

CONSENT TO ASSIGNMENT OF LEASE

THIS CONSENT TO ASSIGNMENT OF LEASE (this "Consent") is made by and among the San Mateo County Harbor District, a political subdivision of the State of California (the "Lessor"), and , Keet Nerhan dba KN Properties (the "Assignor"), and Harbor Fuel Dock LLC, DBA Harbor Fuel Dock, a California limited liability company ("Assignee"), with respect to that certain Lease dated September 30, 1992 (the "Lease") by and between the Lessor and the Assignor.

Recitals

WHEREAS, Assignor intends to assign the Lease to Assignee and Assignee will thereafter assume the obligations and liabilities of Assignor under the Lease ("Assignment"),

WHEREAS, the Assignment requires the prior written consent of Lessor; and

WHEREAS, at its regular meeting held on April 20, 2022 the Lessor's Board of Harbor Commissioners approved the assignment of the Lease, conditioned upon payment to the Lessor by Assignor in the amount of Five Hundred Dollars (\$500.00) as provided in **Article XVI** of the Lease, provided such payment is made on or before the effective date of any assignment.

NOW, THEREFORE, the parties agree as follows:

1. Lessor hereby consents to the Assignment without waiver of the restrictions, if any, under the Lease, concerning farther assignment, and Lessor hereby agrees to accept, on and after the effective date of the Assignment (the "Effective Date"), the performance by Assignee of all obligations of Assignor under the Lease as though Assignee was the originally named lessee under the Lease.
2. Assignee agrees to accept all the terms of the Lease and agrees to abide by and be bound by such terms as if it had executed the same.
3. Assignor will provide the Lessor, no later than April 20, 2022 with evidence of the assignment in the form of an assignment and assumption agreement between Assignor and Assignee, consistent with this Consent and specifying the Effective Date of any assignment.
4. Assignor will, on or before the Effective Date, pay the Lessor the amount of \$500. If the Assignor does not make such payment by the Effective Date, this Consent is void and will be of no effect.
5. Assignee represents and warrants that as of the Effective Date, the Assignee is Harbor Fuel Dock LLC, DBA Harbor Fuel Dock.

6. This Consent must be interpreted and construed in accordance with the laws of the State of California without giving effect to any conflicts of law rules. This Consent will become effective as of the Effective Date.

7. The terms and conditions of this Consent are binding upon the parties hereto and inure to the benefit of their respective successors and assigns.

8. This Consent may be signed and delivered in counterpart signatures and any such counterpart executed and delivered in an electronic format shall be deemed an original for all purposes.

9. This Consent incorporates 'Personal Guaranty' executed by Keet Nerhan as shown on Attachment A.

IN WITNESS WHEREOF, the undersigned have caused this Consent to Assignment of Lease to be executed by its duly authorized officer as of the date written below.

LESSOR:
SAN MATEO COUNTY HARBOR DISTRICT,
a political subdivision of the State of California

By: _____
Name: James B. Pruett
Title: General Manager
Date:

ASSIGNEE:
HARBOR FUEL DOCK LLC, DBA HARBOR FUEL DOCK,
a California limited liability company

By: _____
Name: Keet Nerhan
Title: Managing Member
Date:

ASSIGNOR:
KEET NERHAN DBA KN PROPERTIES,
a sole proprietorship

By: _____
Name: Keet Nerhan
Title: Owner
Date:

GUARANTY OF LEASE

THIS GUARANTY OF LEASE (“Guaranty”) is made by Keet Nerhan (“Guarantor”), in favor of the SAN MATEO COUNTY HARBOR DISTRICT (“Lessor”) in connection with that certain Lease Agreement dated September 30, 1992 and Consent to Assignment of Lease dated April 20, 2022 (collectively, the "Lease") pursuant to which Lessor leases to Harbor Fuel Dock LLC, DBA Harbor Fuel Dock, a California limited liability company (“Lessee”), certain “Premises” (as more particularly defined in the Lease) on property owned by the Lessor in the County of San Mateo.

