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LEASE AGREEMENT

State of North Carolina, County of Dare

THIS LEASE AGREEMENT is made this 31 day of March, 2009, by and between **Dare County Tourism Board, a public authority, and The Town of Nags Head, a municipal corporation** (hereinafter collectively referred to as "Lessor"), and **South East Parasail, Inc.**, a North Carolina corporation (hereinafter referred to as "Lessee"). The designation Lessor and Lessee as used herein shall include the parties indicated and their respective heirs, successors, legal representatives and assigns, and shall include singular, plural, masculine, feminine or neuter as required by the context.

W I T N E S S E T H :

In consideration of the rents and mutual covenants set forth herein, Lessor and Lessee agree as follows:

1. **LEASED PREMISES.** Lessor hereby leases to Lessee, and Lessee hereby accepts from Lessor, that property which is the northwest portion of the Windmill Point Restaurant Location (more particularly described in Deed Book 1784, Page 467, and Deed Book 1784, Page 470, in the Dare County Public Registry) now or formerly known as "Dr. Forbes Boat Rental" and which consists of 2.0 acres, more or less, of which 1.266 acres are wetlands, including the water sports kiosk (303 square foot building on a wood piling foundation, constructed with wood siding and a composition roof) which property is hereinafter referred to as the "Leased Premises". The Leased Premises is designated as "Leased Premises" on **Exhibit A**, attached hereto. Lessee will have an easement for ingress and egress over and along the driveway from US Highway 158 to the Leased Premises. Lessor retains all rights to said driveway and will be responsible for the all costs associated with the upkeep of said driveway.

2. **COMMENCEMENT OF TERM.** The term of this lease shall commence on March 1, 2009, and Lessee's obligation to pay the rent specified herein shall commence on June 30, 2009.

3. **LENGTH OF TERM.** The term of this lease shall be for a period of three (3) years, beginning with the commencement date specified herein and extending through February 29, 2012. The Lease may be renewed for another three (3) year term unless either party gives the other party written notice at least sixty (60) days prior to the expiration of the Lease that they do not wish to renew the Lease.

4. **RENT.** Lessee shall pay to the Lessor the sum of Forty-Two Thousand Five Hundred and 00/100 Dollars (\$42,500.00) per year. The rent for the first year shall be payable as follows: \$2,500.00 upon execution of the Lease and the remaining rent shall be payable in four (4) installments of \$10,000.00 due on June 30, 2009, July 30, 2009, August 30, 2009, and September 30, 2009. The rent for the remaining two (2) years of the Lease shall be payable as follows: \$12,500.00 due June 30,

2010, and \$10,000.00 due July 30, 2010, August 30, 2010, and September 30, 2010, and \$12,500.00 due June 30, 2011, and \$10,000.00 due July 30, 2011, August 30, 2011, and September 30, 2011. All rent payments hereunder shall be made payable to Lessor and delivered to the address herein specified for purposes of notices to Lessor, unless otherwise directed in writing by Lessor.

5. **JANITORIAL AND GROUNDS SERVICES.** Lessee shall be responsible for all janitorial grounds services to the Leased Premises.

6. **QUIET ENJOYMENT.** Upon paying the rents herein provided and upon observing and performing all of the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the Leased Premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under Lessor.

7. **REAL ESTATE TAXES.** Lessor shall pay all real property taxes which may be levied or assessed on the Leased Premises during the lease term.

