

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into by and between CITY OF MYRTLE BEACH ("Landlord") and SUN CENTURY LLC ("Tenant") (each a "Party" and collectively the "Parties"), effective as of the date of the last signature below (the "Effective Date").

WHEREAS, Landlord owns certain real property located in the public right of way in the City of Myrtle Beach, Horry County, South Carolina said property being more particularly described on Exhibit A attached hereto (the "Premises"), and Tenant is either the owner of the adjacent property to be benefited by this Lease (the parcel identified on Exhibit A as 208 Chester Street) ("Adjacent Property") or has the legal right and ability to act on behalf of the owner of the Adjacent Property; and

WHEREAS, Landlord has adopted a comprehensive plan regarding all "hybrid" parking spaces (parking areas in which ownership of the property is split between public right of way and private ownership) within the corporate limits of the City of Myrtle Beach, and to temporarily close selected portions of unused entirely public right of way when abutting a qualifying landowner; and,

WHEREAS, through public hearing, the Myrtle Beach City Council has determined that this approach is not inconsistent with the Constitution and general law of this State, including the just exercise of its power in relation to roads and streets, and that this approach appears to be necessary and proper at this time for the general welfare, economic vitality and convenience of the people, and that the temporary closing to the public of selected portions of the right of way is an exercise of legislative discretion and is in furtherance of fiduciary duty; and

WHEREAS, the City has determined, in light of the above, that there is no immediate, current or reasonably projected need for the rights of way subject to the Lease to be used for public roads, sidewalks, bike paths, or other forms of pedestrian and vehicular traffic; and

WHEREAS, the public good and economy is served by addressing Tenant's need for abutting and contiguous additional parking by allowing Tenant to lease the Premises for such use; and

WHEREAS, Landlord desires to Lease the Premises to Tenant and Tenant desires to Lease said Premises from Landlord.

NOW THEREFORE, In consideration of the mutual covenants contained in this Lease, the Parties agree as follows:

ARTICLE 1 PROPERTY LEASED

1.1 DEMISE. Landlord leases to Tenant and Tenant leases from Landlord the Premises, said lease only for the purpose of vehicle parking pursuant to the terms and conditions as set forth herein.

1.2 COVENANT OF QUIET ENJOYMENT. The Landlord promises, subject to Tenant's performance of all of the terms and conditions of the Lease, that Tenant shall be entitled to the quiet and peaceful enjoyment and undisturbed possession of the Premises for the term of this Lease.

ARTICLE 2 TERM

2.1 TERM. The term of this Lease shall commence on the Effective Date and shall continue until January 22, 2029 ("Initial Term"). Upon expiration of the Initial Term, this Lease shall renew automatically for one successive five (5) year term (the "Renewal Term"), unless either Party provides the other Party at least ninety (90) prior written notice of its intent not to renew the Lease. Except as provided below as regards to rent, the terms and conditions of the Initial Term shall apply to the Renewal Term. Except as regards to rent, the Initial Term and Renewal Term shall be referred to herein collectively as the "Term".

2.2 HOLDOVER. No holdover will be allowed upon the expiration of the Term of this Lease. In the event the Tenant desires to continue leasing the Premises at the expiration of the Term, a new Lease shall be executed prior to the expiration of the Renewal Term described herein above, such new Lease being subject to approval by the Myrtle Beach City Council.

2.3 END OF TERM. At the expiration of this Lease, any signage relating to parking placed by the Tenant shall be promptly removed. Tenant shall return the Premises to the Landlord in its original condition, normal wear and tear excepted.

ARTICLE 3 CONSIDERATION

3.1 RENT. Tenant agrees to pay and Landlord agrees to accept rent in the amount of Five Hundred Sixty-Three and 75/100 dollars (\$563.75) per year, with rent for the first year or any portion thereof to be paid one half upon signing the Lease and one half no later than September 15. During subsequent years of the Term, one half of the annual rent shall be due and payable on or before May 15 and one half one or before September 15. Landlord shall reserve the right to adjust the rent during any Renewal Term by providing Tenant a Lease Modification Agreement no less than ninety (90) days prior to the expiration of the Initial Term. The failure of Tenant to execute and return the Lease Modification Agreement to Landlord within thirty (30) days of receipt shall be deemed by Landlord as Tenant manifesting intent not to renew the Lease for the Renewal Term.

