

CITY OF LOS ANGELES HARBOR DEPARTMENT
Port of Los Angeles

REVOCABLE PERMIT
(License to Use and Occupy)

No. 2017-03

The Executive Director of the Harbor Department ("Executive Director") of the City of Los Angeles ("City") hereby grants permission to Harbor Breeze Corp. ("Assignee") to occupy and use certain lands and/or waters and/or facilities within the Harbor District owned or under the control of City, acting through its Board of Harbor Commissioners ("Board"), subject to the following terms and conditions:

1. Premises. Assignee is permitted under this Revocable Permit ("Permit") to use and occupy the lands and/or waters and/or facilities designated as the three (3) northern docks at Berth 85 measuring 147.1 lineal feet, 130 lineal feet, and 122.1 lineal feet including approximately five thousand (5,000) square feet of land area and sixteen thousand (16,000) square feet of water area as delineated and more particularly described on Exhibit A ("Premises"). Use of the Premises is non-exclusive and on a first come basis. If the Premises are fully occupied, Assignee may use, as necessary and also on a non-exclusive first come basis, the four (4) southern docks at Berth 85 measuring 155 linear feet, 83.4 linear feet, and 185 linear feet including approximately six thousand four hundred (6,400) square feet of land area and twenty thousand (20,000) square feet of water area or the one (1) dock at Berth 83 measuring 100 linear feet including approximately two thousand (2,000) square feet of land area as delineated and more particularly described on Exhibit B ("Alternate Premises"). Assignee's use of the Alternate Premises is only permissible when the Premises are fully occupied by other vessels. Assignee may not demand or request that the operators of other vessels move or desist from berthing to accommodate Assignee's vessels. Assignee may not attempt to reserve the Premises or Alternate Premises for Assignee's vessels through the use of signs, cones, staff members, or any other device, communication, or other means.

2. Permitted Use. The Premises and Alternate Premises shall be used for the operation of chartered commercial passenger vessels serving prescheduled tour groups including, but not limited to, tours scheduled on behalf of the City pursuant to any agreements for boat tours. Permissible types of tours include harbor tours, whale watching tours, dolphin and sea life tours, education tours, weddings, corporate events, holiday parties, memorials at sea, water taxi services, and dinner cruises. Sport fishing tours are not permissible.

All tours shall be directly operated by Assignee except for dinner cruises which may be operated by a third party (Sub-Assignee) under the direction and control of Assignee. Assignee shall obtain and guarantee any Sub-Assignee's compliance with all terms and conditions of this Permit. All indemnity obligations of Assignee under Section 18 of this Permit shall include any and all operations by any Sub-Assignee in connection with such Sub-Assignee's use of the Premises. Any Sub-Assignee shall also procure and maintain the insurance coverage required under Section 19 of this Permit for any use of the Premises.

The vessels authorized to use the Premises and Alternate Premises for tours scheduled on behalf of the City include:

M/V Kristina	M/V Karin Lynn
M/V Caroline	M/V Christopher
M/V Triumphant	M/V Cool Breeze
M/V Harbor King	M/V La Espada

The vessels authorized to use the Premises and Alternate Premises for tours not sponsored by the City include:

M/V Karin Lynn	M/V Christopher
M/V Triumphant	M/V La Espada

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The vessels authorized to use the Premise and Alternate Premises for dinner cruises are those that receive the written consent of the Executive Director prior to the use of the Premises.

Assignee may not berth any vessels other than those listed above at the Premises or Alternate Premises without first obtaining the written consent of the Executive Director. No advertising, scheduling, collection of money or any other activities other than the loading and unloading of passengers and supplies are permitted. Assignee shall maintain and provide to City a schedule of all charters not sponsored by the City, including the number of passengers, and provide updated schedules as often as necessary to provide at least five (5) business days' prior written notice of each intended use of the Premises or Alternate Premise using the Schedule of Charter Vessels form attached as Exhibit C. The Executive Director reserves the absolute right to deny Assignee the right to use the Premises or Alternate Premises for any or all scheduled charters upon twenty-four (24) hours' written notice to Assignee at his or her sole discretion. Weekend and holiday docking at the Premises and Alternate Premises is not permitted for tours not sponsored by the City without prior written authorization of the Executive Director or designee. The Executive Director or designee reserves the absolute right to deny any such requests for authorization at his or her sole discretion. Assignee acknowledges and agrees that, notwithstanding any expenditures Assignee may have made in preparation for its use of the Premises or Alternate Premises, City does not guarantee that the Premises or Alternate Premises shall be available for Assignee's use at any particular time. Assignee's inability to load or unload passengers on any particular day or at any particular time due to the unavailability of the Premises or Alternate Premises shall not entitle Assignee or any other person to any damages. Assignee's vessels may not arrive at or remain at the Premises or Alternate Premises other than during the time each vessel is actively loading or unloading passengers and/or supplies. Assignee's vessels must return to each vessel's primary berthing location after each trip unless the vessel is scheduled to go out within the next four hours for another charter. At any other time, any authorized vessel may only dock at the Premises or Alternate Premises for up to one hour prior to the scheduled departure or one hour after the arrival time. Assignee shall remove all trash and debris from the Premises and Alternate Premises and the adjacent areas immediately after each use of the Premises or Alternate Premises. No deviation from the Permitted Use, schedule, or authorized vessels is permitted without the prior written authorization of the Executive Director or designee.

3. Effective and Termination Dates. This Permit shall become effective on the date of its approval by the City Council of City ("Council") pursuant to Section 606 of City's Charter, and execution by the Executive Director of the Harbor Department ("Executive Director"), after approval as to form and legality by the City Attorney of the City of Los Angeles ("Effective Date"). The term of this Permit shall be for three (3) years commencing on the Effective Date and expiring three years thereafter ("Termination Date"), unless sooner terminated or extended in accordance with this Permit.

4. Options for Renewal / Early Termination. City and Assignee agree to two renewal options to extend the term of this Permit beyond the initial three-year term exercisable upon the mutual consent of the Assignee and Executive Director. Each option is for a one (1) year period and must be exercised, if at all, by written notice delivered by Assignee to Executive Director not later than the first day of the period beginning thirty (30) days prior to the expiration of the then current term of the Permit. Such option shall then be subject to acceptance or rejection at the sole discretion of the Executive Director by written notice delivered by the Executive Director to Assignee. Failure to exercise any option right in the manner herein provided shall terminate any and all remaining options rights, if any. Any exercise of an option to renew shall be irrevocable unless Assignee and Executive Director agree otherwise in writing. During any extension term of this Permit, all terms, covenants and conditions hereof shall remain unmodified and in full force and effect.

Notwithstanding the initial term and options to extend set forth in this Section 4, City shall have the sole right to terminate this Permit at any time for any reason at the sole discretion of the Executive Director. City may exercise its right to terminate this Permit, by and through the Executive Director, by providing a ninety (90) day prior written notice to Assignee of the effective date of termination. Assignee understands and agrees that Assignee has the interest only of a licensee and has no other interest in the Premises. Assignee understands and agrees that the City reserves the unqualified and unconditional right at any

time without any more notice to Assignee than set forth in this Section 4 to withdraw the Premises from Assignee's use. Assignee understands and agrees that, notwithstanding any expenditures it may have made in preparation for its use of the Premises, such withdrawal from use by City does not entitle Assignee, any Sub-Assignee, or any other person to any damages. Neither City, nor any Board member, officer, or employee thereof, shall be liable in any manner to Assignee or any Sub-Assignee because of such termination of this Permit.

