

**GROUND LEASE**

by and between

**THE BRIDGEPORT PORT AUTHORITY**

and

**BLD PARCEL I OWNER, LLC**

Dated as of April 30<sup>th</sup>, 2014

## TABLE OF CONTENTS

<u>Article</u>	<u>Page No.</u>
ARTICLE 1 DEFINED TERMS .....	2
ARTICLE 2 GRANT OF LEASE .....	8
ARTICLE 3 TERM .....	11
ARTICLE 4 RENT .....	12
ARTICLE 5 TYPE OF DEMISE; PURCHASE OPTION .....	12
ARTICLE 6 USE AND MAINTENANCE OF LEASED PARCEL .....	15
ARTICLE 7 QUIET ENJOYMENT .....	16
ARTICLE 8 REPRESENTATIONS AND WARRANTIES .....	16
ARTICLE 9 REVIEW BY LANDLORD AND SUBSEQUENT CONSTRUCTION OF BP LEASE IMPROVEMENTS .....	20
ARTICLE 10 LEASEHOLD FINANCING .....	21
ARTICLE 11 TENANT INDEMNIFICATION AND INSURANCE .....	24
ARTICLE 12 CONDEMNATION .....	26
ARTICLE 13 PAYMENT OF TAXES .....	28
ARTICLE 14 DEFAULT BY TENANT .....	29
ARTICLE 15 SURRENDER .....	31
ARTICLE 16 HOLDOVER .....	31
ARTICLE 17 NO LANDLORD LIABILITY .....	31
ARTICLE 18 RIGHT OF ENTRY .....	32
ARTICLE 19 SUBORDINATION, ATTORNMENT AND ESTOPPEL .....	32
ARTICLE 20 NOTICES .....	32
ARTICLE 21 MISCELLANEOUS .....	33

## **SCHEDULES**

Schedule A-1	Legal Description of Parcel A-1
Schedule A-2	Legal Description of Parcel A-2

## **EXHIBITS**

Exhibit 1	Copy of Port Authority Resolution
Exhibit 2	Main BP Parcel
Exhibit 3	Form of Memorandum of Ground Lease
Exhibit 4	Non-Disturbance Agreement
Exhibit 5	BP Site Plan

## GROUND LEASE

THIS GROUND LEASE is made as of the \_\_\_\_\_ day of April, 2014, by and between the **BRIDGEPORT PORT AUTHORITY**, a municipal port authority organized and existing under the laws of the State of Connecticut, having an office at the Margaret E. Morton Government Center, 999 Broad Street, 2<sup>nd</sup> Floor, Bridgeport, Connecticut 06604 ("**Landlord**" or "**Port Authority**") and **BLD PARCEL OWNER I, LLC**, a Delaware limited liability company, having an address at c/o RCI Marine Inc., 300 Alton Road, Suite 303, Miami Beach, Florida, 33139 ("**Tenant**" or "**BLD Owner**").

### WITNESSETH:

WHEREAS, Landlord is the owner of real property located at 837 Seaview Avenue, Bridgeport, Connecticut that includes two (2) areas of land each containing approximately three (3) acres of land one of which is described on **Schedule A-1 ("Parcel A-1")** and the second of which is described on **Schedule A-2 ("Parcel A-2")**, one of which the Tenant seeks to lease from the Landlord;

WHEREAS, BLD Owner is the landlord under that certain Retail Lease dated as of September 26, 2013, as amended from time to time (the "**BP Lease**") with Bass Pro Outdoor World, L.L.C., a Missouri limited liability company, as tenant (together with its successors and or assigns as permitted in the BP Lease, collectively, "**BP**") pursuant to which BP leases from BLD Owner an approximately 9.8 acre parcel of property more particularly described in Exhibit 2 attached hereto (the "**Main BP Parcel**") upon which a "Bass Pro Shop Outdoor World" retail store will be constructed and operated located on the Steel Point Peninsula;

WHEREAS, in addition to providing for the leasing of the Main BP Parcel, the BP Lease contemplates BP leasing from BLD Owner an additional parcel of land containing approximately three (3) acres on property owned or leased by Landlord in the vicinity of the Main BP Parcel (the "**Boat Storage Parcel**") for the BP Permitted Use (Hereafter defined);

WHEREAS, BLD Owner desires to lease either (but not both) Parcel A-1 or Parcel A-2 from the Port Authority for the purposes stated herein with the intention of subleasing the Leased Parcel to BP in order to satisfy BLD Owner's obligations to provide BP with the "Boat Storage Area" in support of BP's business operations on the Main BP Parcel; and

WHEREAS, pursuant to a resolution dated \_\_\_\_\_, 2013 a copy of which is attached as **Exhibit 2**, the Port Authority authorized the execution of this Lease by Landlord and the leasing of either Parcel A-1 or Parcel A-2 to Tenant in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein contained, the parties mutually agree as follows:

## **ARTICLES**

### **ARTICLE 1**

#### **DEFINED TERMS**

Section 1.1 Definitions. For the purpose of this Lease, unless otherwise provided, the terms listed below have, and shall be construed and interpreted to have, the following meanings:

**"Assumption Obligations"** shall have the meaning assigned to it in Section 10.2(b)(2).

**"BP Permitted Use"** shall mean the use of the Leased Parcel for: (i) the storage of boats, recreational vehicles, off road vehicles, all-terrain vehicles; (ii) remote vehicular parking for customers and employees of Tenant, BP, Subtenant or any Sub-Subtenant or user of the BP Main Parcel; (iii) any other lawful use in support of BP's operations on the Main BP Parcel not requiring a change in zoning or variance; and any other lawful use reasonably permitted by Landlord.

**"BP Site Plan"** shall mean the preliminary Site Plan for the Leased Parcel attached hereto as Schedule 5.

**"BP Sublease Improvements"** means the grading, compacting and the paving of the Leased Parcel consistent with parking lot standards, enclosing of the Leased Parcel with a fence, installation of signage consistent with other Bass Pro stores, installation of lighting, curbing and such other improvements consistent with Boat Storage Areas at other Bass Pro stores, but specifically excluding any Required Infrastructure Improvements.

**"Brownfield Program"** shall mean the Brownfield Remediation and Revitalization Program, described at Connecticut General Statute § 32-769, as may be amended from time to time.

**"Certificates"** shall have the meaning assigned to it in Section 11.2(c).

**"C.G.S."** shall mean the Connecticut General Statutes, as they may be amended from time to time.

**"Commencement Date"** shall have the meaning assigned to it in Section 3.1.

**"Commitment"** shall have the meaning assigned to it in Section 5.4(c).

**"DEEP"** means the State of Connecticut Department of Energy and Environmental Protection.

**"DEEP Wetland Approval"** shall mean the approval by DEEP of any activities required to fill the alleged wetland in the northwest corner of the Leased Parcel, including issuance by DEEP of any permits required to conduct such activities, such as but not including a "Structures, Dredging & Fill and Tidal Wetlands permit."

**"ELUR"** shall mean the existing Environmental Land Use Restriction recorded at Volume 3028, Page 65 of the Bridgeport Land Records, any change or amendment thereto, and any new Environmental Land Use Restriction that the DEEP requires in connection with the Tenant's remediation of any Existing Environmental Conditions at the Leased Parcel.

**"Environmental Conditions"** shall mean any condition that has resulted in, results in, or is reasonably likely to result in an Environmental Release or migration of Hazardous Substances, alone or in conjunction with other substances, at, upon, under, onto, generated by, emanating or having emanated from, or emitting or having been emitted from, the Leased Parcel in violation of applicable Environmental Laws or at concentrations exceeding applicable criteria set forth in RSRs.

**"Existing Environmental Conditions"** shall mean those Environmental Conditions existing prior to or as of the Commencement Date, whether known or unknown, are referred to as the "Existing Environmental Conditions".

**"Future Environmental Conditions"** shall mean those certain Environmental Conditions: (i) whose cause first arose on the Leased Parcel during the Tenant's due diligence activities or during the Lease Term and (ii) were caused by Tenant, Subtenant or any Sub-Subtenant. Future Environmental Conditions specifically excludes the Existing Environmental Conditions.

**"Environmental Laws"** shall mean all statutory and common federal, state and local laws, rules, orders, regulations, statutes, ordinances, codes, orders, decrees or other requirements of and/or within the jurisdiction of any Governmental Authority, now or at any point in effect and applicable to the Landlord, the Leased Parcel, or the Tenant and regulating, relating to, or imposing liability for the protection of the environment, or any Hazardous Materials, including without limitation the following: any federal, state or local environmental law, ordinance, rule or regulation including, without limitation, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6987, as amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601-9657 ("**CERCLA**"), the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 1801-1812, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.) ("**RCRA**"), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.) ("**TSCA**"), the Clean Air Act, 42 U.S.C. §§ 7401 et

seq. ("CAA"), the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 138 et seq. ("FIFRA"), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) ("FWPCA") and/or the Safe Drinking Water Act (42 U.S.C. §300f et seq.) ("SDWA"), Connecticut General Statutes 22a-114 et seq., 22a-134 et seq., and 22a-451 et seq., as the foregoing may have been amended to date, and all similar federal, state and local environmental laws, ordinances, rules, codes and regulations, and any other federal, state or local laws, ordinances, rules, codes and regulations, as any of the foregoing may have been from time to time amended, supplemented or supplanted and any other federal, state or local laws, ordinances, rules, codes and regulations now existing relating to the protection of health, safety or the environment or the regulation or control or imposing liability or standards of conduct concerning toxic or hazardous waste, substances or materials.

**"Environmental Release" or "Release"** shall mean a spill or release of a Hazardous Substance onto the Leased Parcel or other property.

**"Environmental Claims"** shall have the meaning assigned to it in Section 2.2(d).

**"Environmental Permits"** means, without limitation, all permits, licenses, approvals, authorizations, filings, consents or registrations required by any applicable local, state or federal environmental law in connection with (a) the ownership, use and/or operation of the Leased Parcel for the use, storage, production, treatment, generation, transportation, processing, handling or disposal of Hazardous Substances, or (b) the sale, transfer, encumbrance or conveyance of all, or any portion of the Leased Parcel.

**"Existing Conditions"** shall have the meaning assigned to it in Section 2.1(b).

**"Execution Date"** means the date that this Lease is executed by the last of Landlord and Tenant and the Joinder attached hereto is executed by the City of Bridgeport, whichever occurs last.

**"Expense Cap"** shall have the meaning assigned to it in Section 2.2(b).

**"Governmental Approvals"** means, collectively, the issuance of any and all approvals from the United States Government, the State of Connecticut and/or the City, and/or through the respective agencies and/or quasi-public bodies of each, all as may be required to consummate the transactions contemplated under this Agreement and the development of the Leased Parcel by Tenant.

**"Governmental Authorities"** means any and all courts, boards, agencies, councils, commissions, offices, officials or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipal, city or otherwise), whether now or hereafter in existence, which have jurisdiction over all or any portion of the Leased Parcel.

**"Hazardous Substance"** means any substance or material which is regulated by any federal, state or local governmental entity, under any Law as a hazardous substance, hazardous waste, pollutant, contaminant, toxic waste, toxic substance toxic material, or words of similar meaning, and shall include without limitation petroleum and petroleum products, by-products or breakdown products, friable asbestos, asbestos-containing material and polychlorinated biphenyls.

**"Improvements"** means the BP Sublease Improvements, the Required Infrastructure Improvements and any other structures and improvements to be made to the Leased Parcel by any Tenant Party in accordance with Section 2.1 of this Lease.

**"Landlord"** means the entity designated above as landlord, and any person or entity acquiring the right, title and interest of Landlord in and to the Leased Parcel at any time during the Term, whether by affirmative act or by operation of law, including a Mortgagee.

**"Landlord's Response"** shall have the meaning assigned to it in Section 5.4(c).

**"Laws"** means all judicial decisions, orders (including, without limitation, executive orders), injunctions, writs, and any and all statutes, laws, rulings, rules, regulations, permits, certificates, and ordinances of all Governmental Authorities, including, without limitation, Environmental Laws, that are applicable to the Leased Parcel including, but not limited to, any of the aforesaid dealing with the zoning, subdivision, design, construction, ownership, use, leasing, handicapped accessibility, prevailing wages, non-discrimination, public bidding, maintenance, service, operation, sale, exchange or condition of the Leased Parcel.

**"Lease"** means this instrument, together with any renewals, extensions, exhibits, amendments, or modifications thereof executed by Landlord and Tenant.

**"Leased Parcel"** means the approximately three (3) acre parcel of land owned by Landlord that Tenant elects to lease in accordance with Section 2.1(b) hereof, such parcel being either Parcel A-1 or Parcel A-2.

**"Leasehold Financing"** shall have the meaning assigned to it in Section 10.1.

**"Monetary Liens"** shall have the meaning assigned to it in Section 5.4(c).

**"Option Closing"** shall have the meaning assigned to it in Section 5.4(a).

**"Option Property"** shall have the meaning assigned to it in Section 5.4(a).

**"Option Notice"** shall have the meaning assigned to it in Section 5.4(a).

**"Parcel A-1"** shall have the meaning assigned to in in the preamble.

**"Parcel A-2"** shall have the meaning assigned to in in the preamble.



**"Permitted Exceptions"** shall have the meaning assigned to it in Section 5.4(c).

**"Project Permits"** shall mean all permits from Governmental Authorities determined by the Tenant to be necessary for the use of the Leased Parcel, the construction of the Improvements, including all land use approvals from the City of Bridgeport and the building permits necessary to commence the construction of the Improvements.

