

AGREEMENT FOR OPTION TO LEASE

This AGREEMENT FOR OPTION TO LEASE (the “**Option to Lease**”) is made and entered into on this 28 day of April, 2015, (the “**Commencement Date**”) by and between **PORT OF NEWPORT**, an Oregon corporation (“**Landlord**”), with its principal office at 600 SE Bay Boulevard, Newport, OR 97365, and **TEEVIN BROS. LAND & TIMBER CO., LLC**, an Oregon limited liability company (“**Optionee**”) with its principal office at 29191 Dike Road, Rainier, OR 97048 (individually Landlord and Optionee are referred to herein as a “**Party**” and collectively as “**Parties**”).

RECITALS:

WHEREAS, Landlord is the legal and rightful owner of the real property consisting of Tax Lot 11-11-09-D0-00101-00, (collectively, the “**Property**”) as generally depicted on the attached **Exhibit A**, attached hereto and made a part hereof.

WHEREAS, the Parties desire that Optionee shall have the option to lease the Property pursuant to the terms and conditions hereinafter set forth;

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto do hereby agree as follows:

1. Grant of Option to Lease: Landlord hereby grants to Optionee an exclusive option (the “**Option**”) to lease the Property in material accordance with the terms of this Option to Lease and the lease outline attached hereto as **Exhibit B** and hereby incorporated by reference (the “**Lease Outline**”). In the event Tenant exercises the Option, as provided in Paragraph 2, the Parties will negotiate a definitive lease agreement (the “**Lease Agreement**”) that incorporates the terms of the Lease Outline and other customary, commercially reasonable lease provisions necessary to affect the intent and purpose of the provisions of this Option to Lease and the Lease Outline.

2. Option Period, Option Cost and Exercise of Option. The Option shall be exercisable by Optionee, at its sole discretion, by executing and delivering to Landlord written notice of exercise (the “**Exercise Notice**”) during the period commencing with the Commencement Date and terminating on December 31, 2016. As consideration for the option to lease, Optionee agrees to assist the Port of Newport in preparation and submittal of a Connect Oregon 6 application and use of Optionee’s existing construction, wetland, and storm water permits for the construction of a laydown yard on Port owned property as outlined in Exhibit A.

3. Landlord’s Obligation to Lease. Subject to the condition that Landlord is successful in addressing wetlands mitigation issues on the Property through a cooperative agreement with neighboring landowner Rondys & Associates or other wetland mitigation measures, upon Optionee’s exercise of the Option, Landlord shall lease the Property to Optionee based upon the

terms and conditions set forth in the Lease Agreement. As expeditiously as possible, but in any event prior to Optionee's possession of the Property and commencement of Initial Improvements, as defined in the Lease Outline, the Parties will execute the Lease Agreement, which shall include the terms contained in the Lease Outline, along with such other provisions as are customary, commercially reasonable and mutually agreed to by the Parties.

4. Grant of Right of Entry. Landlord hereby grants to Optionee and its employees, agents, contractors, consultants, representatives and assigns, the temporary right to enter upon the Property during the term of this Option to Lease for the purposes of (i) conducting physical inspections, environmental audits and inspections, (ii) conducting such other observations as may be required by Optionee to determine if the Property is suitable for Optionee's intended use, and (iii) applying for use permits in its status as Optionee (with disclaimers that provide for no binding effect on Landlord). Optionee shall indemnify, defend and hold harmless Landlord from any damage to persons or property caused by such entry. Optionee shall promptly provide Landlord, free of charge, and for Landlord's use, copies of all such reports and assessments. Optionee's entry and work on the Property shall be in full compliance with all applicable laws, regulations, requirements and permits. If Optionee does not exercise the Option, Optionee shall return the Property to the same condition it was in prior to Optionee's entry, subject to reasonable wear and tear. Provided that Optionee's entry onto and work at the Property do not materially exacerbate an existing condition, Optionee shall not, by virtue of its entry onto and work at the Property, be responsible for any condition existing as of the Commencement Date or occurring after the Commencement Date if not caused by Optionee or any person or entity under the control and direction of Optionee. If Optionee finds such an existing condition, Optionee shall immediately notify Landlord and cease all activities until both Parties agree upon any applicable conditions or requirements and Landlord consents in writing with respect to the resumption of Optionee's activities upon the Property. Optionee shall maintain in effect commercial general liability and property damage liability insurance policies naming Landlord as an additional insured in connection with the use and condition of the Property in amounts of not less than \$2,500,000 for injury to or death of one person and of not less than \$5,000,000 for injury or death in any one accident or occurrence, and against liability for property damage of not less than \$1,000,000; certificates confirming these coverages shall be delivered to Landlord on the Commencement Date.

