

COMMERCIAL LEASE AGREEMENT
(Land + Improvements, Single Tenant)

THIS LEASE (this "Lease") dated as of the ____ day of _____, 2022, is made by and between the CITY OF LAKEPORT, a municipal corporation ("Landlord") and Lakeport Yacht Club, a California nonprofit corporation ("Tenant").

IN CONSIDERATION OF the Landlord leasing certain premises to the Tenant, the Tenant leasing those premises from the Landlord and the mutual benefits and obligations set forth in this Lease, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Lease agree as follows:

Leased Premises

1. The Landlord agrees to lease to the Tenant the land, moorings, and building described as 15 5th Street, Lakeport, CA 95453 (APN 025-382-25) and as more particularly described in Exhibit A attached to this Lease (the "Premises"). The Premises will be used for only the following permitted use (the "Permitted Use"): Operation of Lakeport Yacht Club. The Premises may be used for a yacht club, for boating, sailing, yachting, watersport and other reasonable recreational activities involving waterfront property and the Yacht Club Building and Enclosed Yard Area of the Premises as depicted in Exhibit A for social events including, but not limited, to weddings, birthday parties, educational courses, business luncheons, lectures, seminars, memorials, and similar events. Tenant may rent out the Premises on a short-term basis to other parties as further described in Section 47. Tenant may only use the Event Lawn Area as described in Section 25. Neither the Premises nor any part of the Premises will be used at any time during the term of this Lease by the Tenant or any other parties for any purpose other than the Permitted Use.
2. Tenant acknowledges that it has inspected the Premises, including all furnishings, fixtures, appliances, and other personal property subject to this Lease, and agrees that they are in satisfactory condition and good working order.

Term

3. The Term of the Lease is ten (10) year(s) commencing on September 1, 2022 and expiring on August 31, 2032. The Term of this Lease may be extended for a total of ten (10) years in increments of five (5) years each subject to City Council approval. Tenant may exercise its option to seek an extension of this Lease by providing written notice at least three hundred sixty-five (365) days before the end of the initial term or the first extended term (if applicable).
4. Upon 30 days' notice, the Landlord may terminate the tenancy under this Lease if the Tenant has defaulted under any terms of this Lease.

5. Upon 30 days' notice, the Landlord may terminate the tenancy under this Lease if the Tenant fails to observe, perform and keep each and every of the covenants, agreements, stipulations, obligations, conditions, and other provisions of this Lease to be observed, performed and kept by the Tenant.

Rent

6. Subject to the provisions of this Lease, the Tenant will pay a rent of (the "Rent") of \$163.75 per month for the Premises; provided, however, that, in consideration for lost revenue due the COVID-19 pandemic, for the first two years of this Lease Term, Tenant shall pay eighty-five percent (85%) of Rent. Beginning with the second year of the Lease Term, Rent shall be increased annually by the percentage increase in the "San Francisco Bay Area, Consumer Price Index for All Urban Consumers (CPI-U)" for the previous year.
7. The Tenant will pay the Rent on or before the first of each month and every month of the Term of this Lease to the Landlord.

Notice of Possessory Interest

8. In accordance with California Revenue and Taxation Code Section 107.6, subdivision (a), Landlord states that entering into this Lease may create a possessory interest subject to property taxes. Tenant or any other party in whom the possessory interest is vested shall be responsible for and pay any such taxes upon the assessed value of the entire Premises.

Security Deposit

9. No security deposit is required.

Operating Costs

10. In addition to the Rent, the Tenant will pay all operating costs of the Premises, including without limitation utilities, taxes, interior maintenance, exterior maintenance, and insurance (the "Operating Costs"). Tenant shall pay all Operating Costs directly to the provider unless already paid for by the Landlord. The Tenant must reimburse the Landlord within two weeks for any Operating Costs that the Landlord has paid. Operating Costs due to Landlord shall also include the actual cost to clean-up the Enclosed Yard Area and Event Lawn Area of the Premises and restore it to a good condition if Tenant has failed to do so within 24 hours after an event or notice by Landlord, and shall also include the actual cost of securing boats or other watercraft that cause a danger within the waters adjacent to the Premises.
11. The Tenant will pay to the lawful taxing authorities, or to the Landlord, as it may direct as and when the same become due and payable, all taxes, rates, use fees, duties,

assignments and other charges that are levied, rated, charged, or assessed against or in respect of all improvements, equipment and facilities of the Tenant or in default by the Tenant and in respect of any business carried on in the Premises or in respect of the use or occupancy of the Premises by the Tenant and every subtenant, licensee, concessionaire or other persons doing business or from the Premises or occupying any portion of the Premises.

Maintenance

12. [Reserved]
13. Tenant at its cost shall maintain, in good condition, all portions of the Premises, including, without limitation, all Tenant's personal property, signs, storefronts, plate glass, and show windows. In addition, Tenant at its cost shall maintain, in good condition, the structural parts of the building and other improvements that are a part of the Premises, which structural parts include, without limitation, the foundations, bearing and exterior walls, subflooring, and roof; the unexposed electrical, plumbing, and sewage systems within the building and those portions of the systems from the building to the utility boxes, notwithstanding whether those portions lie outside the Premises; heating, ventilating, and air-conditioning system servicing the Premises.
14. Landlord shall not have any responsibility to maintain any portion of the Premises. Tenant waives the provisions of Civil Code Sections 1941 and 1942 with respect to Landlord's obligations for tenantability of the Premises and Tenant's right to make repairs and deduct the expenses of such repairs from the Rent.

