

**TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
BOARD MEETING
AGENDA
Old Courtroom, 2nd Floor, 350 Front Street Hempstead, NY
Tuesday, November 21, 2023, 9:00 AM**

- A livestream of the meeting may also be viewed at www.tohida.org .
Select "Meeting Information" and then "YouTube – Live Streams and Recorded Meetings".

The Agenda will include but not be limited to:

AGENDA:

- Call the meeting to order
- Announcements
- Confirm the presence of a Quorum
- Public Comment with respect to Agenda items

VILLAGE BUSINESS:

Village of Freeport:

- Presentation and Consideration of an Inducement Resolution for a PILOT Extension and Sales Tax Exemption for **Dover Freeport LLC Extension**, 27 St. John's Place, Freeport (tabled from October)

Village of Hempstead:

- Consideration of a Termination of Benefits for **Fad Henry Street Food Corp.**, 216-228 Henry Street, Hempstead (Tabled from September and October)

NEW BUSINESS - Applications, Transaction Resolutions and Presentations:

- Consideration of a Sales Tax Exemption Extension (of time only) for **Beechwood Merrick LLC**, 695 Merrick Avenue, Westbury
- Consideration of a Sales Tax Exemption Extension (of time only) for **Prosperity Avenue Holdings LLC/Paul's Auto Collision, Inc. 2022 Facility**, 585 Commercial Avenue, Garden City, New York
- Consideration of a Tenant Consent for **200 West Optics LLC dba My Eye Dr.** at **Equity One Northeast/Regency Centers LP**, 900 Old Country Road, Westbury
- Consideration of a Tenant Consent for **Dream Snack of NY Inc. dba Wetzl's Pretzels** at **Valley Stream Green Acres**, 2034 Green Acres Mall, Valley Stream

NEW BUSINESS - Other:

- CEO's Report

OLD BUSINESS: *None*

READING AND APPROVAL OF MINUTES OF PREVIOUS MEETING(s):

- Consideration and Adoption of the Minutes of October 24, 2023

REPORT OF THE TREASURER:

- Financial Statements and Expenditure List: October 18, 2023 – November 14, 2023

EXECUTIVE SESSION:

COMMITTEE UPDATES:

ADJOURNMENT:

Chairman Approval: 11/9/23

Contact: arlyeam@hempsteadny.gov (516) 489-5000, x 3077

PROJECT ABSTRACT
TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
Dover Freeport, LLC (Extension)
Project: 2802-23-11B

Application Date: 9/6/23

Contact: Peter Kramer

Applicant Name and Address: 27 St. John's Place & 8 Maple Place
Freeport, NY 11520

Project Address: 27 St. John's Place
Freeport, NY 11520

Project:

The current property is within the PILOT program, this PILOT is set to expire on 12/31/23. The applicant is a wholesale distributor to the food and hospitality industry, this location will have office and warehouse operations. The applicant seeks to upgrade its current operations by installing new furniture, floor coverings, wall coverings, trade equipment, garage doors, new HVAC systems, energy efficient equipment, a loading dock, LED Lighting, an EV charging station and fleet, an energy efficient computer system and new phone system. The building is on 2.5 acres of land and is approximately 39,000 square feet in size.

This is within the Village of Freeport.

Project Costs:

Building(s) demolition/construction	\$250,000
Building Renovation	\$800,000
Site Work	\$100,000
Machinery and Equipment	\$750,000
Legal Fees	\$150,000
Architectural/Engineering Fees	\$50,000
Financial Charges	\$50,000
Other (Contingency Reserve)	\$200,000
Total	\$2,350,000

Employment:

	Full	Part
Present	76	48
1 st Year	84	54
2 nd Year	96	62

LMA : 100%

Creation: of 27 FTEs

Retention of 100 FTEs

Average Salary of Wage Earners : \$54,244

Approx. 20 Construction Jobs

Benefits Sought: 15 Year PILOT, Sales Tax Exemption

Benefit Analysis:

Sales Tax Exemption Renovation, Furnishing and Fixture:

\$1,800,000 x 8.625% = \$ 155,250

Mortgage \$0

Current Tax Information:

Section; 62, Block: 35, Lots: 5(5-11) and 25 (322)

Parcels: 2

SD- Freeport

Full Value: 3,149,800

Total Assessment: 31,498

Total Current Taxes \$0 (Within a PILOT)

Total Current Taxes if not within a PILOT: \$149,538.62

Tax Opinion Letter by Cronin and Harris: \$121,648.69

23 General: \$ 12,548.56

22-23 School: \$87,917.57

Village: \$49,072.49

Estimated Taxes Once Built: N/A (Internal Modifications only)

Applicant Attorney: Peter Kramer

IDA Transaction Counsel: Nixon Peabody

Dover Freeport, LLC
Extension
DRAFT PILOT

27 St. John's Place & 8 Maple Place

Freeport, NY 11520

Section; 62, Block: 35, Lots:5(5-11) and 25(25, 322)

Parcels: 2

SD- Freeport

Current Total Taxes: Currently within a PILOT

Total Tax if not within a PILOT: \$149,538.62

Tax Opinion Letter by Cronin and Harris: \$121,648.69

Last Year of PILOT: 12/31/23

Amount of Last PILOT Payment: \$140,000.00

Estimated Taxes Once Built: N/A (only internal renovations being made)

Year	Total
1	\$121,648.69
2	\$121,648.69
3	\$121,648.69
4	\$126,000.00
5	\$128,000.00
6	\$130,000.00
7	\$132,000.00
8	\$137,000.00
9	\$141,000.00
10	\$145,000.00
11	\$153,000.00
12	\$156,000.00
13	\$161,000.00
14	\$166,000.00
15	\$172,000.00

10/11/23 – DRAFT

This Pilot has NOT been approved by the Hempstead IDA Board

PREPARED FOR:

Town of Hempstead Industrial Development Agency
350 Front Street, Room 234-A
Hempstead, NY 11550

Economic and Fiscal Impact

DOVER FREEPORT, LLC

Town of Hempstead
Industrial Development Agency

OCTOBER 16, 2023

PREPARED BY:



PO Box 3547
Saratoga Springs, NY 12866
518.899.2608
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ABOUT THE STUDY

Camoin Associates was retained by the Town of Hempstead Industrial Development Agency to measure the potential economic and fiscal impacts of a project proposed by Dover Freeport, LLC. The proposed project involves the renovation of an approximately 39,000 SF warehouse and office space at 27 St. John's Place and 8 Maple Place, Freeport, New York 11520. The goal of this analysis is to provide a complete assessment of the total economic, employment and tax impact of the project on the Town of Hempstead that result from the renovation phase and on-site operations.

The primary tool used in this analysis is the input-output model developed by Lightcast. Primary data used in this study was obtained from the developer's application for financial assistance to the Town of Hempstead Industrial Development Agency and included the following data points: on-site jobs, exemptions, and PILOT schedule.

The economic impacts are presented in four categories: direct impact, indirect impact, induced impact, and total impact. The indirect and induced impacts are commonly referred to as the "multiplier effect." Note that previous impact reports commissioned by the Town of Hempstead Industrial Development Agency were presented in only three categories: direct impact, indirect impact, and total impact. Prior to 2020, Camoin Associates included both the indirect and induced impacts in the "indirect impact" category.

Beginning in 2020, the indirect and induced impacts will be reported separately to allow for more accurate interpretation of results.

STUDY INFORMATION

Data Source:

Dover Freeport, LLC Application
for Assistance and the Town of
Hempstead Industrial
Development Agency

Geography:

Town of Hempstead

Study Period:

2023

Modeling Tool:

Lightcast

DIRECT IMPACTS

This initial round of impacts is generated as a result of spending on operations and renovation.

INDIRECT IMPACTS

The direct impacts have ripple effects through business to business spending. This spending results from the increase in demand for goods and services in industry sectors that supply the facility.

INDUCED IMPACTS

Impacts that result from spending by facility employees, employees of town businesses, and employees of suppliers. Earnings of these employees enter the economy as employees spend their paychecks in the town on food, clothing, and other goods and services.

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EXECUTIVE SUMMARY

The Town of Hempstead Industrial Development Agency (the "Agency") received an application for financial assistance from Dover Freeport, LLC (the "Applicant") for the renovation of an approximately 39,000 SF warehouse and office space (the "Project") at 27 St. Johns Place and 8 Maple Place, Freeport, New York 11520 (the "Site"). The Applicant is seeking a 15-year PILOT agreement from the Agency as well as a sales tax exemption. The Agency commissioned Camoin Associates to conduct an economic and limited fiscal impact analysis of the Project on the Town of Hempstead (the "Town").

The following is a summary of our findings from this study, with details below and in the following sections.

Table 1

Summary of Benefits to Town	
Total Jobs	227
Direct Jobs	158
Total Earnings	\$13,382,858
Direct Earnings	\$ 8,570,552
Annual Sales Tax Revenue to County	\$ 99,535
Annual Sales Tax Revenue to Town	\$ 8,783
Average Annual PILOT Payment	\$ 140,796
Average Annual PILOT Payment to Town	\$ 1,007
Average Annual PILOT Cost	\$ (31,606)
Average Annual PILOT Cost to Town	\$ (226)
Average Annual Net Benefit to Town	\$ 8,556

- ◆ The Project would support 227 net new jobs in the town, of which 158 are direct jobs, with \$8,570,552 in associated earnings.
- ◆ The Applicant has negotiated terms of a proposed 15-year PILOT agreement with the Agency, where the applicant would pay an average of \$138,568 each year, of which \$1,007 will be allocated to the Town. The average annual benefit of the PILOT will be \$226 less than the property tax payments without the PILOT to the Town.
- ◆ The annual net benefit to the Town is estimated to be \$8,556. In this case, this is the sum of the average annual PILOT benefit to the Town and new annual sales tax revenue to the Town.
- ◆ Through negotiations with the Agency the Applicant could have access to a sales tax exemption valued at up to \$155,250. However, if we assume that the Project would not occur absent IDA benefits, this is not actually a "cost" to the state and county since no future revenue stream would exist without the exemptions.

Table 2

Summary of Costs to Affected Jurisdictions

	State and County	
Sales Tax Exemption	\$	155,250

Source: Applicant, Camoin Associates

ECONOMIC IMPACT ANALYSIS

The estimates of direct economic activity generated by facility operation as provided by the Applicant were used as the direct inputs for the economic impact model. Camoin Associates uses the input-output model designed by Lightcast (formerly Emsi) to calculate total economic impacts. Lightcast allows the analyst to input the amount of new direct economic activity (spending or jobs) occurring within the town and uses the direct inputs to estimate the spillover effects that the net new spending or jobs have as these new dollars circulate through the Town of Hempstead's economy. This is captured in the indirect and induced impacts and is commonly referred to as the "multiplier effect." See Attachment A for more information on economic impact analysis.

The Project would have economic impacts upon the Town of Hempstead as a result of Project renovation and operation.

RENOVATION PHASE IMPACTS

The Applicant estimates that private sector investment in the renovation of the Project would cost approximately \$1.9 million¹, of which 70%² would be sourced from within the town. This means that there will be over \$1.3 million in net new spending in the town associated with the renovation phase of the Project.

Table 3

Renovation Phase Spending - Town		
Total Renovation Cost	\$	1,950,000
Percent Sourced from Town		70%
Net New Renovation Spending	\$	1,365,000

Source: Applicant, Camoin Associates

Based on over \$1.365 million worth of net new direct spending associated with the renovation phase of the Project, Camoin Associates determined that there would be over \$1.7 million in total one-time renovation related spending supporting 6³ jobs and an associated \$656,246 in earnings over the renovation period throughout the town. Table 4 outlines the economic impacts of renovation.

Table 4

Town Economic Impact - Renovation Phase			
	Jobs	Earnings	Sales
Direct	4 \$	526,041 \$	1,365,000
Indirect	1 \$	61,962 \$	201,596
Induced	1 \$	68,244 \$	177,541
Total	6 \$	656,246 \$	1,744,137

Source: Lightcast, Camoin Associates

¹ Includes project costs as provided by the Applicant, excluding acquisition, legal fees, and financial charges.

² According to Lightcast, approximately 70% of renovation industry demand is met within the town.

³ While the application estimated 20 renovation jobs, based on the renovation spending our analysis determined this total to be 6 with 4 direct renovation jobs.

IMPACTS OF ON-SITE EMPLOYMENT

According to the Applicant, 158 jobs will be on-site following Project completion. The table below details the impact that these net new jobs will have on the Town of Hempstead (Table 5).

Table 5

Town Economic Impact - On-Site Operations

	Jobs		Earnings		Sales
Direct	158	\$	8,570,552	\$	28,958,496
Indirect	44	\$	2,832,873	\$	7,094,326
Induced	26	\$	1,979,432	\$	5,173,747
Total	227	\$	13,382,858	\$	41,226,568

Source: Lightcast, Camoin Associates

Note: Number off due to rounding

FISCAL IMPACT ANALYSIS

In addition to the economic impact of the Project on the local economies (outlined above), there would also be a fiscal impact in terms of annual property tax and sales tax generation. The following section of the analysis outlines the impact of the completion of the Project on the local taxing jurisdictions in terms of the cost and/or benefit to municipal budgets.

PAYMENT IN LIEU OF TAXES (PILOT)

The Applicant has applied to the Agency for a Payment In Lieu of Taxes (PILOT) agreement. The Applicant has proposed a 15-year PILOT payment schedule based on the current tax rate, taxable value, and assessed value of the Project. Based on the terms of the PILOT as proposed, Camoin Associates calculated the potential impact on the affected jurisdictions.⁴

Table 6

Tax Payments with PILOT

Year	Total		Portion of Payment by Jurisdiction			
	PILOT Payments		Town	County	School District	Special District
1	\$ 121,649	\$	870	\$ 9,338	\$ 71,520	\$ 39,920
2	\$ 121,649	\$	870	\$ 9,338	\$ 71,520	\$ 39,920
3	\$ 121,649	\$	870	\$ 9,338	\$ 71,520	\$ 39,920
4	\$ 126,000	\$	901	\$ 9,672	\$ 74,079	\$ 41,348
5	\$ 128,000	\$	916	\$ 9,825	\$ 75,254	\$ 42,004
6	\$ 130,000	\$	930	\$ 9,979	\$ 76,430	\$ 42,661
7	\$ 132,000	\$	944	\$ 10,132	\$ 77,606	\$ 43,317
8	\$ 137,000	\$	980	\$ 10,516	\$ 80,546	\$ 44,958
9	\$ 141,000	\$	1,009	\$ 10,823	\$ 82,897	\$ 46,270
10	\$ 145,000	\$	1,037	\$ 11,130	\$ 85,249	\$ 47,583
11	\$ 153,000	\$	1,095	\$ 11,744	\$ 89,953	\$ 50,208
12	\$ 156,000	\$	1,116	\$ 11,975	\$ 91,716	\$ 51,193
13	\$ 161,000	\$	1,152	\$ 12,358	\$ 94,656	\$ 52,834
14	\$ 166,000	\$	1,188	\$ 12,742	\$ 97,596	\$ 54,474
15	\$ 172,000	\$	1,231	\$ 13,203	\$ 101,123	\$ 56,443
Total	\$ 2,111,946	\$	15,110	\$ 162,114	\$ 1,241,667	\$ 693,055
Average	\$ 140,796	\$	1,007	\$ 10,808	\$ 82,778	\$ 46,204

Source: Town of Hempstead IDA, Camoin Associates

⁴ It is assumed that each jurisdiction will continue to receive the same portion of the PILOT that they currently receive from the full tax bill.

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TAX POLICY COMPARISON

Without financial assistance from the Agency, Camoin Associates assumes the Applicant would not undertake the Project. Table 7 displays the property tax payment associated with the Project without the pilot. A 2% annual increase on current payments is assumed. Tax payments without the pilot total \$2,586,034 over the next 15 years or on average \$172,402 a year.

Table 7

Tax Payments without Project

Year	Total		Portion of Payment by Jurisdiction			
	Property Tax Payment					
	Without Project*		Town	County	School District	Village
1	\$ 149,539	\$	1,070	\$ 11,479	\$ 87,918	\$ 49,072
2	\$ 152,529	\$	1,091	\$ 11,708	\$ 89,676	\$ 50,054
3	\$ 155,580	\$	1,113	\$ 11,942	\$ 91,469	\$ 51,055
4	\$ 158,692	\$	1,135	\$ 12,181	\$ 93,299	\$ 52,076
5	\$ 161,865	\$	1,158	\$ 12,425	\$ 95,165	\$ 53,118
6	\$ 165,103	\$	1,181	\$ 12,673	\$ 97,068	\$ 54,180
7	\$ 168,405	\$	1,205	\$ 12,927	\$ 99,009	\$ 55,264
8	\$ 171,773	\$	1,229	\$ 13,185	\$ 100,990	\$ 56,369
9	\$ 175,208	\$	1,254	\$ 13,449	\$ 103,009	\$ 57,496
10	\$ 178,712	\$	1,279	\$ 13,718	\$ 105,070	\$ 58,646
11	\$ 182,287	\$	1,304	\$ 13,992	\$ 107,171	\$ 59,819
12	\$ 185,932	\$	1,330	\$ 14,272	\$ 109,314	\$ 61,015
13	\$ 189,651	\$	1,357	\$ 14,558	\$ 111,501	\$ 62,236
14	\$ 193,444	\$	1,384	\$ 14,849	\$ 113,731	\$ 63,480
15	\$ 197,313	\$	1,412	\$ 15,146	\$ 116,005	\$ 64,750
Total	\$ 2,586,034	\$	18,502	\$ 198,505	\$ 1,520,395	\$ 848,631
Average	\$ 172,402	\$	1,233	\$ 13,234	\$ 101,360	\$ 56,575

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Assumes an average annual increase of 2.00%

CAMOIN ASSOCIATES

Table 8 calculates the benefit (or cost) to the affected taxing jurisdictions as the difference between the PILOT payments associated with the Project and the property tax payments without the Project. In total, \$31,606 less in PILOT revenue will be received annually than property taxes that would be received without the Project. The total benefit would be \$474,088 less over the 15-year period.

Table 8

Tax Policy Comparison (All Jurisdictions)

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 149,539	\$ 121,649	\$ (27,890)
2	\$ 152,529	\$ 121,649	\$ (30,881)
3	\$ 155,580	\$ 121,649	\$ (33,931)
4	\$ 158,692	\$ 126,000	\$ (32,692)
5	\$ 161,865	\$ 128,000	\$ (33,865)
6	\$ 165,103	\$ 130,000	\$ (35,103)
7	\$ 168,405	\$ 132,000	\$ (36,405)
8	\$ 171,773	\$ 137,000	\$ (34,773)
9	\$ 175,208	\$ 141,000	\$ (34,208)
10	\$ 178,712	\$ 145,000	\$ (33,712)
11	\$ 182,287	\$ 153,000	\$ (29,287)
12	\$ 185,932	\$ 156,000	\$ (29,932)
13	\$ 189,651	\$ 161,000	\$ (28,651)
14	\$ 193,444	\$ 166,000	\$ (27,444)
15	\$ 197,313	\$ 172,000	\$ (25,313)
Total	\$ 2,586,034	\$ 2,111,946	\$ (474,088)
Average	\$ 172,402	\$ 140,796	\$ (31,606)

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

TOWN

Table 9 calculates the benefit (or cost) to the Town. The Town would receive approximately \$226 less in PILOT revenue annually than it would receive in property taxes without the Project. The total impact to the Town would be \$3,392 less over the 15-year period.

Table 9

Tax Policy Comparison for Town

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 1,070	\$ 870	\$ (200)
2	\$ 1,091	\$ 870	\$ (221)
3	\$ 1,113	\$ 870	\$ (243)
4	\$ 1,135	\$ 901	\$ (234)
5	\$ 1,158	\$ 916	\$ (242)
6	\$ 1,181	\$ 930	\$ (251)
7	\$ 1,205	\$ 944	\$ (260)
8	\$ 1,229	\$ 980	\$ (249)
9	\$ 1,254	\$ 1,009	\$ (245)
10	\$ 1,279	\$ 1,037	\$ (241)
11	\$ 1,304	\$ 1,095	\$ (210)
12	\$ 1,330	\$ 1,116	\$ (214)
13	\$ 1,357	\$ 1,152	\$ (205)
14	\$ 1,384	\$ 1,188	\$ (196)
15	\$ 1,412	\$ 1,231	\$ (181)
Total	\$ 18,502	\$ 15,110	\$ (3,392)
Average	\$ 1,233	\$ 1,007	\$ (226)

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

COUNTY

Table 10 calculates the benefit (or cost) to the County. The County would receive approximately \$2,426 less in PILOT revenue annually than it would receive in property taxes without the Project. The total impact to the County would be \$36,391 less over the 15-year period.

Table 10

Tax Policy Comparison for County

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 11,479	\$ 9,338	\$ (2,141)
2	\$ 11,708	\$ 9,338	\$ (2,370)
3	\$ 11,942	\$ 9,338	\$ (2,605)
4	\$ 12,181	\$ 9,672	\$ (2,509)
5	\$ 12,425	\$ 9,825	\$ (2,600)
6	\$ 12,673	\$ 9,979	\$ (2,695)
7	\$ 12,927	\$ 10,132	\$ (2,794)
8	\$ 13,185	\$ 10,516	\$ (2,669)
9	\$ 13,449	\$ 10,823	\$ (2,626)
10	\$ 13,718	\$ 11,130	\$ (2,588)
11	\$ 13,992	\$ 11,744	\$ (2,248)
12	\$ 14,272	\$ 11,975	\$ (2,298)
13	\$ 14,558	\$ 12,358	\$ (2,199)
14	\$ 14,849	\$ 12,742	\$ (2,107)
15	\$ 15,146	\$ 13,203	\$ (1,943)
Total	\$ 198,505	\$ 162,114	\$ (36,391)
Average	\$ 13,234	\$ 10,808	\$ (2,426)

Source: Town of Hempstead IDA, Camoin Associates

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SCHOOL DISTRICT

Table 11 calculates the benefit (or cost) to the school district. The school district would receive approximately \$18,582 less in PILOT revenue annually than it would receive in property taxes without the Project. The total impact to the school district would be \$278,728 less over the 15-year period.

Table 11

Tax Policy Comparison for School District

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 87,918	\$ 71,520	\$ (16,397)
2	\$ 89,676	\$ 71,520	\$ (18,156)
3	\$ 91,469	\$ 71,520	\$ (19,949)
4	\$ 93,299	\$ 74,079	\$ (19,220)
5	\$ 95,165	\$ 75,254	\$ (19,910)
6	\$ 97,068	\$ 76,430	\$ (20,638)
7	\$ 99,009	\$ 77,606	\$ (21,403)
8	\$ 100,990	\$ 80,546	\$ (20,444)
9	\$ 103,009	\$ 82,897	\$ (20,112)
10	\$ 105,070	\$ 85,249	\$ (19,820)
11	\$ 107,171	\$ 89,953	\$ (17,218)
12	\$ 109,314	\$ 91,716	\$ (17,598)
13	\$ 111,501	\$ 94,656	\$ (16,845)
14	\$ 113,731	\$ 97,596	\$ (16,135)
15	\$ 116,005	\$ 101,123	\$ (14,882)
Total	\$ 1,520,395	\$ 1,241,667	\$ (278,728)
Average	\$ 101,360	\$ 82,778	\$ (18,582)

Source: Town of Hempstead IDA, Camoin Associates

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VILLAGE

Table 12 calculates the benefit (or cost) to the special districts. The special districts would receive approximately \$10,519 less in PILOT revenue annually than they would receive in property taxes without the Project. The total impact to the special districts would be \$147,270 less over the 15-year period.

Table 12

Tax Policy Comparison for Village

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ 49,072	\$ 39,920	\$ (9,152)
2	\$ 50,054	\$ 39,920	\$ (10,134)
3	\$ 51,055	\$ 39,920	\$ (11,135)
4	\$ 52,076	\$ 41,348	\$ (10,728)
5	\$ 53,118	\$ 42,004	\$ (11,113)
6	\$ 54,180	\$ 42,661	\$ (11,519)
7	\$ 55,264	\$ 43,317	\$ (11,947)
8	\$ 56,369	\$ 44,958	\$ (11,411)
9	\$ 57,496	\$ 46,270	\$ (11,226)
10	\$ 58,646	\$ 47,583	\$ (11,063)
11	\$ 59,819	\$ 50,208	\$ (9,611)
12	\$ 61,015	\$ 51,193	\$ (9,823)
13	\$ 62,236	\$ 52,834	\$ (9,402)
14	\$ 63,480	\$ 54,474	\$ (9,006)
15	\$ 64,750	\$ 56,443	\$ (8,307)
Total	\$ 783,881	\$ 636,611	\$ (147,270)
Average	\$ 55,991	\$ 45,472	\$ (10,519)

Source: Town of Hempstead IDA, Camoin Associates

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OTHER EXEMPTIONS

There are additional benefits to working with the Agency including a one-time sales tax exemption on renovation materials and furniture, fixtures, and equipment. Tax exemptions are for the state and county taxes and are not applicable to the town.

Table 13

Summary of Costs to Affected Jurisdictions

	State and County	
Sales Tax Exemption	\$	155,250

Source: Applicant, Camoin Associates

The additional incentives offered by the Agency would benefit the Applicant but will not negatively affect the taxing jurisdictions because, without the Project, the jurisdictions by definition would not be receiving any associated sales tax or mortgage tax revenue.

SALES TAX REVENUE

SALES TAX REVENUE – RENOVATION PHASE

The one-time renovation phase earnings described by the total economic impact of the renovation work (described in the above section) would lead to additional sales tax revenue for the Town. It is assumed that 70%⁵ of the renovation phase earnings would be spent within the county and that 25% of those purchases would be taxable.

Table 14

One-Time Sales Tax Revenue, Renovation Phase

Total New Earnings	\$	656,246
Amount Spent in County (70%)	\$	459,372
Amount Taxable (25%)	\$	114,843
Nassau County Sales Tax Revenue (4.25%)	\$	4,881
New Town Sales Tax Revenue Portion*		0.375%
New Town Sales Tax Revenue	\$	431

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

⁵ According to Lightcast, 70% demand for industries in a typical household spending basket is met within Nassau County.

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SALES TAX REVENUE – EMPLOYEE EARNINGS

The earnings generated by on-site jobs that will occur as a result of building operation at the Project (described under Impacts of On-Site Employment) would lead to additional annual sales tax revenue for the town. It is assumed that 70% of the earnings would be spent within Nassau County and that 25% of those purchases will be taxable. Table 15 displays the annual tax revenue that the Town will receive.

Table 15

Annual Sales Tax Revenue, On-Site Operations	
Total New Earnings	\$ 13,382,858
Amount Spent in County (70%)	\$ 9,368,001
Amount Taxable (25%)	\$ 2,342,000
Nassau County Sales Tax Revenue (4.25%)	\$ 99,535
New Town Sales Tax Revenue Portion*	0.375%
New Town Tax Revenue	\$ 8,783

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

ATTACHMENT A: WHAT IS ECONOMIC IMPACT ANALYSIS?

The purpose of conducting an economic impact study is to ascertain the total cumulative changes in employment, earnings and output in a given economy due to some initial “change in final demand”. To understand the meaning of “change in final demand”, consider the installation of a new widget manufacturer in Anytown, USA. The widget manufacturer sells \$1 million worth of its widgets per year exclusively to consumers in Canada. Therefore, the annual change in final demand in the United States is \$1 million because dollars are flowing in from outside the United States and are therefore “new” dollars in the economy.

This change in final demand translates into the first round of buying and selling that occurs in an economy. For example, the widget manufacturer must buy its inputs of production (electricity, steel, etc.), must lease or purchase property and pay its workers. This first round is commonly referred to as the “Direct Effects” of the change in final demand and is the basis of additional rounds of buying and selling described below.

To continue this example, the widget manufacturer’s vendors (the supplier of electricity and the supplier of steel) will enjoy additional output (i.e. sales) that will sustain their businesses and cause them to make additional purchases in the economy. The steel producer will need more pig iron and the electric company will purchase additional power from generation entities. In this second round, some of those additional purchases will be made in the US economy and some will “leak out”. What remains will cause a third round (with leakage) and a fourth (and so on) in ever-diminishing rounds of industry-to-industry purchases. Finally, the widget manufacturer has employees who will naturally spend their wages. Again, those wages spent will either be for local goods and services or will “leak” out of the economy. The purchases of local goods and services will then stimulate other local economic activity. Together, these effects are referred to as the “Indirect Effects” of the change in final demand.

Therefore, the total economic impact resulting from the new widget manufacturer is the initial \$1 million of new money (i.e. Direct Effects) flowing in the US economy, plus the Indirect Effects. The ratio of Total Effects to Direct Effects is called the “multiplier effect” and is often reported as a dollar-of-impact per dollar-of-change. Therefore, a multiplier of 2.4 means that for every dollar (\$1) of change in final demand, an additional \$1.40 of indirect economic activity occurs for a total of \$2.40.

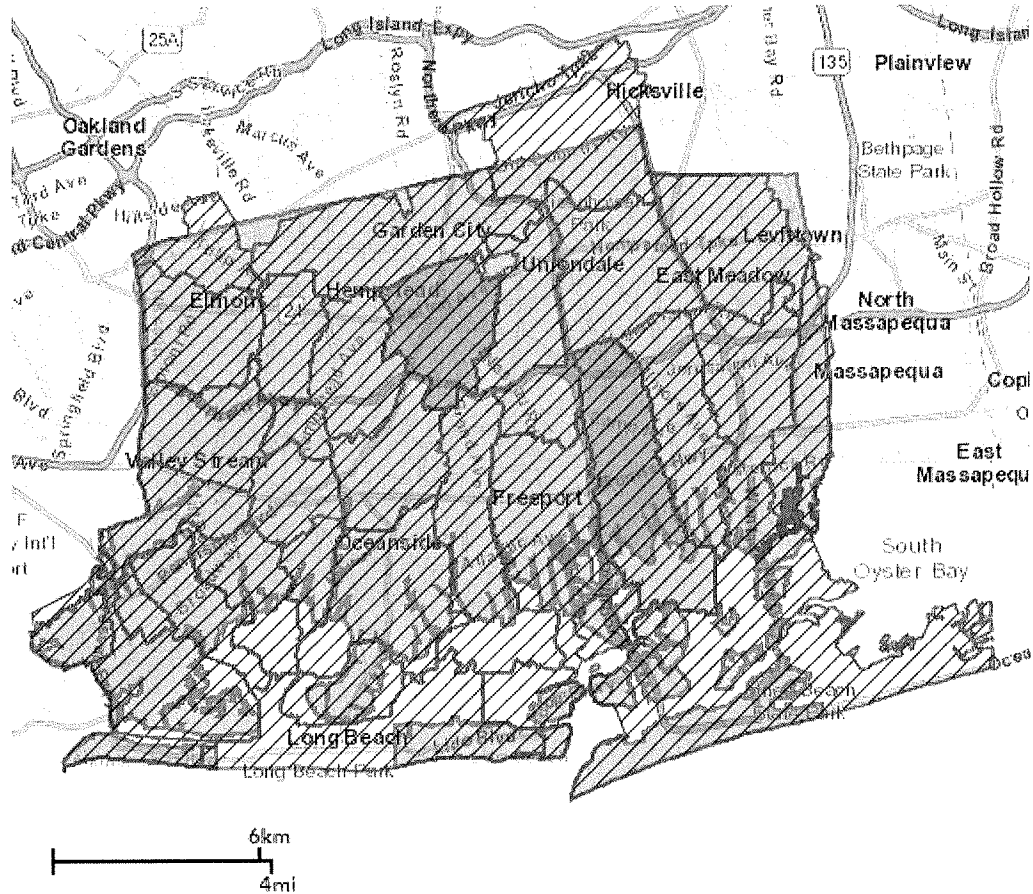
Key information for the reader to retain is that this type of analysis requires rigorous and careful consideration of the geography selected (i.e. how the “local economy” is defined) and the implications of the geography on the computation of the change in final demand. If this analysis wanted to consider the impact of the widget manufacturer on the entire North American continent, it would have to conclude that the change in final demand is zero and therefore the economic impact is zero. This is because the \$1 million of widgets being purchased by Canadians is not causing total North American demand to increase by \$1 million. Presumably, those Canadian purchasers will have \$1 million less to spend on other items and the effects of additional widget production will be cancelled out by a commensurate reduction in the purchases of other goods and services.

Changes in final demand, and therefore Direct Effects, can occur in a number of circumstances. The above example is easiest to understand: the effect of a manufacturer producing locally but selling globally. If, however, 100% of domestic demand for a good is being met by foreign suppliers (say, DVD players being imported into the US from Korea and Japan), locating a manufacturer of DVD players in the US will cause a change in final demand because all of those dollars currently leaving the US economy will instead remain. A situation can be envisioned whereby a producer is serving both local and foreign demand, and an impact analysis would have to be careful in calculating how many “new” dollars the producer would be causing to occur domestically.

CAMOIN ASSOCIATES

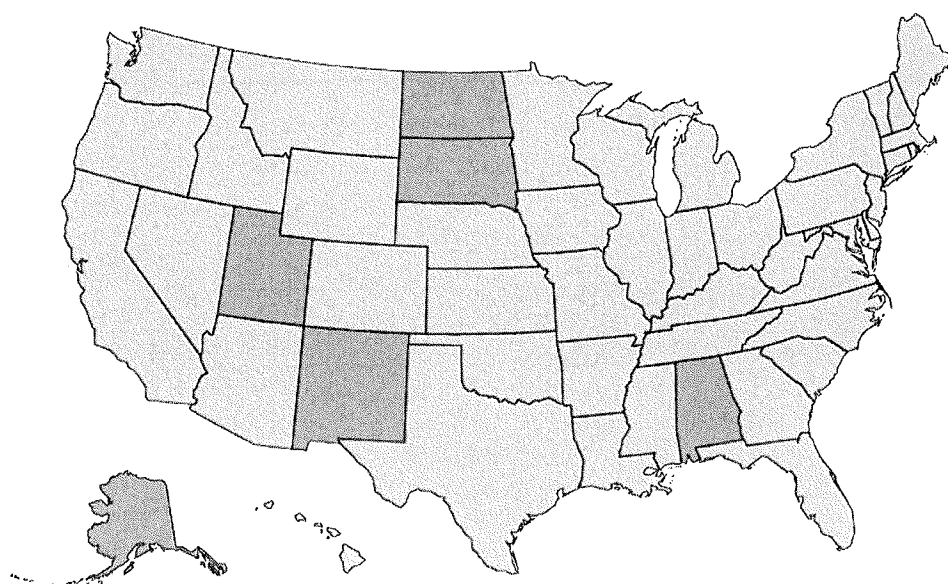
ATTACHMENT B: STUDY AREAS

Town of Hempstead (Green) and Zip Code Region (Red outline with dashes)



Camoin Associates has provided economic development consulting services to municipalities, economic development agencies, and private enterprises since 1999. Through the services offered, Camoin Associates has had the opportunity to serve EDOs and local and state governments from Maine to California; corporations and organizations that include Lowes Home Improvement, FedEx, Amazon, Volvo (Nova Bus) and the New York Islanders; as well as private developers proposing projects in excess of \$6 billion. Our reputation for detailed, place-specific, and accurate analysis has led to projects in 43 states and garnered attention from national media outlets including Marketplace (NPR), Crain's New York Business, Forbes magazine, The New York Times, and The Wall Street Journal. Additionally, our marketing strategies have helped our clients gain both national and local media coverage for their projects in order to build public support and leverage additional funding. We are based in Saratoga Springs, NY, with regional offices in Portland, ME; Boston, MA; Richmond, VA and Brattleboro, VT. To learn more about our experience and projects in all of our service lines, please visit our website at www.camoinassociates.com. You can also find us on Twitter [@camoinassociate](https://twitter.com/camoinassociate) and on [Facebook](https://www.facebook.com/camoinassociates).

Connor Allen
Analyst



BEECHWOOD MERRICK LLC
200 ROBBINS LANE, SUITE D-1
JERICHO, NY 11753
(516) 935-5555

November 6, 2023

VIA EMAIL AND FEDERAL EXPRESS

Frederick E. Parola
Executive Director/CEO
Town of Hempstead IDA
350 Front Street
Hempstead, NY 11550

Re: Beechwood Merrick LLC- Sales Tax Exemption
Lease dated January 1, 2020 by and between Town of Hempstead Industrial
Development and Beechwood Merrick LLC (the "Lease")

Dear Mr. Parola:

In connection with the above-referenced, on January 24, 2023, the Town of Hempstead Industrial Development Agency granted a sales tax exemption extension of time from the Lease Completion Date of January 31, 2023 to a new completion date of December 31, 2023 as we had only used \$3,679,222.96 out of the \$5,649,375.00 Maximum Company Sales Tax Savings Amount ("First Extension") at that time.

Although the Facility was substantially complete and in operation at the time the First Extension was granted, the opening of the restaurant portion was set back, as we encountered difficulties securing a food and beverage operator coming out of the COVID lockdowns.

