

CONSENT TO ASSIGNMENT OF LEASE

The SAN MATEO COUNTY HARBOR DISTRICT, a political subdivision of the State of California (the "Landlord"), as landlord under that certain Lease (the "Lease"), dated January 1, 2022, with KETCH JOANNE RESTAURANT AND HARBOR BAR INC. (the "Assignor"), as tenant, for a facility owned by Landlord on a certain real property located at Pillar Point Harbor, in the San Mateo County Harbor District, County of San Mateo, State of California, Assessor's Parcel Number 047-083-060, hereby grants its consent to the assignment of the Lease as described in that certain assignment agreement, a copy of which is attached hereto as Exhibit A (the "Assignment Agreement").

As conditions to such consent, it is understood and agreed as follows:

1. Landlord does not waive the restrictions under the Lease concerning further assignment.
2. Assignor shall execute and deliver to Landlord the Assignment Agreement with Pelagic Restaurant Group, a California Corporation, as the assignee, in substantially the form attached hereto as Exhibit A, with such changes as deemed necessary by the General Manager.
3. Assignor shall deliver to Landlord insurance certificates showing that Assignee carries the insurance required under the Lease.
4. Assignor shall deliver to Landlord a personal guaranty of lease by David Westendorf, Mishelle Westendorf, Marcos Ruiz Mendez and Edward Wilkinson, in substantially the form attached hereto as Exhibit B, with such changes as deemed necessary by the General Manager.
5. Assignor shall pay to Landlord the amount of \$10,000.00, as required by Section 20 of the Lease.
6. Assignor shall have executed that certain First Amendment to Lease by and between Landlord and Assignor, as tenant, substantially in the form attached hereto as Exhibit C, with such changes deemed necessary by the General Manager.
7. Failure to satisfy the above conditions shall result in this Consent having no force or effect, and in such case Assignee taking possession of any portion of the leased premises shall result in Assignor being in default under the Lease.
8. 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.

9. 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.

[Remainder of page intentionally left blank]

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.

LANDLORD:

SAN MATEO COUNTY HARBOR
DISTRICT

By: _____
James B. Pruett
General Manager

Dated: _____

TENANT:

KETCH JOANNE RESTAURANT AND
HARBOR BAR, INC., a California
Corporation

By: _____
Joanne Franklin
President

APPROVED AS TO FORM:

Trisha Ortiz, General Counsel

EXHIBIT A
FORM OF ASSIGNMENT AGREEMENT
[See attached]

EXHIBIT B
FORM OF LEASE GUARANTY
[See attached]

EXHIBIT C
FORM OF FIRST AMENDMENT TO LEASE
[See attached]

ASSIGN AND ASSUME LEASE AGREEMENT

THIS ASSIGN AND ASSUME LEASE AGREEMENT (“Agreement”) is made and entered into this 12th day of July, 2023 (the “Effective Date”), by and between representatives of Ketch Joanne Restaurant and Harbor Bar, Inc (“Ketch”) and collectively, (“Assignor”), and Pelagic Restaurant Group, a California C Corporation (“Pelagic”) (“Assignee”).

RECITALS

WHEREAS, Assignor, as Tenant, and San Mateo County Harbor Commission, a California government entity (“Landlord”) entered into that certain Lease Agreement dated _____, 20__, (“Lease”) pursuant to which Landlord agreed to lease to Assignor certain premises commonly known as 9-17 Johnson Pier, Half Moon Bay, California; and,

WHEREAS, Landlord has provided its approval at the June 21, 2023 San Mateo County Harbor Commission Board meeting, to negotiate an Assignment of said Lease by Pelagic; and,

WHEREAS, Assignor desires to assign all of its right, title and interest in the Lease to Assignee, and Assignee desires to assume Assignor’s obligations under the Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties hereto agree as follows:

1. Assignment. Subject to and concurrently with the consummation of that certain Letter of Intent Agreement dated June 20, 2023, and the forthcoming Asset Purchase Agreement, (collectively the “Asset Purchase Agreement”), Assignor grants permission to assign to Pelagic all of its right, title and interest in and to the Lease including any and all rights or entitlements of Assignor under the Lease, subject to all of the terms, covenants, conditions and provisions of the Lease.
2. Assumption. From and after the date of the Asset Purchase Agreement and new lease agreement between Landlord and Pelagic, Assignee hereby agrees to be bound by each and every provision of the Leases as if it had executed the same.
3. Assignor’s Representations and Warranties. Assignor represents and warrants to Assignee that:
 - (a) the Lease is in full force and effect, unmodified except as provided in this Agreement;
 - (b) Assignor’s interest in the Lease is free and clear of any liens, encumbrances or adverse interests of third parties;
 - (c) Assignor possesses the requisite legal authority to assign its interest in the Lease as provided herein.

(d)

There are no sums due and owing by Assignor under the Lease as of the effective date hereof, and there exists no condition of default thereunder.

4. Indemnification. Assignor agrees to indemnify, defend and hold harmless Assignee from any and all claims, demands and debts due under the Lease prior to the Effective Date, and Assignee agree to indemnify, defend and hold harmless Assignor from any and all claims, demands and debts which may become due under the Lease on or after the Effective Date

5. Expenses. The parties hereto will bear their separate expenses in connection with this Agreement and its performance.

6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and each of the parties hereto submits to the non-exclusive jurisdiction of the courts of the State of California in connection with any disputes arising out of this Agreement.

7. Attorneys' Fees. In the event of a dispute arising under this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ASSIGNORS

Ketch Joanne Restaurant and Harbor Bar, Inc

By: _____

Name: _____

Title: _____

Dated: July 12 ____, 2023

ASSIGNEE:

Pelagic Restaurant Group, a California C Corporation.

By: _____

Name: _____

Title: _____

Dated: July 12 ____, 2023

FORM OF LEASE GUARANTY

GUARANTY OF LEASE

THIS GUARANTY OF LEASE (“Guaranty”) is made by _____ ([collectively and jointly and severally,] “Guarantor”), in favor of the SAN MATEO COUNTY HARBOR DISTRICT (“Landlord”) in connection with that certain Lease Agreement dated January 1, 2022, as amended, (the “Lease”) pursuant to which Landlord leases to Pelagic Restaurant Group, a California S Corporation (“Tenant”), certain “Premises” (as more particularly defined in the Lease) on property owned by the Landlord in the County of San Mateo.

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

1. The guarantor 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 Tenant 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 Landlord and Tenant, and Guarantor does guarantee and promise to perform all the obligations of “Tenant” 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) Landlord or any other person acting on Landlord’s behalf may deal in any manner with Tenant, 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 “Tenant” 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 Landlord to proceed against Tenant 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 Tenant 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 Tenant (other than any defense based on Landlord’s acts or omissions), of the subrogation rights of Guarantor or of the right of Guarantor to proceed against Tenant 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

performance), notices (including notices of adverse change in the financial status of Tenant 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 Tenant's obligations under the Lease are fully performed, Guarantor: (a) shall have no right of subrogation against Tenant by reason of any payments or acts of performance by Guarantor under this Guaranty; and (b) subordinates any liability or indebtedness of Tenant now or hereafter held by Guarantor to the obligations of Tenant under, arising out of or related to the Lease or Tenant's use or occupancy of the Premises.
6. The liability of Guarantor and all rights, powers and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord 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 Landlord 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 Landlord voluntarily or by operation of law.
8. Guarantor shall not, without the prior written consent of Landlord, commence, or join with any other person in commencing, any bankruptcy, reorganization or insolvency proceeding against Tenant. 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 Tenant, or by any defense which Tenant 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 Tenant relating to any indebtedness of Tenant to Guarantor and will assign to Landlord all rights of Guarantor thereunder. Landlord 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 Landlord the amount payable on such claim and, to the full extent necessary for that purpose, Guarantor hereby assigns to Landlord 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 Landlord receives cash by reason of any such payment or distribution. If Landlord 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 Landlord, provide Landlord with current financial statements for Guarantor and if requested by Landlord, 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 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 Landlord to enter into the Lease with Tenant, 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 Landlord with respect to the subject matter hereof. No provision of this Guaranty or right of Landlord 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 Landlord. 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, Landlord, at its option, may require Guarantor to concurrently with the execution of this Guaranty, deliver to Landlord 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 "Landlord" whenever hereinabove

