lessor in accordance with the Lessor's project review and approval process requirements of Section 10 of this Lease.

(b) Projects paid for with funds from the Maintenance Reserve Account will not include routine, operational maintenance of facilities, housekeeping or grounds-keeping activities. Nothing in this Section shall lessen the responsibility of the Lessee to carry out the Repair and Maintenance of the Premises from funds other than those in the Maintenance Reserve Account.

(c) The Lessee shall establish the Maintenance Reserve Account within its accounting system. Within sixty (60) days of the execution of this Lease, Lessee shall deposit funds in the amount of \$500,000 to the Maintenance Reserve Account. The Lessee shall add funds to the Maintenance Reserve Account by the 1st day of every fiscal year this Lease is in effect, to account for funds depleted over the course of the previous year. If the Lessee fails to make timely deposits to the account, the Lessor shall give the Lessee written notice and thirty (30) days to cure such failure, and if the Lessee does not cure such failure within such period, the Lessor, , may elect to either terminate this Lease for default in accordance with Section 18.1 or to require the Lessee to post a bond in an amount equal to the amount of the required Maintenance Reserve. The Lessee shall periodically at times prescribed by the Lessor submit written reports to the Lessor containing such information as the Lessor may require concerning the Maintenance Reserve Account and the related activities of the Lessee

(d) The balance in the Maintenance Reserve Account shall be available for projects in accordance with its purpose. For all expenditures made for each project from the Maintenance Reserve Account, the Lessee shall maintain auditable records including invoices, billings, canceled checks, and other documentation

satisfactory to the Lessor.

(e) Failure to expend Maintenance Reserve Account funds when directed by the Lessor shall be considered as a material breach of this Lease in accordance with Section 18.1 for which the Lessor may seek monetary damages and other legal relief, including, without limitation, termination of this Lease.

(f) In the event of an Assignment of this Lease by Lessee, the expiration of this Lease, and/or any termination of this Lease in accordance with its terms, any balance in the Maintenance Reserve Account shall be returned to the Lessee, provided that the Lessee has completed to the satisfaction of Lessor all Maintenance Reserve Account projects required by Lessor. If not, any such balance required to complete such projects shall be remitted to the successor lessee by Lessee as of the effective date of the Assignment, Lease expiration, or Lease termination, and the remainder shall be returned to the Lessee, or, if there is no successor lessee, any such balance required to complete such projects shall be remitted to the Lessor by Lessee as Additional Rent, and the remainder shall be returned to the Lessee, subject to review and approval of the Lessor.

## **SECTION 9. LESSOR IMPROVEMENTS**

(a) Lessor Improvements made to the Premises such as, but not limited to, structural repairs, replacement of or upgrades to HVAC, mechanical, or electrical systems, repairs to or replacement of the roof, or repairs to windows, as well as any fire prevention system upgrades, and Improvements required by federal, state or local law or regulations (i.e. Americans with Disabilities Act, building codes) may be undertaken by the Lessor at any time during the Lease Term with thirty (30) days' prior notice to the Lessee. Lessor shall use reasonable measures to avoid interference with Lessee's operations and to avoid injury and/or damage to persons and/or Lessee's personal property during the making of any such Lessor Improvements.

(b) In no event shall Lessor be obligated to make Improvements or to Repair and Maintain the Premises.

## **SECTION 10. APPROVAL OF THE LESSEE'S PROPOSED IMPROVEMENTS**

### **10.1 In General**

(a) Any Improvements shall become the property of the United States.

(b) All Initial Improvements and Alterations made by the Lessee shall be undertaken pursuant to the requirements of this Section 10 at the Lessee's sole expense and only with prior written notice to the Lessor and the Lessor's prior written approval; provided that, the requirements of this Section 10 for the approval and construction of Alterations which Lessor considers to be minor in nature (including Alterations which may be part of Lessee Repair and Maintenance or Utility installation, relocation or upgrade project (as described in Section 12 hereof) may be modified by Lessor on a case-by case basis. All work shall be performed in a good and workmanlike manner. If Lessee undertakes any portion of the Initial Improvements or Alterations without Lessor's prior written approval, Lessee shall, if Lessor directs it to do so, deconstruct, uninstall, or otherwise undo, as appropriate, such portion of the Initial Improvements or Alterations and return each part of the Premises impacted by such portion of the Initial Improvements or Alterations to its condition before Lessee undertook such portion of the Initial Improvements or Alterations, all at Lessee's sole cost and expense. Such costs and expenses shall not be eligible for offset in accordance with Section 5.4.

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(c) Any additional structures required in connection with use and occupancy of the Premises must be removable mobile structures, subject to NPS written approval. Such structures shall be the personal property of the Lessee (or an Affiliate of Lessee) and shall be removed by the Lessee at the Lessee's expense upon Lease expiration or termination. Because these structures, including its fixtures and equipment, are removable in their entirety, no rent offset or other compensatory interest shall be obtained by the Lessee in these structures, including its fixtures or equipment. Such structures shall:

- Be discreet, subtle, and low profile
- Be compatible with the surrounding structures, environment, and landscape
- Be built with high-quality materials, be strong and stable and provide a sense of permanence and overall quality in design, yet be easy to remove
- Use subtle integrative colors, compatible with the surrounding structures, environment, and landscape
- Meet compliance criteria and other required standards
- Use attractive yet temporary anchoring systems that allow the structure to be easily removed.
- No new building foundations will be permitted.
- Be designed and maintained so it remains in a high-quality condition for a minimum of 10 years

(d) The Lessee shall undertake Initial Improvements and Alterations in strict accordance with approved Construction Documents, including any proposed change orders. The Lessee must also comply with the following requirements for the construction of Initial Improvements and Alterations:

**1. Pre-Construction Planning & Design**

- Submission of Qualified Team Members - All construction projects are required to be led by a qualified team of project managers, design and construction professionals at the expense of the Lessee. Upon initiation of a new project, the Lessee shall identify the Lessor's project manager, architect(s), engineer(s) and any known construction contractor who will be working on the project. All consultants and contractors must be licensed and/or registered to perform work in the State of New York. Lessee must provide resumes and summary of work for team members if available.
- Code Assessment completed by an architect licensed in the State of New York.
- Annotated Construction Drawings signed and sealed by a licensed design professional (engineer, architect, etc.), including but not limited to architectural, civil - site, structural, electrical, plumbing, HVAC/mechanical, fire suppression system installations, modifications to account for accessibility requirements, etc.
- Construction Specifications signed and sealed by a licensed design professional (engineer, architect, etc.).
- Designs shall account for installing all critical systems (electrical panels, boilers, water heaters, etc.) above the FEMA Base Flood Elevation.
- Buildings open to the public must be made accessible in accordance with ADA-ABA Accessibility Guidelines or current Federal standards.
- The Lessee is required to comply with Lessor's determination, if any, that the services of other professionals are required in order to identify and abate Hazardous Materials such as, but not limited to mold, asbestos, and lead.

(e) The Lessee shall, upon request, furnish the Lessor a correct copy of any current legal authorization with the Lessee's contractors, subcontractors, architects, engineers, or consultants. The Lessor may require the Lessee not to occupy specified portions of or all of the Premises during the construction of Initial Improvements or Alterations if determined by the Lessor as necessary for the protection of health or safety.

**10.2 Enforced Delays**

The Lessee shall not be considered in default in the event of an enforced delay in the construction of Initial Improvements or Alterations due to, as determined by Lessor, unforeseeable causes beyond the Lessee's control for which, as determined by Lessor, there was no fault or negligence on the part of the Lessee. Such enforced delays include, without limitation, public enemies, war, invasion, insurrection, rebellion, riots, terrorism, fires, floods, epidemics, quarantine restrictions, strikes, lockouts, freight embargoes, shortages of material, and unusually severe weather. In the event of an enforced delay, the time or times for construction of Initial Improvements or Alterations may be extended by Lessor for the period of the enforced delay as determined by Lessor.

**10.3 Utilities During Construction**

In the preparation of proposed Construction Documents, the Lessee shall review utility plans for the location of existing utilities that may be affected by any Initial Improvements or Alterations. The Lessee is required to obtain all necessary Utility plans and permits from the appropriate public utility companies.

**10.4 Approval of Construction**

The Lessee must request in writing advance permission from the Lessor to undertake Initial Improvements and/or Alterations. Such requests must include:

- (a) Proposed Construction Documents as described in this Section;
- (b) Evidence of the availability of funding for the project (which may be paid to vendors by an Affiliate of Lessee, at Lessee's option);
- (c) Documentation that required construction and other insurance is in effect; and
- (d) Other information as may be required by the Lessor.

**10.5 Construction Documents**

The proposed Construction Documents submitted to the Lessor must be complete and satisfactory to Lessor as showing all material elements of the Initial Improvements and/or Alterations and related matters. When proposed Construction Documents are approved by the Lessor, the said documents shall become an Exhibit to this Lease without further action.

**10.6 General Scope of Lessor's Review**

(a) The Lessor will not approve proposed Construction Documents unless it is able to determine, among other matters, that the proposed Initial Improvements and/or Alterations are appropriate for the Park Area and consistent with the requirements of Part 18, the Park Area's General Management Plan and other Applicable Laws. Review and approval of proposed projects is subject to any required compliance with the National Environmental Policies Act (NEPA, 42 USC 4321 et seq.).

(b) No inspection performed or not performed by the Lessor shall be deemed to give the Lessor any responsibility or liability with respect to the construction work, its execution or design, or, be deemed to constitute a waiver of any of the Lessee's obligations under this Lease or be construed as approval or acceptance of the Initial Improvements or Alterations (or portions thereof).

**10.7 Changes to Approved Construction Documents**

Any material change in the approved Construction Documents and any deviation in actual construction from these documents are subject to the Lessor's prior written approval under the procedures stated in this Section. An approved change order will be issued by Lessor if proposed changes are approved. The Lessee shall prepare and maintain on the Premises during construction, current, annotated Construction Documents.

**10.8 Evidence of Adequate Funds**

(a) The Lessor will not approve proposed Initial Improvements and/or Alterations unless the Lessee has demonstrated to the satisfaction of the Lessor with appropriate documentation that it (or an Affiliate of Lessee) has available to it funds adequate to undertake and complete the project. The Lessee must comply with Lessor's requests for additional documentation evidencing the availability of the required funding.

(b) The Lessee will make Initial Improvements and Improvements identified in Exhibit D hereto. Such Initial Improvements include the required minimum investment of \$3,772,000 as well as the completion of additional Improvements proposed by the Lessee.

**10.9 Notice to Proceed or Similar Authorization**

Lessee shall not commence Initial Improvements or Alterations until such time as Lessor may issue a notice to proceed or similar written authorization. The notice to proceed or similar written authorization shall contain terms and conditions necessary and appropriate for the construction to commence. The notice to proceed or similar written authorization may be issued by the GATE Chief of Facility Management or his designee.

**10.10 Site Conditions During Construction**

At its cost and expense, the Lessor shall be entitled to have on the Premises at any time during the construction of Initial Improvements and Alterations an inspector or representative who may observe all aspects of the work on the Premises, subject to compliance with Lessee's reasonable construction safety and security protocols. The Lessee shall maintain on the Premises during construction, current, annotated Construction Documents for Initial Improvements and Alterations for inspection by the Lessor.

**10.11 Construction Completion Procedures**

(a) Upon completion of Initial Improvements or Alterations, the Lessee shall submit to the Lessor (in formats specified by the Lessor):

(i) a notice of completion, which shall include a written assessment prepared by an independent third party inspector, hired by the Lessee, concluding that the Initial Improvements and/or Alterations have been completed in compliance with the requirements of applicable local building codes;

(ii) satisfactory evidence of the payment of all costs, expenses, liabilities, and liens arising out of or in any way connected with the Initial Improvements and/or Alterations.