We now have a signed agreement with an operator since early this year and we anticipated completing the build-out of the restaurant portion of the Facility by the end of the year, however we have faced considerable delays with respect to the architectural design and plans for submission to the town. We expect the permit plan package to be ready for submission to the municipality early this month and we hope to be able to obtain permits for the buildout of the restaurant shortly thereafter.

As of our last reporting date, June 30, 2023 we had only used \$3,730,741.04 out of the \$5,649,375.00 Maximum Company Sales Tax Savings Amount. Accordingly, we respectfully request a six month extension until June 30, 2024 to allow us to utilize the remainder of sales tax savings.

We appreciate your consideration and if you should have any questions, or require further information, please do not hesitate to contact the undersigned.

Very truly yours,

BEECHWOOD MERRICK LLC

By: 

Steven Dubb
Authorized Signatory



FORCHELLI
DEEGAN
TERRANA

LOUIS H. FIORE
LFIORE@FORCHELLILAW.COM

November 8, 2023

Town of Hempstead Industrial Development Agency
350 Front Street, Room 234-A
Hempstead, New York 11550
Attention: Mr. Frederick E. Parola, Chief Executive Officer

Re: Prosperity Avenue Holdings LLC/Paul's Auto Collision, Inc. 2022 Facility
585 Commercial Avenue, Garden City, New York

Dear Mr. Shrenkel:

This firm represents Prosperity Avenue Holdings LLC (the "Company") and Paul's Auto Collision, Inc. ("Sublessee") connection with the Straight Lease Transaction (the "IDA Transaction") entered into between the Company and the Nassau County Industrial Development Agency (the "Agency"). The purpose of this letter is to request, on behalf of the Company, that the Agency grant a six (6) month extension of the Company's time to complete the Project and to use the sales tax exemption granted by the Agency.

Pursuant to that certain Lease and Project Agreement dated as of August 1, 2022 (the "Lease"), the Agency granted the Company a sales and use tax exemption (the "Company Sales Tax Exemption") in connection with the performance by the Company of certain Project Work (as defined in the Lease). Pursuant to Section 3.6 of the Lease, the Company is required to achieve the "Completion Date" (i.e., the completion of the Project Work) on or before December 31, 2023. Also, pursuant to the provisions of Section 5.2(c)(i) of the Lease, the Company's right to use the Company Sales Tax Exemption expires upon the Completion Date (i.e., December 31, 2023 or sooner).

Additionally, pursuant to the provisions of that certain Equipment Lease dated as of August 1, 2022 (the "Equipment Lease"), the Agency has granted the Sublessee a sales and use tax exemption (the "Sublessee Sales Tax Exemption") in connection with Sublessee's acquisition, leasing and installation of certain "Equipment" (as defined in the Equipment Lease) during the Equipment Lease Term (as defined in the Equipment Lease). Pursuant to Section 3.6 of the Lease, the Company is required to achieve complete the acquisition, leasing and installation of the Equipment on or before December 31, 2023. Also, pursuant to the provisions of Section 5.2(c)(i)

FORCHELLI DEEGAN TERRANA LLP

The Omni • 333 Earle Ovington Blvd., Suite 1010 • Uniondale NY 11553 • 516.248.1700 • forchellilaw.com

Page 2

of the Lease, the Equipment Lease Term and the Company's right to use the Sublessee Sales Tax Exemption expires upon the December 31, 2023.

Due in part to unanticipated delays caused by supply chain issues and other delays in part due to the economic disruption caused by the COVID 19 pandemic and its aftermath, the Company does not anticipate being able to complete the Project Work by December 31, 2023 and the Sublessee does not anticipate being able to complete the acquisition, leasing and installation of Equipment by December 31, 2023. Accordingly, the Company respectfully requests that the Agency grant the Company a six (6) month extension of the deadline for the Completion Date under the Lease to and including June 30, 2024 and a comparable six (6) month extension of the Equipment Lease Term and the deadline to complete the acquisition, leasing and installation of the Equipment under the Equipment Lease to and including June 30, 2024.

Please feel free to contact me with any questions or concerns. Thank you in advance for your consideration of the foregoing request.

Sincerely,

FORCHELLI DEEGAN TERRANA LLP

By: Louis H. Fiore

cc: Mr. Michael Lodato
Mr. Paul Wilson

Regency
Centers.

28 Church Lane
2nd Floor
Westport, CT 06880

203 635 5560
RegencyCenters.com

October 30, 2023

Edie M. Longo
Deputy Executive Director/CFO
Town of Hempstead Industrial Development Association
350 Front Street
Hempstead, NY 11550
516-489-5000 x4200
elongo@tohmail.org

Re: The Gallery at Westbury Plaza, Old Country Road, Garden City

Dear Edie:

I enclose the following documents to be considered for approval at the meeting of the Town of Hempstead IDA scheduled for November 21, 2023:

- Proposed Transfer/Assignment to 200 West Optics, LLC D/B/A MyEyeDr.
- Memo identifying lease terms

Please let me know if you require any additional information or have any questions with this matter. I can be reached at the number below.

Warm regards,



Sean Mirkov
Senior Leasing Agent
203-635-5561
SeanMirkov@regencycenters.com
Regency Centers

Enclosures

CC: Jack deVilliers – Sr. V.P., Sr. Market Officer – Regency Centers



28 Church Lane
2nd Floor
Westport, CT 06880

203 635 5560
RegencyCenters.com

MEMO

To: Edie M. Longo
Deputy Executive Director and Chief Financial Officer

From: Sean Mirkov
Senior Leasing Agent – Regency Centers

CC: Jack deVilliers – Sr. Vice President, Sr. Market Officer – Regency Centers

Date: October 30, 2023

Subject: Proposed Transfer/Assignment
900 Old County Road

Below please find information regarding the above-referenced sub-tenant:

Tenant – MyEyeDr.

Approximate Sq. Ft. – 1,563 sf

Use of Space – The Leased Premises shall be used and occupied solely for the retail sale and display of eyewear and related accessories and the performance of eye examinations, subject to the Exclusive and Prohibited Uses, and for no other use or purpose.

Term of Lease – Existing term to remain in place. Lease expiration of 10/31/2028 with one (1) five (5) year option in place.

Estimated Employees – Approximately 5

Estimated Payroll – Up to \$300,000.00

Please let me know if you require any additional information.

Warm Regards,

Sean Mirkov
Sean Leasing Agent
203-635-5561
SeanMirkov@regencycenters.com
Regency Centers

CC: Jack deVilliers – Sr. Vice President, Sr. Market Officer – Regency Centers

ASSIGNMENT AND ASSUMPTION AND FOURTH MODIFICATION TO LEASE AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AND FOURTH MODIFICATION TO LEASE AGREEMENT (this "Agreement" or sometimes referred to herein as this "Modification") is made as of this day of _____, 2023 ("Effective Date"), by and among JACK DOBY GARDEN CITY, LLC, a New York limited liability company, d/b/a Jack Doby (herein called "Assignor"), MYEYEDR. OPTOMETRY OF CONNECTICUT, LLC, a Connecticut limited liability company, d/b/a MyEyeDr. (herein called "Assignee"), and EQUITY ONE (NORTHEAST PORTFOLIO) LLC, a Massachusetts limited liability company (herein called "Landlord").

RECITALS

WHEREAS, Landlord and Assignor are the current parties to that certain Shopping Center Lease Agreement dated July 28, 2017 ("Original Lease"), which Original Lease document has since been amended, modified or assigned, as applicable, by the following documents: First Amendment to Shopping Center Lease Agreement dated December 7, 2018 ("First Amendment"), Second Modification to Lease Agreement dated May 6, 2019 ("Second Amendment"), and Rent Relief Lease Amendment dated January 24, 2021 ("Third Amendment") (collectively, the "Lease") covering certain premises currently known as unit or space number 38 and containing approximately 1,563 square feet (as more particularly described in the Lease, as affected hereby, and referred to in this Agreement as the "Premises") in the shopping center currently known as The Gallery At Westbury Plaza located in Garden City, New York (as more particularly described in the Lease, as affected hereby, and referred to in this Agreement as the "Shopping Center").

WHEREAS, Bruce Zagelbaum, an individual (herein called "Existing Guarantor") executed that certain Guaranty of Lease dated June 21, 2017 (the "Existing Guaranty").

WHEREAS, Assignor desires to assign its interest in and to the Lease to Assignee, and Assignee desires to accept such assignment, upon the terms and conditions hereinafter set forth.

WHEREAS, the Lease permits Assignor to assign its interest in and to the Lease to Assignee without Landlord's consent.

WHEREAS, the parties hereto wish to modify and/or amend certain terms of the Lease as more specifically described herein.

NOW, THEREFORE, in exchange for the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals; Defined Terms. The above Recitals are hereby confirmed as true and correct and are reaffirmed herein. Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Lease. For purposes hereof and to the extent used herein, the terms "Tenant's Proportionate Share", "Common Area Costs", "Taxes", "Insurance" or "Term" shall have the meanings given to such terms, similar terms or concepts as more particularly described in the Lease, as affected hereby.
2. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title, interest and claim in and to the Lease as "Tenant" thereunder, including that certain security deposit in the amount of Eighteen Thousand Four Hundred Eighty-Five and 08/100 Dollars (\$18,485.08) which shall continue to be held by Landlord under the Lease as security for the prompt and complete payment and performance of all obligations, liabilities and covenants of "Tenant" thereunder (the "Assignment").
3. Assumption. Assignee hereby accepts the Assignment and assumes the prompt and complete payment and performance of all obligations, liabilities and covenants of (i) Assignor under the Lease arising prior to the Effective Date but only to the extent specifically set forth in the paragraph entitled "Outstanding Amounts; Annual Reconciliation" below, and (ii) "Tenant" under the Lease (e.g., as of the Effective Date, Assignee is "Tenant" under the Lease) arising on or after the Effective Date (including pursuant to any assignments, amendments, modifications, extensions or renewals of the Lease such as those, without limitation, specifically made by this Agreement, if any). Assignee shall not succeed by this Agreement to any obligations, liabilities and covenants of Assignor under the Lease arising prior to the Effective Date, except as specifically set forth above. Assignee hereby acknowledges and agrees that it has inspected the Premises and accepts the same in its current "as-is" condition.
4. Landlord's Consent. Landlord hereby consents to the Assignment to Assignee on the terms and conditions set forth in this Agreement. Pursuant to the terms and conditions of the Lease, Assignor agrees to pay Landlord a transfer fee of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) ("Transfer Fee") immediately upon Assignor's execution of this Agreement, however, the Five Hundred and 00/100 Dollars (\$500.00) application fee shall be credited towards the Transfer Fee.
5. Representations and Warranties. Assignor represents and warrants to Landlord and Assignee that: (i) as of the Effective Date, Landlord has fully paid and performed all its obligations, liabilities and covenants under the Lease; Assignor knows of no default by Landlord under the Lease or any situations which, with notice or the passage of time, or both, would constitute a default; and Assignor has no rights of offset or defense against Landlord; (ii) Assignor has not failed to disclose to Landlord any information which, if known by Landlord, might provide grounds for Landlord to withhold its consent to the

Assignment; and (iii) Assignor has not heretofore assigned, mortgaged or otherwise transferred or encumbered, voluntarily or involuntarily, the Lease or Assignor's interest therein. In consideration of Landlord's consent to the Assignment to Assignee on the terms and conditions set forth in this Agreement, Assignor hereby irrevocably and unconditionally releases and discharges Landlord and Landlord's officers, trustees, directors, partners, beneficiaries, mortgagees, ground lessors, joint venturers, members, stockholders, or other principals, representatives, agents, contractors and employees, disclosed or undisclosed (and their respective successors and assigns) (collectively, "Landlord Related Parties") from any and all claims, actions, causes of action, rights, demands, debts, obligations, damages, liabilities, judgments or losses of any kind whatsoever that Assignor has or may have against Landlord and/or any Landlord Related Parties arising out of or connected with any acts or omissions on the part of Landlord and/or any Landlord Related Parties occurring on or before the Effective Date including, without limitation, matters related to the negotiation and execution of the Lease (as affected hereby), the administration of the Lease (as affected hereby), and the leasing, operation or management of the Shopping Center.

6. No Release. Except as may otherwise be specifically set forth herein, Assignor and any existing guarantor related to the Lease (including, without limitation, any Existing Guarantor defined in this Agreement) shall not be released from their respective continuing liability with respect to the prompt and complete payment and performance of all obligations, liabilities and covenants of (i) Assignor under the Lease arising prior to the Effective Date, and (ii) "Tenant" under the Lease (e.g., as of the Effective Date, Assignee is "Tenant" under the Lease) arising on or after the Effective Date (including pursuant to any assignments, amendments, modifications, extensions or renewals of the Lease such as those, without limitation, specifically made by this Agreement, if any). Notwithstanding anything to the contrary contained herein, provided that Tenant has not been in default under the Lease up until and including the Effective Date, then as of the next day after the Effective Date, Assignor and Existing Guarantor shall be released from all liability under the Lease accruing thereafter; provided, however, Assignor and Existing Guarantor shall remain responsible for all liabilities accruing up until and including the Effective Date and any expenses incurred by Landlord in collecting the same, including attorneys' fees and interest.

7. Outstanding Amounts; Annual Reconciliation. If any amount of rent or other sums due and payable by Assignor under the Lease is outstanding as of the Effective Date, then Assignor shall pay all such outstanding amounts to Landlord on or before the Effective Date. Landlord's consent to the Assignment is subject to payment in full of the aforementioned outstanding amounts. Assignee agrees to pay for any and all sums found to be due and owing, and shall also receive the benefit of any credit, in relation to any annual reconciliation by Landlord pursuant to the Lease, such as relating to Tenant's Proportionate Share of Common Area Costs, Taxes, Insurance and the like pursuant to the Lease.

8. Furniture, Fixtures, Equipment and Other Personal Property. To the extent any furniture, fixtures, equipment and/or other personal property (collectively, "FF&E") are left in the Premises by Assignor (or other owner of such FF&E) pursuant to a separate oral or written agreement between Assignee and Assignor (or such other owner of such FF&E), Landlord makes no representation or warranty as to ownership of the FF&E or Assignee's right to use the FF&E. Assignee shall be solely responsible to obtain from the rightful owner of the FF&E, a bill of sale, license, lease or other appropriate document evidencing Assignee's purchase of, or right to use, the FF&E. Landlord shall have no obligation to remove the FF&E from the Premises prior to, during or after the Term. For purposes of the Lease (as affected by this Agreement) only, the FF&E shall be treated as Assignee's personal property and as such, Assignee shall assume all risk of loss while the FF&E is in the care, custody and control of Assignee. Subject to any Landlord lien rights under the Lease (as affected by this Agreement) or at law including any express agreement of Landlord to subordinate its Landlord's lien, Landlord disclaims any and all liability regarding the FF&E. The insurance coverages and other indemnification obligations and agreements of "Tenant" under the Lease (as affected by this Agreement) shall include all matters related to or arising from Assignee's use of the FF&E including, without limitation, any matters related to or arising from any landlord waiver agreement or the like previously executed by Landlord and Assignor's lender(s). This Agreement is not conditioned upon Assignee's right to use the FF&E, and any inability of Assignee to use the FF&E shall have no effect on Assignee's rights and obligations under the Lease (as affected by this Agreement).

9. Modifications and/or Amendments. Effective as of the Effective Date, the Lease is hereby modified and/or amended to include the terms and conditions set forth in this paragraph and its subparagraphs, articles and sections below. For purposes of such modifications and/or amendments, the following terms or phrases shall have the following meanings: (i) "Tenant" shall mean the then current "Tenant" under the Lease at any given time (e.g., as of the Effective Date, Assignee is "Tenant" under the Lease); (ii) "this Agreement" or "this Modification" shall mean this Agreement; and (iii) "this Lease" or "the Lease" shall mean the Lease and as applicable, as the same may be further assigned, amended, modified, extended and/or renewed pursuant to this Agreement.

(I) Tenant's Trade Name. Tenant's trade name of "Jack Doby" set forth in the Lease is hereby deleted and replaced with "MyEyeDr.". As of the Effective Date and continuing throughout the Term, Tenant represents, warrants and covenants that Tenant has full legal authority to use such trade name including any related logo, brand, trade dress and/or trademark and that its use thereof does not violate applicable law or the rights of any third party.

(II) Notice Addresses. The notice addresses for Landlord and Tenant set forth in the Lease are hereby deleted and replaced with the addresses set forth below:

To Tenant:

MyEyeDr. Optometry of Connecticut, LLC
8614 Westwood Center Drive
9th Floor
Vienna, Virginia 22182

To Landlord:

c/o Regency Centers Corporation
One Independent Drive, Suite 114
Jacksonville, Florida 32202-5019
Attention: Legal Department

With a copy to:

c/o Regency Centers Corporation
28 Church Lane, Suite 200
Westport, Connecticut 06880
Attention: Property Management

(III) Signage Replacement. Tenant shall, no later than one hundred twenty (120) days after the Effective Date and at Tenant's own expense, and subject to Landlord's prior consent of plans therefor, replace its existing signage on the Premises with new signage. Tenant shall submit to Landlord Tenant's sign plans showing in complete detail the proposed construction and installation of Tenant's exterior sign (the "New Sign Plans") within sixty (60) days after the Effective Date. If Landlord disapproves of the New Sign Plans, Tenant shall revise the New Sign Plans to address all comments set forth in Landlord's disapproval and shall resubmit the same to Landlord within seven (7) days after the date of such disapproval, and such process shall continue until Landlord's approval is obtained. Tenant shall thereafter install the new signs in accordance with approved New Sign Plans and otherwise in accordance with the Lease. Notwithstanding anything in the Lease to the contrary, the new signs must conform to all requirements of governmental and regulatory bodies, and be in compliance with all laws and Landlord's sign criteria for the Shopping Center.

(IV) Assignment or Subletting. Notwithstanding anything to the contrary contained in the Lease, Subsection 19(b) of the Original Lease shall be amended by deleting "One Thousand Five Hundred and 00/100 Dollars (\$1,500.00)" and replacing it with "Two Thousand Five Hundred and 00/100 (\$2,500.00)."

(V) Waiver of "Yellowstone Injunction". For good, valuable, and valid consideration, the receipt and sufficiency of which is hereby acknowledged, including but not limited to Tenant's negotiating of the rents and other provisions of entering into the Lease, Tenant hereby waives its right to bring a declaratory judgment action if there is a failure to pay Rent with respect to any provision of the Lease and/or with respect to any notice sent pursuant to the provisions of the Lease regarding seeking Yellowstone Injunctive relief. Any breach of this paragraph shall constitute a breach of substantial obligations of the tenancy and the Lease, and shall be grounds for the immediate termination of the Lease. It is further agreed that in the event injunctive relief is sought by Tenant and such relief shall be denied, Landlord shall be entitled to recover the costs of opposing such an application or action, including its attorneys' fees and costs actually incurred. It is the intention of the parties hereto that their disputes be adjudicated via summary proceedings.

____ Tenant's Initials

(VI) Maintenance Programs. In order to satisfy certain of Tenant's maintenance, repair and replacement obligations under the Lease, Landlord may from time to time elect to require Tenant to participate in a program or programs (such as, without limitation, an HVAC system preventive maintenance program) pursuant to which Landlord (a) manages, directs and coordinates certain maintenance, repair and replacement services through contractors selected by Landlord for the convenience of participating tenants and at a cost generally competitive in the vicinity of the Shopping Center, and (b) bills each participating tenant for the cost of such services rendered to it as Additional Rent under its lease. Landlord may elect to require participation in any program, or to discontinue any program, by providing Tenant with at least thirty (30) days prior written notice. If Landlord elects to discontinue any program as provided above, then Tenant shall remain responsible for the cost of services already rendered to it under such program as Additional Rent hereunder, and shall thereafter directly arrange for the applicable services in order to satisfy its maintenance, repair and replacement obligations under the Lease.

(VII) New Guaranty. The prompt and complete payment and performance of all obligations, liabilities and covenants of Tenant under the Lease (including pursuant to any assignments, amendments, modifications, extensions or renewals of the Lease such as those, without limitation, specifically made by this Agreement, if any) will be guaranteed as more specifically set forth in, and subject to the terms and conditions of, that certain Absolute Unconditional Guaranty Agreement attached hereto as Exhibit "A" and made a part hereof which will be executed and delivered by the guarantor(s) named therein to Landlord concurrently with the execution of this Agreement (the "New Guaranty"). The New Guaranty is in addition to and does not replace any existing guaranty agreement(s) related to the Lease (including, without limitation, any Existing Guaranty defined in this Agreement) which shall remain in full force and effect.

10. Anti-Terrorism and Money Laundering Representation and Indemnification. Assignor and Assignee each respectively certifies that: (i) neither it nor its officers, directors or controlling owners is acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order, the United States Department of Justice, or the United States Treasury Department as a terrorist, "Specially Designated National or 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 ("SDN"); (ii) neither it nor its officers, directors or controlling owners is 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; and (iii) neither it nor its officers, directors or controlling owners is in violation of Presidential Executive Order 13224, the USA Patriot Act, the Bank Secrecy Act, the Money Laundering Control Act or any regulations promulgated pursuant thereto. Assignor and Assignee each respectively hereby agrees to defend, indemnify, and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorneys' fees and costs) arising from or related to any breach of the foregoing certification. Should Assignor or Assignee, during the Term, be designated an SDN, Landlord may, at its sole option, terminate the Lease.

11. Miscellaneous. The parties hereto hereby acknowledge that the Lease as affected by this Agreement is in full force and effect and, as hereby affected, is ratified and confirmed. By entering into this Agreement, Landlord in no way waives any rights and remedies available to it with respect to any existing or future defaults under the Lease, all of which rights and remedies Landlord hereby specifically reserves. Landlord shall have the discretion to direct how payments under the Lease (as affected hereby) are applied to any then due amounts on the account for the Premises. In the event of any conflict between the terms and conditions of this Agreement and the Lease, this Agreement shall control. This Agreement shall be effective only when it is signed by all parties hereto. A party's submission of a signed Agreement for review by Landlord does not give any such party any interest, right or option.

12. Authority. Each individual executing this Agreement on behalf of a corporation, limited liability company, partnership or other business entity represents that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity and agrees to deliver evidence of his or her authority to Landlord promptly upon request.

13. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together constitute a fully executed agreement even though all signatories do not appear on the same document. Delivery of an executed counterpart of this Agreement by facsimile or as an attachment to an email shall be equally effective as delivery of a mutually executed counterpart of this Agreement. This Agreement may be signed electronically. Facsimile or e-mail transmittal of original handwritten signatures and electronic signatures shall all be considered to have the same legal effect as execution and delivery of the original printed document with handwritten signatures and shall be treated in all manner and respects as the original printed document with handwritten signatures.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR:

JACK DOBY GARDEN CITY, LLC,
a New York limited liability company

By: _____

Print Name

Its: _____
Position/Title

ASSIGNEE:

MYEYEDR. OPTOMETRY OF CONNECTICUT, LLC,
a Connecticut limited liability company

By: _____

Print Name

Its: _____
Position/Title

LANDLORD:

EQUITY ONE (NORTHEAST PORTFOLIO) LLC,
a Massachusetts limited liability company

By: Regency Centers, L.P.,
a Delaware limited partnership
Its: Managing Member

By: Regency Centers Corporation,
a Florida corporation
Its: General Partner

By: _____

Print Name

Its: _____
Position/Title

JOINDER OF EXISTING GUARANTOR

Existing Guarantor joins in the execution of this Agreement to expressly acknowledge Existing Guarantor's continuing liability with respect to the Lease (including pursuant to any assignments, amendments, modifications, extensions or renewals of the Lease such as those, without limitation, specifically made by this Agreement, if any) as more specifically set forth in, and subject to the terms and conditions of, the Existing Guaranty.

Notwithstanding anything to the contrary contained in the Lease, provided that Tenant has not been in default under the Lease at any time up to and including the Effective Date, then as of the next day after the Effective Date, Existing Guarantor shall have no further liability thereafter accruing under the Existing Guaranty or the Lease; provided, however, Existing Guarantor shall be responsible for all liabilities accruing up until and including the Effective Date and any expenses incurred by Landlord in collecting the same, including actual attorneys' fees and interest.

EXISTING GUARANTOR:

BRUCE ZAGELBAUM

Print Full Legal Name

Address (other than the address of the Premises)

Existing Guarantor acknowledges its address and will notify Landlord of any changes thereto.

EXHIBIT A

ABSOLUTE UNCONDITIONAL GUARANTY AGREEMENT

THIS ABSOLUTE UNCONDITIONAL GUARANTY AGREEMENT (this "Guaranty") is made this ____ day of _____, 2023 by **MED PARENTCO, LP**, a Delaware limited partnership (herein called "Guarantor") in favor of **EQUITY ONE (NORTHEAST PORTFOLIO) LLC**, a Massachusetts limited liability company (herein called "Landlord").

RECITALS:

MYEYEDR. OPTOMETRY OF CONNECTICUT, LLC, a Connecticut limited liability company, d/b/a MyEyeDr. (herein called "Tenant") and Landlord are the current parties to that certain Shopping Center Lease Agreement dated July 28, 2017, as the same may have been amended, modified or assigned from time to time (collectively, the "Lease").

Concurrently with the execution hereof, Landlord, Tenant and any other parties referenced therein entered into that certain Assignment and Assumption and Fourth Modification to Lease Agreement (the "Current Agreement"). The Lease, as affected by the Current Agreement, is hereinafter referred to as the "Agreement".

In order to induce Landlord to enter into the Current Agreement, Guarantor agreed to execute and deliver to Landlord this Guaranty.

Guarantor acknowledges that Landlord would not have entered into the Current Agreement without the execution and delivery by Guarantor of this Guaranty.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Guarantor, Guarantor hereby agrees in favor of Landlord (and Landlord's successors and assigns) as follows:

1. Guarantor absolutely, unconditionally and irrevocably guarantees the prompt and complete payment and performance when due, whether by acceleration or otherwise, of all obligations, liabilities and covenants, whether now in existence or hereafter arising, of Tenant to Landlord, and arising under the Agreement, including without limitation all amounts due to Landlord as rent or otherwise under the Agreement (the "Obligations"). Guarantor hereby agrees to pay and/or perform punctually, upon written demand by Landlord, each such Obligation which is not paid or performed as and when due and payable by Tenant, in like manner as such amount is due from Tenant. For purposes hereof, the Obligations shall be performed and/or due and payable when due and payable under the terms of the Agreement notwithstanding the fact that the collection or enforcement thereof as against Tenant may be stayed or enjoined under Title 11 of the United States Code or similar applicable law. This Guaranty is one of payment and not of collection.
2. Guarantor's obligations under this Guaranty are absolute and unconditional and shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or the Agreement, or by any other circumstance relating to the Obligations or the Agreement which might otherwise constitute a legal or equitable discharge of or defense of a guarantor or surety. Guarantor hereby irrevocably waives any and all suretyship defenses, defenses that could be asserted by Tenant (except payment) and all other defenses that would otherwise be available to Guarantor. All payments by Guarantor pursuant to this Guaranty shall be made without setoff. Landlord shall not be obligated to file any claim relating to the Obligations in the event that Tenant becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of Landlord so to file shall not affect Guarantor's obligations under this Guaranty. Guarantor irrevocably waives any right to require Landlord to pursue any other remedy in Landlord's power whatsoever, whether against Tenant or any other obligor principally or secondarily obligated with respect to the Obligations. Guarantor irrevocably waives any defense arising by reason of any disability, bankruptcy, reorganization or similar proceeding involving Tenant. In the event that any payment in respect of any Obligations is rescinded or must otherwise be returned for any reason whatsoever, Guarantor shall remain liable under this Guaranty in respect of such Obligations as if such payment had not been made.
3. Guarantor agrees that Landlord may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of Guarantor, extend the time of payment of, or performance of, or renew, any of the Obligations, and may also make any agreement with Tenant or with any other party to or person liable on any of the Obligations, or interested therein, for the extension, renewal, payment, compromise, waiver, discharge or release thereof, in whole or in part, or for any amendment or modification of the terms thereof or of the Agreement or any other agreement between Landlord and Tenant or any such other party or person, without in any way impairing, releasing or affecting the liabilities of Guarantor under this Guaranty.
4. Guarantor will not exercise any rights which it may acquire by way of subrogation until all of the Obligations to Landlord shall have been indefeasibly paid in full, or performed in its entirety. Any amount paid to Guarantor in violation of the preceding sentence shall be held in trust for the benefit of Landlord and shall forthwith be paid to Landlord to be credited and applied to the Obligations, whether matured or unmatured. Guarantor hereby subordinates any and all liabilities and indebtedness to Guarantor to the prior indefeasible payment in full of the Obligations.

5. This Guaranty shall remain in full force and effect and be binding upon Guarantor, its successors and assigns until all of the Obligations have been satisfied in full and the Agreement shall have been terminated or fully performed. This Guaranty may not be modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by Landlord and Guarantor. This is a continuing Guaranty relating to all Obligations, including any arising during any holdover term or arising under transactions renewing or extending the term of the Agreement, changing the terms of any Obligations, or creating new or additional Obligations after prior Obligations have in whole or in part been satisfied, regardless of any lapse of time. If any of the present or future Obligations are guaranteed by persons, partnerships, corporations or other entities in addition to Guarantor, the death, release or discharge, in whole or in part, or the bankruptcy, liquidation or dissolution of one or more of them shall not discharge or affect the liabilities of Guarantor under this Guaranty. The obligations of Guarantor hereunder shall be additional to, and not in substitution for, any security or other guarantee or indemnity at any time existing in respect of Tenant's obligations, liabilities and covenants under the Agreement.

6. No failure on the part of Landlord to exercise, and no delay in exercising, any right, remedy or power under this Guaranty shall operate as a waiver thereof, nor shall any single or partial exercise by Landlord of any right, remedy or power under this Guaranty preclude any other or future exercise of any right, remedy or power under this Guaranty. Each and every right, remedy and power granted to Landlord under this Guaranty or allowed it by law or by the Agreement or any other agreement shall be cumulative and not exclusive of any other, and may be exercised by Landlord from time to time. If any term, covenant or condition of this Guaranty or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Guaranty, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Guaranty shall be valid and enforced to the fullest extent permitted by law.

7. Guarantor hereby waives notice of acceptance of this Guaranty and notice of any obligation or liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or non-payment of any such obligation or liability, suit or the taking of other action by Landlord against, and all other notices whatsoever to, Tenant, Guarantor or others.

8. Landlord may at any time and from time to time without notice to or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (a) take or fail to take any action of any kind in respect of any security for any obligation, covenant or liability of Tenant to Landlord, (b) exercise or refrain from exercising any rights against Tenant or others, (c) compromise or subordinate any obligation or liability of Tenant to Landlord including any security therefor, (d) consent to the assignment by Tenant of its interest in the Agreement, or (e) consent to any other matter or thing under or relating to the Agreement. Guarantor agrees to reimburse Landlord for the costs and reasonable attorneys' fees incurred by reason of Landlord having to enforce this Guaranty.

9. Guarantor represents and warrants to Landlord that (a) the Current Agreement has been duly authorized, executed and delivered by Tenant and the Agreement is a legal, valid and binding instrument enforceable against Tenant in accordance with its terms, and (b) this Guaranty has been duly authorized, executed and delivered by Guarantor and is a legal, valid and binding instrument enforceable against Guarantor in accordance with its terms.

10. Guarantor may not assign its rights nor delegate its obligations under this Guaranty, in whole or in part, without prior written consent of Landlord, and any purported assignment or delegation absent such consent is void. This Guaranty shall remain in full force and effect notwithstanding (a) any assignment or transfer by Tenant of its interest in the Agreement (in which case this Guaranty shall apply, from and after such assignment or transfer, to all of the obligations, liabilities and covenants of the assignee or transferee under the Agreement), or (b) any assignment or transfer by Landlord of its interest in the Agreement (in which case Guarantor's obligations under this Guaranty shall inure to the benefit of Landlord's assignee or transferee), in each case irrespective of whether Guarantor has notice of or consents to any such assignment or transfer.

11. GUARANTOR HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS GUARANTY, OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THE AGREEMENT, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. GUARANTOR FURTHER WARRANTS AND REPRESENTS THAT GUARANTOR HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT GUARANTOR KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

12. THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW. GUARANTOR AND LANDLORD JOINTLY AND SEVERALLY AGREE TO THE EXCLUSIVE JURISDICTION OF COURTS LOCATED IN THE STATE OF NEW YORK, UNITED STATES OF AMERICA, OVER ANY DISPUTES ARISING OUT OF OR RELATING TO THIS GUARANTY.

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

MED PARENTCO, LP,
a Delaware limited partnership

By: _____

Print Name

Its: _____

Position/Title

Address (other than the address of the Premises)

City, State, Zip

Attention

Guarantor acknowledges its address and will notify Landlord of any changes thereto.



Direct Dial: (214) 373-5233
E-Mail: tina.barry@macerich.com

November 3, 2023

VIA E-MAIL (AEames@tohtml.org)

Arlyn Eames, Deputy Financial Officer
Town of Hempstead Industrial Development Agency
350 Front Street
Hempstead, New York 11550

Re: **IDA Approval of Tenant Sublease**
Valley Stream Green Acres LLC 2015 Facility
2034 Green Acres Road South, Valley Stream, NY 11581

Dear Ms. Eames:

In accordance with instructions from Daniel Baker of Certilman Balin Adler & Hyman, LLP, attached please find sent directly to you a copy of the tenant sublease for your approval in accordance with Section 9.3 of the Lease Agreement dated May 1, 2015 for the above referenced location ("Valley Stream Green Acres Lease") related to the following:

- **Size of Premises:** 940 square feet
- **Tenant:** Dream Snack of NY, Inc. dba Wetzel's Pretzels
- **Address:** 1003 Green Acres Mall Valley Stream, NY 11581
- **Estimated employees:** 5 full-time; .5 part-time
- **Estimated hourly payroll:** \$23.00 full-time; \$16.00 part-time

Also attached is a chart regarding the corresponding tenant sublease provisions compared to the provisions listed in Exhibit G of the Valley Stream Green Acres Lease as indicated in Nancy Rendos' 7/15/15 memo to you.

Please note, there is no NDA requested in connection with this Lease.

Please confirm your approval of the lease and execution of the resolution by the TOHIDA approving the lease by a reply email to me so I may proceed with execution of the tenant sublease as soon as possible. If you have any questions in the meantime, please do not hesitate to contact me at 214.373.5233.

Sincerely,

Tina Barry
Senior Manager, Legal Leasing

cc: Daniel J. Baker, Certilman et al., via e-mail dbaker@certilmanbalin.com
Edie Longo, via e-mail elongo@tohtml.org (with attachments)
Terance Walsh, Nixon Peabody, via e-mail twalsh@nixonpeabody.com (with attachments)
Beth Wood, Nixon Peabody, via email ewood@nixonpeabody.com (with attachments)
Emma Feary, Nixon Peabody, via email efeary@nixonpeabody.com (with attachments)
Nancy Rendos, via e-mail nancy.rendos@macerich.com
Joe Floccari, via e-mail joe.floccari@macerich.com

LEASE AGREEMENT

BY AND BETWEEN

VALLEY STREAM GREEN ACRES LLC

AS LANDLORD

AND

DREAM SNACK OF NY, INC.

doing business as

Wetzel's Pretzels

AS TENANT

FOR PREMISES LOCATED WITHIN

**Green Acres Mall
Valley Stream, New York**



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B	Depiction of Premises
C	Provisions for the Design and Construction of the Premises
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F	Provisions for Tenants Selling Food
G	Monthly and Annual Sales Statement Form
H	Relocation Area
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J	Landlord's Subordination of Lien in Personal Property

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made as of _____ ("Effective Date") by and between **VALLEY STREAM GREEN ACRES LLC**, a Delaware limited liability company ("Landlord"), and **DREAM SNACK OF NY, INC.**, a New York corporation ("Tenant").

