

LEASE AGREEMENT

BETWEEN

**THE
CITY AND BOROUGH OF
SITKA, ALASKA**

AND

**SHEE ATIKA, INCORPORATED
4951 HALIBUT POINT ROAD**

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CITY AND BOROUGH OF SITKA, ALASKA
AND
SHEE ATIKA, INC.**

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Exhibits

Exhibit A – Record of Survey

Exhibit B - Request for Proposals – Response as submitted by Shee Atika, Inc. on
February 2, 2021

**LEASE AGREEMENT
BETWEEN
CITY AND BOROUGH OF SITKA, ALASKA
AND
SHEE ATIKA, INC.**

PREAMBLE

This Lease Agreement ("Lease") between City and Borough of Sitka, Alaska and Shee Atika, Inc. is effective upon execution of the Lease by both Parties, City and Borough of Sitka, Alaska, 100 Lincoln Street, Sitka, Alaska 99835 ("Sitka" or "Lessor") and Shee Atika, Inc., 315 Lincoln Street Suite 300, Sitka, Alaska, 99835 ("Lessee"). This Lease consists of the Special Provisions, the General Provisions, and the attached Exhibits.

Exhibit A – Record of Survey

Exhibit B – Summary of Request for Proposals Response as submitted by Shee Atika, Inc. on February 2, 2021, and amended by subsequent communications

SPECIAL PROVISIONS

ARTICLE I LEASE, TERM OF LEASE, AND TERMINATION OF LEASE

Section 1.1 Conveyance of Estate in Lease.

Lessor, for and in consideration of the Rents received and of the covenants and agreements made by Lessee, does lease to Lessee, and Lessee leases from Lessor, the "Subject Property" as shown on Exhibit A, the Record of Survey which is to be attached to this Lease when accepted by the State of Alaska and Recorded with the State of Alaska's Recorder's Office. Exhibit A shows the boundaries of the Subject Property referred to as 4951 Halibut Point Road for the purpose of constructing and operating a recreational and cultural tourism site consistent with the Request for Proposals Response as submitted by Lessee on February 2, 2021, and amended by subsequent communications as summarized and attached to this Lease as Exhibit B ("Exhibit B"). Prior to the time that Exhibit A is attached, the Subject Property shall be represented by the conceptual diagram set forth in numbered section 6 (six) of Exhibit B.

Section 1.2 Lease Term.

The Lease term commences on August 25, 2021, and ends on October 31, 2041, unless sooner terminated or extended as provided in this Lease. The Lease term may be extended, based on the Option to Renew in Section 1.3.

Section 1.3 Option to Renew.

Provided there does not then exist a continuing material default by Lessee under this Lease at the time of exercise of this right or at commencement of any extended term, Lessee shall have the right to exercise the option for two (2) successive terms of ten (10) years upon the same terms and conditions as this Lease (except Section 1.2, Section 2.2, Section 2.6, or any other provision in the Lease that expressly requires reconsideration upon renewal), with the Lease payments during the

extension terms as described in Article II. This option is effective only if (a) Lessee makes a written request to exercise such an option not more than one (1) year or less than six (6) months from the end of the immediately preceding term; (b) Lessee is in compliance with all applicable laws; and (c) Lessee is not in default under this Lease. The option to renew must be approved by Lessor Assembly. Regardless of any other provision in this Lease, if Lessor Assembly fails to approve an option to renew, Lessee shall have thirty (30) days, or as otherwise mutually agreed in writing, after any Lessor Assembly decision in which to remove improvements from the Subject Property.

Section 1.4 Disposition of Improvements and Lessee's Personal Property Following Term of Lease.

With the exception of such improvements described in the next sentence, Lessee shall remove from the Subject Property any personal property or improvements constructed, installed, or deposited on the Subject Property at the termination of this Lease or any extension unless Lessee makes a separate written agreement with Lessor to do otherwise. Any improvements or personal property not removed after thirty (30) days have passed after termination of this Lease shall be deemed abandoned, and at Lessor's option, shall become the property of Lessor. Lessee shall repay to Lessor any costs of removing such improvements or personal property from the Subject Property if Lessor does not exercise such option. Subject to Lessor's obligations under Subsection 3.1 below, Lessee agrees to leave Subject Property in a neat, clean, and weather-tight condition (to the extent above-ground improvements remain) at the end of the Term of the Lease.

Section 1.5 Covenants to Perform.

This Lease is made upon the above and the following terms and conditions, each of which the Party bound by such covenants and conditions agrees to perform, irrespective of whether the particular provision is in the form of a covenant, an agreement, a condition, a direction, or otherwise, and each Party agrees to provide the other Party with documents or further assurances as may be required to carry out the expressed intentions.

ARTICLE II RENT

Section 2.1 Calculation & Method of Payment of Rent During the Initial Twenty-Year Term of the Lease.

The first year of the Lease begins on the commencement date of this Lease set out in Article I. Each successive year of the Lease begins on November 1st. Notwithstanding any other provision of this Lease, on the term start date set out in Article I, Lessee shall pay Rent on or before November 1st at a rate of \$60,000 plus applicable sales tax. The Rent will be adjusted every three years (in years 2024, 2027, 2030, 2033, 2036, and 2039) taking effect October 31st based on the change in the previous three year's annual percent change for Anchorage, Alaska (also referred to as Urban Alaska) for All Urban Consumers (CPI-U) as published by the U.S. Department of Labor, Bureau of Labor Statistics. The payment made on the commencement date in the year 2021 shall be a prorated amount equal to eighteen and six-tenths percent (18.6%) of the annual rent. The full year Rent to cover November 1, 2021 – October 31, 2022, shall be paid on or before November 1, 2021.

Section 2.2 Cost of Living Adjustment to Lease Rate Upon Exercise of Lease Renewal.

If the option to renew is exercised and approved by Lessor Assembly, annual Rent as set in Section 2.1 shall be adjusted according to a Cost of Living Adjustment schedule as negotiated and approved by Lessor Assembly at time of renewal.

Section 2.3 Calculation and Method of Payment of Rent During Successive Optional Ten-Year Renewal of the Lease.

If Lessee decides to exercise the option to renew a successive ten-year Term under Section 1.3, Lessee must notify Lessor of this intent no more than one (1) year before and no less than six (6) months before the end of the current Term of the Lease. Lessor may commission a professional market appraisal of the Subject Property in its "as is" condition. The appraisal will not take into consideration improvements made to the property by Lessee, but may take into consideration improvements made by Lessor. Lessor and Lessee shall negotiate a new Rent amount to be approved by Lessor Assembly for the successive ten-year term.

Section 2.4 Property Tax Responsibility.

Beginning with the Term of this Lease and each calendar year after, Lessee will be responsible to pay Lessor property taxes for its possessory interest in the land and personal property to the extent taxable as determined by the Municipal Assessor.

Section 2.5 [RESERVED].**Section 2.6 Revenue Share Responsibility.**

In addition to the annual Rent payment per the provisions of Section 2.1 of this Lease, Lessee shall pay Lessor a revenue share in the amount of \$4.00 per customer visiting the Subject Property ("Revenue Share") for the duration of the term of the Lease. The Revenue Share shall be paid annually no later than October 31st. Payment of the Revenue Share shall be made per the provisions of Section 3.4(b) of the Lease excepting the payment date as stated in the previous sentence. Beginning in the year 2031 and for the duration of the term of the Lease, the Revenue Share shall increase to \$4.40 per customer to the Subject Property. The Revenue Share shall be renegotiated and approved by Lessor Assembly in the case that renewal options as outlined in Section 1.3 are exercised by Lessee. Lessee's failure to timely pay the Revenue Share shall be considered an Event of Default as defined by Section 14.1.

