

## **GUARANTY OF HARBOR LEASE**

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## GUARANTY OF HARBOR LEASE

THIS GUARANTY OF HARBOR LEASE (hereinafter referred to as this “**Guaranty**”) is made as of June 18, 2024, by Suntex Marina Investors LLC, a Delaware limited liability company (hereinafter referred to as “**Guarantor**”), to and for the benefit of County of Ventura (hereinafter referred to as “**Landlord**”). This Guaranty shall be in full force and effect on \_\_\_\_\_, 2024 (the “**Effective Date**”).

### RECITALS

A. Landlord, as landlord, and Marine Emporium Landing, LLC, a California limited liability company (hereinafter referred to as “**Assignee**”), as tenant, entered into that certain Amended and Restated Harbor Lease dated as of February 7, 2006 (as amended and assigned, the “**Lease**”) pertaining to certain premises commonly known as Parcels H-1, H-2, X-1B and X-1C (Channel Islands Harbor, Oxnard, California), all as more particularly described in the Lease (the “**Premises**”). Assignee subsequently assigned all of its right, title and interest in and to the Lease to SMI Marine Emporium, LLC, a Delaware limited liability company (hereinafter referred to as “**Tenant**”) pursuant to that certain Harbor Lease Assignment, Assumption and Consent dated as of \_\_\_\_\_, 2024 between Assignee and Tenant (the “**Assignment**”). All capitalized terms which are not expressly defined in this Guaranty shall have the same meanings herein as are ascribed to such terms in the Lease.

B. Landlord has required, as a condition to its consent to the Assignment that Guarantor execute and deliver this Guaranty for all obligations of Tenant arising and all sums due by Tenant under the Lease from and after the Effective Date. The execution and delivery of this Guaranty by Guarantor is a material inducement to Landlord its consent to the Assignment.

C. Guarantor is the sole owner of the owners of Tenant and, having a financial interest in Tenant, will be benefited by the Lease. Accordingly, Guarantor has agreed to execute, deliver and perform this Guaranty.

NOW, THEREFORE, in consideration of the Recitals set forth above and in consideration of Landlord consenting to the Assignment and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Guarantor covenants and agrees as follows:

1. Recitals. The Recitals set forth above are incorporated herein and shall be deemed terms and provisions hereof.

2. Guaranty. Guarantor absolutely, unconditionally and irrevocably guarantees to Landlord:

(a) Commencing as of the Effective Date, the full and prompt payment when due, whether upon acceleration or otherwise, and at all times thereafter, of any and all rentals, debts and obligations of Tenant for the payment of money, however created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing,

due or to become due, including, without limitation, all Rents, late fees, Rent Adjustments, payments in respect of real estate taxes, assessments, governmental charges, premiums for insurance policies, amounts required to discharge mechanics' and materialmen's liens and claims therefor, and any other sums which may now be or hereafter become due by Tenant under the Lease;

(b) The payment of all Enforcement Costs (as hereinafter defined); and

(c) The full, complete and punctual observance, performance and satisfaction of all covenants, terms, conditions, obligations, duties and agreements of Tenant under the Lease.

All amounts due and debts, liabilities and payment obligations described in subparagraphs (a) and (b) of this Paragraph 2 are referred to herein as the "Liabilities." All obligations described in subparagraph (c) of this Paragraph 2 are referred to herein as the "Obligations."

Notwithstanding anything contained herein to the contrary, the liability of Guarantor under this Guaranty (including both the Liabilities and the Obligations) shall be limited to the total amount of two million nine hundred fifty thousand dollars (\$2,950,000) (the "**Cap**").

### 3. Landlord's Remedies.

(a) This Guaranty is an absolute, irrevocable, present and continuing guaranty of payment and performance and not merely a guaranty of collection. In the event of any default by Tenant under the Lease or under any other obligation to Landlord, after notice of the default to Tenant and Guarantor and the expiration of any cure period applicable thereto, Guarantor agrees, on written demand by Landlord, to pay all Liabilities then due hereunder, subject to the Cap. In the event that there shall be any default by Tenant, Guarantor in the due and timely performance and observance of the Obligations or any of them after the expiration of any cure period applicable thereto, then, in such event, Guarantor agrees (i) to perform the Obligations, subject to the Cap. If Guarantor fails to commence and pursue diligently the performance of the Obligations within ten (10) days after its receipt of written notice from Landlord demanding the performance of Guarantor, then, either before or after pursuing any other remedy of Landlord against Guarantor or Tenant and regardless of whether Landlord shall ever pursue any such other remedy, Landlord shall have the right (but not the obligation) to perform the Obligations or to call upon any other reputable parties to perform the Obligations, with such changes or modifications as Landlord deems necessary or appropriate, and shall have the right to expend such sums as Landlord in its discretion deems proper in order so to complete the performance of the Obligations. During the course of the performance of any Obligations undertaken by Landlord or by any other party on behalf of Landlord, Guarantor shall pay on demand any amounts due to third parties in connection therewith. All amounts required to be paid by the terms hereof shall be included within the term "Liabilities," and all obligations required to be performed by the terms hereof shall be included within the term "Obligations."

