

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
BOARD MEETING AGENDA
Old Courtroom, 2nd Floor, 350 Front Street Hempstead, NY
Tuesday, December 17, 2024,
10:15 a.m.

- 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:

- Consideration of an Extension of Completion Date and Sales Tax Exemption Extension for **NBD Holding LLC**, 435 Woodcleft Avenue, Freeport

Village of Hempstead:

- Consideration of a Temporary Assignment of the PILOT for **Alphamore LLC**, 50 Clinton Street, Hempstead, to the Court Appointed Receiver, **Harris Beach PLLC** (tabled from August)
- Consideration of an Extension of Completion Date for **Main Street Hempstead Apartments LLC**, 257 Main Street, Hempstead

NEW BUSINESS - Applications, Transaction Resolutions and Presentations:

- Consideration of an Authorizing Resolution for **Ocean Avenue Marina (Bridgeview Land Development LLC)** 50 and 80 Waterfront Boulevard, Island Park (This project was authorized at the last meeting however the sound was not working on the live stream recording of the meeting.)
- Presentation by Peter Curry, Farrel Fritz regarding **25 Wanser LLC**, 25 Wanser Avenue, Inwood, and Town Zoning/Moratorium
- Consideration of a Tenant Consent for Valley Stream Green Acres – Aldo U.S. Inc., 2034 Green Acres Mall, Valley Stream

NEW BUSINESS - Other:

- CEO's Report
- Collection of the Confidential Evaluation of Board Performance 2024
- Consideration of a Resolution to pay Massa and Associates required for 2024 update to Actuary report, subject to GASB 74/75
- Consideration of a Resolution to approve the contract with Sheehan & Company for the 2025 Contract and 2024 Audit

- Consideration of a Resolution to approve the 2025 contract with Giovatto Agency for website maintenance
- Consideration of a Resolution to approve the 2025 contract with Todd Shapiro & Associates for Public Relations services
- Consideration of a Resolution to pay for the 2025 NYSEDC Annual Membership
- Consideration and Adoption of the 2025 Meeting Schedule
- Consideration and Adoption of the Sexual Harassment Policy
- Consideration and Adoption of the Standard Project Procedures
- Consideration and Adoption of the Records Retention and Disposition Policy
- Appointment of a Records Management Officer
- Consideration of a Salary Increase Resolution for Frederick Parola
- Consideration of a Salary Increase Resolution for Edith Longo
- Consideration of a Salary Increase Resolution for Lorraine Rhoads
- Consideration of a Salary Increase Resolution for Arlyn Eames
- Consideration of a Salary Increase Resolution for Michael Lodato
- Consideration of a Salary Increase Resolution for Laura Tomeo

OLD BUSINESS:

- Discussion and Consideration of a Trust Account for Post-Retirement Health Insurance Benefits (tabled since February)

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

- Consideration and Adoption of the Minutes of November 19, 2024

REPORT OF THE TREASURER:

- Financial Statements and Expenditure List: November 13 – December 10, 2024

EXECUTIVE SESSION:

COMMITTEE UPDATES:

ADJOURNMENT:

Approved: 12/5/24

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



FORCHELLI
DEEGAN
TERRANA

JOHN P. GORDON
PARTNER
JGORDON@FORCHELLILAW.COM

November 22, 2024

Via Email: michlod@hempsteadny.com

Town of Hempstead IDA
350 Front Street, 2nd Floor
Hempstead, NY 11550

Attn: Michael Lodato, Deputy Executive Director

**Re: NBD Holding LLC
417, 435, 444, 447 & 477 Woodcleft Avenue, Freeport, NY
Request for Extension**

Dear Mr. Lodato:

As you may know, this firm represents NBD Holding LLC (“NBD”) in connection with its Financial Assistance from the Town of Hempstead Industrial Development Agency (“Agency”) regarding the construction of a waterfront hotel within the Village of Freeport (“Project”).