5. Third Party Use. Landlord shall not use for its own purposes or permit any other party to use the property during the Option to Lease.

6. Landlord's Obligation to Provide Information to Optionee. Landlord shall provide Optionee with all information relevant to the environmental condition of the Property, including but not limited to permits, monitoring, data, reports, audits, compliance, discharges, releases, and release or discharge-generating activities associated with the Property. Landlord shall make the most knowledgeable person(s) available to Optionee for interviews as necessary to understand the condition of the Property as it relates to ability of Optionee to understand the environmental condition of the Property, including but not limited to the ability of Optionee to obtain an Industrial General Stormwater Permit from the Oregon Department of Environmental Quality for the Property and to understand potential future environmental liabilities associated with the Property,

and to confirm the Property is suitable for its operations and proposed Use (defined in the Lease Outline).

7. Notices. Except as otherwise provided, all Notices required or permitted to be given hereunder shall be in writing and shall be deemed properly given when sent by overnight courier (e.g., Federal Express), properly addressed to the Party entitled to receive such notice at the address indicated below, or such address and shall be deemed given one business day after being sent:

For Landlord: Port of Newport
Attention: Kevin Greenwood, General Manager
600 SE Bay Boulevard
Newport, OR 97365

For Optionee: Teevin Bros. Land & Timber Co., LLC
Attention: Shawn Teevin
29191 Dike Road
Rainier, OR 97048

8. Condition Precedent. Pursuant to Paragraph 5, during the term of this Option to Lease, Optionee may perform certain inspections, due diligence, applications for permits and the like to determine the suitability of the Property for its operations. As part of the requirement for the Property to be suitable for Optionee's proposed Use, Landlord must be approved for CO6 funding and have obtained "match money" in a combined sum that is sufficient to construct the lay down yard according to the budget and specifications supplied by Optionee (**Exhibit C**) (the "**Condition Precedent**").

In the event that (a) Optionee has exercised the Option; (b) the Parties have not fully executed a Lease Agreement; and (c) the Condition Precedent has not been satisfied as prescribed above, Optionee shall have the option to withdraw the exercised Option by delivering to Landlord written notice of Optionee's withdrawal of the same (the "**Withdrawal Notice**"). In the event that the Condition Precedent cannot be met within thirty (30) days after Landlord's receipt of the Withdrawal Notice, then this Option to Lease shall be null and void.

9. Integrated Agreement. This Option to Lease constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior negotiations and representations regarding the same.

10. Time is of the Essence. Time is of the essence with respect to all the duties and obligations of the Landlord and Optionee set forth herein.

11. Amendment. This Option to Lease may not be modified or amended, nor may the provisions of this Agreement be waived, except in a writing signed by both of the Parties.

12. No Waiver. Any waiver by any Party hereto of any of its rights hereunder shall be without prejudice to its future assertion of any such right or of any other right hereunder, and any delay in exercising any right shall not operate as a waiver thereof or any other right.

13. Partial Invalidity. The unenforceability or invalidity of any term or provision contained in this Option to Lease, or of any portion thereof, shall not affect the validity or enforceability of any other term or provision, or portion thereof, contained in this Option to Lease.

14. No Third Parties. Except as otherwise provided hereunder or in a separate writing signed by both Parties hereto, this Option to Lease is made only for the benefit of Landlord and Optionee and no third parties are intended to be benefited hereby.

