

After Recording Return To:

~~ISLAND TITLE COMPANY~~  
~~P.O. BOX 1228~~  
~~ANACORTES, WA 98221~~

KATHY HILL  
SKAGIT COUNTY AUDITOR

99 FEB 18 P4:11

RECORDED \_\_\_\_\_ FILED \_\_\_\_\_  
REQUEST OF \_\_\_\_\_

SA-17996

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ISLAND TITLE COMPANY

Document Title: ASSIGNMENT OF LEASE and CONSENT TO SUBLEASE

Reference Number(s) of Related Document(s): \_\_\_\_\_

Grantor(s) [Assignor(s)]: Daniel R. Bolster, sole shareholder of W. Inc., a dissolved Washington corporation

Additional Grantor(s)/Assignor(s) on page \_\_\_\_ of Document.

Grantee(s) [Assignee(s)]: Rhodo-Drona LLC

Additional Grantee(s)/Assignee(s) on page \_\_\_\_ of Document.

Abbreviated Legal Description: Ptn Blk 288 and Ptn Blk 289 City of Anacortes and Ptn Plate 9 Anacortes Tidelands Sec 18-35-2 E.W.M.

Additional Legal Description on page(s) \_\_\_\_ of Document.

Assessor's Tax/Parcel Number(s):  
3772-289-020-0005, R56526  
3772-289-011-0006, R56524  
3772-288-021-0006, R56522  
3772-289-014-0003, R56525

**ASSIGNMENT OF LEASE and CONSENT TO SUBLEASE**

FOR VALUE RECEIVED, Daniel R. Bolster, sole shareholder of W. Inc., a dissolved Washington corporation, as Assignor, does hereby grant, bargain, sell, assign, transfer and deliver unto Rhodo-Drona LLC, a Washington limited liability company, as Assignee, Assignor's interest and position in and to the LEASE AGREEMENT dated the 15th day of January, 1997, amended by FIRST AMENDMENT TO PORT OF ANACORTES/W. INC. LEASE AGREEMENT dated March 4, 1997 and SECOND AMENDMENT TO LEASE AGREEMENT dated June 15, 1997, by and between the PORT OF ANACORTES, as Lessor, and W. Inc, a Washington corporation, as Lessee, a copy of which is attached hereto as Exhibit "A", said "lease" being the lease under which Assignor claims right, title and interest from the PORT OF ANACORTES. This assignment is made pursuant to the request of Assignor and Assignee hereinabove referenced.

ASSIGNMENT OF LEASE AND CONSENT TO SUBLEASE - 1

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In consideration of the mutual covenants and conditions contained in SUBLEASE AGREEMENT, an unsigned copy of which is attached hereto marked Exhibit "B," Assignee desires to sublease the premises leased from the PORT OF ANACORTES, as improved, to Pier 61 Inc., a Washington corporation, d/b/a Randy's Pier 61.

Consent by the PORT OF ANACORTES to this Assignment of Lease is based on:

1. The Assignee's assumption of all the Assignor's obligations contained in the above referenced lease, and acceptance of, and agreement and covenant to comply with, all the terms and conditions contained in the above referenced lease between the PORT OF ANACORTES, as Lessor, and W. Inc., as Lessee.
2. The Assignee's personal guarantee of the performance and fulfillment of obligations of the above referenced lease.
3. The Assignor's financial obligations to the PORT OF ANACORTES being current and Assignor's compliance with its obligations to the PORT OF ANACORTES under the above referenced lease.
4. The Assignee's proof of being a financially responsible Assignee.
5. The Assignee's agreement that all notices and payments hereunder are to be delivered or mailed according to that which is hereinafter set forth. If delivered by messenger, courier (including overnight air courier) or facsimile transmittal, the same shall be deemed delivered when received at the street addresses or facsimile numbers listed below. All notices and payments mailed, whether sent by regular post or by certified or registered mail, shall be deemed to have been given on the second business day following the date of mailing, if properly mailed to the mailing addresses provided below. The parties may designate new or additional addresses for mail or delivery by providing notice to the other party as provided in this section.

**To Lessor:**

Street Address:  
Port of Anacortes  
First and Commercial Avenue  
Anacortes, WA 98221  
Phone No.: (360) 293-3134

Mailing Address:  
Port of Anacortes  
P.O. Box 297  
Anacortes, WA 98221  
Fax No.: (360) 293-9608

\*27857  
SKAGIT COUNTY WASHINGTON  
Real Estate Excise Tax  
PAID

FEB 18 1999  
3293.00  
Amount Paid \$  
Skagit County Treasurer  
By: *DDV* Deputy

**To Assignee:**

Street Address:  
Rhodo-Drona LLC  
209 "T" Avenue  
Anacortes, Washington 98221  
Phone No.: (360) 293-5108

Mailing Address:  
Rhodo-Drona LLC  
209 "T" Avenue  
Anacortes, Washington 98221  
Fax No.: (360) 293-7513

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6. Assignor as Lessee in paragraph 8.1 of Exhibit "A" and Daniel R. Bolster as Personal Guarantor are released from liability as to the terms of the LEASE AGREEMENT.

7. The previous SUBLEASE dated April 1, 1998 between W. Inc., a Washington corporation d/b/a "Boomer's Landing Restaurant" and Pier 61 Inc. is rendered null and void and without further legal effect.

The signature of the Assignor hereinafter made constitutes evidence of Assignor's guarantee of the matters set forth in paragraph 3. above.

The signatures of the Assignee hereinafter made constitutes evidence of Assignee's agreement to comply with the matters referenced in the paragraphs above and Assignee's personal guarantee of the performance and fulfillment of the obligations referenced in the paragraphs above.

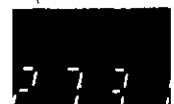
#### CONSENT TO SUBLEASE

The Port of Anacortes, a Washington municipal corporation ("Lessor"), hereby consents to the Sublease dated 2-18-99, ~~1998~~ between Rhodo-Drona LLC ("Lessee") and Pier 61 Inc., ("Sublessee") of the property with improvements thereon, the property of which is described in the LEASE AGREEMENT by and among Lessor as assigned to Lessee and Jennifer L. Wingett, individually as guarantor ("Guarantor"), dated January 15, 1997, as amended (the "Lease"), subject to and upon the following terms and conditions, to which Lessee and Sublessee hereby agree:

1. The sublease shall be subject and subordinate at all times to the Lease, and to all of the terms and conditions of the Lease. Nothing contained in this Consent shall be construed to modify, waive or impair any of the terms or conditions of the Lease, or waive any present or future breach or default on the part of the Lessee under the Lease.
2. Nothing in this Consent shall operate as approval or ratification by Lessor of any of the provisions of the Sublease or as a representation or warranty by Lessor, and Lessor shall not be bound or stopped in any way by the provisions of the Sublease.
3. Sublessee shall not do, permit or suffer anything to be done in connection with Sublessee's use or occupancy of the property or building which would violate any of the terms or conditions of the Lease. Upon expiration or any earlier termination of the Lease, the Sublease shall terminate as of the effective date of such expiration or termination, and Sublease shall vacate the property and building on such date. In the event Sublessee fails to vacate on such date, Lessor shall be entitled to all rights and remedies available under the Lease against both Lessee and Sublessee for holding over after the expiration of the term of the Lease.
4. This Consent shall not release or discharge Lessee or Guarantor from any liability or obligations under the Lease. Lessee and Guarantor shall remain primarily responsible

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for the performance throughout the term of the Lease of all covenants and agreements to be performed on the part of the Lessee and Guarantor thereunder, including without limitation the payment of rent and all other charges now or hereafter becoming payable thereunder.

DATED this 18 day of Feb., 1997

**ASSIGNOR:**

Daniel R. Bolster, sole shareholder of  
W. Inc. a dissolved Washington corporation.

Daniel R. Bolster  
Daniel R. Bolster

**ASSIGNEE:**

Rhodo-Drona LLC

Jennifer L. Wingett  
Jennifer L. Wingett, Member

Signature

Print Name & Title

**GUARANTOR:**

Jennifer L. Wingett  
Jennifer L. Wingett, Individually and as to her  
marital community

Randolph H. Barrett  
Randolph H. Barrett, Individually and as to his  
marital community

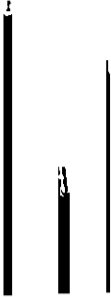
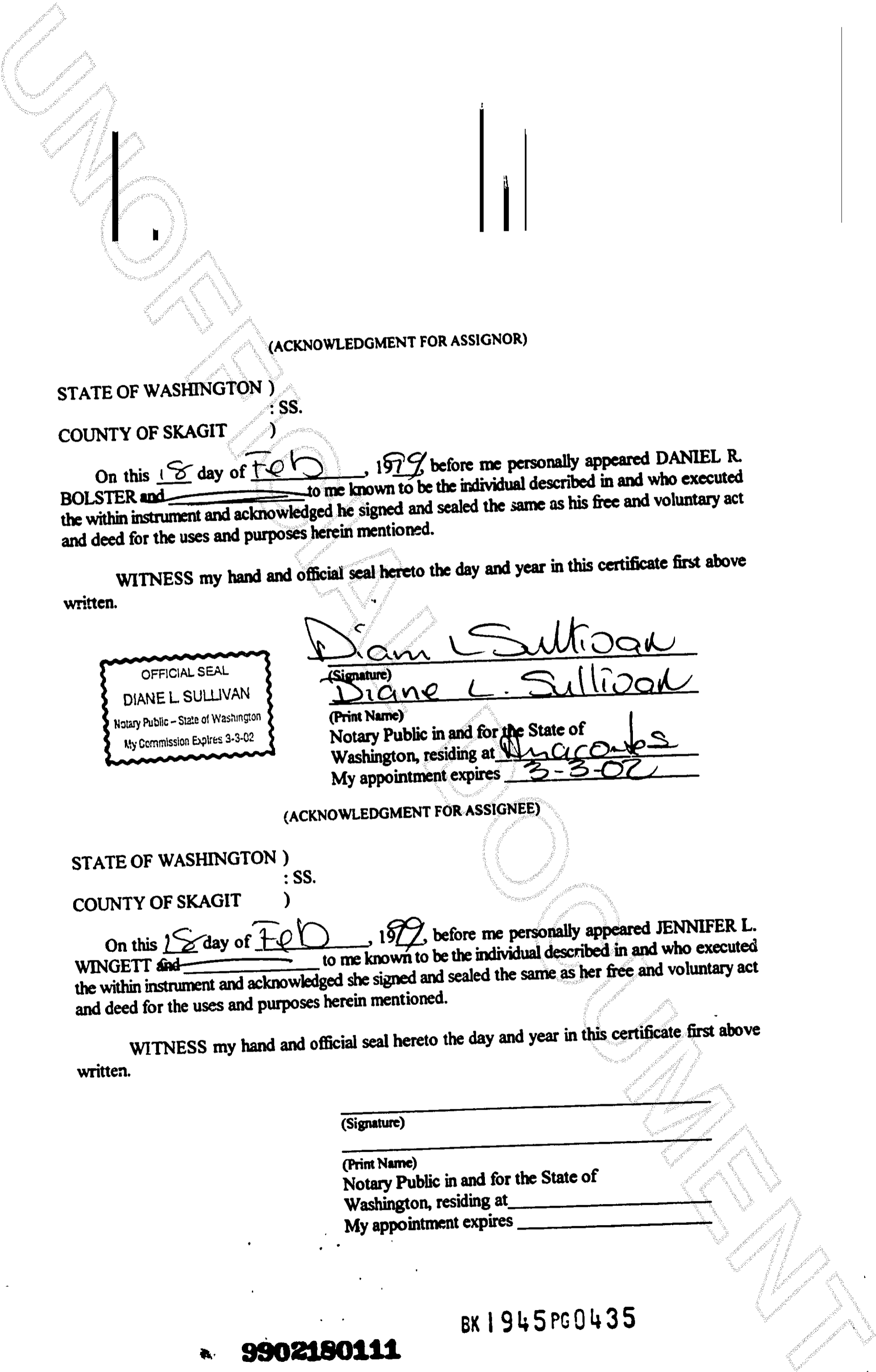
**SUBLESSEE:**

PIER 61, INC.

Jennifer L. Wingett  
Jennifer L. Wingett, President

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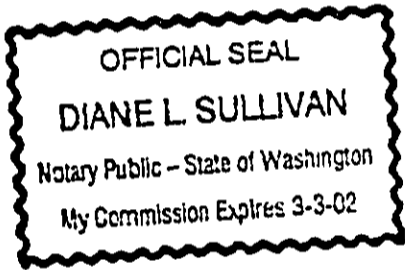


(ACKNOWLEDGMENT FOR ASSIGNOR)

STATE OF WASHINGTON )  
: SS.  
COUNTY OF SKAGIT )

On this 18 day of Feb, 1999, before me personally appeared DANIEL R. BOLSTER and \_\_\_\_\_ to me known to be the individual described in and who executed the within instrument and acknowledged he signed and sealed the same as his free and voluntary act and deed for the uses and purposes herein mentioned.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



Diane Sullivan  
(Signature)  
Diane L. Sullivan  
(Print Name)  
Notary Public in and for the State of  
Washington, residing at Maricopa  
My appointment expires 3-3-02

(ACKNOWLEDGMENT FOR ASSIGNEE)

STATE OF WASHINGTON )  
: SS.  
COUNTY OF SKAGIT )

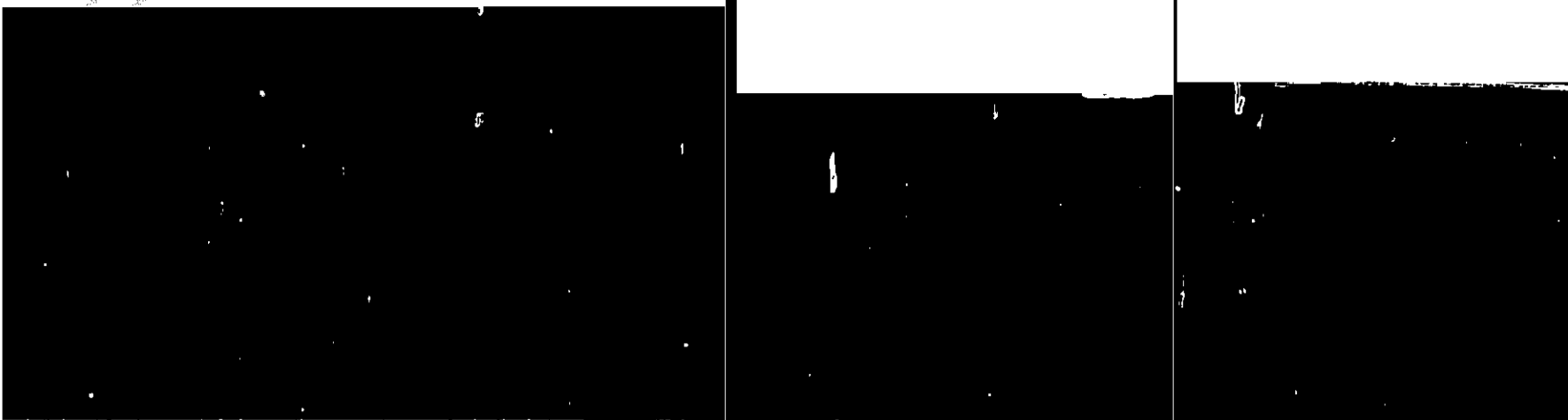
On this 18 day of Feb, 1999, before me personally appeared JENNIFER L. WINGETT and \_\_\_\_\_ to me known to be the individual described in and who executed the within instrument and acknowledged she signed and sealed the same as her free and voluntary act and deed for the uses and purposes herein mentioned.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)  
Notary Public in and for the State of  
Washington, residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_

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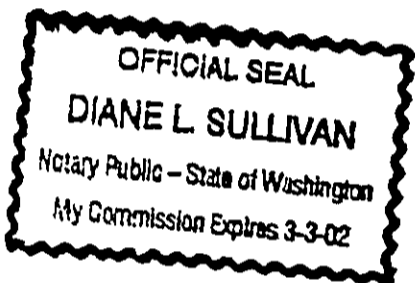
STATE OF WASHINGTON

COUNTY OF Stagit

}  
}ss.  
}

On this day personally appeared before me Jennifer L. Wingett and said person acknowledged that he/she was authorized to execute the within instrument and acknowledge it as member of Shado Drone LLC to be the free and voluntary act of such party for the uses and purposed mentioned in the instrument.

