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Number M-653-02

RENEWAL OF LEASE

Made this 3rd day of November, 2005 at Santa Barbara, California by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor" and Santa Barbara Mariculture Company, hereinafter referred to as "Lessee."

WITNESSETH:

WHEREAS, Lessee failed to exercise an option to extend a prior lease agreement (also M-653-02) and said lease terminated on October 31, 1999, and

WHEREAS, Lessee did on January 1, 2001 enter into Lease M-653-02, for the purpose of cultivating rock scallops, and

WHEREAS, Lessee requested that title to Lease Agreement (No. M-653-02) be transferred to Santa Barbara Mariculture Company, and the Fish and Game Commission at its meeting on November 3, 2005, authorized the transfer of title of State Water Bottoms Lease M-653-02, from Pacific Seafood Industries, and

WHEREAS, Lessee indicated an interest in renewing a prior lease agreement and exercised that option by requesting Fish and Game Commission consideration of the request in correspondence dated March 29, 2005, and

WHEREAS, Lessee is presently a registered aquaculturist authorized to grow marine life for profit in the waters of the State of California as provided in Section 15101 of the Fish and Game Code, and

WHEREAS, Lessee expressed support for the Lessor's recommended approval of the requested lease renewal for the stipulated 5-year period at a lease rate of five ($5.00) dollars per acre, and.

WHEREAS, the Fish and Game Commission determined that a lease renewal was in the best interest of the State of California at the November 3, 2005, meeting in Santa Barbara, California and approved the renewal based on the renegotiated lease terms recommended by the Department of Fish and Game.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That, in consideration of payment of the monies hereinafter stated in accordance with the renegotiated terms recommended by the Lessor and accepted at a duly called and noticed hearing of the Fish and Game Commission of the State of California, pursuant to law and in consideration of the covenants contained herein on the part of the Lessee, Lessor does hereby grant to Lessee the exclusive privilege to cultivate

approved shellfish hereon and in those certain waters of the State of California described as follows, to wit:

> All that area lying within the Santa Barbara Channel, Santa Barbara County, State of California, starting from the Santa Barbara light located at 34°23'08" North, 119°43'03" West on the Santa Barbara quadrangle, California, Santa Barbara County, 7.5 minute series, topographic, U.S. Department of the Interior, Geological Survey; southwesterly on a bearing of 256° true, 9,000 feet to the point of beginning located at coordinates 34°23'20" North, 119°45'01" West on the Goleta quadrangle, California, Santa Barbara County 7.5 minute series, topographic, U.S. Department of the Interior, Geological Survey then east 1,250 feet; then south 1,250 feet; west 2,500 feet; then north 1,250 feet; then 1,250 feet to the point of beginning.

The area described hereinbefore, containing an area of 71.74 acres more or less, comprises Aquaculture Lease M-653-02 (Appendix 1).

This lease, in accordance with provisions of Section 15400 of the Fish and Game Code, as may from time to time be amended or changed by the State Legislature, is for the sole purpose of cultivating rock scallops (*Crassadoma gigantea*, formerly *Hinnites multirugosus*), speckled scallop (*Argopectin aequisulcatus*), Japanese bay scallop (*Patinopectin yessoensis*), Pacific oyster (*Crassostrea gigas*), Kumamoto oyster (*Crassostrea sikamea*), Manila clam (*Venerupis philippinarum*), and Mediterranean mussel (*Mytilus galloprovincialis*) in the previously designated area.

The cultivation of additional species of aquatic plants and animals requires the approval of the Fish and Game Commission. Seed stock, other than those obtained from State waters, must be inspected and certified before planting in compliance with Section 15201 of the Fish and Game Code, and must be planted by Lessee in a manner and at a size approved by the Lessor. A request for certification of seed stock will be submitted by Lessee to the Lessor at least ten (10) days prior to the proposed date of inspection.

All scallops, oysters, clams, and mussels shall be cultured on buoyed submerged longlines, anchored to the bottom within the lease area. No other mode of operation or culture method is authorized unless Lessee shall first obtain approval thereof from the Fish and Game Commission. Only the designated species planted in the specified lease area may be taken.

The notice of intent to plant scallops, oysters, clams or mussels on the lease area shall be given to the Department of Fish and Game's, Marine Region aquaculture coordinator, P.O. Box 1560, Bodega Bay, California, 94923, telephone (707) 875-4261, or at such other place as Lessor may from time to time designate. In addition to the required ten (10) day notice, at least a 24-hour notice shall be given to the aquaculture coordinator or their designee, giving the details on where an observer can meet the

Lessee prior to planting.

This lease renewal is authorized for a term of five (5) years commencing on the 3rd day of November, 2005, and ending on the 2nd day of November, 2010, for the total rental of three hundred and fifty dollars and seventy cents ($358.70) per year, and a privilege tax on all products harvested as provided by Fish and Game Code Sections 8051, 18406.5, and 15406.7. Beginning January 1, 2006, said annual rental fee will be payable to Lessor on a calendar year basis, January 1 – December 31. If said annual rental fee is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment shall not relieve Lessee of its obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said fee(s) to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

Lessee expressly recognizes and acknowledges that any payments by Lessee as provided for herein are subject to the provisions of Section 15410 which states "All leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed."

