

CONSENT TO SUBLEASE AGREEMENT

THIS CONSENT TO SUBLEASE AGREEMENT ("Consent") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY") and MISSION BAY SPORTS CENTER, a California Corporation ("MB Sports Center") to be effective upon execution by CITY and approval by the San Diego City Attorney (the "Effective Date"), as follows:

RECITALS

- A. MB Sports Center is the "LESSEE," under that certain CITY OF SAN DIEGO PERCENTAGE LEASE dated July 21, 2011, filed as Document No. RR-306876 in the Office of the City Clerk, by and between CITY, as lessor, and Mission Bay Sports Center, a California Corporation, as lessee ("Master Lease"), relating to certain real property ("Master Lease Property") located at 1010 Santa Clara Place in Mission Bay Park, City of San Diego, County of San Diego, State of California, and more particularly described in the Master Lease.
- B. The Master Lease requires CITY'S prior consent to any sublease of the Master Lease Property.
- C. MB Sports Center and Performance JetLev Southwest LLC ("Sublessee") have executed that certain COMMERCIAL LEASE ("JetLev Sublease") dated July 25, 2013, whereby, MB Sports Center subleases to Sublessee and Sublessee subleases from MB Sports Center a portion of the Master Lease Property ("Sublease Premises") located on the Master Lease Property and more fully described in the Sublease, attached hereto as Exhibit A.
- D. MB Sports Center has requested the CITY's consent to the Sublease.

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

- 1. CITY'S Consent. Subject to the terms and conditions of this Consent, CITY hereby consents to MB Sports Center subleasing a portion of the Master Lease Property to the Sublessee, JetLev Southwest, LLC.
- 2. Subordination. The Sublease is and shall be subordinate to the Master Lease. CITY shall not be bound by any term or condition in the Sublease. Any conflict between the Master Lease and the Sublease shall be construed or resolved in favor of the Master Lease.
- 3. Master Lease Provisions. Without releasing MB Sports Center from any obligations under the Master Lease, MB Sports Center shall ensure that Sublessee assumes and shall perform the obligations of "LESSEE" under the Master Lease

as and to the extent such obligations are applicable to the Sublease Premises or Sublessee's use of any common area within the Master Lease Property.

4. Use. Sublessee's use of the Sublease Premises shall be for purposes of JetLev equipment storage, equipment rental, related accessories sales and for instruction of JetLev activity to be conducted in the waters of Mission Bay Park as approved by CITY. A copy of the Mission Bay Park map is attached as Exhibit B. The Sublease Premises shall not be used for any other purposes without the advance written approval of CITY. All uses of the Sublease Premises shall comply at all times to the Master Lease.
5. Operations Plan - CITY Fire-Rescue Department, Life Guard Services Approval. At least thirty (30) days prior to December 31, 2013, SUBLESSOR shall, at its sole expense, submit to CITY's Real Estate Assets Department a written Operations Plan approved by CITY's Fire-Rescue Department, Life Guard Services. The Operations Plan shall describe how SUBLESSEE intends to conduct each of the uses approved by CITY in the waters of Mission Bay Park. Such Operations Plan shall be in form and contain content satisfactory to CITY. Except as required by law, SUBLESSEE shall not make any changes to an existing CITY-approved Operations Plan without CITY's prior written approval in each instance. SUBLESSEE shall conduct each use in the waters of Mission Bay Park in accordance with its most recently CITY-approved Operations Plan. CITY acknowledges that SUBLESSEE has submitted an Operations Plan, which has been approved by the CITY through December 31, 2013 and is attached as Exhibit C.
6. Rent. In addition to rent due by MB Sports Center pursuant to the Master Lease, MB Sports Center shall pay the following to CITY as percentage rent, as defined in section 4 of the Master Lease:
 - (a) Ten percent (10%) of all of Sublessee's gross revenue ("gross revenue" as that term is defined in the Master Lease) received from aquatic and land-based fitness training and instructional courses;
 - (b) Five percent (5%) of all of Sublessee's gross revenue received from youth (i.e., organized group program for youth under 18 years of age) fitness training and instructional courses;
 - (c) Twenty percent (20%) of all of Sublessee's gross revenue received from sales of equipment and accessories;
 - (d) Twenty percent (20%) of Sublessee monthly minimum rent as defined in Section 2 of the Sublease:
5. Indemnification. MB Sports Center shall require that Sublessee shall defend, indemnify, protect, and hold CITY, its elected officials, officers, representatives,