Given under my hand and official seal this 18 day of Feb, 1909.



Diane L Sullivan  
Notary Public in and for the State of Washington.  
Name printed Diane L. Sullivan  
Residing at Marcor 18  
My commission expires 3-3-02

Acknowledgement - Representative Capacity

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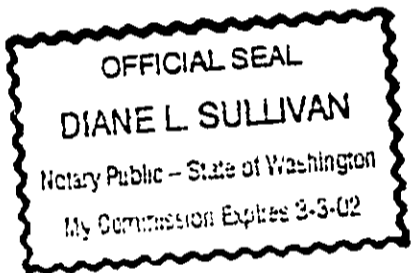
DUPLICATE DOCUMENT

(ACKNOWLEDGMENT FOR GUARANTOR)

STATE OF WASHINGTON )  
: SS.  
COUNTY OF SKAGIT )

On this 18 day of Feb, 1999, before me personally appeared Jennifer L. Wingett, to me known to be the individual acting as the GUARANTOR, described in and who executed the within instrument and acknowledged she signed and sealed the same as her free and voluntary act and deed for the uses and purposes herein mentioned.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



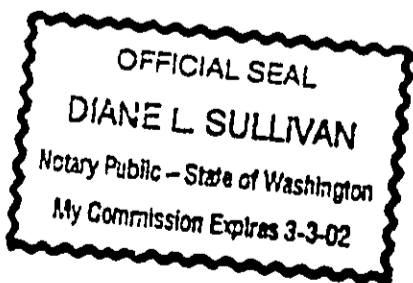
Diane L. Sullivan  
(Signature)  
Diane L. Sullivan  
(Print Name)  
Notary Public in and for the State of  
Washington, residing at Anacortes  
My appointment expires 3-3-02

(ACKNOWLEDGMENT FOR GUARANTOR)

STATE OF WASHINGTON )  
: SS.  
COUNTY OF SKAGIT )

On this 18 day of Feb, 1999, before me personally appeared Randolph H. Barrett, to me known to be the individual acting as the GUARANTOR, described in and who executed the within instrument and acknowledged he signed and sealed the same as his free and voluntary act and deed for the uses and purposes herein mentioned.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



Diane L. Sullivan  
(Signature)  
Diane L. Sullivan  
(Print Name)  
Notary Public in and for the State of  
Washington, residing at Anacortes  
My appointment expires 3-3-02

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(ACKNOWLEDGMENT FOR SUBLESSEE)

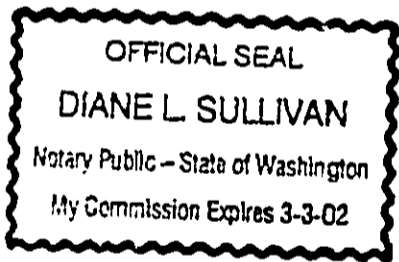
STATE OF WASHINGTON )

: SS.

COUNTY OF SKAGIT )

On this 18 day of Feb, 1999, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Jennifer L. Wingett and \_\_\_\_\_ to me known to be the President and ~~Secretary~~, respectively, of the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute the same and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.



Diane L. Sullivan

(Signature)

Diane L. Sullivan

(Print Name)

Notary Public in and for the State of Washington, residing at Amarordes

My appointment expires 3-3-02



The PORT OF ANACORTES hereby consents to the assignment of the above referenced lease and the sublease thereof, and specifically, on the conditions hereinabove set forth.

DATED this 18 day of February, 1999.

PORT OF ANACORTES

By: Richard R. Schiensch  
Its: President EXECUTIVE DIRECTOR

Attest:

\_\_\_\_\_  
Secretary

STATE OF WASHINGTON )  
  :ss.  
COUNTY OF SKAGIT    )

On this 18 day of Feb, <sup>1999</sup>~~1998~~, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Richard Schiensch and Richard Schiensch to me known to be the ~~President and Secretary~~ <sup>Executive Director and Secretary</sup>, respectively, of the Port Commission of the PORT OF ANACORTES, a municipal corporation, the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute the same and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Diane L. Sullivan  
(Signature)



Diane L. Sullivan  
(Print Name)  
Notary Public in and for the State of  
Washington, residing at Anacortes  
My Commission expires: 3-3-02

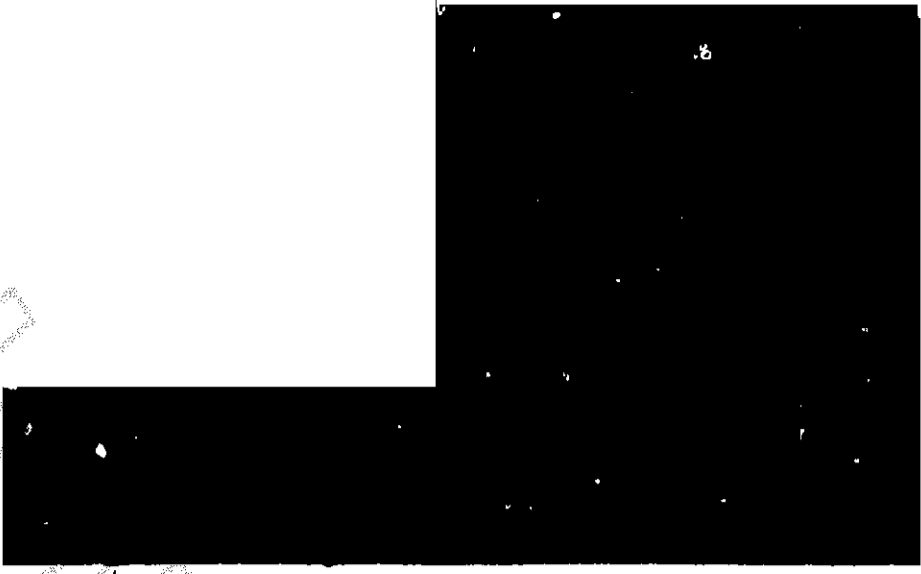


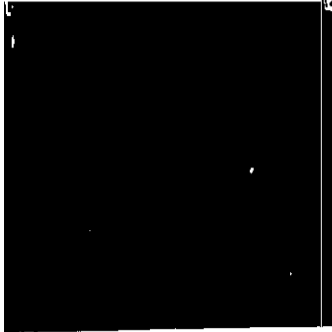
Exhibit "A"

LEASE AGREEMENT  
PORT OF ANACORTES TO W. INC.

January 1, 1997 - December 31, 2026

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LEASE AGREEMENT  
 PORT OF ANACORTES TO W. INC.

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LEASE

THIS LEASE, made and entered into this 15<sup>TH</sup> day of JAN., 1997, by and between the PORT OF ANACORTES, a municipal corporation, of Anacortes, Washington, hereinafter designated as Lessor, and W. INC., a Washington corporation, d/b/a "Boomers Landing Restaurant", hereinafter designated as Lessee:

RECITALS

A. The Lessor is the owner of real property which is located at 209 "T" Street, Anacortes, Skagit County, Washington, which is legally described below, and shall hereinafter be referred to as the "Property".

B. The Lessee is the owner of a building located on the property, which shall hereinafter be referred to as the "Building" and is also the owner of certain equipment, fixtures and inventory which is a part of a business known as "Boomers Landing Restaurant". Lessee is also the owner of a parking lot which is adjacent to the property.

C. The Lessee is presently operating a restaurant pursuant to a lease dated August 31, 1976 between Lessor and another party and Lessee has succeeded to the lease pursuant to various assignments and in particular an "Assignment of Lease" dated June 22, 1993. Lessee desires to continue leasing the real property upon which the Building is situated to conduct the business of a public restaurant and catering.

D. Lessor is agreeable to entering into a lease with Lessee for the real property legally described below, subject to the execution of this lease document by Lessee and authorized representatives of Lessor.

E. It is the intent of Lessor and Lessee that this agreement contain all agreements of the parties resulting from the negotiations leading up to the execution of this lease and to compromise and settle any claim that the other party may have against the other resulting from said negotiations and the lease referred to in paragraph C above.

WITNESSETH:

The Lessor has leased and by these presents does grant, demise, and lease unto the said Lessee the following described property in the City of Anacortes, Skagit County, Washington:

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3 Beginning on the north line of the alley in  
4 Block 288 at a point from which the inter-  
5 section of said North line with the West  
6 line of "U" Avenue bears West 168 feet, all  
7 in the original plat of the City of Ana-  
8 cortes, according to the recorded plat  
9 thereof in the office of the Auditor of  
10 Skagit County, Washington; thence running  
11 North approximately 163 feet to the inner  
12 Harbor Line as shown on Plat 9, Anacortes  
13 Tidelands in Section 18, Township 35 North,  
14 Range 22 East, W.M., according to the map  
15 thereof on file in the office of the State  
16 Land Commissioner at Olympia, Washington;  
17 thence Westerly along said Inner Harbor Line  
18 to the East line of vacated "T" Avenue pro-  
19 jected; thence South along said East line  
20 for approximately 263 feet to the South line  
21 of Second Street; thence East for 70 feet;  
22 thence South for 100 feet to the North line  
23 of the alley; thence East for 62 feet to the  
24 point of beginning.

25 Marked as Exhibit A and attached hereto and incorporated by  
26 reference herein is a "sketch" of the above described premises.  
27 In the event of any disparity between Exhibit A and the legal  
description herein above, the legal description shall control.

17 NOW THEREFORE, in consideration of the mutual benefits inuring  
18 to each of the parties hereto, they agree that this Lease shall be  
19 based upon the following terms and conditions:

20 1. TERMINATION OF THE LEASE DATED AUGUST 31, 1976. The  
21 parties acknowledge and agree that the lease agreement dated  
22 August 31, 1976; as amended by the agreement supplementing the  
23 lease dated August 15, 1978; an agreement amending lease dated  
24 July 19, 1982; a third amendment to lease dated April 11, 1989;  
25 and a fourth amendment to lease dated November 10, 1994; shall  
26 terminate and be replaced in its entirety by this lease which will  
27 become effective as provided below.

23 2. TERM. The term of this Lease shall be for thirty (30)  
24 years and shall be deemed to have been in effect on January 1,  
25 1997 and shall terminate at 12:00 midnight on December 31, 2026.  
26 Lessee shall have no further right to extend the term of the Lease  
27 beyond said term.

26 3. RENTAL.

27 3.1 The initial base minimum rental shall be ONE THOU-  
SAND FOUR HUNDRED AND NO/100 (\$1,400) per month. This base mini-

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mum rental shall be subject to annual rental adjustments as set forth in the following paragraph titled "RENTAL ADJUSTMENTS". An additional rental amount shall be assessed of one and one half percent (1.5%) on the gross annual sales (January 1st through December 31st) if said sales exceed the sum of One Million Dollars (\$1,000,000) from business conducted on or from the leased property, and as reported monthly to the State of Washington Department of Revenue.

3.2 The base minimum rental shall be paid to Lessor in advance on or before the first day of each and every month of the term of this Lease, and the monthly rental based on the percentage of sales shall be due the twenty-fifth (25th) day of the following month of each and every month of the term of the Lease that the percentage rent is applicable, and shall be payable at such place as the Lessor may hereinafter designate. A copy of the monthly report of sales to the State of Washington Department of Revenue shall be supplied monthly to the Lessor on the twenty-fifth (25th) day of the following month. In the event that any rental payment is fifteen (15) days late there shall be a late charge assessed of five percent (5%) of the payment that is past due.

3.3 In addition to the above payments, Lessee agrees to pay the Washington State Leasehold Tax on or before the rental due dates. In addition, Lessee agrees to reimburse Lessor should Lessor be assessed in any manner for the underpayment of leasehold taxes as referred to in the paragraph titled "Taxes" below.

4. RENTAL ADJUSTMENTS

4.1 Annual Adjustments. The base minimum rental shall be adjusted at the end of the first year of this Lease and at the end of each succeeding twelve (12) month period of this Lease, to compensate for the effect of inflation on the rental. The date of any such change in rental is called the "Change Date". The adjusted rental shall be determined in accordance with the formula set forth below to a maximum increase of three percent (3%) annually over the prior year's rental amount, but in no event will the annual adjustment (or the periodic adjustment referred to below) of the adjusted rental be less than the rental being adjusted. In applying the formula, the definitions set forth in paragraph 4.3 shall apply.

4.2 Periodic Adjustments. On the fifth (5th) year anniversary of the commencement date of the Lease a review will be conducted to see if the then rental amount being received is consistent with what the rate of return should be based upon the then market value of the property. Although there will be no change in the base minimum rental in that year, other than the annual adjustment referred to above, this information shall be utilized

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3 for the purposes of financial planning by both Lessor and Lessee.  
4 On the tenth (10th) anniversary of the commencement date of the  
5 lease, and every fifth (5th) year thereafter, a similar review  
6 will be made and the rent as of the first of the year adjusted to  
7 provide for a minimum return of eight and one-half percent (8.5%)  
8 on the then fair market value of the property. In that year, this  
9 change shall take the place of the annual adjustment referred to  
10 above. If the value cannot be agreed upon, the value shall be  
11 determined in the following manner:

12 4.2.1 Each party shall appoint a disinterested MAI  
13 appraiser with at least ten (10) years professional experience as  
14 an appraiser of similar properties.

15 4.2.2 The two (2) appraisers shall proceed without  
16 delay to make an appraisal of the real property and shall notify  
17 the parties in writing of their valuation. If Lessor and Lessee  
18 cannot agree upon a market value based upon said appraisals, the  
19 two appraisers so appointed will appoint a third appraiser having  
20 the same qualifications. If all three (3) appraisers cannot agree  
21 as to the valuation, then the valuation shall be the valuation  
22 agreed to by any two (2) appraisers. If two (2) appraisers cannot  
23 agree the average of the three (3) evaluations shall be used and  
24 shall be binding upon the parties.

25 4.2.3 Any appraiser appointed as above provided,  
26 shall determine the fair market value of the property at the price  
27 which a willing buyer would pay a willing seller in an arms length  
transaction; considering the highest and best use, and disregarding  
any and all tenant improvements thereon.