ARTICLE III RESTRICTIONS UPON USE OF SUBJECT PROPERTY**Section 3.1 Lessee's Obligations as to Construction, Maintenance, Repair and Safety**

(a) Except as otherwise provided in this Lease, Lessee acknowledges the leasehold is in an "as is" condition. At the sole cost and expense of Lessee and in compliance with all legal requirements, Lessee may purchase, construct, develop, repair, transfer to the Subject Property, and/or maintain any improvements, personal property, fixtures, and other items on the Subject Property in a first-class manner using materials of good quality.

In the event Lessor must access the property for maintenance or other work on the Subject Property, Lessor and Lessee will work together to minimize disruption to Lessee's use, possession, and enjoyment of the Subject Property. Some anticipated disruptions could be interruption in

utilities (e.g. power, water), and operational disturbances from noise, dust and other construction activities.

(b) Lessee acknowledges that Lessor has made no representation or warranty with respect to Lessee's ability to obtain any permit, license, or approval. In the event that any permit, license, or approval sought by Lessee consistent with the permitted uses in Exhibit B is denied, Lessee shall have the right to terminate this Lease in its entirety, with immediate effect, so long as such termination right is exercised within thirty (30) days after such denial, with Lessee receiving a prorated refund of the rent and sales tax paid for the lease year in which such denial occurs.

(c) Lessee shall also use the Subject Property and any improvements placed on the Subject Property only for lawful uses and as specified in the Lease and only for permitted and approved conditional uses subject to the Sitka General Code, Title 22. In the event that approval of the construction and operation of the project as a conditional use is not granted to the Lessee (and Lessee's delegees) on or before November 1, 2021, Lessee shall have the right to terminate this Lease in its entirety, with immediate effect, so long as such termination right is exercised by November 30, 2021. In such event, Lessee shall be entitled to receive a refund of the rent and sales tax paid for the period prior to November 30, 2021.

(d) Lessee shall confine its equipment, storage and operation to the Subject Property.

(e) Lessee shall not permit the accumulation of waste or refuse matter on the Subject Property, and Lessee shall not obstruct or permit the obstruction of the streets, sidewalks, access ways, or alleys adjoining the Subject Property, except as may be permitted by Lessor or other municipal authorities having jurisdiction. Lessee shall do all things necessary during the term of this Lease to remove any dangerous condition from time to time existing on the Subject Property as the result of the use by Lessee.

(f) Lessee may erect outdoor signage at its expense with the written permission of Lessor Building Official and the Planning Director which shall not be unreasonably withheld. The style, size and physical placement location of the sign will be approved on a case-by-case basis and must comply with all applicable local zoning requirements regarding signs.

Section 3.2 Lessor's Approval of Certain Alterations or Improvements or Uses.

Lessee shall not make or permit to be made any alteration of, addition to, or change in, the Subject Property or its structures and improvements, nor demolish all or any part of the structures or improvements without the prior written consent of Lessor, which consent shall not be unreasonably withheld other than those matters, improvements, and activities as are described in Exhibit B. The phrase "structures and improvements" in the previous sentence includes water and wastewater systems and electrical systems. Additionally, Lessee shall not engage in or permit to take place any additional uses of the Subject Property other than those uses as are described in Exhibit B, without the prior written consent of Lessor, which consent will not be unreasonably withheld. The phrase "uses" in the previous sentence includes but is not limited to activities of a commercial, industrial, extractive, recreational, or residential nature. In requesting consent, Lessee shall comply with all applicable laws and ordinances, and shall submit to Lessors Municipal Administrator, or his or her written designee, detailed plans and specifications of proposed work and/or additional

uses, an explanation of the needs and reasons for the work, and a plan of full payment of the costs of the work. Lessor shall notify Lessee of its approval or objections no later than sixty (60) days after receiving the information described in the previous sentence. Lessor Assembly shall review and approve any proposed structures, improvements, or uses not identified in Exhibit B. The Municipal Administrator shall be responsible for determining whether a proposed structure, improvement, or use was identified in Exhibit B, recognizing the appropriateness of flexibility as to the manner in which the project is built and operated in accordance with Exhibit B. In approving or objecting, Lessor shall be acting in its proprietary function and not its regulatory function, any such approval in this proprietary function does not relieve Lessee of any obligation to obey the law. Nothing in this Section shall be interpreted to prevent Lessee from removing at the termination of this Lease any improvements or personal property as described in Section 1.4. By signing this Lease, Lessor has provided consent for construction of structures and improvements as well as uses consistent with Exhibit B.

Section 3.3 Rights of Access to Property

(a) Lessor reserves for itself and any public utility company the right to access the Subject Property at all reasonable times in a reasonable manner for the purposes of opening, inspecting, repairing, replacing, reconstructing, maintaining, or servicing the public utilities, if any, located on the Subject Property, as well as for the purposes of constructing or installing new public utilities. Lessor also reserves for itself and the Alaska Department of Environmental Conservation the right to access the Subject Property at all reasonable times in a reasonable manner for the purposes of regulation and enforcement of this Lease. Lessor also reserves for itself the right to access the Subject Property at all reasonable times in a reasonable manner for the purposes of (1) inspection of all work being performed in connection with the construction of improvements; (2) showing Subject Property or exhibiting Subject Property in connection with renting or leasing Subject Property in a matter that will not unreasonably interfere with Lessee's business; and (3) placing "For Sale" or "For Rent" signs on Subject Property. Lessee shall not charge for any of the access allowed in the situations described in this subsection. Any exercise of rights under this section by or on behalf Lessor shall be done in a manner that will be least disruptive to Lessee and any sublessees.

(b) Lessee shall not construct any permanent improvements over or within the boundary lines of any easement for public utilities without receiving the written prior consent of Lessor and any applicable utility company.

(c) Lessee acknowledges that the Subject Property is or shall be subject to agreements for ingress and egress, utilities, parking, and maintenance. Lessee agrees that it shall comply with the terms of such cooperative agreements, in accordance with the terms of such agreements, those portions of such maintenance expenses that are attributable to the Subject Property, as more fully set forth therein.

Section 3.4 Additional Conditions of Lease.

(a) [RESERVED]

- (b) Lease payments will be made annually in advance in cash or by check, bank draft or money order made available to the City and Borough of Sitka, Alaska. Installments to be delivered or mailed to 100 Lincoln Street, Sitka, Alaska 99835, by or on the anniversary commencement date.
- (c) Lease payments shall become delinquent if not paid within ten (10) days after the due date. Delinquent payments are subject to a late charge and interest accrued from the due date consistent with Sitka General Code provisions.
- (d) The charges and fees paid by Lessee to Lessor must be separated according to Lessor's accounting standards.
- (e) Lessor will only invoice if Lease payments are delinquent. Lessor will only invoice if failure to make Lease payment within thirty (30) days of due date. Lessor, at its option, can terminate the Lease for Lessee's failure to make payment, and in accordance with this Lease if the failure to pay rent continues for thirty days after Lessor invoices Lessee for unpaid rent.
- (f) Lessee covenants and agrees that as it relates to use of the Subject Property, it will not, on the grounds of race, color or national origin, discriminate or permit discrimination against any person or group of person in any manner prohibited by Federal, State or local laws or regulations promulgated under such laws, and Lessee further grants Lessor the right to take such action to enforce such covenant as it deems necessary or as it is directed pursuant to any Federal, State or local laws or regulations.
- (g) Lessor may, upon at least ten (10) days prior written notice to Lessee, temporarily suspend the supply of water, wastewater service, the supply of electric power, the use of pipelines, or the use of the Improvements in order to perform routine maintenance and, in all events, subject to unavoidable delays. Such interruptions shall be of as short duration as necessary to perform such maintenance, and Lessor shall not be responsible for any such costs or expenses as a result of suspending such utilities. Lessor shall coordinate with Lessee as to the timing and duration of any such suspensions to the greatest extent practicable.
- (h) Lessee shall timely pay the Lessor Fire Marshal or Building Inspector fees and other building permit fees. In no event shall the amounts and fees charged to Lessee be any different than would be charged to any other member of the public for the same or similar services and permits.
- (i) Lessee shall be responsible for taking any measures that Lessee deems necessary to provide security for their property. Lessor is not responsible for theft or vandalism.
- (j) Lessor sales tax applies to Rent. Sales tax rates, limits, exemptions, and exclusions are subject to change by Lessor Assembly.
- (k) Lessee shall timely pay all other Lessor billings (i.e., electricity, business taxes, etc.).
- (l) Failure of Lessee to file and pay such Lessor taxes, and pay utilities, assessment payments, and all other Lessor billings, may subject this Lease to be terminated subject to any notice and cure periods allowed by law or this Lease.