(b) Notwithstanding anything to the contrary herein contained, in any action to enforce any of the liabilities or obligations of the Guarantor under this Guaranty, Landlord, at its

election, may proceed against the Guarantor with or without: (i) joining Tenant in any such action; (ii) commencing any action against or obtaining any judgment against Tenant; or (iii) commencing any proceeding to enforce or realize upon any collateral or other security (including, without limitation, any security deposit or other guaranties) which may be given to secure Tenant's obligations under the Lease, or to obtain any judgment, decree or foreclosure sale with respect thereto. Nevertheless, the maintenance of any action or proceeding by Landlord to recover any sum or sums that may be or become due under the Lease or to secure the performance of any of the other terms, covenants and conditions of the Lease shall not preclude Landlord from demanding and receiving the payment of such sums and the performance of such other terms, covenants and conditions from Guarantor, or from thereafter instituting and maintaining subsequent actions or proceedings for any subsequent default or defaults of Tenant under the Lease. Guarantor does hereby consent that, without affecting the liability of Guarantor under this Guaranty and without notice to Guarantor, time may be given by Landlord to Tenant for payment of rent and such other sums and performance of said other terms, covenants and conditions, or any of them, and such time extended and indulgence granted from time to time, or Tenant may be dispossessed or Landlord may avail itself of or exercise any or all of the rights and remedies against Tenant provided by law or by the Lease, and may proceed either against Tenant alone or jointly against Tenant and Guarantor or against Guarantor alone without first proceeding or exhausting any remedy or claim against Tenant.

4. Return of Payments. Guarantor agrees that, if at any time all or any part of any payment theretofore applied by Landlord to any Liabilities is rescinded or returned by Landlord for any reason whatsoever (including, without limitation, the insolvency, bankruptcy, liquidation or reorganization of any party), such Liabilities shall, for the purposes of this Guaranty, be deemed to have continued in existence to the extent of such payment, notwithstanding such application by Landlord, and this Guaranty shall continue to be effective or be reinstated, as the case may be, as to such Indebtedness, all as though such application by Landlord had not been made. Guarantor does hereby further agree that with respect to any payments made by Guarantor hereunder, Guarantor shall not have any rights based on suretyship, subrogation or otherwise to stand in the place of Landlord so as to compete with Landlord as a creditor of Tenant, and Guarantor hereby waives all such rights to the fullest extent permitted by law.

5. No Discharge. Guarantor agrees that the obligations, covenants and agreements of Guarantor under this Guaranty shall not be affected or impaired by any act of Landlord that is in compliance with the terms of the Lease or this Guaranty, or any event or condition except the full, final and unavoidable performance of all Obligations and payment of all Liabilities and any other sums due hereunder. Guarantor agrees that the liability of Guarantor hereunder shall not be discharged by, and Guarantor hereby irrevocably consents to: (i) any subsequent change, modification or amendment of the Lease in any of its terms, covenants and conditions, or in the Rent or any other sums payable thereunder, or in the Term thereof, or in the Premises demised thereby (whether said Premises be expanded, contracted, relocated, substituted or otherwise altered), and to any assignments of the Lease and to any sublettings of the Premises, and to any extensions or renewals of the Lease or its Term, provided that Guarantor is provided notice of same; (ii) the renewal or extension of time for the payment of the Liabilities or performance of the Obligations under the Lease or any other agreement relating to the Premises; (iii) any transfer, waiver, compromise, settlement, modification, surrender or release of Tenant's obligations under

the Lease; (iv) the existence of any defenses to enforcement of the Lease; (v) any failure, omission, delay or inadequacy, whether entire or partial, of Landlord to exercise any right, power or remedy regarding the Lease or to enforce or realize upon (or to make any guarantor a party to the enforcement or realization upon) any of Landlord's security for the Lease, including, but not limited to, any impairment or release of such security by Landlord; (vi) the existence of any setoff, claim or counterclaim or the reduction or diminution of the Liabilities, or any defense of any kind or nature, which Guarantor may have against Tenant or which any party has against Landlord; (vii) the application of payments received from any source to the payment of any obligation other than the Liabilities, even though Landlord might lawfully have elected to apply such payments to any part or all of the Liabilities; (viii) the addition or release of any and all other guarantors, obligor and other persons liable for the payment of the Liabilities and/or performance of the Obligations, and the acceptance or release of any and all other security for the payment of the Indebtedness and/or performance of the Obligations; or (ix) any action or remedy taken by Landlord in compliance with the Lease, or any failure to notify Guarantor of any default by Tenant; all whether or not Guarantor shall have had notice or knowledge of any act or omission referred to in the foregoing clauses (i) through (ix) inclusive of this Paragraph.