4.2.4 The expenses of each appraisal conducted in  
accordance herewith shall be borne equally by both parties.

#### 4.3 Definitions.

4.3.1 "Bureau" means the U.S. Department of Labor  
Bureau of Labor Statistics or any successor agency that shall  
issue the indices of date referenced in the succeeding section  
entitled "Formula".

4.3.2 "Change Date" herein shall initially be the  
first anniversary date of this Lease, and thereafter the first day  
of the month following each twelve (12) month period of this  
Lease.

4.3.3 "Price Index" means the U.S. City Average  
Consumer Price Index for all Urban Consumers issued from time to  
time by the Bureau, or any other measure hereafter employed by the  
Bureau in lieu of the price index that measures the cost of living  
nationally, or if said Bureau should issue such indexes

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3 and any other agency of the United States should perform substan-  
4 tially the same function, then the indexes issued by such other  
5 agency.

6 4.4 Formula. The base minimum rental rate being  
7 adjusted shall be multiplied by a multiplier equal to the change  
8 in the Price Index computed as follows: (Rental being adjusted )  
9 X (Price Index for the most recent month available divided by the  
10 Price Index for the same month in the prior year). The most  
11 recent Price Index available at the commencement of this Lease is  
12 158.6 for November 1996.

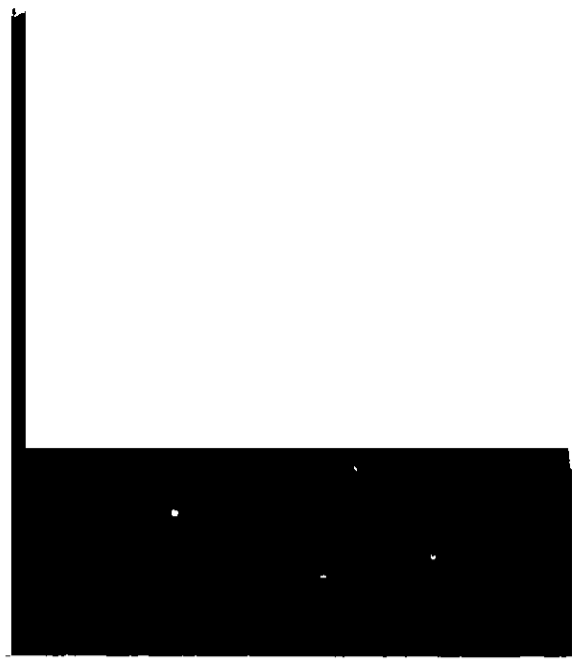
13 5. SECURITY.

14 5.1 Lessee shall, upon execution of this Lease, obtain  
15 and deliver to the Lessor, a cash deposit, a good and sufficient  
16 corporate surety company bond, rental insurance policy, irrevoca-  
17 ble letter of credit, or other security in a form acceptable to  
18 Lessor (hereinafter referred to as the "Lease Security") in an  
19 amount that shall be not less than an amount equal to one year's  
20 minimum rent (the initial amount for the first year being Sixteen  
21 Thousand Eight Hundred Dollars), to secure the full performance by  
22 Lessee of all terms, conditions, covenants and provisions of this  
23 Lease, including the payment by Lessee of all amounts now or  
24 hereafter payable to Lessor during the full term hereof. This  
25 obligation shall remain in effect during the full term of this  
26 Lease and for any period thereafter if Lessee remains in posses-  
27 sion of the property, with or without Lessor's permission. This  
Lease shall not be deemed effective until the Lease Security has  
been delivered to the Lessor. The form, provisions and nature of  
the Lease Security, and the identity of the surety or other obli-  
gor thereunder, shall at all times be subject to the Lessor's  
approval. The amount of the Lease Security shall be adjusted to  
coincide with all adjustments in rental and as required elsewhere  
herein and/or by the laws of the State of Washington. No interest  
shall be paid on the Lease Security and the Lessor shall not be  
required to keep the Lease Security separate from its other  
accounts. No trust relationship is created with respect to the  
Lease Security. If the amount of the Lease Security is not  
adjusted as provided herein or is not maintained, this shall be  
considered to be a material default in the Lease.

24 5.2 The Lease Security may provide for termination on  
25 the anniversary date thereof upon not less than one year's written  
26 notice to the Lessor if this Lease is not in default at the time  
27 of said notice. In the event of any such termination, Lessee  
shall obtain a new Lease Security, also subject to Lessor's  
approval, which shall be in effect on or before the date of termi-  
nation of the Lease Security being 8K1945PG0447

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5.3 The Lessor may apply all or part of the Lease Security to unpaid rent or any other unpaid sum due hereunder, or to cure other defaults of Lessee. If the Lessor uses any part of the Lease Security, Lessee shall restore the Lease Security to an amount acceptable to the Lessor within ten (10) days after the receipt of the Lessor's written request to do so. Lessee's failure to do so shall constitute a material default under this Lease.

5.4 The forfeiture of the Lease Security by Lessee shall not constitute liquidated damages to the Lessor. Lessee shall also pay the Lessor for any and all damages incurred by the Lessor by reason of said forfeiture.

6. USE OF PROPERTY. The property and building shall be used for the purposes of conducting a restaurant and catering business. Lessee agrees not to conduct on said property any other business without the prior written approval of the Lessor. Lessee shall conduct the foregoing business activity for at least five (5) days per week except for closures for such periods as may be reasonably necessary for repairs or decorating or for reasons beyond Lessee's reasonable control. The failure to remain open as herein provided shall constitute a material default.

7. UTILITIES. Lessee agrees to pay all gas, electricity, water, sewer, storm water, telephone, or other utility bills and not to allow them to become delinquent, and to allow no liens to be placed on the property. Lessor makes no warranty that any utility service will not be interrupted and any interruption not the fault of the Lessor shall not excuse Lessee's performance (including the payment of rent and other fees, taxes and charges) or render the Lessor liable in any manner, unless an interruption, not the fault of Lessor, is of sufficient magnitude and length so as to render the property untenable.

8. ASSIGNMENT.

8.1 Lessee shall not assign or transfer this lease or any interest therein, nor sublet the whole or any part of the building and/or property, nor shall this lease or any interest hereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise, without the prior written consent of Lessor. Lessor agrees that it will review any request in good faith for any financially qualified assignee who has experience satisfactory to Lessor in the operation of restaurants. If Lessor gives its consent to any assignment or sublease, Lessee shall remain liable under the terms of this Lease and this paragraph shall continue in full force and effect and no further assignment or sublease shall be made without Lessor's consent pursuant to this paragraph. In the event that Lessor is asked to consent to a sublease or assignment hereunder, Lessee shall reimburse Lessor for their expenses connected with

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reviewing the suitability of said assignment or sublease to offset Lessor's reasonable documented expenses in an amount not to exceed Seven Hundred Fifty Dollars (\$750).

8.2 If, at any time during the time of this lease, one-half (1/2) or more of the ownership and/or control of the stock of Lessee is vested and/or in control of someone other than Daniel R. Bolster, such change shall be deemed to be an assignment of this lease within the meaning of this paragraph. In the event Lessor in the future approves the assignment or subletting of any interest in this lease to a partnership or corporation, any change thereafter in the ownership of the partnership, or in the ownership and/or controlling interest of fifty percent (50%) or more in the corporation, shall also be deemed to be an assignment of this lease requiring the approval of Lessor. The failure to obtain written approval of any assignment or sublease of this lease shall be a material default of this lease.

8.3 Lessor agrees that it will consent to the assignment of this Lease (or any interest herein) for security purposes to a bonafide lender provided that said lender recognizes that their interest applies only to Lessee's interest in the Lease and that Lessor will not permit any secured interest to be taken in the property. In addition, any lender must acknowledge that any proposed assignment or subletting of the Lease by Lender will be subject to the prior written approval of Lessor on the same terms and conditions as provided for in the preceding paragraph with the exception that upon Lessor's approval and upon an assignee or transferee's assumption, and agreement to perform and to be bound by all of the terms of the Lease, the lender shall be relieved of further liability under the Lease unless lender retains a security interest in the Lease. (The review by Lessor of a proposed assignment for security purposes for the leasehold improvements referred to below, shall be conducted at no cost to Lessee.)

9. LIABILITY INSURANCE. Lessee agrees to procure and maintain, at its own expense, comprehensive liability insurance in full force and effect at all times while operating on or about Lessor's property, insuring Lessor from all claims, demands and/or actions for injury and/or death to any person or persons and/or for damage to property in such amounts as to meet the minimum liability coverage specified below. Such insurance shall be placed with a reputable insurance company or underwriter satisfactory to the Lessor. The insurance policy or policies shall be for standard comprehensive general liability, including contractual liability coverage, covering all operations of the Lessee so that the risks of liability created by the Lessee are covered. The Lessor shall be named as an additional insured by endorsement to the policy or policies. The Lessee shall furnish the Lessor with appropriate documentation in form and content satisfactory to the Lessor evidencing that the coverage required to be kept is in full

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force and effect. The coverage shall not be less than One Million Dollars (\$1,000,000) combined single limit for property damage, bodily injury or death. Said amount shall be reviewed every five (5) years (at the time the periodic adjustments referred to in paragraph 4 above are made) to confirm whether or not the said amount should be increased. The insurance policy or policies shall not be subject to cancellation except after written notice to the Lessor at least thirty (30) days prior to the date of such cancellation or material change.

10. HOLD HARMLESS. Lessee shall protect, indemnify, defend and hold and save harmless the Lessor, its elected officials, agents and employees, their successors and assigns, from and against all liabilities, obligations, fines, claims, claims for mechanics' liens, damages, penalties, lawsuits, governmental proceedings, judgments, costs and expenses (including without limitation attorney's fees, costs and expenses of litigation), and any and all claims by or on behalf of any person or persons, firm or corporation, in connection with any such claims of actual or alleged injury (including without limitation, loss of business income):

10.1 Arising out of acts or omissions of the Lessee, its officers, servants, invitees, contractors, subcontractors, guests and direct and/or indirect employees on or about Lessor's property or

10.2 Arising out of the use of Lessor's property or any part thereof, including but not limited to, existing floats, docks or piers, ramps and approaches, buildings, sidewalks, curbs, parking lots, streets or ways, or

10.3 Due to or arising out of any failure on the part of the Lessee to perform or comply with any rule, ordinance, or law to be kept and performed or

10.4 Arising out of the presence of any hazardous substances on the building or property or the violation of any environmental law by Lessee, its officers, agents, servants, invitees, contractors, subcontractors, guests, and direct or indirect employees.

THE LESSEE HEREBY WAIVES (GIVES UP) ITS IMMUNITY UNDER THE INDUSTRIAL INSURANCE ACT RCW TITLE 51 AND/OR THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT.

IN THE EVENT OF CONCURRENT NEGLIGENCE OF THE LESSOR AND LESSEE, LESSEE AGREES TO INDEMNIFY THE LESSOR FOR LESSEE'S PORTION OF ANY DAMAGE AWARD.

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3 This indemnity agreement does not apply when such damage or  
4 injury be caused solely by negligent or intentional acts of the  
Lessor, its elected officials, agents and/or employees.

5 11. MAINTENANCE. Lessee, at his own expense, shall keep the  
6 building, property, structures and other improvements on the prop-  
7 erty in a neat, clean, safe and sanitary condition, reasonable  
8 wear and tear excepted. Lessee shall also be wholly responsible  
9 for any and all repairs and maintenance (and replacement if neces-  
sary) reasonably required to maintain the building's structural  
integrity (including foundations, bearing columns, bearing walls  
and exterior walls), and to the roof, utility service and utility  
lines.

10 12. RESTORATION OF PROPERTY. At the expiration of the lease  
11 (or upon its earlier termination as herein provided) the Lessee  
12 shall within ninety (90) days remove the building and any improve-  
13 ments he has placed on the property: provided however, that  
14 Lessee, after the expiration of the lease, shall continue to pay  
15 the minimum monthly rental (prorated for the actual days of occu-  
16 pancy) until the property is restored as provided for in the fol-  
17 lowing sentence. After the removal of the building, Lessee shall  
18 restore the surface of the ground to a graded, properly filled,  
19 level and uniform condition, free from all debris. Any paving  
shall be left as is and shall become the property of the Lessor.  
In the event that Lessee fails to take said steps, Lessor shall  
have the option of doing said restoration and shall be entitled to  
reimbursement from Lessee for expenses incurred, with any funds so  
advanced to bear interest at the highest legal rate of interest.  
In the event the building and improvements are not removed within  
ninety (90) days, Lessor shall have the option of either removing  
the building and/or improvements and be entitled to reimbursement  
as above provided, or to declare them the property of Lessor.

20 13. RECORDS AND ACCOUNTING. For the purpose of ascertaining  
21 the amount payable as percentage rental, the Lessee agrees to  
22 maintain books of account which shall clearly and accurately show  
23 gross sales made by Lessee on or from the premises during the pre-  
24 ceding month, and permit Lessor or Lessor's agent to inspect same  
25 at all reasonable times. Lessee agrees to furnish Lessor on or  
26 before the twenty-fifth (25th) day of each month a full, true and  
27 correct report of gross sales as aforesaid. Lessee further agrees  
28 to provide Lessor upon request with a copy of any and all reports  
for tax reports submitted to any governmental authority showing  
the total sales from or related to the premises (hereinafter  
referred to as "Revenue Tax Reports"). Lessor agrees to give  
Lessee fifteen (15) days written notice of each such proposed  
inspection of Lessee's books of account and/or Revenue Tax  
Reports.

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4 14. RIGHT TO AUDIT. Lessor shall have the right and privilege  
5 (upon fifteen (15) days written notice) of auditing the books and  
6 records of the Lessee at any reasonable time, provided that the  
7 expense of any such audit shall be paid by the Lessor. Should  
8 such audit show that additional percentage rental is due and owing  
9 to Lessor for a period in excess of thirty (30) days prior to  
10 Lessee's last preceding sales report, such sum shall be immedi-  
11 ately due and payable with interest chargeable at the rate of one  
12 percent (1%) per month from the date due. In addition, if the  
13 gross sales have been understated by five percent (5%) or more,  
14 the expenses of the audit will be assessed against the Lessee.

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16 15. ADVERTISING AND SIGNS. Lessee agrees that all signs and  
17 advertising on the premises shall be governed by the Anacortes  
18 Sign Ordinance and that no signs or advertising shall be displayed  
19 on the property without the consent of the Lessor; provided that  
20 such consent of the Lessor shall not be unreasonably withheld with  
21 regard to signs pertaining to the business of the Lessee.

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23 16. WATER CRAFT. Lessee agrees to allow water craft passage  
24 through the water area of the leased property without charge for  
25 such passage and access.

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27 17. BANKRUPTCY. In the event Lessee shall voluntarily or  
28 involuntarily be a party to a proceeding in the United States  
Bankruptcy Court, and fails to remain in full compliance with the  
terms of this Lease, or makes an assignment for the benefit of  
creditors (except an assignment for the purposes of financing)  
this lease shall be deemed to be in default. Upon the adjudication  
of bankruptcy, this Lease shall immediately be terminated, and all  
rights of the Lessee hereunder be null and void, and Lessor may  
enter and take immediate possession of the property.

