

CONSENT TO SUBLEASE

(DRISCOLL MISSION BAY LLC: Odyssey by Fletcher, LLC)

THIS CONSENT TO SUBLEASE ("**Consent**") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("**City**"), and DRISCOLL MISSION BAY LLC, a California limited liability company ("**Lessee**"), to be effective upon the respective authorized representatives of City and Lessee all signing this Consent and the form of this Consent being approved by the San Diego City Attorney. This Consent is made and entered into in reference to the following recited facts:

RECITALS

- A. City and Lessee Mission Ray Marina, a limited partnership, are parties to that certain Percentage Lease dated March 5, 1979, filed in the Office of the San Diego City Clerk as Document No. 766042 ("**Agreement**"), as amended by that certain First Amendment to Lease dated June 2, 1986, filed in the Office of the San Diego Clerk as Document No. RR-265857 ("**Amendment**") (collectively, the "**Master Lease**") relating to that City-owned real property located in a portion of Mission Bay Park, in the City of San Diego, consisting of approximately 4.278 acres of land and 8.702 acres of water, commonly known as "Driscoll Mission Bay" and more particularly described in the Agreement ("**Master Premises**").
- B. Through a series of City-approved assignments, Lessee became the "Lessee" under the Master Lease and is the current "Lessee" under the Master Lease.
- C. Lessee now desires to sublease a portion of the Premises, consisting of a marina boat slip for a vessel named Odyssey ("**Sublease Premises**"), including non-exclusive use of the Master Premises, to Odyssey by Fletcher, LLC, a California limited liability company ("**Sublessee**"), for private boat charters, whale watching, scuba diving activities, and for no other purpose or use. A true and correct copy of the sublease between Lessee and Sublessee (subject to this Consent being effective) is attached to this Consent as Exhibit "A" ("**Sublease**").
- D. Section IV.A.2 of the Master Lease requires that Lessee obtain City's written consent prior to entering into any sublease of the Master Premises.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, City and Lessee agree as follows:

- 1. City Consent to Sublease. Subject to the terms and conditions of this Consent and the Master Lease, City consents to Lessee subleasing to Sublessee the Sublease Premises. All terms and conditions of the Master Lease shall control and supersede all inconsistent or contrary provisions in the Sublease.
- 2. Sublessee Assumption of Lessee's Obligations. City's consent to the Sublease is conditioned upon Sublessee's written agreement in the Sublease to assume and perform all obligations of Lessee under the Master Lease applicable to the Sublease Premises. Sublessee's failure to perform one or more of these assumed obligations shall be a material default and breach under the Master Lease and may subject the Master Lease to termination by City.

3. Sublessee Acknowledgment of this Consent. This Consent is conditioned on City's receipt of an "Acknowledgement of Receipt of Consent to Sublease" in substantially the form of Exhibit "B" attached to this Consent signed by the authorized representative(s) of Sublessee.

4. No Effect on Master Lease. Notwithstanding any provision of this Consent to the contrary, this Consent does not release, discharge, or modify any obligation of Lessee under the Master Lease.

5. Subsequent Subleasing. This Consent does not constitute City's consent to any subsequent assignment, sublease, or license under the Master Lease or relating to the Premises or any portion thereof, including the Sublease Premises, and does not relieve Lessee or any person claiming under or through Lessee of the obligation to obtain City's consent to any future assignment, sublease, or license pursuant to the Master Lease.

6. Processing Fees. Lessee agrees to pay City all applicable processing and/or administrative fee(s) charged by City for processing this Consent.

7. Brokerage Commissions or Finder's Fees. Lessee acknowledges and agrees that City will not be liable for any brokerage commission or finder's fee in connection with the consummation of the Sublease. Lessee agrees to protect, defend, indemnify, and hold City harmless from any brokerage commission or finder's fee in connection with the consummation of the Sublease or this Consent, and from any cost or expense (including attorneys' fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee. The provisions of this Section 7 shall survive the expiration or earlier termination of the Master Lease, the Sublease, or this Consent.

8. Consideration for Sublease: Lessee represents and warrants to City that a true, correct, and complete copy of the Sublease is attached to this Consent as Exhibit "A." Lessee further represents and warrants to City that there are no additional payments of rent or any other consideration of any type that has been paid or provided or is payable or to be provided by Sublessee or any other person to Lessee in connection with the Sublease or the Sublease Premises, other than as disclosed in the Sublease.

9. Subordination. The Sublease is subject to and subordinate to the terms, covenants and conditions of the Master Lease. The Sublease may only be in effect while the Master Lease is in effect. Nothing in this Consent modifies the expiration date of the Master Lease or Sublease. Lessee represents and warrants to City that Lessee provided Sublessee a true, correct, and complete copy of the Master Lease before Sublessee entered into the Sublease.

10. Lessee Estoppels. Lessee certifies the following to City as of the date of this Consent:

10.1 Lessee has not assigned its interest (or any portion thereof) in the Master Lease or otherwise transferred its interest (or any portion thereof) in the Master Lease to any third party;

10.2 City does not owe Lessee any money or other performance under the Master Lease;

10.3 City is not in default under the Master Lease;

10.4 The Master Lease is in full force and effect; there have been no amendments, modifications, changes, or additions to the Master Lease since its execution; and

10.5 Lessee is not in default or breach under the Master Lease and no event has occurred that would constitute a default or breach under the Master Lease by Lessee, without regard for any requirement to give notice and/or for the passage of time.

11. No Fee Title Encumbrance. Nothing in this Consent or any document referenced in this Consent is intended to create or authorize the creation of any transfer, lien, or encumbrance affecting the fee title to the Master Premises.

[Remainder of page intentionally blank. Signatures appear on the following page.]

**SIGNATURE PAGE
TO
CONSENT TO SUBLEASE
(DRISCOLL MISSION BAY LLC: Odyssey by Fletcher, LLC)**

IN WITNESS WHEREOF, this Consent is made and entered into by and through the signatures of the respective authorized representative(s) of City and Lessee, as set forth below:

THE CITY OF SAN DIEGO, a California
municipal corporation

Date: 10/04/2024

By: Lucy Contreras
Lucy Contreras, Deputy Director
Economic Development Department

Approved as to form on 10/04/2024

MARA W. ELLIOTT
City Attorney

By: Michael Park
Michael Park (Oct 4, 2024 12:26 PDT)
Michael Park
Deputy City Attorney

DRISCOLL MISSION BAY LLC, a California
limited liability company

Date: 18/09/24

By: Thomas A. Driscoll
Name: Thomas A. Driscoll
Title: Managing Member

**EXHIBIT A
TO
CONSENT TO SUBLEASE
(DRISCOLL MISSION BAY LLC: Odyssey by Fletcher, LLC)**

SUBLEASE

[Attached behind this cover page]

EXHIBIT B
TO
CONSENT TO SUBLEASE
(DRISCOLL MISSION BAY LLC: Odyssey by Fletcher, LLC)

ACKNOWLEDGMENT OF RECEIPT OF CONSENT TO SUBLEASE

Odyssey by Fletcher, LLC, a California Limited Liability Company ("Sublessee"), makes the following acknowledgments, representations, and warranties for the benefit of The City of San Diego, a California municipal corporation ("Master Landlord"), as "Lessor" under that certain Percentage Lease dated March 5, 1979, filed in the Office of the San Diego City Clerk as Document No. 766042 ("Agreement"), as amended by that certain First Amendment to Lease dated June 2, 1986, filed in the Office of the San Diego Clerk as Document No. RR-265857 ("Amendment") (collectively, the "Master Lease"), relating to that certain City-owned real property described in Exhibit "A" attached to the Master Lease ("Master Premises"), originally entered into by Mission Ray Marina, a limited partnership, and currently held by Driscoll Mission Bay LLC, a California limited liability company, as the "Lessee":

1. Sublessee acknowledges entering into that certain Charter Boat Lessee Agreement with Lessee, dated May 31, 2024 ("Sublease"), for Lessee to sublease to Sublessee that certain portion of the Master Premises consisting of a marina boat slip for a vessel named Odyssey, including non-exclusive use of the Master Premises.
2. Sublessee acknowledges receipt of a copy of that certain Consent to Sublease (DRISCOLL MISSION BAY LLC: Odyssey by Fletcher, LLC) between Master Landlord and Lessee relating to the Sublease ("Consent").
3. Sublessee further acknowledges receipt of a copy of the Master Lease prior to entering into the Sublease.
4. Sublessee acknowledges and agrees that the Sublease is subject and subordinate to the terms, covenants, and conditions of the Master Lease and the Consent, the Sublease may only be in effect while the Master Lease is in effect, and nothing in the Consent modifies the terms, covenants, or conditions of the Master Lease.
5. Sublessee further acknowledges, represents, and warrants that a true and correct copy of the Sublease is attached as Exhibit "A" to the Consent.

Date: 18/09/24

ODYSSEA BY FLETCHER, LLC, a California
limited liability company

By: 
Samuel Fletcher (Sep 18, 2024 09:40 PDT)

EXHIBIT B

9/11/2024

Attachment B

 Environmental Determination	
Environmental Planner	Jordan Moore (JTMoore@sanidiego.gov)
Project Name	Consent to Sublicense – Odyssey by Fletcher, LLC
Environmental Determination	This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).
Date NORA Posted	9/3/2024
Date NORA Removed	9/11/2024

CITY OF SAN DIEGO
FIRE-RESCUE DEPARTMENT LIFEGUARD DIVISION
MISSION BAY LESSEE OPERATIONAL PLAN TEMPLATE

DATE: 7/30/24

NAME OF COMPANY/ORGANIZATION: Odyssey by Fletcher LLC DBA Odyssey Adventures

- Main address: Office 2062 Reed Ave SD CA 92109 Marina: Driscoll's Marina & boat Yard 1500 Quivira Way SD, CA 92109 United States
- Contact information: www.odysseaadventures.com Email: fletcher@odysseadiving.com
Office phone: 619-639-4800 Home: 774-696-0857
- Owner/Operator: Samuel Fletcher 774-696-0857 Fletcher@odysseadiving.com

OPERATIONAL PERIOD:

- Season of operation, daily hours of operation: All seasons of operation, operating between the hours of 6am and sunset

CONCESSION SITE LOCATION:

- Address of each location company will be operating from (origin/termination of operations): Driscoll's Marina & boat Yard 1500 Quivira Way SD, CA 92109 United States
- Areas of operations if applicable: Mission bay and coastal waters of San Diego/Pacific Ocean

DESCRIPTION OF ACTIVITIES & EQUIPMENT:

All commercial operations will adhere to United States Coast Guard regulations regarding vessels carrying passengers for hire

All commercial operations will adhere to the San Diego Municipal Code when on waters under the jurisdiction of the City of San Diego.

- Typical operation summary: Scuba, whale watching, private boat tours pick up and drop off between above operating hours

- Equipment description: SCUBA equipment IE: BCD, Regulators, wetsuits, gloves, boots, mask, fins, tanks, weights.