As a material inducement to and in consideration of Lessor entering into the Consent to Assignment of Lease (“Consent”), Lessor having indicated that it would not enter into the Consent without the execution of this Guaranty, Guarantor does hereby agree with Lessor as follows:

1. Guarantor does hereby unconditionally and irrevocably guarantee, as a primary obligor and not as a surety, and promise to perform and be liable for any and all obligations and liabilities of Lessee under the terms of the Lease.
2. Guarantor does hereby agree that, without the consent of Guarantor and without affecting any of the obligations of Guarantor hereunder: (a) any term, covenant or condition of the Lease may be hereafter amended, compromised, released or otherwise altered by Lessor and Lessee, and Guarantor does guarantee and promise to perform all the obligations of “Lessee” under the Lease as so amended, compromised, released or altered; (b) any guarantor of or party to the Lease may be released, substituted or added; (c) any right or remedy under the Lease may be exercised, not exercised, impaired, modified, limited, destroyed or suspended; (d) Lessor or any other person acting on Lessor’s behalf may deal in any manner with Lessee, any guarantor, any party to the Lease or any other person; and (e) all or any part of the Premises or of the rights or liabilities of “Lessee” under the Lease may be sublet, assigned or assumed. This is a continuing guaranty.
3. Guarantor hereby waives and agrees not to assert or take advantage of (a) any right to require Lessor to proceed against Lessee or any other person or to pursue any other remedy before proceeding against Guarantor; (b) any right or defense that may arise by reason of the incapacity, lack of authority, death or disability of Lessee or any other person; and (c) any right or defense arising by reason of the absence, impairment, modification, limitation, destruction or cessation (in bankruptcy, by an election of remedies, or otherwise) of the liability of Lessee (other than any defense based on Lessor’s acts or omissions), of the subrogation rights of Guarantor or of the right of Guarantor to proceed against Lessee for reimbursement. Without in any manner limiting the generality of the foregoing, Guarantor hereby waives the benefits of the provisions of Sections 2809, 2810, 2819, 2845, 2849, 2850, 2899 and 3433 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.
4. Guarantor hereby waives and agrees not to assert or take advantage of any right or defense based on the absence of any or all presentments, demands (including demands for

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performance), notices (including notices of adverse change in the financial status of Lessee or other facts which increase the risk to Guarantor, notices of non-performance and notices of acceptance of this Guaranty) and protests of each and every kind.

5. Until all Lessee's obligations under the Lease are fully performed, Guarantor: (a) shall have no right of subrogation against Lessee by reason of any payments or acts of performance by Guarantor under this Guaranty; and (b) subordinates any liability or indebtedness of Lessee now or hereafter held by Guarantor to the obligations of Lessee under, arising out of or related to the Lease or Lessee's use or occupancy of the Premises.
6. The liability of Guarantor and all rights, powers and remedies of Lessor hereunder and under any other agreement now or at any time hereafter in force between Lessor and Guarantor relating to the Lease shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to Lessor by law and/or in equity.
7. This Guaranty applies to, inures to the benefit of and binds all parties hereto, their heirs, devisees, legatees, executors, administrators, representatives, successors and assigns (including any purchaser at a judicial foreclosure or trustee's sale or a holder of a deed in lieu thereof). This Guaranty may be assigned by Lessor voluntarily or by operation of law.
8. Guarantor shall not, without the prior written consent of Lessor, commence, or join with any other person in commencing, any bankruptcy, reorganization or insolvency proceeding against Lessee. The obligations of Guarantor under this Guaranty shall not be altered, limited or affected by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Lessee, or by any defense which Lessee may have by reason of any order, decree or decision of any court or administrative body resulting from any such proceeding. Guarantor shall file in any bankruptcy or other proceeding in which the filing of claims is required or permitted by law all claims which Guarantor may have against Lessee relating to any indebtedness of Lessee to Guarantor and will assign to Lessor all rights of Guarantor thereunder. Lessor shall have the sole right to accept or reject any plan proposed in such proceeding and to take any other action which a party filing a claim is entitled to do. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to Lessor the amount payable on such claim and, to the full extent necessary for that purpose, Guarantor hereby assigns to Lessor all of Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled; provided, however, that Guarantor's obligations hereunder shall not be satisfied except to the extent that Lessor receives cash by reason of any such payment or distribution. If Lessor receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty.
9. During the Term of the Lease, Guarantor shall, upon ten (10) days prior written notice from Lessor, provide Lessor with current financial statements for Guarantor and if requested by Lessor, financial statements of the two (2) years prior to the current financial statement year. Such statements shall be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Guarantor, shall be audited by an

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independent certified public accountant. Notwithstanding anything to the contrary contained herein, if Guarantor is a publicly traded corporation making annual 10-K filings with the Securities and Exchange Commission, Guarantor may satisfy the requirements of this section with respect to delivery of financial information by delivery of Guarantor's most recent annual report filed with the Securities and Exchange Commission.