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19 18. TAXES. Lessee shall be liable for, and shall pay,  
20 throughout the term of this lease, all license fees and taxes cov-  
21 ering or relating to the building and property and its use,  
22 including, without limitation, (a) all real estate taxes assessed  
23 and levied against the building; (b) all amounts due and payable  
24 for general or special assessments against the building during the  
25 term of this lease, including any assessments for LIDs or ULIDs;  
26 and (c) all personal property taxes upon fixtures, furnishings,  
27 equipment and stock in trade, leasehold interest under this lease  
28 or upon any other personal property situated in or upon the Pre-  
mises. If any governmental authority at any time levies a tax on  
rentals payable under this lease or a tax in any form against Les-  
sor because of or measured by income derived from the leasing or  
rental of the premises, such tax shall be paid by Lessee.

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3 19. DEFAULT.

4 19.1 Time is of the essence of this agreement, and if  
5 Lessee shall fail or refuse to do or perform any one or more of  
6 the covenants and conditions herein contained, on its part to be  
7 kept and performed, or shall fail to pay any rent as herein pro-  
8 vided, and shall continue to fail and refuse to do or perform the  
9 same after thirty (30) days notice so to do, that then and in such  
10 case, the Lessor, or its duly authorized agent, may, at its  
11 option, and without further notice, declare this Lease null and  
12 void, of no effect, and may re-enter and take possession of the  
13 property and remove all persons therefrom, and said Lessee hereby  
14 agrees to give peaceable possession of said property to the Lessor  
15 in case of such default. In the event Lessor does retake posses-  
16 sion of the property, Lessee's obligation to pay rent shall con-  
17 tinue in full force and effect until the end of the Lease term,  
18 whether or not the Lessee continues to occupy the premises.

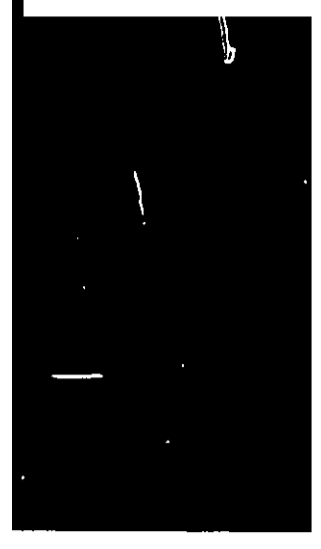
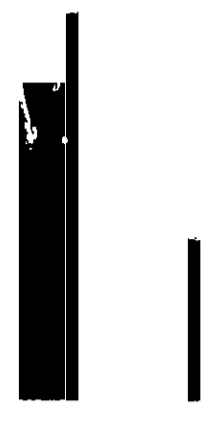
19 19.2 If, during any calendar year, Lessor has issued  
20 three (3) or more Notices of Default which are subsequently cured,  
21 Lessor shall not be required to accept a cure of any subsequent  
22 default by Lessee and may terminate this Lease or exercise any  
23 other rights or remedies available to it immediately by written  
24 notice to Lessee without the expiration of any otherwise applica-  
25 ble cure period. This paragraph shall only pertain to Notices of  
26 Default issued for any one or more of the following: failure to  
27 pay the rent and/or leasehold taxes in a timely manner, failure to  
maintain insurance as herein provided, failure to maintain the  
security as herein provided, and failure to timely supply the  
monthly report of sales as herein provided. In the event that it  
is subsequently determined that a Notice of Default was issued  
erroneously, said Notice shall not be considered a Notice of  
Default as herein provided.

28 19.3 If upon reentry of the property and/or building  
29 there remains any personal property of Lessee or any other person,  
30 the Lessor may, but without the obligation to do so, remove said  
31 personal property and hold it for the owners thereof or may place  
32 the same in a public garage or warehouse, all at the expense and  
33 risk of the owners thereof, and Lessee shall reimburse Lessor for  
34 any expense incurred by the Lessor in connection with such removal  
35 and storage. The Lessor shall have the right to sell such stored  
36 property without notice to the Lessee, after it has been stored  
37 for a period of thirty (30) days or more, and the proceeds of such  
sale shall be applied first to the costs of such sale, second to  
the payment of the charges for storage, and third to the payment  
of any other amounts which may then be due from Lessee to Lessor,  
and the balance, if any, shall be paid to Lessee.

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20. WAIVER OF SUBROGATION. The Lessor and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective insurance contracts, including any extended coverage endorsements thereto; provided, however, that this paragraph shall be inapplicable to the extent it makes it impossible for the Lessee to obtain financing or insurance. Each party agrees to cause their respective insurance carriers to include in its policies a waiver of subrogation clause or endorsement.

21. COMPLIANCE WITH PORT REGULATIONS/ALL LAWS. Lessee agrees to comply with all applicable rules and regulations of the Lessor pertaining to the building and/or property, or to Lessee's use or occupancy thereof. Lessee further agrees to comply with all applicable federal, state and municipal laws, ordinances and regulations (now in existence or hereafter promulgated) including, without limitation, those relating to environmental matters, and Americans with Disabilities Act and to indemnify the Lessor for any liability, damages, costs or fees incurred by the Lessor due to Lessee's failure to comply with the requirements of this section. Costs and fees shall include all direct and indirect costs and professional fees, including engineering and attorney's fees. Any fees for any federal, state or local inspections and/or certificates required for use and occupancy of the leased premises shall be paid by Lessee.

22. HAZARDOUS SUBSTANCES. Lessee covenants and warrants that Lessee, its officers, directors, employees, contractors, subcontractors, agents, servants, invitees and guests shall not use the building and property in a manner which violates any Law or Regulation governing the handling, generation, sale, transportation, storage, treatment, usage or disposal of Hazardous Substances, nor will it allow the presence in or about the building and/or property of any Hazardous Substances in any manner that could be a detriment to the Premises. Lessee shall not allow any Hazardous Substances to migrate off the building and/or property, or the release of any Hazardous Substances into adjacent surface water, soils, underground waters or air. If Lessee is in violation of any Law or Regulation concerning the presence or use of Hazardous Substances, Lessee shall promptly take such action as is necessary to mitigate and correct the violation and agrees to indemnify, defend, and hold Lessor harmless from any claims, judgments, damages, penalties, fines, costs, liabilities or losses resulting from said violation. This indemnification shall survive the expiration or termination of this Lease and shall include, but not be limited to, consultant, expert, and attorney fees and the loss of revenues resulting from an inability to release or market the property due to its environmental condition including the loss of revenue occurring after the expiration or earlier termination of this lease.

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4 23. CONSTRUCTION OF IMPROVEMENTS. Lessee shall not commence  
5 construction of any new construction and/or outside/external modi-  
6 fications or alterations without the prior written consent of Les-  
7 sor and subject to any and all conditions in such approval.  
8 Lessee shall submit to Lessor all plans and specifications relat-  
9 ing to such construction of improvements or alterations. When  
10 Lessee intends to construct such improvements or alterations,  
11 Lessee shall notify the Lessor in writing in advance of the date  
12 upon which Lessee shall commence such construction on the building  
13 and/or property and the Lessor shall have the right to post  
14 notices of non-responsibility with respect to liens arising out of  
15 such construction. If Lessee shall fail to so notify the Lessor,  
16 Lessee shall reimburse the Lessor for all costs and loss what-  
17 soever suffered by the Lessor because of Lessee's failure to  
18 notify the Lessor as required herein. The construction of all  
19 improvements and/or alterations shall be carried out by Lessee in  
20 a first-class manner at its sole cost and expense, and in full  
21 compliance with all federal, state, county and other governmental  
22 statutory and regulatory requirements. In addition to the above  
23 requirements, Lessee agrees to provide Lessor with advance notifi-  
24 cation of any improvements and/or alterations not otherwise cov-  
25 ered by the above provisions.

15 24. LEASEHOLD IMPROVEMENTS. As a part of the consideration  
16 for this Lease, Lessee has committed to make certain leasehold  
17 improvements to the building and property and Lessee agrees to  
18 provide Lessor with satisfactory proof by June 1, 1998 that at  
19 least \$50,000 in capital improvements have been made to the pre-  
20 mises subsequent to the start of the lease term. The failure to  
21 show said proof shall be deemed to be a material default in this  
22 Lease.

19 25. FIRE OR OTHER CASUALTY. If any building or improvement on  
20 the leased premises or any part thereof shall be damaged or  
21 destroyed by fire or other casualty during the term of this Lease,  
22 Lessee shall, at its own cost and expense, repair or restore the  
23 same according to the original plans thereof or according to such  
24 modified plans as shall be previously approved in writing by the  
25 Lessor. Such work of repair or restoration shall be commenced  
26 within one hundred eighty (180) days after the damage or loss  
27 occurs and shall be completed with due diligence but not longer  
28 than one (1) year after such work is commenced, and such work  
shall be otherwise done in accordance with the requirements of the  
provisions hereof pertaining to the construction of improvements  
upon the leased premises. All insurance proceeds collected for  
such damage or destruction shall be applied to the cost of such  
repairs or restoration. If there are not insurance proceeds, or  
if the same shall be insufficient for said purpose, Lessee may (if  
said fire or casualty was not caused intentionally by Lessee) at  
its option, elect to terminate this lease, without penalty to

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3 Lessee, and apply such portion of the insurance proceeds as is  
4 necessary to restore the property as provided for in paragraph 12  
above.

5 26. ARBITRATION PROCEDURE. In the event of a dispute between  
6 Lessor and Lessee with respect to any issue specifically mentioned  
7 elsewhere in this Lease as a matter to be decided by arbitration,  
8 such dispute shall be determined by arbitration as provided in  
9 this paragraph. The Lessor and Lessee shall each appoint a disin-  
10 terested person as arbitrator who shall have had at least ten (10)  
11 years of experience in Skagit County in the subject matter of the  
12 dispute. The appointment shall be in writing and given by each  
13 party to the other, and the arbitrators so appointed shall con-  
14 sider the subject matter of the dispute, and if agreement can be  
15 reached between them their opinion shall be binding. In the event  
16 of their failure to agree upon the matter so submitted, they shall  
17 appoint a third arbitrator. In the case of the failure of such  
18 arbitrators to agree upon the third arbitrator, the same shall be  
19 appointed by the American Arbitration Association from its quali-  
20 fied panel of arbitrators, with similar qualifications. If the  
21 Lessor or Lessee shall fail to so appoint an arbitrator for a  
period of ten (10) days after written notice from the other party  
to make such appointment, then such party will have defaulted its  
right to make such appointment, and the arbitrator appointed by  
the non-defaulting party shall determine and resolve the dispute.  
In the event the three arbitrators are appointed, after being duly  
sworn to perform their duties with impartiality and fidelity, they  
shall proceed to determine the question submitted. The decision  
of the arbitrators shall be rendered within thirty (30) days after  
their appointment, and such decision shall be in writing, with  
copies thereof delivered to each of the parties. The award of the  
arbitrators shall be final, binding, and conclusive on the  
parties. The fees of the arbitrators and the expenses incident to  
the proceedings shall be borne equally between the Lessor and  
Lessee. The arbitrators shall award to the prevailing party the  
fees of that party's counsel, expert witnesses, or other witnesses  
called by the prevailing party.

22 27. COMPROMISE OF CLAIMS. By their signatures below, Lessor  
23 and Lessee, and Daniel R. Bolster, hereby compromise and waive any  
24 and all claims that they may have against the other, or their  
25 employees, agents, attorneys and consultants, arising from the  
26 negotiations leading up to the execution of this Lease and the  
27 Lease Agreement being terminated (excepting indemnity from third  
party personal injury or property claims). In addition, Lessee,  
and Daniel R. Bolster personally, agree to indemnify and reimburse  
Lessor for any judgment and/or attorneys fees incurred by Lessor  
resulting from any claim by Lessee and/or Daniel R. Bolster  
against any third party based upon the above-referenced matters.

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3 28. HOLD OVER. In the event that Lessee should hold over on  
4 the property after the expiration of the Lease term (or after the  
5 ninety (90) day period provided for in the paragraph concerning  
6 "restoration of property" above) without the written consent of  
7 Lessor, Lessee shall pay a minimum monthly rental of one hundred  
8 fifty percent (150%) of the minimum monthly rental amount for the  
9 prior year.

10 29. EMINENT DOMAIN. If the premises shall be taken or con-  
11 demned for any public purpose, or for any reason whatsoever, to  
12 such an extent as to render the property and/or building unten-  
13 antable, either Lessor or Lessee shall have the option to terminate  
14 the Lease effective as of the date of taking or condemnation,  
15 which shall be the earlier of the date the final condemnation  
16 judgment or the date possession is taken by the condemning author-  
17 ity. If the taking or condemnation does not render the premises  
18 untenable, this Lease shall continue in effect and the portions  
19 not taken shall be restored, to the extent possible, to the condi-  
20 tions existing prior to the taking. If, as a result of such  
21 restoration, the area of the property is reduced, the rental shall  
22 be reduced proportionately. All proceeds from any taking or con-  
23 demnation shall be paid to Lessor and Lessee waives all claim  
24 against such proceeds; provided, however, that Lessee shall be  
25 entitled to any award separately designated for Lessee's reloca-  
26 tion expenses or for damage or taking of Lessee's trade fixtures  
27 or other personal property. A voluntary sale or conveyance in  
28 lieu of but under the threat of condemnation shall be considered a  
29 taking or condemnation for public purpose, and shall include the  
30 Lessor's use of the premises for any purpose for public use of the  
31 premises, then this Lease may be terminated by the Lessor by writ-  
32 ten notice delivered or mailed by the Lessor to Lessee not less  
33 than six (6) months before the termination date specified in the  
34 notice, and damages to Lessee, if any resulting therefrom shall be  
35 determined by agreement between the parties hereto, or in the  
36 absence of agreement, by arbitration as herein provided. Damages  
37 or other compensation shall be determined in accordance with RCW  
38 53.08.010 and Title 8 as appropriate.

39 30. NONDISCRIMINATION - EMPLOYMENT. Lessee covenants and  
40 agrees that in all matters pertaining to the performance of this  
41 Lease, Lessee shall at all times conduct its business in a manner  
42 which assures fair, equal and nondiscriminatory treatment of all  
43 persons without respect to race, creed or national origin, and in  
44 particular:

45 30.1 Lessee will maintain open hiring and employment  
46 practices and will welcome applications for employment in all  
47 positions from qualified individuals who are members of racial or  
48 other minorities; and

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3 30.2 Lessee will comply strictly with all requirements  
4 of federal, state or local laws or regulations issued pursuant  
5 thereto relating to the establishment of nondiscriminatory requi-  
6 rements in the hiring and employment practices, and assuring the  
7 service of all patrons or customers without discrimination as to  
8 any person's race, creed, color or national origin.

9 The Lessor reserves the right to take such action as the  
10 appropriate governmental authority may direct to enforce these  
11 provisions.

12 31. CORPORATION/PERSONAL GUARANTEE. As set forth above,  
13 Lessee is doing business under the name of W. Inc., a Washington  
14 corporation and by his signature below, Lessee confirms and repre-  
15 sents that he is the sole owner of the stock and controlling  
16 interest in said corporation. By his signature below, Daniel R.  
17 Bolster, hereby personally guarantees full performance and/or any  
18 and all payments and indemnities provided for in this lease.