8. **INSURANCE.**

- (a) At all times subsequent to the commencement date of the term of this Lease, and during its full term, the Lessee shall have responsibility for insuring Lessee's improvements and Lessee's contents within the Leased Premises, at the Lessee's cost and expense. The Lessee shall obtain fire and extended coverage in such amount as the Lessor deems appropriate. In addition, Lessee shall during the term of this Lease or any extended period keep in full force and effect a policy of public liability insurance and property damage insurance with respect to the Leased Premises and the business operated thereon by Lessee in the minimum amount of \$1,000,000.00 per person/accident for public liability and in the minimum amount of \$300,000.00 for property damage liability. The policy or policies of insurance shall name Lessor and Lessee as named insureds thereunder, and such policy or policies of insurance shall contain a clause that the insurer will not cancel or change the insurance coverage without first giving the Lessor thirty (30) days prior written notice. The insurance shall be placed with a company licensed to do business in the State of North Carolina with at least an A rating by a recognized insurance rating service, and Lessee shall provide Lessor with a copy or memorandum of such insurance coverage upon request by Lessor.
- (b) Lessee further shall, at its expense, take out and maintain at all times all necessary workman's compensation insurance covering all persons employed by Lessee in and about the Leased Premises.

- (c) Lessee shall furnish Lessor a bond to ensure the full and faithful performance of Lessee's obligation under this lease in the amount of \$150,000.

9. USE OF PREMISES. Lessee may use the Leased Premises for operating water sports activities which include, but are not limited to the following: parasailing, jet boat dolphin tours, kayak rentals, guided kayak tours, jet ski rentals, jet ski tours, kite boarding, wind surfing, and retail sales (including, but not limited to: beach towels, t-shirts, sunscreen, and cameras).

10. UTILITIES. The Lessor shall not be required to furnish any utility service to the Leased Premises, including but not limited to telephone, heat and power. The Lessee shall pay all charges for utilities. The utilities which the Lessee shall be responsible for include but are not limited to electricity, cable TV, heat, power and telephone or other communication services used, rendered or supplied upon or in connection with the Leased Premises, and shall indemnify the Lessor against any liability or damages on such account. The Lessor shall not be liable for any failure of water supply, of electric current, or any service by any utility, or injury to person or damage to property resulting from steam, gas, electricity, water, rain or snow which may flow or leak from any part of the Leased Premises, or from any pipes, appliances or plumbing works.

11. MAINTENANCE OF LEASED PREMISES. Lessee shall at all times keep all exterior entrances, all glass and show window moldings, all partitions, doors, fixtures, equipment, lighting, plumbing, HVAC and other appurtenances thereto in good order, condition and repair, including replacement when necessary and reasonable periodic painting of the interior of the Leased Premises. Structural repair and maintenance to the exterior of the Leased Premises shall be performed by Lessee. Lessor shall be responsible for ensuring that the walks and decks appurtenant to the Leased Premises and any doorways, front or rear, are kept free of debris, snow or ice. Lessee shall keep the grounds mowed and trimmed and otherwise under proper repair and safe condition.

Lessor shall keep the foundation, the outer walls and the roof of the Leased Premises of which the Leased Premises are a part in good repair and maintenance, except when such repair or maintenance is necessitated by the negligence of Lessee, its agent, customers or employees.

The Lessee shall not cause or permit any waste, damage or injury to the Leased Premises.

All electrical equipment must be in safe and workable condition.

12. ALTERATIONS. Lessee shall make no alterations to the interior or exterior of the Leased Premises without the prior written consent of the Lessor.

13. **FIXTURES.** Lessee shall have the right to install in the Leased Premises any fixtures or equipment deemed necessary by Lessee for the conduct of Lessee's business. However, all fixtures installed by Lessee shall become part of the Leased Premises and shall remain with the property upon the termination of this Lease, it being understood that all such fixtures shall become the property of Lessor upon the termination of said Lease Agreement. Lessor shall have the option of requiring Lessee to remove any of the fixtures so installed, in which event Lessee shall be responsible for the cost of repairing any damage caused by such removal. Fixtures are defined as objects which are affixed or attached as a permanent appendage or as a structural part of the Leased Premises. All personal property of the Lessee shall remain with the Lessee if the Lease is terminated.

