

(d) Lessee agrees that any insurance carried by Department is excess of Lessee's self-insurance and will not contribute to it;

(e) Lessee provides the name and address of its claims administrator;

(f) Lessee submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to the Executive Director's consideration of approval of self-insurance and annually thereafter;

(g) Lessee agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance; and

(h) Lessee has complied with all laws pertaining to self-insurance.

14.2.8 Increased Insurance Risks. Following the Effective Date, should an event occurring in or about the Premises cause either cancellation or increased rates with respect to any insurance that City may have on the Premises or on adjacent premises, or cause either cancellation or increased rates with respect to any other insurance coverage for the Premises or adjacent premises, upon receipt of written notice from City that cancellation of insurance or increased insurance rates is threatened or has occurred, Lessee promptly shall take appropriate steps to ensure that City is not adversely affected. In City's sole reasonable discretion, such steps may include Lessee: correcting the condition; providing any necessary insurance; paying the increased cost of City's insurance; and/or indemnifying City against any uninsured or underinsured loss on a claim.

Section 15. Lessee's Transfer of Interests.

15.1 Transfers; City's Consent Required.

15.1.1 Generally. Subject to Article 2, Sections 15.7, 15.8, and 16 Lessee shall not in any manner, transfer or assign this Lease, or any interest therein or any right or privilege thereunder, voluntary or involuntarily, without the prior written consent of the Board, nor license or permit the use of the same, in whole or in part, other than a Sublease pursuant to Section 16, below, without the prior written consent of the Executive Director (collectively referred to as a "Transfer") which consent shall not be unreasonably withheld, delayed, or conditioned.

15.1.2 Consent Required. Subject to Article 2, Sections 15.7, 15.8, and 16, no Transfer of this Lease, or any interest therein or any right or privilege thereunder, regardless of whether accomplished by a separate agreement, sale of stock or assets, merger or consolidation or reorganization by or of Lessee, or accomplished in any other manner, whether voluntary or by operation of law, including but not limited to assignment, sublease, transfer, gift, hypothecation or grant of total or partial control, or any encumbrance of this Lease, shall be valid or effective for any purpose unless (i) Lessee received the prior written consent of the Board not to be unreasonably withheld, conditioned, or delayed and (ii) Lessee satisfies the requirements in Section 15.2 below. Consent to one Transfer shall not be deemed a consent to any other Transfer. For purposes of this Section 15, the term "by operation of law" includes but is not limited to: (1) the placement of all or substantially all of Lessee's assets in the hands of a receiver or trustee; or (2) a transfer by Lessee for the benefit of creditors; or (3) transfers resulting from the death or incapacity of any individual who is a Lessee or of a general partner of a Lessee (except as provided in Section 15.8.2 below). Lessee acknowledges and agrees that it shall be required to pay the City for all City Costs reasonably incurred to review all documents submitted in response to a request to Transfer.

15.2 Procedure to Obtain Consent to Transfer. If Lessee desires to undertake a Transfer requiring the City's consent, it may seek City's consent thereto which will be subject to the requirements set forth in this Section 15. Lessee covenants that before entering into or permitting any Transfer, it shall provide to City written notice at least sixty (60) days before the proposed effective date of the Transfer. Notwithstanding the foregoing, City reserves the right to allow Lessee, on a case-by-case basis, to submit to City for City's consent Transfers that would have become effective but for Lessee's failure to seek City's consent. In any event, Lessee's written request to City for consent shall hereinafter be referred to as "Transfer Notice."

15.2.1 Transfer Notice. Lessee's Transfer Notice shall contain each of the following:

(a) Specific identification of the entity or entities with whom Lessee proposes to undertake the Transfer ("Transferee");

(b) Specific and detailed description of the Transferee's entity type, ownership (including identification of all parent and subsidiary entities), background/history, nature of the Transferee's business, Transferee's reputation and experience in the operations proposed;

(c) Specific and detailed description of the type of Transfer proposed (e.g., assignment, grant of control, etc.) and the rights proposed to be transferred;

(d) Specific and detailed description of the operations proposed to be undertaken at the Premises by Transferee if other than the Permitted Uses if City consents to the Transfer;

(e) The effective date of the proposed Transfer document;

(f) A business plan including a general description of any planned Alterations or improvements to the Premises; and

(g) A description of the net worth of the proposed Transferee including an audited or certified financial statement.

