

**AGREEMENT FOR AMENDMENT OF LEASE  
AMENDMENT NO. 2**

THIS AGREEMENT FOR AMENDMENT OF LEASE AMENDMENT NO. 2 ("**Second Amendment**"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 (the "**Effective Date**"), by and between the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation, hereinafter called "Landlord," and SHM CABRILLO ISLE, LLC, a Delaware limited liability company, hereinafter called "Tenant," WITNESSETH:

WHEREAS, Landlord and Tenant, on May 31, 2021, entered into a Second Amended and Restated Lease of certain tidelands in the City of San Diego, California, which Lease is on file in the Office of the Clerk of Landlord bearing Document No. 72861 ("**Current Lease**"); and

WHEREAS, Landlord and Tenant, on October 26, 2021, entered into an Agreement for Amendment of Lease, Amendment No. 1, which Amendment No. 1 is on file in the Office of the Clerk of Landlord bearing Document No. 73287 ("**Amendment No. 1**" and, together with the Current Lease, the "**Lease**"); and

WHEREAS, Landlord and Tenant are mutually desirous of further amending said Lease;

NOW THEREFORE, for valuable consideration, as of the Effective Date, said Lease is hereby amended in the following respects and no others, and except as expressly amended, all terms, covenants and conditions of said Lease shall remain in full force and effect:

- A. Said Lease is hereby amended by removing Paragraph 4.2(a) and replacing with the following Paragraph 4.2(a):
- (a) Rental of boat slips to the public, each of which shall be referred to herein as a "**Boat Slip Renter**," for mooring boats that shall not be used for any commercial purposes or activities. Boat Slip Renters shall be prohibited from renting or chartering boats to any other person(s) for any purpose whatsoever, including, without limitation, for recreation or commercial purposes, or from otherwise using or allowing any other person(s) to use said boats for commercial purposes or activities. However, notwithstanding the above, the Tenant, or a Subtenant approved by Landlord (to the extent approval is required by this Lease), as distinguished from a Boat Slip

Renter, may rent or charter boats to the public for recreational use, subject to the following: (i) all boat rentals and charters must comply with Port Code Section 4.37 and the other provisions of this Lease, including, without limitation, Section 4.2.3 and Section 4.4; and (ii) sportfishing charters shall be limited to “**Six-Pack Charters**,” which are charter operations that can service no more than six (6) passengers at any given time.

- B. Said Lease is hereby amended by removing Paragraph 4.2.3 and replacing with the following Paragraph 4.2.3:

#### 4.2.3 Specific Prohibited Uses

Furthermore, among the other prohibited uses under this Lease, any sportfishing charters other than Six Pack Charters as well as commercial fishing charters of any type (sport or otherwise) are specifically prohibited uses, operations, activities, and/or services which shall not be conducted on and/or from the Premises; provided that, and subject to the limitations set forth in the PMP, the foregoing shall not prohibit the mere berthing and mooring of sportfishing or commercial fishing vessels at the Premises (as opposed to, with the exception of facilities and operations for Six-Pack Charters, sportfishing and/or commercial fishing facilities and operations at the Premises, which are prohibited uses).

- C. Effective as of the effective date of the Original Lease in order to correct and clarify the Percentage Rents due under the Lease since its inception, the Lease is hereby amended by removing Paragraphs 5.4.1(g) and (i) and replacing with the following Paragraphs 5.4.1(g) and (i):

- (g) (i) Six Percent (6%) of the Gross Income from (A) boat charters (*i.e.*, the hiring of boats of any size with a crew of any size), (B) bare boat rentals (*i.e.*, a boat rental with no crew) for a period of twenty-four (24) hours or more, regardless of boat length, or (C) bare boat rentals of boats that are twenty (20) feet or more in overall length, for a period of less than twenty-four (24) hours; and (ii) Ten Percent (10%) of the Gross Income from bare boat rentals of boats that are less than twenty (20) feet in overall length for a period of less than twenty-four (24) hours; the foregoing rates are all in addition to the Percentage Rent required under Paragraphs 5.4.1(f) and 5.4.1(i).
- (i) Ten Percent (10%) of the Gross Income from sale of yacht club membership dues, initiation fees, and guest fees, in addition to the Percentage Rent required in subparagraph 5.4.1(f) herein;

D. Said Lease is hereby amended by adding Paragraph 17.4

17.4 Diversity, Equity and Inclusion

Tenant shall, within ninety (90) days of the Effective Date, provide a written statement of Tenant's commitment to non-discrimination, diversity, equity, and inclusion in the workplace. In addition, Tenant shall provide a brief description of plans to implement good faith efforts, based on the nature of Tenant's business operations, to recruit contractors, consultants, and employees, and/or applicants for employment (collectively, "**Tenants Hires**") in a non-discriminatory manner.

In addition, following the two (2) year anniversary of the Effective Date, Tenant shall, within ninety (90) days of receiving a written request from Landlord, provide a written report describing Tenant's actions and outcomes in furtherance of its commitment to non-discrimination, diversity, equity, and inclusion (provided that Landlord may only request such written report once every three (3) years following an initial request hereunder). Tenant's report shall not identify individual Tenant Hires by name.

E. This Amendment No. 2 may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement. Any facsimile or copies of original signatures or signatures delivered electronically (such as .pdf, .tif, or other electronic files or via signNow) shall be considered and treated as if they were original signatures.

(SIGNATURE PAGE TO FOLLOW)

APPROVED AS TO FORM AND LEGALITY  
GENERAL COUNSEL

**SAN DIEGO UNIFIED PORT DISTRICT**

By: \_\_\_\_\_  
Assistant/Deputy

By: \_\_\_\_\_  
Anthony Gordon  
Assistant Vice President, Real Estate

**SHM CABRILLO ISLE, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Signature

PRINT NAME: \_\_\_\_\_

PRINT TITLE: \_\_\_\_\_

SDUPD LO No. 2.103.2