14. **DESTRUCTION OR DAMAGE TO LEASED PREMISES.** If any part or all of the Leased Premises is damaged or destroyed by fire or other casualty insured under the standard fire insurance policy with approved standard extended coverage endorsement applicable to the Leased Premises, the Lessor shall, except as otherwise provided herein, repair and rebuild such property with reasonable diligence. If such work requires Lessee to temporarily close its business to the public, the minimum rental shall be equitably adjusted for the duration of such repairs. Notwithstanding the above, if the Leased Premises is damaged by fire or other insured casualty due to Lessee's fault, or neglect, or the fault or neglect of its servants, employees, contractors, agents, visitors, or licensees, Lessor shall, without prejudice to Lessor's other rights and remedies, repair the damage, but there shall be no apportionment or abatement of any rent. Except to the extent provided for in this paragraph, neither the rent payable by Lessee nor any of its other obligations under any provisions of this Lease shall be affected by any damage to or destruction of the Leased Premises by any cause and Lessee hereby expressly waives all additional rights it may otherwise have under any law or statute.

15. **ASSIGNMENT AND SUBLETTING.** Except as otherwise allowed herein, Lessee shall not assign or sublet the Leased Premises, or permit any licensee or concessionaire therein without the prior written consent of the Lessor in each instance.

16. **SURRENDER OF PREMISES.** On the last day of the term of this Lease or the sooner termination thereof, Lessee shall peaceably surrender the Leased Premises in as good condition and repair as originally accepted by Lessee, fire and other unavoidable casualty and reasonable wear and tear excepted. Lessee shall surrender all keys for the Leased Premises to Lessor at the place then fixed for the payment of rent.

17. **DEFAULT OF LESSEE.** Each of the following events shall constitute a default or breach of this Lease by Lessee:

- (a) If Lessee shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy code, or shall voluntarily take advantage of any such act by answer or

otherwise, or shall make any assignment for the benefit of creditors; or

- (b) If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Lessee, or if a receiver or trustee shall be appointed for all or substantially all of the property of Lessee, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within ninety (90) days after such institution or appointment; or
- (c) If Lessee shall fail to pay Lessor any rent within ten (10) days after the same shall become due; or
- (d) If Lessee shall fail to perform or comply with any of the other agreements or covenants of this Lease and if such nonperformance shall continue for a period of thirty (30) days after notice thereof, or, if such performance cannot be reasonably had within thirty (30) day period, such party shall not in good faith have commenced performance within the thirty (30) day period and shall not diligently proceed to the completion of such performance.

18. REMEDIES OF LESSOR. Upon the occurrence of any default or breach of this lease by Lessee as herein provided and upon the expiration of the grace period herein set forth, Lessor, at the Lessor's option and without prejudice to any other remedy or right of action which Lessor may have by reason of such default or breach, may:

- (a) Terminate this Lease by giving seven (7) days written notice thereof to Lessee, and thereupon or at any time thereafter, re-enter the Leased Premises, or any part thereof, evict Lessee and take possession of said Leased Premises and all improvements thereon, without service of notice or resort to any legal processing, and may recover from Lessee all damages proximately resulting from such default, including the cost of recovering the Leased Premises and the worth of the balance of this Lease over the reasonable rental value of the Leased Premises for the remainder of the lease term, which sum shall be immediately due to Lessor from Lessee; or
- (b) Bring any action for possession of the Leased Premises, or any part thereof, as provided by law, and recover from Lessee all damages proximately resulting from the default as set forth in subparagraph (a) above; or,
- (c) In lieu of the above, or in conjunction therewith, pursue any other lawful right or remedy incident to this relationship created by this Lease, including re-entry and re-letting of the Leased Premises without termination of this Lease, and recovery of all expenses of re-letting, all reasonable expenses incurred in the alteration and repair of the Leased Premises and the differences between the rent received by

Lessor under the new lease agreement and the rent installments that are due for the same period under this lease, which sum shall be immediately due to Lessor from Lessee.

19. EMINENT DOMAIN. If the whole or any part of the Leased Premises, including the parking area, shall be appropriated and taken by virtue of any condemnation or eminent domain proceeding for any public or quasi-public use or purpose so as to render the Leased Premises untenable for the uses and purposes contemplated by Lessee, then Lessee, at Lessee's option, may terminate this Lease. All damages awarded for the acquisition or condemnation of the Leased Premises, or any part thereof, shall be the sole and absolute property of Lessor, regardless of whether such damages are awarded as compensation for the diminution in the value of the leasehold or the loss of the fee. Any damages awarded for the taking of leasehold improvements, trade fixtures or equipment belonging to Lessee shall be the property of Lessee.

