

**SHOPPING CENTER LEASE**

**LANDLORD: CAPSTONE MCCANN, LLC,  
A FLORIDA LIMITED LIABILITY COMPANY**

**TENANT: ROUBEKAS ENTERPRISES LLC,  
A FLORIDA LIMITED LIABILITY COMPANY**

**PROPERTY ADDRESS: 3810 NEPTUNE AVENUE, SUITE B-4  
TAMPA, FLORIDA 33629**

**LANDLORD'S PROPERTY NO.: 5294-B109**

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### EXHIBIT DESCRIPTION

- "A" SITE MAP
- "B" BUILDING IMPROVEMENTS
- "D" RESTRICTED/PROHIBITED USES
- "E" SIGN CRITERIA
- "E-1" SIGNAGE
- "J" EQUIPMENT LIST
- "K" CONFIRMATION OF LEASE TERM
- "M" RULES AND REGULATIONS  
GUARANTY

ADDENDUM:      ARTICLES 32      THROUGH 37

## SHOPPING CENTER LEASE

THIS SHOPPING CENTER LEASE (hereinafter the "Lease") is dated, for reference purposes only, June 9, 2010, and is entered into by and between Capstone McCann, LLC, a Florida limited liability company (hereinafter "Landlord"), and Roubekas Enterprises LLC, a Florida limited liability company (hereinafter "Tenant"). Landlord leases to Tenant and Tenant leases from Landlord, upon the terms and on the conditions hereinafter set forth, the rental premises described below.

### **1. BASIC LEASE PROVISIONS.**

The following Basic Lease Provisions form an integral part of this Lease and are incorporated by reference into the balance of the Lease.

**1.1 Premises.** The premises is located in the City of Tampa, County of Hillsborough, State of Florida, and is commonly known as 3810 Neptune Avenue, Suite B-4, Tampa, Florida 33629 (hereinafter the "Premises").

**1.2 Lease Term.** The lease term (hereinafter "Lease Term") shall commence on the Commencement Date (as defined in Section 2.2) and shall expire sixty (60) months after the Rent Commencement Date (as defined in Section 2.2).

**1.3 Minimum Rent.** The initial Minimum Rent payable pursuant to Section 3.1 shall be the sum of Two Thousand Four Hundred Fifty-One and 42/100 Dollars (\$2,451.42) per month.

**1.4 Gross Sales Reporting.** Tenant shall report sales on a monthly basis pursuant to Section 3.2 of the Lease but shall make no Percentage Rent payments to Landlord ("Percentage Rent" otherwise being defined as a payment made to Landlord based on a percentage of the total sales made by Tenant from the Premises).

**1.5 Security Deposit.** Tenant has deposited with Landlord the sum of Four Thousand and 00/100 Dollars (\$4,000.00) as a Security Deposit pursuant to Article 5 hereof.

**1.6 Use.** Tenant shall use the Premises solely for the purpose of conducting therein the retail sale of juice smoothies and the incidental retail sale of bistro sandwiches, wraps, salads, soups, flatbreads, nutritional supplements, brewed drip coffee, and catering services and for no other purpose (hereinafter the Tenant's "Permitted Use").

**1.7 NNN Estimate.** Tenant's initial monthly estimated payment for Common Area Maintenance (hereinafter the "CAM Expenses"), Real Property Taxes, and Insurance (hereinafter collectively the "NNN Estimate") payable pursuant to Section 18.5 hereof shall be the sum of Eight Hundred Fifty-Six and 93/100 Dollars (\$856.93).

**1.8 Reserve.** Landlord may, in its sole discretion, elect to maintain a reserve fund (hereinafter, the "Reserve Fund") for the replacement of any improvements comprising the Areas (as hereinafter defined). In such event, and in addition to the NNN Estimate, Tenant shall pay, as Additional Rent, its proportionate share of the Reserve Fund, with such amount to be determined in the manner set forth in Section 18.1, below.

**1.9 Rent Sales Tax.** In addition to the other items of Additional Rent set forth elsewhere in this Lease, Tenant shall reimburse Landlord for any and all tax imposed upon Landlord as a result of this Lease (the "Rent Sales Tax"). As of the date of this Lease, the Rent Sales Tax is estimated to be Two Hundred Thirty-One and 58/100 Dollars (\$231.58) per month (7.00%) of the Rent initially payable under the Lease). This amount shall be subject to adjustment as the Rent is increased pursuant to the terms of this Lease, and as the Rent Sales Tax is increased or decreased.

### **1.10 Broker(s):**

#### Landlord's Broker(s):

Lisa McCaffrey  
Colliers Arnold  
4350 West Cypress Street, Suite 300  
Tampa, Florida 33607  
Phone: 813-221-2290/Fax: 813-598-0303

#### Tenant's Broker(s):

Brian Bern  
Franklin Street Management Services  
5420 Bay Center Drive, Suite 100  
Tampa, Florida 33609  
Phone: 813-658-3343/Fax: 813-583-3343

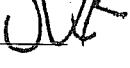
### **2. PREMISES/TERM.**

**2.1 Premises.** The Premises consists of approximately one thousand two hundred seventy-nine (1,279) square feet of space (where the area of such space is measured from the outside of all exterior walls and/or storefront glass surfaces and if there are any shared interior demising walls, then to the interior and mid-point of such walls) and is shown as the cross-hatched area on the site plan attached hereto as Exhibit "A" ("Site Plan") and made a part hereof. Landlord makes no representations or warranties concerning the accuracy or content of the Site Plan, and Tenant acknowledges and agrees that such Site Plan consists of an approximation of the present location and size of the Premises and the surrounding property, and Tenant further acknowledges that it has not relied on the Site Plan in making its decision to enter into this Lease. It is expressly understood that the Premises includes the roof and faces of exterior walls; however, the use of the foregoing for all purposes is expressly reserved to Landlord and its agents, licensees and other authorized or designated users. The square footage set forth above is an approximation which Landlord and Tenant agree is reasonable. In the event it is determined at any time that the square footage of the Premises is greater or less than the amount estimated, neither Landlord nor Tenant shall be entitled to any credit, reduction or reimbursement for or relating to any past, present or future Minimum Rent, and Landlord and Tenant shall equally bear the risk that the square footage is anything other than the amount estimated above. The Premises is located in or may be part of a multi-use shopping center (including a building or buildings) hereinafter referred to as the "Shopping Center." The entirety of the Shopping Center may or may not be owned by Landlord, and Landlord's interest in the Premises may be other than in fee simple ownership, but except as otherwise set forth in this Lease, the foregoing shall not affect Landlord's rights or Tenant's obligations hereunder.

### **2.2 Term.**

(a) The term of this Lease shall commence on the date hereinafter known as the Commencement Date, which Commencement Date shall be the date Landlord delivers possession of the Premises to Tenant. The Rent Commencement Date, as referenced in Section 1.2, above, and Section 3.1, below, shall be the Commencement Date.

(b) The term of the Lease shall be for a period of time equal to the Lease Term; provided however, that in the event the Rent Commencement Date falls on a date other than the first day of a month, the Lease Term hereof shall be extended to the last day of the month in which the Lease Term would otherwise expire. Notwithstanding the Commencement Date, the Lease is a binding agreement upon execution and delivery of this Lease by both Landlord and Tenant and all guarantors, if any (hereinafter the "Lease Effective Date"). Further, neither the Commencement Date nor the Rent Commencement Date shall be delayed nor shall the Lease Term be extended in the event that Tenant fails to timely deliver to Landlord proof, under Section 14.9(d), that Tenant has obtained all of the insurance required of it

Landlord's Initials 

Tenant's Initials 

under this Lease and in such event, the Commencement Date shall be such date as Landlord, in its sole discretion, determines that possession of the Premises would have been delivered but for Tenant's failure to comply with Section 14.9(d). Tenant, upon request of the Landlord, shall execute a confirmation of the term of the Lease in the form of Exhibit "K" ("Confirmation of Lease Term"). Failure to execute the Confirmation of Lease Term shall not prevent this Lease from commencing as set forth in Section 2.2(a), above, and expiring on the last day of the last month of the last year of the Lease Term.

### 2.3 Delay in Possession.

(a) **Delay in Delivery.** If for any reason Landlord cannot deliver possession of the Premises to Tenant, including, without limitation, Landlord's inability to remove the current tenant, if any, from possession of the Premises, Landlord shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder. However, in such event, Tenant shall not be obligated to pay Rent (as hereinafter defined) or perform any other obligation of Tenant under the terms of this Lease, except as may be otherwise provided in this Lease, until the time that Landlord delivers possession of the Premises to Tenant.

(b) **Right to Terminate.** In the event that Landlord has not delivered possession of the Premises to Tenant on or before the date that is twelve (12) months after the Lease Effective Date, then either Tenant or Landlord may terminate this Lease by giving written notice to the other party, which notice must be given no later than ten (10) days after the expiration of said twelve (12) month period in order for such termination to be effective. Such termination shall be subject to the following:

(1) In the event Landlord elects to so terminate the Lease, the Lease shall be deemed to be terminated on the date that the termination notice is received by Tenant and the parties shall have no further rights and/or obligations to each other except that Landlord shall return all funds deposited hereunder by Tenant within five (5) days after such termination is effective;

(2) In the event that Tenant elects to so terminate the Lease, the Lease shall be deemed to be terminated on the date thirty (30) days after the date that the termination notice is received by Landlord, provided Landlord has not delivered possession of the Premises within such thirty (30) day period (hereinafter the "Grace Period"). If possession is not delivered within the Grace Period, thereafter the parties shall have no further rights and/or obligations to each other except that Landlord shall return all funds deposited hereunder by Tenant within five (5) days after the expiration of the Grace Period.

(3) In the event that Tenant elects to so terminate the Lease, but Landlord delivers possession of the Premises within the Grace Period, then Tenant's notice of termination shall be deemed null and void as of the date possession of the Premises is delivered.

**2.4 Early Occupancy.** In the event Landlord permits Tenant to occupy the Premises before the Commencement Date, such occupancy shall be subject to all the provisions of this Lease, including, but not limited to, the provisions regarding the payment of Minimum Rent, construction, indemnity and liability insurance.

## 3. RENT.

### 3.1 Minimum Rent.

(a) Except as set forth in Section 4.1, below, commencing on the Rent Commencement Date and thereafter, Tenant shall pay to Landlord minimum rent (hereinafter the "Minimum Rent") in advance, on the first (1st) day of each succeeding calendar month in the initial sum as set forth in Section 1.3 of this Lease and as hereinafter adjusted, without notice or demand, deduction or offset. Should the Rent Commencement Date occur on a date other than the first day of a calendar month, Minimum Rent will be prorated for the period from the Rent Commencement Date to the first day of the next month. Said Minimum Rent shall be paid to Landlord in lawful money of the United States of America and at such place as Landlord may from time to time designate in writing. Upon Tenant's execution of this Lease, Tenant shall deliver to Landlord an amount equal to the total of: the first full month's installment of Minimum Rent (Section 1.3); the Security Deposit (Section 1.5); the first full month's NNN Estimate (Section 1.7); the first full month's Rent Sales Tax (Section 1.9); if applicable to this Lease, pole or monument sign rental; and all other sums required to be paid by Tenant pursuant to and upon execution of this Lease.

(b) The monthly Minimum Rent shall be as set forth below, with "Month 1" to commence on the Rent Commencement Date. The Minimum Rent shall be adjusted at the start of Month 13, which date shall hereinafter be referred to as the "First Adjustment Date", but if the First Adjustment Date does not fall on the first day of the month, then the increased rent for Month 13 shall take effect on the first day of the month following the month in which the First Adjustment Date occurs, and the date of each subsequent Minimum Rent increase shall be based on the date that the Minimum Rent for Month 13 went into effect. The Minimum Rent during the Lease Term shall be as follows:

Months 1 - 12:	\$2,451.42
Months 13 - 24:	\$2,558.00
Months 25 - 36:	\$2,664.58
Months 37 - 48:	\$2,744.52
Months 49 - 60:	\$2,826.86

### 3.2 Gross Sales Reporting.

(a) Within thirty (30) days after the end of each calendar month following the date Tenant opens for business at the Premises, Tenant shall furnish to Landlord a statement in writing, certified as true and correct under penalty of perjury by Tenant or a qualified accounting or bookkeeping representative of Tenant, showing the Gross Sales made in, upon, or from the Premises during the preceding calendar month (hereinafter, the "Gross Sales Report"). Further, and within thirty (30) days after the end of each calendar year of the Lease Term hereof, and within thirty (30) days after the date on which the Lease Term expires (hereinafter, the "Final Gross Sales Report"), Tenant shall furnish to Landlord a Gross Sales Report for the Gross Sales made during such calendar year, or, in the case of the Final Gross Sales Report, made for the period from January 1 of such calendar year through the date on which the Lease Term expires. Tenant agrees to pay Landlord, as Additional Rent, the sum of one hundred dollars (\$100.00) for each Gross Sales Report not timely submitted, but such fee for late reporting shall not relieve Tenant from reporting its Gross Sales.

(b) The term "Gross Sales" as used in this Lease shall include the entire gross receipts of every kind and nature from sales and services made in, upon, or from the Premises, whether upon credit or for cash, in every department operating in the Premises, whether operated by the Tenant or by a subtenant or subtenants, or by a concessionaire or concessionaires, and including all orders secured or received in the Premises by telephone, mail, house-to-house or other canvassing, lottery sales (including revenues and bonuses paid to Tenant), license fees, catalogue sales or by any other means by personnel operating from, reporting to, or under the supervision of any employee, agent, or representative located at or operating out of the Premises, or which Tenant in the normal and customary course of its operations would credit or attribute to its business in the Premises, whether or not such orders are filled elsewhere, excepting therefrom any rebates and/or refunds to customers and the amount of all sales tax receipts and other receipts which have to be accounted for and paid by Tenant to a governmental agency. Sales upon credit shall be deemed cash sales and shall be included in the Gross Sales for the period in which the merchandise is delivered to the customer, whether or not title to the merchandise passes with delivery.



Landlord's Initials



Tenant's Initials

(c) Tenant shall keep full, complete and proper books, records and accounts, including cash register printed receipts, of its daily Gross Sales, both for cash and credit, of each separate department and source of income operated at any time in the Premises. Landlord and its agents and employees shall have the right at all times, during regular business hours, to examine and inspect all of the books and records of the Tenant, including any sales tax reports pertaining to the business of the Tenant conducted in, upon or from the Premises, for the purpose of investigating and verifying the accuracy of any Gross Sales Report. Landlord may once in any calendar year cause an audit of Tenant's business to be made, and if said audit shall disclose an inaccuracy by Tenant of greater than a two percent (2%) error with respect to the amount of Gross Sales reported by Tenant for the period of said report, then Tenant shall immediately pay to Landlord the cost of such audit; otherwise, the cost of such audit shall be paid by Landlord. If such audit shall disclose any willful or substantial inaccuracies by Tenant, Landlord may, at its sole option, declare a Breach (as hereinafter defined) of this Lease and may thereafter invoke or pursue all remedies set forth in Article 22 and/or under law. Tenant shall keep all of the above-described records for a period of three (3) years. Any audit or inspection of Tenant's books and records may take place, at Landlord's option, at the Premises, Landlord's place of business, and/or at such other location within the county in which the Premises is located, and the audit may be conducted by an accountant or representative of Landlord's selection.

**3.3 Additional Rent.** In addition to the Minimum Rent, Tenant shall pay as Additional Rent from and after the Commencement Date all other sums of money or charges required to be paid pursuant to the terms of this Lease whether or not the same be designated as Additional Rent or otherwise (said money or charges hereinafter collectively referred to as the "Rent", "Rents" or "Additional Rent"). Tenant shall pay monthly as Additional Rent any sales, use or other tax (excluding state or federal income tax) now or hereafter imposed by the United States of America, the State of Florida, or any political subdivision of either, including the city or municipality in which the Premises is located, on any form of Rent or other sums paid by Tenant to Landlord due under this Lease, or in substitution for any Rent, notwithstanding the fact that the law imposing the tax may endeavor to impose it on Landlord.

#### 4. POSSESSION AND CONDITION OF THE PREMISES.

**4.1 Possession.** Subject to Article 2 and Tenant's compliance with its insurance obligations under Article 14, possession of the Premises will be given to Tenant on the Commencement Date unless Tenant occupied the Premises prior to said Commencement Date, in which case, Tenant's obligation to pay Rent shall commence on the Commencement Date, but such prior occupancy shall not affect the Lease expiration date described in Section 2.2.

**4.2 "As Is."** By entry hereunder, Tenant acknowledges that it has examined the Premises and has accepted the Premises in its "AS IS" condition as of the Commencement Date and throughout the Lease Term. Without limiting the foregoing, Tenant's right to use and occupy the Premises is subject to all municipal, county, state and federal laws, ordinances and regulations governing and regulating the use and occupancy of the Premises. Tenant acknowledges that neither Landlord nor Landlord's agent has made any representation or warranty as to the present or future suitability of the Premises for the conduct of Tenant's business, or as to the condition of the Premises or any equipment or utilities servicing the Premises. In no event shall Landlord be liable for any defect in the Premises or for any limitation on Tenant's use of the Premises.

#### 5. SECURITY DEPOSIT.

Tenant, contemporaneously with the execution of this Lease, has deposited with Landlord the sum as prescribed in Section 1.5 of this Lease, said deposit being given to secure the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease by Tenant to be kept and performed during the term hereof (hereinafter the "Security Deposit"). Tenant agrees that if Tenant shall fail to pay any amounts herein payable under the Lease, the Security Deposit may, at the option of Landlord (but Landlord shall not be required to) be applied to any amount due and unpaid, and if Tenant violates any of the other terms, covenants, and conditions of this Lease, the Security Deposit may be applied to any damages suffered by Landlord as a result of Tenant's Default (as hereinafter defined), to the extent of the amount of damages suffered. Nothing in this Article 5 shall in any way diminish or be construed as waiving any of Landlord's other remedies by law or in equity. Should all or any part of the Security Deposit be applied by Landlord as herein provided, then Tenant shall, on the written demand of Landlord, deposit with Landlord, within five (5) days of said demand, cash sufficient to restore the Security Deposit to its original amount. Upon any increase in the Minimum Rent, Landlord may, on five (5) days written notice to Tenant, require Tenant to deposit with Landlord such amount as will cause the Security Deposit to bear the same ratio to the increased Minimum Rent as the initial Security Deposit bore to the initial Minimum Rent. After the termination of this Lease, Landlord shall return the Security Deposit to Tenant less any portion of the Security Deposit which may have been previously applied or expended by Landlord to remedy or cure any Default or Breach on the part of Tenant hereunder. Landlord shall have the right to commingle or invest the Security Deposit, and in no event shall Tenant be entitled to receive any interest or income thereon, it being agreed that interest, if any, is deemed to be Additional Rent. Landlord may deliver the funds deposited under this Article 5 by Tenant to the purchaser of Landlord's interest in the Premises in the event such interest be sold, or in the event more than one person or entity is the Tenant, to either or all of the persons or entities comprising the Tenant, and thereupon Landlord shall be discharged from further liability with respect to the Security Deposit.

#### 6. USE AND LIMITATIONS.

**6.1 Use.** The Premises shall be used and occupied by Tenant for the Permitted Use as described in Section 1.6 of this Lease and for no other purpose and, (a) in accordance with all present and future zoning laws, rules and regulations of governmental authorities having jurisdiction thereof, (b) subject to all covenants, conditions, restrictions, easements and rights of way of record, if any, which are presently in existence or hereafter consented to in writing by Landlord, and (c) in full compliance with all documents and agreements which contain terms and provisions applicable to Tenant's occupancy and use of the Premises. All uses not specifically granted to Tenant hereunder are reserved by Landlord. In no event shall Tenant's Permitted Use include, or ever be interpreted to include, any of the prohibited or exclusive uses described in Exhibit "D" ("Restricted Uses") hereto. Notwithstanding anything to the contrary in this Lease, Landlord shall have no obligation to consider any request by Tenant, or by an assignee or successor-in-interest of Tenant, to allow a use other than the Permitted Use. If a request is made to Landlord to allow a use other than the Permitted Use, Landlord, in its sole and exclusive discretion, may withhold its consent to such change of use for any reason, or for no reason at all. In the event that Tenant or any assignee or successor-in-interest at any time uses the Premises for other than the Permitted Use, Landlord, at its sole and exclusive option, may deem or treat such use to be a Breach of the Lease.

**6.2 Governmental Actions.** Tenant's consent shall not be required for the creation of any covenants, easements or rights of way affecting the Premises or the Shopping Center which are created or required by the action of any governmental authority.

**6.3 Uses Prohibited.** Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which is not within the Permitted Use or which will in any way increase the existing rate of or affect any fire or other insurance for the Shopping Center, the Premises, or any part thereof or any of its contents, or of any other tenant within the Shopping Center. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of any building within the Shopping Center or injure or annoy them or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose. Furthermore, Tenant shall not: cause, maintain or permit any nuisance in or about the Premises; commit or allow to be committed any waste in or about the Premises; allow noxious or offensive odors to exist at or emanate from the Premises; or allow any loud or offensive noises and/or vibrations to emanate from the Premises. Without limiting the restrictions imposed by the Permitted Use, and except for such uses expressly included as Tenant's Permitted Use or as elsewhere set forth in this Lease, Tenant shall also not allow the Premises to be used: (a) as a second-hand, army-navy or surplus store, or for the conduct of distress, auction, fire, liquidation, going-out-of-business or bankruptcy sales, or for the operation of a discount-priced clearance center operation; (b) as a bar,

  
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restaurant (fast food or sit down), dance hall, billiard or pool hall, video game arcade, theater, bowling alley, massage parlor, night club, skating rink, health spa, offices (except as incidental to retail sales or services conducted therein) or adult store (which is defined as a store whose sale or rental of merchandise to the public is limited, restricted or targeted to adults because such merchandise deals with or depicts human sexuality, encourages or depicts the degradation of men or women or depicts unusual violence); or (c) in any manner which violates any exclusive use rights now in effect or hereafter given by Landlord to or enjoyed by any tenant at or other occupant of the Shopping Center. Tenant acknowledges and agrees that its introduction of any type of video game, arcade game, pinball machine or similar game of skill or amusement for the use of Tenant's customers, guests or invitees is expressly forbidden.

## 7. COMPLIANCE WITH LAW/ SIGNS.

**7.1 Compliance.** Tenant shall at Tenant's sole cost and expense, comply promptly with all "Applicable Law", which term is used in this Lease to include all applicable statutes, ordinances, rules, regulations, laws (including, but not limited to, the Americans with Disabilities Act), orders, restrictions of record, if any, and requirements now or hereinafter in effect during the Lease Term, or any part thereof, regulating the use or occupancy by Tenant of the Premises, or relating in any manner to the environmental conditions in, under or about the Premises. Tenant shall, within five (5) days after receipt of Landlord's written request, provide Landlord with copies of all documents and information, including, but not limited to, permits, registrations, manifests, applications, reports and certificates, evidencing Tenant's compliance with any Applicable Law specified by Landlord, and Tenant shall immediately upon receipt, notify Landlord in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving failure by Tenant or the Premises to comply with any Applicable Law.

**7.2 Signs and Store Front.** Without Landlord's prior written consent and approval as to form, size, material, type of installation, color, location, duration, copy, nature, and display qualities, as the case may be, Tenant shall not: (a) install any exterior lighting or plumbing fixtures, shades or awnings, fences, or any structures of any kind or nature, or any exterior decorations, signs, or make any changes to the store front; (b) erect or install any window signs, door signs, advertising media, window or door lettering, trademarks, or placards, or any other like items on the exterior or roof of the Premises or any part of the buildings or Areas of the Shopping Center; (c) keep or display any merchandise on, or otherwise obstruct, the sidewalks or other areas of the Shopping Center; or (d) affix, place, or maintain on either side of any store-front window or within the interior of the Premises any paper signs, cardboard signs, advertising placards, descriptive material or other like items within twelve (12) feet of the front entrance to the Premises that can be seen from the Areas of the Shopping Center. Tenant shall maintain the show windows and all signs in a neat and clean condition. Furthermore, Tenant shall not use any advertising or other media objectionable to Landlord or other tenants, such as loudspeakers, phonographs, or radio broadcasts that can be heard outside the Premises, nor install or maintain any flashing, revolving, neon, fiber optic or other lighting deemed distracting by Landlord anywhere within or upon the Premises or Areas of the Shopping Center. Landlord, at its sole option, may require Tenant to maintain signs at or on the Premises identifying Tenant's business, and notwithstanding anything to the contrary in this Lease, all signs of any kind and nature on or about the Premises are and shall be subject to Landlord's prior written approval as to design, size, color, materials, duration and location. In addition to the remedies for Default set forth in this Lease, Landlord may, at Tenant's cost, remove any item or sign erected in violation of this Section or Applicable Law.

Within fourteen (14) days following the Lease Effective Date, Tenant shall submit its sign package for Tenant's fascia signage and rear entrance signage, prepared in accordance with Landlord's standard sign criteria for the Shopping Center, as set forth in Exhibit "E" attached hereto, to Landlord for Landlord's approval. Concurrently therewith, Tenant shall also seek any necessary governmental approvals for such fascia signage. Within sixty (60) days following Landlord's approval of Tenant's sign package and Tenant obtaining any necessary governmental approvals for such fascia signage, Tenant, at its sole cost and expense, shall install its signage on the fascia of the Premises.

Subject to compliance with Applicable Law, Tenant shall have the right to install window signs in its storefront so long as same are professionally prepared and do not cover more than fifty percent (50%) of the total storefront window area. Upon three (3) business days notice, Tenant shall remove any such signage in the event Landlord determines, in its sole but reasonable discretion, that such signage is offensive and not in keeping with a first-class shopping center.

