

1 each calendar month.

2 However, in recognition of the Lessee's capital investment, the City
3 shall temporarily reduce the annual minimum rate. Upon issuance of the certificate of
4 occupancy, the annual minimum rental shall be Eighteen Thousand (\$18,000), for five (5)
5 consecutive years or One Thousand Five Hundred (\$1,500) a month for sixty months (60)

6 At the end of the temporary reduction (sixty (60) months), the annual
7 minimum rent shall revert back to Twenty-Four Thousand Dollars (\$24,000) and shall be
8 payable in twelve (12) installments of Two Thousand (\$2,000) a month, on the first day of
9 each calendar month for twelve (12) months. At the end of the twelve (12) month period,
10 an adjustment to the annual rent shall be made in accordance with the provisions within
11 Section 3.2, Adjustment to the Annual Minimum Rent.

12 3.2 Adjustment to the Annual Minimum Rent: The annual minimum
13 rent shall be adjusted annually by utilizing the Consumer Price Index for Los Angeles-
14 Riverside-Orange County, using the month of March as the base. The maximum
15 increase shall be four percent (4%).

16 3.3 Quarterly Percentage Rent: Beginning March 1, 2009 through
17 February 28, 2025 Lessee shall pay five percent (5%) of any commissions for brokerage
18 sales made at or from the premises, plus five percent (5%) of net profit on new boat sales
19 generated from business done on or from the Premises.

20 Beginning March 1, 2025 through February 28, 2033, Lessee shall
21 pay six percent (6%) of any commissions for brokerage sales made at or from the
22 premises, plus six percent (6%) of net profit on new boat sales generated from business
23 done on or from the Premises.

24 3.4 Recordkeeping.

25 A. Financial statements furnished by Lessee will be certified as
26 correct by Lessee or an employee of Lessee authorized to so certify and will show the
27 computations of gross receipts for Lessee.

28 B. For the purpose of ascertaining the amount of gross receipts,

1 Lessee will record each and every sale at the time of the transaction.

2 C. Lessee will prepare, preserve, and maintain, for a period of not
3 less than three (3) years these books, accounts and records:

4 (1) a single, separate bank account into which all receipts of
5 business or other revenue from operations on or from the Leased Premises are
6 deposited;

7 (2) all bank statements detailing transactions in or through any
8 business bank account;

9 (3) daily or weekly sales recapitulations;

10 (4) daily or weekly commission recapitulations;

11 (5) a sales journal;

12 (6) copies of all tax returns filed with any governmental authority that
13 reflect in any manner Percentage of Transactions in or from the Leased Premises,
14 including, but not limited to, federal income tax returns and state sales or use tax returns;

15 (7) other records or accounts that Lessor may reasonably require in
16 order to ascertain, document, or substantiate any element of Percentage of Transactions.

17 D. All of the books, records, and other documents will be
18 maintained at the Leased Premises and in the manner recited in this paragraph, and will
19 be open to inspection, examination, or audit by Lessor or Lessor's designated
20 representative upon giving Lessee five (5) days' prior notice of Lessor's intention to
21 exercise its rights under this paragraph. In connection with an examination or audit,
22 Lessor will have the right to inspect the records of sales from any other store operated by
23 Lessee, but only if the examination is reasonably necessary to ascertain gross sales from
24 the Leased Premises. If upon inspection or examination of Lessee's available books and
25 records of account, Lessor determines that Lessee has failed to maintain, preserve, or
26 retain the documents, books, and records that this Lease requires Lessee to maintain in
27 the manner set forth in this paragraph, Lessor will give the Lessee sixty (60) days to cure
28 the deficiencies. Further, if Lessee is found to be deficient in maintaining any of

1 documents, books, or records, Lessee will reimburse Lessor for all reasonable expenses
2 incurred by Lessor in determining the deficiencies, including without limitation any audit
3 or examination fees.”

4 3. Section 4 of Lease No. 28285 is hereby amended in its entirety to
5 read as follows:

6 “4. USES: Lessee agrees for itself, its successors and assigns that during
7 the Lease term, the Leased Premises shall be used for the sale of and brokering of
8 marine vessels. The dock will be used in conjunction with these activities and limited
9 outfitting of vessels.

10 Lessee shall not use or permit the Leased Premises or any portion
11 thereof to be improved, developed, used or occupied in any manner or for any purpose
12 that is in any way in violation of any valid law or regulation of any federal, state, county,
13 or local governmental agency, body, or entity. Furthermore, Lessee shall not maintain,
14 commit, or permit the maintenance or commission of any nuisance as now or hereafter
15 defined by any statutory or decisional law on the Leased Premises.

16 4.1 Improvements: In consideration of the term extension granted by
17 Lessor to Lessee, Lessee shall construct a new reconfigured dock, gangway and utilities
18 within Basin 1, as depicted in Exhibit No. 1 attached hereto and incorporated herein.

19 Lessee shall obtain financing for the Project at a cost of approximately
20 Four Hundred Thousand Two Hundred Twenty-Eight Dollars (\$400,228.00). The parties
21 agree that upon completion of the Project, all improvements will become the property of
22 Lessor. Prior to execution of this First Amendment, Lessee shall secure a performance
23 bond for completion of the Basin 1 Project.”

24 ///
25 ///
26 ///
27 ///
28 ///

1 IN WITNESS WHEREOF, Lessor and Lessee have signed this Lease as of
2 the date first written above.

3 HERITAGE YACHT SALES, INC., AND
4 YACHT HAVEN MARINA, INC., a California
5 corporation

6 3/11, 2009 By [Signature]
7 President
8 Tony Duni
9 Type or Print Name

10 3/11/2, 2009 By Ann Duni
11 Secretary
12 Ann Duni
13 Type or Print Name

14 "Lessee"
15 CITY OF LONG BEACH, a municipal
16 corporation
17 Assistant City Manager

18 May 8, 2009 By [Signature]
19 City Manager
20 [Signature]
21 "Lessor"

22 *10-5-09 ARH*
23 *Second*
24 *G.A. 10-5-09*

25 ~~SECTION 501 OF~~
26 ~~THE CITY CHARTER.~~

27 This ~~First~~ Amendment to Lease No. 28285 is approved as to form on
28 April 27, 2009.

ROBERT E. SHANNON, City Attorney
By [Signature]
Deputy

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

ALAMITOS BAY MARINA

205 Marina Drive
 Long Beach, CA 90803
 Los Angeles County
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 Department Of Parks, Recreation & Marine

EMERGENCY NUMBERS
 Fire & Police - 911
 Coast Guard - Channel 16 VHF



