LEASE NO. 2024-06

ORDINANCE NO. 262

GRANTED BY THE STOCKTON PORT DISTRICT

TO: BAYOTECH, INC.

SPD 20230217

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_____NO._____

LEASE BY THE STOCKTON PORT DISTRICT

TO: BAYOTECH, INC.

This Lease is made and entered into on _____, 2024 by and between THE STOCKTON PORT DISTRICT, a California Port District with municipal powers organized pursuant to Harbors and Navigations Code section 6200 et seq. ("Port"), and BAYOTECH, INC., a Colorado Corporation ("Tenant").

1. Lease and Definitions.

1.1. Lease of Premises. Port hereby delivers, and Tenant hereby accepts, the Premises hereinafter described, subject to the terms and conditions provided herein. This Lease is subject to the terms, covenants, and conditions set forth herein, and Tenant covenants that a material part of the consideration for this Lease is to keep and perform each and all of the terms, covenants, and conditions by it to be kept or performed, and this Lease is made upon the express condition of that performance.

1.2. Definitions.

1.2.1. Access Easement. "Access Easement" means the access easement described in Subsection 2.3.5.1 hereof and more particularly described in Exhibit "___" attached hereto.

1.2.2. Adjustment Date. "Adjustment Date" means the date defined in Section 4.4.1.

1.2.3. Appraiser. "Appraiser" means an appraiser with at least 10 years' experience in the appraisal of industrial real estate.

1.2.4. Audit. "Audit" means the environmental audit which may be required pursuant to Subsection 13.4.1 and is defined in detail in Subsection 13.4.2.

1.2.5. Bankruptcy Code. "Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," 11 UCC Section 101 et seq. as amended or any successor statute.

1.2.6. Code. "Code" means any applicable planning, zoning, building, fire or safety code, regulation or ordinance and includes any State or Federal Statute or regulation applicable to any construction or other activity on the Premises.

1.2.7. Code Violation. "Code Violation" means any deviation from a Code which is a violation thereof and which requires correction whether or not there is a change in use conducted on the Premises or any construction work performed on the Premises.

1.2.8. Commencement Date. "Commencement Date" means the date on which the Lease commences; the Commencement Date is set forth in Subsection 3.1.

1.2.9. Controlled Entity. "Controlled Entity" means any corporation, partnership, or other entity, including but not limited to affiliates and subsidiaries, controlling, controlled by or under common control with Tenant. "Control" as used in the preceding sentence means the ownership of at least 51% of the voting interest in any corporation, partnership or other entity.

1.2.10. CPI. "CPI" means the Consumer Price Index for all Urban Consumers in the U.S. City Average, based on the year 1982-84 = 100 as published by the U.S. Department of Labor's Bureau of Labor Statistics.

1.2.11. Default. "Default" means the events described in Subsections 6.1 and 6.2.

1.2.12. Easements. "Easements" shall have the meaning specified in Subsection 2.3.5.

1.2.13. Emergency Access Easement. "Emergency Access Easement" means the access easement described in Subsection 2.3.6 hereof and more particularly described in Exhibit "___" attached hereto.

1.2.14. Extension Easement. "Extension Easement" means the access extension easement described in Section 2.3.5.1 hereof and more particularly described in Exhibit "___" attached hereto.

1.2.15. Hazardous Materials. "Hazardous Materials" means any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material including, but not limited to, those substances, materials or wastes regulated now or in the future under any of the following Laws:

1.2.15.1. CERCLA. Any "hazardous substance" within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. Section 9601 et seq. or the California Hazardous Substance Account Act, Cal. Health & Safety Code Section 25300 et seq.;

1.2.15.2. Waste US. Any "hazardous waste" within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.;

1.2.15.3. Waste California. Any "hazardous waste" or "extremely hazardous waste" within the meaning of the California Hazardous Waste Control Law, Cal. Health & Safety Code Section 25100 et seq.;

1.2.15.4. Toxic Substances. Any "hazardous chemical substance or mixture" or "imminently hazardous chemical substance or mixture" within the meaning of the Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.;

1.2.15.5. Air Pollutant. Any "hazardous air pollutant" within the meaning of the Federal Clean Air Act, 42 U.S.C. Section 7400 et seq.

1.2.15.6. Water Pollution. Any "toxic pollutant" or "oil or hazardous substance" within the meaning of the Federal Water Pollution Control Act, 33 U.S.C. Section 1250 et seq.;

1.2.15.7. Safe Drinking Water. Any "contaminant" within the meaning of the Safe Drinking Water Act, 42 U.S.C. Section 300i;

1.2.15.8. Cancer Causing. Any "chemical known to the state to cause cancer or reproductive toxicity" within the meaning of the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety Code Section 25249.5 et seq.;

1.2.15.9. Petroleum. Petroleum or any fraction thereof;

1.2.15.10. Asbestos. Asbestos; or

1.2.15.11. Other Substance. Any other substance, chemical, waste, toxicant, pollutant or contaminant regulated by any Laws for the protection of health or the environment

1.2.16. Hazardous Materials List. Hazardous Materials List means the list mentioned in Subsection 13.1.2.

1.2.17. Improvements. "Improvements means any and all trade fixtures, buildings, alterations, structures, and utility installments on or within the Premises or installed on the Premises whether or not affixed to the real estate.

1.2.18. Insolvency Laws. "Insolvency Laws" means the insolvency laws of any state, district, commonwealth or territory of the United States of America and includes the Bankruptcy Code.

1.2.19. Laws. "Laws" means any Federal, State, regional, or local statute or ordinance, including but not limited to the Tariffs of the Port of Stockton, and includes any regulation or rule adopted under any of the foregoing which is applicable to the particular circumstances and the Party involved.

1.2.20. Lease Year. "Lease Year" means each year during the term commencing with the Commencement Date and ending on the day prior to the anniversary of the Commencement Date.

1.2.21. Parties. "Parties" means both of the two parties to this Lease.

1.2.22. Party. "Party" means either of the two parties to this Lease.

1.2.23. Port Director. "Port Director" means the Port Director of the Stockton Port District.

1.2.24. Port Improvements. "Port Improvements" means any Improvements on the Premises prior to this Lease or which are placed on the Premises by Port, or at the expense of Port, during the term of this Lease.

1.2.25. Port Persons. "Port Persons" means the Port, Port's Board of Commissioners, officers, agents, representatives, contractors, employees, and invitees.

1.2.26. Premises. "Premises" means the property described in Subsection 2.1 and more particularly described in Exhibit "A" and shown on the drawing marked Exhibit "B."

1.2.27. Base Rent. "Base Rent" means the Base Rent to be paid pursuant to Section 4 and includes any other fees and charges for the use and occupancy of the Premises to be paid by Tenant to Port pursuant to this Lease.

1.2.28. Tenant Persons. "Tenant Persons" means Tenant and Tenant's officers, agents, employees, contractors, sublessees, licensees, and invitees.

1.2.29. Tenant Improvements. "Tenant Improvements" means any Improvements brought on to the premises by Tenant or installed on the Premises by Tenant, or at the expense of Tenant, whether or not affixed to the real estate.

2. Premises.

2.1. General Description of Premises. The Premises consist of 5 acres located at 3034 Navy Drive, Stockton, CA 95203 .

2.2. Description. The Premises subject to this Lease are described in Exhibit "A," and shown on the drawing marked Exhibit "B." The term "Premises," as used in this Lease, will include the land and structures owned by or under the control of Port, as the land and Port Improvements are shown in Exhibits "A" and "B" and except for the Easements hereinafter described no other land or structures will be considered part of the Premises.

2.3. Reservations. This Lease and the Premises are subject to the following:

2.3.1. Utility Rights of Way. Existing rights-of-way, easements, and rights for sewers, pipelines, conduits, telephone, cable, electricity, gas, and the installation of solar panels, small-scale wind turbines, other types of alternate energy devices, cellular, internet and other communication towers or facilities, and any other utilities shown of record in the Official Records of San Joaquin County, California and any unrecorded rights of way or easements granted by the Port which are contained in the attached Exhibit "__"[1] , and such future easements, as may from time to time be determined to be necessary to be installed by Port, whether Port or others provide the utility service and whether or not the Premises is served by or utilizes said utilities. Notwithstanding the foregoing, any future easements shall not be located so as to (i) require the relocation of any existing or planned significant improvements installed or to be installed on the Premises by Tenant pursuant to the Scope of Development Schedule and/or (ii) unreasonably interfere in any material respect with Tenant's operations or existing or planned improvements on the Premises contemplated by the Scope of Development Schedule. These rights-of-way include the right to enter upon, above, below or through the surface of the Premises to construct, install, maintain, replace, repair, enlarge or otherwise utilize the Premises, for the purpose herein stated, without compensation or abatement of Base Rent, provided that except in the case of an emergency, Port first gives reasonable advance notice, and the access takes place during reasonable times with as little interference to Tenant's operations as is reasonably feasible, and the Premises will be restored to the extent feasible, to the condition previously existing. Tenant shall have the right, subject to Port approval which the Port shall not unreasonably withhold, at Tenant's expense, to relocate any existing utility rights of way, easements or other rights if the current location materially interferes with Tenant's planned use of the Premises. However, the right to relocate utility rights of way will not be granted if the relocation of the rights of way on Port property interferes with the Port's or a Port tenant's current or future use of the property to which the rights of way will be relocated or if the relocation affects the current and future plans and designs of the Port facilities.

[1] NRF NTD: POS to attach the exhibit as Exhibit.

2.3.2. Port of Stockton Tariffs. This lease is subject to Tariffs of the Port of Stockton, as may be amended from time to time, provided that changes to the Tariffs are given 30-days public notice prior to adoption, do not discriminate against Tenant and do not prevent the Permitted Uses described in Section 5.1. In the event of a conflict between the Lease, Berthing Agreement and any Tariff (as may be subsequently revised), the conflict shall be resolved by the controlling documents having the following order of priority of importance: first, the Tariffs, as may be revised from time to time, second the Lease and third, the Berthing Agreement. As a general rule and as an exception to the priority of documents, specific expressed terms and conditions in the Lease and Berthing Agreement shall control over more general terms and conditions in the tariffs, as revised from time to time, unless the conflicting tariff provision is adopted for health and safety purposes in which case the newly adopted tariff shall be superior to, have a higher priority than and shall preempt any conflicting language in the Lease and/or Berth Agreement.

2.3.3. Streets and Highways. Rights-of-way for streets, highways, railroads, and other means of transportation, whether owned by Port or not which are apparent from a visual inspection of the Premises or which are specifically reserved.

2.3.4. Prior Exceptions. All exceptions, reservations, grants, easements, leases or licenses as they appear of record in the Office of the Recorder of San Joaquin County, California, or in the Official Port Records to the extent listed on Exhibit " "attached hereto.

2.3.5. Additional Easements. The Port shall, upon reasonable request, provide Tenant with any easements on Port property in the vicinity of the Premises to the extent necessary, convenient and/or feasible (i) to provide suitable ingress to and egress from the Premises by ship, rail, truck, and automobile for the uses now or in the future permitted on the Premises; and (ii) to accommodate such uses to the best of its ability with appropriate utility service, at Tenant's expense, of the types described in Subsection 2.3.1. The location of such easements shall be reasonably determined by the Port, in consultation with Tenant. Notwithstanding the foregoing, the Port agrees to grant to Tenant

and Tenant to Port, the following easements and usage rights ("Easements") as part of the Premises under terms reasonably acceptable to both Parties for the term of the Lease:

2.3.5.1. Access Easement. Nonexclusive Access Easement for vehicular and pedestrian access across the existing private blacktop roadway located off of Navy Drive which is located on the real property described in Exhibit "___" attached hereto and nonexclusive Extension Easement for vehicular and pedestrian access across the real property described in Exhibit "___" attached hereto. Tenant's use of the Access Easement and Extension Easement will not materially interfere with Port's or adjacent tenants' use.

2.3.5.2. Extension Access Easement. During the term of this lease, Tenant will continuously maintain access to adjacent tenants properties and utility companies through a 60 foot deep area along the existing southern premises boundary shown on Exhibit "____" and maintain the access area improvements with serviceable asphalt concrete paving or like material in good condition and free of obstructions, potholes, debris, and free of any condition which would allow the generation of substantial dust. The level of maintenance will be subject to the reasonable approval of the Port Director. If tenant fails to maintain the access area and the access improvements as required by Port, Port will give written notice of the specific failure to tenant. If Tenant fails to make the correction or repair within 30 days and Tenant fails to commence the correction or repair within 30 days and diligently proceed to the completion of the correction or repair in a timely manner, the Port will have the right to perform such work and rebill the tenant.

2.3.5.3. Emergency Access Easement. Tenant agrees to recognize the unrecorded Emergency Access Easement described in Exhibit "___", and to pay its pro rata share of any maintenance costs associated therewith as may be required by the Port police and Stockton fire department. To the extent that Tenant makes any capital repairs or replacements to the Emergency Access Easement that do not exclusively benefit and/or serve both the BayoTech Inc. and existing adjacent tenant's projects, with the Port's approval, Tenant will receive a credit/offset against its Rent and any other charges or fees owing by Tenant under this Lease, or other agreements between the parties related to this Lease for any such amounts incurred by Tenant for capital repairs or improvements. The terms of the Easements and the exact location of the Easements shall be finalized, executed and recorded (at Tenant's expense) on or before the

expiration of the Inspection Period. Tenant's engineer shall work with the Port's contract engineer (at Tenant's expense) to determine the location of any existing easements and the best route/location for any proposed Easements necessary for this project.

2.3.6. Surface Reservation. The right of Port to occupy, and to grant to others the right to use, up to fifteen percent (15%) of the Premises, for all purposes reasonably incident to exploring for, drilling for, producing, processing, storing and transporting oil, gas or other hydrocarbons and associated substances; provided that (i) the use will not materially interfere with Tenant's use hereunder; (ii) Port and any party authorized by Port will use best efforts to minimize interference with Tenant's use hereunder; and (iii) and provided further, that the Rent herein designated will be adjusted proportionately to compensate for the surface areas used.

2.4. Inspection. Tenant has inspected the Premises prior to occupying them for the permitted uses and agrees that:

2.4.1. Suitability. The Premises, including any Port Improvements existing thereon covered by this Lease, are suitable for Tenant's intended uses.

2.4.2. No Warranty. Port and Port Persons have not made any representation or warranty with respect to the Premises, including Port Improvements, unless the nature and extent of the representation or warranty is incorporated in this Lease or is described in writing and attached as a lettered Exhibit, to this Lease. Except as specifically provided in this Lease, no warranty of any kind is made with respect to the Premises or Port Improvements.

2.4.3. Required Additions and Improvements at Tenant's Expense. Any modification, improvement, or addition to the Premises and any equipment installation lawfully required by the Stockton Fire Department, the Stockton Community Development Department, the San Joaquin Valley Unified Air Pollution Control District, the Regional Water Quality Control Board, Central Valley Region, the Coast Guard, the California Department of Fish & Game, the United States Fish & Wildlife Service, the United States Environmental Protection Agency or any other local, regional, state or federal agency and any modification, improvement or addition to the Premises and any equipment installation required by Laws to be made to the Premises including, without limitation, any repairs,

alterations, additions, Improvements or installations required by The Americans with Disabilities Act of 1990 and all regulations promulgated pursuant thereto, in connection with Tenant's use, will be constructed and installed at Tenant's sole expense.