Landlord's Estimate

15. The Landlord may, in respect of all the taxes and Operating Costs, compute bona fide estimates of the amounts which are anticipated to accrue in the next following lease year, calendar year, or fiscal year, or portion of such year, as the Landlord may determine most appropriate for each and all items of Operating Costs, and the Landlord may provide the Tenant with written notice and a reasonable breakdown of the amount of any such estimate and the Tenant, following receipt of such written notice of the estimated amount and breakdown will pay to the Landlord such amount, in equal consecutive monthly installments throughout the application period with the monthly installments of Rent.
16. With respect to any item of Operating Costs that the Landlord has not elected to estimate from time to time, the Tenant will pay to the Landlord the amount of such item of Operating Costs, determined under the applicable provisions of this Lease, immediately upon receipt of an invoice setting forth such items of Operating Costs. Within one hundred and twenty (120) days of the conclusion of each year of the term or a portion of a year, as the case may be, calendar year or fiscal year, for which

the Landlord has estimated any item of Operating Costs, the Landlord will compute the actual amount of such item of Operating Costs, and make available to the Tenant for examination a statement providing the amount of such item of Operating Costs and the calculation of the Tenant's share of that Operating Costs for such year or portion of such year.

17. If the actual amount of such items of Operating Costs, as set out in any such statement, exceeds the aggregate amount of the installment paid by the Tenant in respect of such item, the Tenant will pay to the Landlord the amount of excess within fifteen (15) days of receipt of any such statement. If the contrary is the case, any such statement will be accompanied by a refund to the Tenant of any such overpayment without interest, provided that the Landlord may first deduct from such a refund on any Rent that is then in the arrears.

Use and Occupation

18. The Tenant will use and occupy the Premises only for the Permitted Use and for no other purpose whatsoever without the prior written consent of Landlord.
19. The Tenant covenants that the Tenant will carry on and conduct its business carried on upon the Premises in such manner as to comply with all statutes, bylaws, rules and regulations of any federal, provincial, municipal or other competent authority and will not do anything on or in the Premises in contravention of any of them.
20. The Tenant will not make any improvements to the Premises without the prior written consent of Landlord. All improvements to the Premises require permits from the proper authorities. It is the responsibility of the Tenant to acquire all necessary permits before undertaking any improvements to the Premises. Improvements include, but are not limited to, the installation of buoys, slips, piers, moles, or other construction on the Premises and adjacent water within or without the Public Trust Easement. Tenant shall pay all costs for permits, construction, or improvements done by it or caused to be done by it on the Premises and shall keep the Premises free and clear of all mechanic's liens resulting from construction done by or for the Tenant.
21. Tenant will not make any improvements within the Public Trust Easement or to any areas outside of the Premises without the prior written consent of the Landlord. This includes, but is not limited to, the erection of buoys, slips, piers, moles, or other construction in the Public Trust Easement. It is the responsibility of the Tenant to acquire all necessary permits before undertaking any improvements to the Public Trust Easement or in areas outside the Premises, including but not limited to permits from the County of Lake. Tenant shall pay all costs for permits, construction, or improvements done by it or caused to be done by it in the Public Trust Easement or

outside the Premises. Tenant shall further renew buoy permits with the County of Lake annually or as required by the County of Lake.

22. The Landlord covenants that on paying the Rent and performing the covenants contained in this Lease, the Tenant will have full use of the Premises for the agreed Term for the Permitted Use.
23. To assure that the public has an adequate opportunity to use the Premises, Tenant agrees to maintain in good order the sign on the Premises indicating that the Premises are available for use by the public. Tenant further covenants that it will not unreasonably deny the use of the Premises to the public. The parties hereto understand that breach of this covenant shall constitute grounds for termination of this Lease.
24. The parties hereto agree that the Landlord shall have the right to use the Premises for municipal purposes without cost to the Landlord. Landlord agrees that it will give reasonable notice of its desire to use the Premises. Landlord agrees to clean the Premises within 24 hours of municipal use to a state as clean as before the municipal use. If the Premises are already reserved by the Tenant or a Short-Term Tenant, the Landlord may not use the Premises, excepting during an emergency or by reason of an emergency.
25. Tenant may not conduct commercial activities anywhere in the outdoor portions of the Premises without prior written consent of Landlord. Without Landlord's prior written consent, Tenant may also not use the Premises for storing/parking automobiles, trailers, and the like; or stacking; and use of inflatables, such as jumphouses. Tenant may also not serve alcoholic beverages in any form unless it complies with permitting and other applicable requirements of the California Department of Alcoholic Beverage Control and any applicable requirements of the City of Lakeport, including but not limited to obtaining a permit from the Lakeport Police Department. Tenant may use the Enclosed Yard Area as depicted in Exhibit A for recreational purposes without prior written consent of Landlord. Before any use by Tenant of the Event Lawn Area, Tenant shall provide Landlord with reasonable notice, not less than seven (7) days before the intended use, of, at a minimum, the date, time, number of anticipated guests, and type of event. Tenant shall cordon-off the portions of the Event Lawn Area during such use to prevent public attendance, but shall ensure the sidewalk remain open and unobstructed at all times. Absent compliance with this Section, Tenant shall not cordon-off the Event Lawn Area or otherwise prevent public access and use of the Event Lawn Area.