W I T N E S S E T H:

In consideration of the rents to be paid and the covenants to be performed by Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the following described Premises, upon the following terms and conditions (capitalized terms used herein without definition shall have the meanings ascribed to such terms in Exhibit D):

1. FUNDAMENTAL LEASE PROVISIONS

- 1.1. **Center:** Green Acres Mall, located in the Village of Valley Stream, County of Nassau, State of New York Section 2.1
- 1.2. **Premises:** Space #042AC Section 2.2
- 1.3. **Floor Area of the Premises:** 940 square feet Section 2.2
- 1.4. **Term:** From the Delivery Date until the Expiry Date, unless sooner terminated pursuant to the terms of this Lease. Section 4
- 1.5. **Required Opening Date:** 90 days following the Delivery Date.
- 1.6. **Rent Commencement Date:** The earlier to occur of (a) the date on which Tenant first opens the Premises for business or (b) the Required Opening Date.
- 1.7. **Expiry Date:** April 30, 2034
- 1.8. **Fixed Minimum Rent:** Section 5.5
- | <u>Dates</u> | <u>Annual Fixed Minimum Rent*</u> | <u>Monthly Fixed Minimum Rent*</u> |
|-----------------|-----------------------------------|------------------------------------|
| † - Expiry Date | \$19,782.00 | \$1,648.50 |
- † From the Rent Commencement Date
* Subject to increases pursuant to Section 5.5.1
- 1.9. **Percentage Rent Rate:** 6% Section 5.6
- 1.10. **Annual Base Sales:** Section 5.6
- | <u>Dates</u> | <u>Annual Base Sales**</u> |
|-----------------|----------------------------|
| ‡ - Expiry Date | \$900,000.00 |
- ‡ From the Rent Commencement Date
** Subject to increases pursuant to Section 5.6.1

- 1.11. Permitted Use:** The Premises shall be used only for the retail sale of pre-baked, hand rolled pretzels, which may include but are not limited to the following varieties: Wetzel's Original, Sinful Cinnamon, Sour Cream & Onion, Grateful Garlic, Sesame Seed, Almond Crunch, MexiCali, Killer Pizza, Three Cheese, Cin-A-Yum, Wetzel Dogs, Dog Bites, Pizza Bitz and Wetzel Bitz; dips which may include, but not be limited to, the following flavors: cheese, jalapeno cheese, pizza sauce, sweet glaze and caramel; and frozen yogurt; and beverages to include, but not limited to, carbonated soft drinks, coffee by the cup and not espresso based, and specifically excluding espresso based drinks), fresh squeezed lemonade, frozen slush drinks; and logoed and pretzel related items. The Premises shall be used for no other use or purpose. Section 10.1
- 1.12. Trade Name:** Wetzel's Pretzels Section 10.1
- 1.13. Security Deposit:** None Article 6
- 1.14. Grand Opening Charge:** None Section 5.8
- 1.15. Center Hours:** Monday through Saturday 10:00 a.m. to 9:00 p.m. and Sunday 11:00 a.m. to 7:00 p.m., or such other hours that the Center is open for business as such hours are designated from time-to-time by Landlord.
- 1.16. Radius:** 1 mile, measured from the outside boundaries of the Center, as the Center is constituted on the Effective Date. Section 10.4
- 1.17. Landlord's Address For Notices:** Valley Stream Green Acres LLC
2034 Green Acres Mall
Valley Stream, NY 11581-1545
Attention: Center Manager Section 18.1
- With a copy of notices to:
Valley Stream Green Acres LLC
c/o Macerich
P.O. Box 2172
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90407
Attn: Correspondence Routing System/Legal Department

- 1.18. **Tenant's Address For Notices:** Dream Snack of NY, Inc.
51 Charles Street
East Mineola, NY 11501
Attn: Siddharth Kapur
- Section 18.1
- With a copy to:
- Wetzel's Pretzels, LLC
35 Hugus Alley, Suite 300
Pasadena, California 91103-3648
Attn: Vice President Real Estate
- 1.19. **Address For Payment of Rent:** Valley Stream Green Acres LLC
Dept #880508
P.O. Box 29650
Phoenix, AZ 85038-9650
- 1.20. **Landlord's Broker(s):** None
- Section 27.6
- 1.21. **Tenant's Broker(s):** None
- Section 27.6
- 1.22. **Guarantor(s):** None
- 1.23. **Rent Inquiry Address:** Landlord:
Phone: (866) 811-1095
Email: GreenAcresAR@macerich.com
- Section 5.1
- Tenant:
Dream Snack of NY, Inc.
51 Charles Street
East Mineola, NY 11501
- Email: skapur430@gmail.com
Phone: (516) 754-2004
- 1.24. **Landlord's Sales Reporting Address:** Valley Stream Green Acres LLC
Attention: Sales Associate
P.O. Box 2188
Santa Monica, CA 90406
- Section 5.6
- Phone: (866) 811-1095
Facsimile: (602) 953-8354
Email: greenacres.salesreporting@macerich.com
- 1.25. **Fixed Costs:** \$23,500.00 per annum, subject to increases beginning January 1, 2025 ("First Fixed Costs Adjustment Date") pursuant to Section 5.7.1
- Section 5.7.1

2. PREMISES

2.1. **Center.** The Center, as of the Effective Date, is known by the name set forth in Section 1.1. Exhibit A is an approximate depiction of the Center; however, the depiction of the Center on Exhibit A is not a representation, warranty or covenant of any kind by Landlord that all or any part of the Center is, will be, or will continue to be configured as indicated on Exhibit A.

2.2. **Premises and Floor Area.** The approximate location of the Premises is depicted by crosshatching on Exhibit B. Notwithstanding the depiction of the approximate location of the Premises as set forth at Exhibit B, the Floor Area of the Premises for all purposes is stipulated to be the square feet of Floor Area specified at Section 1.3 and in no event shall the Floor Area of the Premises as set forth at Section 1.3 be remeasured or otherwise adjusted.

2.3. **Prior Occupant.** Tenant acknowledges that, as of the Effective Date, the Premises are occupied by another Occupant ("Prior Occupant"). Landlord shall use all reasonable means to obtain possession of the Premises from the Prior Occupant. However, if for any reason Landlord is unable to obtain possession of the Premises from the Prior Occupant and to deliver the Premises to Tenant, this Lease shall not be void or voidable nor shall Landlord or the Landlord Parties be liable to Tenant therefor, monetarily or otherwise. If, after using reasonable means to obtain possession of the Premises from the Prior Occupant, Landlord is unable to obtain possession of the Premises and deliver the Premises to Tenant within twelve (12) months after the Effective Date, then either Landlord or Tenant may elect to terminate this Lease by written notice to the other (which notice must be given to the other prior to the date Landlord delivers possession of the Premises to Tenant), in which case this Lease shall terminate and Landlord and Tenant shall each be discharged from all further obligations and liability under this Lease (other than obligations and liabilities which have theretofore accrued hereunder).

3. CONSTRUCTION OF IMPROVEMENTS

3.1. **Condition of Premises.** The Premises shall be delivered to Tenant in the condition set forth at Exhibit C.

3.2. **Tenant's Work.** Tenant shall, at its sole cost and expense, promptly commence Tenant's Work and diligently pursue the same to completion pursuant to the provisions of Exhibit C so as to open the Premises for business to the public on or before the Required Opening Date.

3.3. **Timely Opening.** Tenant acknowledges the financial success of the Center depends, in part, on Tenant completing Tenant's Work and opening the Premises for business to the public on or before the Required Opening Date ("Timely Opening Requirement") and Landlord's damages arising from Tenant's failure to comply with the Timely Opening Requirement are difficult to ascertain. Therefore, if Tenant fails to comply with the Timely Opening Requirement, then in addition to Landlord's other remedies under this Lease, Landlord shall have the right to collect from Tenant, in addition to all Rent, an amount equal to 50% of the Fixed Minimum Rent (prorated on a daily basis) for each such full or partial day that the Timely Opening Requirement is not met.

4. TERM

4.1. **Term.** This Lease shall be for the Term, unless sooner terminated pursuant to the terms of this Lease.

5. RENT

5.1. **Payment of Rent.** Tenant shall pay all Rent to Landlord on the day(s) specified therefor, without notice, demand, deduction or offset, in lawful money of the United States of America, to the Address for Payment of Rent or at such other place as Landlord may from time-to-time designate in writing to Tenant. If Landlord so notifies Tenant in writing (and Tenant is able to reasonably comply), Rent payments shall be made by electronic money transfers in accordance with Landlord's written directive therefor. Tenant shall be obligated to pay Rent when due regardless of whether Tenant receives a statement therefor. If Fixed Minimum Rent or any item of Additional Rent increases or decreases during

the Term and if the amount of such increase or decrease has not been determined as of the date such Rent is to be paid, then (a) Tenant shall continue to pay such Rent in the amount payable for the immediately preceding month (or other period for which such Rent is due) and (b) within thirty (30) days after the date Landlord notifies Tenant of such adjusted Rent, Tenant shall pay to Landlord any additional amount owed due to such adjusted Rent or if Tenant has paid Rent in excess of the adjusted Rent, such excess shall be credited against the next monthly payment(s) of Rent until such excess has been exhausted; however, within thirty (30) days following the Refund Date, any such excess shall be refunded to Tenant. Landlord and Tenant may each use the other's Rent Inquiry Address to communicate to the other party any inquiries relating to the calculation of the various components constituting Rent or the payment of Rent.

5.2. **Prorations.** If the Rent Commencement Date begins on a day other than the first day of a month or if the Term expires on a day other than the last day of a month, then Fixed Minimum Rent, Fixed Costs and Tenant's Share of Variable Costs for such month shall be an amount equal to the product obtained by multiplying the respective amounts by a fraction, the numerator of which shall be the number of days in such month and the denominator of which shall be the actual number of days in such month, unless otherwise provided. Notwithstanding anything to the contrary in this Section 5.2, if any Lease Year is less than twelve (12) full calendar months, then for purposes of calculating Percentage Rent only, Tenant's Gross Sales in such partial Lease Year shall be added to Tenant's Gross Sales for the number of days in the immediately following Lease Year (or, at the end of the Term, in the immediately preceding Lease Year) as are necessary in order to total 365 days. The Gross Sales for such 365 day period shall then be divided by 365 in order to obtain the "Daily Sales". The Daily Sales shall then be multiplied by the total number of days in the Partial Lease Year, and the resulting number ("Deemed Sales") shall constitute Tenant's Gross Sales for the partial Lease Year for the purposes of calculating Percentage Rent for such partial Lease Year. Base Sales for such partial Lease Year shall be an amount equal to the product obtained by multiplying the Annual Base Sales by a fraction, the numerator of which shall be the number of days in such partial Lease Year and the denominator of which shall be three hundred sixty-five (365). In no event shall the foregoing be deemed to reduce or modify Tenant's obligation to make monthly payments of Percentage Rent as set forth in Section 5.6.1.

5.3. **Late Payments.** If Tenant fails to pay any Rent to Landlord when due, Landlord shall have the right to collect, as a fair estimate of the expenses Landlord would incur by reason of Tenant's late payment of Rent or a dishonored check: (a) interest on the unpaid Rent at the Agreed Rate from the date payment is due until the date payment is made and (b) a monthly service charge equal to five percent (5%) of the overdue amount up to a maximum of \$250.00 per instance ("Late Charge"); however, the Late Charge shall be waived for the first occurrence in any Lease Year as long as Tenant makes such payment within five (5) days after Tenant's receipt of a delinquent payment reminder from Landlord (which delinquent payment reminder may be sent via U.S. mail or email to Tenant's Rent Inquiry Address listed in Article 1). Landlord shall not be required to give Tenant such delinquent payment reminder more than once in any Lease Year prior to assessing a Late Charge. If payment is made by a check which is dishonored by the drawing bank, Tenant shall pay to Landlord a service charge equal to Fifty Dollars (\$50.00), and Landlord may require that all future payments of Rent shall be made by electronic money transfers. The imposition of such interest and service charges shall neither constitute a waiver of Tenant's default with respect to such overdue amount nor prevent Landlord from exercising any other right or remedy available to Landlord.

5.4. **Acceptance.** The acceptance by Landlord of partial payment of any sum due from Tenant shall not be deemed a waiver by Landlord of any of its rights to the full amount due or an admission by Landlord of the accuracy of any Monthly Sales Statement or any Annual Sales Statement submitted by Tenant. Any endorsement or statement on any check or accompanying letter from Tenant shall not be deemed an accord and satisfaction. Any Rent payments received from Tenant or any other person shall be conclusively presumed to have been paid on Tenant's behalf; however, in no event shall the foregoing be construed as requiring Landlord to accept any Rent from any person other than Tenant. The acceptance by Landlord of payment from any person other than Tenant shall not be deemed to be a

waiver by Landlord of any provision of this Lease or to be a consent to any Transfer or to be a release of Tenant from any obligation under this Lease. The acceptance by Landlord of delinquent payment shall not constitute a waiver of any default and shall not constitute a waiver of timely payment of the particular payment involved. The acceptance by Landlord of any Rent shall not constitute a consent by Landlord or a waiver of any of Landlord's rights under this Lease.

5.5. Fixed Minimum Rent

5.5.1. **Fixed Minimum Rent.** From and after the Rent Commencement Date, Tenant shall pay in equal monthly installments, in advance on the first day of each month (except for the first installment, which shall be paid on the Rent Commencement Date), the Fixed Minimum Rent. Commencing on January 1, 2025 and on each January 1st thereafter (each such date is sometimes referred to as a "Rent Adjustment Date"), the Fixed Minimum Rent then in effect (or which would then have been in effect absent any abatement or reductions in Fixed Minimum Rent, except for permanent reductions in Fixed Minimum Rent due to a permanent Taking) shall be increased by 3%.

5.5.2. **Intentionally Omitted.**

5.6. Percentage Rent

5.6.1. **Percentage Rent.** Tenant shall owe Percentage Rent to Landlord for each Lease Year commencing upon the calendar month in which Tenant's Gross Sales first exceed the Annual Base Sales for each Lease Year. Percentage Rent shall be payable to Landlord concurrently with Tenant's submittal of the Monthly Sales Statement for each calendar month thereafter in an amount equal to the product obtained by multiplying the Percentage Rent Rate by the amount of Gross Sales during the preceding calendar month that is in excess of the Annual Base Sales. If Fixed Minimum Rent during any Lease Year is reduced pursuant to a provision in this Lease or by express written agreement between Landlord and Tenant, then the Annual Base Sales shall likewise be reduced by a percentage equal to the percentage decrease in the Fixed Minimum Rent payable for the period during which the change in Fixed Minimum Rent is in effect. On each Rent Adjustment Date, Annual Base Sales shall be adjusted by a percentage equal to the increase, if any, in Annual Fixed Minimum Rent on such Rent Adjustment Date.

5.6.2. **Monthly Sales Statements.** Within fifteen (15) days after the end of each calendar month, Tenant shall deliver to Landlord at Landlord's Sales Reporting Address a Monthly Sales Statement specifying the Gross Sales made for the preceding calendar month together with details of any Permitted Exclusions.

5.6.3. **Annual Sales Statements.** Within thirty (30) days after the end of each Lease Year (including, without limitation, the last Lease Year of the Term), Tenant shall deliver to Landlord at Landlord's Sales Reporting Address an Annual Sales Statement specifying the Gross Sales for each month of the preceding Lease Year together with details of any Permitted Exclusions. The aggregate amount of Percentage Rent payable by Tenant for all months of the Lease Year as set forth in the Annual Sales Statement shall be compared to the total amount of Percentage Rent paid by Tenant during each month of the Lease Year covered by such Annual Sales Statement. If Tenant shall owe any additional Percentage Rent, the Annual Sales Statement shall be accompanied by payment of such amount. If Tenant has overpaid Percentage Rent, then Tenant shall be credited the amount of such overpayment against the next monthly payment(s) of Percentage Rent until such overpayment has been exhausted; however, within thirty (30) days following the Refund Date, any such excess sums not previously credited shall be refunded to Tenant. If Landlord so notifies Tenant in writing (and Tenant is able to reasonably comply), Monthly Sales Statements and Annual Sales Statements shall be submitted by Tenant to Landlord electronically, in accordance with Landlord's written directive therefor.

5.7. **Costs**

5.7.1. **Fixed Costs.** From and after the Rent Commencement Date, Tenant shall pay in equal monthly installments, in advance on the first day of each month (except for the first installment, which shall be paid on the Rent Commencement Date), the Fixed Costs. Commencing on the First Fixed Costs Adjustment Date and on each January 1st thereafter (each such date is sometimes referred to as a "Fixed Costs Adjustment Date"), the Fixed Costs then in effect (or which would have been in effect absent any abatement or reductions in Fixed Costs) shall be increased by 5%.

5.7.2. **Tenant's Share of Variable Costs.** From and after the Rent Commencement Date, Tenant shall pay to Landlord Tenant's Share of Variable Costs in the time frames and in the manner herein set forth in this Section 5.7. Landlord shall notify Tenant from time-to-time of Landlord's estimate of the monthly installments payable by Tenant as Tenant's Share of Variable Costs. From and after the date of any such notice, Tenant shall pay to Landlord such estimated monthly amounts, in advance, on or before the first day of each month. Following the end of each Lease Year, Landlord shall submit to Tenant a statement containing the amount of Tenant's Share of Variable Costs for such Lease Year. If such statement discloses that there was an underpayment of Tenant's Share of Variable Costs for such Lease Year, Tenant shall pay to Landlord the amount of such underpayment within fifteen (15) days after the date such statement is delivered to Tenant. If such statement discloses that Tenant made an overpayment of Tenant's Share of Variable Costs for such Lease Year, Landlord shall apply the amount of the overpayment against the next installment(s) of Tenant's Share of Variable Costs then due until such overpayment has been exhausted; however, within thirty (30) days following the Refund Date, any such excess sums not previously credited shall be refunded to Tenant. Landlord estimates Tenant's Share of Variable Costs for the 2024 calendar year will be \$49.70 per square foot of Floor Area of the Premises. Landlord and Tenant acknowledge the foregoing sum is only an estimate and is not, and shall at no time be deemed, a representation or warranty as to the actual sum that shall constitute Tenant's Share of Variable Costs for such calendar year or any other calendar year during the Term.

5.7.3. **Variable Cost Pool.** Landlord shall have the right, from time to time, to equitably allocate some or all of the Variable Costs among different portions or user groups of the Center and other properties owned or managed by Landlord which are either adjacent to or which may otherwise comprise a part of the Center, or if certain Variable Costs are not attributable to all Occupants and/or an Occupant maintains a certain service and/or an Occupant pays its own Real Estate Taxes at that Occupant's own expense and/or the Center contains separate tax parcels, then in any such event Landlord may, at Landlord's sole and absolute discretion, establish equitable, alternative methods of allocating such Variable Costs (the "Variable Cost Pool"). The Variable Costs within each such Variable Cost Pool shall be allocated and charged to the occupants within such Variable Cost Pool in an equitable manner as determined in Landlord's good faith and reasonable business judgment.

5.8. **Grand Opening Charge.** Intentionally Omitted.

5.9. **Personal Property and Other Taxes.** Tenant shall pay directly to Landlord or to the appropriate taxing authority, before delinquency, any and all taxes (including any excise, transaction, sales or privilege tax imposed upon Landlord on account of, attributed to, or measured by Rent), assessments and public charges levied, assessed or imposed by governmental authorities upon Tenant's business, upon Tenant's sales, upon Rent, upon Tenant's leasehold interest, and upon all Personal Property and Improvements, as well as upon Tenant's right to occupy, and do business at, the Premises.

6. **SECURITY DEPOSIT**

6.1. **Security Deposit.** Provided Tenant is the tenant entity specified on Page 1 of this Lease, Tenant shall not be required to deposit a security deposit with Landlord. Landlord reserves the right, as determined in Landlord's sole discretion, to require a security deposit (in an amount determined by

Landlord in its sole discretion), ("Security Deposit") from any Transferee taking possession of the Premises in accordance with Article 14 which require Landlord's prior written consent; and, in such event, Transferee shall deposit the Security Deposit with Landlord, which sum shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants and conditions as this Lease, concurrently with Tenant's execution and delivery of an Assignment Instrument and/or Sublease Instrument to Landlord. The Security Deposit is neither an advance Rent deposit nor a measure of Landlord's damages in the event of Tenant's default.

7. GROSS SALES

7.1. Definition of Gross Sales

7.1.1. **Gross Sales Defined.** "Gross Sales" means the aggregate selling price of all goods, wares, merchandise, tickets, food, beverages and services sold, leased, licensed or delivered from any part of the Premises by Tenant and Tenant's Occupants and shall include, but not be limited to, (a) sales or charges for cash or credit regardless of collections, (b) sales by vending devices, including coin telephones, (c) proceeds from audio games and video games, (d) commissions and fees paid for the sale of lottery tickets, (e) rent income, specifically excluding any rent income received in connection with any Sublease, (f) mail orders received or filled at the Premises, (g) electronic orders received or filled at the Premises (including, without limitation, orders made by use of the Internet, facsimile, telegraph, wire and telephone), (h) all deposits not refunded to purchasers, (i) orders taken at the Premises although filled elsewhere, (j) fees, commissions and catalogue sales, (k) sales from solicitations, regardless of where conducted, by personnel operating from, or reporting to any person at, the Premises and (l) all service, finance and interest charges on any type of account or note receivable to the extent the principal amount would constitute Gross Sales.

7.1.2. **Permitted Exclusions.** The following (collectively, "Permitted Exclusions") shall not be part of Gross Sales: (a) returns and refunds to customers for goods previously included as Gross Sales, (b) the amount of any sales tax or other excise tax imposed upon sales and charges (but only if such sales tax, excise tax or similar tax is billed to the purchaser as a separate item), (c) returns to shippers, distributors, and manufacturers, (d) exchanges of goods between Tenant's stores and warehouses when the same is for a legitimate business purpose and not for the purpose of depriving Landlord of any Percentage Rent, (e) sales of furniture, furnishings, equipment, fixtures and other property not constituting Tenant's stock-in-trade, (f) sales from vending machines located in non-sales areas and used only by employees of Tenant, (g) sums and credits received in the settlement of claims for loss of, or damage to, merchandise and (h) charges for alterations, gift-wrapping and deliveries if such services are incidental to the Permitted Use and for which Tenant reasonably demonstrates it makes no profit.

7.1.2.1. **Additional Permitted Exclusions.** In addition, Tenant shall have the right to exclude the following items, provided the total amount so excluded does not exceed four percent (4%) of Tenant's Gross Sales in any single Lease Year:

7.1.2.1.1. sales to Tenant's employees who work at the Premises at a discount, provided such sales to employees shall not exceed a total of two percent (2%) of Gross Sales in any single Lease Year;

7.1.2.1.2. interest, service or sales carrying charges collected separately from the selling price and paid by customers to Tenant for the extension of credit;

7.1.2.1.3. discounted sales on donations to charitable organizations, but only to the extent such sales are of no profit to Tenant;

7.1.2.1.4. fees paid by Tenant to third-party credit card companies (specifically excluding captive credit card companies) and/or banking institutions in accordance with

credit card purchase plans, provided said fees shall not exceed three percent (3%) of such third-party credit card purchases in any single Lease Year;

7.1.2.1.5. gift certificates, cards or like vouchers until such time as the same shall have been converted into a sale by redemption, provided said certificates or vouchers shall not exceed a total of one percent (1%) of Gross Sales in any single Lease Year;

7.1.2.1.6. bad checks and/or debts, provided that if subsequently collected, said checks and/or debts shall be included within Gross Sales in the Lease Year in which subsequently collected, and said checks and/or bad debts shall not exceed a total of one percent (1%) of Gross Sales in any single Lease Year;

7.1.2.1.7. tips and gratuities payable to, or collected and retained directly by, employees, or collected by Tenant on behalf of its employees and then paid to such employees (i.e., credit card tips); and

7.1.2.1.8. "over-rings" to the extent of a mistake and cancelled or refunded.

7.1.3. **Credit Sales.** Each sale on an installment basis (such as so-called lay-away sales) or otherwise involving the extension of credit shall be treated as a sale for the full price in the period in which occurs the earliest of the following: (a) Tenant first considers the same a sale for accounting purposes, (b) the first payment therefor is received or (c) delivery or performance is first commenced.

7.2. **Tenant's Records.** All business upon the Premises shall be operated so that duplicate, dated sales slips, dated invoices, register receipts or similar evidence of payment serially numbered, shall be issued with each sale, transaction or other event resulting in Gross Sales or Permitted Exclusions ("Tenant's Receipts"). For the purpose of permitting verification by Landlord of any amounts due as Percentage Rent, Tenant shall keep and preserve at all times during the period required, at Tenant's accounting office in the United States, Tenant's Receipts, a general ledger, sales receipts and disbursements journals, sales records and other supporting documentation and full, complete and accurate non-consolidated books of account (i.e., books and records reflecting Tenant's operations solely at the Premises) (collectively "Tenant's Records"). Tenant's Records shall (a) disclose in detail all information reasonably required to permit Landlord to verify Tenant's Gross Sales, (b) conform to and be in accordance with generally accepted accounting principles consistently applied with respect to all operations of the business conducted from the Premises, (c) be maintained in the English language and (d) be kept and preserved for at least thirty-six (36) months following the end of the Lease Year for which the same pertain (or such longer period, if and while the same may need to be consulted in reference to any dispute or audit, until such dispute or audit has been finally resolved).

7.3. **Failure of Tenant to Provide Statements.** If Tenant should fail to timely provide any Monthly Sales Statement or any Annual Sales Statement in the manner and form required by this Lease, then, without limitation as to any and all rights and remedies available to Landlord in this Lease, at law and in equity, Landlord shall also have the right to invoice Tenant the sum of \$150.00 per incident after the second such incident each Lease Year to cover the additional time and expense involved to obtain each such Monthly Sales Statement or Annual Sales Statement.

7.4. **Intentionally Omitted.**

8. INDEMNITY AND INSURANCE

8.1. Indemnification

8.1.1. **Indemnification by Tenant.** Tenant hereby agrees to indemnify, defend and hold Landlord and the Landlord Parties harmless from and against any and all Claims for property damage, personal injury or any other matter arising, claimed, charged or incurred against or by Landlord or any of the Landlord Parties in connection with or relating to any event, condition, matter or thing which (a) occurs in, on, under or about the Premises from any cause except to the extent

due to the Active Negligence or willful misconduct of Landlord or any of the Landlord Parties, (b) occurs in, on, under or about the remainder of the Center to the extent due to the Active Negligence or willful misconduct of Tenant or any of the Tenant Parties or (c) is caused by or relates to any default, breach, violation or non-performance by Tenant of any provision of this Lease.

8.1.2. **Indemnification by Landlord.** Landlord hereby agrees to indemnify, defend and hold Tenant and the Tenant Indemnified Parties harmless from and against any and all Claims for property damage, personal injury or any other matter arising, claimed, charged or incurred against or by Tenant in connection with or relating to any event, condition, matter or thing which (a) occurs in, on, under or about the Common Area from any cause except to the extent due to the gross negligence or willful misconduct of Tenant or any of the Tenant Parties, (b) occurs in, on, under or about the Premises to the extent due to the gross negligence or willful misconduct of Landlord or any of the Landlord Parties or (c) is caused by or relates to any default, breach, violation or non-performance by Landlord of any provision of this Lease.

8.1.3. **Release and Waiver of Subrogation.** If any part of the Premises or the Center is damaged by fire or other cause for which a party is required to carry insurance pursuant to this Lease ("Insuring Party"), the other party shall not be liable to the Insuring Party (and the Insuring Party hereby waives all claims on behalf of itself and shall cause its insurance company to waive all such claims) for any loss, cost or expense arising out of or in connection with such damage. Notwithstanding anything to the contrary contained herein, in no event shall Landlord be liable to Tenant or any of the Tenant Parties for any damages or injury arising out of or in connection with (a) any act or omission of any Occupant or for losses arising out of or in connection with theft or burglary or other acts or omissions of third parties who are not Landlord's agents or contractors, or (b) fire, steam, electricity, gas, water or rain which may leak or flow from or into any part of the Premises or the Center, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, except and only to the extent caused by the Active Negligence or intentional misconduct of Landlord, and in such event, only to the extent the same is not covered by any insurance coverage Tenant maintains, self-insures for or is required to maintain pursuant to Section 8.2, or (c) injuries to Tenant's employees in the Center.

8.2. **Tenant's Insurance.** At all times during the Term, Tenant shall procure and maintain, at its sole cost and expense, the following policies of insurance:

8.2.1. **Liability.** Commercial general liability insurance (including personal and advertising injury) with coverage limits of not less than Three Million Dollars (\$3,000,000.00) combined single limit, per occurrence, and Five Million Dollars (\$5,000,000.00) general aggregate per location, specifically including liability insurance covering the consumption of alcoholic beverages by customers of Tenant, if the sale of alcoholic beverages is permitted in the Premises. Tenant's general liability insurance shall (a) not include an abuse or molestation exclusion, (b) contain cross-liability endorsements and (c) be on an occurrence basis, not a claims-made basis.

8.2.2. **Workers' Compensation.** Workers' compensation insurance and employers' liability insurance on an "occurrence" basis but, in either case, with a limit of not less than the greater of the amount required in the state in which the Center is located or One Million Dollars (\$1,000,000.00) each accident, One Million Dollars (\$1,000,000.00) each employee by disease and One Million Dollars (\$1,000,000.00) policy aggregate by disease, for the benefit of Tenant's employees.

8.2.3. **Plate Glass.** Insurance covering the full replacement cost of all plate glass on the Premises.

8.2.4. **Equipment.** Boiler and machinery insurance on all HVAC, electrical, mechanical, plumbing, telecommunications and other equipment, systems and facilities exclusively serving the Premises.

8.2.5. **Property.** Property insurance covering any peril generally included in the classification ISO Causes of Loss - Special Form covering all (a) Personal Property, (b) Improvements in an amount not less than one hundred percent (100%) of their full replacement cost without co-insurance or margin clauses, and (c) such other additional perils including earthquake and flood as now or hereafter may be included in a standard extended coverage endorsement from time-to-time in general use in the county in which the Center is located. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed, unless this Lease is terminated under the provisions of Article 23. The insurance required pursuant to this Section 8.2.5 shall also include business interruption or rental loss insurance sufficient to cover, for a period of not less than twelve (12) full calendar months, all Rent and other payment obligations of Tenant under this Lease which would be borne by or due from Tenant under this Lease if the Premises and Tenant's business was fully open and operating. The insurance required to be maintained by Tenant under this Section 8.2.5 may be provided under blanket policies of insurance covering both the Premises and other properties and locations of Tenant, provided such policies comply with all of the requirements of this Section 8.2.5 and Section 8.2.8, and the coverages afforded to Landlord and Landlord's Designees are in no way impaired, diminished or reduced by reason of the use of such blanket policies, and further provided that such blanket policies contain, permit or otherwise unconditionally authorize the waiver of subrogation set forth in Section 8.1.3. Notwithstanding anything herein to the contrary, for this Lease at Washington Square, Tenant is not required to carry flood insurance.

8.2.6. **Construction Insurance.** Prior to commencing the construction or installation of any Improvements, Tenant shall provide Landlord with evidence that Tenant carries (or has caused its contractor to carry) construction risk insurance in an amount reasonably approved by Landlord covering the construction and installation of such Improvements, together with such other insurance as Landlord may reasonably require. All Improvements shall be insured by Tenant under the other policies required under this Article 8 immediately upon completion of such work.

8.2.7. **Automobile Insurance.** Business automobile liability insurance covering all owned, non-owned and hired or borrowed vehicles of Tenant or any of the Tenant Parties used in connection with the operation of its business from the Premises, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage.

8.2.8. **Policy Requirements.** All policies of insurance provided for in this Section 8.2 shall (a) be issued by insurance companies that have a general policyholder's rating of not less than "A-" and a financial rating of not less than Class VIII as rated in the most current available "Best's Insurance Reports", and that have been admitted or qualified to do business in the state where the Center is located by the insurance commission or other highest board, body or official responsible for overseeing the insurance business in such state, (b) name Landlord, Landlord's Manager, all Mortgagees and such other individuals or entities as Landlord may from time-to-time designate, as "additional insureds", and (c) not contain a deductible, nor be subject to a self-insured retention, in an amount greater than Five Thousand Dollars (\$5,000.00), except as otherwise expressly set forth in this Lease. Tenant shall provide to Landlord, at least ten (10) days prior to the Delivery Date and thereafter ten (10) days prior to the expiration of any such policies, certificates of insurance to evidence insurance procured by Tenant as required hereunder. All commercial general liability insurance, property damage or other casualty policies shall be written as primary policies, not contributory with or secondary to coverage that Landlord may carry. If, at any time during the Term, Tenant fails to obtain and maintain any insurance which Tenant is required to obtain and maintain under this Lease or to timely provide Landlord with certificates of insurance, Landlord shall have the right (but not the obligation), after notice to Tenant, to procure such insurance and Tenant shall pay to Landlord, promptly on demand, the costs and expenses thereof together with interest at the Agreed Rate from the date Landlord first made any expenditures therefor. Tenant shall deliver (or cause its insurance carrier to deliver) to Landlord a certified copy of any insurance policy maintained

by Tenant hereunder in connection with any applicable Claim within twenty (20) days after Landlord's written request therefor. All insurance policies required to be carried by Tenant hereunder shall insure Tenant's performance of the indemnity provisions of this Lease, but the amount of insurance shall not limit Tenant's liability or relieve Tenant of any obligation hereunder.

8.3. **Landlord's Insurance.** Landlord shall obtain and maintain throughout the Term property insurance that shall include the Premises, other premises and the Center (excluding Improvements and Personal Property from time-to-time located on the Premises and the premises of all Occupants) insuring against risks of direct physical loss or damage written by insurance companies licensed to do business in the state of California (or such other state in which Landlord's principal business office is located), together with such other insurance, and in such amounts, covering such other risks as Landlord may from time-to-time determine in its reasonable judgment, including, without limitation (if Landlord so elects), Commercial General Liability insurance and insurance against earthquake, flood and rental loss. Any insurance procured by Landlord under this Section 8.3 may be included in a policy or policies of blanket insurance covering additional items or locations or insureds, provided that the requirements of this Section 8.3 are otherwise satisfied.

9. UTILITIES

9.1. **Utilities.** Throughout the Term, Tenant shall be solely responsible for obtaining, and shall promptly pay all charges for use and consumption of, all Utilities furnished to the Premises. Landlord may (at its election) supply some or all of the Utilities to the Premises, and, so long as Landlord continues to provide such Utilities to the Premises, Tenant agrees to purchase such Utilities from Landlord and pay Landlord for such Utilities, Tenant's share thereof (based on Landlord's engineer's calculations of such share or such other reasonable measuring methodologies as Landlord may utilize from time-to-time); provided the rate shall be no more than the rate that would be charged to Tenant, from time-to-time, by the local utility company which otherwise would furnish such Utilities to the Premises if it provided such Utilities and metered the same directly to the Premises. Landlord may also charge Tenant: (a) an Administrative Charge on any Utilities Tenant receives from Landlord, and (b) a pro rata share of the costs and expenses of operating, maintaining, repairing, installing and servicing the Utility Facilities at the Center (including any depreciation, reserves and interest costs), but Tenant shall only be required to pay costs and expenses under this subparagraph (b) to the extent Landlord operates a central plant for the facilitation of Utilities at the Center, or provides HVAC services to Tenant. Tenant shall promptly provide Landlord, upon Landlord's written request therefor, such details as Landlord or its engineer may reasonably require to calculate amounts which are payable by Tenant pursuant to this Article 9. Landlord may also require Tenant, at Tenant's sole cost, to install, maintain and replace meter(s) or submeter(s) (as applicable) to measure consumption of Utilities at the Premises. Landlord shall have the right to designate alternate third party provider(s) to provide any of the foregoing Utilities to the Premises; provided the rate shall be no more than the rate that would be charged to Tenant, from time-to-time, by the local utility company which otherwise would furnish such Utilities to the Premises if it provided such Utilities and metered the same directly to the Premises. Landlord shall notify Tenant from time-to-time of the monthly installments payable by Tenant pursuant to this Article 9 and Tenant shall pay such monthly installments on the first day of each month (except for the first installment which shall be paid on the Rent Commencement Date).

9.2. **Interruption of Services.** Landlord shall not be in default and neither Landlord nor the Landlord Parties shall be liable for any damages directly or indirectly resulting from an interruption in any of the Utilities, the quality or quantity of the Utilities, the unavailability of any of the Utilities, or from cooperating with the energy conservation efforts of governmental agencies or utility suppliers and none of the preceding shall (a) constitute an eviction or disturbance of Tenant's use and possession of the Premises, (b) constitute a termination of this Lease, (c) entitle Tenant to an abatement of any Rent (except as expressly provided in this Section 9.2) or (d) relieve Tenant from performing any of its obligations under this Lease. If (i) there is an interruption in any of the Utilities due to the negligence or willful misconduct of Landlord or the Landlord Parties ("Utility Interruption") and (ii) the Utility Interruption materially, adversely interferes with Tenant's use and occupancy of the Premises such that Tenant

cannot reasonably conduct business upon the Premises and (iii) Tenant does not use the Premises during the period of the Utility Interruption and (iv) Tenant has notified Landlord in writing of the Utility Interruption ("Utility Interruption Notice"), then if the Utility Interruption continues for forty-eight (48) consecutive hours following the date Landlord receives the Utility Interruption Notice, Fixed Minimum Rent, Fixed Costs and Tenant's Share of Variable Costs shall be abated until the earlier of the date the Utility Interruption ceases or Tenant conducts any business upon the Premises.

10. USE AND OPERATION

10.1. **Permitted Use.** Tenant shall use the Premises (a) only for the Permitted Use and for no other use or purpose and (b) solely and specifically under the Trade Name and under no other trade name and (c) to store or stock only the merchandise which Tenant is permitted to sell at retail pursuant to this Lease and no other merchandise. Nothing herein shall be deemed to grant to Tenant an exclusive or preferential right to the Permitted Use in the Center.