NBD closed with the Agency on the straight lease transaction for the Project on or about October 7, 2022 by execution of a Company Lease Agreement, Lease and Project Agreement and other related documents (“IDA Transaction Documents”). The Completion Date (as defined in the IDA Transaction Documents) is required to be no later than December 31, 2024. Since the closing, NBD has encountered difficulty in financing the high construction costs, due in large part to increased interest rates, and is working with the Village to address the challenges to move the project forward.

As a result of the delay, the anticipated completion of construction of the Project is later than originally anticipated. We respectfully request a one-year extension of the outside Completion Date and sales tax exemption expiration date to December 31, 2025.

We have received support from the Village for the requested extension. Please let me know if you need any additional information.

Very truly yours,
FORCHELLI DEEGAN TERRANA LLP

By: John P. Gordon
JOHN P. GORDON

JPG



FORCHELLI
DEEGAN
TERRANA

JOHN P. GORDON
PARTNER
JGORDON@FORCHELLILAW.COM

December 9, 2024

Town of Hempstead Industrial Development Agency
350 Front Street, 2nd Floor
Hempstead, NY 11550

Attn: Frederick E. Parola, CEO/Executive Director

Re: Request for Extension
Main Street Apartments, LLC Project
257 Main Street, Hempstead, New York

Dear Mr. Parola:

This firm is counsel to Main Street Apartments, LLC (the “Company”) in connection with its multifamily/mixed-use project located at 257 Main Street, Hempstead, New York (the “Project”), for which the Company received certain financial assistance from the Town of Hempstead Industrial Development Agency (the “Agency”). I am writing to request the Agency’s consent to an extension of the deadlines for the Project’s outside completion date and employment covenant.

The Company submitted an Application for Financial Assistance to the Agency dated August 12, 2021 (the “Application”) in connection with the Project, and closed with the Agency on the financial assistance by entering into a Lease and Project Agreement dated as of December 1, 2021 (“Lease Agreement”), which included an agreement to make payments in lieu of taxes (“PILOT”).

Since the closing, the projected timeline of development has been impacted by increased interest rates, and higher construction costs as a result of inflation and the fallout from the COVID-19 pandemic. The Company has worked with the Village of Hempstead on utility issues, municipal approvals, zoning compliance and the requirements to issue final permits.

As a result of the economic challenges set forth above, the Project has not been completed—even though all preparatory site work has been concluded. The Company is currently working with the Village of Hempstead on a potential increase in the size of the Project to offset the increased costs and to make the Project financeable and financially feasible in light of these changed circumstances.

The anticipated completion of construction of the Project is later than originally expected. The completion deadline in the Lease Agreement was originally December 31, 2024. Because of the delay resulting from the economic challenges laid out above, and the expected continuing efforts

December 9, 2024

Page 2 of 2

in updating/revising the plans for the Project and obtaining the necessary approvals, we request an amended completion deadline of December 31, 2027.

In addition, the employment covenant in the Lease Agreement takes effect as of December 31, 2024. We hereby request an extension of the employment covenant to December 31, 2027, to coincide with the anticipated completion of the Project.

Thank you for your courtesy and cooperation herein.

Very truly yours,

FORCHELLI DEEGAN TERRANA LLP

By: John P. Gordon

JOHN P. GORDON

cc: John E. Ryan, Esq.
Barry Carrigan, Esq.

PROJECT ABSTRACT
TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

Bridgeview Land Development LLC
FKA
Ocean Avenue Marina, INC
Project: 2802-21-14A

Application Date: 9/1/21

Amended: 4/6/23

Amended: 9/25/24 – New Total Project Costs

Contact: John Vitale

Applicant Name and Address:

Ocean Avenue Marina, Inc.
80 Waterfront Blvd.
Island Park, NY 11558

Project Address: 50 & 80 Waterfront Blvd.
Island Park, NY 11558

Project: The Applicant is proposing to demolish the two current buildings and construct one building located at 50 and 80 Waterfront Blvd, Island Park. The project will include construction of a 4 story residential apartment building, the second, third and fourth stories will consist of 117 one and two bedroom units of varying configurations and square footage. The project will include 74 one unit bedroom units averaging 807 square feet in size, and 43 two bedroom units averaging 1,147 square feet in size. The units will be constructed on top of a first floor parking structure with a total of 196 parking spaces. The property is approximately 3.58 acres and the new building will be approximately 135,406 square feet. The proposed development will also be significantly elevated and will raise the habitable spaces and equipment to approximately 18 feet above sea level.