(m) Failure of Lessee to timely file and pay Revenue Share, may subject this Lease to be terminated if such failure to pay continues for more than ten (10) days after the due date thereof.

(n) Lessee shall file annually a report to the Municipal Administrator no later than October 31st for the duration of the Lease term. The report shall include the total number of customers to the Subject Property disaggregated by the programs and/or packages purchased, ticket prices for programs and/or packages for attractions on the Subject Property as sold by Lessee or any approved sublessees, and local employment on the Subject Property expressed as an absolute number and as the percentage of total employment on the Subject Property. The first reporting year shall be 2022.

(o) Lessee is prohibited from removing native material, including mining and export of rock, from the Subject Property without written approval from Lessor, which shall not be unreasonably withheld to the extent the activity relates to the removal of overburden and its disposal off site.

Section 3.5 Control of Rodents and Other Creatures on Subject Property.

Lessee shall take reasonable affirmative measures to ensure that its operations do not attract to Subject Property any of the following creatures: rodents, vermin, insects, eagles, crows, ravens, seagulls, mink, otters, or bears.

ARTICLE IV UTILITY SERVICES AND RATES

Section 4.1 Provision of Utility Services.

Lessee will pay for utilities, if available.

Section 4.2 Rates for Utility Services Provided by Lessor.

Utility rates charged by Lessor for utility services shall be those set forth in Sitka's Customer Service Policies and/or Sitka General Code. Lessee acknowledges the requirements of Section 9.4 as to utility lines. The Sitka Assembly may change utility rates from time to time by amending the Customer Service Policies and/or Sitka General Code.

Section 4.3 Lessee to Pay for Utility Services.

Lessee will pay, or cause to be paid, all proper charges for any of the following, if available: electricity and solid waste; sewer and water; and for all other public or private utility services, which shall be used by or supplied to the Subject Property at any time during the Term of this Lease. In the event that any charge, cost, or expense for any of the above-mentioned utility services or for any of the other above-mentioned services shall not be paid when due and payable, Lessor shall have the right, but shall not be obligated, to pay it, with the understanding that amounts paid by Lessor shall constitute additional Rent due and payable under this Lease, and shall be repaid to Lessor by Lessee immediately on rendition of a bill by Lessor. Interest at the highest rate allowable by law shall be added as a charge for unpaid utility bills paid by Lessor on behalf of Lessee. Lessor reserves the right to suspend utility services if Lessee does not pay for utility services. Failure to timely pay utility services may also result in Lessor terminating this Lease.

Section 4.4 Lessor Not Liable for Failure of Utilities or Building.

Except to the extent that any such failure, injury, or other casualty is due to Lessor's negligence or breach of any obligation under this Lease, Lessor shall not be liable for any failure of building roof, water supply, sewer, or electric current, or for any injury or damages to person or property caused by or resulting from any natural disaster, natural condition, gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain, or snows which may leak or flow from the street, sewer, or from any part of the building or the Subject Property, or leakage of gasoline or gas from pipes, appliances, sewer, or plumbing works or from any other place. Lessor shall not be held responsible or liable for any claim or action due to or arising from any suspension of operation, breakage, unavoidable accident or injury of any kind occurring to, or caused by the sewer mains by an act of God or Nature, beyond Lessor's control, or caused by the elements, strikes, riots, or a terrorist or terrorists.

Section 4.5. Requirement Regarding Potable Water Services.

All potable water services will be metered and protected by approved backflow prevention in accordance with Customer Service Policies and/or Sitka General Code.

ARTICLE V LIABILITY**Section 5.1 Limits on Lessor Liability Limitation.**

Lessee agrees to indemnify, defend, and hold harmless Lessor including without limitation Lessor's agents, contractors, employees, or licensees, against and from any and all claims by or on behalf of any person, firm, or entity arising, other than due to acts or omissions of Lessor, from the conduct or management of or from any work or thing whatsoever done in or about the Subject Property and structures and improvements, including liability arising from products produced on the property. Lessee also agrees to indemnify, defend, and save Lessor harmless against and from any and all claims and damages arising, other than due to acts or omissions of Lessor including without limitation Lessor's agents, contractors, employees, or licensees,, during the term of this Lease from: (a) any condition of the Subject Property or improvements placed on it; (b) any breach or default on the part of Lessee regarding any act or duty to be performed by Lessee pursuant to the terms of this Lease; and (c) any act or negligence of Lessee or any of its agents, contractors, employees or licensees. Lessee agrees to indemnify, defend, and hold harmless Lessor from and against all costs, counsel and legal fees, expenses, and liabilities incurred, other than due to acts or omissions of Lessor including without limitation Lessor's agents, contractors, employees, or licensees, in any claim or action or proceeding brought asserting claims of or asserting damages for any alleged act, negligence, omission, conduct, management, work, thing, breach, default, accident, injury, or damage described in the previous two sentences. The above agreements of indemnity are in addition to and not by way of limitation of any other covenants in this Lease to indemnify or compensate Lessor. The agreements of indemnity by Lessee do not apply to any claims of damage arising out of the failure of Lessor including without limitation Lessor's agents, contractors, employees, or licensees, to perform acts or render services in Lessor's municipal capacity.

Section 5.2 Limits on Lessee Liability.

Except to the extent of liabilities arising from Lessee's acts or omissions, Lessor indemnifies, defends, and holds Lessee harmless for liabilities to the extent that they were incurred by reason

of conditions existing on the site as of the date of execution of this Lease or by reasons of Lessor's including without limitation Lessor's agents, contractors, employees, or licensees, acts or omissions. Lessor also agrees to indemnify, defend, and save Lessee harmless against and from any and all claims and damages arising, other than due to acts or omissions of Lessee, during the term of this Lease from (a) any condition of the Subject Property or improvements placed on it; (b) any breach or default on the part of Lessor regarding any act or duty to be performed by Lessor pursuant to the terms of the Lease; and (c) any act or negligence of Lessor or any of its agents, contractors, servants, employees, or licensees. Lessor agrees to indemnify, defend, and save harmless Lessee from and against all costs, counsel and legal fees, expenses, and liabilities incurred, other than due to acts or omissions of Lessee, in any claim or action or proceeding brought asserting claims of or asserting damages for any alleged act, negligence, omission, conduct, management, work, thing, breach, default, accident, injury, or damage described in the previous two sentences. The above agreements are in addition to and not by way of limitation of any other covenants in this Lease to indemnify or compensate Lessee.

Section 5.3 Reimbursement of Costs of Obtaining Possession.

Each Party agrees to pay and to indemnify the other Party prevailing in any dispute under this Lease against, all costs and charges, including but not limited to, full reasonable counsel and legal fees lawfully and reasonably incurred in enforcing any provision of this Lease including obtaining possession of the Subject Property and establishing Lessor's title free and clear of this Lease upon expiration or earlier termination of this Lease.