19 32. MISCELLANEOUS.

20 32.1 Attorneys Fees and Costs - Should a dispute arise  
21 between the parties hereto as to the effect of any provision  
22 hereof and said dispute is referred to an attorney, whether for  
23 enforcement in court or for decision under arbitration, the losing  
24 party shall pay the prevailing party's actual and incurred attor-  
25 ney's fees; costs of court or arbitration, including such fees and  
26 costs of any appeal; other legal expenses; and collection costs,  
27 except that the amount of such fees, costs or expenses taken sepa-  
rately or in the aggregate, shall not be unreasonable. If such  
dispute arises and is later settled by the parties, such settle-  
ment shall include a specific allocation of disposition of attor-  
ney's fees on both sides.

32.2 REFERENCES. Unless some other meaning and intent  
is apparent from the context, as used herein, the plural shall  
include the singular and vice versa and masculine, feminine, and  
neuter words shall be used interchangeably.

32.3 CONSTRUCTION AND VENUE. The captions in this Lease  
are for convenience only and do not in any way limit or amplify  
the provisions of this Lease. This Lease shall be construed  
according to Washington State law. Jurisdiction and venue shall  
be in Skagit County Superior Court, Mount Vernon, Washington.

32.4 INVALIDITY OF PARTICULAR PROVISIONS. The invali-  
dity of any item or provision of this Lease as determined by a  
court of competent jurisdiction shall in no way affect the vali-  
dity or enforceability of any other provision hereof.

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3 32.5 SUCCESSION AND SURVIVAL OF INDEMNITIES. This Lease  
4 shall be binding upon, and inure to the benefit of the parties,  
5 their assigns. Nothing contained in this section shall serve to  
6 waive Lessee's liabilities or transfer Lessee's interest. All  
7 indemnities provided in this Lease shall survive the expiration or  
8 any earlier termination of this Lease. In any litigation or pro-  
9 ceeding within the scope of any indemnity provided in this Lease,  
10 Lessee shall, at the Lessor's option, defend the Lessor at  
11 Lessee's expense by counsel satisfactory to the Lessor.

12 32.6 ENTIRE AGREEMENT/AMENDMENTS. This Lease consists  
13 of the entire understanding of the parties and there are no other  
14 terms, obligations, covenants, or conditions other than those con-  
15 tained herein. No modification or amendment of this Lease shall  
16 be valid or effective unless evidenced by an agreement in writing  
17 signed by both parties with like formality to this Lease.

18 32.7 WAIVER. Acceptance of rental by Lessor for any  
19 period or periods after a default in any of the provisions of this  
20 Lease by Lessee shall not be deemed a waiver of such default  
21 unless Lessor so advises Lessee in writing and a waiver at one  
22 time, shall not be construed to act as a waiver of subsequent  
23 default by Lessee.

24 32.8 NOTICES. For the purposes of written notice under  
25 the terms of this Lease notice shall be deemed effective when  
deposited in the U. S. Mail by certified mail, return receipt  
requested and for purposes of notice, the Lessor's address is:  
P.O. Box 297, Anacortes, Washington 98221. The Lessee's address  
is c/o Boomers Landing Restaurant, 209 "T" Street, Anacortes,  
Washington 98221.

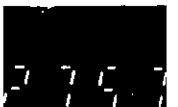
32.9 JOINT AND SEVERAL LIABILITY. Each and every party  
who signs this Lease, or any subsequent assumption of this Lease,  
shall be jointly and severally liable hereunder.

32.10 INSPECTIONS. Lessee shall allow Lessor to make  
periodic inspections of the property and buildings during Lessee's  
regular business hours and upon two (2) days notice.

33. PRESUMPTIONS/INDEPENDENT COUNSEL. Both parties warrant  
that they have read and understand their rights, and that each  
signatory has been represented by independent counsel in this  
matter and that there shall not be a presumption of construction  
of this Lease against any signatory hereto.

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3 IN WITNESS WHEREOF, the said parties hereto have set their  
4 hands and seals the day and year first above written.

5 "LESSOR" :

PORT OF ANACORTES

6 By [Signature]  
7 STAN KUROWSKI, President  
8 Board of Commissioners

9 By [Signature]  
10 KENNETH MOORE, Secretary  
11 Board of Commissioners

12 "LESSEE"

W. INC.

13 By [Signature]  
14 Daniel R. Bolster, President

15 [Signature]  
16 DANIEL R. BOLSTER as Personal  
17 Guarantor of this Lease

17 STATE OF WASHINGTON )  
18 ) ss  
19 COUNTY OF SKAGIT )

20 I certify that I know or have satisfactory evidence that  
21 STAN KUROWSKI signed this instrument, on oath stated that he is  
22 authorized to execute the instrument and acknowledged it as the  
23 President of the Board of Commissioners of The Port of Anacortes,  
24 a municipal corporation, to be the free and voluntary act for the  
25 uses and purposes therein mentioned.

26 GIVEN under my hand and official seal this 15<sup>th</sup> day of  
JANUARY, 1997.

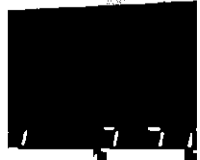
[Signature]  
Notary Public in and for the State  
of Washington, residing at

2211 Vermont Ave  
My appointment expires: 2/1/99

RUTH SUTTON  
(Printed Name)

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STATE OF WASHINGTON )  
 ) ss  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that KENNETH MOORE signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the Secretary of the Board of Commissioners of The Port of Anacortes, a municipal corporation, to be the free and voluntary act for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 15<sup>th</sup> day of JANUARY, 1997.

*Ruth Sutton*  
Notary Public in and for the State of Washington, residing at  
1111 1/2 1st St  
My appointment expires: 7-17-99  
RUTH SUTTON  
(Printed Name)

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that DANIEL R. BOLSTER signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the President of W. Inc., a Washington corporation\* to be the free and voluntary act for the uses and purposes therein mentioned.

\* and individually  
GIVEN under my hand and official seal this 15<sup>th</sup> day of January, 1997.

*John W. Hooks*  
COMMISSION EXPIRES  
Notary Public in and for the State of Washington, residing at  
1111 1/2 1st St  
My appointment expires: 7-10-2000  
JOHN W. HOOKS  
(Printed Name)

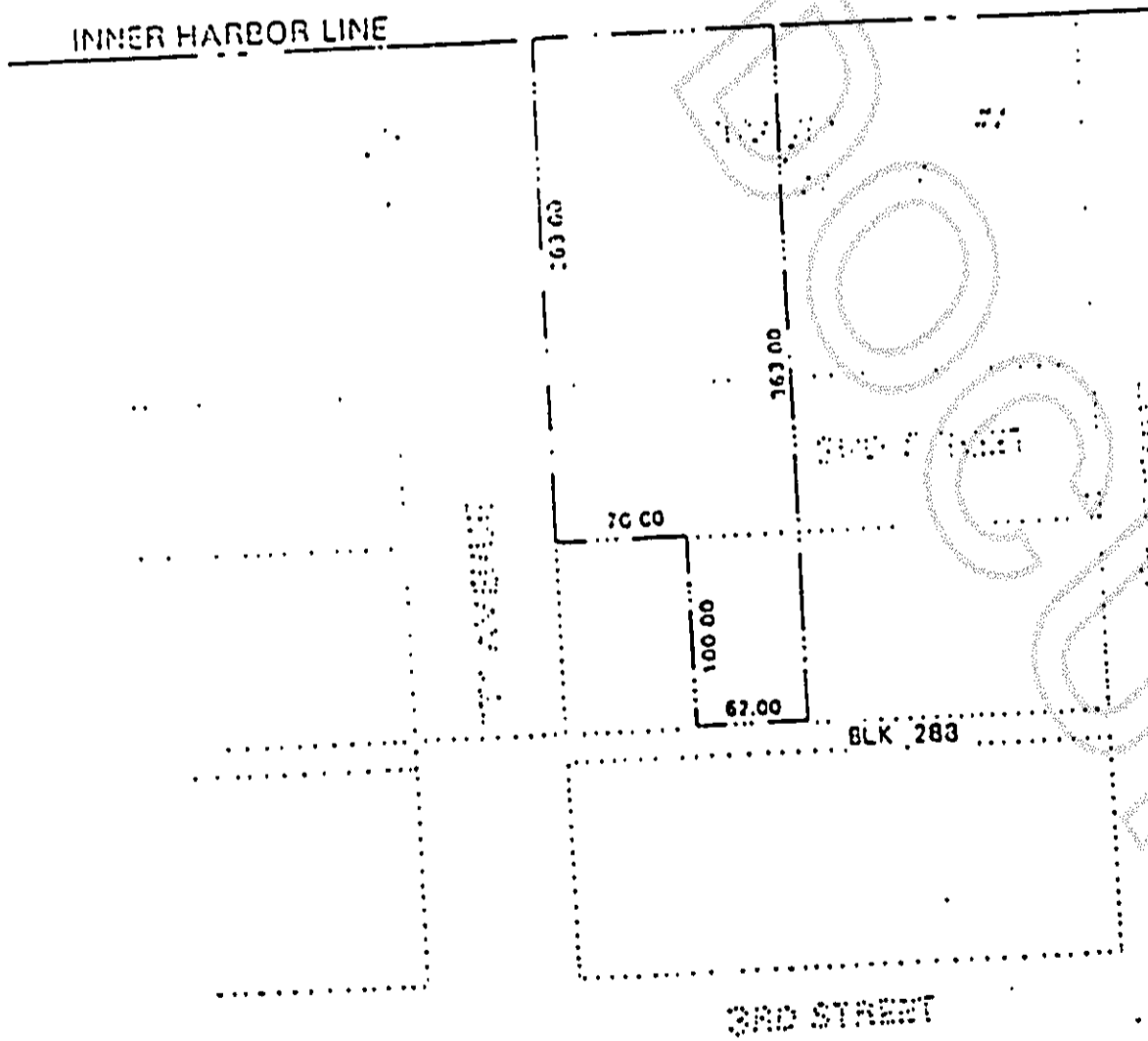
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EXHIBIT "A"

GUEMES CHANNEL



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COPY

FIRST AMENDMENT TO PORT OF ANACORTES/W. INC. LEASE AGREEMENT

RECITAL:

A. The Port of Anacortes, a Washington municipal corporation, as "Lessor" and W. Inc., a Washington corporation, d/b/a "Boomers Restaurant" as "Lessee" previously entered into a lease agreement on January 15, 1997 for the following described real property located in the City of Anacortes, Skagit County, Washington:

Beginning on the north line of the Alley in Block 288 at a point from which the intersection of said North line with the West line of "U" Avenue bears West 168 feet, all in the original plat of the City of Anacortes, according to the recorded plat thereof in the office of the Auditor of Skagit County, Washington; thence running North approximately 163 feet to the inner Harbor Line as shown on Plat 9, Anacortes Tidelands in Section 18, Township 35 North, Range 3 East, W.M., according to the map thereof on file in the office of the State Land Commissioner at Olympia, Washington; thence Westerly along said Inner Harbor Line to the East line of vacated "T" Avenue projected; thence South along said East line for approximately 263 feet to the South line of Second Street; thence East for 70 feet; thence South for 100 feet to the North line of the alley; thence East for 62 feet to the point of beginning.

B. Lessor and Lessee have agreed to amend said lease to adjust the rent in accord with the parties understanding and to assist Lessee in obtaining bank financing from Skagit State Bank; and

NOW THEREFORE in consideration of the mutual covenants contained in the parties lease and this Amendment and the benefits inuring to each of them they covenant and agree that the lease referred to above shall be amended as follows:

1. Paragraph 3.1 of the lease is hereby replaced in its entirety by the following:

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"3.1 The initial base minimum rental shall be ONE THOUSAND TWO HUNDRED SIXTY-EIGHT DOLLARS AND 14/100 (\$1,268.14) per month. This base minimum rent shall be subject to annual rental adjustments as set forth in the following paragraph titled "RENTAL ADJUSTMENTS". An additional rental amount shall be assessed of one and one half percent (1.5%) on the gross annual sales (January 1st through December 31st) if said sales exceed the sum of One Million Dollars (\$1,000,000) from business conducted on or from the leased property, and as reported monthly to the State of Washington Department of Revenue."

2. Paragraph 6 of the Lease is hereby replaced in its entirety by the following:

"6. USE OF PROPERTY. The property and building shall be used for the purposes of conducting a restaurant and catering business. Lessee agrees not to conduct on said property any other business without the prior written approval of the Lessor. Lessee shall conduct the foregoing business activity for at least five (5) days per week except for closures for such periods as may be reasonably necessary for repairs or decorating or for reasons beyond Lessee's reasonable control. The failure to remain open as herein provided shall constitute a material default; provided however, that in the event that a lender of Lessee keeps the payment current and is otherwise in full compliance with this lease, Lessee shall be considered to be in full compliance with the provisions of this paragraph."

3. That except as provided above, all of the terms and provisions of the Lease referred to in paragraph A above shall remain in full force and effect.

PORT OF ANACORTES

By Patricia A. Howe  
PATRICIA A. HOWE, Acting Executive Director

W. INC.

By Daniel R. Bolster  
DANIEL R. BOLSTER, President

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STATE OF WASHINGTON )  
 ) ss  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that PATRICIA A. HOWE signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the Acting Executive Director of PORT OF ANACORTES, a Washington municipal corporation, to be the free and voluntary act of such parties for the uses and purposes mentioned in the instrument.

DATED: 3/4/97

Carol A. Graves  
Notary Public in and for the State of  
Washington, residing at Anacortes  
My commission expires: 12/9/97  
Carol A. Graves  
(Printed Name)

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that DANIEL R. BOLSTER signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the President of W. INC., a Washington corporation, to be the free and voluntary act of such parties for the uses and purposes mentioned in the instrument.

DATED: 3-3-97

P.A. Broom  
Notary Public in and for the State of  
Washington, residing at Anacortes  
My commission expires: 7-6-00  
P.A. Broom  
(Printed Name)



SECOND AMENDMENT TO LEASE AGREEMENT

IT IS HEREBY MUTUALLY AGREED, by and between the PORT OF ANACORTES, a Washington municipal corporation, herein referred to as "Lessor", and W. Inc., a Washington corporation, d/b/a "Boomers Restaurant", hereinafter referred to as "Lessee", that this agreement amends the LEASE between the parties hereto dated January 15th, 1997, and subsequently amended with FIRST AMENDMENT TO PORT OF ANACORTES/W. INC. LEASE AGREEMENT dated March 4th, 1997.

WITNESSETH :

In consideration of the mutuality of benefit inherent hereto, the parties hereto do mutually agree as follows:

1. USE OF PROPERTY. Paragraph 6 of the Lease, dated January 15th, 1997, amended by FIRST AMENDMENT TO LEASE OF ANACORTES/W. INC. LEASE AGREEMENT, dated March 4th, 1997, is hereby replaced in its entirety by the following:

"6. USE OF PROPERTY. The property and building shall be used for the purposes of conducting a restaurant and catering business, to specifically include pull tab operations. Lessee agrees not to conduct on said property any other business without the prior written approval of the Lessor. Lessee shall conduct the foregoing business activity for at least five (5) days per week except for closures for such periods as may be reasonably necessary for repairs or decorating or for reasons beyond Lessee's reasonable control. The failure to remain open as herein provided shall constitute a material default; provided however, that in the event that a lender of Lessee keeps the payment current and is otherwise in full compliance with this Lease, Lessee shall be considered to be in full compliance with the provisions of this paragraph."