In accordance with actions taken by the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section 15400, Lessor does hereby renew said lease for such consideration, specific purposes and subject to covenants, terms, conditions, reservation, restrictions and limitation as are set forth herein.

This lease is made upon the following additional terms, conditions, and covenants, to wit:

A. This lease may, at the option of Lessee, be renewed for additional periods not to exceed 25 years each. If the Lessee desires to enter into a new lease for a period commencing after expiration of the initial 5-year term, Lessee shall give notice to Lessor one (1) year prior to termination of the lease. The lease may be renewed if, during the notification period, terms for a new lease are agreed upon by Lessee and the Commission. Lessor retains the right to renegotiate terms of the lease, including annual rental rates, subject to adjustment considering changes in the Consumer Price Index and current lease rates, at the Fish and Game Commission's discretion, no more often than every five (5) years during the current renewal period.

B. Lessee shall keep records as required in accordance with Fish and Game Code Section15414 on forms to be supplied by Lessor, and shall maintain adequate

accounting records sufficient to determine monies due to Lessor by the 10th day of each month for all shellfish harvested during the preceding calendar month. Lessor reserves the right to inspect Lessee's premises, equipment and all books at any time, and Lessee's records pertaining to its cultivation on the leased premises and all shellfish taken from the leased premises.

C. The lease shall be improved at no less than the minimum rate established by Commission regulations (Section 237(i)(A) - (C), Title 14, CCR). A minimum rate of planting for shellfish other than oysters shall be negotiated for option periods. A record of seed catching activity for rock scallops and mussels will be reported in the annual proof of use statement required by Section J. Planting credit will be given for catching naturally produced seed on the lease. Off-bottom improvement rate for single seed oysters is 5,000 single seed per acre per year over the allotted acreage. The annual harvest rate for oysters shall be an average of 2,000 oysters (over one year of age) over the allotted acreage effective three years after effective date of lease. Lessor may declare this lease terminated if Lessee fails to meet these specified requirements, and if Lessee at any time, is proven to be failing in good faith, to pursue the purpose of this lease.

D. The lease shall be clearly marked at all times. Minimum marking of the lease shall include: One (1) buoy anchored on each corner of the four corners of the lease, and one (1) buoy possessing radar-reflecting capability, anchored in the center of the lease. All buoys used to define the boundaries of the lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage System Regulations (33 CFR Section 62.33 and 66.01-10). All buoys shall bear the aquaculture lease number M-653-02. Buoys marking the boundaries of the lease shall be maintained at all times. If buoys are lost, displaced, or are otherwise removed from the lease, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to termination.

E. If, at any time subsequent to the beginning date of this lease the use of long lines authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct conditions cited by Lessor. Failure to comply with the written notice shall be grounds for termination of this lease and Lessee shall, at the option of Lessor, remove all improvements located on lands covered by this lease.

As a financial guarantee of growing structure removal and/or clean-up expense in the event the lease is abandoned or otherwise terminated, Lessee shall place on deposit, pursuant to the "Escrow Agreement for Clean-up of Aquaculture Lease M-653-02, Santa Barbara Channel, California", the sum of one thousand ($1,000) dollars. Such money shall be deposited over a two-year-period, payable one-half upon entering upon the lease, and one-half upon the first anniversary of such

inception date. The escrow account shall be increased if the Fish and Game Commission determines that, if abandoned, the culture operation is likely to be more expensive to remove. The escrow account may be reduced by the Commission upon demonstration that the probable cost of removal of all improvements would be less than the deposit previously required. In its annual Proof-of Use Report, the Lessor shall advise the Commission of its best estimate of the probable cost of removal the lease operation. The escrow agreement, escrow holder, and escrow depository shall be agreed upon by the Executive Director of the Fish and Game Commission and the Lessor.

If Lessee abandons this lease without removing growing structures therefrom, the escrow deposit shall be expended to remove growing structures or otherwise clean up the lease.

In order to assure compliance with the escrow provisions of this lease, Lessee shall dedicate to the agreed upon escrow account specified in the "Escrow Agreement for Clean-up of Aquaculture Lease M-653-02, Santa Barbara Channel, California (Addendum 2)", hereby attached to and made part of this agreement, a total of five hundred dollars ($500). This amount equals one-half of the total amount, one thousand dollars ($1,000), to be deposited in the "Lease M-653-02, Santa Barbara Channel, California Escrow Account".

F. Lessee shall observe and comply with all rules and regulations now or hereinafter promulgated by any governmental agency having authority by law, including but not limited to State Water Resources Control Board, State Coastal Commission, State Lands Commission, and U.S. Army Corps of Engineers. Any other permits or licenses required by such agencies will be obtained by Lessee at his own sole cost and expense.

G. Lessee recognizes and understands in accepting this lease that his interest therein may be subject to a possible possessory interest tax that the county may impose on such interest, and that such tax payment shall not reduce any rent or royalty due the Lessor hereunder and any such tax shall be the liability of and be paid by Lessee.