Notes:

1. There are discontinued streets which will be included in the project but have not yet been signed section blocks and lot numbers.
2. The Agency will not be taking title to two underwater parcels.
3. The project is not located within the boundaries of the Village of Island Park.

Project Costs:

<u>Description</u>	<u>Amount</u>
Land and/or building acquisition	\$4,000,000

Building(s) demolition/construction	\$35,309,642
Site Work & Bulkhead	\$3,400,000
Machinery and Equipment	\$2,000,000
Legal Fees	\$175,000
Architectural/Engineering Fees	\$1,419,383
Financial Charges	\$4,956,000
Other (Licenses, Fees and Permits)	\$4,550,900
 Total	 \$55,810,925

	<u>Present</u>	<u>First Year</u>	<u>Second Year</u>	<u>Residents of LMA</u>
Full-Time	18	2	2	2
Part-Time	0	0	0	0

(Currently an existing catering hall)

Employment:

Facility employment is going down due to catering hall being demolished for the proposal of this new project.

Construction Jobs: 170

Retention of 2 FTE by year 1

Average Estimated Salary of jobs to be created: \$50,000

Average Salary Range for jobs to be created: \$50,000

Benefits Sought: Seeking 20 Year PILOT, Sales Tax Exemption, MRT

Benefit Analysis:

Mortgage: $\$44,648,740.00 \times .75\% = \$334,865.55$

Sales Tax Exemption Renovation, Furnishing and Fixture:

$\$25,225,785.20 \times 8.625\% = \$2,175,723.97$

Current Tax Information:

Section: 43, Block: 112, Lots: 11 (12-14), 15, 16(17), 18(19-29)

Section: 43, Block: 119, Lots: 261, 262, 263,

Parcels: 7

SD- Island Park

Total Assessed Value: \$22,861

Total Full Value: \$2,286,100

Total Current Taxes: \$ 112,772.54

General 2024: \$53,878.71

School 2023/2024: \$ 58,893.83

Village: N/A

NEW Taxes When Built: \$784,932.22

NEW Land Only Value from Cronin Letter: \$55,736.00

Applicant Attorney: Peter Curry
IDA Transaction Counsel: Paul O'Brien

**Bridgeview Land Development LLC
FKA
Ocean Avenue Marina, Inc
NEW DRAFT PILOT**

50 & 80 Waterfront Blvd.
Island Park, NY 11558

Current Tax Information: (Not inclusive of any underwater parcels)
Section: 43, Block: 112, Lots: 11 (12-14), 15, 16(17), 18(19-29)
Section: 43, Block: 119, Lots: 261, 262, 263

Current Total Taxes Year: \$ 112,772.54
Estimated Taxes Once Built: \$784,932.22
Land Only Value from Cronin Letter: \$55,736.00

Year	Total
1	\$55,736.00
2	\$55,736.00
3	\$55,736.00
4	\$125,000.00
5	\$165,000.00
6	\$210,000.00
7	\$255,000.00
8	\$290,000.00
9	\$340,000.00
10	\$395,000.00
11	\$450,000.00
12	\$490,000.00
13	\$545,000.00
14	\$600,000.00
15	\$650,000.00
16	\$715,000.00
17	\$785,000.00
18	\$900,000.00
19	\$1,000,000.00
20	\$1,150,000.00

6/15/23 – DRAFT
6/20/23 – COUNTER PROPOSAL
9/17/24 – NEW PROPOSAL

This Pilot has NOT been approved by the Hempstead IDA Board

Peter L. Curry
Partner

Direct Dial: 516.227.0772
Direct Fax: 516.336.2208
pcurry@farrellfritz.com

400 RXR Plaza
Uniondale, NY 11556
www.farrellfritz.com

Our File No.
36062/105

November 26, 2024

Mr. Michael Lodato
Deputy Agency Administrator
Town of Hempstead Industrial Development Agency
350 Front Street
Hempstead, NY 11550