Equipment on Board:

- 2 VHF Radios with Automated identification System (AIS transceiver equipped)
- Furuno touch screen GPS navigation system with AIS, Full Radar, sonar, man over board safety switch, satellite maps, and real time weather
- Auto pilot feature
- 40 lbs Bruce Claw anchor with 200 feet of rode line and 150 feet of high tension chain. Automatic deployment and retrieval with new Lewmar 1000 pro winless winch system
- Waterproof cell phone
- 1 EPIRB
- USCG SOS Beacon, flares, mayday flag, colored smoke marker
- 2 horns and bell
- 6 fire extinguisher (all inspected and up to date)
- 20 USCG approved life jackets
- 1 throwable life ring
- Emergency oxygen system
- Marine first aid kit
- All required placards, Rules of the road, and business license are in plain view
- All pollution requirements are above standard
- Emergency action plan posted in easy view
-
- Vessels (if applicable), including make, model, USCG requirements, etc.: 40 foot updated 1994 Mainship Sedan bridge yacht with twin 454 inboard engines

LICENSES & ACCREDITATIONS/CERTIFICATIONS:

- CPR, Lifeguard, First Aid, etc. certifications: PADI Master Dive Instructor #439149, Emergency Oxygen, Emergency First aid CPR/AED/Care for children Instructor. Rescue Diver
- Captain licenses/requirements for captains and/or crew/deck hands if applicable: All captains have at minimum a USCG 6pack/OUVP license or higher. All staff are trained in the use of emergency oxygen, CPR/AED certified and most are rescue divers and SCUBA instructors

- Vessel permit number (ex: DFG permit for sportfishing): N/A
- Insurance policy: See attached

GENERAL SAFETY CONSIDERATIONS:

- Prohibited activities: N/A
- Requirements to rent: age requirements, waiver signed, etc.: All participants sign waivers for their activities. We use smart waivers software for these. 21+ for private boat rentals, 13+ years old for SCUBA activities, all ages for whale watching
- Student to instructor ratios if applicable: Odyssey aligns and teaches through the PADI (professional association of Dive instructors). We follow all standards of care found in the PADI instructor handbook. Often times exceeding these standards. Example: PADI standards 8:1 instructor to student. Odyssey standard: 5:1 instructor to student
- Identifying markers: rashguards, etc. if applicable : All Odyssey divers wear an Odyssey mask strap and all SCUBA tanks have matching Odyssey stickers
- Locations of pfds, exits, hazards, etc.: 22 USCG PFD Life jackets located in both stern swim step benches, starboard and port benches, upper bridge/helm benches (all labeled) as well as throwable life ring on port side and 100 foot stern line/tag line

TRAINING BACKGROUND:

- Employee training, exercises, and drills to prepare for the job: Staff is constantly learning and staying up to date on latest training standards: Once a month all Odyssey staff hone their safety and rescue skills by participating in mandatory, as well as unscheduled "pop up", safety classes. Here we go over Man over board, unresponsive diver, panic diver, sea sick passenger, cardiac event, trauma wounds, oxygen delivery, mayday, taking on water, abandoning ship, PFD skills, AED, and other appropriate skills. Almost all employees and contractors are rescue diver and Emergency first aid/AED/CPR certified or higher.

EMERGENCY RESPONSE PLAN: See attached

- Bulleted list of emergency steps to include.
 - o Call 911
 - o VHF radio notification: Channel 16
 - o First aid equipment and training if applicable. : On board emergency Oxygen kit and first aid kit
 - o Response plan description: See below and see attached SCUBA Emergency plan

ODYSSEA ADVENTURES EMERGENCY ACTION PLAN

ROUGH SEAS/WATER PRECAUTIONS:

1. CLOSE ALL DOORS AND WINDOWS TO PREVENT TAKING ON WATER
2. KEEP BILGES DRY TO PREVENT LOSS OF STABILITY
3. KEEP PASSENGERS SEATED TO IMPROVE STABILITY AND PREVENT INJURY.
4. HAVE PASSENGERS PUT ON PFD'S IF SEAS BECOME VERY ROUGH.
5. NEVER ABANDON THE VESSEL UNLESS FORCED TO DO SO AND INSTRUCTED BY CAPTAIN (NO OTHER STAFF MAY CALL TO ABANDON SHIP UNLESS CAPTAIN IS INCAPACITATED-THEN FIRST MATE DO SO)
6. IF ASSISTANCE IS NEEDED CALL THE COAST GUARD ON VHF CH. 16. AND/OR 911

PERSONS OVERBOARD PROCEDURES:

1. POST A LOOKOUT TO KEEP THE PERSON IN SIGHT AT ALL TIMES.
2. THROW A RING BOUY WITH LINE ATTACHED AS CLOSE TO THE PERSON AS POSSIBLE.
3. MANEUVER THE VESSEL TO PICK UP THE PERSON (ALLOWING FOR WIND AND CURRENT)
4. HAVE A CREW MEMBER STANDBY (WEARING PFD/SAFETY LINE/EXPOSURE SUIT) TO GO OVERBOARD IF NECESSARY
5. IF THE PERSON IS NOT IMMEDIATELY LOCATED, CONTACT THE COAST GUARD AND ANY CLOSE VESSELS ON CHANNEL 16 VHF
6. PRESS THE M.O.B. BUTTON ON THE CHART PLOTTER AND NOTE THE TIME. CONTINUE TO SEARCH UNTIL RELEASED BY THE COAST GUARD.
8. PREPARE BLANKETS AND OTHER FIRST AID ITEMS TO COUNTERACT HYPOTHERMIA.

FIRE AT SEA:

1. HAVE PASSENGERS PUT ON PD'S AND MOVE TO A SAFE LOCATION ON VESSEL AWAY FROM FIRE.
2. CUT THE AIR SUPPLY TO THE FIRE, KEEP HATCHES CLOSED AND DON'T RUN BILGE FANS.
3. IMMEDIATELY USE PORTABLE FIRE EXTINGUISHER AT BASE OF FLAMES.
4. IF FIRE IS IN ENGINE ROOM, PLUG AIR SUPPLY VENTS AND VERIFY HALON HAS DISCHARGED.
5. MANEUVER THE VESSEL SO WIND CARRIES SMOKE AND FLAME AWAY FROM PASSENGERS.
6. IF UNABLE TO CONTROL THE FIRE, NOTIFY THE COAST GUARD AND OTHER BOATS IN THE AREA. GIVE A GOOD DESCRIPTION OF VESSEL AND LOCATION. ARM THE EPIRB AND PREPARE TO ABANDON THE VESSEL

FLOODING:

1. HAVE ALL PASSENGERS AND CREW PUT ON PFD'S.
2. NOTIFY THE COAST GUARD AND OTHER VESSELS OF THE SITUATION AND VESSEL LOCATION.
3. DIRECT ALL PASSENGERS AND CREW TO AN OPEN DECK AND BE PREPARED TO ABANDON THE VESSEL

4. IF UNABLE TO DETERMINE SOURCE AND CONTROL FLOODING: HEAD FOR THE BEACH, TRANSMIT MAYDAY MESSAGE, LAUNCH THE LIFE RAFT & DISTRESS SIGNAL, INSTRUCT PASSENGERS HOW TO ABANDON TO AVOID INJURY AND STAY TOGETHER, ARM THE EPIRB. BRING EMERGENCY KIT.

5. DIRECT PASSENGERS AND CREW TO ABANDON VESSEL AT APPROPRIATE TIME, TO REMAIN TOGETHER AND IN THE VICINITY OF THE VESSEL IF IT REMAINS PARTIALLY AFLOAT.

GROUNDING OR COLLISION:

1. FOR SAFETY AND STABILITY REASONS, PASSENGERS ARE TO REMAIN SEATED AT ALL TIMES

2. DO NOT MOVE ABOUT THE VESSEL UNLESS INSTRUCTED TO DO SO BY THE CAPTAIN

3. IF INSTRUCTED BY THE CAPTAIN TO MOVE, ONLY MOVE ONE AT A TIME.

4. INSPECT VESSEL FOR DAMAGE OR LEAKS AND VERIFY VESSEL STABILITY.

5. DEPENDING ON THE SITUATION, DETERMINE THE NEED TO ABANDON OR DEPART THE VESSEL

6. NOTIFY THE COAST GUARD OF THE SITUATION AND PASSENGER AND VESSEL STATUS.

ABANDON SHIP:

1. NOTIFY THE COAST GUARD THAT ABANDON SHIP PROCEDURES ARE UNDERWAY.

2. DO NOT PANIC. PUT ON PFDS' & FOLLOW THE CAPTAIN'S INSTRUCTIONS AND STAY TOGETHER.

3. DO NOT TAKE ANYTHING WITH YOU. MAINTAIN PHYSICAL CONTACT WITH CHILDREN AT ALL TIMES.

4. STAY NEAR THE VESSEL (UNLESS BURNING). MOVE OR STAY UP-WIND OF ANY SMOKE.

5. ENTER THE LIFE RAFT ONE AT A TIME, CHILDREN AND WOMEN FIRST.

6. AFTER BOARDING, MOVE AWAY FROM THE BOARDING LADDER TO HELP STABILIZE THE RAFT.

7. REMAIN SEATED AND PROTECT THE RAFT FROM ANY SHARP OBJECTS.

8. THE CAPTAIN WILL BRING THE VHF RADIO, CELL PHONE, EPIRB AND EMERGENCY KIT.

COMMUNICATIONS PLAN:

- Contact numbers: emergency and non-emergency: **USCG National Response Center 800.424.8802**

- State Office of Emergency Services 800.852.7550
- County of San Diego Office of Emergency Services 800.565.3490
- Take immediate action to contain and control the incident without risking personal health and safety.

Additional Contact Information

- Emergencies 619.223.1133 or 911
- San Diego Police Headquarters: 619-531-2000 or 911
- San Diego Life Guard Headquarters: 619-221-8899
- Harbor Police 619.686.6585

- San Diego Harbor Police Headquarters 619.686.6570
- Dispatch 619.686.6272
- Port of San Diego 619.686.6200
- S.D. Fire Dept/Emergency Services 619.974.9891
- San Diego Fire-Rescue Department 619.533.4300
- U.S. Navy Port Ops. 619.556.1433
- USCG Marine Safety Office 619.683.6470
- 24 Hr. Navy Regional Duty Office 619.524.2314
- USCG Marine Safety Office 619.278.7262 - Goes to voicemail after 3:00PM
- U.S. Navy Port Operations 619.556.1433
- Environmental Protection (for discharges on land) 619.686.6254 or
swpollutionprevention@portofsandiego.org
- Radios/VHF: channel 16

EMERGENCY SIGNALS:

- USCG visual distress signals if applicable: USCG SOS Beacon, flares, mayday flag, colored smoke marker, 2 horns and bell
- Hand signals if applicable: Mirror

ACCIDENT OR INCIDENT REPORTING:

- **SDPD/Lifeguards: San Diego Life Guard Headquarters: 619-221-8899, San Diego Police Headquarters: 619-531-2000 or 911**
- **CA DBW: 1-888-326-2822**
- **USCG: sector San Diego 619-278-7000**

From: Strobel, Richard
To: Sanchez, Roswitha
Cc: Karen Driscoll; Tom Driscoll
Subject: RE: City Consent Check In
Date: Thursday, August 15, 2024 1:38:50 PM
Attachments: [Image001.png](#)
[Image002.png](#)
[Image003.png](#)
[Image004.png](#)

We approve this updated operational plan.