(iii) if there are project drawings, a complete set of "as built" drawings showing all revisions and substitutions during the construction period, including field changes and the final location of

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all mechanical equipment, Utility lines, ducts, outlets, structural member, walls, partitions and other significant features of the Initial Improvements and/or Alterations; and

(iv) a complete inventory of all Fixtures and equipment in or on the Premises, as well as operations and equipment manuals, and copies of warranties upon the completion of the Initial Improvements and/or Alterations.

(b) Upon approval by the Lessor of the satisfactory completion of the Initial Improvements or Alterations, the Lessor will issue a Certificate of Completion stating the Initial Improvements or Alterations, are acceptable and authorizing the Lessee's occupancy (or continued occupancy, if applicable) of the Premises. For avoidance of doubt, the Lessee may occupy and operate the Premises during construction of the Initial Improvements and/or Alterations.

(c) As part of the Certificate of Completion or after its issuance, Lessor will also provide Lessee with Lessor's determination of the total Approved Cost(s) of the Initial Improvements or Alterations for purposes of this Lease.

**10.12 Lessor's Right to Utilize Documents**

(a) In the event of expiration or termination of this Lease in accordance with its terms, the Lessee shall assign and deliver to the Lessor any and all of Lessee's rights to 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 shall include in its agreements with the architects, engineers and other professionals who prepared 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 shall have the right to use such plans and other materials in connection with the Premises.

(b) In furtherance and not in limitation thereof, Lessee (referred to below as "Owner") shall 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, the Architect shall be deemed the author of these Documents and shall retain all common law, statutory and other reserved rights, including the copyright. For the purpose 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 of the modification by other design professionals retained by Owner and 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 National Park Service or any other design professional retained by the Owner or National Park Service. Furthermore, except where the Architect is found to be liable for such claim, damage or loss, the Owner shall hold Architect harmless from any such claim, damage or loss arising out of the modification of the Documents by Owner or the National Park Service or another design professional. The Owner and the National Park Service shall 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 said plans and specifications in accordance with the Lease between the Owner (as Lessee) and the National Park Service (as Lessor) for the Premises leased to

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Lessee associated with the Documents; and Architect agrees to deliver copies of said plans and specifications 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 expenses.”

**SECTION 11. TAXES AND ASSESSMENTS**

**11.1 General.**

The Lessee shall be responsible for the payment to the proper authority, when and as the same become due and payable, all taxes and assessments imposed by federal, state, or local agencies applicable to the Premises or the Lessee’s activities on the Premises. Lessees are not exempt from the payment of local real estate taxes, where applicable, absent any law to the contrary. The Lessee shall have the right to contest, at its own cost and expense, the validity or the amount of any tax and/or assessment levied against the Premises or any improvements thereon, provided that Lessee shall not take any action which will cause or allow the institution of foreclosure proceedings. Lessor shall make reasonable efforts to cooperate in the institution of any such proceedings to contest the validity or amount of real estate taxes and/or assessments and will make reasonable efforts to timely execute any documents required therefor to the extent allowed in accordance with applicable law, regulation, and policy, provided that Lessor shall not be obligated to expend any amounts in making such reasonable efforts. Lessor covenants and agrees that if there shall be any refunds or rebates on account of any tax, assessment, governmental imposition or levy paid by Lessee under the provisions of this Lease, such refund or rebate shall belong to Lessee. Lessee shall have the right, but not the obligation, to apportion, at its own cost and expense, its own tax lot with the New York City Department of Finance. Said apportioned lot will be comprised solely of the Premises and will be separately assessed. Lessor shall make reasonable efforts to cooperate with Lessee in the institution of any such application seeking apportionment of the new lot as well as proceedings to ensure the Premises be properly and separately assessed, provided that the Lessor shall not be obligated to expend any amounts in making such reasonable efforts.

**SECTION 12. UTILITIES**

**12.1 Arrangements with Utility Providers.**

The Lessee at its sole expense shall make all arrangements with appropriate Utility providers (including the Lessor where applicable), for all Utilities furnished to the Premises, including, without limitation, gas, electricity, other power, water, cable, telephone and other communication services, sewage, and waste removal. Any Utility service provided by Lessor will be subject to the Lessor’s established policies and procedures for provision of Utility services to third parties. To the extent such Utilities are provided by the NPS, the Lessee shall remit payment for costs of all Utilities in accordance with Special Directive 83-2, NPS Director’s Order #35B, any modifications thereto, and other applicable law, regulation, and policy. NPS will provide the Lessee with separately billed statements or Bills of Collection (BOC) identifying the Lessee’s costs, if any, pertaining to same.

**12.2 Installation, Relocation, or Upgrades to Utilities.** With respect to Lessee’s installation, relocation, or upgrades to Utilities, and subject to the Lessor’s prior review and approval:

- (a) If necessary for use of the Premises or otherwise identified in Exhibit D – Lessee’s Responsibility for Initial Improvements Lessee must install all Utilities such as but not limited to electrical panels, water heaters, etc., at an elevation sufficient to comply with FEMA and NPS flood consideration guidelines.
- (b) Approved Costs of Lessee Alterations resulting from Utility relocation, installation and upgrade projects may be used by Lessee as a Rent Offset pursuant to Section 5.4 hereof.



**SECTION 13. HAZARDOUS MATERIALS**

The Lessee shall comply with the following provisions concerning Hazardous Materials:

- (a) No Hazardous Materials shall be used, treated, kept, stored, sold, released, discharged or disposed of from, on, about, under or into the Premises except in compliance with all Applicable Laws and as approved by the Lessor in writing;
- (b) The Lessee shall use, manage, treat, keep, store, release discharge and dispose of its approved Hazardous Materials in accordance with all Applicable Laws. The Lessee is responsible for timely acquisition of any permits required for its Hazardous Materials and related activities and will be fully responsible for compliance with the provisions and conditions of such permits;
- (c) If any Hazardous Materials Occurrence caused by Lessee results in any contamination of the Premises, other Park Area property or neighboring property, the Lessee shall promptly take all actions at its sole expense as are required to comply with Applicable Laws and to allow the Premises or such other property to be used free of any use restriction imposed under Applicable Laws as a result of the Hazardous Materials Occurrence;
- (d) Except in cases of emergency, the Lessor's written approval of such actions shall first be obtained; Lessee at its expense shall be responsible for the abatement of Hazardous Materials in accordance with Applicable Laws in, on, or under the Premises as of the Commencement Date and thereafter; and if the Lessee discovers any unapproved Hazardous Materials in or on the Premises or becomes aware of a Hazardous Materials Occurrence related to the Premises, the Lessee shall immediately notify the Lessor.

**SECTION 14. INSURANCE AND INDEMNIFICATION**

**14.1 Insurance During the Lease Term**

At all times during the Lease Term and at the Lessee's sole expense, Lessee shall obtain and keep in force for the benefit of the Lessee and Lessor the insurance coverages set forth in Exhibit B to this Lease under the terms and conditions of Exhibit B.

**14.2 Insurance Requirements Modification**

If the Lessor at any time, but not more than annually, believes that the limits or extent of coverage, conditions, deductibles or self-insurance retention, with respect to any of the insurance required by this Lease are insufficient for a prudent owner of property of the nature of the Premises, the Lessor may determine, by giving the Lessee thirty (30) days written notice, the proper and reasonable limits and extent of coverage, deductibles, conditions, and self-insurance retention limits for such insurance and such insurance shall thereafter be carried by the Lessee until changed pursuant to the provisions of this section.

**14.3 Disposition of Insurance Proceeds**

Except as otherwise provided in this Lease, all insurance proceeds received by or payable with respect to damage or destruction of the Premises, less actual expenses incurred in connection with their collection, shall be distributed in the manner directed by the Lessee, except that the Lessor reserves the absolute right to determine whether the Premises will be rebuilt in the event of destruction of the Premises.

**14.4 Inadequate Insurance Coverage**

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As detailed in Exhibit B attached hereto, the Lessee's responsibilities under this Lease for the Repair or Replacement of the Premises assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers. No approval by the Lessor of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by the Lessor of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible. Lessor shall not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by Lessee proves to be inadequate or otherwise insufficient for any reason whatsoever.

**14.5 Indemnity**

The Lessee shall indemnify, defend, save 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, damages, injuries, losses, penalties, fines, costs, liabilities, causes of action, judgments, and expenses, including without limitation expenses (collectively, "Claims") incurred in connection with or arising in any way out of this Lease, the use, occupancy or manner of use or occupancy of the Premises by the Lessee or any other person or entity, the design, construction, maintenance, the condition of the Premises, and/or any accident or occurrence on the Premises from any cause whatsoever; provided, however, that the Lessee shall not be liable to the extent that the Claims result from the willful misconduct or gross negligence of the United States of America, or its employees, contractors, or agents; provided, further, that the United States of America shall be liable only to the extent such claims are covered by the Federal Tort Claims Act (28 USC 2671 et seq.).

**SECTION 15. DAMAGE OR DESTRUCTION**

**15.1 Damage or Destruction**

If, at any time during the Lease Term, the Premises are Substantially Damaged as the result of causes determined by Lessor as beyond Lessee's control, or the Premises are rendered inaccessible resulting in the Lessee's inability to undertake its primary use of the Premises as a result of significant damage or destruction to the Park Area which resulted from circumstances determined by Lessor as beyond Lessee's control, one of the following sequences of events set forth in (a), (b), or (c) below may occur:

(a) The Lessee, if so directed by Lessor, shall as promptly as reasonably practicable and with all due diligence Repair or Replace the damaged or destroyed Premises to the condition that existed prior to the damage or destruction; unless Lessor terminates the Lease in accordance with its provisions, in which event Lessee shall not be obligated to Repair or Replace the damaged or destroyed Premises, but will remain obligated to comply with Section 15.1(d) hereof;

(b) If the Lessor determines that the Repair or Replacement work shall require three (3) years or more from the date of such casualty to complete, the Lessor may terminate this Lease by providing sixty (60) days' written notice to the Lessee within three hundred sixty (360) days after the date of the casualty, in which case the Lease shall terminate as of the date specified in the above specified notice and any insurance proceeds or proceeds shall be distributed as directed by Lessee pursuant to Section 14.3 hereof; or

(c) The Lessee may terminate this Lease without liability by providing sixty (60) days' written notice to the Lessor within three hundred sixty (360) days of the date of the casualty, in which case the Lease shall terminate sixty (60) days from the date the Lessee provided the above specified written notice, and any insurance proceeds or proceeds shall be distributed as directed by Lessee pursuant to Section 14.3 hereof.

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In the event Lessee fails to vacate the Premises within sixty (60) days of providing notice as described above, Lessee shall continue to be obligated for Rent as required by this Lease until Lessee vacates the Premises.

(d) In the event that Lessor terminates this Lease pursuant to Section 15.1(b) or Lessee terminates this lease pursuant to Section 15.1(c), Lessee shall be obligated to secure and stabilize the Premises and any property thereon, and take all necessary actions to make the Premises safe and free of debris, obstruction, or hazardous condition until Lessor takes possession of the Premises, which Lessor shall do on or before the Termination Date assuming the stabilization efforts identified above have been completed to the satisfaction of the Lessor.

(e) In the event of damage to or destruction of the Premises in whole or in part by any cause whatsoever, nothing herein contained shall be deemed to require Lessor to Replace or Repair the Premises. If Lessor determines in writing, delivered to Lessee within three hundred sixty (360) days after the date that the Premises are Substantially Damaged, that the Repair or Replacement of such damage to the Premises or portions thereof shall require three (3) years or more from the date of such casualty to complete, Lessor may assume sole control over such damaged Premises or damaged portions thereof concurrently with such determination, in which event the Lease shall terminate as of the date indicated in the above specified notice, Lessee shall not be obligated to repair or replace any such damage, except that the Lessee shall be obligated to secure the Premises and any property thereon, and take all necessary actions to make the Premises safe and free of debris, obstruction, or hazardous condition. Thereafter all insurance proceeds with respect thereto shall be distributed as directed by Lessee pursuant to Section 14.3 hereof. Lessor shall not be liable to Lessee for losses resulting from the termination of this Lease in accordance with its provisions. Any Improvements or other investments made to the Premises by the Lessee remain the property of the United States.