Temporary "Grand Opening" signs or banners shall be permitted, subject to Landlord's sole and absolute discretion, on the front exterior of the Premises for a period not to exceed thirty (30) days after the date Tenant opens for business at the Premises provided Tenant obtains appropriate governmental approvals and complies with Landlord's standard sign criteria for the Shopping Center. Such signs or banners (i) shall be professionally manufactured; (ii) shall not be greater than one hundred (100) sq. ft. and in any event not larger than ten (10) feet in height or width; and (iii) must not obstruct access either visually or physically to any other tenant's premises or the Areas. Tenant shall provide descriptions and/or renderings (including location) of any proposed signs or banners to Landlord for review and approval prior to fabrication of any such signs or banners. Tenant, at its sole cost and expense, shall remove such signs or banners on or before the expiration of the 10 day period and shall repair, to Landlord's satisfaction, any damage to the exterior of the Premises caused by the removal of such signs or banners.

**7.3 Sign Criteria.** In the event the sign criteria for the Shopping Center is changed or made uniform, Tenant shall, upon sixty (60) days notice, remodel or replace Tenant's store signs, at Tenant's sole cost and expense, so as to conform with the then existing sign criteria for the Shopping Center. Tenant shall be excused from having to remodel or replace its store signs to comply with the provisions of this Section only if: (a) Tenant shall have installed its store signs within the preceding one (1) year; or (b) the term of the Lease then remaining is less than one (1) year.

## 8. MAINTENANCE AND REPAIRS.

**8.1 Landlord's Initial Repairs.** At the inception of this Lease, Landlord shall make only those repairs and installations, at its own cost and expense (but to be thereafter maintained and repaired by Tenant), if any, described in Exhibit "B" attached hereto. Landlord shall deliver the Premises to Tenant with the heating, ventilation and air-conditioning systems ("HVAC"), if any (excluding any evaporative coolers which may be installed), the plumbing systems, and the electrical systems servicing the Premises, in good working order and condition. Except for damage or destruction caused by, or repairs necessitated by any act, negligence, or omission of Tenant or Tenant's employees, agents, contractors, guests or invitees, or by the criminal or negligent acts of a third party, and except for any Alterations made by Tenant (as described in Section 9.1, below), for the first thirty (30) days following the Commencement Date, with respect to the electrical and plumbing systems, and for the first three hundred sixty-five (365) days following the Commencement Date, with respect to the HVAC, Landlord shall bear the responsibility for making any necessary repairs to the HVAC, the plumbing systems, and the electrical systems, but only in the event that during such thirty (30) day period, or three hundred sixty-five (365) day period, as the case may be, Tenant provides to Landlord written notice of the need for repair. Should Tenant fail to timely notify Landlord during such thirty (30) day period, or three hundred sixty-five (365) day period, as the case may be, it will be conclusively presumed that the HVAC, the plumbing systems, and electrical systems were in good working order and condition during such thirty (30) day period, or three hundred sixty-five (365) day period, as the case may be, and any required repair and/or replacement during or after such period shall be the sole responsibility of Tenant, as described in Section 8.2, below. Upon the expiration of the thirty (30) day period, or three hundred sixty-five (365) day period, as the case may be, Landlord shall have no further or other obligation to repair, replace and/or maintain the HVAC, the plumbing systems, or the electrical systems servicing the Premises. Notwithstanding the foregoing, in the event, Landlord elects to replace such HVAC during such three hundred sixty-five (365) day period, thereafter Tenant, shall be solely responsible to herein, repair, replace and/or maintain such HVAC and Landlord shall have no further or other obligation to repair, replace and/or maintain the HVAC.

Landlord's Initials \_\_\_\_\_

Tenant's Initials \_\_\_\_\_

**8.2 Tenant's Repairs.** Subject to the provisions of Sections 8.1 and 8.3, Tenant shall keep the Premises and every part thereof, structural and non-structural, in good order, condition and repair, making all repairs and replacements, interior and exterior, above or below ground, whether ordinary or extraordinary and whether or not the need for such repairs or replacements occurs as a result of Tenant's use, any prior use, the elements or the age of such portion of the Premises, including without limiting the generality of the foregoing, all work done by Landlord under Section 8.1, all plumbing, heating, air conditioning, ventilating, electrical wiring, conduits, glazing, electrical lighting facilities and equipment from time to time within the Premises, fixtures, walls (interior and exterior), ceilings, roof, floors, storefront, thresholds, weather-stripping, window casements, windows, doors, plate glass and sky lights located within or upon the Premises. Tenant shall also keep, maintain and repair all alterations, additions or improvements to the Premises made by Tenant as provided in Article 9. Tenant shall keep the Premises free from insects, rodents and other pests, and shall cause a licensed pest control company to perform extermination services not less often than quarterly, and Tenant shall be responsible for the cost of any extermination or preventive measures in any areas adjoining the Premises necessitated as a result of infestation within the Premises. Any damage to adjacent premises caused by Tenant's use of the Premises shall be repaired at the sole cost and expense of Tenant; if Tenant fails to repair such damage after notice from Landlord, Landlord may cause the damage to be repaired and Tenant shall immediately reimburse Landlord for the costs of such repair as Additional Rent, plus fifteen percent (15%) to cover Landlord's overhead and administrative costs. Tenant shall repair and/or replace any damage to the Premises caused by breaking and entering or the criminal acts or negligence of any third party. Notwithstanding the foregoing, in the event that any structural repairs are required to be made to the Premises for which Tenant is responsible under this Section, Tenant shall first give written notice to Landlord of the need for such repairs, and Landlord may elect, on written notice to Tenant delivered within a reasonable time thereafter, to undertake such structural repairs, in which event, Tenant shall within ten (10) days of Landlord's delivery of an invoice to Tenant specifying the work done and the cost thereof, reimburse Landlord for such cost, plus fifteen percent (15%) to cover Landlord's overhead and administrative expenses, with such reimbursement to constitute Additional Rent.

**8.3 Landlord's Maintenance and Repair.** In the event that the Premises is a part of a building which contains leasable area in addition to the Premises, then Landlord shall keep in good order, condition and repair the foundations, exterior walls (excluding the interior of all walls and the exterior or interior of any windows, doors, plate glass, and display windows but including repainting of the exterior walls), roof (including the repair and/or replacement, but excluding interior ceilings), and any plumbing or sewage main lines, or other utilities servicing more than one tenant of such building, except for any damage thereto caused by any act, negligence or omission of Tenant or Tenant's employees, agents, contractors or customers, and except for reasonable wear and tear and except for any structural alterations or improvements required by any governmental agency by reason of Tenant's use or occupancy of the Premises. Landlord may, in its sole and absolute discretion, retain service and/or maintenance companies or others to inspect, service and maintain the roof or other components of the building on a regular periodic inspection and service basis. Tenant shall reimburse Landlord, as Additional Rent, for Tenant's prorata share of the costs which Landlord incurs in performing its obligations as described herein, plus Landlord's overhead and administrative costs, which prorata share shall be determined, in Landlord's option, one, in the same proportion as the total square footage of the Premises bears to the total leasable square footage of the building in which the Premises is located, two, in the same proportion as the total square footage of the Premises bears to the total leasable square footage of a group of buildings within the Shopping Center, the maintenance and repair of which buildings are determined by Landlord, in its discretion, to collectively warrant similar treatment, three, using the prorata formula set forth in Section 18.1, below, or four, by using a combination of any or all of the methods described in this sentence. Landlord shall not be liable for any failure to make such repairs or to perform any maintenance unless such failure continues to persist for more than thirty (30) days after written notice of the need of such repairs or maintenance is given to Landlord by Tenant and Landlord has made no attempt to make such repairs, unless Landlord, in the exercise of its sole and absolute discretion, determines such work is unnecessary and/or the responsibility of Tenant. There shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of or Landlord's failure to make any repairs, alterations or improvements in or to any portion of the building or the Premises or in or to its fixtures, appurtenances and equipment therein. Reimbursement by Tenant to Landlord for its share of such costs shall be made in the manner set forth in Section 18.5 hereof, or at Landlord's option, upon receipt by Tenant of Landlord's demand therefor.

**8.4 Tenant's Failure.** If Tenant fails to perform Tenant's obligations under this Article 8, Landlord may, at its option (but shall not be required to), enter upon the Premises after prior written notice to Tenant of the specific failure of Tenant under this Article 8 (or immediately, and without notice, in the event of an emergency), and provided that Tenant has not theretofore cured such failures, put the same in good order, condition and repair, and the cost thereof, plus fifteen percent (15%) to cover Landlord's overhead and administrative costs, together with interest at the lesser of: (a) the maximum rate of interest allowed by Applicable Law, or (b) the rate of eighteen percent (18%) per annum, shall become due and payable as Additional Rent to Landlord together with Tenant's next Rent installment.

**8.5 Waiver.** Except for the obligations of Landlord under Sections 8.1 and 8.3, Article 16, and Article 26, it is intended by the parties hereto that Landlord shall have no obligation whatsoever to repair and maintain the Premises, or to pay for the repair and/or maintenance of the Premises nor for any building or improvements located thereon (or the equipment therein), whether structural or non-structural. Tenant expressly waives the benefit of any statute now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense, or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair. Tenant further waives the provisions of any statute now or hereafter in effect with respect to Landlord's obligations for tenantability of the Premises, or with respect to Tenant's right to make repairs and deduct the expenses of such repairs from the Rent.

**8.6 Contest.** Tenant shall have the right to contest by appropriate judicial or administrative proceedings, without cost or expense to Landlord, the validity or application of any Applicable Law that requires Tenant to repair, maintain, alter or replace the improvements on the Premises in whole or in part or that would affect Tenant's use of the Premises. In the event that any such contest is finally determined in a manner adverse to Tenant, Tenant shall undertake such repairs, maintenance, alterations or replacements to or of the Premises as are required or modify its use of the Premises as required by Applicable Law, unless the governmental entity requiring such work requires that it be completed pending the outcome of the administrative or judicial proceeding, and in such event, Tenant shall comply with the directives of the governmental agency notwithstanding the pendency of the administrative or judicial proceeding. Tenant agrees to indemnify and hold Landlord harmless from and against any and all liability that Landlord may sustain by reason of Tenant's failure or delay in complying with Applicable Law, which indemnity shall survive the expiration or termination of this Lease. Landlord may, at its option, join in Tenant's contest. Landlord may, but shall not be required to, contest any Applicable Law independently of Tenant.

**8.7 HVAC Maintenance.** In addition to Tenant's obligation to repair and maintain the Premises described in Section 8.2 above, and unless Landlord elects to provide for service as provided for hereinafter, in the event there is an HVAC system for the Premises, Tenant shall also be obligated to retain an air conditioning service company approved by Landlord, which approval Landlord shall not unreasonably withhold, to service and maintain the air conditioning equipment servicing the Premises on a regular periodic inspection and service basis which provides inspection and servicing not less frequently than once quarterly, and Tenant shall provide copies of such service contract and all service and inspection reports to Landlord. Notwithstanding the foregoing, Landlord may, at Landlord's sole option, employ and pay a company satisfactory to Landlord, engaged in the business of maintaining air-conditioning systems, to perform periodic inspections of the HVAC system servicing the Premises and to perform any necessary work of maintenance and/or repair thereto. In such event, Tenant shall reimburse Landlord for all sums paid by Landlord in connection therewith with such reimbursement to be made in the manner set forth in Section 18.5.

**8.8 Surrender of Premises.** Subject to Section 9.5, Tenant shall, upon the expiration or sooner termination of this Lease hereof, surrender the Premises to Landlord free of all tenancies, occupancies, liens, encumbrances and Tenant's personal property and in a good, broom clean condition, ordinary wear and tear excepted, but in all circumstances, Tenant shall be required to surrender the Premises to Landlord in a condition equal to or better than the condition the Premises was required to be maintained by Tenant pursuant to Section 8.2. It is understood and agreed that: (a) ordinary wear and tear to the Premises (including, but not limited to, the walls, floors and ceiling) that

Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_



shall be the result of a use of the Premises, and any activity related to such use, that shall differ from a fruit smoothie retail operation shall not be considered ordinary wear and tear; and (b) ordinary wear and tear shall not include such damage or deterioration that would have been prevented by good maintenance practices or by Tenant's performance of all of its obligations under this Lease. At the time Tenant surrenders the Premises, Tenant shall also surrender: (i) all keys for the Premises to Landlord at the place then fixed for the payment of Rent and shall inform Landlord of all combinations to locks, safes and vaults, if any, in the Premises; and (ii) all hurricane panels for the Premises. No act or conduct of Landlord, except a written acknowledgment of acceptance of surrender signed by Landlord, shall be deemed to be or constitute an acceptance of the surrender of the Premises by Tenant prior to the expiration of the Lease Term. If any evidence of this Lease was recorded, then Tenant, upon surrender, shall execute, acknowledge and deliver a memorandum of termination of this Lease, and, if Tenant shall fail or refuse to do so, Landlord shall, as Tenant's attorney-in-fact, have the right to execute, acknowledge and deliver such memorandum of termination. Upon expiration or earlier termination of this Lease, Tenant shall remove any signage Tenant installed on the exterior of the Premises and shall repair any damage to the exterior of the Premises or the Areas caused by such removal.

**8.9 Mold.** Tenant acknowledges that mold spores can be present essentially anywhere and that mold can grow in most any moist location. Accordingly, Tenant shall emphasize good housekeeping, ventilation and the prevention of moisture within the Premises. Tenant agrees to immediately notify Landlord if it observes mold, mildew and/or moisture conditions from any source, including leaks, and to allow Landlord, its employees, agents and contractors to enter the Premises to evaluate and/or make recommendations concerning mold prevention or remediation. Tenant acknowledges that the control of moisture and mold prevention is a material obligation of Tenant under this Lease and that if mold growth occurs during the Lease Term, the cost of such necessary mold remediation shall be the sole responsibility of Tenant. Tenant waives, indemnifies, defends and holds harmless Landlord and Landlord's property manager for, from and against any and all claims, losses and liabilities for personal injury, bodily injury and/or property damage in any way arising from or relating to or associated with any moisture or any growth of or occurrence of mold or mildew on or within the Premises.

## **9. ALTERATIONS AND NEW IMPROVEMENTS.**

**9.1 Alterations.** Tenant shall, at its sole cost and expense, as soon as reasonably possible after the Lease Effective Date, but subject to the conditions set forth hereinafter and elsewhere stated in this Lease, make the alterations, additions or improvements (hereinafter collectively the "Alterations") in, on, to or about the Premises necessary to open for business at the Premises for Tenant's Permitted Use (hereinafter the "Initial Alterations"), however, Tenant shall first obtain Landlord's written consent for any and all Initial Alterations having a cumulative value in excess of one thousand dollars (\$1,000.00), and for all Alterations, and the signs and signage described in Section 7.1, above, Tenant shall, not less than ten (10) days prior to the commencement of any work at the Premises, provide to Landlord detailed plans, specifications, drawings, models, mock-ups, photographs and all other documents and information necessary for or requested by Landlord for its review of the work contemplated by Tenant. Except for those Initial Alterations specifically set forth above, Tenant shall not make or allow to be made to the Premises any Alterations with a cumulative value in excess of one thousand dollars (\$1,000.00) without first obtaining the written consent of Landlord. All of the Alterations shall be made in compliance with all applicable zoning and building codes and all Applicable Law, and any and all Alterations shall require the prior written consent of Landlord, which consent may be withheld for any reason, or no reason at all. All Alterations which require governmental approval or permits will have such a permit issued, at Tenant's sole cost and expense, and Tenant shall provide a copy of same to Landlord before work commences and a copy of final approval when obtained. Tenant shall not cause or allow bars or security gates to be installed outside the Premises, and any such security items installed inside the Premises will be hidden from sight during business hours. Any Alterations to or on said Premises, including, but not limited to walls, wall covering, floor covering, window covering, paneling and built-in cabinet work, but excepting only moveable furniture and trade fixtures, shall at once become a part of the realty and belong to the Landlord and except as set forth in Section 9.5, below, shall be surrendered with the Premises. Except as herein stated, Tenant shall not have the right, without Landlord's prior written consent, to demolish any part of the improvements existing at the Premises as of or after the Lease Effective Date. Tenant shall pay when due all claims for labor and materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises, or any interest therein, and Tenant agrees to indemnify and hold Landlord and Premises harmless from and against any and all liability arising out of any such claims, which indemnity shall survive the expiration or termination of this Lease.

**9.2 Bond/Liens.** Before the commencement of any Alterations, Tenant, at its sole cost and expense, shall furnish to Landlord a Performance and Completion Bond issued by an insurance company qualified to do business in the state where the Premises is located, in a sum equal to the cost of the Alterations (as determined by the construction contract between Tenant and its contractor) guaranteeing the completion of the Alterations free and clear of all liens and other charges, and in accordance with the plans and specifications. All Alterations shall be performed in a manner that will not interfere with the quiet enjoyment of the other tenants of the Shopping Center. Tenant shall give Landlord not less than ten (10) days notice in writing prior to the commencement of the Alterations and Landlord shall have the right to post notices of non-responsibility in or on the Premises, as provided by law. Tenant shall have the right in good faith to contest the validity of any lien, claim or demand, and Tenant shall, at its sole expense, defend itself and Landlord against the same, and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against Landlord or the Premises. Landlord may require Tenant to pay Landlord's attorney's fees and costs in participating in any such action, if Landlord participates therein or if Landlord is joined as a defendant in such action and Landlord determines that it cannot properly or effectively be represented by Tenant's counsel in such action. Notwithstanding the foregoing, Tenant shall not permit any claims of lien to be filed by any person, including claims of lien under any mechanic's, materialmen's or other lien statute, against the Premises or the Shopping Center. Tenant shall never, under any circumstances, have the power to subject the interest of Landlord in the Premises or the Shopping Center to any construction, mechanics' or materialmen's lien or liens of any kind, nor shall any provisions in this Lease ever be construed as empowering Tenant to encumber or cause the Landlord to encumber the title or interest of Landlord in the Premises or the Shopping Center. In order to comply with the provisions of Section 713.10, Florida Statutes, it is specifically provided that neither Tenant, nor anyone claiming by through or under Tenant, including, but not limited to, contractors, subcontractors, materialmen, mechanics and laborers, shall have the right to file or place any construction, mechanics' or materialmen's liens of any kind whatsoever upon the Premises or the Shopping Center, nor upon any building or improvement thereon, nor upon the interest of the Landlord in the Premises or the Shopping Center, or any building or improvement thereon, and any such liens are specifically prohibited. All parties with whom Tenant may deal are put on notice that Tenant has no power to subject the Landlord's interest to any claim or lien of any kind or character, and all such persons who are dealing with Tenant may look solely to the credit of Tenant, and not to Landlord's interest or assets. If any such claim of lien shall be filed against the Premises or the Shopping Center, Tenant shall cause the lien to be discharged; provided, however, that Tenant may contest any such lien, so long as the enforcement thereof is stayed and the lien is removed of record by means of a bond or any other lawful means. If Tenant shall fail to cause said lien to be released of record within fifteen (15) days after notice to Tenant from Landlord, then in addition to any and all other rights and remedies it may have at law or in equity, Landlord may, but shall not be obligated to, discharge the same by payment, settlement, deposit or bonding, and/or retain the services of an attorney to protect Landlord's rights. Any amount paid by Landlord and all costs and expenses incurred by Landlord in connection therewith shall constitute Additional Rent and shall be paid by Tenant to Landlord on demand, along with interest from the date of payment by Landlord until reimbursed by Tenant at the rate of eighteen percent (18%) per annum. Landlord and Tenant acknowledge and agree that there is no requirement under this Lease that Tenant make any Alterations to the Premises and no improvements to be made by Tenant to the Premises constitute the "pith of the lease" as provided in applicable Florida law.

**9.3 Plans.** On completion of any Alterations by Tenant, Tenant shall supply Landlord with "as built" drawings accurately reflecting all such work.

**9.4 Roof-Prohibited Alterations.** In addition to and notwithstanding any restrictions set forth elsewhere in this Lease in regard to the making of Alterations, Tenant shall not, without the prior written consent of Landlord, which consent may be withheld for any reason, or no reason at all: (i) make any Alterations or additions to, or penetrate the membrane of, the roof over the Premises; (ii) install any

Landlord's Initials

Tenant's Initials

antennas, satellite reception devices, telephonic equipment, electronic transmission or reception devices, signs, billboards, advertisements or any other equipment on the roof or any exterior portion of the Premises; or (iii) make any Alterations not specifically permitted in this Lease. Tenant shall provide to Landlord not less than ten (10) days prior written notice in the event Tenant desires to gain access to or perform any Alterations on the roof of the building wherein the Premises is located, and Landlord may condition its consent, if given, on Tenant's agreement to use a roofing or general contractor selected by Landlord to perform the work required by Tenant, and Tenant's acknowledgment of its obligation to pay all costs and expenses to be incurred in regard to such access or Alterations, including, but not limited to, the cost to have a roofing contractor designated by Landlord supervise such access and/or Alterations or review the plans and specifications of Tenant. In addition to Tenant's indemnity and other financial obligations set forth elsewhere in this Lease, in the event that the acts or omission of Tenant or its officers, agents, contractors, customers, licensees, guests, invitees or employees results in or leads to the invalidation or cancellation of any warranty on the roof, HVAC or other structure or equipment at the Premises or the Shopping Center, Tenant shall immediately reimburse Landlord, as Additional Rent, for the cost of a replacement warranty, and Tenant shall further indemnify and hold Landlord harmless from and against all costs, expenses, claims and damages that would not have been incurred but for the cancellation of the heretofore described warranty, and these obligations shall survive the expiration or termination of this Lease.

**9.5 Removal.** Any Alterations made shall remain on and be surrendered with the Premises on the expiration or termination of the Lease Term, except that Landlord can elect not later than thirty (30) days after expiration of the Lease Term to require Tenant to remove any Alterations, property or floor coverings that Tenant has made or added to the Premises. If Landlord so elects, Tenant, at its sole cost and expense, shall, forthwith and with all due diligence, remove the designated Alterations, property or floor coverings and repair any damage to the Premises caused by such removal. In the event Tenant shall fail to remove any of Tenant's Alterations, property or floor coverings as provided herein, within ten (10) days following Landlord's delivery of notice to Tenant to remove same, Landlord may, but shall not be obligated to, at Tenant's expense, remove all of Tenant's Alterations, property and floor coverings not so removed and repair all damage to the Premises resulting from such removal and may, but shall not be obligated to, at Tenant's expense, store the same in any public or private warehouse, and in any event Landlord shall have no liability to Tenant for any loss or damage to Tenant's Alterations, property or floor coverings caused by or resulting from such removal or otherwise. The foregoing provision shall not apply to any trade fixtures or personal property of Tenant that are capable of being removed by Tenant without substantial and irreparable damage to the Premises, which trade fixtures and personal property Tenant shall remove upon the expiration of the Lease Term, and Tenant shall promptly repair, at its sole cost and expense, all damage to the remaining improvements on the Premises caused by such removal, and provided further, that the value of the improvements remaining on the Premises following such removal is substantially equal to what the value of the improvements existing on the Premises as of the Lease Effective Date would have been, if the same had remained on the Premises at the time of expiration of this Lease, assuming no alterations and additions thereto, and assuming only normal wear and tear since the Lease Effective Date.

#### **10. UTILITIES.**

Tenant shall pay for all water, sewer, gas, heat, light, power, steam, telephone and all other utilities and services, including repairs to same, supplied to the Premises, together with any taxes thereon. If any such services are not separately metered to Tenant, Tenant shall pay a reasonable proportion to be determined by Landlord of all charges jointly metered with all other premises. Under no circumstances shall Landlord be responsible for any interruption, cessation or interference with any such utility service.

#### **11. REAL PROPERTY TAXES.**

**11.1 Allocation.** Tenant shall pay, as Additional Rent, all Real Property Taxes (as defined below) applicable to the Premises during Tenant's occupancy of the Premises or the Lease Term, whichever is greater. If the Premises is not separately assessed, Tenant shall pay its proportionate share of all Real Property Taxes levied and assessed during the term of this Lease upon the Shopping Center or parcel of which the Premises is a part. The share of Real Property Taxes to be paid by Tenant shall be deemed to be that portion of the total Real Property Taxes levied and assessed against the Shopping Center or parcel which the total square footage of the Premises bears to the total square footage of the Shopping Center or parcel as the case may be, or, alternatively, at Landlord's discretion, Tenant's share of Real Property Taxes shall be deemed to be, one, that portion of the total Real Property Taxes levied and assessed against the building in which the Premises is contained which the total square footage of the Premises bears to the total leasable square footage of such building, plus an equitable allocation of Tenant's share of Real Property Taxes and assessments attributable to the Areas of the Shopping Center, unless such Areas' taxes are otherwise included in the above or with other amounts charged to Tenant under the Lease, or two, that portion of the total Real Property Taxes levied and assessed against the group of buildings within the Shopping Center determined by Landlord to warrant similar treatment (and within which group the Premises is contained) which the total square footage of the Premises bears to the total leasable square footage of such buildings, plus an equitable allocation of Tenant's share of Real Property Taxes and assessments attributable to the Areas of the Shopping Center, unless such Areas' taxes are otherwise included in the above or with other amounts charged to Tenant under the Lease. The amount of Real Property Taxes assessed against a parcel in the Shopping Center and paid for exclusively and solely by another tenant at the Shopping Center (hereinafter the "Excluded Real Property Taxes") shall not be included within the Real Property Taxes assessed against Tenant, and when assessing Tenant's Real Property Taxes, Tenant's proportionate share shall be adjusted to exclude the square footage occupied by the tenant directly paying the Excluded Real Property Taxes.