5. Compensation.

(a) Compensation. Assignee shall pay to the Harbor Department as compensation for the use of the Premises and Alternate Premises seven percent (7%) of all gross receipts for all tours not sponsored by the City, except for dinner cruises, and five percent (5%) of all gross receipts for all dinner cruises ("Compensation"). Gross receipts shall include all charges, sales, fees, and commissions made, earned, and/or received by Assignee whether collected or accrued, from any business, use, or operation, or any combination thereof, originating, transacted, or performed, in whole or in part, on the Premises or Alternate Premises pursuant to this Permit. Gross receipts include, but are not limited to, all monies collectible from ticket sales, services, and the sale or delivery of goods, wares, and merchandise, exclusive only of retail sales taxes, excise taxes, and other direct taxes on the consumer. No set off or deduction against gross receipts is permitted unless expressly provided for herein. Assignee shall prepare and deliver to the City within fifteen (15) days after the end of each month a completed Gross Receipts Report, on the a form attached as Exhibit D, verified by Assignee's duly authorized officer or representative, showing in reasonable detail the elements and amount of gross receipts generated during the preceding month. Payment of all Compensation due as reflected on each Gross Receipts Report shall accompany the completed Gross Receipts Report. Assignee shall further have prepared and delivered to City on or before the thirtieth (30) day following the end of each year during the term of the Permit, a complete, certified, audited annual statement prepared by a Certified Public Accountant and verified by Assignee's duly authorized officer or representative, showing in reasonable detail the elements and amounts of gross receipts generated during the preceding year or fraction thereof. Payment of any unpaid Compensation due under this Permit for the preceding year shall accompany the annual statement.

(b) Additional Charges. Use of the Premises and Alternate Premises for purposes not expressly permitted herein, whether approved in writing by Executive Director or not, may result in additional charges, including charges required under the Tariff. Assignee agrees to pay such additional charges. Compensation due under this Permit is in addition to any applicable charges under the Tariff.

(c) Late Charge. Compensation payments which have not been paid within ten (10) days of the due date shall be subject to a service charge consisting of simple interest of one-thirtieth (1/30) of two percent (2%) of the invoice amount remaining unpaid each day for costs and expenses incurred by reason of Assignee's late payment. City shall have the right, without further notice to Assignee, to change the amount charged for the late charge to the amount set forth in Tariff Item No. 270 if the amount in Tariff Item No. 270 changes. Acceptance of any late charge (or any other payments) shall not constitute a waiver of Assignee's default under Section 14 of this Permit.

(d) Security Deposit. Prior to the issuance of this Permit, Assignee shall deposit with City a sum equal to Two Thousand Dollars (\$2,000) as security for Assignee's performance under this Permit ("Security Deposit") including but not limited to covering Assignee's delinquent Compensation and its other obligations under this Permit including but not limited to repairing damages to the Premises and Alternate Premises. Notwithstanding the foregoing, City shall not be required to apply the Security Deposit to any of Assignee's obligations under this Permit during the term of the Permit. If all or any part of the Security Deposit is used to pay any Compensation due and unpaid or to meet any other Assignee obligation, Assignee shall then immediately reimburse City for the amount applied so that at all times during the life of this Permit the full amount the Security Deposit set forth above shall be on deposit with City. Failure to maintain the full amount of the Security Deposit shall constitute a material breach of this Permit. In the sole discretion of Executive Director, Assignee may post other forms of security but only in

a form acceptable to the Los Angeles City Attorney. If for any reason City has not initially required a Security Deposit from Assignee, City may at any time and for any reason require a Security Deposit in an amount Executive Director determines necessary to secure performance of the Permit. Assignee agrees to post such deposit with City within ten (10) days of written request from City and agrees that its failure to do so constitutes a material breach of this Permit. No interest is payable by City on the Security Deposit. Any deposit required under this Section 5 shall be in addition to any deposit required for the issuance of a Harbor Engineer Permit pursuant to Section 10 of this Permit.

(e) No Right of Set-Off. Notwithstanding any other provision of this Permit, Assignee's obligation to pay all Compensation shall be absolute and unconditional and shall not be affected by any circumstance including, without limitation, any set-off, counterclaim, recoupment, defense, or other right or claim which Assignee may have against City.

(f) Place of Payment. Assignee shall render its payments to City of Los Angeles Harbor Department, P.O. Box 514300, Los Angeles, CA 90051-4300, or any other place that City from time to time may designate in writing. Payment shall be made in U.S. Dollars, either in the form of a check (drawn on a bank located in the State of California) or via electronically transmitted funds. Compensation is to be paid only by Assignee. Notwithstanding the foregoing, acceptance of Compensation paid by any entity or person other than Assignee shall not create any rights under this Permit for the entity or person making the Compensation payment.

(g) Compensation. All amounts payable by Assignee to City under this Permit during the term of this Permit shall be deemed to be Compensation.

6. Utility Charges. Unless otherwise provided for herein, Assignee shall pay all charges for services furnished to the Premises or Alternate Premises or used in connection with its occupancy, including, but not limited to, heat, gas, power, telephone, water, light, and janitorial services, and pay all deposits, connection fees, charges, and meter rentals required by the supplier of any such service, including City.

7. Rights-of-Way. This Permit shall at all times be subject to rights-of-way over, on, under, and through the Premises and Alternate Premises for (1) sewers; storm drains; pipelines (public or private); telecommunications equipment; conduits; telephone, cable, fiber optic, and/or power lines; and all similar items; (2) streets, highways, railroads, and all other means of transportation; and (3) equipment access, occupancy, and all other rights reasonably necessary to comply with homeland security or related requirements of federal, state, and local agencies; regardless of whether such rights-of-way exist or are authorized by Board or City in the future. City further reserves rights-of-way over, on, under, and through the Premises and Alternate Premises as Board or City requires to drill and explore new, or to maintain existing, oil, gas, or mineral wells. This Permit and the Premises and Alternate Premises shall at all times be subject to all prior exceptions, reservations, grants, easements, leases, or licenses of any kind whatsoever as the same appear of record in the Office of the Recorder of Los Angeles County, California, or in the official records of City or any of its various departments, and shall also be at all times subject to additional reservations Board or City may reasonably require after the Effective Date for which Assignee shall receive no compensation unless otherwise expressly provided.

8. Premises Satisfactory to Assignee / Required Modifications. Assignee has inspected the Premises and Alternate Premises and agrees that they are suitable for the Permitted Use. No officer or employee of City has made any representation or warranty with respect to the Premises or Alternate Premises, except as described in writing and attached hereto as an addendum, if any, and in entering into this Permit, Assignee agrees it relies only on the provisions of the Permit. Any modification, improvement, or addition to the Premises or Alternate Premises and any equipment installation or removal required by the Fire Department, Department of Building and Safety, South Coast Air Quality Management District, Regional Water Quality Control Board, U.S. Coast Guard, Environmental Protection Agency, or any other agency in connection with Assignee's operations, shall be constructed, installed, or removed at Assignee's sole expense. Assignee shall obtain a Harbor Engineer Permit from the office of

the Chief Harbor Engineer, Engineering Division, of City's Harbor Department ("Chief Harbor Engineer") and shall comply with the requirements of Section 10 of this Permit before making any modification, improvement, or addition to the Premises or Alternate Premises.

9. Maintenance and Repair. Assignee, at its sole cost and expense, shall provide sufficient dumpsters or other like containers for trash collection and disposal and keep the Premises and Alternate Premises free and clear of rubbish, debris, and litter at all times. Assignee shall perform annually, at a minimum, before the commencement of the rainy season, inspections and cleaning of any storm water catch basins (including filters), maintenance holes, and drains, maintaining the submerged land underlying any water berthing area at the Premises and Alternate Premises free and clear of debris from the wharf and from vessels, and loading and unloading operations of vessels berthed at said berths in connection with Assignee's undertaking of the Permitted Use. Assignee, at its sole cost and expense, further shall keep and maintain the Premises and Alternate Premises in a safe, clean, and sanitary condition in accordance with all applicable federal, state, municipal, and other laws, ordinances, rules, and regulations.