**"Purchase Option"** shall have the meaning assigned to it in Section 5.4(a).

**"Purchase Price"** shall have the meaning assigned to it in Section 5.4(b).

**"Remedial Action Plan"** shall mean Remedial Action Plan Bridgeport Regional Maritime Center, a/k/a Carpenter Technology Corporation, 837 Seaview Avenue Bridgeport CT dated September 2001, as amended.

**"Remediation Standards Regulations"** or **"RSRs"** shall mean the provisions of Sections 22a-133k-1, et seq., of the Regulations of Connecticut State Agencies, as they may be amended from time to time.

**"Required Infrastructure Improvements"** means the necessary: (i) utility and related improvements; (ii) the environmental and wetland remediation and/ or (iii) related improvements to be made to the Leased Premises in order to address the Existing Conditions and make the Leased Premises usable by a third party. Specifically excluded from the Required Infrastructure Improvements are any specific improvements required for any particular Tenant Party to use the Leased Parcel for its intended use such as the BP Sublease Improvements.

**"Required Infrastructure Improvement Expenses"** means all fees and costs actually incurred by Tenant in connection with the design and construction of the Required Infrastructure Improvements and obtaining any necessary Governmental Approvals in connection therewith including but not limited to: the DEEP Wetland Approval permitting costs, impact fees, environmental remediation and wetland preservation fees and costs, fees charged by architects, engineers, general contractors, accountants, attorneys and other construction professionals in connection therewith, and utility hook-up, impact and similar fees charged by any governmental or quasi-governmental authorities for the delivery or use of any utilities or infrastructure improvements ( but not the fees for the actual consumption of such utilities).

**"State"** means the State of Connecticut.

**"Subtenant"** means BP, contractors, and any other person or entity acquiring any right, title and interest of BP under the BP Lease or other right of BP in and to the Leased Parcel at any time during the Term, whether by affirmative act of BP, Tenant or by operation of law and any other subtenant pursuant to a sublease agreement with Tenant as provided in Section 9.3 hereof. For purposes of this Lease, any person or

entity who succeeds to the interests of BP (with or without the approval of BLD Owner) shall be deemed to be a "Subtenant" hereunder automatically without any approval from Landlord being necessary or required; provided that Tenant shall remain primarily liable hereunder and Tenant shall promptly notify Landlord of any assignment of the BP Lease upon Tenant being made aware of such assignment.

**"Sub-Subtenant"** means any person or entity with whom BP subleases a portion of the Leased Parcel or any Sub-Subtenant who enters into a binding sublease agreement with any Subtenant pursuant to the provisions of Section 9.3. BLD Owner shall promptly notify Landlord of the existence of any such Sub-Subtenant upon being made aware of or consenting to same; provided that Tenant shall remain primarily liable hereunder. It is expressly understood that Landlord shall have no right to approve any such Sub-Subtenant so long as such subtenancy is consistent with and not in violation of this Lease.

**"Survey"** shall have the meaning assigned to it in Section 5.4(c).

**"Tenant"** means BLD Owner and any other person or entity acquiring all right, title and interest of BLD Owner in and to the Leased Parcel at any time during the Term, whether by affirmative act or by operation of law; any person or entity that acquires the rights of BLD Owner as Landlord under the BP Lease; or any successor or assign of BLD Owner as provided in Section 9.3 hereof.

**"Tenant Party"** means any applicable Tenant, Subtenant or Sub-Subtenant as the context so indicates.

**"Tenant's Objections"** shall have the meaning assigned to it in Section 5.4(c).

**"Title Company"** shall have the meaning assigned to it in Section 5.4(c).

**"Transfer Act"** means the Connecticut Property Transfer Act, Connecticut General Statutes § 22a-134 et seq., as amended from time to time.

**"Voluntary Cleanup Program"** shall mean the voluntary remediation program described at Connecticut General Statutes § 22a-133x.

## ARTICLE 2

### GRANT OF LEASE

#### Section 2.1 Grant of Lease.

(a) Landlord hereby leases and demises to Tenant and Tenant hereby rents from Landlord the Leased Parcel, being Parcel A-1 or Parcel A-2 at Tenant's election, which election shall be made in Tenant's sole discretion by written notice to Landlord on or before December 31, 2014 ("**Tenant's Election Notice**"). From and after Tenant's delivery of Tenant's Election Notice to Landlord, the applicable parcel that Tenant elects to lease as identified in Tenant's Election Notice shall be deemed to be the "**Leased Parcel**". If Tenant fails to timely deliver the Tenant's Election Notice Tenant shall be deemed to have leased Parcel A-1 and Parcel A-1 shall be deemed the Leased Parcel.

(b) Landlord and Tenant each acknowledge that:

(1) neither of Parcel A-1 nor Parcel A-2 have adequate utility connection points and lines necessary for development purposes ("**Utility Service**");

(2) both Parcel A-1 and Parcel A-2 is an "establishment," as defined in the Transfer Act, and the Landlord is the certifying party on a "Form III" filed with the DEEP for the "transfer" of the Leased Parcel; and

(3) {Parcel A-2} contains an alleged wetland area, the closure and filling of which is subject to DEEP Wetland Approval ( items 1-3 above collectively referred to herein as the "**Existing Conditions**"),

The Existing Conditions may impact Tenant's ability to obtain the Governmental Approvals (defined in subparagraph (c) below) needed to construct the Improvements in the time period required under the BP Lease on either Parcel A-1 or Parcel A-2 and/or meet the conditions and requirements of such Governmental Approvals.

(c) Landlord shall cooperate with Tenant and shall cause the City to cooperate with Tenant's efforts to confirm the availability of the necessary Governmental Approvals in order to establish the appropriate Utility Service and remediate the Existing Conditions with respect to both Parcel A-1 and Parcel A-2 and to process such Governmental Approvals for the Leased Parcel in an expeditious manner ("**Cooperation Covenant**"). Landlord's Cooperation Covenant with respect to the Governmental Approvals shall extend to any Governmental Approvals, including, but not limited to, Environmental Permits, DEEP Wetland Approvals or conditions or requirements imposed by applicable governmental authorities in connection with such Governmental Approvals which relate to the Existing Conditions. Landlord's and City's Cooperation Covenant shall include the obligation to attend meetings and hearings with applicable permitting authorities having jurisdiction over the intended use of the Leased

Parcel relating to the Governmental Approvals, the Utility Services, the remediation of any of the Existing Conditions and executing and processing or assisting Tenant in processing any and all applications with respect to the Governmental Approvals, the Utility Services to be obtained or the remediation to be obtained for or performed at the Leased Parcel.

Section 2.2 "As Is" Lease.

(a) EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO SECTION 2.2(b), LANDLORD MAKES NO REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER TO TENANT, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS AND WARRANTIES REGARDING THE ENVIRONMENTAL CONDITION AND/OR PHYSICAL CONDITION OF THE LEASED PARCEL AND/OR ITS SUITABILITY FOR ANY PARTICULAR PURPOSE, INCLUDING THE SUITABILITY OF THE SOILS AS STRUCTURAL FILL. Further, Tenant acknowledges that Tenant has had an opportunity to independently and personally inspect the Leased Parcel and perform any tests and/or studies desired by Tenant in connection therewith and Tenant acknowledges that it shall rely solely upon the results of Tenant's own evaluations and inspections of the Leased Parcel and activities conducted thereon or other information obtained or otherwise available to Tenant, rather than any information that may have been provided by Landlord to Tenant, including without limitation, environmental reports or materials provided by the Landlord. Except as expressly set forth to the contrary in this Agreement, Tenant agrees that the Leased Parcel is being leased to and accepted by Tenant at the execution of this Agreement in its then-present condition, "AS IS, WHERE IS, WITH ALL FAULTS, IF ANY, AND WITHOUT ANY REPRESENTATION, WARRANTY, PROMISE, COVENANT, AGREEMENT OR GUARANTEE WHATSOEVER, EXPRESS OR IMPLIED".

(b) Notwithstanding anything in Section 2.2(a) to the contrary, Tenant shall receive a credit against the Rent payable by Tenant to Landlord under Section 4.1 in the amount of the Leased Parcel Improvement Expenses pursuant to Section 4.2 up to the full amount of the Rent payable by Tenant under this Lease. Additionally, in the event that Tenant exercises the Purchase Option with respect to the Option Property in accordance with Section 5.4, Tenant shall receive a credit against the Purchase Price in the amount, if any, in the amount of any unreimbursed/uncredited portion of the Leased Parcel Improvement Expenses as of the time of the Option Closing. In any event, by execution hereof, Landlord acknowledges and agrees that Tenant's obligation to pay for the Leased Parcel Improvement Expenses shall be limited to payment of an amount not to exceed \$700,000.00 (the "**Expense Cap**"). Landlord's obligations with respect to a reimbursement of the Leased Parcel Improvement Expense shall not exceed the sum of: (i) the total Rent payable by Tenant under this Lease and (ii) if the Purchase Option is exercised by Tenant, the Purchase Price.

(c) Tenant agrees that during the course of its use and occupancy of the Leased Parcel, it will promptly deliver to Landlord any written reports, materials, data or other information Tenant may generate in connection with the Leased Parcel, particularly as it relates to independent subsurface investigations or environmental reports concerning the Leased Parcel whether the same are generated by Tenant or a third party, and Tenant agrees to have such reports, materials, data and other information certified to Landlord.

(d) Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, liens, damages, penalties, fines, costs, liabilities, expenses or losses (including reasonable attorney's fees) as a result of Tenant's release with respect to any Future Environmental Claims but such indemnity shall specifically exclude any Future Environmental Claims caused by the negligence or willful act of the City or Landlord.

(e) The rights and obligations of the parties in this Section 2.2 shall survive the expiration or early termination of this Lease.

Section 2.3 Leased Parcel. The Leased Parcel is leased together with the appurtenances and all the estate and rights of Landlord in and to the Leased Parcel, subject, however, to the terms and conditions of this Lease and the terms and conditions of such other agreements, liens, encumbrances, taxes and governmental regulations.

Section 2.4 Additional Rights and Privileges. Landlord also conveys a non-exclusive easement in favor of each Tenant Party and any of their respective, employees, principals, guests, agents, contractors and invitees to do the following pursuant to this Lease:

(a) to use the internal roadways shown on the Site Plan to travel by vehicle and on foot to and from Seaview Avenue and the Leased Parcel;

(b) to have access to the Yellow Mill Bridge and Stratford Avenue to the extent not specifically enumerated herein;

(c) to use any and all utility easements benefitting the Leased Parcel;  
and

(d) exercise such further rights and privileges as are necessary in order that any Tenant Party may use the Leased Parcel for the Permitted Use under this Lease.

Section 2.5 Mutual Obligations. Each of the parties herein expressly covenants and agrees to timely, fully, and diligently keep, perform and observe all the terms and conditions of this Lease on its respective part to be kept, performed and observed.

## ARTICLE 3

### TERM

Section 3.1 Term. The initial term of this Lease (the "**Initial Term**") shall be for a period of twenty (20) years commencing as of the date BP opens its store for business on the Main BP Parcel (the "**Commencement Date**") and ending on the last day of the calendar year in which the twentieth (20th) anniversary of the Commencement Date occurs. Tenant may elect to have the Commencement Date occur prior to the date BP opens its store for business. If Tenant makes such election, it shall provide at least 15 days' prior written notice to Landlord of the earlier Commencement Date. Notwithstanding that the Term of this Lease does not commence until the Commencement Date, Tenant shall be obligated hereunder and Landlord shall deliver possession of the Leased Parcel to Tenant immediately on the Execution Date in order for Tenant to commence the construction of the Improvements.

Section 3.2 Renewal. So long as the Tenant is not in default of its obligations hereunder beyond any applicable grace or cure period, Tenant shall have the right to renew this Lease and extend the Initial Term for five (5) consecutive five (5) year periods (each a "**Renewal Term**"; the Initial Term and each applicable Renewal Term extending this Lease in accordance with this Section are collectively hereinafter referred to as the "**Term**"), each exercised separately upon written notice given by Tenant to Landlord no later than 180 days prior to the expiration of the Term or the then-current Renewal Term, as applicable.

Section 3.3 Early Termination Right of Tenant. In the event that the Commencement Date does not occur on or before March 1, 2016, or if BP terminates the BP Lease prior to the stated expiration of the term of the BP Lease, this Lease shall, at Tenant's option, terminate and be of no further force or effect; provided, that, in order to exercise Tenant's option to terminate this Lease upon the termination of the BP Lease, Tenant must deliver a written termination notice to Landlord within 30 days following the termination of the BP Lease.

Section 3.4 Early Termination of Right of Landlord. Tenant shall provide prompt written notice when the BP Lease is terminated. If another retail tenant for all or a part of the Main BP Parcel is not secured by BLD Owner within three (3) years after the termination date of the BP Lease, Landlord shall have the right to terminate this Lease after expiration of said three (3) year period by providing written notice of termination to BLD Owner within sixty (60) days after the third anniversary of the termination date of the BP Lease.

## ARTICLE 4

### RENT

Section 4.1 Base Rent. Tenant shall pay base rent for its use and enjoyment of the Leased Parcel during the Initial Term in the aggregate amount of \$300,000.00 ("**Rent**"). The Rent payable by Tenant to Landlord for the Initial Term shall be payable in five (5) equal installments as follows:

1st Anniversary of Commencement Date	\$60,000.00
5th Anniversary of Commencement Date	\$60,000.00
10th Anniversary of Commencement Date	\$60,000.00
15th Anniversary of Commencement Date	\$60,000.00
20th Anniversary of Commencement Date	\$60,000.00

No Rent shall be due from or owed by Tenant for its use of the Leased Parcel during any Renewal Term.