3.2 LATE CHARGES. All rent shall be paid to Landlord without notice or demand and without abatement, deduction or set-off, except as otherwise expressly provided in this Lease. All rental payments not paid within fifteen (15) days of the due date shall bear interest at the rate of eighteen (18%) percent or, in the event such interest rate shall be void or unenforceable under the laws of the State of South Carolina, the highest rate of interest permitted shall be charged.

3.3 PAYMENT. All payments to the Landlord shall be made to the following address:

The City of Myrtle Beach
Finance Department
P. O. Drawer 2468
Myrtle Beach, South Carolina 29578

ARTICLE 4 THE PREMISES

4.1 USE AND SERVICES. Tenant will use the Premises for private parking by its customers/clients. The Premises will be used for no other purpose, said use to conform with all applicable laws, regulations and codes in all aspects controlling parking, standing, stopping or towing. Tenant shall not use the Premises nor permit the Premises to be used for storage or parking of inoperable or unregistered vehicles.

4.2 REPAIRS AND MAINTENANCE. Tenant shall, at all times during the Term, at its own cost and expense, keep and maintain the Premises in good condition. Upon proper permitting, if required, such maintenance shall include, but not be limited to, the painting of parking lines, paving, and cleaning of the Premises, provided however that paving, striping and configuration of the parking area shall conform to City standards for uniform appearance and materials and work quality, in the sole judgment of the Public Works Department. Tenant may erect such signage as permitted or required by law indicating that the Premises is private property and shall use all reasonable precautions to prevent waste, damage or injury from occurring on or to the Premises.

All contractors and other third-parties performing work on the Premises shall maintain liability insurance providing protection against liability for personal injury and property damage on and around the leased Premises, in which both Landlord and Tenant shall be named as an additional insured, with limits of at least \$1,000,000 per occurrence, combined single limit, with an aggregate limit of not less than \$1,000,000. The policy or policies shall include, but shall not be limited to coverage for bodily injury, personal and advertising injury, property damage, products-completed operations, blanket contractual liability and independent contractors. The insurance carrier shall be licensed to do business in the State of South Carolina and carry an A. M. Best & Co. rating of not less than "A". Such policy, or policies, shall be in such form and with such insurance companies as shall be reasonably satisfactory to Landlord with provision for at least ten (10) days' notice to Landlord in the event of cancellation. Prior to commencing work on the Premises, Tenant shall provide Landlord with a Certificate of Insurance evidence compliance with the foregoing insurance requirements. Landlord reserves the right to require different or additional coverages and will consider a reduction in these insurance requirements based on the nature of the work to be performed.

4.3 ALTERATIONS. Tenant shall not at any time make any alteration, change, addition or improvement in or to the Premises, except as allowed herein above, without the prior written consent of Landlord.

4.4 INSPECTION. Landlord and its representatives shall have the right, but not the obligation, to inspect the Premises at any time. Tenant agrees to undertake such repair and maintenance as may be required by the City.

4.5 WARRANTIES; DISCLAIMER. Landlord expressly disclaims any warranty, either express or implied, regarding the Premises and Tenant acknowledges that neither Landlord nor its agents have made any representations or promises with respect to the Premises except as expressly set forth in this Lease, and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth herein. The taking of possession of the Premises by Tenant shall be conclusive evidence that the Tenant has accepted the Premises "AS IS, WHERE IS".

4.6 UTILITIES. Tenant shall be responsible for any water, electricity and any other utilities, which may be required in its use of the Premises.

4.7 TAXES. Tenant shall pay all real and personal property taxes attributable to its lease of the property, or equipment, furniture, fixtures, and/or other personal property located on the Premises.

4.8 INSURANCE. Tenant shall, at its own expense, during the Term hereof, maintain and deliver to Landlord a public liability insurance policy providing protection against liability for personal injury and property damage on and around the leased Premises, in which both Landlord and Tenant shall be named as an additional insured, with limits of at least \$1,000,000 per occurrence, combined single limit, with an aggregate limit of not less than \$1,000,000. The policy or policies shall include, but shall not be limited to coverage for bodily injury, personal and advertising injury, property damage, products-completed operations, blanket contractual liability and independent contractors. The insurance carrier shall be licensed to do business in the State of South Carolina and carry an A. M. Best & Co. rating of not less than "A". Such policy, or policies, shall be in such form and with such insurance companies as shall be reasonably satisfactory to Landlord with provision for at least ten (10) days' notice to Landlord in the event of cancellation. Further, Tenant shall be responsible for any property and casualty coverage on any personal property and/or fixtures owned by the Tenant and located upon the Premises. Upon execution of this Lease, Tenant shall provide Landlord with a Certificate of Insurance evidencing compliance with the insurance requirements set forth herein.