agents and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation any injury to MB Sports Center's or Sublessee's officers, employees, agents, invitees, guests, subtenants or licensees, which arise out of or are in any manner directly or indirectly connected with the Sublease, Sublessee's use of or operations on the Master Lease Property, the condition of the Sublease Premises, or from any act or omission of Sublessee or any of his employees, agents, invitees, guests, subtenants or licensees; provided, however, this duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents or employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, MB Sports Center and Sublessee shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.

6. Insurance. Prior to the effective date of this Consent, Sublessee shall file with CITY a copy of the policy of insurance in compliance with Section 8.2 of the Master Lease and maintain such insurance through the term of the JetLev Sublease.
7. Subsequent Sublease. This Consent does not constitute consent to any subsequent subletting of any portion of the Master Lease Property, and does not relieve MB Sports Center or any person claiming under or through MB Sports Center of the obligation to obtain CITY'S consent to any future sublease.
8. No Modification of Master Lease or Sublease. Except as may be provided herein, this Consent shall not be deemed or construed to modify, waive, impair, or affect any of the terms or conditions of the Master Lease. Additionally, MB Sports Center shall not modify, waive, impair or affect the terms or conditions of the Sublease without the consent of CITY.
9. Controlling Law. The terms and conditions of this Consent shall be construed in accordance with the laws of the State of California.
10. Captions. Captions to the sections of this Consent are included for convenience only and do not modify any of the terms of this Consent.
11. Entire Agreement. This Consent constitutes the entire statement of the agreement of the parties pertaining to CITY'S consent to MB Sports Center subleasing a portion of the Master Lease Property to the Sublessee, and is binding on and inures to the benefit of the parties' respective heirs, representatives, successors and assigns. No party has been induced to enter into this Consent by, nor is any party relying on, any representation or warranty outside those expressly set forth

in this Consent. No modification of the terms or conditions of this Consent shall be effective unless made in a writing that expressly states that it modifies this Consent, and signed by the parties hereto.

12. Authority. Each individual executing this Consent on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Consent on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Consent is binding upon such person or entity in accordance with its terms. Each person executing this Consent on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to the CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.
13. Partial Invalidity. If any term, covenant, or condition in this Consent is, to any extent, held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Consent, or the application of that term, covenant, or condition to persons or circumstances other than those as to which it is held to be invalid or unenforceable, will not be affected by that invalidity or unenforceability, and all other terms, covenants, and conditions of this Consent will be valid and enforceable to the fullest extent permitted by law.
14. CITY's Consent Null and Void. If at any time, either MB Sports Center or Sublessee fail to comply with any of the terms and conditions set forth in this Consent, this Consent shall automatically and retroactively become null and void as of the date of any such failure to comply. Any such failure to comply with any term or condition of this Agreement shall constitute a default under the Master Lease and the CITY may avail itself of any rights and remedies available under the Master Lease and at law.

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IN WITNESS WHEREOF, the parties hereto execute this Consent to be effective as of the Effective Date.

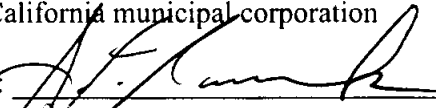
Date: 8/29/13

Mission Bay Sports Center, a California corporation

BY: 
Name: Michael P. Pender
Title: President

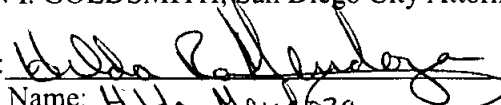
Date: 9/11/13

THE CITY OF SAN DIEGO,
A California municipal corporation

BY: 
Name: James F. Barwick, CCIM
Title: Director, Real Estate Assets

APPROVED AS TO FORM AND LEGALITY
this 11th day of September 2013.