Section 4.2 Rent Credit; Purchase Price Credit. Landlord acknowledges that by Tenant obtaining the Governmental Approvals, delivering the Utility Services to the Leased Parcel and completing the Required Infrastructure Improvements, Tenant will increase the value of the Leased Parcel and thereby provide a significant economic benefit to Landlord. Notwithstanding any provision of this Lease to the contrary, Tenant shall receive a dollar for dollar credit against the Rent payable pursuant to Section 4.1 for the expenses incurred by Tenant in connection with Tenant's efforts to obtain, satisfy the conditions of, and construct the Required Infrastructure Improvements to the Leased Parcel up to a maximum of (\$300,000.00) (the "**Rent Credit**"). In addition to the Rent Credit if Tenant exercises its Option to purchase the Leased Parcel pursuant to Section 5.4 Tenant shall receive a dollar for dollar credit against Purchase Price payable for any and all expenses incurred by Tenant in connection with Tenant's efforts to obtain, satisfy the conditions of, and construct the Required Infrastructure Improvements and not previously included in the Rent Credit ("**Purchase Price Credit**"), which Purchase Price Credit shall be capped at the amount of the Purchase Price. Tenant shall receive the Rent Credit and the Purchase Price Credit, if applicable, whether such expenses are incurred before or after the Commencement Date. In order to be reimbursed Tenant shall provide Landlord with written invoices and reasonable back up documentation regarding the same. Landlord shall make such reimbursements within thirty (30) days of receipt of same.

## ARTICLE 5

### TYPE OF DEMISE; PURCHASE OPTION

Section 5.1 Net Lease. It is the purpose and intent of Landlord and Tenant that this Lease shall be on a triple-net basis, that is, the Tenant shall be responsible for the consumption of all utilities, insurance premiums, and maintenance and repair costs for

any Improvements on the Leased Parcel and that the Rent specified herein shall, except as herein otherwise provided, be absolutely net of such costs to Landlord. Accordingly, all such costs, expenses and obligations of every kind and nature whatsoever relating to use and operation of the Leased Parcel, which may arise or become due during the Initial Term and each Renewal Term, shall be the responsibility of the Tenant.

Section 5.2 No Setoff. Any and all Rent and other sums payable hereunder by Tenant to, or on behalf of, Landlord, shall be fully and timely paid without notice, demand, setoff, counterclaim, abatement, suspension, deduction or defense. Notwithstanding the foregoing, Tenant shall receive the Rent Credit, as provided in Section 4.2. Tenant's failure to pay Rent and other sums payable hereunder shall accrue interest at the rate of six (6%) percent per annum from the date due until paid.

Section 5.3 Title to Leased Parcel and the Project. Fee title to the Leased Parcel shall continue to vest in Landlord or its successors at all times during the Term, subject to the leasehold interest and any additional rights expressly and specifically granted in this Lease to Tenant, including but not limited to Section 5.4 immediately below. During the Term, title to all Improvements constructed on the Leased Parcel by any Tenant Party, and all personal property and fixtures installed or located therein, shall, at all times, vest in and remain the property of Tenant, Subtenant and/ or any Sub-Subtenant (as applicable) for purposes of this Lease. Should Tenant wish to remove any Improvements upon the expiration or sooner termination of the Lease, subject to the Landlord's rights herein in the event of an existing Default, Tenant may, at Tenant's option, remove the same within 90 days of the expiration or sooner termination of the Term, failing which such Improvements shall become the property of Landlord automatically upon the expiration of such 90 day period. Notwithstanding the foregoing right of Tenant to remove Improvements, Tenant shall not be permitted to remove any infrastructure improvements essential for the use of the Leased Parcel by another party such as roads, underground drainage systems and utility hook-ups. This provision shall survive the expiration of the Lease or the earlier termination thereof.

#### Section 5.4 Option to Purchase.

(a) Option Notice. By execution hereof, Landlord, its successors and assigns, grants to Tenant, its successors and assigns, an irrevocable option to purchase the Leased Parcel, including all of its beneficial rights, easements and appurtenances (collectively, the "**Option Property**") in accordance with this Section 5.4. So long as no Default exists and is continuing, Tenant shall have an on-going right to purchase the Option Property ("**Purchase Option**") at any time during the Term by delivering written notice to Landlord (the "**Option Notice**") of Tenant's exercise of such Purchase Option no less than thirty (30) days prior to the date of the Option Closing (as defined below). The date of the closing of the Purchase Option (the "**Option Closing**") and the Purchase Price (as defined below) shall be set forth in the Option Notice, provided that the Option Closing shall occur no sooner than thirty (30) days and no later



than one hundred eighty (180) days after the date on which Tenant delivers the Option Notice to Landlord.

(b) Purchase Price. The purchase price for the Leased Parcel shall be \$100,000 per net developable acre ("**Purchase Price**") as reasonably determined by Tenant and confirmed by Landlord based upon a survey of the Leased Parcel obtained by Tenant, at its cost. The Purchase Price less any credits to be provided to Tenant (including, if applicable, the Purchase Price Credit) shall be payable to Landlord at the Option Closing by Federal wire funds transfer.

(c) Title Insurance; Survey. Tenant, at Tenant's expense and within twenty (20) days after Tenant's delivery of the Option Notice to Landlord, shall obtain and deliver to Landlord (i) a standard form ALTA Owner's Title Commitment issued by a title company selected by Tenant (the "**Title Company**") (the "**Commitment**") and, (ii) at Tenant's option, a survey covering the Option Property ("**Survey**"). At the time that Tenant delivers the Commitment and Survey, Tenant shall identify any matters reflected thereon which render title to the Leased Premises unmarketable as per traditional Connecticut standards or materially impair Tenant's ability to use the Leased Premises for the BP Permitted Use ("**Tenant's Objections**"). Within ten (10) days of Landlord's receipt of Tenant's Objections, Landlord shall advise Tenant in writing as to whether or not Landlord will cause Tenant's Objections to be cured at the Option Closing ("**Landlord's Response**"). If Landlord does not agree in Landlord's Response to cure all of Tenant's Objections at or prior to the Option Closing, then Tenant may either (i) proceed with the purchase of the Option Property at the Option Closing and take title to the Option Property subject to such of Tenant's Objections that Landlord does not agree to cure by the Option Closing ("**Permitted Exceptions**"), or (ii) terminate the Purchase Option in which event Tenant's and Landlord's obligations under this Lease shall continue as if Tenant never exercised its Purchase Option. Notwithstanding anything above to the contrary, Landlord shall cause to be paid all monetary liens and delinquencies affecting the Option Property caused or permitted by Landlord ("**Monetary Liens**") at the Option Closing irrespective of whether Tenant includes such Monetary Liens in Tenant's Objections and regardless of whether Landlord specifically agrees to cure such Monetary Liens by the Option Closing, unless such Monetary Liens were caused by Tenant in which event Tenant shall either pay all amounts necessary to cause such Monetary Liens to be satisfied at the Option Closing or take title to the Option Property subject to such Monetary Liens.

(d) Title and Deed. At the Option Closing, Landlord shall convey to Tenant, by special warranty deed marketable fee simple title to the Option Property, free and clear of any and all encumbrances, subject only to the Permitted Exceptions, zoning restrictions and ad valorem taxes due after the Option Closing.

(e) Condemnation. If, prior to the Option Closing, all or any part of the Option Property shall be condemned by a governmental authority after the exercise of the Purchase Option, Tenant shall have the option of (a) completing the purchase of the Option Property, in which event all condemnation proceeds or claims thereof shall be

assigned to Tenant at the Option Closing, or (b) terminate the Purchase Option in which event Tenant's and Landlord's obligations under this Lease shall continue as if Tenant never exercised its Purchase Option.

(f) Taxes and Assessments, Prorations. Real property taxes, water rates and sewer charges and rents with respect to any portion of the Option Property comprised of the Leased Parcel, if any, need not be prorated at the Option Closing because they are the responsibility of Tenant under this Lease, but shall be prorated as of the day of Option Closing as to all other portions of the Option Property. With respect to any portion of the Option Property comprised of the Leased Parcel, Rent and all other charges due under this Lease shall be prorated as of the date of Option Closing.

(g) Transaction Taxes. The cost of any and all transaction taxes due in connection with the recording of the special warranty deed at the Option Closing shall be paid by Tenant. Both parties agree to execute the real estate conveyance tax returns required to be filed in connection with any other taxes due in connection with the Option Closing.

(h) Brokerage Fees. No broker fees shall be due and payable by either Landlord or Tenant in connection with this Lease or the exercise of the Purchase Option and the Option Closing pursuant to this Section 5.4. Each party represents and warrants that it has not agreed to pay any third party a commission, finder's fee or any other sum in connection with this matter. Each Party (the "**Indemnifying Party**") agrees to indemnify the other (the "**Indemnified Party**") against brokerage or claims arising out of claims for a commission, finder's fee or any other sum are made on statements, documents or other actions of the Indemnifying Party. This paragraph shall survive the full performance or early termination of this Lease.

## ARTICLE 6

### USE AND MAINTENANCE OF LEASED PARCEL

Section 6.1 Permitted Uses; Recognition of BP. Tenant may use the Leased Parcel during the Term for the BP Permitted Use and any other use permitted under applicable law. Landlord acknowledges and agrees that, so long as the BP Lease remains in effect, the Leased Parcel may be used by any of Tenant, BP, Subtenant, Sub-Subtenant that succeeds to BP interests under the BP Lease for the Main BP Parcel or any replacement tenant on the Main BP Parcel. In furtherance of BP's proposed use of the Leased Parcel, simultaneous with the execution of this Lease Landlord shall execute a subordination, non-disturbance and attornment agreement in favor of BP in the form attached hereto as **Exhibit 4**.

Section 6.2 Maintenance of Improvements and Alterations. Throughout the Term Tenant shall or shall cause Subtenant and/or any Sub-Subtenant to maintain and repair the Improvements in reasonably good and stable condition, making any and all necessary ordinary and capital repairs thereto or replacements thereof at no cost to Landlord.

Section 6.3 Compliance With Laws. Tenant shall comply and shall cause each Subtenant and/ Sub-Subtenant to comply with all federal, state and local laws applicable to the Leased Parcel and Tenant's use thereof and Tenant shall not use or allow the Leased Parcel to be used without the Landlord's Approval for any unlawful purpose or purpose that may make void or voidable any insurance then in force with respect thereto.

## **ARTICLE 7**

### **QUIET ENJOYMENT**

Section 7.1 Right to Quiet Enjoyment. In consideration of the lease of the Leased Parcel, Tenant's full and timely payment of the Rent to Landlord throughout the Lease, and Tenant's full, timely and diligent performance of all terms and conditions of this Lease, Tenant shall quietly hold, occupy and enjoy the Leased Parcel without hindrance or molestation by any party claiming by, through or under Landlord, subject, however, to the terms and conditions of this Lease.

## **ARTICLE 8**

### **REPRESENTATIONS AND WARRANTIES**

Section 8.1 Landlord. Landlord represents and warrants to Tenant as follows:

(a) Due Authorization. This Agreement has been duly authorized by the Landlord, has been executed and delivered by the Landlord, and the persons signing this Agreement and all documents executed pursuant to it, on behalf of the Landlord, are duly-authorized to sign such documents and to bind the Landlord to their respective terms, whereupon this Agreement and such other documents shall constitute the legal, valid and binding agreements of the Landlord, enforceable against the Landlord in accordance with their respective terms.

(b) No Conflict; Legal Compliance. The execution, delivery and performance of this Agreement by the Landlord, any action or omission on the part of the Landlord required pursuant hereto, and the consummation of the transactions contemplated by this Agreement shall not, to the best of the Landlord's knowledge and belief, (i) result in a breach or violation of, or constitute a default under, any Law; (ii) result in a breach of any term or provision of the charter documents of the Landlord; or (iii) constitute a default or result in the cancellation, termination, acceleration of, any obligation, or other breach or violation of any loan or other agreement, Instrument,

indenture, lease, or other material document to which the Landlord is a party or by which any of the properties of the Landlord is bound, or give any Person the right to declare any such default, cancellation, termination, acceleration, breach or violation or to exercise any remedy or obtain any other relief under any such loan or other agreement, instrument, indenture, lease, or other material document or under any Law. The Landlord neither is nor shall be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement which has not already been given or obtained.

(c) Litigation and Default. To the best knowledge of the Landlord after diligent inquiry, the Landlord is not involved in any legal proceeding, which would involve, affect or could affect the Leased Parcel, or prevent or materially impair the ability of the Landlord to perform its duties and obligations under this Agreement and no event has occurred which, with due notice or lapse of time or both, could constitute a material breach of any Law which could prevent or materially impair the ability of the Landlord to perform its duties and obligations under this Agreement.

(d) Insolvency. The Landlord has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors; (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of its assets; (iv) suffered the attachment or other judicial seizure of all, or substantially all, of its assets; (v) admitted in writing its inability to pay its debts as they come due; or (vi) made an offer of settlement, extension or composition to its creditors generally.

(e) Eminent Domain and Impositions. There is no existing, or to the best of the Landlord's knowledge, proposed eminent domain proceedings of any Governmental Authority affecting any of the Leased Parcel. As of the date hereof, the Landlord has not made any assessments for public improvements against the Leased Parcel and no such assessments are now pending.