RE: 25 Wanzer LLC 2021 Facility

Michael:

I am writing regarding the status of the project that 25 Wanzer LLC ("25 Wanzer") closed with the Agency in December, 2021. As you may recall, my client applied to the Hempstead IDA for economic assistance in connection with the development of a facility of approximately 391,241 square feet, consisting of 313 residential rental units, 20,900 square feet of commercial space, and garage parking for approximately 427 vehicles (the "Project"). 25 Wanzer designed the Project to strictly comply with the then recently-enacted Article XLIII of the Building Zone Ordinance of the Town of Hempstead. As you may recall, the Town Board enacted that Article to add transit-oriented development to certain targeted areas, promote diverse populations and strengthen community identity. At the time of the December, 2021 closing, the Article was in full force and effect and 25 Wanzer acquired the Project site. Subsequently, on September 20, 2022, the Town Board placed a moratorium on the submission, review, and approval of applications for site plan approval and building permit issuance submitted under Article XLIII. On November 19, 2024, the Town of Hempstead repealed Article XLIII without provision for the "grandfathering" of applications lawfully submitted to the Town prior to the issuance of the moratorium.

A review of the Lease and Project Agreement (the "Lease Agreement") executed in connection with the closing with the Agency confirms that a "force majeure" event has occurred which is preventing the construction of the Project from being completed by the "Completion Date" established in Section 3.6 of the Lease Agreement. Section 10.1(b) of the Lease Agreement defines "force majeure." In part, it states: "The term force majeure" as used herein shall include, without limitation, ...acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions (emphasis added) or officials...or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault..." A proviso to this language follows relating to the exclusion from "force majeure" for "...the Company's failure or inability to obtain any zoning, land use, site plan or similar governmental approval required for the construction, equipping and operation of the Facility." However, we maintain that the

Mr. Michael Lodato
November 26, 2024
Page 2

proviso only refers to a “failure or inability” when an approval process previously available remains available, and a project for some reason does not comply with the process.

25 Wanser remains committed to building this community. It has already invested over \$30,000,000 in acquiring the project site; architectural, engineering, legal and other professional fees; and closing with the IDA. Litigation has been initiated challenging the Town’s actions the resolution of which 25 Wanser is confident will allow the project to proceed. Once approvals are received, it will construct a facility that will meet the goal of the Agency when it approved the Project – a modern transit-oriented, affordable, mixed-use multi-family housing and commercial community.

At this time, we request that the Agency forbear from defaulting 25 Wanser as a result of the above-described inability to meet the Completion Date established in the Lease Agreement, and consider approving a new Completion Date to be established once the litigation is resolved. We would be happy to meet with the Agency at your convenience and attend the next Board meeting to discuss this matter further.

Very truly yours,

Peter L. Curry

Peter L. Curry

PLC/an

cc: Mr. Douglas Partrick
Mr. Christopher Capece
Colleen Collins, Esq.
Ms. Christine Linsalato
Mr. Sean Sallie
Michael L. Faltischek, Esq.
John E. Ryan, Esq.
Paul V. O'Brien, Esq.

Adopted: November 19, 2024

Councilmember Miller moved the following resolution's adoption:

RESOLUTION CLASSIFYING THE REPEAL OF ARTICLE XLIII OF THE BUILDING ZONE ORDINANCE TITLED "TRANSIT-ORIENTED DEVELOPMENT AND RELATED DISTRICTS FOR NORTH LAWRENCE AND INWOOD," A TYPE I ACTION AND ADOPTING A NEGATIVE DECLARATION PURSUANT TO THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT

WHEREAS, the Town Board of the Town of Hempstead is empowered to amend the Building Zone Ordinance of the Town of Hempstead ("BZO") pursuant to Article 16 of the Town Law of the State of New York and Article XXXI of the BZO, as amended; and,

WHEREAS, the Town Board determined it is in the public interest to consider the repeal of Article XLIII of the BZO, titled "Transit-Oriented Development and Related Districts for North Lawrence and Inwood" (the "Proposed Action"); and,

