LEASE AND SERVICES AGREEMENT

THIS LEASE AND SERVICES AGREEMENT (this “Lease”) is made as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by and between RIVER PORT, LLC, a limited liability company, with its principal office at 1201 Terminal Avenue, Newport News, Virginia 23607, and its successors and assigns, herein called the LESSOR, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_, with its principal office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, herein called the LESSEE.

Lessee hereby agrees to lease from Lessor approximately \_\_\_\_\_\_\_ (\_\_) acres +/-of land (the “Premises”) on the Lessor’s property located at 1201 Terminal Avenue, Newport News, Virginia 23607. The Premises are more particularly shown on Exhibit A attached hereto, which is incorporated by this reference herein. The Premises shall be leased in gross and not by the acre, upon the following terms and conditions:

# **Lease Term and Rent**.

## Lessor demises the above-defined Premises for a term (the “Term”) beginning \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ (the “Commencement Date”), and terminating on the date that is \_\_\_\_\_\_\_\_\_\_ (\_\_\_) months following the Commencement Date for a base monthly rent of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and No/100 Dollars ($\_\_\_\_\_\_\_\_\_\_.00) (the “Base Rent”), payable in advance on the Commencement Date and on the first day of each calendar month thereafter. Each twelve (12) month period during the term of this Lease beginning on the Commencement Date shall be referred to as a “Lease Year.” Base Rent shall increase each Lease Year by an amount equal to three percent (3%) over the Base Rent in the prior Lease Year. All rental payments shall be made to Lessor at the address specified above, unless directed otherwise by Lessor in writing.

## Lessee recognizes and acknowledges that if any Base Rent payment is not received when due, Lessor will suffer damages and additional expense thereby and Lessee therefore agrees that a late charge equal to ten percent (10%) of the late Base Rent may be assessed by Lessor as additional rent if Lessor has not received any monthly installment of Base Rent or other additional rent within five (5) days following the date when due pursuant to this Lease.

## Lessee also agrees to pay, as additional rent (“Additional Rent”), as and when invoiced by Lessor, all costs incurred by Lessor in maintaining the Premises pursuant to Section 3 below.

# **Use**. Lessee shall use and occupy the Premises for ship repair and fabrication services and associated lawful uses. The Premises shall be used for no other purposes without Lessor’s prior written permission. Lessee shall not cause or permit the Premises to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation or order which annoys or interferes with the rights of occupants of Lessor’s property of which the Premises is part, or which constitutes a nuisance or waste. Lessee shall take all substantial and non-substantial actions necessary to comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating the particular use by Lessee of the Premises, including the Occupational Safety and Health Act. If Lessee pays the rent and complies with all other terms of this Lease, Lessee may occupy and enjoy the Premises for the full Lease Term, subject to the provisions of this Lease.

# **Alterations and Maintenance of Premises**.

## Except as otherwise agreed in writing by Lessor, the Premises are leased in “as is” condition. If Lessor and Lessee have agreed that certain improvements to the Premises are required in order for Lessee to occupy and use the Premises for its ship-repair and fabrication business (the “Improvements”), such Improvements shall be described in Exhibit B attached hereto. The Improvements shall be made in accordance with all applicable building and fire codes and other applicable laws and regulations. Except as otherwise agreed by Lessor in writing, Lessee shall not begin to conduct its ship-repair and fabrication business at the Premises until such Improvements are substantially completed, with all necessary temporary or permanent certificates of occupancy having been issued permitting Lessee’s ship-repair and fabrication services at the Premises. Responsibility for making the Improvements shall be allocated between Lessor and Lessee in Exhibit B. If and to the extent such Improvements are made by Lessor, or if made by others at Lessor’s expense, then in consideration of Lessor’s expense incurred in making such Improvements, Lessor shall be entitled to adjust the Base Rent to amortize the cost of such Improvements over the remainder of the Term. Lessor shall give written notice to Lessee of the amount and effective date of the adjusted Base Rent pursuant to this Section 3(a).