Rick Strobel
Marine Safety Lieutenant
City of San Diego
Fire-Rescue Department/Lifeguard Services Division
Days off Sun, Mon, Tue, Wed, Fri,

O (619) 221-8833
C (619) 980-0231
rstrobel@sandiego.gov



~ A world-class city for all ~

CONFIDENTIAL COMMUNICATION

This electronic mail message and any attachments are intended only for the use of the addressee(s) named above and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient, or the employee or agent responsible for delivering this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this message or by telephone. Thank you.

From: Sanchez, Roswitha <RoswithaS@sandiego.gov>
Sent: Tuesday, August 13, 2024 12:16 PM
To: Strobel, Richard <RStrobel@sandiego.gov>
Cc: Karen Driscoll <karen@driscollinc.com>; Tom Driscoll <tom@driscollinc.com>
Subject: FW: City Consent Check In

Hi Rick,

This is the other updated template for a Driscoll sublease – for Odysseya. Please let me know if you have any questions, or would like to schedule a site visit to look at the boats.

Thank you,

Rose

From: Auriel McCarthy <amccarthy@driscollinc.com>
Sent: Tuesday, August 13, 2024 12:11 PM
To: Sanchez, Roswitha <RoswithaS@sandiego.gov>
Cc: Tom Driscoll <tom@driscollinc.com>; Karen Driscoll <karen@driscollinc.com>
Subject: [EXTERNAL] Re: City Consent Check In

** This e-mail came from an external source. Be cautious about clicking on any links in this email or opening attachments. **

Please see the attached template with the updated verbiage.
Odyssea Adventures

From: Sanchez, Roswitha <RoswithaS@sandiego.gov>
Sent: Thursday, August 8, 2024 1:38 PM
To: Auriel McCarthy <amccarthy@driscollinc.com>
Cc: Tom Driscoll <tom@driscollinc.com>; Karen Driscoll <karen@driscollinc.com>
Subject: FW: City Consent Check In

Please see Lifeguards comments below.

From: Strobel, Richard <RStrobel@sandiego.gov>
Sent: Thursday, August 8, 2024 12:44 PM
To: Sanchez, Roswitha <RoswithaS@sandiego.gov>
Cc: Hodges, Maureen <HodgesM@sandiego.gov>; Gartland, James <JGartland@sandiego.gov>
Subject: RE: City Consent Check In

Rose,

I have reviewed the operational plan for Odysseya Adventures. As we move forward continuing to approve operational plans I will be including Capt Hodges and Chief Gartland for final approval. Regarding Odysseya Adventures we need to add bullet points under Description of Activities that states the following.

- All commercial operations will adhere to United States Coast Guard regulations regarding vessels carrying passengers for hire
- All commercial operations will adhere to the San Diego Municipal Code when on waters under the jurisdiction of the City of San Diego.

Please wait for final approval from chief Gartland or Capt Hodges.

Rick Strobel
Marine Safety Lieutenant
City of San Diego
Fire-Rescue Department/Lifeguard Services Division
Days off Sun, Mon, Tue, Wed, Fri,

O (619) 221-8833
C (619) 980-0231
rstrobel@sandiego.gov



1500 Quivira Way
San Diego, CA 92109
619-221-8456

May 30, 2024

Real Estate Assets Department

Attention: Roswitha Sanchez
1200 Third Avenue STE.1700
San Diego, CA, 92101

To whom it may concern,

I am submitting herewith the following Lessee's and Sublessee's questionnaire, documents, and other information to the City of San Diego. The questionnaire completed on March 25, 2024, includes accurate information from the Lessee, Driscoll Mission Bay, LLC and the Sublessee, **Odyssea by Fletcher, LLC**. I am sending these documents to the Real Estate Assets Department for further progress in the fulfillment of the formalities required.

Sincerely,

Thomas A. Driscoll

Thomas Driscoll

Owner/ Operator

tom@driscollinc.com

Driscoll Mission Bay, LLC

Enclosures; 6 documents; City Questionnaire, Odyssea by Flecher Operation Plan, Insurance proposal, Coast Guard Certificate of Documentation, Executed Charter Lease Agreement, Check 178 for \$1050.

CITY OF SAN DIEGO

LESSEE'S AND SUBLESSEE'S QUESTIONNAIRE FOR ALL LEASES, ASSIGNMENTS AND SUBLEASES

Pursuant to the City of San Diego City Charter Section 225: "Mandatory Disclosure of Business Interests," before the City will process requests to (Sub)Lease, all information requested in this Questionnaire must be completed by the proposed (Sub)Lessee. Even though a proposed Sublessee may complete the Questionnaire, the Questionnaire must be delivered or mailed to the City with a cover letter signed by the City Lessee or proposed Lessee. **THE CITY WILL NOT ACCEPT THE QUESTIONNAIRE, DOCUMENTS, OR OTHER INFORMATION DIRECTLY FROM A SUBLESSEE.**

All information furnished in this Questionnaire must be complete and accurate. Omissions, inaccuracies, or misstatements may cause the rejection and/or subsequent revocation of the City's Lease, consent to Sublease, or consent to Assignment of (Sub)Lease.

In submitting this Questionnaire, the proposed (Sub) Lessee completing the Questionnaire authorizes the City to make any inquiry or investigation it believes necessary to substantiate or supplement the information furnished in the Questionnaire and authorizes others to release such information to the City.

Exact name of existing Lessee (always complete):

Driscoll Mission Bay, LLC

Exact name of proposed Lessee (complete only if applicable):

Exact name of existing Sublessee (complete only if applicable):

Exact name of proposed Sublessee (complete only if applicable):

Odyssea by Fletcher LLC

Date this Questionnaire completed: 10/07/24

The information furnished in and with this Questionnaire is true, complete, and correct to the best of my knowledge.

Signature: Samuel Fletcher

Samuel Fletcher (Jul 18, 2024 10:36 PDT)

Title: CEO Owner

Thank you for taking the time to complete the Questionnaire. Lessees may contact Real Estate Assets if they have any questions. Please return the completed Questionnaire, with any additional information or documents to:

DEPARTMENT OF REAL ESTATE AND AIRPORT MANAGEMENT

1200 THIRD AVENUE STE. 1700

SAN DIEGO, CA 92101

TEL.: (619) 236-6020 FAX: (619) 236-6706

This Questionnaire contains 15 pages.

PROPOSED (SUB)LESSEE

1. Name of proposed (Sub)Lessee exactly as it will appear on the actual tenancy document:

Odyssea by Fletcher, LLC

2. Mailing Address of proposed (Sub)Lessee for purposes of notice or other communication relating to the proposed tenancy:

2062 Reed Ave SD, CA 92109

Telephone No.: 774-696-0857 Fax. No.: _____
E-mail Address: odysseabyfletcher@gmail.com

3. Billing Address (*only if different from Mailing Address*):

same

Telephone No.: _____ Fax. No.: _____

4. Proposed (Sub)Lessee intends to operate as a:

Sole Proprietorship (☐); Partnership (☐); Corporation (☐);
Limited Liability Company (☒); Other _____

Explain if necessary:

n/A

5. Effective date of assignment (complete only if applicable): _____

PARTNERSHIP STATEMENT

If proposed (Sub)Lessee is a partnership, please answer the following:

1. Date of Organization: _____

2. General Partnership ☐
 Limited Partnership ☐
 Other ☐ Explain _____

3. Statement of Partnership recorded: Yes ☐ No ☐

Date	Book	Page	County
------	------	------	--------

4. Has the partnership conducted business in San Diego County?
 Yes ☐ No ☐ If so, when? _____
 If so, where? _____

5. Name, address, and partnership share of each general and limited partner. If a general partner is another partnership, a corporation, or a limited liability company (LLC), please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page for identification purposes). If a limited partner holding a 10% or greater interest is another partnership, a corporation, or an LLC, pages 3; or 4 and 5; or 6 must also be completed for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page).

General/Limited	Name	Address	Share %

6. Attach a complete copy of the Partnership Agreement. If a Partnership Agreement has been previously submitted, a new Partnership Agreement need be submitted only if the Partnership Agreement on file with the City is no longer current.

CORPORATION STATEMENT

If proposed (Sub)Lessee is a corporation, please answer the following:

1. Type of corporation: C (☐) Subchapter S (☐)
2. When incorporated? _____
3. Where incorporated? _____
4. Is the corporation authorized to do business in California? Yes (☐) No (☐)
If so, as of what date? _____
5. The corporation is held:
 - a. Publicly (☐) Privately (☐)
 - b. If publicly held, how and where is the stock traded?

- | | | | |
|-------------------------------------|-------------------|---------------|--------------------|
| 6. Please list the following: | <u>Authorized</u> | <u>Issued</u> | <u>Outstanding</u> |
| a. Number of voting shares: | _____ | _____ | _____ |
| b. Number of nonvoting shares: | _____ | _____ | _____ |
| c. Number of shareholders: | | | _____ |
| d. Value per share of Common Stock: | | Par | \$ _____ |
| | | Book | \$ _____ |
| | | Market | \$ _____ |

7. Please furnish the name, title, address, and the number of voting and nonvoting shares of stock owned by each officer and, in addition, the same information for each stockholder owning more than 10% of any class of stock.

Name: _____

Title: _____

Address: _____

No. of Shares: _____

Name:	_____
Title:	_____
Address:	_____

No. of Shares:	_____
Name:	_____
Title:	_____
Address:	_____

No. of Shares:	_____
Name:	_____
Title:	_____
Address:	_____

No. of Shares:	_____
Name:	_____
Title:	_____
Address:	_____

No. of Shares:	_____

(Additional page(s) may be added if needed to complete list of stockholders [type proposed (Sub)Lessee name (from page 2) on the top of each page].)

8. Attach complete copies of the Articles of Incorporation (and any Certificate(s) of Amendment there to, as the case may be) of the Corporation, and the Bylaw s of the Corporation (and any Amended and Restated Bylaw s, as the case may be), and any other applicable Corporate documents.

Any partnership, corporation, or LLC owning more than a 10% ownership interest must also complete separate pages 3; or 4 and 5; or 6, as appropriate f or each entity (type proposed [Sub]Lessee name [from page 2] on the t op of each page f or identification purposes). Also, furnish the financial data f or such partnership, corporation, or LLC, as required on page 7. If there is an ownership chain of additional partnerships, corporations, or LLCs, the above requirements extend to each such entity having either: (1) a 10% or greater direct, indirect , beneficial ownership, or membership interest in the proposed (Sub)Lessee; or (2) effective control of the proposed (Sub)Lessee, regardless of the percentage of ownership or membership interest.