**11.2 Payment of Real Property Taxes.** If the Real Property Taxes are not billed to Tenant as part of the CAM Expenses (as defined in Section 18.4, below), then all Real Property Taxes payments under Section 11.1 shall be made by Tenant at least ten (10) days prior to the delinquency date of such payment, and Tenant shall promptly furnish Landlord with satisfactory evidence that such taxes have been paid. If any such taxes paid by Tenant shall cover any period of time prior to or after the expiration of the term hereof, Tenant's share of such taxes shall be equitably prorated to cover only the period of time within the tax year during which this Lease shall be in effect. If Tenant shall fail to timely pay any such Real Property Taxes, Landlord shall have the right to pay the same, in which case Tenant shall repay such amount to Landlord with Tenant's next Rent installment, together with interest at the lesser of: (a) the maximum rate allowed by Applicable Law, or (b) the rate of eighteen percent (18%) per annum, and if the Premises is separately assessed, Tenant shall also pay to Landlord an amount equal to fifteen percent (15%) of the amount paid by Landlord to cover Landlord's overhead and administrative costs. At Landlord's option, Tenant shall pay in advance one-twelfth (1/12th) of the amount estimated by Landlord (from time to time) to be Tenant's share of Real Property Taxes with each monthly installment of Rent and other expenses due hereunder in the manner set forth in Section 18.5.

**11.3 Definition.** As used herein the term "Real Property Taxes" shall include any form of assessment, license fee, commercial Rent tax, franchise or gross margins tax (but only to the extent attributable to the Rent received by Landlord from Tenant and the other tenants in the Shopping Center), levy, penalty, or tax (other than inheritance or estate taxes and income taxes), imposed by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage, facilities or other improvement district thereof, as against any legal or equitable interest of Landlord in the Premises, the Shopping Center or in the real property of which the Premises is a part, as against Landlord's right to Rent or other income therefrom, or as against Landlord's business of leasing the Premises, or any tax imposed in substitution, partially or totally, of any tax previously included within the definition of Real Property Taxes, or any additional tax the nature of which was previously included within the definition of Real Property Taxes, or any fees and costs of Landlord incurred in determining, filing, contesting and/or appealing any such tax, including accountant's, attorney's and consultant's fees.

**11.4 Contest.** If the Premises is separately assessed, Tenant may contest with the taxing authority (but not with the Landlord) the legal validity or amount of any Real Property Taxes for which Tenant is responsible under this Lease, and may institute such proceedings as Tenant considers necessary. In the event Tenant contests such Real Property Taxes, Tenant shall either pay such Real

Landlord's Initials

Tenant's Initials

Property Taxes under protest or provide other assurances acceptable to Landlord in its sole discretion to insure that the interest of Landlord in the Premises is not subject to foreclosure, tax sale or other similar forfeiture. Landlord reserves the right to pay such Real Property Taxes on Tenant's behalf in the event Tenant fails to take adequate precautions to protect Landlord's interest in the Premises against foreclosure, tax sale, or other similar forfeiture and upon demand Tenant shall pay as additional Rent any amounts so expended by Landlord.

**11.5 Receipts.** If the Premises is separately assessed, Tenant shall furnish to Landlord, at least ten (10) days before the date when any Real Property Taxes would become delinquent, receipts or other appropriate evidence establishing its payment.

**11.6 Increased Assessment.** Tenant acknowledges and understands that (i) the Shopping Center and/or the Premises may be re-assessed for tax purposes on an annual basis by the taxing authority under Applicable Law, and (ii) in the event Landlord should at any time in the future sell or transfer the Shopping Center and/or the Premises, there may potentially be an increase in the Real Property Taxes. Landlord makes no representations, statements or warranties to Tenant, expressly or impliedly, that it will not sell or transfer the Shopping Center and/or the Premises at any time in the future during the Lease Term.

**11.7 Timing of Real Property Tax Payments.** In such cases where the Real Property Taxes are billed by the tax assessor in two (2) or more separate installments and not all of the installments are due in the same calendar year, and the taxpayer has the option of paying a second and/or any later installments in the same year as the first installment is due, and where Landlord is responsible for paying the Real Property Taxes, Landlord may elect to pay the second or any later installment of such Real Property Taxes bill in the same calendar year as the first installment is due. In such event, the cost thereof may be reflected on an invoice sent to Tenant after the close of a calendar year during the term hereof or sent at such other time as Landlord may determine. Tenant acknowledges that, in such event, there may be a balance due arising (in part or in whole) from that portion of the Real Property Taxes bill that relates to a portion of the fiscal year immediately following the calendar year in which such tax bill was paid. In such event, it is expressly understood and agreed that such balance due is simply a function of the timing of the payments, and does not constitute an improper or invalid demand for payment by Landlord, and Tenant agrees to reimburse Landlord for Tenant's proportionate share of the total of all Real Property Taxes paid by Landlord.

## **12. PERSONAL PROPERTY TAXES.**

Tenant shall pay, or cause to be paid, before delinquency, any and all taxes levied or assessed and which become payable during Tenant's occupancy of the Premises or the Lease Term (whichever is greater) upon Tenant's business and all of Tenant's leasehold improvements, equipment, furniture, fixtures, and any other personal property located in the Premises. When possible, Tenant shall cause said trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Landlord. If any of Tenant's said personal property shall be assessed with Landlord's real property, Tenant shall pay the taxes attributable to Tenant within ten (10) days prior to the delinquency date for payment of such taxes and shall furnish Landlord with satisfactory evidence of the payment of such taxes. In the event said personal property is assessed with Landlord's real property and Landlord pays the Real Property Taxes, Tenant shall reimburse Landlord for Tenant's personal property taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's personal property.

## **13. INDEMNITY.**

**13.1 Indemnity.** Tenant shall defend, indemnify and hold harmless Landlord and Landlord's authorized agent, Westwood Financial Corp., a California corporation ("WFC"), from and against any and all claims arising from or related to Tenant's use of the Premises, or from the conduct of Tenant's business, or from any activity, work or things done, permitted or suffered by Tenant in or about the Premises, and shall further indemnify and hold Landlord and WFC harmless from and against any and all claims arising from any Breach or Default in the performance of any obligation on Tenant's part to be performed under the terms of the Lease, or arising from any act or negligence of Tenant, or any of Tenant's officers, agents, contractors, customers, licensees, guests, invitees or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. In case any action or proceeding is brought against Landlord and/or WFC by reason of any such claim, Tenant, upon written notice from Landlord and/or WFC, shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk to property or injury to persons in, upon or about the Premises arising from any cause, including the negligence of Landlord and/or WFC, or any of Landlord's and/or WFC's officers, agents, contractors, customers, licensees, guests, invitees or employees, and Tenant hereby waives all claims in respect thereof against Landlord and/or WFC except to the extent otherwise provided in Section 13.3. Tenant shall give prompt notice to Landlord in case of casualty or accidents in or about the Premises or in the event of an occurrence that gives rise to Tenant's obligation to indemnify Landlord and/or WFC. In the event Tenant fails to indemnify and hold harmless Landlord and/or WFC as required above, and should Landlord and/or WFC be named as a defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy hereunder, in addition to any other remedies allowed to Landlord under this Lease, Tenant shall pay to Landlord and/or WFC its costs and expenses incurred in such suit, including without limitation, Landlord's and/or WFC's actual fees, professional fees (such as appraisers, accountants, attorney's fees and the like), plus interest at the lesser of: (a) the maximum rate allowed by Applicable Law, or (b) the rate of eighteen percent (18%) per annum.

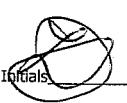
**13.2 Waiver.** Tenant hereby agrees that neither Landlord nor WFC shall be liable for injury to Tenant's business, or any loss of income therefrom, or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers, or any other person in or about the Premises, nor shall Landlord and/or WFC be liable for injury to the person of Tenant, Tenant's employees, invitees, customers, agents, contractors, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, explosion, falling plaster, electricity, gas, water or rain which may leak from any part of the building, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from the roof, street, sewer system, or sub-surface, or from any other cause, whether the damage or injury results from conditions arising upon the Premises or upon other portions of the building of which the Premises is a part, or from other sources or places where the resulting damage or injury occurs on or about the Premises, and regardless of whether the cause of such damage or injury, or the means of repairing the same, is inaccessible to Tenant, and regardless of whether the cause of such damage or injury was due to or arose out of the negligence of Landlord, its agents, servants, or employees or otherwise. Landlord and WFC shall not be liable for any damage arising from any act or neglect of any other tenant, if any, of the building and/or Shopping Center in which the Premises is located. Landlord and/or its agents shall not be liable for interference with the light, air, or for any latent defect in the Premises.

**13.3 Willful Acts/Survival.** Nothing in Sections 13.1 or 13.2 shall be construed as a waiver by Tenant as against Landlord and/or WFC of, or as an agreement by Tenant to indemnify or hold Landlord and/or WFC harmless from or against, any claims, costs, attorney's fees, expenses, liabilities, damages, losses or injuries caused solely by the gross negligence or willful misconduct of Landlord and/or WFC. The provisions of this Article 13 shall survive any termination of this Lease with respect to any obligations hereunder accruing prior to such termination.

## **14. INSURANCE.**

**14.1 Tenant's Liability Insurance.** Tenant, at its sole cost and expense, shall maintain occurrence basis commercial general liability insurance with a single combined liability limit of not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the annual aggregate insuring against all liability of Tenant and its authorized representatives arising out of or in connection with Tenant's use or occupancy of the Premises. All public liability insurance shall insure performance by Tenant of the indemnity provisions of Article 13. Landlord and WFC (and, if requested by Landlord, Landlord's lender) shall be named as additional insureds in any policy obtained by Tenant. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a

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Landlord's protective liability endorsement attached thereto. Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to Landlord. Not more frequently than each year, if, in the opinion of Landlord's insurance broker or lender, the amount of public liability insurance coverage at the time is not adequate, Tenant shall increase the insurance coverage as determined by Landlord's insurance broker or lender.

**14.2 Tenant's Property Damage Insurance.** Tenant, at its sole cost and expense, shall maintain on all of its personal property, Tenant's improvements and alterations, in, on, or about the Premises, an "All Risk" policy of insurance with fire and lightning, flood (if required by Applicable Law), vandalism and malicious mischief endorsements to the extent of at least one hundred percent (100%) of their full replacement cost, together with business interruption and extra expense coverage. The proceeds from any such insurance shall be used by Tenant for the replacement of property and the restoration of Tenant's improvements or alterations. The foregoing insurance shall include full coverage for plate glass on the Premises and Landlord (and, if requested by Landlord, Landlord's lender and Westwood Financial Corp., a California corporation) shall be named as additional insureds. Tenant shall furnish Landlord with a certificate of such policy prior to Tenant's entry onto the Premises and whenever required in order to satisfy Landlord that such policy is in full force and effect. Further, and notwithstanding anything to the contrary in Section 14.7 below, if Landlord elects, by written notice to Tenant, to require Tenant to obtain the Rent loss coverage described in such Section in lieu of Landlord obtaining and maintaining same, Tenant shall, at its sole cost and expense, obtain and maintain such Rent loss insurance, and Landlord shall be named as a co-insured under such policy.

**14.3 Tenant's Automobile Insurance.** If Tenant utilizes vehicles in connection with the operation of its business at the Premises, Tenant, at its sole cost and expense, shall keep and maintain commercial automobile liability insurance insuring all owned, non-owned and hired vehicles used in the conduct of Tenant's business and operated upon or parked upon the Areas with limits of liability not less than two million dollars (\$2,000,000.00) combined single limit for both bodily injury and property damage. Tenant shall increase the foregoing limits if Landlord deems such increase desirable to protect Tenant and/or Landlord.

**14.4 Tenant's Worker's Compensation Insurance.** Tenant, at its sole cost and expense, shall keep and maintain a standard form worker's compensation and employer's liability insurance covering all Tenant's employees for injury or illness suffered in the course of or arising out of their employment, providing statutory worker's compensation benefits and employer's liability limits of not less than the greater of one million dollars (\$1,000,000.00) or such other amount as may be required under Applicable Law.

**14.5 Tenant's Construction Insurance.** At all times during which Tenant is doing construction work at the Premises, Tenant, at its sole cost and expense, shall keep and maintain "Special Form - causes of loss" builders risk insurance with limits of coverage not less than one hundred percent (100%) of the replacement cost of Tenant's leasehold improvements and annual business interruption and extra expense coverage. Tenant shall also procure and maintain a policy of owner's and contractors protective insurance and independent contractor's insurance with coverage of at least two million dollars (\$2,000,000.00) for a single occurrence and for property damage.

**14.6 Use.** No use shall be made or permitted to be made on the Premises, or acts done, which will increase the existing rate of insurance upon the building in which the Premises is located or upon the Shopping Center or cause the cancellation of any insurance policy covering the building or Shopping Center, or any part thereof, nor shall Tenant sell, or permit to be kept, used or sold, in or about the Premises, any article which may be prohibited by the standard form of fire insurance policies. Tenant shall, at its sole cost and expense, comply with any and all requirements pertaining to the Premises of any insurance organization or company, necessary for the maintenance of fire and public liability insurance, covering the Premises or the building of which it is a part. Tenant agrees to pay to Landlord as Additional Rent any increase in premiums on policies which may be carried by Landlord on the Premises covering damages to the building and loss of Rent caused by fire and the perils normally included in extended coverage, which increase is attributable to Tenant's particular use of the Premises. If, in the opinion of Landlord, or Landlord's insurance carrier or broker, Tenant's particular use or occupancy of the Premises requires certain improvements or alterations to be made, or equipment installed within the Premises in order to remedy an otherwise potentially dangerous condition affecting the risk of fire or other damage to the Premises arising out of Tenant's occupancy or particular use of the Premises, then in such an event, Tenant, at its sole cost and expense, shall within thirty (30) days of receipt of written notice from Landlord, make such improvements, alterations, or equipment installations required to remedy such dangerous conditions, including but not limited to, (and by way of example only), the installation of automatic fire extinguishing systems in cases where Tenant is operating certain food preparation equipment creating grease laden vapors without the protection of such equipment.

**14.7 Landlord's Insurance.** Landlord shall maintain on the building in which the Premises is located and on the Shopping Center an "Special Form - causes of loss" property policy of insurance, to the extent of full replacement cost, coverage for one (1) year's or more Rent loss (except as set forth in Section 14.2, above), and at Landlord's election, or if required by Landlord's lender or mortgage holder, earthquake and/or flood coverage, terrorism coverage, windstorm coverage, and such coverage customarily provided under an environmental protection policy. The insurance Landlord procures may include coverage on buildings or improvements other than the Premises including all of the Shopping Center; and such coverage may be obtained by Landlord as part of an umbrella or blanket insurance coverage or in conjunction with other real property owned and insured by Landlord, and in such event, Landlord shall reasonably allocate the cost of the insurance attributable to the Premises and/or Shopping Center, as the case may be. Tenant shall pay to Landlord, as Additional Rent, from and after the Commencement Date, Tenant's proportionate share of the cost of any insurance obtained, and any deductibles paid for, by Landlord. Tenant's proportionate share of said cost shall be allocated by using the fraction described in Section 18.1 or, at Landlord's discretion, by using the methods described in Section 11.1, above. Landlord may collect Tenant's proportionate share thereof in the manner provided for in Sections 18.4 and 18.5 or may separately bill Tenant for its proportionate share, in which event Tenant shall pay Landlord the sum due on demand. Further, if Tenant fails to procure and maintain the insurance required of it under Sections 14.1, 14.2 and/or 14.5, Landlord may, but shall not be required to, with or without prior notice to Tenant, procure and maintain the same, but at the expense of Tenant, and any amounts expended or expenses incurred by Landlord in procuring and/or maintaining such insurance shall be immediately reimbursed by Tenant to Landlord as Additional Rent hereunder, all such payments advanced by Landlord being subject to the application of interest at the rate of eighteen percent (18%) per annum, plus fifteen percent (15%) of the amount expended to cover Landlord's overhead and administrative costs. Landlord's obligation to maintain the insurance coverage described in this Section and Section 14.8, below, shall be deemed to be satisfied in the event that Landlord owns and/or controls less than the entirety of the Shopping Center and/or the Areas therein, or in the event that Landlord is not the operator of or charged with the obligation to maintain all of the Areas within the Shopping Center, and such other owner, co-owner or operator maintains all or part of the insurance coverage Landlord is obligated to maintain under this Section and Section 14.8, below, and in such instances, the amounts charged to Landlord for such coverage shall be deemed to be part of Landlord's cost for obtaining the required insurance coverage and shall be payable by Tenant as set forth above, or, at Landlord's sole discretion, per the terms and provisions of Section 18.5, below.

**14.8 Landlord's Liability Insurance.** Landlord shall maintain commercial general liability insurance, including personal injury and property damage coverage, with a single combined liability limit of not less than one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000.00) in the annual aggregate insuring against claims for bodily injury, death or property damage occurring in or upon the Shopping Center. Landlord may increase the coverage as determined by Landlord's insurance broker or lender. The cost of said insurance shall be allocated and collected in the manner described in Section 14.7.

**14.9 Tenant's Insurance Requirements.** All insurance required to be maintained by Tenant under this Lease shall:

(a) Be issued by an insurance company authorized to do business in the state where the Premises is located, with a financial rating of at least an A+10 status as rated in the most recent edition of Best's Insurance Reports;

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- (b) Be issued as a primary policy;
- (c) Contain an endorsement requiring thirty (30) days written notice from the insurance company to Landlord before cancellation;
- (d) Be evidenced by a policy or certificate of policy, together with evidence of payments of premiums, which policy and evidence shall be deposited with Landlord prior to Tenant's entry onto the Premises and on renewal of the policy not less than twenty (20) days before expiration of the term of the policy, and also whenever requested by Landlord; and
- (e) Not limit the liability of Tenant hereunder, nor shall the policy limits of any such insurance limit the extent of Tenant's liability hereunder.

#### **15. MUTUAL WAIVER OF SUBROGATION.**

Landlord (for itself and its insurer) and Tenant (for itself and its insurer) hereby waive as against the other and the other's respective officers, directors, partners, managers, members, employees, agents and representatives, any and all right to recovery and any right of subrogation for any and all direct and indirect property losses and damages, including those insured against under any "Special Form - causes of loss" insurance policy described in Article 14 in force at the time of such loss or damage or required to be in force at such time by the terms and conditions of this Lease. Tenant shall, upon obtaining the policies of insurance required by Article 14, give notice to the insurance carrier or carriers that the foregoing waiver of subrogation is contained in this Lease. The foregoing waivers shall be operative only so long as available in the state where the Shopping Center is located.

#### **16. DAMAGE, DESTRUCTION AND RESTORATION.**

**16.1 Duty to Restore.** Except as set forth in Section 16.2 below, if the Premises is partially or totally damaged by fire or other casualty so as to become partially or totally untenantable, which damage is insured against under any policy of fire and extended coverage insurance then covering the damaged improvements, and the amount of insurance proceeds payable is sufficient, in Landlord's sole discretion, to rebuild and/or repair all improvements so damaged, this Lease shall not terminate and said improvements shall be rebuilt by Landlord with reasonable diligence, using the proceeds from all available insurance policies, unless Landlord elects to terminate this Lease, as provided in Section 16.2. Landlord shall not be required to repair any injury or damage by fire or other cause, or make any repairs to, or replacements of, or reimbursements for any leasehold improvements, fixtures, or other personal property of Tenant, which obligation shall belong exclusively to Tenant. In the event of such casualty and repair, or a casualty under Section 16.2 for which Landlord elects not to terminate the Lease, this Lease shall act as an irrevocable assignment by Tenant to Landlord of any and all insurance proceeds payable as a result of such casualty, and Landlord shall further have the sole and exclusive right to determine in which order and under which policies of insurance, whether said policies be obtained by Landlord or Tenant under Article 14, claims for reimbursement are made.

**16.2 Election to Terminate.** If the improvements on the Premises are damaged by an insured casualty to the extent of at least twenty-five percent (25%) of their replacement cost (cost to repair or replace at the time of loss without deduction for physical depreciation) during the Lease Term, other than during the last three (3) years of the Lease Term, or to the extent of at least ten percent (10%) thereof during the last three (3) years of the Lease Term or to any extent by an uninsured cause at any time during the Lease Term, or if, at any time, more than twenty-five percent (25%) of the building area of the Shopping Center (whether or not the Premises is affected) or more than twenty-five percent (25%) of the building of which the Premises is a part (whether or not the Premises is affected) is so damaged, or, if the holder of a mortgage, deed of trust or other lien on the Premises at the time of the casualty elects, pursuant to such mortgage, deed of trust or other lien, to require the use of all or part of Landlord insurance proceeds in satisfaction of all or part of the indebtedness secured by the mortgage, deed of trust or other lien, Landlord shall, within not more than ninety (90) days after such damage, notify Tenant in writing of Landlord's election: (a) to terminate this Lease; or (b) to restore the improvements on the Premises and/or the buildings and Shopping Center, as the case may be. If Landlord elects to repair or restore the damaged improvements, then, with respect to the Premises, Landlord and Tenant each shall restore them in the same manner and to the same extent as work was done by each of them in the original construction and fixturing of the improvements. If Landlord elects not to restore, as aforesaid, this Lease shall terminate, at Landlord's sole and exclusive option, as of the date of such damage or the date of Landlord's notice of election, but in either event, this Lease shall expire and all interest of Tenant in the Premises shall terminate, but such rights and obligations of Landlord and Tenant that would have survived the normal expiration or early termination of this Lease shall remain in full force and effect. If Landlord elects to restore or fails to give notice of its election, as aforesaid, then this Lease shall remain in full force and effect.

**16.3 Rent Adjustments.** If this Lease is not terminated, then, during the period of repair and restoration, the Rent shall not be reduced but Tenant shall be entitled to have the proceeds, if any, of the Rent insurance applied to such Rent obligations.

**16.4 Insurance Proceeds.** In the event of a termination of this Lease, or in any other instance where Landlord repairs any damage covered by insurance, all insurance proceeds payable as a result of the casualty shall belong and be assigned to Landlord.

#### **17. ASSIGNMENT, SUBLetting AND RECAPTURE.**

**17.1 Request for Consent.** This Lease shall not be assigned nor shall any interest therein be transferred by Tenant, by operation of law or otherwise, without the prior written consent of Landlord, which consent may be withheld for any reason, or no reason at all, and Landlord shall be under no obligation to consider any request by Tenant to assign the Lease. Tenant understands and agrees that Tenant's intended use of the Premises as well as Tenant's business expertise, financial strength and background, and planned future business operation in and about the Premises are of a special and unique value to Landlord, and as such, constitute an important and valuable part of the planned and unique tenant mix which Landlord has attempted to establish within the Shopping Center (and at other Landlord-owned properties, if any, within five (5) miles of the Shopping Center), and that these things constitute a material consideration to Landlord for this Lease, and are hereby deemed to be valid and commercially reasonable grounds for the exercise of Landlord's right to withhold its consent to any proposed assignment under this Lease. If Tenant desires at any time to assign or otherwise transfer this Lease, it shall first notify Landlord of its desire to do so, and if Landlord thereafter notifies Tenant that Landlord is willing to review Tenant's assignment request, Tenant shall then submit in writing to Landlord: (a) the name and address of the proposed assignee; (b) the nature of the proposed assignee's business to be carried on in the Premises, including proof that the proposed assignee intends to use the Premises only for the Permitted Use and for no other purpose; (c) a copy of any agreements to be entered into by Tenant and the proposed assignee or transferee concurrently with such assignment; and (d) such financial information as Landlord may request concerning the proposed assignee and the total consideration paid or to be paid to Tenant by the assignee. Landlord hereby reserves the right to condition any such approval upon Landlord's determination that the proposed assignee is financially responsible as a tenant, that the proposed assignee is likely to conduct a business on the Premises of a type and quality substantially equal to or better than that conducted by Tenant, that the proposed assignee intends to use the Premises only for the Permitted Use and for no other purpose and that the proposed written assignment is in a form acceptable to Landlord. Tenant shall pay to Landlord the sum of seven hundred and fifty dollars (\$750.00) as the reasonable fee for Landlord's expenses in reviewing such proposed assignment, and said fee shall be non-refundable. This Lease may not be assigned in reliance on any law relating to bankruptcy or debtor's rights generally unless adequate assurance of future performance is provided Landlord including adequate assurance of the source of Rent and other expenses due under this Lease for the entire term of this Lease, and further provided that any Guaranty then in effect concerning this Lease is not invalidated or terminated as a result of such assignment. Notwithstanding anything to the contrary herein: (i) Tenant shall have no right to assign the Lease, or seek Landlord's approval for an assignment, and Landlord shall have no obligation to consider Tenant's request for Landlord's consent to an assignment, during any such time



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as Tenant is in Default or Breach of this Lease; and (ii) Tenant shall not pledge, encumber, hypothecate or mortgage its interest in the Lease or the Premises under any circumstances, and any pledge, encumbrance, hypothecation or mortgage, or attempt by Tenant to pledge, encumber, hypothecate or mortgage this Lease or the Premises shall be a Breach of this Lease and voidable at Landlord's option.

**17.2 Subsequent Assignment.** The consent by Landlord to any assignment shall not constitute a consent to any subsequent assignment by Tenant or to any subsequent or successive assignment by the assignee. However, Landlord may consent to subsequent assignments of the Lease or any amendments or modifications thereto without notifying Tenant or anyone else liable under the Lease and without obtaining their consent, and such action or actions shall not relieve such persons from liability under this Lease or assignment; however, such persons shall not be responsible to the extent any such amendment or modification enlarges or increases the obligations of Tenant or assignor under this Lease or such assignment.