2.4.4. Fire Sprinkler System Monitoring. It shall be the sole responsibility of the tenant to provide central station monitoring for any fire sprinkler system within the Premises. Any required permits shall be secured with an approved and certified fire alarm monitoring company holding UL credentials for central station monitoring.

2.4.5. Fire Sprinkler System Maintenance Inspections. It shall be the sole responsibility of the tenant to acquire the services of a credentialed fire sprinkler contractor to perform quarterly, semi-annual and annual inspections on any fire sprinkler system within the Premises.

2.4.6. Chargeable Incidents. If Tenant has more than one (1) emergency incident within a twelve-month period requiring Port staff to respond outside of normal working hours, the Tenant will be charged for the staff time and materials per incident, after the first incident.

2.4.7. Emergency Standby. Tenant shall provide Port staff with a 24-hour Point of Contact, including current name(s) and phone number(s). Port staff must be notified by Tenant when Point of Contact information changes. During an emergency event (medical, fire, earthquake, etc.) at or near the Premises, Tenant shall be required to have a Tenant representative available and present at or near the site (based on safety conditions) at all times during such an event. Tenant representative may be requested to assist with access, relocation of materials and/or equipment, etc. by Port staff and/or emergency response personnel. Tenant representative shall provide their name and phone number to Port staff and/or first responders at the scene. A Tenant representative shall leave the scene only if instructed to do so by Port staff and/or emergency response personnel. In the event of emergency, or any other cause requiring assistance from the Port and Tenant fails to fulfill responsibilities specified in Item 2, all Port attendant costs thereto shall be billed to and collected from the Tenant, as appropriate.

2.4.8. CASp Inspection. A commercial property owner or Port shall state on every lease form or rental agreement executed on or after January 1, 2017, whether or not the subject premises have undergone inspection by a Certified Access Specialist (CASp). If the subject premises have not been issued a disability access inspection certificate, as described in subdivision (e) of Section 55.53, the commercial property owner or Port shall state the following on the lease form or rental agreement: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or Port may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

2.4.9. Repair and Maintenance of Existing Site Improvements. Prior to the expiration of the Permitting Period (as defined in Subsection 4.1.2), with respect to repair and maintenance of existing site improvements, BayoTech Inc. shall be responsible for entering into a joint maintenance arrangement or agreements (collectively, "Joint Maintenance Agreements") with Pelican under terms and conditions acceptable to BayoTech Inc. for the following (subject to the obligations of other tenants benefitting from or utilizing these site improvements to pay their pro rata share of any maintenance costs):

1) The drainage ditch and storm water facilities surrounding the Premises and the Pelican Premises;

2) The extension (access) easement coming off Navy Drive serving the Premises;

3) The emergency access easement;

4) Other installed site improvements that mutually and exclusively benefit both Pelican and Tenant (including their respective successors)

2.5. No Easement for Light, Air or View. No easement for light, air or view is a part of this Lease. Any diminution or shutting off of light, air or view by any structure which may be erected on lands in the vicinity of the Premises will not affect this Lease or impose any liability upon Port.

3. Term.

3.1. Length. The term of this Lease will be for a period of ten (10) years and will commence on _____, 2024 and expire on _____, 2034. If Tenant is not in Default of any of its obligations, Tenant will have the option to extend the term of this Lease, on all the provisions contained in this Lease, except for Base Rent, for two (2) additional five (5) year periods, the options to be exercised by Tenant giving to Port not less than 90 days written notice prior to the expiration of the previous term. If Tenant is in Default as to any obligation under this Lease on the date of giving notice, the notice will be totally ineffective. If Tenant is in Default on the date the extended term is to commence, the extended term will not commence and this Lease will expire at the end of the previous term. The Base Rent for the option periods will be determined in accordance with Section 4, including Subsection 4.4 and Subsection 4.4.1.3. Except as set forth above, Tenant will have no right to extend the term of this Lease.

3.2. Nondelivery of Possession. Notwithstanding the Commencement Date, if for any reason Port cannot deliver possession of the Premises to Tenant on the specified date, Port will not be subject to any liability therefor, nor will the failure affect the validity of this Lease or the obligations of Tenant or extend the term, however, the Base Rent will be abated one day for each day of delay from the Commencement Date until Port delivers possession of the Premises to Tenant and the term of this Lease will be extended by an equivalent period of time. If Port will not have delivered possession of the Premises within 90 days from the Commencement Date, Tenant may, at Tenant's option, by written notice to Port, terminate this Lease. If Port will not have delivered possession of the Premises within one year from the Commencement Date, Port may, by notice to the Tenant within 10 days thereafter, terminate this Lease. If either party terminates this Lease as

provided above, Port will return any money paid by Tenant, and the Parties will be discharged from all obligations under this Lease.

3.3. Early Possession. If Port will permit Tenant to occupy the Premises prior to the Commencement Date, the occupancy will be subject to all of the provisions of this Lease. Early possession will not change the expiration date of this Lease.

3.4. Holdover.

3.4.1. Port Director Approval. This Lease will terminate without further notice upon expiration of the term, or upon expiration of the extended term, as the case may be. Any holdover by Tenant after expiration of the applicable term will not constitute a renewal or extension or give Tenant any rights except as otherwise expressly provided in this Lease. Tenant may holdover only by obtaining the prior written approval of the Port Director. Any holdover will be deemed an extension of this Lease on a month-to-month basis, terminable on 30 days written notice given by either party.

3.4.2. Rent During Holdover. Base Rent during a holdover period will be at a rate equal to 150% of the monthly Base Rent for the last month of the term, or extended term, of this Lease and the occupancy will otherwise be upon the same terms and conditions as set forth in this Lease.

4. Base Rent.

4.1. Amount. Tenant will pay in advance to Port Rent in the sum of $17,708.33 Dollars each and every month, subject to adjustment in accordance with Subsection 4.4 and Subsection 4.4.1.3. The specified Rent will be due and payable on or before the first day of each month during the term and will be made payable to "Stockton Port District" and mailed to the following address:

Port of Stockton
P.O. Box 2089
Stockton, California 95201
Attn: Accounting Manager

4.1.1. Security Deposit. Upon execution of this Lease, Tenant shall deposit of $17,708.33 (the "Deposit") with Port to secure Tenant's obligations hereunder. The Deposit shall be held by Port as security for the faithful performance by Tenant of all

provisions of this Lease. If Tenant fails to pay rent or other sums due under this Lease or defaults with respect to any provision of this Lease, Port may use, apply, or retain all or any portion of the Deposit for the payment of rent or other sums in default, for the payment or any other sums to which Port may become obligated because of Tenant's default, or to compensate Port for any loss or damage that Port may suffer because of the Tenant's actions. If Port uses or applies the Deposit, Tenant shall, within ten (10) days after demand, deposit cash with Port in an amount sufficient to restore the Deposit to the full amount, and Tenant's failure to do so shall be a material breach of this Lease. Port shall not be required to keep the Deposit separate from Port's general accounts. If Tenant performs all of Tenant's obligations under this Lease, the Deposit or the amount not applied by Port shall be returned, without interest, to Tenant or at Port's option, to the last assignee, if any, of Tenant's interest under this Lease at the expiration of the Term and after Tenant has vacated the Premises. No trust relationship is created between Port and Tenant with respect to the Deposit.

4.1.2. Permitting Period. Tenant is allowed six (6) months following the Commencement Date ("Permitting Period") to secure all necessary approvals and or permits with Tenant paying a minimum amount of rent in the amount of $1,000.00 per month. Tenant is also allowed, during the Permitting Period, to perform site preparation work including surveying, engineering, grading, etc. Should Tenant receive all necessary permits and approvals and/or begin construction of the project prior to the end of the six (6) month Permitting Period, the Permitting Period shall end and the construction period shall start. The foregoing six (6) month permitting period may be extended for up to an additional ninety (90) days upon written notice from Tenant to Port, in the event that permits and approvals necessary for the construction of the site work are not obtained within the six (6) month period after the Commencement Date. Should Tenant fail to obtain all necessary approvals and/or permits during the Permitting Period, Tenant shall have the option to terminate this Lease.

4.1.3. Construction Period. During the period of construction of (i) the infrastructure in support of the Initial Improvements, Tenant will pay in advance to Port beginning on the first day following the expiration of the Permitting Period through the earlier of (a) completion of the construction of the Infrastructure and the Initial

Improvements, which completion shall be evidenced by Tenant's receipt of a Certificate of Occupancy, or equivalent document from the City of Stockton Building Department or all appropriate approval authorities, or (b) twelve (12) months following the Commencement Date, Base Rent on a monthly basis in the amount of Fifty Percent (50%) of the base rate per acre under the Lease (which is $8,854.17 per month).

4.2. Proration. Should the Commencement Date occur on a day other than the first day of a calendar month, the Rent for the first fractional month will be prorated and paid on the Commencement Date, together with the Rent for the month beginning immediately thereafter. The Rent for the last fractional month will be prorated and paid in advance together with the Rent for the last full month of the term of this Lease.

4.3. Late Charge. Tenant acknowledges that late payment by Tenant to Port of Rent will cause Port to incur costs not contemplated by this Lease, the exact amount of the costs being impracticable to fix. The costs include, without limitation, processing and accounting charges, and late charges that may be imposed on Port by the terms of any encumbrance and note secured by any encumbrance covering the Premises. Therefore, if any installment of Rent due from Tenant is not received by Port within 10 days after the date when due, Tenant will pay to Port, in addition to interest at the rate of 10% per annum, an additional sum of 5% of the overdue Rent as a late charge. The Parties agree that this late charge represents a fair and reasonable estimate of the costs that Port will incur by reason of late payment by Tenant. Acceptance of any late charge will not constitute a waiver of Tenant's Default with respect to the overdue amount, or prevent Port from exercising any of the other rights and remedies available to Port.

4.4. Escalation of Rent

4.4.1. Initial Escalation. The annual Base Rent for the Premises, payable in monthly installments, will be adjusted upward, but not downward, as of the first day of each Lease Year starting with the second Lease Year:

4.4.1.1. Rent Adjustments. Provided this lease is not sooner terminated, effective the 1st day of the month following the first anniversary of the Commencement Date (which date and subsequent anniversaries shall be referred to individually as the "Adjustment Date") of the tenancy, and annually thereafter, the Base Rent will be adjusted

as of the Adjustment Date automatically without further notice to reflect the percentage increase (but not any decrease), if any, in the CPI. Such adjusted amount of Rent shall be equal to the product obtained by multiplying the Rent amount in effect on the Adjustment Date by a fraction, the numerator of which is the CPI figure for the month three (3) months prior to the Adjustment Date and the denominator of which is the CPI figure for the month three (3) months prior to the 1st day of the month following the Commencement Date for the first Adjustment Date, and for all subsequent adjustments through the tenancy is the CPI figure for the month three (3) months prior to the prior year Adjustment Date.

The formula illustrating the adjustment computation is as follows:

Commencement Date :	**June 25, 2018**
Base Rent:	**$206,552.04**
Adjustment Date:	**July 1, 2019**
Prior Year CPI Index:	**Apr-18 - 250.546**
Adjustment Date CPI Index:	**Apr-19 - 255.548**

Rent as of Adjustment Date		CPI Index-Adjustment Date		CPI Index of the Prior Year Adjustment Date		Adjusted Rent
$206,552.04	x	255.548	÷	250.546	=	$210,675.73

4.4.1.2. Conversion of Index Figure. If the index figure for the adjustment month is calculated from a basis other than the base year 1982-84 = 100 used for the index figure for the index month, that index figure will first be converted under a formula supplied by the Bureau. If the CPI is discontinued or revised during the term of this Lease, any other governmental index or computation with which it is replaced will be used in a manner to obtain substantially the same results as would have been obtained if the CPI had not been discontinued or revised.

4.4.1.3. Additional Adjustment. If the term of this Lease extends into an 11th year, the base Rent for the 11th year of the term will be adjusted to the greater of the fair market rental value as determined by Subsection 4.4.1.4 or the amount calculated pursuant to Subsection 4.4.1.1. Thereafter, on an annual basis for the next 10 years the base Rent will be increased pursuant to the calculation in Subsection 4.4.1.1. The base Rent will be adjusted as provided for the 11th year for any subsequent 10 year periods.

4.4.1.4. Fair Market Rental Value. Fair market rental value, as used in Subsection 4.4.1.3, will be determined for each 10 year period prior to the end of the 10th year of the Lease and each subsequent 10 year period as follows: Tenant and Port will each, on or before 150 days prior to the expiration of a 10 year period, negotiate with each other to establish a fair market rental value for the Premises. If the Port and Tenant cannot agree on a rate within 30 days, then Tenant and Port will each appoint an Appraiser and the two Appraisers, prior to 90 days before the end of the 10th year will appoint a third Appraiser. If either Party fails to timely make the appointment of an Appraiser or the two Appraisers fail to timely appoint the third Appraiser, then either Party may request the Presiding Judge of the Superior Court for the county of San Joaquin to make the appointment. After the three Appraisers have been appointed, each of the Appraisers will independently determine the fair market rental value of the Premises and the fair market rental values as determined by each of the Appraisers will be averaged and the average fair market rental value will be the fair market rental value mentioned in Subsection 4.4.1.3. To the extent comparables outside of the Port of Stockton are used in the calculations of the Appraisers, the Appraisers will use comparables from ports and other commercial and industrial marine properties on the Sacramento and San Joaquin Rivers and in the general vicinity of Antioch and Pittsburg in Contra Costa County and in the general vicinity of Benicia in Solano County. Fair market rental value will be calculated only for the Land and the Improvements owned by the Port and not on Improvements constructed by Tenant. All costs including fees of the Appraisers will be borne one-half by Tenant and one-half by Port. In the event that the adjusted Rent is not yet determined as of the commencement of a new 10 year period, Tenant will continue to pay Rent at the rate in effect previously until the adjusted Rent is determined in accordance with this Subsection 4.4.1.4. Tenant will pay to the Port the difference, if any, between the adjusted Rent rare and the Rent paid for the period of time necessary for the determination of the fair market rental value within 30 days of the final determination of the adjusted Rent.

4.5. Taxes; Assessments.

4.5.1. On Real and Personal Property. Tenant will be responsible for payment of all real and personal property taxes, general and special assessments, and other charges of every description levied on or assessed against the Premises, Improvements located on the Premises, personal property located on or in the land or Improvements, the leasehold estate, or any sub-let estate, including any property taxes on any possessory interest that may be created by this Lease or the occupancy of Tenant, to the extent of all installments falling due during the term, whether belonging to or chargeable against Port or Tenant. Tenant will make all payments directly to the taxing authority not later than 5 days before delinquency and before any fine, interest or penalty will become due or be imposed by operation of Laws for nonpayment. If Laws expressly permit the payment of any or all of the above items in installments, whether or not interest accrues on the unpaid balance, Tenant may, at Tenant's election, utilize the permitted installment method, but will pay each installment with interest, if any, before delinquency.