In the event that the Lease is modified, renewed or extended in any respect by agreement between Landlord and Tenant either pursuant to an option granted in the Lease or otherwise, or in the event that Tenant holds over beyond the Term of the Lease, then the obligations hereunder of Guarantor shall extend to the full and faithful performance and observance of all of the covenants, terms and conditions of the Lease and of any such modification, renewal or extension thereof. Guarantor intends that Guarantor shall remain liable hereunder as a principal until the full, final and unavoidable performance of all of the Obligations and the full, final and unavoidable payment of all Liabilities, notwithstanding any fact, act, event or occurrence which might otherwise operate as a legal or equitable discharge of a surety or guarantor.

6. Application of Amounts Received. Any amounts received by Landlord from whatsoever source on account of any Liabilities may be applied by Landlord toward the payment of such Indebtedness, and in such order of application, as Landlord may from time to time elect.

7. Waiver. Guarantor expressly waives: (i) notice of the acceptance by Landlord of this Guaranty; (ii) notice of the existence, creation, payment or nonpayment of the Liabilities; (iii) presentment, demand, notice of dishonor, protest and all other notices whatsoever; and (iv) any failure by Landlord to inform Guarantor of any facts Landlord may now or hereafter know about Tenant, the Lease or the Premises, it being understood and agreed that Guarantor has and will maintain personal knowledge of and is familiar with Tenant's financial condition and business affairs and has the ability to influence Tenant's decision-making processes, and that Landlord has no duty so to inform, and that Guarantor is fully responsible for being and remaining informed by, Tenant of all circumstances bearing on the Lease and this Guaranty. No modification or waiver of any of the provisions of this Guaranty will be binding upon Landlord except as expressly set forth in a writing duly signed and delivered on behalf of Landlord.

8. Enforcement Costs. If: (i) the Lease or this Guaranty is placed in the hands of an attorney for enforcement or collection or is enforced or collected through any legal proceeding; (ii) an attorney is retained to represent Landlord in any proceeding (including, without limitation,

any bankruptcy, reorganization, receivership or other proceeding affecting creditors' rights) involving a claim under or related to the Lease or this Guaranty, then Guarantor shall pay to Landlord upon demand all reasonable attorneys' fees, costs and expenses, including, without limitation, court costs and filing fees, and all other reasonable costs and expenses incurred in connection therewith (all of which are referred to herein as **"Enforcement Costs"**), in addition to all other amounts due hereunder.

9. **Transfer of Lease.** Notwithstanding any assignment or transfer of the Lease or any interest therein by Landlord, for collateral purposes or otherwise, each and every immediate and successive assignee, transferee or other successor in interest with respect to Landlord's interest under the Lease shall, to the extent of the interests assigned or transferred, be entitled to the benefits of this Guaranty, provided the successor Landlord assumes and agrees to perform all obligations of Landlord under the Lease, to the same extent as if such assignee or transferee were Landlord. Upon any transfer or assignment of the Lease by Tenant, which has been approved by the Landlord, Guarantor shall be released from its obligations hereunder.

10. **Governing Law; Interpretation.** This Guaranty has been negotiated and delivered in the state of California and shall, in all respects, be interpreted, governed and enforced in accordance with the laws of the state of California applicable to contracts entered into and fully performed therein and without reference to the conflicts of law principles of that state. The venue for any action, suit, arbitration, judicial reference or other proceeding concerning this Guaranty shall be in the state or federal courts for Ventura County, California. The headings of paragraphs in this Guaranty are for convenience only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof. As used in this Guaranty, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable where the context so requires. If this Guaranty is executed by more than one person or entity, then references to "Guarantor" herein shall be deemed to refer to each such person or entity and the liability of each such person or entity shall be joint and several, and the release by Landlord of any of them shall not release or affect in any manner the obligations of any other of them, and this Guaranty shall not be revoked, discharged or impaired as to any such persons or entities by reason of the death or incapacity or insolvency of any other of them. If any provision of this Guaranty, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated by a court of competent jurisdiction to be invalid, the validity of the remainder of this Guaranty shall be construed as if such invalid part were never included herein. Time is of the essence of this Guaranty. All payments to be made hereunder shall be made in currency and coin of the United States of America which is legal tender for public and private debts at the time of payment.