## Lessee may install an office trailer on the Premises, at Lessee’s expense. Such office trailer shall be placed at the location set forth on Exhibit A hereto. Lessee may obtain certain Services (defined below) from Lessor to support Lessee’s use of such office trailer, which Services shall be invoiced to Lessee in accordance with the Lessor’s Rate Sheet (defined below) in effect from time to time. Except for Services furnished by Lessor as shown in the Rate Sheet, Lessee shall be responsible for arranging all utilities and other services required by Lessee in order to conduct business in its office trailer. Lessee shall maintain the office trailer in good and safe condition, and shall comply with all applicable laws and regulations relating to the installation, maintenance and use of the office trailer. Lessee shall be solely responsible for the maintenance and protection of the office trailer, including all safety requirements and precautions required in connection with hurricanes and other storms. Lessee shall indemnify and save Lessor harmless from and against any and all liabilities, damages, losses, suits, claims or expenses (including reasonable attorneys’ fees) incurred by Lessor with respect to damage to property or injury or death to persons arising out of or resulting from the presence or use of the Lessee’s office trailer on the Premises. Lessor shall not be responsible for any damage or destruction to Lessee’s office trailer, and Lessee shall be responsible for insuring it against casualty loss. At the end of the Term, Lessee shall be responsible for removing the office trailer from the Premises, at Lessee’s sole expense, and in doing so shall leave the Premises in no less as good and clean physical condition as in effect immediately prior to this Lease, ordinary wear and tear excepted. Lessor shall be entitled to recover from Lessee all costs and expenses incurred by Lessor in order to repair, remove or otherwise deal with the office trailer at the end of the Term of the Lease to the extent such repair or removal is not performed by Lessee in accordance with its obligations hereunder.

## Lessee shall, at all times, maintain the Premises (including the Improvements thereon) in good and safe condition, including reasonable care and repair of asphalt (if any); perimeter fencing (if any); plumbing lines, fixtures and equipment; gas and electric lines, fixtures, and equipment; including making such capital replacements of the foregoing elements as may be necessary from time to time. Lessee shall, at Lessee’s sole cost and expense, keep the Premises clean and free from obstruction, garbage and dirt. Lessee shall store all garbage in fully closed containers in the area designated by Lessor, and Lessee shall pay all costs incident to the removal thereof. Lessee shall not burn or otherwise dispose of any garbage in or about the Premises. Lessee covenants to do and to pay for those things reasonably necessary, or required by law, to keep the Premises free of rodents and other pests, and Lessee agrees that Lessor shall not be liable for any damage caused thereby.

## Except as otherwise provided in this Section 3 above, Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions or improvements, in, to or about the Premises.

# **Services and Service Fees**.

## Lessee acknowledges that Lessor and/or certain of its affiliates may, upon Lessee’s request, furnish certain services (the “Services”) to Lessee of the kind set forth in Lessor’s then-current rate sheet that is in effect from time to time (“Rate Sheet”). Lessor’s current Rate Sheet is attached hereto as Exhibit C and incorporated by this reference herein. Lessor may modify the Rate Sheet and the rates charged by Lessor for its Services (the “Service Fees”) from time to time by giving thirty (30) days advance written notice thereof to Lessee.

## Lessor shall invoice Lessee for each partial and full calendar month of Service Fees no later than the tenth (10th) day of the following calendar month. Such invoices shall be due and payable to Lessor by Lessee, without setoff or deduction, within ten (10) days after the date of Lessor’s monthly invoice.

# **Ordinances and Statutes**. Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.

# **Assignment and Subletting**. Lessee shall not and cannot assign this Lease or sublet any portion of the Premises without Lessor’s prior written consent. If for any reason substantially all of the assets of Lessee are sold, Lessee merges or consolidates with any other entity, or Lessee undergoes a change in control by virtue of a change in majority ownership or management control, Lessor shall have the right, at Lessor’s sole election, to terminate this Lease, to take effect on the date set forth in a written notice thereof to Lessee.