GENERAL PROVISIONS

ARTICLE VI DEFINITIONS

Section 6.1 Defined Terms.

For the purposes of this Lease, the following words shall have the meanings attributed to them in this Section:

- (a) "Event of Default" means the occurrence of any action specified in Section 14.1.
- (b) "Imposition" means all of the taxes, assessments, fees, utility rates or charges, levies and other governmental charges, levied or assessed against the Subject Property; any part of the Subject Property, or any right or interest or any rent, taxes and income received, including sales taxes on rent.
- (c) "Improvements" or "improvements" means all buildings, structures and improvements of any nature now or in the future located upon the Subject Property, as well as all apparatus and equipment necessary for the complete and comfortable use, occupancy, enjoyment and operation of the Subject Property, including fittings, appliances, machinery, garage equipment, heating equipment, lighting equipment, cooling equipment, air conditioning and ventilating equipment, wiring, controls, communications equipment, plumbing, switchboards, antennae, floor coverings, refrigerating equipment, hot water heating and all other appliances and equipment; excepting only in each case articles of personal property appurtenances and fixtures (including trade fixtures) owned by Lessee, sublessees, or others, which can be removed without defacing or materially

injuring the improvements remaining on the Subject Property, with the portion of the Subject Property from which such items are removed being returned to a condition at least as good as that existing on the date of this Lease. Nothing in this definition is intended to affect the right of Lessee to remove improvements at the termination of this Lease.

(d) "Personal Property" means tangible personal property owned or leased and used by Lessee or any sublessee of Lessee, in connection with and located upon the Subject Property.

(e) "Premises" means the "Subject Property."

(f) "Rent" means the lease rate, which is the amount Lessee periodically owes and is obligated to pay Lessor as lease payments under this Lease for the use of the Subject Property.

(g) "Subject Property" is the area leased as shown on Exhibit A.

(h) "Sublessee" means any sublessee, concessionaire, licensee, or occupant of space in or on the Subject Property holding by or through Lessee; the term "lease" shall mean any lease, license, concession or other agreement for the use and occupancy of any part of the Subject Property made by any Person holding by or through Lessee, which has been approved by Lessor Assembly.

(i) "Term" means the period of time Lessee rents or leases the Subject Property from Lessor.

ARTICLE VII INSURANCE

Section 7.1 Insurance

Lessee shall have and maintain property damage and comprehensive general liability insurance in the amount of one million dollars (\$1,000,000) (each occurrence)/two million dollars (\$2,000,000) (aggregate), as well as ten million dollars (10,000,000) excess or umbrella coverage. Lessor shall be named as an additional insured. Additionally, Lessee shall have the statutory amount of any worker's compensation insurance.

Section 7.2 Notification of Claim, Loss, or Adjustment

Lessee shall advise Lessor of any claim, loss, adjustment, or negotiations and settlements involving any loss on the Subject Property under all policies of the character described in Section 7.1.

Section 7.3 Waiver of Subrogation

The Party insured (or so required) releases the other Party from any liability the other Party may have on account of loss, cost, damage or expense to the extent of any amount recoverable by reason of insurance and waives any right of subrogation which might otherwise exist in or accrue to any person on account of the following circumstances: (i) any loss, cost, damage or expense resulting from fire, explosion or any other casualty or occurrence is incurred by either of the Parties to this Lease, or anyone claiming under it in connection with the Subject Property or improvements; and (ii) the Party is then covered in whole or in part by insurance with respect to loss, cost, damage or expense or is required under this Lease to be insured. The release of liability and waiver of the right of subrogation shall not be operative in any case where the effect is to invalidate the insurance coverage or increase its cost. In the case of increased cost, the other Party shall have the right,

within thirty (30) days following written notice, to pay the increased cost keeping the release and waiver in full force and effect.

ARTICLE VIII RESTRICTIONS REGARDING ASSIGNMENT, LEASES, AND TRANSFERS OF SUBJECT PROPERTY

Section 8.1 Lessee Without Power to Assign, Lease, or Encumber Subject Property.

Lessee has no power without Lessor Assembly approval under this Lease to assign the Lease. Lessee has no power under this Lease to transfer the Subject Property. Lessee has no power to encumber Subject Property or pledge its interest in Subject Property as collateral for a loan or mortgage, or allow any liens to be filed against the Subject Property. Any such actions under this section may cause termination of the Lease.

Section 8.2 Limitations on Subleases.

Lessee shall not sublease the Subject Property or any portion of it without the prior written approval of Lessor Assembly. All subleases entered into demising all or any part of the Improvements or the Subject Property shall be expressly subject and subordinate to this Lease. Lessor's consent to a sublease of the Subject Property shall not release Lessee from its obligations under the Lease. Lessor's consent to a sublease shall not be deemed to give any consent to any subsequent subletting. Approval of this Lease by Lessor Assembly shall constitute Lessor Assembly's approval of Adventure Sitka, LLC as a sublessee of Lessee as well as approval of any concessionaires or licensees through which Adventure Sitka, LLC operates on the Subject Property in a manner that is consistent with uses and activities as described in Exhibit B. Lessor's consent to the presence and activity of Adventure Sitka, LLC on the Subject Property shall not release Lessee from its obligations under the Lease.

ARTICLE IX USE AND PROTECTION OF THE SUBJECT PROPERTY

Section 9.1 Property As Is - Repairs.

Lessee acknowledges that it has examined the Subject Property and the present improvements including any public improvements presently located there, and knows the condition of them, and accepts them in their present condition without any representations or warranties of any kind or nature whatsoever by Lessor as to their condition or as to the use or occupancy which may be made of them. Lessee assumes the sole responsibility for the condition of the improvements located on the Subject Property. The foregoing shall not be deemed to relieve Lessor of its general municipal obligations, or of its obligations under Section 3.1 above.

Section 9.2 Compliance with Laws.

Lessee shall throughout any term of this Lease, at Lessee's sole expense, promptly comply with all the laws and ordinances and the orders, rules, regulations, and requirements of all federal, state, and municipal governments and appropriate departments, commissions, boards, and officers and all other legal requirements that may be applicable to the Subject Property and its use. Nothing in the foregoing sentence shall be deemed to relieve Lessee of its general obligations to Lessor in its municipal capacity.

Section 9.3 Notification of Lessor's Public Works Director of Discovery of Contamination.

Lessee shall promptly notify Lessor's Public Works Director within 24 hours if any contaminated soils or other contaminated materials that require special handling are encountered during construction or other activities.

Section 9.4 Use of Utility Lines.

Lessee shall connect or otherwise discharge to such utility lines as approved by the Lessor's Public Works Director and/or Electric Department, and shall obtain any permits and comply with any conditions specified by the Lessor's Public Works Director and/or Electric Department for such connections.

Section 9.5 Permits and Approvals for Activities.

Lessee shall be responsible for obtaining all necessary permits and approvals, including food processing, for its activities unless otherwise specifically allowed by Lessor. Not less than ten (10) days in advance of applying for permits to any public entity other than Lessor, Lessee shall provide copies of all permit applications and associated plans and specifications to Lessor's Public Works Director to facilitate review by departments of Lessor. Lessor is not obligated to comment on the permit applications and plans, and the result of any review by Lessor does not affect Lessee's obligation to comply with any applicable laws.

ARTICLE X LESSOR'S RIGHT TO PERFORM LESSEE'S COVENANTS; REIMBURSEMENT OF LESSOR FOR AMOUNTS SO EXPENDED**Section 10.1 Performance of Lessee's Covenants To Pay Money.**

Lessee covenants that if it shall at any time default resulting in the Lease being in a condition of default as described in Article XIV or shall fail to timely make any other payment (other than Rent), and the failure shall continue for ten (10) days after written notice to Lessee, then Lessor may, but shall not be obligated so to do, and without further notice to or demand upon Lessee and without releasing Lessee from any obligations of Lessee under this Lease, make any other payment in a manner and extent that Lessor may deem desirable.