4.9 LIENS. Should Tenant cause any alterations or repairs to be made to the Premises, or cause any labor to be performed or material to be furnished, neither Landlord nor the Premises shall under any circumstances be liable for the payment of any expense incurred, and all such alterations and repairs shall be made and performed at Tenant's sole expense. If, because of any act or omission of Tenant, any mechanic's or other lien, charge, claim or order for the payment of money shall be filed against the Premises or against Landlord, Tenant shall, at its own cost and expense, cause it to be canceled and discharged of record within fifteen (15) days after notice of filing thereof. In the event that the Tenant fails to cause any such mechanics' or other lien, charge or order to be so canceled and discharged, then, in addition to any other right or remedy of the Landlord, the Landlord may, at its option, cancel or discharge it by paying the amount claimed to be due into Court or directly to any claimant and the amount so paid by Landlord and all costs and expenses including attorneys' fees incurred for the cancellation or discharge of such lien shall be due from the Tenant to the Landlord as an additional charge payable on demand.

4.10 HAZARDOUS MATERIALS. Tenant shall not use, sell, or store on the Premises any hazardous materials. Further, if Tenant becomes aware of the presence of any Hazardous Material in a quantity sufficient to require remediation or reporting under any Environmental Law in, on or under the Premises or if Tenant, Landlord, or the Premises becomes subject to any order of any federal, state or local agency to investigate, remove, remediate, repair, close, detoxify, decontaminate or otherwise clean up the Premises, Tenant shall, at its sole expense only to the extent such contamination was caused by Tenant, carry out and complete any required investigation, removal, remediation, repair, closure, detoxification, decontamination or other cleanup of the Premises. If Tenant fails to implement and diligently pursue any such repair, closure, detoxification, decontamination or other cleanup of the Premises in a timely manner, Landlord shall have the right, but not the obligation, to carry out such action and to recover all of the reasonable costs, expenses and attorney's fees from Tenant.

4.11 UNAVAILABILITY DUE TO PUBLIC WORKS IMPROVEMENTS. From time to time during the Term of this Lease, Landlord or other entity may undertake public works improvements within the confines of the Leased Premises. Such improvements as may include but are not limited to drainage improvements, utility upgrade/repair, installation of sidewalks or curbing, resurfacing of the adjacent roadway, or such other repair, modifications, or improvements may be appropriate at that time (the "Improvements"). In the event Improvements are undertaken on the Premises which precludes the use by Tenant of the Premises as a parking area, this Lease shall not terminate, and Tenant will continue to pay rent to Landlord as scheduled without abatement. If the Improvements are undertaken by Landlord, Landlord agrees to use its best efforts to complete the Improvements in a timely fashion and to restore the Leased Premises to the same or better condition upon the completion of the Improvements. In any event, regardless

of who undertakes the Improvements, Tenant shall have no cause of action or claim against Landlord due to any loss of use of the Leased Premises during the period of time that Improvements are undertaken which affect the Leased Premises.

ARTICLE 5 INDEMNIFICATION, HOLD HARMLESS, & RELEASE

5.1 By affirmation evidenced by the signature below, Tenant shall indemnify and save Landlord harmless from and against any and all costs, expenses, liabilities, losses and damages, injunctions, suits, actions, fines, penalties, claims and demands of every kind or nature, including reasonable attorneys' fees, by or on behalf of any person, party or governmental authority whatsoever arising out of (a) any failure by Tenant to perform any of its obligations under this Lease, (b) any accident, injury or damage which occurs in or about the Premises or the Adjacent Property however occurring, (c) any matter arising out of the condition, occupation, maintenance, alteration, repair, use or operation of the Premises or any part of it, (d) the contest or challenge by Tenant of any regulation or imposed tax, assessment, or other charges, or (e) any other matter arising from or relating to Tenant's use of the Premises. Further, the Tenant hereby knowingly, voluntarily and without reservation of any kind covenants that neither he, the undersigned, or any agent, employee, appointee, official, officer, heir, assign, successor, executor, administrator, or trustee of the entity or party represented will sue or make any claim, and will now and forevermore hold harmless, release and discharge the City and its agents, employees, appointees, officials, officers, heirs, assigns, successors, executors, administrators, or trustees in any legal forum, court or before any tribunal, administrative, judicial or quasi-judicial, from any cause of action, legal or equitable, claim, damage, action or suit, in perpetuity, because of anything done or omitted, whether known or unknown at this time, acted upon in reliance, or made the subject of trade, loan, payment or commerce, directly or indirectly arising from the Tenant's lease or use of the Premises or Tenant's operation on the Adjacent Property. Tenant agrees that the land use is permissive and the Tenant shall make no claim now or ever against the public at large or its representative government, its agents, or employees in connection to or arising from its permissive and temporary use of this public land.