WHEREAS, the Proposed Action is a Type I Action under the New York State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law, and the implementing regulations thereto in 6 NYCRR Part 617, at §617.4(b)(2), involving "the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district"; and,

WHEREAS, Type I Actions are subject to SEQRA review, including determining whether such actions involve potential significant environmental impacts pursuant to 6 NYCRR §617.7; and,

WHEREAS, the only discretionary approval identified for the Proposed Action is this Board's repeal of Article XLIII of the BZO, making this Board the only Involved Agency, as defined in 6 NYCRR §617.2(t), with respect to the Proposed Action; and,

WHEREAS, 6 NYCRR §617.6(b)(1) automatically assigns the role of SEQRA Lead Agency to this Board as the only Involved Agency with respect to the Proposed Action; and,

WHEREAS, this Board is responsible for determining significance in accordance with 6 NYCRR §617.7 as the SEQRA Lead Agency; and,

WHEREAS, Nelson, Pope and Voorhis, LLC ("NPV") prepared a Full Environmental Assessment Form (the "Full EAF"), dated June 19, 2024, for the Proposed Action on behalf of this Board to analyze the Proposed Action's potential for significant environmental impacts; and,

WHEREAS, in accordance with the criteria for determining significance as set forth in 6 NYCRR §617.7(c), this Board reviewed the relevant documents submitted in connection with the Proposed Action including, but not limited to, the Full EAF and the report dated June 19, 2024, regarding NPV's "Review of Article XLIII of the Building Zone Ordinance Transit-Oriented Development and Related Districts for North Lawrence and Inwood: Enacted May 7, 2019; Effective May 27, 2019" (the "NPV Report"); and,

WHEREAS, this Board has thoroughly analyzed the relevant areas of environmental concern to determine if the Proposed Action may have a significant adverse impact on the environment in accordance with 6 NYCRR §617.7(b)(3);

NOW, THEREFORE, BE IT,

RESOLVED, the Proposed Action is classified as a Type I Action pursuant to SEQRA and 6 NYCRR Part 617; and, be it further,

RESOLVED, the Proposed Action will not have a significant adverse impact on the environment, based on the information and analyses contained in the Full EAF, which is annexed hereto, the NPV Report, and other relevant documents and, accordingly, this Board, as the SEQRA Lead Agency, adopts a Negative Declaration for the Proposed Action pursuant to SEQRA and 6 NYCRR Part 617.

The foregoing resolution was seconded by Councilmember Goosby and adopted upon roll call as follows:

AYES: SIX (6)

NOES: NONE (0)

Councilmember Schneider abstained from voting

Adopted: November 19, 2024

Councilmember Miller moved following resolution's adoption:

RESOLUTION REPEALING ARTICLE XLIII OF THE BUILDING ZONE ORDINANCE OF THE TOWN OF HEMPSTEAD ENTITLED "TRANSIT ORIENTED DEVELOPMENT AND RELATED DISTRICTS FOR NORTH LAWRENCE AND INWOOD"

WHEREAS, pursuant to Resolution No. 662-2024, adopted June 4, 2024, a public hearing was duly called, noticed for on the 2nd day of July, 2024, at the Town Meeting Pavilion, Hempstead Town Hall, 1 Washington Street, Hempstead, New York, at 10:30 AM in the forenoon of that day, to consider the proposed enactment of Article XLIV of the Building Zone Ordinance to be titled "Rescission of the Transit-Oriented Development and Related Districts for North Lawrence and Inwood" of the Building Zone Ordinance; and,

WHEREAS, after consultation with the Town's environmental consultants and special counsel, there appear to have been fundamental, technical, and procedural shortcomings in the review leading to the adoption of Town of Hempstead Building Zone Ordinance Article XLIII entitled "Transit Oriented Development and Related Districts for North Lawrence and Inwood." In particular, it is evident that this review did not sufficiently or properly substantiate the site-specific purpose and the need for this legislation, and did not adequately define and analyze the anticipated impacts associated with potential development under the new zoning; and,