Environmental Matters

26. The Tenant hereby represents and warrants that:

- a. The Tenant has not been informed of, nor does the Tenant have any knowledge of (i) the presence of any Hazardous Substances (as defined below) on the Premises, or (ii) any spills, releases, threatened releases, discharges or disposals of Hazardous Substances that have occurred or are presently occurring on or onto the Premises, or (iii) any spills or disposals of Hazardous Substances that have occurred or are presently occurring on any other properties as a result of any construction on or operation and use of the Premises.
- b. In connection with the operation and use of any of the Premises, the Tenant has no knowledge of any failure to comply with any applicable local, state or federal environmental laws, regulations, ordinances and administrative and judicial orders relating to the generation, treatment, recycling, reuse, sale, storage, handling, transport and disposal of any Hazardous Substances.
- c. In the event that the Tenant becomes aware of the release of any Hazardous Substances on, or other environmental condition, problem or liability with respect to, the Premises, the Tenant agrees to notify promptly the Landlord in writing of such condition. The Tenant further agrees to take actions to investigate and clean up the release of any Hazardous Substances on, or other environmental condition, problem or liability affecting the Premises promptly after the Tenant becomes aware of any such condition and to keep the Landlord advised in writing of all such actions taken by the Tenant.
- d. As used in this Section, "Hazardous Substances" shall mean any substance or material at the level defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous or toxic chemical, a hazardous, toxic or radioactive substance, petroleum or other similar term, by any federal, State or local environmental statute, regulation or ordinance presently in effect or that may be promulgated in the future, as such statutes, regulations and ordinances may be amended from time to time.
- e. The representations and warranties set forth in this Section shall survive the expiration or termination of this Lease.

Alterations

27. Tenant shall make the alterations to the Premises as determined by Landlord's public building audit, which Landlord intends to complete within the first year of the Lease Term. Such alterations shall be made during the remainder of the Lease Term as provided in this Lease.
28. Tenant shall not make any alterations to the Premises without Landlord's prior written consent. Any alterations made shall remain on and be surrendered with the

Premises on expiration or termination of the term, except that Landlord can elect within 30 days before expiration of the term, or within 5 days after termination of the term, to require Tenant to remove any alterations that Tenant has made to the Premises. If Landlord so elects, Tenant at its cost shall restore the Premises to the condition designated by Landlord in its election, before the last day of the term, or within 30 days after notice of election is given, whichever is later.

29. If Tenant makes any alterations to the Premises as provided in this part, the alterations shall not commence until (a) Tenant has received written consent from Landlord for such alterations, and (b) Landlord has posted and recorded an appropriate notice of nonresponsibility. Any and all work to be performed by or through Tenant relating to an alteration shall be performed in accordance with the requirements set forth below:
- a. All work shall be performed at Tenant's sole cost and expense in a good and workmanlike manner, by persons licensed to perform such work in the State of California and shall substantially comply with plans and specifications submitted to and approved by Landlord as required by this Lease, and shall comply with all applicable governmental permits, laws, ordinances and regulations.
 - b. All alterations shall be constructed within the Premises, except that required work beyond the Premises on utilities or relating to access shall not violate this provision.
 - c. If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Premises or any part thereof, Tenant shall, within forty-five (45) days after Tenant's receipt of notice of the filing thereof, cause the same to be bonded, discharged or otherwise released of record. If Tenant shall fail to cause such lien to be bonded, discharged or otherwise released of record within the period aforesaid, or if the lienholder moves to foreclose its lien and Tenant is not contesting such lien as permitted pursuant to applicable law, then, in addition to any other right or remedy available to Landlord, Landlord may, but shall not be required to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event Landlord shall be entitled, if Landlord so elects, to compel the prosecution of an action for foreclosure of such lien by the lienor and to pay the amount of judgment in favor of the lienor with interest, costs and allowances. Tenant shall save and hold Landlord and all of the Premises thereon free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto. Without limiting the generality of the foregoing, within thirty (30) days of receiving an invoice therefor, Tenant shall reimburse

Landlord for any and all amounts Landlord pays in the exercise of Landlord rights under this subsection (c).

