

30545

SEVENTH ADDENDUM TO LEASE

The City of Long Beach

THIS SEVENTH ADDENDUM TO LEASE (this "**Addendum**") is made and entered into as of January 23, 2014, by and between WORLDPORT LLC, a Delaware limited liability company (successor-in-interest to California Drive-In Theatres, Inc.) ("**Landlord**"), and THE CITY OF LONG BEACH, a municipal corporation ("**Tenant**").

A. WHEREAS, Landlord and Tenant are parties to that certain Worldport Business Center Lease dated as of June 26, 1998 (as amended, the "**Lease**"), pursuant to which Tenant has leased from Landlord certain space consisting of 6,720 rentable square feet and designated as Suite D,E,F,G, & H in the building (the "**Building**") located at 1851 N. Gaffey Street, San Pedro, California (the "**Premises**"), as more particularly described in the Lease.

B. WHEREAS, Landlord and Tenant desire to amend the Lease to, among other things, (i) provide for Tenant's surrender of a portion of the Premises consisting of approximately 1,327 rentable square feet and designated as Suite D ("**Suite D**") in the Building, (ii) convert the Lease from a so-called "net" lease to a so-called "modified gross" lease, and (iii) extend the term of the Lease, all in accordance with the terms and conditions set forth below.

C. WHEREAS, all capitalized but otherwise undefined terms used herein shall have the meanings ascribed to them in the Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree, as follows:

1. Reduction of Premises. Subject to the terms and conditions of this Addendum, effective as of September 30, 2013 (the "**Surrender Date**"), the "Premises" shall no longer include Suite D and instead shall include the remaining 5,393 rentable square feet of space designated as suites E, F, G & H (collectively, the "**Remaining Premises**"). Effective as of the Surrender Date (but subject to the terms of this Addendum including, without limitation, Tenant's obligation to surrender Suite D on the terms and conditions set forth herein), all references in the Lease to "Premises" shall mean and refer to the Remaining Premises alone.

2. Surrender of Suite D. On the Surrender Date, Tenant shall surrender to Landlord Suite D in good condition and repair and otherwise in accordance with the terms of the Original Lease. From and after the Surrender Date, the Lease (as it relates only to Suite D) shall terminate and neither Landlord nor Tenant (nor any subtenants, licensees or assignees of Tenant) shall have any rights, duties or obligations to one another in connection with the Lease (as it relates only to Suite D) except for those obligations under the Lease to the extent not pertaining to Suite D, and the following (the following are collectively referred to herein as the "**Surviving Obligations**"): (a) in the event that Tenant does not vacate Suite D on or prior to the Surrender Date, the performance by Tenant of its obligations under the Lease (as modified herein) with respect to Suite D and the payment by Tenant of holdover rent with respect to Suite D, until such time as Tenant has vacated Suite D (provided, however, the foregoing is in no way intended to provide Tenant with any right to delay its obligation to properly surrender Suite D on or before the Surrender Date); (b) those obligations of Tenant under this Addendum; and (c) those obligations of Tenant under the Lease and/or at law which survive the expiration or earlier termination of the Lease (including, without

limitation, Tenant's indemnification obligations contained in the Lease, Tenant's repair and restoration obligations with respect to Suite D, and Tenant's responsibility to pay reconciled expenses and taxes with respect to Suite D with respect to all periods through and including the Surrender Date).

3. Extension of Term. Notwithstanding anything contained in the Lease to the contrary, the Term of the Lease with respect to the Remaining Premises is hereby extended so as to expire on September 30, 2016 (the "**Seventh Addendum Expiration Date**"). The period commencing October 1, 2013 (the "**Seventh Addendum Commencement Date**") and expiring on the Seventh Addendum Expiration Date shall be referred to herein as the "**Seventh Addendum Term**".

4. Base Rent. Prior to the Seventh Addendum Commencement Date, Tenant shall continue to pay Base Rent in accordance with the terms of the Lease. Effective as of the Seventh Addendum Commencement Date, Tenant shall pay monthly Base Rent in the amount of \$7,010.90 per month. Effective as of each anniversary of the Seventh Addendum Commencement Date, the Base Rent payable under the Lease shall be increased by the annual CPI adjustment in accordance with the terms of Section 3.2 of the Lease; provided, however, (i) all references in such Section 3.2 to "June" are hereby replaced with "September" and all references to "July 1" are hereby replaced with "October 1" and (ii) the minimum increase in Base Rent from year to year shall be 2% of the previous year's Base Rent and the maximum increase in Base Rent from year to year shall be 4% of the previous year's Base Rent.