ARTICLE 6 DEFAULT

6.1 **DEFAULT.** Landlord shall deem each of the following events a default and a breach of this Lease:

(i) Failure to perform obligations. If Tenant fails to perform any of its obligations under this Lease and such non-performance continues for a period within which performance is required to be made by specific provision of this Lease or, if no such period is provided, for a period of thirty (30) days after notice thereof by Landlord to Tenant, Landlord has the right in addition to any other rights or remedies it may have, to terminate this Lease by written notice to Tenant, and in such event the term hereof shall expire in the same manner and with the same force and effect except as to Tenant's liability, as if such expiration were the original term expiration date.

(ii) Any redevelopment by Tenant on Tenant owned property adjoining the Premises. Redevelopment shall be defined as any process of construction in which a structure is replaced, enlarged, altered, or converted to a different occupancy use. Buildings may not be structurally altered nor any additional facilities provided within such buildings until the requirements for off-street parking, excluding the leased Premises, arising from such alteration or additions shall have been satisfied. Before any addition of square footage whether vertical or horizontal, or any alteration to an existing structure to increase number of units or to effect a change of use is permitted, the parking facilities for Tenant's entire property must meet the Zoning Code, as

then in effect. Any improvement to Tenant's property that results in an increased demand for parking shall, for purposes of this Lease, be deemed a redevelopment, and shall be an event of default.

(iii) The inability of Tenant to produce proof of Insurance as required by this Lease Agreement, within ten (10) days of the date of such request by Landlord.

(iv) Notwithstanding any other term, condition or agreement concerning default or cure, nonperformance of obligations and notice of nonperformance contained herein, should Tenant fail to pay rents by September 15 of each year, that failure shall result in the automatic cancellation of the lease with no possibility of renewal, and the parking shall be configured for public parking, at the discretion of the City.

In the event of cancellation or termination of this Lease for any reason, Tenant agrees to immediately peacefully surrender the Premises to Landlord; if Tenant refuses to do so, Landlord may, among other things, reenter and repossess the Premises, using such force for that purpose as may be necessary. Tenant shall forfeit any prepaid rents in the event of default. Tenant shall have no right to appeal a cancellation or termination of this Lease to the City of Myrtle Beach City Council or any other governmental unit of the Landlord.

6.2 NON-WAIVER. The failure of Landlord to insist upon strict performance of any of Tenant's obligations under this Lease shall not be deemed a waiver of any rights or remedies that Landlord may have and shall not be deemed a waiver of any subsequent breach or default by Tenant.

ARTICLE 7 TERMINATION OF LEASE OTHER THAN BY DEFAULT OF TENANT

7.1 COUNCIL DETERMINATION. If at any time during the Term of this Lease should the City Council of the City of Myrtle Beach make the determination that there is a public need for the Premises, this Lease shall be terminated immediately upon written notice to the Tenant. A public need, for purposes of this Lease, shall be defined as a determination, after public hearing on the matter, that the public health, safety, or general welfare will best be served by returning control of the leased Premises to the Landlord. In the event of termination by vote of the City Council of the City of Myrtle Beach, the Tenant shall be entitled to a refund of any prepaid rents as prorated based on the number of days in the lease year that Tenant occupied the Premises.

7.2 MUTUAL CONSENT. Tenant and Landlord may mutually consent to the termination of this Lease in writing executed by both Parties. In the event of termination by mutual consent, Tenant shall be entitled to a refund of any prepaid rents as prorated based on the number of days in the lease year that Tenant occupied the Premises, so long as Tenant is not then in default of any other provision of this Lease.