2. BINDING EFFECT. All other terms and conditions of the LEASE except as amended to the contrary, are confirmed, ratified and continued in all respects and are to remain in full force and effect. This agreement shall bind and inure to the benefit of the successors and assigns of the Lessor, and the successors and assigns of Lessee.

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IN WITNESS WHEREOF, the parties hereto have set their hand and seals to this agreement this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

LESSOR:  
PCRT OF NIACORTES

BY: [Signature]  
Stan Karowski, President

BY: [Signature]  
Ken Moore, Secretary

LESSEE:  
W., INC.  
d/b/a/ Boomers Landing Restaurant

BY: [Signature]  
Daniel Bolster, President

BY: [Signature]  
Daniel Bolster, as Personal Guarantor of this Lease

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After recording return document to:

\_\_\_\_\_  
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\_\_\_\_\_

Exhibit "B"

Document Title: SUBLEASE AGREEMENT

Reference Number of Related Document: \_\_\_\_\_

Grantor(s): Rhodo-Drona LLC

Additional Grantor(s) on page \_\_\_ of document.

Grantee(s): Pier 61 Inc.

Additional Grantee(s) on page \_\_\_ of document.

Abbreviated legal description: Ptn Blk 288 and Ptn Blk 289 City of Anacortes and

Ptn Plate 9 Anacortes Tidelands Sec 18-35-2 E.W.M.

Additional legal description(s) on page \_\_\_ of document.

Assessor's tax/parcel numbers: 3772-289-020-0005, R56526  
3772-289-011-0006, R56524  
3772-288-021-0006, R56522  
3772-289-014-0003, R56525

**SUBLEASE AGREEMENT**

THIS SUBLEASE AGREEMENT, hereinafter referred to as "this Lease," is made as of \_\_\_\_\_, 19\_\_, by and between Rhodo-Drona LLC, a Washington limited liability company, hereinafter referred to as "Lessor," and Pier 61 Inc., a Washington corporation, hereinafter referred to as "Lessee."

**WITNESSETH:**

In consideration of their mutual covenants, agreements and undertakings hereinafter contained, the

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[REDACTED]

parties hereto do mutually agree to that which is hereinafter set forth, upon and subject to the following terms, conditions, covenants and provisions:

1. **PROPERTY SUBJECT TO THIS LEASE AGREEMENT:** The Lessor hereby leases to Lessee and Lessee hereby leases from the Lessor, the following described Premises, situated in Anacortes, Skagit County, Washington:

Real property described on attached Exhibit "A" with building and other improvements located thereon.

2. **TERM.** The term of this Lease shall be from the \_\_\_ day of \_\_\_\_\_, 1998, and ending the 31st day of December, 2026, unless sooner terminated pursuant to any provision of this Lease.

3. **POSSESSION AND RIGHT OF QUIET ENJOYMENT.**

a. If the Lessor shall be unable for any reason to deliver possession of the Premises, or any portion thereof, at the time of the commencement of the term of this Lease, the Lessor shall not be liable for any damage caused thereby to Lessee, nor shall this Lease thereby become void or voidable, nor shall the term specified herein be in any way extended, but in such event Lessee shall not be liable for any rent (unless hereinafter provided for to the contrary) until such time as the Lessor can deliver possession. If Lessee shall, in the interim take possession of any portion of the Premises, Lessee shall pay as rent (unless hereinafter provided for to the contrary) the full rent specified herein reduced pro rata for the portion of the Premises not available for possession by Lessee. If the Lessor shall be unable to deliver possession of the Premises at the commencement of the term of this Lease, Lessee shall have the option to terminate this Lease by at least thirty (30) days' written notice unless the Lessor shall deliver possession of the Premises prior to the effective date of termination specified in such notice. If Lessee shall, with the Lessor's consent, take possession of all or any part of the Premises prior to the commencement of the term of this Lease, all of the terms and conditions of this Lease shall immediately become applicable, with the exception that Lessee shall not be obligated to pay any rent for the period prior to the commencement of the term of this Lease unless otherwise mutually agreed herein to the contrary.

b. Lessor acknowledges that it has fee ownership of Parcel A, fee ownership of the building on Parcel B and a leasehold estate as to Parcel B of the Premises heretofore described and that it has the legal authority to lease said Premises to Lessee. Lessor covenants that Lessee's right of occupancy shall not be disturbed during the term of this Lease so long as the terms and conditions hereof are complied with by Lessee and subject to the provisions of the succeeding section entitled "**LESSOR'S RIGHT TO ENTER PREMISES.**"

4. **RENTAL.** Lessee shall pay to Lessor, in lawful money of the United States, without any set-off or deduction, in addition to other charges required to be paid hereunder by Lessee, rental for the Premises per month during the term of this Lease equal to rental charged by the Port of Anacortes pursuant to LEASE AGREEMENT dated January 15, 1997, amended by FIRST AMENDMENT TO PORT OF ANACORTES/W. INC. LEASE AGREEMENT dated March 4, 1997 and SECOND AMENDMENT TO LEASE AGREEMENT dated June 15, 1997. Lessee acknowledges that this

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SUBLEASE is subject to the foregoing, the terms and conditions of which the Lessee hereon agrees to fulfill, and to pay in addition to the rents of this SUBLEASE and to keep in good standing. Rental payments shall commence beginning the \_\_\_ day of \_\_\_\_\_, 19\_\_\_. The rent for each month shall be paid to the Lessor in advance on or before the first day of each and every month of the term of this Lease, and shall be payable at such place as the Lessor may hereinafter designate. The rental may be adjusted by the addition of other sums and charges specified elsewhere in this Lease. The Lessor shall have all of the same rights and remedies with respect to any additional rent or charges in the event of nonpayment or late payment as are available to it in the event of nonpayment or late payment of the rental.

5. **ABATED RENTAL.** If this Lease provides for a postponement of any monthly rental payments, a period of free rent or other rent concession, such postponed rent or free rent is called the "Abated Rental." Lessee shall be credited with having paid all of the Abated Rental on the expiration of the term of this Lease only if Lessee has fully, faithfully, and punctually performed all of Lessee's obligations hereunder, including the payment of all rent (other than the Abated Rental) and all other monetary obligations and the surrender of the Premises in the physical condition required by this Lease. Lessee acknowledges that its right to receive credit for the Abated Rental is absolutely conditioned upon Lessee's full, faithful and punctual performance of its obligations under this Lease. If Lessee defaults and does not cure within any applicable grace period, the Abated Rental shall immediately become due and payable in full and this Lease shall be enforced as if there were no such rent abatement or other rent concession. In such case, Abated Rental shall be calculated based on the full initial rent payable under this Lease, plus interest thereon at the rate of twelve percent (12%) per annum from date each monthly rental payment was postponed.

6. **LATE CHARGES:** Lessee hereby acknowledges that late payment by Lessee to the Lessor of rent, or any other sums due hereunder will cause the Lessor to incur costs not otherwise contemplated by this Lease. Accordingly, if any installment of rent or any other sum due from Lessee shall not be received by the Lessor within ten (10) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay the Lessor a late charge equal to 5% of such overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs the Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by the Lessor shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent the Lessor from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable in this Lease or otherwise, whether or not collected, for three (3) installments of rent in any 12-month period, then rent shall automatically become due and payable quarterly in advance, rather than monthly notwithstanding the preceding section entitled "Rental" or any other provision of this Lease to the contrary. In addition to the late charges provided for in this section, interest shall accrue on rent, or any other sums due hereunder, at the rate of one percent (1%) per month from the date due until paid.

7. **CONDITION OF PROPERTY.** Lessee has inspected the Premises, and accepts the Premises in its present condition, is not relying upon any covenants, warranties or representations of Lessor as to its condition or usability, except Lessor's right to grant a lease of the Premises, and agrees to make any changes in the Premises necessary to conform to federal, state and local law applicable to Lessee's use of the Premises.

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8. **BUSINESS PURPOSE AND TYPE OF ACTIVITY.** It is understood and agreed that Lessee intends to use the Premises for conducting a restaurant and catering business, to specifically include pull tab operations and to conduct such other activities as are incidental and reasonably related thereto. It is further understood that the above activities are the only type of activities to be conducted upon the Premises. Failure to perform the above type of activities or cessation of such activities, except for temporary closures for such periods as may be reasonably necessary for repairs or decorating or for reasons beyond Lessee's reasonable control, or the carrying on of other type(s) of unauthorized activities, without first obtaining a lease modification with Lessor's written approval of such other type(s) or cessation of activities, shall constitute a material default by Lessee of this Lease. Lessee specifically agrees that this section shall be strictly construed to assure that the Premises and operations or activities conducted on said Premises are in full compliance with all applicable environmental or other laws and regulations. Lessee shall at all times operate on the Premises in a manner which will assure the safe, lawful and healthful use of the Premises. Lessee agrees that it will not disturb the Lessor or any other tenant of the Lessor by making or permitting any disturbance or any unusual noise, vibration or other condition on or in the Premises.

9. **OFF STREET PARKING.** Lessee agrees to provide space on the Premises for the parking of vehicles in the number necessary to comply with zoning and development/land use plan requirements; and not to use any public streets, rights of way or other properties not included in this Lease for the parking of said vehicles.

10. **ADVERTISING AND SIGNS:** No signs, symbols, or other advertising matter, shades, canopies or awnings shall be installed, displayed, attached to or painted on or within the Premises, including the windows and doors thereof, without the prior written approval of the Lessor.

11. **LAWS AND REGULATIONS.** The Lessee agrees, at its sole cost and expense, to conform to, comply with and abide by all lawful rules, codes, ordinances, requirements, orders, directions, laws and regulations of the United States, the State of Washington, and any municipality or agency of any of said entities, including rules and regulations of Lessor, including without limitation those relating to environmental matters, now in existence or hereafter promulgated, applicable to the Lessee's use and operation of said Premises, including the construction of any improvements thereon, and not to permit said Premises to be used in violation of any of said rules, codes, laws or regulations. Any fees for inspection of the Premises during or for the term of this Lease by any federal, state or municipal officer shall be paid by Lessee. Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of the failure of Lessee to comply with the covenants of this section. It is agreed that Lessee's noncompliance with the provisions of this clause shall constitute a material breach of this Lease.

12. **LESSEE WILL OBTAIN PERMITS.** Lessee shall be solely responsible for obtaining and complying with all permits, approvals or licenses required for the operation and conduct of Lessee's business activities and the construction, installation, erection and/or operation of any structures, facilities or equipment, including but not limited to, items constituting alterations or defined as trade fixtures on the Premises. If Lessee fails to obtain and comply with such permits, then Lessee accepts full responsibility for any and all costs incurred by the Lessor, including actual attorney's fees, occasioned by Lessor pursuing Lessee's default for its failure to obtain and/or comply with such

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permits. Lessee agrees to hold the Lessor harmless from any liability and to fully reimburse expenses of the Lessor for Lessee's failure to obtain and/or fully comply with any necessary permit.

13. **CONSTRUCTION OF IMPROVEMENTS.** Lessee shall not commence construction of any improvements or alterations (alterations include, but are not limited to: structural changes, painting of the interior of the Premises, changes to wiring and plumbing) or install any fixtures (other than fixtures which can be removed without injury to the Premises) without prior written consent of Lessor and subject to any and all conditions in such approval. Lessee shall submit to Lessor all plans and specifications relating to such construction of improvements, alterations or installation of any fixtures (other than fixtures which can be removed without injury to the Premises). When Lessee intends to construct improvements or alterations, Lessee shall notify the Lessor in writing in advance of the date upon which Lessee shall commence construction on the Premises and the Lessor shall have the right to post notices of nonresponsibility with respect to liens arising out of such construction. If Lessee shall fail to so notify the Lessor, Lessee shall reimburse the Lessor for all costs and loss whatsoever suffered by the Lessor because of Lessee's failure to notify the Lessor as required herein. The construction of all improvements, alterations and/or installation of fixtures shall be carried out by Lessee in a first-class manner at its sole cost and expense, and in full compliance with all federal, state, county and other governmental statutory and regulatory requirements. Until the expiration or sooner termination of this Lease, title to any improvements situated and constructed by Lessee on the Premises and any alteration, change, or addition thereto, as well as title to fixtures and articles of personal property attached to or used in connection with the Premises by Lessee shall remain solely in Lessee.

14. **REPAIRS.**

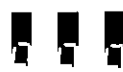
a. Lessor shall at its own cost and expense be responsible for undertaking repairs of the common areas of the facility. These are defined as repairs to the roof and exterior of the building, painting of the exterior of the building, and repairs to the foundations of the building or structure (expressly included in the term "foundation" are all flooring and decking, whether structural or finished of which the premises are a part, any bearing columns and bearing walls, and the exterior walls of the building or structure). Lessor shall at its sole cost and expense be responsible for repair of all water heaters, heating units, and air conditioning units. When and how such repairs are to be undertaken shall be at Lessor's sole discretion.

b. Lessee shall, at all times, preserve the Premises in as good repair as that on date of possession. Lessee shall have the full responsibility of making prompt repairs and shall pay, at its sole cost and expenses, the cost of making all repairs to the Premises, including but not limited to, replacement of any cracked or broken window or door glass (except that caused should the building settle), plumbing repairs such as faucet leaks and clogged toilets, electrical repairs such as replacement of light bulbs/fluorescent tubes and switch/outlet components and their respective covers, and repairs to ceiling, wall surfaces, and floor coverings.

15. **MAINTENANCE.** Lessor shall at its sole cost and expense be responsible for all maintenance of the landscaping, parking areas and walkways surrounding the premises. The Lessee shall at all times during the term of this Lease maintain the Premises in good condition and shall, at its sole cost and expense, keep the Premises neat, clean and in a safe and sanitary condition free from infestation

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of pests and conditions which might result in harborage for, or infestation of pests, (the word "pests" as used herein, shall include, without limitation, rodents, insects and birds in numbers to the extent that a nuisance is created), and in compliance with all federal, state and local environmental and other laws and regulations. Lessee shall provide for regular janitorial service to the Premises at its sole cost and expenses, so as to keep, amongst other things, the glass of all windows and doors of the Premises clean and presentable. Lessee agrees that if, as a result of its use, occupancy or operations on the Premises, or because of any action of its agents, invitees, employees, contractors or others, any environmental or health hazard occurs on the Premises, Lessee shall take all necessary remedial action to bring the Premises and operations or activities conducted thereon into full compliance with applicable federal, state and local laws and regulations.

Lessee specifically warrants that in conducting its business or other activities on the Premises as authorized in this Lease, that such business or activities shall be conducted in a first-class manner which includes standards of maintenance which insures continued compliance with all applicable environmental and other laws and regulations.