- d. Before construction of any alteration is commenced on the Premises, and before any building materials have been delivered to the Premises by Tenant or under Tenant's authority, Tenant shall have complied with all the following conditions or shall have procured Landlord's written waiver of the condition or conditions specified in the waiver:
 - i. Deliver to Landlord for Landlord's approval two (2) sets of schematics, elevations, floor plans, conceptual designs and project narrative describing and showing the nature, scope, extent, estimated cost and purpose of the Alteration (collectively, the "Alteration Plans") prepared by an architect or engineer licensed to practice as such in the State of California, all sufficient to enable Landlord to make an informed judgment about the design and quality of construction and about any effect on the Premises, or any other agreements which Landlord may have entered into relating to the Premises. All alterations shall be performed only by contractors and sub-contractors licensed to perform said work in the State of California.
 - ii. Landlord shall communicate its approval or disapproval of Alteration Plans in the manner provided herein for notices within sixty (60) calendar days of Tenant's delivery of the Alteration Plans. Any failure to provide an approval within said sixty (60) calendar day timeframe shall constitute a denial of such request by Landlord, unless otherwise indicated in writing by Landlord.
 - iii. Tenant shall deliver to Landlord the written approval of the Alteration Plans by the financial institution that shall have made the commitment for financing the construction, if any.
 - iv. Tenant shall prepare working drawings, plans and specifications (collectively, "Plans and Specifications") conforming to the Alteration Plans approved by Landlord and submit same to the City of Lakeport's building department as part of Tenant's application for building permits. Said Plans and Specifications shall be submitted in numbers, contain the information and be consistent with all applicable buildings and City ordinances, policies and regulations. Tenant shall not submit Plans and Specifications to any governmental or permitting body, for a building permit until Alteration Plans are approved by Landlord as provided in this subsection (d)(ii).

- v. Tenant shall notify Landlord of Tenant's intention to commence work on an Alteration at least thirty (30) calendar days before commencement of any such work or delivery of any materials, whichever comes first. The notice shall specify the approximate location and nature of the intended Alteration. Landlord shall have the right to post and maintain on the Premises any notices of non-responsibility provided for under applicable law, and to inspect the Premises in relation to such construction at all reasonable times provided Landlord gives Tenant at least one (1) business days' notice prior to entry.
- vi. Tenant shall furnish Landlord with a true copy of Tenant's contract with the general contractor together with evidence of the general contractor's financial condition for Landlord's approval, which approval Landlord shall not unreasonably withhold, condition or delay. Said contract shall specifically name Landlord as a third-party beneficiary and shall give Landlord the right, but not the obligation, to assume Tenant's obligations and rights under the contract if Tenant should default beyond applicable notice and cure periods.
- vii. Landlord may disapprove of the contractor and/or the contract by notice given within ten (10) business days following delivery of the copy of the contract to Landlord. Any failure to provide an approval within said ten (10) business day timeframe shall constitute an approval of such contractor and contract, unless otherwise indicated in writing by Landlord.
- viii. Tenant shall deliver to Landlord true copies of documents to evidence the commitment of financing for any construction. "Financing" includes both the construction (or interim) financing and the take-out (also called permanent or long-term) loan. No financing shall be secured by an interest in the Premises without the Landlord's prior written consent thereto, which consent may be withheld in the exercise of the Landlord's sole discretion.
- ix. Prior to commencing any construction or accepting delivery of materials, Tenant shall furnish Landlord reasonable evidence of Tenant's ability to pay for each alteration.
- x. Tenant shall furnish, or shall cause any contractor performing alterations on the Premises on behalf of Tenant, whenever the estimated cost of said work exceeds five hundred thousand dollars (\$500,000.00), to furnish Landlord labor and materials and

performance bonds naming Tenant and Landlord as beneficiaries. Said bonds shall be issued by a responsible surety company, licensed to do business in California, and reasonably approved by Landlord, and shall be in an amount not less than one hundred percent (100%) of the Landlord's City Engineer's estimated cost of the alterations and shall remain in effect until the entire cost of the work shall have been paid in full and the new improvements shall have been accepted by Landlord and insured as provided in this Lease.

xi. Tenant shall deliver to Landlord certificates and endorsements of insurance relating to all work to be performed for any alteration, as set forth below and with insurers with a Best rating of no less than A: VII:

1. Workers' Compensation Insurance to cover the employees of the general contractor and all subcontractors as required by the Labor Code of the State of California for all of the contractor/subcontractors' employees. Each Workers' Compensation policy shall be endorsed with the provision that it will not be canceled or altered without first giving thirty (30) calendar days prior notice to Landlord, or ten (10) calendar days prior notice for non-payment of premium.

Said Worker's Compensation policy shall have the following endorsement:

"All rights of subrogation are hereby waived against the City of Lakeport, its officers and employees when acting within the scope of their appointment or employment".

2. Commercial General Liability Insurance coverage at least as broad as ISO CG 00 01, including personal injury and property damage insurance for all activities of Tenant, the general contractor and all subcontractors arising out of or in connection with the Premises, written on a commercial general liability form including, but not limited to, Broad Form Property Damage, blanket contractual, products liability and completed operations, X,C,U hazards, vehicle coverage and non-owned auto liability coverage, in an amount no less than Two Million Dollars (\$2,000,000) combined single limit personal injury and property damage, for each occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this

project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

Each such policy shall include an endorsement containing substantially the following language:

- A. The City of Lakeport is named as additional insured for all liability arising out of the work performed by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents, and employees against liability for personal and bodily injuries, deaths or property damage or destruction arising in any respect, directly, or indirectly, in the performance of the contract. Use ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37.
 - B. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.
 - C. The insurance provided is primary and no insurance held by Landlord shall be called upon to contribute to a loss.
 - D. The coverage provided by this policy shall not be canceled without thirty (30) calendar days' prior written notice given to Landlord, except in the case of non-payment of premium, in which case ten (10) calendar days prior notice shall be given.
- 3. Certificates of insurance evidencing coverage for "builder's all risk."
 - 4. Any deductible or self-insured retentions must be declared to and approved by Landlord in writing. At the option of the Landlord, insurer shall reduce or eliminate such deductible or self-insured retention as respects Landlord, its officers and employees.