LIMITED LIABILITY COMPANY STATEMENT

If the proposed (Sub)Lessee is an LLC, please answer the following:

1. Date of Organization: 02/03/21
2. Where Organized: San Diego CA
3. Is the Company authorized to do business in California?
 - a. Yes (☒) No (☐)
 - b. If so, as of what date? 02/03/21
4. Has the Company conducted business in San Diego County?
 - a. Yes (☒) No (☐)
 - b. If so, when? since 02/03/21 to present
 - c. If so, where? San Diego CA
5. Please furnish the name, address, and membership share held by each manager and officer, and each member owning more than a 10% membership interest. If a member is a partnership, corporation, or another LLC, please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page).

Manager/Officer/ Member	Name	Address	Share %
CEO/owner	Samuel Fletcher	2062 Reed Ave SD CA 92109	100

6. Attach a complete copy of the Operating Agreement. If an Operating Agreement has been previously submitted, a new Operating Agreement need be submitted only if the Operating Agreement on file with the City is no longer current.

FINANCIAL AND OTHER BACKGROUND INFORMATION

FINANCIAL STATEMENT

(Sub)Lessee, general partners of (Sub)Lessee, owner-corporations of (Sub)Lessee, members of (Sub)Lessee owning more than a 10% membership interest, and any person or business entity guaranteeing the performance of (Sub)Lessee must attach a complete report, prepared in accordance with good accounting practice, reflecting current financial condition. The report **must** include a balance sheet and annual income statement. The person or entity covered by the report must be prepared to substantiate all information provided.

OTHER INFORMATION

Each (Sub)Lessee, each general partner of (Sub)Lessee, each owner-corporation of (Sub)Lessee, each member of (Sub)Lessee owning more than a 10% membership interest, any person or business entity guaranteeing the performance of (Sub)Lessee, any person or entity owning more than a 10% interest of (Sub)Lessee, and any guarantor of (Sub)Lessee must answer the following questions:

1. **Surety Information** - Has a surety or bonding company ever been required to perform on the default of any of the individuals or entities?
 - a. Yes (☐) No (☒)
 - b. If yes, please attach a statement naming the surety or bonding company, date, amount of bond, and the circumstances surrounding said default and performance.
2. **Bankruptcy Information** - Have any of the individuals or entities ever been adjudicated bankrupt or are any presently a debtor in a pending bankruptcy action?
 - a. Yes (☐) No (☒)
 - b. If yes, please give dates, court jurisdiction, and amount of liabilities and assets.
3. **Pending Litigation** - Are any of the individuals or entities presently a party to ANY pending litigation?
 - a. Yes (☐) No (☒)
 - b. If yes, please provide detailed information for each action.
4. **Claims, Liens, or Judgments** - Are any of the individuals or entities now subject to any outstanding claims, liens, or judgments?
 - a. Yes (☐) No (☒)
 - b. If yes, please provide detailed information for each claim, lien, or judgment.

REFERENCES FOR PROPOSED (SUB)LESSEE

Please list four persons or firms with whom you have conducted business transactions during the past three years. Two of the references must have knowledge of your debt payment history, with at least one being a financial institution. Two of the references must have knowledge of your business experience.

REFERENCE NO. 1

Name: Kyle Crew

Firm: Federal Government

Title: Special Agent

Address: (not allowed to give exact address)

Telephone: 508-450-0374

Nature and magnitude of purchase, sale, loan, business, association, etc.:

REFERENCE NO. 2

Name: Took Wesley

Firm: NASA Federal Credit Union

Title: Loan officer

Address: 500 prince Georges BLVD, upper marlboro MD 20774

Telephone: 301-249-1800 ext: 313

Nature and magnitude of purchase, sale, loan, business, association, etc.:

REFERENCE NO. 3

Name: Dan Gawrich

Firm: Lunex Power

Title: Owner CEO

Address: 6700 Tanglewood dr, NE St pete FL

Telephone: 813-638-5178

Nature and magnitude of purchase, sale, loan, business, association, etc.:

REFERENCE NO. 4

Name: Ally Financial

Firm: Ally financial

Title: Truck loan company

Address: Ally Financial INC. PO Box 380901 Bloomington, MN 55438

Telephone: 1-888-925-2559

Nature and magnitude of purchase, sale, loan, business, association, etc.:

CITY OF SAN DIEGO PERSONAL DESCRIPTION AND RELEASE

PLEASE NOTE: All partners, both general and limited; all stockholders owning more than 10% of any class of stock of corporations; all members of a limited liability company; and sole proprietors requesting to (sub)lease, must each complete this page before the tenancy request can be processed. (You may reproduce and use copies of this page, if necessary.)

The following personal information is required to initiate a credit investigation. The business and personal reputation of principals, partners, and members will be considered in qualifying Lessees or in consenting to Sublessees.

First, Middle, & Last Name	<u>Samuel, Edward, Fletcher</u>
Date of Birth	<u>01/09/82</u>
Place of Birth	<u>Framingham MA</u>
Social Security Number	<u>023-68-9838</u>
Driver' s License Number/State	<u>Y2166644</u>
Home Address	<u>2062 Reed Ave</u>
	<u>SD CA 92109</u>
Previous Address	<u>115 W. Montecito way</u>
	<u>SD CA 92103</u>
Home Telephone No.	<u>774-696-0857</u>
Employer	<u>Odyssea by Fletcher LLC</u>
Occupation	<u>CEO/owner</u>
Business Address	<u>2062 Reed Ave SD CA 92109</u>
Business Telephone No.	<u>619-639-4800</u>
Business Fax No.	<u>none</u>

The City is hereby authorized to request a credit report and other information covering my financial and business history.

Date 07/10/24 Signed Samuel Fletcher

Print or type exact name of proposed (Sub)Lessee from page 2 of Questionnaire:

Odyssea by Fletcher, LLC

METHOD OF OPERATION

Please describe your proposed business operation on the property to be (Sub)Leased.
Discuss any optional services and uses which you propose to provide.

Pick up and Dropping off certified/ student divers for scuba diving trips to local dive spots.
Picking up and Dropping off clients for private sunset cruises and whale watching cruises.

**PROPOSED METHOD OF FINANCING
DEVELOPMENT OR LEASEHOLD PURCHASE**

Describe the method of financing for the Leasehold purchase or any new or additional development on the Leasehold. Include a schedule of approximate dates when construction of each significant improvement is expected to be commenced and completed.

No financing needed

ESTIMATE OF GROSS RECEIPTS

If this Questionnaire is being completed by a prospective Lessee, please show the best estimate of the average annual gross sales for each significant use or service, and for each significant optional use or service which the Lessee and its Sublessees (if any) plan to conduct on or from the property. (If the Questionnaire is being completed by a Sublessee, only the estimate of the Sublessee's gross sales is required.) This data will be used by the City to analyze the proposed Lease or Sublease Consent application. The time periods shown should not be assumed to necessarily represent the term of a (Sub)Lease that may be granted or consented to by the City.

Average annual gross sales for each proposed significant use during each of the first five operating years:

Year of Operation	Uses (Identify Each Use)				
	Scuba Charters	Whale Watching	Sunset Cruises		
1	\$ 20,000	\$ 20,000	\$ 20,000	\$	\$
2	35,000	35,000	35,000		
3	45,000	45,000	45,000		
4	55,000	55,000	55,000		
5	65,000	65,000	65,000		

EXPERIENCE STATEMENT

Please describe in detail the duration and extent of your business experience, with special emphasis upon experience with the type of business which you propose to conduct on City property. Also state in detail the pertinent experience of the persons who will be directly involved in development and management of the business.

Started Odyssey by Fletcher, LLC 3 years ago with a passion for the ocean, conservation, scuba diving, and healing through nature. I have done conservation projects all over the world including Indonesia, Florida, and currently in San Diego. I have been scuba diving for 10 years with over 1500 dives recorded. I became a professional diver 4 years ago and decided to quit my day job and start Odyssey full time. Since then the company has grown quickly with a partner boat in long beach and my own boat here in San Diego. I currently have a USCG captains license, teach CPR, emergency oxygen provider, and all levels of scuba diving certifications. I also employ 2 - 3 other instructors to help teach classes. I have worked on boats steadily for the last 10 years and know the industry very well. Oydsssea has amassed more than 150 five star reviews and hundreds of happy clients.

Development and management of the business is run by me and I use a business management company called Accum that helps with my website. I also use La Jolla.com Marketing Company that helps with my social media and other forms of marketing with SFO optimization.

All employees are highly skilled and hold master instructor certifications, such as myself.

**TERMS AND CONDITIONS OF PURCHASE, SALE,
OR TRANSFER OF (SUB)LEASEHOLD INTEREST**

(NOTE: Complete this page only if the transaction involves a Lease assignment.)

Please summarize the terms and conditions of the purchase, sale, or transfer of Leasehold interest(s) which requires City consent, as specified in the Assignment- Sublease provisions of the City Lease. Please attach copies of the applicable sales agreement(s), escrow instructions, assignment agreement(s), or other documents in conjunction with the sale, purchase, or transfer of the (Sub)Leasehold interest(s).



Project Proposal/Operating Plan

Prepared for: City of San Diego and Driscolls Marina

Prepared by: Samuel Fletcher, CEO/Owner

April 22, 2024

EXECUTIVE SUMMARY

Proposal

Odyssea Adventures operating plan is for May 1st, 2024-May 1st, 2025. The details of the operating plan are shown for year round SCUBA diving, whale watching, and private boat excursions. Odyssea Adventures is dedicated to executing this plan with exceptional service and safety on the water and on all premises located at 1500 Quivira Way SD CA.

Goals

To continue to grow Odyssea Adventures into the number one water adventure/experience company in southern California. Creating jobs for San Diegans, sharing nature with our community, educating students/guests, conservation projects, and providing revenue for the city and Driscolls Marina.

The Venue and vessel

Odyssea Adventures is a year round SCUBA diving, teaching, whale watching, and private boat charter business, geared towards those looking for a more upscale personal offering. Our vessel is a 40 foot Mainship Sedan bridge yacht with twin 454 inboard engines. A beautiful and safe vessel with full bathroom, 2 bedroom, large aft deck and forward decks, full salon with couches, kitchen, tables, fridge, TV.

We offer Scuba diving classes and charters from 7:00 am to 1:00pm and occasionally afternoon dives from 2:00pm to 6:00pm most weekends and select weekdays. We operate the boat near shore/coastal for diving between Point Loma and La Jolla going no more than 3 miles offshore. For whale watching we will operate either in the afternoon spot after morning SCUBA diving or the morning slot if no diving is scheduled. We operate the boat for whale watching 3-5 miles offshore for winter gray whale season and 8-10 miles offshore during the summer and spring blue whale season. For private boat tours we operate mostly inside mission bay and rarely go out into open ocean. All our adventures are booked online by reservation only at www.odysseadiving.com and are limited to 6 passengers.