Section 10.2 Lessor's Right To Cure Lessee's Default.

If there is a default involving the failure of Lessee to keep the Subject Property in good condition and repair in accordance with the provisions of this Lease, to make any necessary renewals or replacements or to remove any dangerous condition in accordance with the requirements of this Lease or to take any other action required by the terms of this Lease, then Lessor shall have the right, but shall not be required, to make good any default of Lessee. Lessor shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business, or other damage of or to Lessee by reason of bringing materials, supplies and equipment into or through the building during the course of the work required to be done to make good such default. The obligations of Lessee under this Lease shall remain unaffected by such work, provided that Lessor uses reasonable care under the circumstances prevailing to avoid unnecessary inconvenience, annoyance, disturbance, loss of business, or other damage to Lessee.

Section 10.3 Reimbursement of Lessor and Lessee.

All sums advanced by Lessor pursuant to this Article and all necessary and incidental costs, expenses and attorney's fees in connection with the performance of any acts, together with interest at the highest rate of interest allowed by law from the date of the making of advancements, shall be promptly payable to Lessor by Lessee in the respective amounts so advanced. This reimbursement shall be made on demand, or at the option of Lessor, may be added to any Rent then due or becoming due under this Lease. Lessee covenants to pay the sum or sums with interest. Lessor shall have, in addition to any other right or remedies, the same rights and remedies in the event of the nonpayment by Lessee as in the case of default by Lessee in the payment of any installment of Rent.

Conversely, Lessee shall be entitled to receive from Lessor prompt payment or reimbursement on any sums due and owing from Lessor to Lessee, together with interest at the highest rate allowed by law. However, nothing contained in this Lease shall entitle Lessee to withhold any Rent due to Lessor or to offset or credit any sums against rent, except with respect to unpaid Rent due from Lessor to Lessee under any sublease of Subject Property.

ARTICLE XI [RESERVED]

Section 11.1 [RESERVED]

ARTICLE XII MECHANIC'S LIENS

Section 12.1 Discharge of Mechanics' Liens.

Lessee shall neither suffer nor permit any mechanics' liens to be filed against the title to the Subject Property, nor against Lessee's interest in the Subject Property, nor against the improvements by reason of work, labor, services or materials supplied or claimed to have been supplied to Lessee or anyone having a right to possession of the Subject Property or Improvements as a result of an agreement with or the assent of Lessee. If any mechanics' lien shall be filed against the Subject Property, including the Improvements, Lessee shall cause it to be discharged of record within 30 days after the date that Lessee has knowledge of its filing. Failure to comply may subject the Lease to be terminated. The Lease shall not be terminated during any period in which Lessee is making a bona fide contest of such lien and for a further period of thirty (30) days after such contest concludes.

ARTICLE XIII LIEN FOR RENT AND OTHER CHARGES

Section 13.1 Lien for Rent.

The whole amount of the Rent and each and every installment, and the amount of all taxes, assessments, utility payments, insurance premiums and other charges, fees and impositions paid by Lessor under the provisions of this Lease, and all costs, attorney's fees and other expenses which may be incurred by Lessor in enforcing the provisions of this Lease or on account of any delinquency of Lessee in carrying out any of the provisions of this Lease, shall be and they are declared to constitute a valid and prior lien against property of Lessee, except the Subject Property, and may be enforced by law and equitable remedies, including the appointment of a receiver.

ARTICLE XIV DEFAULT PROVISIONS

Section 14.1 Events of Default.

Each of the following events is defined as an "Event of Default":

- (a) Failure of Lessee to pay any installment of Rent, or any other payments or deposits of money, or furnish receipts for deposits as required, when due and the continuance of the failure for a period of ten (10) days after notice in writing from Lessor to Lessee.
- (b) Failure of Lessee to perform any of the other covenants, conditions and agreements under this Lease, including filing tax forms and/or payment of taxes, fees, utilities, and the continuance of failure for a period of thirty (30) days after Lessor's notice in writing. The notice shall specify the respects in which Lessor contends that Lessee has failed to perform any of the covenants, conditions and agreements. With respect to any default which cannot be cured within thirty (30) days, Lessee, or any person holding by, through or under Lessee, in good faith, promptly after receipt of written notice, shall have commenced and shall continue diligently and reasonably to prosecute all action necessary to cure the default within an additional sixty (60) days.
- (c) The filing of an application by Lessee (the term, for this purpose, to include any approved transferee other than a sublessee of Lessee's interest in this Lease): (i) for a consent to the appointment of a receiver, trustee or liquidator of itself or all its assets; (ii) of a voluntary petition in bankruptcy or the filing of a pleading in any court of record admitting in writing of its inability to pay its debts as they come due; (iii) of a general assignment for the benefit of creditors; or (iv) of an answer admitting the material allegations of, or its consenting to, or defaulting in answering, a petition filed against it in any bankruptcy proceeding.
- (d) The entry of an order, judgment or decree by any court of competent jurisdiction, adjudicating Lessee a bankrupt, or appointing a receiver, trustee or liquidator of it or of its assets, and this order, judgment or decree continuing unstayed and in effect for any period of sixty (60) consecutive days, or if this Lease is taken under a writ of execution.

Section 14.2 Assumption or Assignment of Lease to Bankruptcy Trustee.

In the event that this Lease is assumed by or assigned to a trustee pursuant to the provisions of the Bankruptcy Reform Act of 1978 (referred to as "Bankruptcy Code") (11 U.S.C. § 101 et seq.), and the trustee shall cure any default under this Lease and shall provide adequate assurances of future performance of this Lease as are required by the Bankruptcy Code (including but not limited to, the requirement of Code § 365(b)(1)) (referred to as "Adequate Assurances"), and if the trustee does not cure such defaults and provide such adequate assurances under the Bankruptcy Code within the applicable time periods provided by the Bankruptcy Code, then this Lease shall be deemed rejected automatically and Lessor shall have the right immediately to possession of the Subject Property immediately and shall be entitled to all remedies provided by the Bankruptcy Code for damages for breach or termination of this Lease.

Section 14.3 Remedies in Event of Default.

Lessor may treat any one or more of the Events of Default as a breach of this Lease. At its option, by serving written notice on Lessee and each Secured Party and Leasehold Mortgagee of whom

Lessor has notice (such notice not to be effective unless served on each such person) of the Event of Default, Lessor shall have, in addition to other remedies provided by law, one or more of the following remedies:

(a) Lessor may terminate this Lease. In such an event, Lessor may repossess the entire Subject Property and Improvements, and be entitled also to recover as damages a sum of money equal to the value as of the date of termination of this Lease, of the Rent due from Lessee for the balance of the stated term of this Lease, and any other sum of money and damages due under the terms of this Lease to Lessor. Any personal property not removed after such termination shall be addressed as provided for in Section 1.3 above.

