

FEDERAL MARITIME COMMISSION
OFFICE OF THE SECRETARY
WASHINGTON, DC 20543

FMC Agreement No. 201111-002
SECOND AMENDMENT TO

DAILY PASSENGER CRUISE WHARFAGE AGREEMENT

BETWEEN

BROWARD COUNTY

AND

SEAESCAPE ENTERTAINMENT, INC.



SECOND AMENDMENT TO
DAILY PASSENGER CRUISE WHARFAGE AGREEMENT
BETWEEN
BROWARD COUNTY
AND
SEAESCAPE ENTERTAINMENT, INC.,

This Second Amendment to Daily Passenger Cruise Wharfage Agreement made and entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "COUNTY", through its Board of County Commissioners, and SEAESCAPE ENTERTAINMENT, INC., a Florida corporation, hereinafter referred to as "SEAESCAPE."

WITNESSETH:

WHEREAS, COUNTY and SEAESCAPE entered into a Daily Passenger Cruise Wharfage Agreement dated October 3, 2000 and First Amendment to Agreement dated November 4, 2003, hereinafter referred to as ("Agreement"); and

WHEREAS, the parties hereto desire to effectuate additional changes to the Agreement and provide for payment by SEAESCAPE of its outstanding Passenger Wharfage Shortfall payment to COUNTY for Contract Year Four, as provided herein;

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments herein set forth, the parties hereto agree to amend the Agreement as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Section 1, entitled DEFINITIONS, is hereby amended to read as follows:

...

B. "Annual Minimum Guaranteed Payment" – means a payment relating to annual minimum dockage guarantee.

...

3. Section 2, entitled SERVICES TO BE PROVIDED BY SEAESCAPE, is hereby amended to read as follows:

SEAESCAPE agrees to conduct daily passenger cruise services (as defined in the "Tariff") pursuant to the terms and conditions provided herein from the Port, with a vessel operated for and marketed by SEAESCAPE. Such cruise services will be conducted in conformance with the following standards and characteristics consistent with those utilized in SEAESCAPE's current operations at the Port, to wit:

SEAESCAPE currently operates the vessel known as the M/V Island Adventure. Any substitute vessel(s) must have similar or lesser physical characteristics as the M/V Island Adventure with respect to overall length. In no event shall a substitute vessel for the M/V Island Adventure exceed 520 feet in length unless SEAESCAPE and the Port Department agree otherwise. Prior written approval from the Port Department is required before a substitute vessel for the M/V Island Adventure is deployed at the Port, which approval shall not be unreasonably withheld.

SEAESCAPE shall adhere to the sailing schedule attached hereto as Exhibit "A," and made a part hereof. Notice of any proposed changes to said sailing schedule made by SEAESCAPE shall be provided in writing to the Port Department within fourteen (14) calendar days prior to such proposed changes being implemented. Port Department, in order to facilitate navigation and commerce at the Port, reserves the right to reject

SEAESCAPE's proposed sailing schedule changes and require SEAESCAPE to adhere to the sailing schedule attached hereto as Exhibit "A." Any proposed changes to the sailing schedule which are accepted by the Port Department shall be made a part of Exhibit "A" by an amendment to same which the Port Department is authorized to effectuate.

4. Section 4, entitled FACILITIES, is hereby amended to read as follows:

A. COUNTY shall maintain and provide SEAESCAPE, for the operation of its daily passenger cruise services, as contemplated by the terms of this Agreement, berthing and related terminal facilities for a vessel as described in Section 2 hereinabove, which the Port Department deems necessary in order to facilitate navigation and commerce, and protect vessels and property at Port Everglades. Notwithstanding, the Port Department shall have the right over the Term of this Agreement, to: a) assign other Port users such berthing and related terminal facilities as it deems necessary to support and facilitate navigation and commerce, which may include berthing and related terminal facilities which are utilized by SEAESCAPE in the conduct of its daily cruise services and b) re-assign SEAESCAPE a berth and related terminal facilities within Port Everglades in order to maintain its ability to support and facilitate navigation and commerce, and protect vessels and property at Port Everglades. In the event the Port Department, in order to maintain its ability to support and facilitate navigation, commerce, and protect vessels and property at Port Everglades, requires re-assignment to SEAESCAPE of an alternate berth and terminal facility for its operations, Port Department shall provide SEAESCAPE, except in emergency situations as determined by the Port Department, with sixty (60) calendar days prior written notice of its intention to make such a re-assignment.