15. Signatures. This Option to Lease may be signed in counterparts. A fax transmission or electronic transmission of a signature page will be considered an original signature page. At the request of a Party, the other Party will confirm a fax-transmitted or electronic signature page by delivering an original signature page to the requesting Party.

16. Further Assurances. The Parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Option to Lease.

17. Governing Law. This Option to Lease is entered into and will be governed by and construed in accordance with the laws of the State of Oregon.

18. Authority. Each individual executing this Option to Lease on behalf of a Party represents and warrants to the other Party that their execution and delivery of this Option to Lease and all related documents on behalf of the Party for whom they are signing has been duly authorized.

19. Professional Fees. In the event of the bringing of any action, arbitration or suit by a Party hereto against another Party by reason of any breach of any of the covenants, agreements or provisions of this Option to Lease, then the prevailing Party will be entitled to recover from the other Party all reasonable costs and expenses of the action, arbitration or suit, attorneys' fees, accounting, engineering or expert fees, and any other professional fees resulting therefrom, including (without limitation) any attorneys' fees incurred in connection with any appeal or bankruptcy proceeding.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Option to Lease to be executed under proper authority, all as of the day and year first above written.

OPTIONEE:
TEEVIN BROS. LAND & TIMBER CO., LLC,
an Oregon limited liability company

By: 
Eric Oien, General Manager

LANDLORD:
PORT OF NEWPORT ,
an Oregon municipal corporation

By: 
Kevin M. Greenwood, General Manager

Exhibits

- A – Property
- B – Lease Outline
- C – Construction Budget and Lay Down Yard Specifications

EXHIBIT A PROPERTY








McLean Point Newport, Oregon

8.95 Acres

Taxlot:

11-11-09-D0-00101-00

Legend	
	McLean Point Site
	U.S. Route
	Road
	City Limits
	Urban Growth Boundary

Prepared by OCWCOG, April 2015
Data Sources: City of Newport, Lincoln County, State of Oregon

This product is for informational purposes only and may not be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

**EXHIBIT B
LEASE OUTLINE**

This Lease Outline (the "**Lease Outline**") is incorporated into that certain Agreement for Option to Lease made and entered into on this ____ day of _____, 2015 (the "**Option to Lease**"), by and between **PORT OF NEWPORT**, an Oregon corporation ("**Landlord**"), with its principal office at 600 SE Bay Blvd., Newport, OR 97365 and **TEEVIN BROS. LAND & TIMBER CO., LLC**, an Oregon limited liability company ("**Tenant**") with its principal office at 29191 Dike Road, Rainier, OR 97048 (individually Landlord and Optionee are referred to herein as a "**Party**" and collectively as "**Parties**").

RECITALS:

WHEREAS, Landlord is the legal and rightful owner of the real property located adjacent to 1430 SE Bay Blvd., City of Newport, Lincoln County, Oregon consisting of Tax Lot Number 11-11-09-D0-00101-00, (collectively, the "**Property**") as generally depicted on the attached **Exhibit A**, attached hereto and made a part hereof.

WHEREAS, Tenant desires to lease the Premises (defined below) from Landlord, and Landlord agrees to lease the Premises to Tenant pursuant to a written lease agreement to be negotiated by Landlord and Tenant, incorporating the terms set forth in the Option to Lease and the terms set forth in this Lease Outline, together with other customary, commercially reasonable lease provisions necessary to affect the intent and purpose of the provisions of the Option to Lease and this Lease Outline (the "**Lease**").

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto do hereby agree as follows:

1. **PREMISES.** The final definitive "Premises" shall be mutually agreed upon by the Parties, but in principle shall generally incorporate the Property as defined herein. A final calculation of the acreage shall be completed by a survey of the Property prior to execution of the Lease. Landlord shall pay for the cost of a survey of the Property upon Optionee's exercise of the Option (as defined in the Option to Lease).