4.5.2. No Prorations. Since Port is exempt from taxes, no payments of taxes will be prorated for any Lease Year less than a full calendar year. For permitted installment payments, Tenant will pay all installments falling due during the term of this Lease. If the payments falling due during the term of this Lease are for periods prior to, or after expiration of the term of, this Lease, Tenant will make all those payments and may seek reimbursement only from the taxing authority and not from Port.

4.5.3. Tenant's Right To Contest. Tenant may contest the legal validity or amount of any taxes, assessments or charges for which Tenant is responsible under this Lease, and may institute proceedings as Tenant considers necessary. If Tenant contests any tax, assessment or charge, Tenant may withhold or defer payment or pay under protest but will protect Port and the Premises from any lien by adequate surety bond or other appropriate security approved by Port.

4.5.4. Exceptions. Tenant's obligation to pay taxes or assessments levied or charged against the Premises or Improvements or against specified personal property or against the possessory interest created by this Lease will not include the following: taxes levied on business income, Rents, franchises, profits or transfer taxes

levied or assessed against Port by a federal, state or other governmental agency unless levied as a substitute for ad valorem taxes in which case the substitute taxes will be treated under Subsection 4.5.1.

4.5.5. Proof of Compliance. Tenant will furnish to Port, at least two days before the date when any tax, assessment, or charge would become delinquent, receipts or other appropriate evidence of payment of all taxes or assessments paid by Tenant pursuant to this Lease. Tenant may comply with the requirement by retaining a tax service to notify Port as to whether the taxes have been paid.

4.6. Accord and Satisfaction; Receipt of Money.

4.6.1. Accord and Satisfaction. No payment by Tenant or receipt by Port of a lesser amount of Rent than required under this Lease will be deemed to be other than on account of the earlier required Rent due and not yet paid, nor will any endorsement or statement on any check or any letter accompanying any check or payment of Rent be deemed an accord and satisfaction, and Port may accept the check or payment without prejudice to Port's right to recover the balance of the Rent or pursue any other remedy.

4.6.2. Receipt of Money. No receipt of money by Port from Tenant after the termination of this Lease, after the service of any notice relating to the termination of this Lease, after the commencement of any suit or after final judgment for possession of the Premises, will reinstate, continue, or extend the term of this Lease or affect any notice, demand, suit or judgment.

5. Use.

5.1. Permitted Use. Tenant will use the Premises during the term of this Lease only for the following specific purpose or purposes: construction, operation and maintenance of a hydrogen generation and dispensing facility consisting of two (2) Hydrogen production plants (H2 -1000 units) each of which have the capacity to produce 1000kg of hydrogen per day for a maximum of two thousand (2,000) kilograms per day and associated improvements that will provide regional fuel for zero emission end use. This involves outdoor installation of above ground modular hydrogen fuel production units,

dispensing equipment, and related storage equipment to, as well as the loading, unloading, transporting, treating, storing, refining, modifying, altering, repairing, improving or handling of various products such as hydrogen gas, natural gas, carbon dioxide, and any other products customarily used in the production of hydrogen fuel or the construction, operation, or maintenance of such modular units. Port and BayoTech agree that the maximum production allowed under the Lease is two thousand (2,000) kilograms per day, provided that all other terms and conditions of the Lease are in good standing as determined by Port Director.

As a condition of this Lease, Tenant will route all inbound and outbound truck traffic affiliated with its use and operation on Port property (and within Tenant's control) to Navy Drive and/or the Port of Stockton Expressway in order to alleviate the traffic impacts on the residential area (Boggs Tract) to the east.

5.2. Manner of Use. Tenant will not use or permit the Premises to be used for any purpose other than the uses specifically set forth in Subsection 5.1 without the prior written consent of Port. Unless expressly and specifically set forth in Subsection 5.1, Tenant may not load, unload, transport, treat, store, refine, modify, alter, repair, improve or otherwise handle any product at or through the Premises without the prior written consent of Port. Tenant represents, warrants and agrees that its use of the Premises will at all times be conducted in a neat, clean, and orderly manner and will be compatible with the Port's existing tenants and their operations and cargoes. It is specifically agreed that Tenant will not handle any materials or conduct its operations in or about the Premises in any manner which would constitute a hazardous, unsafe or dangerous condition, or which would endanger the life or property of any person. Tenant agrees to use the Premises, and to conduct all activities on or about the Premises, in a careful, non-negligent manner, with due regard for the life and property of all persons and to cause all Tenant Persons entering the Premises to so conduct themselves.

5.3. Intentionally Omitted.

5.4. Waiver. The Parties will not be liable to each other for any damage to the other Party or its successors, assigns, agents, servants, employees, contractors, sublicensees, licensees or invitees or the property of any of the foregoing from any cause, except where the damage is caused by the other Party's, or its agents' or employees' gross

negligence or willful misconduct. The Parties waive all claims against each other for damage to persons or property arising for any reason, except as to claims arising by reason of the other Party's, or its officers', agents' or employees' gross negligence or willful misconduct. Each Party also hereby waives any claims against each other and its officers, agents or employees for damages or loss caused by any suit or proceeding directly or indirectly challenging the validity of the Lease or any part thereof, or by any judgment or award in any suit or proceeding declaring this Lease null or voidable or delaying the same or any part thereof from being carried out.

5.5. Land Use Restrictions. Tenant may enter into agreements restricting use or granting easements over the Premises or obtain conditional use permits or other approvals, provided they are limited to the term of this Lease. Tenant must obtain Port's prior written consent, not to be unreasonably withheld, conditioned, or delayed, to any restrictions on the land, its use or its alienation, for periods extending beyond the term. Port will, at Tenant's written request, join Tenant in applications and proceedings to obtain necessary use permits or other approvals, without cost to Port.

5.6. Nuisance and Prohibited Uses. Tenant will not do or permit anything to be done in or about the Premises, nor bring or keep anything thereon which will cause the cancellation of fire or other insurance covering the Premises or its structures, or which will in any way conflict with any Laws affecting the occupancy and use of the Premises which are or may hereafter be enacted or promulgated by any public authority. Tenant will not allow alcohol consumption on any Port Premises. Pets or animals of any kind are not allowed. Tenant will not in any way obstruct or interfere with the rights of other tenants of the Port, or injure or annoy them or cause a condition which is a nuisance to or for other tenants of the Port or owners or occupants of nearby properties. If a Tenant causes/creates a nuisance situation which adversely impacts the Port, other Port tenant(s) and/or the surrounding community, as determined at the sole reasonable discretion of the Port Director, Tenant will be given a 15-day notice to correct or abate said nuisance by the Port Director and if the nuisance continues after that time, the Port has the right to immediately terminate this Lease. Tenant will not allow the Premises to be used for any improper, unlawful purposes or for any purpose prohibited by any insurance policy covering the Premises or its structures. Tenant agrees that if Tenant's use of the Premises in any manner,

even if its use is for a purpose enumerated herein, increases any premium for insurance of the Port for the Premises, adjacent Premises or any Premises owned by Port, Tenant will pay any and all increases in the premium.

5.7. Notice of Violation. Tenant will notify Port in writing immediately whenever Tenant receives notice from any regulatory agency that Tenant is or may be in violation of the terms of any Laws. Tenant's notice to Port will include a copy of the notice from the regulatory agency.

5.8. Mitigation Measures and Conditions. If Tenant is required as a result of an Environmental Impact Report, a Mitigated Negative Declaration, or other environmental document to undertake or comply with any mitigation measure or if Tenant is required under any Permit issued by Port or a third party or other approval to comply with any condition, compliance with all applicable mitigation measures and conditions shall be an obligation of Tenant under this Lease. Tenant's failure to comply fully with any mitigation measure or condition mentioned in the foregoing sentence will constitute a breach of this Lease.

6. Default, Termination and Remedies.

6.1. Default by Tenant. The occurrence of any one or more of the following events will constitute a material breach and Default of this Lease by Tenant:

6.1.1. Abandonment. The vacating or abandonment of the Premises for a period of 90 days or more by Tenant.

6.1.2. Failure to Pay. Any failure by Tenant to make any payment of Rent to be made by Tenant under this Lease when due, will be charged a late fee of 1.5% per month, if the failure to pay continues for 10 days after the payment is due. In addition, if a failure to pay on time occurs more than twice in a twelve-month period this lease shall be deemed in default.

6.1.3. Failure to Observe Lease Provisions. Any failure by Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant, other than those described in Subsection 6.1.2, when the failure continues for more than 30 days after written notice from Port. If the failure is of a

nature that cannot reasonably be cured within 30 days, Tenant will not be in Default hereunder if Tenant commences cure within the 30 day period and diligently prosecutes cure to completion as soon as reasonably possible.

6.1.4. Bankruptcy. The occurrence of an Event of Bankruptcy, or if Tenant takes advantage of any Insolvency Laws, all as described in Subsection 6.3 herein.

6.2. Default by Port. Notwithstanding anything contained in this Lease to the contrary, if Port will be in Default in the performance of any of its obligations under this Lease, and the Default continues for a period of more than 30 days after receipt of written notice from Tenant specifying the Default, or if the Default is of a nature to require more than 30 days to cure and the Default continues beyond the time reasonably necessary to cure, unless Port has undertaken procedures to cure the Default within the 30 day period and diligently pursues the effort to cure to completion. Tenant may exercise any remedies available to Tenant.

6.3. Bankruptcy or Insolvency.

6.3.1. Events of Bankruptcy. For purposes of this Lease, the following will be deemed "Events of Bankruptcy" of Tenant:

6.3.1.1. Insolvent. If Tenant becomes "insolvent", as defined in any Insolvency Laws; or

6.3.1.2. Voluntary Petition. If Tenant files a voluntary petition under any Insolvency Laws; or

6.3.1.3. Receiver. If a receiver or custodian is appointed for any or all of Tenant's property or assets, or if there is instituted a foreclosure action on any of Tenant's property; or

6.3.1.4. Involuntary Petition. If there is filed an involuntary petition against Tenant as the subject debtor under any Insolvency Laws, which is not dismissed within thirty (30) days of filing, or results in issuance of an order for relief against the debtor; or

6.3.1.5. Assignment. If Tenant makes or consents to an assignment of its assets, in whole or in part, for the benefit of creditors, or undertakes a common law composition of creditors.

6.3.2. Termination as Result of Bankruptcy. Upon the occurrence of an Event of Bankruptcy, or if Tenant takes advantage of any Insolvency Laws, then in that event Port at its option and sole discretion may terminate this Lease at any time by written notice to Tenant, subject to applicable provisions of the Insolvency Laws during the pendency of any action thereunder involving Tenant as the subject debtor. If this Lease is terminated under this Subsection, Tenant will immediately surrender and vacate the Premises, waives all statutory or other notice to quit, and agrees that Port's obligations under this Lease will cease from the termination date, and Port may recover possession by process of law or in any other lawful manner. Furthermore, if this Lease terminates under this Subsection, Port will have all rights and remedies against Tenant provided in the case of a Default of Tenant in the payment of Rent. Tenant will be deemed to have abandoned all of its personal property remaining on or in the Premises after Tenant surrenders possession of the Premises. Port may dispose of Tenant's personal property in any manner Port deems appropriate without accounting to Tenant or its legal representative for the proceeds. Notwithstanding the foregoing, Port retains the right to assert an administrative claim and a general unsecured claim that results from a breach of this Lease including, without limitation for the cost to remove Tenant's personal property from the Premises and to restore the Premises after Tenant surrenders possession.

6.3.3. Following Petition. Upon the filing of a petition by or against Tenant under any Insolvency Laws, and if this Lease is not terminated pursuant to Subsection 6.3.2 herein, Tenant, as debtor and as debtor in possession, and any trustee who may be appointed, agree as follows:

6.3.3.1. Performance. To perform each and every obligation of Tenant under this Lease until this Lease is either rejected or assumed by order of the United States Bankruptcy Court;

6.3.3.2. Payment. To pay monthly in advance on the first day of each month as reasonable compensation for use and occupancy of the Premises an amount equal to all Rent due pursuant to this Lease;

6.3.3.3. Abandonment. To give at least 30 days prior written notice of any abandonment of the Premises, and any abandonment will be deemed a rejection of this Lease;

6.3.3.4. Actions. To do all other things of benefit to Port otherwise required under the any Insolvency Laws; and

6.3.3.5. Automatic Rejection. To be deemed to have rejected this Lease in the event of the failure to comply with any of the above.

6.3.4. Assumption or Assignment in Bankruptcy.

6.3.4.1. Rights. If Tenant becomes the subject debtor in a case pending under the Bankruptcy Code, Port's right to terminate this Lease under this Section will be subject to the applicable rights of the Trustee in Bankruptcy to assume or assign this Lease as then provided for in the Bankruptcy Code. However, the Trustee in Bankruptcy must give to Port and Port must receive proper written notice of the Trustee's assumption or rejection of this Lease within 120 days after the entry of the Order for Relief, or the date of the entry of an order confirming a Chapter 11 Plan, or such other applicable period as is provided for in the Bankruptcy Code. It is further agreed that failure of the Trustee to give notice of the assumption within the specified period will conclusively and irrevocably constitute the Trustee's rejection of this Lease and a waiver of any rights of the Trustee to assume or assign this Lease. The Trustee will not have the right to assume or assign this Lease unless the Trustee:

6.3.4.1.1. Promptly and fully cures all defaults under this Lease;

6.3.4.1.2. Promptly and fully compensates Port and any party to the Lease other than Tenant for all monetary damages and any actual pecuniary loss to each party incurred as a result of the default;

6.3.4.1.3. The Bankruptcy Court, or other court of competent jurisdiction, enters an order authorizing the assumption or assignment;

6.3.4.1.4. The assumption or assignment is not prohibited under applicable law, including, but not limited to, Section 365 of the Bankruptcy Code;

6.3.4.1.5. Provides to Port "adequate assurance of future performance," as defined below in this Lease.

6.3.4.2. Minimum Criteria. Port and Tenant hereby agree in advance that "adequate assurance of future performance," as used in Subsection 6.3.4.1.5 above will mean that all of the following minimum criteria must be met:

6.3.4.2.1. Tenant's gross receipts at the Premises, if any, in the ordinary course of its business during the 30 days immediately preceding the initiation of the case under the Bankruptcy Code must be at least 3 times greater than the next installment of Rent due under this Lease;

6.3.4.2.2. Both the average and median of Tenant's monthly gross receipts at the Premises, if any, in the ordinary course of its business during the 6 months immediately preceding initiation of the case under the Bankruptcy Code must be at least 3 times greater than the next installment of Rent due under this Lease;

6.3.4.2.3. Tenant must pay in advance to Port all Rent payable by Tenant hereunder including, but not limited to, its share as estimated by Port of the cost of all services provided by Port whether directly or through agents or contractors, and whether or not the cost of the services is to be passed through to Tenant, in advance of the performance or provision of the services; and

6.3.4.2.4. Tenant must agree by writing delivered to Port that Tenant's business will be conducted in a first class manner, and that no liquidating sales, auctions, or other non-first class business operations will be conducted on the Premises, and that the use of the Premises as stated in this Lease will remain unchanged, and that the assumption or assignment of this Lease will not violate or adversely affect the rights of other tenants located on the Port property of Stockton.