**17.3 Assignee's Default.** In the event of any Default under this Lease, Landlord may proceed directly against Tenant, any guarantors or anyone else responsible for the performance of this Lease (including any assignments, amendments or modifications thereto), including the assignee without first exhausting Landlord's remedies against any other person or entity responsible therefore to Landlord, or any security held by Landlord for Tenant. Furthermore, Landlord's acceptance of Rent and/or consent to any assignment of the Premises by Tenant shall not constitute an acknowledgment that no Default then exists under this Lease of the obligations to be performed by Tenant, nor shall such consent be deemed a waiver of any then existing Default, except as may be otherwise provided in writing by Landlord to Tenant at that time.

**17.4 False Representations.** The discovery of the fact that any financial statement, or any other fact, relied upon by Landlord in giving its consent to an assignment was materially false shall, at Landlord's option, render Landlord's consent null and void and constitute a Breach of this Lease.

**17.5 Subletting, Partial Assignment and Hypothecation.** Partial assignments of Tenant's interest in this Lease and the hypothecation of any of Tenant's interest in this Lease are prohibited: Subject to Section 22.2(b), Tenant shall not sublet all or any portion of the Premises, subletting of the Premises being prohibited. A transfer of control of Tenant shall be deemed an assignment of this Lease and shall be subject to all of the provisions of this Article 17. Landlord's consent to any sale, assignment, encumbrance, occupation or other transfer shall not release Tenant from any of Tenant's obligations hereunder or be deemed to be a consent to any subsequent sale, assignment, encumbrance, occupation or other transfer. Any sale, assignment, encumbrance, occupation or other transfer of this Lease which does not comply with the provisions of this Article 17, and any subletting, shall, at Landlord's option, be void and a Breach hereunder.

**17.6 Consideration.** Tenant shall pay to Landlord, promptly following receipt, ten percent (10%) of the value of any consideration received by Tenant in connection with or related to any assignment of this Lease or the transfer of any interest therein, including without limitation any consideration received by Tenant as a result of the sale of Tenant's business. Tenant shall disclose the amount of consideration to be received by Tenant and provide Landlord with supporting documentation regarding same at the time Tenant requests Landlord's consent to the assignment of this Lease or the transfer of any interest therein. Any consent provided by Landlord hereunder shall be contingent upon Landlord's receipt of said consideration at the time the assignment of this Lease or transfer of any interest therein is consummated. Tenant's failure to promptly pay said amount shall at Landlord's election be deemed to be a material Breach of this Lease and/or a withdrawal of Landlord's consent to the assignment or transfer. In addition, Tenant shall pay to Landlord promptly following receipt one-half the amount by which all Rent and other payments for the use of the Premises received by Tenant from any other person occupying any portion of the Premises exceeds the Rent and any other amounts payable by Tenant pursuant to this Lease, with the Rent and other amounts payable by Tenant for the Premises allocated on the basis of the square footage occupied by the other party; however, nothing in this Section shall be deemed to constitute a consent by Landlord or a right by Tenant to assign the Lease or sublet any portion of the Premises. The provisions of this Section 17.6 shall apply regardless of whether or not such assignment, subleasing or occupation is made in compliance with the terms of this Lease. In the event Landlord consents to an assignment of this Lease: (a) Minimum Rent shall be increased but in no event decreased on the effective date of any such assignment (or if the effective date is not the first day of the month, then on the first day of the month immediately following the effective date), to the greater of: (i) the prevailing "market rent" for the Premises as determined by Landlord by averaging the minimum annual rents obtained by Landlord on a per square foot basis from the three (3) most recently signed new leases covering premises owned by Landlord within the Shopping Center which are determined by Landlord in its sole discretion to be comparable in location and configuration to that of the Premises (such determination shall not, however, take into consideration any monetary concessions granted by Landlord, such as free rent, tenant improvement allowances, or other similar monetary inducements); or (ii) an amount equal to the total of the monthly Minimum Rent plus Percentage Rent required to be paid by Tenant pursuant to this Lease during the twelve (12) month period immediately preceding the effective date of such assignment; and (b) the Security Deposit shall be increased but in no event decreased on the effective date of any such assignment to an amount equal to two (2) months Minimum Rent for the last two (2) months of the Lease Term, plus the then current NNN Estimate, rounded to the nearest \$1,000. Any payments made to Landlord pursuant to this Section 17.6 shall not cure any Default under this Lease arising from such assignment, subleasing or occupation.

**17.7 Recapture.** If Tenant requests Landlord's consent to any assignment of this Lease, Landlord shall have the right, to be exercised by giving written notice to Tenant within thirty (30) days of receipt by Landlord of the information concerning such assignment required by Section 17.1, to terminate this Lease effective as of the date Tenant proposes to assign this Lease, and on such date, Tenant, and all persons acting under or through it, shall vacate and deliver up to Landlord possession of the Premises and the Lease shall terminate, but such rights and obligations of Landlord and Tenant that would have survived the normal expiration or early termination of this Lease shall remain in full force and effect.

**17.8 No Waiver.** As a condition to Landlord's written consent as provided for in this Article 17, Tenant shall deliver to Landlord an executed copy of any assignment or agreement related to the Premises. Any assignee shall be deemed to have assumed the obligations of Tenant under this Lease. The collection or acceptance of Rent or other payment by Landlord from any person other than Tenant shall not be deemed a waiver of any payment provisions of this Article, the acceptance of any assignee or subtenant as the Tenant hereunder, or a release of Tenant or any assignor from any obligation under this Lease.

**17.9 Limitation on Consideration.** Notwithstanding anything to the contrary contained in this Lease, the ten percent (10%) consideration referenced in Section 17.6 above: (i) shall not apply to the first transfer of this Lease to an approved assignee; or (ii) in the case of the second or any subsequent transfer of this Lease and/or sale of Tenant's business, shall be limited to ten percent (10%) of the difference between what the subsequent tenant paid for Tenant's business and/or assignment of the Lease and the consideration received by such subsequent tenant for the sale Tenant's business and/or the assignment of the Lease. Any such assignee shall expressly assume the obligations of Tenant under this Lease in a document satisfactory to Landlord in its sole and absolute discretion. In no event shall Tenant be relieved from liability under this Lease in the event of any such assignment.

## 18. MAINTENANCE OF PARKING AND COMMON AREAS.

**18.1 Common Area Expenses.** Tenant shall pay to Landlord, as Additional Rent, Tenant's proportionate share of the CAM Expenses, as hereinafter more particularly described. Tenant's proportionate share for any calendar year during the Lease Term shall be that percentage that the total square footage of the Premises bears to: (i) the total square footage of the leasable buildings within the Shopping Center; (ii) the total floor area of the building or buildings or parcel of which the Premises is a part; or (iii) the total square footage of the tenants participating in the respective category of CAM Expenses, as set forth in Section 18.4 below, whichever is deemed appropriate by Landlord. Landlord may from time to time recalculate the square footage of the building in which the Premises is located and/or the square

Landlord's Initials

Tenant's Initials

footage of the Shopping Center, and Landlord's determination of such square footage shall be deemed conclusive on Tenant unless and until it is thereafter re-calculated by Landlord.

**18.2 Common Areas.** The common areas and parking areas (hereinafter the "Areas") now located in the Shopping Center shall at all times be available for the non-exclusive use of Tenant (except as hereinafter provided) during the Lease Term; provided, that the condemnation or other taking by any public authority, or sale in lieu of condemnation of any or all such Areas, shall not constitute a violation of this covenant. Landlord reserves the right from time to time to close or change the entrances, exits, traffic lanes and the boundaries and location of such Areas. Landlord reserves the right from time to time to make changes in the shape and location of the improvements, buildings, sidewalks, driveways, Areas and other improvements, and to eliminate or add any improvements or buildings to the Shopping Center.

**18.3 Maintenance.** Landlord shall maintain the Areas in a commercially reasonable condition, and shall keep same lighted during normal and permitted hours of operation and landscaped, and shall repair any damage to the facilities thereof, but the cost to repair any damage caused to the Areas by Tenant or its agents or employees shall be borne exclusively by Tenant.

**18.4 Expenses.** It is understood and agreed that the term "CAM Expenses" shall be construed to include but not be limited to all sums expended by Landlord in connection with said Areas (including administrative and professional expenses) for all maintenance and repair, replacement, resurfacing, painting, re-striping, cleaning, snow removal, sweeping and janitorial services, planting, landscaping, lighting and other utilities, signs, markers, bumpers, garbage and refuse removal, security, policing, fire protection, alarm systems, service contracts to regularly inspect, service and/or maintain the Areas or any components thereof, depreciation on all equipment purchased (but not directly expensed) for the purpose of operating and/or maintaining such Areas (or rent if such equipment is leased) and maintenance and repair of such equipment, the cost of personnel to implement and/or supervise such services, insurance deductibles and management fees to cover Landlord's overhead and administrative costs (which shall be computed as a percentage not to exceed five percent (5%) of the yearly Rental Income from the Shopping Center, which term Rental Income shall mean and include, but not be limited to, all monetary payments from all other tenants, occupants and/or licensees at the Shopping Center for their use and/or occupancy of a portion of the Shopping Center, including any and all sums that would be classified as Rent or Additional Rent if charged under this Lease; and Tenant shall pay its prorata share of such Rental Income). Landlord may, and without affecting its right to receive reimbursement for CAM Expenses, cause any or all of said services to be provided by an independent contractor or contractors, or by an entity or entities owned and/or controlled by Landlord. Notwithstanding the foregoing, if either the Real Property Taxes (described in Article 11) or the insurance premiums (described in Article 14), are not separately assessed by Landlord, Landlord may include said taxes and/or insurance premiums as CAM Expenses, as set forth in Section 18.5, below. The amount of any item or items of expense paid for exclusively and solely by a tenant other than Tenant (hereinafter the "Excluded Expense") shall not be included within the charges for CAM Expenses assessed upon Tenant, and with respect to any such items of Excluded Expense, Tenant's proportionate share shall be adjusted to exclude the square footage occupied by the tenant directly paying the Excluded Expense when assessing Tenant's CAM Expenses. In the event that Landlord owns and/or controls less than the entirety of the Shopping Center and/or the Areas therein, or in the event that Landlord is not the operator of or charged with the obligation to maintain all of the Areas within the Shopping Center, or in the event Landlord is required to reimburse any person or entity for any costs or expenses incurred by such person or entity in maintaining the Areas, or for maintaining other parts of the Shopping Center not owned or controlled by Landlord, and such costs and expenses would, under this Lease, be considered to be CAM Expenses but for the fact that such were originally incurred by someone other than Landlord or were incurred in regard to Areas not owned or controlled by Landlord, Landlord shall, in its sole and exclusive discretion, include the costs and expenses payable by it as CAM Expenses.

Provided Tenant has not been in Default (as defined in Section 22.1 below) at any time under this Lease, Tenant's proportionate share of Controllable CAM Expenses (as defined below) due under the Lease shall not increase by more than five percent (5%) per calendar year, on a cumulative basis. As used herein, Controllable CAM Expenses shall mean all CAM Expenses, other than those expenses which are beyond Landlord's control, including without limitation, Taxes, insurance, management fees, utilities, rubbish removal, security, and non-reimbursed hurricane, storm, or other natural disaster related expenses.

**18.5 Proration of Expenses.** Tenant shall pay to Landlord the above-described CAM Expenses, as well as Tenant's proportionate share of costs, expenses, and charges to be allocated to Tenant under any other provisions of this Lease, if Landlord elects to include same, in the following manner:

(a) From and after the Commencement Date, but subject to adjustment as provided herein, Tenant shall pay Landlord on the first day of each month of the Lease Term one-twelfth (1/12th) of Tenant's proportionate share of the NNN Estimate which shall be applied to Tenant's account and maintained by Landlord for the items included therein, which monthly amount may be adjusted from time to time by Landlord on the basis of Landlord's experience as well as the anticipated cost of all of the foregoing items. Landlord reserves the right in its sole discretion to amortize the cost of any non-recurring CAM Expenses over such period as Landlord determines and may accelerate and collect from Tenant at the expiration or earlier termination of the Lease Tenant's proportionate share of the unpaid portion of any such amortized non-recurring CAM Expenses. Notwithstanding anything contained herein or any verbal representations made by Landlord or Landlord's agent to the contrary, Landlord expressly does not represent or warrant that the NNN Estimate as set forth at Section 1.7 of this Lease, or in effect at any time during the Lease Term hereof, is an accurate representation of the actual costs which may ensue for those items for which the estimated payments are being made. While the Landlord may endeavor to estimate such actual costs, for various reasons, including fluctuations in many expenses and taxes over which the Landlord may have little or no control, there may be a shortfall when the reconciliation of the estimates to such actual costs is made. Tenant expressly acknowledges that such a shortfall may occur, and hereby agrees to promptly pay its share of these costs in accordance with the terms of this Lease.

(b) If, at the end of any calendar year, Tenant's share of the foregoing costs exceeds the total of the NNN Estimates paid by Tenant during such calendar year, Tenant shall pay to Landlord the deficiency upon demand. If said NNN Estimates exceed Tenant's share of the foregoing costs, Tenant shall be entitled to offset the excess against CAM Expenses thereafter to become due to Landlord. Landlord shall furnish a statement showing categories of expenses to Tenant annually for the actual expenses for all of the foregoing items and the excess or deficiency of Tenant's payments.

**18.6 Use of Common Areas.** Tenant, for the use and benefit of Tenant, its agents, employees, customers and licensees shall have the non-exclusive right, in common with Landlord and other present and future owners, tenants, and their agents, employees, customers, licensees and subtenants, to use the Areas during the Lease Term for ingress and egress, roadway, sidewalk and automobile parking, except for any restrictions and/or exclusions from such non-exclusive use for the benefit of any other tenant or other purpose. Tenant, in the use of said Areas, agrees to comply with such rules and regulations as Landlord may adopt from time to time for the orderly and proper operation of said Areas. Such rules may include, but may not be limited to, the following:

(a) Allowing for a parking lot company to provide attendants to supervise the parking lots and collect for parking beyond validation time limit for Tenant's customers and other visitors, where and when it is desirable to conserve parking spaces for customers;

(b) The restricting of Tenant and employee parking to a limited designated area(s), or the exclusion of Tenant, Tenant's employees or Tenant's customers from designated areas or the exclusion of Tenant and employee parking within the Shopping Center, as further set forth in Sections 18.7 and 31.18 below;

(c) The regulation of the removal, storage and disposal of Tenant's refuse and other rubbish, at the sole cost and expense of Tenant; and

(d) Such other rules and regulations as are necessary or appropriate, in Landlord's sole and exclusive discretion, for the safe and proper use of the Areas.

**18.7 Tenant/Employee Parking.** Tenant, and its employees, vendors and contractors, shall not be permitted to park any vehicles in the vehicle parking areas of the Areas which may from time to time be designated for patrons and/or customers of the Shopping Center. Landlord at all times shall have the right to designate the particular parking area to be used by Tenant and its employees, vendors and contractors, and Landlord shall also have the right to ban Tenant and its employees, vendors and contractors from parking anywhere in the Areas. Tenant shall furnish Landlord with its and its employees, vendors and contractors' vehicle license numbers within fifteen (15) days after taking possession of the Premises, and Tenant shall thereafter notify Landlord of any changes or additions within five (5) days after such change occurs, and also within five (5) days of the written request by Landlord. The failure of Tenant to supply Landlord with the license plate numbers of Tenant and its employees, vendors and contractors shall subject Tenant to a fifty dollar (\$50.00) per day fine, assessed from the date such information was due to the date it is received by Landlord. If Tenant or its employees, vendors or contractors park their cars in any restricted parking area or Areas designated for Shopping Center patrons and/or customers only, then Landlord may charge Tenant a twenty dollar (\$20.00) per day parking fine for each day or partial day per car parked in any Areas other than those designated, and Landlord may also cause such car(s) to be towed from the Areas or the Shopping Center at the cost of Tenant, provided, however, Landlord shall, prior to the first violation of this provision that would result in the assessment of a fine and/or the towing of a vehicle, give to Tenant oral or written notice of the violation and of Landlord's intent to have the vehicle towed. Tenant shall have not less than two (2) hours from delivery of Landlord's notice within which to cause the violation to be discontinued, and if the violation is not corrected within said two (2) hour period, then the twenty dollar (\$20.00) per day fine and Landlord's right to tow such car(s) shall take effect. After notice of such first violation, Landlord shall not be required to notify Tenant of any subsequent violation before Landlord imposes the daily fine and/or causes the vehicle(s) to be towed. All amounts due under the provisions of this Section shall be deemed to be Additional Rent and shall be payable by Tenant within three (3) days after a demand from Landlord for payment.

**19. HOLDING OVER.**

Should Tenant hold over after the termination of this Lease, Tenant shall become a tenant at will on a month-to-month tenancy only upon each and all of the terms herein provided as may be applicable to such month-to-month tenancy and any such holding over shall not constitute an extension of this Lease. During such holding over, Tenant's Minimum Rent as set forth in Section 3.1 of this Lease shall be the greater of: (i) the prevailing market minimum rent, or (ii) one hundred fifty percent (150%) of the Minimum Rent in effect immediately prior to such hold over period, plus all Additional Rent. Notwithstanding the foregoing, should Tenant hold over for any portion of the first month following the termination of this Lease, Tenant shall pay to Landlord, in addition to all other payments due, Minimum Rent (computed at one hundred fifty percent (150%)) for the entire month in which the holding over occurs. Notwithstanding the foregoing, nothing contained in this Article shall constitute Landlord's consent, either express or implied, for Tenant to hold over following the expiration of the Lease Term and shall not affect Landlord's rights of re-entry or any other rights of Landlord hereunder or as otherwise provided by law.

**20. HOURS OF BUSINESS; CONDUCT OF BUSINESS.**

Subject to the provisions of Section 31.1, Tenant shall continuously during the entire Lease Term conduct and carry on Tenant's business in the Premises. Tenant shall keep the Premises open for business and cause Tenant's business to be conducted therein during the usual business hours of each and every business day as is customary for businesses of like character in the city in which the Premises is located to be open for business, but in no event for less than the hours that the majority of the other tenants at the Shopping Center are open for business. Tenant shall keep the Premises adequately stocked with merchandise and with sufficient sales personnel to care for the patronage, and to conduct said business in accordance with sound business practices and to maximize Tenant's Gross Sales. Tenant shall also keep its primary trade name sign lit during the evening hours as is customary for businesses of like character in the city in which the Premises is located, and particularly in conformity with the majority of the other tenants at the Shopping Center, and in any event, until at least 9:00 p.m. each night. In the event of a Default by Tenant of any of the conditions in this Article 20, Landlord shall have, in addition to any and all remedies herein provided, the right at its option to collect not only the Minimum Rent, but Additional Rent at the rate of one three hundred and sixty fifth (1/365th) of the amount of the annual Minimum Rent for each day Tenant is in Default or Breach of the provisions of this Article. Landlord and Tenant specifically acknowledge that the Additional Rent remedy provided for in the immediately preceding sentence is a provision for liquidated damages and is not a penalty, that the damages which Landlord is likely to suffer should Tenant breach any of the conditions in this Article are impossible to calculate at the time this Lease is executed and the parties have specifically negotiated this provision, without which Landlord would not have entered into this Lease.

**21. COMPETITION.**

During the term of this Lease, Tenant, and any and all of its successors and assignees, covenant not to engage in the operation of any store or business which would either adversely affect the Gross Sales generated from the Premises or which is competitive with Tenant's business at the Premises. Such prohibited acts include, but are not limited to, the complete or partial ownership, operation or control by Tenant, or any of its successors or assignees, of any store or business within a radius of two (2) miles of the Premises which is competitive with Tenant's business at the Premises. In the event that Tenant, or any of its successors or assignees own, operate or control such a competing store or business, or engage in the operation of a business which adversely affects the Gross Sales generated from the Premises, Landlord may elect to declare a Breach under this Lease.

**22. TENANT'S DEFAULT AND REMEDIES.**

**22.1 Default.** A "Default" is defined as a failure by Tenant to observe, comply with or perform any of the terms, covenants, conditions or rules applicable to Tenant under this Lease. A "Breach" is defined as the occurrence of any one or more of the following Defaults, and, where a grace period to cure after notice is specified herein, the failure by Tenant to cure said Default prior to the expiration of the applicable cure period, and shall entitle Landlord to pursue the remedies hereinafter set forth. The occurrence of any one or more of the following events shall constitute a Default and Breach of this Lease by Tenant:

(a) The vacating or abandonment of the Premises by Tenant. The failure of Tenant to carry on its business at the Premises for a period of three (3) consecutive days shall be deemed to be a vacation and/or abandonment of the Premises (except for force majeure or as otherwise agreed to in writing by Landlord);

(b) The failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of three (3) days after written notice thereof from Landlord to Tenant;

(c) The failure of Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, other than described in sub-paragraph (b) above, where such failure shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of the Tenant's Default is such that more than ten (10) days are reasonably required for its cure, then Tenant shall not be deemed to be in Default if Tenant commences such cure



Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_

within said ten (10) day period and thereafter diligently pursues such cure to completion, but in no event shall the time to complete the cure of the Default be extended for a period in excess of thirty (30) days, notwithstanding Tenant's diligence in pursuing the cure of such Default;

- (d) The making by Tenant of any general assignment for the benefit of creditors;
- (e) The filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within thirty (30) days);
- (f) The appointment of a trustee or receiver to take possession of all or substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days;
- (g) The attachment, execution or other judicial seizure of all or substantially all of Tenant's assets located at the Premises, or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days; or
- (h) A Breach of this Lease shall, without notice of a Default being required to be given to Tenant, be deemed to have occurred if Tenant violates any provision of this Lease which specifies that Landlord may treat a violation by Tenant as a Breach of the Lease.

**22.2 Remedies.** In the event of any such Breach by Tenant, Landlord may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such Breach, avail itself of the following remedies:

- (a) Terminate this Lease and Tenant's right to possession of the Premises by any lawful means, in which case Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's Default, including, but not limited to: the cost of recovering possession of the Premises; expenses of re-letting, including necessary renovation and alteration of the Premises, attorney's fees and any real estate commission actually paid; and the worth at the time of award of (i) the unpaid Rent and other charges called for under the Lease which had been earned at the time of termination, (ii) the entire amount of unpaid Minimum Rent, Additional Rent, and other sums which would otherwise be due from Tenant hereunder for the balance of the term, which amounts shall be subject to acceleration hereunder, and (iii) any and all other amounts necessary to compensate Landlord for the detriment caused by Tenant's failure to perform its obligations under this Lease, including, but not limited to, the costs incurred by Landlord for the taking of an inventory of, removal of and/or storage of any and all property left in, upon or about the Premises by Tenant, following Tenant's abandonment, vacating or otherwise surrendering of the Premises. The worth at the time of award of the sums referred to in clauses (i) and (ii) above, shall be computed by allowing interest at the highest rate then allowed by law. The worth at the time of award of the amount referred to in clause (iii) above, shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%);
- (b) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent and any other charges and adjustments as they become due hereunder. Notwithstanding the provisions of Article 17, in the event that following a Default or Breach of this Lease by Tenant and Landlord's election to pursue this remedy, Tenant shall have the right to assign the Lease or sublet the Premises subject to Landlord's consent, which consent will be subject to the standards, restrictions and requirements set forth in Section 17.1, and Tenant agrees that such standards, restrictions and requirements (including the requirement that the successor-in-interest use the Premises for the Permitted Use and for no other purpose) are reasonable;
- (c) Pursue any other right or remedy, legal or equitable, now or hereafter available to Landlord under the laws or judicial decisions of the state wherein the Premises is located, and recover as damages, in addition to such other rights and remedies, the value of any abated Rent and any monetary contribution by Landlord for any Tenant improvements or other Lease concessions which may have been granted to Tenant hereunder prior to any such Breach. Notwithstanding the foregoing, Landlord shall not be liable for, nor required to credit, post judgment replacement lease Rent income against prejudgment Rent loss or other monetary damage sustained by Landlord as a result of any Default or Breach on the part of Tenant hereunder, and Tenant hereby waives any right Tenant may have to so apply such replacement lease Rent credit, if applicable; and
- (d) In addition to any other remedy Landlord may have, in the event any check given to Landlord by Tenant is not honored when first presented to the bank upon which it is drawn, or Tenant more than twice in any calendar year fails to pay the Minimum Rent and Additional Rent when first due, Landlord, at its option, may require all subsequent payments of Rent to be paid by cashier's check or wire transfer and/or require Tenant to pay all Rent and Additional Rent in advance, in quarterly installments. Furthermore, Tenant shall reimburse Landlord for any returned check or NSF charges incurred as a result of Tenant's check not being honored when presented to the bank upon which it is drawn.