SEAESCAPE shall bear all costs and expenses incurred by it in connection with a berth re-assignment, including, but not limited to, costs and expenses incurred by SEAESCAPE arising out of its vessel sharing a berth with another vessel at Port Everglades. Such notice shall include the length of time of the re-assignment i.e., thirty consecutive days or greater. The Port Department reserves the right to require SEAESCAPE to cancel a scheduled sailing(s) due to the non-availability of a berth at Port Everglades. Notwithstanding the foregoing, it is the intent and understanding of the parties that Port Department will only cancel SEAESCAPE's use of Port Everglades in order to accommodate port calls by multi-day cruise vessels which are greater in overall length than the multi-day cruise vessels currently operating in adjacent berths at Port Everglades and are not presently expected to schedule visits to Port Everglades before the 2008-2009 season, and that even then, a cancellation of a SEAESCAPE scheduled sailing(s) will not be undertaken before all alternative berth possibilities and other operational alternatives reasonably calculated to provide SEAESCAPE a suitable berth and terminal facility on the subject day or days have been exhausted including, if feasible in the reasonable opinion of Port Department and, if acceptable to SEAESCAPE, a shift in the time of the morning departure of the SEAESCAPE vessel and the time of entry into the Port of such multi-day cruise vessel(s). SEAESCAPE's AMGD requirement would be reduced only in such instances where the number of Port Department canceled sailing(s) would cause SEAESCAPE to fall below the Tariff threshold requirement for the number of vessel sailings needed to qualify as a daily cruise operator. Only in such an event (i.e., falling below Tariff threshold requirement) would SEAESCAPE be credited towards its

AMGD in the applicable Contract Year on the basis of the number of Port Department canceled sailing(s), i.e. dockage charges for each canceled cruise(s).

Furthermore, the passenger berths and the related port and terminal facilities shall be maintained by the COUNTY. COUNTY shall observe and obey, and require its employees, guests, invitees and those doing business with it, to observe and obey, all applicable laws, regulations, rules and other legal requirements including, without limitation, the Americans with Disabilities Act.

5. Section 5, entitled PASSENGER WHARFAGE RATE is hereby amended to read as follows: During the Term of this Agreement, SEAESCAPE shall pay to COUNTY daily passenger wharfage charges (per each passenger move) at published Tariff rates.

NOTE: Passenger move means a person embarking/disembarking or in transit on a SEAESCAPE vessel

6. Section 6, entitled PORT CHARGES is hereby amended to read as follows:

A. ANNUAL MINIMUM GUARANTEE OF DOCKAGE. Commencing with the start of Contract Year Six, over the remaining Term of this Agreement, SEAESCAPE shall pay to COUNTY for the SEAESCAPE vessel, an Annual Minimum Guarantee of Dockage ("AMGD") for each Contract Year based upon the minimum number of vessel sailings SEAESCAPE is required to make as a "daily operator" as defined in the Tariff. SEAESCAPE's AMGD for each succeeding Contract Year over the Term hereof, shall be calculated by COUNTY, using the applicable Tariff Dockage Rate for daily cruise vessels in effect at the conclusion of the prior Contract Year. SEAESCAPE's applicable Contract Year AMGD, shall be based upon the size of the vessel being utilized in SEAESCAPE's

and shall be applied uniformly to all similarly situated Port users. SEAESCAPE shall be obligated; (i) to observe and obey, and to require its employees, guests, invitees and those doing business with it, to observe and obey such reasonable rules and regulations of Broward County (including amendments and supplements thereto) governing the conduct and operations of SEAESCAPE as may from time to time be promulgated; (ii) to pay all license and permit fees and charges for the conduct of its business before such amounts become delinquent; and (iii) subject to COUNTY's obligations under Section Four herein, to maintain COUNTY property in a clean, orderly and safe condition so as to avoid injury to persons and property.