# **Utilities**. Except for Services furnished by Lessor, all applications and connections for necessary utility services on the Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for arranging such utilities and paying the utility charges as they become due.

# **Entry and Inspection**. Lessee shall permit Lessor or Lessor’s agents to enter upon the Premises at reasonable times and upon reasonable notice for the purpose of inspecting the same, and will permit Lessor at any time within one hundred eighty (180) days prior to the expiration of this Lease, to place upon the Premises, any reasonable and customary “To Let” or “For Lease” signs, and permit any potential tenants to inspect the same.

# **Insurance**. Lessor carries certain casualty insurance coverage in respect of its property, including the Premises, but Lessee shall be solely responsible for insuring its office trailer. Lessee hereby waives, and its insurance coverage shall waive, any rights of subrogation against Lessor. At all times, Lessee shall procure and maintain insurance coverage satisfying the requirements for tenants set forth in Exhibit D hereto, which is incorporated by this reference herein.

# **Eminent Domain**. If the Premises or any part thereof or any estate therein, or any other part of the property materially affecting Lessee’s use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking. The Base Rent, and any Additional Rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for any taking of fixtures and improvements owned by Lessee.

# **Destruction of Premises**. In the event of a total or partial destruction of the Premises due to fire or other casualty during the term hereof, Lessor may elect to repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, and such total or partial destruction shall not terminate this Lease, except that Lessee shall be entitled to a proportionate reduction of Base Rent while such repairs are being made based upon the extent to which the damage or the making of such repairs shall interfere with the business of Lessee on the Premises. If Lessor elects not to make such repairs or such repairs cannot be made within said (60) days, Lessee, at its option, may elect to keep this Lease in effect, in which event this Lease shall continue in effect with the Base Rent proportionately abated as aforesaid. Otherwise, in the event that Lessor cannot or does not make such repairs within said (60) days, this Lease may be terminated at the option of either party, by giving written notice thereof to the other party. Notwithstanding the foregoing, Lessee shall not be entitled to any abatement of Base Rent if the total or partial destruction of the Premises is the fault, in whole or in part, of Lessee or any of its affiliates, employees, agents, invitees, contractors, subcontractors or vendors.

# **Lessor’s Remedies on Default**. If Lessee defaults in the timely payment of Base Rent or any Additional Rent, or if Lessee defaults in the performance of any of the other covenants or conditions hereof, Lessor may give Lessee written notice of such default and if Lessee does not cure any such default within ten (10) days after the giving of such notice in the case of a payment default, or thirty (30) days in the case of a non-monetary default (or if such non-monetary default is of such nature that it cannot be completely cured within such thirty (30) day period, if Lessee does not commence such cure within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may immediately terminate this Lease and Lessee’s right to possession. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall quit and surrender the Premises to Lessor, but Lessee shall remain liable for Base Rent, Additional Rent and Service Fees as hereinafter provided. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. Lessor shall be entitled to recover from Lessee: (i) the amount at the time of such termination of the sum of unpaid Base Rent, Additional Rent and Service Fees which were due and payable by Lessee at the time of the termination; plus (ii) on a monthly basis thereafter, the amount by which the unpaid Base Rent and Additional Rent payable by Lessee (or which would have been payable by Lessee) each month over the balance of the Term exceeds the amount, if any, of the Base Rent and Additional Rent actually collected by the Lessor from a substitute tenant each month over the balance of the Term. Lessor shall also be entitled to recover any reasonable costs or expenses incurred by Lessor in maintaining or preserving the Premises after such default, the reasonable cost of recovering possession of the Premises, reasonable expenses of re-letting, including necessary repairs of the Premises for which Lessee was responsible hereunder, Lessor’s reasonable attorneys’ fees incurred in connection therewith, and any reasonable real estate commission paid to an unrelated third party real estate brokerage firm upon re-letting the Premises with respect to the lease period until at the end of the Term.