(f) Disclosure. To the best of the Landlord's knowledge, no representation or warranty of the Landlord hereunder omits to state a material fact necessary to make the statements herein, in light of the circumstances in which they were made, not misleading.

(g) Best Knowledge; Received Written Notice. Whenever a representation, warranty or other statement is made in this Agreement on the basis of the best of knowledge of Landlord, or is qualified by Landlord having received written notice, such representation, warranty or other statement is made with the exclusion of any facts disclosed to or otherwise known by the Tenant, and is made solely on the basis of the actual, as distinguished from implied, imputed and constructive, knowledge on the date that such representation or warranty is made, without inquiry or investigation or duty thereof, of Andrew Nunn, who, at the time of execution of this Agreement, has the primary responsibility for the development of the Leased Parcel, without attribution to such specific individual of facts and matters otherwise within the

personal knowledge of any other employee of Landlord, and excluding, whether or not actually known by such specific individuals, any matter known to the Tenant. So qualifying Landlord's knowledge shall in no event give rise to any personal liability on the part of Andrew Nunn, acting on behalf of the Landlord.

(h) Liens. No work shall have been done by the Landlord on the Leased Parcel as of the Closing Date which shall remain unpaid and which could give rise to any liens under any Laws.

(i) Laws. The Landlord, in performing its covenants and obligations under this Agreement, shall comply with all Laws.

(j) Environmental Matters. The Leased Parcel is an "establishment, as defined in the Transfer Act." Landlord has investigated the Leased Parcel, pursuant to the Transfer Act, as the certifying party, under the supervision of the DEEP. Landlord prepared the Remedial Action Plan, which DEEP has approved, and has conducted certain remediation on the Leased Parcel, including the Leased Parcel. In order for the Leased Parcel to be in compliance with the RSRs, additional investigation and/or remediation is necessary. Landlord has delivered or made available to Tenant all environmental data, summaries, conclusions and other information obtained or developed in connection with the assessment of Existing Environmental Conditions, and its investigation and remediation pursuant to the Voluntary Cleanup Program and the Transfer Act that are presently contained in its files (the "**Assessment Information**"). In the event that a Landlord representation or warranty is discovered to be untrue, then the Tenant shall have the right to pursue all legal and equitable remedies available to it but Tenant shall not be entitled to pursue indirect, consequential, special or punitive damages.

(k) Ownership & Use of Leased Premises. Landlord owns fee simple title to the Leased Premises and no other Person has the current right to lease the leased premises other than Tenant. To the best of the Landlord's knowledge the Leased Premises is zoned for the BP Permitted Use and there is no encumbrance that would materially impair the Tenant's ability to use the Lease Premises for the BP Permitted Use. If such an encumbrance is discovered Landlord will use commercially reasonable efforts to remove the same prior to the Commencement Date.

Section 8.2 Tenant. Tenant represents and warrants to Landlord as follows:

(a) Due Authorization. This Agreement has been duly authorized, executed and delivered by Tenant and the persons signing this Agreement and all documents executed pursuant to it, on behalf of Tenant are duly authorized to sign such documents on Tenant's behalf and to bind Tenant to their respective terms, or shall be at the time such executed documents are delivered to the Landlord, whereupon this Agreement and such other documents shall constitute the legal, valid and binding agreements of Tenant, enforceable against Tenant in accordance with their respective terms.

(b) No Conflict; Legal Compliance. The execution, delivery and performance of this Agreement by Tenant, any action or omission on the part of Tenant required pursuant hereto, and the consummation of the transactions contemplated by this Agreement shall not (i) result in a breach or violation of, or constitute a default under, any Law; (ii) result in a breach of any term or provision of the operating agreement or articles of organization of Tenant or any other governing documents of Tenant; or (iii) constitute a default or result in the cancellation, termination, acceleration of, any obligation, or other breach or violation of any loan or other agreement, instrument, indenture, lease, or other material document to which Tenant is a party or by which any of the properties of Tenant is bound, or give any person the right to challenge any such transaction, to declare any such default, cancellation, termination, acceleration, breach or violation or to exercise any remedy or obtain any other relief under any such loan or other agreement, instrument, indenture, lease, or other material document or under any Law. Tenant neither is, nor shall be required to, give any notice to or obtain any consent from any person in connection with the execution and delivery of this Agreement which has not already been given or obtained.

(c) Insolvency. Tenant has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors; (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of its assets; (iv) suffered the attachment or other judicial seizure of all, or substantially all, of its assets; (v) admitted in writing its inability to pay its debts as they come due; or (vi) made an offer of settlement, extension or composition to its creditors generally.

(d) Disclosure. No representation or warranty of Tenant, and no statement made in any document delivered by it to the Landlord, omits to state a material fact necessary to make the statements herein or therein, in light of the circumstances in which they were made, not misleading.

(e) Litigation and Default. Tenant is not involved in any legal proceeding which would prevent or materially impair the ability of Tenant to perform its duties and obligations under this Agreement and no event has occurred which, with due notice or lapse of time or both, could constitute a material breach of any Law which could prevent or materially impair the ability of Tenant to perform its duties and obligations under this Agreement or any of the Related Agreements. Tenant and all persons having an interest in Tenant are not, nor have they ever been, the subject of a criminal investigation involving a felony.

(f) Tax Returns and Tax Payments. Tenant has properly prepared and filed all tax returns and reports which it has been required to file through the date of this Agreement, and all taxes, interest and penalties of any kind shown due thereon, or otherwise attributable to any operations, activities or transactions of Tenant on or prior to the date of this Agreement, have been paid or fully provided for, except for taxes incurred in the ordinary course that are not yet due. To the best of Tenant's knowledge, no claims are pending or threatened against Tenant for taxes, interest or penalties,

whether federal, state, local or foreign, no tax examination of Tenant is being conducted by federal, state, local or foreign agents, and there is no valid basis for the assertion of any claim for taxes, interest or penalties against Tenant which have not been paid, except for taxes, if any, incurred in the ordinary course that are not yet due.

(g) No Delinquent Obligations. Neither Tenant nor its members or managers have any delinquent accounts of any type or nature with the City of Bridgeport, including, with limitation, real property or personal property tax accounts.

(h) Good Standing. Tenant is a limited liability company, duly organized, validly existing and in good standing under the Laws of the State of Delaware and authorized to do business in the State of Connecticut.

(i) Member of Tenant. Tenant represents and warrants to the Landlord that Bridgeport Landing Development, LLC is the sole member of Tenant.

(j) Laws. Tenant represents and warrants to the Landlord that it shall comply with all Laws as the same relate to or have jurisdiction over this Agreement and/or the Leased Parcel, including, without limitation, C.G.S. Chapter 130.

(k) Best Knowledge; Received Written Notice. Whenever a representation, warranty or other statement is made in this Agreement on the basis of the best of knowledge of Tenant, or is qualified by Tenant having received written notice, such representation, warranty or other statement is made with the exclusion of any facts disclosed to or otherwise known by the Landlord, and is made solely on the basis of the actual, as distinguished from implied, imputed and constructive, knowledge on the date that such representation or warranty is made, without inquiry or investigation or duty thereof, of Robert W. Christoph and Robert W. Christoph, Jr., who together, at the time of execution of this Agreement, have the primary responsibility for the development of the Leased Parcel, without attribution to such specific individuals of facts and matters otherwise within the personal knowledge of any other members, managers, or employees of Tenant or of any of their respective members or Affiliates or of any third party, and excluding, whether or not actually known by such specific individuals, any matter known to the Landlord. So qualifying Tenant's knowledge shall in no event give rise to any personal liability on the part of Robert W. Christoph and Robert W. Christoph, Jr. or any other member, manager, or employee of Tenant or any of their respective members or Affiliates.

## ARTICLE 9

### REVIEW BY LANDLORD AND SUBSEQUENT CONSTRUCTION OF BP LEASE IMPROVEMENTS

Section 9.1 Submission/Approval of BP Site. Landlord and, by execution of the joinder document attached hereto ("**Joinder**"), City, each agree not to unreasonably withhold their respective consent to the Improvements to be constructed on the Leased

Parcel. A preliminary site plan is attached hereto as **Exhibit 5** (the "**BP Site Plan**") which Site Plan is acceptable to Landlord, and by its execution of the Joinder attached, is acceptable to the City.

Section 9.2 Future Alterations and/or Expansions. Tenant agrees that, following the completion of the BP Lease Improvements by any and all plans for future alterations, additions, or improvements to be made to the Leased Parcel, which are either (i) not specifically referenced in the BP Lease or (ii) requires building permits or other land use approval, and cost in excess of \$100,000 shall be subject to the reasonable review and approval of Landlord, which review shall not be unreasonably withheld, conditioned or delayed in the exercise of Landlord's commercial business judgment. If Landlord fails to respond to any request of Tenant within thirty (30) days, such request shall be deemed approved.

Section 9.3 Assignment and Subletting. Landlord acknowledges that during the term of the BP Lease, Subtenant shall be permitted to assign its interest in the Leased Parcel and sub-sublet all or a portion of the Leased Parcel to sublet certain aspects of its operations (but not substantially all of the Leased Parcel) consistent with other BP stores operating in the United States. In addition, Tenant shall have the right to assign its rights under this Agreement in connection with any sale of the Main BP Parcel and/or assignment of the BP Lease. Any such assignment or sub-subletting of all or a portion of the Leased Parcel by BP, or the assignment by Tenant, as landlord under the BP Lease and/or sale of the Main BP Parcel shall not require the consent of Landlord; provided, however, that Tenant shall promptly provide Landlord with notice of any such assignment or sublease prior to the occurrence of the same. In the event that the BP Lease no longer exists, Landlord shall be able to assign this Lease or sublease certain rights hereunder to any entity or person who leases a portion of the Main BP Parcel or to any other party. During the term of this Lease and the BP Lease, Landlord further acknowledges and agrees to deliver an estoppel certificate to any proposed assignee of Tenant's or Subtenant's interest in the Leased Parcel or proposed Subtenant or Sub-Subtenant confirming whether any defaults exist by Landlord or Tenant under this Lease, the number of Renewal Terms that remain unexercised under this Lease and any other information that such proposed assignee or proposed Sub-Subtenant may reasonably request be included in the estoppel certificate. Landlord shall deliver any such estoppel certificate to the requesting party within thirty (30) days of receiving a request for the same.

## ARTICLE 10

### LEASEHOLD FINANCING

Section 10.1 Leasehold Mortgages Permitted. Each of Tenant, Subtenant or any Sub-Subtenant may encumber its applicable leasehold interest in the Leased Parcel and (as applicable) all of Tenant's rights under this Lease, all of Subtenant's rights under the BP Lease and all of any Sub-Subtenant's rights under any sub-BP Lease covering all or a portion of the Leased Parcel to, inter alia, finance the acquisition



of Tenant's, Subtenant's or Subtenant's leasehold interest in the Lease Parcel and/or finance construction of improvements it desires to make to the Leased Parcel (each, a "**Leasehold Financing**"). Landlord agrees to cooperate with any of Tenant's, Subtenant's or Sub-Subtenant's efforts to obtain such Leasehold Financing by delivering an estoppel certificate confirming whether any defaults exist by Landlord or Tenant under this Lease; the number of Renewal Terms that remain unexercised under this Lease and any other information that the proposed leasehold mortgage lender may reasonably request. Landlord shall deliver any such estoppel certificate to the requesting party within thirty (30) days of receiving a request for the same. Tenant may also ( in lieu of a leasehold mortgage or in connection therewith) assign this Lease to any lender in connection with an assignment of the BP Lease to such lender for collateral security purposes.

Section 10.2 Landlord To Join in Financing Or Recognize in Writing Leasehold Mortgagee's Rights. In addition to issuing an estoppel certificate upon the request of any proposed leasehold mortgagee in connection with any such Leasehold Financing, any of Tenant, Subtenant or any Sub-Subtenant pursuing such Leasehold Financing may require Landlord, and Landlord hereby agrees, to either:

(a) acknowledge in writing the existence or commencement of the leasehold mortgage or other financing instrument executed by any of Tenant, Subtenant or Subtenant encumbering such party's leasehold interest in the Leased Parcel; and

(b) execute an agreement with any such leasehold mortgagee, in recordable form and otherwise in form and substance satisfactory to such party, providing in pertinent part that:

(1) Landlord will give such leasehold mortgagee notice of any default by Tenant under this Lease and a reasonable opportunity to cure such default; provided, however, that such party shall have no obligation to effect a cure of Tenant's default by reason of receipt of such notice;

(2) That in the event such mortgage is foreclosed upon by such leasehold mortgagee and the applicable leasehold estate of Tenant, Subtenant or Sub-Subtenant is acquired by the mortgagee or an independent third party as the result of a foreclosure sale under the leasehold mortgage, this Lease will survive any such foreclosure and Landlord will permit such acquiring mortgagee or independent third party to become the "Tenant" under this Lease, provided that such leasehold mortgagee or third party first assumes in writing all obligations, covenants and undertakings of Tenant under this Lease, effective from and after the date such acquiring mortgagee or independent third party becomes the "Tenant" under this Lease (the "**Assumption Obligations**"). Notwithstanding anything above to the contrary, such leasehold mortgagee's or other third party's liability under this Lease shall be limited to the period of time during which such mortgagee or third party is the holder of the leasehold estate created by this Lease, and such leasehold mortgagee's

or other third party shall not be liable for any delinquent Rent or other monies owed by Tenant under this Lease which accrued prior to the date that such leasehold mortgagee or third party became the "Tenant" hereunder.