16. **COMMIT NO WASTE.** Lessee agrees not to allow conditions of waste and refuse to exist on the Premises and to keep the Premises in a neat, clean, and orderly condition and to be responsible for all damages caused to the Premises by Lessee, its officers, direct or indirect employees, contractors, subcontractors, agents, servants, invitees or guests. Lessee shall notify Lessor within twenty-four (24) hours of any release of a reportable quantity of any Hazardous Substance in or on the Premises, and Lessee shall notify Lessor, as soon as practicable, of any release of a reportable quantity of any Hazardous Substance it should have known about in or on the Premises or released on adjacent property which might reasonably be expected to affect the Premises. Lessee shall annually, on the anniversary date of the execution of this Lease, provide Lessor with a sworn statement detailing its compliance with all requirements of this section.

17. **DISPOSITION OF IMPROVEMENTS AT END OF LEASE.** At the expiration or sooner termination of this Lease, Lessee shall return Lessor's Premises to Lessor in the same condition in which received or if altered by Lessee with Lessor's consent then the Premises shall be returned in such altered condition, reasonable wear and tear and damage by fire or unavoidable casualty not resulting in environmental or health hazard excepted.

18. **UTILITIES.** Lessee shall be liable, and shall pay throughout the term of this Lease, for all utility services furnished to the Premises, and Lessee agrees to hold the Lessor harmless from payment of all such charges for utility services. In the event that the Premises are part of a building or are part of any larger property to which any utility services are furnished on a consolidated or joint basis, Lessee agrees to pay to Lessor Lessee's pro rata share of the cost of any such utility services. Lessee's pro rata share of any such service may be computed by Lessor on any reasonable basis, and separate metering or other exact segregation of cost shall not be required. The Lessor shall provide documentation supporting the Lessor's computation of Lessee's share of such services upon request. The Lessor makes no warranty that any utility service will not be interrupted and any interruption not the fault of the Lessor, shall not excuse Lessee's performance (including the payment of rent and other fees, taxes and charges) or render the Lessor liable in any manner. Lessee's sole remedy in the event of utility interruption caused by the Lessor shall be abatement of rent during the period of interruption in the same proportion as the affected portion of the Premises bears to the whole. The Lessor may

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at its sole option require Lessee to provide and maintain, at all times during the lease term, security for the payment of all sums due from Lessee under this section. The amount of said security shall be determined by the Lessor.

19. **TAXES AND ASSESSMENTS.** Except for County real estate taxes which Lessor agrees to pay, Lessee shall be responsible for, and shall pay and discharge promptly when due and before delinquency, all taxes, excise taxes, fees, licenses, monetary assessments and other governmental charges of whatever character, including all charges of every kind and nature and all assessments for all road, fire protection, and/or utility services charged or imposed upon the Premises, or any improvements situated thereon, including, but not limited to, road, fire protection, light, heat, electricity, gas, water, sanitary sewerage, storm sewer, garbage disposal and janitorial services, arising out of, or attributable to the Premises or to the Lessee's use and/or leasing thereof, payable for, or on account of, the activities conducted on the Premises, charged or imposed upon the property of Lessee on the Premises and/or on the leasehold interest created by this Lease and/or levied in lieu of a tax on said leasehold interest required to make the Premises conform to government regulations, and/or levied on or measured by, the rentals payable hereunder, throughout the term of this Lease, whether imposed on Lessee or on the Lessor. Lessee shall promptly reimburse the Lessor for all such taxes and other charges herein described which are paid or payable by the Lessor. With respect to any such taxes payable by the Lessor which are on or measured by the rent payments hereunder, Lessee shall pay to the Lessor with each rent payment an amount equal to the tax on, or measured by, that particular payment. All other tax amounts and charges for which the Lessor is or will be entitled to reimbursement from Lessee shall be payable by Lessee to the Lessor at least fifteen (15) days prior to the due dates of the respective tax amounts involved; Provided, that Lessee shall be entitled to a minimum of ten (10) days written notice of the amounts payable by it.

20. **HOLD HARMLESS.** Lessee shall protect, indemnify, defend and hold and save harmless the Lessor, its elected officials, agents and employees, their successors and assigns, heirs, executors, and administrators from and against all liabilities, obligations, fines, claims, claims for mechanics' liens, damages, penalties, law suits, governmental proceedings, judgments, costs and expenses (including without limitation attorney's fees, costs and expenses of litigation), and any and all claims by or on behalf of any person or persons, firm or corporation, in connection with any such items of actual or alleged injury (including without limitation, death) or damage, (including without limitation, loss of business income),

- arising out of acts or omissions of the Lessee, its officers, servants, invitees, contractors, subcontractors, guests and direct and/or indirect employees on or about Lessor's property, or
- arising out of the use of Lessor's property or any part thereof, including but not limited to, floats, docks or piers, ramps and approaches, buildings, sidewalks, curbs, parking lots, streets or ways, or
- due to or arising out of any failure on the part of the Lessee to perform or comply with any rule, ordinance, or law to be kept and performed.

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**THE LESSEE HEREBY WAIVES (GIVES UP) ITS IMMUNITY UNDER THE INDUSTRIAL INSURANCE ACT RCW TITLE 51 AND/OR THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT.**

**THE LESSEE HEREBY AGREES TO INDEMNIFY THE LESSOR FOR THE CONCURRENT NEGLIGENCE OF THE LESSOR AND LESSEE.**

This indemnity agreement does not apply when such damage or injury be caused solely by negligent or intentional acts of the Lessor, its elected officials, agents and/or employees.

**21. INSURANCE.**

a. Lessee shall procure and maintain at all times during the term of this Lease, at its sole expense, a policy of standard fire insurance with broad form coverage, including coverage against, glass breakage, vandalism and malicious mischief, on all leasehold improvements constructed upon the Premises on a full replacement value basis with the amount of insurance sufficient to prevent the operation of the co-insurance provisions in the policy.

b. Lessee shall procure and maintain at all times during the term of this Lease, at its sole expense, comprehensive liability insurance in full force and effect at all times while operating on or about Lessor's property, insuring the Lessor from all claims, demands, and/or actions for injury and/or death of any person or persons and/or for damage to property and/or cargo, regardless of how such injury or damage be caused, sustained or alleged to have been sustained by said Lessee or by others as a result of any condition (including existing or future defects in the Premises) or occurrence (including failure or interruption of utility service) whatsoever related in any way to said Lessee's operation on or about Lessor's property, in such amounts as to meet the minimum liability coverage specified below. The insurance policy or policies shall be for standard Commercial General Liability (CGL) with Broad Form CGL Endorsement coverage, (with watercraft exclusion deleted, including contractual liability coverage, or protection and indemnity coverage under marine insurance, or both, as solely determined by the Lessor) Automobile Liability, including coverage for owned, nonowned, leased or hired vehicles covering all operations of the Lessee so that the risks of liability created by the Lessee are covered. The coverage shall not be less than \$1,000,000.00 combined single limit for property damage, bodily injury or death. Providing coverage in the stated amounts shall not be construed to relieve the Lessee from liability in excess of such limits. The insurance requirements under this section shall, amongst other things, provide coverage for the indemnitor undertakings in the preceding section entitled "HOLD HARMLESS".

c. Lessee shall not use the Premises in such a manner as to increase the existing rates of insurance carried by the Lessor. If it nevertheless does so, then, at the option of the Lessor, the full amount of any resulting increase in premiums paid by the Lessor and to the extent allocable to the term of this Lease, may be added to the amount of the rent hereinabove specified and shall be paid by Lessee to the Lessor upon the monthly rental day next thereafter occurring.

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d. With regards to that which is set forth in a. and b. above:

i. Such insurance shall be placed with a reputable insurance company(ies) or underwriter(s) satisfactory to the Lessor, with the amount of deductible satisfactory to Lessor.

ii. The Lessor shall be named as an additional insured by endorsement to the policy or policies. Also, by endorsement to the policy, there shall be a cross liabilities clause and a statement that Lessee's policy is primary and not contributory with any insurance carried by the Lessor. The inclusion of the Lessor as an additional insured shall not create premium liability for the Lessor. Lessee shall furnish the Lessor with appropriate documentation in form and content satisfactory to the Lessor evidencing the coverage required to be kept are in full force and effect.

iii. The insurance policy or policies shall not be subject to cancellation or material change except after written notice to the Lessor at least thirty (30) days prior to the date of such cancellation or material change.

e. The Lessee shall, if it desires coverage from loss, carry insurance against loss by fire or other insurable cause upon its personal property, fixtures, furniture and equipment situated on the Premises during the term of this Lease, and, at Lessee's election on Lessee's leasehold interest.

22. **WAIVER OF SUBROGATION.** The Lessor and Lessee hereby mutually release each other, and their respective successors or assigns, from any liability and waive all right of recovery against each other from any loss from perils insured against under their respective fire insurance contracts, including any extended coverage endorsements thereto: Provided, that this section shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of Lessor or Lessee.

23. **DAMAGE OR DESTRUCTION.** Should the Premises or the building or facility of which the Premises is a part be damaged by fire or other casualty, and if the damage is repairable and satisfactory financing for said repairs is obtainable (with the repair work and the preparations therefor to be done during regular working hours or regular working days), the Premises may be repaired at the sole option of the Lessor. Should the Lessor elect to make such repairs the monthly rent shall be abated in the same proportion that the untenable portion of the Premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs. In the event the damage is extensive and/or satisfactory financing for repairs is not obtainable and the Lessor decides not to repair or rebuild, this Lease, at the option of the Lessor, shall be terminated upon written notice to Lessee within ninety (90) days of the occurrence of the damage and the rent shall, in such event, be paid to or adjusted as of the date of such damage, and Lessee shall thereupon vacate the Premises and surrender the same to the Lessor.

24. **LIENS.** Lessee shall keep the Premises free and clear of all liens, including mechanics', materialmen's, or other liens for work or labor done, and liens for services, materials, appliances and power performed, contributed, furnished or used or to be used in or about the Premises for or in

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connection with any operations of Lessee or any alteration, improvement, repair, or addition which Lessee may make, permit, or cause to be made or any work or construction by, for, or permitted by Lessee on or about the Premises. Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of the Lessor, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer, or materialman, for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to, or repair of the Premises or any part thereof, nor as giving Lessee any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any lien against the Premises or any part thereof.

In the event than any lien, charge, or order for the payment of money is filed against the Lessor or any portion of the Premises, Lessee shall, at its own cost and expense, cause the same to be discharged of record or bonded within sixty (60) days after written notice from the Lessor to Lessee of the filing thereof; and Lessee shall indemnify and save harmless the Lessor against and from all costs, liabilities, suits, penalties, claims, and demands, including reasonable counsel fees, resulting therefrom.

**25. CONTESTING LIENS AND TAXES:** Lessee may contest any lien of the nature set forth in the preceding section hereof or any tax, assessment, or other charge which Lessee shall pay under preceding sections hereof entitled "UTILITIES" and/or "TAXES", provided that Lessee notifies the Lessor, in writing, of its intention to do so within sixty (60) days of the filing of such lien or within thirty (30) days of receipt of notice of such tax, assessment, or other charge; and provided further that Lessee posts a bond or other security with the Lessor, prior to the contest, in an amount equal to the amount of the contested lien or tax, assessment, or other charge.

Within sixty (60) days of the determination of the validity thereof, Lessee shall satisfy and discharge such lien or pay and discharge such tax, assessment, or other charge and all penalties, interest, and costs in connection therewith. Satisfaction and discharge of any such lien shall not be delayed until execution is had on any judgment rendered thereon, nor shall the payment and discharge of any such tax, assessment, or other charge be delayed until sale is made of the whole or any part of Lessee's property on account thereof. Any such delay shall be a default of Lessee hereunder.

In the event of any such contest, Lessee shall protect and indemnify the Lessor against all loss, expense, and damage resulting therefrom.

**26. LESSOR'S RIGHT TO ENTER PREMISES.** Lessor and/or its authorized representatives shall have the right to enter the Premises at all reasonable times for any of the following purposes:

- a. To determine whether or not the Premises are in good condition and/or whether the Lessee is complying with its obligations under this Lease;
- b. To do any necessary repair, maintenance, improvement and to make any restoration to the Premises that the Lessor has the right or obligation to perform;

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c. To post "For Rent" or "For Lease" signs during any period that the Lessee is in default, as well as, within thirty (30) days prior to the expiration or sooner termination of this Lease.

d. To enter and inspect the Premises, conduct any testing, sampling, borings and analysis it deems necessary to assure compliance with environmental or other laws and regulations; and in the event of an emergency, to comply with lawful orders or to reduce or mitigate environmental loss or damages, to take such reasonable actions on the Premises as may be necessary to bring the Premises or operations on the Premises in compliance with environmental or other laws and regulations. Lessee agrees to cooperate with Lessor and all appropriate authorities to assure that operations on the Premises and the uses of the Premises, shall at all times be in full compliance with all applicable laws and regulations, including but not limited to those established for the purpose of protecting the environment and public health.

e. To do any other act or thing necessary for the safety or preservation of the Premises.

The rights reserved to the Lessor hereunder shall impose no obligation on the Lessor to make inspections or undertake other actions, and shall impose no liability upon the Lessor for failure to make such inspections or undertake other actions. Lessor shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Lessor's entry onto the Premises as provided in this section. Lessor shall conduct its activities on the Premises as provided herein in a manner that will cause the least inconvenience, annoyance or disturbance to the Lessee.

27. **LITIGATION.** In the event this Lease, its terms, Lessee's use, its occupation or the Premises in any way becomes a matter of litigation, the Lessor shall be notified of such litigation within fifteen days after such litigation is begun. Failure to so notify Lessor of such action shall not be a cause for cancellation or termination of this Lease, but the Lessee shall indemnify the Lessor for any damages sustained by Lessor resulting from such failure.

28. **DEFAULT AND RE-ENTRY.** Time and exact performance are of the essence of this agreement. The occurrence of any one or more of the following events makes Lessee immediately in material default of this Lease with or without notice from the Lessor:

- a. any rent or other payment due from Lessee hereunder remains unpaid for more than thirty (30) days after the date it is due;
- b. Lessee files a voluntary petition in bankruptcy or for reorganization, or makes a general assignment to the benefit of, or a general arrangement with creditors;
- c. there is an involuntary bankruptcy filed against Lessee;
- d. Lessee becomes insolvent;
- e. a receiver, trustee, or liquidating officer is appointed for Lessee's business;

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- f. any proceeding is commenced to foreclose any mortgage or any other lien on Lessee's interest in the Premises or on any personal property kept or maintained on the Premises by Lessee;
- g. the Lessor discovers that any financial or background statement provided to the Lessor by Lessee, its successor, grantee or assign was materially false; or
- h. Lessee violates or breaches any of the other terms, conditions, covenants or provisions of this Lease.

If the Lessee is in default according to a., and/or g. above, then this Lease shall at Lessor's option terminate. If Lessee is in default according to b., d., e., and/or f. above, then this Lease shall automatically terminate. If Lessee is in default according to c. above, Lessee has thirty (30) days from the filing of such involuntary bankruptcy to cure the default by having the involuntary bankruptcy dismissed. If Lessee is in default according to c. above, and fails to cure the default within the cure period, then this Lease shall automatically terminate. If the Lessee is in default as to h. above, Lessee has thirty (30) days after Lessor sends Lessee written notice of such violations or breach in which to cure the default. If Lessee is in default according to h. above, and fails to cure the default within the cure period, then this Lease shall automatically terminate.