# **Attorneys’ Fees**. In case suit should be brought by Lessor for recovery of possession of the Premises, or for any sum due hereunder, or because of any act or omission of Lessee during its possession of the Premises, Lessor shall be entitled to recover from Lessee all costs by Lessor incurred in connection with such enforcement action, including reasonable attorneys’ fees.

# **Waiver**. No failure of Lessor to enforce any term hereof shall be deemed to be a waiver thereof.

# **Notices**. Any notice which Lessor may or is required to give to Lessee, shall be given by mailing the same, postage prepaid, to Lessee at 1201 Terminal Avenue, Newport News, Virginia 23607, Attention: Manager. Any notice which Lessee may or is required to give to Lessor shall be given by delivering same to the address given above, or at such other place as may be designated by the parties from time to time.

# **Assigns, Successors**. This Lease is binding upon and inures to the benefit of the successors and permitted assigns of the parties hereto.

# **Environmental Compliance**. Lessee agrees as follows: (a) to bring, use or dispose of any hazardous materials or commodities on the Premises only with Lessor’s prior written consent (in which case the provisions of Section 29 shall govern Lessee’s responsibility therefor) and (b) not to violate any federal, state, or local environmental statutes, rules or regulations. Any such violations shall be deemed a default under this Lease. Lessee shall indemnify and hold Lessor harmless from any liability, loss, damages, claims or expenses suffered by the Lessor resulting from any such violation, including but not limited to, any fines, remedial costs, or reasonable attorneys’ fees incurred in defending or settling any suits or actions arising out of such violation.

# **Subordination**.

## Lessor shall have the right to subordinate this Lease to any deed of trust or mortgage encumbering the Premises, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. Lessee shall execute and deliver such instruments of subordination as Lessor shall request in order to effectuate such subordination. However, Lessee’s right to quiet possession of the Premises during the Term shall not be disturbed or impaired if Lessee pays the rent and performs all of Lessee’s obligations under this Lease and is not otherwise in material default. If any deed of trust beneficiary or mortgagee elects to have this Lease prior to the lien of its deed of trust or mortgage and gives written notice thereof to Lessee, this Lease shall be deemed prior to such deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of said deed of trust or mortgage or the date of recording thereof.

## If Lessor’s interest in the Premises is acquired by any beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, Lessee shall attorn to the transferee of or successor to Lessor’s interest in the Premises and recognize such transferee or successor as Lessor under this Lease. Lessee waives the protection of any statute or rule of law which gives or purports to give Lessee any right to terminate this Lease or surrender possession of the Premises upon the transfer of Lessor’s interest.

## Lessee shall sign and deliver any reasonable and customary instrument or documents necessary or appropriate to evidence the above attornment and subordination. Such attornment and subordination documents may contain such provisions as are customarily and reasonably required by any ground lessor, beneficiary under a deed of trust or mortgagee, and shall include reasonable non-disturbance provisions.

## Upon Lessor’s written request during the Term, Lessee shall execute, acknowledge and deliver to Lessor a written statement certifying: (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been cancelled or terminated; (iii) the last date of payment of the Base Rent and other charges and the time period covered by such payment; (iv) that Lessor is not in default under this Lease (or, if Lessor is claimed to be in default, stating why); and (v) such other matters as may be reasonably required by Lessor or the holder of a mortgage, deed of trust or lien to which the Premises is or becomes subject. Lessee shall deliver such statement to Lessor within ten (10) days after Lessor’s request. Any such statement by Lessee may be given by Lessor to any prospective purchaser or encumbrancer of the Premises. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct. In addition, Lessee agrees to deliver to any lender with whom Lessor is refinancing the Premises, on a strictly confidential basis, the Lessee’s most current financial statements then available, for the purpose of facilitating such lender’s refinance of the Premises.