9. Section 10, entitled NOTICES, is hereby amended to read as follows:

Any notices required by this Agreement or by law shall be given in writing and shall be sent by registered or certified mail by depositing the same in the United States Mail in the continental United States, postage prepaid, or by hand delivery or by overnight courier. Any such notice mailed as provided hereunder shall be deemed effective and served as of the date of the mailing. Any notice given by hand delivery or overnight courier shall be deemed to have been given upon receipt. Either Party shall have the right, by giving written notice to the other, to change the address to which its notices are to be received. Until any such change is made, notices shall be delivered as follows:

COUNTY

Port Director
Port Everglades Department
1850 Eller Drive
Fort Lauderdale, FL 33316

SEAESCAPE

SeaEscape Entertainment, Inc.
Attn: Dean Hofmeister, CEO, Chair
3045 N Federal Hwy, #7
Fort Lauderdale, FL 33306

Bernie Friedman, Esquire
Becker & Poliakoff, P.A.
3111 Stirling Road
Fort Lauderdale, Florida 33312

10. Section 11, entitled METHOD OF PAYMENT; INTEREST; LATE CHARGES AND TARIFF REMEDIES, is hereby amended to read as follows:

Any notices required by this Agreement or by law shall be given in writing as provided herein. SEAESCAPE shall pay COUNTY invoices and such payments required and governed by this Agreement and by the Tariff pursuant to the payment procedures established by the COUNTY's Port Department's Finance Division. In the event SEAESCAPE's account should become delinquent, SEAESCAPE shall be subject to the COUNTY's collection and enforcement remedies as provided in the Tariff as it may be revised or amended from time to time. No acceptance by COUNTY of payments in whole or in part for any period or periods after a default by SEAESCAPE of any of the terms, covenants, and conditions hereof shall be deemed a waiver of any right on the part of COUNTY to terminate this Agreement. All payments required to be made hereunder shall be made payable to BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS, and shall be paid to: Port Everglades, Attn: Finance Division, 1850 Eller Drive, Fort Lauderdale, FL 33316, or to such other office or address as may be substituted therefor.

SEAESCAPE shall pay COUNTY, the required AMGD and all other COUNTY charges over the Term of this Agreement as follows:

(i) an amount equal to three (3) weeks of AMGD for the Contract Year commencing October 1, 2005, shall be paid immediately upon COUNTY's execution of this Second Amendment to Agreement; and

(ii) all other COUNTY charges for services and facilities provided to SEAESCAPE (including AMGD for each Contract Year over the Term hereof) by COUNTY, shall be paid in advance, weekly, pursuant to the payment procedures promulgated by COUNTY's Port Department's Finance Division.

11. Section 13, entitled VEHICULAR PARKING FACILITIES RATES AND USE, is hereby amended to read as follows:

Parking rates for all daily cruise ship passengers shall be in accordance with the Tariff. All available parking spaces shall be subject to reasonable rules and regulations imposed by COUNTY. SEAESCAPE and the passengers of the SEAESCAPE vessel shall continue to have access to parking facilities consistent with the practices employed in the current operations at the Port. Notwithstanding, the Port Department reserves the right over the Term of this Agreement, to require SEAESCAPE's daily cruise passenger parking and/or daily cruise passenger ticketing operations to take place outside the Port Jurisdictional Area.

The Port Department shall provide SEAESCAPE with sixty (60) calendar days prior written notice or such other notice as necessitated by directives the Port Department receives from federal, state and/or local agencies having jurisdiction over SEAESCAPE's daily cruise operations at Port Everglades, of its requirement to have SEAESCAPE conduct its daily cruise passenger parking and/or daily cruise passenger ticketing operations outside the Port Jurisdictional Area. SEAESCAPE shall be responsible for all costs and expenses which it incurs as a result thereof, including, but not limited to, costs and expenses arising out of SEAESCAPE's provision of daily cruise passenger

transportation to and from the new location(s) and passenger ticketing operations conducted outside the Port Jurisdictional Area.