Equipment on Board

- 2 VHF Radios with Automated Identification System (AIS transceiver equipped)
 - Furuno touch screen GPS navigation system with AIS, Full Radar, sonar, man over board safety switch, satellite maps, and real time weather
 - Auto pilot feature
 - 40 lbs Bruce Claw anchor with 200 feet of rode line and 150 feet of high tension chain. Automatic deployment and retrieval with new Lewmar 1000 pro winless winch system
 - Waterproof cell phone
 - 1 EPIRB
 - USCG SOS Beacon, flares, mayday flag, colored smoke marker
 - 2 horns and bell
-

- 6 fire extinguisher (all inspected and up to date)
- 20 USCG approved life jackets
- 1 throwable life ring
- Emergency oxygen system
- Marine first aid kit
- All required placards, Rules of the road, and business license are in plain view
- All pollution requirements are above standard

Captain/crew

Odyssea Adventures adheres to the strictest standards of the SCUBA industry, whale watching, and USCG safety regulations. Our goal is to educate, enlighten, and show respect for our Ocean and all the creatures in it. We follow all PADI (Professional Association of Dive Instructors) standards and are a considered Gold members in the industry. With over 500+ divers certified safely through the odyssea system and ZERO injuries or accidents. All our captains and crew are PADI certified Master instructors, certified to administer emergency oxygen, CPR/first aid certified, hold rescue diver certificate, and have hundreds of hours working on industry boats. All Captains and crew have federal background checks. All staff are part of the USCG drug testing program and the Odyssea is a certified drug free vessel.

Captain: Samuel Fletcher (owner)

- USCG 25 ton/OUPV captains license with hundreds of days at sea both domestically and internationally. After this summer will be upgrading to 100 ton Master license
- PADI Master Instructor with hundreds of students taught
- Lived in Indonesia 2018-2019 doing Shark and turtle research projects with the Gili Shark Foundation followed by 4 months working on coral restoration projects
- Former EMT and ski patrol ranger
- 10 years of diving with over 1500 logged dives

Crew:

Instructor/First Mate/Captain in training: Dominic Galenti

instructor/First Mate/Captain in training/Whale watching program developer: Brooke Lorentzen

instructor /First Mate/Captain in training Trevor Abel

(Currently hiring 1-2 more staff)

Safety

The safety of our guests/students is our number one priority. In addition to the above stated safety equipment on board all employees are trained and certified to administer emergency oxygen, CPR, AED, first aid and rescue diving. Each passenger has easy access to USCG approved life jackets and are instructed on how to use them. Full safety briefing is held before leaving dock every time and multiple head counts are done throughout the excursions.

Safety briefings

1. Introduction: Ensure ALL WAIVERS HAVE BEEN SIGNED

- Welcome everyone on board and thank them for choosing your services.
- Introduce yourself and the crew members who will be assisting them.
- Emphasize the importance of safety and assure them that their well-being is your top priority.

2. Life Jackets:

- Explain the locations and proper use of life jackets.
- Demonstrate how to properly put on and adjust a life jacket.
- Emphasize that life jackets should be worn at all times when on the boat, especially during rough weather or emergency situations.

3. Emergency Exits and Procedures:

- Point out the emergency exits and explain how to use them.
- Instruct passengers on the proper procedure to follow in case of an emergency, such as a fire or sinking.
- Emphasize the importance of remaining calm and following crew instructions.

4. Diving Safety: Head Count

- Explain the importance of following dive procedures and guidelines. Diver recall procedures explained.
- Briefly explain the buddy system and how it ensures the safety of divers.
- Discuss the maximum depth limits and remind divers to monitor their air supply and dive time.
- Emphasize the need to ascend slowly and perform safety stops to prevent decompression sickness.

5. Dive Equipment:

- Explain the proper use and handling of dive equipment.
- Demonstrate how to check the functionality of the equipment before diving.
- Remind divers to always secure their equipment properly and avoid entanglement.

6. Marine Life and Environment:

- Inform divers about the local marine life and any potential hazards they may encounter.
- Emphasize the importance of not touching or disturbing marine life to protect the ecosystem.
- Remind divers to be aware of their surroundings and avoid damaging coral reefs or other sensitive habitats.

7. Boat Safety:

- Instruct passengers on the proper ways to move around the boat to prevent accidents and falls.
- Explain the locations of safety equipment, such as fire extinguishers and first aid kits.
- Remind passengers to be mindful of their belongings to avoid tripping hazards.

8. Weather Conditions:

- Inform passengers about the current weather conditions and any potential changes.
 - Explain the possibility of trip cancellations or alterations due to adverse weather.
 - Emphasize the importance of following the captain's decisions regarding weather-related safety concerns.
-

9. Communication:

- Provide information about how to communicate with the crew during the trip.
- Share the designated channel or method of communication in case of emergencies or concerns.
- Encourage passengers to ask questions or report any issues they may have during the trip.

10. Conclusion:

- Reiterate the importance of safety and following crew instructions.
- Thank passengers for their attention and assure them that you are committed to providing a safe and enjoyable experience.
- Offer any additional information or assistance they may require.

Vessel maintenance

The vessel is equipped with twin inboard 454 engines. The engine is professional maintained according to manufacturers guidelines, and log is kept. Every 300 hrs the oil is changed. Professional divers clean the bottom hull (new antifouling paint) and check zincs/rudders/drive shafts etc once a month. The boat is washed daily and kept tidy and clean.

Adventure/excursion pricing

All pricing can be seen on our website at www.odysseadiving.com. Some popular experiences are \$169 per person for certified diving trips, Private boat \$250 an hour (usually 4 hours). Whale watching \$100 per person.



Insurance | Risk Management | Consulting

Gallagher Charter Lakes
3940 Peninsular Dr SE Suite 100
Grand Rapids, MI 49546
Phone: 616-975-3500 | Fax: 616-975-0670
www.charterlakes.com

Commercial Marine Insurance Proposal

February 28, 2024

Thank you for contacting our agency regarding your client's Marine Insurance. We have procured a quote from a leading marine specialty company to arrive at the most favorable terms and conditions of coverage. It is our pleasure to present the following proposal for your review.

Agency:	First Insurance Group LLC	
	Attn:	Reed
	Fax/E-mail:	reed.goodbred@fnicgroup.com
Owner:	Odyssea by Fletcher LLC Samuel Fletcher 2062 Reed Ave San Diego CA 92109	
Vessel Information:	Year Built	1994
	Length	40'
	Builder	Mainship
Insurance Company:	60% Accelerant Specialty Insurance Company and 40% Texas Insurance Company A.M. Best Rated: A- (Excellent) IX Non-Admitted	
Navigation Description:	Warranted that the Scheduled Vessel is confined to California - not to exceed 15 miles offshore.	
Coverage	Limits	Deductible
Physical Damage	77,500	11,625
Liability Coverage	1,000,000	2,500
Medical Payments	5,000	100
Uninsured Boater	100,000	0
Limited Pollution (within CSL)	1,000,000	2,500
Commercial Passenger Liability ext. within CSL	1,000,000	2,500
Crew Liability Extension within Combined Single Limit (CSL) - 2 Crew	1,000,000	2,500
Towing (Non-Emergency)	500	0
Annual Premium:		\$6,349.00
Cert Fee:		\$35.00
Stamping Fee:		\$11.67
Surplus Lines Tax:		\$194.52
Filing Fee:		\$100.00
Total Due:		\$6,690.19
Note: If your agency has a surplus lines license in this state then you will be responsible for filing the taxes and fees. We will need the name and license number for the license that will be used. If you do not have a surplus lines license there will be a filing fee of \$100 (plus taxes & fees) that will be applied.		
Optional Coverages:	TRIA Coverage	\$635.00 Additional Premium + Taxes & Fees
Endorsements:	Max Passenger Warranty - 6 Passengers	
	Limited Charter Days - 90 Days	
	Diveboat Endorsement	
Notes:	Indication Only - A 25% Minimum Earned Premium Applies	
	This policy contains a named operator warranty clause. All operators must be approved by the insurance company prior to operating the insured vessel.	
	This policy is warranted that all fire extinguishing equipment complies with Section 9 of the policy & must be current and operational	
	In the Charter Policy, it is warranted that all participants will sign the Concept Special Risks limited release of liability, regardless of whether they are a paying or complimentary, prior to the commencement of the charter activity. All releases of liability must be retained for seven years and provided to us on request. There must be a waiver for every passenger, regardless of age. Digital backup of these saved waivers is required.	



Insurance | Risk Management | Consulting

Gallagher Charter Lakes
3940 Peninsular Dr SE Suite 100
Grand Rapids, MI 49546
Phone: 616-975-3500 | Fax: 616-975-0670
www.charterlakes.com

Commercial Marine Insurance Proposal (page 2)

Binding Requirements:	Completed & Signed Application
	Premium Payment in Full
	Captain's License
	Recently Performed Bottom Condition & Value Survey NOTE: SURVEYS MUST BE PERFORMED OUT OF WATER BY AN ACCREDITED MARINE SURVEYOR
	Surveyor Recommendation Compliance Letter
	Operator Form
	Written Request to Bind and Effective Date
	Captain Charter Supplementary Form
	Paid Crew Supplementary Form
	Liability Release
	TRIA Form

Payment Options:	Premium Payment in Full via ACH is due at Binding
Billing:	Agency Bill
Commission:	10%

Notes:

- Please disclose all owners on your application prior to binding. Any person or entity not named above may not be an insured. This includes Co-Owners, Trusts, Partnerships and Limited Liability Companies.
- If you elect to bind coverage with a non-admitted carrier, surplus lines taxes must be collected and remitted to your Home State, as defined in The Nonadmitted and Reinsurance Reform Act. Your Home State has not yet established a process for the remittance of the non-Home State portion of the tax. We intend to bill the surplus lines taxes for the non-Home States, and hold these taxes until a process for remittance is established and payment to the non-Home State may be made. If no such process is established by the Home State, and the risk of a future claim by the non-Home State is determined to no longer exist, then the taxes will be returned to you.
- Significant policy exclusions include but are not limited to the following: Automobile Liability
- Gallagher is responsible for the placement of the following lines of coverage: Wet Marine
It is understood that any other type of exposure/coverage is either self-insured or placed by another brokerage firm other than Gallagher. If you need help in placing other lines of coverage or covering other types of exposures, please contact your Gallagher representative.

The coverage outlined may not conform to the terms and conditions requested. You are responsible for reviewing the terms carefully and explaining the coverage to the client, including any options available (or not available) from our office or other sources. The items listed here are not a complete description of applicable terms, which will be set forth in full in the policy(ies). No assumption should be made as to the adequacy of coverage for the client's needs.

You are not an agent of the insurer, and as such, cannot (a) bind coverage, (b) make any commitments on behalf of the insurer, or (c) make any commitments on our behalf. The policy cannot be assigned without the written consent of the insurer or their agent.