# **Broker**. Lessor and Lessee each represents and warrants to the other that neither party has engaged or had any conversations or negotiations with any broker, finder or other third party concerning the matters set forth in this Lease who would be entitled to any commission or fee based on the execution of this Lease. Lessor and Lessee each hereby indemnifies the other against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith, including, without limitation, reasonable attorneys’ fees and expenses, for any breach of the foregoing. The foregoing indemnification shall survive the termination of the lease for any reason.

# **Real Estate Taxes**. Lessor shall be responsible for payment of any Real Estate Taxes applicable to the real estate parcel of which the Premises are a part. The term “Real Estate Taxes” shall mean all taxes and assessments (special or otherwise) levied or assessed directly or indirectly against the Premises and applicable to the real estate parcel of which the Premises are a part and other taxes arising out of the use and/or occupancy of the Premises and/or applicable to the real estate parcel of which the Premises are a part imposed by any taxing authority having jurisdiction over the Premises and the real estate parcel of which the Premises are a part.

# **Personal Property Tax**. Lessee shall pay promptly when due or make reimbursement to Lessor for all taxes imposed upon Lessee’s office trailer, business operation, equipment, trade fixtures and other personal property, including without limitation, all machinery and tools taxes, business personal property taxes, sales taxes, value added taxes, documentary taxes, stamp taxes and other taxes assessed upon the business or assets of Lessee. Lessee shall exercise its best efforts to have the office trailer and other personal property taxed separately from the Premises.

# **Parking**. Lessee and its employees and customers shall have the right to park up to \_\_\_\_ (\_\_) automobiles on the Lessor’s property, subject to such reasonable rules and regulations as Lessor may impose from time to time, including the designation of any specific areas in which automobiles of Lessee, its employees, guests and customers must be parked.

# **Ingress and Egress**. For ingress and egress to and from the Premises, Lessee shall have the right to use, in common with Lessor and others authorized by Lessor, the existing driveway(s) on Lessor’s adjacent property, including the existing private driveway know as Harbor Road, together with the existing walkway(s) or other property designated by Lessor as means of ingress to and egress from the Premises. Upon written demand by Lessor, Lessee shall immediately cease any other use of Lessor’s adjoining property beyond ingress and egress to the Premises. However, Lessor shall not restrict or prohibit ingress and egress to and from the Premises at any time during the Term.

# **Liens**. Lessee is specifically denied the right, authority or power to create a lien upon the Premises or any right, title, interest or portion thereof under any state mechanic’s lien law or otherwise and shall not permit or suffer any lien to be placed upon the Premises in connection with any construction, erection, installation, alteration, maintenance or repair of any building or other improvements on the Premises. Lessee shall pay all debts incurred to, and shall satisfy all liens of, contractors, subcontractors, mechanics, laborers and material suppliers arising from any construction, alteration, maintenance and/or repair on and to the Premises and any improvements thereon, whether by or at the direction of Lessee, and shall indemnify and hold Lessor harmless against all legal costs and charges, including reasonable counsel fees, in any suit involving any lien, the enforcement or removal thereof, or encumbrance caused by the same, with respect to the Premises or any part thereof.

# **Environmental Tests**. At the sole option of Lessor, not later than thirty (30) days after expiration or termination of this Lease, Lessor may obtain, at Lessee’s cost, the services of an independent, qualified consultant and state-approved laboratory to sample and test any visibly-contaminated area of the Premises to ensure that the Premises are returned to Lessor free from any environmental contamination not present thereon prior to the effective date of this Lease. However, failure by Lessor to sample and/or test shall not be construed as a waiver of any claim established by law, or of any other provision or condition of this Lease.

# **Holdover**. If Lessee occupies the Premises after expiration or termination of this Lease, Lessee shall hold the Premises only as a tenant on a month-to-month basis, at a Base Rent equal to one hundred and fifty percent (150%) of the Base Rent in effect at the expiration or termination of this Lease, but subject to all the other terms and conditions of this Lease, and terminable upon no more than thirty (30) day notice from Lessor.