(b) Lessor may terminate Lessee's right of possession and may repossess the entire Subject Property and Improvements by forcible entry and detainer suit or otherwise, without demand or notice of any kind to Lessee (except as above expressly provided for) and without terminating this Lease. In such event, Lessor may, but shall be under no obligation to do so, relet all or any part of the Subject Property for rent and upon terms as shall be satisfactory in the judgment reasonably exercised by Lessor (including the right to relet the Subject Property for a term greater or lesser than that remaining under the stated term of this Lease). For the purpose of reletting, Lessor may make any repairs, changes, alterations or additions in or to the Subject Property that may be reasonably necessary or convenient in Lessor's judgment reasonably exercised. If Lessor shall be unable, after a reasonable effort to do so, to relet the Subject Property, or if the Subject Property and building are relet and a sufficient sum shall not be realized from reletting after paying all of the costs and expenses of repairs, change, alterations and additions and the expense of reletting and the collection of the Rent accruing from it, to satisfy the Rent above provided to be paid, then Lessee shall pay to Lessor as damages a sum equal to the amount of the Rent reserved in this Lease for the period or periods as and when payable pursuant to this Lease. If the Subject Property or any part of it has been relet, Lessee shall satisfy and pay any deficiency upon demand from time to time. Lessee acknowledges that Lessor may file suit to recover any sums falling due under the terms of this section from time to time, and that any suit or recovery of any portion due Lessee shall be no defense to any subsequent action brought for any amount not reduced to judgment in favor of Lessor. Any personal property not removed after such termination shall be addressed as provided for in Section 1.3 above.

(c) In the event of any breach or threatened breach by Lessee of any of the terms, covenants, agreements, provisions or conditions in this Lease, Lessor shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as through reentry, summary proceedings, and other remedies not specifically provided for in this Lease.

(d) Upon the termination of this Lease, or upon the termination of Lessee's right of possession, whether by lapse of time or at the option of Lessor, Lessee will at once surrender possession of the Subject Property and dispose of personal property and Improvements as described in Section 1.4. If possession is not immediately surrendered, Lessor may reenter the Subject Property and Improvements and repossess itself of it as of its former estate and remove all persons and their personal property, without being deemed guilty of any manner of trespass or forcible entry or detainer. Lessor may at its option seek expedited consideration to obtain possession if Lessor

determines that the Lease has terminated as described in the first sentence of this paragraph, and Lessee agrees not to oppose such expedited consideration.

(e) In the event that Lessee shall fail to make any payment required to be made provided for in this Lease or defaults in the performance of any other covenant or agreement which Lessee is required to perform under this Lease during the period when work provided for in this Lease shall be in process or shall be required by the terms of this Lease to commence, Lessor may treat the default as a breach of this Lease and, in addition to the rights and remedies provided in this Article, but subject to the requirements of service of notice pursuant to this Lease, Lessor shall have the right to carry out or complete the work on behalf of Lessee without terminating this Lease.

Section 14.4 Waivers and Surrenders To Be In Writing.

No covenant or condition of this Lease shall be deemed to have been waived by Lessor unless the waiver be in writing, signed by Lessor, or Lessor's agent duly authorized in writing and shall apply only with respect to the particular act or matter to which the consent is given. It shall not relieve Lessee from the obligation, wherever required under this Lease, to obtain the consent of Lessor to any other act or matter.

ARTICLE XV LESSOR'S TITLE AND LIEN

Section 15.1 Lessor's Title and Lien Paramount.

Lessor will hold title to the Subject Property.

Section 15.2 Lessee Not To Encumber Lessor's Interest.

Lessee shall have no right or power to and shall not in any way encumber the title of Lessor regarding the Subject Property. The fee-simple estate of Lessor in the Subject Property shall not be in any way subject to any claim by way of lien or otherwise, whether claimed by operation of law or by virtue of any express or implied lease or contract or other instrument made by Lessee. Lessee's interest in the Improvements shall in all respects be subject to the paramount rights of Lessor in the Subject Property.

ARTICLE XVI REMEDIES CUMULATIVE

Section 16.1 Remedies Cumulative.

No remedy conferred upon or reserved to Lessor shall be considered exclusive of any other remedy, but shall be cumulative and shall be in addition to every other remedy given under this Lease or existing at law or in equity or by statute. Every power and remedy given by this Lease to Lessor may be exercised from time to time and as often as occasion may arise or as may be deemed expedient by Lessor. No delay or omission of Lessor to exercise any right or power arising from any default shall impair any right or power, nor shall it be construed to be a waiver of any default or any acquiescence in it.

Section 16.2 Waiver of Remedies Not To Be Inferred.

No waiver of any breach of any of the covenants or conditions of this Lease shall be construed to be a waiver of any other breach or to be a waiver of, acquiescence in, or consent to any further or succeeding breach of it or similar covenant or condition.

Section 16.3 Right to Terminate Not Waived.

Neither the rights given to receive, sue for or distrain from any Rent, moneys or other payments, or to enforce any of the terms of this Lease, or to prevent the breach or nonobservance of it, nor the exercise of any right or of any other right or remedy shall in any way impair or toll the right or power of Lessor to declare ended the term granted and to terminate this Lease because of any event of default.

ARTICLE XVII SURRENDER AND HOLDING OVER**Section 17.1 Surrender at End of Term.**

On the last day of the last Lease year of the original Term, or on the earlier termination of the Term, Lessee shall peaceably and quietly leave, surrender and deliver the entire Subject Property to Lessor, subject to the provisions of Section 1.3, in good repair, order, and condition, reasonable use, wear and tear excepted, free and clear of any and all mortgages, liens, encumbrances, and claims. At the time of the surrender, Lessee shall also surrender any and all security deposits and rent advances of Sublessees to the extent of any amounts owing from Lessee to Lessor. If the Subject Property is not so surrendered, Lessee shall repay Lessor for all expenses which Lessor shall incur by reason of it, and in addition, Lessee shall indemnify, defend and hold harmless Lessor from and against all claims made by any succeeding Lessee against Lessor, founded upon delay occasioned by the failure of Lessee to surrender the Subject Property.

Section 17.2 Rights Upon Holding Over.

At the termination of this Lease, by lapse of time or otherwise, Lessee shall yield up immediately possession of the Subject Property to Lessor and failing to do so agrees at the option of Lessor, to pay to Lessor for the whole time such possession is withheld, a sum per month equal to one hundred and seventy-five percent (175%) times 1/12th of the aggregate of the Rent paid or payable to Lessor during the last full year of the term of the Lease. The provisions of this Article shall not be held to be a waiver by Lessor of any right or reentry as set forth in this Lease, nor shall the receipt of a sum, or any other act in apparent affirmance of the tenancy, operate as a waiver of the right to terminate this Lease and the Term granted for the period still unexpired for any breach of Lessee under this Lease.

ARTICLE XVIII MODIFICATION**Section 18.1 Modification.**

None of the covenants, terms or conditions of this Lease to be kept and performed by either Party to this Lease shall in any manner be waived, modified, changed or abandoned except by a written instrument duly signed, acknowledged, and delivered by both Lessor and Lessee.

ARTICLE XIX INVALIDITY OF PARTICULAR PROVISIONS**Section 19.1 Invalidity of Provisions.**

If any provision of this Lease or the application of it to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstance other than those as to which it is invalid or unenforceable, shall not be

affected, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE XX APPLICABLE LAW AND VENUE

Section 20.1 Applicable Law.

This Lease shall be construed and enforced in accordance with the laws of the State of Alaska. The forum and venue for any action seeking to interpret, construe, or enforce this Lease shall be only in the Superior Court for the State of Alaska at Sitka, Alaska.

ARTICLE XXI NOTICES

Section 21.1 Manner of Mailing Notices.

In every case where under any of the provisions of this Lease or otherwise it shall or may become necessary or desirable to make or give any declaration or notice of any kind to Lessor or Lessee, it shall be sufficient if a copy of any declaration or notice is sent by United States Postal Service, postage prepaid, return receipt requested, addressed: If to Lessor at: Municipal Administrator, City and Borough of Sitka, Alaska, of 100 Lincoln Street, Sitka, Alaska 99835, with a copy to: Municipal Clerk at address listed above; and if to Lessee, at: the address set out in the Preamble. Each party from time to time may change its address for purposes of receiving declarations or notices by giving written notice of the changed address, to become effective seven (7) days following the giving of notice.