**15.2 No Termination; No Effect on Rental Obligation**

No loss or damage by fire or other cause resulting in either partial or total destruction of the Premises, the Fixtures and Equipment thereon, or any other property on the Premises, shall operate to terminate this Lease except as provided in Section 15.1 of this Lease. No such loss or damage shall affect or relieve the Lessee from the Lessee's obligation to pay the Rent required by this Lease for the period prior to any termination of this Lease and in no event shall the Lessee be entitled to any refund, return, or rebate of Rent required hereunder for the period prior to any termination of this Lease. No such loss or damage shall relieve or discharge the Lessee from the payment of taxes, assessments, or other charges as they become due and payable, or from performance of the other terms and conditions of this Lease, for the period prior to any termination of this Lease. The costs of Improvements made in response to damage or destruction to the Premises are not eligible for Rent Offset.

**SECTION 16. LIENS**

**16.1. No Power in Lessee to Create**

The Lessee shall have no power to take any action that may create or be the foundation for any lien, mortgage or other rights upon the reversion, fee interest or other estate of the Lessor or of any interest of the Lessor in the Premises, except as otherwise may be expressly approved by the Lessor in writing in accordance with the terms of this Lease.

**16.2. Discharge of Liens by Lessee**

The Lessee shall not suffer or permit any liens known to the Lessee to stand against the Premises for any

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reason. If a lien is filed against the Premises, the Lessee shall cause it to be discharged of record within one hundred twenty calendar (120) days after written notice to the Lessee of filing the lien. If the Lessee fails to discharge or contest the lien within this period and the failure shall continue for a period of forty-five calendar (45) days after notice by the Lessor, then, in addition to any other right or remedy of the Lessor, the Lessor may, but shall not be required, to procure the discharge of the lien either by paying the amount claimed to be due, by deposit in court, or by bonding. All amounts paid or deposited by the Lessor for any of these purposes, and all other reasonable expenses of the Lessor and all necessary and reasonable disbursements in connection with them, shall become due and payable forthwith by the Lessee to the Lessor upon written demand therefore as Additional Rent.

**16.3 No Consent or Waiver by Lessor**

Nothing in this Lease shall be deemed to be or be construed in any way as constituting the consent or request of the Lessor, expressed or implied, by inference or otherwise, to any person, firm or corporation, for performance of any labor or the furnishing of any materials in connection with the Premises.

**SECTION 17. ASSIGNMENTS, ENCUMBRANCES AND SUBLEASES**

**17.1 Assignments**

(a) The Lessee may effectuate an Assignment (including sale) of this Lease, in whole or in part, or any real property on the Premises, or any part thereof or any property thereon, or grant any interest, privilege or license in connection with this Lease, only with the express prior written permission of the Lessor. Approval of any such transactions is in the discretion of the Lessor and the Lessor shall not grant an approval unless it is able to determine that the proposed assignee is financially and managerially capable of carrying out the terms of this Lease.

(b) With respect to such proposed Assignments and without otherwise limiting the criteria upon which the Lessor may withhold consent to any proposed Assignment, the Lessee shall furnish to the Lessor the following information: [1] all instruments proposed to implement the transaction; [2] a statement as to the existence of any litigation questioning the validity of the proposed transaction; [3] a description of the management qualifications and financial background of the proposed transferee, if any; [4] a detailed description of the financial aspects of the proposed transaction including but not limited to prospective financial forecast statements that have been examined by an independent accounting firm and that demonstrate to the satisfaction of the Lessor that terms of the transfer do not impede or interfere with the financial ability of the Lessee to perform the requirements of this Lease; [5] if the transaction may result in an Encumbrance on the Lessee's assets, full particulars of the terms and conditions of the Encumbrance; and [6] such other information as the Lessor may require. The Lessor shall have the right to approve the form of any such proposed transaction.

(c) The Lessee agrees and acknowledges that as a condition to any Assignment, among other things, the Lessee must cause and direct any new lessee to ratify and assume all of Lessee's obligations under the Lease including the obligation to replenish and maintain the Maintenance Reserve Account.

(d) The Lessor has an unconditional right to assign this Lease or any or all of its rights and obligations under it at any time.

**17.2 Encumbrances**

The Lessee may not effectuate an Encumbrance on the Premises except with the prior written permission of the Lessor. Approval of any Encumbrance is in the discretion of the Lessor and in no event shall an

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Encumbrance be approved unless the Lessor is able to determine that it only grants its holder, in the event of a foreclosure, to assume the responsibilities of the Lessee under this Lease or to select a qualified new lessee subject to the written approval of the Lessor, and that it does not grant its holder any rights to alter or amend in any manner the terms and conditions of this Lease.

**17.3 Subleases**

(a) The Lessee must obtain written approval from the Lessor prior to entering into Subleases (including approval of the proposed Sublessee) of all or part of the Premises or the transfer of a Sublease to a new Sublessee. Lessee shall submit such documentation of the proposed Sublease and proposed Sublessee as the Lessor may require in connection with a request for an approval of a Sublease or Sublessee. Approval of proposed Subleases and Sublessees is in the discretion of Lessor taking into consideration the financial and managerial qualifications of the proposed Sublessee.

(b) NPS review and approval of sub-lease terms and conditions is required prior to Lessee's use or issuance of same. NPS reserves the right to revoke, suspend, or terminate any sub-lease in the event any sub-lessee fails to keep and perform any of the terms and conditions of the sub-lease or the GATE Superintendent has determined the sub-lessee is engaging in activity inconsistent with the Park's mission.

**SECTION 18. DEFAULTS, LESSOR'S REMEDIES, AND LESSEE TERMINATION**

**18.1 Termination for Default**

The Lessor may terminate this Lease for default if the Lessee fails to keep and perform any of the terms and conditions of this Lease, provided that the Lessor shall first give the Lessee written notice of at least thirty (30) calendar days in the case of monetary defaults and forty-five (45) calendar days in the case of non-monetary defaults of the Lessor's intention to terminate if the default is not cured within the applicable time period, provided also that if any non-monetary default is of a nature to require more than forty-five (45) days for cure, as determined by the Lessor, this Lease shall not terminate if Lessee undertakes procedures to cure the default within such forty-five (45) day period and thereafter diligently pursues such efforts to cure to completion, as determined by Lessor. If the Lessor terminates this Lease in accordance with its provisions, all of the rights of the Lessee under this Lease and in the Premises shall terminate except for such rights as expressly survive termination.

**18.2 Bankruptcy**

The Lessor may terminate this Lease, in its discretion, in the event of a filing or execution of: (a) a petition in bankruptcy by or against the Lessee which is not dismissed within ninety calendar (90) days of its filing; (b) a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor which is not dismissed within ninety calendar (90) days of its filing; (c) an Assignment for the benefit of creditors of the Lessee; (d) a petition or other proceeding against the Lessee for the appointment of a trustee, receiver or liquidator which is not vacated within ninety calendar (90) days thereafter; or (e) the taking by any person of the leasehold created by this Lease or any part thereof upon execution, attachment or other process of law, which taking is not vacated or released within ninety (90) calendar days thereafter.

**18.3 No Waiver**

No failure by the Lessor to insist upon the strict performance of any of the terms and conditions of this Lease or to exercise any right or remedy upon a default, and no acceptance by the Lessor of full or partial Rent during the continuance of any default shall constitute a waiver of any default or of such terms and

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conditions. No terms and conditions of this Lease may be waived or modified except by a written instrument executed by the Lessor and the Lessee. No waiver of any default shall affect or alter this Lease, but each and every term and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent default.

**18.4 Lessor's Right to Cure Defaults**

If a default occurs under the terms of this Lease and the Lessee fails to correct the default within the applicable grace period, the Lessor may choose to correct the default (entering upon the Premises for such purposes if necessary), and the Lessor shall not be liable or in any way responsible for any loss, disturbance, inconvenience, or damage resulting to the Lessee as a result (except to the extent authorized by applicable federal law, including the Federal Tort Claims Act, codified as amended primarily at 28 USC 2671-80 (2018)), and the Lessee shall pay to the Lessor upon demand the entire expense of the correction as Additional Rent, including, without limitation, compensation to the agents, consultants and contractors of the Lessor and related expenses. The Lessor may act upon shorter notice or no notice at all if necessary in the Lessor's judgment to meet an emergency situation or governmental time limitation or to protect the Lessor's interest in the Premises.

**18.5 Letter of Credit**

Concurrently with its execution and delivery of this Lease, the Lessee shall deliver to the Lessor an irrevocable standby letter of credit in the amount of not less than \$3,772,000 Million Dollars (the "Credit Amount") issued by a reputable national bank, naming Lessor as the beneficiary, and which shall be in effect for the duration of the Lease Term, provided that the letter of credit may be issued for one year at a time and renewed for an additional year before expiration and that the Credit Amount shall be automatically reduced in a sum equal to the cost of all completed Improvements made by Lessee in accordance with the terms of this Lease and accepted by Lessor. At a minimum, the letter of credit or similar instrument shall provide that the Lessor may draw on it by delivering to the issuing bank the original letter of credit, an affidavit of Lessor certifying to the issuer in writing that the Lessee is in default under the Lease beyond any applicable notice and cure period, attached to which are a true and correct copy of Lessor's notice of default to Lessee, a true and correct copy of proof of Lessee's receipt thereof from the third party that delivered it to Lessee, and a certified copy of a judgment by a court of competent jurisdiction in favor of Lessor against Lessee confirming that Lessee defaulted under the Lease beyond the applicable notice and cure period (the "Judgment"). Lessor shall not present the letter of credit for payment unless Lessee has defaulted under the Lease and has failed to cure a non-monetary default after receipt of written notice and expiration of the applicable cure period or Lessee has failed to make any payment of Rent within the period specified in the Lease and has failed to cure such monetary default after receipt of written notice and expiration of the applicable cure period, and Lessor has obtained the Judgment. The Lessee acknowledges that the letter of credit is meant as a third party guaranty of Lessee's obligations under the Lease and is posted to protect the Lessor's right to receive its future rents and additional rents that would have been payable under the Lease following such default and failure to cure. The Lessee further acknowledges that Lessor may draw on letter of credit in accordance with the provisions of this Section 18.5 without notice to Lessee even if the exercise of other default remedies requires prior notice.

The issuer of the letter of credit (i) shall indemnify the Lessor for the breach of any of and all of the obligations of the Lessee under the Lease if such breach has not been cured after receipt of written notice of breach from Lessor and expiration of the applicable cure period, and (ii) shall indemnify the Lessor from all losses or damages, howsoever arising, including without limitation, loss of future rents and additional rents that would have been payable under the Lease, the cost of repairing the Premises and reasonable attorney's fees, resulting from termination of the Lease by Lessor in accordance with its terms due to a default by Lessee which was not cured within any applicable notice and cure period, termination by court

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order, disclaimer by a trustee in bankruptcy, and disclaimer by the Lessee pursuant to a bankruptcy proceeding, but excluding termination of the Lease by Lessee pursuant to any express right of Lessee to do so and termination of the Lease by court order relating to any express right of Lessee to terminate the Lease. The letter of credit when issued, shall become a part of this Lease as Exhibit I hereto.

**SECTION 19. SURRENDER AND HOLDING OVER**

**19.1 Surrender of the Premises**

(a) On or before the Expiration Date or Termination Date of this Lease, the Lessee shall surrender and vacate the Premises, remove Lessee's Personal Property and Equipment, and return the Premises to Lessor in good order and condition, except for ordinary wear and tear.