6.3.4.3. Failure By Tenant. In the event Tenant is unable to:

6.3.4.3.1. Cure its defaults;

6.3.4.3.2. Reimburse Port or any other party to this Lease for its monetary damages or actual pecuniary loss to a party resulting from the defaults;

6.3.4.3.3. Pay the Rent due under this Lease or any other payments required of Tenant under this Lease on time; or

6.3.4.3.4. Meet the criteria and obligations imposed by Subsections 6.3.4.2.1 through 6.3.4.2.4 in the previous Subsection, then Tenant hereby agrees in advance that it has not met its burden to provide adequate assurance of future performance and therefore cannot assume or assign this Lease, and this Lease may be immediately terminated by Port in accordance with Subsection 6.3.2 above.

6.3.5. Damages. It is further agreed that, notwithstanding any provision herein to the contrary, in the event of the termination of this Lease by the happening of any event described in Subsection 6.3, Port will forthwith, upon termination, become entitled to recover the damages specified in Subsection 6.6.

6.3.6. No Default Waived. No Default of this Lease by Tenant, either prior to or subsequent to the filing of a bankruptcy petition, will be deemed to have been waived unless expressly agreed to in writing by Port.

6.3.7. Lease. It is understood and agreed that this Lease is a lease of real property as a lease is described in the Bankruptcy Code.

6.3.8. Obligations. Included within and in addition to any other conditions or obligations imposed upon Tenant, or its successor in the event of assumption and/or assignment, in accordance with this Section 6 are the following obligations:

6.3.8.1. Cure. The cure of any monetary Defaults and the reimbursement of pecuniary loss immediately upon assumption and or assignment;

6.3.8.2. Security Deposit. The deposit of a sum equal to 1 months' Rent to be held as a security deposit;

6.3.8.3. Use. The use of the Premises as set forth in this Lease; and

6.3.8.4. Competence. The reorganized debtor or assignee of the debtor in possession or of Tenant's trustee must demonstrate in writing that it has sufficient background including, but not limited to, substantial experience in managing operations of comparable type and size and the financial ability to operate the business out of the Premises in the manner contemplated in this Lease and to meet all other reasonable criteria of Port as did Tenant upon execution of this Lease; and

6.3.8.5. Mortgage. The prior written consent of any mortgagee to which this Lease has been assigned as collateral security; and

6.3.8.6. Physical Changes. No physical changes of any kind may be made to the Premises unless in compliance with the applicable provisions of this Lease.

6.4. Remedies. In the event of any Default by Tenant, in addition to any and all other remedies available to Port at law and in equity, Port will have the right at any time thereafter, with or without notice or demand:

6.4.1. Termination. To declare this Lease terminated and to reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant will have no further claim thereon or thereunder; or

6.4.2. Re-entry. Without declaring this Lease terminated, to reenter the Premises and occupy, relet or sublet the whole or any part thereof for and on account of Tenant and to collect the Rent and other sums that may thereafter become due and payable; or

6.4.3. Collection of Rents. Without declaring this Lease terminated, to collect Rent, including but not limited to interest and late charges, as they become due and payable; or

6.4.4. Alternate Termination. To reenter the Premises pursuant to Subsection 6.4.2. above and thereafter elect to terminate this Lease and all of the rights of the Tenant in or to the Premises.

6.5. No Termination. In the event Port has reentered the Premises under the provisions of Subsection 6.4.2 or obtained possession of the Premises by service of a

notice pursuant to California Code of Civil Procedure Section 1161 or abandonment by Tenant, Port will not be deemed to have terminated this Lease, unless Port will have so notified Tenant in writing.

6.6. Termination. In the event Port elects to terminate this Lease under the provisions of this Section 6, Port may recover from Tenant as damages:

6.6.1. Rent Earned at Time of Termination. The worth at the time of award of any unpaid Rent which had been earned at the time of termination; plus

6.6.2. Rent Earned After Termination. The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of the Rent loss Tenant proves could have been reasonably avoided; plus

6.6.3. Rent for Balance of Term. The worth at the time of award of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of the Rent loss for the same period that Tenant proves could be reasonably avoided; plus

6.6.4. Other Compensation. Any other amount necessary to compensate Port for all damage proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom including, but not limited to, any costs or expenses incurred by Port in recovering possession of the Premises, in maintaining or preserving the Premises after the Default, in preparing the Premises for reletting to a new tenant, in making any repairs or alterations to the Premises for the reletting, in leasing commissions, and other costs necessary or appropriate to relet the Premises and reasonable attorneys' fees and costs incurred in enforcing or carrying out its rights hereunder; plus

6.6.5. Other Amounts. At Port's election, in addition to or in lieu of the foregoing, other amounts permitted from time to time by applicable California or Federal Laws.

6.6.6. Worth. As used in Subsection 6.6.1 and 6.6.2, the "worth at the time of award" is computed by allowing interest at the rate of 10% per year.

6.6.7. Worth as Used in Subsection 6.6.3. As used in Subsection 6.6.3, "worth" is computed by discounting the amount of the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1%.

6.7. Remedies Not Limited. The remedies given Port in this Section 6 will be in addition and supplemental to all other rights or remedies which Port may have under the Laws then in force, and all remedies may be exercised alternatively, cumulatively, concurrently and/or consecutively.

6.8. Destruction of Premises.

6.8.1. Port or Tenant to Repair if Insured. Unless this Lease is terminated as provided in Subsection 6.8.2 below, if the Premises are damaged and destroyed by any casualty covered by Port's fire and special extended coverage insurance policy, Port will repair the damage as soon as reasonably possible, and this Lease will continue in full force and effect. Tenant will procure and maintain during the term fire and extended coverage on all buildings and other Improvements altered or constructed by Tenant at full replacement value as provided in Subsection 9.3.3.1. Unless this Lease is terminated as provided in Subsection 6.8.2, if the Premises all or in part are damaged or destroyed by any casualty covered by Tenant's fire and extended coverage insurance policy, Tenant will repair the damage as soon as reasonably possible and this Lease will continue in full force and effect.

6.8.2. Destruction During Last 12 Months of Term. In the event the Premises are destroyed to the extent of more than 50% of the replacement value of the buildings and other Improvements which are a part of the Premises during the last 12 months of the term, either party may terminate this Lease by notice to the other party given, in writing, within 60 days after the date of damage. If Port terminates this Lease, Tenant may exercise any remaining option to extend this Lease within 60 days after Port's notice of the termination. And in that case, this Lease will remain in full force and effect and the Parties will restore the Premises as provided in Subsection 6.8.1.

6.8.3. Destruction Not Insured. If at any time during the term the buildings and other Improvements which are a part of the Premises are damaged to the extent of 15% or more of the replacement value of the Premises and the damage was caused

by a casualty not covered under Tenant's insurance policies specified in Subsection 9.3.3.1, or not fully covered under any insurance policy, Port as to Port Improvements and Tenant as to Tenant Improvements may, at their respective options, either repair the damage as soon as reasonably possible at the expense of the Party undertaking repairs, in which event this Lease will continue in full force and effect, or either Party may cancel and terminate this Lease as of the date of the occurrence of the damage, by giving the other Party written notice of Party's election to do so within 30 days after the date of occurrence of the damage, in which event this Lease will terminate unless within 30 days thereafter the other Party agrees to pay for Port's repair of the damage or otherwise agrees to accept the condition of the Premises "as is."

6.8.4. Rent Proportioned. In the event of damage or destruction to the Premises, the Rent will be proportionately reduced during the period of damage and any repair or restoration pursuant to this Lease, the reduction to be based upon the extent to which the damage or the making of the repairs or restoration will interfere with Tenant's business conducted on the Premises.

6.8.5. Failure to Complete Repair. In the event a Party does not complete its repair and restoration work within 180 days after the damage or destruction, the other Party, at its Option, may terminate this Lease by giving written notice thereof to the other Party at any time thereafter prior to completion of reconstruction by giving the other Party at least 30 days advance written notice.

7. Improvements.

7.1. Duty to Construct. Tenant will construct or cause to be constructed or installed on the Premises the Tenant Improvements according to the terms and conditions specified in this Section 7 and as described under the Scope of Development Schedule attached as Exhibit "C."

7.2. New Improvements. Tenant may not construct or otherwise make new Tenant Improvements or modifications on any part or all of the Premises, nor demolish, remove, replace, alter, relocate, reconstruct or add to any Port Improvements in whole or in part, nor modify or change the contour or grade, or both, of the land, without the prior written consent of Port("Port Project Approval Notice"). Tenant will not undertake any

action described in the preceding sentence if Tenant is in Default under any condition or provision of this Lease or if the Improvements following the work will not be at least equal in value to any Improvements as they were before being demolished, removed, replaced, altered, relocated, reconstructed, modified or changed. All salvage from Port approved projects will belong to Tenant.

7.2.1. Improvements and Modifications To and For Existing Facilities. To accommodate Tenant's operations, it is contemplated that certain Tenant Improvements and modifications will be made to the Premises as shown in the Scope of Development Schedule attached as Exhibit "C." The foregoing work will be done in accordance with drawings and specifications approved in writing by Port ("Port Project Approval Notice") and Tenant, prior to the commencement of the work.

7.2.2. Tenant's Property. Tenant will retain the ownership interest of any and all Tenant Improvements constructed or installed at Tenant's expense during the term of this Lease. Tenant will, notwithstanding anything to the contrary in this Section 7, have the right to the insurance proceeds arising from the destruction of any Tenant Improvements. Tenant will retain ownership of all signs, trade fixtures and equipment throughout the term. Tenant may remove any alterations or fixtures at any time during the term. Tenant will repair any damage to the Premises caused by removal.

7.3. Conditions of Major Construction. Before any work of major construction, alteration or repair is commenced on the Premises, where the total cost of construction, alteration or repair will exceed $100,000.00, and before any building materials have been delivered to the Premises by Tenant or under Tenant's authority, Tenant will comply with all the following conditions, or procure Port's prior written waiver of the condition or conditions specified in the waiver:

7.3.1. Preparation and Submission of Plans. Tenant will, at Tenant's own cost and expense, engage a licensed architect or engineer to prepare plans and specifications for the building project and will submit the plans and specification to Port for approval:

7.3.1.1. Information. Within 90 days after execution of this Lease as to construction under Subsection 7.1 and within 90 days after obtaining Port's consent under Subsection 7.2, two copies of:

7.3.1.1.1. Drawings. Drawings and materials in the form of plans, elevations, sections and rendered perspectives sufficient to convey the architectural design of the project to Port; and

7.3.1.1.2. Costs. A Statement of probable construction costs of the project prepared by the architect or engineer for the project.

7.3.1.2. Working Drawings. Within 90 days after approval by Port of the items specified in Subsection 7.3.1.1 and the obtaining by Tenant of any variance, use permits or rezoning required for the project, two copies of:

7.3.1.2.1. Plans. Detailed working drawings, plans and specifications for the project including as builts upon completion of the project in the following electronic format: GIS shapefile or geodatabase or GIS ready CAD and one hard copy;

7.3.1.2.2. Costs. A final statement of probable construction costs of the project prepared by the architect or engineer for the project.

7.3.2. Port's Approval of Plans. Within 30 days after receipt by Port of any of the documents submitted to Port for approval pursuant to Subsection 7.3.1, Port will either approve the documents by endorsing Port's approval on each document and returning one set of the documents to Tenant, or Port will give written notice to Tenant of any objections Port may have to the documents. Port's failure to give written notice to Tenant within the 30 days of any objections Port may have will constitute approval of the documents by Port. Within 30 days after the written notice of Port's objections, Tenant may deliver corrective amendments to the documents to Port and Port will within 30 days after receiving the corrective amendments give written notice to Tenant of Port's approval or rejection of the documents as amended.

7.3.3. Notice of Intent to Construct. Tenant will notify Port of Tenant's intention to commence a work of improvement at least 10 business days before

commencement of any work or delivery of any materials. The notice will specify the approximate location and nature of the intended Tenant Improvements. Port will have the right to post and maintain on the Premises any notices of non-responsibility provided for under Laws, and to inspect the Premises in relation to the construction at all reasonable times.

7.3.4. Port's Approval of General Contractor. Tenant will furnish Port with a true copy of Tenant's contract with the general contractor and with evidence of the general contractor's financial condition for Port's approval, which shall not be unreasonably withheld, conditioned, or delayed. The contract will give Port the right but not the obligation to assume Tenant's obligations and rights under that contract if Tenant should Default. Port may disapprove by written notice given within 30 days following receipt of a copy of the contract. The notice will specify the grounds for disapproval.

7.3.5. Performance Bonds. No construction costing in excess of $100,000.00 will be commenced upon the Premises by Tenant until Tenant has secured and submitted to Port, at Tenant's sole cost and expense, a performance bond and a labor and material bond in the amount of the total estimated construction cost of the Tenant Improvement to be undertaken by Tenant. Port will accept the performance and labor and material bonds supplied by Tenant's contractor or subcontractors, provided that Port is expressly named as an additional obligee or beneficiary thereunder with all rights and privileges of Tenant thereunder. All bonds must be issued by a company qualified to do business in the State of California and must be in a form, and by a surety, acceptable to Port.

7.3.6. Required Governmental Permits. Tenant will procure and deliver to Port at Tenant's expense evidence of compliance with all then applicable Laws and requirements for permits and approvals including, but not limited to, a grading permit, building permits, zoning and planning approvals and San Joaquin Valley Unified Air Pollution Control District permits to construct.

7.4. Grant of Easements. Port, upon the reasonable written request of Tenant, will grant to public entities or public utilities, for the purpose of serving the

Premises, rights of way or easements on or over the Premises for poles or conduits, or both, for telephone, electricity, water, sanitary or storm sewers, and for other utilities.

7.5. Completion.

7.5.1. Diligent Prosecution to Completion. Once work is begun, Tenant will with reasonable diligence prosecute to completion all construction of Tenant Improvements, additions or alterations. Construction required at the inception of the Lease will be commenced within 15 months after the Commencement Date and will be substantially completed within 30 months after the Commencement Date, subject to permissible delays and other force majeure delays. It is understood that delays in completion of construction will be deemed to constitute a material breach of this Lease and will entitle Port to terminate this Lease. The obtaining of necessary permits will not be a condition precedent to the payment of Rent required under this Lease. All work will be performed in a good and workmanlike manner, will substantially comply with plans and specifications submitted to Port as required by this Lease, and will comply with all applicable governmental permits and Laws.

7.5.2. Notice of Changes in Plans. Tenant will give Port written notice of all changes in plans or specifications made during the course of the work and will obtain Port's prior written approval of any material changes from the plans and specifications originally approved by Port.

7.5.3. Notice of Completion. On completion of any major work of construction during the term, Tenant will file or cause to be filed a notice of completion. Tenant hereby appoints Port as Tenant's attorney-in-fact to file the notice of completion on Tenant's failure to do so after the work of construction has been substantially completed. Immediately upon the completion of the construction, Tenant will notify Port in writing of the date of the completion and will, within 30 days after the completion, file with Port a statement, verified by the oath of Tenant's duly authorized representative, setting forth the cost of the labor and material used. Tenant will also file with Port, in a form reasonably acceptable to Port, a set of "as built" plans for the completed construction.