5. Gross Lease. Effective as of the Seventh Addendum Commencement Date, the Lease shall automatically convert from a so-called "net lease" to a so-called "modified gross lease." Accordingly, effective as of the Seventh Addendum Commencement Date (but without limiting Tenant's obligation to pay Common Area Maintenance "CAM" Expenses in accordance with the terms of the Lease with respect to the period prior to such date), Tenant shall have no further obligation to pay CAM Expenses, including Property Taxes, as defined under Section 3.3 of the Lease. Tenant shall only be responsible for paying its electrical, gas, water and janitorial expenses.

6. Maintenance of Premises. With the exception of the responsibilities pertaining to the HVAC system (as further defined below), Landlord shall be responsible for all capital improvements and repairs in excess of \$5,000 in aggregate in any one (1) Lease Year (October 1st through September 30th). Notwithstanding the above, Landlord shall continue to be responsible to maintain the foundation, roof and structural portions of the walls and Tenant shall continue to be responsible for all other maintenance and repairs within the Premises, subject to the \$5,000 annual cap stated above.

7. Utilities and Janitorial. Notwithstanding anything to the contrary contained in the Lease, Tenant shall be responsible for one hundred percent (100%) of all janitorial and utility costs applicable to the Premises.

8. Permitted User. Notwithstanding anything to the contrary contained in the Lease, Tenant shall be permitted to allow persons or entities that are in partnership with the Pacific Gateway Workforce Investment Network (each, a "**Permitted User**") to use the Premises, without Landlord's consent. It is agreed that (i) the Permitted Users must comply with all provisions of the Lease that are obligations of Tenant related to the use or occupancy of the Premises and a default by any Permitted User shall be deemed a default by Tenant under the Lease; (ii) all notices required of

Landlord under the Lease shall be forwarded only to Tenant in accordance with the terms of the Lease and in no event shall Landlord be required to send any notices to any Permitted Users; (iii) in no event shall any use or occupancy of any portion of the Premises by any Permitted User release or relieve Tenant from any of its obligations under the Lease; (iv) the Permitted User and its employees, contractors and invitees visiting or occupying space in the Premises shall be deemed to be Tenant's agents for purposes of all of Tenant's indemnification obligations that relate to the use or occupancy of the Premises by the Permitted Users or that arise out of any acts or omissions of any employee, contractor, agent or invitee of the Permitted Users; (v) in no event shall the occupancy of any portion of the Premises by Permitted Users be deemed to create a Landlord/Tenant relationship between Landlord and such Permitted Users, and, in all instances, Tenant shall be considered the sole Tenant under the Lease notwithstanding the occupancy of any portion of the Premises by the Permitted Users; (vi) within ten (10) days of receipt of request from Landlord, Tenant shall provide Landlord within the names of each Permitted User then occupying the Premises and (vii) any such agreement with a Permitted User is not a subterfuge by Tenant to avoid its obligations under the Lease.

9. Condition of Premises. Tenant hereby agrees that the Remaining Premises shall continue to be taken "as is", "with all faults", "without any representations or warranties". Landlord shall reimburse Tenant up to Five Thousand, Three Hundred Ninety-Three and 00/100 Dollars (\$5,393.00) for actual costs incurred by Tenant in connection with performing any repairs to the Remaining Premises (the "**Seventh Addendum Allowance**"). The Seventh Addendum Allowance (or the portion thereof being requested by Tenant) shall be payable by Landlord within thirty (30) days following Landlord's receipt of paid invoices from the contractors or workers who performed the subject work and unconditional final lien releases and/or waivers from Tenant's general contractor, subcontractors, materialmen and suppliers and other parties who have performed work or services in connection with the repairs to the Remaining Premises. In addition, Tenant acknowledges and agrees that Landlord and its agents, contractors and employees shall have the right to access the Premises from time to time in order to construct a demising wall to separate the Remaining Premises from Suite D and perform such other work as Landlord deems reasonably necessary to separately demise the two spaces, at Landlord's cost (the "**Demising Work**"). Tenant shall not (and Tenant shall ensure that its agents, employees, contractors, licensees and invitees do not) interfere with the performance of the Demising Work and shall cooperate with Landlord in connection with the performance of the Demising Work, including, without limitation, by moving any furniture that Landlord reasonably requests be moved. Tenant hereby agrees that (a) the performance of the Demising Work shall in no way entitle Tenant to any abatement of rent payable pursuant to the Lease; and (b) Landlord shall have no responsibility for, or for any reason be liable to, Tenant for any direct or indirect injury to or interference with Tenant's business arising from the performance of the Demising Work. Tenant shall be responsible for any increase in the cost of performing the Demising Work resulting from any act or omission of Tenant or any agent, employee, contractor, licensee or invitee of Tenant (such amounts payable upon demand from time to time).

