

**FIFTH AMENDMENT TO
AMENDED AND RESTATED LEASE AGREEMENT**

This FIFTH AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT (“Fifth Amendment”) is made effective and entered into as of the date of full execution, by and between the CITY OF VENICE, a Municipal Corporation under the laws of the State of Florida, hereinafter referred to as "Lessor," and VENICE PIER GROUP, INC. f/k/a PIER GROUP, INC., a Florida Corporation, hereinafter referred to as "Lessee."

WHEREAS, on December 17, 2008, Lessor and Lessee entered into an Amended and Restated Lease Agreement for certain real property owned by Lessor located in Sarasota County, Florida (hereinafter, the “Lease”); and

WHEREAS, on October 26, 2010, Lessor and Lessee entered into an Amendment to Amended and Restated Lease Agreement (the “First Amendment”), which added additional property to Lessee’s leasehold to allow for construction of a customer drop-off area in exchange for additional rent; and

WHEREAS, on September 27, 2011, Lessor and Lessee entered into a Second Amendment to Amended and Restated Lease Agreement (the “Second Amendment”), which provided Lessee with additional parking spaces and increased seating capacity, set forth a specific payment from Lessee to Lessor for certain constructed improvements, and also provided for required lease language regarding airport protection; and

WHEREAS, on February 14, 2017, Lessor and Lessee entered into a Third Amendment to Amended and Restated Lease Agreement (the “Third Amendment”) to

modify the boundary of the current leasehold by removing certain property to allow for Lessor to more efficiently perform improvements to a dune walkover and boardwalk in the area, while also improving public beach access, and also adding certain property to the leasehold to allow Lessee to increase its existing recycling area; and

WHEREAS, on May 22, 2018, Lessor and Lessee entered into a Fourth Amendment to Amended and Restated Lease Agreement (the “Fourth Amendment”) to allow for Lessee to increase the seating capacity of the restaurant facilities on the Leased Premises and to provide for Lessee’s financial assistance to Lessor for the construction of an addition to the parking lot to the north of the Leased Premises; and

WHEREAS, starting in June 2024, Lessor intends to construct certain capital improvements on the Leased Premises, including a new covered outdoor dining area, renovation to the existing outdoor dining areas, and other structural improvements to the existing building, as generally depicted in the plan sheet attached hereto as Exhibit “A” (the “Capital Improvements”); and

WHEREAS, Lessee wishes to extend the term of the Lease and also increase the seating capacity of the restaurant facilities on the Leased Premises in exchange for its capital investment in the Leased Premises through completion of the Capital Improvements; and

WHEREAS, Lessor is willing to extend the term of the Lease and also increase the seating capacity of the restaurant facilities on the Leased Premises in consideration of Lessee’s capital investment in the Leased Premises through completion of the Capital Improvements.

NOW, THEREFORE, in consideration of the covenants and promises contained herein and in the Lease, First Amendment, Second Amendment, Third Amendment, and Fourth Amendment, Lessor and Lessee hereby agree as follows:

1. **CAPITAL IMPROVEMENTS.** Lessor shall complete the construction of the Capital Improvements, as defined herein, on the Leased Premises. Lessor shall provide Lessee, through the City Manager, with written notification when the Capital Improvements have been completed, including a copy of the Certificate of Completion for the Capital Improvements (the "Notice of Completion").
2. Sections 3 and 4 of this Fifth Amendment shall become effective upon the Lessee's receipt of the Notice of Completion.
3. **RENEWAL OF TERM.** Section 2(c) of the Lease, as amended, shall be replaced in its entirety with the following:
 2. (c) If the Lessee exercises the Second Renewal Option, then Lessee shall have the right to renew ("Third Renewal Option") the Lease term and Second Renewal Period for an additional five (5) years ("Third Renewal Period") from the expiration of the Second Renewal Period on the same terms and conditions as set forth in said Lease, except that rent shall be payable according to the provisions of Section 3 of the Lease. Lessee shall notify Lessor by certified mail, return receipt requested, of its election to exercise the Third Renewal Option nine (9) months prior to the expiration of the Second Renewal Period.

The following Sections 2(d) and 2(e) shall be added to the Lease, as amended:

2. (d) If the Lessee exercises the Third Renewal Option, then Lessee shall have the right to renew (“Fourth Renewal Option”) the Lease term and Third Renewal Period for an additional five (5) years (“Fourth Renewal Period”) from the expiration of the Third Renewal Period on the same terms and conditions as set forth in said Lease, except that rent shall be payable according to the provisions of Section 3 of the Lease. Lessee shall notify Lessor by certified mail, return receipt requested, of its election to exercise the Fourth Renewal Option nine (9) months prior to the expiration of the Third Renewal Period.
2. (e) It is intended hereby to grant Lessee in addition to the Extended Term, four option periods of five (5) years each, so that Lessee, if it so desires, shall have the privilege and option of leasing the Premises for a maximum of fifty (50) years from the Extended Term Commencement Date.
4. **LESSEE’S CONSTRUCTION.** The first sentence of Section 36 of the Lease, as previously amended pursuant to the Second Amendment and Fourth Amendment, shall be further amended to increase the seating capacity from “not less than 350 seats and not more than 697 seats” to “not less than 450 seats and not more than 897 seats.” Prior to any actual increase in seating capacity, the Lessee must obtain all necessary approvals including, but not limited to, all necessary federal, state, and local permits, and all necessary development approvals from Lessor.

5. All other terms and conditions of the Lease, as previously amended, unless specifically amended herein shall remain in full force and effect throughout the remaining term of the Lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals that day and year first above written.

CITY OF VENICE, FLORIDA

ATTEST:

By: _____
Nick Pachota, Mayor

Kelly Michaels, City Clerk

Date: _____

Approved as to Form

Kelly Fernandez, City Attorney

**VENICE PIER GROUP, INC.
f/k/a PIER GROUP, INC.**

Witness

By: _____

Print Name, Title

Witness

Date: _____

EXHIBIT "A"

PLAN SHEET FOR PROPOSED CAPITAL IMPROVEMENTS

TO LEASED PREMISES