(3) Neither Landlord nor Tenant may materially modify this Lease or terminate the same without prior written notice to the applicable leasehold mortgagee;

(4) That Landlord shall not accept any surrender or agree to any termination of this Lease without such leasehold mortgagee's prior written consent and that if, for any reason, Tenant surrenders this Lease, or this Lease is terminated before the end of its Term for any reason other than Tenant's exercise of the Purchase Option provided to Tenant under Section 5.4, such leasehold mortgagee shall have the right to become Tenant for the balance of the Term or to assign such right to a third party, provided that the mortgagee or the third party assumes the Assumption Obligations.

(5) Landlord hereby agrees that if any leasehold mortgagee to whom Tenant, Subtenant or Sub-Subtenant proposes to make a leasehold mortgage on such party's applicable leasehold in the Leased Parcel shall require as a condition to making any loan secured by such leasehold interest that Landlord agree to modifications of this Lease, then Landlord agrees that it will enter into modifications that are required by such leasehold mortgagee provided that such changes do not materially change the dimensions of the Leased Parcel, decrease the Rent payable hereunder, materially abridge or enlarge the terms of the Lease, require the expenditure of funds by Landlord which Landlord is not obligated to expend under the terms of this Lease, materially modify Landlord's rights, remedies or obligations under this Lease in any other way, and pay for all of Landlord's reasonable costs and reasonable attorneys' fees in connection with such modification to this Lease.

Section 10.3 New Lease in the Event of Bankruptcy. If, at any time during the Term of this Lease, Tenant files for bankruptcy protection under the Bankruptcy Code or any successor statute thereto, or under any statute pursuant to which Landlord may reject this Lease, and Landlord does in fact reject this Lease, Landlord shall enter into a new lease with such leasehold mortgagee on identical terms to those contained in this Lease for the remainder of the Term provided for hereunder. In such circumstances, the mortgagee shall have the right to transfer its rights under the new Lease to a third party, provided however, that such third party agrees in writing to assume all obligations of such leasehold mortgagee, as the tenant under the lease, from and after the date of the assignment.

Section 10.4 Limitations on Landlord's Liability. In the event Landlord joins in a leasehold mortgage permitted hereunder, in accordance with Section 10.2, such mortgage must contain a provision that the mortgagee recognizes it to be a fact that the joinder by Landlord in the mortgage is primarily for the purpose of creating a mortgage lien against the Tenant's, Subtenant's or Sub-Subtenant's (as applicable) leasehold interest in the Leased Parcel and that no liability, personal or otherwise, shall ever

attach to or judgment be sought or obtained against Landlord by reason of Landlord's joinder in the mortgage.

Section 10.5 Limitations on Leasehold Mortgagee's Liability. No leasehold mortgagee shall be or become liable to Landlord as an assignee of this Lease or otherwise until it expressly assumes by written instrument such liability (in which event the mortgagee's liability shall be limited to the period in which it is the holder of the leasehold estate created by this Lease), and no assumption shall be inferred from or result from foreclosure or other appropriate proceedings in the nature thereof, provided, however, that nothing in this Section 10.5 shall be deemed to prevent Landlord from exercising the remedies contained in this Lease if the obligations of such foreclosing mortgagee as Tenant under this Lease are not subsequently performed.

No person who acquires title to, or other rights in, the Leased Parcel or this Lease solely by virtue of a mortgage, collateral assignment, security agreement, or similar security instrument shall have any liability under this Lease except as provided in this Article 10, notwithstanding that such security instrument may provide for a present assignment of Tenant's rights under this Lease to the mortgagee.

Landlord acknowledges that nothing in this Article 10 shall permit Landlord to, and by execution hereof, Landlord acknowledges that Landlord is expressly prohibited from, encumbering its fee simple interest in the Leased Parcel with a mortgage during the Term.

## **ARTICLE 11**

### **TENANT INDEMNIFICATION AND INSURANCE**

#### **Section 11.1 Indemnification.**

(a) Tenant covenants and agrees that it shall contractually require every Subtenant and Sub-Subtenant to be subject to the terms and conditions of this Lease to the same extent as Tenant is subject. Tenant agrees to defend and indemnify Landlord and hold it harmless from and against any claims, judgments, liens, damages, penalties, fines, costs, liabilities, losses or other expense, including, without limitation, all reasonable attorneys' fees, claimed against, incurred or paid by Landlord arising out of: (i) Tenant's failure to materially perform and comply with any of its covenants, representations, agreements and obligations arising under this Lease, or (ii) the material inaccuracy of any representations, warranties, covenants or agreements made by Tenant to Landlord or any other governmental agency, commission, board or other entity related to the Leased Parcel or pursuant to the terms of this Lease. No indemnification by Tenant shall apply with respect to Existing Environmental Conditions, however Tenant indemnifies the Landlord as to Future Environmental Conditions as set forth in Section 2.2(d).

(b) Within thirty (30) days after an event giving rise to a claim for indemnification of Landlord by Tenant becomes known to Landlord it shall promptly notify Tenant in writing of its claim for indemnification hereunder. Such notice shall contain a brief written description of the facts relating to the alleged claim, suit, proceeding or loss and copies of all relevant documents, pleadings or other instruments relating thereto.

The provisions of this Section 11.1 shall survive the expiration or early termination of the Lease.

Section 11.2 Insurance Requirements. The following insurance coverage is required to be maintained at all times by the Tenant or actual user of the Leased Parcel and the Tenant shall ensure that the Landlord is named by policy endorsement as an additional insured. Tenant shall procure, present to the Landlord, and maintain in effect or cause the applicable Subtenant or Sub-Subtenant, as applicable, for the Term without interruption the insurance coverages identified below with reputable insurers licensed to conduct business in the State of Connecticut.

(a) Commercial General Liability (occurrence form) insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of operations conducted under this Lease with limitations of a minimum \$1,500,000 per occurrence and \$2,000,000 property damage.

(b) Automobile liability insurance covering all owned, hired and non-owned vehicles insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of the use of owned, hired or non-owned vehicles in connection with business. Coverage will be broad enough to include contractual liability, with limitations of \$1,000,000 combined primary and excess coverage for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage.

(c) Workers' Compensation insuring in accordance with statutory requirements in order to meet obligations towards employees in the event of injury or death sustained in the course of employment; and

(d) Umbrella coverage in an amount equal to Five Million Dollars (\$5,000,000).

Section 11.3 General Requirements. All policies shall include the following provisions:

(a) General Provisions: Each policy shall have commercially reasonable deductibles in light of the contemplated use of the Leased Parcel. All policies shall be written as primary and not contributing with or in excess of the coverage which Landlord may carry. All policies of insurance required pursuant to this

Article 11 shall be issued by reputable insurers licensed to do business in the State of Connecticut.

(b) Cancellation Notice - The Landlord shall be entitled to receive from the insurance carriers not less than 30 days' written notice of cancellation, non-renewal or reduction in coverage to be given to the Landlord at: Bridgeport Port Authority, Margaret E. Morton Government Center, 999 Broad Street, Bridgeport, Connecticut 06604.

(c) Certificates of Insurance - All policies will be evidenced by original certificates of insurance ("**Certificates**") executed by a duly-authorized representative of the insurer or by the insurance agent delivered to Landlord prior to Tenant, Subtenant or any Sub-Subtenant taking occupancy of the Leased Parcel or performing any work thereon (as applicable), and within thirty (30) days following any material change or removal of the applicable insurance policies.

(d) Additional Insured - The Landlord shall be named by policy endorsement on all policies of primary and excess insurance coverages as additional insured parties and as loss payee with respect to any damage to property of the Landlord, as its interest may appear.

(e) Self-insurance. To the extent that BP is providing any insurance coverage required hereunder, BP shall be permitted to self-insure for risks it determines are prudent pursuant to an established program of self-insurance. This right of self-insurance is personal to BP and is not acceptable from any other tenant. Tenant agrees to provide a minimum of \$1,000,000 comprehensive general liability insurance to the Landlord separate and apart from any BP program of self-insurance.

Section 11.4 Tenant Responsible. Landlord shall not be liable for any theft or damage to the Leased Parcel nor for any damage caused by any persons in or about the Leased Parcel, or caused during construction of any private, public or quasi-public work. All property of Tenant or Subtenant at or about the Leased Parcel shall be installed, used, or enjoyed at the risk of Tenant or Subtenant only, as applicable.

Section 11.5 No Abatement of Rent. Tenant shall not be entitled to any abatement of Rent, nor shall its obligations under this Lease be terminated during the Term hereof, notwithstanding any destruction or damage to any Improvements located on the Leased Parcel by any cause whatsoever.

## ARTICLE 12

### CONDEMNATION

Section 12.1 Entire Taking. In the event of the taking or condemnation by any competent authority for any public or quasi-public use or purpose of the whole or materially all of the Leased Parcel at any time during the Term, the rights of Landlord

and Tenant to share in the net proceeds of any award for land, buildings, improvements and damages upon any such taking, shall be as follows and in the following order of priority:

(a) Landlord, at all times, regardless of when the taking occurs, shall be entitled to receive that portion of the award as shall represent compensation for the value of Landlord's fee simple interest in the Leased Parcel, considered as vacant and unimproved land, such value being hereinafter referred to as the "Land Value" together with the value of Landlord's improvements existing as of the Commencement Date of the Lease. Landlord shall also be entitled to costs and any interest awarded in the condemnation proceeding proportionately attributable to the above.

(b) During all the Term herein demised, Tenant shall be entitled to recover the fair market value of its leasehold interest and any Improvements..

(c) If the values of the respective interest of Landlord and Tenant shall be determined according to the provision of subdivisions (a) and (b) of this Section in the proceeding pursuant to which the Leased Parcel shall have been taken or condemned, the values so determined shall be conclusive and enforceable upon Landlord and Tenant. If such values shall not have been thus separately determined, such values shall be fixed by agreement between Landlord and Tenant, or, if they are unable to agree, then the controversy shall be resolved by the dispute resolution process set forth in Section 12.4.

Section 12.2 Definition of Entire Taking. If title to the whole or materially all of the Leased Parcel shall be taken or condemned, this Lease shall cease and terminate, and all Rent, additional rent and other charges hereunder shall be apportioned as of the date of vesting of title in such taking or condemnation proceeding. For the purposes of this Article, a taking or condemnation of materially all of the Leased Parcel, a taking of such scope that the untaken portion of the Leased Parcel is insufficient to permit the restoration of the then-existing improvements thereon to provide the Boat Storage Area required pursuant to the BP Lease. In the event of an Entire Taking by Landlord or the City as condemning authority, the Landlord shall be responsible for providing an alternative approximately 3 acre parcel of land in close proximity to the Main BP Parcel for use as the Boat Storage Area, upon substantially similar terms and conditions of this Lease, but not otherwise, which replacement land shall be acceptable to BP.

Section 12.3 Partial Taking. In the event of a partial taking or condemnation, i.e., a taking or condemnation of less than materially all of the Leased Parcel, this Lease (except as hereinafter provided) shall, nevertheless, continue, but the annual net Rent to be paid by Tenant shall thereafter be reduced in the ratio that the rental value of the portion of the Leased Parcel taken or condemned bears to the rental value of the entire Leased Parcel at the time of the taking or condemnation. If a Landlord or the City is the condemning authority, the Landlord shall promptly restore the Improvements but not otherwise. If more than .25 acres of land is taken it shall be deemed an "entire taking."

That portion of the award in any partial taking shall be made in accordance with the rights of the parties set forth in Section 12.1 hereof.

Section 12.4 Disputes. All claims and disputes arising under this Article 12 shall be resolved by a court of competent jurisdiction over the parties located in Fairfield County, Connecticut.

Section 12.5 Temporary Taking. If the whole or any part of the Leased Parcel or of Tenant's interest under this Lease be taken or condemned by any competent authority for its or their temporary use or occupancy, this Lease shall not terminate by reason thereof and Tenant shall continue to pay, in the manner and at the times herein specified, the full amounts of the Rent and all additional rent and other charges payable by Tenant hereunder, and, except only to the extent that Tenant may be prevented from so doing pursuant to the terms of the order of the condemning authority, to perform and observe all of the other terms, covenants, conditions, and obligations hereof upon the part of Tenant to be performed and observed, as though such taking or condemnation had not occurred. In the event of any such temporary taking, or condemnation, Tenant shall be entitled to receive the entire amount of any award make for such taking, whether paid or by way of damages, rent or otherwise, unless such period of temporary use or occupancy shall extend to or beyond the expiration date of the term of this Lease, in which case such award shall be apportioned between Landlord and Tenant as of such date of expiration of the Term, but Landlord shall in that circumstance receive the entire portion of the award that is attributable to physical damage to the Leased Parcel and the restoration thereof to the condition immediately prior to the taking or condemnation. If the Landlord or the City is the condemning authority and temporary taking negatively impairs BP's operation of its business in the Main BP Site, Landlord shall provide a substantially similar temporary replacement property in close proximity to the Main BP Parcel upon substantially similar terms and conditions of this Lease but not otherwise.

## ARTICLE 13

### PAYMENT OF TAXES

Section 13.1 Payment of "Real Estate Taxes". Tenant shall be responsible for any and all real estate taxes, charges, and assessments levied, imposed or assessed during the Initial Term or any Renewal Term of this Lease by governmental authorities upon the Leased Parcel as if the Tenant were the fee simple owner thereof.