10. HVAC. Notwithstanding Tenant's obligation to maintain, repair and replace, as necessary, the HVAC system, should the HVAC system require repair and/or replacement during the Seventh Addendum Term or the further Extended Term agreed to in this Seventh Addendum; and the reasonable cost thereof exceeds One Thousand and no/100 Dollars (\$1,000.00) in the aggregate in any one (1) Lease Year, Landlord shall be solely responsible for such costs over and above One Thousand and no/100 Dollars (\$1,000.00) except to the extent the need for such repair or replacement is occasioned by the negligent or willful act of Tenant.

11. Termination Option. Tenant shall continue to have the right to terminate the Lease pursuant to the terms of Section 44 of the Lease (as modified by Section 6 of the Sixth Addendum to the Lease); provided, however, notwithstanding anything to the contrary contained in such Section 44, such termination option shall be exercisable by Tenant at any particular time during the Term (as opposed to only between July 1 and September 1 of each year).

12. Option to Extend Term. Tenant shall continue to have the right to extend the Term of the Lease for a period of three (3) years pursuant to the terms of Section 47 of the Lease (as modified by Section 19 of the Sixth Addendum to the Lease).

13. Broker's Fee. Upon full execution of the Seventh Addendum to Lease, Landlord shall pay CRESA Partners a leasing commission equal to 4% of the aggregate rent.

14. Non-Discrimination. Landlord agrees, subject to applicable laws, rules and regulations, that no person shall be subject to discrimination in the performance of the Lease on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, AIDS, HIV status, age, disability, handicap, or Vietnam Era veteran status.

15. Estoppel. Tenant warrants, represents and certifies to Landlord that as of the date of this Addendum: (a) Landlord is not in default under the Lease, and (b) Tenant does not have any defenses or offsets to payment of rent and performance of its obligations under the Lease as and when the same becomes due. Further, Tenant warrants, represents and agrees that nothing contained in this Addendum shall be deemed to reduce, limit or modify Tenant's obligations, or to waive any of Landlord's rights and remedies, accruing under the Lease.

16. Authority. Each individual executing this Addendum on behalf of Tenant represents and warrants to Landlord that he or she is duly authorized to so execute and deliver this Addendum, and that all partnership, company, corporation and other entity actions and consents required for execution of this Addendum have been given, granted or obtained.

17. Severability. If any term or provision of this Addendum, the deletion of which would not adversely affect the receipt of any material benefit by either party hereunder, shall be held invalid or unenforceable to any extent, the remainder of this Addendum shall not be affected thereby and each term and provision of this Addendum shall be valid and enforceable to the fullest extent permitted by law.

18. California Civil Code Section 1938. Landlord hereby notifies Tenant that, as of the date of this Lease, Landlord has not had the Premises being leased hereunder inspected by a Certified Access Specialist (as that term is defined in California Civil Code Section 55.52) and, in addition, Landlord makes no representations or warranties regarding whether or not such an inspection of the Premises being leased or the Building, has been performed by any other party.

19. Lender's Approval. This Addendum is subject to the approval of all mortgagees having such approval rights and if any such entity disapproves of this Addendum within fifteen (15) days after Landlord's receipt of a fully executed copy hereof, Landlord shall have the right to cancel this Addendum, without any liability whatsoever, by written notice of cancellation given to Tenant within ten (10) days after such disapproval. If no written notice of cancellation is given to Tenant within thirty (30) days after the execution of this Addendum, this Addendum shall continue

in full force and effect. Notwithstanding the approval rights stated above, the Premises shall be reduced to include only the Remaining Premises effective October 1, 2013.

20. Reaffirmation. Except as expressly modified herein, the Lease is hereby reaffirmed and ratified by the parties in its entirety.

21. Facsimile; Counterparts. Each party hereto, and their respective successors and assigns shall be authorized to rely upon the signatures of all of the parties hereto on this Addendum which are delivered by facsimile as constituting a duly authorized, irrevocable, actual, current delivery of this Addendum with original ink signatures of each person and entity. This Addendum may be executed in counterparts, each of which shall be deemed an original part and all of which together shall constitute a single agreement.

[SIGNATURE PAGE IMMEDIATELY FOLLOWING]

IN WITNESS WHEREOF, this Addendum is executed as of the date first written above.

LANDLORD:

WORLDPORT LLC
a Delaware limited liability company

By: Worldport Inc.,
a Delaware corporation

By: [Signature]
Name: J. SCHULenburg
Title: Sr. PM.

TENANT:

THE CITY OF LONG BEACH,
a Municipal corporation

By: [Signature] Assistant City Manager

Name Printed: Patrick H. West

Title: City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM
March 6, 2014
CHARLES PARKIN, City Attorney
By [Signature]
GARY J. ANDERSON
DEPUTY CITY ATTORNEY

Exhibit "A"
Premises with Surrender Space