JAN I. GOLDSMITH, San Diego City Attorney

BY: 
Name: Hilda Mendoza
Title: Deputy City Attorney

VEB/vb
08/22/2013

I: WPO2013\BALOTSKY\MB SPORTS CENTER-CONSENT TO SUBLEASE-JETLEV



JWILLIA-01

LBENDER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/26/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0C36861
San Marcos-Alliant Insurance Services, Inc.
570 Rancheros Dr Ste 100
San Marcos, CA 92069

CONTACT NAME: Lisa Bender

PHONE (A/C, No, Ext): (760) 304-7120

FAX (A/C, No): (760) 304-7360

E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Admiral Insurance Company

24856

INSURER B: First Mercury Insurance Company

10657

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED

J Williams Enterprises Inc.
2600 Newport Blvd Ste 122
Newport Beach, CA 92663

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR_WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		CA00001791101	6/24/2013	6/24/2014	EACH OCCURRENCE \$ 1,000,000
	☒ COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000
	☐ CLAIMS-MADE ☒ OCCUR					MED EXP (Any one person) \$ 5,000
	☒ \$5,000 ded per occ					PERSONAL & ADV INJURY \$ 1,000,000
	☒ BI/PD/PI/AI combined					GENERAL AGGREGATE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					PRODUCTS - COMPI/OP AGG \$ 2,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC					\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$
	☐ ANY AUTO					BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS	☐ SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	☐ HIRED AUTOS	☐ NON-OWNED AUTOS				PROPERTY DAMAGE (PER ACCIDENT) \$
						\$
B	UMBRELLA LIAB ☒ OCCUR		CA-EX-000002688801	4/5/2013	4/5/2014	EACH OCCURRENCE \$ 2,000,000
	☒ EXCESS LIAB ☐ CLAIMS-MADE					AGGREGATE \$
	☐ DED ☐ RETENTION \$					General Agg \$ 2,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					☐ WC STATU-TORY LIMITS ☐ OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N ☐ N/A					E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

Proof of Insurance

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Commercial Lease

This Commercial Lease is made between Mission Bay Sportcenter, Inc., herein called "Lessor," and, JetLev Southwest LLC., herein called "Lessee."

Lessee hereby offers to sublease from Lessor a portion of Premises situated in the City of San Diego, County of San Diego, State of California, described as one story property at 1010 Santa Clara Place, ("Premises"), detailed in the attached Exhibit A, upon the following TERMS and CONDITIONS:

1. **Subordination.** This Commercial Lease is in effect a sublease of the Premises covered by that certain Master Lease Agreement dated July 21, 2011, filed as document No. RR – 306876 in the Office of the City Clerk ("Master Lease Agreement"), between the Lessor herein and the City of San Diego (City). This sublease is subject and subordinate to the covenants and conditions of said Master Lease Agreement notwithstanding any provision hereof contrary to or in conflict with said Master Lease Agreement.
2. **Term and Equipment Rental.** Lessor demises the above Premises for a one year term, commencing upon final approval of the consent to the sublease by the City, at the monthly percentage rate of fifteen (15%) of gross and minimum two thousand dollars (\$2,000.00) per month payable in arrears on the last day of every month. All payments shall be made to the Lessor, at the address specified below. On June 1, 2013 rent will increase to a monthly percentage rate of fifteen (15%) of gross and minimum three thousand two hundred dollars (\$3,200.00) per month payable in arrears on the last day of every month. A reassessment of this Commercial Lease will be issued upon revaluation and approval of initial year conducted by City.
3. **Percentage Rent.** Lessee shall pay Lessor in addition to the Equipment rental, percentage of Lessee's gross receipts for sales of approved activity, JetLev Southwest (JetLev) and boating accessories and percent (15%) of Lessee's gross receipts for instructional JetLev Southwest (JetLev) Instruction and rentals, monthly in arrears, and prior to the 16th day of the month following that month in which the revenue subject was earned to be forwarded to the city. City will decide percentage during approval of lease

Shared Expenses. Lessee shall pay to Lessor, as additional rent, Lessee's "proportionate share" of (1) all costs of operation and maintenance of the common facilities; (2) utilities including electrical, gas and water; (3) all "real estate taxes" levied and assessed against the Premises. Said-shared expenses shall be paid monthly by the end of the month billed. At the end of the first term of the Commercial Lease, the "proportionate share" shall be re-evaluated and adjusted to reflect actual usage.