10.2. **Prohibited and Restricted Uses.** Tenant shall do none of the following: (a) permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the existing rate of, or affect any, fire or other insurance upon the Premises or the Center or cause a cancellation of any insurance policy covering the Premises or the Center or any part thereof or any of its contents; (b) permit anything to be done in or about the Premises or bring or keep anything therein that may cause any deleterious or harmful substance including, without limitation, mold or fungus, to exist in, on, under or about the Premises or elsewhere in the Center, (c) obstruct or interfere with the rights of Occupants or injure or annoy them; (d) use any loudspeakers, phonographs, televisions or other devices of similar nature in such manner as to be heard or viewed outside of the Premises; (e) emit any unreasonable noise, odors, fumes or smoke (provided odors consistent with the Permitted Use shall be allowed so long as such odors do not exceed normal, pleasant levels); (f) use the Premises for any improper, unethical, immoral, unlawful, pornographic or other similarly objectionable or offensive purpose; (g) conduct or permit in the Premises any fire, bankruptcy, auction, "closeout", "going out of business" or similar sale; (h) use any part of the Center (other than the inside of the Premises) for the sale, display or storage of any merchandise or for the solicitation of customers or for any other business, occupation or undertaking; (i) install or use upon the Premises or the Center any coin- or token-operated vending machine or other coin- or token-operated device for the sale of any goods, wares, merchandise, food, beverages and/or services (including, but not limited to, pay-telephones within the sales area of the Premises, pay-lockers, pay-toilets, scales, amusement devices, slot machines and other gambling devices and machines for the sale of beverages, foods, candy, cigarettes or other commodities); (j) install or use an automated teller machine or other cash or credit dispensing machines; (k) use any portion of the Premises as living quarters, sleeping quarters or for lodging purposes; (l) keep or place any Personal Property or other obstruction in any part of the Common Area; (m) install or operate any device, equipment or facility for transmitting, receiving, relaying or amplifying communications signals used or operated as a part of a telecommunications network or global positioning system, or otherwise emitting or receiving signals, frequencies, video, data or voice communications, including, without limitation, any dish, panel, antenna, satellite or cellular communications equipment, amplifiers, microcells, picocells or other similar devices or equipment which transmit or receive signals into or from the Common Area more than an eight foot (8') radius from the Premises or which otherwise interfere with the operation of any other transmission or receiving device at the Center; (n) operate any sales reporting, credit verification or such other similar electronic devices through the use of Landlord's public wireless fidelity (Wi-Fi) network; and (o) display, sell or promote cigarettes, electronic cigarettes, MOD's, atomizers or any other supplies, accessories or devices used in connection with cigarettes, electronic cigarettes, vaporizers, atomizers, herbal vaporizers, e-liquids or any products constituting a technological evolution thereof for vaping. The Premises shall be kept in a clean condition, and all health and police regulations shall, in all respects and at all times, be fully complied with by Tenant. Tenant shall not commit or allow to be committed any waste upon the Premises.

10.2.1. **Tenant's Right to Sample.** Tenant and its employees shall not hawk or call out to any person in the Common Area. Tenant shall be permitted to distribute to customers, patrons

and invitees of the Center, self-serve free samples of Tenant's food products from the countertop of the Premises ("Distribution Right"); provided, however, (a) Tenant shall not adversely affect access to or egress from the premises of other Occupants or in any way impede pedestrian traffic flow within the Common Area near Tenant's storefront, and in no event shall Tenant's Distribution Right hereunder extend further into the Common Area and (b) Tenant shall at all times conduct itself in a manner not to be offensive or bothersome to the customers, patrons, employees, invitees or other Occupants in the sole yet reasonable opinion of the manager of the Center. It is expressly agreed and understood that Tenant shall promptly respond in an appropriate manner to legitimate complaints to Tenant and/or the Center manager from customers, patrons, employees, invitees or other Occupants regarding Tenant's conduct in its distribution of free samples of its food products. Tenant's Distribution Right shall be further expressly subject to (i) the rights of Landlord and other Occupants, (ii) covenants, conditions, restrictions, easements, mortgages and other matters of record respecting the certain rights and obligations of the owner of the Center, which has been or will be recorded against such real property and as amended, supplemented and/or restated from time to time and (iii) all Governmental Regulations. In the event that the Center manager has given Tenant verbal notice (which notice shall be confirmed in writing after any such incident) of the violation of any provision of this Section 10.2.1, and such violations have not been corrected within five (5) days after such notice more than two (2) times during any Lease Year, then Landlord shall have the right to revoke the right to sample as set forth herein.

10.3. Days and Hours of Operation. Tenant shall, continuously throughout the Term during Center Hours, (i) operate in the entire Premises only for the Permitted Use, (ii) maintain an adequate sales force so as to maximize Gross Sales, (iii) keep in stock a full line of merchandise, and (iv) keep display windows, exterior signs and exterior advertising adequately illuminated and in first-class condition (collectively, "Operating Covenant"). Tenant acknowledges that its failure to comply with the Operating Covenant will cause Landlord to suffer damages which will be difficult to ascertain. Therefore, if Tenant fails to comply with the Operating Covenant, then in addition to Landlord's other remedies under this Lease, Landlord shall have the right to collect from Tenant, in addition to all Rent, an amount equal to 100% of the Fixed Minimum Rent (prorated on a daily basis) for each such full or partial day Tenant fails to comply with the Operating Covenant. In no event shall Tenant be permitted to open and operate the Premises for business to the public before or after Center Hours without Landlord's prior written consent. If Tenant desires to operate its business at, or otherwise occupy, the Premises before or after Center Hours, or if Tenant reasonably anticipates any promotional or marketing activities at the Premises (including, without limitation, product launches, fashion shows, product demonstrations and celebrity appearances) will cause any disruption at the Center or otherwise interfere with the access to or egress from the premises of other Occupants, or in any way impede pedestrian traffic flow within the Common Area, Tenant shall request Landlord's prior written consent thereto at least ten (10) days in advance thereof; and, as a condition of Landlord's approval, Landlord may require Tenant to reimburse Landlord for any additional costs in connection with any additional services that Landlord deems, in its sole and absolute discretion, necessary in connection therewith (including, without limitation, crowd management, lighting and security) as a Reimbursed Cost. Tenant's failure to obtain Landlord's written consent as set forth in the immediately preceding sentence shall in no event relieve Tenant from its obligation to reimburse Landlord for any additional costs incurred by Landlord as set forth hereinabove.

10.3.1. Tenant's Right to Suspend Business Operations. Notwithstanding anything contained in Section 10.3 to the contrary, Tenant shall not be required to operate for business at the Premises on the following days:

10.3.1.1. Remodeling. For a period of not more than two (2) consecutive days for the purpose of remodeling the Premises; provided, however, (a) Tenant shall notify the Center manager at least 30 days prior to the proposed date of temporary closure; (b) such remodeling work shall be subject to the provisions of Section 12.3; (c) in no event shall Tenant be permitted to temporarily close for remodeling hereunder more than one time in any 5 year period without the Center manager's prior approval (which shall not be unreasonably

withheld); and (d) in no event shall Tenant be permitted to temporarily close for remodeling during the period commencing upon November 1st and continuing through the immediately following January 31st in any single calendar year. Notwithstanding the foregoing, in the event that Tenant is undertaking a major renovation of the Premises, then, subject to the conditions set forth in subsections (a) through (d) above, Tenant may close the Premises for up to thirty (30) consecutive days; and

10.3.1.2. **Inventory.** Up to one (1) day per calendar year for the purpose of taking inventory, subject to the prior written approval of the manager of the Center; provided, however, that Tenant shall request the Center manager's approval (which approval shall not be unreasonably withheld) at least ten (10) days prior to the proposed date of closing, and in no event shall Tenant be permitted to close for inventory any time during the period commencing upon November 1st and continuing through the immediately following December 31st in any single calendar year.

10.4. **Radius.** Neither Tenant nor any person, partnership, corporation or other entity in which Tenant has a financial interest or who or which has a financial interest in Tenant (other than stock of Tenant if such stock is publicly traded) shall, at any time after the Effective Date, directly or indirectly, either individually, as a partner, stockholder (other than stock held in a public company) or otherwise, own, operate or otherwise become financially interested in any business (including departments and concessions in other stores) operating under the Trade Name ("Competing Interest") within the Radius. This Section 10.4 shall not apply to (i) any Competing Interest in a business it is operating within the Radius on the Effective Date so long as it continually operates (except for temporary closings for remodeling, a casualty or condemnation) and continues to operate in the same manner; and (ii) for this Lease at Washington Square only, departments stores such as, for example, Walmart, Target, Costco or other non-traditional venues such as airports, ballparks, or transportation hubs. If Tenant violates the provisions of this Section 10.4, then Landlord, in its sole discretion and without limiting Landlord's remedies under this Lease, at law or in equity, may (a) declare such violation to be an incurable default under this Lease and terminate this Lease and/or (b) include the gross sales made from any such business(es) within the Radius in the Gross Sales under this Lease for so long as there continues to be a violation of this Section 10.4. If Landlord elects to include the gross sales from such other business in the Gross Sales pursuant to (b) preceding, then all gross sales and Tenant's records from such business shall be subject to the provisions of Article 7 and Landlord's audit rights under Section 27.3.

11. SIGNS

11.1. **Tenant's Signs.** Tenant shall, at its sole cost and expense, obtain all necessary licenses and permits for, and purchase, install, maintain, operate, repair and replace, as necessary, all of Tenant's signs (including the Storefront Sign). All Tenant's signs (including the Storefront Sign) shall (a) comply with all Governmental Regulations and the Rules and shall have received the prior written approval of Landlord and, if required, of governmental authorities and (b) comply with the provisions of this Lease (including the Tenant Package). The removal of all Tenant's signs (including the Storefront Sign) and all work associated with such removal, including without limitation the cost of restoring the storefront due to such removal prior to the Expiry Date or date of earlier termination of this Lease, shall be undertaken by, and at the sole cost and expense of, Tenant. All Tenant's signs (including the Storefront Sign) shall at all times be maintained in working, first-class condition. In addition, subject to the prior approval of Landlord, Tenant, at Tenant's sole cost and expense, may install a blade sign at the Premises.

12. REPAIRS, MAINTENANCE, IMPROVEMENTS AND COMPLIANCE WITH LAW

12.1. Repairs and Maintenance

12.1.1. **Landlord's Obligations.** Landlord shall maintain in good order, condition and repair the exterior structural walls, load bearing walls, the outside face of the exterior walls, foundations, exterior roofs and all Utility Facilities serving the Premises on a non-exclusive basis (except to the extent that the applicable utility provider is responsible for the repair and maintenance

of any such Utility Facilities). Landlord shall be under no obligation to maintain, repair or replace any portion of the Premises (except as otherwise expressly set forth in this Section 12.1.1), nor shall Landlord be liable for any failure to make any such repairs or to perform any maintenance required of Landlord hereunder unless Tenant has notified Landlord, in writing, of the need of such repairs or maintenance, and such failure shall then persist for an unreasonable period of time after such written notice.

12.1.2. **Tenant's Obligations.** Tenant shall at all times during the Term, and at its sole cost and expense, maintain, keep and repair the Premises in good order, condition and repair. Such obligations of Tenant shall include, without limitation, the maintenance, repair and replacement of interior surfaces of exterior and demising walls, exterior doors and entrances, locks and closing devices, all plate glass, frames, moldings and trim of all doors and windows, all partitions, door surfaces, floor covering, fixtures, equipment and appurtenances thereof, lighting, plumbing fixtures (including any grease traps, grease lines and piping exclusively serving the Premises), toilet facilities and fixtures, windows, window sashes, showcases, storefronts, security grilles and similar enclosures, all of Tenant's signs (including the Storefront Sign) and any HVAC exclusively serving the Premises (provided that maintenance work regarding parts of the HVAC or plumbing systems which protrude outside of the Premises shall be completed by a contractor selected by Landlord, as a Reimbursed Cost). Tenant shall promptly, at its sole cost and expense, comply, and cause the Premises to comply, with all Governmental Regulations affecting the Premises and Tenant's activities in the Center. Notwithstanding anything to the contrary contained in this Lease (including Section 12.1.1), all (a) non-structural alterations, demolitions and improvements (whether interior or exterior) required by any Governmental Regulations arising from Tenant's use or occupancy of the Premises, Tenant's conduct of business upon the Premises, Tenant's obligations as an employer and/or the construction, installation or placement of any Improvements or Personal Property upon the Premises shall be undertaken by Tenant, at Tenant's sole cost and expense, if upon the Premises, and by Landlord as a Reimbursed Cost, if elsewhere in the Center and/or (b) structural alterations, demolitions and improvements (whether interior or exterior) that are necessitated by the nature of Tenant's particular use of the Premises, necessitated by any act or omission or gross negligence of Tenant or any of the Tenant Parties, or constituting part of or necessitated by the specific type of Improvements shall, at Landlord's option, be undertaken by Tenant, at Tenant's sole cost and expense, or performed by Landlord as a Reimbursed Cost.

12.2. **Refurbishment.** Subject to ordinary wear and tear and Casualty, Tenant shall maintain the Premises at all times during the Term in a like-new, first-class condition.

12.3. **Improvements.** Tenant shall make no Improvements without Landlord's express, prior written consent in each instance. All Improvements shall be performed by Tenant (at its sole cost and expense) in such a manner as to not impede access to the premises of any other Occupant or of any part of the Common Area, and in a good and workman-like manner, with diligence, using materials of at least the same specifications, grade and quality as required pursuant to the Tenant Package. All Improvements shall be (a) performed under the supervision of a licensed architect and/or licensed structural engineer retained and compensated by Tenant, as shall be appropriate for such work, (b) in strict conformance with detailed drawings which have received the prior, written approval of Landlord, and (c) in strict conformance with Exhibit C, the Tenant Package and with all Governmental Regulations. Upon Landlord's receipt of Tenant's proposed plans and the Plan Review Fee in connection with any Improvements, Landlord shall review and, in writing to Tenant, either approve, or disapprove with reasonable detail, said plans. Prior to commencing any Improvements, Tenant shall deliver to Landlord a copy of the building permit with respect thereto, if the same is required by any Governmental Regulations in connection with any such Improvements.

12.3.1. **Permitted Improvements.** Notwithstanding anything contained in Section 12.3 to the contrary, upon 30 days' prior written notice to Landlord, which notice shall be accompanied by samples of colors and materials to be used, Tenant shall be permitted to perform Improvements without Landlord's consent in the first instance, provided (i) Tenant's proposed Improvements are

non-structural and do not change or otherwise affect Tenant's storefront, the Building and/or any of the Building systems (which systems shall include, without limitation, water, gas, heat, electricity, steam, chilled water, hot water, lighting, power, HVAC, telephone service, sewer service, fire/life safety and all other systems and services made available for the general use, convenience and/or benefit of more than one Occupant of the Building), (ii) the proposed cost of such Improvements does not exceed, in the aggregate, \$25,000.00, (iii) the proposed Improvements comply with Governmental Regulations, (iv) Tenant has obtained any necessary building permits required by any applicable governmental authorities for such Improvements, and (v) Tenant's proposed Improvements are not located in the Design Control Area as defined in the Tenant Package, then Tenant may submit a written proposal describing the proposed Improvements together with a schedule detailing the work to be performed to the manager of the Center. Upon the Center manager's approval of such plans, Tenant may perform such Improvements without submitting plans for such Improvements in accordance with Exhibit C, but subject to the other provisions set forth hereinabove; provided, however, in the event the manager of the Center deems the proposed Improvements do not meet each of the conditions set forth in (i) through (v) above, the proposed Improvements shall be submitted for Landlord's approval as set forth in Exhibit C. In no event shall Tenant be permitted to perform any work in connection with any such Improvements during the period commencing upon November 1st and continuing through the immediately following January 31st of any single year.

12.4. **Liens.** Tenant shall keep the Premises, the Building and the Center free from any liens and other claims arising out of work performed, materials furnished, or obligations incurred by or on behalf of Tenant. Tenant shall give Landlord at least ten (10) business days' prior written notice of the expected date of commencement of any work to be performed by or on behalf of Tenant. Landlord shall have the right at all times to keep posted on the Premises any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord, the Premises, the Center and any other party having any interest therein, against mechanics' and materialmen's liens. If, as a result of any work performed or materials furnished or obligations incurred for the benefit of the Premises, any claim of lien is filed against the Premises or any part of the Center or any similar action affecting title to such property is commenced, the party receiving notice of such lien or action shall immediately give the other party written notice thereof. If Tenant fails, within twenty (20) days following the imposition of any lien or the filing of a lawsuit seeking foreclosure of such lien, to cause such lien to be released of record by payment or by recording of a proper statutory discharge of lien bond, Landlord shall have, in addition to all other remedies provided herein and at law, the right (but not the obligation) to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums expended by Landlord and all costs and expenses incurred by Landlord in connection therewith (including reasonable attorneys' fees), together with interest at the Agreed Rate from the date expenditure is first made by Landlord, shall be payable to Landlord by Tenant within ten (10) days after Landlord's written demand to Tenant.

13. SURRENDER OF PREMISES

13.1. **Surrender.** Prior to the Expiry Date or date of earlier termination of this Lease, Tenant shall perform all of the following (collectively, "Surrender Obligations") at its sole cost and expense: (a) remove all of its Personal Property, exclusive of Attached Fixtures (unless such Attached Fixtures can be removed and any damage from such removal is repaired), from the Premises and the Center, (b) restore the Premises to the condition in which the Premises existed prior to installing such Personal Property to the extent the Premises were altered or in any manner modified to accommodate the same, and (c) repair all damage caused by or in connection with Tenant's performance of the Surrender Obligations (including without limitation thereto, repairing the floor and patching and painting the walls if damaged beyond ordinary wear and tear, and leaving the Premises in a clean and rentable condition). Upon the Expiry Date or date of earlier termination of this Lease, Tenant shall surrender to Landlord the Premises, broom-clean and in good condition, except for ordinary wear and tear and destruction to the Premises pursuant to Article 23, to the extent Tenant is not required to restore the same pursuant to

Article 23. If Tenant's performance of the Surrender Obligations would damage or otherwise affect the Building structure, Tenant shall give Landlord prior written notice thereof and Landlord may elect to perform selected Surrender Obligations as a Reimbursed Cost. Notwithstanding anything contained herein to the contrary, Tenant may, upon reasonable prior notice to Landlord, close its business to the public three (3) days prior to the Expiry Date solely in order to perform the Surrender Obligations. The exercise of Tenant's right to temporarily close or permanently close its business to the public as set forth herein shall not relieve Tenant of any obligation under this Lease, including, without limitation, Tenant's obligation to pay Rent due under this Lease on the date(s) such payments are due.

13.2. **Improvements and Personal Property.** Landlord may dispose of any Personal Property remaining on the Premises after the Expiry Date or date of earlier termination of this Lease in accordance with applicable statutes relating to the disposition of abandoned property. If no such statutes exist, Landlord may retain or dispose of such Personal Property and title to any such Personal Property which Landlord elects to retain shall vest in Landlord. Tenant waives all claims against Landlord for any damage or loss to Tenant arising out of Landlord's retention or disposition of any such Personal Property as provided for in this Article 13 and shall be liable to Landlord for Landlord's costs of removing, storing, and disposing of any such Personal Property which Tenant fails to remove from the Premises prior to the Expiry Date or date of earlier termination of this Lease, as well as all costs of restoring the Premises required as a result of removing such Personal Property. All Improvements (including any Attached Fixtures) shall become the property of Landlord upon the Expiry Date or date of earlier termination of this Lease.

13.3. **Holding Over.**

13.3.1. **Holding Over.** If Tenant holds over after the Expiry Date or date of earlier termination of this Lease without the express written approval by Landlord, (a) such tenancy shall be at sufferance only and not a renewal of this Lease or an extension of the Term, (b) monthly installments of Fixed Minimum Rent, Percentage Rent and Additional Rent shall be payable in an amount equal to one and one-half (1½) times the Fixed Minimum Rent, Percentage Rent and Additional Rent in effect as of the last full calendar month of the Term (collectively, "Holdover Rent") (not taking into consideration any Rent abatement to which Tenant might have been entitled for such month), and each shall be due and payable at the times specified therefor in this Lease and (c) such tenancy shall be subject to every other term, covenant and agreement contained herein other than any provisions for rent concessions, Landlord's Work, or optional rights of Tenant requiring Tenant to exercise the same by written notice (such as any options to extend the Term). Nothing contained in this Section 13.3 shall be construed as consent by Landlord to any holding over by Tenant (or limit any of Landlord's rights and remedies incident to a holding over under this Lease, at law or in equity), and nothing in this Section 13.3 shall affect Landlord's right to require Tenant to perform all obligations under this Article 13 and surrender possession of the Premises to Landlord as provided in this Lease upon the Expiry Date or date of earlier termination of this Lease or at any time subsequent thereto as Landlord shall specify.

13.3.2. **Negotiations During Hold Over.** Notwithstanding anything contained in Section 13.3.1 to the contrary, if and so long as Tenant is in possession of the Premises and Landlord and Tenant are negotiating to enter into a new lease or extension agreement for the Premises which would become effective following the Expiry Date, then provided a new lease or extension agreement is fully executed within sixty (60) days following the Expiry Date ("60-Day Period"), and during the 60-Day Period Tenant timely pays all Rent, Tenant shall be permitted to retain possession of the Premises following the Expiry Date and pay Rent at the times specified in the Lease at the rates in effect as of the last full calendar month of the Term, not taking into consideration any Rent abatement to which Tenant might have been entitled for such month. Such tenancy shall be subject to every other term, covenant and agreement contained herein other than any provisions for rent concessions, Landlord's Work, or optional rights of Tenant requiring Tenant to exercise the same by written notice such as any options to extend the Term. At such time as the new lease or extension agreement is executed, the terms of said new lease or extension agreement

shall be applied retroactively to commence concurrently with the expiration of the Term, and any difference in Fixed Minimum Rent, Additional Rent and Percentage Rent owing under the new lease or extension agreement due by Tenant to Landlord shall be paid within ten (10) days from the date such lease or extension agreement is fully executed or, if due by Landlord to Tenant, shall be applied toward Rent next thereafter due and owing. If the new lease or extension agreement is not fully executed by the end of the 60-Day Period, the immediately preceding provisions shall be of no force and effect, Tenant shall be deemed to have been holding over upon the Premises, and Tenant shall pay the difference between the Holdover Rent and the Rent actually paid for the 60-Day Period no later than the fifth (5th) day following the 60-Day Period, and thereafter pay Holdover Rent, and further, Landlord shall be entitled to exercise any and all available remedies with respect to Tenant's failure to perform any of its Surrender Obligations.

13.4. **No Merger on Surrender of Lease.** The voluntary or other surrender of this Lease by Tenant, or a mutual termination thereof, shall not work as a merger. Such surrender or termination shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies. The delivery of keys to the Premises to Landlord or its agent and/or the taking of physical possession of the Premises by Landlord shall not constitute a surrender or termination of this Lease absent Landlord's written agreement that this Lease has been so surrendered or terminated.

14. ASSIGNMENT AND SUBLETTING

14.1. **Prohibited Transactions.** Tenant is prohibited from (a) Assigning this Lease or Subletting the Premises to a governmental agency or instrumentality thereof and/or (b) mortgaging, pledging or encumbering this Lease or Tenant's interest in the Premises to any entity and/or (c) making any Involuntary Assignment.

14.2. **Landlord's Consent Required.** Tenant shall not effect a Transfer, by operation of law or otherwise, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld or delayed (subject to the provisions of this Article 14). Any attempt by Tenant to effect a Transfer without such consent of Landlord shall be voidable by Landlord and, at Landlord's election, shall constitute an incurable default under this Lease.

14.3. **Tenant's Application.** If Tenant desires to effect a Transfer, Tenant shall submit in writing to Landlord at least forty-five (45) days prior to the proposed effective date of the Transfer a notice of intent to Transfer ("Request to Transfer"). Each Request to Transfer must contain, or be accompanied with, each of the following: (a) the name of the proposed Transferee and, if not a natural person, details of the legal and beneficial ownership structure of Transferee, (b) a statement of the nature of the Transfer (e.g., a sublease, assignment or concession agreement) and of any related transactions (e.g., details of any sale of the business, details of a merger and copies of operative documents involved in the related transactions), (c) a detailed description of the proposed Transferee's business to be conducted upon the Premises, (d) details of the terms and provisions of the proposed Transfer and the Proposed Transfer Date (which shall be no later than ninety [90] days after Landlord's receipt of the Request to Transfer), (e) a current, audited financial statement for the proposed Transferee, (f) statements of income or profit and loss of the proposed Transferee for a period of no less than three (3) years prior to the date Landlord receives the Request to Transfer, (g) reasonable, written history and details of the proposed Transferee's previous business experience, (h) if the Transfer is a Subletting, a conformed copy of the final, proposed Subletting instrument(s), together with a statement by Tenant and Transferee that such instrument(s) is/are true copies of instrument(s) which the parties intend to execute and (i) the Review Fee. If the foregoing information is not sufficient, in Landlord's judgment, for Landlord to determine which of Landlord's rights to exercise under this Article 14, Landlord shall promptly request, and Tenant shall promptly furnish to Landlord, other and/or additional pertinent and reasonable information concerning the proposed Transfer and the proposed Transferee as Landlord shall require to make such determination.

14.4. **Standards for Approval and Disapproval.** In determining whether to grant or withhold its consent to a proposed Transfer, Landlord may consider any reasonable factor. Without limiting the

conditions that may be construed as a reasonable factor, it is deemed reasonable that Tenant demonstrate to Landlord's reasonable satisfaction each of the following: (a) the proposed Transferee has sufficient financial worth to fully and timely discharge all of the then remaining obligations of Tenant under this Lease, (b) the proposed Transferee is of sound business reputation, (c) the use of the Premises by the proposed Transferee will be the Permitted Use, (d) the proposed Transferee is likely to maintain the same levels and increases in Percentage Rent as Tenant generates during the remaining Term of this Lease, (e) the proposed Transferee has sufficient retail experience to successfully undertake its business at the Premises, (f) the proposed Transferee does not occupy premises in the Center, (g) the proposed Transferee has not delivered a letter of intent to Landlord or Landlord's agent to lease space in the Center and (h) the proposed Transferee is not actively negotiating with Landlord or Landlord's agent to lease space in the Center. Furthermore, if Tenant is then in default of any obligation of Tenant under this Lease, it shall be reasonable for Landlord to elect, in its sole discretion, to deny its consent to such proposed Transfer so long as such default exists. Notwithstanding anything to the contrary contained in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under this Article 14 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be a declaratory judgment, reasonable attorneys' fees and costs (subject to the provisions of Section 22.1), and an injunction for the relief sought without any monetary damages, and Tenant hereby waives all other remedies, including, without limitation, any right at law or in equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable laws, on behalf of the proposed Transferee.

14.5. Landlord's Notification to Tenant.

14.5.1. **Notification to Tenant.** Except for a Transfer which does not require Landlord's consent pursuant to Sections 14.13 through 14.17, within thirty (30) days after Landlord's receipt of the Request to Transfer and all of the information required pursuant to Section 14.3, Landlord shall notify Tenant in writing that Landlord has elected to (a) terminate this Lease pursuant to Section 14.5.2 ("Notice of Transfer Termination"), or (b) consent to such proposed Transfer (subject to the provisions hereof), or (c) withhold consent to such proposed Transfer. In the event Landlord elects to terminate this Lease as provided in Section 14.5.2, Tenant shall have the right to rescind its Request to Transfer within ten (10) days after receipt of notice of Landlord's Notice of Transfer Termination; and, in such event, Landlord's Notice of Transfer Termination shall be null and void for said proposed Transfer. In no event shall Tenant be permitted to resubmit the same request for said proposed Transfer.

14.5.2. **Termination.** If Landlord delivers the Notice of Transfer Termination to Tenant, and Tenant does not rescind the Request to Transfer as provided in Section 14.5.1 above, then (a) this Lease shall terminate upon the Proposed Transfer Date and (b) upon the Proposed Transfer Date, provided Tenant has performed all Surrender Obligations, Tenant shall be released from all further obligations accruing under this Lease from and after the Proposed Transfer Date. Landlord may lease the Premises, or any portion thereof, to the prospective Transferee without liability to Tenant.

14.5.3. **Consent.** If Landlord consents to a proposed Transfer, Landlord may, in its sole discretion and notwithstanding any contrary provision contained in this Lease, make such consent contingent upon increasing the Fixed Minimum Rent (and increases thereto, if any, as specified in this Lease) effective as of the Proposed Transfer Date by an amount equal to the highest annual Percentage Rent payable by Tenant during the Term.

14.6. **Required Subletting Instrument and Assignment Instrument Provisions.** Each and every Transfer shall be documented by an Assignment instrument or a Subletting instrument, as the case may be, and a true copy of the same executed by the parties thereto shall be delivered to Landlord prior to the Proposed Transfer Date. Each and every Assignment instrument and Subletting instrument shall contain such terms and conditions as are described in the Request to Transfer and be expressly subject and subordinate to each and every provision contained in this Lease. Each Transferee shall expressly

assume in writing for the benefit of Landlord the obligations of Tenant under this Lease and shall be liable jointly and severally with Tenant for the payment of the Rent and the performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed for the Term. If Landlord approves the proposed Transfer, Landlord shall prepare and deliver to Tenant, for execution by Tenant and the proposed Transferee, counterparts of Landlord's reasonable and customary assignment instrument, in the case of an Assignment, or consent instrument, in the case of a Subletting, and Tenant shall have thirty (30) days to cause the same to be executed, without modification, by both Tenant and the proposed Transferee and delivered to Landlord, together with all required attachments thereto.

14.7. **Tenant's Duty to Subtenant.** Landlord shall have no obligation whatsoever to perform any duty to or respond to any request from any Subtenant. Tenant shall have the obligation of administering the terms of all Subletting instrument(s).

14.8. **No Release of Tenant.** No Transfer shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent or Transfer, including Tenant's obligation to obtain Landlord's express prior written consent to any other Transfer (which right of consent shall not negate or waive any provision contained in this Article 14).

14.9. **Assignment of Rents and Attornment.** Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any Subletting of all or any part of the Premises, and Landlord, as assignee for Tenant for purposes hereof or a receiver for Tenant appointed on Landlord's application, may collect such rents and apply the same toward Tenant's obligations under this Lease; except that, until the occurrence of an act of default by Tenant, Tenant shall have the right and license to collect such rents. In the event of termination, re-entry, or dispossession of Tenant by Landlord under this Lease, Landlord may, at its sole discretion by express written notice to Tenant or the Transferee or both, take over all of the right, title and interest of Tenant as sublessor under any Subletting instrument, and such Transferee shall, at Landlord's sole discretion, attorn to Landlord, except that Landlord shall not be (a) liable for any previous act or omission of Tenant under the Subletting instrument, (b) subject to any offset that theretofore accrued to the Transferee against Tenant, (c) bound by any previous modification of the Subletting instrument not expressly consented to in writing by Landlord and (d) bound by any previous prepayment of Rent or Security Deposit which has not been expressly delivered by Tenant to Landlord.

14.10. **Additional Consideration Upon a Transfer.** Except for a Transfer which does not require Landlord's consent pursuant to Sections 14.13 through 14.17, in the event of an Assignment, one-half (½) of any consideration paid to Tenant by any Transferee for such Assignment shall be paid to Landlord. In the event of a Subletting, each month one-half (½) of any consideration paid to Tenant by any Transferee during such month for any portion of Tenant's interest in this Lease shall be paid to Landlord to the extent the full amount of such consideration (i.e., before being divided between Landlord and Tenant) exceeds the percentage (equal to the percentage of the Floor Area of the Premises being Sublet) of Tenant's Rent obligations hereunder during such month. The term "consideration", as used in this Section, shall exclude amounts paid to Tenant by the Transferee for business goodwill and Personal Property of Tenant (to the extent of the fair market value of each), any amounts attributable to the sale of the business (as opposed to the value of the leasehold estate) and reasonable and customary brokerage commissions and reasonable attorneys' fees paid by Tenant for such Transfer. Tenant shall provide Landlord with reasonable, written, itemized evidence of the payment for each such exclusion.

14.11. **Review Fee.** Simultaneously with the delivery to Landlord of the Request to Transfer Tenant shall pay to Landlord a fee in the amount of \$750.00 ("Review Fee") for Landlord's review of each such transaction.

14.12. **Corporate and Partnership Transfers.** If Tenant is a privately-held corporation, or is an unincorporated association, limited liability company or partnership, the cumulative or aggregate transfer, assignment or hypothecation of forty-nine percent (49%) or more of the total stock, or the legal or beneficial interest, in such corporation, association, company or partnership, whether in a single

transaction or a series of related or unrelated transactions, and whether on a direct or indirect basis, shall be deemed a Transfer.

14.13. **Corporate Transfers.** Notwithstanding anything contained in this Article 14 to the contrary, Landlord's consent shall not be required for a Transfer to a corporation or entity (a) into or with which Tenant is merged or consolidated, (b) to which all or substantially all of Tenant's assets are transferred, provided Tenant is the Tenant entity on Page 1 of this Lease, or (c) acquiring in one (1) contemporaneous transaction all or substantially all of the leases and assets of Tenant's other stores (but in any event, at least ten (10) of Tenant's stores in the state in which the Center is located); provided that, in any of such events, in each instance, each and every one of the following requirements has been satisfied:

14.13.1. The successor of Tenant has a tangible net worth, computed in accordance with generally accepted accounting principles, at least equal to Five Million Dollars (\$5,000,000.00) in 2018 U.S. Dollars. Proof reasonably satisfactory to Landlord of such net worth shall be delivered to Landlord at least ten (10) days prior to the Proposed Transfer Date.

14.13.2. Any such Transfer shall be subject to all of the terms and provisions of this Lease (including, without limitation, the Permitted Use), and such Transferee shall assume, in a written document reasonably satisfactory to Landlord and delivered to Landlord prior to the effective date of such Transfer, all the obligations of Tenant under this Lease.

14.13.3. Tenant shall remain fully liable for all obligations to be performed by Tenant under this Lease.

14.13.4. Tenant shall pay Landlord, promptly on demand, the Review Fee.

14.13.5. Tenant shall notify Landlord in writing no less than ten (10) business days prior to the effective date of such transaction by providing Landlord with the name of such resulting entity and such other details as Landlord may reasonably request.

14.13.6. Such Transfer is not a subterfuge by Tenant to avoid its obligations under the Lease.

14.14. **Additional Permitted Transfers.** Notwithstanding anything to the contrary contained herein, provided Tenant is the tenant entity specified on Page 1 of this Lease, neither notice to Landlord nor Landlord's consent shall be required for Transfers involving (a) a public offering by Tenant and/or any of its stockholders, (b) the trading of shares listed on a recognized public stock exchange, (c) any transaction described as a "Rule 13e-3 transaction" in Rule 13e-3 under the Securities Exchange Act of 1934, as amended or superseded ("Securities Exchange Act"), (d) any repurchase, reverse stock split or other transaction by which the number of outstanding publicly traded shares of Tenant is reduced, and (e) any transfer or issuance of stock in Tenant's corporation to its present stockholders or family members of its stockholders.

14.15. **Bona Fide Franchisee.** Notwithstanding anything to the contrary contained in this Article 14, so long as Tenant is not in default of this Lease, Tenant shall have the right to assign this Lease or sublease the Premises to a Bona Fide Franchisee (as defined herein) or to the Franchisor, Wetzel's Pretzels, LLC, subject to the following conditions: (1) Tenant shall give Landlord written notice at least forty-five (45) days prior to the effective date along with all documentation necessary to verify the conditions required by this Section 14.15; (2) Tenant shall remain fully liable during the remainder of the Term; (3) any such assignment or sublease shall be subject to the terms, covenants and conditions of this Lease and any such assignee or sublessee shall expressly assume the obligations of Tenant under this Lease by a document prepared by Landlord; (4) the use of the Premises shall be restricted to the Permitted Use permitted in Section 1.11; (5) Tenant has delivered the Review Fee to Landlord; and (6) the Bona Fide Franchisee (including in the aggregate, any guarantor) for an assignment must have a tangible net worth of at least \$1,000,000.00. The term "Bona Fide Franchisee" shall be defined as a franchisee of Wetzel's Pretzels, LLC in accordance with a bona fide and legally valid franchising program

established by Wetzel's Pretzels, LLC, providing adequate and ongoing training, supervision, and control over its franchisees. Notwithstanding the foregoing in this Section 14.15, any sublease with a Bona Fide Franchisee shall be subject to the following additional conditions: (i) Tenant shall retain a reversionary interest in the Lease; (ii) the sublease shall be subordinate to the Lease; and (iii) the sublessee shall have a net worth and business experience necessary to operate a successful business in the manner and quality permitted under this Lease.