SEAESCAPE shall have the right to cancel this Agreement (without penalty) by giving COUNTY written notice of its intent to terminate within one-hundred twenty (120) calendar days of when SEAESCAPE shall have received from Port Department written notification of its requirement to have SEAESCAPE conduct its daily cruise passenger parking and/or daily cruise passenger ticketing operations outside the Port Jurisdictional Area. Failure by SEAESCAPE to provide the Port Department with the termination notice as provided hereinabove shall constitute a waiver of SEAESCAPE's right to terminate this Agreement under the terms of this Section.

12. Section 17, entitled INDEMNIFICATION OF COUNTY, is hereby amended to read as follows:

SEAESCAPE shall at all times hereafter, and except for any negligent act of COUNTY or its employees, indemnify, hold harmless and at County Attorney's option, defend or pay for an attorney selected by County Attorney and consented to by SEAESCAPE as provided for herein, to defend COUNTY, its officers, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by negligent act or omission of SEAESCAPE or its employees, agents, servants, or officers, or, accruing, resulting from, or related to the subject matter of this Agreement, or arising from an intentional or negligent act or omission of SEAESCAPE including, without limitation, any and all claims, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property.

SEAESCAPE shall have the right to consent to the selection of indemnification counsel, which consent shall not be unreasonably withheld, from a list of existing special counsel approved by the County Attorney's office or the services of the County Attorney. SEAESCAPE shall be required to respond to any request for selection of indemnification counsel within three (3) business days from the date of notification of suit. Failure to timely respond by SEAESCAPE shall constitute a waiver of its right to a consent. Other indemnification counsel not on the existing list of special counsel approved by the County Attorney may be considered upon the mutual agreement of the parties. SEAESCAPE shall have the right to provide input and recommendations to indemnification counsel on any matter relating to the litigation including any proposed settlement. COUNTY agrees to provide SEAESCAPE with prompt notice of any claim, demand or cause of action and will cooperate with SEAESCAPE as indemnification counsel may reasonably request.

The provisions of this section shall survive the expiration or earlier termination of this Agreement until the expiration of any applicable Statute of Limitations for any such claim, demand, cause of action or proceeding of any kind.

13. Section 19, entitled LICENSE; PERMITS; TAXES, is hereby amended to read as follows:

A. SEAESCAPE agrees to obtain and keep in full force and effect all licenses, permits, and authorizations required by any governmental authority, body, or agency having jurisdiction or regulatory power over the vessels operated for and marketed by SEAESCAPE that are subject to the provisions of this Agreement.

B. SEAESCAPE agrees to pay any and all taxes that may be levied on rights or interests granted to it hereunder and tangible personal property situated on COUNTY

owned land(s) subject to taxation and intangible personal property subject to taxation in Broward County, Florida.

C. The provisions of this Section 19 shall survive termination or expiration of this Agreement.

14. Section 29, entitled INSURANCE, is hereby amended to read as follows:

SEAESCAPE, for its own vessel operations, shall provide at its own expense and keep in continuous force and effect, Protection and Indemnity insurance to include such coverages with a minimum limit of Ten Million Dollars (\$10,000,000) and be placed with such insurers as is customary for luxury cruise ship operators; (ii) with respect to the passenger cruise activities of SEAESCAPE for its vessel operations and its respective employees, contractors, agents, customers and guests in and around the Port, Comprehensive General or Commercial Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence for personal injuries and property damage liability, including for premises/operations and independent contractors; (iii) Business Automobile Liability in the minimum amount of Five Hundred Thousand Dollars (\$500,000) per occurrence bodily injury and property damage liability for all owned, non-owned and hired autos operating in or out of the Port; and (iv) Worker's Compensation insurance in an amount not less than One Hundred Thousand Dollars (\$100,000) for each accident in compliance with Florida Statutes Chapter 440, and including United States Longshore and Harbor Workers Compensation Act, Jones Act and coverages, and Maritime Coverages Endorsement, as required by applicable federal and state laws.

The Comprehensive General or Commercial Liability policy must reflect Broward County as an additional insured and must provide for COUNTY to receive thirty (30) days

prior written notice of cancellation and/or restriction or material change. SEAESCAPE shall provide evidence of the required coverages herein, by presentation of certificates of Insurance prior to the execution of this Agreement. SEAESCAPE shall deliver to COUNTY certificates of insurance for renewal of expiring policies prior to expiration date thereof. All insurances specified above other than the Protection and Indemnity Insurance shall be written by companies authorized to do business in the State of Florida.