15.2.2 Limitations of City's Consent. If City consents to a Transfer, the following limits apply:

(a) Unless otherwise agreed in writing, City does not agree to waive or modify the terms and conditions of this Lease;

(b) Such consent does not constitute either consent to any further or other Transfer by either Lessee or Transferee or a bar disqualifying submittal of additional Transfer Notices in accordance with the terms of this Lease following such consent;

(c) If, following such consent, Lessee remains a party to this Lease, Lessee shall remain liable under this Lease;

(d) Lessee may enter into that Transfer in accordance with this Section 15 if: (a) the Transfer occurs within six (6) months after City's consent; (b) the Transfer, in the Executive Director's reasonable discretion, is on substantially the same terms as specified in the Transfer Notice; and (c) Lessee delivers to City promptly after execution an original executed copy of all documentation pertaining to the Transfer;

(e) If the Transfer occurs more than six (6) months after City's consent or, in the Executive Director's reasonable discretion, the terms of the Transfer materially change from those in the Transfer Notice, Lessee shall submit a new Transfer Notice under this Section 15, requesting City's consent. A material change for purposes of this Section 15 is one the terms of which would have entitled City to refuse to consent to the Transfer initially;

(g) Lessee and/or Transferee, upon City's written request, shall provide proof, in a form satisfactory in the Executive Director's reasonable discretion, demonstrating that insurance of the type and limits required by Section 14 is and shall be in full effect at all times in or around the time period in which the proposed Transfer is anticipated to occur; and

(h) Transferee shall execute and deliver a written acceptance of assignment in a form acceptable to City in which Transferee expressly assumes all of Lessee's obligations under this Lease, upon which acceptance Lessee shall be released from all further liability under this Lease.

15.3 Charter and Administrative Code. Lessee acknowledges that this Lease is subject to the Charter and the Administrative Code of City and that approval of a Transfer may require action by several separate entities, including but not limited to the Council.

15.4 Lessee Remedies. If Lessee believes City has wrongfully denied or conditioned its consent, Lessee may seek only declaratory and/or injunctive relief or seek arbitration as set forth below. Lessee specifically waives any damage claims against City in connection with the withholding or conditioning of consent. Arbitration shall be complete within sixty (60) days unless extended by mutual agreement of the Parties. The prevailing party in arbitration shall be owed attorney fees expended for the arbitration process. Results of the arbitration shall be binding on the Parties and if City's consent has been deemed unreasonable by the arbiter, the transfer shall be deemed approved.

15.5 Indemnity in Favor of City. In addition to and not as a substitute for the indemnities Lessee provides to City pursuant to Section 14 of this Lease, Lessee shall indemnify, defend and hold harmless City and any and all of its boards, officers, agents, or employees from and against any and all claims and/or causes of action of any third-party (including but not limited to Transferee) arising out of or related to a proposed Transfer.

15.6 Rent or Performance. City in its sole discretion may accept Rent or performance of Lessee's obligations under this Lease from any person other than Lessee pending approval or disapproval of a Transfer. City's exercise of discretion to accept Rent or performance shall be reflected in writing.

15.7 Transfers of Ownership.

15.7.1 Ownership or Control. The transfer of more than forty-nine percent (49%) of the economic interest in Lessee in one or more transactions or the transfer by manager or managing member of Lessee, regardless of whether Lessee is a publicly or privately held entity, or a transfer by a lender after foreclosure, shall constitute a Transfer within the meaning of Section Article 2, Section 15.1 and Lessee may Transfer its interest as stated herein provided that Lessee obtains the prior written approval of the City, which approval may be withheld only on the basis of the transferee's character, financial capability, and experience, all as reasonably determined by the City in confirming that such

proposed transferee satisfies the three (3) criteria set forth in Section 15.7.1.1 below.

15.7.1.1 Factors Affecting Transfer. Where the City is required by this Article 2, Section 15 to be reasonable in determining whether to consent to a proposed Transfer, the City may withhold such consent solely upon the basis of the following three (3) factors:

(a) Character. The "Individual Owners" (as defined herein) of the Transferee must be a person or persons of good character and reputation; provided, however, that this test shall be deemed to have been met as long as none of the Individual Owners shall have been convicted in a federal or state felony criminal proceeding (including a conviction entered on a plea of nolo contendere) including a crime of moral turpitude, unless the same shall have been subsequently reversed, suspended, vacated, annulled, or otherwise rendered of no effect under applicable law. In determining the character of a foreign entity or person, any criminal conduct of such foreign entity or person shall be evaluated based upon the standards of the laws and regulations of the United States including the sanctions lists and files administered by the Office of Foreign Assets Control ("OFAC") which the Transferee shall not be listed on such OFAC sanctions list or guidelines, the State of California, and the City of Los Angeles, regardless of whether or not such entity or person is actually subject to the jurisdiction of such laws and regulations. For the purposes of this Lease, the term "Individual Owner" shall mean (i) if the new owner or owners is or are an individual or individuals, then those of such individual or individuals owning the controlling ownership interest in the Transferee, and (ii) if the new owner or owners is or are an entity or entities, then those of such individual or individuals owning the controlling ownership interest in such controlling entity or entities, and (iii) in the case of either (i) or (ii) above, the senior-most executive of such new owner having significant involvement in the management and supervision of the construction and operation of the Project;