Upon termination of this Lease, the full rent for the balance of the term of this Lease shall become immediately due and payable. The Lessor, may at its option, delay efforts to immediately collect the full rent for the balance of the term of this Lease and re-enter and attempt to relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as Lessor in its sole discretion deems advisable, provided Lessee performs as hereinafter set forth. Upon each such reletting, all rentals received by Lessor from such reletting shall be applied; first, to the payment of any amounts other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting and renovation, including brokerage fees and attorneys' fees; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessor and applied to payment of future rent as the same would have become due and payable hereunder. If rental received from such reletting during any month is less than that which would have been paid during that month by Lessee hereunder, Lessee shall pay any such deficiency to Lessor each month as the amount thereof is ascertained by the Lessor, and Lessee covenants and agrees to pay Lessor for all other expenses resulting from its default, including but not limited to, brokerage commissions, attorneys fees and costs and the reasonable cost of converting the Premises for the benefit of the next lessee. Delinquent rental and other payments shall bear interest at the rate of one percent (1%) per month commencing thirty (30) days after the date each sum is due and payable. In the event of any default hereunder and Lessor enters upon or takes possession of the Premises, Lessor shall have the right, but not the obligation, to remove from the Premises all personal property located therein, and may store the same in any place selected by Lessor, including but not limited to, a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, with the proceeds of such sale to be applied to the cost of such sale, to the payment of charges for storage, and to the payment of any other sums of money which may then be due from Lessee to Lessor under any of the terms hereof. Payment by Lessee to the Lessor of interest on rents and/or on any other charges due

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and owing under this Lease shall not cure or excuse Lessee's default in connection with such rents and/or other charges. Interest, default and all other remedies of the Lessor hereunder are cumulative and not alternative.

29. **TERMINATION FOR GOVERNMENT USE.** In the event that any federal, state or local government or agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the Premises or any part thereof, the Lessor may, at its option, terminate this Lease as of the date of such taking, and, if Lessee is not in default under any of the provisions of this Lease on said date, any rent prepaid by Lessee shall to the extent allocable to any period subsequent to the effective date of termination, be promptly refunded to Lessee.

30. **TERMINATION BECAUSE OF COURT DECREE.** In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Lessor of any of its obligations under this Lease, then either party hereto may terminate this Lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Lessee is not in default under any of the provisions of this Lease on the effective date of such termination, any rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.

31. **HOLDING OVER.** If Lessee shall, with the consent of the Lessor, hold over after the expiration or sooner termination of the term of this Lease, the resulting tenancy shall, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay to the Lessor ONE HUNDRED TWENTY PERCENT (120%) of the monthly rental as set forth herein, unless a different rate shall be agreed upon, and shall be bound by all of the additional provisions of this Lease insofar as they may be pertinent.

32. **LESSOR'S RIGHT TO CURE DEFAULTS:** If Lessee shall default in the performance of any provision under this Lease, other than the payment of rental, the Lessor, at its option, may perform the same for the account and at the expense of Lessee. Upon notification to Lessee of the cost thereof to the Lessor, Lessee shall promptly reimburse the Lessor the amount of that cost, plus interest at a rate of one percent per month accrued from the date of expenditure by the Lessor to the day of repayment. In the event of such default by Lessee, the Lessor may enter upon the Premises for the purpose of causing such provisions to be fulfilled. Such entry shall not be deemed an eviction of Lessee. The Lessor's action hereunder shall not be deemed a waiver of Lessee's default. The Lessor, at its option, without relinquishing any remedy or right, may separately commence proceedings against Lessee for reimbursement of the Lessor and for any other remedies for breach of this Lease.


33. **ASSIGNMENT AND SUBLEASE.**

a. Lessee shall not assign, mortgage, pledge, hypothecate, encumber or transfer this Lease, or any portion thereof, or any interest therein, nor sublet the whole or any part of the Premises, nor convey any right or privilege appurtenant thereto, nor allow any other person (the employees, agents, servants and invitees of Lessee excepted) to occupy or use the Premises, or any portion thereof, nor shall this Lease or any interest thereunder be assigned, mortgaged, pledged, hypothecated, encumbered or be transferable by operation of law or by

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any process or proceeding of any court, or otherwise, without the written consent of the Lessor first had and obtained. That which is hereinabove restricted is hereinafter collectively referred to as "assignment and sublease". The form and content of any writing to evidence an assignment or sublease requires Lessor's written consent. If Lessee is a partnership or corporation, then any change in the ownership of the partnership, or any transfer of this Lease by merger, consolidation or liquidation shall be deemed an assignment of this Lease. Lessee further agrees that if at any time during the term of this Lease more than one-half (1/2) of the outstanding shares of any class of stock of Lessee corporation shall belong to any stockholders other than those who own more than one-half (1/2) of the outstanding shares of that class of stock at the time of the execution of this Lease or to members of their immediate families, such change in the ownership of the stock of Lessee shall be deemed an assignment of this Lease within the meaning of this section. Failure to obtain written approval of any assignment or sublease of this Lease shall make Lessee in material default of this Lease.

b. Lessor shall not unreasonably withhold consent to a reasonable request for assignment or sublease, however, it may reasonably withhold consent to any proposed assignment or sublease pending receipt of verification that:

i. the proposed assignee has the financial ability and/or experience to assume Lessee's obligations herein set forth and the proposed assignee's intended use of the Premises is consistent with applicable zoning and development/land use requirements of the Lessor; or

ii. the proposed sublessee's intended use of the Premises sought to be sublet is consistent with applicable zoning and development/land use requirements of the Lessor.


c. The consent of Lessor to any assignment or sublease shall not in any manner be construed to relieve Lessee from obtaining Lessor's express written consent to any other or further assignment or sublease, and the provisions of this section shall continue in full force and effect.

d. Any assignee or sublessee of any portion of the Premises shall expressly assume, and by reason of such assignment or sublease shall be considered as having assumed, and become bound to all of Lessee's obligations hereunder. Lessee shall only be relieved from payment of rent, the performance of the covenants herein contained, and from the terms and conditions of this Lease, upon Lessor consenting to such an assignment wherein the Lessee assigns all of its interests in this Lease to an assignee who agrees to assume all of the obligations of this Lease.

e. In the event that Lessor shall consent to a sublease or assignment hereunder, Lessee shall pay Lessor a reasonable fee for each such assignment or sublease to offset Lessor's expenses incurred in connection with the processing of documents necessary to giving of such consent. The reasonable fees for each such assignment or sublease are as follows:

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Current Monthly Rent of this Lease:

Reasonable Fee:

up to \$ 450.00	\$200.00
\$ 451.00 to \$1,200.00	\$400.00
\$1,201.00 and over	\$600.00

34. **NONWAIVER.** Failure of the Lessor to complain of any act or omission on the part of Lessee, no matter how long the same may continue, or the receipt of rent by the Lessor with knowledge of any breach or default of this Lease by Lessee, shall not be deemed to be a waiver by the Lessor of any of its rights herein. No waiver by the Lessor at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of any subsequent breach of the same or any other provision. Failure of the Lessor to insist upon strict performance or to exercise any option herein conferred in any one or more instances in the event of default shall not be construed to be a waiver or relinquishment of any such or any other right herein extended to the Lessor.

35. **SURRENDER OF PREMISES - ATTORNEY'S FEES.** At either the expiration of the stated term of this Lease or any extension thereof, or sooner termination of this Lease as herein provided, Lessee shall promptly surrender to Lessor possession of the Premises peacefully and quietly, and in the condition required under preceding sections, including but not limited to the section entitled "DISPOSITION OF IMPROVEMENTS AT END OF LEASE," and shall deliver to the Lessor all keys that it may have to any and all parts of the Premises. In the event either party hereto brings an action to enforce any of the terms, conditions covenants or provisions of this Lease, then the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in the trial court and in the appellate courts.

36. **NOTICES.** All notices and payments hereunder may be delivered or mailed. If delivered by messenger, courier (including overnight air courier) or facsimile transmittal, they shall be deemed delivered when received at the street addresses or facsimile numbers listed below. All notices and payments mailed, whether sent by regular post or by certified or registered mail, shall be deemed to have been given on the second business day following the date of mailing, if properly mailed to the mailing addresses provided below, and shall be conclusive evidence of the date of mailing. The parties may designate new or additional addresses for mail or delivery by providing notice to the other party as provided in this section.

To Lessor:

Street Address:  
Rhodo-Drona LLC  
209 "T" Avenue  
Anacortes, WA 98221

Mailing Address:  
Rhodo-Drona LLC  
209 "T" Avenue  
Anacortes, WA 98221

Phone No.: (360) 293-5108 Fax No.: (360) 293-7513

**9902180111**

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**To Lessee:**

Street Address:  
Pier 61, Inc.  
5101 Doon Way  
Anacortes, WA 98221

Mailing Address:  
Pier 61, Inc.  
5101 Doon Way  
Anacortes, WA 98221

Phone No.: (360) 293-0217

37. **JOINT AND SEVERAL LIABILITY.** Each and every party who signs this Lease, other than expressly in a representative capacity, as Lessee, shall be individually, jointly and severally liable hereunder. The Lessor signs this Lease only as Lessor, and shall not be deemed a partner, joint venturer, or agent of Lessee even if Lessee's payments to the Lessor hereunder vary with the amount of Lessee's revenues from the Premises.

38. **"LESSEE" INCLUDES LESSEES, ETC.** It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual Lessee or Lessees under this Lease.

39. **CONSTRUCTION AND VENUE.** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease. This Lease shall be construed according to Washington State law. Jurisdiction and venue shall be in Skagit County Superior Court, Mount Vernon, Washington.

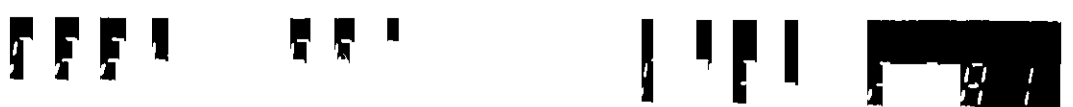
40. **INVALIDITY OF PARTICULAR PROVISIONS.** The invalidity of any term or provision of this Lease as determined by a court of competent jurisdiction shall in no way affect the validity or enforceability of any other provision hereof.

41. **SUCCESSION AND SURVIVAL OF INDEMNITIES.** This Lease shall be binding upon, and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns. Nothing contained in this section shall serve to waive Lessee's liabilities or transfer Lessee's interest. All indemnities provided in this Lease shall survive the expiration or any earlier termination of this Lease. In any litigation or proceeding within the scope of any indemnity provided in this Lease, Lessee shall, at the Lessor's option, defend the Lessor at Lessee's expense by counsel satisfactory to the Lessor.

42. **ENTIRE AGREEMENT AMENDMENTS.** This Lease consists of sections 1-42 of this instrument, and attached Exhibit(s) "A" inclusive, and attached Addenda(s) N/A. Each of the Exhibit(s) and Addenda(s) referenced in the preceding sentence is/are hereby incorporated into this Lease in its'/their entirety. Together, this instrument and above-referenced Exhibit(s) and Addenda(s) constitute the entire agreement of the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this Lease shall be valid or effective unless evidenced by an agreement in writing signed by both parties with like formality to this Lease.

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IN WITNESS WHEREOF, the parties hereto have signed this Lease as of the day and year first above written.

**LESSOR:**

Rhodo-Drona LLC

\_\_\_\_\_  
Signature

Jennifer L. Wingett, Member  
Print Name & Title

**LESSEE:**

PIER 61, INC.

\_\_\_\_\_  
Signature

Jennifer L. Wingett, President  
: Print Name & Title

**FOR LESSOR'S ACKNOWLEDGMENT**

STATE OF WASHINGTON )  
  : SS  
COUNTY OF SKAGIT    )

On this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, before me, personally appeared Jennifer L. Wingett, to me known to be the individual described in and who executed the within instrument and acknowledged he/she signed and sealed the same as his/her free and voluntary act and deed for the uses and purposes herein mentioned.

SUBSCRIBED AND SWORN TO before me this \_\_\_ day of \_\_\_\_\_, 19\_\_\_.

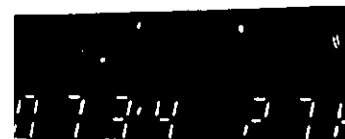
\_\_\_\_\_  
(Signature)

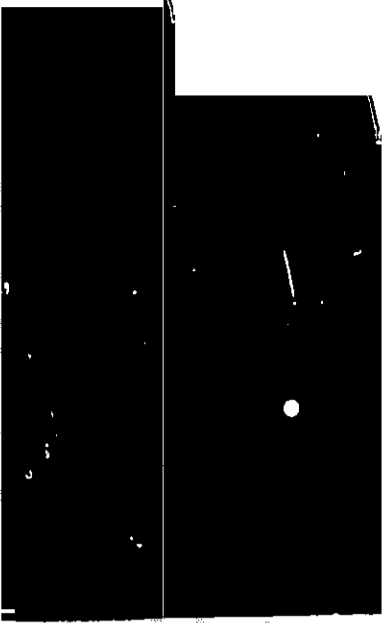
\_\_\_\_\_  
(Print Name)

Notary Public in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

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**BK 1945 PG 0484**





FOR LESSEE'S ACKNOWLEDGMENT

STATE OF WASHINGTON )

: SS

COUNTY OF SKAGIT )

On this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, before me personally appeared Jennifer L. Wingett and \_\_\_\_\_, to me known to be the President and \_\_\_\_\_ of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he/she/they were authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

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SA-17996

EXHIBIT "A"

PARCEL A:

Lot 8, EXCEPT the East 20 feet thereof, and Lots 9, 10, 11, 12, 13, 14, and 15, EXCEPT the East 10 feet of said Lot 15, Block 288, CITY OF ANACORTES, according to the plat thereof recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington;

TOGETHER WITH that portion of the alley, vacated by City of Anacortes Ordinance No. 1745 under Auditor's File No. 883228, records of Skagit County, Washington, which upon vacation reverted to said premises by operation of law.

PARCEL B:

Beginning on the North line of the alley in Block 288 at a point from which the intersection of said North line with the West line of "U" Avenue bears West 168 feet, all in the original plat of the City of Anacortes, according to the plat thereof recorded in Volume 2 of Plats, pages 4 through 7, records in the office of the Auditor of Skagit County, Washington;  
thence running North approximately 263 feet to the Inner Harbor line as shown on Plate 9, Anacortes Tidelands in Section 16, Township 35 North, Range 2 East of the Willamette Meridian, according to the map thereof on file in the office of the State Land Commissioner at Olympia, Washington;  
thence Westerly along said Inner Harbor line to the East line of vacated "T" Avenue projected North;  
thence South along said East line for approximately 263 feet to the South line of vacated Second Street;  
thence East for 70 feet, more or less to the West line of the East 20 feet of Lot 8;  
thence South along said line for 100 feet to the North line of the alley;  
thence East for 62 feet to the point of beginning.

- END OF EXHIBIT "A" -

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