Definitions: For the purpose of this section (a) Lessee's "proportionate share" shall be equal to the total "shared expenses" divided by the number of sublessees and the Lessor in equal shares unless otherwise agreed upon.

4. **Operating Plan - City Fire-Rescue Department, Life Guard Services Approval.** At least sixty (60) days prior to each June 1st during the term of this Commercial Lease, Lessee shall, at its sole expense, submit to City a written, annual operating plan describing how Lessee intends to conduct each of the Allowed Uses in the waters of Mission Bay. Each such operating plan shall be in form and contain content reasonably satisfactory to City. Except as required by law, Lessee shall not make any changes to an existing City-approved operating plan without City's prior written approval in each instance, which may not be unreasonably withheld or delayed. Lessee shall conduct each Allowed Use in the waters of Mission Bay in accordance with its most recently City-approved operating plan. City acknowledges that Lessee has submitted an operating plan for the first Lease year, which has been approved by the City. The area of operation is detailed in the attached Exhibit B.
5. **Use.** Lessee shall use and occupy the Premises for JetLev and related accessories sales (Allowed Use). The Premises shall be used for no other purpose. The Lessor shall not allow any other JetLev sales,

rental or instruction businesses to operate out of the facility. Lessee agrees to not engage in any business not specified in this Commercial Lease.

6. **Assignment and Subleasing.** Lessee shall not assign this lease or sublet the premises or any part thereof without the prior written consent of Lessor and City. An assignment by operation of law shall automatically terminate this lease.
7. **Care and Maintenance of Premises.** Lessee acknowledges that the premises are in good order and repair, unless otherwise indicated herein. Lessee shall, at his own expense and at all times, maintain the premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations and any other system or equipment upon the premises, and shall surrender the same at termination hereof, in as good condition as received, normal wear and tear excluded. Lessee shall be responsible for all repairs required, including the roof and the exterior walls over and around the subleased area.
8. **Alterations.** Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, or improvements, in, to, or about the premises. The Lessee shall be responsible for all interior and exterior improvements.
9. **Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by the Lessee.
10. **Utilities.** All applications and connections for necessary utility services on the demised premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for sewer, water, gas, electricity, and telephone services.
11. **Entry and Inspection.** Lessee shall permit Lessor or Lessor's agents to enter upon the premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this lease, to place upon the premises any usual "To Let" or "For Lease" signs, and permit those persons desiring to lease the same to inspect the premises thereafter.
12. **Possession.** If Lessor is unable to deliver possession of the premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this lease be void or voidable, but Lessee shall not be liable for any rent until possession is delivered. Lessee may terminate this lease if possession is not delivered within 10 days of the commencement of the term hereof.
13. **Indemnification of the Lessor.** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the demised premises or any part thereof, and Lessee agrees to hold Lessor and City harmless from any claim of damages, no matter how caused.
14. **Insurance.** Lessee shall be insured by an insurance carrier acceptable to the Lessor and City against loss from public liability arising from the use or condition of or operation conducted on the leased premises.
 - (a) Commercial General Liability Insurance, providing for bodily injury, including death, personal injury, and property damage with minimum limits shall be at least Two million (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000).
 - (b) Automobile Liability Insurance, providing coverage for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Lease. Coverage shall be written on ISO form CA 00 01 12 90, or a substitute form providing equivalent liability coverage; and

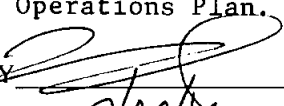
- (c) Workers' Compensation Insurance, as required by the laws of the State of California for all of sublessee's employees who are subject to this Lease, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,0000)

A copy of the policy of insurance shall be filed with the City and shall name "The City of San Diego, its elected officials, officers, employees, representatives, and agents" and "Mission Bay Sports Center, Inc." as additional insured. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 days prior written notice to City by the insurance company.