At binding, you commit to any provisions contained herein such as Minimum Earned Premiums.

This quote and offer of insurance is a premium **indication only**. Terms and Conditions of our quote have not been finalized and confirmed by the carrier in writing, and therefore, it is not binding.

Evidence of authorization to bind coverage is required to bind order. Please send all confirmations via email. Thank you again for the opportunity to place your marine insurance and protect your investment. Please feel free to contact me with any questions or changes to this proposal. I look forward to hearing from you.

Best Regards,

Rob Willis

Account Executive
Arthur J. Gallagher Risk Management Services, LLC
License Nos. IL 100292093 / CA 0D69293

This quote is valid for 30 days.

**UNITED STATES OF AMERICA****DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD****USCG****NATIONAL VESSEL DOCUMENTATION CENTER****CERTIFICATE OF DOCUMENTATION**

VESSEL NAME ODYSSEA		OFFICIAL NUMBER 1025536	IMO OR OTHER NUMBER MPC40222K394	YEAR COMPLETED 1993	
HAILING PORT SAN DIEGO CA		HULL MATERIAL FRP (FIBERGLASS)		MECHANICAL PROPULSION YES	
GROSS TONNAGE 28 GRT	NET TONNAGE 22 NRT	LENGTH 40.6	BREADTH 13.6	DEPTH 7.8	

PLACE BUILT

ST AUGUSTINE FL

OWNERS

SAMUEL EDWARD FLETCHER

OPERATIONAL ENDORSEMENTS

RECREATION
COASTWISE

MANAGING OWNER

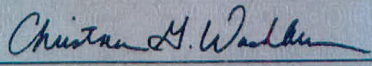
SAMUEL EDWARD FLETCHER
2662 REED AVE
PO BOX 99321
SAN DIEGO CA 92169RESTRICTIONS
NONEENTITLEMENTS
NONEREMARKS
NONE

ISSUE DATE

JULY 10, 2023

THIS CERTIFICATE EXPIRES

JULY 31, 2024


DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER



Charter Boat Lessee Agreement

THIS CHARTER BOAT LESSEE AGREEMENT (the "Agreement") is made and entered into on 31/05/24 ("Commencement Date") by and between Driscoll Mission Bay, LLC, a California limited liability company (the "Management") and Odyssea by Fletcher LLC (individually or jointly, "Lessee") with respect to the following facts:

- A. Management leases from the City of San Diego (hereinafter, "City"), and operates the marina, boat slips, docks and boatyard located at 1500 Quivira Way, San Diego, California, USA, 92109 (collectively, the "Landing").
- B. Lessee owns and operates the "Vessel" as follows: Name of Boat:

Cal. DMV CF#: **MPC40222K394 Odyssea**

Federal Document#: **1025536**

Length Overall: **40**

Beam: **13.6**

Draft: **3.5**

The Vessel shall provide: Private boat charter, whale watching.

Scuba Diving activities

(please provide a list of all charter activity types)

as agreed upon by Management and Lessee. Only the Vessel described in this paragraph, and no other vessel, may occupy the boat slip under this Agreement.

- C. Lessee desires to operate the Vessel from the Landing, and Management desires to allow such non-exclusive operation, in each case on the terms and conditions set forth below. The person identified above as the Lessee represents by signing this Agreement that he/she is the sole owner of the Vessel, or that he/she has full authority of all persons or entities with an ownership interest in the Vessel to bind them and the Vessel to the terms and conditions in this Agreement. Lessee represents and warrants that the Vessel is owned solely by Lessee. On or before the Commencement Date, Lessee shall submit to Management a true copy of Lessee's current California DMV ownership, registration certificate or other official (e.g., United States Department of Transportation) ownership documentation by delivery of same to Management's Landing office where it shall be placed on file in Management's records for Lessee and the Vessel in respect of the Landing. Lessee represents and warrants that Lessee (individually or collectively) is the sole owner of the Vessel; and as a condition of using the Landing under this Agreement, Lessee (individually or collectively) must hold exclusive legal title to and exclusive ownership of the Vessel while it occupies the Landing during the Agreement Term. In the event that Lessee is not the sole owner of the Vessel at anytime during the Term, then Lessee shall immediately notify Management and submit all such additional information regarding other owners of the Vessel as Management may request and temporarily cease operations at the Landing.

NOW THEREFORE, in consideration of the foregoing Recitals, and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing Recitals are incorporated in this Agreement as if fully set forth below.
2. **Term of Agreement.**
 - (a) Subject to paragraph 2(b) below, the rights and duties of the parties under this Agreement shall commence on approval of the CITY. This Agreement is for month-to-month tenancy. Written notice of termination shall been given thirty (30) days prior to the expiration of said term by either Management or Lessee. This Agreement will continue on a month-to-month basis and may be terminated by either party giving the other at least thirty (30) days' prior written notice.
 - (b) Notwithstanding the provisions of Section 2(a) above, Management shall have the rights, as set forth in Section 2(c) below, on the occurrence of any of the following specified events (each an "Event of Default"):
 - (i) Bankruptcy, by voluntary or involuntary petition, or insolvency of Lessee;

- (ii) Sale or transfer of more than fifty (50%) percent or more of the stock or beneficial interest in the stock of Lessee, or sale or transfer of substantially all of the assets of Lessee;
 - (iii) Destruction or seaworthiness of the Vessel, or her inoperability for a period longer than four (4) months, unless a substitute vessel approved, in writing, by Management is provided.
 - (iv) Seizure of the Vessel pursuant to Court order or non-judicial repossession as contractually permitted by a mortgage lien holder.
 - (v) Breach or default of any term, provision or covenant contained in this Agreement, each of which is deemed to be material for all purposes herein.
 - (vi) Assignment or transfer of any interest, rights or duties under this Agreement other than as permitted herein.
 - (vii) Abandonment of the Vessel by Lessee.
 - (viii) Vacate the Landing.
- (c) Upon the occurrence of the Event of Default, Management may:
- (i) Immediately terminate and declare a forfeiture of this Agreement, whereby effective as of the termination date, Management shall not have any further or future obligations under this Agreement except as may be required by applicable law. Pursuant to such termination, Management may recover and take exclusive custody, possession and control of the Landing, remove the Vessel and all other personal property therefrom, remove all other personal property of Lessee from the dock adjacent to the Landing and elsewhere in the Landing area, store the Vessel at any location, and recover from Lessee all damages resulting from any Event of Default including, without limitation, the cost of recovery of the Landing, the cost of removal the Vessel and any other personal property therefrom, the cost of storing the Vessel.
 - (ii) In the event that Management removes any personal property from the Landing, its adjacent docks and/or elsewhere in the Landing area, other than or in addition to the Vessel, Management may store such property at any location at the sole expense and risk of Lessee or other owner thereof and may sell or otherwise dispose of such property as provided by applicable law.
 - (iii) Immediately take exclusive custody, possession and control of the Vessel including, without limitation, any and all fixtures, engine(s), equipment, rigging, gear and other personal property thereon or appurtenant thereto (collectively, the "Gear"), and physically impound and secure the Vessel, together with any Gear, at any location for the purposes, inter alia, of enforcing, perfecting and executing upon Management's statutory lien rights in or upon the Vessel, e.g.: (i) pursuant to the California Harbors and Navigation Code Section 490, et seq., and Section 500, et seq. (the "California Boaters Lien Law"), and/or (ii) pursuant to the Federal Maritime Lien Act, 46 U.S.C. Section 31341, et seq. (collectively, the "Boat Liens"). The Boat Liens (as applicable, depending upon whether California law or Federal maritime law controls in the Landing) shall cover and apply to, as the case may be, any and all necessities (e.g., wharfage, moorage, towage and repairs subject to Federal statutory maritime liens) and/or any and all other items consisting of services and/or storage (e.g., rentals, materials, labor and goods subject to California statutory boaters liens), which shall have been provided or rendered to the Vessel and/or purchased or obtained by, or provided to, Lessee in respect of the Vessel pursuant to or in connection with this Agreement. Management's rights to physically impound and secure the Vessel, as described above, shall include, without limitation, securing the Vessel in the Landing, removing and transferring the Vessel from the Landing to any other location, securing the Vessel at any other location, and/or otherwise berthing, docking, mooring and/or storing the Vessel at any location. In the event that Management takes exclusive custody, possession and control of the Vessel including its Gear, and physically impounds, secures and stores the Vessel including its Gear, as described above, the impounding, securing and storing of the Vessel including its Gear, and any other actions taken by Management, shall be at the sole expense and risk of Lessee or other owner of the Vessel, and Lessee hereby

waives any claims for damages and for claims against Management and any of its officers, employees or agents for failure to maintain the safekeeping of the Vessel including its Gear, except for any duty of safekeeping imposed by statutory law that cannot be waived by Lessee as a matter of law.

- (iv) Immediately, at its election and in accordance with applicable law, proceed to enforce, perfect and execute upon: (a) the Boat Liens either: (i) in the case of a boater's lien, pursuant to the California Boaters Lien Law (California Harbors and Navigation Code Section 500, et seq.), by applying to the California DMV for authorization to conduct a lien sale of the Vessel including its Gear and to otherwise dispose of the Vessel including its Gear, or (ii) in the case of a maritime lien, pursuant to the Federal Maritime Lien Act (46 U.S.C. Section 31341, et seq.), by bringing an action in rem in federal court to foreclose upon such maritime lien on the Vessel including its Gear, or (b) Management's contractual and other statutory rights, by bringing a civil action in personam in state court against Lessee in unlawful detainer (pursuant to California Civil Code Section 1161, et seq.), subject to disposition of the Vessel including its Gear pursuant to the provisions of the California Boaters Lien Law
- (v) Immediately prohibit Lessee from entering into or using the Landing or any of its facilities including, without limitation, the Landing, or from boarding or otherwise having access to or upon the Vessel; and further, Management may immediately undertake all actions and remedies available and permissible under applicable law in order to eject and remove Lessee and any other unauthorized Persons from the Landing and from the Landing as a whole including, without limitation, any of its docks, gangways, waterways, areas or other facilities. In addition to the recovery of any other damages resulting from any Event of Default, Management may recover from the Lessee the cost of any such ejectment and/or removal of the Lessee or any other unauthorized persons.
- (vi) The remedies hereinabove provided are not exclusive, and Management may pursue any one or more of such remedies or any other remedies provided by law. The exercise or failure to exercise any remedy provided herein for any breach shall not be deemed to be a waiver of Management's rights to have that or any other remedy specified above for any other breach of the same or any other provision of this Agreement.