Section 13.2 Intentionally Deleted.

Section 13.3 Tenant to Provide Evidence of Payment. Tenant shall furnish Landlord within thirty (30) days after the date when any Real Estate Tax would become delinquent, with evidence satisfactory to Landlord, evidencing the payment thereof. A certificate, receipt or bill of the appropriate official authorized to make or issue the same or to receive payment of any such tax, shall be prima facie evidence that such tax is

due and unpaid or has been paid at the time of the making or issuance of such certificate, receipt or bill.

## **ARTICLE 14**

### **DEFAULT BY TENANT**

Section 14.1 Landlord's Rights Upon Tenant's Default. Upon the occurrence and during the continuance of any of the following events (each a "**Default**") Landlord shall be entitled to pursue the remedies set forth in Section 14.2 below:

(a) Tenant defaults in the full and timely payment of any or all sums payable under this Lease, whether as Rent or assessments, or any other charges whatsoever, and said default continues for thirty (30) days after written notice from Landlord to Tenant specifying the items in default.

(b) Tenant violates any term or conditions of this Lease on its part to be performed and said default continues for thirty (30) days after written notice from Landlord to Tenant specifying the items in default. If such term or condition cannot be reasonably remedied in thirty (30) days, Tenant should not be in default if Tenant commences to remedy such situation in thirty (30) days and diligently processes the same until completion.

(c) Tenant makes a transfer in fraud of creditors, or makes an assignment for the benefit of creditors, files a petition in bankruptcy, is voluntarily adjudicated insolvent or bankrupt or admits in writing the inability to pay debts as they mature, or commences any case, proceeding or other action under any bankruptcy, reorganization, arrangement, readjustment or debt, dissolution or liquidation law or statute of any jurisdiction, whether now or subsequently in effect.

(d) Any case, proceeding, or other action is commenced against Tenant seeking to have an order for relief entered against Tenant as debtor or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or other relief under any law relating to bankruptcy, insolvency, arrangement, reorganization, and the same is not discharged within 120 days after filing.

(e) A court of competent jurisdiction enters an order for relief against Tenant, or an order, judgment or decree is entered appointing, with or without the consent of any of Tenant, a receiver, trustee, custodian or similar officer for Tenant, or for the Leased Parcel.

Section 14.2 Landlord's Remedies. Upon the occurrence and during the continuance of a Default Landlord shall be entitled to:

(a) terminate this Lease and Tenant's occupancy by written notice to that effect sent to Tenant, and the Term of this Lease shall expire and come to an end



on the date said notice is issued (or on the expiration of the shortest notice period otherwise required by applicable governmental authority and notwithstanding any written agreement of the parties to the contrary), and Tenant shall forthwith quit, vacate and surrender the Leased Parcel to Landlord and Tenant shall be liable for and thereupon pay to Landlord any and all sums described in this Lease to the expiration date thereof on Tenant's part to be paid, all of which amounts shall be immediately due and payable from Tenant to Landlord. Landlord or its designees shall also be entitled with prior written notice to enter the Leased Parcel whether by summary proceedings or action or proceedings at law or equity, and remove Tenant and anyone seeking to claim rights or interest in the Leased Parcel together with all the portable personal property of said persons or entities, and Landlord shall be entitled to place and store the same in a public or private warehouse at Tenant's expense, all without liability to Landlord or its designees and without being liable, or subject to prosecution therefor.

(b) take, hold, and use all, but only all, of the Leased Parcel for its own account, in which event Tenant shall forthwith pay to Landlord any and all reasonable costs, expenses, fees, attorneys' fees, and losses incurred by Landlord in recovering the Leased Parcel and such property, restoring the same to good repair and good working order, removing property of Tenant or others, curing any and all defaults of Tenant up to the date of Landlord's taking legal possession of the Leased Parcel for which purposes Landlord shall be entitled to recover said sums from Tenant by any or all remedies available at law and equity.

Section 14.3 Landlord's Remedies Cumulative. The remedies set forth in this Lease are cumulative and not exclusive, and are in addition to and not in substitution for any remedies available at law or equity.

Section 14.4 No Waiver of Performance Except in Writing. No failure by Landlord to insist upon the strict performance of any agreement, term, covenant or condition hereof, or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rent during the continuance of any Default, shall constitute a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition hereof to be performed or complied with by Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this Lease, but each and every agreement, term, covenant and condition hereof shall continue in full force and effect with respect to any other existing or subsequent breach thereof.

Section 14.5 Landlord's Right of Injunction. In the event of any breach or threatened breach by Tenant of any of the agreements, terms, covenants, or conditions contained in this Lease, Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed by law or in equity, or by statute or otherwise, as though right of re-entry, summary proceedings and other remedies were not provided for in this Lease and Landlord shall be entitled to be

reimbursed for its out-of-pocket costs and expenses, including reasonable attorneys' fees in the same manner as set forth in Section 14.2(b).

Section 14.6 Trustee's Right to Cure Tenant Default. Landlord agrees to give to Trustee in bankruptcy copies of all notices of Tenant default(s) under this Lease in the same manner as, and whenever, Landlord shall give any such notice of default to Tenant. Trustee shall have the right to remedy any Tenant default under this Lease, or to cause any default of Tenant under this Lease to be remedied, and for such purpose Landlord hereby grants Trustee such period of time given to Tenant for remedying, or causing to be remedied, any such default plus thirty (30) days. Landlord shall accept performance by Trustee of any term, covenant, condition or agreement to be performed by Tenant under this Lease with the same force and effect as though performed by Tenant.

## **ARTICLE 15**

### **SURRENDER**

Section 15.1 Tenant's Duty to Surrender. On the expiration or earlier termination of this Lease or any extension thereof, Tenant shall deliver possession of the Leased Parcel, in such order and state of repair as provided herein.

## **ARTICLE 16**

### **HOLDOVER**

Section 16.1 Landlord's Rights If Tenant Holds Over. If Tenant remains in possession after the described date of expiration of the Term or after the earlier termination of the Lease, at the option of Landlord, Tenant shall be deemed to be in occupation as a month-to-month tenant at the then-current market rental rate for similar properties in Bridgeport, Connecticut, but nothing in this Lease provision shall be deemed to extend the Term beyond the expiration date thereof or the date of its earlier termination nor grant any right to Tenant or any other person to use, occupy or remain in possession of all or any part of the Leased Parcel beyond the date of expiration of this Lease or any earlier termination of this Lease.

## **ARTICLE 17**

### **NO LANDLORD LIABILITY**

Section 17.1 No Landlord Liability. Landlord shall not be liable for any loss or damage to the Leased Parcel, the BP Sublease Improvements or any other Improvements to the Leased Parcel or to any property of Tenant or any other person thereon, anything in this Lease to the contrary notwithstanding.

## ARTICLE 18

### RIGHT OF ENTRY

Section 18.1 Landlord's Right of Entry. Landlord expressly reserves and shall have the right by its agents and servants to enter into and upon the Leased Parcel during normal business hours for the purpose of inspecting same, provided such inspection does not materially impair Tenant's use and occupancy thereof or at any time without notice in the event of an emergency.

## ARTICLE 19

### SUBORDINATION, ATTORNMENT AND ESTOPPEL

Section 19.1 Subordination to Easements and Restrictions. This Lease shall be subject to any and all easements and restrictions now of record, and to any and all utility easements hereafter affecting the Leased Parcel after the Commencement Date.

Section 19.2 Attornment. Tenant hereby agrees that in the event of sale or assignment of Landlord's interest in the Leased Parcel, whether by act of Landlord, by operation of law or otherwise, Tenant shall attorn to any new owner upon any such event and recognize such person, firm or entity as the owner of the Leased Parcel as the "Landlord" under this Lease, without modification of any of the terms hereof.

Section 19.3 Estoppel. At any time, and from time to time upon not less than thirty (30) days' prior written notice by Tenant to Landlord, Landlord shall execute, acknowledge and deliver to Tenant a statement, in writing in form satisfactory to Tenant, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), and the dates to which the Rent have been paid in advance, stating whether there are any offsets to Tenant's obligation to pay Rent hereunder and describing them, if any, and stating whether or not to the best knowledge of the signer of such certificate (who shall be a duly authorized officer or signatory of Landlord) Tenant is in default in performance of any term, covenant or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, and containing such other information as shall reasonably be required by Tenant, it being intended that any such statement delivered pursuant hereto may be relied upon by any party dealing with Tenant.

## ARTICLE 20

### NOTICES

Section 20.1 Form and Manner of Notice. Any and all notices, demands, requests, submissions, approvals, consents, disapprovals, objections, offers or other communications, or documents required or desired to be given, delivered or served, or

which may be given, delivered or served under or by the terms and provisions of this Lease, pursuant to law or otherwise, shall be in writing and shall be deemed to have been duly given, delivered or served if and when either personally delivered or two (2) days after mailing by certified mail, return receipt requested, postage prepaid, addressed if to the other party, at the respective addresses of each indicated below or to such other address as a party may from time to time designate by written notice to the other party:

**(a) To Landlord:**

Bridgeport Port Authority  
Margaret E. Morton Government Center  
999 Broad Street, 2nd Floor  
Bridgeport, CT 06604

**With copy to:**

Office of City Attorney  
City of Bridgeport  
Margaret E. Morton Government Center  
999 Broad Street, 2nd Floor  
Bridgeport, CT 06604

**(b) To Tenant:**

BLD Parcel I Owner, LLC  
300 Alton Road, Suite 303  
Miami Beach, Florida 33139  
Attn: Robert W. Christoph, Jr.

**With copy to:**

Bilzin Sumberg Baena Price & Axelrod LLP  
1450 Brickell Avenue, 23rd Floor  
Miami, Florida 33131-3456  
Attn: Suzanne Amaducci-Adams, Esq. and  
Carter N. McDowell, Esq.

**ARTICLE 21**

**MISCELLANEOUS**

Section 21.1 Waiver Effective Only If In Writing. No waiver by either party to this Lease of any condition or term of this Lease shall be effective unless it is in writing and signed by the party entitled to enforce such condition or term, nor shall any such waiver

constitute a further waiver by such party of the same or any other condition or term hereunder.

Section 21.2 Tenant's Right to Make Payments Under Protest. In case of any dispute between Landlord and Tenant with respect to the amount of money payable by Tenant to Landlord under the provisions of this Lease, Tenant shall have the right to make payment under protest; and, in such event, shall be permitted to assert and prosecute a claim or claims for the recovery of the sum, or any part thereof, that shall have been so paid by Tenant under protest.

Section 21.3 All Prior Understandings and Writings Merged. All prior understandings and agreements between the parties are merged into this Lease, which alone fully and completely sets forth the understanding of the parties, and this Lease may not be changed orally or in any manner other than by an agreement in writing and signed by the party against whom enforcement of the change or termination is sought.

Section 21.4 Covenants Binding on Heirs, Successors and Assigns. The covenants and agreements herein contained shall bind and inure to the benefit of Landlord, its successors and assigns, and Tenant, its permitted successors and assigns, except as may be otherwise provided herein.

Section 21.5 Connecticut Law Applies. This Lease shall be governed and construed in accordance with the laws of the State of Connecticut.

Section 21.6 Captions. The captions of this Lease are for convenience and reference only, and neither define, limit nor describe the scope or intent of this Lease nor in any way affect this Lease.

Section 21.7 Table of Contents. The Table of Contents preceding this Lease, but under the same cover, is for the purpose of convenience and reference only, and is not to be deemed or construed in any way as part of this Lease, nor as supplemental thereto, or amendatory thereof.

Section 21.8 Prevailing Party Attorneys' Fees. In the event that a dispute arises under this Lease, the prevailing party shall be entitled to recover against the non-prevailing party, all of its reasonable enforcement costs, court costs and attorneys' fees incurred at all tribunal levels.

Section 21.9 Counterparts. This Lease may be executed by the parties in several counterparts, each of which shall be deemed to be an original.

Section 21.10 Memorandum of Lease. Within five (5) business days of the execution hereof Tenant shall cause the Memorandum of Ground Lease attached hereto as **Exhibit 3** to be recorded in the Bridgeport Land Records.

Section 21.11      Dispute Resolution. All disputes between the parties under this agreement shall be resolved by a court of competent jurisdiction over the parties located in Fairfield County, Connecticut.

Section 21.12      No Joint venture. Nothing in this Lease shall create or be construed to create a partnership between Tenant and Landlord, or make them joint venturers, or bind or make Landlord in any way liable or responsible for any debts, obligations, liabilities or losses of Tenant.