15. Section 30, entitled ENVIRONMENTAL IMPAIRMENT; CONTAINMENT AND REMOVAL, is hereby amended to read as follows:

A. SEAESCAPE acknowledges and agrees that COUNTY makes no representations or warranties whatsoever as to whether Pollutants (as hereinafter defined) exist on or in the cruise terminal facilities and adjacent dock area(s) in violation of any federal, state or local law, rule or regulation or in violation of any order or directive of any federal, state or local court or entity with jurisdiction of such matter. "Pollutants" refer to and include all derivatives or by-products of anyone or more of the following terms as defined by applicable local, state or federal laws or regulations: hazardous substances, hazardous materials, hazardous waste, toxic substances, toxic pollutants; or such other pollutants, contaminants, substances, materials and wastes as are or become regulated under applicable local, state or federal laws or regulations. COUNTY shall be responsible for any contamination or Pollutants caused by COUNTY.

B. The discharge of any Pollutants in the Port in violation of any federal, state or local law, rule or regulation or in violation of an order or directive of any federal, state, or local court or entity is prohibited. Any such discharge by SEAESCAPE its officers, employees, contractors, subcontractors, invitees, or agents, whether committed prior to or

subsequent to the date of execution of this Agreement, shall be at SEAESCAPE's expense and, upon demand of COUNTY, immediately contained, removed and abated to the satisfaction of COUNTY and any court or regulatory entity having jurisdiction of the discharge. If SEAESCAPE does not take action immediately to have such Pollutants contained, removed and abated, COUNTY may undertake the removal of the discharge, however, any such action by COUNTY shall not relieve SEAESCAPE of its obligations under this or any other provision of this Agreement or as imposed by law. No action taken by either SEAESCAPE or COUNTY to contain or remove Pollutants, or to abate a discharge, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its discharge.

C. If COUNTY arranges for the removal of any Pollutants in the Port that were caused by SEAESCAPE, its officers, employees, contractors, subcontractors, invitees, or agents, the costs of such removal incurred by COUNTY shall be paid by SEAESCAPE to COUNTY immediately upon COUNTY's written demand, with interest as is provided for under COUNTY's rules, regulations and ordinances, including its published Tariff, amendments thereto and reissues thereof.

D. The provisions of this Section 30 shall survive the expiration or termination of this Agreement.

16. Section 32, entitled RELATIONSHIP OF PARTIES/NO THIRD PARTY BENEFICIARIES, is hereby amended to read as follows:

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint

venturers, or any other similar such relationship between the parties hereto. It is understood and agreed that neither the method of computation of fees, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of COUNTY and SEAESCAPE.

SEAESCAPE is an independent contractor under this Agreement. Services provided by SEAESCAPE shall be subject to the supervision of SEAESCAPE. In providing any services, SEAESCAPE, and its respective, agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the COUNTY. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity, other than the rights, duties and obligations conferred upon the parties under this Agreement. Therefore, the parties agree that, other than the rights, duties and obligations conferred upon COUNTY and SEAESCAPE, there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

17. Section 36, entitled PORT SECURITY, is hereby amended to read as follows:

SEAESCAPE shall be responsible for compliance with federal, state and local laws and regulations, and such laws and regulations as may be imposed from time-to-time by the U.S. Coast Guard, U.S. Customs Service or other federal agencies, and by COUNTY, with respect to passenger security, drug interdiction, and other import and export controls.

Further, SEAESCAPE acknowledges that COUNTY has the right to assess against and collect a Port Everglades Security Fee from all its Port users, including SEAESCAPE in order to fulfill its responsibilities for security, including, but not limited to, responsibilities mandated under the Federal Maritime Transportation Security Act of 2002 and applicable

Florida laws. Such Port Everglades Security Fee shall be published by COUNTY in its Tariff.