### **23. DEFAULTS BY LANDLORD/LIMITATION OF ACTIONS.**

Landlord shall not be in default under this Lease unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event less than thirty (30) days after written notice by Tenant to Landlord and to the holder of each mortgage or deed of trust covering the Premises whose name and address shall have at any time been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligations; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. In no event shall Tenant have the right to terminate this Lease as a result of Landlord's default and Tenant's remedies shall be limited to damages and/or an injunction. Moreover, any claim, demand, right or defense of any kind by Tenant which is based upon or arises in any connection with this Lease or the negotiations prior to its execution, shall be barred unless Tenant commences an action thereon, or interposes in a legal proceeding a defense by reason thereof, within six (6) months after the date of the inaction or omission or the date of the occurrence of the event or of the action to which the claim, demand, right or defense relates, whichever applies. Further, any charges billed to Tenant by Landlord under this Lease, including, but not limited to, Landlord's maintenance and repair expenses under Article 8, the Real Property Taxes under Article 11, the insurance reimbursements under Article 14, and the CAM Expenses under Article 18, shall conclusively be presumed to be valid and binding on Tenant unless Tenant has provided written notice to Landlord, within sixty (60) days of Landlord's delivery of an invoice or its demand for payment, notifying Landlord of Tenant's objection to such invoice or demand and setting forth in such notice the basis and reasons for such objection.

### **24. LATE CHARGES/ INTEREST.**

**24.1 Late Charges.** Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within five (5) days after such amount shall be due, Tenant shall pay to Landlord a late charge equal to six percent (6%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payments by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's Default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

Landlord's Initials \_\_\_\_\_

Tenant's Initials \_\_\_\_\_

**24.2 Interest.** Unless otherwise specifically provided herein, any sums payable to Landlord which are not paid when due shall bear interest at the rate of eighteen percent (18%) per annum from the date same becomes due, until paid. Where interest has been set in this Lease at a certain per annum rate, and it is hereafter determined that such rate, or the application of such rate, is in excess of the maximum amount allowed by law, the rate of interest shall be deemed to be the maximum rate allowed by law.

## **25. SAFETY AND HEALTH.**

Tenant covenants at all times during the term of this Lease to comply with the requirements of the Occupational Safety and Health Act of 1970, 29 U.S.C. Subsection 651 et seq. and any similar legislation in the state wherein the Premises is located (hereinafter collectively the "Act"), to the extent that the Act applies to the Premises and any activities thereon. Without limiting the generality of the foregoing, Tenant covenants to maintain all working areas, all machinery, structures, electrical facilities and the like at the Premises in a condition that fully complies with the requirements of the Act, including such requirements as would be applicable with respect to agents, employees or contractors of Landlord who may, from time to time, be present upon the Premises (except to the extent that the particular activities of such agents, employees or contractors of Landlord on the Premises require safety precautions or alterations of the conditions of the Premises beyond the requirements of such Act otherwise applicable to the Premises, in which event Tenant shall not be obligated to undertake or provide any such additional safety precautions or alterations of conditions), and Tenant agrees to indemnify and hold Landlord harmless from and against any liability, claim or damages, arising as a result of a Breach of the foregoing covenant and from all costs, expenses and charges arising therefrom, including without limitation, attorney's fees and court costs incurred by Landlord in connection therewith, which indemnity shall survive the expiration or termination of this Lease.

## **26. CONDEMNATION/EMINENT DOMAIN.**

**26.1 Definition.** If there is any taking of, or damage to, all or part of the Premises, or any interest therein because of the exercise of the power of eminent domain or inverse condemnation, whether by condemnation proceedings, or otherwise, or any transfer of any part thereof or any interest herein made in avoidance thereof (all of the foregoing being hereinafter referred to as a "Taking", or if the context so requires, "Taken") during the Lease Term, the rights and obligations of the parties with respect to such Taking shall be as provided in this Article 26.

**26.2 Total Condemnation.** If there is a Taking of all of the Premises, this Lease shall terminate, but such rights and obligations of Landlord and Tenant that would have survived the normal expiration or early termination of this Lease shall remain in force and effect.

**26.3 Partial Condemnation.** If twenty-five percent (25%) or more of the total floor area of the Premises, as described in Section 1.1 (hereinafter the "Condemned Area") shall be Taken, either party shall be entitled to terminate this Lease or, if twenty-five percent (25%) or more of the floor areas of the building in which the Premises is located shall be Taken, Landlord (but not Tenant) shall be entitled to elect to terminate this Lease; and in either case, the terminating party shall give the other party written notice of such election not later than thirty (30) days after the date Landlord delivers notice to Tenant that possession or title to the portion of the Premises or said building Taken has vested in the condemnor. If neither party gives such notice, or less than twenty-five percent (25%) of the Premises or the floor area of the building shall be Taken, this Lease shall remain in full force and effect and Rent shall be adjusted as provided in Section 26.7.

**26.4 Common Area.** If any part of the Areas shall be Taken or appropriated, Landlord shall, within sixty (60) days of the Taking, have the right at its option to terminate this Lease upon written notice to Tenant.

**26.5 Termination Date.** If this Lease is terminated in accordance with the provisions of this Article 26, such termination shall become effective as of the date physical possession of the condemned portion is Taken.

**26.6 Repair and Restoration.** If this Lease is not terminated, Landlord shall, at its sole expense, restore, with due diligence, the remainder of the improvements occupied by Tenant so far as practicable to a complete unit of like quality, character and condition as that which existed immediately prior to the Taking, provided that the scope of the work shall not exceed the scope of the work done by Landlord originally in constructing the Premises, and further provided that Landlord shall not be obligated to expend an amount greater than that which was awarded for said restoration to Landlord for such Taking.

**26.7 Rent Adjustment.** If part of the Premises is Taken, but this Lease is not terminated, the Minimum Rent shall be reduced by that proportion which the Condemned Area Taken from the Premises bears to the total square footage of the Premises immediately before the Taking, and any other amounts payable by Tenant under this Lease that are based in whole or part on the square footage of the Premises shall be adjusted as elsewhere set forth in this Lease. Minimum Rent shall not be adjusted for any Taking of a portion of the Areas or the building in which the Premises is located.

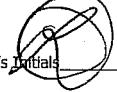
**26.8 Award.** The total and entire award or compensation in such proceedings, whether for a total or partial Taking, or for diminution in the value of the leasehold or for the fee or for any other reason shall belong to, and be the property of, Landlord; provided, that Tenant shall be entitled to recover from the condemnor such compensation as may be separately awarded by the condemnor to Tenant or recoverable from the condemnor by Tenant for the Taking of trade fixtures and equipment owned by Tenant in its own right (meaning personal property, whether or not attached to the real property, which may be removed without injury to the Premises) and for the expense of removing and relocating them, and for the loss of goodwill to the extent that is severally awardable, provided that such award does not adversely affect Landlord's award.

## **27. HAZARDOUS MATERIALS.**

**27.1 Prohibition Against Hazardous Materials.** Tenant shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances in or about the Premises or the property of which the Premises is a part. Tenant shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into the Premises any such materials or substances except to use in the ordinary course of Tenant's business, and then only in those limited amounts ordinarily used in similar businesses, and only after written notice is given to Landlord of the identity of such substances or materials. Without limitation, hazardous substances and materials shall mean any substance which is toxic, ignitable, explosive, reactive, or corrosive or which is regulated by any local government (city, county or state), or by the United States Government as a "Hazardous Substance", "Hazardous Waste", or "Hazardous Material", and shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Article 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Article 6901 et seq., any applicable state or local law and the regulations adopted under these acts, including but not limited to petroleum and its derivatives (hereinafter the "Hazardous Materials"). Tenant shall maintain at the Premises all hazardous waste manifests and make same available to Landlord upon request by Landlord.

**27.2 Compliance With Law/Indemnification.** If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of Hazardous Materials, then the costs thereof shall be reimbursed to Landlord from Tenant upon demand as Additional Rent if such requirement applies to the Premises. Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of Hazardous Materials on or at the

Landlord's Initials 

Tenant's Initials 

Premises. In addition, Tenant shall, at its sole expense, undertake to comply with any and all Applicable Law, statutes, and ordinances concerning Hazardous Materials to which Tenant, in the course of its business in the Premises, is subject, and Tenant hereby agrees to cooperate with Landlord as may be required by Landlord's undertaking to similarly comply. Tenant shall further reimburse Landlord for any and all costs or expenses incurred by or on behalf of Landlord in regard to the investigation or remediation of Hazardous Materials or compliance with Applicable Law or otherwise incurred under this Article. In all events, Tenant shall indemnify and hold Landlord harmless from all liability, claims, penalties, fines, judgments, costs, losses, damages and expenses of any kind, including, without limitation, cleanup costs, a decrease in the value of the Premises or Shopping Center, damages due to loss or restriction of rentable or usable space, any damages due to an adverse impact on the marketing of the Premises and any damages caused by the migration of Hazardous Materials from the Premises, and Tenant shall further indemnify, hold harmless and reimburse Landlord for any and all sums paid for settlement of claims, consultant's fees, expert's fees, and attorney's fees incurred by Landlord as a result of a Breach by Tenant regarding Hazardous Materials on or about the Premises occurring while Tenant is or was in possession of the Premises, or occurring elsewhere if caused by Tenant or persons acting under Tenant. This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated for or by a federal, state or local agency or political subdivision, and any costs incurred in pursuing any claims for indemnification hereunder. Without limitation to the foregoing, if Tenant causes or permits the presence of any Hazardous Materials on or at the Premises and such results in contamination, Tenant shall promptly, at its sole expense, take any and all necessary actions to return the Premises to the condition existing prior to the presence of any Hazardous Materials on or at the Premises. Tenant shall first obtain Landlord's approval for any such remedial action, and all of the within covenants shall survive the expiration or early termination of the Lease. The obligations of Tenant under this Article 27 shall survive the expiration or termination of this Lease.

**27.3 Duty to Inform Landlord.** If Tenant knows, or has reasonable cause to believe, that a Hazardous Material, or a condition involving or resulting from same, has come to be located in, on, under or about the Premises, other than as previously consented to by Landlord, Tenant shall immediately give written notice of such fact to Landlord. Tenant shall also immediately give Landlord a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action or proceeding given to, or received from, any governmental authority or private party, or persons entering or occupying the Premises, concerning the presence, spill, release, discharge of, exposure to or remediation of any Hazardous Materials or contamination in, on or about the Premises. If Landlord has reasonable grounds to believe that there may be Hazardous Materials or contamination in, on or about the Premises in violation of Applicable Law and/or regulations, Landlord may require Tenant to conduct an environmental audit of Tenant's compliance with such laws and regulations, at Tenant's sole cost and expense.

**27.4 Landlord's Hazardous Materials Rights.** Notwithstanding anything to the contrary above, Landlord's rights in conjunction with any matter involving Hazardous Materials at or about the Premises shall include, but not be limited to:

(a) to elect to undertake, at Tenant's expense, any investigation, environmental audit or remediation of Hazardous Materials at or believed to be at the Premises, which investigation, environmental audit and/or remediation responsibilities would otherwise under this Lease be Tenant's responsibility;

(b) to defend, with counsel of Landlord's own choosing, and at Tenant's sole expense, any action or proceeding brought by any person or entity in regard to any Hazardous Materials in or about the Premises or migrating therefrom, and to negotiate, defend, approve and/or appeal any action taken or order issued by any government authority in such regard; and

(c) to enter onto the Premises to inspect for Tenant's compliance with all Applicable Law and/or to inspect for the presence of Hazardous Materials.

(d) In the event that Hazardous Materials are used at the Premises, Landlord may require that Tenant, at its sole cost and expense, obtain and maintain a policy of pollution legal liability insurance ("Environmental Insurance") which Environmental Insurance policy shall be subject to the review and approval of Landlord and the insurance requirements set forth in Section 14.9, above. The Environmental Insurance shall name Landlord and Westwood Financial Corp., a California corporation, as additional named insureds with limits of liability of not less than one million dollars (\$1,000,000.00) per occurrence.

(e) Tenant shall cause any and all Hazardous Materials located on the Premises to be removed and transported within the earlier of the time required by this Lease or Applicable Law. Such removal and transportation shall be performed by duly licensed haulers to duly licensed facilities for final disposal and in compliance with all Applicable Law. Any fees, taxes, or other exactions imposed by a governmental agency in connection with any such disposal or transportation of Hazardous Materials shall be borne solely by Tenant.

**27.5 Prohibition Against Invasive Testing.** Under no circumstances shall Tenant perform any Invasive Testing (as defined below) at the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. As used herein, "Invasive Testing" includes, without limitation, any testing, investigation, sampling, assessment or analysis of indoor air, soil, soil vapor or groundwater at the Premises or any disturbance of soil, soil vapor or groundwater at the Premises (including, without limitation, by drilling, coring, augering or otherwise).

**28. NO ACCORD AND SATISFACTION.**

No acceptance by Landlord of a lesser sum than the Rents or any other charge then due shall be deemed to be other than on account of whichever installment of such Rent or charge due as Landlord, at Landlord's sole discretion, so elects to apply, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent or other charge be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy as provided in this Lease.

**29. RELOCATION OF PREMISES.**

Landlord shall have the right to relocate the Premises to another part of the Shopping Center (hereinafter the "Relocated Premises") in accordance with the following:

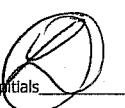
**29.1** The Relocated Premises shall be similar in nature to the Premises and shall not be twenty percent (20%) greater or less in size than the Premises, and shall be placed in that condition by Landlord at Landlord's cost;

**29.2** Landlord shall give Tenant at least thirty (30) days prior written notice of Landlord's intention to relocate the Premises;

**29.3** Landlord shall diligently pursue the relocation of the Premises, and the monthly Minimum Rent and all other sums and charges payable under this Lease shall abate during the period of such relocation while Tenant is unable to open for business at either the Premises or the Relocated Premises;

**29.4** Landlord shall bear the cost of the relocation and installation of Tenant's then existing equipment and trade fixtures. Further, all incidental costs incurred by Tenant as a result of the relocation, including, without limitation, costs incurred in changing addresses on stationery, business cards, directories, advertising and other such items, shall be paid by Landlord in a sum not to exceed one thousand dollars (\$1,000.00), and then only upon written verification of said costs;

  
Landlord's Initials \_\_\_\_\_

  
Tenant's Initials \_\_\_\_\_

**29.5** Landlord may relocate the Premises not more than twice during the Lease Term, and not more than once during any calendar year;

**29.6** If the Relocated Premises is of a different size than the Premises as it existed before the relocation, then the Minimum Rent payable hereunder shall be adjusted by multiplying the Minimum Rent by a fraction, the numerator of which shall be the total number of square feet in the Relocated Premises and the denominator of which will be the total number of square feet in the Premises before relocation. Any other amounts payable by Tenant under this Lease that are based in whole or part on the square footage of the Premises shall be adjusted as elsewhere set forth in this Lease; and

**29.7** The parties shall immediately execute an amendment to this Lease reflecting the relocation of the Premises and the adjustment, if any, of Rent.

**30. CHANGES TO SHOPPING CENTER/ EASEMENTS AND LICENSES/RIGHT OF ENTRY.**

**30.1 Changes to and Constitution of the Shopping Center.** Landlord reserves the right at any time or times during the Lease Term, to remodel, expand, contract, delete, multi-deck or otherwise alter or change any portion or portions of the Shopping Center without the consent of Tenant. Landlord shall have the right to modify the location, shape, size, design or any other component of the Shopping Center, including its Areas, and any such modified Shopping Center or Areas shall, effective as of the completion of such modification, be deemed to be the Shopping Center or Areas as described in this Lease. Tenant's right to use the Areas pursuant to this Lease is a license only, and the Areas or use thereof do not constitute the Premises, provided that such Areas shall not be reduced in such a manner as to deny Tenant access to the Premises. Landlord makes no warranties or representations as to the present occupants or occupancy level of the Shopping Center, or of future occupancy commitments. Tenant waives any duty or obligation, express or implied, on the part of Landlord to keep the Shopping Center leased or occupied, or partially leased or occupied, or to lease (or not to lease) portions of the Shopping Center for any specific purpose, use or type of use. Landlord reserves the absolute right to allow such other tenancies in the Shopping Center as Landlord, in the exercise of its sole business judgment, shall determine to best promote the interests of the Shopping Center, which right includes the right to prohibit certain tenant uses and/or to grant exclusive use rights to other tenants or entities. Tenant does not rely on the fact, nor does Landlord represent, that any specific Tenant or number of tenants, shall, during the Lease Term, occupy space in the Shopping Center.

**30.2 Easement, Licenses and Rights.** Landlord reserves unto itself, and to the extent not so reserved Tenant hereby grants to Landlord, such licenses, easements, and other rights in, over or under the Premises, or any portion thereof as shall be required or desired by Landlord for the construction, installation, repair, replacement and/or maintenance of structural supports and members, mains, conduits, pipes or other facilities to serve the Shopping Center, or any part thereof, as the same may be altered as provided in Section 30.1 hereof, including, but not by way of limitation, the premises of any other occupants; provided, however, that Landlord shall pay for any such alterations required on the Premises as a result of any such exercise, occupancy, use or enjoyment of any such license or easement or other right and, provided further, that if the exercise, occupancy, use or enjoyment of any such license or easement shall result in an unreasonable interference with Tenant's use, occupancy or enjoyment of the Premises as contemplated by this Lease, then the Minimum Rent shall be abated to the extent of and only during such actual interference.

**30.3 Waiver of Claims.** Tenant hereby waives any and all claims and causes of action resulting directly or indirectly from Landlord's exercise of any of its rights, reservations, licenses or easements as provided in this Article, including by way of example but not limitation, claims for business interference, lost profits, damage to or loss of personal property, loss of benefit of the Lease or the Premises, or otherwise.

**31. GENERAL PROVISIONS.**

**31.1 Force Majeure.** If any party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, impossibility to procure materials, restrictive governmental laws or regulations or by other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, nothing contained in this Section 31.1 shall excuse Tenant from the prompt payment of any Rent or other charge required of Tenant hereunder except as may be expressly provided elsewhere in this Lease, and nor shall Tenant's inability to obtain governmental approval for Tenant's Permitted Use or for its occupation of the Premises excuse any of Tenant's obligations hereunder.

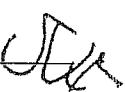
**31.2 Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

**31.3 Covenants and Conditions.** Each provision of this Lease performable by Tenant shall be deemed to be both a covenant and a condition.

**31.4 Binding Effect; Choice of Law.** Subject to any provisions hereof restricting assignment or subletting by Tenant and subject to the provisions of Article 17, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the state wherein the Premises is located, and Landlord and Tenant agree that this Lease has been made and is to be performed in the County wherein the Premises is located.

**31.5 Subordination; Attornment.**

(a) Tenant hereby subordinates this Lease to any ground or senior master lease(s) covering all or a portion of the Shopping Center owned by Landlord of which the Premises are a part. Tenant further hereby subordinates this Lease to any deed(s) of trust, mortgage(s) or the lien of any other security instrument for financing or refinancing (singularly, "Security Instrument" and collectively, "Security Instruments"), now in force ("Existing Encumbrances") or subsequently in force ("Future Encumbrances"), and any renewals, replacements, modifications or extensions thereof, which encumber(s) all or any portion of the Shopping Center owned by Landlord of which the Premises are a part, and to all advances made or hereafter to be made which are secured by any of the foregoing. The preceding two sentences shall be self-operative and no further instrument of subordination shall be required; provided, however, to the extent Applicable Law requires further documentation to be executed in order to cause this Lease to be subordinate to either Existing or Future Encumbrances, and the renewals, replacements, modifications or extensions thereof: (i) Tenant hereby appoints Landlord as its attorney in fact coupled with an interest to execute any documentation which is determined by Landlord or its lender(s) to accomplish such subordination; or alternatively, (ii) within ten (10) days from Landlord's written demand, Tenant hereby agrees to execute, acknowledge and deliver such documents as are required by Landlord or its lender(s) to accomplish such subordination. If any of Landlord's lenders at anytime require an express acknowledgment of the subordination of this Lease to any Security Instrument, Tenant shall execute, acknowledge and deliver such documentation required by such lender and return same to Landlord within ten (10) days from Landlord's written demand therefor. Any lender may at any time elect to cause this Lease to have priority over its Security Instrument by unilaterally executing an instrument subordinating its Security Instrument to this Lease, or accepting a Security Instrument containing a clause providing for such subordination, and if required by Landlord or its lender(s), within ten (10) days after Landlord's or Landlord's lender's request Tenant shall execute, acknowledge and deliver any and all instruments necessary or appropriate to confirm the priority of this Lease over such Security Instrument. Tenant's failure to execute such documentation as is required hereunder shall, at Landlord's election, constitute a Default by Tenant under this Lease.

Landlord's Initials 

Tenant's Initials 

(b) In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by the Landlord covering the Premises or delivery to a mortgagee of a deed in lieu of foreclosure, the Tenant shall attorn to the purchaser or transferee upon any such foreclosure or sale or transfer and recognize such entity as the Landlord under this Lease.

**31.6 Attorney's Fees.** In the event of any litigation between Landlord and Tenant to enforce or interpret any provision of this Lease or any right of either party hereto, the unsuccessful party to such litigation shall pay the successful or prevailing party's reasonable attorney's fees and taxable and non-taxable costs and expenses, including expert witness fees. In addition, any judgment entered in the litigation shall expressly provide, among other things, for the successful or prevailing party's recovery, upon subsequent application to and approval of the Court, of any post-judgment attorney's fees and taxable and non-taxable costs and expenses incurred by such party in enforcing and/or collecting upon the judgment, and the judgment shall further expressly reserve jurisdiction in the Court to award, modify and/or supplement the judgment for the purpose of awarding such fees and costs. In the event Landlord engages the services of an attorney to enforce or protect its rights under the terms of this Lease as a result of the filing by or against Tenant or any guarantor of Tenant of a bankruptcy petition, Landlord shall be entitled to recoup its reasonable attorneys' fees and costs incurred, regardless of whether any action or litigation is commenced. In addition thereto, Tenant agrees to pay Landlord's taxable and non-taxable costs, expenses and attorney's fees with respect to:

- (a) Each request by Tenant for permission or consent to assign or sublet the Premises, in whole or in part, (which is exclusive of Landlord's non-refundable seven hundred and fifty dollar (\$750.00) administrative fee as set forth in Section 17.1);
- (b) Each request made by Tenant to modify, amend or supplement this Lease;
- (c) Each request made by Tenant to make any Alterations (other than the Initial Alterations), or to modify and/or improve the Premises; and
- (d) Any Breach or Default of Tenant which is cured prior to litigation or cured after litigation has commenced but prior to judgment.

Landlord shall notify Tenant of the amount of such costs and attorney's fees, and Tenant shall pay same (as Additional Rent) within three (3) days of such notice.

**31.7 Landlord's Access.** Landlord and Landlord's agents shall have the right to enter the Premises upon reasonable notice to Tenant for the purpose of testing and/or inspecting same and ensuring compliance with Tenant's obligations under this Lease and showing the Premises to prospective lenders, buyers, and/or tenants, and to post notices of non-responsibility. Landlord and Landlord's agents shall also have the right to enter the Premises and make any repairs or restoration as may be needed or allowed to maintain the Premises pursuant to the terms of this Lease, and may for such purposes erect scaffolding and other necessary structures. Tenant hereby waives any claim for damages or for any injury or any inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by Landlord's entry onto the Premises or its activities thereon. Landlord shall, without liability to Tenant, have the right to use any and all means which Landlord may deem proper to open the doors to the Premises in an emergency in order to obtain entry to the Premises. Any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the Premises, or an eviction of Tenant from the Premises or any portion thereof. Landlord reserves the right to post two (2) "For Lease" signs inside the windows of the Premises during the last sixty (60) days of the Lease Term, and Tenant agrees to allow such signs to be reasonably displayed and to keep such signs posted.

**31.8 Merger.** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, or a termination by Landlord, shall not act as a merger.

**31.9 Net, Net, Net Lease.** Landlord and Tenant understand and agree that this Lease is what is commonly known as a "net, net lease." Tenant recognizes and acknowledges, without limiting the generality of any other terms or provisions of this Lease, that it is the intent of the parties hereto that any and all Rent in this Lease provided to be paid by Tenant to Landlord shall be net to Landlord, and any and all expenses incurred in connection with the Premises and Shopping Center, including the inspection thereof, or in connection with the operations thereon, including any and all taxes, assessments, general or special license fees, insurance premiums, public utility bills and costs of repair, maintenance and operation of the Premises and Shopping Center and all buildings, structures, permanent fixtures and other improvements comprised therein, together with the appurtenances thereto, and management fees, in addition to the Rent herein provided for, shall be paid by Tenant.

**31.10 Estoppel Certificate.** Tenant shall, upon not less than ten (10) days prior written notice from Landlord and/or Landlord's lender, execute, acknowledge and deliver to Landlord, Landlord's lender and/or any prospective purchaser of the Shopping Center a statement in writing, on a form provided by Landlord or Landlord's lender, certifying that this Lease is unmodified and in full force and effect (or if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect), setting forth the dates to which the Rent and other charges are paid in advance, if any, and acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and setting forth the date of commencement of Rent and expiration of the Lease Term and setting forth such other matters as may be requested by Landlord and/or Landlord's lender. It is expressly understood and agreed that any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises is a part. Tenant's failure to deliver such statement within such time shall be conclusive upon Tenant that this Lease is in full force and effect, without modification except as may be represented by Landlord, that there are not uncured defaults in Landlord's performance, and that not more than two (2) months' Rent has been paid in advance. If Landlord desires to finance or refinance the Premises, or any part thereof, then upon not less than ten (10) days prior written notice from Landlord and/or Landlord's lender, Tenant agrees to deliver to any lender designated by Landlord Tenant's published financial statements for the immediately preceding three fiscal years of Tenant.

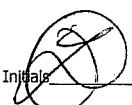
**31.11 Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision thereof.