2. **TERM, RENEWAL OPTIONS AND TERMINATION RIGHTS.**

a. **Initial Term and Renewal Options.** The initial term of the Lease shall be five (5) years (the "**Initial Term**"). Subject to final negotiated terms to be set forth in the Lease, the Initial Term shall commence upon the completion of construction of the Initial Improvements (defined below). Tenant shall have the right to extend the term of the Lease for three (3)

consecutive renewal options of five (5) years each (collectively, the “**Option Period(s)**”), commencing upon the expiration of the Initial Term.

b. **Termination Rights.** In the event Tenant ceases to perform substantial business activities consistent with the authorized use of the Property for a period in excess of six months, Landlord shall have the right to terminate the lease upon 60 days' notice.

3. **RENT.**

a. The “**Base Rent**” for the first two (5) years of the Initial Term shall be \$500 per acre per month. On each year anniversary of the Initial Term and any Option Period(s), the Base Rent shall be subject to increases based upon the Consumer Price Index (CPI). The CPI increase shall be determined by a percentage equal to the percentage change in the Consumer Price Index published by the United States Bureau of Labor Statistics of the United States Department of Labor, specifically the index entitled U.S. City Average (Portland Index) – All items and Major Group Figures for all Urban Consumers for the latest available month preceding the month in which the lease year commenced, or the nearest comparable data on changes in the cost of living if such index is no longer published. Base Rent for the Option Period(s) shall include all accumulated CPI increases and shall then be increased by \$100 per acre for each of the option periods.

b. **Early Occupancy.** There shall be no Base Rent during the period when the lay down site is being constructed per Exhibit C, which period is estimated to be six (6) months in duration. However, Tenant shall be responsible for all operating costs incurred with respect to the Premises, with the exception of real estate taxes due to any governmental authority.

4. **INITIAL IMPROVEMENTS.** To the extent required and requested by Tenant, and based upon reasonable design and specifications, which shall be mutually agreed upon in writing by the Parties, Tenant shall be allowed to install a a) debarking system and supporting accoutrements (b) portable office facilities, buildings, and employee parking c) such additional improvements on the Property required to facilitate Tenant’s Use of the Property at the commencement of the Initial Term, and d) all improvements outlined in the lay down yard specifications outlined in Exhibit C (collectively the “Initial Improvements”).

5. **USE.** The Premises shall be used and occupied for the storage, processing, and distribution of wood products and other operations related to the use of a deep-water dock facility, as such activities are legally permitted for operation on the Property (collectively, the “Use”). Landlord shall cooperate, as needed, with the Tenant in seeking any requisite permits required for the operation of the Property. Landlord agrees not to obstruct operations or impose any unnecessary restrictions outside of the current or future City, County, State and Federal laws governing the lay down facility.

6. **CONDITION OF PROPERTY.**

a. Tenant shall accept the Premises in its “as-is, where-is” condition as of the execution of the Lease, subject to all recorded matters, laws, ordinances, and governmental regulations and orders. Except as provided herein, Tenant acknowledges that neither Landlord nor any agent of Landlord, has made any representation as to the condition of the Premises or the suitability of the Premises for Tenant’s intended use and is not relying on any representations of Landlord, except as may be set forth elsewhere herein, in the Option to Lease or the Lease.

b. Notwithstanding the above, in advance of the execution of the Lease Tenant will have completed certain inspections, due diligence, applications for permits and the like to determine the suitability of the Premises for its operations (“**Pre-Lease Due Diligence**”) and further as part of the requirement for the Premises to be suitable for Tenant’s proposed Use.

7. **MAINTENANCE AND REPAIRS.** Subject to casualty or other damage as shall be further defined in the Lease, Tenant shall be responsible for the maintenance and repair of the Premises during the Initial Term and Option Periods, reasonable wear and tear excepted.

8. **ALTERATIONS AND ADDITIONS.** In addition to the Initial Improvements, Tenant shall have the right to make other commercially reasonable additions, alterations or other improvements to the Premises, subject to commercially reasonable limitations as may be agreed upon by the Parties in the Lease.