Assignee shall be responsible, at its sole cost and expense, for all costs, direct or indirect, associated with repairing any damage to the Premises resulting from Assignee's or any Sub-Assignee's use of the Premises. The Harbor Department shall have the option of either making the repairs or requiring Assignee to make the repairs. If the Harbor Department makes the repairs, Assignee agrees to reimburse the Harbor Department for the City's costs incurred in making the repairs. All damage shall be presumed to be the responsibility of Assignee, and Assignee agrees to be responsible for such damage, unless Assignee can demonstrate to the satisfaction of the Executive Director that someone other than Assignee or any Sub-Assignee, or their officers, agents, employees, customers, contractors, licensees, or other invitees caused the damage. The sufficiency of proof presented by Assignee to the Harbor Department shall be determined by the Executive Director in the Executive Director's sole judgment. Assignee shall monitor and immediately report any and all damage to the Premises and, no later than two business days after the occurrence and/or discovery of any damage to the Premises, provide to the Executive Director in writing a description of the date, time, and cause of the damage, and identity of any responsible party or parties, to the extent Assignee is able to ascertain such information.

10. Alterations on Premises. Assignee shall not construct on or alter ("Alteration") the Premises or Alternate Premises, including a change in the grade, without first obtaining City's written approval and a Harbor Engineer Permit. Assignee shall submit to City a complete Application for Port Permit that attaches a complete set of drawings, plans and specifications reflecting the proposed Alteration. Where applicable, the drawings, plans and specifications must be prepared and stamped by a licensed engineer registered in the State of California. All projects in the Harbor District are subject to review by City's Harbor Department pursuant to the California Environmental Quality Act (CEQA) and the certified Port Master Plan. City's Chief Harbor Engineer shall have the right to reject or order reasonable changes in said drawings, plans, and specifications. Assignee, at its own expense, shall obtain all permits necessary for such Alteration, including a Harbor Engineer Permit, prior to the commencement of such Alteration. All Alterations by Assignee pursuant to this Permit shall be at Assignee's sole expense. Assignee shall keep the Premises and Alternate Premises free and clear of liens for labor and materials and shall hold City harmless from any responsibility in respect thereto. Assignee shall give written notice to the Chief Harbor Engineer, in advance, of the date it will commence any Alteration. Immediately upon the completion of the Alteration, Assignee shall notify the Chief Harbor Engineer of the date of such completion and shall, within thirty (30) days after such completion, file with the Chief Harbor Engineer, in a form acceptable to the Chief Harbor Engineer, a set of "as built" plans for such Alteration if required under the terms of the Harbor Engineer Permit issued for the Alteration.

11. Signs and Lighting. Assignee shall not erect or display, or permit to be erected or displayed, on the Premises or Alternate Premises any signs or advertising matter of any kind without first obtaining the written consent of Executive Director. If Assignee obtains consent, Assignee shall also comply with the requirements of Section 10 of this Permit prior to erecting or displaying any signs or advertising matter on the Premises or Alternate Premises. Assignee shall further post, erect, and maintain

on the Premises or Alternate Premises such signs as Executive Director may direct. All signs erected or displayed on the Premises or Alternate Premises shall comply with the regulations set forth in Section 14.4.1 *et seq.* of the Los Angeles Municipal Code. Assignee acknowledges that the Premises or Alternate Premises may lack adequate lighting for a Permitted Use and that Assignee is responsible for installing temporary or permanent lighting as it may deem necessary to perform any labor, or to protect any property stored or located on the Premises or Alternate Premises, or to otherwise use the Premises or Alternate Premises for any Permitted Use. Assignee shall comply with the requirements of Section 10 of this Permit prior to installing any lighting. Any lighting installed shall meet Illuminating Engineering Society / American National Standards Institute (IES/ANSI) standards.

12. Immediate Access to Repair / Maintain Premises. Assignee is aware that City's Department of Water & Power, other utility, or other maintenance or service from or on behalf of City, may need to service or repair certain facilities on the Premises or Alternate Premises. If such repair is necessary, Assignee agrees to relocate, at its expense, all of its equipment and other personal property to provide such personnel adequate access. Assignee agrees to complete such relocation within twenty-four (24) hours of receiving notice from City except in case of emergency. Assignee agrees neither the department servicing the Premises or Alternate Premises nor City shall be responsible for any loss Assignee may suffer as a result of such maintenance or repair.

13. Premises Subject to Tariff. Assignee accepts the Premises and Alternate Premises and shall undertake the Permitted Use set forth in Section 2 of this Permit subject to each and every term and condition provided herein, and to each and every rate, term, and condition of the Tariff, as applicable to the Premises or Alternate Premises and/or the Permitted Use. Assignee represents and warrants that it has received, read, and understands the rates, terms, and conditions of the Tariff. Except as otherwise set forth in this Permit, Assignee is contractually bound by all Tariff rates, terms, and conditions as if the same were set forth in full herein. City in its sole and absolute discretion shall determine if a conflict exists between a provision of this Permit and a Tariff provision. In the event of such conflict, this Permit shall at all times prevail.

14. Assignee Default.

(a) Events of Default. The occurrence of any of the following shall constitute a material breach and default by Assignee under this Permit: (1) Assignee's failure to pay when due any Compensation required to be paid under this Permit if the failure continues for three (3) days after written notice from City; (2) Assignee's failure to perform any other obligation under this Permit if Assignee fails to cure the failure within three (3) days after delivery of written notice of the failure from City to Assignee; (3) Assignee's abandonment of the Premises or Alternate Premises including but not limited to (i) Assignee's absence from or failure to use the Premises or Alternate Premises or any substantial portion thereof for three (3) consecutive days (excluding Saturdays, Sundays, and California legal holidays) while in default of any provision of this Permit; or (ii) if Assignee is not in default, Assignee's absence from or failure to use the Premises or Alternate Premises or any substantial portion thereof for a period of thirty (30) consecutive days unless Assignee, prior to the expiration of any such period of thirty (30) consecutive days, notifies Executive Director in writing that such nonuse is temporary and obtains the written consent of Executive Director to such nonuse; (4) To the extent permitted by law (i) a general assignment by Assignee or any guarantor of the Permit for the benefit of the creditors without written consent of City; (ii) the filing by or against Assignee, or any guarantor, of any proceeding under an insolvency or bankruptcy law, unless (in the case of an involuntary proceeding) the proceeding is dismissed within sixty (60) days; (iii) the appointment of a trustee or receiver to take possession of all or substantially all the assets of Assignee or any guarantor, unless possession is unconditionally restored to Assignee or that guarantor within thirty (30) days and the trusteeship or receivership is dissolved; and/or (iv) any execution or other judicially authorized seizure of all or substantially all the assets of Assignee located on the Premises or Alternate Premises, or of Assignee's interest in this Permit, unless that seizure is discharged within thirty (30) days.

(b) City's Remedies. City may pursue any and all remedies at law or in equity including seeking all monetary damages and termination of this Permit. City's remedies are cumulative and not inclusive. Nothing herein shall imply that City's right to terminate this Permit as provided in Sections 23 and 24 is limited in any way. All personal property that remains on the Premises or Alternate Premises after Assignee vacates the Premises and Alternate Premises shall become the property of City at City's option.