18. Section 39, entitled SECURITY DEPOSIT, is hereby amended to read as follows:

A. SEAESCAPE shall provide COUNTY with a Ninety-three Thousand Six Hundred Ten Dollars (\$93,610.00) irrevocable letter of credit, in a form approved by COUNTY's Port Director or said amount in cash ("Security Deposit") on the date of COUNTY's execution of this Second Amendment to Agreement.

B. ADJUSTMENT TO THE AMOUNT OF SECURITY DEPOSIT

COUNTY shall have the right to use the Security Deposit as a guarantee of SEAESCAPE's payment and performance obligations pursuant to the terms and conditions of this Agreement including, but not limited to, AMGD, Tariff charges, cargo fees and property damage, and the Security Deposit shall be used to reimburse COUNTY for any sums, costs and/or expenses which COUNTY elects, in its sole discretion, to pay on SEAESCAPE's behalf in the event SEAESCAPE fails to make payments of any sums, costs and/or expenses required to be made hereunder. All or any part of the Security Deposit applied by COUNTY under this Section shall be repaid by SEAESCAPE within fifteen (15) calendar days after written demand therefor is sent so that the Security Deposit is maintained at its original agreed amount provided in Subsection (A) hereinabove or such adjusted amount as required by the terms of this Agreement. All amounts not paid within said time frame shall accrue interest and late charges as provided in the Tariff, all amendments and reissues thereof. Failure by SEAESCAPE to repay under this Subsection shall constitute an event of Default under Section 20 herein.

Within thirty (30) calendar days of the beginning of each Contract Year over the Term hereof, COUNTY shall adjust (either up or down) the required amount of SEAESCAPE's Security Deposit, so the Security Deposit is maintained at an amount equal to twenty-five percent (25%) of the total sum of SEAESCAPE's then current Contract Year's AMGD.

19. Section 40, entitled PAYMENT OF SHORTFALL ANNUAL MINIMUM GUARANTEE OF PASSENGER WHARFAGE (AMG) FOR CONTRACT YEAR FOUR, is hereby created to read as follows:

A. The parties acknowledge that there was a dispute regarding the payment of the shortfall in the annual minimum guarantee of wharfage (AMG) for Contract Year Four, in the amount of \$210,857.85, plus accrued finance charges (the "AMG Shortfall"). Notwithstanding this dispute, SEAESCAPE agrees to pay COUNTY the AMG Shortfall.

B. SEAESCAPE shall pay the AMG Shortfall, as follows:

(i) SEAESCAPE hereby instructs the COUNTY to immediately apply the sum of \$156,390 from the existing \$250,000 cash Security Deposit currently held by COUNTY to satisfy a portion of the AMG Shortfall; and

(ii) COUNTY will retain the remaining \$93,610 of the cash Security Deposit on account, which \$93,610 shall then satisfy SEAESCAPE's Security Deposit requirement pursuant and subject to the terms and conditions of this Second Amendment to Agreement; and

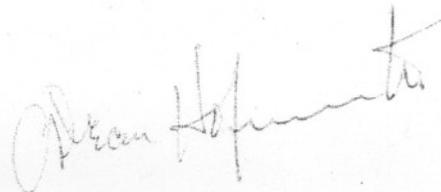
(iii) SEAESCAPE will pay COUNTY the remaining balance of the AMG Shortfall in the amount of \$ 54,467.85, plus accrued finance charges ("Outstanding Balance"), no later than March 31, 2006, and SEAESCAPE may pay all or any

portion of the Outstanding Balance due before March 31, 2006 (with interest accruing on any unpaid portion thereof). Failure by SEAESCAPE to pay COUNTY under this Subsection shall constitute an event of Default under Section 20 herein.

20. Section 41, entitled CREATION OF IRREVOCABLE TRUSTS, is hereby created to read as follows:

Promptly after the execution and delivery of this Second Amendment, SEAESCAPE will ensure that the stock beneficially owned by Mr. Douglas R. Baetz and Mr. Glenn M. Gallant will be deposited into trusts, and that the trusts will be irrevocable unless and until they are acquitted of felony charges; or their convictions are overturned; or any sentences that may be imposed against them have been served; or the trusts cease to own an interest in SEAESCAPE; or SEAESCAPE ceases doing business with COUNTY. Failure for this to have occurred within thirty (30) calendar days following the execution and delivery of this Second Amendment will constitute a breach of this Agreement.