Section 21.2 Notice to Leasehold Mortgagee and Secured Parties.

All notices, demands or requests which may be required to be given by Lessor or Lessee to any Leasehold Mortgagee and Secured Parties shall be sent in writing, by United States Postal Service, registered or certified mail or express mail, postage prepaid, addressed to the Leasehold Mortgagee at a place as the Leasehold Mortgagee may from time to time designate in a written notice to Lessor and Lessee.

Section 21.3 Sufficiency of Service.

Service of any demand or notice as in this Article provided shall be sufficient for all purposes. This section shall only apply to the extent there is one or more Leasehold Mortgagees and/or Secured Parties with a security interest in this Lease.

Section 21.4 When Notice Deemed Given or Received.

Whenever a notice is required by this Lease to be given by any Party to the other Party or by any Party to a Leasehold Mortgagee, the notice shall be considered as having been given when a registered or certified notice is placed in the United States Post Office mail as provided by this Article. It shall be deemed received on the third business day thereafter. For all purposes under this Lease of starting any time period after notice, the time period shall be conclusively deemed to have commenced three (3) business days after the giving of notice, whether or not it is provided that a time period commences after notice is given or after notice is received.

ARTICLE XXII MISCELLANEOUS PROVISIONS

Section 22.1 Captions.

The captions of this Lease and the index preceding it are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

Section 22.2 Conditions and Covenants.

All the provisions of this Lease shall be deemed and construed to be "conditions" as well as "covenants," as though the words specifically expressing or importing covenants and conditions were used in each separate provision.

Section 22.3 Entire Agreement.

This Lease contains the entire agreement between the Parties and shall not be modified in any manner except by an instrument in writing executed by the Parties or their respective successors or assigns in interest.

Section 22.4 Time of Essence as to Covenants of Lease.

Time is of the essence as to the covenants in this Lease.

ARTICLE XXIII COVENANTS TO BIND AND BENEFIT RESPECTIVE PARTIES AND TO RUN WITH THE SUBJECT PROPERTY

Section 23.1 Covenants to Run with the Subject Property.

All covenants, agreements, conditions and undertakings in this Lease shall extend and inure to the benefit of and be binding upon the successors and assigns of each of the Parties, the same as if they were in every case named and expressed, and they shall be construed as covenants running with the Subject Property. Wherever in this Lease reference is made to any of the Parties, it shall be held to include and apply to, wherever applicable, also the officers, directors, successors and assigns of each Party, the same as if in each and every case so expressed.

ARTICLE XXIV ADDITIONAL GENERAL PROVISIONS

Section 24.1 Absence of Personal Liability.

No member, official, or employee of Lessor shall be personally liable to Lessee, its successors and assigns, or anyone claiming by, through or under Lessee or any successor in interest to the Subject Property, in the event of any default or breach by Lessor or for any amount which may become due to Lessee, its successors and assigns, or any successor in interest to the Subject Property, or on any obligation under the terms of this Lease. No member, officer, director, manager, or employee of Lessee shall be personally liable to Lessor, its successors and assigns, or anyone claiming by, through, or under Lessor or any successor in interest to the Subject Property, in the event of any default or breach by Lessee or for any amount which become due to Lessor, its successors and assigns, or any successor in interest to the Subject Property, or on any obligation under the terms of this Lease.

Section 24.2 Lease Only Effective As Against Lessor Upon Assembly Approval.

This Lease is effective as against Lessor only upon the approval of such Lease by the Sitka Assembly.

Section 24.3 Binding Effects and Attorneys Fees.

This Lease shall be binding up and inure to the benefit of the respective successors and assigns of the Parties hereto. In the event of litigation over this Lease, the Parties agree that the prevailing party shall receive full reasonable attorney's fees.

Section 24.4 Duplicate Originals.

This Lease may be executed in any number of copies, each of which shall constitute an original of this Lease. The warranties, representations, agreements and undertakings shall not be deemed to have been made for the benefit of any person or entity, other than the Parties.

Section 24.5 Declaration of Termination.

With respect to Lessor's rights to obtain possession of the Subject Property or to revest title in itself with respect to the leasehold estate of Lessee in the Subject Property, Lessor shall have the right to institute such actions or proceedings as it may deem desirable to effectuate its rights including, without limitation, the right to execute and record or file with the Recorder of the Sitka Recording District, a written declaration of the termination of all rights and title of Lessee in the Subject Property, and the revesting of any title in Lessor as specifically provided in this Lease. Nothing in this section is intended to restrict, limit, or remove any right that Lessee has under this Lease relative to the termination of this Lease, including the actions that Lessee may take upon a termination of this Lease.

Section 24.6 Authority.

Lessor and Lessee represent to each other that each has, and has exercised, the required power and authority and has complied with all applicable legal requirements necessary to adopt, execute and deliver this Lease and perform its obligations. Both parties also represent that this Lease has been duly executed and delivered by each and constitutes a valid and binding obligation of each enforceable in accordance with its terms, conditions, and provisions.

Section 24.7 Recordation.

The parties agree that the Lease will be not be recorded. At the request of either party, the parties shall execute a memorandum of the Lease for recording purposes in lieu of recording this Lease in such form as may be mutually satisfactory to the parties or their respective attorneys. Each party shall bear their own related expenses, including attorney fees. Lessor shall pay for all recording fees.

CITY AND BOROUGH OF SITKA, ALASKA

Date

By: John Leach
Its: Municipal Administrator

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by John Leach, Municipal Administrator of the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality, on behalf of the municipality.

Notary Public in and for the State of Alaska
My commission expires: _____

SHEE ATIKA, INC.

Date

By: Karl S. Potts
Its: President and CEO

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 20____, before me, then undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Karl S. Potts, the President and CEO of Shee Atika, Inc., to me known and known to me to be the President and CEO said company, and acknowledged to me that he signed the foregoing instrument freely and voluntarily for and on behalf of said company by authorizing of its Operating Agreement for the uses and purposes therein mentioned.

Notary Public in and for the State of Alaska
My commission expires: _____

EXHIBIT B

Summary of Request for Proposals Response as submitted by Shee Atika, Inc. on February 2, 2021 and amended by subsequent communications

Acknowledged by:

John Leach, Municipal Administrator, CBS:

Initials

Date

Karl Potts, President and CEO, Shee Atika, Inc.:

Initials

Date

*Note: In its response, Shee Atika, Inc. referred to the Subject Property as “Harbor Point”.
References to “Harbor Point” in this document should be interpreted to mean the Subject
Property as defined in the Lease.*

1. Concept Narrative of Development Plan

Shee Atika and Adventure Sitka intend to work with CBS to develop a recreational and cultural tourism destination at Harbor Point. The project will maximize the potential of the wooded waterfront parcel and meet Sitka's desire for expanding tourism while maintaining the natural environment.

Sitka is largely defined by its extraordinary scenic beauty and cultural heritage, which continuously provide vast opportunities for tourism. Over the last two decades, there has been a marked generational shift towards gathering memories instead of possessions. Likewise, as our world becomes increasingly sterilized and globalized, people yearn for authentic experiences. Travelers of all ages are in search of immersive, multi-faceted, active "educational recreation" opportunities. Our proposed development will focus on providing an experience to visiting cruise ship and independent travelers. The site is currently enveloped with old growth Sitka Spruce and Western Hemlock trees. Structures and trails will be developed that take advantage of the large trees that shield the adjacent cruise port and allow guests to fully experience the ocean, beach, and forest.

Developing Harbor Point as a recreational site that incorporates interpretive trails, water-based activities, as well as cultural interpretive areas, would be the first of its kind on Baranof Island. With a development such as this, the port of call opportunities for cruise ship passengers would be expanded to include an active, all ages, family-oriented experience. It would provide travelers a window into the rich Alaska Native history of Sitka, coupled with multiple avenues to engage with the landscape.