**31.12 Time of Essence.** Time is of the essence.

**31.13 Captions.** Article and Section captions are not a part hereof.

**31.14 Incorporation of Prior Agreements; Amendments.** There are no oral agreements between the parties hereto, or their agents or brokers, if any, affecting this Lease, and this Lease supersedes and cancels any and all previous promises, negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord or its agents or brokers to Tenant or Tenant's agents or brokers with respect to the subject matter hereof, and none thereof shall be used to interpret or construe this Lease. This Lease contains all agreements of the parties with respect to any matter mentioned herein, there are no other representations or warranties between the parties and all reliance with respect to representations is solely upon the representations and agreements contained in this document. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.

  
Landlord's Initials \_\_\_\_\_

  
Tenant's Initials \_\_\_\_\_

**31.15 Notice.** All notices and demands which may or are required or permitted to be given by either party to the other hereunder shall be in writing and shall be deemed to have been given, if mailed by certified mail, postage prepaid, return receipt requested, on the date which is three (3) days after the date posted, if by overnight courier, such as Federal Express, on the first date of attempted delivery to the other party, or if personally delivered or sent by facsimile transmission (so long as a written confirmation of any facsimile transmission is maintained), on the date when delivered to the address shown below, or to such other places Tenant or Landlord may from time to time designate in a notice to the other. Either party may change its notice address upon at least ten (10) days prior written notice to the other party. Notwithstanding the foregoing, Landlord's service of notice to the Premises shall be deemed to be proper service and notice under this Lease. Notices hereunder may be given by an agent or attorney acting on behalf of Landlord.

**TO LANDLORD:** Southtown Center  
c/o Westwood Financial Corp. (Agent for Landlord)  
11440 San Vicente Boulevard, Suite 200  
Los Angeles, California 90049  
Telephone: 310-820-5443  
Facsimile: 310-207-5154

**TO TENANT:** Roubekas Enterprises LLC  
2202 Grandfather Mountain  
Spring Hill, Florida 34606  
Telephone: 805-556-7557  
Fax: 1-866-569-1895  
leonroubekas@gmail.com

**or:** Premises

**31.16 Waiver.** No waiver by Landlord of any provision hereof shall be deemed a waiver of any provision hereof or of any subsequent Breach by Tenant of the same or any other provision, and no claim of waiver or estoppel shall be effective as against Landlord unless such waiver or estoppel is acknowledged in writing by the Landlord. Landlord's consent to or approval of any subsequent act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any act by Tenant. The acceptance of Rent hereunder by Landlord shall not be a waiver of any preceding Default or Breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding Default or Breach at the time of acceptance of such Rent.

**31.17 Landlord's Liability.** In the event of a transfer of title or Landlord's interest in or to the Premises and/or Shopping Center, Landlord herein named (and in case of any subsequent transfers the then grantor) shall be relieved from and after the date of such transfer of all liability for any of Landlord's obligations thereafter to be performed. Notwithstanding anything to the contrary in this Lease, any judgment obtained by Tenant against Landlord shall be satisfied only out of Landlord's equity interest in the Shopping Center and the Rents receivable by Landlord therefrom. Neither Landlord nor any of its general or limited partners, officers, directors, shareholders, members, managers, beneficiaries or employees shall have any personal liability for any matter in connection with this Lease or Landlord's obligations as Landlord of the Premises. Tenant shall not institute, seek or enforce any personal or deficiency judgment against Landlord or any of its general or limited partners, officers, directors, shareholders, members, managers, beneficiaries or employees, and none of their property, except Landlord's equity interest in the Shopping Center, shall be available to satisfy any judgment hereunder.

**31.18 Rules, Regulations and Restrictions.**

(a) In addition to Tenant's obligations under Section 18.6, above, Tenant shall observe faithfully and comply directly with any and all rules, regulations, restrictions, conditions and/or covenants (except that Tenant's monetary obligations to Landlord under this Lease shall not be increased), including, but not limited to, the terms and provisions in any and all master or ground leases, reciprocal easement agreements, and any and all matters of public record, including any recorded "Conditions, Covenants and Restrictions" in effect at the Shopping Center as of the Lease Effective Date, and such other rules, regulations, restrictions, conditions and/or covenants as may hereafter be in effect or as Landlord may hereafter from time to time adopt for the safety, care and/or cleanliness of the Premises, for the building and Shopping Center in which the Premises is located, and for the preservation of good order therein; and

(b) Landlord shall not be liable to Tenant for a violation of any of the above-described rules, regulations, restrictions, conditions and/or covenants, or for the breach of any covenant or condition in any other lease, by any other tenant, occupant, invitee or third party in or at the Shopping Center. Tenant agrees not to distribute handbills or other advertising in the Shopping Center without the express written consent of Landlord, which consent may be withheld for any reason or no reason at all.

**31.19 Mutual Agency; Co-Tenant.** In the event the Tenant hereunder is comprised or constituted of more than one person or entity, each Tenant hereby appoints each remaining Tenant as his, her or its agent, representative and attorney-in-fact, to act for and on behalf of said Tenant with respect to all matters relating to, or arising from this Lease, the tenancy created hereby, the obligations herein set forth, and the use and occupancy of the Premises, specifically including but not limited to the right to alter, amend, modify, extend, supplement and terminate this Lease and the tenancy created hereunder. This agency shall continue and is irrevocable at all times during the period that the Premises is occupied by any co-tenant. Each Tenant further appoints Landlord as his, her or its attorney-in-fact to act on Tenant's behalf wherever this Lease requires Tenant to undertake any act or execute any document and Tenant fails or refuses to timely undertake such act or execute such document. Notwithstanding such appointment, Landlord shall not be obligated to perform any act or execute any document on Tenant's behalf, and Landlord shall not be liable to Tenant or any third party for Landlord's failure or refusal to perform any act or execute any document on Tenant's behalf.

**31.20 Authority of Tenant.** If any Tenant is a corporation, partnership, limited liability company or other non-incorporated business entity, each individual executing this Lease on behalf of said corporation, partnership, limited liability company or other non-incorporated business entity represents and warrants that he, she or it is duly authorized to execute and deliver this Lease on behalf of said corporation, partnership, limited liability company or other non-incorporated business entity in accordance with the bylaws and/or organization documents of said entity and further that this Lease is binding and obligatory upon said Tenant.

**31.21 JURY TRIAL WAIVER.** LANDLORD AND TENANT HEREBY INTENTIONALLY, KNOWINGLY AND IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTER-CLAIM OR CROSS-COMPLAINT IN ANY ACTION, PROCEEDING AND/OR HEARING BROUGHT BY EITHER LANDLORD AGAINST TENANT OR TENANT AGAINST LANDLORD ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR THE NEGOTIATIONS LEADING UP TO THE LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR ANY CLAIM OF INJURY OR DAMAGE, OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW, STATUTE OR REGULATION NOW OR HEREAFTER IN EFFECT. IF LANDLORD SHALL COMMENCE ANY SUMMARY PROCEEDING AGAINST TENANT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF WHATEVER NATURE OR DESCRIPTION IN ANY SUCH PROCEEDING (UNLESS FAILURE TO INTERPOSE SUCH COUNTERCLAIM WOULD PRECLUDE TENANT FROM ASSERTING IN A SEPARATE ACTION THE CLAIM WHICH IS THE SUBJECT OF SUCH COUNTERCLAIM), AND

Landlord's Initials \_\_\_\_\_

Tenant's Initials \_\_\_\_\_

**WILL NOT SEEK TO CONSOLIDATE SUCH PROCEEDING WITH ANY OTHER ACTION WHICH MAY HAVE BEEN OR WILL BE BROUGHT IN ANY OTHER COURT BY TENANT OR LANDLORD.**

**31.22 Broker's Fee.** Landlord and Tenant each represent and warrant to the other that neither has had any dealings with any person, firm, broker or finder other than the person(s), if any, whose names are set forth in Section 1.10 of this Lease in connection with the negotiation of this Lease and/or the consummation of the transaction contemplated hereby, and no other broker or other person, firm or entity is entitled to any commission or finder's fee in connection with said transaction. Tenant and Landlord do each indemnify, hold harmless and agree to defend the other from and against any costs, expenses, attorney's fees or liability from compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying party, which indemnity shall survive the expiration or termination of this Lease. Under no circumstances shall any broker named herein be considered or deemed to be a third-party beneficiary under this Lease, and no rights, express or implied, are granted to any broker under or through this Lease.

**31.23 Plats and Riders.** Clauses, plats, riders, attachments, amendments and addenda, if any, affixed to this Lease are a part hereof.

**31.24 Recordation.** Neither Landlord nor Tenant shall record this Lease, but a short form memorandum hereof may be recorded at the request of Landlord, and Tenant shall, on Landlord's request, execute and deliver to Landlord such short form memorandum prepared by Landlord.

**31.25 Returned Checks.** Tenant agrees to pay Landlord as Additional Rent a fee of twenty-five dollars (\$25.00) for each returned check, in addition to any late charge or other penalties provided elsewhere in this Lease. Tenant authorizes Landlord to obtain Tenant's credit report periodically during its tenancy (including any extension of term, holdover or option period) in connection with the approval, modification or enforcement of this Lease.

**31.26 Title to Premises.** Tenant acknowledges that title to the Premises may be subject to easements, covenants, restrictions, conditions, declarations and agreements of record (hereinafter the "Recorded Instruments") and agrees to be bound by their terms. Tenant waives any right it may have to approve any subsequent changes to or amendment of the Recorded Instruments.

**31.27 Quiet Enjoyment.** Provided Tenant is not in Default of the Lease, Tenant shall have quiet possession of the Premises for the entire Lease Term, subject to all of the provisions of this Lease.

**31.28 Interpretation.** The parties hereby acknowledge and agree that each has been given the opportunity to independently review this Lease with legal counsel, and/or have the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. In the event of any ambiguity in or dispute regarding the interpretation of same, the interpretation of this Lease shall not be resolved by any rule of interpretation providing for the interpretation against the party who caused the uncertainty to exist or against the draftsman.

**31.29 Counterparts.** This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**31.30 Confidentiality.** Tenant acknowledges and agrees that as a material condition of this Lease, the negotiations preceding the execution of this Lease and the terms and conditions herein are confidential and are to remain strictly private to the fullest extent permitted by law. With the exception of Tenant's attorneys, accountants, tax preparers, insurers and/or lenders, and any governmental agency having jurisdiction or authority over Tenant or the Premises, Tenant shall not disclose, consent to the disclosure or otherwise disseminate the foregoing confidential information to any person or third party, including, but not limited to, any existing or prospective tenant at the Shopping Center, any real estate broker or to any other person or entity. The foregoing restriction shall survive the termination of this Lease for a period of five (5) years, and any violation of this provision shall constitute a Breach of this Lease.

**31.31 Exhibits.** Any and all Exhibits described in the Table of Contents (and referenced therein as attached to the Lease), or referenced in or attached to this Lease are deemed a part of and are incorporated into this Lease as though fully set forth herein.

**31.32 Office of Foreign Assets Control, Department of the Treasury Certification.** Tenant certifies that:

(a) It is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and

(b) It is not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation.

Tenant hereby agrees to indemnify, defend and hold Landlord harmless from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification, which indemnity shall survive the expiration or termination of this Lease.

**31.33 Relationship of the Parties.** Nothing contained in this Lease shall be deemed or construed as creating the relationship of principal or agent or a partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computing rents nor any other provision contained herein nor the acts of the parties hereto shall be deemed to create any relationship between the parties other than landlord and tenant.

**31.34 No Option.** The submission by Landlord to Tenant of this Lease shall be deemed solely for Tenant's consideration and not for acceptance. Such submission shall have no binding force or effect, shall not constitute any rights or impose any obligations on either party. The execution and return of this Lease by Tenant to Landlord shall be deemed Tenant's offer to lease the Premises. This Lease shall have no binding force and effect unless and until Tenant and Landlord have executed this Lease and a duplicate original hereof shall have been returned by Landlord to Tenant.

**31.35 Radon Gas.** Florida Statute 404.056(5) - "RADON GAS: Radon gas is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

**31.36 Tenant Remedies.** With respect to any provision of this Lease that either provides or operates to provide that Landlord shall not unreasonably withhold or delay any consent or approval, Tenant shall not be entitled to make any claim for damages incurred by Tenant by reason of Landlord's failure to comply therewith, it being understood and agreed that Tenant's sole remedy therefore shall be an action for specific performance.

  
Landlord's Initials \_\_\_\_\_

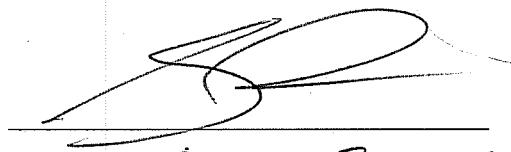
  
Tenant's Initials \_\_\_\_\_

NO REPRESENTATION OR RECOMMENDATION IS MADE BY LANDLORD AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT OR TAX CONSEQUENCES OF THIS DOCUMENT OR THE TRANSACTION RELATED THERETO. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO TENANT'S ATTORNEY FOR HIS, HER OR ITS REVIEW AND APPROVAL REGARDING TENANT'S PROTECTION OF ITS LEGAL RIGHTS, INCLUDING, BUT NOT LIMITED TO, THE WAIVER OF JURY TRIAL PROVISION CONTAINED IN SECTION 31.21.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year written below.

**LANDLORD:**  
**CAPSTONE MCCANN, LLC,**  
**A FLORIDA LIMITED LIABILITY COMPANY**

**Witnesses:**



Print Name: Cindy Flynn



Print Name: Carol Fredrikson

**BY: WESTWOOD FINANCIAL CORP.,**  
**A CALIFORNIA CORPORATION**

**ITS: MANAGER**

**BY:** 

Steven J. Fogel

**ITS:** Secretary

**DATED:** 7-28-10

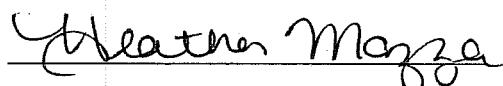
**TENANT:**

**ROUBEKAS ENTERPRISES LLC**  
**A FLORIDA LIMITED LIABILITY COMPANY**

**Witnesses:**



Print Name: Ruth P. Wharton



Print Name: Heather Mazza

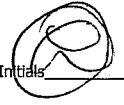
**BY:** 

Leon Roubekas

**ITS:** Managing Member

**DATED:** 7-1-10

Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_

## ADDENDUM TO LEASE

This Addendum to Lease is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

### **32. OPTION TERM.**

**32.1 Tenant's Option Rights.** Subject to the terms hereinafter set forth, Tenant may extend the Lease Term for one (1) additional period of sixty (60) months (such right being referred to as the "Option" and such sixty (60) month period being hereinafter referred to as the "Option Period"). The Option Period shall commence on the expiration of the initial Lease Term (the "Option Commencement Date") and upon commencement shall be considered part of the Lease Term. The Option is personal to the Tenant named in the Lease and may not be assigned, and any termination of the Lease during the Lease Term will terminate any and all rights Tenant may have to exercise the Option. Tenant may only exercise the Option by furnishing written notice to Landlord of Tenant's exercise of its right to extend the Lease Term ("Tenant's Option Notice"), with Tenant's Option Notice to be received by Landlord not more than two hundred seventy (270) days nor less than one hundred eighty (180) days prior to the expiration of the initial Lease Term. If Tenant fails to timely provide Tenant's Option Notice during the specified period above, Tenant shall have no further right to extend the Lease. Tenant's exercise of the Option shall, at Landlord's sole election, be of no force or effect in the event: (i) Tenant is in Default or Breach under the Lease at the time of Landlord's receipt of Tenant's Option Notice; (ii) subsequent to Landlord's receipt of Tenant's Option Notice, Tenant is in Breach of the Lease or fails to timely cure any Default, regardless of whether or not a Default notice was served by Landlord; or (iii) Tenant was at any time prior to Landlord's receipt of Tenant's Option Notice or prior to the commencement of the Option Period delinquent in the payment of any Rent due under the Lease for a period of more than ten (10) days, regardless of whether or not a Default notice was served by Landlord. Except as otherwise expressly set forth in this Lease, the terms and conditions of this Lease during the Option Period shall be the same as during the initial Lease Term, except that the Minimum Rent shall be determined as set forth below in Sections 32.2 and 32.3, Tenant shall not be entitled to any free rent, tenant improvement allowance or other similar concessions and Tenant shall have no further right to extend the Lease Term.

**32.2 Option Rent.** During the Option Period, all terms and conditions of the Lease shall remain in full force and effect, except that the Minimum Rent for the Option Period shall be in accordance with the following schedule:

Months 1 – 12:	\$2,911.67
Months 13 – 24:	\$2,999.02
Months 25 – 36:	\$3,089.10
Months 37 – 48:	\$3,181.66
Months 49 – 60:	\$3,277.11

**32.3 Increase of Security Deposit.** The Security Deposit required by Article 5 of the Lease shall be increased to an amount equal to no less than one hundred percent (100%) of the Minimum Rent and Additional Rent payable in the first month of the Option Period (the "Increased Security Deposit"). The full amount of the Increased Security Deposit shall be deposited with Landlord no later than the first day of the first month of the Option Period.

### **33. CONTINGENCY FOR TERMINATION OF EXISTING LEASE.**

It is expressly understood and agreed that this Lease is subject to and contingent upon the termination of a lease with the tenant currently the Premises ("Previous Tenant"). If for any reason whatsoever, Landlord is unable to successfully terminate the Previous Tenant's lease within sixty (60) days following the Lease Effective Date on terms acceptable to Landlord, in its sole discretion, then Landlord shall so inform Tenant by written notice ("Failure to Terminate Notice"). Upon Tenant's receipt of the Failure to Terminate Notice, this Lease shall terminate and all obligations of Landlord and Tenant to each other under this Lease shall cease to be in effect, except for such rights and obligations that would have survived the normal expiration of this Lease and Landlord shall return to Tenant any prepaid monies.

### **34. LANDLORD LEASING RESTRICTION**

The Landlord shall not lease the adjacent units (defined as sharing a wall) to the Premises which operate the following use(s): i) billiard halls; ii) pawn shops; iii) adult video/adult entertainment stores; iv) abortion/drug rehabilitation offices/facilities; v) alcohol/drug rehabilitation offices/facilities; vi) unemployment, social security or probation offices; and vii) tattoo parlors.

### **35. PRIMARY USE.**

(a) Provided Tenant is not in Default under this Lease, Tenant shall, during the Lease Term and any extension thereof (but not during any holdover period) have the exclusive right within the Shopping Center to engage in the retail sale of juice based smoothies (hereinafter the "Primary Use"). Landlord may not lease to any tenant doing business as Planet Smoothie, Smoothie King, Robek's, Yogaberry, Jaluka Juice, Froots, Carolina Smoothies, or

Landlord's Initials

  
Tenant's Initials

## ADDENDUM TO LEASE

This Addendum to Lease is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

Freshens. The Primary Use shall be terminated and of no further force or effect if: (1) Tenant fails to timely cure any Default under the Lease within the grace periods set forth therein; (2) at any time during the Lease Term or any extension thereof Tenant devotes less than seventy-five percent (75%) of its sales area to the Primary Use; or (3) Tenant assigns its interest in this Lease or sublets twenty-five (25%) or more of the floor area of the Premises.

(b) The foregoing Primary Use restriction shall not apply to: (1) any tenant or occupant (or their successors or assigns) operating in the Shopping Center as of the Commencement Date; (2) any tenant now or hereafter at the Shopping Center if such tenant occupies a space or store of ten thousand (10,000) square feet or greater; (3) any business or tenant at the Shopping Center that devotes less than nineteen percent (19%) of the sales area of such premises to the Primary Use, or on annual basis, derives less than twenty-five percent (25%) of its gross sales from sales generated by the Primary Use; and (4) any tenant or occupant of any portion of the Shopping Center not owned by Landlord.

(c) Notwithstanding anything herein to the contrary, in the event another tenant or occupant (other than as permitted by Article 35(b)) at the Shopping Center violates a provision of its lease or license agreement regarding its premises, which either does not permit or specifically prohibits a use that violates the Primary Use, Tenant's remedies shall be limited to those set forth hereafter. Tenant shall provide written notice to Landlord of the Primary Use violation, and within thirty (30) days of receipt of such notice, Landlord shall provide notice of the lease or license agreement violation to such other tenant or occupant. Thereafter, and following such tenant or occupant's failure to cease the Primary Use violation, Landlord shall use its good faith efforts to enforce its rights under such lease or license agreement and to obtain appropriate judicial relief, provided however, that Landlord shall not be required to appeal any adverse decision denying any relief sought by it. In the event that Landlord does not commence an action within ninety (90) days following Tenant's notice of the Primary Use violation, or such legal action is ultimately decided in a manner which allows a continued violation of Tenant's Primary Use (the "Adverse Decision"), Tenant's sole remedy shall be to terminate this Lease, which termination notice must specify a termination date not less than thirty (30) nor more than sixty (60) days from the date of delivery of such notice, and which notice must be received by Landlord not more than one hundred and twenty (120) days from the date of Tenant's notice to Landlord of the Primary Use violation, if Landlord elected not to pursue a legal action against the violating tenant or occupant, or not more than thirty (30) days after an Adverse Decision is entered (if Landlord elected to pursue such legal action), as the case may be. Tenant shall otherwise not have any remedies, monetary, injunctive or otherwise, against Landlord for another tenant or occupant's violation of the Primary Use restriction, nor shall Tenant be entitled to any rental offset or credit as a result of such Primary Use violation.

### **36. EQUIPMENT OWNED BY THIRD PARTY.**

Tenant acknowledges that as of the date of this Lease there exists within the Premises certain fixtures, furniture, equipment, and other personal property, more particularly described in Exhibit "J" attached hereto (collectively the "Equipment"), that is subject to ownership and lien interests of third parties. Landlord is in the process of acquiring title to the Equipment and the parties desire to allow Tenant to use the Equipment prior to Landlord finalizing such acquisition. Landlord shall indemnify and hold Tenant harmless from and against any and all third party claims asserting an ownership interest in the Equipment.

Tenant agrees to accept such Equipment in its "as-is" and its "where-is" condition and agrees to keep and maintain such Equipment in good working order and repair during the term hereof. Landlord makes no representations or warranties as to the merchantability, fitness, quality, design, condition, or suitability of the Equipment. In the event Tenant cannot use any of the items of Equipment, Tenant shall not sell, remove, or abandon any of the Equipment without Landlord's prior written consent. Should Tenant desire to remove any of the Equipment, Tenant shall notify Landlord in writing, and in such event, Landlord reserves the right to remove, sell, and/or otherwise dispose of such Equipment as Landlord deems appropriate in its sole judgment.

Tenant shall not assume any ownership interest in the Equipment, nor hypothecate or pledge any portion of such Equipment as security or collateral against any indebtedness for any reason whatsoever. Moreover, all items of the Equipment for which Tenant cannot demonstrate an ownership interest by Tenant existing prior to the date of this Lease shall remain on the Premises at the termination or earlier expiration of the Lease and surrendered to Landlord in the same condition as accepted at the commencement of this Lease, normal wear and tear excepted.

Notwithstanding the foregoing, in the event of a material default by Tenant under this Lease, Tenant shall surrender any and all ownership interest Tenant held in the Equipment to Landlord, which interest shall automatically pass over to Landlord in addition to any and all rights of recovery for damages incurred by Landlord as a result of Tenant's default.

Subject to the first paragraph of this Article 36, in the event Tenant exercises its Option, as set forth in Article 32 above, upon the Option Commencement Date, Landlord shall quitclaim to Tenant, without representation or

Landlord's Initials \_\_\_\_\_

Tenant's Initials \_\_\_\_\_

## ADDENDUM TO LEASE

This Addendum to Lease is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

warranty, any interest Landlord has in and to the Equipment. Nothing contained in this Article 36 shall in any way obligate Landlord or Tenant to extend the Lease Term.

### **37. RENT ABATEMENT.**

Notwithstanding the provisions of Section 1.3 and Article 3 of the Lease to the contrary, Tenant shall not be required to pay the Minimum Rent for the second (2nd) through, and including, the fifth (5th) full calendar months of the Lease Term following the Rent Commencement Date (collectively, the "Abatement Months").

Tenant shall not be relieved of any of its obligations under this Lease except the requirement to pay Minimum Rent during the Abatement Months including, without limitation, Tenant's obligation to pay its pro-rata share of the CAM Expenses and all items of Additional Rent during the Lease Term and any Option Period, per Sections 1.7 and 31.9 and Articles 11, 14 and 18 of the Lease.

Notwithstanding the foregoing, the Minimum Rent which otherwise would have been due and payable for the Abatement Months, but for the foregoing provision regarding abated rent, shall become immediately due and payable upon the occurrence of an event of Default or Breach.