11. **Entire Agreement.** This Guaranty constitutes the entire agreement between Guarantor and Landlord with respect to the subject matter hereof and supersedes all prior such agreements and understandings, both written and oral. This Guaranty may not be modified or amended except by a written instrument signed by Landlord and Guarantor. If this Guaranty is executed in several counterparts, each of those counterparts shall be deemed an original, and all of them together shall constitute one and the same instrument.

12. Subordinated Debt. Any indebtedness of Tenant to Guarantor (the “**Subordinated Debt**”) now or hereafter existing is hereby subordinated to the Liabilities. Guarantor agrees that, until the full, final and unavoidable payment of the Liabilities, Guarantor will not seek, accept or retain for Guarantor’s own account, any payment from Tenant on account of the Subordinated Debt. Any payments to Guarantor on account of the Subordinated Debt shall be collected and received by Guarantor in trust for Landlord and shall be paid over to Landlord on account of the Liabilities without impairing or releasing the obligations of Guarantor hereunder.

13. Payment of Indebtedness. The obligations of Guarantor under this Guaranty shall terminate, subject to the provisions of Paragraph 4 hereof, on the date which is the later to occur of (i) Landlord having received payment of all of the Liabilities and all other sums due and owing under this Guaranty and the Lease, subject to the Cap and (ii) the Obligations having been fully performed, subject to the Cap; provided, however, that this Guaranty shall not so terminate if, on or prior to such date, Tenant or Guarantor shall have commenced or otherwise become the subject of any bankruptcy, insolvency or similar proceedings. Release of this Guaranty, if it occurs, however, shall not affect, in any respect, the Lease or any other instrument securing or guarantying the Liabilities or performance of the Obligations.

14. Successors and Assigns.

(a) This Guaranty shall bind Guarantor and the heirs, assigns, successors, executors, administrators and legal and personal representatives of Guarantor; provided that Guarantor shall not be entitled to transfer or delegate its obligations hereunder. Regardless of whether this Guaranty is executed by more than one person or entity, it is agreed that the undersigned’s liability hereunder is several and independent of any other guaranties or other obligations at any time in effect with respect to the Indebtedness, the Obligations or any part thereof and that each Guarantor’s liability hereunder may be enforced regardless of the existence, validity, enforcement or nonenforcement of any such other guaranties or other obligations.

(b) This Guaranty shall inure to the benefit of and be enforceable by Landlord and Landlord’s beneficiaries, the officers, agents, employees, partners, directors and shareholders of each of them, each of their respective successors and assigns, and each present or subsequent mortgagee of the Premises and its successors and assigns (all such persons and entities shall be “Indemnified Parties” herein).

15. Certain Waivers by Guarantor.

(a) Guarantor hereby submits to personal jurisdiction in the state of California for the enforcement of this Guaranty and waives any and all personal rights to object to such jurisdiction for the purposes of litigation to enforce this Guaranty.

(b) Guarantor hereby waives the benefit of any statutes of limitation or repose affecting Tenant’s liability under the Lease or Guarantor’s liability under this Guaranty.

(c) Guarantor hereby waives the right to trial by jury in any action or proceeding that hereafter may be instituted in respect of the Lease or this Guaranty.



16. Notices. Any notice, demand or other communication which is given hereunder shall be in writing and shall be deemed given if and when personally delivered, or on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to the intended recipient at its address set forth below or to such other address as such intended recipient may have designated by notice furnished in accordance herewith:

if to Landlord: County of Ventura Harbor Department  
3900 Pelican Way, #5200  
Oxnard, California 93035-1830  
Attn: Director

With a copy to: County of Ventura  
Office of County Counsel  
800 S. Victoria Avenue  
Ventura, California 93009  
Attn: County Counsel

if to Guarantor: Suntex Marina Investors LLC  
17330 Preston Road, Suite 100C  
Dallas, Texas 75252  
Attn: General Counsel

With a copy to: Spencer Fane LLP  
2200 Ross Avenue, Suite 4800 West  
Dallas, TX 75201  
Attn: Sarah Fandrey

Except as otherwise specifically required herein, notice of the exercise of any right, option or power granted to Landlord by this Guaranty is not required to be given.

**SIGNATURE PAGE FOLLOWS**

SIGNED AND DELIVERED as of the date first specified above.

**GUARANTOR:**

Suntex Marina Investors LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

State of Texas  
County of Collin

On \_\_\_\_\_, 2024, before me, \_\_\_\_\_ Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the basis of  
satisfactory evidence to be the person whose name is subscribed to the within instrument and  
acknowledged to me that he executed the same in his authorized capacity, and that by his signature  
on the instrument the person, or the entity upon behalf of which the person acted, executed the  
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[SEAL]

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires: \_\_\_\_\_