For these purposes, the Lessor shall prepare prior to the Expiration or Termination Date, a written report to Lessee that shall constitute the basis for settlement by the Lessee to the Lessor for elements of the Premises (including Fixtures), shown to be lost, damaged, destroyed, inoperable or in bad repair, except for ordinary wear and tear. Such report will become an Exhibit to this Lease upon issuance by Lessor and acceptance by Lessee, which acceptance shall not be unreasonably withheld, delayed, or conditioned. Any such elements of the Premises shall be either replaced or returned to the condition required under this Section by the Lessee, or, at the election of the Lessor, reimbursement made therefor by the Lessee to the Lessor as Additional Rent at the then current market value thereof. The costs of any Improvements made by Lessee in complying with the report are not eligible for Rent Offset.

**19.2 Holding Over**

This Lease shall end upon the Expiration Date or Termination Date and any holding over by the Lessee or the acceptance by the Lessor of any form of payment of Rent or other charges after such date shall not constitute a renewal of this Lease or give the Lessee any rights under this Lease or in or to the Premises.

**SECTION 20. EQUAL OPPORTUNITY LAWS**

The Lessee and Lessee's Affiliates shall comply with the requirements of (a) Title VII of the Civil Rights Act of 1964 (as amended), as well as Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967; (b) Title V, Sections 503 and 504 of the Rehabilitation Act of September 26, 1973, Public Law 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 C.F.R. 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) and all other Applicable Laws relating to nondiscrimination in employment and in providing facilities and services to the public. The Lessee shall do nothing in advertising for employees that will prevent those covered by these laws from qualifying for such employment.

**SECTION 21. NOTICES**

(a) Except as otherwise provided in this Lease, any notice, consent or other communication required or permitted under this Lease shall be in writing and shall be delivered by hand, sent by overnight courier, sent by prepaid registered or certified mail with return receipt requested, or by prepaid priority mail with delivery confirmation and addressed as appropriate to the following addresses (or to such other or further

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addresses as the parties may designate by notice given in accordance with this section):

**If to the Lessor:**

Superintendent  
Gateway National Recreation Area  
210 New York Avenue  
Staten Island, New York 10305  
718-354-4665

Unit Coordinator  
Staten Island Unit Gateway National Recreation Area  
210 New York Avenue  
Staten Island, New York 10305  
718 -815-3656

**If to the Lessee:**

[Lessee's address and name of person to whom the notice should be addressed]

Steven V. Maksin  
Chief Executive Officer  
Moonbeam Great Kills Marina LLC  
155 Oceana Drive East, Suite PH2D  
Brooklyn, New York 11235  
+1-702-968-2474 ext. 707  
[S.MAKSIN@MLGPLL.C.COM](mailto:S.MAKSIN@MLGPLL.C.COM)

Jacqueline S. Ackerman, Esq.  
Chief Legal Counsel  
Moonbeam Leasing & Management LLC  
9101 Alta Drive, Suite 1801  
Las Vegas, Nevada 89145  
+1-702-968-2474 ext. 777  
[J.ACKERMAN@MLGPLL.C.COM](mailto:J.ACKERMAN@MLGPLL.C.COM)

(b) Electronic notification to the Lessor or the Lessee is permitted; though such notification will not have been deemed received until the recipient issues a written response.

**SECTION 22. GENERAL PROVISIONS**

The following general provisions apply to this Lease:

(a) The Lessor is not for any purpose a partner or joint venture participant of the Lessee in the development or operation of the Premises or in any business conducted on the Premises. The Lessor under no circumstances shall be responsible or obligated for any losses or liabilities of the Lessee. The Lessee shall not publicize, or otherwise circulate, promotional or other material of any nature that states or implies endorsement of the Lessee or its services or products by the Lessor or any other governmental agency.

(b) This Lease shall 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 right to enforce any provision of this Lease.



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- (c) This Lease provides no right of renewal or extension to the Lessee, nor does it provide the Lessee with the right to award of a new lease upon termination or expiration of this Lease. No rights shall be acquired by virtue of this Lease entitling the Lessee to claim benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646.
- (d) The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the Lessor shall have the right to terminate this Lease for default.
- (e) In case any one or more of the provisions of this Lease shall for any reason be held to be invalid, such invalidity shall not affect any other provision of this Lease, and this Lease shall be construed as if the invalid provisions had not been contained in this Lease.
- (f) All Exhibits included in this Lease upon execution are hereby considered as attached to and incorporated in this Lease as of the Commencement Date. All exhibits prepared after the Lease has commenced will be incorporated in this Lease upon written acceptance by the Lessor. .
- (g) Time is of the essence to this Lease and all of its terms and conditions.
- (h) The laws of the United States shall govern the validity, construction and effect of this Lease.
- (i) This Lease constitutes the entire agreement between the Lessor and Lessee with respect to its subject matter and supersedes all prior offers, negotiations, oral and written. This Lease may not be amended or modified in any respect except by an instrument in writing signed by the Lessor.
- (j) The voluntary sale or other surrender of this Lease by the Lessee to the Lessor, or a mutual cancellation, or the termination by the Lessor pursuant to any provision of this Lease, shall not work a merger, but, at the option of the Lessor, shall either terminate any or all existing Subleases hereunder or operate as an Assignment to the Lessor of any or all of Subleases.
- (k) If more than one Lessee is named in this Lease, each Lessee shall be jointly and severally liable for performance of the obligations of this Lease.
- (l) Any and all remedies available to each party for the enforcement of the provisions of this Lease are cumulative and are not exclusive, and Lessor shall be entitled to pursue either the rights enumerated in this Lease or remedies authorized by law, or both. Lessee shall be liable for any actual costs or 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.
- (m) The Lessee shall not construct new buildings or structures on the Premises except as permitted herein.
- (n) Nothing contained in this Lease shall be construed as binding the Lessor to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year or administratively allocated for the subject matter of this Lease, or to involve the Lessor in any contract or other obligation for the future expenditure of money in excess of such appropriations. Nothing in this Lease shall be construed as preventing the cancellation of this Lease by the Lessor in the exercise of sovereign authority otherwise provided by Applicable Laws.

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(o) As stated in Section 2.1(c), this Lease excepts to the Lessor the right, at reasonable times, to enter upon the Premises as may be necessary for the purposes of the administration of this Lease and/or the Park Area as determined by the Lessor and to close any portion of the Premises, or the Premises in the entirety as necessary, when immediate danger to life or property is discovered. To the extent possible, the Lessor will give reasonable advance notice to Lessee prior to entry; provided that, in the event the Lessor is required to enter the Premises when immediate danger to life or property is discovered, the Lessor will thereafter immediately notify Lessee.

(p) Initial Improvements or Alterations made by the Lessee without required written notification and approvals from Lessor described in this Lease are prohibited. In the event such any Initial Improvements or Alterations are made by the Lessee without such required written notice and approvals, the Lessor may terminate this Lease for default in accordance with Section 18.1 and/or impose liquidated damages (payable by Lessee to Lessor as Additional Rent) in the amount of \$1,000 per violation per day (as adjusted by NPS annually) and require removal by the Lessee at its expense of the non-compliant Initial Improvements or Alterations. Lessee costs for non-compliant Initial Improvements or Alterations are not eligible for Rent Offset.

(q) Lessee must provide documentation satisfactory to NPS in support of any requests for rent offset. Such documentation shall include but is not limited to invoices supported by receipts and cancelled checks showing that the cost has been incurred and payment has been received/can be verified through negotiable instruments. Cash expenditures are not eligible for rent offset.

(r) The Lessee shall not construct new buildings or structures on the Premises, except that, with the prior written approval of the Lessor, the Lessee may construct related additions, buildings and/or structures determined by the Lessor to be necessary for support of the uses authorized by this Lease. If directed by the Lessor, Lessee must remove temporary structures constructed by the Lessee at the Lessee's cost and expense.

(s) Lessor reserves the right to conduct periodic inspections of the Premises. Lessee must comply with any determinations made by Lessor pertaining to life, health, safety, and maintenance considerations.

(t) Authorization to conduct the activities addressed herein may be temporarily suspended at the discretion of the Superintendent: upon such prior notice, if any, as is reasonable under the circumstances (e.g. telephonic and email notice) in the event that an emergency posing an imminent danger of death, serious personal injury, fatal infectious disease, or substantial damage to the Premises' occurs or is threatened, or that damage to resources occurs or is threatened or in the event Superintendent determines it necessary in the interest of public safety, public health, general welfare, or if there has been conduct unbecoming the mission and values of the NPS, notwithstanding any other term or condition of this authorization to the contrary. The Superintendent shall reauthorize the suspended activities upon the cessation or cure of the conditions cited in written notification to Lessee. Any temporary suspension shall be limited to the minimum period the Lessor determines is necessary to remove the imminent danger.

(u) Notwithstanding any provision to the contrary, in the event of the expiration or earlier termination of this Lease in accordance with its terms, or destruction of the Premises where Lessor has determined the Premises will not be rebuilt, the Lessee shall secure and stabilize the Premises and any property thereon, and take all necessary actions to make the Premises safe and free of debris, obstruction, or hazardous condition. This condition shall survive the termination or expiration of the Lease.

(v) All paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Lease or to define, limit, or describe the scope or intent of this

**MOONBEAM GREAT KILLS MARINA LLC**

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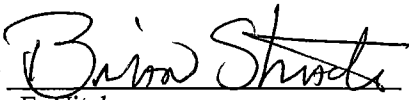
Lease or the particular paragraphs hereof to which they refer.

(w) This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted.

**IN WITNESS WHEREOF**, the Regional Director, Northeast Region, National Park Service, acting on behalf of the United States, in the exercise of the delegated authority from the Secretary of the Interior, as Lessor; and Moonbeam Great Kills Marina LLC the Lessee/s, have executed this Lease by proper persons thereunto duly authorized as of the date heretofore written.

**LESSOR**


**The UNITED STATES DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE**

for **By**   
Gay E. Vitzke  
Regional Director  
National Park Service  
Interior Region 1, North Atlantic - Appalachian

**Date:** 12/28/2019

**LESSEE/S**

**MOONBEAM GREAT KILLS MARINA LLC**

**By**   
Steven V. Maksin  
Chief Executive Officer  
Moonbeam Great Kills Marina LLC

**Date:** November 18, 2019

MOONBEAM GREAT KILLS MARINA LLC

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EXHIBIT A:  
Inventory and Condition Report  
Existing Conditions  
SAMPLE

The following real property improvements are assigned to the Lessee for use in conducting its operations under this Lease. Lessee assets may be updated as Improvements are completed and approved by NPS.

Asset	Description: Location # _____ Asset List also identified as Building in Location of Park	Condition	
	Roofing System	Good	Accepted As Is
	*Exterior System	Good	Accepted As Is
	Exterior Doors System	Good	Accepted As Is
	Window System	Good	Accepted As Is
	Utility System	Good	Accepted As Is
	Interior System	Good	Accepted As Is
	Electrical System	Good	Accepted As Is
	Special Structures	Good	Accepted As Is
	Special Structures	Good	Accepted As Is
	Alarm System, Fire 1201 SF	Good	Accepted As Is
	Generic Electrical	Good	Accepted As Is
	Generic Electrical	Good	Accepted As Is
	Electric Transmission/Distribution	Good	Accepted As Is
	Boiler	Good	Accepted As Is
	Domestic Water Distribution	Good	Accepted As Is
	Plumbing Fixture	Good	Accepted As Is
	Plumbing Fixture	Good	Accepted As Is
	Plumbing Fixture	Good	Accepted As Is
	Interior Finish	Good	Accepted As Is
	Interior Finish	Good	Accepted As Is
	Interior Finish	Good	Accepted As Is
			Accepted As Is
			Accepted As Is
			Accepted As Is
			Accepted As Is

**EXHIBIT B: Insurance Requirements**

During the term of this Lease, the Lessee shall obtain and maintain during the entire term of this Lease, at its sole cost and expense, the following insurance coverage (where applicable as determined by the Lessor) under the following general terms and conditions and under such specific terms and conditions as the Lessor may further require with respect to each particular insurance policy.