15. Compliance with Applicable Laws and Environmental Obligations.

(a) At all times in its use and occupancy of the Premises and Alternate Premises and its conduct of operations thereon, Assignee, at Assignee's sole cost and expense, shall comply with all applicable federal, state, county, City, or government agency laws, statutes, ordinances, standards, codes (including all building codes), rules, regulations, requirements, or orders in effect now or hereafter in effect ("Applicable Laws") pertaining to the use or condition of the Premises or Alternate Premises and/or Assignee's operations and conduct of its business. Applicable Laws shall include, but not be limited to, all environmental laws and regulations in effect now or hereafter in effect including:

(i) The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") (42 USCS §§ 9601 *et seq.*) in its present or successor form and its implementing regulations;

(ii) The Resource Conservation and Recovery Act and Hazardous and Solid Waste Amendments of 1984 ("RCRA") (42 USCS §§ 6901 *et seq.*) in its present or successor form and its implementing regulations;

(iii) The federal Clean Water Act (33 USCS §§ 1251 *et seq.*) in its present or successor form and its implementing regulations;

(iv) The California Porter-Cologne Water Quality Control Act (California Water Code §§ 13020 *et seq.*) in its present or successor form and its implementing regulations;

(v) The federal Clean Air Act (42 USCS §§ 7401 *et seq.*) in its present or successor form and its implementing regulations;

(vi) The California Clean Air Act of 1988 (Chapter 1568, Statutes of 1988) in its present or successor form and its implementing regulations;

(vii) The California Lewis-Presley Air Quality Management Act of 1976 (California Health and Safety Code §§ 40400 *et seq.*) in its present or successor form and its implementing regulations; and

(viii) Any other applicable federal, state, or local law, regulation, ordinance or requirement (including consent decrees and administrative orders imposing liability or standard of conduct) now or hereinafter in effect which concerns Environmentally Regulated Material (as defined in Section 15(c)), the Premises or Alternate Premises, and/or Assignee's use and/or occupancy thereof.

(b) It is the parties' intent that Assignee will make, at Assignee's sole cost and expense, any and all alterations, improvements, and changes, whether structural or nonstructural, that are required by Applicable Laws. In addition, Assignee shall comply immediately with all applicable environmental policies, rules, and directives of City's Harbor Department, known as the Port Environmental Policies. This Permit shall be construed in accordance with California law.

(c) Assignee shall not cause or permit any Environmentally Regulated Material, as defined in this Section 15(c), to be generated, brought onto, handled, used, stored, transported from, received, or disposed of (hereinafter sometimes collectively referred to as "handle" or "handled") in or about the

Premises or Alternate Premises except for limited quantities of standard office and janitorial supplies containing chemicals categorized as Environmentally Regulated Material and except as permitted, required, or necessary under Section 2 of this Permit, if any. Assignee shall handle all such Environmentally Regulated Material in strict compliance with Applicable Laws in effect during Assignee's occupancy. The term "Environmentally Regulated Material" shall mean:

- (i) Any "hazardous substance" as that term is defined in the CERCLA;
- (ii) "Hazardous waste" as that term is defined in the RCRA;
- (iii) Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standard of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereinafter in effect);
- (iv) Radioactive material, including any source, special nuclear, or byproduct material as defined in the Atomic Energy Act of 1954 (42 USCS §§ 2011 *et seq.*) in its present or successor form;
- (v) Asbestos in any form or condition;
- (vi) Polychlorinated biphenyls ("PCBs") and any substance or compound containing PCBs; and
- (vii) Petroleum products.

(d) Assignee shall remediate or cause the remediation of any spill, discharge, or release of any Environmental Regulated Material that occurs in, on, under, or about the Premises or Alternate Premises ("Contamination"), whether caused by Assignee or any third-party during Assignee's occupancy, including Contamination of improvements, adjacent harbor waters, soil, sediment, groundwater, or air, or of adjacent premises (including soil, sediment, groundwater, or air) and including Contamination that is considered a nuisance under Applicable Laws. Remediation shall be to the satisfaction of City, and the requirements of the applicable governmental agencies including the Regional Water Quality Control Board, by removing or effecting the removal of all Contamination including but not limited to contaminated soil, water, groundwater, sediment, or other material it may place or cause to be placed on site such that no encumbrances, such as deed or land use restrictions, be imposed on the Premises or Alternate Premises as a result of such Contamination. In fulfilling the obligations under this Section 15, Assignee shall also comply with any other conditions reasonably imposed by City. If Assignee knows or has reasonable cause to believe that Contamination has occurred in, on, under, or about the Premises or Alternate Premises, Assignee shall immediately give written notice to City.

(e) Assignee bears sole responsibility for full compliance with any and all Applicable Laws regarding the use, storage, handling, distribution, processing, and/or disposal of Environmentally Regulated Material including Contamination, regardless of whether the obligation for such compliance or responsibility is placed on the owner of the Premises or Alternate Premises, on the owner of any improvements on the Premises or Alternate Premises, on the user of the Premises or Alternate Premises, or on the user of any improvements on the Premises or Alternate Premises. For purposes of CERCLA, and any and all other Applicable Laws, Assignee shall be considered the owner and operator. Assignee agrees that any claims, damages, fines, or other penalties asserted against or levied on City and/or Assignee as a result of noncompliance with any Applicable Laws shall be the sole responsibility of Assignee and that Assignee shall indemnify and hold City harmless from any and all such claims, damages, fines, penalties, and/or judgments, as well as any costs expended to defend against such claims, damages, fines, and penalties and/or judgments, including attorneys' and experts' fees. City, at its sole option, may pay such claims, damages, fines, penalties, and/or judgments resulting from

Assignee's noncompliance with any of the aforementioned authorities, and Assignee shall indemnify and reimburse City for any such payments.

(f) In discharging Assignee's obligations under this Permit, if Assignee disposes of any Contamination, within thirty (30) days of Assignee's receipt of original documents, Assignee shall provide City copies of all records, including a copy of each uniform hazardous waste manifest indicating the quantity and type of material being disposed of, the method of transportation of the material to the disposal site, and the location of the disposal site. Neither City, Port of Los Angeles, nor Los Angeles Harbor Department shall appear on any manifest document as a generator of such material.

(g) In discharging Assignee's obligations under this Permit, Assignee shall perform any tests using a State of California Department of Health Services certified testing laboratory or other similar laboratory upon City's written approval. By signing this Permit, Assignee hereby irrevocably directs any such laboratory to provide City, upon written request from City, copies of all of its reports, tests results, and data gathered. As used in this Section 15, "Assignee" includes agents, employees, contractors, subcontractors, and/or invitees of Assignee.

(h) Assignee shall implement City's Harbor Department's policies, known as Best Management Practices, in order to reduce the potential for pollutants to enter Harbor waters, as follows:

(i) Facility Operations: Clean and maintain facility regularly. Use dry cleaning methods whenever possible; avoid washing areas down. Do not allow sweepings or sediment to enter the storm drain or the Harbor. Collect wash water for disposal or direct to a clarifier. Do not encourage scavengers. Do not feed birds, feral cats, sea lions, or other scavengers. Recycle whenever possible.

(ii) Maintenance Operations: Use drip pans to prevent any drips or leaks from contacting the ground during maintenance and fueling operations. Clean spills or drips immediately using dry methods. Use spill cleanup kits to confine or contain spills. Do not hose down equipment or allow process water to enter the storm drain or the Harbor. Place tarps beneath maintenance and repair operations to prevent materials such as paint chips and metals from contacting the ground.

(iii) Material and Waste Handling and Storage: Train employees responsible for waste management on handling and disposal procedures. Store all hazardous and universal waste in accordance with all federal, state, and local regulations. Store all materials and waste inside and in secondary containment. If stored outside, store only in designated, covered, and contained areas. Store waste in covered, leak proof, labeled containers. Keep lids closed on all outdoor containers including dumpsters. Store all oily products (e.g. engines), batteries, tires, and metal off the ground and under cover when stored outdoors.

(i) Except as may be otherwise provided in this Permit, Assignee's obligations in this Section 15 shall survive the Termination Date of this Permit.