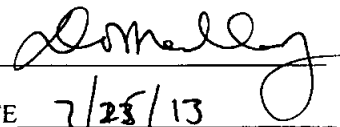
15. **Hold Harmless.** Lessor shall require that Lessee shall defend, indemnify, protect and hold City its elected officials, officers, representatives, agents and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation any injury to Lessor's or Lessee's officers, employees, agents, invitees, guests, subtenants or licensees, which arise out of or are in any manner directly or indirectly connected with the Commercial Lease. Lessee's use of or operations on or outside the Premises as approved by City, the condition of the Premises, or from any act or omission of Lessee or any of his employees, agents, invitees, guests, subtenants or licensees; provided, however, this duty to identify and hold harmless shall not include any claims or liability arising from established sole negligence, or sole willful misconduct of City, its elected officials, officers, representatives, agents or employees, City may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If City chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, Lessor and Lessee shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.
16. **Eminent Domain.** If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Commercial Lease shall terminate on the date when title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for any taking of fixtures and improvements owned by the Lessee, and for moving expenses.
17. **Destruction of Premises.** In the event of a partial destruction of the Premises during the term hereof, from any cause, Lessor shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this Commercial Lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the Premises. If such repairs cannot be made within said sixty (60) days, Lessor, at his option, may make the same within a reasonable time, this Commercial Lease continuing in effect with the rent proportionately abated as aforesaid, and in the event that Lessor does not elect to make such repairs which cannot be made within sixty (60) days, this Commercial Lease may be terminated at the option of either party. In the event that the building in which the demised Premises may be situated is destroyed to an extent of not less than one-third of the replacement costs hereof, Lessor may elect to terminate this Commercial Lease whether the Premises be injured or not. A total destruction of the building in which the Premises may be situated shall terminate this Commercial Lease.
18. **Lessor's Remedies on Fault.** If Lessee defaults in the payment of rent, or any additional rent, or defaults in the performance of any of the other covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within 10 days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such 20 days and thereafter proceed with reasonable diligence and in good faith to cure such default), the Lessor may terminate this Commercial Lease on not less than 30 days' notice to Lessee. On the date specified in such notice the term of this

Commercial Lease shall terminate, and Lessee shall then quit and surrender the premises to Lessor, but Lessee shall remain liable as hereinafter provided. If this Commercial Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any term shall be deemed a waiver.

19. **Security Deposit.** Lessee shall deposit with Lessor on the signing of this Commercial Lease the sum of two thousand dollars (\$2000.00) as security deposit for the performance of Lessee's obligations under this Commercial Lease, including, without limitation, the surrender of possession of the premises to Lessor as herein provided. If Lessor applies any part of the deposit to cure any default of Lessee, Lessee shall on demand deposit with Lessor the amount so applied so that Lessor shall have the full deposit on hand at all times during the term of this Commercial Lease.
20. **Tax Increase.** In the event there is any increase during any year of the term of this Commercial Lease in the City, County or State real estate taxes over and above the amount of such taxes assessed for the tax year during which the term of this Commercial Lease commences, whether because of increased rate or valuation, Lessee shall pay to Lessor upon presentation of paid tax bills an amount equal to 25% of the increase in taxes upon the land and building in which the leased premises are situated. In the event that such taxes are assessed for a tax year extending beyond the term of the Commercial Lease, the obligation of Lessee shall be proportionate to the portion of the Commercial Lease term included in such year.
21. **Attorney's Fees.** In the event suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.
22. **Notices.** Any notice which either party may, or is required to, give, shall be given by mailing the same, postage prepaid, to Lessee at the Premises, or Lessor at the address shown below, or at such places as may be designated by the parties from time to time.
23. **Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties. The following Exhibits have been made a part of this Commercial Lease before the parties execution hereof: ~~Exhibit A - Jetlev Southwest~~ Jetpack America Property Footprint, Exhibit B - Jetlev Southwest Operations Plan.