5. Tenant shall maintain, keep in force, and pay all premiums required to maintain and keep in force all insurance above at all times during which Alteration work is in progress.
30. Tenant shall pay all costs for construction done by it or caused to be done by it on the Premises as permitted by this Lease. Tenant shall keep the Premises free and clear of all mechanics' liens resulting from construction done by or for Tenant. Tenant shall have the right to contest the correctness or the validity of any such lien if, immediately on demand by Landlord, Tenant procures and records a lien release bond issued by a corporation authorized to issue surety bonds in California in an amount equal to one and one-half times the amount of the claim of lien. The bond shall meet the requirements of Civil Code Section 3143 and shall provide for the payment of any sum that the claimant may recover on the claim (together with costs of suit, if it recovers in the action).
31. Tenant may not change or add any lock to the Premises without obtaining Landlord's prior written consent and without providing Landlord with the key(s) to the changed or added lock(s).

Inspections

32. At all reasonable times during the term of this Lease and any renewal of this Lease, the Landlord and its agents may enter the Premises to make inspections or repairs, or to show the Premises to prospective Tenants or purchasers. Additionally, Landlord has the right to require that Tenant provide evidence of the compliance of any Short-Term Tenants with this Lease.

Severability

33. If there is a conflict between any provisions of the Lease and the applicable legislation of the State of California (the "Act"), the Act will prevail and such provisions of the Lease will be amended or deleted as necessary in order to comply with the Act. Further, any provisions that are required by the Act are incorporated in this Lease.

Care and Use of Premises

34. Throughout the term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain the Premises and all improvements in good condition. The Tenant will promptly notify the Landlord of any damage, or of any situation that may significantly interfere with the normal use of the Premises or to any furnishings supplied by the Landlord.
35. Tenant shall not commit, or suffer to be committed, any waste upon the Premises, or any nuisance, or other act or thing that may disturb the quiet enjoyment of the

community, the Landlord, and nearby neighbors. Tenant, its members, visitors, and any sublessee shall not dispose of any waste, trash, debris, refuse, rubbish, and junk within Landlord's trashcans adjacent to the Premises. Tenant may contract with Landlord or Lakeport's solid waste franchisee for additional trash, recycling, or green waste pickup.

36. The Tenant will comply with standards of health, sanitation, fire, housing and safety as required by law.
37. At the expiration of the Lease term, the Tenant will quit and surrender the Premises in as good a state and condition as they were at the commencement of this Lease, reasonable use and wear and damages by the elements expected.
38. The Tenant will not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might unreasonably increase the danger of fire. Tenant shall not have an open flame, barbecue, grill, or engage in any cooking activities on outside waterfront property without prior written consent of Landlord; provided, however, that Tenant may use or caused to be used a propane barbecue within the Event Lawn Area of the Premises as shown in Exhibit A subject to the requirements of Section 25.
39. The Tenant will obey all rules and regulations posted by the Landlord regarding the use and care of the Premises, parking lot and other common facilities, if any, that are provided for the use of the Tenant in, around and on the Premises. No bounce houses are allowed anywhere on the Premises, including any outdoor areas such as the Enclosed Yard Area or Event Lawn Area.
40. No smoking, vaping, or e-cigarette use, whether of tobacco or cannabis, is allowed anywhere on the Premises, including any outdoor areas, such as the Enclosed Yard Area and Event Lawn Area.
41. Tenant may not encumber its leasehold interest hereunder.
42. Negation of Partnership: Landlord shall not become or be deemed a partner or a joint venturer with Tenant by reason of the provisions of this Lease.

Indemnity

43. Except for Landlord's gross negligence or willful misconduct, Tenant shall indemnify, protect, defend and hold harmless the Premises, Landlord and its agents, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Tenant. If any action or proceeding is brought against Landlord by reason of any of the foregoing matters, Tenant shall upon notice defend the same at Tenant's expense

by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such claim in order to be defended or indemnified.

44. Tenant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects including construction that is paid for or subsidized by public funds. Tenant shall defend, indemnify, and hold the Landlord, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure of Tenant to comply with the Prevailing Wage Laws.

Insurance

45. Tenant shall, throughout the duration of this Lease, secure and maintain insurance to cover Tenant (including its agents, representatives, and employees) in connection with Tenant’s performance under this Lease. This Lease identifies the required minimum levels of insurance coverage that Tenant shall obtain; however, Tenant may carry, at its own expense, any additional insurance it deems to be necessary or prudent. Prior to the commencement of any performance under this Lease, Tenant shall furnish to Landlord written proof of insurance (certificates and endorsements), in a form acceptable to the Landlord. Tenant shall provide subsequent written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Lease. Tenant shall maintain insurance that complies with the following requirements:
- a. Workers’ Compensation Insurance with statutory limits and employer’s liability insurance with limits of not less than one million dollars (\$1,000,000) per accident.
 - b. Tenant shall take out and maintain, at Tenant’s sole expense, Public Liability Insurance with coverage in the amount of \$ 1,000,000.00 for one person and 1,000,000.00 for one accident with bodily injury and \$ 1,000,000.00 for property damage and \$2,000,000 general aggregate.
 - c. Tenant’s insurance will not be canceled, limited, or allowed to expire without renewal until after 30 days advance written notice of any such cancellation, limitation or expiration has been given to the Landlord.
 - d. All insurance companies providing coverage to Tenant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