16. Restoration and Surrender of Premises. Upon the termination of this Permit, Assignee shall quit and surrender occupancy and use of the Premises and Alternate Premises to City and shall, without cost to City, remove any and all its property and restore the Premises and Alternate Premises to the same or as good condition as the same were in at the time of the first occupancy thereof by Assignee. Assignee may incur additional charges and/or forfeit any deposit if Assignee fails to fully restore the Premises and Alternate Premises to the satisfaction of the Executive Director prior to the termination of this Permit.

17. Compensation During Restoration. Assignee understands and agrees it is responsible for complete restoration of the Premises and Alternate Premises before the Termination Date, as provided in this Permit and under Applicable Laws, including but not limited to the clean-up of any Contamination in, on or about the Premises and Alternate Premises. If, for any reason, such restoration is not completed before the Termination Date, then Assignee is obligated to pay City compensation

during such restoration period, in an amount equal to the then fair market rental value of the Premises and Alternate Premise and City's Harbor Department's then established rate of return as determined by City; however, said compensation amount shall not be less than the Compensation paid by Assignee at the time of the Termination Date. Assignee also agrees to provide City a surety bond, in an amount determined by Executive Director, in his or her sole reasonable discretion, to assure removal of Contamination from the Premises and Alternate Premises at any time City demands such bond.

18. Indemnity.

(a) Except as may arise from the sole negligence or willful misconduct of City, Assignee shall at all times relieve, indemnify, protect, and save harmless City and any and all of its boards, officers, agents, and employees from any and all claims and demands, actions, proceedings, losses, liens, costs, and judgments of any kind and nature whatsoever, including cost of litigation (including all actual litigation costs incurred by City, including but not limited to costs of experts and consultants), for death of or injury to persons, or damage to property, including property owned by or under the care and custody of City, and for civil fines and penalties that may arise from or be caused directly or indirectly by:

(i) Any dangerous, hazardous, unsafe, or defective condition of, in, or on the Premises or Alternate Premises, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the Premises or Alternate Premises by Assignee, any Sub-Assignee, and their officers, agents, employees, assignees, or invitees;

(ii) Any operation conducted upon, or any use or occupation of, the Premises or Alternate Premises by Assignee, any Sub-Assignee, and their officers, agents, employees, assignees, or invitees under or pursuant to the provisions of this Permit or otherwise;

(iii) Any act, error, omission, willful misconduct, or negligence of Assignee, any Sub-Assignee, and their officers, agents, employees, assignees, or invitees, arising from the use, operation, or occupancy of the Premises or Alternate Premises, regardless of whether any act, omission, or negligence of City, its officers, agents, or employees contributed thereto;

(iv) Any failure of Assignee, any Sub-Assignee, and their officers, agents, or employees to comply with any of the terms or conditions of this Permit or any Applicable Laws; or

(v) The conditions, operations, uses, occupations, acts, omissions, or negligence referred to in subdivisions (i), (ii), (iii) and (iv) above, existing or conducted upon or arising from the use or occupation by Assignee, any Sub-Assignee, or their invitees on any other premises within the Harbor District, as defined in the Charter of City.

(b) Assignee also agrees to indemnify City and pay for all damages or loss suffered by City and City's Harbor Department including, but not limited to, damage to or loss of property, to the extent not insured by City, and loss of City revenue from any source, caused by or arising out of the conditions, operations, uses, occupations, acts, omissions, or negligence referred to in this Section 18. The term "persons" as used in this Section 18 shall include, but not be limited to, officers and employees of Assignee and any Sub-Assignee.

(c) Assignee shall also indemnify, defend, and hold City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution of the value of the Premises or Alternate Premises, damages for loss or restriction on use of rentable or useable space or of any amenity of the Premises or Alternate Premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultants' fees, and experts' fees) which arise during or after the term of this Permit as a result of Contamination for which Assignee is otherwise responsible for under the terms of this Permit. This indemnification of City by Assignee includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean up, remedial, removal, or restoration work required by any

federal, state, or local governmental agency because of Contamination present in the soil or groundwater on or under the Premises or Alternate Premises.

(d) The indemnity obligations under this Section 18 shall survive the Termination Date of this Permit and shall apply regardless of the active or passive negligence of City and regardless of whether liability without fault or strict liability is imposed or sought to be imposed on City.

19. Insurance. In addition to, and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Section 18 of this Permit, Assignee and any Sub-Assignee shall procure and maintain at their sole cost and expense and keep in force at all times during the term of this Permit the following insurance:

(a) Commercial general liability or marine general liability insurance, including contractual liability, and property damage insurance written by an insurance company authorized to do business in the State of California, or approved by the California Department of Insurance as a surplus lines insurer eligible to do business in California, rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if a Best's Rating is not available) with Assignee's and/or Sub-Assignee's normal limits of liability, but not less than Three Million Dollars (\$3,000,000) for injury or death to one or more persons out of each accident or occurrence and Three Million Dollars (\$3,000,000) for bodily injury and property damage for each occurrence / Six Million Dollars (\$6,000,000) general aggregate.

(b) Automobile insurance with limits of liability not less than One Million Dollars (\$1,000,000) covering injuries or death resulting from each accident or claim arising out of any one claim or accident. This insurance shall cover all owned, non-owned, and/or hired automobiles.

(c) Watercraft protection and indemnity coverage with limits of Five Million Dollars (\$5,000,000) per occurrence for bodily injury, illness, death, loss of or damage to the property of another including masters and members of the vessel crew, and Jones Act risks or equivalent thereto internationally. City shall be named as an Additional Insured.

(d) In addition to and concurrently with the aforesaid insurance coverage, Assignee and any Sub-Assignee shall also secure and maintain, either by an endorsement thereto or by a separate policy, fire legal liability insurance with a minimum limit of Two Hundred Fifty Thousand Dollars (\$250,000.00), covering legal liability of Assignee and/or Sub-Assignee for damage or destruction to the works, buildings, and improvements owned by City provided that said minimum limits of liability shall be subject to adjustments by Executive Director to conform with the deductible amount of the fire insurance policy maintained by Board, with waiver of subrogation in favor of Assignee and/or Sub-Assignee so long as permitted by Board's fire insurance policy, upon thirty (30) days' prior written notice thereof to Assignee and/or Sub-Assignee at any time during the term of this Permit. Neither City nor Board should be named as additional insureds on this policy.

(e) Limits for coverage required under Section 19 of this Permit shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self insurance in those cases where, in his or her sole judgment, such retention or self insurance is justified by the net worth of Assignee and/or Sub-Assignee. The self-insured retention or self-insurance shall provide that any other insurance maintained by City's Harbor Department shall be excess of Assignee's and/or Sub-Assignee's insurance and shall not contribute to it. In all cases, regardless of any deductible, retention, or self insurance, Assignee and/or Sub-Assignee shall have all the obligations of an "insurer" under the California Insurance Code and said insurance shall be deemed to include a defense of suits provision and a severability of interest clause.

(f) If Assignee and/or Sub-Assignee maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Assignee and/or Sub-Assignee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

(g) Policies submitted pursuant to Section 19 of this Permit shall, in addition, provide the following coverage either in the original policy or by endorsement substantially as follows:

(i) "Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that the City of Los Angeles, acting by and through its Harbor Department, the Board of Harbor Commissioners, and their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts, and activities of all the insureds, including any sole negligence of the additional insureds, under Revocable Permit No. 2017-03, and under any amendments, modifications, extensions, or renewals of said Permit regardless of whether such contractual obligations, operations, uses, occupations, acts, and activities occur on the Premises or Alternate Premises or elsewhere."

(ii) "The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by the City is excess coverage."

(iii) "In the event of one of the named insureds incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the insurance company's limit of liability."