7.6. Compliance With Applicable Laws. Every work, structure or improvement constructed, or alteration or change of grade made by Tenant, will conform

with the plans and specifications as approved by Port and will conform in all respects to Laws including, without limitation, The Americans with Disabilities Act of 1990. Any approval of Port given as provided in this Section 7 will not constitute a representation or warranty as to conformity.

7.7. Soil Management. Tenant will consult with the Port prior to the start of any activities that will disturb the soil, such as excavation, grading, removal, trenching, filling, or earth movement. If applicable, Tenant will prepare a Soil Management Plan and a Health and Safety Plan approved by the State.

7.8. Contractor and Subcontractor. Tenant will require by contract that its construction contractors and subcontractors comply with all Laws and with any applicable terms of this Lease.

7.9. Protection of the Port Against Cost or Claims. Tenant will pay or cause to be paid the total cost and expense of all works of improvement, as that phrase is defined in the Mechanics' Lien Laws in effect when the work begins. No payment for any work of Improvement will be construed as Rent. Tenant will not suffer or permit to be enforced against the Premises or any part of it any mechanic's, materialman's, contractor's or subcontractor's lien arising from any work of Improvement, however it may arise. Tenant may, in good faith and at Tenant's own expense, contest the validity of any asserted lien, claim or demand, provided Tenant has furnished the bond provided for in California Civil Code Section 3143, or any comparable statute hereafter enacted for providing a bond freeing the Premises from the effect of a lien claim. Tenant will hold harmless and indemnify Port against all liability and loss of any type arising out of work performed on the Premises by Tenant, together with reasonable attorneys' fees and all costs and expenses incurred by the Port in negotiating, settling, defending or otherwise protecting against claims.

7.10. Port's Right to Discharge Lien. If Tenant does not cause to be recorded the bond described in California Civil Code Section 3143 or otherwise protect the Premises under any alternative or successor statute, and a final judgment has been rendered against Tenant by a court of competent jurisdiction for the foreclosure of a mechanic's, materialman's, contractor's or subcontractor's lien claim, and if Tenant fails to stay the

execution of the judgment by lawful means or to pay the judgment, Port will have the right, but not the duty, to pay or otherwise discharge, stay or prevent the execution of any judgment or lien or both. Tenant will reimburse the Port for all sums paid by Port under this Subsection 7.10, together with all of Port's reasonable attorneys' fees and costs, plus interest on those sums, fees and costs at the rate of 10% per year from the date of payment by Port until the date of reimbursement by Tenant.

7.11. Ownership. All Improvements made or erected by Tenant upon the Premises will be and remain the property of Tenant during the term of the Lease, unless otherwise specified, subject to the terms and conditions of this Lease.

8. Maintenance and Restoration.

8.1. Maintenance.

8.1.1. Normal Maintenance. Tenant will repair, maintain and keep the Premises, including landscaping, and all Improvements in a safe, clean, sanitary and attractive condition, as is appropriate for the subject structure, facility or area, and in conformance with all Laws. The appearance of the Premises will be maintained to the reasonable satisfaction of Port Director. Tenant will not permit any refuse or offensive matter or any substance constituting an unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, to be or remain on the Premises.

8.1.2. Repairs. Except as provided by any other provisions of this Lease, Tenant will promptly and diligently repair, restore and replace as required to maintain or comply as above, or to remedy all damage to, or destruction of, all or any part of the Tenant Improvements. The completed work of maintenance, compliance, repair, restoration, or replacement will be equal in value, quality and use to the condition of the Tenant Improvements before the event giving rise to the work, except as expressly provided to the contrary in this Lease. Except as provided by other provisions of this Lease, Port will not be required to furnish any services or facilities or to make any repairs or alterations of any kind in or on the Premises. Port's election to perform any obligation of Tenant under this provision on Tenant's failure or refusal to do so will not constitute a waiver of any right or remedy of Port for Tenant's Default. Tenant will promptly

reimburse, defend and indemnify Port against all liability, loss, cost and expense arising from Port's performance of an obligation of Tenant.

8.1.3. Exclusion. Nothing in this Subsection 8.1 defining the duty of maintenance will be construed as limiting any right given elsewhere in this Lease to alter, modify, demolish, remove or replace any Improvement or as limiting provisions relating to damage or destruction during the final year or years of the term. No deprivation, impairment or limitation of use resulting from any event or work contemplated by this Section 8 will entitle Tenant to any offset, abatement or reduction in Rent nor to any termination or extension of the term.

8.1.4. Cure. In the event Tenant fails to repair, maintain and keep the Premises and Improvements as required by this Lease, Port shall give 30 day written notice to Tenant to correct any Default, except that no notice will be required if in the opinion of Port, the failure creates a hazard to persons or property. If Tenant fails to cure the Default within the time specified in the notice, or if Port determines that a hazard to persons or property exists due to the failure, Port may enter upon the Premises and cause repairs or maintenance to be made, and the costs, including labor, materials, equipment and administrative overhead, to be charged against Tenant. Charges will be due and payable with the next Rent payment. Maintenance activity by Port will not be deemed a constructive or actual eviction or entitle Tenant to any abatement or reduction of Rent.

8.2. Delivery. Port agrees to deliver to Tenant possession of the Premises on the Commencement Date in an as-is condition.

8.3. Port Maintenance. As to Port Improvements, except in the event that Tenant's activities on the Premises or elsewhere cause injury or damage requiring repair or maintenance, Port will at its own cost and expense, keep, replace and maintain in good condition and repair:

8.3.1. Driveways. All paved roadways and driveways and all other paved surfaces which provide access to the Premises to and from public roads, with the exception of any outside improvements installed by Tenant pertaining to fueling, scaling, etc., which shall be Tenant's responsibility for the ingress and egress related thereto up to 250 feet in either direction.

8.3.2. Damage to the Premises. Any damage to the Premises caused by any omission or negligence of the Port, its agents, employees, contractors or licensees.

8.4. Legal Requirements.

8.4.1. Definitions. Notwithstanding anything contained in this Lease to the contrary, Tenant will not be obligated to comply with any Laws ("Legal Requirements") which require any changes to be made in the Premises unless the same are made necessary by any act or work performed by Tenant or by the particular nature of Tenant's use or by the particular manner of the conduct by Tenant or its permitted use will be referred to as "Tenant Generated". If any Legal Requirements are made necessary by any act or work performed by Port or its agents, the same will be referred to as "Port Generated". If the Legal Requirements are neither Tenant Generated nor Port Generated, then the requirements will be referred to as "General Requirements".

8.4.2. Responsibility. Tenant will be responsible for compliance with Legal Requirements which are Tenant Generated, whether the same are of a structural or non-structural nature. Port will be responsible for compliance with Legal Requirements which are Port Generated, whether the same are of a structural or non-structural nature. Port will be responsible for General Requirements pertaining to the Premises.

8.5. Restoration and Surrender of Premises. At the expiration of this Lease, Tenant will surrender all rights in and to the Premises and all permanent buildings, works, structures, pipelines and other Improvements of any kind, erected, installed or made, under, through, because of, or pursuant to, the terms of this Lease, or any prior agreement, to Port and the Improvements will automatically become the property of Port free and clear of any claim of any kind or nature of Tenant or its successors in interest. Alternatively, at Port's option, Port can require Tenant to remove, at Tenant's sole cost and expense, the Tenant Improvements, and if Port requires removal, Tenant will repair all damage caused by the removal of the Tenant Improvements and will leave the surface of the ground in a clean, level, graded condition with no excavations, holes, hollows, hills or humps. Upon the expiration of the term of this Lease or any sooner termination thereof, Tenant will quit and surrender possession of the Premises to Port in at least as good and usable a condition, reasonably acceptable to Port Director, as the same were in at the time of the first

occupation thereof by Tenant under this Lease or any prior agreement, lease or permit, ordinary wear and tear excepted. Tenant will remove all product and all debris from the Premises.

8.6. Service and Utilities. Unless otherwise provided for herein, Tenant will pay all charges for services furnished to the Premises or used in connection with its occupancy including, but not limited to, heat, steam, gas, electricity, telephone, water, pest control and janitorial services, and pay all deposits, connection fees, charges and meter rentals required by the supplier of any service, including Port.

8.7. Inspection of Premises. Port Director and his or her duly authorized representatives will have the right to enter the Premises, and the Improvements at any reasonable time, but with reasonable advance notice to Tenant, during the term of this Lease for the purpose of determining compliance with the terms and conditions of this Lease or for any other purpose incidental to the rights of Port. The right of inspection reserved will impose no obligation upon Port to make inspections to ascertain the condition of the Premises, and will impose no liability upon Port for failure to make the inspections. By reserving the right of inspection Port assumes no responsibility or liability for loss or damage to the property of Tenant or property under the control of Tenant, whether caused by fire, water or other causes. Port does not assume responsibility for any shortages of cargo handled by Tenant on the Premises or of inventory kept on the Premises.

8.8. Signs. Tenant will not erect or display or permit to be erected or displayed on the Premises, or upon works, structures and Improvements made by Tenant, any advertising matter of any kind, including signs, without first obtaining the written consent of Port. Tenant will post, erect and maintain on the Premises signs as Port may reasonably direct.

8.9. Interruption of Services. Port will not be liable for any failure to furnish, stoppage of, or interruption of the services or utilities described in Subsection 8.6, whether furnished by Port or others, when the failure is caused by blackouts, accident, breakage, repairs, strikes, lockouts, labor disputes, labor disturbances, governmental regulation, civil disturbances, acts of war, moratorium or other governmental action, or other cause beyond Port's reasonable control. In the case of an event described in the

preceding sentence, Tenant will not be entitled to any damages nor will any failure or interruption abate or suspend Tenant's obligation to pay Rent or be construed as a constructive or other eviction of Tenant or termination of this Lease. Tenant waives any right under any existing or future Laws to terminate the Lease due to any stoppage of or interruption of the services or utilities provided in Subsection 8.6. In the event any governmental authority or public utility promulgates or revises any Laws, or issues mandatory controls or voluntary controls relating to the use or conservation of energy, water, gas, electricity, other services, the reduction of automobile, industrial or other emissions, Port may take any reasonable appropriate action to comply.

9. Tenant's Liability for Operations on Premises and Insurance.

9.1. Indemnity. Tenant will at all times relieve, indemnify, protect and hold harmless Port and Port Persons, from any and all liability, claims, damages, judgments and expenses, including attorney's fees and costs, caused or arising directly or indirectly by reason of:

9.1.1. Condition of Premises. Any dangerous, hazardous, unsafe or defective conditions, in or on the Premises, of any nature whatsoever, arising from or related to any act, omission, neglect, or any use or occupation of the Premises by Tenant, including, without limitation, the use, handling, storage, disposal or other activity involving Hazardous Materials.

9.1.2. Use of Hazardous Materials. Any operation, specifically including, but not limited to, any operations conducted upon the Premises, or any use or occupation of the Premises by Tenant, under or pursuant to the provisions of this Lease or otherwise, involving Hazardous Materials.

9.1.3. Act, Omission, or Negligence. Any act, omission or negligence of Tenant, specifically including, but not limited to, any conditions arising from or related to the use, handling, storage, disposal or other activity involving Hazardous Materials.

9.1.4. Failure to Comply. Any failure of Tenant, to comply with any of the terms or conditions of this Lease or any Laws, specifically including, but not

limited to, any law, ordinance, rule or regulation governing the use, handling, storage, disposal or other activity involving Hazardous Materials.

9.1.5. Claims. Any claim by a third party of nuisance or otherwise arising or relating to a violation by Tenant of any of the Provisions of Section 5.

9.1.6. Lack of Port Authorization. The conditions, operations, use, occupation, acts, omissions or negligence referred to in Subsections 9.1.1 through 9.1.5 existing or conducted upon or arising from the use of or occupation by Tenant, of any other Port-owned Premises without the express written authorization of Port.

9.1.7. In Addition. The provisions of this Subsection 9.1 will be in addition to any other obligations and liabilities Tenant may have to Port at law or in equity and will survive the termination of this Lease.

9.2. Tenant's Liability for Damages to Port. Tenant also agrees to be responsible to Port for all damages or losses suffered by Port including, but not limited to, damage to or loss of Port's property, to the extent not insured by Port, and loss of Port revenue from any source, caused by or arising out of the conditions, operations, uses, occupations, acts, omissions or negligence referred to in Subsections 9.1.1. through 9.1.5.

9.3. Insurance.

9.3.1. Payment For Insurance. Tenant will pay for all insurance required under this Section 9 except costs attributable to insurance to be carried by Port.

9.3.2. Liability Insurance.

9.3.2.1. Carried by Tenant. Tenant will obtain, provide Port with written evidence thereof, and keep in force the insurance coverages specified below (Environmental Liability Insurance may be required for certain Tenant operations, and the Port will periodically review on a case by case basis (in the Port's sole discretion) to determine the commercially reasonable and appropriate type of coverage amount):

9.3.2.1.1. Primary Commercial General Site-Specific Insurance coverage in an amount not less than $1,000,000 per occurrence and $2,000,000 general aggregate, with an excess Umbrella Liability Coverage of $5,000,000, that includes (a) pollution coverage; (b) Terrorism coverage; and (c) a

sublimit of $250,000 per occurrence for damages to premises rented or leased including fire damage. Tenant will provide Port with a Certificate of Insurance naming Port as an Additional Insured.

9.3.2.1.2. Umbrella Liability coverage in an amount not less than $5,000,000 per occurrence and including Terrorism coverage. This coverage shall be in addition to and in excess of all other required coverages.

9.3.2.1.3. . Automobile Liability coverage for all owned, non-owned and hired autos in an amount not less than $1,000,000 per occurrence with an excess Umbrella Liability Coverage of $5,000,000. Tenant will provide Port with a Certificate of Insurance naming Port as an Additional Insured.

9.3.2.1.4. . If Tenant is operating in the capacity of a terminal, undertakes stevedoring, provides public warehousing, or will operate in a similar manner, Terminal Operator's Liability coverage in an amount not less than $5,000,000 per occurrence that includes a.) Terrorism coverage; b.) loss of or damage to Goods whether with or without negligence and c.) protection for the operations and services of subcontractors, if any. Tenant will provide Port with a Certificate of Insurance naming Port as an Additional Insured.

9.3.2.1.5. Any vessel calling at the Port shall have, at a minimum, the insurance required by Item 35 of General Tariff No. 1.

9.3.2.2. Policy. Policies will not contain any intra-insured exclusions as between insured persons or organizations, but will include coverage for liability assumed under this Lease as an "insured contract" for the performance of Tenant's indemnity obligations under this Lease. The limits of the insurance will not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance carried by Tenant will be on an occurrence basis (as opposed to claims-made), primary to and not contributory with any similar insurance carried by Port.

9.3.3. Property Insurance – Port Improvements.

9.3.3.1. Tenant Insured Items. Tenant Improvements and personal property, including but not limited to machinery, will be insured by Tenant. The policy or policies

will insure against all risks of direct physical loss or damage, including coverage for debris removal and the enforcement of any applicable requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of Tenant Improvements or personal property (including undamaged sections of the Premises) as the result of a covered loss. Coverage will include the perils of flood and earthquake. The policy or policies will include replacement cost coverage and contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted CPI. The Port will be a loss payee on the policy. If the insurance coverage has a deductible clause, the deductible amount will not exceed $10,000.00 per occurrence without the prior written approval of Port, and Tenant will be liable for the deductible amount in the event of an insured loss.