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### **END OF ADDENDUM**

**LANDLORD:**  
**CAPSTONE MCCANN, LLC,**  
**A FLORIDA LIMITED LIABILITY COMPANY**

**BY:** **WESTWOOD FINANCIAL CORP.,**  
**A CALIFORNIA CORPORATION**

**ITS:** **MANAGER**

**BY:** **Steven J. Fogel**

**ITS:** **Secretary**

**DATED:** **7-28-10**

**TENANT:**

**ROUBEKAS ENTERPRISES LLC**  
**A FLORIDA LIMITED LIABILITY COMPANY**

**Witnesses:**

Ruth P. Wharton,

Print Name: Ruth P. Wharton

**BY:**   
Leoti Roubekas

**ITS:** Managing Member

**DATED:** 7-1-10

Heather Mazza

Print Name: Heather Mazza

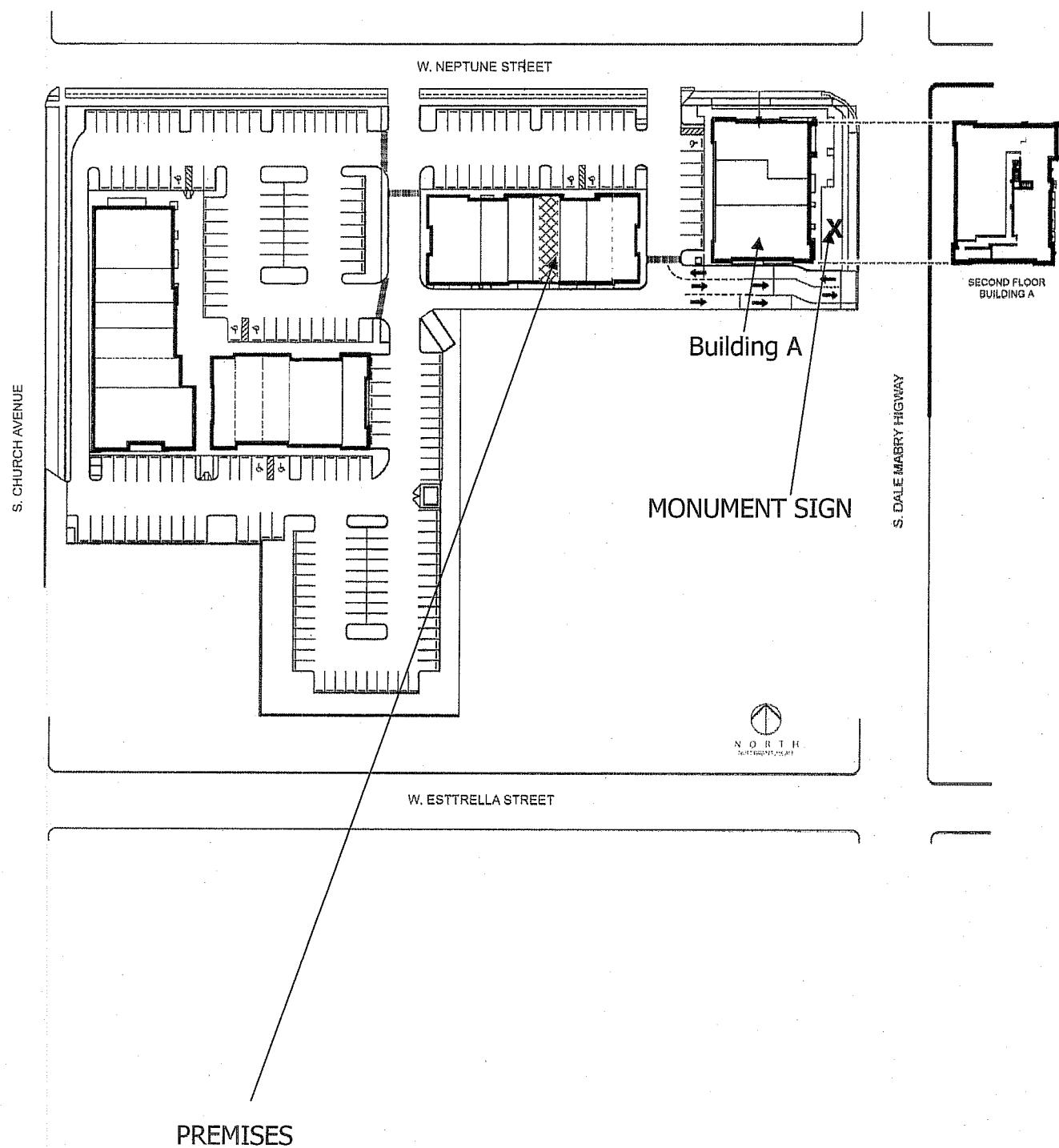
JFK  
Landlord's Initials

  
Tenant's Initials

**EXHIBIT "A"**  
**SITE PLAN**

**SOUTHTOWN CENTER**  
**Tampa, Florida**

This Exhibit "A" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.



Landlord's Initials JLH

Tenant's Initials RJ

**EXHIBIT "B"**  
**BUILDING IMPROVEMENTS**  
**PREMISES "AS-IS"**

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This Exhibit "B" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

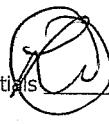
Tenant acknowledges and agrees that Landlord makes no representation or warranty, expressed or implied, with respect to the condition of the Premises or its suitability for Tenant's intended use, and that Tenant accepts the Premises in its "as-is" condition.

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End of Exhibit



Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_

**EXHIBIT "D"**  
**RESTRICTED & PROHIBITED USES**

**SOUTHTOWN CENTER**  
**Tampa, Florida**

This Exhibit "D" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

1. Under no circumstances shall Tenant, or any subtenant, assignee or transferee of Tenant (collectively hereinafter, "Occupant") at any time during its occupancy of the Premises be permitted to engage in any use which is prohibited below:

Building "A", as designated on Exhibit A, shall not be utilized for any business offering any bar, liquor store for the retail sale of alcoholic beverages, or night clubs, or as a tattoo parlor, "head" shop, pawn shop, army-navy or governmental surplus store, abortion clinic, lingerie parlor, adult book or magazine store or for the sale of adult toys.

No portion of the Shopping Center shall be used for any use which emits noxious odors, constitutes a public or private nuisance, or emits shrill or excessive noise and/or vibrations.

2. Under no circumstances shall Occupant at any time during its occupancy of the Premises be permitted to engage in any of the following uses, which uses are exclusive uses previously granted to other tenants of the Shopping Center or to occupants of real property owned and/or managed by Landlord that is adjacent to the Shopping Center, or which is otherwise prohibited:

- a. The marketing of products for a healthy back or any competing concept. The sale of Tempur-Pedic products.
- b. The retail sale of kitchen and bathroom cabinets and fixtures.
- c. A bank, savings and loan association, financial institution, securities brokerage company or financial service company selling equity or debt investments or providing financial planning or advice or other such similar entity.
- d. The retail sales or distribution of flowers, plants, gift baskets and related items.
- e. A frame store.
- f. A business whose principal permitted use is substantially the same as the retail sale of ice cream, frozen yogurt and frozen desserts, pretzels, cakes, pies, cookies, hot and cold beverages, gourmet candy and similar types of items typically sold at a Cold Stone Creamery store.
- g. A restaurant specializing in southwestern style food and drinks.
- h. Therapeutic massage and muscle therapy licensed for business by the State of Florida and related retail sales.
- i. A tanning salon.
- j. A retail skin care center specializing in non-surgical aesthetic medical treatments, such as Botox and injectables, cellulite reduction, aesthetic laser procedures, and micro-dermabrasion together with the incidental sale of skin care products and other services and products typically found in a med spa.
- k. The retail sale of children's shoes.
- l. The retail sale of weight loss and diet products and services directly related thereto. The foregoing shall not apply to a vitamin retailer or fitness center.
- m. A Chinese takeout restaurant.

End of Exhibit

Landlord's Initials JMK

Tenant's Initials AB

**EXHIBIT E**  
**SIGN CRITERIA**

**SOUTHTOWN CENTER**  
**Tampa, Florida**

This Exhibit "E" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

**Basic Criteria:**

Tenant signs must be kept clean and in good operating condition. It is recommended that Tenant develop a maintenance program to ensure that its sign(s) will always appear inviting to customers and enhance the overall appearance of SouthTown Center.

**Approvals:**

1. Tenant shall submit three (3) color copies of drawings of Tenant's proposed signs to the Landlord for approval prior to applying for a sign permit. All requirements of this criteria and of the city in which the Shopping Center is located ("City") must be followed. After Landlord approval, Tenant's sign contractor must submit the following to the City:
  - a. A site plan showing the location of the Premises in the Shopping Center, plus streets, alleys and rights of way providing legal access to the Shopping Center and the location of any easement for public utilities.
  - b. An elevation of the Premises drawn to scale and showing sign placement and Premises width.
  - c. A detailed elevation of the sign drawn to scale showing all colors, materials, dimensions and copy.
  - d. Fabrication and installation details, including U.L. electrical specifications, type and intensity of illumination, quantity and type of transformers and circuit load required to operate the display.
  - e. Address of Landlord, APN number and phone number.
  - f. Legal description of the Shopping Center.
2. Tenant must ensure that all of its signs are in conformance with local sign ordinances and codes. Tenant shall be responsible for the costs of obtaining any permit(s) necessary for its sign(s), and for the costs of manufacturing and installing its sign(s).
3. All sign vendors and contractors must be approved by Landlord, and approved sign vendors and contractors must submit required insurance to Landlord prior to commencing any work at SouthTown Center.

**Manufacturing:**

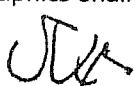
1. All wiring, transformers, ballasts, and other necessary equipment shall be concealed.
2. All work shall be done in a workmanlike manner and approved by Landlord.
3. Tenant, at its sole cost and expense, and to Landlord's satisfaction and approval, shall repair any damage to the fascia.
4. Upon vacating the Premises, Tenant, at its sole cost and expense, and to Landlord's satisfaction and approval, shall remove its sign(s) and restore the fascia to its original condition.

**Allowable Sign Location:**

1. Tenant shall be permitted to erect one (1) sign located on the fascia of the Premises.
2. Fascia sign(s) shall be located above Tenant's store frontage as shown in **Section B** below.
3. Tenant's entire copy and graphics must be located within the boundaries of the "designated sign area" as designated by Landlord and as shown in **Section B** below.
4. A sign designating Tenant's name and street address will be allowed on the rear delivery door. Specifications for these signs are in **Section C** below.

**Allowable Sign Styles:**

1. Tenant's copy and graphics shall be mounted entirely on a raceway that matches the color of the fascia on which it is located. Color to match the following colors:
  - Signage mounted on brick: PPG 428-7
  - Signage mounted on stucco, light paint color: Coronado L18-2, Verdure
  - Signage mounted on stucco, dark paint color: Coronado L20-3, Quirt
2. Fascia signs shall be individually formed aluminum channel letters and graphics (**see Section A below**).
3. Letters and graphics must covered with acrylic faces.
4. Aluminum returns or sides of letters and graphics shall be a color to match face of sign.
5. All graphics shall be internally illuminated with neon or LED.



Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_

**EXHIBIT E**  
**SIGN CRITERIA**

**SOUTHTOWN CENTER**  
**Tampa, Florida**

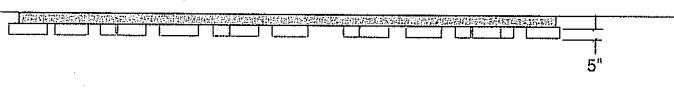
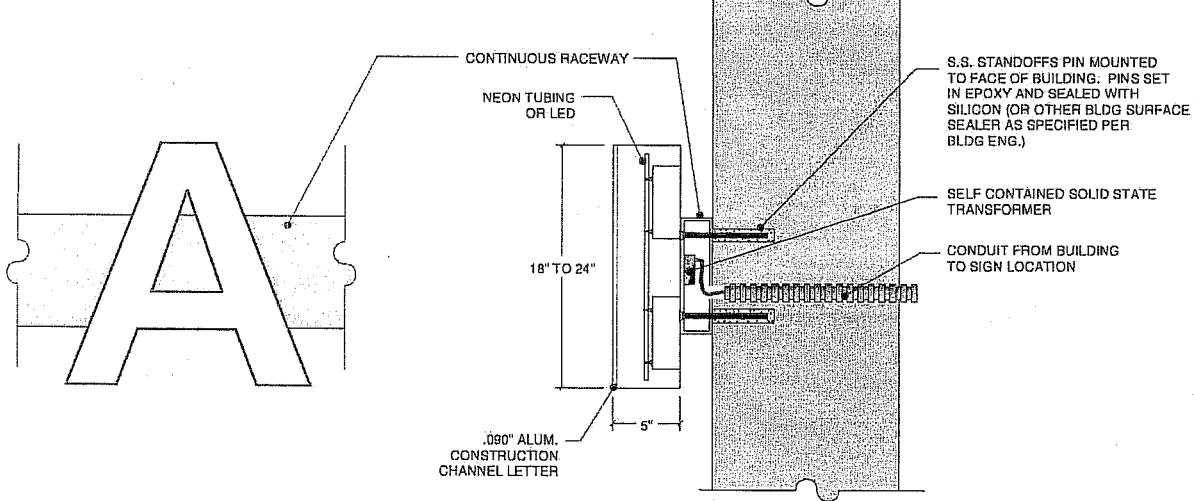
**Allowable Sign Size:**

1. The length of Tenant's sign will be limited to seventy percent (70%) of Tenant's store frontage.
2. Tenant shall be allowed up to two (2) square feet of sign face for each linear foot of Tenant's store frontage, but not to extend higher than the "designated sign area" (see **Section B below**).
3. Letter sizes shall be 18" to 24" tall maximum (see **Section A below**).

**General Requirements:**

1. No sign shall be placed in other than the "designated sign area" as designated by Landlord.
2. No sign perpendicular to the façade of any building shall be permitted.
3. No roof-mounted sign of any kind shall be permitted.
4. No flashing, moving, or audible signs or beacons shall be permitted.
5. No banners or flagpoles shall be permitted.
6. Trailer signs, portable signs or temporary signs shall not be permitted.
7. No exposed conduit, tubing, neon tubing, conductors, transformers, or electrical appurtenances shall be allowed.
8. Tenant is responsible for connecting to Landlord's lighting control cabinet and it shall be the responsibility of Tenant to hire an electrician, approved by Landlord, to perform all required electrical work. Tenant's exterior signage electrical charges will be paid as part of Tenant's operating costs.
9. Landlord shall approve design of raceway mounting devices.
10. Tenant shall be responsible for repair of any damages to the building caused by the installation, repair or removal of its signs.
11. All signs shall be adjusted by Landlord's time clock to be fully illuminated and operational from dusk until 2:00AM, Monday through Sunday (seven (7) days a week), unless local codes or ordinances dictate otherwise.

**Section A**



HORIZONTAL FORMAT

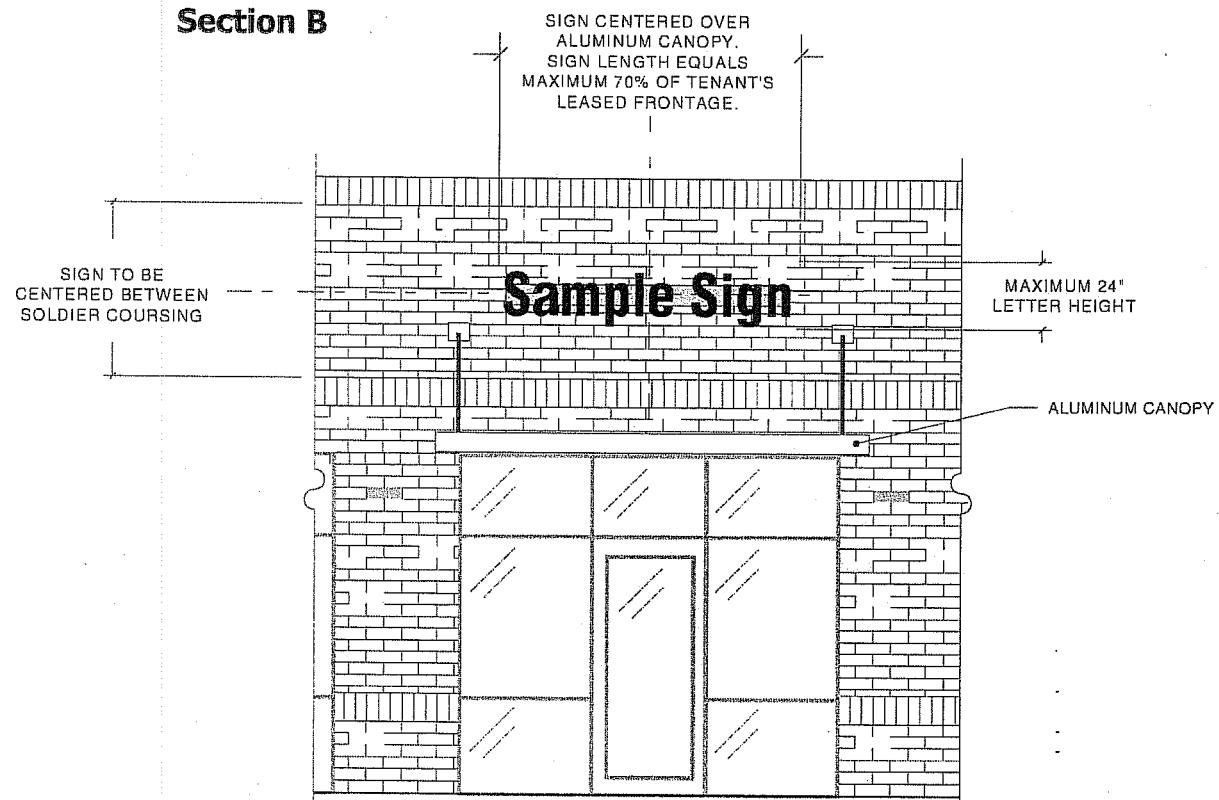
Landlord's Initials \_\_\_\_\_

Tenant's Initials \_\_\_\_\_

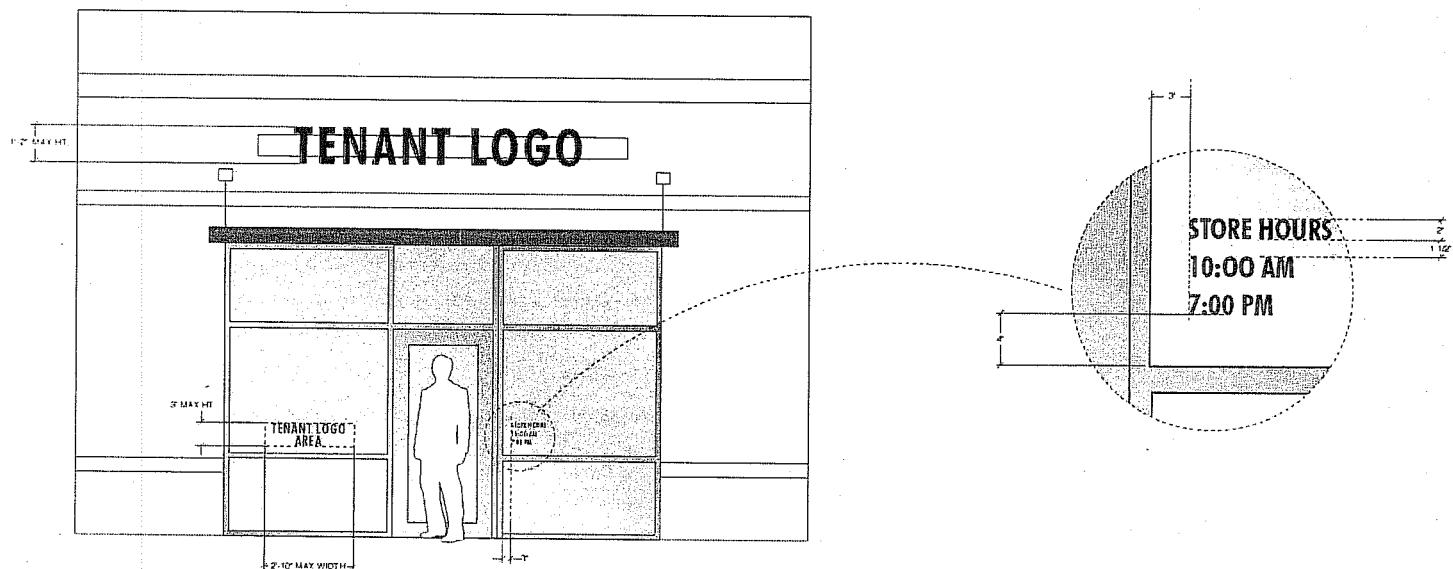
**EXHIBIT E**  
**SIGN CRITERIA**

**SOUTHTOWN CENTER**  
**Tampa, Florida**

**Section B**



**Section C**



**GRAPHICS:**

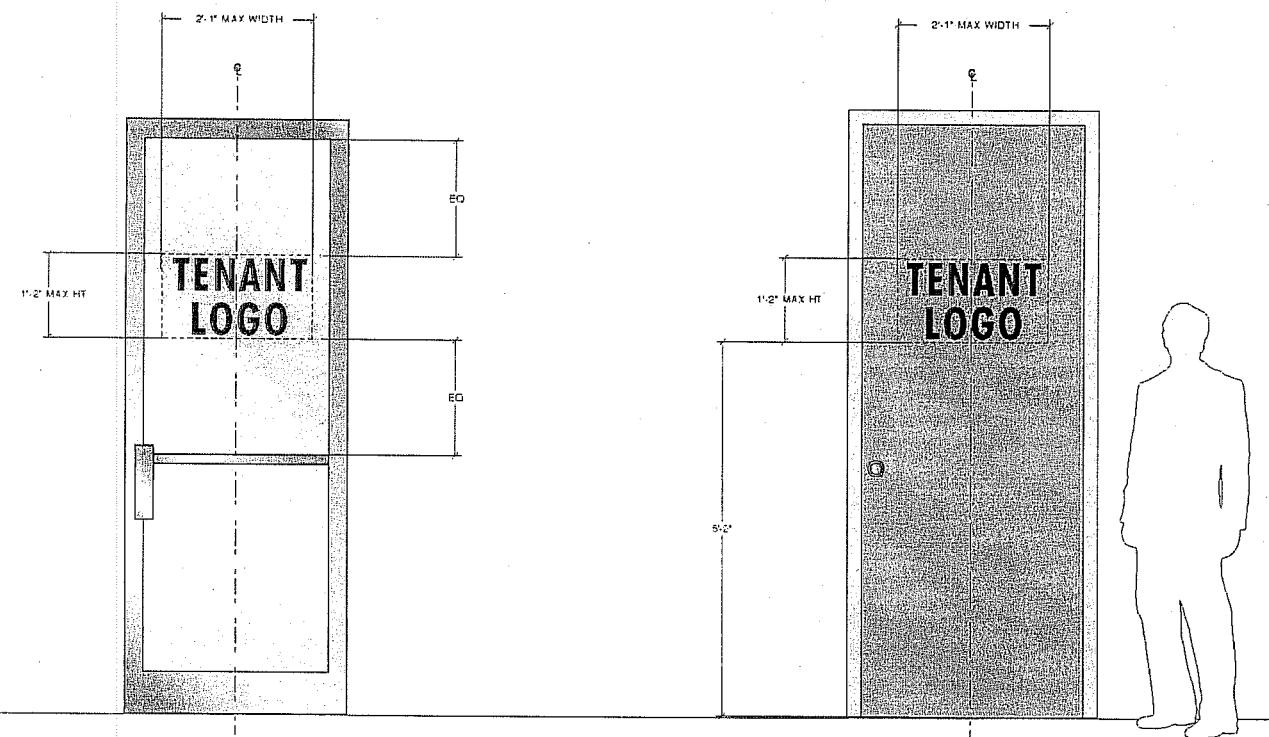
- FUTURA BOLD CONDENSED
- 2" CAP HT
- "DARK GRAY" VINYL (3M 220-41)

Landlord's Initials \_\_\_\_\_

Tenant's Initials \_\_\_\_\_

**EXHIBIT E  
SIGN CRITERIA**

**SOUTHTOWN CENTER  
Tampa, Florida**



End of Exhibit

Landlord's Initials JW

Tenant's Initials PA

**EXHIBIT "E-1"**

**TENANT SIGNAGE**

This Exhibit "E-1" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

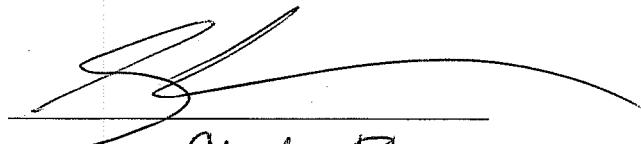
PLEASE BE ADVISED THAT PRIOR TO ANY SIGNAGE BEING FABRICATED AND/OR INSTALLED, LANDLORD'S WRITTEN APPROVAL IS REQUIRED.

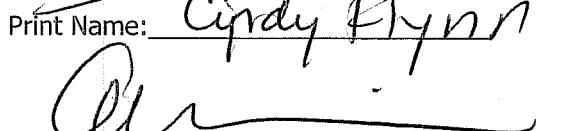
ANY SIGNAGE NOT PREVIOUSLY APPROVED IS SUBJECT TO REMOVAL AT TENANT'S EXPENSE.