Section 21.13      Force Majeure Event and Force Majeure Extension. The Parties hereto, respectively, shall not be in default of this Agreement if either is unable to fulfill, or is delayed in fulfilling, any of its obligations hereunder, or is prevented or delayed from fulfilling its obligations as a result of natural disasters, catastrophic events, casualties to persons or properties, war, governmental preemption in a local, state or national emergency; unavailability of labor or materials; strikes or similar work stoppages; enactment of a law, rule or regulation or a change in existing laws, rules or regulations which prevents any party's ability to perform its respective obligations under this Agreement; actions by other persons beyond the exclusive control of the party claiming hindrance or delay, suits or other challenges seeking to stop, hinder or delay development or construction of all or any portion of the Leased Premises; or the inability to obtain or delays in obtaining governmental permits or approvals (each, a **Force Majeure Event**"). If a party, in good faith, believes that a hindrance or delay has occurred as a result of a Force Majeure Event, it shall give prompt written notice to the other party of the nature of such hindrance or delay, its effect upon such party's performance under this Agreement, the action needed to avoid the continuation of such hindrance or delay, and the adverse effects that such hindrance or delay then has or may have in the future on such party's performance and such party shall automatically be provided with a one day extension for each day of delay resulting from the applicable Force Majeure Event ("**Force Majeure Extension**"). Notwithstanding notification of a claim of the occurrence of a Force Majeure Event and the resulting hindrance or delay suffered by one Party, such request shall not: (a) alleviate the impaired party from using good faith, commercially reasonable efforts to continue with the performance required by it hereunder or (b) affect, impair or excuse the other Party from the performance of its obligations hereunder unless, as a result of the occurrence of the Force Majeure Event its performance is impossible, impractical or unduly burdensome or expensive, or cannot effectively be accomplished without the cooperation of the party claiming delay or hindrance. The occurrence of a Force Majeure Event and the resulting hindrance or delay: (i) shall automatically extend all related and/or impacted timelines and/or deadlines provided in this Agreement and the party claiming such extension shall provide written notice to the other of the applicable dates to be extended, (ii) may constitute a change in the obligations of the parties or compensation, for example, and may result in the need to modify this Agreement accordingly and the parties shall use good faith commercially reasonable efforts to agree upon such alternative. The provisions of section 21.14 shall survive Closing.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the year and date first above written.

Signed, sealed and delivered  
in the presence of:

Jessie L. Carmel  
Witness

Lisa A. Carroll  
Witness

Ronald J. Pacocha  
RONALD J. PACOCHA

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

LANDLORD:

BRIDGEPORT PORT AUTHORITY

By: [Signature]  
Name: ANDREW NUNN  
Title: ACTING EXECUTIVE DIRECTOR

TENANT:

BLD PARCEL 1 OWNER, LLC, a Delaware  
limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the year and date first above written.

Signed, sealed and delivered  
in the presence of:

LANDLORD:

BRIDGEPORT PORT AUTHORITY

\_\_\_\_\_  
Witness


By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Witness

TENANT:

BLD PARCEL I OWNER, LLC, a Delaware  
limited liability company

\_\_\_\_\_  
Witness Brian Hanley

By:   
Name: Robert W. Christopher, Jr.  
Title: Manager

\_\_\_\_\_  
Witness ANA C. ESCOBAR-CRUZ

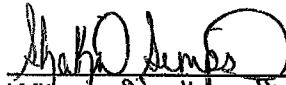
**JOINDER**


The City of Bridgeport joins in the execution of this Ground Lease for the sole purposes of acknowledging its obligations to comply with the Cooperation Covenant set forth in Section 2.1(c) of the Lease and to evidence its approval of the BP Site Plan in accordance with Section 9.1 of the Lease.

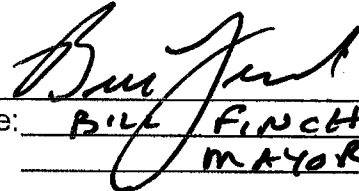
**Signed, sealed and delivered  
in the presence of:**

**CITY:**

**CITY OF BRIDGEPORT, CONNECTICUT**

  
Witness Shakika Simpson

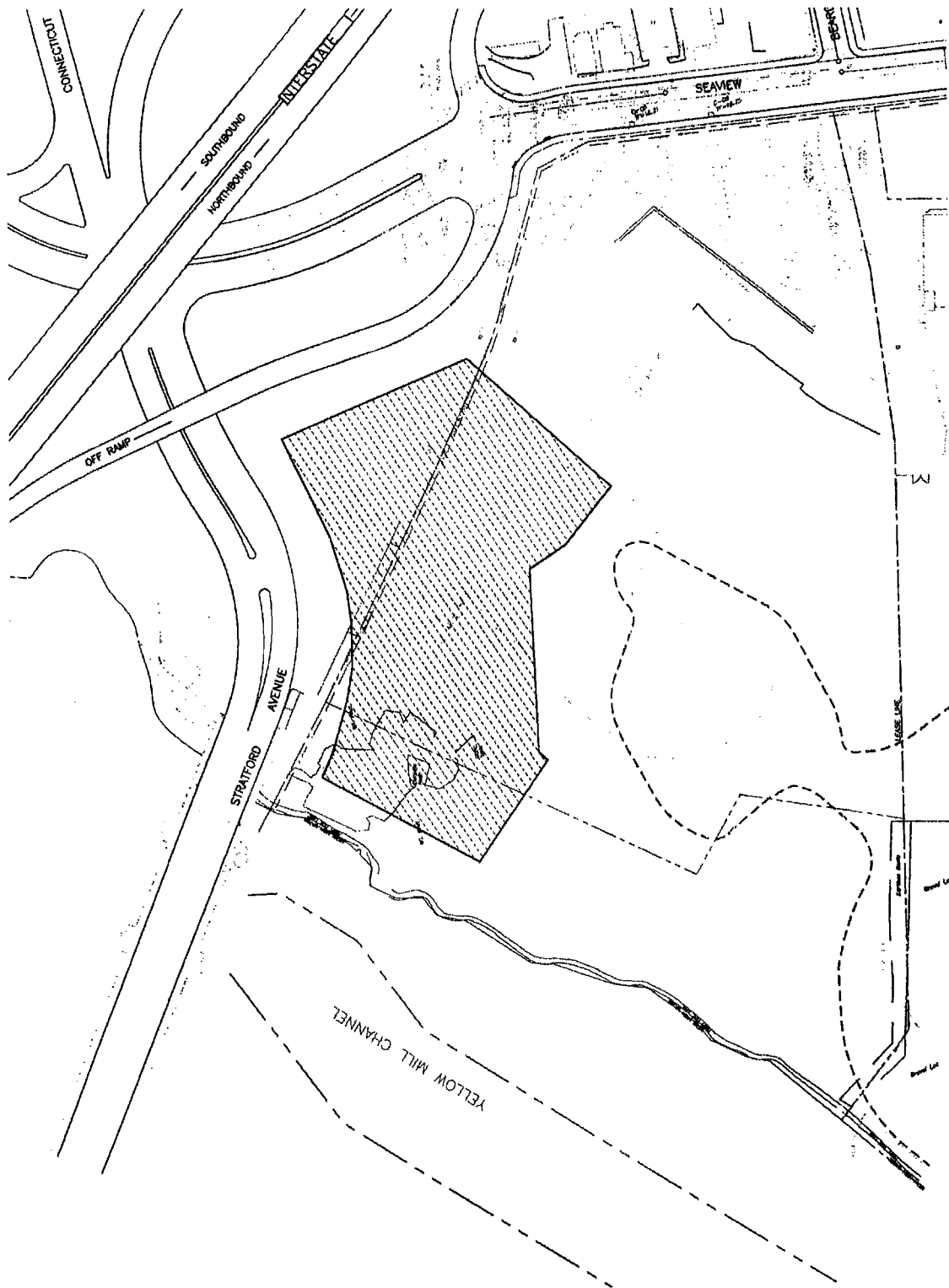
  
Witness RONALD J. PACCHETTA

By:   
Name: BILL FINCKH  
Title: MAYOR

**SCHEDULE A-1**

**PARCEL 1**

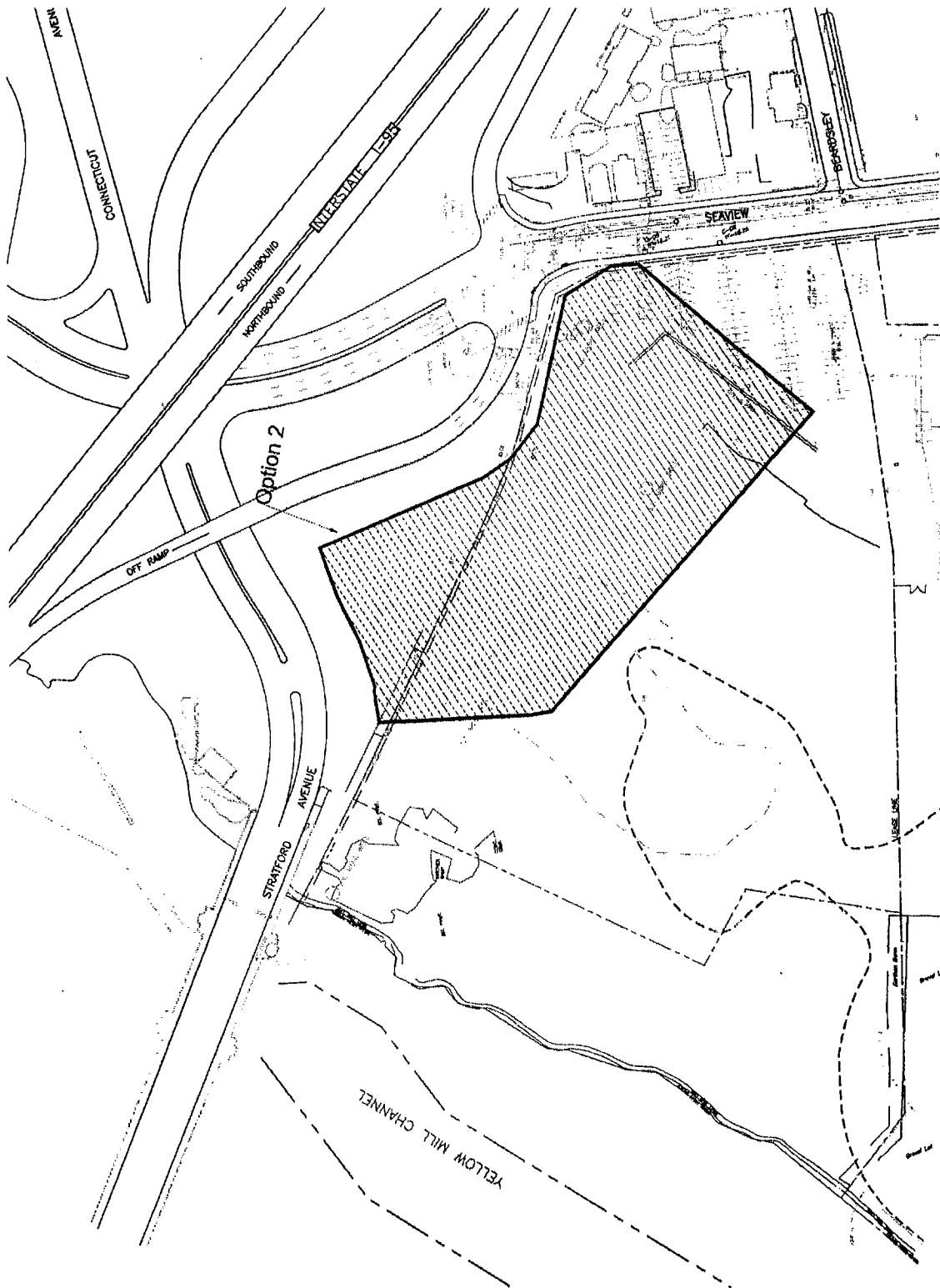
# Schedule A-1 Parcel A-1



**SCHEDULE A-2**

**PARCEL 2**

# Schedule A-2 Parcel A-2



**EXHIBIT 1**

**COPY OF BRIDGEPORT PORT AUTHORITY RESOLUTION**

**CERTIFICATE**

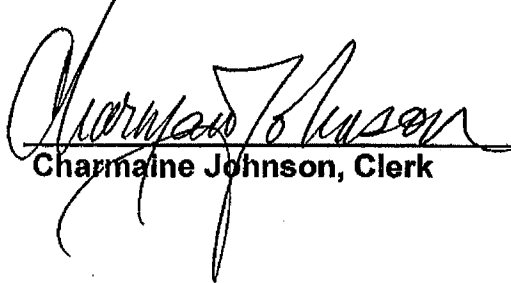
**Bridgeport Port Authority Board of Directors Meeting**

**Meeting Held April 16, 2014**

**The undersigned, Charmaine Johnson, Clerk of the Board of Commissioners of the Bridgeport Port Authority ("Board"), hereby certifies, on behalf of the Board, that attached hereto is a true, complete and correct copy of the following resolution, which has not been modified, amended, cancelled or repealed, as of the date hereof that was approved by the Board on April 16, 2014:**

**Resolution of the Bridgeport Port Authority  
Concerning Proposed Ground Lease with  
Bridgeport Landing Development, LLC  
For 3 Acres at Seaview Plaza  
(837 Seaview Avenue)**

**IN WITNESS WHEREOF, the undersigned has executed this Certificate as Clerk of the Bridgeport Port Authority and on its behalf as of the 16<sup>th</sup> day of April, 2014.**

  
Charmaine Johnson, Clerk

**Encl.**



**Resolution of the Bridgeport Port Authority  
Concerning Proposed Ground Lease with  
Bridgeport Landing Development, LLC  
For 3 Acres at Seaview Plaza  
(837 Seaview Avenue)**

**WHEREAS, the City of Bridgeport is in the process of developing Steel Point into a mixed-use retail, residential, marina, hotel and entertainment complex;**

**WHEREAS, the preferred developer of Steel Point, Bridgeport Landing Development, LLC, has secured Bass Pro Shops as its first anchor tenant;**

**WHEREAS, in connection with Bass Pro Shop's operation, it requires additional space for its operations at Seaview Plaza for the purpose of storing boats and recreational vehicles, visitor and employee parking and the like; and**