20. NOTICES. All notices required to be given under this lease shall be sent by registered or certified mail, return receipt requested, and sent to the parties at the following addresses unless a different address is designated in writing by such party:

TO LESSOR: **Town of Nags Head**
 c/o Cliff Ogburn
 P.O. Box 99
 Nags Head, North Carolina 27959

cc: **John D. Leidy, Esquire**
 Hornthal, Riley, Ellis & Maland, LLP
 P. O. Box 220
 Elizabeth City, North Carolina 27907-0220

Dare County Tourism Board
 c/o Carolyn McCormick
 One Visitors Center Circle
 Manteo, North Carolina 27954

cc: **W. Jay Wheless, Esquire**
 Wheless & Wheless, PLLC
 P.O. Box 500
 Manteo, North Carolina 27954

TO LESSEE: **South East Parasail, Inc., a North Carolina corporation**
 c/o Austin R. Meredith, Registered Agent
 P. O. Box 243
 Nags Head, North Carolina 27959

21. LITIGATION EXPENSE AND ATTORNEY FEES. If any action at law or in equity shall be brought to recover any rent under this Lease, or for or on account of any breach of this Lease, or to enforce or interpret any of the covenants, terms or conditions of this Lease, or for the recovery of the possession of the Leased Premises, the prevailing party shall be

entitled to recover from the other party all costs and expenses incurred by such prevailing party in such litigation, including reasonable attorney fees, the amount of which shall be fixed by the court and shall be made a part of any judgment or decree rendered.

22. MISCELLANEOUS PROVISIONS. The following provisions shall be applicable to this Lease:

- (a) No payment by Lessee or receipt by Lessor of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than an account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed in accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rent or pursue any other remedy in this Lease provided.
- (b) This lease and the Exhibit(s), if any, attached hereto and forming part hereof, set forth all the covenants, promises, agreements, conditions and understandings between Lessor and Lessee concerning the Leased Premises and there are no covenants, promises, agreements, conditions or understandings, whether oral or written, between them other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.
- (c) Lessor is not in any way or for any purpose a partner of Lessee in connection with its business or otherwise, or a joint venturer or a member of a joint enterprise with Lessee.
- (d) If any term, covenant or condition of this Lease or the application thereof shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition other than those which have been held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.
- (e) This agreement and the covenants and conditions herein contained shall inure to the benefit of, and be binding upon, Lessor, its successors and assigns, and shall be binding upon Lessee and any of its successors and assigns to whom the assignment by Lessee as been consented to by Lessor.
- (f) This Lease shall be construed and interpreted under the laws of the State of North Carolina.
- (g) Town of Nags Head currently has a loan with Branch Banking & Trust Company ("BB&T"), which is secured by the Leased Premises and other property. The loan documents require that

BB&T consent and approve of any leases in regards to the property. Therefore, BB&T has joined in this Lease to consent and approve of the terms.

IN WITNESS WHEREOF, this lease has been duly executed by the Parties hereto, in duplicate originals, as of the day and year first above written.

[SIGNATURES ON FOLLOWING PAGES]

LESSOR:

Dare County Tourism Board, a public authority

By: M. Renee Cahoon
M. Renee Cahoon, Chair

The Town of Nags Head, a municipal corporation

By: Charlie L. Cameron
Charlie Cameron, Town Manager

LESSEE:

South East Parasail, Inc., a North Carolina corporation

By: Austin R. Meredith
Austin R. Meredith, President

LESSOR:

Approved and Consented to by: Outer Banks Visitors Bureau, Carolyn McCormick,
By: Carolyn McCormick Managing Director