- e. All of the insurance policies required to be obtained by Tenant under this Section shall be with companies and policies whose form is satisfactory and acceptable to Landlord. All of the insurance policies must also cover any and all claims related to Tenant's rental of the Premises to any Short-Term Tenants (as defined below). Evidence of coverage for any Short-Term Tenants must be provided as required in this Section. Each policy shall designate Landlord and any Short-Term Tenants as additional named insureds. Tenant shall provide Landlord with certificates of insurance (hereinafter "Certificates") issued by each of the insurance companies issuing any of the policies required pursuant to this Section, and said Certificates shall provide that the insurance issued thereunder shall not be altered or canceled until after 30 days written notice to Landlord. In the event Tenant fails to take out or maintain any of the insurance required pursuant to this Section, Landlord shall have the right to obtain said policies in form and with companies acceptable to Landlord, and to pay any premiums due thereon. The total amount of any insurance premiums paid by Landlord on Tenant's behalf shall be paid by Tenant to Landlord upon demand, and said amounts shall start to bear interest at the rate of ten percent (10%) per annum as of the date of Landlord's demand for payment by Tenant.

Prohibition Against Voluntary Assignment, Subletting, and Encumbering

- 46. Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. Any assignment, encumbrance, or sublease without Landlord's written consent shall be voidable and, at Landlord's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph.
 - a. If Tenant is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, of the partner or partners owning 50% or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment.
 - b. If Tenant consists of more than one person, a purported assignment, voluntary, involuntary, or by operation of law, from a majority of persons to the others shall be deemed a voluntary assignment.
 - c. If Tenant is a corporation, any dissolution, merger, consolidation, or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock of Tenant, or the sale of at least 51% of the

value of the assets of Tenant, shall be deemed a voluntary assignment. The phrase “controlling percentage” means the ownership of, and the right to vote, stock possessing at least 51% of the total combined voting power of all classes of Tenant’s capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph shall not apply to corporations the stock of which is traded through an exchange or over the counter.

47. Notwithstanding Section 46, Tenant may sublease all or part of the Premises to private parties for less than 24 hours without prior approval from the Landlord under the following circumstances:
- a. Any party renting all or part of the Premises for less than 24 hours (“Short-Term Tenant”) must carry liability insurance in accordance with Section 45 of this Lease. Tenant must collect evidence of such current insurance policies from the Short-Term Tenant before turning over occupancy of all or part of the Premises.
 - b. Landlord has approved in writing Tenant’s rental agreement for Short-Term Tenants that Tenant shall require Short-Term Tenants to execute.
 - c. Any Short-Term Tenant may only use the Premises for the Permitted Use.
 - d. No Short-Term Tenant may serve alcoholic beverages in any form without complying with permitting and any other applicable requirements of the California Department of Alcoholic Beverage Control and permitting and any other applicable requirements of the City of Lakeport, including but not limited to obtaining a permit from the Lakeport Police Department.
 - e. No Short-Term Tenant may allow commercial activities anywhere in the outdoor portion of the Premises including the Enclosed Yard Area or Event Lawn Area. A Short-Term Tenant may use the Enclosed Yard Area and Event Lawn Area of the Premises for recreational purposes only.
 - f. Tenant shall comply with Section 25 before allowing use of the Event Lawn Area as depicted in Exhibit A.
 - g. Upon 24 hours’ notice, the Landlord has the right to visit the Premises and/or to inspect Tenant’s evidence that all Short-Term Tenants have complied with this Section.
 - h. Tenant agrees to obtain executed indemnity agreements with provisions identical to those set forth in Section 43 from each and every Short-Term Tenant or any other person or entity involved by, for, with or on behalf of Tenant in the performance of this Agreement. If Tenant fails to obtain such

indemnity obligations from others as required herein, Tenant agrees to be fully responsible and indemnify, hold harmless and defend Landlord, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Tenant's Short-Term Tenants or any other person or entity involved by, for, with or on behalf of Tenant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of Landlord's choice.

- i. Landlord does not, and shall not, waive any rights that it may possess against Tenant because of the acceptance by Landlord, or the deposit with Landlord, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

Encumbrance of the Leasehold

48. Tenant may not encumber its leasehold interest hereunder.

Default

49. The occurrence of any of the following shall constitute a default by Tenant:
- a. Failure to pay Rent when due.
 - b. The failure of any Short-Term Tenant to meet the requirements of Section 47 and/or the failure of a Short-Term Tenant to observe and be in compliance with the rest of the terms and conditions of this Lease.
 - c. Abandonment and vacation of the Premises (failure to occupy and operate the Premises for 30 consecutive days shall be deemed an abandonment and vacation).
 - d. Failure to perform any other provision of this Lease if the failure to perform is not cured within 30 days after notice has been given to Tenant. If the default cannot reasonably be cured within 30 days, Tenant shall not be in default of this Lease if Tenant commences to cure the default within the 30-day period and diligently and in good faith continues to cure the default as determined in Landlord's sole discretion.
 - e. Notices given under this paragraph shall specify the alleged default and the applicable lease provisions, and shall demand that Tenant perform the

provisions of this Lease or pay the Rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Lease unless Landlord so elects in the notice.