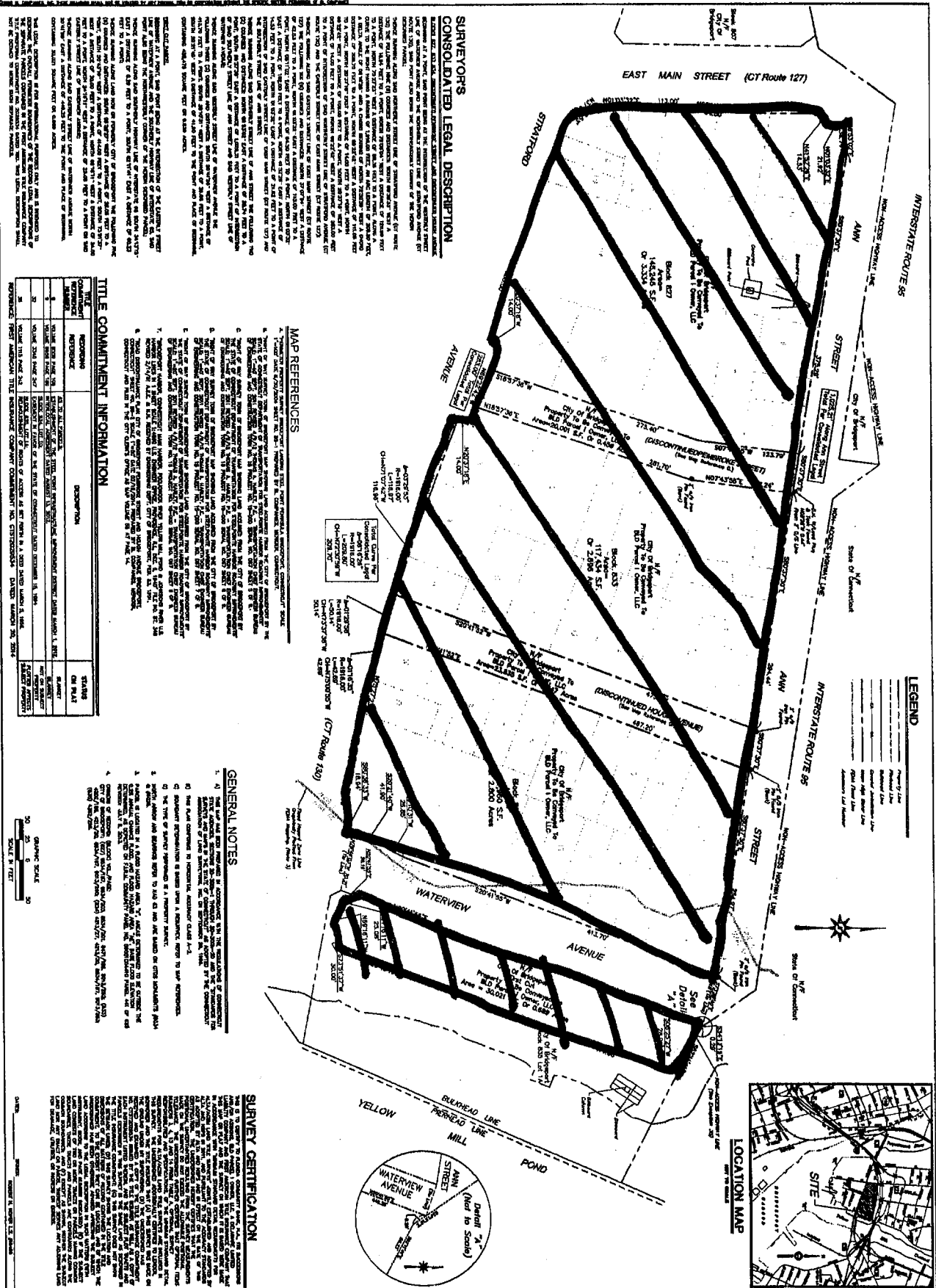
**WHEREAS the developer has asked the Port Authority to lease approximately 3 acres at Seaview Plaza so that the developer may provide such additional space to Bass Pro Shops for its operations.**

**NOW, THEREFORE, BE IT RESOLVED:**

**THAT the Board of the Bridgeport Port Authority hereby approves a Ground Lease with the developer substantially in the form attached hereto and authorizes the Executive Director, or his/her designee to execute all documents, take all other actions and do all other things in furtherance of and consistent with this resolution in the best interests of the Bridgeport Port Authority.**

**EXHIBIT 2**

**MAIN BP PARCEL**



Main BP Parcel:



### **EXHIBIT 3**

#### **NOTICE OF GROUND LEASE**

This Notice of Ground Lease is entered into by and between the **BRIDGEPORT PORT AUTHORITY** ("*Landlord*"), having an office at Margaret E. Morton Government Center, 999 Broad Street, Bridgeport, Connecticut 06604 and its successors and assigns, and \_\_\_\_\_ ("*Tenant*"), a \_\_\_\_\_, having a usual place of business at \_\_\_\_\_, \_\_\_\_\_ and its successors and assigns, concerning the [Ground Lease Agreement] executed \_\_\_\_\_, 201\_\_\_\_, between Landlord and Tenant ("*Agreement*").

1. **Names and Addresses of the Parties to the Lease.**

Landlord: The City of Bridgeport, Connecticut  
Margaret E. Morton Government Center  
999 Broad Street  
Bridgeport, CT 06604

Tenant:  
BLD Parcel I Owner, LLC  
300 Alton Road, Suite 303  
Miami Beach, Florida 33139  
Attn: Robert W. Christoph, Jr.

2. **The Lease and Date of Execution.** Agreement by and between Landlord and Tenant with a date of execution of [\_\_\_\_], 2014.

3. **Initial Term.** The initial term ("*Initial Term*") of the Agreement shall commence on \_\_\_\_\_, 201\_\_\_\_ and shall expire on \_\_\_\_\_, 20\_\_\_\_.

4. **Description of the Property Contained in the Agreement.** The Landlord has leased to Tenant approximately three (3) acres located at 837 Seaview Avenue, in Bridgeport, Connecticut, which is more particularly bounded and described in **Exhibit A** hereto (hereinafter referred to as the "*Premises*"), [ and, pursuant thereto, the Landlord has granted appurtenant rights in the real property bounded and described in **Exhibit B** hereto].

5. Right of Extension or Renewal. Tenant is granted options to extend the Initial Term of the Agreement for five (5) additional periods of five (5) years each at the expiration of the Initial Term for the first option period and at the expiration of the first option period for the second option period.

6. Option to Purchase. Tenant has an option to purchase the Premises at any time during the Lease Term.

7. Places Where Agreement Is On File. Duplicate executed copies of the Agreement are on file at the office of (a) Landlord at Margaret E. Morton Government Center, 999 Broad Street, Bridgeport, Connecticut 06604; and (b) Tenant at 300 Alton Road, Suite 303 Miami Beach, FL 33139.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the said parties have hereto caused this Notice of Ground Lease to be executed this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Name of Witness 1:

**LANDLORD: BRIDGEPORT PORT  
AUTHORITY**

\_\_\_\_\_  
Signature of Witness 1

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

Name: \_\_\_\_\_

\_\_\_\_\_  
Name of Witness 2:

Title: \_\_\_\_\_

\_\_\_\_\_  
Signature of Witness 2

ACKNOWLEDGEMENT

STATE OF CONNECTICUT

)

ss: Town/City of \_\_\_\_\_

COUNTY OF \_\_\_\_\_

)

On this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the \_\_\_\_\_ of the **BRIDGEPORT PORT AUTHORITY** in such capacity.

In Witness Whereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires:  
Commissioner of the Superior  
Court

**TENANT:**

\_\_\_\_\_  
Name of Witness 1:

**BLD PARCEL I OWNER, LLC**, Delaware limited liability company

\_\_\_\_\_  
Signature of Witness 1

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

\_\_\_\_\_  
Name of Witness 2:

Name: \_\_\_\_\_

\_\_\_\_\_  
Signature of Witness 2

Title: \_\_\_\_\_

**ACKNOWLEDGEMENT**

STATE OF CONNECTICUT

)

ss: Town/City of \_\_\_\_\_

COUNTY OF \_\_\_\_\_

)

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the \_\_\_\_\_ of the **BRIDGEPORT PORT AUTHORITY** in such capacity.

In Witness Whereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires:  
Commissioner of the Superior  
Court

**EXHIBIT A**

**Description of the Premises**



**EXHIBIT B**

**[Property Subject to Appurtenant Rights]**

**If applicable**

## **EXHIBIT 4**

### **NON-DISTURBANCE AGREEMENT**

#### **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_ day of April, 2014, by and between BLD PARCEL OWNER I, LLC, a Delaware limited liability company ("Landlord"), BASS PRO OUTDOOR WORLD, L.L.C., a Missouri limited liability company ("Tenant") and BRIDGEPORT PORT AUTHORITY, a municipal port authority organized and existing under the laws of the State of Connecticut ("Ground Lessor").

WITNESSETH:

WHEREAS, the Landlord and the Ground Lessor have entered into that certain Ground Lease dated April \_\_\_\_, 2014 (the "Ground Lease") whereunder Ground Lessor has ground leased to Landlord certain property located at 837 Seaview Avenue in Bridgeport, Connecticut, as further described in the Ground Lease (the "Property"); and

WHEREAS, the Landlord and the Tenant have entered into that certain Sublease dated April \_\_\_\_, 2014 (the "Lease") pursuant to which Tenant is leasing from Landlord the Property.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **SUBORDINATION**. Subject to the terms and conditions of this Agreement, the Lease and the Tenant's rights thereunder shall be subject and subordinate to the Ground Lease.

2. **NONDISTURBANCE**. So long as Tenant is not in default of the Lease after notice and the time to cure as provided for in the Lease, Ground Lessor agrees for itself and its successors in interest that, in the event the Ground Lease is terminated for any reason whatsoever, Tenant's possession of the Property as described in the Lease and Tenant's other rights under the Lease will not be disturbed during the term of the Lease, including any extensions thereof exercised pursuant to the terms of the Lease and that Ground Lessor (or its successor) will recognize and abide by the provisions of the Lease and Tenant's rights thereunder, notwithstanding any other provisions in the Ground Lease.

3. **ATTORNTMENT.** Subject to (i) Ground Lessor's (or its successor's) full compliance with the conditions relating to non-disturbance as set forth in paragraph 2 above and (ii) the performance by Ground Lessor (or its successor) of all obligations of the landlord under the Lease with respect to obligations arising and accruing from and after the date that the Ground Lease is terminated, Tenant agrees to attorn to, accept and recognize Ground Lessor (or its successor) as the landlord under the Lease for the then-remaining balance of the term of the Lease, and any extensions thereof as made pursuant to the Lease. Tenant agrees to execute and deliver, at any time and from time to time, upon the request of Ground Lessor (or its successor), any reasonable instrument which may be necessary or appropriate to evidence such attornment. It is agreed, however, that Ground Lessor (or its successor) shall not be (a) liable for any act or omission of Landlord, unless Tenant has delivered notice of the breach to Ground Lessor (or its successor) and the breach is continuing at the time the Ground Lease is terminated; or (b) subject to any offsets or defenses that Tenant might have against Landlord, other than offsets or defenses specifically authorized in the Lease; or (c) bound by any rent or additional rent that Tenant might have paid for more than one month in advance to Landlord, unless the same is so required under the Lease; or (d) bound by an amendment or modification of any material provision of the Lease made after the date of this Agreement without the prior written consent of Ground Lessor (or its successor), which consent shall not be unreasonably withheld, delayed or conditioned; or (e) liable for return of any security deposit which was not delivered to Ground Lessor (or its successor).

4. **NOTICES.** All notices called for herein to be given shall be given by certified mail, return receipt requested, postage prepaid, addressed as follows:

**To Ground Lessor:**

Executive Director  
Bridgeport Port Authority  
Margaret E. Morton Government Center  
999 Broad Street, 2nd Floor  
Bridgeport, CT 06604

**With copy to:**

City Attorney  
Office of City Attorney  
City of Bridgeport  
Margaret E. Morton Government Center  
999 Broad Street, 2nd Floor  
Bridgeport, CT 06604

**To Landlord:**

BLD Parcel I Owner, LLC  
300 Alton Road, Suite 303  
Miami Beach, Florida 33139  
Attn: Robert W. Christoph, Jr.

**With copy to:**

Bilzin Sumberg Baena Price & Axelrod LLP  
1450 Brickell Avenue, 23rd Floor  
Miami, Florida 33131-3456  
Attn: Suzanne Amaducci-Adams, Esq. and  
Carter N. McDowell, Esq.

**To Tenant:**

Bass Pro Outdoor World, L.L.C.  
2500 East Kearney  
Springfield, Missouri 65898  
Attention: General Counsel

5. SUCCESSORS AND ASSIGNS. The obligation and rights of the parties pursuant to this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

6. LAW GOVERNING. This Agreement shall be governed by the laws of the State of Connecticut.

[Text Ends – Signatures Commence on Following Page]

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above written.

BLD PARCEL OWNER I, LLC, a Delaware  
limited liability company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

"Landlord"

BASS PRO OUTDOOR WORLD, L.L.C.,  
a Missouri Limited Liability Company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

"Tenant"

BRIDGEPORT PORT AUTHORITY, a  
municipal port authority organized and existing  
under the laws of the State of Connecticut

By: \_\_\_\_\_  
Its: \_\_\_\_\_

"Ground Lessor"

**EXHIBIT 5**

**BP SITE PLAN**

To be agreed upon by the parties within 30 days after the leased Parcel is selected