14.16. **Affiliate Transfers.** Notwithstanding anything contained in this Article 14 to the contrary, Landlord's consent shall not be required for a Transfer to a corporation that Controls, is Controlled by, or is under common Control with Tenant; provided that, in any of such events, in each instance, each and every one of the following requirements has been satisfied:

14.16.1. The successor of Tenant has the financial ability to satisfy Tenant's obligations and responsibilities under the Lease. Proof reasonably satisfactory to Landlord of such net worth shall be delivered to Landlord at least ten (10) days prior to the Proposed Transfer Date.

14.16.2. Any such Transfer shall be subject to all of the terms and provisions of this Lease (including, without limitation, the Permitted Use), and such Transferee shall assume, in a written document reasonably satisfactory to Landlord and delivered to Landlord prior to the effective date of such Transfer, all the obligations of Tenant under this Lease.

14.16.3. Tenant shall remain fully liable for all obligations to be performed by Tenant under this Lease.

14.16.4. Tenant shall notify Landlord in writing no less than ten (10) business days prior to the effective date of such transaction by providing Landlord with the name of such resulting entity and such other details as Landlord may reasonably request.

14.16.5. Such Transfer is not a subterfuge by Tenant to avoid its obligations under the Lease.

14.17. In the event any Transferee under this Section 14.16 shall at any time after the date of such Transfer no longer be a parent, subsidiary or affiliate corporation or entity of the entity making such Transfer, then such event shall constitute a Transfer requiring Landlord's consent pursuant to the provisions of this Article 14.

14.18. **Permitted Transfer to an Institutional Lender.** Further, notwithstanding anything to the contrary contained in this Lease, a transfer of shares to or between Institutional Investors (defined hereinbelow) shall not be deemed a Change of Control if all of the following conditions are satisfied: (a) the stock transfer does not itself result in a material decrease in either Tenant's net worth or net current assets; (b) the stock transfer does not itself have an adverse impact on the quality of Tenant's business operations at the Premises; (c) after the stock transfer, the Premises shall continue to be used in the manner permitted under Section 1.11; and (d) Tenant shall remain fully liable during the unexpired Lease Term. An "Institutional Investor" is (i) a major banking institution, or (ii) insurance company, or (iii) venture arm of a Fortune 1000 company, or (iv) a pension fund, money management firm, or an asset management fund which controls net assets in excess of One Hundred Million Dollars (\$100,000,000).

15. TRANSFER OF LANDLORD'S INTEREST

15.1. **Transfer of Landlord's Interest.** Landlord shall have the right to sell or transfer its ownership of all or any part of the Center to one or more third parties. If Landlord sells or transfers its interest in the Premises (other than a transfer for security purposes), (a) Landlord shall be released from all obligations and liabilities accruing thereafter under this Lease and Landlord's successor shall be deemed to have assumed Landlord's obligations thereafter accruing under this Lease and (b) Tenant agrees to attorn to the purchaser or assignee.

16. COMMON AREA

16.1. **Common Area.** During the Term, Tenant and the Tenant Parties shall have the non-exclusive right in common with Landlord and all others to whom Landlord has or shall give the same or similar rights, to use the Common Area for its intended purposes subject to (a) the right of Landlord, Occupants and their respective invitees, customers, agents, employees and independent contractors to use the Common Area, (b) any Superior Agreements, and (c) each provision of this Lease. Landlord shall, or shall cause others to, operate, repair, equip and maintain the Common Area in a manner deemed by Landlord in its business judgment to be reasonable and appropriate. The Common Area shall be subject to the exclusive control and management of Landlord. Landlord may, from time-to-time, impose parking charges at the Center.

17. LANDLORD'S RESERVATION OF RIGHTS

17.1. **Reservation of Rights.** Landlord reserves the right, at any time, and from time-to-time to: (a) expand, reduce, remove, demolish, change, renovate or construct any existing or new improvements at the Center, and (b) expand, reduce or otherwise change the size, configuration or boundaries of the Center. Landlord shall have complete and exclusive control of the design, structure, construction, materials, colors, architectural elements and aesthetics of all improvements and Common Area at the Center, as well as all activities undertaken by Landlord and other Occupants in connection therewith. This Lease does not grant any rights to light or air over or about the Center. Landlord reserves exclusively to itself the use of all of the following: (i) roofs and exterior walls, (ii) telephone, electrical, utility, communication and janitorial closets, (iii) equipment rooms, building risers or similar areas that are used by Landlord for the provision of services, (iv) portions of the Premises for the installation, repair, maintenance and replacement of machinery, pipes, conduits, utility lines and the like serving other Occupants and/or the Center in a manner and in locations which do not unreasonably interfere with Tenant's use of the Premises, and (v) the areas beneath, adjacent to and above the Premises (including the plenum within the Premises). Landlord shall use commercially reasonable efforts to minimize interference with the construction of Tenant's improvements or the conduct of Tenant's business in the Premises. Notwithstanding the foregoing, Landlord shall not permanently, materially, adversely impair access to Tenant's Storefront or visibility of Tenant's Storefront Sign from the immediately adjacent Common Area during the exercise of Landlord's rights under this Section 17.1, except during such temporary periods while Landlord is undertaking repairs or renovations which Landlord is required or permitted to undertake pursuant to the provisions of this Lease.

17.2. **Changes to the Center.** Landlord shall have the right and privilege at all times of determining the nature and extent of the Common Area and the Center and of making such changes, rearrangements, additions and reductions therein from time-to-time as Landlord deems desirable, including, without limitation, the location, relocation, enlargement, reduction, addition and/or elimination of driveways, malls, entrances and exits, automobile parking spaces, employee and customer parking areas, buildings and other structures, the direction and flow of traffic, establishment of protected areas, landscaped areas and any and all other facilities of the Common Area, the right at any time to locate on the Common Area permanent and/or temporary RMUs, and/or other building(s) and/or other improvements of any type and the right at any time to enclose or un-enclose any portions of the Common Area and/or Mall. Landlord reserves the right to utilize portions of the Common Area, from time-to-time, for shows, rides, entertainments, displays, advertising, educational purposes, demonstrations, civic and charitable functions and other uses which, in Landlord's judgment, may attract the public to the Center or create goodwill, community interest or other beneficial interest with respect to the Center. Landlord shall have the right to convert Common Area to leasable space and to convert leasable space to Common Area, from time-to-time. Landlord shall have the right (a) to close, if necessary, all or any portion of the Common Area to such extent as may be reasonably necessary to prevent a dedication thereof or the accrual of any rights of any person or of the public therein, (b) to close temporarily all or any portion of the Common Area to discourage non-customer use, (c) to use portions of the Common Area while engaged in making additional improvements, repairs or alterations to the Center, (d) to transfer, in whole or in part, any of Landlord's rights and/or obligations under Article 16 to any Occupant or to any other party as

Landlord may from time-to-time determine and (e) to do and perform such other acts in, to and with respect to, the Common Area as Landlord shall determine, in its business judgment, to be appropriate for the Center. Notwithstanding any contrary provision contained in this Lease, services and facilities may be discontinued, and access to the Premises and the Center restricted, in whole or in part, during such times as the Center is not open for business, and any other times as are necessary for temporary purposes such as repairs, alterations, strikes and other reasonable purposes. Landlord has no obligation to, and has made no representations that it shall, repair, alter, remodel, improve, renovate, decorate, demolish and/or add improvements to the Building or the Center, or any part thereof, and no representations respecting the condition of the Building or the Center have been made by Landlord to Tenant. Landlord shall use commercially reasonable efforts to minimize interference with the construction of Tenant's improvements or the conduct of Tenant's business in the Premises. Notwithstanding the foregoing, Landlord shall not permanently, materially, adversely impair access to Tenant's Storefront or visibility of Tenant's Storefront Sign from the immediately adjacent Common Area during the exercise of Landlord's rights under this Section 17.2, except during such temporary periods while Landlord is undertaking repairs or renovations which Landlord is required or permitted to undertake pursuant to the provisions of this Lease.

17.3. **Right to Lease.** Landlord reserves the absolute right to effect such other tenancies in the Center as Landlord, in the exercise of its sole business judgment, shall determine to best promote the interests of the Center. Tenant does not rely on the fact, nor does Landlord represent, that any specific occupant or type or number of occupants shall, at any time, occupy any space in the Center. Landlord shall have the full right to lease space in the Center to any person or entity and for any purpose Landlord shall deem appropriate, including retail, office, non-retail, residential, mixed use and commercial purposes.

17.4. **Entry by Landlord.** Landlord and its representatives (including contractors) shall have the right at all reasonable times upon reasonable prior notice to Tenant (and at all times without notice in the event of an emergency), to enter the Premises (a) for any purpose permitted by law, (b) to ascertain if the Premises are in good order, condition and repair, (c) to post notices of nonresponsibility or other notices which Landlord may deem necessary for its protection, (d) to show the Premises to prospective purchasers, mortgagees or ground or underlying lessors (each of which may then also enter the Premises), (e) to perform any obligation required of, or right permitted to, Landlord under this Lease, (f) to take possession of the Premises due to an event of default in the manner provided for in this Lease or (g) to perform environmental assessments. During the twelve (12) months prior to the Expiry Date, Landlord may show the Premises to brokers, prospective tenants and their representatives. Landlord shall use good faith efforts during any entry upon the Premises pursuant to this Section 17.4 not to unreasonably interfere with Tenant's conduct of business. No exercise by Landlord of any rights in this Section 17.4 shall entitle Tenant to any damage for any injury or inconvenience occasioned thereby nor to any abatement of Rent.

17.5. **Relocation.**

17.5.1. **Relocation.** Landlord shall have the right, upon 90 days' written notice delivered to Tenant ("Relocation Notice"), to require that Tenant, surrender possession of the Premises, provided and on condition that (a) Landlord and Tenant shall, for a period of thirty (30) days following delivery of the Relocation Notice, negotiate in good faith to enter into a lease for comparable substitute premises at the Center on substantially the same terms and conditions as those contained in this Lease ("Substitute Lease") to the extent applicable, for the balance of the remaining Term, or (b) if, despite such good faith negotiations, the parties are unable to enter into the Substitute Lease on or before the thirtieth (30th) day following the delivery of the Relocation Notice, Landlord may elect, by written notice delivered to Tenant, to terminate this Lease. If Landlord terminates this Lease, Landlord and Tenant agree the termination shall be effective on the date specified in Landlord's written notice (which shall be at least twenty [20] days after the sending of such notice), and upon the date Tenant vacates the Premises and performs all the Surrender Obligations, Landlord shall pay to Tenant the Unamortized Amount. The relocation of the Premises

in accordance with (a) herein or the payment of the Unamortized Amount in the event of a termination in accordance with the foregoing sentence shall be Tenant's sole recourse and right in the event Tenant is required to surrender possession of the Premises as provided in this Section 17.5. Substitute Premises as used herein shall mean any retail space that is located within the area approximately cross-hatched on Exhibit H (or comparable area if the configuration of the Center has changed or will change to the extent that Exhibit H is rendered inapplicable); provided, however, in no event shall Landlord be obligated to offer any location to Tenant which Landlord is prevented or restricted from leasing to Tenant in accordance with such covenants of Landlord respecting radius, location, use, or exclusivity as may be contained in any other lease, financing agreement or any other agreement affecting the Center. In no event shall Landlord relocate Tenant pursuant to this Section 17.5 (i) more than once during the Term, or (ii) during the months of November and December.

17.5.2. **Substitute Premises.** Landlord shall provide Tenant with a floor plan, a depiction of the approximate location of the Substitute Premises, and the Floor Area of the Substitute Premises; provided that the Floor Area of the Substitute Premises shall not exceed 10% of the Floor Area of the Premises. Tenant shall vacate and surrender the Premises and shall occupy the Substitute Premises promptly (and, in any event, not later than twenty [20] days) after Landlord has substantially completed the work to be performed by Landlord in the Substitute Premises pursuant to Section 17.5.3. If the Floor Area of the Substitute Premises is less than the Floor Area of the Premises, Fixed Minimum Rent, Fixed Costs, Tenant's Share of Variable Costs and Base Sales shall be proportionately reduced. If the Floor Area of the Substitute Premises is greater than the Floor Area of the Premises, Fixed Minimum Rent, Fixed Costs, Tenant's Share of Variable Costs and Base Sales shall not be increased. From and after the date Tenant vacates and surrenders the Premises to Landlord as provided in this Section 17.5, this Lease (a) shall no longer apply to the Premises, except with respect to obligations which accrued on or before such surrender date and have not been fully discharged and (b) shall apply only to the Substitute Premises and the Substitute Premises shall thereafter be the "Premises" under this Lease.

17.5.3. **Landlord's Obligations.** If Tenant is relocated to Substitute Premises, then Landlord shall, at Landlord's expense, (a) furnish and install in the Substitute Premises Improvements at least equal in kind and quality to those Improvements which are contained in the Premises at the time the Notice of Relocation is delivered to Tenant, and/or move fixtures from the Premises to the Substitute Premises to the extent such fixtures can reasonably be moved without damage to such fixtures (or replace the fixtures if they cannot be relocated), (b) provide personnel to perform under Tenant's direction the moving of Tenant's property from the Premises to the Substitute Premises and (c) promptly reimburse Tenant for actual and reasonable out-of-pocket costs incurred by Tenant in connection with the relocation of any telephone and other communications equipment from the Premises to the Substitute Premises. Tenant shall cooperate with Landlord to facilitate the prompt completion by Landlord of Landlord's obligations under this Section 17.5.3 and the prompt surrender by Tenant of the Premises within the time frames herein set forth. Without limiting the generality of the preceding sentence, Tenant shall (i) promptly provide to Landlord any approvals or instructions, any plans and specifications and any other information reasonably requested by Landlord relating to the relocation of Tenant and (ii) promptly perform any work, other than Landlord's obligations under this Section 17.5.3, required to prepare the Substitute Premises for Tenant's occupancy. Landlord shall exercise its reasonable efforts in the relocation to minimize any period which Tenant cannot operate for business. Fixed Minimum Rent, Percentage Rent, Fixed Costs and Tenant's Share of Variable Costs shall abate during any period that the business conducted upon the Premises must be closed as a result of such relocation.

18. NOTICES

18.1. **Notices.** Any notice, demand or communication required or permitted to be given by one party to the other shall be in writing and addressed to Landlord's Address for Notices or Tenant's Address for Notices, as the case may be, or to such other address(es) and/or to such other parties as one party

may from time-to-time reasonably designate in writing to the other party, and shall be (a) personally served, (b) deposited in the United States mail, duly registered or certified with postage fully prepaid thereon or (c) delivered by an overnight courier service that confirms delivery. Either party may, by written notice similarly given, designate a different address for notice purposes. Notice shall be effective upon receipt or refusal to receive, in the event of personal service; or upon receipt or refusal to receive, in the event of depositing notice in the United States mails; or upon receipt or refusal to receive, in the event of delivery by overnight courier service.

19. DEFAULTS BY TENANT

19.1. **Defaults.** The occurrence of any one or more of the following events shall constitute a default by Tenant under this Lease:

19.1.1. **Monetary.** The failure by Tenant to make any payment of Rent or of any other sum required to be made by Tenant when due (however Tenant shall have up to five (5) days after written notice from Landlord to cure such default).

19.1.2. **Failure to Conduct Business** If Tenant should fail at any time during the Term to keep the Premises open for business fully fixtured, staffed or stocked on the days and hours required by this Lease.

19.1.3. **Abandonment and Vacation.** The vacation or abandonment of the Premises by Tenant. "Vacation" means any absence by Tenant from the Premises for fourteen (14) or more consecutive days.

19.1.4. **Cross-Default.** If Tenant (or an Affiliate of Tenant) is in default of any other lease or occupancy agreement between Landlord (or an Affiliate of Landlord) and Tenant (or an Affiliate of Tenant) at the Center, all as the case may be.

19.1.5. **Bankruptcy.** The making by Tenant of any general assignment for the benefit of creditors, the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of 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 sixty [60] days), or the appointment of a trustee or receiver to take possession of, or the attachment, execution or other judicial seizure of, 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.

19.1.6. **Other Non-Monetary Defaults.** The failure by Tenant or any of the Tenant Parties to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant not previously covered by Section 19.1.1 through Section 19.1.5 above (however Tenant shall have up to twenty [20] days after written notice from Landlord to cure such default except if the nature of Tenant's default is such that it cannot be cured solely by payment of money and more than twenty [20] days are reasonably required for its cure, then Tenant shall be obligated to commence such cure within the twenty [20]-day period and thereafter diligently prosecute such cure to completion).

19.2. **Sufficiency of Notices.** Any notice required or permitted by this Article 19 shall be in lieu of, and not in addition to, any notice required under any Governmental Regulations providing for notice and any cure period. Landlord may (at its discretion) serve a statutory notice to quit, a statutory notice to pay rent or quit, or a statutory notice of default, as the case may be, to effect the giving of any notice required by this Article 19. No notice and opportunity to cure is conferred upon Tenant with regard to any default except as expressly set forth in Section 19.1.

19.3. **Involuntary Assignment.** An Involuntary Assignment shall constitute a default by Tenant and Landlord shall have the right to elect to terminate this Lease, in which case this Lease shall not be treated as an asset of Tenant. All sums payable by Tenant under this Lease shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Such sums which are not paid or delivered to Landlord shall be held

in trust for the benefit of Landlord, and shall be promptly paid or turned over to Landlord upon demand. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations of Tenant arising under this Lease on and after the date of such assignment, and all of the terms and provisions of this Lease shall be binding upon such assignee. Any such assignee shall upon demand execute and deliver such instruments and documents reasonably requested by Landlord confirming such assumption.

20. LANDLORD'S REMEDIES

20.1. **Landlord's Remedies.** Upon a default hereunder, should Tenant fail within the time period, if any, specified in Article 19 to fully cure such default, then without limiting Landlord in the exercise of any other right or remedy at law or in equity which Landlord may have (all remedies provided herein being non-exclusive and cumulative), Landlord may do any one or more of the following:

20.1.1. **Continue Lease.** Landlord may continue this Lease in effect after Tenant's default and recover Rent as it becomes due. Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time-to-time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all Rent and other monetary charges as they become due.

20.1.2. **Terminate Lease.** Landlord may terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and 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 (without limitation) the following: (a) the worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; plus (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; plus (d) any other amount and court costs necessary to compensate Landlord for all the detriment proximately caused by Tenant's default or which in the ordinary course of things would be likely to result therefrom (including, without limiting the generality of the foregoing, the amount of any commissions, finder's fee, advertising costs, remodeling costs and attorneys' fees in connection with obtaining a replacement tenant); plus (e) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time-to-time by applicable law. As used in subparagraphs (a) and (b) of this Section 20.1.2, the "worth at the time of award" shall be computed by allowing interest at the Agreed Rate, and, as used in subparagraph (c) of this Section 20.1.2, the "worth at the time of award" is to be computed by discounting such amount at the discount rate of the U.S. Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%). For the purpose of determining the amount of Tenant's Share of Variable Costs which constitute "unpaid Rent which would have been earned after termination" or which constitute "unpaid Rent for the balance of the term" (as referenced in subparagraphs [b] and [c] hereof), such amounts shall be deemed to increase annually for the balance of the Term by an amount equal to the average annual percentage increase in Variable Costs during the three (3) calendar years preceding the year in which the Lease was terminated, or, if such termination shall occur prior to the expiration of the third calendar year occurring during the Term of this Lease, then the amount of Tenant's Share of Variable Costs shall be deemed to increase monthly for the balance of the Term by an amount equal to the average monthly percentage increase in Tenant's Share of Variable Costs during all of the calendar months preceding the month in which the Lease was terminated.

20.1.3. **Collect Sublease Rents.** Landlord may collect sublease rents (or appoint a receiver to collect such rents) and otherwise perform Tenant's obligations at the Premises, it being agreed, however, that neither the filing of a petition for the appointment of a receiver for Tenant nor the appointment itself shall constitute an election by Landlord to terminate this Lease.

20.1.4. **Cure Default.** Landlord may proceed to cure the default at Tenant's sole cost and expense, without waiving or releasing Tenant from any obligation hereunder. If at any time Landlord pays any sum or incurs any expense as a result of or in connection with curing any default of Tenant (including any administrative fees provided for herein and reasonable attorneys' fees), the amount thereof shall be immediately due as a Reimbursed Cost.

20.1.5. **Disposition of Property.** Subject to lien rights of any Tenant lender, Landlord may dispose of any Personal Property remaining on the Premises in accordance with applicable statutes relating to the disposition of abandoned property. If no such statute exists, Landlord shall have the right to retain possession of all of the Personal Property left in the Premises or, at Landlord's option, to require Tenant at any time to forthwith remove same, and if not so removed within three (3) business days, to take title and possession of the same and to sell or otherwise dispose of the same, without any liability (a) to Tenant for such property or (b) to pay to Tenant the proceeds from the sale thereof. Landlord's rights pursuant to the foregoing provisions of this Section 20.1.5 are subject and subordinate to the rights any bank, lending institution or equipment lessor ("Tenant's Lender") has in any or all of Tenant's Personal Property ("Collateralized Property") by virtue of a (a) loan or credit secured or collateralized by a pledge or an assignment of the Collateralized Property or (b) lease to Tenant of the Collateralized Property; provided, however, such subordination by Landlord shall be conditioned upon Landlord, Tenant and Tenant's Lender entering into a lien waiver substantially in the form and substance set forth at Exhibit J, setting forth in detail a description of all items constituting the Collateralized Property. Landlord shall enter into the said lien waiver within a reasonable time following receipt thereof, complete in all respects and properly executed by Tenant and Tenant's Lender.

20.2. **No Offsets.** All covenants and agreements to be performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any offset to or abatement of Rent, except as otherwise expressly provided in this Lease. Tenant hereby waives any right to plead all non-compulsory counterclaims or offsets in any action or proceeding brought by Landlord against Tenant for any default. This waiver shall not be construed, however, as a waiver of any right of Tenant to assert any non-compulsory counterclaims or offsets in any separate action brought by Tenant.

20.3. **Mitigation.** Landlord agrees that in the event Tenant defaults under this Lease and Landlord elects to dispossess Tenant from the Premises and/or terminate this Lease, Landlord shall use its reasonable efforts to release the Premises and mitigate monetary damages arising out of Tenant's default or breach of this Lease to the extent required by law in the state in which the Center is located. Nothing herein, however, shall prohibit Landlord from leasing any other vacant premises before leasing the Premises hereunder or from using its business judgment respecting the leasing of the Premises hereunder.

21. DEFAULTS BY LANDLORD

21.1. **Defaults by Landlord.** If Landlord fails to perform or observe any of the terms, covenants or conditions contained in this Lease on its part to be performed or observed within thirty (30) days after written notice of default from Tenant or, when more than thirty (30) days shall be required because of the nature of the default, if Landlord shall fail to commence to cure such default after written notice thereof from Tenant and thereafter diligently pursue such cure to completion, said failure shall constitute a default by Landlord under this Lease. If any or all of the Premises or any interest of Landlord in this Lease or the Rent are at any time subject to any mortgage or deed of trust and if Tenant is given notice of the name and address of the Mortgagee, then Tenant shall give written notice of any default by Landlord to the Mortgagee concurrently when providing Landlord notice, specifying the default in reasonable detail. If Landlord fails to cure such default within the applicable cure period, Tenant shall give written notice of such failure to Mortgagee affording Mortgagee the same opportunity to cure as provided Landlord in this Section. If Mortgagee does perform on behalf of Landlord, such default shall be deemed cured.

21.2. **Limitations on Recovery.** The aggregate liability of Landlord and the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with the operation, management, leasing, repair, renovation, alteration of, or any other matter relating to, the Center or the Premises shall be limited solely and exclusively to an amount equal to the interest of Landlord in the Center, and neither Landlord nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Article 21 shall inure to the benefit of Landlord and the Landlord Parties and each of their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Neither Landlord nor Tenant shall be liable to the other under any circumstances for consequential or punitive damages.

22. COSTS OF SUIT

22.1. **Costs of Suit.** If either party brings action for relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of Rent or possession of the Premises, the non-prevailing party shall pay the prevailing party its reasonable costs, fees and expenses incurred in connection with and in preparation for said action, including its reasonable attorneys' fees.

23. DAMAGE AND DESTRUCTION

23.1. **Insured Casualty.** Upon the occurrence of an Insured Casualty to the Premises, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment and payment, issuance of permits or other matters beyond Landlord's reasonable control, and subject to all other terms of this Article 23, restore the damaged Premises (except for such work with respect to the Premises which is the responsibility of Tenant pursuant to this Article 23). Tenant, at its sole cost and expense, shall be responsible for the prompt and diligent repair and restoration of all items constituting Improvements and Personal Property (which repair and restoration work shall be completed no later than sixty [60] days after the completion of Landlord's work under this Section 23.1). All repair and restoration activities by Landlord and Tenant shall be conducted in accordance with Exhibit C and the Tenant Package. Notwithstanding the foregoing, if Landlord fails to (a) commence the repair of the Premises pursuant to its obligations hereunder within one (1) year from the date of any such Casualty or (b) complete its obligations to repair hereunder within two (2) years from the date of any such Casualty, then, in either such event, Tenant shall have the right, as its sole and exclusive remedy for such any such failure, to terminate this Lease upon thirty (30) days' written notice to Landlord, which notice must be given to Landlord within thirty (30) days after the periods set forth in (a) and (b) hereof, and further as to (b) hereof, prior to the date Landlord has completed its repair of the Premises pursuant to the provisions of this Section.

23.2. **Uninsured Casualty.** Upon the occurrence of an Uninsured Casualty to the Premises, Landlord shall have the right (in its sole discretion) to elect either to commence repair and restoration of the Premises (in which event this Lease shall continue in full force and effect and Landlord and Tenant shall diligently perform their respective repair and restoration obligations required pursuant to Section 23.1) or not to perform such repair and restoration, in which event this Lease shall cease and terminate sixty (60) days after Landlord's notice of its election to terminate. Landlord shall give Tenant notice of its election under this Section 23.2 within ninety (90) days following the later of (a) the date of such Uninsured Casualty, or (b) the date that Landlord's insurers determine that the Casualty is an Uninsured Casualty. If Landlord elects to terminate this Lease as permitted by this Section 23.2, Landlord must also terminate the leases of all similarly affected Occupants (which leases allow Landlord to so terminate) in the portion of the Center in which the Premises are located, specifically excluding, however, Occupants occupying Excluded Floor Area. Notwithstanding the foregoing, if Landlord elects to repair and restore the Premises but fails to (a) commence the repair of the Premises pursuant to its obligations hereunder within one (1) year from the date of any such Casualty or (b) complete its obligations to repair

hereunder within two (2) years from the date of any such Casualty, then, in either such event, Tenant shall have the right, as its sole and exclusive remedy for such any such failure, to terminate this Lease upon thirty (30) days' written notice to Landlord, which notice must be given to Landlord within thirty (30) days after the periods set forth in (a) and (b) hereof, and further as to (b) hereof, prior to the date Landlord has completed its repair of the Premises pursuant to the provisions of this Section.

23.3. Rent Abatement. Landlord shall not be liable for any inconvenience or annoyance to Tenant or the Tenant Parties, or injury to Tenant's business, resulting in any way from any Casualty or repair and restoration work. If any Casualty damages the Premises, or if the Premises are not reasonably accessible and are not used by Tenant due to any Casualty to the Common Area, Tenant shall be entitled to an abatement of Fixed Minimum Rent, Fixed Costs and Tenant's Share of Variable Costs during such time the Premises are unfit for occupancy for the Permitted Use and are not open to the public for business by Tenant, or the Premises are not reasonably accessible and are not used by Tenant to conduct business to the public due to damage to the Common Area. However, if the Casualty is due to the gross negligence or willful misconduct of Tenant or any of the Tenant Parties, Tenant shall be responsible for any reasonable, applicable insurance deductible (which shall be payable to Landlord upon demand) and there shall be no Rent abatement.

23.4. Major Destruction. Notwithstanding any of the foregoing provisions of this Article 23, should there be a Major Destruction of the Center at any time during the Term, Landlord shall have the right to terminate this Lease by written notice to Tenant, which notice shall be given within one hundred twenty (120) days following the date of such Major Destruction (in which case such termination shall then take effect on the date specified in Landlord's termination notice). In the event the Premises is damaged to the extent of twenty five percent (25%) or more of its replacement cost during the last twenty four (24) months of the Term, Tenant shall have the right to terminate this Lease upon thirty (30) days written notice to Landlord, which notice must be given, if at all, not later than ninety (90) days following the date of any such casualty.

23.5. Insurance Proceeds. In the event of termination of this Lease pursuant to this Article 23, Landlord and Tenant shall each be released from any liability or obligation under this Lease (except as otherwise provided for in this Lease) arising after the date of such termination. In the event of such termination, all proceeds from Tenant's insurance (including self-insurance and deductibles) covering the Improvements (but excluding proceeds for Personal Property) shall be payable to Landlord. In no event shall Tenant be entitled to share in Landlord's insurance proceeds or to take any action which would result in a reduction of Landlord's insurance proceeds.

24. CONDEMNATION

24.1. Total Taking. If there is a Taking of the entire Premises, this Lease shall terminate as of the date of such Taking, and Landlord and Tenant shall have no further liability or obligation (except as otherwise provided for in this Lease) arising under this Lease after such date.

24.2. Partial Taking; Right to Terminate. If more than twenty-five percent (25%) of the Floor Area of the Premises is taken, or if by reason of any Taking, regardless of the amount so taken, the remainder of the Premises is rendered unusable for the Permitted Use, Landlord and Tenant shall each have the right to terminate this Lease as of the date Tenant is required to vacate the portion of the Premises which is the subject of such Taking, upon giving notice of such election within thirty (30) days after the Taking. In addition, if there is a Taking of fifteen percent (15%) or more of the Floor Area of the Center and/or fifteen percent (15%) or more of the parking areas of the Center, Landlord shall have the right to terminate this Lease upon ninety (90) days' written notice to Tenant. In the event of any termination of this Lease pursuant to this Article 24, Landlord and Tenant shall be released from any liabilities and obligations under this Lease (except as otherwise provided for in this Lease) arising after the date of termination. Landlord and Tenant shall, after learning of any Taking, promptly give notice thereof to each other. No temporary Taking of the Premises or any part of the Center (meaning a Taking of less than nine [9] months) shall terminate this Lease.

24.3. **Restoration and Rent Adjustment.** If this Lease does not terminate pursuant to Sections 24.1 or 24.2 above, then Tenant shall continue to occupy that portion of the Premises not taken and the parties shall proceed as follows: (a) Landlord shall, at its sole cost and expense, restore the Premises remaining to a complete unit of like quality and character as existed prior to such Taking (except for such work with respect to the Premises which is the responsibility of Tenant pursuant to this Section 24.3), (b) Tenant, at its sole cost and expense, shall be responsible for the repair and restoration of the Improvements and Personal Property and (c) Fixed Minimum Rent and any Additional Rent that is calculated on the basis of Floor Area shall be calculated on the basis of the remaining Floor Area of the Premises.

24.4. **Award.** No award for any partial or entire Taking shall be apportioned, and Tenant hereby assigns to Landlord any and all rights of Tenant now or hereafter arising in or to the same or any part thereof. Tenant may file a separate claim for an award at its sole cost and expense for, and nothing contained herein shall be deemed to give Landlord any interest in, or to require Tenant to assign to Landlord, any award made to Tenant for compensation for loss of business or for damage to or loss of Personal Property; provided, however, that no such claim shall diminish or otherwise affect the awards otherwise payable to Landlord and each of Landlord's Designees.

25. HAZARDOUS MATERIALS

25.1. **Compliance.** Tenant covenants and agrees that Tenant shall, at all times during the Term and at its sole cost and expense, comply with and assume responsibility and liability under all Environmental Laws applicable to occupancy or use of or operations at the Premises by Tenant and the Tenant Parties. In the event that Tenant proposes to undertake any Improvements, Tenant shall comply (at Tenant's sole cost) with Landlord's criteria (as established from time to time) for testing and remediation of Hazardous Materials.

25.2. **Notification.** Tenant agrees that should it or any of the Tenant Parties know of (a) any violation of Environmental Laws relating to the Premises, or (b) the escape, release or threatened release of any Hazardous Materials in, on, under or about the Premises, Tenant shall promptly notify Landlord in writing of such violation, escape, release or threatened release, and that it will provide all warnings of exposure to Hazardous Materials in, on, under or about the Premises in strict compliance with all applicable Environmental Laws.

25.3. **Hazardous Materials.** Tenant shall at no time use, analyze, generate, manufacture, produce, transport, store, treat, release, dispose of or permit the escape of, or otherwise deposit in, on, under or about the Premises or the Center, any Hazardous Materials, or permit or allow any of the Tenant Parties to do so.

25.4. **Pre-Existing Hazardous Materials.** Notwithstanding anything in this Article 25 to the contrary, Tenant shall not be responsible for abating any Hazardous Materials existing at the Premises prior to the Delivery Date (or the original date of possession if Tenant or Tenant's predecessor-in-interest occupied the Premises), or for indemnifying Landlord against any such pre-existing Hazardous Materials, provided such pre-existing Hazardous Materials were not placed upon the Premises, or disturbed, by Tenant, Tenant's predecessors-in-interest or any of the Tenant Parties (or any employee or contractor of any of the foregoing entities).

26. SUBORDINATION AND ESTOPPEL

26.1. **Subordination.** Tenant covenants and agrees that (a) this Lease is and shall automatically and without further act or deed by Tenant be subject and subordinate to any mortgages, deeds of trust, security deeds or other security instruments, and any ground leases or underlying leases presently existing or hereafter placed upon all or any portion of the Center (each a "Mortgage") and to any and all advances to be made thereunder, and to any interest accrued thereon, and to all renewals, replacements, modifications, consolidations and extensions thereof or participation thereof, (b) any mortgagee, grantee, master lessor, beneficiary or trustee (each a "Mortgagee") may elect to have this Lease made a prior lien to its Mortgage, and in the event of such election and upon notification by such

Mortgagee to Tenant to that effect, this Lease shall be deemed prior in lien to said Mortgage, whether this Lease is dated prior to or subsequent to the date of any such Mortgage and (c) Tenant shall execute and deliver whatever instruments may reasonably be required by Landlord or any present or prospective Mortgagee to acknowledge such subordination or priority (as applicable) in recordable form. If any proceeding is brought for default under any Mortgage to which this Lease is subject, or in the event of foreclosure, deed in lieu of foreclosure or the exercise of the power of sale under any Mortgage covering the Premises and if requested by Landlord's successor, Tenant shall attorn to the successor and shall recognize that successor as Landlord under this Lease, provided Mortgagee agrees in writing to assume Landlord's obligations under this Lease. Such successor shall not be (i) liable for any previous act or omission of Landlord under this Lease, (ii) subject to any offset that theretofore accrued to Tenant against Landlord or (iii) bound by any previous prepayment of Rent or Security Deposit which have not been expressly delivered by Landlord to such successor. If so requested, Tenant shall enter into a new lease with that successor on the same terms and conditions as are contained in this Lease (for the unexpired Term of this Lease then remaining).

26.2. **Estoppel Certificate.** Tenant shall, from time-to-time within ten (10) business days after prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing in such form as may be reasonably required by Landlord (a) 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) and the date to which the Rent and other charges are paid in advance, if any; (b) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder (or specifying such defaults if they are claimed); and (c) containing such other matters as are set forth in such form. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises. 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 no uncured defaults in Landlord's performance, and that not more than one (1) month's Fixed Minimum Rent has been paid in advance. Landlord agrees to furnish to Tenant, but in no event more than once during any single Lease Year, similar certificates within a reasonable time following Tenant's request.

27. MISCELLANEOUS

27.1. **Amendments.** No provision of this Lease may be amended except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

27.2. **Application of Payments.** Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect. Notwithstanding any contrary provision in this Lease, if Landlord is obligated to credit or refund any amount owed by Landlord to Tenant and if at such time there is any outstanding Rent due Landlord, Landlord may elect to apply such credit and/or refund toward such outstanding Rent.

27.3. **Audits.** Landlord and Tenant shall each have the right to audit the other party's books and records respecting Gross Sales and Tenant's Share of Variable Costs (respectively) upon not less than twenty (20) days' prior written notice to the other party. Such audits shall be conducted during business hours by a non-contingency fee auditor who was not previously employed by the other and is not employed by a competitor of the other at such offices as the audited party shall reasonably specify. A party may not conduct an audit (a) more than once in each Lease Year or (b) while such party is in default of the Lease. If an audit should disclose that the audited party shall have understated Gross Sales or overstated Tenant's Share of Variable Costs (as applicable) by more than five percent (5%), then the audited party shall pay to the other party all reasonable costs and expenses relating to such audit (including, without limitation, reasonable travel costs) in addition to paying any additional amounts due under this Lease or refunding any overpayment made under this Lease as a result of such understatement or overstatement, as applicable. The results of any such audit shall be kept confidential and not disclosed to any third parties (except to the extent required by law). Neither party shall have the

right (whether at law, at equity or under this Lease) to audit (1) Gross Sales or Tenant's Share of Variable Costs (as applicable) except on the express terms and conditions provided in this Section 27.3 or (2) the amount payable by Tenant as Fixed Costs.