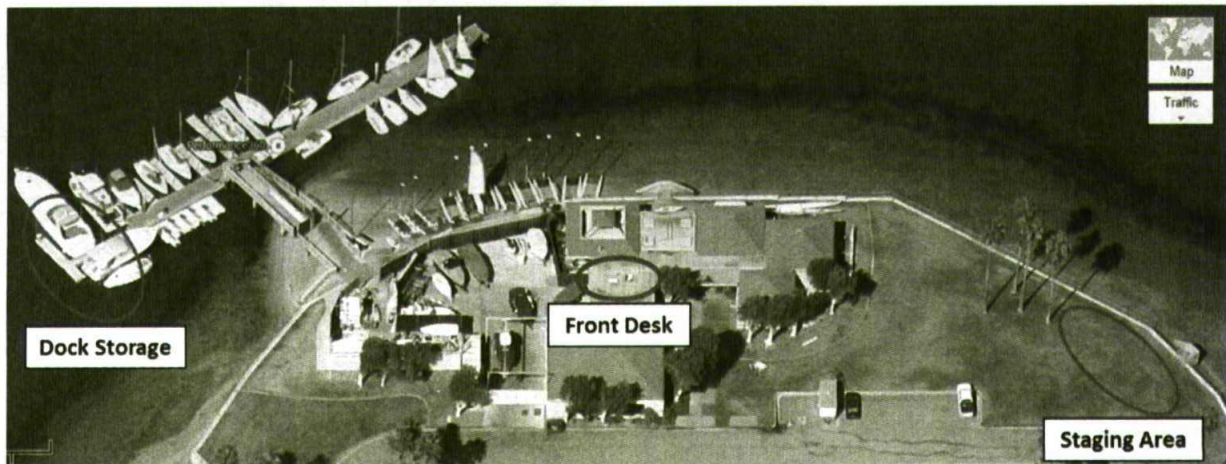
BY 
DATE 7/25/13

Zach Funston
Mission Bay Sportcenter, Inc.
1010 Santa Clara Place
San Diego, CA 92109

BY 
DATE 7/25/13

Dean O'Malley
Jetlev Southwest L.L.C.
2600 Newport Blvd., Suite 122
Newport Beach, CA 92663

Exhibit A – Jetlev Southwest-Jetpack America Property Footprint



Dock Storage and Slip Space – $20' \times 10' = 200$ sq. ft.

Front Desk – $8' \times 10' = 80$ sq. ft.

Staging Area – $10' \times 40' = 400$ sq. ft.



Exhibit B - Jetlev Southwest Operations Plan

Operational Periods

October-February: 9am-4pm (flight timeframe)

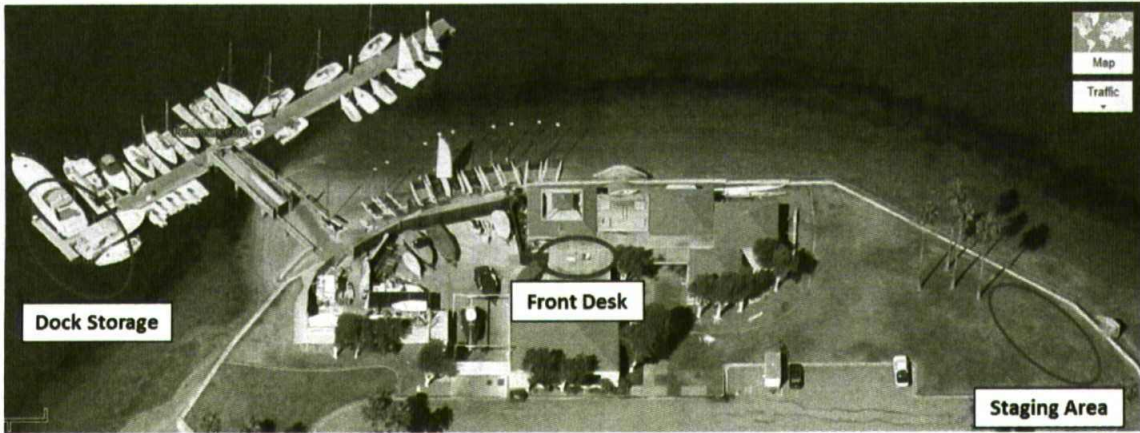
March-September: 9am-6pm (flight timeframe)

Standard daily operation begins one hour before the first flight time (8am arrival), which gives ample time to check equipment, set up flight area, get first customers signed in and complete their orientation.