Following the date of the entry of convictions against Mr. Douglas R. Baetz and Mr. Glenn M. Gallant, SEAESCAPE shall use its due diligence and reasonable efforts in having Mr. Douglas R. Baetz and Mr. Glenn M. Gallant divest their respective ownership interests in SEAESCAPE, within one (1) year following the date of the entry of convictions. SEAESCAPE shall provide a written quarterly report to the Port Director of its actions including, but not limited to, financial restructuring, the location and securing of successor guarantors, renegotiation of vendor obligations, the creation of stock transfer documents, as well as, all elements necessary for SEAESCAPE to effectuate the divestiture. Should the Port Director believe that SEAESCAPE is not moving forward in



IN WITNESS WHEREOF, the parties hereto have made and executed this Second Amendment to Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the 20th day of September, 2005, and SEASCAPE ENTERTAINMENT, INC., signing by and through its Chair/CEO, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By Kristin Jacobs
KRISTIN D. JACOBS, Mayor

27th day of September, 2005

[Signature]
COUNTY Administrator and
Ex-Officio Clerk of the Board of
County Commissioners of
Broward County, Florida



Approved as to form by
Office of County Attorney
Broward County, Florida
JEFFREY J. NEWTON, County Attorney
Broward County's Port Everglades Dept.
1850 Eller Drive, Suite 502
Fort Lauderdale, Florida 33316
Telephone: (954) 523-3404
Telecopier: (954) 523-2613

Reviewed and approved by

Parlene George 9/12/05
Risk Management Division

By [Signature]
Russell J. Morrison (9/19/2005)
Assistant County Attorney

RJM:wg
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SECOND AMENDMENT TO DAILY PASSENGER CRUISE WHARFAGE AGREEMENT
BETWEEN BROWARD COUNTY AND SEASCAPE ENTERTAINMENT, INC.

SEASCAPE ENTERTAINMENT, INC., a
Florida corporation,

ATTEST:

Judith Jones
Corporate Secretary

By C. Dean Hofmeister

(CORPORATE SEAL)

C. DEAN HOFMEISTER (ARMY/CEO)
(Print Name and Title)

8TH day SEPTEMBER, 2005.

Telephone: (954) 453-2210
Telecopier: (954) 453-6556

WITNESSES:

Cerley Rami
Signature

[Signature]
Signature

ACORD. CERTIFICATE OF LIABILITY INSURANCE		CSR CE SEAES-1	DATE (MM/DD/YYYY) 08/22/05
PRODUCER BROWN & BROWN INC 8000 GOVERNORS SQUARE BLVD 400 MIAMI LAKES FL 33016-1588 Phone: 305-364-7800 Fax: 305-822-5687	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.		
INSURED SEASCAPE ENTERTAINMENT INC 1260 E. OAKLAND PARK BLVD FT LAUDERDALE FL 33334	INSURERS AFFORDING COVERAGE	NAIC #	
	INSURER A: NATIONAL FIRE & MARINE INS CO		
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		

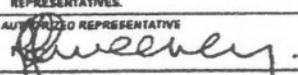
COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INER LTR	ADDT. INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	72LP156868	02/20/05	02/20/06	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ Included
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS 10TH-ED E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED WITH RESPECT TO GENERAL LIABILITY WHEN REQUIRED BY WRITTEN CONTRACT. *10 DAYS NOTICE OF CANCELLATION FOR NON-PAYMENT OF PREMIUM.

