

1 FIRST AMENDMENT TO LEASE NO. 29961

2 **29961**

3 THIS FIRST AMENDMENT TO LEASE NO. 29961 is made and entered, in
4 duplicate as of February 2, 2016, for reference purposes only, pursuant to a minute order
5 adopted by the City Council of the City of Long Beach at its meeting held on December 1,
6 2015, by and between the CITY OF LONG BEACH, a municipal corporation and trust
7 grantee of the State of California of certain tide and submerged lands within the limits of
8 said City ("City") and BEACH VENTURES INTERNATIONAL, INC. as successor in
9 interest to BEACH VENTURES ENTERPRISES, INC., a California corporation, with a
10 business address of 5411 East Ocean Boulevard, Long Beach, California, 90802
11 ("Lessee").

12 WHEREAS, City and Lessee entered into that certain Lease dated as of
13 January 19, 2007 (the "Lease"), pursuant to which Lessee leased from City a portion of
14 the Belmont Veterans Memorial Pier to conduct various operations and services more
15 particularly described in the Lease; and

16 WHEREAS, City and Lessee desire to amend the Lease to reduce the
17 minimum rent, increase certain percentage rents, add an annual in-kind consideration for
18 City use, and assign the Lease to Beach Ventures International, Inc. as successor in
19 interest to Beach Ventures Enterprises, Inc.;

20 NOW, THEREFORE, in consideration of the mutual terms and conditions in
21 Lease No. 29961 and herein, the parties agree as follows:

22 1. Percentage Rent. There shall be an increase in percentage rent for
23 food and non-alcoholic beverage sales, retroactively to September 1, 2015. Accordingly,
24 Section 4.1.A of Lease No. 29961 is hereby amended to read as follows:

25 "A. Lessee shall pay to City percentage rents as follows:

26 Bike rentals	15 percent
27 Movies, catered events, special events	10 percent
28 All alcohol sales	10 percent

1	Cart sales, retail/merchandise sales	7.5 percent
2	Bait and tackle sales	7.5 percent
3	Food and non-alcoholic beverage sales	
4	September 1, 2006 - August 31, 2015	8 percent
5	September 1, 2015 - remaining lease duration	10 percent
6	Vessel charters from Pier	5 percent
7	Vessel rentals, vessel provisioning	5 percent
8	Shuttle services, shore boat services	5 percent
9	of Lessee's "gross receipts" (as that term is defined in herein) per month on	
10	the twentieth (20th) day of each month following each and every month in which gross	
11	receipts are received whether received by Lessee, its sublessees, concessionaires or	
12	other person or entity operating under a contract with Lessee from all Permitted	
13	concessions, operations and activities. Lessee shall not have any right of abatement,	
14	deduction, set off, prior notice or demand."	

15 2. Annual Minimum Rent. There shall be a reduction in annual
16 minimum rent, retroactively to September 1, 2013. Accordingly, Section 4.1.B of Lease
17 No. 29961 is hereby amended to read as follows:

18 "B. In the event that percent of gross receipts derived from Lessee's
19 operations paid by Lessee to City does not exceed Thirteen Thousand Five Hundred
20 Dollars (\$13,500.00) ("Minimum Payment") for each calendar year from September 1,
21 2006 through August 31, 2013, Lessee shall pay to City the difference between the
22 Minimum Payment and the amount of Percentage Rent paid during the calendar year on
23 or before January 31 of each year. Said payment shall be included with the statements
24 required pursuant to Section 4.4.B, said Minimum Payment shall be prorated for any
25 partial calendar year at One Thousand One Hundred Twenty-Five Dollars (\$1,125.00) per
26 month. For the Lease year of September 1, 2013 through August 31, 2014, the Minimum
27 Payment shall be Seven Thousand Dollars (\$7,000). For all subsequent Lease years,
28 the annual Minimum Payment will be adjusted upward to an amount equal to ninety

1 percent (90%) of the cumulative annual sum of all percentage rent paid to the City in the
2 prior Lease year, provided that such amount exceeds the then-current annual Minimum
3 Payment. Under no circumstances shall the annual Minimum Payment be reduced
4 further.”

5 3. Section 4.4 is hereby added to Lease No. 29961 to read as follows:

6 “4.4. City In-kind Contributions. Lessee shall make in-kind contributions of
7 services and/or goods to City with a total value of up to Five Thousand Dollars (\$5,000)
8 for each Lease year, including but not limited to facility rentals, catering, and other
9 services. The contributions shall be recorded by Lessee and held until such time as the
10 application of the services and/or use of the goods has been approved by City. Upon
11 approval by City, the contributions shall be credited to Lessee on a dollar-for-dollar basis
12 and shall be equivalent to Lessee’s standard market or published rates for facility rentals
13 or other services in the then current Lease year. Lessee shall account for any in-kind
14 credit on its monthly statement of gross receipts, in the month immediately following the
15 date of such credited in-kind contribution.”

16 4. Consent to Assignment. Effective immediately, City hereby consents
17 to the assignment of the Lease from Beach Ventures Enterprises, Inc. to Beach Ventures
18 International, Inc. City’s consent to this assignment shall not be construed as a waiver of
19 any obligations or rights due to City by Lessee under the Lease, nor shall it be construed
20 as a waiver of any cause of action or remedy at law or equity for any breach of the Lease.

21 5. Except as expressly amended herein, all terms and conditions in
22 Lease No. 29961 are ratified and confirmed and shall remain in full force and effect.

23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 IN WITNESS WHEREOF, the parties have caused this document to be duly
2 executed with all formalities required by law as of the date first stated herein.

3 BEACH VENTURES INTERNATIONAL,
4 INC. as successor in interest to BEACH
5 VENTURES ENTERPRISES, INC., a
6 California corporation

6 MAR 1 1 2018⁶ ~~2016~~

By [Signature]
7 Name FRED KHAMMAK
8 Title VP

8 MAR 1 1 2016, 2016

By [Signature]
9 Name MICHELLE KHAMMAK
10 Title PRESIDENT

11 "Lessee"

12 CITY OF LONG BEACH, a municipal
13 corporation

13 [Signature], 2016

By [Signature] EXECUTED PURSUANT
14 TO SECTION 301 OF
15 THE CITY CHARTER.
16 City Manager

17 "City" Assistant City Manager

18 This First Amendment to Lease No. 29961 is approved as to form on

19 3/18, 2016.

20 CHARLES PARKIN, City Attorney

By [Signature]
21 Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664