3. **Monthly Rent**

- (a) Minimum Monthly Rent. In any given monthly rental period if the percentage rent mentioned in section 3(b), is less than FIVE HUNDRED DOLLARS (\$500.00), then Lessee shall pay Management the \$500.00 as that months Rent.
- (b) Gross Revenue Report. Sublessee will receive two (2) copies of the new Monthly Gross Revenue Report Form that Sublessor needs to have filled out, signed, and submitted with Sublessee's payment of monthly Base Rent, a copy of which is attached hereto as Exhibit E. These will be the only accepted forms for reporting Gross Sales. The attachment is a PDF document that can be downloaded, filled out, signed, and then sent to the address for Sublessor in Section 25.11 below, with an e-mail copy to: Tom Driscoll at tom@driscollinc.com. The other is a shared link to an Excel form that can be filled out online. Once filled out, the form is saved when Sublessee exits. The fields that are a light green and yellow are the only ones that can be edited. Green fields are for the specific uses in the Master Lease that tie to the uses in the Sublease. The yellow fields are for the uses not in the Sublease that tie to the uses in the Master Lease. Sublessee may have use descriptions in the Sublease that are different than the ones in the Master Lease.
- (c) Percentage Rent. In any given monthly rental period, if after processing the Gross Revenue Report, and the payment is determined to be more than FIVE HUNDRED DOLLARS (\$500.00), then Lessee shall pay that determined amount to Management.
 - (i) Lessee shall pay Management FIFTEEN percent (15%) of all gross revenue generated by charter activities that utilize the facility The term "Gross Revenue", as used in this Sublease, shall mean the actual gross selling price of all services, food, beverages and merchandise sold in or from the

Subleased Premises by Sublessee, its subtenants, licensees and concessionaires, whether for cash or on credit, as well as the entire amount of the sales price, whether for cash or otherwise, of all sales of merchandise, sales to employees, comps (including discounts given by Fare Harbor, Groupon, or other similar direct site), the gross amount received by Sublessee from any and all other sources, business interruption insurance proceeds received by Sublessee with respect to the Subleased Premises, and the gross income as defined in the Master Lease. All sales originating at the Subleased Premises shall be deemed made and completed from the Subleased Premises, even though bookkeeping or payment of the account is transferred to another location for collection or filling of the sale or service order and actual delivery of the merchandise is made from a location other than the Subleased Premises. Sublessee shall use best and good faith efforts to maximize Gross Sales from the Subleased Premises.

4. **Responsibilities of Lessee.** During the term of this Agreement and any renewal thereof, Lessee shall:

- (a) Actively use and promote the vessel for charter Odyssea

Private boat charter, Whale watching

Scuba Activities

from the Landing. Subject to emergency and unanticipated repair periods, the Vessel, in seaworthy condition and currently licensed by the U.S. Coast Guard for carrying passengers for hire, shall be available for operation at the Landing for the entire term of this Agreement and any renewals, subject to normal maintenance and repair requirements. Lessee shall provide Management with at least ten (10) days' prior written notice of normal maintenance and repair periods during which the boat will not be available, during which periods Lessee shall make a good faith attempt to provide a substitute boat approved in writing by Management.

- (b) Lessee shall at all times cause the Vessel to be operated in a safe and lawful manner and in compliance with all Rules of Management which are incorporated herein in this Agreement, and all applicable federal, state or local statutes, regulations or directives.
- (c) Lessee shall at all times cause the Vessel to provide at least such services as are customarily provided by other charter fishing boats of a similar size.
- (d) If the Lessee is designated as the 1/2 day charter fishing boat, then, subject to weather conditions, the Vessel (or its substitute as provided for in paragraph (a) above) shall make two (2) one-half day fishing trips daily, the first trip departing from the Landing at approximately 6:00 a.m. and returning at approximately 11:30 a.m., and the second trip departing from the Landing at approximately 12:30 p.m. and returning at approximately 5:30 p.m. Lessee may schedule the second daily trip as a Twilight charter departing the landing at approximately 6:00 p.m. and returning approximately at 10:00 p.m. If the Lessee is designated as the 3/4 day charter fishing boat, then, subject to weather conditions, the Vessel (or its substitute as provided for in paragraph (a) above) shall make one three-quarter day fishing trips daily, the first trip departing from the Landing at approximately 5:30 a.m. and returning at approximately 5:00 p.m. If the Lessee is designated as an overnight charter fishing boat, then, subject to weather conditions, the Vessel (or its substitute as provided for in paragraph (a) above) shall make one fishing trip daily, departing from the Landing at approximately 10:00 p.m. and returning approximately 7:00 p.m. to 9:00 p.m. the following evening. If the Lessee is designated as a whale watching boat/bay cruise boat, then, subject to weather conditions, the Vessel (or its substitute as provided for in paragraph (a) above) shall make two (2) whale watching trips daily, the first departing from the Landing at approximately 10:00 a.m. and the second departing at approximately 1:00 p.m.; each such trip shall be for a duration of two to three hours. The parties to this Agreement agree Management shall have the right to, from time to time, set a the minimum number of passengers required for each type of vessel excursion (for example, to require a 1/2 day charter boat depart in the event two (2) passengers wish to engage in such excursion).

- (e) Lessee shall at all times cause the Vessel to be docked and operated so as to cause no damage to the Landing or any other part of Management's property. Lessee shall notify Management immediately in the event he/she becomes aware of damage to Management's property. Lessee shall notify Management immediately in the event he/she becomes aware of damage sustained by any part of Management's premises, irrespective of whether such damage is caused by Lessee, his/her crew, his/her passenger(s) or other person. Lessee shall indemnify, defend, and hold Management harmless from, and reimburse Management for, all costs, expenses, damages, claims, demands, liabilities and lawsuits (including reasonable attorney's fees incurred by Management in investigating or defending such lawsuits) arising solely out of any action or inaction on the part of the Lessee, its agents or employees, or any passenger of Lessee. Lessee shall bear full responsibility, and shall reimburse Management, for any and all damages caused by the Vessel or her crew or passengers to the Landing or any other part of Management's property including, but not limited to, improper operation of the Vessel, seaworthiness of the Vessel, rough seas and/or bad weather.
- (f) Lessee shall provide a suitable picture of the Vessel to Management upon signing this Agreement and by December 1st of each year thereafter, together with a copy of current U.S. Coast Guard Certificate of Documentation.
- (g) Lessee shall keep the Vessel's designated dock area maintained and free from debris, or any hazardous materials, at all times. Lessee shall, after returning to the Landing following each excursion, spray with water and take all other necessary actions to thoroughly clean the dock areas adjacent to the Vessel.
- (h) Lessee shall provide his or her own bait.
- (i) Lessee shall strictly enforce courteous behavior by crewmembers and PROHIBIT THE FOLLOWING:
 - (i) the drinking of alcoholic beverages, possession OR USE of illicit drugs or narcotics by crew members BEFORE, DURING OR AFTER TRIPS, OR ANY TIME on board the Vessel;
 - (ii) crew members from boarding the Vessel AT ANY TIME while under the influence of alcohol or drugs; and
 - (iii) fishing by crewmembers.
 - (iv) Profane language or other indecorous conduct.
- (j) Crew members must wear appropriate attire designating them as crewmembers
- (k) Upon execution of this Agreement, and yearly on the anniversary of execution of this Agreement, Lessee shall provide Management and the City of San Diego with certificates of insurance, issued by a California admitted insurance carrier, covering the Vessel and Lessee (and naming Management and The City of San Diego as additional insureds), showing \$2,000,000.00 of commercial liability insurance in effect provided by a company acceptable to Management and the City, and in accordance with all Public Utility Commission requirements and all other governmental requirements. A copy of the policy of insurance shall be filed with the City. Said policy shall specify that the policy may not be terminated, altered, or cancelled without thirty (30) days' prior written notice to Management and the City by the insurance company.
- (l) Lessee shall obey all laws, rules and regulations of Mexico when operating in Mexican waters including, but not limited to, licensing and permits, and obey all laws, rules and regulations of the United States and California and all governmental entities/agencies with respect to activities undertaken therein.
- (m) Lessee shall at all times cause the Vessel to be operated by properly licensed personnel in compliance with U.S. Coast Guard requirements.
- (n) Lessee shall at all times operate the Vessel so as to be a credit to the Landing. Lessee shall cooperate with Management in providing reasonable free passage from time to time for writers, photographer's, news personnel and other persons designated by Management.
- (o) Upon termination, Lessee, at his/her expense, shall remove any and all stored goods, equipment and all other items, and return Management's spaces formerly used by Lessee for such storage to its original condition.
- (p) In the event Management elects to provide security at the Landing, it is understood and agreed such security is provided solely for the purpose of protecting Management's property, and not for the benefit of the Lessee,

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- who it is agreed shall be solely responsible for the safety and security of the Vessel and her appurtenances, and for the safety of Lessee's crewmembers, officers and passengers.
- (q) Lessee shall not post any signs on the Vessel or Management's premises without the advance written approval of the Management.
 - (r) The Vessel shall not be used by any person for purposes of living aboard.
 - (s) The Lessee shall, upon request by the Management, permit placement of a dye tablet into all holding tanks.
 - (t) Lessee understands and agrees Management maintains Rules and Regulations which are incorporated herein as though fully set forth in this Agreement, and that Management reserves the right to add new Rules and Regulations or modify existing Rules and Regulations from time to time, which shall become effective upon notice of revised Rules and Regulations via written notice of changes tendered via first class U.S. mail or email address to the Lessee's address identified in Section 10 hereof.
 - (u) Lessee shall maintain a log identifying by name and date each passenger who boards the Vessel, and shall make such log available for inspection by Management upon two (2) business days' advance notice.
 - (v) Overboard discharges of heads or holding tanks are forbidden by law and by this Agreement. Violation of this term or any other term hereof is grounds for eviction and termination of this Agreement.
 - (w) Lessee is solely responsible for the safety of his/her Vessel, and Lessee agrees that the Management shall have no obligation whatsoever to take action(s) in advance of or during a storm to preserve or protect Lessee's Vessel. It is further agreed, however, that the Management may, at its sole election, undertake such actions during or in advance of a storm as it alone deems appropriate and/or necessary to preserve or protect any or all vessels located on its premises; in such event, it is agreed that Lessee shall indemnify, defend and hold the Management harmless for any and all personal injury or property damage occurring in connection with the Management's efforts to preserve or protect vessels during or in advance of a storm. It is further agreed that if the Lessee provides such preservative/protective services during or in advance of a storm, all costs associated with such rendering of such services shall be apportioned equally among all vessel owners, including Lessee.
 - (x) Management has no obligation whatever to dewater or provide any salvage services to the Vessel should she spring a leak or otherwise need assistance in remaining afloat or in seaworthy condition. Nevertheless, it is agreed that in such event the Management may, but is not required to, provide dewatering or other salvage services for the benefit of the Vessel. In the event the Management elects to provide salvage services, it is agreed Lessee shall be obligated to pay all material/labor costs associated with such services, or One Hundred Fifty and Zero/100 Dollars (\$150.00) for each hour such services are provided, whichever sum is greater. Payment in such event is not contingent upon the success of such salvage or other such services.
 - (y) Lessee shall ensure all fish cleaning operations aboard the Vessel cease once the Vessel has passed the breakwater leading to Management's premises.
 - (z) Lessee shall not permit anyone, apart from a qualified diver hired for the purpose of cleaning the Vessel's bottom, to enter the water from Management's Landing or from any other place located on Management's premises.
 - (aa) Apart from ordinary maintenance, no work involving the Vessel may be accomplished while at the dock or otherwise on Management's premises. Prohibited work includes, but is not limited to, painting, heavy sanding, and use of paint remover, spray guns, or the burning of paint on the topsides or above the decks. Work of any kind to the exterior of the Vessel, including routine maintenance, to be undertaken by other than Management, must be approved in advance of such work, in writing, by the Management. Contractors hired by Management to work on the Vessel must be approved by the Management, in writing, prior to the commencement of such work, and each such contractor must maintain and provide proof of liability insurance in an amount of at least \$2,000,000.00.
 - (bb) The Vessel may under no circumstances be refueled dockside and may be refueled only at a duly licensed commercial fueling station.