ARTICLE 8 ASSIGNMENT

8.1 BY LANDLORD. This Lease shall be fully assignable by the Landlord or its assigns.

8.2 BY TENANT. Tenant may assign or sublet the Premises to a successor in interest of the Adjacent Property without written consent of the Landlord, so long as Tenant shall notify the Landlord in writing, to attention of the City Manager at the address provided herein below, of the proposed assignment or sublease no less than thirty (30) days prior to the proposed assignment or sublease and the assignment shall not violate any provision of any plan relating to hybrid parking, as adopted by City Council. Parties to the parking space leases will be limited to the City of Myrtle Beach and the owner of the Adjacent Property. The Lease may be assigned to the new property owner in the event that the Adjacent Property is sold during the Term. Under

no circumstances shall the Lease be assigned, nor leased spaces or any portion of the Premises be sub-leased, to a party not in ownership of the Adjacent Property. Any failure by Tenant to provide timely prior written notice to Landlord of an assignment or sublease of the Premises, shall at the option of Landlord, be deemed a default of this Lease under Article 6.1(i) herein above. Upon assignment of the Lease, any assignee shall take possession of the Premises with no guarantee as to its use for the remainder of the Term or any renewals thereof. An assignee shall be required to execute a document agreeing to be bound by the terms of this Lease in a form prescribed by Landlord.

ARTICLE 9 MISCELLANEOUS

9.1 NOTICES. Every notice, approval, consent or other communication authorized or required by this Lease shall be effective if given in writing and if hand delivered or sent by United States Registered or Certified Mail, Return Receipt Requested, with postage prepaid, and addressed as provided below, or as either Party shall from time to time designate in writing. Every notice shall be deemed to be effective upon delivery, if delivered, or on the second business day after mailing, if mailed.

Unless otherwise specified by either Party in writing, all notices and/or payments to Tenant shall be sent to the following address:

And to the Landlord shall be sent to the following address:

The City of Myrtle Beach
Attn: City Manager
P.O. Drawer 2468
Myrtle Beach, South Carolina 29578-2468

9.2 CONSTRUCTION; CHOICE OF LAW; JURISDICTION. In the event that any of the provisions of this Lease shall by court order be held invalid or in contravention of any of the laws of the United States or of any state having jurisdiction over the subject matter or of any dispute arising under it, such invalidation shall not serve to affect the remaining portion of this Lease. To the extent permitted by the laws of the state where the Premises are located, this Lease shall be governed by and construed in accordance with the laws of the State of South Carolina without reference to its choice of law provisions. All claims and disputes relating to this Lease shall be brought in the Horry County Court of Common Pleas or, if jurisdiction exists, the United States District Court for the District of South Carolina, Florence Division.

9.3 SUCCESSORS. This contract shall bind Landlord and Tenant and their successors, heirs, assigns, administrators, and legal representatives, as the case may be.

9.4 COUNTERPARTS. This agreement may be executed simultaneously in counterparts, all which shall constitute one and the same instrument and any one of which shall be deemed an original.

9.5 RECORDING. This Lease or a short form thereof may be recorded in the public records of the county where the Premises are located. In the event the Landlord shall request that a short form of this Lease

be recorded, Tenant shall cooperate to its full extent possible by executing a short form of this Lease on a written document witnessed and acknowledged in a form capable of being recorded in the public records of the county where the Premises are located. Tenant shall not record this Lease without prior written consent of Landlord.

9.6 AMENDMENTS AND MODIFICATION: No amendment or modification of this Lease shall be binding on any Party unless in writing and signed by both Parties.

9.7 JOINTLY PREPARED. This Lease shall be deemed to have been prepared jointly by the Parties. Any ambiguity shall not be interpreted against any Party hereto and shall be interpreted as if each of the Parties has prepared this Lease.

9.8 MERGER. This Lease sets forth the entire agreement of the Parties with respect to the subject matter hereof and supersedes and discharges all prior agreements (written or oral) and negotiations and all contemporaneous oral agreements concerning such subject matter and negotiations.

9.9 CAPTIONS. The captions contained in this Lease are for convenience and reference only, and shall not be construed to explain, modify, amplify, or aid in the interpretation, construction, or meanings of the provisions of this Lease to which they relate.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date indicated below, and their signature below constitutes an affirmation of legal authority to bind the Parties and successors.

[Signature Pages to Follow]

WITNESSES:

LANDLORD:
The City of Myrtle Beach

(1) _____

By: Jonathan Fox Simons, City Manager

(2) _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF Horry)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Landlord, by and through its City Manager, sign, seal and as its act and deed deliver the within written Lease Agreement; and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this
_____ day of _____, 20____.

(L.S.)
Notary Public for South Carolina
My Commission Expires: ____ / ____ / _____

WITNESSES:

TENANT:
SUN CENTURY LLC

(1) _____

By: _____

(2) _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF Horry)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Tenant sign, seal and as his act and deed deliver the within written Lease Agreement; and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this
_____ day of _____, 20____.

(L.S.)
Notary Public for South Carolina
My Commission Expires: ____ / ____ / _____