27.4. **Authority of Signatories.** Each person executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant, and that Tenant is qualified to do business in the state where the Center is located, and shall deliver appropriate certification to that effect if requested.

27.5. **Binding Effect.** Except as otherwise expressly provided in this Lease, all of the provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

27.6. **Brokers.** Landlord and Tenant shall each indemnify, defend and hold the other harmless from and against, all damages (including reasonable attorneys' fees and costs) resulting from any claims that may be asserted against Landlord or Tenant by any broker, finder, or other person with whom the indemnifying party has or purportedly has dealt.

27.7. **Captions and Form.** The names of Articles and Sections are for convenience only and shall not be used to interpret or construe the meaning of any provision in this Lease. All references to Articles, Sections and Exhibits are references to Articles and Sections contained in this Lease and Exhibits attached to this Lease unless otherwise expressly provided. Landlord and Tenant acknowledge and agree that (a) this Lease has been freely negotiated by Landlord and Tenant; and (b) in no event shall any ambiguity, controversy, dispute or disagreement over the interpretation, validity or enforceability of this Lease or any of its covenants, terms or conditions, any inference, presumption or conclusion whatsoever be drawn against Landlord by virtue of the initial draft of this Lease having been generated by Landlord.

27.8. **Choice of Law.** This Lease shall be governed by the laws of the state where the Center is located.

27.9. **Confidentiality.** Landlord and Tenant shall each keep this Lease, the content of this Lease, and all related documents ("Confidential Information") strictly confidential and shall not disclose or produce such Confidential Information to any person or entity other than respective parents, subsidiaries, affiliates, agents, accountants, lenders, assignees, subtenants, purchasers, governmental agencies, financial, legal and space planning consultants, Tenant's Franchisor, operation and administrative personnel, and any court of competent jurisdiction; provided, however, (a) in the event either Landlord or Tenant supplies said information to its respective financial, legal and space planning consultants, Landlord and Tenant shall each use reasonable efforts to ensure that such parties maintain said confidentiality, and (b) in the event either Landlord or Tenant supplies said information to a court of competent jurisdiction, Landlord and Tenant shall each provide sufficient notice to the other party so that such other party may reasonably protect said confidentiality, and Landlord and Tenant shall each consent to a protective order if so requested by the other party.

27.10. **Counterparts.** This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. All counterparts shall be construed together and shall constitute a single Lease.

27.11. **Execution by Landlord.** The submission of this document to Tenant does not constitute an offer to lease, or a reservation of, or an option for, the Premises. This document becomes effective and binding only upon Landlord's delivery to Tenant of a counterpart executed by both Landlord and Tenant. Until this Lease is executed by both Landlord and Tenant and delivered by Landlord to Tenant, Landlord and its agents may continue to negotiate with third parties for the leasing of all or portions of the Premises. No act or omission of any employee or agent of Landlord or of Landlord's broker shall alter, change or modify any of the provisions hereof.

27.12. **Exhibits.** All exhibits affixed to this Lease are made a part of, and are incorporated into, this Lease. In particular, the Center Rider, attached as Exhibit E, reflects certain provisions particular to the Center and the state in which the Premises are located. If there are any inconsistencies between this Lease and the provisions of Exhibit E, the provisions of Exhibit E shall prevail.

27.13. **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war or terrorism, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other Casualty, in each case if due to a cause beyond the reasonable control of the party obligated to perform, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent payable by Tenant pursuant to this Lease and Tenant's obligations under Section 12.1.2 (collectively, "Force Majeure") shall, notwithstanding anything to the contrary contained in this Lease, excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure. For purposes of this Section 27.13, a cause shall not be deemed beyond a party's control if it is within the control of such party's agents, employees or contractors.

27.14. **Independent Covenants.** This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary.

27.15. **Labor Contracts.** Neither Tenant nor any of the Tenant Parties shall take any action which creates any work stoppage, picketing, labor disruption or dispute, or interferes with the business of Landlord or any Occupant in the Center or with the rights and privileges of any customer or other person(s) lawfully in the Center, or causes any impairment or reduction of the goodwill of the Center. If there shall be any work stoppage, picketing, labor disruption or dispute as the result of the actions of Tenant or any of the Tenant Parties, Tenant shall immediately undertake such action as may be necessary to eliminate such dispute or potential dispute, including, but not limited to, (a) removing all disputants from the job site until such time as the labor dispute no longer exists, (b) seeking a judgment for a breach of contract between Tenant and Tenant's contractor and (c) filing appropriate unfair labor practice charges in the event of a union jurisdictional dispute.

27.16. **Landlord and Tenant.** The words "Landlord" and "Tenant" include the plural as well as the singular. Words used in the neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there is more than one person or entity constituting Landlord or Tenant, the obligations imposed hereunder upon Landlord or Tenant are joint and several. If Tenant consists of a husband and wife, the obligations of Tenant hereunder extend individually to the sole and separate property of each of them as well as to their community property. The obligations contained in this Lease to be performed by Landlord shall be binding on Landlord's successors and assigns only during their respective periods of ownership of the Premises.

27.17. **Merger.** This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement, negotiations, brochures, arrangements or understanding pertaining to any such matter shall be effective for any purpose unless expressed herein. Tenant has not relied upon any representations, covenants, warranties, promises, agreements, conditions or undertakings, oral or written, made by Landlord or any of the Landlord Parties concerning or relating to the (a) Center, (b) Occupants, (c) Premises, (d) Lease, (e) Tenant's obligation to pay Rent or Additional Rent or (f) the Tenant's business, other than set forth within the Lease. Tenant acknowledges that it has thoroughly and independently investigated the potential for the success of its operations in the Center and has not relied upon any inducements or representations on the part of Landlord or any of the Landlord Parties other than those contained within this Lease. Tenant also acknowledges, understands and agrees that, to the extent any projections, materials or discussions have related to Tenant's projected or likely sales volume, customer traffic, or Tenant's success or profitability, that any and all such projections, materials and discussions are based solely upon Landlord's past

experiences with other Occupants or upon standardized marketing studies, and have not been relied upon by Tenant, and any such discussions or marketing studies shall not be construed as a promise or guarantee that Tenant will realize the same or similar results.

27.18. **Modification of Lease.** Should any current or prospective Mortgagee require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then, and in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are reasonably required therefor and to deliver the same to Landlord within ten (10) days following a request therefor. At the request of Landlord or any Mortgagee, Tenant agrees to execute a short form of Lease and deliver the same to Landlord within ten (10) days following the request therefor.

27.19. **Name of Center.** Landlord expressly reserves the right at any time, after no less than sixty (60) days' notice to Tenant, to change the name of the Center without any liability to Tenant. Tenant shall use the Center's name in referring to the location of the Premises in all newspaper, radio, television and other advertising with respect to Tenant's business at the Premises.

27.20. **No Consent or Approval.** Landlord's or Tenant's consent to or approval of any act by the other requiring its consent or approval shall not constitute a consent or approval of any subsequent act by the other.

27.21. **No Violation.** Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound.

27.22. **No Warranty.** In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation as to the amount of any item comprising Fixed Costs or Variable Costs or the amount of Fixed Costs and Variable Costs in the aggregate or that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis as to Tenant, or any warranty or any statement which is not set forth herein or in one or more of the exhibits attached hereto.

27.23. **Nondiscrimination.** Tenant covenants for itself, its heirs, executors, administrators, successors, and assigns and all persons claiming under or through it or them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, sex, marital status, sexual orientation, national origin, ancestry, age, physical handicap or medical condition, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased, and Tenant and any person claiming under or through Tenant shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, subtenants, licensees, vendees or customers in the Premises.

27.24. **Nonrecordability of Lease.** Tenant shall not record this Lease or a memorandum hereof without Landlord's express prior written consent, which consent may be withheld in Landlord's sole discretion.

27.25. **OFAC Certification**

27.25.1. **Representation and Warranty.** Tenant represents and warrants that:

27.25.1.1. It is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, without limitation, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended ["Executive Order 13224"]), or other governmental action and is not,

and shall not, engage in any dealings or transactions or otherwise be associated with such persons or entities; and

27.25.1.2. It is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation with whom Landlord is restricted from doing business under the regulations of OFAC (including, but not limited to, Executive Order 13224) or other governmental action and is not and shall not engage in any dealings or transactions, employ or otherwise be associated, with such person, group, entity or nation.

27.25.2. **Default.** Any breach of the representation and/or warranty contained in this Section 27.25 shall constitute a non-curable default and is grounds for immediate termination of this Lease by Landlord. Any such exercise by Landlord of its remedies under this Section 27.25 shall not constitute a waiver by Landlord to recover (a) any Rent due under this Lease and (b) any damages arising from such breach by Tenant.

27.26. **Quiet Enjoyment.** So long as Tenant timely pays all Rent, timely performs its covenants and obligations under this Lease and recognizes any successor to Landlord in accordance with the terms of this Lease, Tenant shall lawfully and quietly have, hold and enjoy the Premises during the Term without hindrance or molestation by Landlord or anyone claiming by, through or under Landlord, subject, however, to all Superior Agreements.

27.27. **REIT Qualifications.** Landlord and Tenant agree that all Rent paid to Landlord under this Lease shall qualify as "rents from real property" as defined in Internal Revenue Code Section 856(d) and as further defined in Treasury Regulation Section 1.856-4, as each is amended from time-to-time. Should the requirements of the said Internal Revenue Code Section or Treasury Regulation Section be amended so that any rent no longer qualifies as "rents from real property" for the purposes of the Internal Revenue Code or the Treasury Regulation, the Rent payable to Landlord shall be adjusted so that such Rent will qualify as "rents from real property" under the Internal Revenue Code and Treasury Regulation; provided that such adjustments required pursuant to the provisions of this Section 27.27 shall not increase the monetary obligations of Tenant. If any adjustment of Rent under this Section 27.27, or if Landlord in good faith determines that its status as a real estate investment trust under the provisions of the Internal Revenue Code or the Treasury Regulation will be jeopardized because of any provision of this Lease, Tenant shall, without charge therefor and within ten (10) days after Landlord's written request therefor, execute and deliver to Landlord such amendments to this Lease as may be reasonably required by Landlord to avoid such jeopardy; provided such amendments do not increase the monetary obligations of Tenant or in any other manner materially increase Tenant's obligations or materially decrease Tenant's rights under this Lease.

27.28. **Relationship of Parties.** Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

27.29. **Rules.** Landlord shall have the right at any time to establish, modify, amend and enforce reasonable and non-discriminatory Rules. Tenant shall (and shall cause all of the Tenant Parties to) comply with all Rules.

27.30. **Security.** Landlord may from time-to-time elect to obtain or cease to provide security services and/or devices for the protection of the Common Area. To the extent that such security services and devices are provided, they are not intended to provide protection for the Premises or the persons thereon or the contents thereof and, therefore, Tenant shall obtain any and all security services and/or devices as Tenant shall reasonably require for the protection of the Premises, the Tenant Parties, and Improvements and Personal Property. No firearms or other devices that could cause grievous bodily harm shall be used, possessed or carried by any of Tenant's security services, or any of Tenant or the Tenant Parties, unless Landlord shall have agreed to the same in writing (which consent Landlord may grant or withhold in its sole discretion) and Tenant shall have provided Landlord with such instruments as Landlord

shall require to protect Landlord and the Landlord Parties from any and all liability in connection with the use of such firearms or devices.

27.31. **Severability.** If any provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and every other term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

27.32. **Submittal of Financial Statement.** At any time and from time-to-time during the Term, but not more often than once in any calendar year, within thirty (30) days after request therefor by Landlord, Tenant shall supply to Landlord and/or any of Landlord's Designees a current financial statement, profit and loss statements for the business at the Premises, and/or such other reasonable financial information as may be required by any such party. Such information shall be confidential and Landlord shall not divulge such information, except to any actual or prospective purchaser of Landlord's interest in the Premises or to any actual or prospective lender or as may otherwise be required for Landlord to undertake its obligations and rights under this Lease.

27.33. **Superior Agreements.** This Lease and Tenant's rights hereunder are subject and subordinate in all respects to all Superior Agreements.

27.34. **Survival.** Every obligation to pay Rent, every indemnification of one party by the other and every provision relating to Hazardous Materials shall survive the expiration or earlier termination of this Lease, unless and to the extent otherwise expressly provided in this Lease.

27.35. **Time.** Time is of the essence of this Lease and each and every provision hereof, except as may be expressly provided otherwise.

27.36. **Waivers**

27.36.1. **Waiver of Default.** No delay or omission in the exercise of any right or remedy of Landlord or Tenant for any default by the other shall impair such right or remedy or be construed as a waiver. Any waiver by Landlord or Tenant of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Lease.

27.36.2. **Waiver of Redemption by Tenant.** Tenant hereby waives for Tenant and for all those claiming under Tenant all right now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

27.36.3. **Waiver of Right to Repair.** Except as otherwise expressly provided herein, 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 any repairs, alterations or improvements in or to any portion of the Premises or the Center or in or to the fixtures, appurtenances and equipment therein. Tenant hereby waives the right to make repairs at Landlord's expense under the provisions of any laws permitting repairs by a tenant at the expense of a landlord.

27.36.4. **Waivers Respecting Casualty and Taking.** The provisions of Articles 23 and 24 constitute an express agreement between Landlord and Tenant with respect to any Casualty and Taking, respectively. Therefore, any statute or regulation of the state in which the Premises are located with respect to any rights or obligations concerning damage, destruction or condemnation and any other Article of this Lease, shall have no application to this Lease as to any Casualty or Taking, respectively, as to which Articles 23 and 24 shall govern and prevail.

27.36.5. **Waiver of Trial by Jury and Venue Selection.** TO THE EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR TENANT'S USE OR OCCUPANCY OF THE PREMISES, INCLUDING ANY CLAIM OF

INJURY OR DAMAGE, AND ANY EMERGENCY AND OTHER STATUTORY REMEDY WITH RESPECT THERETO. LANDLORD AND TENANT ALSO AGREE THAT THE VENUE OF ANY SUCH ACTION, PROCEEDING OR COUNTERCLAIM SHALL BE IN THE CITY, COUNTY AND STATE IN WHICH THE CENTER IS LOCATED OR AT SUCH OTHER CITY AND COUNTY AS MAY BE DETERMINED BY LANDLORD IN ITS SOLE AND ABSOLUTE DISCRETION.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

VALLEY STREAM GREEN ACRES LLC
a Delaware limited liability company

By: _____

Name: _____

Title: _____

TENANT:

DREAM SNACK OF NY, INC.,
a New York corporation

By: _____

Name: _____

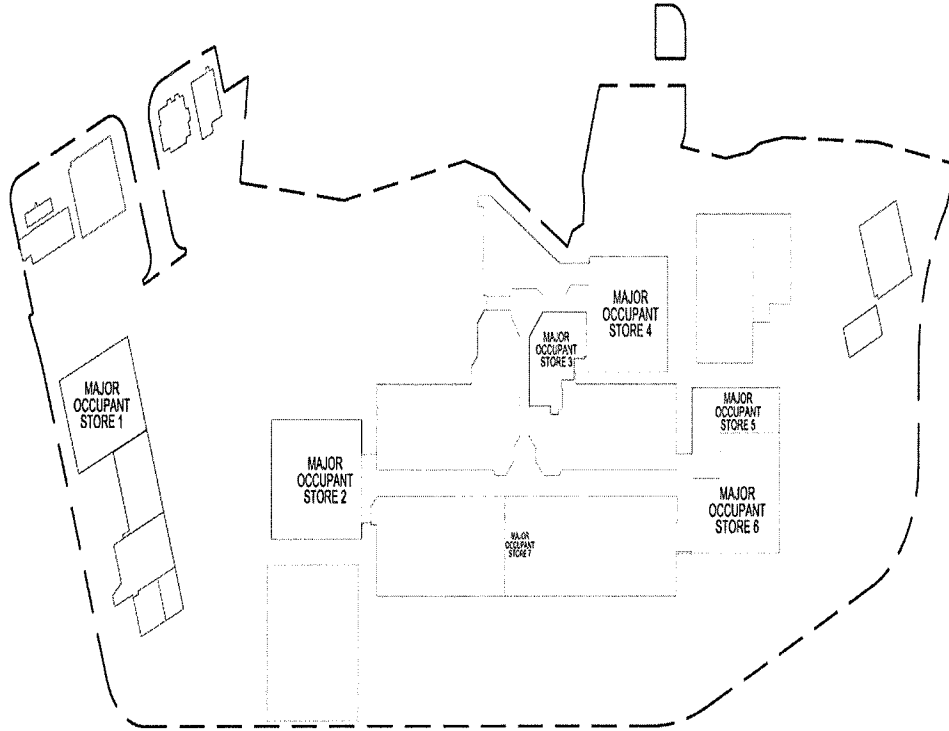
Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT A DEPICTION OF CENTER



LEGEND:

— CENTER BOUNDARY LINE

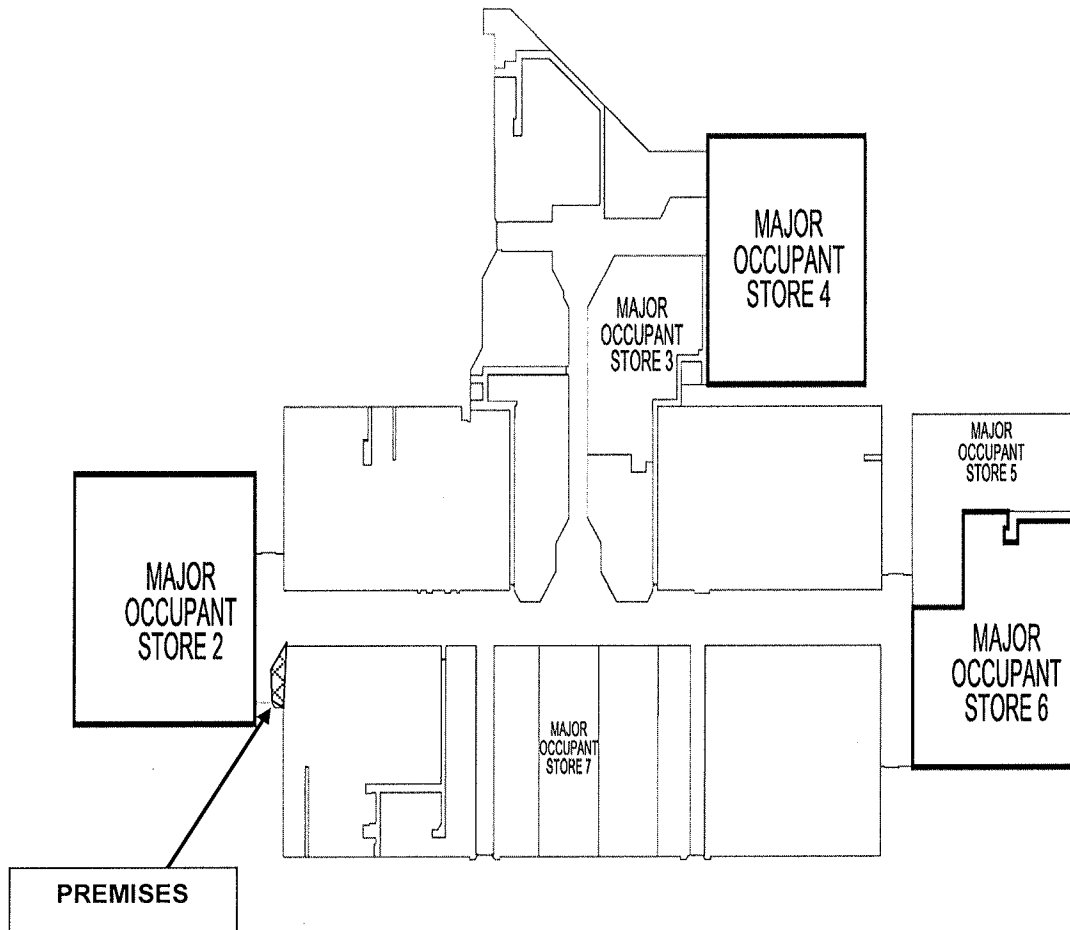


NORTH

GREEN ACRES

This is a schematic plan intended only to show the general layout of the Center or a part thereof. Landlord reserves the right to alter, vary, add to or omit whole or in part any structures, and/or improvements, and/or Common Area, and/or land area shown on this plan. This plan is subject to change and modification as may be made by Landlord or required by any authority having jurisdiction. All measurements and distances are approximate. This plan is not to be scaled. Landlord does not covenant or represent that any Occupant indicated herein is or will remain a tenant in either the space marked or in any other space in the Center and nothing as set forth in this plan is a representation, agreement or easement right except as specifically set forth in the Lease.

**EXHIBIT B
DEPICTION OF PREMISES**



**GREEN ACRES
FIRST LEVEL**

This is a schematic plan intended only to show the general layout of the Center or a part thereof. Landlord reserves the right to alter, vary, add to or omit whole or in part any structures, and/or improvements, and/or Common Area, and/or land area shown on this plan. This plan is subject to change and modification as may be made by Landlord or required by any authority having jurisdiction. All measurements and distances are approximate. This plan is not to be scaled. Landlord does not covenant or represent that any Occupant indicated herein is or will remain a tenant in either the space marked or in any other space in the Center and nothing as set forth in this plan is a representation, agreement or easement right except as specifically set forth in the Lease.

EXHIBIT C
PROVISIONS FOR THE DESIGN
AND CONSTRUCTION OF THE PREMISES
AS IS WITH REMODEL

1. GENERAL PROVISIONS

1.1. **Purpose.** This Exhibit C sets forth certain provisions with respect to Landlord's Work and Tenant's Work.

1.2. **Definitions.** Capitalized terms used in this Exhibit C without definition shall have the meaning ascribed to such terms in the Tenant Package.

1.3. **References.** Unless otherwise expressly provided in this Exhibit C, references to Articles, Sections and captions are references to Articles, Sections and captions contained in this Exhibit C.

1.4. **Conflict.** In the event of a conflict between this Lease, including this Exhibit C, and the Approved Plans (as approved by Landlord), the Approved Plans shall prevail except as to the financial obligations of Landlord and Tenant, which financial obligations shall in any event be governed by the provisions of this Lease, including this Exhibit C.

1.5. **Landlord's Contractors.** Notwithstanding anything to the contrary contained herein, in the event that Landlord requires Tenant to use specific contractors designated by Landlord to perform any of Tenant's Work, the costs and expenses to Tenant for such work by any such contractor designated by Landlord shall be commercially reasonable and competitive in the trade area where the Center is located.

2. TENANT PACKAGE

2.1. **Tenant Package.** Tenant acknowledges that Landlord has made available to Tenant on Landlord's website (www.macerich.com) a Tenant Package which shall govern all of Tenant's Work. Tenant shall, and Tenant shall cause, Tenant's Architect, Tenant's engineer and Tenant's Contractor and subcontractors to, in all respects comply with, and Tenant's Work shall in all respects be subject to, the Tenant Package. "Tenant Package" means the package(s) containing, among other materials, the following: (a) Tenant Design and Construction Criteria, (b) Sign Criteria and Plan Submittal Guidelines, (c) Contractors' Rules and Regulations and (d) Technical Manual. The Tenant Package is hereby incorporated herein and made a part of this Exhibit C by this reference.

2.2. Construction Chargebacks.

2.2.1. **Construction Chargebacks.** Notwithstanding anything contained in the Lease or in this Exhibit C to the contrary, Tenant shall not be required to pay to Landlord, or reimburse Landlord for, any work performed by Landlord upon the Premises prior to the Delivery Date or the date Tenant takes possession of the Premises, whichever is earlier (all of which is sometimes referred to as "Construction Chargebacks"), except for the costs and expenses of the following, all of which Tenant shall remain obligated to pay to Landlord:

2.2.2. Work performed as a result of the Approved Plans or as an accommodation to Tenant's special requirements.

2.2.3. Removal of construction rubbish and debris resulting from Tenant's Work, in the event Tenant fails to remove the same and Landlord removes such construction rubbish on Tenant's behalf, not to exceed \$450.00.

2.2.4. Damage to the Center in connection with Tenant's Work.

2.2.5. Work performed by Landlord or Landlord's contractor at Tenant's request.

2.2.6. Temporary Utilities used by Tenant during Tenant's Work; provided that for this Lease at Washington Square, Tenant will not be required to pay for Temporary Utilities.

2.2.7. a refundable Construction Deposit in the amount of \$2,000.00.

2.3. **Payment of Construction Chargebacks.** Any Construction Chargebacks which Tenant is obligated to pay hereunder shall be payable by Tenant to Landlord within ten (10) days following Tenant's receipt of an invoice therefor or pursuant to the terms of the Tenant Package.

3. DESCRIPTION OF LANDLORD'S WORK

3.1. **Landlord's Work Defined.** "Landlord's Work" means the work, if any, which Landlord is expressly obligated to undertake pursuant to this Article 3. Except as set forth herein or in the Tenant Package, Landlord shall have no obligation to improve, remodel, alter or otherwise modify or prepare the Premises or the Center in connection with Tenant's occupancy.

3.2. **Center.** Landlord or its predecessor-in-interest has constructed the Center, and the Building and other improvements upon the Center (exclusive of improvements constructed by or on behalf of each present and prior Occupant). Tenant has inspected the Center, the Building, the Utilities, the types, quantities and qualities of the Utilities, and the other systems and Tenant has found the same to be suitable, sufficient and in acceptable condition for the purpose of Tenant conducting the Permitted Use upon the Premises. Landlord shall have no obligation to undertake any work or furnish any additional materials upon any part of the Center or to provide any additional Utilities or other systems for the benefit of the Premises.

3.3. **Tenant Coordinator.** Landlord shall designate a person, or persons, as Tenant Coordinator ("Tenant Coordinator") who alone shall have authority on behalf of Landlord to oversee and manage the review and approval of Preliminary Documents, Construction Documents, As-Built Documents, Plan Revisions and other matters specified in this Exhibit C and the Tenant Package. No matter shall be deemed approved by Landlord under this Exhibit C or the Tenant Package unless approved in writing by the Tenant Coordinator. Landlord may, from time-to-time and upon written notice to Tenant's Representative, name another person or persons as Tenant Coordinator.

4. DESCRIPTION OF TENANT'S WORK

4.1. **Condition of Premises.** Upon the Delivery Date, Tenant shall accept delivery of the Premises in an "As Is" condition and "With All Faults" and Landlord shall have no obligation to improve, remodel, alter or otherwise modify or prepare the Premises for Tenant's occupancy except to the extent otherwise expressly stated in Article 3 as "Landlord's Work", if any. Tenant hereby represents each of the following: (a) Tenant or its authorized representative has inspected the Premises and has made all inquiries, tests and studies that it deems necessary in connection with its leasing of the Premises, (b) Tenant is relying solely on Tenant's own inspection, inquiries, tests and studies conducted in connection with, and Tenant's own judgment with respect to, the condition of the Premises and Tenant's leasing thereof and (c) Tenant is leasing the Premises without any representations or warranties, express, implied or statutory by Landlord, or Landlord's agents, brokers, finders, consultants, counsel, employees, officers, directors, shareholders, partners, trustees or beneficiaries.

4.2. **Tenant's Work Defined.** "Tenant's Work" means the purchase, installation, construction and performance of the improvements and duties specified in the Approved Plans and as described in the Tenant Package for a full and complete remodel of the Premises and the purchase, installation and construction of all Tenant's furniture, equipment and Personal Property, all at Tenant's sole cost and expense (except to the extent otherwise expressly provided in the Tenant Package) and in compliance with applicable Governmental Regulations. All Tenant's Work shall be performed by a licensed, bondable contractor retained by Tenant and approved in advance, in writing, by Landlord ("Tenant's Contractor"). Tenant's Contractor shall construct Tenant's Work in a good and workmanlike manner and complete Tenant's Work in accordance with the Approved Plans, the Lease and the Tenant Package, and in compliance with all Governmental Regulations.

4.3. **Tenant's Architect.** Tenant shall engage the services of a licensed architect ("Tenant's Architect") to prepare the Preliminary Documents, Construction Documents and As-Built Documents, unless the scope of Tenant's Work does not involve any structural elements or other elements wherein an architect would be required.

4.4. **No Mezzanines.** No mezzanines shall be permitted upon the Premises. The approval of the Preliminary Documents or Construction Documents containing any depictions of mezzanines shall not constitute either Landlord's approval of any mezzanine upon the Premises or a waiver of the prohibition against mezzanines set forth in this Section 4.4. As used herein, the term "mezzanine" shall apply to all mezzanines regardless of purpose and shall include, without limitation, mezzanines used for storage.

4.5. **On-Site Corrections.** Tenant Coordinator reserves the right to make any on-site corrections to any of the Approved Plans.

4.6. **Scope of Approval.** Landlord's approval of the Preliminary Documents, the Construction Documents and the Approved Plans shall not constitute any representation or warranty by Landlord that the same are complete or sufficient for (a) purposes of Tenant's design, (b) purposes of constructing the Premises or any part of the Premises or (c) complying with any Governmental Regulations. Landlord shall not be liable to Tenant if the Preliminary Documents, the Construction Documents or the Approved Plans fail to satisfy any of the provisions specified in (a), (b) and/or (c) preceding and Tenant shall not be relieved of any of its obligations under this Exhibit C, the Tenant Package, the Lease or Governmental Regulations on account of any such approval by Landlord.

4.7. **Plan Review Fee.** Tenant shall pay to Landlord the Plan Review Fee for Tenant Coordinator's review of the Preliminary Documents, which amount shall be in addition to any fees in connection with the review of Tenant's construction documents by any third-party consultants as may be required by any applicable governmental authorities, within ten (10) days after Landlord's demand therefor.

4.8. **Plan Revisions.** If Tenant requires any changes, additions, deletions or other modifications to the Approved Plans, Tenant shall submit revised Construction Documents clearly identifying all changes, additions, deletions and other modifications ("Plan Revisions") to Tenant Coordinator for approval on behalf of Landlord. Tenant Coordinator shall promptly review the Plan Revisions and approve, conditionally approve or disapprove the Plan Revisions. Plan Revisions shall be at the sole cost and expense of Tenant.

4.9. **Landlord's Right to Access.** Throughout the entire course of Landlord's Work and Tenant's Work, Landlord, Landlord's authorized representatives (including Tenant Coordinator) and Landlord's contractors shall have access to the Premises and shall have the right to inspect the progress of Tenant's Work, Tenant's and Tenant's Contractor's compliance with the provisions of the Lease, this Exhibit C and the Tenant Package, and to install such portions of Landlord's Work that first requires all or some portion of Tenant's Work to be completed. If Landlord or any of Landlord's representatives or contractors shall enter the Premises during the course of Tenant's Work, Landlord shall use commercially reasonable efforts to avoid interfering with the progress of Tenant's Work upon the Premises.

4.10. **Commencement of Tenant's Work.** Promptly following (a) intentionally omitted, (b) Landlord's approval of the Approved Plans, (c) Tenant's receipt of all permits and licenses required by governmental authorities and (d) the complete satisfaction of all requirements under the Lease, this Exhibit C and the Tenant Package which Tenant and Tenant's Contractor are obligated to perform prior to commencing construction of Tenant's Work, Tenant shall cause Tenant's Contractor to commence Tenant's Work in accordance with the Approved Plans, the Lease, this Exhibit C and the Tenant Package and to diligently pursue the same to completion and to open the Premises for business on or before the Required Opening Date.

5. CLOSE-OUT PACKAGE

5.1. **Close-Out Package.** Tenant shall perform and provide Landlord with each of the following within the time frame specified therefor all at Tenant's sole cost and expense (collectively, "Close-Out Package"):

5.1.1. **Compliance and Close-Out Documentation.** All compliance and close out documentation as detailed in Section U of the Contractors' Rules and Regulations in connection with the performance of Tenant's Work.

5.1.2. **Affidavit of Improvements Cost.** Tenant shall deliver to Landlord, within forty-five (45) days after the substantial completion of Tenant's Work (a) an affidavit, certified as true and correct by an Authorized Officer of Tenant, setting forth in reasonable detail the amounts paid by Tenant for the leasehold improvements made by Tenant (less any amounts paid by Landlord toward such leasehold improvements and specifically excluding all costs for Personal Property), and (b) all paid invoices for Tenant's Work.

EXHIBIT D
CERTAIN DEFINED TERMS

1. INTENT

1.1. **Intent.** The purpose of this Exhibit D is to set forth certain defined terms which are used in the Lease. Terms which are not defined in this Exhibit D are defined in the Lease or the Exhibits attached to the Lease.

1.2. **References.** All references to Articles, Sections and captions contained in this Exhibit D are Articles, Sections and captions contained in the Lease unless otherwise provided.

2. CERTAIN DEFINED TERMS

2.1. **Active Negligence** means (a) some positive act or some failure in duty of operation which is equivalent of a positive act and is omission of due care and affirmative action by a person in control, or (b) negligence (including passive and/or inadvertent negligence and/or omissions) occurring in connection with activities conducted on the Premises. For purposes of clarification only, Active Negligence means all inadvertent acts causing injury to others, resulting from the failure to exercise ordinary care; and, further, all acts, the effects of which, are misjudged or unforeseen, through want of proper attention or reflection.

2.2. **Additional Rent** means all amounts payable by Tenant under this Lease, other than Fixed Minimum Rent and Percentage Rent.

2.3. **Address for Payment of Rent** means the address specified at Section 1.20.

2.4. **Administrative Charge** means fifteen percent (15%) of the subject sum. The Administrative Charge is intended to reimburse Landlord for additional administrative costs incurred by Landlord for providing work, materials or services.

2.5. **Affiliate** means any entity that Controls, is Controlled by or is under common Control with another specified entity.

2.6. **Agreed Rate** means the prime commercial rate of interest charged from time-to-time by Wells Fargo Bank, National Association (or, if the same does not exist, such other comparable bank selected by Landlord), plus two percent (2%) per annum, but not to exceed the maximum rate of interest allowable under law.

2.7. **Annual Base Sales** means the annual figure specified at Section 1.11, as the same may be adjusted from time-to-time pursuant to this Lease.

2.8. **Annual Fixed Minimum Rent** means the annual rent sum specified at Section 1.8, as the same may be adjusted from time-to-time pursuant to this Lease.

2.9. **Annual Sales Statement** means a written statement in the form attached as Exhibit G to the Lease certified to be true and correct by an Authorized Officer of Tenant.

2.10. **Approved Plans** means the final set of plans for Landlord's Work and/or Tenant's Work (as the case may be) which have received the final written approval of both Landlord and Tenant to the extent required by any applicable provisions of this Lease and the Tenant Package.

2.11. **Assignment, Assign and Assigning** mean any assignment of Tenant's interest in the Lease and Assignment Instrument means the instrument by which an Assignment is made.

2.12. **Attached Fixtures** means such trade fixtures, equipment and other Personal Property which is attached or affixed to the Premises and cannot be removed without causing damage to the Premises (including, without limitation, carpeting, flooring, lighting, light fixtures, electrical systems, communications wiring and cabling, built-in shelving, built-in furniture and the cash wrap), and specifically excludes any leased equipment or Personal Property.

2.13. **Authorized Officer** means (a) each natural person who executed the Lease (or the most recent amendment of the Lease), if Tenant is one or more natural persons, (b) an authorized officer, if Tenant is a corporation, (c) an authorized or managing partner, if Tenant is a partnership or a limited liability partnership or (d) an authorized member, if Tenant is a limited liability company.

2.14. **Bankruptcy Code** means the Bankruptcy Code 11 U.S.C. 101 et seq., as amended from time-to-time.

2.15. **Building** means the building, if any, of which the Premises are a part.

2.16. **Casualty** means fire or any other casualty.

2.17. **Center** means that certain commercial project, the name and approximate location of which is specified at Section 1.1.

2.18. **Center Hours** is defined at Section 1.16.

2.19. **Claims** means, collectively, claims, charges, liabilities, obligations, penalties, causes of action, liens, damages, costs and expenses, including reasonable attorneys' and other expert and third party fees and costs.

2.20. **Close-Out Package** is defined at Exhibit C.

2.21. **Common Area** means all improvements, facilities, equipment, signs, land and areas (as each may be enlarged, reduced, dedicated to retail use, replaced, increased, removed, demolished or otherwise altered in any way by Landlord) within the exterior boundaries of the Center which are now or hereafter made available for general use, convenience or benefit of more than one (1) Occupant, which may include, but shall not be limited to, parking areas, access and perimeter roads, driveways, loading docks, pedestrian malls and courts (whether enclosed or unenclosed), corridors, stairs, ramps, elevators, escalators, first-aid stations, security stations, drinking fountains, toilets, public washrooms, community halls, auditoriums, and other public facilities, parcel pick-up stations and landscaped areas. Common Area shall include any other land which Landlord, by means of purchase, lease or otherwise, acquires, and which land is not presently part of the Center, to the extent Landlord designates all or any portion of such land available as Common Area.

2.22. **Competing Interest** is defined at Section 10.3.1.

2.23. **Control, Controlled and Controls** mean the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least fifty-one percent (51%) of the voting interest in, any person or entity.