used refers to and means the Landlord in the foregoing Lease specifically named and also any assignee of said Landlord, whether by outright assignment or by assignment for security, and also any successor to the interest of said Landlord or of any assignee of such Lease or any part thereof, whether by assignment or otherwise. The term "Tenant" whenever hereinabove used refers to and means Tenant and also any assignee of the interest of "Tenant" in the Lease or any subtenant 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) Landlord 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 Landlord:

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

To Guarantor:

Executed as of _____, 2023.

FIRST AMENDMENT TO LEASE AGREEMENT

This FIRST AMENDMENT TO LEASE AGREEMENT (the "Amendment") is dated _____, 2023 (the "Effective Date"), and is entered into by and between SAN MATEO COUNTY HARBOR DISTRICT ("Landlord") and KETCH JOANNE RESTAURANT AND HARBOR BAR, INC., a California corporation ("Tenant"). Landlord and Tenant are referenced in the aggregate as the "Parties" and sometimes, when a provision applies to each of them individually, as a "Party."

Recitals

A. Landlord is the owner of certain real property located at Pillar Point Harbor, in the San Mateo County Harbor District, County of San Mateo, State of California, Assessor's Parcel Number 047-083-060 (the "Property"); and

B. Tenant and Landlord entered into that certain Lease, dated January 1, 2022 (the "Lease"), pursuant to which Tenant operates a restaurant and bar on a portion of the Property; and

C. Tenant proposes to assign the Lease to Pelagic Restaurant Group, a California corporation ("Pelagic"), and the Parties acknowledge such assignment is subject to the conditions and requirements in Section 20 of the Lease, including Landlord's consent; and

E. The Parties desire to amend the Lease to provide for the negotiation and execution of a new amended and restated lease between Landlord and Pelagic in the event of such assignment.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions hereinafter set forth, Landlord and Tenant agree as follows:

Agreement

Section 1. Notwithstanding anything in the Lease to the contrary, the Parties hereby amend the Lease as follows:

a. In the event of an assignment by Tenant to Pelagic, the term of the Lease shall expire at 12:00 AM (midnight) on the 180th day following the effective date of such assignment, unless otherwise superseded by an amended and restated lease between Landlord and Pelagic. For the purposes of this section, the effective date of the assignment shall be the effective date of the agreement between Tenant, as assignor, and Pelagic, as assignee, which provides for the assignment and assumption of the Lease (the "Assignment Agreement").

b. In the event of an assignment by Tenant to Pelagic, Landlord agrees to waive until December 1, 2023, Tenant's obligation under Section 2.c. of the Lease, regarding continuous operations.

c. The provisions in paragraphs a. and b. of this Section 1 shall have no force or effect in the event that Tenant and Pelagic fail to effect an assignment of the Lease on or before July 31, 2023.

Section 2. Except as specifically modified by this Amendment, all of the terms and conditions of the Lease shall remain in full force and effect. In the event of a conflict between any term or provision of the Lease and this Amendment, the terms and provisions of this Amendment shall control. In addition, except as otherwise stated in this Amendment, all initially capitalized terms will have the same respective defined meaning stated in the Lease. All captions are for reference purposes only and shall not be used in the construction or interpretation of this Amendment.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the Effective Date.

LANDLORD:

SAN MATEO COUNTY HARBOR
DISTRICT

By: _____
James B. Pruett
General Manager

TENANT:

KETCH JOANNE RESTAURANT AND
HARBOR BAR, INC., a California
Corporation

By: _____
Joanne Franklin
President

APPROVED AS TO FORM:

Trisha Ortiz, General Counsel