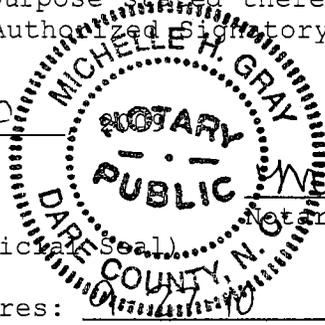
Branch Banking & Trust Company, a banking corporation

By: _____
_____, Vice President

State of North Carolina, County of Dare

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **M. Renee Cahoon, Authorized Signatory of Dare County Tourism Board, a public authority.**

Date: March 27th



Michelle H. Gray
Notary Public -

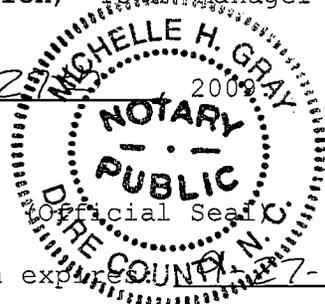
(Official Seal)

My commission expires: _____

State of North Carolina, County of Dare

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Charlie Cameron, Town Manager of Town of Nags Head, a municipal corporation.**

Date: March 27, 2009
My commission expires: 2-7-10

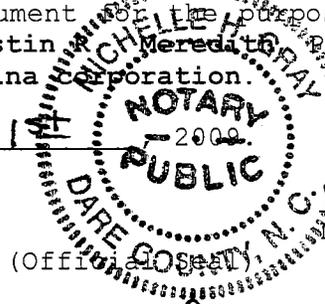


Michelle H Gray
Notary Public -

State of North Carolina, County of Dare

I certify that the following person personally appeared before me this day, acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Austin Meredith, President of South East Parasail, Inc., a North Carolina Corporation.**

Date: March 31, 2009
My commission expires: 9-27-10



Michelle H Gray
Notary Public -

State of _____, County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____, Vice President of **Branch Banking & Trust Company, a banking corporation.**

Date: March _____, 2009.

Notary Public -

(Official Seal)

My commission expires: _____

State of North Carolina, County of Dare

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Carolyn McCormick, Managing Director and Authorized Signatory of Outer Banks Visitors Bureau.**

Date: March 31st, 2009.

Amy S. Wood
Notary Public



My commission expires

02/12/2014

LESSOR:

Dare County Tourism Board, a public authority

By: _____
M. Renee Cahoon, Chair

The Town of Nags Head, a municipal corporation

By: _____
Charlie Cameron, Town Manager

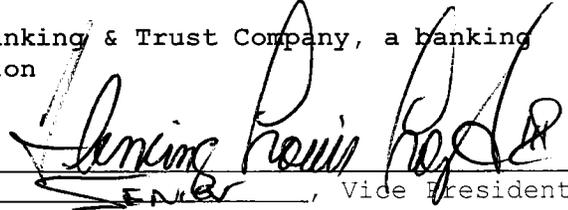
LESSEE:

South East Parasail, Inc., a North Carolina corporation

By: _____
Austin R. Meredith, President

Approved and Consented to by:

Branch Banking & Trust Company, a banking corporation

By: _____
 Jennifer Lewis, Vice President

State of _____, County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **M. Renee Cahoon, Authorized Signatory of Dare County Tourism Board, a public authority.**

Date: March _____, 2009.

Notary Public -

(Official Seal)

My commission expires: _____

State of _____, County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Charlie Cameron**, Town Manager of **Town of Nags Head**, a municipal corporation.

Date: March _____, 2009.

Notary Public -

(Official Seal)

My commission expires: _____

State of _____, County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Austin R. Meredith**, President of **South East Parasail, Inc.**, a North Carolina corporation.

Date: March _____, 2009.

Notary Public -

(Official Seal)

My commission expires: _____

State of North Carolina, County of Mecklenburg

I certify that the following person personally appeared before me this day, acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Senior, Vice President of **Branch Banking & Trust Company**, a banking corporation.

Date: March 27, 2009.

Maun Gansel Coley

Notary Public -

(Official Seal)

My commission expires: May 8, 2009



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PENNSYLVANIA, N. J.

EXHIBIT

 A