# **Risk, Liability, Indemnity**. Lessee hereby assumes, releases and waives any right to ask for or demand payment of damages for or on account of, and agrees to protect, save harmless, defend and indemnify Lessor from and against all fines, suits, damages. claims, demands, losses, actions, liabilities and costs (including reasonable attorneys’ fees and court costs, whether at trial or on appeal) arising from or relating to:

## Any loss, damage or injury attributable to the act or omission of Lessee, its employees, agents, and invitees whether or not such loss, damage or injury was contributed to by any negligent act or omission of Lessor;

## Loss or damage to any property whatsoever, including property of Lessee, property of Lessor and of all other persons whomsoever, placed or stored upon the Premises and the loss of or interference with any use or service thereof;

## Injury to or death of any person whomsoever, including but not limited to invitees, guests, agents, servants, and employees of the parties hereto and all other persons whomsoever on the Premises;

## All consequential loss or damage occurring off the Premises but arising from acts, events or omissions on the Premises; and

## All costs and expenses caused by, arising out of or resulting in any manner from the condition, existence, use or occupancy of the Premises, or the use of the driveway(s) and walkway(s) of Lessor for ingress and egress, and any adjoining lands of Lessor used by Lessee or Lessee’s guests, invitees, agents, servants, or employees, regardless of cause (other than the gross negligence or willful misconduct of Lessor).

For the avoidance of all doubt, Lessor shall not be liable or responsible for any loss or damage to any property or the death or injury to any person occasioned by theft, fire, requisition of other governmental body or authority, or by any other matter beyond the control of Lessor. Under no circumstances shall Lessor be liable for special or consequential damages.

# **Pollution**. Notwithstanding any other provision hereof, Lessee agrees to defend, indemnify and hold Lessor harmless from all claims, costs and expenses (including reasonable attorney fees) as a consequence of any incident resulting in the pollution of air, water, land and/or ground water arising from or in connection with this Lease or Lessee’s use of the Premises or property adjacent to the Premises, including any claim or liability arising under Federal or State law dealing with the pollution of air, water, land and/or ground water or the remedy thereof or from Lessee’s failure to secure and comply with permits required hereunder.

# **Hazardous Commodities and Conditions**.

## Lessee shall fully comply with all federal, state and local governmental regulations pertaining to the presence, use, disposal, storage, loading, unloading and/or handling of any dangerous or hazardous materials or commodities.

## Lessee shall defend, indemnify and hold harmless Lessor, its successors and assigns, from and against all losses, damages, costs, expenses (including attorney fees), claims, suits and judgments, whatsoever arising from or growing out of any injuries to or death of persons, or losses or damages to property, which may be caused or contributed to by the presence on said Premises of such dangerous or hazardous materials or commodities.

## In the event of leakage or spillage of such dangerous or hazardous materials or commodities from any vehicle, tank or railroad cars being shipped to or from Lessee, or from storage and/or handling of Lessee, or from other vehicles or Lessee’s operations, Lessee shall notify Lessor and, at Lessee’s sole expense, promptly undertake to clean the Premises to the satisfaction of Lessor and any public body having jurisdiction over said leakage or spillage. Should said leakage or spillage result in a fine, penalty, cost or charge being incurred by Lessor, Lessee shall promptly and fully reimburse and indemnify Lessor on account thereof.

## The indemnification provisions of this Section 29 shall apply during the term of this Lease and at any time thereafter that a claim is made against Lessor for any damages alleged to have been caused during the term of this Lease from/by any dangerous or hazardous material or commodity moved, stored or handled by Lessee, regardless of whether Lessor then owns the Premises, has leased the Premises to another party, or has conveyed the Premises to another party in the interim.

## All obligations of Lessee hereunder to release, indemnify and hold Lessor harmless shall also extend to the members, managers, officers, agents and employees of Lessor, and to companies and other legal entities that control, or are controlled by, or are affiliated with Lessor.