- f. The purpose of the notice requirements set forth in this paragraph is to extend the notice requirements of the unlawful detainer statutes of California.

50. Landlord's Remedies.

- a. Cumulative Nature of Remedies. Landlord shall have the following remedies if Tenant commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law.
- b. Tenant's Right to Possession Not Terminated. Landlord can continue this Lease in full force and effect, and the Lease will continue in effect as long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect Rent when due. During the period Tenant is in default, Landlord can enter the Premises and relet them, or any part of them, to third parties for Tenant's account. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, brokers' commissions, expenses of remodeling the Premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining term of this Lease. Tenant shall pay to Landlord the Rent due under this Lease on the dates the Rent is due, less the Rent Landlord receives from any reletting. No act by Landlord allowed by this paragraph shall terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. After Tenant's default and for as long as Landlord does not terminate Tenant's right to possession of the Premises, if Tenant obtains Landlord's consent Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability. Landlord's consent to a proposed assignment or subletting shall not be unreasonably withheld.
- c. If Landlord elects to relet the Premises as provided in this paragraph, Rent that Landlord receives from reletting shall be applied to the payment of:
 - i. First, any indebtedness from Tenant to Landlord other than Rent due from Tenant;
 - ii. Second, all costs Landlord incurs in reletting the Premises, including, without limitation, brokers' commissions and maintenance, incurred by Landlord in reletting;

- iii. Third, Rent due and unpaid under this Lease. After deducting the payments referred to in this paragraph, any sum remaining from the Rent Landlord receives from reletting shall be held by Landlord and applied in payment of future Rent as Rent becomes due under this Lease. In no event shall Tenant be entitled to any excess Rent received by Landlord. If, on the date Rent is due under this Lease, the Rent received from the reletting is less than the Rent due on that date, Tenant shall pay to Landlord, in addition to the remaining Rent due, all costs, including for maintenance, Landlord incurred in reletting that remain after applying the Rent received from the reletting as provided in this paragraph.
- d. Termination of Tenant's Right to Possession. Landlord can terminate Tenant's right to possession of the Premises at any time. No act by Landlord other than giving notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. On termination, Landlord has the right to recover from Tenant:
 - i. The worth, at the time of the award, of the unpaid Rent that had been earned at the time of termination of this Lease;
 - ii. The worth, at the time of the award, of the amount by which the unpaid Rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;
 - iii. The worth, at the time of the award, of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and
 - iv. Any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's default.
 - v. The "worth, at the time of the award," as used in i. and ii. of this paragraph, is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge. "The worth, at the time of the award," as referred to in iii. of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1%.

- e. Landlord's Right To Cure Tenant's Default. Landlord, at any time after Tenant commits a default, can cure the default at Tenant's cost. If Landlord at any time, by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date shall bear interest at the maximum rate an individual is permitted by law to charge from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest on it, shall be Operating Costs.

Notices

- 51. All notices that are required to be given by one party to the other under this Lease shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with the United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses, unless such addresses are changed by notice, in writing, to the other party.

If to Landlord:

City Manager
 City of Lakeport
 225 Park Street
 Lakeport, CA 95453

If to Tenant:

Mediation

- 52. Landlord and Tenant agree to mediate any dispute or claim arising between them out of this Lease, or any resulting transaction, before resorting to arbitration or court action in relation to any such dispute or claim. Mediation fees, if any shall be divided evenly among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences a court action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorneys' fees in relation to the dispute or claim even if they would be available to that party in any such action under Section 55 below or otherwise.

Entire Agreement

- 53. This Lease constitutes the entire agreement between the parties with respect to the subject matter covered by this Lease and supersedes all prior understanding and

agreements, whether written or oral, between the parties hereto relating to the same subject matter.

Governing Law

54. It is the intention of the parties to the Lease that the tenancy created by this Lease and the performance under this Lease, and all suits and special proceedings under this Lease, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of California, without regard to the jurisdiction in which any action or special proceeding may be instituted. Tenant will be responsible to pay all costs associated with enforcement of the terms of this Lease including any legal proceedings undertaken in regards to the Lease. Both parties agree that all actions must be brought in Lake County Superior Court.

General Provisions

55. If either party commences an action against the other party arising out of or in connection with this Lease, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit.
56. This Lease will extend to and be binding upon and inure to the benefit of the respective administrators, successors and assigns, as the case may be, of each party to this Lease. All covenants are to be construed as conditions of this Lease.
57. All sums payable by the Tenant to the Landlord pursuant to any provision of this Lease will be deemed to be Operating Costs and will be recovered by the Landlord as rental arrears.
58. Tenant shall not discriminate against any person in relation to Tenant's performance under this Lease (including any employee or applicant or Short-Term Tenant) on the basis of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, or sex.
59. The provisions and conditions herein contained shall, subject to the provisions as to assignment, apply to and buying the heirs, successors, executives, administrators, and assigns of the Tenant.
60. The waiver by Landlord of any breach by Tenant or Short-Term Tenant of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Tenant or Short-Term Tenant either of the same or of another provision of this Lease. Landlord's acceptance of Rent following a breach by Tenant of any provisions of this Lease, with or without Landlord's knowledge of the breach, will not be deemed to be a waiver of Landlord's right to enforce any provision of this Lease.