9.3.3.2. Builder's Risk. Before commencement of any demolition or construction, Tenant will procure from a company acceptable to Port, and will maintain in force until completion and acceptance of the work, builder's "all risks" insurance including but not limited to vandalism and malicious mischief, covering Tenant Improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor's, subcontractor's and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees, with limits sufficient to provide adequate reimbursement for any covered loss at the job site. The deductible will not exceed $10,000.00 without the prior written approval of Port.

9.3.3.3. Boiler and Machinery. Tenant will procure and maintain in force boiler and machinery insurance if, from time to time, the equipment is located on the Premises.

9.3.3.4. Workers' Compensation. Tenant will, during the term of this Lease, keep in full force and effect a policy or policies of workers' compensation insurance and/or United States Longshore and Harbor Workers coverage and/or Maritime Employers Liability, where applicable, with coverage and statutory limits as required by the State of California or Federal Government, and employer's liability coverage with limits of not less than $2,000,000.00 for each occurrence.

9.3.4. Adjacent Premises. If the Premises are part of a larger building, or of a group of buildings owned by Port which are adjacent to the Premises, Tenant will pay for any increase in the premiums for the property insurance of the building or buildings if the increase is caused by Tenant's acts, omissions, or use or occupancy of the Premises.

9.3.5. Tenant's Property.

9.3.5.1. Property Damage. As required by Subsection 9.3.3.1 Tenant will obtain and maintain insurance coverage on all of Tenant's Improvements and personal property. The insurance will be full replacement cost coverage with a deductible of not to exceed $10,000.00 per occurrence. The proceeds from the insurance will be used by Tenant for the replacement of Tenant Improvements and personal property. Tenant will provide Port with written evidence that the insurance is in force.

9.3.5.2. No Representation of Adequate Coverage. Port makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Tenant's property or obligations under this Lease.

9.4. Waiver of Subrogation. Without affecting any other rights or remedies, Tenant and Port each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of the releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective insurance carriers waive any right to subrogation that the companies may have against Port or Tenant, as the case may be.

9.5. Exemption of Port from Liability. Port will not be liable for injury or damage to any person or Tenant Improvements and Tenant's personal property or other property of Tenant and Tenant Persons or any other person on or about the Premises, whether the damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects or pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the injury or damage results from conditions arising upon the Premises or upon other

portions of the Building of which the Premises are a part, or from other sources or places. Port will not be liable for any damages arising from any act or neglect of any other tenant of Port. Notwithstanding Port's negligence or breach of this Lease, Port will under no circumstances be liable for injury to Tenant's business or for any loss of income or profit or any consequential damage of any kind.

9.6. Other Insurance Provisions.

9.6.1. Change. Port, at its discretion, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the terms hereof by giving 90 days prior written notice to Tenant, provided that the amounts and types of insurance required are customary and standard for facilities of the type located on the Premises and are compatible with prevailing industry standards.

9.6.2. Additional Insurance. Tenant may procure and maintain any insurance not required by this Lease, but all insurance will be subject to all other provisions of this Lease pertaining to insurance and will be for the mutual benefit of Tenant and Port.

9.6.3. Standards for Insurance. All insurance required by express provisions of this Lease will be carried only with insurance companies which are licensed to do business in California and which have a Best's rating of "A VIII" or better. All policies will be non-assessable and will contain language to the effect that:

9.6.3.1. Payable. Any loss will be payable notwithstanding any act or negligence of Port that might otherwise result in a forfeiture of the insurance;

9.6.3.2. Waiver. The insurer waives the right of subrogation against Port or Port persons;

9.6.3.3. Primary. The policies of Tenant are primary and non-contributing with any insurance that may be carried by Port; and

9.6.3.4. Notice. The policies cannot be canceled, non-renewed or materially changed except after 30 days written notice by the insurer to the Port Director. Tenant will furnish Port with copies of all policies promptly on receipt of them, and with certificates evidencing the insurance and naming the Port as additional insured, where applicable, and providing for the 30 days written notice of cancellation to the Port Director of non-renewal or

material change and copies of all endorsements specifically required hereunder. If Port so elects, at the expiration of the term, Port will reimburse Tenant pro rata for all prepaid premiums on insurance required to be maintained by Tenant, and Tenant will assign all Tenant's right, title and interest in that insurance to Port. Tenant may provide some or all of the required insurance coverage by blanket insurance covering the Premises and any other location or locations any insurance required or permitted under this Lease, provided it is reasonably acceptable to Port.

9.6.3.5. Policies and Certificates of Insurance. Tenant will furnish Port with copies of all policies promptly on receipt of them. Tenant will deliver to Port, in the manner required for notices, certificates of insurance naming the Port as additional insured for all insurance required by this Lease, together with evidence satisfactory to Port of payment required for procurement and maintenance of the policy, within the following time limits:

9.6.3.5.1. At Commencement. For insurance required to be in effect at the commencement of this Lease, prior to occupancy of any portion of the Premises by Tenant or prior to the Commencement Date whichever is earlier;

9.6.3.5.2. Later Requirement. For insurance required to be in effect at a later date, at least 30 days before the requirement takes effect;

9.6.3.5.3. Modifications. For insurance changes required by Port pursuant to Subsection 9.6.1, within 10 days after the new requirement takes effect;

9.6.3.5.4. Renewal. At any time, for any renewal or replacement of a policy already in existence, within 10 days after renewal or replacement of the existing policy.

9.6.3.6. Failure to Insure. If Tenant fails or refuses to procure or to maintain insurance as required by this Lease or fails or refuses to furnish Port with required proof that the insurance has been procured and is in force and paid for, Port will have the right, at Port's election and on 15 days' notice, to procure and maintain the insurance. The premiums paid by Port will be treated as Rent due from Tenant with interest at 10% per year, to be paid on the first day of the month following the date on which the premiums were paid. Port will give notice of

the payment of premiums pursuant to this Subsection 9.6.3.6, stating the amounts paid and the names of the insurer or insurers, and interest will run from the date of the notice. Port's right to procure and maintain insurance as provided herein will not limit any other remedies of Port. Without limiting the foregoing, Port will have the right to terminate this Lease if Tenant does not comply in all respects with Tenant's obligations under this Subsection 9.6.

9.6.3.7. Mortgage Holder. Tenant may include the holder of any security on the leasehold as a loss payee.

9.6.3.8. Required Endorsement. Each policy must also contain an endorsement reading as follows:

> "Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached, it is agreed that the Stockton Port District, its Board of Port Commissioners, their officers, officials, directors, agents and employees, are additional insureds hereunder, and that coverage is provided for all operations, uses, occupations, acts and activities of the insured under the Lease between Stockton Port District and BayoTech, Inc. dated _____, 2024 and under amendments, modifications, extensions or renewals of the lease, regardless of whether the operations, uses, occupations, acts and activities occur on the Premises or elsewhere."

9.6.3.9. Report of Loss. Tenant will report in writing to Port within 5 days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or major injury to any person or persons, or damage in excess of $25,000.00 to the property of Port, Tenant, or others, occurring upon the Premises, or elsewhere within the property of the Stockton Port District, if Tenant and Tenant Persons are involved in the accident or occurrence. The report will contain to the extent available:

9.6.3.9.1. Name. The name and address of the person(s) involved,

9.6.3.9.2. Statement. A general statement as to the nature and extent of injury or damage,

9.6.3.9.3. Date. The date and hour of the occurrence,

9.6.3.9.4. Witnesses. The names and addresses of known witnesses, and

9.6.3.9.5. Other Information. Other relevant information relating to the accident or occurrence as may be known to Tenant, and Tenant persons.

10. Assignment and Sublease.

10.1. Prohibition Against Assignment or Subletting. Except as expressly permitted in this Section 10 Tenant will not, either voluntarily or by operation of law, assign, transfer, convey, mortgage, pledge, hypothecate or encumber this Lease or any interest herein, and will not sublease the Premises, or any part thereof, or any right or privilege appurtenant thereto, or permit the use or occupancy of the Premises by any party, other than Tenant and Tenant Persons and Tenant's visitors, customers and invitees, without the prior written consent of Port. Port will have no liability for failing to consent but if Port does refuse to consent and Tenant believes the refusal is unreasonable, Tenant may seek a judicial determination. Any sublease, assignment, transfer, encumbrance or occupancy without consent will be void and will, at the option of Port, terminate this Lease. No inference will be drawn from any conduct or inaction on the part of Port that consent has been given. Should Tenant attempt to make or allow to be made any transfer, assignment, subletting, encumbrance or occupancy, except with Port's prior written consent, or should any of Tenant's rights under this Lease be sold or otherwise transferred by or under court order or legal process or otherwise, then, and in any of the foregoing events, Port may, at its option, treat the act as a non-curable Default by Tenant under the provisions of this Lease. Any transfer of Tenant's interest in this Lease or in the Premises from Tenant by merger, consolidation, dissolution, or liquidation will be deemed a prohibited assignment within the meaning of this Section 10. Unless Tenant's stock is listed on a recognized stock exchange, any transfer or transfers of Tenant's capital stock or partnership interests (whether of record or beneficially) subsequent to the date of this Lease which, in any one calendar year, amount to 10% or more of the capital stock or partnership interests of Tenant will also be deemed a prohibited assignment within the meaning of this Section 10.

10.2. Tenant's Permitted Assignment or Subletting. Notwithstanding anything to the contrary contained in this Lease:

10.2.1. Sublease. In the event of a sublease by Tenant, subtenant will be liable for the performance and observance of only those agreements, covenants, conditions and provisions to be performed and observed by Tenant under this Lease, to the extent the same pertain to the portion of the Premises being sublet and during the term of the sublease.

10.3. Information on Potential Assignee or Subtenant. If at any time during the term of this Lease, Tenant desires to assign this Lease or sublet all or any part of the Premises, Tenant will give prior written notice to Port setting forth:

10.3.1. Name. The name of the proposed assignee or subtenant;

10.3.2. Nature of Business. The nature of the proposed assignee's or subtenant's business to be carried on in the Premises;

10.3.3. Space. The space to be assigned or sublet;

10.3.4. Terms and Provisions. The terms and provisions of the proposed sublease or assignment; and

10.3.5. Financial Information. The financial information as Port may reasonably request concerning the proposed assignee or subtenant including, but not limited to, certified financial statements.

10.4. Conditions of Assignment or Sublease. Any assignment or sublease must, at a minimum, conform to the following conditions:

10.4.1. Terms of Notice. The assignment or sublease will be on the same terms set forth in Tenant's written notice given to Port;

10.4.2. Additional Costs. Tenant or the proposed assignee or subtenant agrees to pay Port, upon demand, as Rent, a sum equal to the additional costs, if any, incurred by Port for maintenance and repair as a result of any change in the nature of the occupancy caused by the assignment or subletting;

10.4.3. Consistent and Compatible. The occupancy resulting from the assignment or subletting will be consistent and compatible with the general character of the businesses carried on by Tenants of Port, will not cause a diminution in the reputation of the property owned or controlled by Port, will conform to the use restrictions set forth in this Lease, and will not violate any rights or options held by any other Tenant of Port;

10.4.4. Executed Copy. An executed copy of the assignment or sublease must be delivered to Port containing a copy of this Lease and expressly providing that Tenant and assignee or subtenant are jointly and severally liable for the payment of all sums due under this Lease and the performance and observance of all the agreements, covenants, conditions and provisions to be performed and observed by Tenant under this Lease as and when performance and observance are due and that Port will have the right to enforce the agreements, covenants, conditions and provisions directly against Tenant and/or assignee or subtenant, and each of them. Notwithstanding the foregoing, Tenant will have the duty and responsibility to take actions as are necessary to ensure that the assignee or subtenant fully complies with all the terms and provisions of this Lease; and

10.4.5. Consideration to Port. Any and all sums or other economic consideration received by Tenant as a result of the assignment or subletting, whether denominated Base Rent under the assignment or sublease or otherwise, which exceed, in the aggregate, the total sums which Tenant is obligated to pay Port under this Lease, prorated to reflect obligations allocable to that portion of the Premises subject to the assignment or sublease, will be payable to Port by Tenant, or if Port gives its prior written consent, directly by the assignee or subtenant to Port, and will be additional Base Rent under this Lease and will not affect or reduce any other obligation of Tenant under this Lease.

10.5. No Merger; Sub-Subletting: Documentation. The voluntary or other surrender of this Lease by Tenant or a mutual termination hereof will not work a merger, and will, at Port's option, either:

10.5.1. Termination. Terminate all or any existing subleases or sub tenancy or

10.5.2. Assignment to Port. Operate as an assignment to Port of Tenant's interest under the sublease or sub tenancy. Any subtenant or assignee at any tier will also be subject to all provisions of this Section 10 if it wishes to sub-sublet or sub-assign. All rights of Port under this Section 10 as well as any obligations hereunder on the part of Tenant, or any subtenant or assignee of Tenant, will prevail over any inconsistent language in the documentation for any sublease or assignment to which Port has consented, unless the inconsistent language is in a document which has been signed by Port.

10.6. No Release of Tenant. Regardless of Port's consent, no assignment, transfer, conveyance, pledge, hypothecation, encumbrance, subletting, occupation or use by another person will release Tenant of Tenant's obligations hereunder or alter the primary liability of Tenant to pay the Base Rent and to perform all other obligations, agreements, covenants, conditions and provisions to be performed by Tenant under this Lease. The acceptance of Base Rent by Port from any other person will not be deemed to be a waiver by Port of any provision of this Lease. Any consent by Port will not be deemed a consent to any subsequent assignment, transfer, conveyance, mortgage, pledge, hypothecation, encumbrance, subletting, occupation or use by another person. In the event of Default by any assignee, subtenant or any other successor of Tenant in performance of any of the terms of this Lease, Port may proceed directly against Tenant without the necessity of exhausting remedies against the assignee, subtenant or successor.

10.7. Payment of Port's Expenses. If Tenant requests Port's consent to assignment or subletting, then Tenant will pay Port's reasonable expenses including, without limitation, reasonable attorneys' fees, incurred in connection therewith. Tenant agrees to fully defend and indemnify Port with respect to all costs, including attorneys' fees expended by Port in connection with the claims, and liability for compensation claimed by any broker or agent employed by Tenant in connection with any assignment, subletting or other transfer of Tenant's interest under this Lease.

11. Estoppel Certificate; Subordination.

11.1. Tenant's Certificate. Tenant will at any time upon not less than 10 days prior notice from Port execute, acknowledge, and deliver to Port a certificate certifying that this Lease is unmodified and in full force and effect or, if modified, stating

the nature of the modification and certifying that this Lease, as modified, is in full force and effect and the date to which the Base Rent, security deposit, if any, and any other charges are paid in advance. The certificate will further acknowledge that there are not, to Tenant's knowledge, any uncured Defaults on the part of Port hereunder, or specifying the Defaults, if any, which are claimed and will certify any other information concerning this Lease or the Premises reasonably requested by Port. Any certificate may be conclusively relied upon by any prospective encumbrancer of the Premises.

