

**AMENDMENT NO. 2 TO AMENDED AND RESTATED LEASE NO. 73713  
PARCEL NO. 103T – MARINA DEL REY SMALL CRAFT HARBOR**

THIS AMENDMENT TO LEASE (“Amendment”) is made and entered into this 11<sup>th</sup> day July, 2005 (“Effective Date”).

BY AND BETWEEN

COUNTY OF LOS ANGELES,  
hereinafter referred to as “County”,

ASN MARINA LLC,  
a Delaware limited liability company,  
hereinafter referred to as “Lessee”

WITNESSETH

WHEREAS, County and Lessee’s predecessor in interest entered into Amended and Restated Lease No. 73713 under the terms of which County leases to Lessee’s predecessor in interest that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, commonly known as Parcel 103T, which leasehold premises (the “Premises”) is more particularly described on Exhibit “A” attached hereto and incorporated herein (the lease and all amendments thereto are collectively referred to herein as the “Lease”); and

WHEREAS, in consideration of the County’s approval of the transfer of the Lease from Oakwood - Marina del Rey, LLC (Lessee’s predecessor) to Lessee, the parties desire to amend the Lease as set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual agreements, covenants, and restrictions contained herein, the parties, and each of them, agree as follows:

**1. County’s Right to Remove Improvements**

The following language is hereby added at the end of Section 2.4.3:

If the actual costs incurred by County in connection with the removal or demolition of the Improvements and the restoration of the Premises, as allowed hereunder, net of any consideration or other proceeds received by County in connection therewith, is less than the security and other funds provided by Lessee in accordance herewith, then any excess security and funds shall promptly be refunded to Lessee within sixty (60) days following the demolition or removal of the Improvements and the restoration of the Premises. In any event, any amounts of the security that are not used by County for the demolition, removal and restoration work described herein shall be returned to Lessee not later than two (2) years

after Lessee surrenders possession of the Premises after the expiration of the Term or sooner termination of the Lease.

**2. Restrictions and Prohibited Uses**

The following language is hereby added at the end of the Section 3.2.2.2:

Provided, however, that this subsection 3.2.2.2 shall not be interpreted to regulate in violation of applicable law the private activity of an individual confined to such individual's private residence.

**3. Gross Receipts**

The following language is hereby added at the end of the first paragraph of Section 4.2.2.3:

Gross Receipts shall not include any security deposit received from a Sublessee until such time as the security deposit is applied against the rental or other obligations of such Sublessee or as otherwise retained by lessee.

**4. Excess Payments Credit**

The following parenthetical is hereby added to the end of Section 4.2.2.4:

...(which verification shall take no more than thirty (30) days from County's receipt of Lessee's notice, subject to any audit rights of County set forth in this Lease).

**5. Excluded Transfers**

The following new section is hereby added at the end of Section 4.6.2:

4.6.2.7. any assignment of the Lease for no consideration by Lessee to a parent, subsidiary or affiliate of Lessee, in which there is no change to the direct and indirect beneficial ownership of the leasehold interest.

For the purposes of this Lease, "affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such first person or entity. The term "control" means the possession, directly or indirectly, of the power, whether or not exercised, to direct or cause the direction of the management or policies of a person or an entity, whether through the ownership of stock or other equity ownership interests, by contract or otherwise, and the terms "controlled" and "common control" have correlative meanings.

**6. County Credits Toward Purchase Price**

The last sentence of Section 11.2.5 is hereby deleted.

**7. Entry By County**

Section 14.4.1 is hereby modified by (a) inserting the words "Upon at least one (1) business day advance notice," at the beginning of the first sentence, and (b) inserting the following at the end of Section 14.4.1: "The foregoing one (1) business day advance notice requirement set forth in this Section 14.4.1 shall not be deemed to modify or supercede the notice requirements, if any, with respect to any other entry rights that County may have under other provisions of this Lease."

**8. Service of Written Notice or Process**

Section 15.10 is hereby modified to provide that notices to Lessee shall be delivered to Archstone-Smith Operating Trust, 9200 East Panorama Circle, Englewood, Colorado 80112, Attention: Thomas S. Reif, Esq, Phone 303-792-8113, Fax 303-885-5707, with a copy to Greenberg Traurig, LLP, 200 Park Avenue, New York, New York 10166, Attention: Robert Ivanhoe, Esq., Phone 212-801-1333, Fax 212-801-6400.

**9. Amendment to Implement Judgment**

Section 16.13 is hereby modified by replacing the second sentence therein with the following sentence:

Within seven (7) days after delivery of a copy of the amendment to Lessee, Lessee will sign the amendment (with any revisions to the proposed amendment necessary to accurately reflect the arbitration award), and return the executed copy to the County which shall thereafter be executed by County as soon as reasonably practicable.