# **Miscellaneous**. The foregoing Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and may be modified only by a writing signed by both parties. The covenants, conditions and agreements contained in this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns as may be permitted hereunder. Nothing contained in this Lease shall be deemed to constitute or be construed to create the relationship of principal and agent, partnership, joint ventures or any other relationship between the parties hereto other than the relationship of lessor and lessee. The parties hereto agree (a) to furnish upon request to each other such information, (b) to execute and deliver to each other such other documents, and (c) to do such other acts and things, all as the other party may reasonably request for the purpose of effectuating the intent of this Lease and any documents executed pursuant hereto or in connection herewith or of complying with any law, rule, regulation, or other requirement of any governmental entity. The failure of any party to insist in any one or more instances upon strict performance of any obligation of another party under this Lease shall not be deemed to be a waiver of the performance of any such obligation or a relinquishment of any rights hereunder for the future. This Lease shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia. Lessor shall be entitled to enforce this Lease in any federal or state court of competent jurisdiction in Newport News, Virginia. Lessee irrevocably submits to the jurisdiction and venue of such court(s). This Lease may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which taken together shall constitute one agreement binding on all parties hereto, notwithstanding that the parties shall not have signed the same counterpart. Counterparts may be delivered via facsimile, email (including PDF or any electronic signature complying with the U.S. federal E-SIGN Act of 2000) or other transmission method, and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes. Each party consents to the use of electronic signatures and agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Lease are intended to authenticate this writing, to have the same force and effect as manual signatures and shall be legally binging upon the parties.  Electronic signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures.

**IN WITNESS WHEREOF**, the said parties to this agreement have set their hands and seals the day and year set forth below.

**Witnesses: LESSOR:**

**RIVER PORT, LLC**,

a Virginia limited liability company

By:

Name:

Its:

COMMONWEALTH OF VIRGINIA,

CITY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to-wit:

The foregoing Lease was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of River Port, LLC, on behalf of the limited liability company. He/She is personally known to me or has produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as identification.

Notary Public

My Commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Witnesses: LESSEE:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,**a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By:

Name:

Its:

COMMONWEALTH OF VIRGINIA,

CITY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to-wit:

The foregoing Lease was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, on behalf of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. He/She is  personally known to me or  has produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as identification.

Notary Public

My Commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EXHIBIT A

PREMISES

(See attached)

EXHIBIT B

THE IMPROVEMENTS

(See attached)

Lessor/Lessee *(circle one)* shall be responsible for making the Improvements. If Lessor makes the Improvements, or if made by others and Lessor pays for such Improvements, then Base Rent shall be adjusted as provided in Section 3(a).

Initials:

\_\_\_\_\_ \_\_\_\_\_

Lessor Lessee

EXHIBIT C

RATE SHEET

(See attached)

EXHIBIT D

**TENANT INSURANCE REQUIREMENTS**

1. Insurance Company Criteria

Tenant agrees to procure and maintain for the term of the Lease and two (2) years thereafter, at its expense, insurance with insurance companies authorized and licensed to do business in Virginia having at least an A.M. Best’s rating of A – VIII, covering all operations under this Lease, with the kinds of insurance and in the minimum amounts required, under the Lease as set forth below.

