

AMENDED AND RESTATED LEASE

This Amended and Restated Lease, dated as of January 6, 1984, is made by and between the CITY OF ALAMEDA, a charter city of the State of California, ("Lessor") and ENCINAL INDUSTRIES, INC., a California corporation ("Lessee").

RECITALS

A. WHEREAS, Lessee and Lessor entered into a lease dated May 17, 1979 (the "Lease");

B. WHEREAS, the property subject to the Lease has been subdivided into eleven (11) parcels ("Parcels") as shown on Parcel Map No. 2938, filed July 19, 1983, in Book 138 of Parcel Maps, at Pages 76 through 80, inclusive, Alameda County Records; and

C. WHEREAS, Lessee and Lessor wish to amend the Lease to reflect such subdivision;

NOW THEREFORE, Lessee and Lessor do hereby agree that the May 17, 1979 Lease and this Amended and Restated Lease constitute a single and continuing Lease and hereby agree to amend the Lease so that such Lease, as amended and restated, shall read in its entirety as follows:

(1) LEASE. Encinal Industries, Inc. (hereinafter referred to as "Lessee"), hereby leases from the City of Alameda (hereinafter referred to as "Lessor") and Lessor hereby leases to Lessee, on the terms and conditions hereinafter set forth, all of that certain real property located in the City of Alameda, County of Alameda, State of California, shown as Parcels 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 on Parcel Map No. 2938, Filed July 19, 1983, in Book 138 of Parcel Maps, at Pages 76 through 80, inclusive, Alameda County Records.

If, at any time during the term of this Lease, or its renewal as herein provided, the location of the U.S. Pierhead Line shall be changed, then the northerly boundary line of the property hereby leased shall be the U.S. Pierhead Line as hereafter so established.

(2) TERM. The term of this Lease shall be for twenty-five (25) years commencing April 5, 1979 and ending on April 4, 2004.

(3) RENEWAL. Lessee shall have an option to renew this Lease with respect to any or all Parcels of the leasehold for a further term of twenty-five (25) years commencing on April 5, 2004 and ending on April 4, 2029. Said option may be exercised by Lessee giving written notice of the exercise of this option at any time at least six (6) months prior to April 5, 2004.

(4) RENTAL. During the first five (5) years of this Lease, Lessee shall pay rental in the amount of \$23,000 per year. This rental shall be allocated amongst the eleven (11) Parcels covered by this Lease as follows:

<u>Parcel No.</u>	<u>Approx. Acreage</u>	<u>Annual Rent Allocation</u>
18	0.214	\$ 132.52
19	0.392	242.74
20	6.399	3,962.55
21	0.307	190.11
22	10.647	6,593.10
23	7.301	4,521.10
24	1.661	1,028.57
25	0.533	330.06
26	7.132	4,416.46
27	1.778	1,101.02
28	0.778	481.77
<u>TOTAL:</u>	<u>11 Parcels</u>	<u>\$23,000.00</u>

The annual rental provided for hereunder shall be paid in advance on April 5th of each year, with the first payment due on April 5, 1979, (or on the date of execution of this Lease, if later).

The annual rental with respect to any Parcel for each subsequent five (5) years of this Lease, and for the renewal term of this Lease, if Lessee exercises its option to renew with respect to any or all Parcels, shall be the amount appearing opposite that Parcel number on the chart in paragraph 1 of this Section (4) plus that same amount multiplied by a fraction, the numerator of which is the value of Lessee's possessory interest in that Parcel (as most recently finally assessed by the Assessor of Alameda County) less "X" ("X" is defined immediately below), and the denominator of which is also "X". "X" for a given Parcel is defined as that dollar amount which bears the same percentage relationship

to \$242,400.00 as the annual rental allocation of that Parcel bears to \$23,000.00 in the chart in paragraph 1 of this Section (4).

In the event that the Assessor of Alameda County discontinues assessing possessory interests in essentially the same manner as is provided for by law as of the date of commencement of this Lease, each party hereto promises to make a good faith effort to agree upon what the assessed possessory interest value would have been if the Assessor had not so discontinued assessing possessory interests.

If the parties do not agree upon what the assessed possessory interest value would have been if the Assessor had not so discontinued assessing possessory interests, for the purpose of computing rent under this Lease the possessory interest value shall be determined pursuant to the rules of the American Arbitration Association by a panel of three (3) arbitrators.

Each party shall bear one-half (1/2) of the cost of such arbitration unless the arbitrators determine that one of the parties hereto did not make a good faith effort to agree prior to arbitration, in which event such party to this Lease shall bear such proportion of the cost of arbitration as the arbitrators, in their discretion, may agree.

(5) ADDITIONAL COMPENSATION. Additional compensation may be required for any substantially different uses approved pursuant to paragraph (7) or (9). The amount of said additional compensation shall be mutually agreed upon.