(iv) "Notice of occurrences or claims under the policy shall be made to the City's Risk Manager with copies to the Los Angeles City Attorney's Office."

(h) Assignee and/or Sub-Assignee shall secure the payment of compensation to any employees injured while performing work or labor necessary for and incidental to performance under this Permit in accordance with Section 3700 of the California Labor Code. Assignee and/or Sub-Assignee shall file with City one of the following:

(i) A certificate of consent to self-insure issued by the Director of Industrial Relations, State of California;

(ii) A certificate of Workers' Compensation insurance issued by an admitted carrier;
or

(iii) An exact copy or duplicate thereof of the policy certified by the Director of Industrial Relations or the insurer.

Such documents shall be filed prior to Assignee's and/or Sub-Assignee's occupancy of the Premises or Alternate Premises. Where Assignee and/or Sub-Assignee has employees who are covered by the United States Longshore and Harbor Workers' Compensation Act ("USLHWC Act"), Assignee and/or Sub-Assignee shall furnish proof of such coverage to City. It is suggested that Assignee and/or Sub-Assignee consult with an insurance professional of their choosing to determine whether their proposed operation methods will render their employees subject to coverage under the USLHWC Act. All Workers' Compensation insurance submitted to City shall include an endorsement providing that any carrier paying benefits agrees to waive any right of subrogation it may have against City.

(i) All insurance procured by Assignee and/or Sub-Assignee shall comply with the following:

(i) Each insurance policy shall provide that it will not be cancelled or reduced in coverage until after City's Risk Manager has been given a 10-day notice of cancellation for nonpayment of premium, and a 30-day notice of cancellation for any other reason.

(ii) Electronic submission is the required method of submitting Assignee's and/or Sub-Assignee's insurance documents. Track4LA[®] is City's online insurance compliance system which is designed to be used by insurance brokers and agents to submit client insurance certificates directly to City. Assignee's and/or Sub-Assignee's insurance broker or agent shall obtain access to Track4LA[®] at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on Assignee's and/or Sub-Assignee's behalf.

(iii) Prior to the expiration of each policy, Assignee and/or Sub-Assignee shall show through submitting to Track4LA[®] that the policy has been renewed or extended or, if new insurance has been obtained, submit the appropriate proof of insurance to Track4LA[®]. If Assignee and/or Sub-Assignee neglects or fails to secure or maintain the required insurance, or if Assignee and/or Sub-Assignee fails to submit proof of insurance as required above, City's Harbor Department may, at its option and at the expense of Assignee and/or Sub-Assignee, obtain such insurance for Assignee and/or Sub-Assignee.

(iv) Executive Director, at his or her discretion, based upon recommendation of the Risk Manager of City's Harbor Department, may request that Assignee and/or Sub-Assignee increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving written notice to Assignee and/or Sub-Assignee.

(v) Immediately upon procuring any and all policies of insurance required herein, Assignee and/or Sub-Assignee must request from Assignee's and/or Sub-Assignee's insurance carrier(s) full certified copies of such policies of insurance. Assignee and/or Sub-Assignee shall thereafter provide such full certified copies of such policies to City within thirty (30) days of Assignee's and/or Sub-Assignee's receipt of such policies from Assignee's and/or Sub-Assignee's insurance carrier(s). Assignee's and/or Sub-Assignee's obligation to provide such copies shall survive the Termination Date regardless of whether Assignee and/or Sub-Assignee receives such policies prior to or after the Termination Date. Assignee and/or Sub-Assignee shall further provide written notice to City of any change of terms of any policies of insurance required herein within thirty (30) days of any such change.

(vi) Assignee and/or Sub-Assignee shall report in writing to Executive Director within fifteen (15) days after it, its officers, or its managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000) to property, occurring upon the Premises or Alternate Premises, or elsewhere within the Harbor District, if Assignee's and/or Sub-Assignee's officers, agents, or employees are involved in such an accident or occurrence. Such report shall contain to the extent available: (1) the name and address of the persons involved; (2) a general statement as to the nature and extent of injury or damage; (3) the date and hour of occurrence; (4) the names and addresses of known witnesses; and (5) such other information as may be known to Assignee and/or Sub-Assignee, their officers, or their managing agents.

20. No Assignments/Subleases/Transfers. Except as specifically authorized with regard to any Sub-Assignee, no transfer of this Permit, 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 Assignee (or any entity that directly or indirectly controls or owns fifty percent (50%) or more of Assignee), 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 Permit (hereafter collectively referred to as "Transfer"), shall be valid or effective for any purpose. "Transfer" also shall include the involvement of Assignee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout, or otherwise) whether or not a formal assignment or hypothecation of this Permit or Assignee's assets, which involvement results in a reduction of the net worth of Assignee (defined as the net worth of Assignee, excluding guarantors, established by generally accepted accounting principles) by an amount greater than twenty-five percent (25%) of such net worth as it was represented at the time of the execution of this Permit or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater. For purposes of this Section 20,

the term "by operation of law" includes but is not limited to: (1) the placement of all or substantially all of Assignee's assets in the hands of a receiver or trustee; or (2) a transfer by Assignee for the benefit of creditors; or (3) transfers resulting from the death or incapacity of any individual who is a Assignee or of a general partner of a Assignee.

21. Assignee Name Change. Assignee shall notify City in writing within ten (10) days of making any changes to its name as set forth in the preamble of this Permit and shall provide City with all documents in connection with the change.

22. Transfer of Stock. If Assignee is a corporation and more than ten percent (10%) of the outstanding shares of capital stock of Assignee is traded during any calendar year after filing its application for this Permit, Assignee shall notify Executive Director in writing within ten (10) days after the transfer date; provided, however, that this provision shall have no application in the event the stock of Assignee is listed on either the New York Stock Exchange, NASDAQ, or the NYSE Arca Options. If more than twenty-five percent (25%) of Assignee's stock is transferred, whether by one or by means of successive transfers, regardless of whether Assignee is a publicly or privately held entity, such transfer shall be deemed an assignment within the meaning of Section 20. Any such transfer shall void this Permit. Such a transfer is agreed to be a breach of this Permit which shall entitle the Executive Director to immediately terminate this Permit by giving written notice thereof.

23. Termination for Misrepresentations. This Permit is granted pursuant to an application filed by Assignee with City. If the application or any of the attachments thereto contain any misstatement of fact which, in the judgment of Executive Director, affected his or her decision to grant said Permit, Executive Director may terminate this Permit immediately upon written notice to Assignee.

24. Termination by Court. If any court having jurisdiction in the matter renders a final decision which prevents the performance by City of any of its obligations under this Permit, then either party hereto may terminate this Permit by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations) shall thereupon terminate.

25. Conflict of Interest. It is understood and agreed that the parties to this Permit have read and are aware of the provisions of Section 1090 *et seq.* and Section 87100 *et seq.* of the Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of City's Harbor Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Permit. Notwithstanding any other provision of this Permit, it is further understood and agreed that if such a financial interest does exist at the inception of this Permit, City may immediately terminate this Permit by giving written notice thereof.

26. Notice. In all cases where written notice, including the service of legal pleadings, is to be given under this Permit, service shall be deemed sufficient if said notice is deposited in the United States mail, in a sealed envelope, addressed as set forth below, with postage thereon fully prepaid. When so given, such notice shall be effective from the date of mailing. Unless changed by notice in writing from the respective parties, notice to the parties shall be as follows:

To City: Los Angeles Harbor Department
P.O. Box 151
San Pedro, California 90733-0151
Attention: Executive Director
Attention: Director of Waterfront & Commercial Real Estate

With a copy to: Office of City Attorney—Harbor Department
425 S. Palos Verdes Street
San Pedro, California 90731
Attention: General Counsel

To Assignee: Harbor Breeze Corp.
83 Narcissa Drive
Rancho Palos Verdes, CA 90275
Attn: Ralph D. Salas, President

Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law. All notice periods under this Permit refer to calendar days unless otherwise specifically stated.