- (cc) Lessee shall not store anything on the Landing without Management's advance written permission, such permission to be in the Management's sole and absolute discretion.
- (dd) Lessee shall not operate engines or generators or other noisy equipment between the hours of 10:00 p.m. and 6:00 a.m., unless absolutely and immediately necessary in connection with making the Vessel ready for a scheduled excursion or in the event of an emergency.

5. **Non-Exclusive Agreement.** It is expressly acknowledged and agreed by Lessee that this Agreement may be one of a number of agreements between Management and the lessees of other vessels (including, but not limited to, those which are operated as Odyssea

Odyssea By Fletcher LLC

As a result, Lessee's right to use of the Landing and the Vessel's slip thereat is non-exclusive and Lessee shall have no right to exclude any other vessel (including a competitor vessel) from the Landing. Lessee acknowledges and agrees that this Agreement gives Lessee its rights herein only with respect to the Vessel (or its substitute under Section 4(a) above). As a result, Lessee shall not dock or operate any other vessel at the Landing without Management's prior written consent, such consent to be in the Management's sole and absolute discretion.

6. **Rights of Lessee.** During the term of this Agreement, Lessee shall be provided by Management with the following at no cost or charge to Lessee except as specified herein:
- (a) Use of a slip agreed upon with the Management (at a location suitable for the size of the Vessel) during such time as the Vessel is present at the Landing. Management shall have the right to make boat location changes, as it in its unfettered discretion deems necessary or prudent.
 - (b) No water and electrical hook-up supplied to the slip.
 - (c) Management shall establish a Landing advertising and promotions program to advertise and promote the Landing and the activities thereat in such manner and at such times as Management may determine in its sole discretion. Management shall not be required to provide any funds for such purposes in excess of those supplied by Lessee, together with funds from such other persons as Management may cause to contribute to such fund.
 - (d) Operation under such general Mexican fishing licenses that Management may have from time to time, based on Lessee's proper registration of the Vessel with Mexican authorities and paying any fees required.
 - (e) Management shall provide 1 parking spaces for use by Crew members. Paid parking spaces are available for use for passengers while they are embarked. Management is not responsible for damage to, or loss of, personal property or personal vehicles using the parking lot.
7. **Indemnity.** Lessee shall protect, defend, indemnify, and hold Management, its members and managers, the City's elected officials, officers representatives, agents and employees and their respective members, affiliates, officers, directors, agents and employees harmless from and against any and all claims, demands, liabilities, costs, expenses, damages and lawsuits (including reasonable attorney's fees incurred by Management, and/or the City, in investigating or defending same) for personal injury, death, property damage or any other claim not occasioned by Management's gross negligence or willful misconduct, made by or on behalf of any customer, passenger, officer or crewmember, or other person permitted by Lessee to be on or around the Vessel, resulting from any cause whatsoever, occurring while such person is on or about the Vessel, including embarking or disembarking to or from the Vessel, whether the Vessel is docked or underway, or occurring during the course of any dive or other activity conducted by or participated in by Lessee, and from any such claims by other persons arising out of the use, or operation of, the Vessel. Lessee further waives, releases and discharges any claims, demands, actions or causes of action against Management, and/or the City, for damages to person or property, including but not limited to claims for injuries or damages to employees, agents or subcontractors of Lessee, arising from any cause whatsoever. Notwithstanding the foregoing, this waiver, release, and indemnity shall not apply to any damage or loss resulting solely from the gross negligence or willful misconduct of Management and/or the City.
8. **Lessee's Covenants.** The Lessee covenants and agrees to the following:

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- (a) Lessee accepts responsibility and liability of any and all damage or loss to property or injury to persons that may occur as a result of his/her use of the Landing.
- (b) Lessee shall make no dockside alterations or additions to the dock space or facilities covered under this Agreement unless the same has been specifically requested, in writing, and such permission has been granted, in writing, by Management, in Management's sole and absolute discretion. Installations for storage of any kind are not permitted on piers, docks, walls, or any other area comprising the Landing. Any such dockside equipment, facilities, or items installed by such written permission shall be so constructed that they can be readily removed by the Lessee at the expiration of this Agreement.
- (c) All signage and location of a sign for charter operations must be reviewed and approved by the City of San Diego. One sign per charter boat is permitted and shall be placed only in a location determined by Management. All signage material, color schemes and location must have written approval by the City. Signage shall remain in a state of proper maintenance or will be removed by Management.
- (d) No person shall camp or maintain a campsite, tent, canopy, or mobile recreational vehicle, whether self-propelled or not, on any street or property owned, leased, maintained or controlled by the City.
- (e) Boat mooring shall be limited to the assigned boat space only, and no permission is expressed or implied that mooring lines may extend beyond the limits of the space described in this Agreement. Under these circumstances, the Lessee hereby accepts responsibility and liability for any and all damages to property or injury to persons that may occur as a result of the use of the Landing.

9. **General Provisions.**

- (a) This Agreement shall be binding on, and shall inure to the benefit of, the parties hereto and their respective heirs, legal representatives, successors and assigns. The foregoing notwithstanding, Lessee's voluntary or involuntary assignment or transfer of any or all of its rights or duties under this Agreement shall be void and of no effect unless consented to, in writing, by Management, such consent to be in Management's sole and absolute discretion.
- (b) Any offers, notices and other communications to be given by any party to another shall be communicated in writing by personal delivery or by U.S. mail, registered or certified, postage prepaid by the sender, with return receipt requested, or by overnight delivery, delivery charges prepaid by the sender. Mailed notices shall be addressed as follows:

To the Lessee: 2062

Reed Ave

San Diego CA 92109

Lessee Email: odysseabyfletcher@gmail.co

To the Management: Driscoll Mission Bay, LLC

ATTN: Tom Driscoll

1500 Quivira Way

San Diego, California 92109

Management Email: info@driscollmissionbay.com

Each party may change its address by written notice in accordance with this Section. Notices delivered by U.S. mail shall be deemed communicated as of the day after mailing.

- (c) If any part, term, or provision of the Agreement is held invalid, such invalidity shall not affect other parts, terms, or provisions of this Agreement which can be given effect without the portion held invalid, and to that extent the parts, terms and provisions of this Agreement are severable. Any waiver of any term hereof shall

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not be deemed to be a continuing waiver and consent to any one waiver and shall not be deemed to be the consent to any other waiver.

- (d) This Agreement constitutes the entire understanding between the parties with regard to its subject matter and supersedes all other agreements, written or oral, between the parties with respect to such subject matter. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of anyone, which are not contained in this Agreement, and that no other agreement, statement, or promise not contained in this Agreement will be valid or binding. The terms of this Agreement may not be terminated, waived, or amended except by a written agreement signed by all of the parties to this Agreement or their successors or assigns.
- (e) In the event of any action or litigation to enforce or interpret this Agreement or otherwise arising under or in connection with this Agreement, the prevailing party shall be entitled to recover from the losing party any and all reasonable attorney's fees and costs incurred, including expert witness fees.
- (f) This Agreement shall be governed and construed in accordance with the laws of California. All legal actions brought in connection with this Agreement shall be filed and tried in San Diego County, California

10. **Assignment and Subleasing.** Lessee shall not assign the Agreement or sublet the premises or any part thereof without the prior written consent of the Management and the City, such consent to be in the sole and absolute discretion of Management. An assignment by operation of law shall automatically terminate this Agreement.

11. **Legal Proceedings.** Failure to pay wharfage services rendered under the Agreement gives rise automatically, by operation of Maritime law, to a maritime lien that may be enforced personally against the Lessee and against the Vessel (in rem) as though it were in fact a person. LESSEE SPECIFICALLY AGREES THAT LEGAL SERVICES RENDERED IN CONNECTION WITH THE ENFORCEMENT AGAINST LESSEE OF ANY CONTRACTUAL OR OTHER LEGAL RIGHT OR REMEDY AVAILABLE TO THE LANDING SHALL BE DEEMED PART OF THE MARITIME WHARFAGE "NECESSARIES" PROVIDED, AND THEREFORE, ALL SUCH LEGAL SERVICES SHALL BE RECOVERABLE AGAINST LESSEE PERSONALLY AND AS PART OF THE LANDING'S LIEN AGAINST THE VESSEL IN REM.

Notwithstanding the general rule that attorneys' fees incurred in connection with a necessities lien are not recoverable directly against the Vessel, it is understood and agreed that if any legal action is required to enforce the terms of this Agreement or to enforce the Landing's lien rights as existing under both federal and state law, the prevailing party shall be entitled to reasonable attorneys' fees and costs, and all other costs of enforcement, in addition to any other relief to which it, he or she may be entitled, and that if the Landing prevails, attorneys' fees shall be recoverable both in personam (against the Management) and in rem (against the Vessel).

12. **Subordination.** This Agreement is in effect a sublease of a portion of the premises covered by that certain Lease Agreement filed as Document No. _____ in the Office of the City Clerk on, _____ as amended between the Management herein and the City of San Diego. This Agreement is subject and subordinate to the covenants and conditions of said Lease Agreement notwithstanding any provision hereof contrary to or in conflict with said agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first set forth above.

MANAGEMENT:

Driscoll Mission Bay, LLC

A California limited liability company

Thomas A. Driscoll

By: _____

Thomas Allen Driscoll 06/06/24

Title: Owner

LESSEE:

Odyssey By Fletcher LLC

A California limited liability company

By: *Samuel Fletcher*

Name: Samuel Fletcher

Title: Owner/CEO

31/05/24



GUARANTY

The undersigned, being the owner(s) of Lessee, hereby unconditionally and irrevocably guaranty the performance by Lessee of all its duties and obligations under the Agreement and Master Lease Document No. _____ as it may be modified from time to time. Such guaranty shall be joint and several among the undersigned, who agree to satisfy such duties and obligations upon demand, without prior demand upon Lessee having been made.

Printed Name: Samuel Fletcher Printed Name: _____

Address: 2062 Reed Ave Address: _____

San Diego CA 92109

Phone No.: 774-696-0857 Phone No.: _____

Samuel Fletcher
Samuel Fletcher (May 31, 2024 11:34 PDT)