No act of the Lessee, its agents, servants, or employees may impair any and all insurance coverage provided for the benefit of, or evidenced to the Lessor. The Lessee must ensure that its insurance carriers provide the Lessor, solely for the benefit of the Lessor, an unconditional thirty (30) days' advance notice of cancellation in coverage or policy terms for all property insurance. Lessee must provide the Service with a 30-day notice of cancellation on all liability and workers' compensation insurance policies.

The amounts of insurance, limits of liability, and coverage terms included are not intended as a limitation of the Lessee's responsibility or liability under the Lease. In the event the Lessee purchases insurance in addition to the limits set forth herein, the Lessor shall receive the benefit of the additional amounts of insurance without additional cost to the Lessor.

**B.1 Types of Insurance (Non-Construction)**

(a) Property Insurance - An all risk or special form, including fire, vandalism and malicious mischief insurance. The amount of such insurance shall be the full insurable value of the Premises. All such policies shall specify that proceeds shall be payable whether or not any damaged or destroyed Premises or elements thereof are actually rebuilt. All such policies shall waive any requirement that a building or structure be replaced at its original site. Property Insurance must include but is not limited to:

(1) Inland Marine Coverage

(i) Insurance shall apply to all docks, piers, and slips, structures, temporary/non-permanent/mobile or other, equipment, boats, trailers, and storage racks, owned or rented by the insured, unless otherwise covered by building and contents coverage or provided for as part of a watercraft, or protection & indemnity liability policy.

(ii) Coverage shall apply to direct damage to covered property.

(iii) Flood and earthquake coverage shall be maintained.

(iv) Coverage shall be maintained while covered property is in transit or away from the insured's premises.

(v) No coinsurance clause shall apply.

(b) Flood Insurance - Lessees must obtain flood insurance in sufficient coverage amounts. Flood Insurance may be available through the National Flood Insurance Program (NFIP): [https://www.floodsmart.gov/floodsmart/pages/residential\\_coverage/rc\\_overview.jsp](https://www.floodsmart.gov/floodsmart/pages/residential_coverage/rc_overview.jsp)

(c) Boiler and Machinery Insurance – Boiler and Machinery at full replacement cost. The policy shall specify that proceeds shall be payable whether or not any damaged or destroyed Fixtures, Equipment or other elements of the Premises are actually replaced or rebuilt. The policy shall include an endorsement

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that waives any provision of the policy that requires a building or structure to be replaced at its original site, provided that, such endorsement shall not operate to increase the insurance company's liability under the policy.

(d) Worker's Compensation and Employer's Liability Insurance - Worker's compensation insurance in the statutory amounts and coverage required under worker's compensation, disability and similar employee benefit laws applicable to the Premises and to the Lessee's use and occupancy of the Premises; and employer's liability insurance, with limits of not less than the minimum amounts required by State of New York for bodily injury per incident and aggregate, or such higher amounts as may be required by law.

(e) General Liability - Comprehensive Farm Liability and/or Commercial General Liability through one or more primary and umbrella liability policies against claims for bodily injury and property damage occurring on the Premises, the Improvements thereon, or the streets, curbs or sidewalks adjoining the Premises, with such limits as may be required by the Lessor, and commensurate with the authorized use, but in any event not less than two million dollars (\$2,000,000.00) per incident and six million dollars (\$6,000,000.00) aggregate for the Premises. Such insurance shall insure the performance by the Lessee of its indemnity obligations under this Lease.

(1) The liability coverages may not contain the following exclusions/limitations:

- (i) Athletic or Sports Participants
- (ii) Products/Completed Operations
- (iii) Personal & Advertising Injury exclusion or limitation
- (iv) Contractual Liability
- (v) Explosion, Collapse and Underground Property Damage exclusion
- (vi) Total Pollution exclusion

(2) Pollution liability insurance coverage must be included for injuries resulting from smoke, fumes, vapor, or soot, or other contaminants arising from equipment used to heat the building or from a hostile fire.

(f) Automobile Liability- if applicable.

(g) Excess Liability or "Umbrella" Liability - The Lessee may use an Excess or "Umbrella" liability policy to achieve the Commercial General Liability and automobile liability limits set forth above. The limit of liability under the excess policy must be in an amount that together with the subordinate policy meets the minimum limit of liability required.

The Lessee is not required to obtain Excess Liability or "Umbrella" liability coverage, but may use it to supplement any insurance policies obtained to meet the minimum requirements of the Lease. If maintained, the Lessee will provide coverage for bodily injury, property damage, personal injury, or advertising injury liability in excess of any scheduled underlying insurance. In addition, coverage must be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance must be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or "Umbrella" Liability policy.

(h) Watercraft Liability- Each Common Cause Limit---\$1,000,000

OR

Watercraft Liability (or Protection & Indemnity)

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The Lessee must provide coverage for bodily injury and property damage arising out of the use of any watercraft.

Each Occurrence Limit \$1,000,000

Marina liability shall be maintained at the same Each Occurrence Limit if the Lessee operates a marina, and tower's liability shall be maintained at the same Each Occurrence Limit if the Lessee tows or transports non-owned vessels by water.

- (i) Marina Lessee's Legal Liability- Any One Loss---\$13,000,000 Aggregate Limit.
- (j) Liquor Liability – Proof of Liquor Liability is required, if alcohol is served or made available at the Premises in connection with the proposed use of the Premises. The Lessee must provide coverage for bodily injury and property damage including damages for care, loss of services, or loss of support arising out of the selling, serving, or furnishing of any alcoholic beverages in amounts as may be required by the Lessor, but in any event not less than \$2,000,000 Each Common Cause Limit/\$3,000,000 Aggregate Limit.
- (k) Other - All other insurance that the Lessee should maintain to adequately protect the Premises, Lessor, and Lessee.

**B.2 Insurance During Construction**

At all times during construction, the Lessee at its sole expense, shall obtain and keep in force for the benefit of the Lessee and Lessor the following insurance coverages:

- (a) If requested by Lessor at any time, performance and payment bonds approved by the Lessor, which bonds shall cover payment of all obligations arising under all contracts let in connection with a construction and guaranteeing performance and payment under the applicable contracts, and payment in full of all claims for labor performed and materials supplied under such current contracts. The bonds shall be issued by a responsible surety company, licensed to do business in the state where the Park Area is located, in an amount not less than the amount of the respective contracts, including without limitation, amounts for cost overruns, price increases, change orders, forced delays and the like, and shall remain in effect until the entire work under the contracts is completed; and
- (b) To the extent not covered by other property insurance maintained by the Lessee, comprehensive "all risk" or "special form" builder's risk insurance, including vandalism and malicious mischief, covering the construction, all materials and equipment stored at the Premises and furnished under a construction contract, and all materials and equipment that are in the process of fabrication at the Premises of any third party or that have been placed in due course of transit to the Premises when such fabrication or transit is at the risk of, or when title to or an insurable interest in such materials or equipment, has passed to the Lessee, such insurance to be written on a completed value basis in an amount not less than the full estimated replacement cost of the construction.

**B.3 Conditions of Insurance.**

- (a) The policy or policies required by this Exhibit shall provide that in the event of loss, the proceeds of the policy or policies shall be payable to the Lessee; provided, however, that the insurer, after payment of any proceeds to the Lessee, will have no obligation or liability with respect to the use or disposition of the proceeds by the Lessee.
- (b) All property and liability insurance policies shall name the Lessor as an additional insured.
- (c)

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(j) All of the insurance required by this Exhibit and all renewals shall be issued by one or more companies of recognized responsibility licensed to do business in the state in which the Park Area is located with a financial rating of at least a Class A- (or equivalent) status, as rated in the most recent edition of Best's Insurance Reports (or equivalent) or as otherwise acceptable to the Lessor.

(d) All insurance policies shall provide that such policies shall not be cancelled, terminated or altered without thirty (30) days prior written notice to the Lessor. The Lessee must provide to the Lessor a copy of each policy and a certificate of the policy executed by a properly qualified representative of the insurance company evidencing that the required insurance coverage is in full force and effect on or before the Commencement Date, and annually thereafter. The Lessee shall maintain all policies provided throughout the Lease Term and the Lessee shall renew such policies before the expiration of the term of the policy.

(e) If the Lessor at any time, but not more than annually, believes that the limits or extent of coverage, deductibles or self-insurance retention, with respect to any of the insurance required by this Exhibit are insufficient for a prudent owner of property of the nature of the Premises, the Lessor may determine, and shall give the Lessee thirty (30) days' written notice of such determination, the proper and reasonable limits and extent of coverage, deductibles and self-insurance retention limits for such insurance and such insurance shall thereafter be carried by the Lessee until changed pursuant to the provisions of this Exhibit.

(f) The Lessee assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers. No approval by the Lessor of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by the Lessor of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible.

(g) The Lessee and Lessee's Agents shall not do anything, or permit anything to be done, in or about the Premises or on adjacent or nearby property that would invalidate or be in conflict with the provisions of any fire or other insurance policies covering the Premises or result in a refusal by insurance companies of good standing to insure the Premises in the amounts required under this Exhibit.



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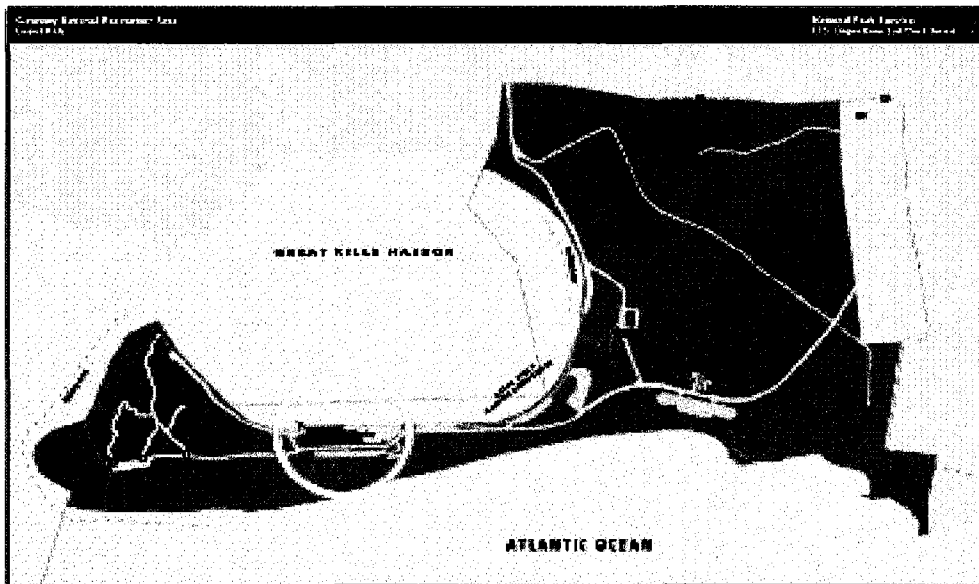
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**EXHIBIT C: PROPERTY DESCRIPTION/LAND ASSIGNMENT**

The Premises and any Land Assignment identified in Section 2.1 of this Lease is described and depicted as follows:

- Great Kills Marina, 3270 Hylan Blvd, Staten Island, NY 10306



The Premises do not include, but Lessee shall have the non-exclusive right to enjoy:

- Corresponding ingress and egress

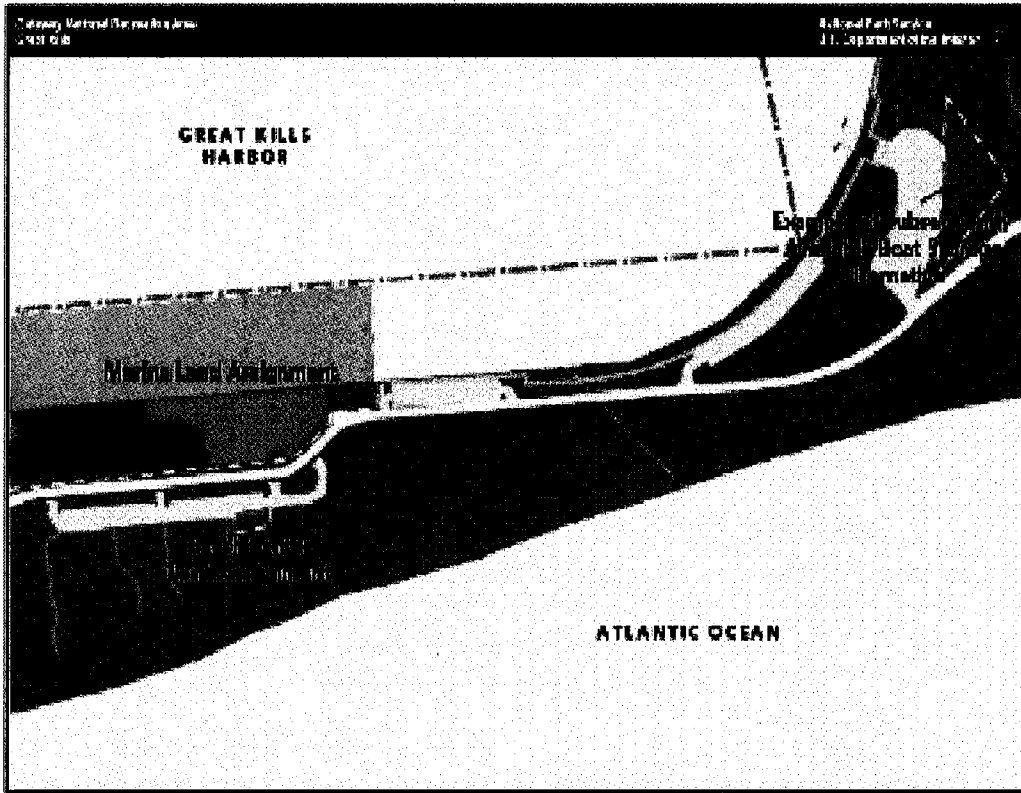
The Lessee will be assigned the below lands assignment area in support of operating a marina and includes:

- Lands and Submerged Lands as depicted below
- Boat Storage Area
- Land adjacent to the Beach Center Building – FMSS# \_\_\_\_\_, as depicted below/ in the map/drawing entitled “Beach Center Building (portion) – included in the Premises.”

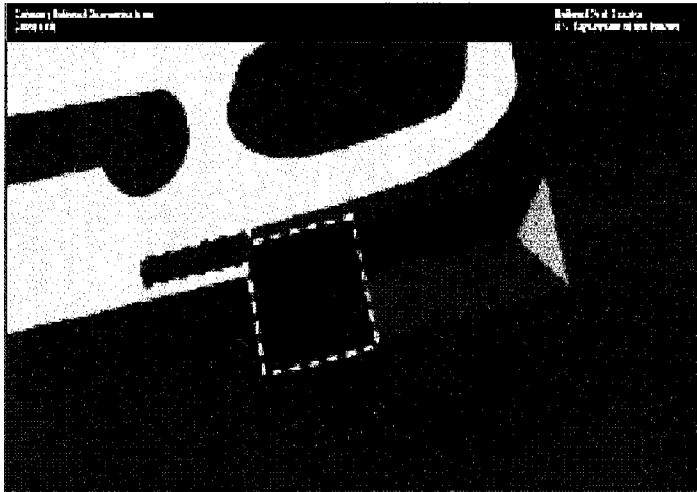
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**Land Assignment Leased Premise**



**Land Assignment - Beach Center**

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**EXHIBIT C-1: FUTURE LAND ASSIGNMENT FOR BOAT STORAGE**

**RESERVED FOR**

**NEW BOAT STORAGE AREA**

**EXHIBIT D: LESSEE'S RESPONSIBILITY FOR INITIAL IMPROVEMENTS**

**I. REQUIRED INITIAL IMPROVEMENTS** – Lessee is obligated to make the following Initial Improvements in an amount not less than \$3,772,000. Any Improvements proposed by the Lessee **require Lessor approval in accordance with Section 10 of the Lease before Lessee may undertake same.**

- **Improvement to the appearance of the Premises:** Timeline to be addressed as part of the Lease negotiations. NPS is seeking proposals that enhance the appearance of the Premises and encourage public access to the waterfront area.
- **Boat Storage:** NPS is seeking proposals that will relocate the current boat storage facility. The actual area proposed for long term boat storage must be approved by NPS. Such approvals will require corresponding compliance review. Additionally, the Lessee will be responsible for fencing, security, transporting vessels, launching and removing vessels, and providing related access to the water. Applicants may propose a two phased approach. Applicants are advised the park is undergoing environmental cleanup efforts nearby and lands for long boat term storage may not be available until remediation is completed. NPS has provided an “Example of Subsequently Available Boat Storage Alternate Location” in this RFP. If a two phased approach is contemplated, applicant **must** address the following:
  - Short Term: Within the first 3 years of the Lease Term, improve boat storage at the current location. The park will consider proposals that include but are not limited to vertical stacking options to off-site boat storage.
  - Long Term: Applicants must propose the method by which they will transport vessels to and from the long term storage location. Transport of vessels will not be permitted along Buffalo Road. Applicants may be authorized to install a new travel lift well as the public boat launch will not be available for this function.
- **Parking Lot/Current Boat Storage Area:** Within the first year of the Lease Term, complete stabilization, repair, and maintenance of all parking lots assigned under the Lease.
- **Bulkhead:** Within the first year of the Lease Term, complete stabilization, repair, and maintenance of the bulkhead associated with the parking and storage areas assigned under the Lease.
- **Potable Water:** Within the first year of the Lease Term, repair/replace potable water piping connectors under the floating docks and walkways.
- **Transformers:** Within the first year of the Lease Term, repair/replacement of three electrical transformers.
- **Fence:** To be addressed as part of the Lease negotiations, removal of the existing fencing to:
  - create an open area
  - allow for pedestrian access between the marina area and the Beach Center Facility
- **Security:** Required immediately upon Lessee's possession of the Premises, implement or install Marina security sufficient to protect the Premises and the property contained therein (instead of fencing). Security may include but is not limited to electronic surveillance systems, on-site security personnel, or other methods proposed by the Applicant sufficient to protect the entire Leased Premises.
- **Communication Infrastructure:** Install internet or other communications services to the marina. NPS will issue any corresponding Permits and Rights of Way necessary to undertake the installation of the required communications infrastructure. Lessee will be obligated to comply with any terms and conditions contained therein.
- **Life, Safety, and Health Issues:** Immediately upon discovery whether by NPS or the Lessee, Life, safety, and health issues have not been identified by NPS however, such issues, if later discovered must be corrected by the Lessee as a condition of use and occupancy of the

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Leased Premises.

<b>GATE - STIS-Great Kills Marina RFP Minimum Investment Cost Estimate</b>		
All Improvements are Subject to NPS Approval		
See NPS Approvals - Design and Construction Process		
<b>Item</b>	<b>Description and Proposed Implementation</b>	<b>Minimum Investment Estimate</b>
Boat Storage Area (Short Term)	Within the first three years of the Lease Term, improve the current boat storage area.	TBD
Boat Storage Area (Long Term)	Create new upland boat storage lot at a non-contiguous area to be determined.	\$750,000
Boat Storage Area (Long Term)	Revitalize current boat storage area and return to parking lot use.	\$1,300,000
Boat Storage Area (Long Term)	Install a paved Promenade style walkway/bike path along the length of the waterfront with a 20,000sf event pad at the end of the parking lot.	\$700,000
Marina Bulkhead	Within the first year of the Lease Term, Repair of approximately 500 linear feet.	\$500,000
Potable Water Piping	Within the first year of the Lease Term, Replace fittings and pipe as necessary to eliminate repeated seasonal failures.	\$200,000
Transformers	Within the first year of the Lease Term, Replace 3 failing 480v to 220v/110v step down transformers supplying electric to slip pedestals.	\$72,000
Marina Security	Immediately upon possession of the Leased Premises, implement or install marina security sufficient to protect the Leased Premises and the property contained therein. Additionally, provide dock access card/badge/code system to restrict access to dock area (estimates for this portion of the Improvements is included).	\$100,000

Communication Infrastructure	Within the first three years of the Lease Term, Install fiber optic cable conduit or equivalent from Marina to NPS Ranger Station to Hylan Blvd or as otherwise required for service.	\$150,000
Parking Lots	Within the first year of the Lease Term, complete stabilization, repair, and maintenance of all parking lots assigned under the Lease.	TBD
Life Safety Issues	Immediately Upon Discovery	TBD
<b>TOTAL</b>		<b>\$3,772,000</b>

\*The deadline for completing improvements will be extended on a day for day basis for a period equal to the number of days between the Commencement Date and the date any Lessor approvals required in connection with same are obtained by the Lessee.

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**THE BELOW HAS NOT BEEN APPROVED BY NPS**

Anticipated Capital Investments  
Great Kills Marina

Project/Location	Description of Work	Required Investments		Moonbeam Additional Investments	Bidding Contractor or Estimate Source**
		NPS Estimates	Moonbeam Preliminary Bids*		
Boat Storage Area	Clean up/Improve	TBD		\$60,000	Time & Materials Estimate
	Create New Boat Storage	\$750,000	\$880,000		City Productions & Services
	Return to Parking	\$1,300,000	\$990,000		City Productions & Services
Promenade	Extend Promenade	\$700,000	\$450,000		City Productions & Services
	Add Event Pad		\$300,000		City Productions & Services
Bulkhead	Repair/Replace	\$500,000	\$400,000		City Productions & Services
Potable Water Piping	Repair/Replace	\$200,000	\$88,000		City Productions & Services
Transformers	Replace	\$72,000	\$72,000		NPS Estimate
Security	Surveillance System	\$100,000	\$100,000		NPS Estimate
	Additional personnel			\$104,000	Hourly Rate Estimate
Communications	Infrastructure	\$150,000	\$150,000		NPS Estimate
	Marina Connectivity			\$60,000	Ryetech Solutions
Parking Lots	Stabilize/Repair	TBD		\$115,000	In-House Budgetary Estimate
Life Safety Issues	As they Arise	TBD		\$100,000	Contingency
New Boat Storage	Add Service Facility			\$250,000	Benjamin Move
	Travel Lift			\$200,000	Internet Pricing Survey
Beach Center	Build Captain's Kitchen			\$120,000	In-House Budgetary Estimate
	Outfit Country Store			\$95,000	In-House Budgetary Estimate
	Open Dining Bay			\$65,000	In-House Budgetary Estimate
Phase II Upgrades	(Not including NewSlips)			\$385,000	In-House Budgetary Estimate
<b>NPS Totals</b>		<b>\$3,772,000</b>	<b>\$3,430,000</b>	<b>\$1,554,000</b>	<b>*10% Cost Savings</b>
<b>Moonbeam Total Anticipated Capital Investments</b>				<b>\$4,984,000</b>	<b>**See EXHIBIT #1-6</b>

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**EXHIBIT E: MAINTENANCE PLAN**

To become part of the Lease when approved by Lessor in accordance with Section 8.2 of the Lease

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**LESSEE's REQUEST FOR ADDITIONAL PROPOSED IMPROVEMENTS**

**RESERVED**

PLACE HOLDER for plans approved by NPS.