27. Construction of Permit. This Permit shall not be construed against the party preparing it and shall be construed without regard to the identity of the person who drafted this Permit.

28. No Waiver. No waiver by either party at any time of any terms or conditions of this Permit shall be a waiver at any subsequent time of the same or any other term or condition. The acceptance of Compensation by City shall not be deemed a waiver of any other breach by Assignee of any term or condition of this Permit other than the failure of Assignee to timely make any particular Compensation payment so accepted. No breach of a covenant, term, or condition of this Permit will be deemed to have been waived by City unless the waiver is in writing and executed by City.

29. Joint and Several Obligations of Assignee. If more than one individual or entity comprises Assignee, the obligations imposed on each individual or entity that comprises Assignee under this Permit shall be joint and several.

30. Time of the Essence. Time is of the essence in this Permit.

31. Nondiscrimination and Affirmative Action Provisions. Assignee agrees not to discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded under or pursuant to this Permit shall contain this provision. The applicable provisions of Section 10.8 *et seq.* of the Los Angeles Administrative Code are set forth in the attached Exhibit E and are incorporated herein by this reference.

32. Minority, Women and Other Business Enterprise (MBE/WBE/OBE) Outreach Program. It is the policy of City to provide minority business enterprises ("MBEs"), women's business enterprises ("WBEs"), and all other business enterprises ("OBEs") an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Assignee shall assist City in implementing this policy and shall use its best efforts to afford the opportunity for MBEs, WBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including MBEs, WBEs, and OBEs, have an equal opportunity to compete for and participate in any such participation opportunity which might be presented under this Permit.

33. Service Contractor Worker Retention Policy and Living Wage Policy Requirements. Board adopted Resolution No. 5771 on January 3, 1999, to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention, set forth at Section 10.36 *et seq.* of the Los Angeles Administrative Code, as the policy of City's Harbor Department. Further, Charter Section 378 requires compliance with City's Living Wage requirements, set forth at Section 10.37 *et seq.* of the Los Angeles Administrative Code. Assignee shall comply with these policies wherever applicable. Violation of this provision, where applicable, shall entitle City to terminate this Permit and otherwise pursue legal remedies that may be available.

34. Wage and Earnings Assignment Orders/Notices of Assignments. Assignee is obligated to fully comply with all applicable state and federal employment reporting requirements for Assignee and/or its employees. Assignee shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Assignee

will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Section 5230 *et seq.* of the California Family Code. Assignee will maintain such compliance throughout the term of this Permit.

35. Equal Benefits Policy. Board adopted Resolution No. 6328 on January 12, 2005, to adopt the provisions of Los Angeles City Ordinance No. 172,908, as amended, relating to Equal Benefits, set forth at Section 10.8.2.1 *et seq.* of the Los Angeles Administrative Code, a copy of which is attached as Exhibit F, as a policy of City's Harbor Department. Assignee shall comply with the policy wherever applicable. Violation of the policy shall entitle City to terminate this Permit and otherwise pursue legal remedies that may be available.

36. Business Tax Registration Certification. Assignee represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by City's Business Tax Ordinance set forth at Sections 21.00 *et seq.* of the Los Angeles Municipal Code. Assignee shall provide City evidence that all such Certificates have been obtained. Assignee shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended.

37. Wilmington Truck Route. It is recognized by both parties that Assignee may not directly control any trucks serving the Premises or Alternate Premises. However, Assignee will make its best effort to notify truck drivers, truck brokers, and trucking companies that trucks serving the Premises or Alternate Premises must confine their route to the designated Wilmington Truck Route of Alameda Street and Harry Bridges Boulevard; Figueroa Street from Harry Bridges Boulevard to "C" Street; and Anaheim Street east of Alameda Street as depicted on the attached as Exhibit G. The Wilmington Truck Route may be modified from time to time at the sole discretion of Executive Director with written notice to Assignee.

38. State Tidelands Act. This Permit, the Premises and Alternate Premises, and Assignee's use and occupancy thereof shall at all times be subject to the limitations, conditions, restrictions, and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929 (1929 Cal. Stats., Ch. 651), as amended, and Article VI of the Charter of City of Los Angeles relating to such lands. Assignee shall not undertake any use of the Premises or Alternate Premises, even a Permitted Use, which is or will be inconsistent with such limitations, conditions, restrictions, and reservations.

39. Section Headings. Section headings used in the Permit are merely descriptive and not intended to alter the terms and conditions of the sections.

40. Integrated Agreement. It is understood that this Permit supersedes and cancels any and all previous negotiations, arrangements, representations, agreements, negotiations, and understandings, if any, between the parties related to the subject matter of this Permit and there are no oral agreements that affect any of the terms of this Permit.

41. Amendments. No provision of this Permit may be amended except by an agreement in writing signed by City and Assignee. Any such modifications are subject to all applicable approval processes set forth in City's Charter, City's Administrative Code, or other applicable law.

42. Governing Law and Venue. This Permit is made and entered into in the State of California and shall in all respects be construed, interpreted, enforced, and governed under the laws of the State of California without reference to choice of law rules. Any action or proceeding arising out of or related to this Permit shall be filed and litigated in the state or federal courts located in the County of Los Angeles, State of California.

(signature page follows)

THE CITY OF LOS ANGELES, by
its Board of Harbor Commissioners

DATED: _____


By _____
Executive Director


Attest: _____
Board Secretary

The undersigned Assignee hereby accepts the foregoing Permit and agrees to abide by, to be bound by, and to observe each and every of the terms, conditions, and covenants thereof, including those set forth in any addendum.

DATED: 5/5/17


HARBOR BREEZE CORP.