2.24. **Delivery Date** means the date Landlord delivers possession of the Premises to Tenant. Landlord estimates the Delivery date will be February 1, 2024 ("Estimated Delivery Date"). The foregoing is only an estimate and Landlord makes no representations or warranties to Tenant that the Premises will be delivered on the Estimated Delivery Date.

2.25. **Effective Date** is defined in the preamble to this Lease.

2.26. **Intentionally Omitted (Form)**.

2.27. **Environmental Laws** means any and all federal, state and local laws, regulations, ordinances, codes and policies, and any and all judicial or administrative interpretations thereof by governmental authorities, as now in effect or hereinafter amended or enacted, relating to:

2.27.1. Pollution or protection of the environment, natural resources or health and safety; including, without limitation, those regulating, relating to, or imposing liability for emissions, discharges, releases or threatened releases of Hazardous Materials into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, release, transport or handling of Hazardous Materials; and

2.27.2. The use of chemical, electrical, radiological or nuclear processes, radiation, sophisticated electrical and/or mechanical equipment, sonar and sound equipment, lasers, and laboratory analysis and materials.

2.28. **Excluded Floor Area** means the total Floor Area of all of the following (but excluding the Floor Area of the Premises) designated for occupancy by: Major Occupant Stores, premises between 15,000 and 40,000 square feet of Floor Area, premises having an exterior entrance (but only if the Center contains an enclosed mall), movie theatres, pad sites, premises of educational facilities or offices, restaurants, mezzanines, storage areas, premises used or occupied by Temporary Tenants, Landlord's management office(s), merchants' association offices, marketing service offices, maintenance buildings and offices, equipment rooms utilized by Landlord for the maintenance of the Common Area, and such facilities and areas the primary purpose of which is to afford services, convenience or recreation to customers and invitees of the Center or for municipal and community purposes, which include, without limitation, post offices, security and/or police offices, child care facilities, and rooms used for community or public meetings.

2.29. **Executive Order 13224** is defined at Section 27.25.1.1.

2.30. **Expiry Date** means the date specified at Section 1.8.

2.31. **First Fixed Costs Adjustment Date** is defined at Section 5.5.1

2.32. **Fixed Costs** means the annual figure specified at Section 1.25 as the same may be adjusted from time-to-time pursuant to this Lease.

2.33. **Fixed Costs Adjustment Date** is defined at Section 5.7.1.

2.34. **Fixed Minimum Rent** means Annual Fixed Minimum Rent and/or Monthly Fixed Minimum Rent (as the case may be).

2.35. **Floor Area means** (a) with respect to areas in the Center that are available from time-to-time for the exclusive use and occupancy by an Occupant, Landlord's calculation of the number of square feet of floor area of all floors in such subject space measured from the exterior faces of all exterior walls (and from the extensions thereof in the case of openings) and from the center line of interior demising walls inclusive of the floor area of mezzanines and basements (unless otherwise excluded) and (b) with respect to RMUs, Landlord's calculation of the floor area of the footprint of each of the RMUs. Landlord and Tenant stipulate to all Floor Area calculations made from time-to-time by Landlord.

2.36. **Floor Area of the Premises** means the number of square feet of Floor Area specified at Section 1.3.

2.37. **Force Majeure** is defined at Section 27.13.

2.38. **Governmental Regulations** means all laws, statutes, ordinances, rules, regulations, zoning codes, building codes, standards and requirements now or hereafter in force of all governmental and quasi-governmental authorities, and of all board of fire insurance underwriters, having jurisdiction of the Premises or the Center.

2.39. **Grand Opening Charge** is defined at Section 1.15.

2.40. **Grand Opening Event** means each time after the Effective Date (a) a new Major Occupant initially opens its premises in the Center to the public or (b) the amount of leasable Floor Area in the Center increases by 20,000 or more square feet.

2.41. **Gross Sales** is defined at Section 7.1.1.

2.42. **Guarantor(s)** means those person(s) and/or entities whose name(s) appear at Section 1.23.

2.43. **Hazardous Materials** means any and all substances, chemicals, wastes, sewage or other materials that are now or hereafter regulated, controlled or prohibited by any Environmental Laws, including, without limitation, any (a) substance defined as a 'hazardous substance', 'extremely hazardous substance', 'hazardous material', 'hazardous chemical', 'hazardous waste', 'toxic substance' or 'air pollutant' by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Clean Air Act, 42 U.S.C. Section 7401, et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001, et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; or the Occupational Safety and Health Standards, 25 C.F.R. 1910-1000 et seq., or regulations promulgated thereunder, all as amended to date and as amended hereafter; (b) hazardous substance, hazardous waste, toxic substance, toxic waste or hazardous material, waste, chemical or compound described in any other Environmental Laws; and (c) asbestos, polychlorinated biphenyls, urea formaldehyde insulation, flammable or explosive or radioactive materials, gasoline, oil, motor oil, waste oil, petroleum (including, without limitation, crude oil or any component thereof), petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonium compounds, and other regulated chemical products.

2.44. **HVAC** means heating, ventilating and air conditioning system(s).

2.45. **Intentionally Omitted (Form).**

2.46. **Improvements** means all existing and future fixtures, installations, alterations, replacements, additions, changes and improvements to the Premises.

2.47. **Index** means the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, U.S. City Average, Subgroup 'All Items' (1982-84=100). If the foregoing Index is not available, then the successor or substitute index published by the Bureau of Labor Statistics shall be used by Landlord as the Index. If the Bureau of Labor Statistics does not publish such successor or substitute Index, a reliable governmental or other non-partisan publication evaluating substantially the same consumer information shall be used by Landlord for the Index. If Landlord uses any substitute or successor index or other publication, the same shall be converted to a basis of 100 if the basis used for such other index or publication is less than 100.

2.48. **Insured Casualty** means damage or destruction the repair of which is fully covered by insurance proceeds made available to Landlord for repair and restoration pursuant to any insurance policy required to be carried by Landlord under the terms of this Lease.

2.49. **Insuring Party** is defined in Section 8.1.3.

2.50. **Involuntary Assignment** means any transfer of interest of Tenant in the Lease by operation of law (including, without limitation, the transfer of this Lease by testacy or intestacy, or in any bankruptcy or insolvency proceeding) and each of the following acts shall be considered an Involuntary Assignment: (a) If Tenant is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under any bankruptcy law in which Tenant is the bankrupt; or, if Tenant is a partnership or consists of more than one (1) person or entity, if any partner of the partnership or other such person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors; (b) if a writ of attachment or execution is levied on this Lease; (c) if, in any proceeding or action to which Tenant is a party, a receiver is appointed with authority to take possession of the Premises; or (d) there is any assumption, assignment, sublease or other transfer under or pursuant to the Bankruptcy Code.

2.51. **Landlord** is defined in the preamble to this Lease.

2.52. **Landlord Parties** means, collectively, the Manager, Landlord's Designees and the respective past, present and future partners, officers, directors, shareholders, beneficiaries, trustees, employees, agents and independent contractors of both Landlord and Manager.

2.53. **Landlord's Address for Notices** means the address specified at Section 1.18.

2.54. **Landlord's Broker(s)** means the broker(s), if any, specified at Section 1.21.

2.55. **Landlord's Designees** means, collectively, the Manager, the Mortgagee, any lessors under any ground or underlying leases liening the Premises and such person(s) designated by Landlord as having an insurable interest in the Premises.

2.56. **Landlord's Sales Reporting Address** means the address for Landlord set forth at Section 1.25.

2.57. **Landlord's Work** is defined at Exhibit C.

2.58. **Lease** is defined in the preamble to this Lease.

2.59. **Lease Year** means, as to the first Lease Year, the period from the Rent Commencement Date through the immediately following December 31, and as to each subsequent Lease Year, the period of January 1 of a given year through the immediately following December 31 of the same year; however, the last Lease Year shall end upon the Expiry Date.

2.60. **Major Destruction** means any destruction (whether or not an Insured Casualty) (a) to the extent of more than twenty five percent (25%) of the full replacement cost of any of the Premises, the Building, the parking structures located at the Center or the Center, as the case may be, as of the date of destruction, (b) that will take in excess of one (1) year to complete repair and restoration, or (c) that occurs at any time during the last twenty four (24) months of the Term.

2.61. **Major Occupant** means each Occupant (if any) occupying premises containing at least 40,000 square feet of contiguous Floor Area, and shall include such Occupants who have (if any) contiguous stores with different trade names but with direct access between or among such stores.

2.62. **Major Occupant Stores** means (a) each of the premises (if any) identified on Exhibit A as a "Major Occupant Store" and (b) the premises occupied, or designated for occupancy, by Major Occupants.

2.63. **Mall** means (a) that portion of the Common Area which is contained in the enclosed mall, if the Center contains an enclosed mall, or (b) the Common Area of the Center, if the Center does not contain an enclosed mall.

2.64. **Manager** means such entity with whom Landlord then has an agreement to manage the Center.

2.65. **Mezzanine** is defined at Exhibit C.

2.66. **Monthly Fixed Minimum Rent** means the monthly rent sum specified at Section 1.9, as the same may be adjusted from time-to-time pursuant to this Lease.

2.67. **Monthly Sales Statement** means a written statement in the form attached as Exhibit G to the Lease certified to be true and correct by an Authorized Officer of Tenant.

2.68. **Mortgage and Mortgagee** are each defined in Section 26.1.

2.69. **Notice of Transfer Termination** is defined at Section 14.5.1.

2.70. **Occupant** means any entity, inclusive of Tenant and exclusive of Landlord (except to the extent Landlord operates any retail business open to the public in the Center), entitled by any form of instrument to occupy Floor Area in the Center.

2.71. **OFAC** is defined at Section 27.25.1.1.

2.72. **Percentage Rent** means the amount, if any, equal to the product obtained by multiplying the Percentage Rent Rate by the amount of Gross Sales for each Lease Year that is in excess of the Annual Base Sales for each such Lease Year.

2.73. **Percentage Rent Rate** means the rate specified at Section 1.10.

2.74. **Permitted Exclusions** is defined at Section 7.1.2.

2.75. **Permitted Use** means the use specified at Section 1.12.

2.76. **Personal Property** means all of the following which do not otherwise constitute Attached Fixtures: Tenant's trade fixtures, equipment, appliances, furniture, displays, Storefront Sign, other signs, inventory, merchandise and other personal property.

2.77. **Plan Review Fee** means the sum of Two Thousand Five Hundred Dollars (\$2,500.00); however, (a) if the scope of the plans depicts nothing more than painting, carpeting, installing or remodeling the storefront and Storefront Sign, such sum shall be in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00), and (b) if the scope of the plans depicts nothing more than the Storefront Sign, such sum shall be in the amount of Five Hundred Dollars (\$500.00). The Plan Review Fee shall be subject to annual increase (but never a decrease) on each anniversary of the Effective Date as follows: The Index published four (4) months prior to the Effective Date ("Base Year" for purposes of this Section only) shall be compared to the Index published four (4) months prior to each anniversary of the Effective Date anniversary ("Comparison Year" for purposes of this Section only), and the Plan Review Fee shall be increased by the percentage increase, if any, in the Index published for the Comparison Year over the Index published for the Base Year. Notwithstanding anything contained in the Lease, Exhibit C or this Exhibit D, Section 2.77 to the contrary, the Plan Review Fee in connection with Tenant's Work set forth in Section 3.2 shall be waived; provided, however, Tenant shall be required to pay the Plan Review Fee set forth above in connection with Tenant's Work for each subsequent instance during the Term.

2.78. **Plan Revisions** is defined at Exhibit C.

2.79. **Premises** means that certain space identified at Section 1.2.

2.80. **Proposed Transfer Date** means the effective date of such Transfer, as specified by Tenant in writing to Landlord.

2.81. **Radius** is defined at Section 1.17.

2.82. **Real Estate Taxes** means, without limitation, all taxes (except for franchise, gift, estate, inheritance or net income taxes [unless and then only to the extent that net income taxes are a substitute for real estate taxes]), assessments and reassessments (whether resulting from any new construction, renovation or replacement of existing improvements or a transfer of all or any portion of the Center or otherwise), whether special or general, bonds, permit fees, license fees, license taxes, levies and penalties imposed, assessed or levied against the Center or any portion thereof by any authority having the direct or indirect power to impose, assess or levy the same, including, without limitation, any city, county, state or federal government or agency thereof, or any school, agricultural, lighting, drainage, fire, street, sanitary, community facilities or other improvement district thereof; all taxes, fees and/or charges on the operation and use of the Center or Common Area imposed by any federal, state or local governmental entity; taxes on Landlord's personal property used in connection with the maintenance or operation of the Center or made available for general use, convenience or benefit of more than one (1) Occupant; all impositions (whether or not such impositions constitute tax receipts to governmental agencies) in substitution, partially or totally, of any impositions now or previously included within the definition of real estate taxes, including, without limitation, those imposed or required by governmental agencies to increase tax increments to governmental agencies and for such services as fire protection, street, sidewalk and road maintenance, refuse removal and/or for other governmental services formerly provided without charge to property owners or occupants (it being the intention of Landlord and Tenant that all such new and/or increased impositions and all similar impositions be included within the definition

of Real Estate Taxes for purposes of this Lease); interest on the foregoing to the extent any of the same are paid in installments; and the costs of professionals and counsel to analyze tax bills and/or prosecute any challenges, protests, refunds and appeals. In no event shall Real Estate Taxes include interest charges, fines or late charge penalties for late or non-payment of taxes by Landlord, or franchise, business license, corporate, documentary transfer, succession, inheritance, estate, transfer, gift, capital levy, excess profit or net profit taxes unless any of such taxes is imposed in lieu of, or in substitute for, ad valorem real property taxes or assessments. In the event Real Estate Taxes include any special assessments which are levied and assessed against the Building, the Center or land of which the Premises are a part which may be payable over time instead of in a lump sum, the amount of special assessments included in Real Estate Taxes during any Lease Year shall be limited to the amount of the installments of special assessments required to be paid during the Lease Year in which they are due and payable. The amount of such special assessments included in Real Estate Taxes for any Lease Year shall be treated as if Landlord elected the longest period of time allowed by the authority imposing the special assessment in which to pay installments thereof, including any interest or fees for such payment over time.

2.83. **Refund Date** means the date which is the later of (a) the Expiry Date or date of earlier termination of this Lease, or (b) the date Tenant has fully performed all of its Surrender Obligations under Section 13.1.

2.84. **Refurbishment** is defined at Section 12.2.

2.85. **Refurbishment Notice** is defined at Section 12.2.

2.86. **Reimbursed Cost(s)** means Landlord's cost for performing specific work or services, or providing materials on behalf of Tenant, together with interest at the Agreed Rate, calculated from the date Landlord performs such work or services, or provides such materials, until the date that any such cost(s) are paid by Tenant. Tenant shall pay any Reimbursed Costs within ten (10) days after Landlord's written demand therefor.

2.87. **Relocation Notice** is defined at Section 17.5.1.

2.88. **Rent** means Fixed Minimum Rent, Percentage Rent and Additional Rent.

2.89. **Rent Commencement Date** means the date specified at Section 1.7.

2.90. **Rent Inquiry Address** means the addresses for Landlord and Tenant, respectively, set forth at Section 1.24.

2.91. **Request to Transfer** is defined at Section 14.3.

2.92. **Required Opening Date** means the date specified at Section 1.6.

2.93. **Review Fee** is defined at Section 14.11.

2.94. **RMUs** means sales areas, display areas, carts, kiosks and other retail merchandising units of Occupants located from time-to-time in the Common Area.

2.95. **Rules** means such rules and regulations established from time-to-time by Landlord with respect to the Center.

2.96. **Security Deposit** means the sum specified at Section 1.14.

2.97. **Storefront Sign** means the sign for the Premises facing onto the Mall which shall contain no name other than the Trade Name.

2.98. **Subletting** and **Sublet** mean a subletting of all or any portion of the Premises or any concession, franchise or license with respect to the Premises.

2.99. **Substitute Lease** is defined at Section 17.5.1.

2.100. **Superior Agreements** means all mortgages, deeds of trust, ground leases, reciprocal easement agreements, declarations, covenants, conditions, restrictions, easements, rights-of-way and other matters of record (whether placed of record on, prior to, or after the Effective Date) affecting all or any portion of the Center, as the same may be modified, amended and supplemented from time-to-time.

2.101. **Surrender Obligations** is defined at Section 13.1.

2.102. **Taking** means any taking or appropriation for public or quasi-public use by the right of eminent domain or otherwise by a taking in the nature of inverse condemnation, with or without litigation, or a transfer by agreement in lieu thereof.

2.103. **Temporary Tenants** means all Occupants under leases, licenses or other agreements each with an original stated term of twelve (12) months or less.

2.104. **Tenant** is defined in the preamble to this Lease.

2.105. **Tenant Coordinator** is defined at Exhibit C.

2.106. **Tenant Indemnified Parties** means, collectively, Tenant's Occupants and the respective past and present officers, directors, shareholders, agents, employees and independent contractors of both Tenant and Tenant's Occupants.

2.107. **Tenant Package** is defined at Exhibit C.

2.108. **Tenant Parties** means, collectively, Tenant's Occupants and the respective past and present officers, directors, shareholders, invitees, customers, agents, employees and independent contractors of both Tenant and Tenant's Occupants.

2.109. **Tenant's Address for Notices** means the address specified at Section 1.19.

2.110. **Tenant's Architect** is defined at Exhibit C.

2.111. **Tenant's Broker(s)** means the broker(s), if any, specified at Section 1.22.

2.112. **Tenant's Contractor** is defined at Exhibit C.

2.113. **Tenant's Occupants** means all concessionaires, licensees, subtenants, assignees and others holding any rights to, or interest in, any part of the Premises under Tenant.

2.114. **Tenant's Receipts** is defined at Section 7.2.

2.115. **Tenant's Records** is defined at Section 7.2.

2.116. **Tenant's Representative** is defined at Exhibit C.

2.117. **Tenant's Share** means a fraction, the numerator of which is the Floor Area of the Premises and the denominator of which is the Floor Area of the Center (inclusive of the Premises, but exclusive of the Excluded Floor Area), which is from time-to-time occupied and open for business.

2.118. **Tenant's Work** is defined at Exhibit C.

2.119. **Term** means the period of time specified at Section 1.4.

2.120. **Trade Name** means the name(s) specified at Section 1.13.

2.121. **Transfer** and **Transferring** mean either an Assignment or a Subletting or both, as the case may be.

2.122. **Transferee** means all of the following: Concessionaire(s), franchisee(s), licensee(s), assignee(s) and subtenant(s), as the case may be.

2.123. **Unamortized Amount** shall mean an amount equal to the remaining unamortized net cost paid by Tenant for initial Improvements (including any refurbishment, but excluding all amounts either [a] paid by Landlord toward such Improvements, or [b] spent by Tenant on Personal Property) amortized

as of the effective date of any termination on a straight-line basis commencing on the Rent Commencement Date through the Expiry Date.

2.124. **Uninsured Casualty** means damage or destruction resulting from any flood, earthquake, act of war, act of terrorism, nuclear reaction, nuclear radiation or radioactive contamination, or any other casualty of any kind or nature whatsoever which is not an Insured Casualty.

2.125. **Utilities** means all water, gas, sewer, heat, electricity, steam, chilled water, conditioned water, hot water, sprinklers, fire-life safety systems, lighting, power, HVAC, telephone service and other telecommunications services, sewer service, refuse removal service and all other utilities and related services.

2.126. **Utility Facilities** means any and all systems, machinery, facilities, installations, supply lines, transformers, pipes, conduits, ducts, penetrations, components, appurtenances and equipment, located on or at the Center, for the generation or supply of any Utilities (including, without limitation, any central plants and individual HVAC units owned or maintained by Landlord).

2.127. **Vacation** is defined at Section 19.1.3.

2.128. **Variable Costs** means Real Estate Taxes together with an Administrative Charge calculated on Real Estate Taxes.

EXHIBIT E
CENTER RIDER
GREEN ACRES MALL

1. GENERAL PROVISIONS

1.1. **Purpose.** This Exhibit E sets forth certain provisions particular to the Center and the state in which the Premises are located.

1.2. **Prevailing Provisions.** If there are any inconsistencies between the Lease and the provisions of this Exhibit E, the provisions of this Exhibit E shall prevail.

1.3. **Definitions.** Unless otherwise expressly defined in this Exhibit E, all capitalized words shall have the meanings specified in the Lease.

2. AMENDMENT AND SUPPLEMENTS

The following Articles and Sections of the Lease are amended and supplemented as follows:

2.1. **Article 2 (Premises)** is amended by adding the following new Section(s) to the end thereof:

New York Real Property Law. If a Section of this Article provides that the Premises are occupied upon the Effective Date by another Occupant, then the provisions thereof are intended to constitute 'an express provision to the contrary' within the meaning of Section 223-a of the New York Real Property Law, as the same may be amended from time-to-time, or under any similar statute now or hereafter in force, or under any present or future laws or case decisions to the same effect.

2.2. **Intentionally Omitted**

2.3. **Section 8.2.8 (Policy Requirements)** is amended by adding the following to the end thereof:

Tenant shall include The Town of Hempstead Industrial Development Agency as an additional insured as well as the parties provided for under the Lease and as designated by Landlord pursuant to the terms of the Lease.

2.4. **Section 13.3 (Holding Over)** is amended by adding the following to the end thereof:

In addition to the other provisions of this Section, Tenant hereby expressly agrees that the acceptance by Landlord of any payments from Tenant after the expiration or earlier termination of this Lease shall not preclude Landlord from commencing and prosecuting a holdover or summary eviction proceeding (the foregoing being an 'agreement expressly providing otherwise' within the meaning of Section 232-c of the Real Property Law of the State of New York) nor shall any such acceptance be deemed anything other than an acceptance of payment on account of the amounts to be paid by Tenant in accordance with the provisions of this Section. Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any successor law of like import then in force in connection with any holdover summary proceedings which Landlord may institute to enforce the provisions this Section.

2.5. **Section 20.1.2 (Terminate Lease)** is amended by adding the following to the end thereof:

In addition to the other provisions of this Section 16.1.2, Landlord reserves the right to terminate this Lease at any time after an event of default by Tenant which is not cured by Tenant within the applicable notice and/or cure period, if any, by giving written notice to Tenant specifying a date (not less than five [5] business days from the date on which such notice is given) on which this Lease shall terminate provided such default has not been cured, and, on such date, the Term shall end,

and all rights of Tenant under this Lease shall cease, but the foregoing provisions of this Section shall not relieve Landlord from first complying with all applicable provisions and proceedings required by law as conditions precedent for any such termination.

2.6. **Article 23 (Damage and Destruction)** is amended by adding the following new Section to the end thereof:

Waiver. Except as otherwise specifically provided herein, Tenant hereby expressly waives all rights to terminate this Lease under Section 227 of the New York Real Property Law, as the same may be amended from time-to-time, or under any similar statute now or hereafter in force as the result of such Casualty, or under any present or future laws or case decisions to the same effect.

2.7. **Article 27 (Miscellaneous)** is amended by adding the following new Section(s) to the end thereof:

AGENCY PROVISIONS: The following items 1-7 shall be collectively referred to as the Agency Provisions:

1. **Payment in Lieu of Taxes**

(a) **PILOT Program Defined.** The financial incentive program offered by the Town of Hempstead Industrial Development Agency (the "Agency"), for eligible proposals that involve the creation, expansion, improvement or retention of property and facilities within The Town of Hempstead by companies moving to or remaining in the Town, including all benefits and requirements contained therein (collectively, the "PILOT Program").

(b) **Reporting Requirements.** Tenant covenants on behalf of itself, its successors and assigns to timely complete and return to Landlord, the Agency, or its successors and assigns upon written request, not more often than twice per calendar year, a copy of Tenant's NYS-45 reports submitted to the New York State Department Of Labor for the most recent calendar year (or, if Tenant has multiple retail business locations operating within the state of New York, copies of form BLS 3020 completed to show the employee information for the Premises for the most recent calendar year or the form attached hereto as Schedule 1 of Exhibit E), concerning, in substance, the total payroll, its operations, the number of part time and full time employees Tenant employs at the Center, and such other matters as may be necessary for Landlord to comply with the terms of the PILOT Program and the Agency to make and submit its annual reports. Such information shall be provided within thirty (30) days following written request from the Agency or Landlord. Tenant shall furnish to the Agency within thirty (30) days of their filing, copies of all reports, if any, filed with the Securities and Exchange Commission, pursuant to the Securities Exchange Act of 1934, as amended, relative to Tenant.

2. **Qualification as Project.** Tenant shall not take any action, or fail to take any action, which action or failure to act would cause the Center not to constitute a "project" as such quoted term is defined in Title 1 of Article 18A of the General Municipal Law of the State of New York, as amended (collectively, the "Act"). In accordance with Section 862(1) of the Act, the occupancy of the Premises by Tenant will not result in the removal of a facility or plant of the Tenant from one area of the State of New York to another area of the State or in the abandonment of one or more plants or facilities of Tenant located within the State of New York; provided, however that neither restriction shall apply if the Agency shall determine:

- (i) that such occupation of the Premises by Tenant is reasonably necessary to discourage the Tenant from removing such other plant or facility to a location outside the State of New York, or
- (i) that such occupation of the Premises by Tenant is reasonably necessary to preserve the competitive position of Tenant in Tenant's business.

3. **No Warranty of Condition or Suitability by Agency.** THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF, OR TITLE TO, THE CENTER OR THAT IT IS OR WILL BE SUITABLE FOR TENANT'S PURPOSES OR NEEDS.
 4. **Employment Opportunities; Notice of Jobs.** Tenant covenants and agrees that, in consideration of the participation of the Agency in the PILOT, Tenant will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, cause any new employment opportunities created in connection with the Premises to be listed with the New York State Department of Labor, Community Services Division and with the administrative entity of the service delivery area created pursuant to the Job Training Partnership Act (PL 97-300) in which the Center is located (collectively, the "Referral Agencies"). Tenant also agrees that it will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the Referral Agencies.
 5. **Agency as Third Party Beneficiary.** The Agency is a third party beneficiary of these Agency Provisions with the full right to enforce all provisions hereof in an action at law or in equity.
 6. **Confidential Information.** The Agency shall hold as confidential all non-public information provided by Tenant pursuant to the terms of this Lease except to the extent that the Agency is required by applicable law to disclose such information.
 7. **Successors and Assigns.** The rights and obligations hereunder of the Agency under these Agency Provisions shall bind and inure to the benefit of the successors and assigns of the Agency.
- 2.8. **Exhibit C, Section 2.1, Tenant Package.** Add the following sentence to the end of Section 2.1 of Exhibit C: Tenant acknowledges per the Tenant Package, Tenant is required to use local building trades to complete all Tenant Work.
- 2.9. **Exhibit D, Section 2.52, Landlord Parties.** Landlord Parties shall also include the Town of Hempstead Industrial Development Agency of the Town of Hempstead, New York.

EXHIBIT F
PROVISIONS FOR TENANTS SELLING FOOD

1. APPLICABILITY OF THIS EXHIBIT F

1.1. Applicability. The provisions of this Exhibit F shall be applicable only to Occupants whose permitted use provides for the sale of any food.

1.2. References. Unless otherwise expressly provided in this Exhibit F, references to Articles, Sections and captions are references to Articles, Sections and captions contained in this Exhibit F.

2. DRESS AND GROOMING CODES

2.1. Rules and Regulations. Landlord may promulgate reasonable and non-discriminatory dress, grooming and conduct codes for the employees of Occupants who sell food from their respective premises (sometimes referred to herein as "Food Tenants"), which codes Tenant shall post in the Premises in an area that cannot be viewed from the Common Area and which codes Tenant shall strictly enforce against all of its employees. At the option of Landlord, "Food Tenants" may or may not include or encompass so-called "sit-down restaurants" who maintain sufficient seating within their premises for seating all of their customers and/or Occupants located in any area in the Center designated by Landlord as a "Food Court".

3. TENANT'S ADDITIONAL COVENANTS

3.1. Relating to the Premises. For the purpose of maintaining uniform and consistent quality of merchandise and merchandising in the Center for Food Tenants and for the mutual protection of Tenant and other Food Tenants, Tenant shall comply with each of the following:

3.1.1. Tenant shall comply with the reasonable and non-discriminatory standards of merchandising as Landlord shall establish for Food Tenants.

3.1.2. Tenant shall remove from sale and display any merchandise that does not meet the reasonable and non-discriminatory standards established from time-to-time by Landlord. Without limiting the generality of the preceding, Landlord may require that Tenant remove products that are obvious misrepresentations, that are of substandard quality or that are substandard representations of merchandise.

3.1.3. Tenant shall promptly address any complaint received by Landlord from a customer of Tenant and make good faith efforts to diligently and reasonably resolve the matter constituting such complaint to the reasonable satisfaction of both Landlord and the customer making such complaint.

3.1.4. Tenant's employees shall at all times wear clean uniforms, the color and style of which shall be used by Tenant in substantially all of its locations. Landlord shall have the right to require any employee of Tenant that is not in compliance with the provisions of this Article 3 to immediately leave the Center.

3.1.5. Intentionally Omitted.

3.1.6. Tenant and its employees shall not offer or distribute samples of Tenant's merchandise in any Common Area. Tenant and its employees shall not hawk, call out or otherwise verbally or by motions offer or distribute samples of Tenant's merchandise to any person in the Common Area.

3.1.7. In addition to Landlord's rights of entry in the Lease, Landlord shall have the right, from time-to-time, to inspect the Premises to insure that the Premises are clean and free from vermin and pests.

3.1.8. Tenant shall at all times comply with all applicable health and safety codes promulgated by governmental authorities. If any of the governmental authorities issues a grading system for standards of food handling and cleanliness, Tenant shall use good faith and diligence to conduct its business upon the Premises so that it shall at all times receive the highest available grade in such grading system.

3.2. **Relating to the Maintenance of the Center.** For the purpose of maintaining the Center in a clean and sightly condition, Tenant shall comply with each of the following:

3.2.1. Tenant shall (a) collect all refuse produced and accumulated on the Premises in a manner directed by Landlord, (b) place all food refuse in refrigerated containers set aside specifically and solely for holding refuse and (c) at the close of each day (and more often, if required by Landlord) remove the same to a trash room or other area designated by Landlord. All wet refuse and all food refuse shall be kept at all times in sealed bags.

3.2.2. Notwithstanding the provisions of Article 12 of the Lease or Exhibit C, all counters, shelves, display stands, show cases, signs, fixtures and equipment and all other improvements placed, erected or constructed by Tenant in the Premises shall be subject to the reasonable approval of Landlord as to the type, size, height, color, decoration, location and type of installation thereof to the end that Landlord shall be able to have the Premises present a reasonably uniform and attractive appearance in keeping with the architectural character and design of the Center. Tenant shall place all stock, fixtures and other property in the Premises in locations approved by Landlord so as not to interfere with the light, air or view of any Occupant in the Center.

3.2.3. Tenant shall prevent odors from the Premises from permeating the Building. However, Landlord recognizes that because of the nature of the Permitted Use, certain odors will emanate from the Premises due to the preparation and sale of Tenant's product. Accordingly, Landlord hereby consents to such odors so long as they do not exceed normal pleasant levels. Landlord shall be the sole judge of what constitutes an abnormal or unpleasant odor, and Tenant shall, upon written notice from Landlord delivered to any employee of Tenant on the Premises, take appropriate action to reduce an abnormal or unpleasant odor or otherwise restore a normal, pleasant odor level.

3.2.4. Each day and throughout the day, Tenant shall remove grease from all exposed surfaces of the Premises. Tenant shall not place any grease into any trash compactor, normal garbage containers, floor drains, sink drains or toilets. Tenant, at Tenant's sole cost and expense, shall maintain all grease traps on the Premises, including providing a daily treatment program to chemically degrease sewer and drainage lines. Tenant, at Tenant's sole cost and expense, shall provide outside grease containers. Tenant shall retain a dependable, bonded degreasing service for the Premises who shall, at least once each month during the Term, clean and degrease the entire kitchen area, ranges, cooking equipment, broilers and stoves. Landlord may, at its election, provide for the maintenance of the grease traps and the degreasing of the sewer and drainage lines and bill Tenant for the reasonable competitive costs and expenses therefor, together with a reasonable administrative charge thereon.

3.2.5. Tenant shall comply with NFPA Code 96 which, in part, requires the entire hood plenum and the blower section to be cleaned a minimum of once every three (3) months by an independent contractor. Tenant shall maintain documentation that the services under this Section have been performed as required hereunder for three (3) years and shall provide said documentation to Landlord upon prior verbal or written request. Cleaning services shall be performed to the reasonable satisfaction of Landlord.

EXHIBIT G
MONTHLY AND ANNUAL SALES STATEMENT FORM

Center: _____

Store Name/Number: _____

	CERTIFIED TOTAL SALES	CERTIFIED PERMITTED EXCLUSIONS	CERTIFIED GROSS SALES
January	_____	_____	_____
February	_____	_____	_____
March	_____	_____	_____
April	_____	_____	_____
May	_____	_____	_____
June	_____	_____	_____
July	_____	_____	_____
August	_____	_____	_____
September	_____	_____	_____
October	_____	_____	_____
November	_____	_____	_____
December	_____	_____	_____
TOTALS	_____	_____	_____

Details have been attached explaining Permitted Exclusions as required by the applicable provisions of the Lease.

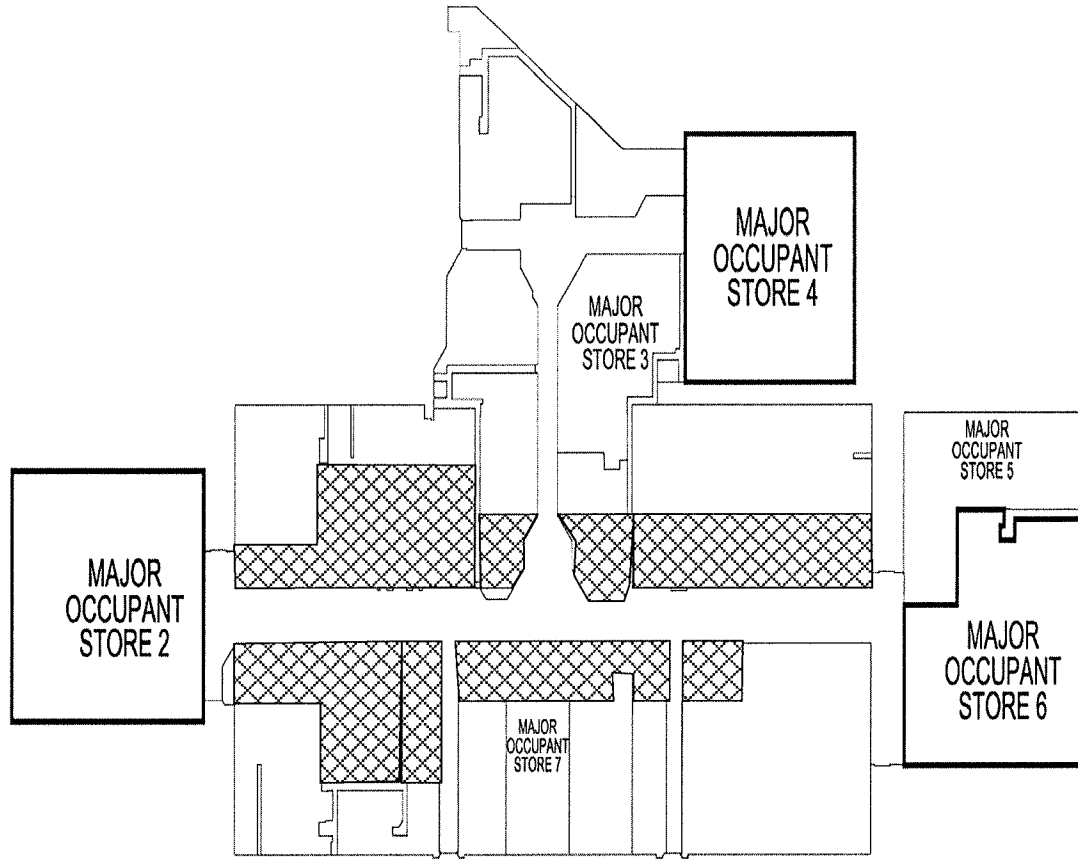
I certify that the sales indicated above are true and correct.

Name: _____

Title: _____

Authorized Signatory

EXHIBIT H RELOCATION AREA



GREEN ACRES FIRST LEVEL

This is a schematic plan intended only to show the general layout of the Center or a part thereof. Landlord reserves the right to alter, very, add to or omit whole or in part any structures, and/or improvements, and/or Common Area, and/or land area shown on this plan. This plan is subject to change and modification as may be made by Landlord or required by any authority having jurisdiction. All measurements and distances are approximate. This plan is not to be scaled. Landlord does not covenant or represent that any Occupant indicated herein is or will remain a tenant in either the space marked or in any other space in the Center and nothing as set forth in this plan is a representation, agreement or easement right except as specifically set forth in the Lease.