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Lease Number GATE 1770 1105 2019 STIS

Expires 2079

**EXHIBIT F: CERTIFICATE OF COMPLETION REPORT**

**RESERVED for**

Certificate of Completion indicating Initial Improvements or Alterations, are acceptable and authorizing the Lessee's occupancy (or continued occupancy, if applicable).

**EXHIBIT G – TRANSITION BETWEEN LESSEES**

TRANSITION REQUIREMENTS

SEC 1. GENERAL

The Lessor and the Lessee hereby agree that, in the event of the expiration or termination of this legal authorization for any reason permitted hereunder (hereinafter “Termination” for purposes of this Exhibit) and the Lessee is not to continue the operations authorized under this current legal authorization after the Termination Date, the Lessor and the Lessee in good faith will fully cooperate with one another and with the new Lessee or Lessees selected by the Lessor to continue such operations (“New Lessee” for purposes of this Exhibit), to achieve an orderly transition of operations in order to avoid disruption of services to park area visitors and minimize transition expenses.

SEC 2. COOPERATION PRIOR TO THE TERMINATION DATE

At such time as the Lessor may notify the Lessee that it will not continue its operations upon the Termination of this current legal authorization, the Lessee, notwithstanding such notification, shall undertake the following tasks.

**(a) Continue Operations**

The Lessee shall continue to provide services and otherwise comply with the terms of the current legal authorization in the ordinary course of business and endeavor to meet the same standards of service and quality that were being provided previously, and with a view to maintaining customer satisfaction.

**(b) Continue Bookings**

(1) The Lessee shall continue to accept all future bookings for any facilities and services for which advance reservations are taken; not divert any bookings to other facilities managed or owned by the Lessee or any affiliate of the Lessee; and notify all guests with bookings for any period after the Termination Date that the New Lessee will operate the facilities and services.

(2) Promptly following notification to the Lessee by the Lessor of the selection of the New Lessee, the Lessee shall provide the New Lessee with a copy of Lessee’s reservation log for services as of the last day of the month prior to the selection of the New Lessee, and thereafter the Lessee shall update such log on a periodic basis (but no less frequently than thirty (30) days) until the Termination Date. The reservation log shall include, without limitation, the name of each guest, and the guest’s address, contact information, dates of stay, rate quoted, amount of advance deposit received and confirmation number, if applicable.

**(c) Designating a Point of Contact and Other Actions**

(1) The Lessee shall designate one of the Lessee’s executives as the point of contact for communications between the Lessee and the New Lessee.

(2) The Lessee shall provide the New Lessee with access to the Premises during normal business hours without restriction, subject to being accompanied by a representative of Lessee and complying with Lessee’s reasonable safety and security protocols. The Lessee also shall provide the New Lessee copies of the keys to the Premises (excluding safes) prior to the expiration or termination of this Lease in accordance with its terms.

**EXHIBIT G – TRANSITION BETWEEN LESSEES**

TRANSITION REQUIREMENTS continued

(3) Upon receipt of reasonable advance notice from either the Lessor or the New Lessee, the Lessee shall provide the Lessor and the New Lessee full access to the books and records, licenses and all other materials pertaining to the Premises during normal business hours at the Premises.

(4) Upon receipt of written request from either the Lessor or the New Lessee, the Lessee shall provide the Lessor and the New Lessee with copies of all maintenance agreements, equipment leases (including short-wave radio), service contracts, and supply contracts, including current legal authorizations for on-order merchandise (collectively, “current legal authorizations”), and copies any other licenses and permits (collectively, “licenses”).

(5) Upon receipt of written request from the New Lessee the Lessee may allow the New Lessee to solicit and interview for employment before or after normal business hours all of the Lessee’s onsite salaried and hourly employees, including seasonal employees, through a coordinated process implemented by the Lessee.

(6) The Lessee shall not enter into any current legal authorizations or agreements that would be binding on the Premises in general after the Termination Date without the prior written agreement of the New Lessee and the Lessor.

**(d) Financial Reports**

Within thirty (30) days after receipt of the notification of the selection of the New Lessee, the Lessee shall provide the New Lessee with a financial report with respect to the operation of the Premises in general as of the last day of the month prior to receipt of such notification. The Lessee, thereafter, shall update such financial report on a periodic basis (but no less frequently than thirty (30) days) until the Termination Date. Such financial report shall include, at a minimum: a balance sheet for the Lessee’s assigned Real Property Improvements, if any; a schedule of pending accounts payable; and a schedule of pending accounts receivable.

**(e) Personal Property List**

The Lessee shall provide the New Lessee with a complete, detailed, and well-organized list of physical inventory, supplies, and other personal property owned or leased by the Lessee and used at the Premises in connection with its operations under the current legal authorization (including a list of such items that are on order). The Lessee must provide the list to the New Lessee within thirty (30) days following receipt of the notification of the selection of the New Lessee. The Lessee, thereafter, shall update the list on a monthly basis. The Lessee shall designate those items that the Lessee believes are essential to maintaining the Premises. The Lessee shall assist the New Lessee in reviewing and validating the list.

**(f) Other Information and Reports**

The Lessee shall provide the New Lessee with all other information and reports as would be helpful in facilitating the transition, including, without limitation, a list of maintenance records for the Lessee’s operations for the period of one year prior to notification of the selection of the New Lessee. The Lessee must also provide complete information on the following to the New Lessee: utilities, including gas and electric; telephone service; water service; and specific opening and closing procedures. The Lessee must provide all such information within thirty (30) days after receipt of notification of the selection of the

New **EXHIBIT G – TRANSITION BETWEEN LESSEES**

TRANSITION REQUIREMENTS continued

Lessee and update the information periodically (but no less frequently than thirty (30) days) until the Termination Date.

**(g) Other Cooperation**

The Lessee shall provide the Lessor and the New Lessee with such other cooperation as reasonably may be requested.

**SEC 3. COOPERATION UPON THE TERMINATION DATE**

Upon the Termination Date, the Lessee shall undertake the following activities.

**(a) Transfer of current legal authorizations and Licenses**

The Lessee shall cooperate with the transfer or assignment of all current legal authorizations and Licenses entered into by the Lessee that the New Lessee elects to assume.

**(b) Reservation Systems**

(1) The Lessee shall provide the New Lessee with an update of the reservation log through the Termination Date.

(2) The Lessee shall disconnect its operations from the Lessee's centralized reservation system, if any.

(3) The Lessee shall assist the New Lessee in transitioning to the New Lessee's reservation system.

**(c) Fees and Payments**

No later than ten (10) days after the Termination Date, the Lessee shall provide the Lessor with an itemized statement of all fees and payments due to the Lessor under the terms of the current legal authorization as of the Termination Date, including, without limitation, all deferred, accrued and unpaid fees and charges. The Lessee, within ten (10) days of its delivery to the Lessor of this itemized statement, shall pay such fees and payments to the Lessor. The Lessee and the Lessor acknowledge that adjustments may be required because of information that was not available at the time of the statement.

**(d) Access to Records**

The Lessee shall make available to the Lessor for the Lessor's collection, retention and use, copies of all books, records, licenses, permits and other information in the Lessee's possession or control that in the opinion of the Lessor are related to or necessary for orderly and continued operations of the related facilities and services, notwithstanding any other provision of this legal authorization to the contrary.

**(e) Removal of Marks**

The Lessee shall remove (with no compensation to Lessee) all items of inventory and supplies as may be marked with any trade name or trademark belonging to the Lessee within thirty (30) days after the Termination Date.

**MOONBEAM GREAT KILLS MARINA LLC**

Lease Number GATE 1770 1105 2019 STIS

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(f) Other Cooperation

The Lessee shall provide the Lessor and the New Lessee with such other cooperation as reasonably may be requested.