**LANDLORD:**

**CAPSTONE MCCANN, LLC,  
A FLORIDA LIMITED LIABILITY COMPANY**

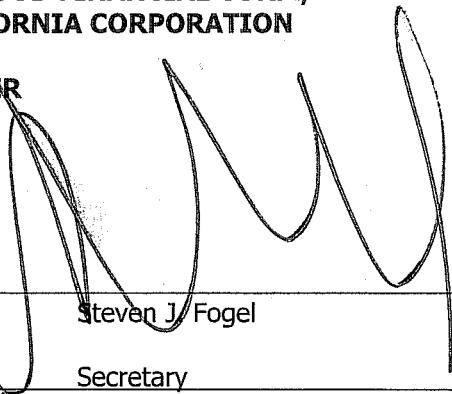
**Witnesses:**

  
Print Name: Cindy Flynn

  
Print Name: Carol Fredrikson

**BY: WESTWOOD FINANCIAL CORP.,  
A CALIFORNIA CORPORATION**

**ITS: MANAGER**

  
BY: Steven J. Fogel

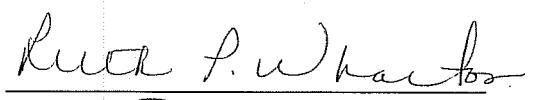
ITS: Secretary

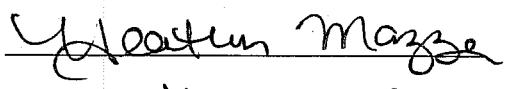
DATED: 7-28-10

**TENANT:**

**ROUBEKAS ENTERPRISES LLC  
A FLORIDA LIMITED LIABILITY COMPANY**

**Witnesses:**

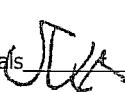
  
Print Name: Ruth P. Wharton

  
Print Name: Heather Mazza

  
BY: Leon Roubekas

ITS: Manager, Member

DATED: 7-1-10

Landlord's Initials 

Tenant's Initials 

**E X H I B I T "J"**

**EQUIPMENT LIST**

This Exhibit "J" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

Landlord and Tenant acknowledge and agree that the following equipment shall be used by Tenant at the Premises:

- 1. one (1) stainless steel prep table**



- 2. one (1) stainless steel display counter**



- 3. one (1) orange color circular ceiling mounted light fixture**



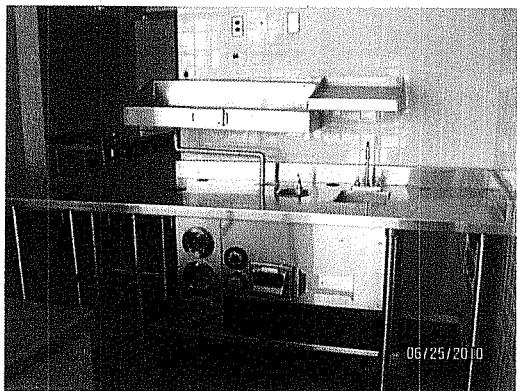
Landlord's Initials JKA

Tenant's Initials RW

**EXHIBIT "J"**

**EQUIPMENT LIST**

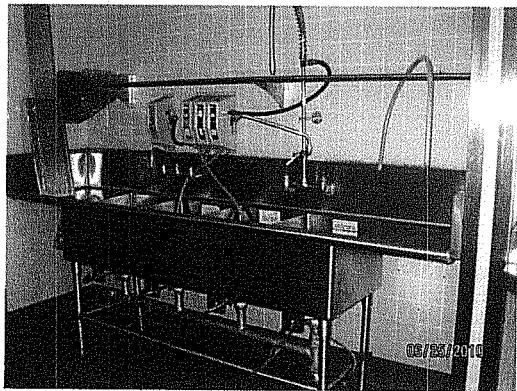
- 4. one (1) stainless steel prep counter with sink (1 of 2)**



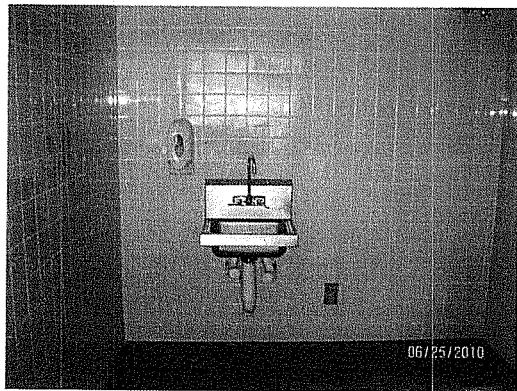
- 5. one (1) stainless steel prep counter with sink (2 of 2)**



- 6. one(1) stainless steel sinks and soap dispenser**



- 7. one (1) stainless steel sink and soap dispenser**



- 8. one (1) hot water heater/water filter**

Landlord's Initials \_\_\_\_\_

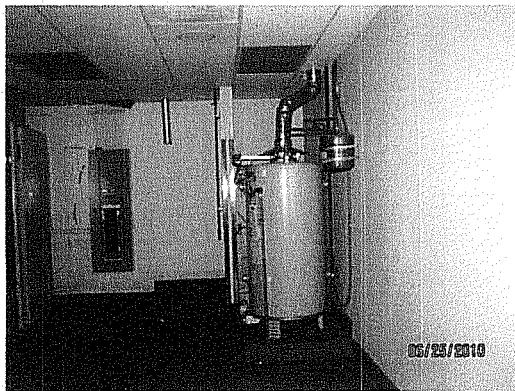
A handwritten signature in black ink, appearing to read 'JLH'.

Tenant's Initials \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'D'.

**EXHIBIT "J"**

**EQUIPMENT LIST**



- 9. one (1) walk in cooler  
(not pictured)**

---

End of Exhibit

Landlord's Initials JK

Tenant's Initials PA

**EXHIBIT "K"**

**CONFIRMATION OF LEASE TERM**

This Exhibit "K" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

Upon delivery of possession of the Premises to Tenant, Tenant agrees to execute this Exhibit "K" to Lease and return to Landlord within seven (7) days of the Rent Commencement Date, once the Rent Commencement Date has been determined by Landlord.

Landlord and Tenant hereby acknowledge and confirm the following Lease dates:

1. **COMMENCEMENT DATE:** It is agreed that the Commencement Date shall be \_\_\_\_\_, 200\_\_\_\_\_.
2. **RENT COMMENCEMENT DATE:** It is agreed that the Rent Commencement Date shall be \_\_\_\_\_, 200\_\_\_\_\_.
3. **LEASE EXPIRATION DATE:** It is agreed that this Lease shall expire at 11:59 p.m. on \_\_\_\_\_, 200\_\_\_\_\_.
4. **EFFECT OF THIS EXHIBIT:** When this Exhibit is fully executed, the dates set forth herein shall supersede any contradictory dates set forth in the Lease. All other terms and conditions of the Lease shall remain in full force and effect.

**NOTE: PLEASE INITIAL WHERE INDICATED BELOW  
BUT DO NOT SIGN THIS EXHIBIT "K"  
UNTIL LEASE AND RENT COMMENCEMENT DATES  
HAVE BEEN DETERMINED BY LANDLORD.**

**LANDLORD:**

**CAPSTONE MCCANN, LLC,  
A FLORIDA LIMITED LIABILITY COMPANY**

**Witnesses:**

**BY: WESTWOOD FINANCIAL CORP.,  
A CALIFORNIA CORPORATION**

**ITS: MANAGER**

Print Name: \_\_\_\_\_

**BY: [TO BE SIGNED AFTER DELIVERY]**  
Steven J. Fogel

Print Name: \_\_\_\_\_

**ITS: Secretary**

**DATED:** \_\_\_\_\_

**TENANT:**

**ROUBEKAS ENTERPRISES LLC  
A FLORIDA LIMITED LIABILITY COMPANY**

**Witnesses:**

Print Name: \_\_\_\_\_

**BY: [TO BE SIGNED AFTER DELIVERY]**  
Leon Roubekas

Print Name: \_\_\_\_\_

**ITS: \_\_\_\_\_**

**DATED:** \_\_\_\_\_

Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_



**EXHIBIT M**  
**RULES & REGULATIONS**

**SOUTHTOWN CENTER**  
**Tampa, Florida**

This Exhibit "M" is attached to and forms a part of that certain lease dated June 9, 2010, between Landlord, Capstone McCann, LLC, a Florida limited liability company, and Tenant, Roubekas Enterprises LLC, a Florida limited liability company.

1. The sidewalks, roads, parking areas, driveways, delivery areas, landscaped areas and other Areas of the Shopping Center used by Tenant shall not be for any purpose other than its intended use and Tenant shall not use any such Areas for the conduct of its respective business (including, without limitation, the display of merchandise) without Landlord's prior written consent. The Areas of the Shopping Center are not for the general public and Landlord shall, in all cases, retain the right to control and prevent access thereto of all persons whose presence, in the judgment of Landlord, would be prejudicial to the safety, character, reputation and interest of the Shopping Center and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Without prior notice to Landlord, neither Tenant or its employees or invitees shall go on the roof of the Shopping Center, except for the maintenance and repair of the rooftop HVAC units and then only in accordance with the repair requirements of this Lease.
2. No animals or pets may be brought on or permitted to be in the entire Shopping Center.
3. Landlord shall designate appropriate entrances in the rear of the Premises for deliveries or other movement to or from the Premises of inventory, equipment, materials, supplies, furniture or other property, and Tenant shall not use any other entrances for such purposes.
4. Tenant shall ensure that the doors of its Premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before Tenant or its employees leave the Premises so as to prevent waste or damage.
5. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the City of Tampa without being in violation of any laws or ordinances governing such disposal. All garbage and refuse disposal shall be made only through entryways in the rear of the Shopping Center.
6. Tenant shall not use or keep in or about the Premises or the Shopping Center any kerosene, gasoline or inflammable or combustible fluid or material. Tenant shall not use or keep, or permit to be used or kept, any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied for use in a manner offensive or objectionable to Landlord or other tenants of the Shopping Center by reason of noise, odors or vibrations, or interfere in any way with other tenants or those having business in the Shopping Center, nor shall any animals or birds be brought into or kept in the Premises.
7. The toilet rooms, toilets, urinals, washbowls and other apparatus shall not be used for any purpose other than that for which they were constructed. No foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by Tenant or its employees or invitees who caused it.
8. No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decoration shall be attached to, hung or placed in, or used in connection with any window of the Shopping Center without the prior written consent of Landlord.
9. No sign, placard, picture, name, advertisement or notice visible from the exterior of Tenant's Premises shall be inscribed, painted, affixed or otherwise displayed by Tenant on any part of the Shopping Center without the prior written consent of the Landlord, except as indicated in Tenant's original design approved by Landlord. Landlord may adopt and furnish to Tenant general guidelines relating to signs inside the Shopping Center. Tenant agrees to conform to any such guideline. All approved signs or lettering on doors shall be printed, painted, affixed or inscribed at the expense of Tenant and in a first-class, professional manner.
10. Tenant shall not install any radio or television antenna, satellite dish, loudspeaker, or other device on the roof or exterior walls of the Shopping Center without Landlord's prior written consent, which consent shall be subject to Landlord's sole discretion. No television, radio or recorder shall be played in such a manner as to cause a nuisance to any other tenant.
11. Canvassing, soliciting, distribution of handbills or any other written material and peddling in the Shopping Center or the Areas is prohibited, and Tenant shall cooperate to prevent the same.

Landlord's Initials JL

Tenant's Initials DR

**EXHIBIT M  
RULES & REGULATIONS**

**SOUTHTOWN CENTER  
Tampa, Florida**

12. In the event of invasion, mob, riot, public excitement or other circumstances, Landlord reserves the right to prevent access to the Shopping Center during the continuance of the same by such action as Landlord, in its sole discretion, may deem appropriate.
13. Tenant employees must park in the area designated by Landlord.
14. Tenant employees who take a smoking break must smoke behind the Premises, rather than in front where customers travel.

End of Exhibit



Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_

## **GUARANTY OF LEASE**

IN CONSIDERATION of the execution by Capstone McCann, LLC, a Florida limited liability company, as Landlord, of a Shopping Center Lease dated June 9, 2010, and Roubekas Enterprises LLC, a Florida limited liability company as Tenant, as the same may have been amended, supplemented or otherwise modified in writing (the "Lease"), and the performance of the terms thereof by Landlord and the reliance of Landlord on this Guaranty and for other valuable consideration received, the undersigned "Guarantor" does hereby, independently of the obligations of Tenant, unconditionally guaranty the prompt and complete performance by Tenant of each and every term and condition of the Lease including, but not limited to, the payment of all Rent reserved by, and any other sums payable by Tenant under, the terms thereof. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Lease. Guarantor further agrees as follows:

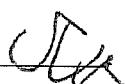
1. Separate action or actions may be brought and prosecuted against Guarantor whether action is brought and prosecuted against Tenant or any successor or assignee of Tenant, or whether Tenant, or any successor or assignee, be joined in any such action or actions, and without previous notice to or demand upon either Tenant or Guarantor, all of which notices and demands Guarantor expressly waives. Guarantor may be joined in any action with any of the foregoing parties. No notice of default need be given to Guarantor, it being specifically agreed and understood that the guaranty of the undersigned is a continuing guaranty under which Landlord may proceed forthwith and immediately against Tenant or against Guarantor, or both, following any breach or default by Tenant or for the enforcement of any rights which Landlord may have as against Tenant pursuant to or under the terms of the Lease or at law or in equity.

2. Guarantor authorizes Landlord, without notice or demand, from time to time, in its absolute discretion, and without prejudice to or in any way affecting, limiting, or lessening the liability of Guarantor hereunder, to: (a) renew, compromise, extend the term, grant extensions of time or other indulgences, accelerate, modify, discharge, release any party or parties, or otherwise change the time for payment of any Rents or other sums due by the terms of the Lease, or any of the other obligations of Tenant as provided therein; (b) modify, amend, extend, renew or otherwise change the terms and conditions of the Lease including, without limitation, increasing the amount of Rent payable thereunder; (c) take and hold security for the performance of the Lease or this Guaranty, and exchange, enforce, waive and release any such security; (d) apply such security and direct the order and manner of sale thereof as Landlord in its discretion may determine; and (e) otherwise deal with Tenant as Landlord may elect, without in any way diminishing, releasing or discharging the liability hereunder of Guarantor, it being intended that Guarantor shall continue as guarantor with respect to the Lease as modified, renewed, extended, amended or otherwise affected as described above, and notwithstanding any assignment of the Lease or subletting in whole or in part of the Premises, nor in any holding over by Tenant beyond the term of the Lease. Such liability shall be continuing and shall only be terminated by full compliance by Tenant with all the terms of the Lease. Guarantor hereby appoints Tenant as Guarantor's attorney-in-fact to take any action concerning the Lease as Landlord and Tenant hereafter agree, including the renewal, extension, modification and/or discharge of the Lease or any obligations thereunder, all of which acts shall be binding on Guarantor. Guarantor agrees to indemnify and save harmless Landlord from any loss, costs and damages arising out of any failure to pay the aforesaid rent, monies or charges received during a preference period provided in any State or Federal bankruptcy law or the failure to perform any of said terms, covenants, conditions and provisions. So long as the Landlord's interest in or to the Premises or the rents, issues and profits therefrom, or in, to or under the Lease, are subject to any mortgage or deed of trust or assignment for security, no acquisition by Guarantor of the Landlord's interest in the Premises or under the Lease shall affect the continuing obligation of Guarantor under this Guaranty, which shall nevertheless continue in full force and effect for the benefit of the mortgagee, beneficiary, trustee, or assignee under such mortgage, deed of trust or assignment, of any purchase at sale by judicial foreclosure or under private power of sale, and of the successors and assigns of any such mortgagee, beneficiary, trustee, assignee or purchaser.

3. Landlord may, without notice, assign this Guaranty in whole or in part. Upon any transfer or sale of the Premises, or the assignment or transfer of Landlord's interest in the Lease, whether by sale, gift, bequest, devise or operation of law, this Guaranty shall pass to and may be enforced by any such transferee.

4. Guarantor waives any right to require Landlord to: (a) proceed against Tenant, its successor, assignee or subtenant; (b) proceed against or exhaust any security held from Tenant, its successors, assignees or subtenants; or (c) pursue any other remedy in Landlord's power whatsoever. Without limiting the foregoing, Guarantor waives all rights and defenses arising out of an election of remedies by Landlord, even though that election of remedies has destroyed Guarantor's rights of subrogation and/or reimbursement against Tenant by operation of law or otherwise. Guarantor waives any defense arising by reason of any disability or other defense of Tenant or by reason of the cessation from any cause whatsoever or the liability of Tenant. Until all indebtedness or other obligations of Tenant to Landlord shall have been paid in full, Guarantor shall have no right of subrogation, and waives any right to enforce any remedy which Landlord now has or may hereafter have against Tenant and waives any benefit of, and any right to participate in, any security now or hereafter held by

Landlord's Initials



Tenant's Initials



## **GUARANTY OF LEASE**

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Tenant, and waives any benefit of, and any right to participate in, any security now or hereafter held by Landlord. Guarantor waives all presentments, demands for performance, notices of non-performance, protests, notices of protest, notices of dishonor, notice of sales, and notices of acceptance of this Guaranty and of the existence, creation, or incurring of new or additional indebtedness. Guarantor further expressly waives and relinquishes all following rights, remedies and defenses accorded by applicable law to Guarantor and agrees not to assert or take advantage of any such rights, remedies or defenses, including, but not limited to: (a) the defense of the statute of limitations in any action hereunder or in any action for the collection of any indebtedness or the performance of any obligation hereby guaranteed; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of Landlord to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons; (c) any defense based upon the failure to give notice of the acceptance of this Guaranty by any person; (d) any defense based upon the failure to make, give or serve demand, notice of acceptance of this Guaranty, notice of default or non-payment, presentment, protest and all other notices of any kind to which Guarantor might be entitled in connection with this Guaranty of the Lease; (e) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (f) any duty on the part of Landlord to disclose to Guarantor any facts Landlord may now or hereafter know about Tenant, regardless of whether Landlord has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor, it being understood and agreed that Guarantor is fully responsible for being and keeping informed of the financial condition of Tenant and of all circumstances bearing on the risk of nonperformance of any obligations hereby guaranteed; and (g) any right of set-off or compensation against amounts due under this Guaranty. Without limiting the generality of the foregoing or any other provision hereof, Guarantor hereby expressly waives any and all benefits that might otherwise be available to Guarantor under any statutes that conflict with the foregoing waivers.

5. Without limiting the generality of the foregoing, the liability of Guarantor under this Guaranty shall not be deemed to have been waived, released, discharged, impaired or affected by reason of the expiration of the term of the Lease or by the release or discharge of Tenant in any receivership, bankruptcy, winding-up or other creditors' proceedings or the rejection, disaffirmance or disclaimer of the Lease by any party in any action or proceeding, and shall continue with respect to the periods prior thereto and thereafter, for and with respect to the terms originally contemplated and expressed in the Lease. The liability of Guarantor shall not be affected by any repossession of the Premises by Landlord; provided, however, that the net payments received by Landlord after deducting all costs and expenses of repossession and/or re-letting the same shall be credited from time to time by Landlord to the account of Guarantor and Guarantor shall pay any balance owing to Landlord from time to time, immediately upon ascertainment. Further, this Guaranty shall not be released, modified or affected by failure or delay on the part of Landlord to enforce any of the rights or remedies of the Landlord under the Lease, whether pursuant to the terms thereof or at law or in equity.

6. Guarantor shall file in any bankruptcy or other proceeding in which the filing of claims is required by law all claims which Guarantor may have against Tenant relating to any indebtedness of Tenant to Guarantor and will assign to Landlord all rights of Guarantor thereunder. If Guarantor does not file any such claim, Landlord, as attorney in fact for Guarantor, is hereby authorized to do so in the name of Guarantor or, in Landlord's discretion, to assign the claim to a nominee and to cause proof of claim to be filed in the name of Landlord's nominee. The foregoing power of attorney is coupled with an interest and cannot be revoked. Landlord or its nominee shall have the sole right to accept or reject any plan proposed in such proceeding and to take any other action which a party filing a claim is entitled to do. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to Landlord the amount payable on such claim and, to the full extent necessary for that purpose, Guarantor hereby assigns to Landlord all of Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled; provided, however, Guarantor's obligations hereunder shall not be satisfied except to the extent that Landlord received cash by reason of such payment or distribution. If Landlord receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty. Notwithstanding anything to the contrary set forth above, Guarantor shall not make any claim, in bankruptcy or in any other proceeding in which the filing of a claim is required, against the Tenant for reimbursement or recovery of any money or other consideration paid or tendered to Landlord by Guarantor, and Guarantor absolutely and unconditionally waives its right to do so. Guarantor further indemnifies and holds Landlord harmless from any claims made by the Tenant or any bankruptcy administrator or trustee for the recovery of money or other consideration paid or tendered to Landlord by Guarantor.

  
Landlord's Initials \_\_\_\_\_

  
Tenant's Initials \_\_\_\_\_

## **GUARANTY OF LEASE**

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7. If Tenant is a corporation or other business entity, Guarantor waives any right to require Landlord to inquire into the corporate powers or authority of Tenant or the officers, directors, partners, managers or agents acting or purporting to act on Tenant's behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

8. Any indebtedness of Tenant now or hereafter held by Guarantor is hereby subordinated to any indebtedness of Tenant to Landlord, and such indebtedness of Tenant to Guarantor, if Landlord so requests, shall be collected, enforced and received by Guarantor as trustee of Landlord and held as security for performance of the obligation of Tenant to Landlord but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty.

9. Guarantor shall pay to Landlord, without demand, reasonable attorney's fees and all costs and other expenses which Landlord expends or incurs in enforcing the Lease, or in collecting or compromising any rent, monies or charges expressed to be payable thereunder or in enforcing this Guaranty against Guarantor, whether or not suit is filed, including, without limitation, all costs, attorney's fees and expenses incurred by Landlord in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceedings involving Tenant, Guarantor or either of them, which in any way affect the exercise by Landlord of its rights and remedies hereunder.

10. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

11. No provision of this Guaranty or right of Landlord hereunder can be waived, nor can Guarantor be released from Guarantor's obligations hereunder, except by a writing duly executed by an authorized partner or agent of Landlord, which may be withheld by Landlord in its absolute and sole discretion and with or without cause.

12. The validity of this Guaranty and the obligations of Guarantor hereunder shall in no way be terminated, affected or impaired by reason of the transfer by Tenant of the Tenant's interest or its leasehold estate under the Lease, or any part thereof or any interest therein, to any other person or entity. The term "Tenant" whenever used in this Guaranty refers to and means the Tenant specifically named in the Lease and also any assignee or sublessee of the Lease and also any successor to the interests of the Tenant, assignee or sublessee of the Lease or any part thereof, whether by assignment, sublease or otherwise.

13. This Guaranty shall inure to the benefit of and bind the heirs, legal representatives, administrators, executors, successors and assigns of Landlord and Guarantor and each of them. In the event Guarantor is more than one person, (a) the obligations of Guarantor under this Guaranty are joint and several, (b) Landlord may enforce this Guaranty against any one or more of the individuals who comprise Guarantor, and (c) notice to or from any of them will constitute notice to or from each of them. The term "Landlord" whenever used in this Guaranty refers to and means the Landlord specifically named in the Lease and also any assignee of the Landlord, whether by outright assignment or by assignment for security, and also any successor to the interest of said Landlord or of any assignee in the Lease or any part thereof, whether by assignment or otherwise.

14. Guarantor shall, not later than ten (10) days after written request, execute and deliver to Landlord and/or its designees (i) an estoppel certificate containing such truthful information as Landlord may reasonably request and (ii) such further instruments or documentation as may reasonably be requested by Landlord to ratify and confirm this Guaranty, the continuing liability of Guarantor hereunder, and/or the then current financial condition of Guarantor. The foregoing estoppel certificate and instruments shall be in a form satisfactory to Landlord in its sole discretion. Guarantor authorizes Landlord to obtain Guarantor's credit report periodically during the term of this Guaranty in connection with the enforcement thereof.

15. This Guaranty shall be governed by and construed in accordance with the laws of the state in which the Premises is located. This Guaranty has been entered into and is to be performed in the county in which the Premises is located, and venue for any action based on this Guaranty shall be set in such county. Guarantor hereby expressly consents to the jurisdiction of any such local, state or federal court located in such county. In any action arising out of this Guaranty, Guarantor hereby expressly consents that any service of process in such action may be made by personal service upon Guarantor wherever Guarantor may then be located, and that service of process on Tenant shall constitute service of process on Guarantor.



Landlord's Initials \_\_\_\_\_



Tenant's Initials \_\_\_\_\_

## GUARANTY OF LEASE

16. In no event shall Guarantor's liability exceed an amount equal to the sum of: (i) twenty-four (24) months Rent due and payable under the Lease at the time of Tenant's Default; (ii) Landlord's unamortized Lease expenses at the time of Default, amortized over the initial Lease Term, including, but not limited to, the broker fees and commissions; and all costs of enforcement and collection (including attorney's fees) in connection with this Guaranty. Provided Tenant has not been in Default under the Lease at any time during the first full sixty (60) months following the Rent Commencement Date, from and after such date, Guarantor shall be relieved of all liability accruing after such sixty (60) months.

17. **JURY TRIAL WAIVER.** GUARANTOR HEREBY INTENTIONALLY, KNOWINGLY AND IRREVOCABLY WAIVES HIS, HER OR ITS RIGHT TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTER-CLAIM OR CROSS-COMPLAINT IN ANY ACTION, PROCEEDING AND/OR HEARING BROUGHT WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS GUARANTY AND THE LEASE, OR THE NEGOTIATIONS LEADING UP TO THE GUARANTY AND THE LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR ANY CLAIM OF INJURY OR DAMAGE, OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW, STATUTE OR REGULATION NOW OR HEREAFTER IN EFFECT.

**NO REPRESENTATION OR RECOMMENDATION IS MADE BY LANDLORD AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT OR TAX CONSEQUENCES OF THIS DOCUMENT OR THE TRANSACTION RELATED THERETO. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO GUARANTOR'S ATTORNEY FOR HIS, HER OR ITS REVIEW AND APPROVAL REGARDING GUARANTOR'S PROTECTION OF GUARANTOR'S LEGAL RIGHTS, INCLUDING, BUT NOT LIMITED TO, THE WAIVER OF JURY TRIAL PROVISION CONTAINED IN SECTION 16.**

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the day and year written below.

**GUARANTOR: LEON ROUBEKAS, AN  
UNMARRIED MAN**

**Witnesses:**

Ruth P. Wharton

Print Name: Ruth P. Wharton

Heather Mazza

Print Name: Heather Mazza

LH  
By: \_\_\_\_\_  
Leon Roubekas, an unmarried man  
Address: 2202 Spring Hill, FL,  
Grandfather Mtn

City/State Zip: Sprng Hill, FL 34606

Dated: 7-10-

Landlord's Initials JL

Tenant's Initials JW