11.2. Port's Certificate. Upon Tenant's request, Port will deliver a certificate to Tenant in similar form and content and within the time periods set forth in Subsection 11.1.

11.3. Failure to Furnish Certificate. Tenant's failure to deliver a certificate within the time will be conclusive upon Tenant that this Lease is in full force and effect, without modification except as may be represented by Port; that there are no uncured Defaults in Tenant's performance; that not more than 1 month's Base Rent has been paid in advance and that all other information concerning this Lease and the Premises reasonably included by Port in the certificate is true and correct.

11.4. Subordination.

11.4.1. Subordinate to Debt Security. This Lease, at Port's option, will be subordinate to any mortgage, deed of trust, security agreement, or any other hypothecation for security now or hereafter placed by Port upon the real property of which the Premises are a part and to any and all advances made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions. Notwithstanding the subordination, Tenant's right to quiet possession of the Premises will not be disturbed if Tenant is not in material Default and so long as Tenant will pay the Base Rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms.

11.4.2. Tenant to Execute Documents. Tenant agrees to execute any documents required to effectuate a subordination or to make this Lease prior to the lien of any mortgage, deed of trust or security agreement, as the case may be, and failing to do so within 10 days after written demand does hereby make, constitute and irrevocably

appoint Port as Tenant's attorney-in-fact and in Tenant's name, place and stead to do so. If any proceedings are brought to foreclose or if the power of sale is exercised under any mortgage or deed of trust made by Port covering the Premises, Tenant will attorn to the purchaser upon foreclosure or sale and recognize the purchaser as Port under this Lease.

12. New Financing. If Port desires to finance or refinance the Premises, or any part thereof, Tenant hereby agrees to deliver to any lender designated by Port the financial statements of Tenant as may be reasonably required by the lender. The statements will include the past 3 years financial statements of Tenant as well as other documents as may be reasonably required by the lender. All financial statements will be received by Port in confidence and will be used only for the purposes of this Section. Tenant will be required to deliver only financial statements for these periods and in the form that Tenant customarily prepares for its business.

13. Hazardous Materials.

13.1. Prohibition of Storage. The provisions of this Section 13 are in addition to Subsections 9.1.1, 9.1.2, and 9.1.3. Tenant will not cause or permit any Hazardous Materials to be brought upon, kept or used in, on, or about the Premises by Tenant and Tenant Persons, or invitees in a manner or for a purpose prohibited by, or which could result in liability under, any Laws. Tenant will comply with all legal requirements concerning Hazardous Materials. If Tenant breaches the obligation stated in the preceding sentences, or if the presence of Hazardous Materials on the Premises caused or permitted by Tenant, including Hazardous Materials specifically permitted and identified below, results in a release of a Hazardous Material, a discharge of a pollutant or contaminant or any other contamination of the Premises resulting in a potential violation of or incurrence of liability under any Laws, or if contamination of the Premises by a Hazardous Material otherwise occurs for which Tenant is liable to Port or any third party including, without limitation, any governmental agency, under any principal of law or equity, whether contractual, statutory or otherwise, Law for resulting damage, then Tenant will indemnify, defend and hold Port and Port Persons harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, injunctive actions or orders, or losses (including, without limitation diminution in value of the Premises, damages for the loss or

restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space in the Premises and sums paid in settlement of claims, "response costs" as defined in the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), attorneys' fees, consultant fees and expert fees which arise during or after the term of this Lease as a result of the contamination.

13.1.1. Clean-up. The indemnification of Port by Tenant pursuant to Subsection 13.1 includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any Federal, State, regional or local governmental agency or political subdivision because of the Hazardous Materials present in the soil or ground water on or under the Premises or emanating from the Premises. Without limiting the foregoing, if the presence of any Hazardous Materials on the Premises caused or permitted by Tenant results in any contamination of the Premises, Tenant will promptly take all actions, at its sole expense, as are necessary to return the Premises to the condition existing prior to the introduction of Hazardous Materials to the Premises or as required by Laws or authorities with respect to any Hazardous Materials, provided that Port's approval of the action will first be obtained, which approval will not be unreasonably withheld as long as the actions would not potentially have any material adverse long-term or short-term effect on the Premises.

13.1.2. Business. Port acknowledges that it is not the intent of this Subsection 13.1 and Subsections 9.1.1, 9.1.2, and 9.1.3 to prohibit Tenant from operating its business as described above. Tenant may operate its business so long as the use or presence of Hazardous Materials is strictly and properly controlled and monitored according to all applicable governmental requirements. As a material inducement to Port to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Port prior to the Commencement Date a list identifying each type of Hazardous Materials to be present on the Premises and setting forth any and all governmental approvals or permits required in connection with presence of Hazardous Materials on the Premises. Tenant will deliver to Port an updated Hazardous Materials List at least once a year and will also deliver an updated Hazardous Materials List before any new Hazardous

Materials are brought onto the Premises or on or before the date Tenant obtains any additional permits or approvals.

13.2. Termination of Lease. Notwithstanding the provisions of Subsection 13.1 above, Port will have the right but not the duty to terminate the Lease in Port's sole and absolute discretion if any anticipated use of the Premises by Tenant involves the generation or storage, use, treatment or disposal of Hazardous Materials in a manner or for a purpose prohibited by any governmental agency or authority; or if Tenant has been required by any lender or governmental authority to undertake removal or remedial action in connection with any Hazardous Materials on the Premises if the presence of Hazardous Materials resulted from Tenant's actions or use of the Premises, unless Tenant is in full compliance with all requirements connected with the removal or remedial action; or if Tenant is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of Hazardous Materials on the Premises, unless Tenant is in full compliance with the terms of the enforcement order.

13.3. Assignment and Hazardous Materials. Notwithstanding the provisions of Subsection 13.1 above, if:

13.3.1. Prohibited. Any use of the Premises by any proposed assignee or subtenant involves or reasonably could involve the generation or storage, use, treatment or disposal of Hazardous Materials in a manner or for a purpose prohibited by Laws or,

13.3.2. Prior Removal. The proposed assignee or subtenant has been required by any prior landlord, lender or governmental authority to undertake removal or remedial action in connection with any Hazardous Materials on a property where the presence of the Hazardous Materials resulted from the proposed assignee's or subtenant's action or use of the property in question or,

13.3.3. Enforcement Order. The proposed assignee or subtenant is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of Hazardous Materials. Then it will not be unreasonable for Port to withhold its consent to an assignment or subletting to the proposed assignee or

subtenant. This Subsection 13.3. will not preclude other grounds for Port's rejection of a sublease or assignment pursuant to any other provisions of this Lease.

13.4. Audit.

13.4.1. Required. From time to time during the term of this Lease, at Port's written request, which requests will be delivered not more often than once every 3 calendar years, Tenant will prepare, at Tenant's sole cost and expense, an Audit of the Premises prepared by a qualified, licensed and independent environmental consultant or engineer, reasonably acceptable to Port. The Audit will be delivered to Port within 60 days of Tenant's receipt of Port's request to prepare the Audit. Within 30 days of the receipt of the Audit, Port may notify Tenant of deficiencies in the Audit or of actions to be taken by Tenant to respond to matters addressed in the Audit. Failure of Port to comment or otherwise respond to the Audit will not constitute a waiver by Port of any rights under this Lease or otherwise. Tenant will respond in writing to any notification within 15 days of receipt. If, in Port's sole discretion, the Audit remains deficient, Port may prepare or cause to be prepared a new or revised Audit at Tenant's sole expense. Tenant will fully reimburse Port for any costs or expenses incurred by Port in connection therewith within 30 days of the date on which Port notifies Tenant of the costs incurred. Failure to reimburse this amount will constitute a breach of this Lease as if Tenant had failed to pay Base Rent. In addition to any other rights of Port to access the Premises, Tenant will permit Port or its agents all reasonable access to the Premises and to Tenant's operations and records to allow an Audit to be conducted.

13.4.2. Audit Defined. The term Audit' will mean a survey and report addressing Tenant's compliance with any and all environmental Laws or orders prepared by a qualified, licensed and independent environmental consultant or engineer reasonably acceptable to Port. The Audit will be conducted in accordance with all then accepted environmental auditing practices. At a minimum, the Audit will contain the following:

13.4.2.1. Records. A review of Tenant's records to determine if any unpermitted or unauthorized releases of Hazardous Materials have occurred;

13.4.2.2. Releases. A report of all the releases, the circumstances surrounding them, and the steps taken to correct or respond to them;

13.4.2.3. Processes. A review of Tenant's industrial processes, material handling and other activities to ensure that all necessary permits and other authorizations have been obtained and are current;

13.4.2.4. Permits. A list and copies of all permits; and

13.4.2.5. Other Information. All other information relevant to Tenant's compliance with all applicable environmental Laws, including, as relevant: total water consumption; an inventory of Hazardous Materials used in Tenant's operation, including the total amounts brought onto the Premises, and an accounting of their disposition; a copy of Tenant's environmental policies manual, training procedures, and any emergency response plans; any risk assessments, risk management prevention plans or similar documents as required by any Laws or order; all emissions inventories prepared pursuant to Laws or otherwise; and any reports or documents submitted to regulatory agencies not previously submitted to Port.

13.4.2.6. Sampling and Testing. If necessary, an Audit will include samplings of the air, soil or groundwater at or about the Premises and the conduct of any emissions or effluent testing. Additionally Tenant will furnish Port with a true copy of any audit or report prepared by the Department of Health Services or the California Environmental Protection Agency or the United States Environmental Protection Agency or any other governmental and permitting agencies within 30 days of receipt by Tenant.

13.4.3. Final Environmental Audit. In addition to the conduct of periodic Audits during the term of this Lease, and regardless of when the last Audit was conducted, Port will have the right to require Tenant, at Port's sole option, to conduct an Audit, at Tenant's expense, within the final 30 days of the term of this Lease in an effort to determine the environmental status and condition of the Premises upon the expiration of this Lease. All terms and conditions of this Subsection 13.4 will apply to the conduct, delivery, review, and further inquiry of the final Audit.

13.5. Port's Right to Perform Tests. In addition to the above audit right of Port at any time prior to the expiration of the term of this Lease, Port will have the

additional right to enter upon the Premises in order to conduct appropriate tests of water and soil and to deliver to Tenant the results of the tests to demonstrate that levels of any Hazardous Materials in excess of permissible levels has occurred as a result of Tenant's use of the Premises. Tenant will further be solely responsible for and will defend, indemnify and hold Port and Port Persons harmless from and against all claims, costs and liabilities including actual attorneys' fees and costs, arising out of or in connection with any removal, remediation, clean up, restoration and materials required by applicable Laws, orders or authorities hereunder to return the Premises and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials.

13.6. Continuing Obligations. Tenant's obligations under this Section 13 will survive the termination of this Lease. During any period of time the Premises are used by Tenant after the termination of this Lease to complete the removal from the Premises, or remediation of, Hazardous Materials, Tenant will continue to pay full Base Rent in accordance with this Lease, which Base Rent will be prorated daily.

13.7. Health and Safety Code Section 25359.7. Tenant recognizes its obligations under California Health and Safety Code Section 25359.7 to notify Port of any release of any Hazardous Materials that Tenant knows or has reason to believe has or will come to be located on or beneath the Premises.

13.8. Pre-Existing Conditions. If the Premises, or any existing leasehold Improvements located therein, contains any Hazardous Materials prior to the date this Lease is executed by Port in quantities requiring removal or remediation pursuant to any Laws and Hazardous Materials have not been released onto the Premises by Tenant, or by other persons at Tenant's direction or request, or Port elects to do so, Port will, at its sole cost, promptly after Port receives notice of a need for the removal or remediation thereof, perform the removal or remediation of the Hazardous Materials. Furthermore, Port hereby agrees to indemnify and hold harmless Tenant and Tenant Persons or successors to Tenant's interest in the Premises, their directors, officers, employees and agents, from and against any and all losses, claims, damages, penalties and liability, including all out-of-pocket litigation costs and the reasonable fees and expenses of counsel, and including all foreseeable and all unforeseeable consequential damages, directly or indirectly arising out

of the use, generation, storage, release or disposal of any Hazardous Material by Port, its agents or contractors or by any prior owner or operator of the property underlying the Premises, and including, without limitation, the costs of any required or necessary repair, cleanup, or detoxification and the preparation of any closure or other required plans, whether the action is required or necessary prior to or following the commencement of the term of this Lease, to the full extent that the action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of any Hazardous Material by any person other than Tenant and Tenant Persons, agents, assignees or subtenants on, under or in the property underlying the Premises prior to execution of this Lease. Port's obligations and liabilities under this Subsection 13.8 will survive the expiration of this Lease.

13.8.1. Asbestos. Port warehouses are documented to contain asbestos. All asbestos is encapsulated and deemed safe as long as the coating is not disturbed. Modifications to the warehouses may be allowed with proper authorization and certified hazmat contractors performing the work.

operationally feasible.

13.9. Clean Truck Requirement. Tenant shall Participate in Clean Truck Program. On August 6, 2007 the Port entered into a Settlement Agreement with the NRDC and other parties. The Port has delivered a copy of this Settlement Agreement to Tenant and Tenant acknowledges receiving the Settlement Agreement from the Port. The Settlement Agreement does not impose any obligations on Tenant but encourages port tenants to participate in certain programs designed to reducing air pollution emissions from certain vehicles. As partial consideration for the Port entering into this Lease Agreement Tenant agrees to participate in the Clean Truck Program described in the Settlement Agreement (Program), and in particular as described in subsection 1.2 of the Settlement Agreement.

13.9.1. Tenant agrees and covenants that it will participate in the Program as provided herein. This participation may involve purchasing new trucks that meet the current standard, retrofitting existing trucks to meet the new standard or a combination of these two methods of participating.

13.9.2. To the extent the law and related regulations remain applicable to Tenant's trucks, Tenant agrees to restrict trucks used in Tenant's operation to trucks that meet or exceed the most restrictive applicable standards for PM and NOx applicable to on-road heavy duty truck engines that have been adopted by the California Air Resources Board (CARB) or the Environmental Protection Agency at the time this Lease Agreement is executed by the parties (Clean Trucks).

13.9.3. Vehicles put into service by Tenant after the Lease Agreement is executed shall meet the CARB or EPA PM and NOx standards applicable to on-road heavy duty truck engines in effect at the time the vehicle is put into service by the Tenant.

13.9.4. On an annual basis, on or before January 30 of each year, the Tenant shall provide the Port with a written report disclosing the number of Tenant's truck during the immediate previous year that met or exceed the CARB or EPA standard applicable at the time each truck was placed into service by the Tenant. Tenant shall also provide such other information as demanded by the Port in order for the Port to calculate the overall participation of Port tenants in lessening air pollution emissions as expressed in subsections (a) through and including (f) of subsection 1.2 of the Settlement Agreement.