2. Coverage Requirements

| **COVERAGE** | **MINIMUM LIMITS** |
| --- | --- |
| i. Comprehensive General Liability and Marine General Liability including:   |  | | --- | | Bodily Injury and Property Damage | | Contractual Liability | | Ship Repairer’s Legal Liability | | Other | | |  | | --- | | $1,000,000 Combined Single Limit (CSL) occurrence | | Other | |
| ii. If any auto is used in the performance of Tenant’s operations, Comprehensive Automobile Liability Insurance including bodily injury and property damage coverage for:   |  | | --- | | Owned, hired and non-owned automobiles | | All owned autos | |  | | |  | | --- | | $1,000,000 Combined Single Limit (CSL) occurrence | | Other | |
| iii. Bumbershoot, and/or Excess Liability, which will extend to cover excess limits over Comprehensive / Marine General Liability and Commercial Auto Liability coverages above:   |  | | --- | | Yes | | No |   Where maritime employment is involved the following are required: Bumbershoot Liability | If needed to meet required limit:   |  | | --- | | 1,000,000 | | 2,000,000 | | 3,000,000 | | 5,000,000 | | Other | |
| iv. Worker’s Compensation including:  All States Coverage/Endorsement  Where work or service will be performed or originate on a US Defense Base, the following is required:   * Defense Base Act coverage   Where maritime employment is involved the following are required:  Longshore and Harbor Workers Compensation  Outer Continental Shelf Act  Maritime Employers Liability  Jones Act | Statutory coverage as required by the laws of the state(s), province(s) or country(s) in which the services or work are to be performed.  Federal coverage as required by the laws and regulations of United States Department of Labor |
| vi. If Tenant is providing a Professional service, such as Gas-Freeing, Engineering, or other similar service, then Professional liability, covering the Tenant, for the negligent performance of its service, Engineering/Design, or other Professional Service, is required.   |  | | --- | | Yes | | No | | |  | | --- | | $1,000,000 each claim | | $1,000,000 aggregate | |

3. The following endorsements must be included with the Tenant’s Certificate of Insurance:

* Additional Insured Wording:
  + Tenant shall name **S23 Holdings, LLC /** **River Port, LLC & Affiliates** as additional insureds under its General Liability and Bumbershoot Liability policies.
* Waiver of Subrogation Requirement:
  + Tenant shall waive subrogation against **S23 Holdings, LLC /** **River Port, LLC & Affiliates** under its General Liability, Bumbershoot Liability and Workers Compensation policies.
* Primary and Non-Contributory Requirement:
  + It is agreed that Tenant’s General Liability and Bumbershoot Liability policies shall be considered primary and non-contributory of any other valid and collectible insurance carried by **S23 Holdings, LLC /** **River Port, LLC & Affiliates**.

4. Cancellation Provision

Tenant agrees that each insurance policy shall contain an endorsement that provides for at least thirty (30) days prior notice to **S23 Holdings, LLC /** **River Port, LLC & Affiliates**, in the event of any cancellation. Where services provided are for Government contracts of an Affiliate of S23 Holdings, LLC, the policies shall also contain an endorsement that cancellation or material change in the policies, adversely affecting the interest of the Government in such insurance, shall not be effective unless the Task Order Contracting Officer approves such cancellation or change. Tenant agrees not to amend or modify its insurance policies or certificates of insurance where such amendments or modifications would reduce coverage amounts below the requirements of this Agreement.

5. Evidence of Insurance

Prior to entering subject property, Tenant shall furnish **S23 Holdings, LLC /** **River Port, LLC & Affiliates** with certificates of insurance to evidence Tenant compliance with the insurance requirements of this Lease. Renewal certificates of insurance shall be provided to **S23 Holdings, LLC /** **River Port, LLC & Affiliates** prior to the expiration dates of the required insurances. The Certificate Holder shall be **S23 Holdings, LLC /** **River Port, LLC & Affiliates**

6. Additional Requirements for Government Contractors

Tenant shall also comply with any terms set forth in FAR clause 52.228-7 entitled “Insurance-Liability to Third Persons” which are in addition to those requirements contained herein.

In addition, based on the Tenant Lease, **S23 Holdings, LLC /** **River Port, LLC & Affiliates** may reasonably require additional insurance coverages and/or limits.

7. No Relief

Neither failure of Tenant to comply with any or all of the insurance provisions of this Lease, nor the failure to secure endorsements or policies as may be necessary to carry out the terms and provisions of this Lease, shall be construed to limit or relieve the Tenant from any of its obligations under this Lease.

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