EXHIBIT I

Exhibit I has been Intentionally Omitted

EXHIBIT J
LANDLORD'S SUBORDINATION OF LIEN IN PERSONAL PROPERTY
SHORT FORM LICENSE AND SUBORDINATION AGREEMENT

***("Owner") is the owner of certain real property situated in** described as** (the "Property").

as lender (the "Lender"), proposes to lend to, as borrower ("Borrower"), using certain collateral described as all Borrower's personal property, including but not limited to Borrower's inventory, equipment, furniture, furnishings, fixtures, machinery and tools, together with all additions, substitutions, replacements and improvements to same, but excluding any fixture or other items that are attached to the Premises, that by their nature and the Lease terms become Owner's property, including but not limited to HVAC, plumbing, carpeting and the like (which collateral is referred to herein as the "Collateral") as security for such loan.

Based on the mutual promises contained herein and for other valuable consideration, Owner and Lender hereby agree as follows: Owner hereby acknowledges Lender's security interest in the Collateral ("Lender's Lien") and agrees that the Collateral shall at all times be and remain personal property removable by Lender upon no less than ten (10) days' written notice to Owner. Owner hereby subordinates to Lender's Lien any right, title, lien, or interest which Owner might have in the Collateral. Owner hereby grants to Lender the right to enter upon the Property after such ten (10) days' notice for the purpose of inspection, or removal therefrom of the Collateral. Lender must be accompanied by a representative of the Property's shopping center management during any such entry and shall be responsible for repair of all damage occasioned by any repossession or removal of the Collateral. There shall be no public sale or auction from the Property of the Collateral. The right of entry hereby granted shall run with the Property. Lender shall advise Owner in writing within twenty (20) days after the expiration or earlier termination of the agreement between Lender and Borrower of Lender's Lien. Borrower hereby consents to Owner entering into this Agreement.

Lender shall refrain from recording a fixture filing respecting any security interest in such Collateral; however, those required pursuant to the Uniform Commercial Code for perfecting of a personal property lien are permitted.

Landlord's agreements hereby and Lender's rights and security interest with respect to the Collateral will terminate with respect to any of the Collateral that is not removed from the Premises within seven (7) business days after the expiration or earlier termination of the Lease; provided, however, that in the event the Collateral is not removed within such seven (7) business day period, then Lender shall pay Landlord rent retroactive to the date of expiration of the Lease until such Collateral is removed, not to exceed twenty (20) days, in an amount equal to the Fixed Minimum Rent provided under the Lease. Any such Collateral which is not so removed after twenty (20) days will be deemed abandoned by Lender and Tenant, and will become the property of Landlord, without any compensation to Lender or Tenant, and may be disposed of by Landlord as it sees fit.

Borrower shall pay Owner or its designated agent an administrative fee of \$300.00 for the review and preparation of this Agreement.

Dated as of _____, 20_____.

OWNER:***

By: _____

LENDER: ***

By: _____

BORROWER:***

By: _____

Green Acres and Green Acres Commons – Parallel Provisions Check Sheet – Wetzel's Pretzels

PILOT Agreement Exhibit G Provision	Parallel Approved Macerich Lease Provision	Check if Provision Substantially Conforms	Explanation of Substantial Deviation
2.1 and 2.2	Section 8.2, including 8.2.1 – 8.2.8 (w/includes self-insurance)	X	
2.3	Section 23.5 and Exhibit D, definition of Insured Casualty (alphabetically)	X	
2.4	Lines 15 – 19 of Section 8.2.8, Policy Requirements (and Exhibit E provision modifying 8.2.8 including the TOHIDA as an additional insured)	X	
3.1	Exhibit C, Section 3.2 and 4.1, and Exhibit E provision labeled "No Warranty of Condition or Suitability by Agency."	X	
3.2	Sections 8.1.1 and 8.1.3, and Exhibit E, change to Exhibit D definition of Landlord Parties (final provision in Exhibit E unless something else is negotiated into Exhibit E.)	X	
3.3	17.4	X	
3.4 and 3.5	12.1.2 and 27.4	X	
3.6	Exhibit E, Agency Provision 1(a) and 2	X	
3.7(a)	12.1.2 (w/includes Tenant alteration language from formbook)	X	
3.7(b)	Art. 25	X	
3.8	Exhibit E, Agency Provision 1.(b) labeled "Reporting Requirements"	X	
3.9	Exhibit E, Agency Provision 4. Labeled "Employment Opportunities; Notice of Jobs."	X	
3.10	Article 14 (w/includes Corporate, Affiliate & Franchise transfer language from our formbook)	X	
3.11, 1 st sentence	Section 7.2	X	
3.11, 2 nd sentence	Exhibit E, Agency Provision 1(b), labeled "Reporting Requirements."	X	
3.12	Exhibit E, labeled Agency Provision 5, "Agency as Third Party Beneficiary"	X	
3.13	Exhibit E, labeled Agency Provision 6, "Confidential Information"	X	
3.14	Exhibit E, Agency Provision 7, "Successors and Assigns".	X	
NDA	Form provided	No	Yes/No – (was NDA requested)

CEO's REPORT

November 21, 2023

**Indicates new proposal not included in prior reports*

ACTIVE PROJECTS:

Parabit Systems- an existing beneficiary of IDA benefits has purchased additional property abutting its situs in Roosevelt, 33-35 Debevoise Avenue. The new project will include a 10,000 square foot expansion of the existing facility (structure) and will be a 6,000 square foot net increase as 4,000 square feet of the existing building will have to be demolished. Parabit purchased property for \$145,000. Land use authorization (variances, etc.) as well as Town Board Approval must be completed prior to closing with IDA. The company currently employs eighty-five (85) workers and expects to add ten (10) in the first year. Parabit manufactures ATM devices and Kiosks. They seek a Pilot (15 years), sales tax exemption and mortgage recording tax exemption. This project was induced at the January 2022 meeting for an additional 11-year PILOT. An Authorizing Resolution was approved at our February 2022 meeting. The project is set to close. Contacts: Richard Kick, VP Operations cell (516-519-1085) Dan Baker, Esq. of Greenberg Taurig (516-629-9610).

Aloft-Red Roof Inn, Westbury- This situs and building therein is a former project that received IDA benefits when it was developed three decades ago as a hotel. The property is located at 699 Dibblee Drive, Westbury. In recent decades some of the building houses tenants through section 8 vouchers. The 163 units are 80% occupied. Beachwood Homes recently purchased the property and seeks to convert the existing use to either upper and short-term occupants or college housing. The extensive renovations to the project would be \$5 to \$10 million. Contacts: Steve Dubb or Edward Pleber (935-5555) Anthony Guadino, Esq. of Farrell Fritz, P.C. (631-367-0716).

The Meadowwood Properties – Developer seeks to construct twenty (20) units of residential rental housing on property located on Newbridge Road in East Meadow which had been owned by St. Raphael's Church. The two buildings will be for fifty-five (55) and older. The current taxes on the undeveloped land are \$20,000. Project costs are approximately \$5.8 million. Contact: James Neisloss (917 -838-4664), Negus, Esq. of McLaughlin & Stern, LLP (516-467-5431). Dan Deegan, Esq.

283-287 Fulton Avenue, LLC – The property is located on the intersection of Fulton Avenue & Front Street, Hempstead. The building has three floors. The first floor has 4,200 square feet, the second & third 3,100 square feet each. The developer seeks to round off the second & third floors to 4,200 square feet to match the first floor. Project costs are projected to be ten million dollars. The renovation would convert the current office space to ten units of two-bedroom apartments. The retail space on the ground floor would remain as the situs of the property abuts the Terrace Avenue Poverty Census Tract and, therefore, qualifies for the exemption for retail. The developers are awaiting final approval from the village which has been delayed due to the Covid-19 and the death of one of the developers. The project is moving forward. Taxes are currently \$65,000. Contacts: Michael Mitchell (816-8994). Attorney: Dan Baker, Esq. of Greenberg Taurig (516-629-9610).

MCRT – The developer seeks to build 250 units of mixed fifty-five and over middle-income apartments on 4.57-acre site on Atlantic Avenue in Oceanside. Project remains in early stages. Contacts: Elizabetta Coschignano, Esq., 47 Broadway, Wilbur Breslin, Pres.

PGD Baldwin Commons, LLC - Park Grove Realty working with the CDC of Long Island and (Community Development Corporation of Long Island) seeks to construct thirty-three (33) units of workforce housing on the specially zoned site at the northwest corner of Grand Avenue & Merrick Road in Baldwin. The \$3 million project would have twenty-seven (27) one-unit dwellings and six (6) two-bedroom units. The project would add one full-time employee. This project was induced at the IDA

October 2022 Board Meeting with 20-year PILOT Agreement with a 10-year optional extension if in compliance, Sales Tax Exemption, and MRT Exemption. Approval by NYS HCR has delayed the project, but recent discussions between the developer and the HCR are positive. The project was re-induced at our February 2022 meeting and authorized at the April 2023 meeting. We are awaiting a closing date. This project is located within the Baldwin mixed use overlay. Contact: Gwen O'Shea, CEO, CDA of LI (631) 471-1215 x 175.

Ocean Avenue Marina, Inc. – The developer intends to demolish the existing catering hall and construct two buildings at 50 & 80 Waterfront Blvd., Island Park. The new apartment complex will be four stories, 135,406 square feet, housing 117 units (74 one-bedroom units and 43 two-bedroom units). The first floor will provide 196 parking spaces with the remaining three floors providing the aforementioned rental units. Project costs are \$41.143 million. The developer seeks a 20-year PILOT, Sales Tax Exemption and Mortgage Recording Tax Exemption. Contact: Peter Curry, Esq., Dylan Vitale, owner. This project vote failed on a Due Diligence Resolution at our September Board Meeting and revoted in October 2021 received a Due Diligence Resolution. An Inducement Resolution was adopted on 7/18/2023

Inwood Property Development: The applicant seeks to build a forty-unit, 52,582 square foot building of 20 one bedroom, 15 two bedroom and 12 three bedroom and one studio. The \$22 million dollar project will include 25% affordable units. This project was induced on January 31, 2022, with benefits that included Sales Tax Exemption, Mortgage Recording Tax Exemption and a 20-year PILOT. A Public Hearing was held on February 15, 2022. An authorizing Resolution was adopted on February 24, 2022. The company is currently trying to obtain financing. The project was re-authorized on 7/18/23.

Sunrise of Oceanside NY Propco, LLC – The developers seek to transform the vacant property at 374 Atlantic Avenue, Oceanside and construct an 84 unit assisted living facility. The site will be 77,433 square feet of living space with 34 one-bedroom units and 50 two-bedroom units. There will be 52 on-site parking spaces. The project will include assisted living, memory care, and hospice care. Amenities include a spa, beauty salon, exercise room, entertainment area with bistro and dining room. Total costs are approximately \$48.395 million. Fifty-five full-time jobs are expected to be added by the beginning of year. The developer seeks a fifteen (15) year PILOT, sales tax exemption and mortgage recording tax exemption. The Public Hearing has been held on September 28, 2022. The project has been approved by the BZA and an authorizing resolution was adopted 10/25/22. Contact: Andrew Coello & Elizabetta Coschignano.

Rock 50, LLC – The applicant seeks to convert the former Rockville Center Roman Catholic Diocese office at the subject site of 50 North Park Avenue, Rockville Centre to a class A commercial Office Building. The 60,000 square foot building will be upgraded with the existing exterior extensively renovated. Total costs are approximately \$19.1 million. Two hundred twenty-three (223) new full-time positions are expected to be added by the second year. The applicant seeks a twenty-year PILOT, Sales tax exemption and mortgage recording tax exemption. This property was induced at the January 22, 2022, Board Meeting, A subsequent hearing was held on February 22, 2022. An authorizing resolution was adopted on 11/16/2022. A closing should be held quite soon. Attorney: Dan Baker, Esq. of Greenberg Traurig (516-629-9610).

Baldwin Jaz, LLC - The proposed project seeks to redevelop the properties located at 2253 Grand Avenue & 2292 Harrison Avenue in Baldwin. The property was previously used as a car lot and will be developed into a multiple family transit-oriented site. The project would include 215 residential units (47 studios, 132 one-bedrooms and 36 two-bedroom units) on a 74,488 square foot site. Project will include a ground floor restaurant and retail space (5000 square feet) with 251 on-site parking spaces. Project costs are estimated to be \$106.1 million with 8.5 full-time job equivalents added. The developer and the IDA have agreed to seek a 30-year PILOT, sales tax exemption and mortgage recording tax waiver. This project was induced 9/20/22, The project was re-induced in April 2023 with minor changes to project. The project was given a 30-year PILOT, Mortgage recording Tax Exemption and Sales Tax Exemption. The authorizing Resolution was adopted 5/23/23. We are awaiting a closing date. Contacts: Elizabetta Coschignano & Kenneth Breslin.

CenterPoint Inwood, LLC - The developer seeks to construct a high-ceiling warehouse and office space in this now vacant parcel of approximately 138,245 square feet. There will be integrated rooftop surface parking, thirty-one drive-up loading docks and two drive-ins. The property is located on Rason Road; Inwood consists of 87 acres. Additional surface parking, storm water and landscaping improvements will be included. The project will cost \$84 million with a minimum of twenty-five full-time jobs added by the second year and seventy-five construction positions. The project was induced in March 2023 and authorized in April 2023. They were granted a 15-year PILOT and Sales Tax Exemption. We are awaiting a closing date. No tenant has been selected. Contact: Ronel Borner, Dan Deegan, Esq.

Centennial Hall – The developers seek to construct twenty-four (24) units in Floral Park. The units will consist of twelve two bedrooms and twelve one bedrooms. The project will be three stories of market rate housing with underground parking. The total costs are \$6.5 million. The developer seeks a 15-year PILOT. This project was induced at the October 2023 Meeting. Contact: Dan Deegan, Esq.

Conklin Estates - The developers seek to construct sixteen (16) units of market rate housing consisting of (12) units of two bedrooms and (4) units of three bedrooms. Project costs are \$5.5 million. This project was induced at the October 2023 Meeting. Contact: Dan Deegan, Esq.

1315 Peninsula – The company seeks to relocate its corporate offices from Great Neck and New York City to Hewlett. The project will be self-financed. There will be thirty employees. Project costs are approximately six (6) million dollars and will be approximately an 11,000 square foot, two level office building. A twenty (20) year PILOT is sought. Contact: Dan Deegan, Esq.

2283 Grand Avenue LLC – This project seeks to construct a four-story housing project consisting of twelve one-bedroom units and forty-two two-bedroom units in this 55,566 square foot residential Baldwin proposal. Total costs are \$27 million. The existing 11,000 square foot building will be demolished to permit the erection of the 70,863 square foot building. Contacts: Gregory DeRosa, Peter Curry, Esq.

Prospect Park Inwood – The developer seeks to construct 300 units (180 one bedroom, 120 two bedroom) in this five story 500,000 square foot building with project costs of \$87 million. This transit-oriented project is near the railroad station with a 20% set aside of subsidized housing. The developer seeks a 25-year PILOT, mortgage tax abatement and sales tax exemption. Contact: Peter Curry, esq.

Hillcrest Floral Park – This proposed mixed use in Floral Park seeks to construct twelve apartment units with retail stores. There would be ten one-bedroom and two-bedroom units at market rate. The project will cost seven million dollars. Contact Dan Deegan, Esq.

106 Broadway Freeport – the applicant seeks to construct 80 units of affordable housing units on a vacant land currently owned by the Refuge Apostolic Church of Christ. The \$14.892 million project lies on .69 acres in Freeport Village. The apartments consist of 4 one bedrooms, 4 two bedrooms each at 30% of AMI, Section 8; 48 of one-bedroom units of 50% of AMI (40 of which are Frail Elderly, Senior); 23 one-bedroom units at 60% of AMI and a unit for the superintendent. The applicant seeks a 20-year PILOT, sales tax exemption and mortgage tax waivers. This project was Induced at the September 2023 Board Meeting. Contact: Dan Deegan, Esq., John Gordon, Esq, Principal & Barbara Murphy,

Wellington – The \$30.577 million project seeks to construct an 81,375 square foot building on .574 acres of land consisting of 63 units of family rental apartments (16 studios, 29 one bedroom, 18 two bedrooms) with 56 parking spaces. The developer seeks a 15-year PILOT, sales tax exemption and mortgage tax waiver. The rentals will be market rate. This project was Induced at the September Board Meeting, and the public hearing was held on October 10, 2023. This project was authorized at the October 2023 Meeting. Contacts: Alex Rivero, Peter Curry, Esq.

Dover Freeport - Dover which is a wholesale distributor of food and operates retail hospitality restaurant currently is in a PILOT program that ends in 2023. The applicant seeks to upgrade current operations at its

office in Freeport. There is \$2.350 million in improvements including floor coverings, wall coverings, garage door, a new HVAC system with energy saving equipment, a new loading deck, LED lighting, an energy efficient computer system and new phone equipment system. Benefits would include a new PILOT and sales tax exemption on equipment and improvement materials. This project was tabled till the November meeting.

***Palmetto-RPT LS PropCo LLC** - The developer seeks to construct a 103,600 square foot hotel on a 1.65-acre site on Ring Road in Roosevelt Field. The hotel will house 170 rooms with a lobby, bar and three thousand square feet of meeting space under the management of the Marriot. It is expected to be an approximately \$75.6 million dollar project. Contacts: Charle King, CFO, Palmetto (864-327-4038), John Gordon, Forchelli, Deegan and Terrana (516-248-1700)

INACTIVE PROJECTS:

Empire Offshore Wind, LLC – The Company seeks to construct a renewable wind project including a five-acre substation in Oceanside consisting of 6.65 acres (existing buildings to be removed). This environmentally positive project will reduce fossil fuel reliance and upgrade the local power grid. Project costs are \$221.8 million. Developer seeks a 31-year PILOT, sales tax exemption and mortgage tax exemption. It's very preliminary. No action will take place without the input and approval of local districts, schools, villages, town is secured. Contact: Jonathan Forte

Frederick E. Parola
Chief Executive Officer



350 FRONT STREET HEMPSTEAD, NY 11550-4037
(516) 489-5000 EXT. 4200 • (516) 489-3179

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
BOARD MEETING

October 24, 2023, 9:00 a.m.
Old Court Room, 350 Front Street, 2nd Floor, Hempstead

Agenda: Village Business: Village of Freeport: Consideration of an Inducement Resolution for a PILOT Extension and Sales Tax Exemption for Dover Freeport LLC, 27 St. John's Place, Freeport, **Village of Hempstead:** Consideration of Termination of Benefits for FAD Henry Street Food Corp., 216-228 Henry Street, Hempstead (Tabled from September), **New Business:** Consideration of an Authorizing Resolution for West Jamaica Holdings, 54 and 68 West Jamaica Avenue, Valley Stream, Consideration of an Inducement Resolution for Centennial Holdings, 1 Carnation Avenue Floral Park, Consideration of an Inducement Resolution for Conklin Estates, 37 Conklin Avenue, Woodmere, Consideration of a Consent to Transfer Ownership for Engel Burman of Garden City, 1001 Axinn Avenue, Garden City, **New Business – Other,** CEO's Report, Consideration and Approval of a Health Insurance Buy- Back for Frederick E. Parola, Lorraine Rhoads and Laura Tomeo, Consideration and adoption of a Resolution to Award Bonus Vacation Days to Laura Tomeo (based upon her prior date of service), Consideration and Adoption of the Governance Committee Charter, Appointment of the Procurement Officer, Consideration and Adoption of the Uniform Tax Exemption Policy, Consideration and Adoption of an Amended Procurement and Purchasing Guidelines, Consideration and Adoption of the Conflict of Interest Policy, Consideration and Adoption of the Property Acquisition Policy, Consideration and Adoption of the Finance Committee Charter, Consideration and Adoption of the Audit Committee Charter, **Old Business:** None, **Reading and Approval of Previous Meeting Minutes:** Consideration and Adoption of the Minutes of September 19, 2023, **Report of the Treasurer:** Financial Statements and Expenditure List, September 13, 2023 – October 17, 2023, Consideration and Adoption of the 2024 Budget, Consideration and Adoption of the Four-Year Financial Plan, **Executive Session, Adjournment**

Those in attendance:

Florestano Girardi, Chairman
Eric C. Mallette, Treasurer
Jack Majkut, Secretary
Robert Bedford, Board Member
Jill Mollitor, Board Member
Jerry Kornbluth, Board Member

Village of Hempstead Members:

Joylette Williams
Stacey Lucas
Dan Oppenheimer
Kevin Boone, Hempstead Member

Also in attendance:

Frederick E. Parola, CEO
Arlyn Eames, Deputy Financial Officer
Michael Lodato, Deputy Executive Director
Lorraine Rhoads, Agency Administrator
Laura Tomeo, Deputy Agency Administrator
Paul O'Brien, Phillips Lytle LLP
Barry Carrigan, Nixon Peabody
John E. Ryan, Agency Counsel
Alan Wax, Todd Shapiro Associates, Inc. (electronically)

Excused:

Tom Grech, Vice Chairman

The meeting was called to order at 9:02 a.m. The Chairman declared a quorum was present.

Public Comment: The Chairman opened the floor to comments by the public. There was no public comment.

Village of Freeport:

Presentation and Consideration of an Inducement Resolution for a PILOT Extension and Sales Tax Exemption for Dover Freeport LLC, 27 St. John's Place, Freeport: Flo Girardi made a motion to table an Inducement Resolution for a PILOT Extension and Sales Tax Exemption for Dover Freeport LLC. This motion was seconded by Robert Bedford. All were in favor. Motion carried. This project will be placed on the November meeting agenda.

Village of Hempstead:

Consideration of a Termination of Benefits for FAD Henry Street Food Corp., 216-228 Henry Street, Hempstead (Tabled from September): John Ryan updated the Board on the status of the expired building permits. The permits have been renewed with The Village of Hempstead. We also have received confirmation that the existing loan has been paid in full and satisfied. Flo Girardi made a motion to table the Termination of Fad Henry Street Food Corp., 216-228 Henry Street, Hempstead, until the November Board Meeting. This motion was seconded by Jerry Kornbluth. All were in favor. Motion carried.

New Business:

Consideration of an Authorizing Resolution for West Jamaica Holdings, 54 and 68 West Jamaica Avenue, Valley Stream: Michael Webb the attorney for the applicant addressed the board. The applicant seeks to demolish an approximately 18,000 square foot building within the Village of Valley Stream and construct approximately 81,375 square foot on .574 acres of land. For a family rental development containing 63 units in total that the company will manage. The unit mix will be: 16 studio apartments, 29 one bedroom, 18 two bedroom as well as 56 parking spaces. This project will be 100% market rate. All permits and zoning approvals have been obtained from the Village of Valley Stream. Flo Girardi made a motion to adopt an Authorizing Resolution for West Jamaica Holdings, 54 and 68 West Jamaica Avenue, Valley Stream including 15-year PILOT, Mortgage Recording Tax Exemption, and Sales Tax Exemption This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Consideration of an Inducement Resolution for Centennial Holdings, 1 Carnation Avenue, Floral Park: John Gordon the attorney for the applicant addressed the board. The applicant seeks to demolish an existing 3,668 square foot building and construct a new building containing 30,512 square feet. The proposed 24-unit apartment building will contain (12) Two-bedroom apartments. The project will be located in close proximity to the LIRR and will be 100% market rate. Jerry Kornbluth made a motion to adopt an Inducement Resolution for Centennial Holdings, 1 Carnation Avenue, Floral Park including 20-year PILOT, Mortgage Recording Tax Exemption, and Sales Tax Exemption This motion was seconded by Flo Girardi. All were in favor. Motion carried.

Consideration of an Inducement Resolution for Conklin Estates, 37 Conklin Avenue, Woodmere: John Gordon the attorney for the applicant addressed the board. The applicant seeks to construct a 2-story, 16-unit market rate rental housing development located at 37 Conklin Avenue, Woodmere. With 42 parking spots on the ground level. The building will be approximately 21,783 square feet, the total net rentable area will be approximately 20,069 square feet. The project will be on approximately 0.8242 acres. The unit mix will be as follows: 12-2 bedroom, 2 bath units and 4-3 bedroom, 2.5 bath units. This is considered a transit orient development due to its proximity to the LIRR. Flo Girardi made a motion to adopt an Inducement Resolution for Conklin Estates, 37 Conklin Avenue, Woodmere including 20-year PILOT, Mortgage Recording Tax Exemption, and Sales Tax Exemption This motion was seconded by Jerry Kornbluth. All were in favor. Motion carried.

Consideration of a Consent to Transfer Ownership for Engel Burman of Garden City, 1001 Axinn Avenue, Garden City: Eric Mallette made a motion to approve a Consent to Transfer Ownership for Engel Burman of Garden City, 1001 Axinn Avenue, Garden City to Harrison Street. This motion was seconded by Jack Majkut. All were in favor. Motion carried.

Executive Session: Flo Girardi made a motion to go into executive session at 9:18 a.m. to discuss matters of litigation and personnel. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Flo Girardi made a motion to come out of executive session at 9:45 a.m. This motion was seconded by Jack Majkut. All were in favor. Motion carried. No action was taken.

New Business -Other:

CEO Report: Fred Parola provided the Board with a copy of the CEO Report.

Consideration and Approval of a Health Insurance Buy-Back for Frederick E. Parola, Lorraine Rhoads and Laura Tomeo: Flo Girardi made a motion to approve the Health Insurance Buy-Back for Frederick E. Parola 2013-2017 in the amount of \$29,148.42, Lorraine Rhoads 2013-2014 in the amount of \$5,951.89, and Laura Tomeo 2019-2023 in the amount of \$52,694.96. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Consideration and Adoption of a Resolution to Award Bonus Vacation Days to Laura Tomeo (based upon her prior date of service): Flo Girardi made a motion to approve the Bonus Vacation Days to Laura Tomeo (based upon her prior date of service of May 20, 2010) This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Consideration and Adoption of the Governance Committee Charter: Flo Girardi made a motion to adopt the Governance Committee Charter as presented and adopted by the Governance Committee. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Appointment of the Procurement Officer: Flo Girardi made a motion to appoint Fred Parola the Procurement Officer for the IDA. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Consideration and Adoption of the Uniform Tax Exemption Policy: Eric Mallette made a motion to adopt The Uniform Tax Exemption Policy as presented. This motion was seconded by Flo Girardi. All were in favor. Motion carried.

Consideration and Adoption Amended Procurement and Purchasing Guidelines: Flo Girardi made a motion to approve the Amended Procurement and Purchasing Guidelines as presented and adopted by the Governance Committee. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Consideration and Adoption of the Conflict of Interest Policy: Flo Girardi made a motion to adopt the Conflict of Interest Policy as approved by the Governance Committee. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Consideration and Adoption of the Finance Committee Charter: Flo Girardi made a motion to adopt the Finance Committee Charter as approved by the Finance Committee. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Consideration and Adoption of the Audit Committee Charter: Flo Girardi made a motion to adopt the Audit Committee Charter as approved by the Audit Committee. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Old Business:

Reading and Approval of Minutes of Previous Meeting(s):

Minutes of the August 22, 2023, Board Meeting: Eric Malette made a motion to waive the reading and adopt the minutes of September 19, 2023. This motion was seconded by Flo Girardi. All were in favor. Motion carried.

Report of the Treasurer: The Board was furnished with copies of the Financial Statements and Expenditure list for September 13, 2023 – October 17, 2023.

Consideration and Adoption of the 2024 Budget: Flo Girardi made a motion to adopt the 2024 Budget as presented. This motion was seconded by Eric Mallette. All were in favor. Motion carried.

Consideration and Adoption of the Four- Year Financial Plan: Flo Girardi made a motion to adopt the Four-Year Financial Plan as presented. This motion was seconded by Jerry Kornbluth. All were in favor. Motion carried.

Committee Updates: There were no updates.

Adjournment: With all business concluded. Flo Girardi made a motion to adjourn the meeting at 9:52 a.m. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Jack Majkut, Secretary
November 21, 2023

9:06 AM
11/14/23
Accrual Basis

Town of Hempstead I. D. A.

Balance Sheet

As of November 14, 2023

	Nov 14, 23
ASSETS	
Current Assets	
Other Current Assets	
490-00 · Interest due from PILOT account	-124,801.49
380-01 · Accounts Recievable	8,933.96
Total Other Current Assets	-115,867.53
Checking/Savings	
200-22 · Checking (FNBLI)187009667	10,000.00
200-20 · Severance (FNBLI) 186702585	388,519.59
200-21 · Oper Invest MM(FNBLI) 186702577	390,569.31
200-19 · HlthRetirement (FNBLI)186702593	1,342,124.63
200 · Cash	
200-02 · Petty Cash	63.71
200-13 · Bank of America - 9419794381-Ck	61,334.90
200-14 · BankofAmerica MMS - 9419794402	3,031,890.84
Total 200 · Cash	3,093,289.45
Total Checking/Savings	5,224,502.98
Total Current Assets	5,108,635.45
Fixed Assets	
400-00 · Furniture & Fixtures	
400-02 · Accumulated Depreciation	-26,702.70
400-01 · Furniture and Fixtures	26,702.70
Total 400-00 · Furniture & Fixtures	0.00
400-051 · Computer equip.	
400-04 · Accumulated Dep. - Computer	-3,929.02
400-05 · Computer Equipment	3,929.02
Total 400-051 · Computer equip.	0.00
400-100 · Machinery & equip.	
400-102 · A/D - Equipment	-15,878.00
400-101 · Equipment	15,878.00
Total 400-100 · Machinery & equip.	0.00
450-00 · Leasehold improvement	
450-02 · Accumulated Amort.	-90,950.40
450-01 · Leasehold Improvements	14,140.00
450-03 · 2009 Leasehold improvements	84,273.98
Total 450-00 · Leasehold improvement	7,463.58
Total Fixed Assets	7,463.58
Other Assets	
Deferred outflows of resources	
700-1 · Changes in Agency cont GASB68	-52,127.00
700-3 · Diff - expect/actual exp GASB68	7,735.00
700-6 · Change in assumptions OPEB	242,567.00
700-5 · Diff expected & actual OPEB	255,424.00
700-4 · Change in assumptions	258,066.00
Total Deferred outflows of resources	711,665.00
Total Other Assets	711,665.00
TOTAL ASSETS	5,827,764.03
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
550-00 · Accrued Expenses	-11,521.22
602-00 · Payroll Liabilities	
602-09 · NY Unemployment	-1,494.48

9:06 AM
11/14/23
Accrual Basis

Town of Hempstead I. D. A.
Balance Sheet
As of November 14, 2023

	Nov 14, 23
602-04 · FICA Tax W/H Social Sec.	-0.01
602-05 · FICA Tax W/H Medicare	0.03
602-01 · Retirement W/H	101.89
602-07 · Disability W/H	190.80
602-06 · Retirement Loan	771.00
Total 602-00 · Payroll Liabilities	-430.77
Total Other Current Liabilities	-11,951.99
Total Current Liabilities	-11,951.99
Long Term Liabilities	
605 · Net pension liability - pro. sh	-102,539.00
602 · -10 Compensated absences	103,824.24
Deferred inflows of resources	
500-4 · Change in assumptions	2,876.00
500-2 · Change in pro - employer & prop	23,857.00
500-5 · Changes in assumption OPEB	32,975.00
500-1 · Difference between expect/act	334,468.00
Total Deferred inflows of resources	394,176.00
603-00 · Postretirement health benefits	1,450,586.00
Total Long Term Liabilities	1,846,047.24
Total Liabilities	1,834,095.25
Equity	
3000 · Opening Bal Equity	498,858.39
Net Income	536,597.24
909-00 · Fund Balance	2,958,213.15
Total Equity	3,993,668.78
TOTAL LIABILITIES & EQUITY	5,827,764.03

9:07 AM

11/14/23

Accrual Basis

Town of Hempstead I. D. A.

Account QuickReport

As of November 14, 2023

Type	Date	Num	Name	Memo	Split	Amount	Balance
200 - Cash							52,081.73
200-13 - Bank of America - 9419794381-Ck							52,081.73
Check	10/20/2023	52335	PAROLA, FREDERI...	522-52 Pay Pe...	-SPLIT-	-1,708.71	50,373.02
Check	10/20/2023	52336	LONGO, EDITH M.	522-52 Pay Pe...	-SPLIT-	-624.56	49,748.46
Check	10/20/2023	52337	RHOADS, LORRAINE	522-52 Pay Pe...	-SPLIT-	-540.83	49,207.63
Check	10/20/2023	52338	Arlyn C. Eames	522-52 Pay Pe...	-SPLIT-	-3,132.82	46,074.81
Check	10/20/2023	52339	Lodato, Michael	522-52 Pay Pe...	-SPLIT-	-2,873.44	43,201.37
Check	10/20/2023	52340	Laura N. Tomeo	522-52 Pay Pe...	-SPLIT-	-2,176.31	41,025.06
General Journal	10/20/2023	S&Co ...	Bank of America	522-52 Pay Pe...	602-04 - FICA ...	-5,180.46	35,844.60
Transfer	10/24/2023			Funds Transfe...	200-14 - Bankof...	123,000.00	158,844.60
General Journal	10/24/2023	S&Co ...	Montauk Yacht Club	Reverse of GJ...	522-06 - Meetin...	983.00	159,827.60
Check	10/25/2023	Electr...	N.Y.S & LOCAL EMP...	Code 51313 - ...	-SPLIT-	-839.78	158,987.82
Check	10/25/2023	31339	Optimum	07858-547683...	522-07 - Office ...	-273.50	158,714.32
Check	10/25/2023	31340	NYSID	Scanning Proj...	522-01 - Profes...	-21,086.60	137,627.72
Check	10/25/2023	31341	NYSID	Scanning Proj...	522-01 - Profes...	-13,078.73	124,548.99
Transfer	10/25/2023			Funds Transfe...	200-14 - Bankof...	30,000.00	154,548.99
Check	10/26/2023	52343	Laura N. Tomeo	Health Insuran...	-SPLIT-	-42,228.73	112,320.26
General Journal	10/26/2023	S&Co ...	Bank of America	health Insuran...	602-04 - FICA ...	-34,100.69	78,219.57
Check	10/27/2023	52341	PAROLA, FREDERI...	Health Insuran...	-SPLIT-	-14,627.33	63,592.24
Check	10/27/2023	52342	RHOADS, LORRAINE	Health Insuran...	-SPLIT-	-3,521.26	60,070.98
Check	11/01/2023	31342	TOH Dept of General...	RENT Novem...	522-12 - Rent E...	-2,500.00	57,570.98
Check	11/01/2023	31343	TOH Department of ...	Health Ins. - I...	522-70 - Health...	-9,539.51	48,031.47
Check	11/01/2023	31344	AFLAC	NQR44- Invoic...	602-11 - AFLA...	-230.58	47,800.89
Check	11/01/2023	31345	NYSID	Scanning Proj...	522-01 - Profes...	-398.65	47,402.24
Check	11/01/2023	31346	READY REFRESH b...	Acct# 042347...	522-07 - Office ...	-105.89	47,296.35
Check	11/02/2023	52345	LONGO, EDITH M.	522-52 Pay Pe...	-SPLIT-	-565.66	46,730.69
Check	11/02/2023	52346	RHOADS, LORRAINE	522-52 Pay Pe...	-SPLIT-	-1,122.09	45,608.60
Check	11/02/2023	52347	Arlyn C. Eames	522-52 Pay Pe...	-SPLIT-	-3,132.84	42,475.76
Check	11/02/2023	52348	Lodato, Michael	522-52 Pay Pe...	-SPLIT-	-2,873.43	39,602.33
Check	11/02/2023	52349	Laura N. Tomeo	522-52 Pay Pe...	-SPLIT-	-2,176.30	37,426.03
Check	11/03/2023	52344	PAROLA, FREDERI...	522-52 Pay Pe...	-SPLIT-	-1,769.74	35,656.29
General Journal	11/03/2023	S&Co ...	Bank of America	522-52 Pay Pe...	602-04 - FICA ...	-5,452.14	30,204.15
Check	11/08/2023	31347	Town of Hemsptead ...	Postage Octo...	522-19 - Postag...	-45.17	30,158.98
Check	11/08/2023	31348	The New York Times	Subscription A...	522-05 - Dues ...	-70.80	30,088.18
Check	11/09/2023	31349	FREDERICK PAROLA	Reimburseme...	522-07 - Office ...	-54.72	30,033.46
Check	11/10/2023	electro...	PAYCHEX	Payroll Servic...	2100-01 - PAY...	-191.56	29,841.90
Check	11/10/2023	31350	Camoin Associates	Inv. #20187 D...	522-77 - Cost B...	-7,000.00	22,841.90
Transfer	11/13/2023			Funds Transfe...	200-14 - Bankof...	60,000.00	82,841.90
Check	11/13/2023	31351	Town of Hempstead ...	2023 Worker's...	522-76 - Worke...	-21,507.00	61,334.90
Total 200-13 - Bank of America - 9419794381-Ck						9,253.17	61,334.90
Total 200 - Cash						9,253.17	61,334.90
TOTAL						9,253.17	61,334.90