By: 
Ralph Salas, President
Type/Print Name and Title

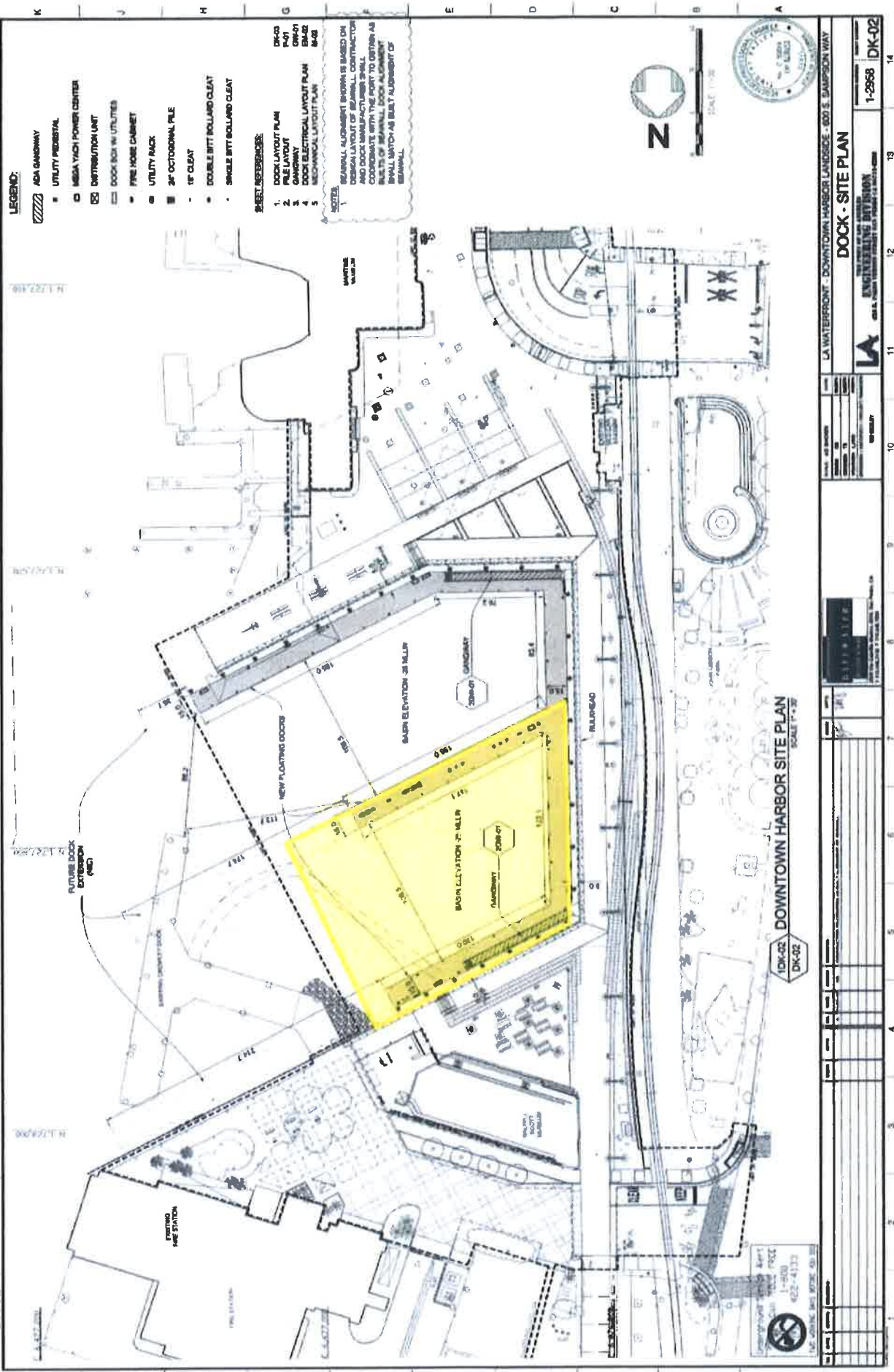
By: 
Kimberly Salas, Vice President
Type/Print Name and Title

APPROVED AS TO FORM AND LEGALITY

May 8, 2017
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By: 
Janet Karkane, Assistant/Deputy

1-2958 DK-02



Premises Area

Exhibit A

PORT OF LOS ANGELES
 425 S. PALOS VERDES STREET, SAN PEDRO, CA 90731
 MONTHLY SCHEDULE OF HARBOR BREEZE CHARTER VESSELS

Transmitted herewith is the upcoming charter vessel information for WEEKDAYS for the MONTH OF _____. Updates to the schedule, if any, will be provided no later than five (5) business days from the departure/arrival of additional vessels calling at the Downtown Harbor.

Notice of cancellations will also be provided as soon as cancellations are made.

License Agreement No. _____

Vessel:					Name of Organization/Group	Passenger Count
Name ¹	Date	Day	Time			
			In	Out		

¹ Vessel Name:

- | | |
|-----------------|---------------|
| A = Triumphant | C = Kristina |
| B = Christopher | D = La Espada |

E= Dinner Cruise Vessel. State vessel name here: _____

Date submitted: _____

HARBOR BREEZE CORP.

 Authorized Signature

Date approved: _____

Approved:

 Eugene D. Seroka, Executive Director

AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such contract:

- A. During the performance of City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.

- C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.

- D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions

AFFIRMATIVE ACTION PROGRAM PROVISIONS

of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

- E. The failure of any contractor to comply with the Affirmative Action Program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.
- F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.
- H. Notwithstanding any other provisions of a City contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.

AFFIRMATIVE ACTION PROGRAM PROVISIONS

- J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. The Contractor shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 2. A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

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1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
- P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.
- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the

AFFIRMATIVE ACTION PROGRAM PROVISIONS

City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

EQUAL BENEFITS ORDINANCE

Sec. 10.8.2.1. Equal Benefits Ordinance.

Discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work. Los Angeles law prohibits entities doing business with the City from discriminating in employment practices based on marital status and/or sexual orientation. The City's departments and contracting agents are required to place in all City contracts a provision that the company choosing to do business with the City agrees to comply with the City's nondiscrimination laws.

It is the City's intent, through the contracting practices outlined in this Ordinance, to assure that those companies wanting to do business with the City will equalize the total compensation between similarly situated employees with spouses and with domestic partners. The provisions of this Ordinance are designed to ensure that the City's contractors will maintain a competitive advantage in recruiting and retaining capable employees, thereby improving the quality of the goods and services the City and its people receive, and ensuring protection of the City's property.

(c) Equal Benefits Requirements.

(1) No Awarding Authority of the City shall execute or amend any Contract with any Contractor that discriminates in the provision of Benefits between employees with spouses and employees with Domestic Partners, between spouses of employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(2) A Contractor must permit access to, and upon request, must provide certified copies of all of its records pertaining to its Benefits policies and its employment policies and practices to the DAA, for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance.

(3) A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment: "During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners." The posted statement must also include a City contact telephone number which will be provided each Contractor when the Contract is executed.

(4) A Contractor must not set up or use its contracting entity for the purpose of evading the requirements imposed by the Equal Benefits Ordinance.

(d) Other Options for Compliance. Provided that the Contractor does not discriminate in the provision of Benefits, a Contractor may also comply with the Equal Benefits Ordinance in the following ways:

(1) A Contractor may provide an employee with the Cash Equivalent only if the DAA determines that either:

a. The Contractor has made a reasonable, yet unsuccessful effort to provide Equal Benefits; or

b. Under the circumstances, it would be unreasonable to require the Contractor to provide Benefits to the Domestic Partner (or spouse, if applicable).

(2) Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent Benefits.

(3) Provide Benefits neither to employees' spouses nor to employees' Domestic Partners.

(e) Applicability.

(1) Unless otherwise exempt, a Contractor is subject to and shall comply with all applicable provisions of the Equal Benefits Ordinance.

(2) The requirements of the Equal Benefits Ordinance shall apply to a Contractor's operations as follows:

a. A Contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the Contract.

b. A Contractor's operations on real property located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the Contractor's presence at or on that property is connected to a Contract with the City.

c. The Contractor's employees located elsewhere in the United States but outside of the City limits if those employees are performing work on the City Contract.

(3) The requirements of the Equal Benefits Ordinance do not apply to collective bargaining agreements ("CBA") in effect prior to January 1, 2000. The Contractor must agree to propose to its union that the requirements of the Equal Benefits Ordinance be incorporated into its CBA upon amendment, extension, or other modification of a CBA occurring after January 1, 2000.

(f) **Mandatory Contract Provisions Pertaining to Equal Benefits.** Unless otherwise exempted, every Contract shall contain language that obligates the Contractor to comply with the applicable provisions of the Equal Benefits Ordinance. The language shall include provisions for the following:

(1) During the performance of the Contract, the Contractor certifies and represents that the Contractor will comply with the Equal Benefits Ordinance.

(2) The failure of the Contractor to comply with the Equal Benefits Ordinance will be deemed to be a material breach of the Contract by the Awarding Authority.

(3) If the Contractor fails to comply with the Equal Benefits Ordinance the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

(4) Failure to comply with the Equal Benefits Ordinance may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

(5) If the DAA determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the Equal Benefits Ordinance, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

TRUCKS ENTERING AND LEAVING THE PORT MUST USE THE ROUTE SHOWN BELOW.
CAMIONES ENTRANDO Y SALIENDO EL PORTO DEVEN DE USAR LA RUTA INDICADO ABAJO.

Ruta designado de camión de carga
Designated Truck Route
at the Port of Los Angeles