(b) Financial Capability. The Transferee must have sufficient verifiable financial resources or commitments to carry out the development and operation of the Project in accordance with the terms of this Lease. The Transferee shall not have been a debtor in a bankruptcy proceeding and has not defaulted under any other contract or lease with the Harbor Department. The determination as to financial capability must be based upon facts which the Lessee and Transferee shall have the right to address and rebut. If the Transferee has a verifiable net worth of Twenty-Five Million Dollars (adjusted every five (5) years of this Lease for CPI-U as defined in Article 2, Section 4.1.3) or more, it shall be deemed to have met this test; and

(c) Experience. The Transferee must have at least three (3) years' experience and in excess of One Million (1,000,000) square feet experience in any one of the following: (i) owning, operating, maintaining and developing (if the Lessee's Improvements have not yet been completed) retail centers, or (ii) owning, operating, maintaining, and developing (if the Lessee's Improvements have not yet been completed) dining, retail and entertainment venues, as applicable to the obligations which the assignee is assuming, and such experience must have occurred fully within the ten years preceding the proposed date of the Transfer.

15.7.2 Partnerships. If Lessee is a partnership, any transfer or attempted transfer by any general partner of Lessee of more than twenty-five percent (25%) of its partnership interest in Lessee in one or more transactions shall be a prohibited Transfer within the meaning of Section 15.1. Notwithstanding the foregoing, if any transfer of a general partner's interest is due to the death of a general partner and results in the transfer to the immediate members of the general partner's family, who will be personally involved in the operation of the partnership, the City will not unreasonably withhold, condition or delay its consent to such transfer.

15.7.3 Guarantor. If a parent or other entity has guaranteed or otherwise secured any or all of Lessee's obligations under this Lease and if the ownership, makeup or financial condition of such parent or other entity has, in the reasonable discretion of Executive Director, materially changed at any point during the term of this Lease, the right is reserved for City to require amendments of such guarantee, the provision of new security, or a combination thereof reasonably required by Executive Director to maintain the level of security as provided by the original guarantee. Following the Effective Date, Lessee shall have a continuing obligation to notify City in writing of any and all events that do or might constitute a material change within the meaning of this Article 2, Section 15.7.3.

15.8 Assignments for Security Purposes. Lessee's request to assign this Lease, or any part thereof, to a Leasehold Mortgagee, to secure financing of improvements on the Premises will require Board approval and will be considered on a case-by-case basis which approval shall not be unreasonably withheld, conditioned, or delayed. Consent to assignments for security purposes will be subject to the provisions set forth in Exhibit N and the following conditions:

(a) Monies borrowed must be in a fixed amount. New borrowings or refinancings require further Board approval.

(b) The collateral covered by the security agreement securing Lessee's loan shall cover only Lessee's leasehold interest and interest in the Lessee's Improvements on the Premises, not the interests of City Improvements.

(c) Nothing in the instrument which creates the security interest in the Leasehold Mortgagee shall amend, modify, or otherwise affect the rights of City under this Lease or any guaranty.

(d) In the event the Leasehold Mortgagee initiates any action to foreclose the interest of Lessee in this Lease, the Leasehold Mortgagee agrees to deliver to the Board in person or by registered mail a copy of any notice of default sent to Lessee and agrees, ten (10) calendar days in advance of any foreclosure sale, to give written notice to the Board by registered mail. Such notices shall be addressed as follows:

Board of Harbor Commissioners
c/o Director of Waterfront and Commercial Real Estate
P.O. Box 151
San Pedro, CA 90733-0151

Provided, however, the failure to give such notice shall not affect the Leasehold Mortgagee's rights and ability to proceed with a foreclosure. A subsequent transfer by a Leasehold Mortgagee after foreclosure or a deed in lieu of foreclosure shall be subject only to the consent requirements, if any, set forth in Section 15.7.1.

(e) Neither the foreclosure of the security interest, or acceptance of a deed in lieu of foreclosure, shall be subject to any restrictions set forth in Section 15.1.

15.9 Written Certificate. If requested in writing by Executive Director, Lessee shall, within ten (10) days of its receipt of such written request, certify under penalty of perjury under California law whether it has or has not undertaken a Transfer.

Section 16. Subleases.

16.1 Generally. Lessee, in the normal course of business, may enter, without the consent of the City, into any Sublease, license, concession agreement, or any other similar arrangement, or extend, renew or modify any such agreement, consent to any subleasing or further levels of subleasing (all of which shall be within the defined term "Sublease," and the occupants thereunder shall all be deemed "Sublessees"), terminate any Sublease or evict any Sublessee; provided, however, that any long-term ground sublease or further levels of subleasing or other lease or contract which in effect serves to transfer substantially all of Lessee's economic interest in this Lease or the Premises shall be deemed to be a transfer or assignment subject to Section 15, and not a Sublease, for purposes of this Section 16. The term of any Sublease (including renewal options) shall not extend beyond the Term, unless agreed to by City in writing in its sole and absolute discretion. Except as set forth in Article 2, Section 16.3, all Subleases and other agreements shall be subject and subordinate to this Lease.