9. **SURRENDER OF PREMISES.** Upon expiration or sooner termination of the Lease, Tenant shall vacate the Premises in broom clean condition and otherwise in the same condition as existed on the commencement of the Initial Term, ordinary wear and tear and fire and casualty loss excepted, except that any improvements made within and on the Premises by Tenant shall remain (except the debarker system and other portable structures), in the same condition and repair as when construction or installed, reasonable wear and tear excepted. In addition, Tenant shall remove from the Premises, upon the expiration or sooner termination of the Lease, all of Tenant’s personal property and trade fixtures. Any removal of Tenant’s improvements, Tenant’s property and/or trade fixtures by Tenant shall be accomplished in a manner which will minimize any damage or injury to the Premises, and any material damage or injury shall be repaired by Tenant at its sole cost and expense within thirty (30) days after the expiration of the Lease.

10. **SUBLETTING AND ASSIGNMENT.**

a. **Landlord’s Rights.** Landlord may transfer the Property, and assign its rights under the Lease at any time, so long as the transferee or assignee (as applicable) agrees in writing to be bound by the terms of the Lease.

b. **Landlord’s Consent Required.** Tenant shall not voluntarily or by operation of law assign, sublet, or otherwise transfer or encumber any part of Tenant’s interest in the Lease or in the Premises without Landlord’s prior written consent, which consent shall not be

unreasonably conditioned, withheld or delayed. Without limiting the generality of the foregoing, it shall be deemed reasonable for Landlord to withhold such consent if (a) the proposed transferee does not have a tangible net worth and credit standing, calculated in accordance with generally accepted accounting principles consistently applied, that in Landlord's commercially reasonable opinion are sufficient to meet the obligations under this Lease, (b) there is then in existence an uncured event of default, beyond a notice or cure period, with respect to any obligation of Tenant under the Lease, or (c) the proposed transferee proposes to change the use of the Premises to a use that is inconsistent with the character of the property and/or would interfere with any existing agreements that encumber the Property. Any attempted assignment, transfer, encumbrance or subletting without the consent of Landlord required hereunder shall be void. Regardless of Landlord's consent, no subletting or assignment shall release Tenant from any of its obligations under the Lease, unless the Parties agree otherwise in writing. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. **ENVIRONMENTAL.** Landlord shall pay, save, protect, defend, indemnify and hold Tenant harmless from, for and against any conditions existing at the time Tenant takes possession of the Premises to commence the Initial Improvements and for and against any conditions caused by others. Tenant shall pay, save, protect, defend, indemnify and hold Landlord harmless from, for and against any contamination or liability related to the Premises, including the reasonable, actual cost of any required remediation where such contamination or liability arises solely during the Lease term or Tenant's occupancy of the Premises and solely as a result of Tenant's use of the Premises. To the extent remediation requires a covenant or use restriction consistent with the industrial nature of the Premises, Landlord shall reasonably cooperate with Tenant to provide such covenant. Further, Landlord shall pay, save, protect, defend, indemnify and hold Tenant harmless from, for and against any contamination or liability related to the Premises, including without limitation the reasonable, actual costs of required remediation, that arise from the acts or omissions of third parties other than Tenant, including (without limitation) Landlord. Further, should federal or state law require the investigation or remediation of any existing condition or a condition caused by Landlord or others, Landlord will conduct such activities in compliance with all applicable laws. In doing so, Landlord will coordinate directly with Tenant to minimize disruption to Tenant's operations and Use of the Premises.

12. **INDEMNITY.** Except for any liability or expense caused by Landlord or its employees, agents, contractors or invitees, Tenant shall pay, save, protect, defend, indemnify and hold Landlord harmless from, for and against any and all liability, cost or expense with regard to or arising during the Term or Tenant's use and occupancy of the Premises. Landlord shall pay, save, protect, defend, indemnify and hold Tenant harmless from, for and against any liability, cost or expense caused by Landlord or its employees, agents, contractors or invitees or which exists at the time Tenant takes possession of the Property.

13. **COMPLIANCE WITH APPLICABLE LAW.** Tenant shall comply with all applicable laws, including statutes, regulations, permits, ordinances or zoning with respect to its Use of the Premises.