H. Any modification of natural or existing features of the real property described in this lease, which are not consistent with the authorized uses under this lease are expressly prohibited without prior written consent of the Lessor.

I. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Region office, P.O. Box 1560, Bodega Bay, California 94923, a written declaration under penalty of perjury, showing the date and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram (map) showing area, amounts, and dates planted. Such annual proof-of-use shall be submitted on or

before February 1 of each year for the previous year, January 1 -- December 31, inclusive.

J. This lease shall be canceled at any time Lessee fails to possess a valid aquaculture registration issued pursuant to Section 15101 of the Fish and Game Code. Lessee agrees not to commit, suffer, or permit any waste on said premises or any act to be done thereon in violation of any laws or ordinances. This lease shall be subject to termination by Lessee at any time during the term hereof, by giving Lessor notice in writing at least ninety (90) days prior to the date when such termination shall become effective. In the event of such termination by Lessee, any unearned rental shall be forfeited to the Lessor.

K. This lease of State water bottoms only grants Lessee the exclusive right to cultivate marine life as described in the lease. The lease does not imply that any guarantee is given that shellfish may be grown or harvested for human consumption. The Lessor only has the statutory authority to enter into aquaculture leases (Fish and Game Code Section 15400 et. seq.). The California Department of Heath Services has the authority (Health and Safety Code Section 109875 et. seq. and 112150 et. seq.) to certify and regulate sanitary procedures followed in the harvesting, handling, processing, storage, and distribution of bivalve mollusk shellfish intended for human consumption.

Lessee must recognize that compliance by certified shellfish harvesters with the conditions and procedures set forth in the Department of Health Service's current "Management Plan for Santa Barbara Lease M-653-02, Santa Barbara Channel, California" and in the current "Contingency Plan for Marine Biotoxins in California Shellfish" is mandatory. These conditions and procedures establish classifications for certification to harvest shellfish (oysters, mussels and clams) and establish rainfall closures which may delay or prevent harvesting of cultured organisms from this lease and are a condition of the Shellfish Growing Area Certificate.

L. In addition to the conditions and restrictions herein provided for in this lease, and any right or privilege granted, conveyed or leased hereunder, shall be subject to, and Lessee agrees to comply with all applicable provisions of the California Fish and Game Code, and regulation of the Fish and Game Commission, in particular Sections 15400 - 15415, inclusive, of the Fish and Game Code, and expressly recognizes the right of the Legislature and the Fish and Game Commission to enact new laws and regulations. In the event of any conflict between the provisions of this lease and any law or regulation, the latter will control. This lease shall be deemed amended automatically upon the effective date of such conflicting law or regulation.

M. This lease is personal to the Lessee and shall not be transferred, assigned,

hypothecated or subleased, either voluntarily or by operation of law, without prior approval of the Fish and Game Commission.

N. The waiver by the Lessor of any default or breach of any term, covenant or condition shall not constitute a waiver of any other default or breach, whether of the same or any other term, covenant or condition, regardless of the Lessor's knowledge of such other defaults or breaches. The subsequent acceptance of monies hereunder by the Lessor shall not constitute a waiver of any preceding default or breach of any term, covenant or condition, other than the failure of the Lessee to pay the particular monies so accepted, regardless of the Lessor's knowledge of such preceding default or breach at the time of acceptance of such monies, nor shall acceptance of monies after termination constitute a reinstatement, extension or renewal of the agreement or revocation of any notice or other act by the Lessor. In the event of any breach by Lessee of any of the provisions hereof, other than the payment of any sum due from Lessee to Lessor hereunder, which breach is not remedied, abated and cured by Lessee within sixty (60) days after notice in writing, shall cause this lease to thereupon cease and terminate.

O. Lessee shall not assign or transfer this agreement without prior written approval. Such written approval of the assignment or transfer of lease shall be subject to any and all conditions required by the Fish and Game Commission including, without limitation by reason of the specifications herein, the altering, changing or amending of this agreement as deemed by the Commission to be in the best interest of the State.

P. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

To the Lessor	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, CA 95814
To the Lessee	MR. BERNARD FRIEDMAN SANTA BARBARA MARICULTURE COMPANY 210 Wilson Street Santa Barbara, CA 93101

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

Q. Lessee hereby indemnifies and holds harmless the Lessor, its officers, agents and employees against any and all claims and demands of every kind and nature whatsoever arising out of or in any way connected with the use by the Lessee of said lease or the exercise of the privilege granted herein.

Q. The terms, provisions, and conditions hereof shall be binding upon and inure to the benefit of the parties and the successors, and assigns of the parties hereto.

R. The attached Nondiscrimination Clause (OCP-1) Is hereby made a part of this agreement.

Except as herein amended, all other terms of said lease agreement shall remain unchanged and in full force and effect.

IN WITNESS THEREOF, the parties hereto have caused this lease to be duly executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By: _____

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By: _____
Lessor

BERNARD FRIEDMAN
SANTA BARBARA MARICULTURE COMPANY

By: _____
Lessee