61. Damage or Destruction. If the Premises are substantially damaged or destroyed by casualty (i) which damage the Tenant and the Landlord in good faith determine is such that the reconstruction of an economically viable building, as applicable, is not practicable, either because (a) the proceeds of insurance made available to the Landlord are not sufficient to repair such loss or damage, or (b) such reconstruction cannot be carried out under applicable laws, including, without limitation, then current building or zoning laws, or (ii) which damage occurs during the last three (3) years of the Term, then the Landlord shall have the right to terminate this Agreement upon prior written notice of at least thirty (30) calendar days to the Tenant and thereafter neither party shall have any further obligations under this Lease.

[Signatures on following page]

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

LANDLORD

CITY OF LAKEPORT, a municipal corporation

By: _____
Name: _____
Its: _____

ATTEST:


APPROVED AS TO FORM:


Kelly Buendía, City Clerk

David J. Ruderman, City Attorney

TENANT

LAKEPORT YACHT CLUB, a California corporation

By: 
Name: James W. Dvorak
Its: Commodore

By: 
Name: Edward P. Saha
Its: Vice Commodore

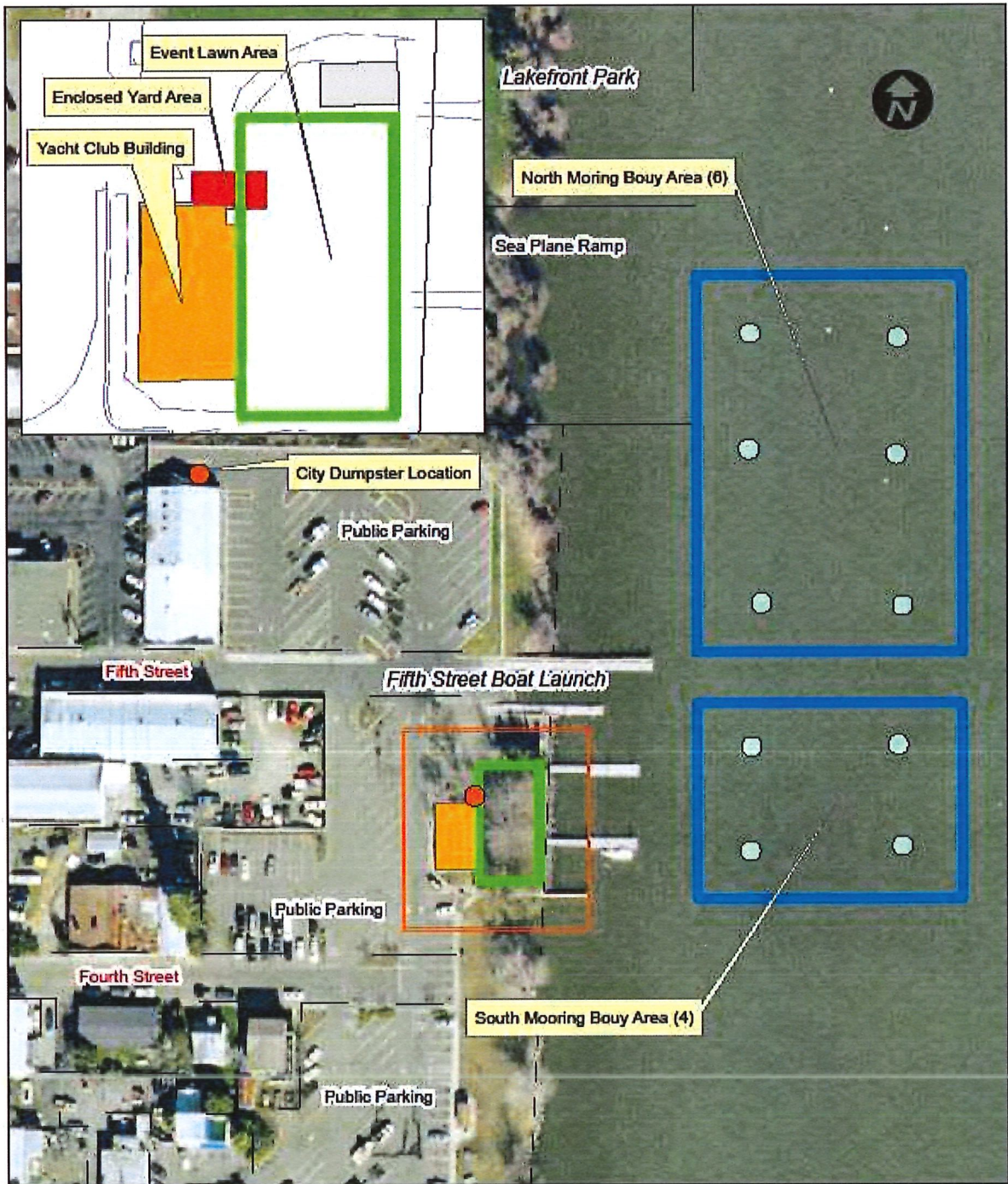


Exhibit A: Lakeport Yacht Club Use Area Map