(6) USE OF PREMISES. The premises may be used by Lessee, its successors and assignees, for the establishment, improvement and conduct of a harbor, for construction, maintenance and operation of wharves, docks, piers, berthing slips, quays and other utilities, warehouses, factories, storehouses, structures, tracks and appliances necessary or convenient for any such purposes and including general or industrial manufacturing incidental to such purposes and for any other lawful purpose, provided that no use of the premises will be made that is inconsistent with the provisions of California Statutes 1917, Chapter 594, as said statute may from time to time be amended.

Nothing herein contained shall be deemed or construed as a franchise to operate a public terminal or public utility on the premises.

(7) SUBSTANTIALLY DIFFERENT USES. Lessor may approve a new use of the premises, or any part thereof, permitted by law, which is substantially different than a use specified in paragraph (6), such as, but not limited to, restaurants, shops, offices and other commercial uses. Lessor may impose any reasonable conditions as a condition to such approval.

(8) OWNERSHIP OF IMPROVEMENTS. All structures, buildings, improvements and landscaping now existing or hereafter installed or constructed by Lessee or any sublessee on and as a part of said demised premises shall be, and without cost to Lessor become, the sole property of Lessor at the termination of this Lease and any valid renewals or extensions thereof, and Lessee shall on demand execute a quitclaim deed with respect thereto. Title to all structures, buildings, or improvements installed or constructed by Lessee or any sublessee shall remain in Lessee or a sublessee until termination of this Lease.

The foregoing notwithstanding, appliances, fixtures, furniture and furnishings not firmly affixed to said structures, stock in trade, machinery, floating walkways, berthing slips, dry docks, barges, marine railways, cranes, tanks (except sprinkler systems and tanks used therewith), apparatus (except fixed fire protection apparatus), equipment, conveyors, movable partitions and trade fixtures shall remain the property of Lessee or a sublessee, as the case may be.

(9) ASSIGNMENTS. Lessee may assign this entire Lease or any Parcel thereof, or sublet the premises, or any part thereof, for a term which shall not extend beyond the term of this Lease (including the renewal period if Lessee's option to renew is exercised). Any assignment or subletting for the purposes of a new use of the premises, or any part thereof, which is substantially different than a use specified in paragraph (6), such as, but not limited to, restaurants, shops, offices and other commercial uses, shall be subject to the approval of Lessor. Such new use may not be inconsistent with the provisions of California Statutes 1917, Chapter 594, as said statute may from time to time be amended. Lessor may impose any reasonable conditions, monetary or otherwise, as a condition to such approval. Approval of any such assignment or subletting for a new use by Lessor in its capacity as Lessor shall not constitute a waiver of any law or ordinance of Lessor pertaining to allowable uses enacted or enforced by Lessor in its exercise of governmental powers.

(10) BREACH. In the event of a breach of any agreement, covenant or condition herein contained on the part of Lessee to be kept and performed, Lessor may, at its option, send Lessee by registered mail a written notice to cure such breach. If Lessee shall fail to cure such breach within such time as may be necessary for Lessee to cure such breach acting with reasonable diligence, this agreement and all rights of Lessee hereunder may be terminated at the option of Lessor. Lessee's time period to cure such breach shall be extended by any period during which Lessee's performance is delayed by strike, riot, war, act of God or any other cause beyond the control of Lessee. In case suit shall be brought because of the breach of any agreement, covenant or condition herein contained on the part of Lessee or Lessor to be kept or performed, the prevailing party shall pay to the other party reasonable attorneys' fees which shall be fixed by the court as part of the costs of such suit.

(11) HOLDING OVER. Any holding over after the expiration of the term of this Lease for any cause shall be construed to be a tenancy from month to month at any rental selected by Lessor, which has been in effect during the term, and shall otherwise be on the terms and conditions herein specified insofar as applicable.

(12) WAIVER. The waiver by either party hereto of any breach of any agreement, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same, or any other agreement, covenant or condition herein contained.

(13) LIABILITY. Lessor, its agents, officers and employees, shall not be liable for any claims, liabilities, penalties, fines or for any damage to the goods, properties, or effects of Lessee or any of Lessee's representatives, agents, employees, guests, licensees, invitees, patrons, sublessees or clientele, or of any other persons whatsoever, nor for personal injuries to or death of them, or any of them, caused by or resulting from any acts or omissions of Lessee in or about the demised premises, or any act or omission of any person or from any defect in any part of the demised premises. Lessee further agrees to indemnify and save free and harmless Lessor and its authorized agents, officers and employees against any of the foregoing liabilities and any costs and expenses incurred by Lessor on account of any claim or claims therefor. Provided, however, that this hold harmless clause between Lessee and Lessor shall not apply to any injury, death or damage caused by Lessor, its officers, employees or authorized agents. Further provided

that in case of liability arising from the joint fault of the parties hereto, the parties shall contribute to the discharge of said liability in proportion to their fault.