WHEREAS, after further deliberation of the current Building Zone Ordinance Article XLIII entitled "Transit Oriented Development and Related Districts for North Lawrence and Inwood," as amended, its enactment, the input received from the community since the inception of the moratoria, and the opinion of the Town's outside counsel, this Board finds it in the public interest to instead repeal Article XLIII of the Building Zone Ordinance of the Town of Hempstead entitled "Transit Oriented Development and Related Districts for North Lawrence and Inwood";

NOW, THEREFORE, BE IT,

RESOLVED, Article XLIII of the Building Zone Ordinance of the Town of Hempstead entitled "Transit Oriented Development and Related Districts for North Lawrence and Inwood" is repealed, and the Building Zone Ordinance shall read as follows:

* * *
Article XLIII. [Reserved]

* * *

and, BE IT FURTHER,

RESOLVED, the zoning regulations for the real property affected by Building Zone Ordinance Article XLIII shall revert

to the zoning regulations in effect for such real property prior to the adoption of Building Zone Ordinance Article XLIII and its amendment; and, be it further,

RESOLVED, this repeal shall take effect according to law, and the Town Clerk shall enter said repeal in the Minutes of the Town Board and the Ordinance Book and shall publish a copy of this resolution once in a newspaper having a general circulation in the Town of Hempstead, and file in her office an affidavit of such publication.

The foregoing resolution was seconded by Councilmember Goosby and adopted upon roll call as follows:

AYES: SIX (6)

NOES: NONE (0)

Councilmember Schneider abstained from voting



SELECT A TOWN

Developers sue Town of Hempstead over transit-oriented project delays

Posted October 4, 2024

 At a meeting on Sept. 20, 2022, 100 Five Towns residents spoke in favor of a six-month moratorium on the transit-oriented development districts in Lawrence and Inwood. Now the district is sparking new controversy over the town's delay in processing applications for the area.

https://gamma.creativecirclecdn.com/liherald/original/20241003-142907-016-98896U%20Heatherwood%20Lawsuit%2010_3_CB_Newsprint%20CMYK.JPG

At a meeting on Sept. 20, 2022, 100 Five Towns residents spoke in favor of a six-month moratorium on the transit-oriented development districts in Lawrence and Inwood. Now the district is sparking new controversy over the town's delay in processing applications for the area.

KEPHERD DANIEL/HERALD

By Parker Schug (mailtopschug@liherald.com)

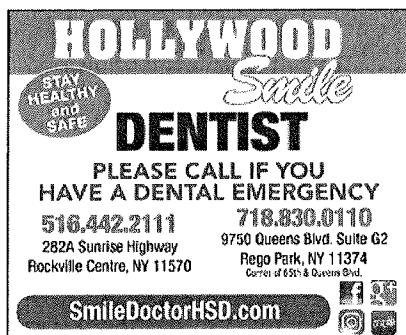
Two Five Towns transit-oriented development districts continue to be a point of contention, this time for the developers who are seeking approval to break ground five years after the 2019 zoning change that made way for new residential and minor industrial development near mass transit stations.

Heatherwood Communities LLC (<https://heatherwood.com/>), of Commack, a firm that builds multifamily residential developments, filed a lawsuit in Nassau County Supreme Court (<https://ww2.nycourts.gov/COURTS/10JD/nassau/supreme.shtml>) on Sept. 10, claiming that the Town of Hempstead's failure to appoint a design review board has stalled Heatherwood's plans for the new districts, Colleen Collins, general counsel for Heatherwood, wrote in an email.

In 2019, the town approved 11.7 acres near the Lawrence Long Island Rail Road Station and nine acres near the Inwood LIRR station to become transit-oriented development districts.

The purpose, as written in the town's building zone ordinance, was to offer people living close to mass transportation a lively community.