Harbor Point is conveniently located just a 1/4 mile, or five minute walk from the existing Halibut Point cruise ship terminal, positioning the site as a prime location for introducing thousands of summertime cruise visitors to the pristine environments of Sitka.

Approximately 82% of Sitka visitors arrive by cruise each year. Given the close proximity to the existing cruise ship terminal, high capacity vehicle passenger trams would be utilized to transport guests from Halibut Point to the site. This allows for large volumes of passengers to access the site and experience the shore excursion products with the least amount of impact to Harbor Point Road, and with the goal of moving as many passengers back and forth between the terminal, Harbor Point, and downtown as efficiently as possible.

Independent travelers already in Sitka would have easy access via shuttle from downtown to the site and its wide range of outdoor recreation and cultural activities. The topography of the Harbor Point parcel permits for recreational tourism activities to be constructed with minimal site development allowing the site to maintain its secluded natural atmosphere.

The shore excursions to be developed and offered at Harbor Point are:

- **Sitka Cultural Experience:** Harbor Point provides an untouched old growth timber and native beach setting in a close proximity to the cruise ship port. This allows for easy access for guests, while being able to offer a unique authentic wilderness atmosphere.
- **Subsistence Lifeway:** The focus of the tour product would be to introduce guest to the Subsistence Lifeway of the Tlingit people. Five individual experiences would be developed

that would provide a well-rounded experience and education of the Tlingit people's traditional subsistence life. These would include the ocean canoe, beach food gathering, salmon preparation and cooking, potato gardening and berry gathering. Timber-frame structures would be constructed at each of these experiences to provide shelter to the guests and a setting for educational demonstrations. A large accessible trail network would be constructed connecting the various experiences.

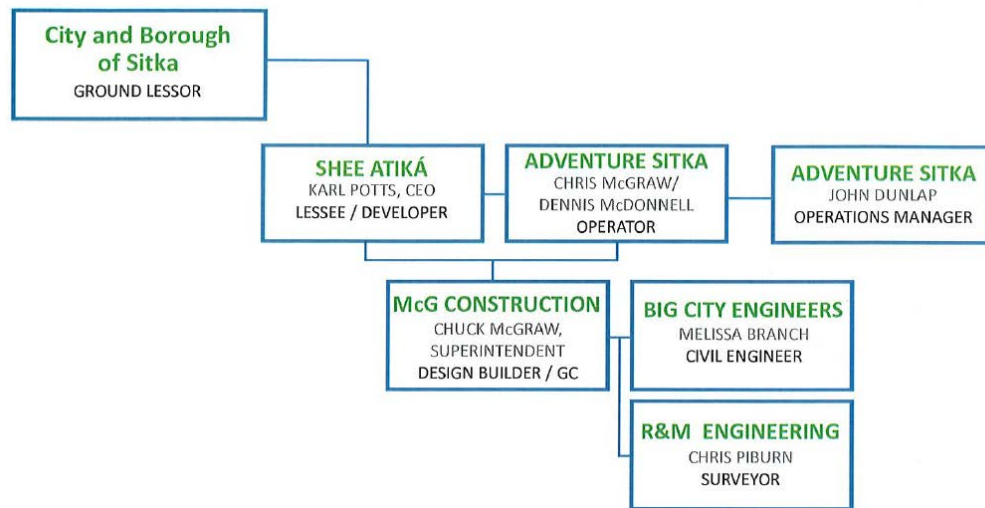
- **Beach Food:** The Tlingit gathered various sea creatures and other sea plants on the beach and they were normally cooked over an open fire or boiled. Guests would be guided through an exploration of the tidal zone, learning to identify the various types of species and traditional foods that the Tlingit gathered from the beaches.
- **Salmon Bake:** Guests would be seated in a large, covered pavilion where they would be introduced to the methods of salmon harvest and would watch a demonstration of a traditional Tlingit salmon preparation and cooking. Guests would then get to enjoy a sampling of salmon.
- **Garden and Berry Gathering:** Guests would learn about the various types of berries that the Tlingit people gathered as well as other gardening techniques and crops, such as the Tlingit potatoes, that have grown in Tlingit gardens for generations.
- **Ocean Canoe:** Tlingit people depended upon the canoe as the sole means to access the bounty of Southeast Alaska. They would paddle in canoes to summer fishing camps, and return home with their canoes full of salmon, halibut, and deer to store for the winter. Guests would have the opportunity to learn about the design and construction of the canoes, with further opportunities to launch and paddle should they choose.
- **Aerial Adventure Park:** Born from the French Challenge Course world in the early 1900's, aerial adventure parks combine the physicality and self-discovery of the traditional ropes course with a freedom of movement and an exploratory feel, aerial adventure parks have bridged the gap between purely commercial endeavors and the outcome-based world of experiential learning.

2. Proposed Roads, Utilities, and Drainage Improvements

Utilities for the recreational development will include electrical service, which would be run underground from Halibut Point Road to the Welcome Center (shown as item 4 on the site plan). Electrical distribution to the site will be limited and run only to the Welcome Center, the Salmon Bake Pavilion, and to the Gardens Pavilion for lighting and limited power. Plans at this time do not include water utilities to be run to the site. Shee Atika will connect to utilities, including sanitary sewer, that are within 200 feet of the property per Sitka General Code.

The roadway and trails will be constructed by removing trees, stumps, and overburden from the road or trail. Geotextile fabric will be laid down as a base and then shot rock backfill will be utilized to bring the trails and roadways up to sub-base level. A 6" D-1 base course will be placed on top of the roadway and trails. The roadway will have drainage ditches on each side and culverts placed at all natural drainage cross-ings at both the driveway and trails. Tree removal will be limited to conserve the forest. The main trail along the perimeter of the site, the visitor areas, and the toilets will meet ADA standards for accessibility.

3. Organizational Chart and Operations Plan



Harbor Point will be overseen by the General Manager of Adventure Sitka. There will be 3 onsite Managers overseeing the welcome center, adventure attractions, and salmon bake. The hours of operations would generally complement the daily ship schedule. Typical port calls are between 7am and 6pm. Access to the site from the cruise pier would be provided by continuous shuttles of up to 4 buses with capacity of 48-62 passengers. There will be at least one bus that is equipped with an ADA lift for passengers with mobility restrictions.

Adventure Sitka has an excellent reputation for Customer Satisfaction with its customers throughout Alaska and Southeast. They will operate Harbor Point Recreation Park with the same focus on unparalleled Customer Satisfaction. A thorough Operations Plan involves a commitment to safety, for both customers and employees. Adventure Sitka's managers are thoroughly trained in municipal, state and federal regulations pertaining to cruise and passenger activities such as ours. Each year, prior to season opening, employees will go through rigorous training updates. Their safety protocols and equipment are state of the art. Adventure Sitka's repair and maintenance programs are routine and part of the company DNA.

4. Site Zoning Classification

In order for our proposed project to be successful and operate as planned, the property needs to be rezoned appropriately to allow for such activities and amenities. SAI is willing to modify our proposal and agree to a "Recreation" zone classification with the following stipulations:

- Change "Amusement and entertainment" to a conditional use
- Change "Eating and Drinking" to a conditional use
- Change "Outdoor amphitheater" to a conditional use

5. Sales Tax

Adventure Sitka has committed to the CBS Assembly that in cases in which it is known that a final reseller (e.g. cruise lines) of tickets for programs and/or packages for attractions on the site do not collect and remit local sales taxes, Adventure Sitka will treat the sale to this reseller as the final sale and will collect and remit associated tax on such transactions.

6. Site Plan