**MOONBEAM GREAT KILLS MARINA LLC**  
 Lease Number GATE 1770 1105 2019 STIS  
 Expires 2079

**EXHIBIT H: SAMPLE ANNUAL RENT PAYMENT SCHEDULE**

**To be adjusted in accordance with Lease Terms**

YEAR	Gross Revenues	Annual Rent (base rent + percentage rent)	Base Rent	Percentage Rent	NPS Approved Offset Balance	NPS Approved Offset Balance-Year End (NPS Approved Offset Balance minus Percentage Rent)	Adjusted Offset Balance (Return of 2% on Offset Balance)	Annual Rent Balance
1: 2020	\$ 1,737,183.00	\$ 337,404.22	\$ 155,000.00	\$ 182,404.22	\$ 3,772,000.00	\$ 3,589,595.79	\$ 3,661,387.70	\$ 155,000.00
2: 2021	\$ 1,771,926.66	\$ 344,152.30	\$ 158,100.00	\$ 186,052.30	\$ 3,661,387.70	\$ 3,475,335.40	\$ 3,544,842.11	\$ 158,100.00
3: 2022	\$ 1,807,365.19	\$ 351,035.35	\$ 161,262.00	\$ 189,773.35	\$ 3,544,842.11	\$ 3,355,068.76	\$ 3,422,170.14	\$ 161,262.00
4: 2023	\$ 1,843,512.50	\$ 358,056.05	\$ 164,487.24	\$ 193,568.81	\$ 3,422,170.14	\$ 3,228,601.33	\$ 3,293,173.35	\$ 164,487.24
5: 2024	\$ 1,880,382.75	\$ 365,217.17	\$ 167,776.98	\$ 197,440.19	\$ 3,293,173.35	\$ 3,095,733.17	\$ 3,157,647.83	\$ 167,776.98
6: 2025	\$ 1,917,990.40	\$ 372,316.49	\$ 171,132.52	\$ 206,183.97	\$ 3,157,647.83	\$ 2,951,463.86	\$ 3,010,493.14	\$ 171,132.52
7: 2026	\$ 1,956,350.21	\$ 384,862.82	\$ 174,555.17	\$ 210,307.65	\$ 3,010,493.14	\$ 2,800,185.49	\$ 2,856,189.20	\$ 174,555.17
8: 2027	\$ 1,995,477.21	\$ 392,560.08	\$ 178,046.28	\$ 214,513.80	\$ 2,856,189.20	\$ 2,641,675.40	\$ 2,694,508.91	\$ 178,046.28
9: 2028	\$ 2,035,386.76	\$ 400,411.28	\$ 181,607.20	\$ 218,804.08	\$ 2,694,508.91	\$ 2,475,704.83	\$ 2,525,218.93	\$ 181,607.20
10: 2029	\$ 2,076,094.49	\$ 408,419.51	\$ 185,239.35	\$ 223,180.16	\$ 2,525,218.93	\$ 2,302,038.77	\$ 2,348,079.54	\$ 185,239.35
11: 2030	\$ 2,117,616.38	\$ 416,587.90	\$ 188,944.14	\$ 227,643.76	\$ 2,348,079.54	\$ 2,120,435.78	\$ 2,162,844.50	\$ 188,944.14
12: 2031	\$ 2,159,968.71	\$ 424,919.65	\$ 192,723.02	\$ 232,196.64	\$ 2,162,844.50	\$ 1,930,647.86	\$ 1,969,260.82	\$ 192,723.02
13: 2032	\$ 2,203,168.09	\$ 433,418.05	\$ 196,577.48	\$ 236,840.57	\$ 1,969,260.82	\$ 1,732,420.25	\$ 1,767,068.66	\$ 196,577.48
14: 2033	\$ 2,247,231.45	\$ 442,086.41	\$ 200,509.03	\$ 241,577.38	\$ 1,767,068.66	\$ 1,525,491.28	\$ 1,556,001.10	\$ 200,509.03
15: 2034	\$ 2,292,176.08	\$ 450,928.14	\$ 204,519.21	\$ 246,408.93	\$ 1,556,001.10	\$ 1,309,592.17	\$ 1,335,784.02	\$ 204,519.21
16: 2035	\$ 2,338,019.60	\$ 459,946.70	\$ 208,609.59	\$ 251,337.11	\$ 1,335,784.02	\$ 1,084,446.91	\$ 1,106,135.85	\$ 208,609.59
17: 2036	\$ 2,384,779.99	\$ 469,145.63	\$ 212,781.78	\$ 256,363.85	\$ 1,106,135.85	\$ 849,772.00	\$ 866,767.44	\$ 212,781.78
18: 2037	\$ 2,432,475.59	\$ 478,528.55	\$ 217,037.42	\$ 261,491.13	\$ 866,767.44	\$ 605,276.31	\$ 617,381.84	\$ 217,037.42
19: 2038	\$ 2,481,125.10	\$ 488,099.12	\$ 221,378.17	\$ 266,720.95	\$ 617,381.84	\$ 350,660.89	\$ 357,674.11	\$ 221,378.17
20: 2039	\$ 2,530,747.60	\$ 497,861.10	\$ 225,805.73	\$ 272,055.37	\$ 357,674.11	\$ 85,618.74	\$ 87,331.12	\$ 225,805.73
21: 2040	\$ 2,581,362.56	\$ 514,271.73	\$ 230,321.85	\$ 283,949.88	\$ 87,331.12	\$ -	\$ -	\$ 230,321.85
22: 2041	\$ 2,632,989.81	\$ 524,557.16	\$ 234,928.28	\$ 289,628.88	\$ -	\$ -	\$ -	\$ 234,928.28
23: 2042	\$ 2,685,649.60	\$ 535,048.31	\$ 239,626.85	\$ 295,421.46	\$ -	\$ -	\$ -	\$ 239,626.85
24: 2043	\$ 2,739,362.59	\$ 545,749.27	\$ 244,419.39	\$ 301,329.89	\$ -	\$ -	\$ -	\$ 244,419.39
25: 2044	\$ 2,794,149.85	\$ 556,664.26	\$ 249,307.77	\$ 307,356.48	\$ -	\$ -	\$ -	\$ 249,307.77
26: 2045	\$ 2,850,032.84	\$ 567,797.54	\$ 254,293.93	\$ 313,503.61	\$ -	\$ -	\$ -	\$ 254,293.93
27: 2046	\$ 2,907,033.50	\$ 579,153.49	\$ 259,379.81	\$ 319,773.69	\$ -	\$ -	\$ -	\$ 259,379.81
28: 2047	\$ 2,965,174.17	\$ 590,736.56	\$ 264,567.40	\$ 326,169.16	\$ -	\$ -	\$ -	\$ 264,567.40
29: 2048	\$ 3,024,477.65	\$ 602,551.29	\$ 269,858.75	\$ 332,692.54	\$ -	\$ -	\$ -	\$ 269,858.75
30: 2049	\$ 3,084,967.21	\$ 614,602.32	\$ 275,255.93	\$ 339,346.39	\$ -	\$ -	\$ -	\$ 275,255.93
31: 2050	\$ 3,146,666.55	\$ 626,913.03	\$ 280,761.05	\$ 346,159.99	\$ -	\$ -	\$ -	\$ 280,761.05
32: 2051	\$ 3,209,599.88	\$ 640,456.25	\$ 286,376.27	\$ 353,179.99	\$ -	\$ -	\$ -	\$ 286,376.27
33: 2052	\$ 3,273,791.88	\$ 660,405.38	\$ 292,103.79	\$ 360,301.59	\$ -	\$ -	\$ -	\$ 292,103.79
34: 2053	\$ 3,339,267.72	\$ 673,613.49	\$ 297,945.87	\$ 367,667.62	\$ -	\$ -	\$ -	\$ 297,945.87
35: 2054	\$ 3,406,053.07	\$ 687,085.76	\$ 303,904.78	\$ 375,180.97	\$ -	\$ -	\$ -	\$ 303,904.78
36: 2055	\$ 3,474,174.13	\$ 700,827.47	\$ 309,982.88	\$ 382,844.59	\$ -	\$ -	\$ -	\$ 309,982.88
37: 2056	\$ 3,543,657.62	\$ 714,844.02	\$ 316,182.54	\$ 390,661.48	\$ -	\$ -	\$ -	\$ 316,182.54
38: 2057	\$ 3,614,530.77	\$ 729,140.90	\$ 322,506.19	\$ 406,634.71	\$ -	\$ -	\$ -	\$ 322,506.19
39: 2058	\$ 3,686,821.38	\$ 743,723.72	\$ 328,956.31	\$ 414,767.41	\$ -	\$ -	\$ -	\$ 328,956.31
40: 2059	\$ 3,760,557.81	\$ 758,598.19	\$ 335,535.44	\$ 423,062.75	\$ -	\$ -	\$ -	\$ 335,535.44
41: 2060	\$ 3,835,768.97	\$ 792,949.00	\$ 342,246.15	\$ 450,702.85	\$ -	\$ -	\$ -	\$ 342,246.15
42: 2061	\$ 3,912,484.35	\$ 808,807.98	\$ 349,091.07	\$ 459,716.91	\$ -	\$ -	\$ -	\$ 349,091.07
43: 2062	\$ 3,990,734.03	\$ 824,984.14	\$ 356,072.89	\$ 468,911.25	\$ -	\$ -	\$ -	\$ 356,072.89
44: 2063	\$ 4,070,548.71	\$ 841,483.82	\$ 363,194.35	\$ 478,289.47	\$ -	\$ -	\$ -	\$ 363,194.35
45: 2064	\$ 4,151,959.69	\$ 858,313.50	\$ 370,458.24	\$ 487,855.26	\$ -	\$ -	\$ -	\$ 370,458.24
46: 2065	\$ 4,234,998.88	\$ 875,479.77	\$ 377,867.40	\$ 497,612.37	\$ -	\$ -	\$ -	\$ 377,867.40
47: 2066	\$ 4,319,698.86	\$ 892,989.37	\$ 385,424.75	\$ 507,564.62	\$ -	\$ -	\$ -	\$ 385,424.75
48: 2067	\$ 4,406,092.84	\$ 910,849.15	\$ 393,133.24	\$ 517,715.91	\$ -	\$ -	\$ -	\$ 393,133.24
49: 2068	\$ 4,494,214.69	\$ 929,066.14	\$ 400,995.91	\$ 528,070.23	\$ -	\$ -	\$ -	\$ 400,995.91
50: 2069	\$ 4,584,098.99	\$ 947,647.46	\$ 409,015.83	\$ 538,631.63	\$ -	\$ -	\$ -	\$ 409,015.83
51: 2070	\$ 4,675,780.97	\$ 978,289.86	\$ 417,196.14	\$ 561,093.72	\$ -	\$ -	\$ -	\$ 417,196.14
52: 2071	\$ 4,769,296.59	\$ 997,855.66	\$ 425,540.07	\$ 572,315.59	\$ -	\$ -	\$ -	\$ 425,540.07
53: 2072	\$ 4,864,682.52	\$ 1,017,812.77	\$ 434,050.87	\$ 583,761.90	\$ -	\$ -	\$ -	\$ 434,050.87
54: 2073	\$ 4,961,976.17	\$ 1,038,169.03	\$ 442,731.89	\$ 595,437.14	\$ -	\$ -	\$ -	\$ 442,731.89
55: 2074	\$ 5,061,215.69	\$ 1,058,932.41	\$ 451,586.52	\$ 607,345.88	\$ -	\$ -	\$ -	\$ 451,586.52
56: 2075	\$ 5,162,440.01	\$ 1,080,111.06	\$ 460,618.25	\$ 619,492.80	\$ -	\$ -	\$ -	\$ 460,618.25
57: 2076	\$ 5,265,688.81	\$ 1,101,713.28	\$ 469,830.62	\$ 631,882.66	\$ -	\$ -	\$ -	\$ 469,830.62
58: 2077	\$ 5,371,002.58	\$ 1,123,747.54	\$ 479,227.23	\$ 644,520.31	\$ -	\$ -	\$ -	\$ 479,227.23
59: 2078	\$ 5,478,422.63	\$ 1,146,222.49	\$ 488,811.78	\$ 657,410.72	\$ -	\$ -	\$ -	\$ 488,811.78
60: 2079	\$ 5,587,991.09	\$ 1,169,146.94	\$ 498,588.01	\$ 670,558.93	\$ -	\$ -	\$ -	\$ 498,588.01
60 YEARS	\$ 198,128,395.40	\$ 40,257,116.01	\$ 17,677,988.61	\$ 22,579,127.40			\$ 4,602,195.30	\$ 35,654,920.71

**MOONBEAM GREAT KILLS MARINA LLC**  
Lease Number GATE 1770 1105 2019 STIS  
Expires 2079

**EXHIBIT I: LETTER OF CREDIT**

RESERVED for  
the letter of credit, which when issued, shall become a part of this Lease as Exhibit I hereto.

**MOONBEAM GREAT KILLS MARINA LLC**  
 Lease Number GATE 1770 1105 2019 STIS  
 Expires 2079

**EXHIBIT J - SAMPLE RENT OFFSET REQUEST FORM**

**Rent-Offset Request Pre-Construction:**      Today's Date: 4/11/2019

Lease Name:	Click here to enter text.
Lease Number:	Click here to enter text.
Building Number/Address:	Click here to enter text.
Contact Information (POC, E-mail, Phone):	Click here to enter text.

Description of proposed task/improvement, etc.: Description of work to be done; Detail costs and identify any subcontractors or other entities; Identify the location at which the work is expected to take place.  
 Click here to enter text.

Analysis of why these tasks/improvements are not routine maintenance, routine repair/replacement, and why the structure/equipment qualifies for Rent-Offset. SPECIFIC SECTIONS of the CONTRACT must be cited.  
 Click here to enter text.

Proposed Work Dates	
Work to begin on: 4/11/2019	Work to be completed by:

#	Inspection Questions	Yes	No
1	Are negotiations complete and the work contract or agreement already established?	<input type="checkbox"/>	<input type="checkbox"/>
2	In this a stand-alone report need the work, the total amount to be \$0.00 to be desired?	<input type="checkbox"/>	<input type="checkbox"/>
3	Does the work qualify for a manufacturer warranty claim?	<input type="checkbox"/>	<input type="checkbox"/>
4	Does the work qualify for an insurance claim?	<input type="checkbox"/>	<input type="checkbox"/>
5	Will this work result in an increase in capacity or potential for additional revenue?	<input type="checkbox"/>	<input type="checkbox"/>
6	Have you provided NPS cost estimates, drawings, plans, specifications, or related materials for review?	<input type="checkbox"/>	<input type="checkbox"/>
7	Will this work result in a new service or capability different from anything previously available?	<input type="checkbox"/>	<input type="checkbox"/>
8	Will the work change current use of the property as anticipated under the Lease?	<input type="checkbox"/>	<input type="checkbox"/>
9	City or State Agency (Dept. of DEP, DEP, DNR, etc.) Permit, Inspection, or Notification required?	<input type="checkbox"/>	<input type="checkbox"/>
10	Will the work be limited to the land assignment boundaries in the Lease?	<input type="checkbox"/>	<input type="checkbox"/>
11	Will the work requested result in ground disturbance?	<input type="checkbox"/>	<input type="checkbox"/>

Additional Comments/Questions for NPS, and notes for questions answered *See Above*  
 Click here to enter text.

Submitted by (Signature):	Click here to enter text.
Submitted by (Title):	Click here to enter text.

#	GATE END Rent Offset Approval/Disapproval	Yes	No
1	Is project approved for rent offset? (subject to receipt of payment and essential to operations)	<input type="checkbox"/>	<input type="checkbox"/>
2	Compliance is Complete (if required)	Yes	PECP#
3	Are all regulatory actions complete? (PPP, NFA, NFA, AW, etc.)	<input type="checkbox"/>	#
4	Date Approved:	Click here to enter text.	
5	Approved by (Signature):	Click here to enter text.	
	Approved by (Title):	Click here to enter text.	