**10. Furnishings Fund; Corporate Serviced Units**

Concurrent herewith Lessee is entering into a Major Sublease of the Premises with Oakwood Marina del Rey Lessee, LLC as its Major Sublessee (the "Oakwood Master Lease"). Lessee currently maintains a Furnishings Fund as described in Section 5.10 of the Lease. Effective on and after the Effective Date of this Amendment, Lessee shall not be required to make any further deposits into the Furnishings Fund. During the period from the Effective Date of this Amendment until the date (the "Furnishings Fund Termination Date") that is the earlier of the termination of the Oakwood Master Lease or the seventh (7<sup>th</sup>) anniversary of the Effective Date of this Amendment, all funds existing in the Furnishings Fund (and all earnings thereon) shall be used for the replacement of Furnishings in accordance with the terms and provisions of Section 5.10 of the Lease. On the Furnishings Fund Termination Date, all remaining unused funds in the Furnishings Fund shall thereafter be used by Lessee for (a) common area Improvements

or common area furnishings that constitute permitted expenditures under Section 5.9 of the Lease, and/or (b) the cost of the window and sliding glass door replacement work to be performed by Lessee as part of the Redevelopment Work under Section 5.1 of the Lease. The unused funds remaining in the Furnishings Fund as of the Furnishings Fund Termination Date shall not reduce, or be applicable as a credit against, any Renovation Fund deposits required to be made by Lessee under Section 5.9 of the Lease.

Effective on and after the Furnishings Fund Termination Date, the following shall be deleted from Section 4.2.2(c) of the Lease such that Percentage Rents payable for all Gross Receipts described in such Section 4.2.2(c) shall thereafter (subject to Section 4.4 of the Lease) be calculated based on a percentage of ten and one-half percent (10.5%):

;provided, however, the applicable percentage for Gross Receipts or other fees charged for the occupancy of Corporate Serviced Units (as defined in subsection 4.2.2.9 below) shall be nine percent (9%)

Effective on and after the Furnishings Fund Termination Date, all Gross Receipts from the rental of furniture and furnishings shall be treated as Gross Receipts from Home Services, and thus Percentage Rent shall be calculated on such Gross Receipts based on the applicable percentage set forth in Section 4.2.2(f) of the Lease; provided, however, that any amounts charged for such furniture and furnishings in excess of the fair market rental value for such furniture and furnishings shall not be treated as Gross Receipts under Section 4.2.2(f), but instead shall be treated as Gross Receipts under Section 4.2.2(c) of the Lease.

#### **11. Lease Amendment**

Except as herein specifically amended, all terms, conditions, and provisions of the Lease shall be and continue to remain in full force and effect and are unmodified, and each of the parties hereto reaffirms and re-acknowledges its respective obligations under the Lease as amended hereby.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Amendment No. 2 to Lease No. 73713 to be subscribed by the Chair of said Board and attested by its Executive Officer, and the Lessee has executed the same.

ASN MARINA LLC,  
a Delaware limited liability company

By: Archstone-Smith Operating Trust,  
a Maryland real estate investment trust,  
its Sole Member

By: *Thomas S. Reef*  
Name: Thomas S. Reef  
Title: Assistant General Counsel



COUNTY OF LOS ANGELES

By: *Gloria Molina*  
Chair, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS,  
Executive Officer of the Board of Supervisors

By: *[Signature]*  
Deputy

**ADOPTED**  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

13 JUL 19 2005

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,  
County Counsel

*Violet Varona-Lukens*  
VIOLET VARONA-LUKENS  
EXECUTIVE OFFICER

By: *Paul V. Hanson*  
Deputy

## EXHIBIT A

### LEGAL DESCRIPTION OF PREMISES

All of Parcels 355 to 358 inclusive and portions of Parcels 339, 347 to 354 inclusive, and 359 to 369 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said County, described as a whole as follows:

Beginning at the intersection of a line parallel with and 20 feet southeasterly, measured at right angles, from the southeasterly line of Parcel 370, as shown on said map, with a line parallel with and 10 feet northeasterly, measured at right angles, from the southwesterly line of said last mentioned parcel; thence South  $36^{\circ}00'30''$  East along said last mentioned parallel line 421.79 feet to the beginning of a tangent curve concave to the southwest and having a radius of 520 feet; thence southeasterly along said curve through a central angle of  $16^{\circ}54'54''$  a distance of 153.52 feet; thence North  $53^{\circ}59'07''$  East 609.84 feet; thence South  $36^{\circ}00'53''$  East 24.33 feet; thence North  $53^{\circ}59'07''$  East 246.04 feet to a curve concentric with and 47 feet southwesterly, measured radially, from a curve concave to the southwest and having a radius of 810 feet, said last mentioned curve being tangent at the northwesterly terminus thereof to a line parallel with and 35.5 feet southwesterly, measured at right angles, from the straight line in the southwesterly boundary of Parcel 406, as shown on said map, said northwesterly terminus being distant South  $36^{\circ}00'53''$  East along said last mentioned parallel line 156.78 feet from a line parallel with and 40 feet northwesterly, measured at right angles, from the straight line in the northwesterly boundary of said last mentioned parcel; thence northwesterly along said concentric curve 80.94 feet to a line parallel with and 2.5 feet southwesterly, measured at right angles, from the northeasterly line of said Parcel 359; thence North  $36^{\circ}00'53''$  West along said last mentioned parallel line 100.20 feet to the southeasterly line of the northwesterly 55.5 feet of said last mentioned parcel; thence South  $52^{\circ}40'22''$  West along said last mentioned southeasterly line 0.50 foot to the southwesterly line of the northeasterly 3 feet of said last mentioned parcel; thence North  $36^{\circ}00'53''$  West along said last mentioned southwesterly line 2.00 feet to the southeasterly line of the northwesterly 53.5 feet of said last mentioned parcel; thence South  $52^{\circ}40'22''$  West along said last mentioned southeasterly line 2.00 feet to the southwesterly line of the northeasterly 5 feet of said last mentioned parcel; thence North  $36^{\circ}00'53''$  West along said last mentioned southwesterly line 8.00 feet to the southeasterly line of the northwesterly 45.5 feet of said last mentioned parcel; thence North  $52^{\circ}40'22''$  East along said last mentioned southeasterly line 2.00 feet to a line parallel with and 3 feet southwesterly, measured at right angles, from said northeasterly line; westerly, measured at right angles, from said northeasterly line; thence North  $36^{\circ}00'53''$  West along said last mentioned parallel line 98.03 feet to the northwesterly line of the southeasterly 52.5 feet of said Parcel 360; thence North  $52^{\circ}40'22''$  East along said northwesterly line 0.50 foot to a line parallel with and 2.5 feet southwesterly, measured at right angles, from the northeasterly line of said last mentioned parcel; thence North  $36^{\circ}00'53''$  West along said last mentioned parallel line 327.59 feet to said first mentioned parallel line; thence South  $52^{\circ}40'22''$  West along said first mentioned parallel line 837.83 feet to the point of beginning.

Together with a right of way for ingress and egress over those portions of said Parcels 362 to 369 inclusive, which lie northwesterly of a line parallel with and 20 feet southeasterly, measured at right angles, from the northwesterly line of said Parcel 362.

Also together with a temporary right of way for ingress and egress, to be used in common with others, over those portions of said Parcels 353, 354 and 369, within a strip of land 24 feet wide, lying 12 feet on each side of the following described center line:

Commencing at the intersection of a line parallel with and 30 feet southwesterly, measured at right angles, from that certain course of North 36°00'30" West 20.01 feet in the southwesterly boundary of said Parcel 369, with a line parallel with and 10 feet northwesterly, measured at right angles, from that certain course of North 52°40'22" East 60.01 feet in the northwesterly boundary of said last mentioned parcel; thence South 52°40'22" West along said last mentioned parallel line 4.00 feet to the true point of beginning; thence South 27°30'28" East 42.29 feet to the beginning of a curve concave to the northeast, having a radius of 250 feet, tangent to said last mentioned course and tangent to a line parallel with and 17 feet northeasterly, measured at right angles, from that certain course of North 36°00'30" West 380.01 feet in said southwesterly boundary; thence southeasterly along said curve 37.11 feet to said last mentioned parallel line; thence South 36°00'30" East along said last mentioned parallel line 351.72 feet to a line parallel with and 17 feet northeasterly, measured at right angles, from the southwesterly line of said Parcel 353; thence South 34°06'16" East along said last mentioned parallel line to the southwesterly prolongation of above described course of North 53°59'07" East 609.84 feet in the southeasterly boundary of above described parcel of land.

The side lines of above described 24 foot strip of land shall be prolonged or shortened so as to terminate at their points of intersection and shall be prolonged or shortened at the end thereof so as to terminate in said southwesterly prolongation.

Also together with a temporary right of way for ingress, egress, parking and landscaping in and across those portions of said Parcels 353, 354 and 369, within the following described boundaries:

Beginning at the most westerly corner of above described parcel of land; thence southeasterly along the southwesterly boundary of said parcel of land to the most southerly corner of said parcel of land; thence southwesterly along the southwesterly prolongation of above described course of North 53°59'07" East 609.84 feet in the southeasterly boundary of said parcel of land to the northeasterly boundary of above described 24 foot strip of land; thence northwesterly along said northeasterly boundary to the northwesterly boundary of said Parcel 369; thence northeasterly in a direct line to the point of beginning.

Said temporary rights of way shall cease and terminate at such a time that the area covered by said rights of way is dedicated for public road and highway purposes.

Reserving and excepting unto the County of Los Angeles a right of way for storm drain and harbor utility purposes in and across that portion thereof designated on said map as easement to be reserved by said County for such purposes.