14. **TAXES.** Tenant shall reimburse Landlord for its proportionate share of real property taxes applicable to the Premises and all assessments levied on the Premises, to the extent

the same apply during the term of the Lease. Landlord shall submit copies of real property tax statements when they become due and Tenant shall reimburse Landlord for its proportionate share due thereunder. Tenant shall pay prior to delinquency all taxes assessed against or levied on trade fixtures, furnishings, equipment and all other personal property in, on or about the Premises. When possible, Tenant shall cause trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property.

15. **INSPECTIONS.** Landlord and its agents and representatives shall have the right to enter and inspect the Premises upon 24 hours advance written notice to Tenant.

16. **UTILITIES.** Tenant shall be responsible for the payment of all utilities that serve the Premises, including, water, sewer, electrical, and telephone, and for the cost of establishment of any such service that currently does not exist at the Property.

17. **INSURANCE.**

a. **Liability Insurance.** Tenant shall maintain in effect commercial general liability insurance covering bodily injury liability and property damage naming Landlord as an additional insured in connection with the use and condition of the Premises in amounts of not less than \$5,000,000 each occurrence, \$5,000,000 general aggregate, \$5,000,000 products-completed operations aggregate. The aforementioned limits can be provided by any combination of primary and excess insurance.

b. **Insurance Policies and Certificates of Insurance.** Tenant shall deliver to landlord a certificate(s) of insurance evidencing the required insurance. Insurance purchased by Tenant shall be with companies rated B+ or better in "Best's Insurance Guide", and shall not be cancelled without thirty (30) days advance notice to Landlord. It is the obligation of Tenant to purchase and to fully maintain at all times required insurance. Lapse of or cancellation of insurance, however caused, shall be deemed an event of default under this Lease. In the event of lapse or cancellation of any required insurance it is hereafter the specific responsibility of Tenant to notify Landlord immediately and to immediately reinstate the lapsed or cancelled insurance or to purchase replacement insurance that meets the requirements of this Lease. If replacement insurance is purchased, Tenant is to deliver immediately to Landlord a replacement certificate and additional insured endorsement.

c. **Exemption of Landlord from Liability.** Except for any damage or casualty caused by Landlord or its employees, agents, contractors or invitees, Landlord shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Tenant, Tenant's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is accessible or not. Except in the event of Landlord's gross negligence or its breach of this Lease, Landlord shall under no circumstances be liable for injury to Tenant's business or for any loss of income or profit therefrom.

d. **Mutual Waiver of Subrogation and Recovery.** To the extent not prohibited by any property insurance policy issued to Landlord or to Tenant, Landlord and Tenant hereby mutually waive their respective rights of direct recovery and their insurers' rights of direct action by way of subrogation against the other for damages arising out of such other's negligence or otherwise tortious acts or omissions for loss or damage to the Premises, building(s), property or any personal property of such party. In the event a party is unable to obtain such waivers of subrogation from insurers, it shall immediately notify the other of this inability. In the absence of such notification, each party shall be deemed to have obtained such waiver of subrogation from its insurers and also agreed to waive its rights of direct recovery.

18. **LIENS.** Tenant shall promptly pay all sums legally due and payable by it on account of any labor performed or materials furnished in connection with work performed on the Property on which any lien is or can be validly and legally asserted against the leasehold interest in the Property.

19. **SUBORDINATION.** This Lease, at Landlord's option, shall be subordinate to any ground lease, mortgage, deed of trust or other security arrangement now or later placed upon the real property of which the Premises are a part and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default under the terms of the Lease, and Landlord agrees to obtain a written nondisturbance agreement in form and substance acceptable to Tenant in its sole discretion from any third party that holds the lien under any instrument to which the Lease is subordinated. Tenant agrees to execute such documents required to effectuate such subordination, subject to the immediately preceding sentence.

20. **RECOVERY OF PROPERTY.** In the event Tenant fails, within two (2) years of the possession of the Premises to complete the Initial Improvements and proceed with reasonable diligence to make use of the Property as an industrial user, Landlord shall be entitled to terminate the Lease and retain any Base Rent previously paid to Landlord under the Lease.

END OF EXHIBIT B