13.10. Construction Equipment Requirement. Tenant agrees that at least fifty percent (50%) of off-road diesel-powered construction equipment greater than 50 horsepower used at the West Complex must be equipped with Tier 1 or cleaner engines, as defined in the U.S. EPA Nonroad Diesel Engine Rule (2004). Equipment not designed Tier 1 by the manufacturer may achieve the emissions requirement described herein by retrofitting the equipment with the highest level of CARB-Verified Diesel Emission Control System (VDECS) that is available.

14. Miscellaneous Provisions.

14.1. Interpretation and Applicable Laws. In all cases the language in all parts of this Lease will be construed simply, according to its fair meaning and not strictly for or against Port or Tenant. It is expressly understood and agreed that this Lease and all questions arising thereunder will be construed under the Laws of the State of California.

14.2. Authority. Each person signing this Lease on behalf of Tenant and Port covenants, represents and warrants that the person is duly authorized to sign this Lease and that this Lease is a valid, binding obligation of the Party on whose behalf the Party signed.

14.3. Compliance with Laws.

14.3.1. Compliance. Tenant will, at all times, in its use and occupancy of the Premises and in the conduct of its operations thereon, comply with all Laws including, without limitation, all Laws relative to the discharge or runoff of water from the Premises requiring the filing of certain notices and reports with governmental agencies including, without limitation, the California State Water Resources Control Board, and the Regional Water Quality Control Board, Central Valley Region, and the obtaining of the permits covering Tenants' operations at the Premises from all state and federal agencies including, without limitation, the obtaining of industrial storm water permits and National Pollutant Discharge Elimination System permits. In addition to the foregoing, Tenant will comply immediately with any and all directives issued by Port Director or his or her authorized representative under authority of any Laws including, but not limited to, any storm water management program implemented by Port from time to time or otherwise as directed by Port Director.

14.3.2. Discrimination. Tenant agrees not to discriminate in its employment practices against any employee or applicant for employment because of the applicant's race, religion, national origin, ancestry, sex, sexual orientation, age or physical handicap. All subcontracts awarded under or pursuant to this Lease will contain the provision set forth in the preceding sentence.

14.4. License Fees and Taxes. Tenant will pay all taxes and assessments of whatever character levied upon or charged against the interest of Tenant, if any, created by this Lease in the Premises or upon works, structures, Improvements or other property thereon, or upon Tenant's operations hereunder or upon any possessory interest of Tenant. Tenant will also pay license and permit fees required for the conduct of its operations hereunder.

14.5. Invalidity. If any term or provision of this Lease or the application thereof to any person or circumstance will be invalid or unenforceable to any extent by a final judgment of any court of competent jurisdiction, the remainder of the Lease or the application of the term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable will not be affected thereby and will continue in full force and effect.

14.6. Waiver of Claims. Each Party hereby waives any claims against each other and its officers, agents or employees for damages or loss caused by any suit or proceeding directly or indirectly challenging the validity of this Lease, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Lease null, void or voidable or delaying the same or any part thereof from being carried out.

14.7. Conflict of Interest. It is hereby understood and agreed that the Parties to this Lease have read and are aware of the provisions of section 6275 of the California Harbors and Navigation Code and section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees. All Parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of Port relating to this Lease. Notwithstanding any other provision of this Lease, it is further understood and agreed that if a financial interest does exist and is known by Tenant at the inception of this Lease, Port may terminate this Lease by giving written notice.

14.8. Visitors. Tenant will allow Port Director and his or her designated representatives access to the Premises for the purpose of showing the Premises and works, structures and Improvements made by Tenant to visitors upon giving reasonable notice to Tenant; provided, however, that entry will not unreasonably interfere with Tenant's operations.

14.9. Attorneys' Fees.

14.9.1. Fees. If any action will be instituted by either of the Parties hereto for the enforcement or interpretation of any of its rights or remedies in or under this Lease, the prevailing party will be entitled to recover from the losing party all costs incurred by the prevailing party in the action and any appeal therefrom, including, without

limitation, reasonable attorneys' fees, costs and expenses for trial, appellate proceedings, out-of-court negotiations, or for enforcement of rights under any state or federal statute, including, without limitation, reasonable attorneys' fees, costs and expenses incurred to protect any Port's security, and attorney fees, costs and expenses incurred in bankruptcy and insolvency proceedings including, but not limited to, seeking relief from a stay in a bankruptcy proceeding or seeking adequate protection.

14.9.2. Expenses. The term "expenses," as used in this Subsection 14.9, means any expenses incurred by the prevailing party in connection with any of the state, federal or bankruptcy proceedings, or any of the out-of-court matters, referenced above, including but not limited to the fees and expenses of any Appraisers, consultants and expert witnesses retained or consulted by the prevailing party in connection therewith.

14.9.3. Unlawful Detainer. For purposes of this Subsection 14.9, in any unlawful detainer or other action or proceeding instituted by Port based upon any Default or alleged Default by Tenant hereunder, Port will be deemed the prevailing party if judgment is entered in favor of Port, or if prior to trial or judgment Tenant pays all or any portion of the Base Rent and charges claimed by Port, eliminates the condition, ceases the act or otherwise cures the act, condition or omission claimed by Port to constitute or Defaults by Tenant hereunder. Further, should Port be made a party to any litigation between Tenant and any third party, then Tenant will pay all costs, expenses and attorneys' fees incurred by or imposed upon Port in connection with the litigation.

14.10. Notices. Except as otherwise expressly provided herein, all legal notices and demands pursuant to this Lease will be in writing and sent, at the Port's discretion, by corporate email, regular USPS mail, or certified mail with return receipt requested, addressed, postage prepaid, or are to be delivered by a nationally recognized overnight delivery service, for example Federal Express, to the addresses set out below, or other addresses as may hereafter be designated by the Parties by written notice to the other party.

To Port: Port of Stockton
General Offices
P.O. Box 2089 (95201-2089)

	2201 West Washington St., (95203) Stockton, CA Attn: Port Director
With a copy to:	Herum/ Crabtree/ Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 Attn: Steven A. Herum
If to Tenant:	BayoTech, Inc. 8601 Paseo Alameda NE, Suite B Albuquerque, NM 87113 Attention: Legal Department
With a copy to:	Norton Rose Fulbright US LLP 98 San Jacinto Blvd., Suite 1100 Austin, TX 78701 Attention: Katie Van Dyk

Any notice so sent will be deemed given or served upon receipt or rejection.

14.11. Waivers of Performance. No waiver by either party at any time of any of the terms, conditions, covenants or agreements of this Lease will be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by the proper party. The subsequent acceptance of Base Rent by Port will not be deemed to be a waiver of any other breach by Tenant of any term, covenant, or condition of this Lease other than the failure of Tenant to timely make the particular Base Rent payment so accepted, regardless of Port's knowledge of any other breach. No delay, failure or omission of either party to execute any right, power, privilege or option arising from any Default, nor subsequent acceptance or guarantee then or thereafter accrued, will impair any right, power, privilege or option, or be construed to be a waiver of any Default or relinquishment thereof, or acquiescence therein. No notice by either party will be required to restore or revive a time is of the essence provision, nor will any right, power, remedy or privilege of either party be construed as being exhausted or discharged by exercise. It is agreed that each and all of the rights, powers, options or remedies given to Port by this Lease are cumulative, and no one of them will be exclusive of the other or exclusive of any remedies

provided by Laws, in that the exercise of one right, power, option or remedy by Port will not impair its right to any other right, power, option or remedy.

14.12. Integration. This Lease constitutes the whole agreement between Port and Tenant. There are no terms, obligations or conditions other than those contained herein. No modification of this Lease will be valid and effective unless evidenced by an agreement in writing.

14.13. Time of Essence Time is expressly declared to be of the essence in this Lease.

14.14. Extensions. Port will have the right to grant reasonable extensions of time to Tenant for any purpose or for the performance of any obligation of Tenant hereunder.

14.15. Use of Port's Name. Tenant will not, without Port's prior written consent, use the name of Port for any purpose other than as part of Tenant's address, and in no event will Tenant acquire any right in or to the name.

14.16. Force Majeure. If the performance of any obligation hereunder by Tenant or Port is prevented or delayed by act of God, war, labor disputes, or any other similar or dissimilar cause beyond Tenant's or Port's reasonable control, the time for performance or observance will be extended for the period that the action is delayed or prevented by the cause.

14.17. Brokers. In the event either Party has employed a broker, the Party by whom any broker, salesperson or other person was employed or was otherwise in contract with will indemnify and hold harmless the other Party from any claim for any commission, finder's fee or other charge based upon the lease to Tenant of the Premises or any other items or interests contemplated by this Lease and all liabilities, costs and expenses relating thereto, including reasonable attorneys' fees, which may be incurred by the other Party in connection with the claim.

14.18. Joint and Several. If Tenant consists of more than one person or entity, their obligations under this Lease will be joint and several.

14.19. Representations by Port. Port represents and warrants to Tenant as follows:

14.19.1. No Violation. This Lease does not violate the provisions of any ground lease, mortgage, the recorded covenants, conditions, restrictions, or any other agreement to which it is subordinate. Further, no underlying agreement will prevent Tenant from using the Premises for the purposes permitted by this Lease; and

14.19.2. Code Violations. As of the date of execution of this Lease, Port has not received any written notice of, nor does Port have any actual knowledge of, any existing Code Violations. In the event of any breach of Port's representation contained in this Subsection 14.19.2, or if there will arise any written notice or Port Director's actual knowledge of Code Violations in existence on the date the Premises are delivered to Tenant, then Port will pay for the correction and removal of the Code Violation.

14.19.3. Actual Knowledge. For purposes of Subsections 14.19.2, the terms, "Port's actual knowledge" will mean only that information actually known by the Port Director and will imply no duty whatsoever to investigate the actual state of facts or conditions regarding the existence of Code Violations on or about the Premises prior to the date of execution.

14.20. Anti-Terrorism Representations.

14.20.1. USA Patriot Act. Tenant, its partners, members, officers, directors, investors, shareholders, or affiliates are not and will not during the Lease Term become a person or entity with whom Owner is restricted from doing business under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) Pub L 107-56, 115 Stat 272, Executive Order No. 13224 (Sept. 24, 2001), and regulations promulgated thereunder (collectively, Anti-Terrorism Laws).

14.20.2. Lists. Tenant, its partners, members, officers, directors, investors, shareholders, or affiliates are not and will not during the Lease Term be included as persons or entities named on the Department of the Treasury's Office of Foreign Assets

Control (OFAC) Specially Designated Nationals and Blocked Persons List (SDN List) (collectively, Prohibited Persons).

14.20.3. Transactions Prohibited. To the best of Tenant's knowledge, Tenant is not currently, nor during the Lease Term will become, engaged in any transactions or dealings, or otherwise associated with any Prohibited Persons in connection with the use or occupancy of the Premises; making or receiving any contribution of funds, goods, or services to or for the benefit of any Prohibited Person; or any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any anti-money laundering or Anti-Terrorism Laws.

14.20.4. Breach of Representations. Breach of the representations contained in this Subsection 14.20 will constitute a material breach of this Lease and will entitle Port to any and all remedies available under this Lease, or at law or in equity.

14.20.5. Shareholders. The preceding representations will not apply to Tenant's shareholders if Tenant is a publicly traded company.

14.21. Reasonable and Reasonably. Notwithstanding anything contained in this Lease to the contrary, wherever pursuant to this Lease the consent or approval of one Party, or specifically of the Port Director, is required or requested with respect to the performance by the other party of any term, covenant, condition or provision of this Lease or the doing of any act in connection therewith or in connection with the Premises, it is agreed and understood that consent or approval will not be unreasonably withheld, conditioned or delayed. Further, Port agrees to exercise all rights reserved or granted to Port hereunder in a manner which does not unreasonably interfere with the reasonable operation of Tenant’s business at the Premises and any direction to Tenant by the Port or specifically by the Port Director will be reasonable. Any action required or permitted by either Party will be taken reasonably. The provisions of this Subsection 14.21 will be applicable whether or not a particular Section or Subsection or clause contains the words “reasonable” or “reasonably.”

14.22. Sales Tax. In the event that any sales subject to the California Sales and Use Tax Law are made by Tenant or others in conjunction with the enterprise on the

Premises, the provisions of this Subsection 14.22 shall be applicable. To maximize the retention of local sales tax under the California Sales and Use Tax Law, the Tenant's place of sale shall be Stockton, California. If the Tenant has more than one place of business in California, the business located on the Premises shall be the only business that participates in the sale. If the Tenant has more than one place of business in California and if the businesses located off the Premises take part in the negotiations of the sale, the principal negotiations shall take place at the place of business on the Premises.

14.23. Counterparts. This Agreement may be executed in electronic counterparts, all such executed counterparts shall constitute the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart. An electronically transmitted signature shall be as binding upon the party transmitting same as an original signature.

14.24. Intentionally Omitted.

14.25. Tenant Construction Guaranty. Prior to commencement of construction on the Premises, Tenant shall deliver to the Port one of the following forms of credit to cover the obligation of Tenant to complete the construction of the small scale hydrogen production/distribution facility : (i) a Guaranty, to be issued by a party with credit reasonably acceptable to the Port, covering the obligation of Tenant to construct the small scale hydrogen production/distribution facility (ii) an irrevocable, standby letter of credit issued by a financial institution reasonably acceptable to Port, (iii) a payment bond issued by a financial institution reasonably acceptable to Port or (iv) such other form of credit support reasonably acceptable to Port. Upon completion of construction, the liability under any such forms of security shall terminate. Tenant shall have the right to substitute, from time to time, one of the other forms of credit support permitted hereunder for any form of security then in place and, upon the delivery of such substitute credit support, the Guaranty shall terminate and the Guarantor shall be released from any obligations thereunder.

Regarding Tenant's execution of this agreement, each person signing this document represents and warrants to the Port that he/she is legally authorized to sign this document and bind his/her company, organization or entity to the terms and conditions of the agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease to be effective on the date first hereinabove written.

STOCKTON PORT DISTRICT by
its Board of Port Commissioners

By:_____

Name: Kirk DeJesus

Title: Port Director

Attest:_____
Board Secretary

APPROVED AS TO FORM:

_____
Counsel for Port

BAYOTECH INC.

By:_____

Print Name:_____

Title:_____

Date:_____

Attest:_____

SUMMARY OF BASIC LEASE PROVISIONS

1. Date of Lease:

2. Owner: Stockton Port District

3 Tenant: BayoTech, Inc.
Address: 8601 Paseo Alameda NE, Suite B, Albuquerque, NM 87113
Telephone Number: (202) 288-4009
State of Incorporation: Colorado

4. Premises: 5 acres of land located at 3034 Navy Drive, Stockton, CA 95203

5. Permitted Use of Premises: construction, operation and maintenance of a hydrogen generation and dispensing facility consisting of two (2) hydrogen production plants (H2 - 1000 units) each of which have the capacity to produce 1000kg of hydrogen per day for a maximum of two thousand (2,000) kilograms per day and associated improvements.

6. Period of Term: Ten (10) years with two (2) five (5) year options

7. Estimated Commencement Date: _____, 2024

8. Expiration Date: _____, 2034

9. Annual Basic Rent: $212,500.00

10. Rental Adjustment: Annually by CPI

EXHIBIT "A"

Description of Premises

EXHIBIT "B"

Drawing Showing Premises

EXHIBIT "C"

Scope of Development Schedule