

THE CITY OF OAKLAND
LEASE TERMINATION AGREEMENT

THIS LEASE TERMINATION AGREEMENT (“Agreement”) is made this ____day of _____, 201_ (the “Execution Date”), by and between THE CITY OF OAKLAND (the “City”), and OAKLAND MARITIME SUPPORT SERVICES, Inc. (“OMSS”), a California corporation (together, the “Parties”), who agree as follows:

RECITALS:

WHEREAS, the Parties entered into that certain Lease Agreement dated August 26, 2013 (the “Lease”) to lease the premises described as: approximately 217,800 square feet of space at - 2240 Wake Avenue, Oakland, California (the “Premises”); and

WHEREAS, the Parties intend by this Agreement to terminate any interest in, right to possession and/or tenancy that OMSS may claim or hold in the Premises effective upon execution of this Agreement, under the terms and conditions set forth herein.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Termination of the Lease. OMSS acknowledges and agrees that upon execution of this Agreement, any interest in, right of possession and/or tenancy that OMSS may claim or hold in the Premises, whether or not through the terms of the Lease, shall be forfeited and terminated.

2. Condition of the Premises. The Parties acknowledge and agree that OMSS will remove all debris and miscellaneous personal property located on the Premises and put the Premises in a broom clean condition, normal wear and tear excepted as of the Execution Date.

3. Survival of Rights and Liabilities. The rights and liabilities of the Parties arising prior to the termination of the Lease, and any obligations which, by the terms of the Lease, shall survive the termination of the same, shall not be affected by the termination of the Lease and shall survive its termination in Paragraph 1, including, without limitation, the Addendum to the Lease pertaining to Hazardous Materials, and all amounts of unpaid rent and operating expenses, late fees and other claims or damages.

4. Indemnity. OMSS agrees to defend and indemnify the City from and against all loss or damage sustained by the City (and all expenses, costs and attorneys’ fees of the City in any action or defense undertaken by the City to protect itself from such loss or damage) resulting from a breach by OMSS of the representations made herein.

5. Interpretation. If any provision of this Agreement or any application thereof is invalid, void or illegal, no other provision or application will be affected. Time is of the essence

of every provision of this Agreement. California law governs this Agreement. All capitalized terms in this Agreement that are not defined herein will have the definitions as provided in the Lease. In the event of any conflict between a provision in the Lease and a provision in this Agreement, the latter will control.

6. Binding Effect. This Agreement will be binding upon and will inure to the benefit of the respective Parties hereto, their respective legal successors, heirs, administrators and assigns, and each of them.

7. Attorneys Fees. Should any suit be brought to enforce or interpret the terms of this Agreement or any obligation herein, the prevailing party will be entitled to recover its reasonable attorneys' fees, costs and expenses.

8. Representation. The Agreement is freely and voluntarily entered into by the Parties, who each had the opportunity to obtain the advice of independent legal counsel prior to signing this Agreement. Each party acknowledges that they have read this entire Agreement, that they had a full opportunity to have had this Agreement fully explained by legal counsel of their choice, and that they fully understand and appreciate the words, terms, conditions, and legal significance of this entire Agreement.

9. Entire Understanding. This Agreement sets forth the entire understanding of the Parties in connection with the subject matter hereof. None of the Parties hereto has made any statement, representation, or warranty in connection herewith which has been relied upon by any other party hereto or which has been an inducement for any party to enter into this Agreement, except as expressly set forth herein. It is expressly understood and agreed that this Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by authorized representatives of the Parties hereto. The Parties agree that they will make no claim at any time that this Agreement has been altered or modified or otherwise changed by oral communication of any kind of character.

10. Execution. The Parties and the persons executing this Agreement on behalf of the Parties represent and warrant that they are duly authorized and empowered so to execute and deliver this Agreement, and that this Agreement is binding upon the Parties in accordance with its terms.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be an original, and all of which will constitute an agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

//[SIGNATURES ON FOLLOWING PAGE]

CITY OF OAKLAND, a municipal corporation

OAKLAND MARITIME SUPPORT SERVICES, a California corporation

By:

City Administrator
_____, 201__

By:

Name:

Title:

_____, 20__

Approved as to Form:

By: _____
City Attorney

By:

Name:

Title:

_____, 20__