The operation wraps one hour after the last flight is completed, which gives time for clean-up, equipment checks, etc.



Concession Location





Staging Area – The grassy area above the flight area will be used for the customer staging and pre-flight orientation and training. This will be an ideal location, since customers will be able to watch the preceding customer during their flight, which will help with the training process.

Flight Area – The roughly 300' x 100' areas on the west side and east side of the peninsula will be used for the customer flights. This will keep customers out of the higher traffic areas, will provide good visibility for the instructor on the beach and will have easy access from the office. Note: Alternative flight areas are available should there be any issues arriving with the primary location, due to noise concerns, waterway congestion, etc. If issues arrive, the Jetlev Southwest and Mission Bay Sportcenter will work with the San Diego Lifeguards to decide upon a suitable alternative location.

Instructor Area – The instructor will walk along the 100' of beach in front of the Flight Area, which will give good profile visibility during the customers' flights.

Student-to-Instructor Ratios

The ratio of customer-to-staff ratio will always be a minimum of 2:1, with the instructor on the beach and the instructor assistant in the water on a jet ski providing primary support. As secondary support, there will be additional staff available in the staging area, should any additional assistance be required.

Equipment Overview

The following equipment will be used for all customer flights:

Jetpack – The backpack the customer wears, which has the hose connection and nozzles, which direct the water pressure downward to propel the pilot into the air. Although the pack weighs 28 lbs, its carbon fiber design allows it to float, so there's no risk of sinking while wearing the pack.

Hose – The 33' hose, which connects the boat unit to the backpack, transferring up to 1000 gallons of water to lift the pilot into the air.

Boat Unit – Also referred to as "the pod", the boat unit is roughly the same size as a standard jet ski and contains a SeaDoo RXPX engine, which powers the impeller to push the water up through the hose and out the nozzles of the backpack.

Jet Ski – The Instructor Assistant provides first-response support via a jet ski in the water.

Life Vest – All pilots wear a USCG-approved life vest for the duration of their flights.

Remote Control – The Instructor on the beach will maintain throttle control for the duration of all first-time pilots' flights. The Instructor also has the ability to override experienced pilots' throttle, should they get into a dangerous situation.



Walkie-Talkie Helmet – All pilots wear a waterproof walkie-talkie helmet, which allows the instructor to communicate with the pilot throughout their flight, providing step-by-step instruction as the flight occurs. This training method allows most first-time pilots to begin flying in five minutes or less.

Training Requirements for Staff

All Instructors must be CPR-certified and receive Certified Flight Instructor designation from Jetlev Academy through a seven-day certification course. All Instructor Assistants must be CPR-certified and demonstrate the necessary support skills for the position (jet ski operation, swimming skills, shadow-flying, etc.)

Training Requirements for Customers

All customers must complete the following steps as part of their jetpack flight experience:

- Read and sign liability waiver
- Prove a thorough understanding of the English language
- Watch Jetpack Flight Training Video
- Watch Equipment Overview
- Watch Flight Control Overview
- Demonstrate all required flight skills in Training Pack before proceeding to Flight Area
- Confirm all equipment fits and walkie-talkie instructions are clearly heard before entering water
- Listen to all flight commands from the Instructor on the beach for the duration of the flight
 - o Instructor reserves the right to stop a customer's flight at any time, if he/she is not following instructions or is flying in an unsafe manner

Age restrictions

Customers must be at least 16 years of age to participate. If under the age of 18, at least one of the minor's parents/guardians must be on-site for the duration of the flight experience and sign the Parental Hold-Harmless agreement.

Weight restrictions

Customers must be between 85 and 330 lbs to participate.