CERTIFICATE HOLDER BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS PORT EVERGLADES DEPARTMENT 1850 ELLER DRIVE FT LAUDERDALE FL 33316-4202	BROW316	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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Approved by:
 Risk Management
 Darlene S. George
 Date: 9/12/05

ACORD CERTIFICATE OF LIABILITY INSURANCE

CSR CE
BAYSI-1

DATE (MM/DD/YYYY)
08/18/05

PRODUCER

BROWN & BROWN INC
8000 GOVERNORS SQUARE BLVD 400
MIAMI LAKES FL 33016-1588
Phone: 305-364-7800 Fax: 305-822-5687

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURED

BAYSIDE INDUSTRIES INC
1260 E OAKLAND PARK BLVD
FT LAUDERDALE FL 33334

INSURER A **ZENITH INSURANCE CO**
INSURER B
INSURER C
INSURER D
INSURER E

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

RISK LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADY INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/PROP AGG \$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> Hired AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	2836485407	01/24/05	01/24/06	WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 500000 E.L. DISEASE - EA EMPLOYEE \$ 500000 E.L. DISEASE - POLICY LIMIT \$ 500000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 *10 DAYS NOTICE FOR NON PAYMENT OF PREMIUM.

CERTIFICATE HOLDER

BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS
PORT EVERGLADES DEPARTMENT
1850 ELLER DRIVE
FT LAUDERDALE FL 33316-4202

BROW316

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL **30*** DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

[Signature]

ACORD 25 (2001/08)

© ACORD CORPORATION 1988

Approved by:
Risk Management
Darlene S. George
Date: 9/12/05

ACORD. CERTIFICATE OF LIABILITY INSURANCE		CSR CE SEAES-1	DATE (MM/DD/YYYY) 08/22/05
PRODUCER BROWN & BROWN INC 8000 GOVERNORS SQUARE BLVD 400 MIAMI LAKES FL 33016-1588 Phone: 305-364-7800 Fax: 305-822-5687	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.		
INSURED SEAESCAPE ENTERTAINMENT INC 1260 E. OAKLAND PARK BLVD FT LAUDERDALE FL 33334	INSURERS AFFORDING COVERAGE	NAIC #	
	INSURER A NATIONAL FIRE & MARINE INS CO		
	INSURER B		
	INSURER C		
	INSURER D		
	INSURER E		

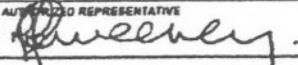
COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

RISK LTR	RISK INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	72LP156868	02/20/05	02/20/06	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (EA occurrence) \$ 50000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMF/CP AGG \$ Included
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

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CERTIFICATE HOLDER BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS PORT EVERGLADES DEPARTMENT 1850 ELLER DRIVE FT LAUDERDALE FL 33316-4202	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30*</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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Approved by:
 Risk Management
 Darlene S. George
 Date: 9/12/05

ACORD CERTIFICATE OF LIABILITY INSURANCE

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DATE (MM/DD/YYYY)
08/18/05

PRODUCER:
BROWN & BROWN INC
8000 GOVERNORS SQUARE BLVD 400
MIAMI LAKES FL 33016-1588
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INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: **ZENITH INSURANCE CO**
INSURER B:
INSURER C:
INSURER D:
INSURER E:

INSURED:
BAYSIDE INDUSTRIES INC
1260 E OAKLAND PARK BLVD
FT LAUDERDALE FL 33334

COVERAGES

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INSR	ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS								
			GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS COMP/OP AGG \$								
			AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$								
			GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$								
			EXCESS-UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$								
A			WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	2836485407	01/24/05	01/24/06	<table border="1"> <tr> <td>WC STATU-TORY LIMITS</td> <td>OT-HER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$ 500000</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$ 500000</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$ 500000</td> </tr> </table>	WC STATU-TORY LIMITS	OT-HER	E.L. EACH ACCIDENT	\$ 500000	E.L. DISEASE - EA EMPLOYEE	\$ 500000	E.L. DISEASE - POLICY LIMIT	\$ 500000
WC STATU-TORY LIMITS	OT-HER														
E.L. EACH ACCIDENT	\$ 500000														
E.L. DISEASE - EA EMPLOYEE	\$ 500000														
E.L. DISEASE - POLICY LIMIT	\$ 500000														
			OTHER												

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
***10 DAYS NOTICE FOR NON PAYMENT OF PREMIUM.**

CERTIFICATE HOLDER

CANCELLATION

BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS
 PORT EVERGLADES DEPARTMENT
 1850 ELLER DRIVE
 FT LAUDERDALE FL 33316-4202

BROW316

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

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Risk Management
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