(14) BINDING. This Lease shall inure to the benefit of and be binding upon the parties hereto and any successors of Lessee or sublessees as fully and to the same extent as though specifically mentioned in each instance, and all covenants, conditions and agreements in this lease shall extend to and bind any assigns or sublessees of Lessee.

(15) TIME. Time is of the essence hereof.

(16) NOTICES. All notices to be given by the parties hereto to each other shall be given in writing by registered or certified mail, postage prepaid, and addressed to the respective parties hereto as follows:

LESSOR:

City Manager
City Hall
City of Alameda
Alameda, CA 94501

LESSEE

Encinal Industries, Inc.
P.O. Box 2453
Alameda, CA 94501

Such addresses may be changed by written notice given by either party to the other from time to time. Notice shall be deemed received three (3) working days after deposit in any United States Post Office located in Alameda County, State of California.

(17) CONDEMNATION. If any part of the demised premises shall be taken or condemned for a public or quasi-public use, and a part thereof remains which is susceptible of occupation hereunder, this lease shall, as to the part so taken, terminate as of the date title shall vest in the condemnor, and the Lease payments payable hereunder shall be adjusted so that Lessee shall be required to pay for the remainder of the term only such portion of such lease payments as the value of the part remaining after the condemnation bears to the value of the entire premises at the date of condemnation. If all of the demised premises or such part thereof be taken or condemned so that there does not remain a portion susceptible for occupation hereunder, this Lease shall thereupon be terminated. If a part or all of the demised premises be taken or condemned, Lessee and Lessor shall be entitled to their proportionate interests in the condemnation award based upon their respective interests in the demised premises.

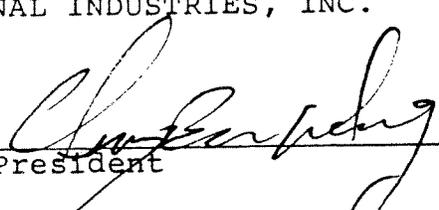
(18) RESERVATION OF RIGHTS. It is understood and agreed by the parties hereto, as an essential condition of this Lease, that Lessee, by the execution of this Lease and the holding of said premises hereunder, does not waive the right of Lessee to assert at any time and as against Lessor, or any person or other corporation, whatever right, title and interest Lessee may now have, if any, in and to said premises and every part thereof, independent of the interest conveyed by this Lease, and that Lessee shall not be estopped from claiming that it is now the owner and in the possession and entitled to the possession of said premises and each and every part thereof, and that the condition of an Act of the Legislature of the State of California, approved May 24, 1917, amending an Act of the said Legislature approved June 11, 1913, which conveyed said tide and submerged land to Lessor, to the effect that on the termination of any lease therein provided for, any and all improvements placed on the leased premises by the Lessee shall revert to Lessor, its successors and assigns in the event it should be finally determined by a court of competent jurisdiction that Lessee had, at the time of entering into this Lease, any right, title or interest in and to said tide and submerged lands, or any part thereof.

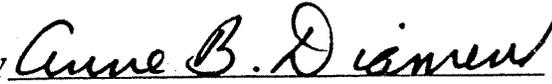
(19) CANCELLATION OF EXISTING LEASE. That certain Indenture made and entered into by and between Lessor and Alaska Packers Association, as to which Lessee is successor in interest to Alaska Packers Association, is hereby cancelled and terminated.

IN WITNESS WHEREOF, this Amended and Restated Lease is executed by the City of Alameda as Lessor pursuant to Ordinance No. 2168, N.S. and by Encinal Industries, Inc. under and pursuant to a resolution of its Board of Directors as of the date and year first written above.

ENCINAL INDUSTRIES, INC.

CITY OF ALAMEDA

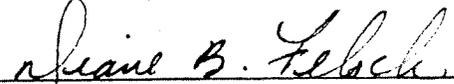
By: 
Its President

By: 
Mayor

Attest:

Attest:




City Clerk

DEPUTY CITY CLERK

Approved as to Form:

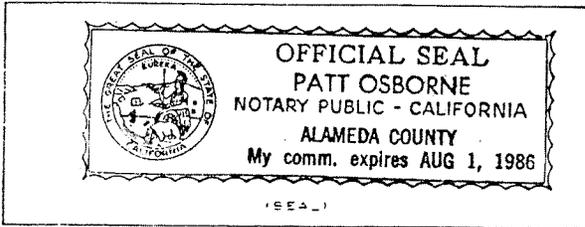

City Attorney

Encinal Industries, Inc.

State of California }
County of Alameda } ss.

On this 6th day of January, in the year 1984 before me Patt Osborne
Notary Public, personally appeared Changhee Wang, personally

known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as president (or secretary) or on behalf of the corporation therein named and acknowledged to me that the corporation executed it



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Patt Osborne
Notary Public for California