The ordinance, titled "Transit-Oriented Development District for North Lawrence and Inwood, (<https://www.liherald.com/fivetowns/stories/north-lawrence-transit-oriented-development,210305?>)" stated: "Having transit-oriented development within walking distance of the Lawrence and Inwood LIRR train stations, with appropriate design elements, will achieve multiple goals: encourage walking and bicycling; increase transit ridership; emphasize mixed-use, pedestrian-oriented development; reduce potential automobile dependency associated with new land uses by locating multiple destinations within close proximity; and support a larger commercial tax base for North Lawrence and Inwood."



Less than two years later, Heatherwood proposed a five-story, mixed-use building with more than 300 residential units and garage parking for more than 400 vehicles, to be built on Wanser and Bayview Avenues in Inwood.

"To date, petitioners have fully complied with the TOD Ordinance governing provisions and its procedures to obtain the requisite Town agency approvals for various phases of their project," the plaintiff — Heatherwood, represented by the law firm Ruskin Moscou Faltischek — wrote in the petition against the town.

Heatherwood had considered expanding Inwood years before, but only acted on the idea once the area was rezoned to transit-oriented development, the company wrote in the petition.

(<https://liheraldbanners.creativecirclemedia.com/2024/09/20/developer-plans-came-to-a-halt-as-a-six-month-moratorium-was-put-in-place-on-projects-hammered-into-2019-zoning-change.html>)

Heatherwood spent over \$30 million on the proposed project, and followed the procedure for submitting an application, but the town has yet to do its part, Heatherwood wrote in the petition.

The town's 2019 building zone ordinance states, "Applicants proposing development in the TOD District have the opportunity to receive an expedited approval process by having the projects initially reviewed by a Town-appointed Design Review Committee (DRC) for advisory comments and assistance with preparing and filing compliant submissions with the Building Department."

Heatherwood is seeking "appointment of design review board," Collins wrote in her email, and the expedited review and approval suggested by the town, Heatherwood wrote in the petition.

No court date has been set, because the town has yet to respond to the lawsuit.

Representatives of the town and the Town of Hempstead Industrial Development Agency said they do not comment on pending litigation.

Comments

Report an inappropriate comment ([/report_item.html?sub_id=210460&referring_url=%2Ffivetowns%2Fstories%2Fdevelopers-sue-town-transit-oriented-project-delays%2C210460](#))

0 comments

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SPONSORED CONTENT

Discover the Beauty of Suffolk County Parks This Fall and Winter ([/fivetowns/stories/discover-the-beauty-of-suffolk-county-parks,211564](#))

Mortgage Contingency: What Every Home Buyer Needs to Know and Seller Should Look Out For ([/fivetowns/stories/mortgage-contingency-attorney-anthony-nozzolillo,211468](#))

3 ways Rockville Centre Auto Repair makes its customers lives easier ([/fivetowns/stories/rockville-centre-auto-repair-customer-service,211320](#))

OTHER ITEMS THAT MAY INTEREST YOU

Final day to donate to NEST food drive ([/fivetowns/stories/thanksgiving-food-drive-debra-mule-nest,211563](#))

Lynbrook Board of Education meeting highlights student achievements and previews upcoming production of 'Grease' ([/fivetowns/stories/education-board-awards-students,211556](#))

Lynbrook Fire Department demonstrates new fire suppression technology ([/fivetowns/stories/fire-agent-helps-department,211555](#))

New York State Attorney General Office of Special Investigation opens investigation into Wantagh fatal accident ([/fivetowns/stories/pedestrian-fatally-struck-in-wantagh,211543](#))

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ADVANCED SEARCH ([/SEARCH.HTML](#))





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

December 9, 2024

VIA EMAIL (arlyeam@hempsteadny.gov)

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 Greenberg Traurig 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:** 2,170 square feet
- **Tenant:** Aldo U.S. Inc., a Delaware corporation d/b/a Aldo
- **Address:** 1103 Green Acres Mall, Valley Stream, NY 11581
- **Estimated employees:** 9 FTEs (5 full-time and 7 part-time)
- **Estimated average salaries:** \$290,000 annually.

