

FOURTH AMENDMENT TO
AMENDED AND RESTATED LEASE AGREEMENT

This FOURTH AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT ("Fourth Amendment") is made and entered into this _____ day of _____ 2018 ("Effective Date"), at Venice, Florida, 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, Lessor wishes to construct an addition to the parking lot to the north of the Leased Premises, and Lessee wishes to assist Lessor with the financing of said parking lot addition; and

WHEREAS, Lessee wishes to increase the seating capacity of the restaurant facilities on the Leased Premises in exchange for Lessee's financing assistance to Lessor for the proposed parking lot addition; and

WHEREAS, Lessor is willing to increase the seating capacity of the restaurant facilities on the Leased Premises, subject to Lessee obtaining the necessary development approvals.

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

1. The first sentence of Section 36 (Lessee's Construction) of the Lease, as amended pursuant to the Second Amendment, shall be further amended to increase the seating capacity from "not less than 350 seats and not more than 550

seats” to “not less than 350 seats and not more than 697 seats.” Any increase in seating capacity, as provided for herein, must be in accordance with any and all applicable federal, state, and local laws and regulations.

2. The following section is added to the Lease as amended:

38. **PARKING LOT ADDITION.** Lessor shall complete the construction of the improvements for an addition to the parking lot to the north of the Leased Premises, and west of South Harbor Drive, as shown on Exhibit “A” attached hereto (“Parking Lot Addition”). The Lessee shall pay Lessor four hundred fifty thousand dollars and zero cents (\$450,000.00), within thirty (30) days of execution of this Fourth Amendment, to provide a contribution and additional funding assistance to Lessor for the construction of the Parking Lot Addition (hereinafter, “Lessee’s Parking Lot Addition Contribution”). Lessor and Lessee hereby acknowledge that one hundred thousand dollars and zero cents (\$100,000.00) of Lessee’s Parking Lot Addition Contribution shall not be repaid or refunded by Lessor to Lessee unless Lessor fails to obtain Final Completion of the Parking Lot Addition on or before December 31, 2020. The remaining three hundred fifty thousand dollars and zero cents (\$350,000.00) of Lessee’s Parking Lot Addition Contribution shall be repaid to Lessee, over time, as a credit to the amount of “Percentage Rent” annually paid by Lessee to Lessor, as set forth herein.

The amount of "Percentage Rent" paid annually by Lessee to Lessor, pursuant to Section 3(c) of the Lease, shall be adjusted as follows:

- One hundred thousand dollars and zero cents (\$100,000.00) shall be deducted from the amount of Percentage Rent due on March 1, 2019.
- One hundred thousand dollars and zero cents (\$100,000.00) shall be deducted from the amount of Percentage Rent due on March 1, 2020.
- One hundred fifty thousand dollars and zero cents (\$150,000.00) shall be deducted from the amount of Percentage Rent due on March 1, 2021.

3. Lessor and Lessee further acknowledge that no interest shall be charged by Lessee to Lessor in the repayment or refunding by Lessor to Lessee of any portion of Lessee's Parking Lot Addition Contribution.

4. All other terms and conditions of the Lease, as 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:

John W. Holic, Mayor

Lori Stelzer, City Clerk

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

By:

Justin Pachota, U.P.
Print Name, Title



Witness



Witness

Approved as to Form

David Persson, City Attorney