Height restrictions

Customers must be between 5'0" and 7'0" to participate.

Weather Considerations

The jetpack can be operated in most weather conditions, including moderately high seas and moderate winds. If conditions in the Flight Area worsen beyond 2-foot waves and/or 20 knot winds, all flights will be halted until weather conditions improve.



Emergency Response Plan

In the event of a water or land emergency, the following steps would be taken:

- Call 911 (both Instructor and Instructor Assistant have cell phones on them at all times, so the person who is closest to the customer would attend to the customer, while the other calls 911)
- If the incident occurred in the water:
 - o The Instructor Assistant acts as first-responder, determining if the customer is conscious or unconscious
 - o If the customer is unconscious:
 - The Instructor Assistant's first objective is to ensure the customer is breathing and there are no obstructions of the airways
 - If there is a potential neck or back injury, the customer should be left in the pack to provide stable support
 - If a neck or back injury is unlikely, the Instructor Assistant would release the customer from the backpack using the quick-release buckle to allow the Instructor Assistant to swim the customer to the shore, where CPR can safely be administered, if necessary
 - o If the customer is conscious:
 - The Instructor Assistant communicates with the customer to determine the severity of the injury
 - If the customer is able, he/she will grab the tow rope on the jet ski and be pulled to shore
 - If the customer is unable to hold the tow rope, the Instructor Assistant will get into the water to assist with the situation and pull the customer to shore, either in the jetpack or after releasing him/her from it
- If the incident occurred out of the water:
 - o The Instructor acts as first-responder, determining if the customer is conscious or unconscious
 - o If the customer is unconscious:
 - The Instructor's first objective is to ensure the customer is breathing and there are no obstructions of the airways
 - If there is a potential neck or back injury, the customer should be left in the pack to provide stable support
 - If a neck or back injury is unlikely, the Instructor would release the customer from the backpack using the quick-release buckle to allow the customer to be placed flat on the ground, where CPR can safely be administered, if necessary
 - o If the customer is conscious:
 - The Instructor communicates with the customer to determine the severity of the injury



- The Instructor communicates the status to the Instructor Assistant to share with the paramedic team

Communications

Most communications occur through the walkie-talkies, which both the Instructor and Instructor Assistant have on them at all times. If there is an issue with the walkie-talkies (i.e. battery is dead, radio is dropped in the water, etc.), then verbal communications (within earshot) or hand signals (out of audible range) are used.

All staff also have cell phones, so general operational communications are handled through text messages (informing assistants of customer's flight time, flight duration, video package, etc.).

Emergency Signals

Since both the Instructor and Instructor Assistant have walkie-talkies, the primary method of communication is via the walkie-talkies, but there are hand signals that are used in addition and in case of issues with the walkie-talkies.

Thumbs Up – Everything is good

Thumbs Down – Something is wrong

Hand motion across the throat – Cut the engine (if engine is running), unit is out of gas (if engine is not running)

Waving arm in customer's direction – Requesting assistance in the water

In most cases, the flight area is within earshot, so verbal communication is usually sufficient.



Accident or Incident Reports

The following is available in a separate document:

Jetlev Incident Report

Date

Employee

Manager

Name

Name

Title/position

Title/position

Incident

Date

Time

Location

Description of incident (equipment damage, injuries, waivers signed, etc.)

Employee explanation



Witnesses

Action to be taken (repairs, medical attention required, etc.)

By signing this document, you acknowledge that you have read and understood the information contained herein.

Employee

Manager

Date

Date



Jetlev Southwest/Jetpack America - Operations Plan Addendum

Secondary Operating Location

Due to occasional heavy congestion in the cove on the west side of Santa Clara point, which is the primary approved operating location, a secondary operating location has been established to ensure the safety of all users of the bay. See map below.

The reasons we would move to the Operating Area B are as follows:

- 1) Congestion from summer camp activities
- 2) Congestion from Junior Lifeguard activities
- 3) Congestion from boat/paddleboard/kayak renters
- 4) Noise complaints from neighbors

Safety is always our number one concern, so that will always be our primary driver for making the move to Operating Area B.