10. As a further material part of the consideration to Lessor to enter into the Consent to Assignment of Lease with Lessee, Guarantor agrees: (a) the law of the State of California shall govern all questions with respect to the Guaranty; (b) any suit, action or proceeding arising directly or indirectly from the Guaranty, the Lease or the subject matter thereof shall be litigated only in courts located within the county and state in which the Premises is located; (c) Guarantor hereby irrevocably consents to the jurisdiction of any local, state or federal court located within the county and state in which the Premises is located; and (d) without limiting the generality of the foregoing, Guarantor hereby waives and agrees not to assert by way of motion, defense or otherwise in any suit, action or proceeding any claim that Guarantor is not personally subject to the jurisdiction of the above-named courts, that such suits, action or proceeding is brought in an inconvenient forum or that the venue of such action, suit or proceeding is improper.
11. This Guaranty shall constitute the entire agreement between Guarantor and the Lessor with respect to the subject matter hereof. No provision of this Guaranty or right of Lessor hereunder may be waived nor may any Guarantor be released from any obligation hereunder except by a writing duly executed by an authorized officer or director of Lessor. When the context and construction so requires, all words used in the singular herein shall be deemed to have been used in the plural. The word "person" as used herein shall include an individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective. The waiver or failure to enforce any provision of this Guaranty shall not operate as a waiver of any other breach of such provision or any other provisions hereof. Time is strictly of the essence under this Guaranty and any amendment, modification or revision hereof. If Guarantor is a corporation, limited liability company, partnership or other entity, each individual executing this Guaranty on behalf of such corporation, limited liability company, partnership or other entity represents and warrants that he or she is duly authorized to execute and deliver this Guaranty on behalf of such corporation, limited liability company, partnership or other entity in accordance with the governing documents of such corporation, limited liability company, partnership or other entity, and that this Guaranty is binding upon such corporation, limited liability company, partnership or other entity in accordance with its terms. If Guarantor is a corporation, limited liability company, partnership or other entity, Lessor, at its option, may require Guarantor to concurrently with the execution of this Guaranty, deliver to Lessor a certified copy of a resolution of the board of directors of said corporation, or other authorizing documentation for such entity authorizing or ratifying the execution of this Guaranty. If either party hereto participates in an action against the other party arising out of or in connection with this Guaranty, the prevailing party shall be entitled to have and recover from the other party reasonable attorneys' fees, collection costs and other costs incurred in and in preparation for the action. The term "Lessor" whenever hereinabove used refers to and means the Lessor in the

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foregoing Lease specifically named and also any assignee of said Lessor, whether by outright assignment or by assignment for security, and also any successor to the interest of said Lessor or of any assignee of such Lease or any part thereof, whether by assignment or otherwise. The term "Lessee" whenever hereinabove used refers to and means Lessee and also any assignee of the interest of "Lessee" in the Lease or any subLessee of all or any part of the Premises and their respective successors in interest. If there is more than one undersigned Guarantor, (a) the term "Guarantor", as used herein, shall include all of the undersigned; (b) each provision of this Guaranty shall be binding on each one of the undersigned, who shall be jointly and severally liable hereunder; and (c) Lessor shall have the right to join one or all of them in any proceeding or to proceed against them in any order.

12. Any notice, request, demand, instruction or other communication to be given to any party hereunder shall be in writing and shall be delivered by certified mail or reputable overnight delivery service addressed to the party to be notified at the address set forth below, or to such other place as the party to be notified may from time to time designate by at least ten (10) days' notice to the notifying party.

To Lessor:

San Mateo County Harbor District
P.O. Box 1449
El Granada, California 94018
Attn.: General Manager

To Guarantor:

Executed as of _____, 2022.