Also enclosed 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

Tina Barry, Paralegal

cc: Daniel J. Baker, Esq., via email (dan.baker@gtlaw.com)
Edie Longo, edielon@hempsteadny.gov (with attachments)
Terance Walsh, Nixon Peabody, via email twalsh@nixonpeabody.com (with attachments)
Fareeha Khan, Nixon Peabody, via email fkhan@nixonpeabody.com (with attachments)
Emma Feary, Nixon Peabody, via email efeary@nixonpeabody.com (with attachments)
Eric Brenner, Nixon Peabody, via email ebrenner@nixonpeabody.com (with attachments)
Nancy Rendos (via email nancy.rendos@macerich.com)
Joe Floccari (via email joe.floccari@macerich.com)

LEASE AGREEMENT

BY AND BETWEEN

VALLEY STREAM GREEN ACRES LLC

AS LANDLORD

AND

ALDO U.S. INC.

doing business as

ALDO

AS TENANT

FOR PREMISES LOCATED WITHIN

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



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Exhibits

- A Depiction of Center
- B Depiction of Premises
- C Provisions for the Design and Construction of the Premises
- D Certain Defined Terms
- E Center Rider
- F Intentionally Omitted
- G Affidavit of Improvements Cost Form
- H Intentionally Omitted
- I Monthly and Annual Sales Statement Form
- J Proposed Redevelopment Area

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 ALDO U.S. INC., a Delaware corporation ("Tenant").

WITNESSETH:

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 #01156 Section 2.2

1.3. **Floor Area of the Premises:** 2,170 square feet Section 2.2

1.4. **Term:** From the Rent Commencement Date until the Expiry Date, unless sooner terminated pursuant to the terms of this Lease. Section 4.1

1.5. **Required Opening Date:** Not Applicable Section 3.2

1.6. **Rent Commencement Date:** February 1, 2025

1.7. **Expiry Date:** January 31, 2030

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	\$379,750.00	\$31,645.83

†From the Rent Commencement Date

*Subject to increases pursuant to Section 5.5.1

1.9. **Percentage Rent Rate:** 18% Section 5.6

1.10. **Annual Base Sales:** Section 5.6

<u>Dates</u>	<u>Annual Base Sales**</u>
‡ - Expiry Date	\$2,109,722.20

‡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 non-exclusive display and retail sale of better quality men's and women's footwear ("Principal Use"). As ancillary to the Principal Use, the Premises may be used for the non-exclusive display and retail sale of a complementary mix of accessories ("Ancillary Use"), provided the Floor Area devoted to the display and sale of such Ancillary Use shall not exceed fifteen percent (15%) of the sales Floor Area of the Premises. The Premises shall be used for no other use or purpose.	Section 10.1
1.12. Trade Name:	ALDO	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 am to 9:00 pm; Sunday - 11:00 am to 7:00 pm, 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:	5 miles, measured from the outside boundaries of the Center, as the Center is constituted on the Effective Date.	Section 10.5
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
	<u>With a copy of notices to:</u> Valley Stream Green Acres LLC c/o Macerich 401 Wilshire Boulevard, Suite 700 Santa Monica, California 90401 Attn: Legal Department	
1.18. Tenant's Address For Notices:	Aldo U.S. Inc. 905 Hodge St-Laurent, QC H4N 2B6 CANADA Attn: Real Estate Department	Section 18.1
1.19. Address For Payment of Rent:	Valley Stream Green Acres LLC Dept #880508 P.O. Box 29650 Phoenix, AZ 85038-9650 Online: Tenant Portal	
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:	<p><u>Landlord:</u> Phone: (866) 811-1095 Email: GreenAcresAR@macerich.com</p> <p><u>Tenant:</u> Aldo U.S. Inc. 905 Hodge St-Laurent, QC H4N 2B6 CANADA Attn: Accounts Payable – Real Estate Department</p>	Section 5.1
	Phone: (514) 747-2536	
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 Online: Tenant Portal	
1.25. Fixed Costs:	Not Applicable	

2. PREMISES

2.1. **Center.** The Center is currently 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. Landlord makes no representation, warranty or covenant with respect to the occupancy of the Center by any tenant (whether a Major Occupant or Occupant of any pad, lot or premises within the Center), the date on which any Occupant accepted or will accept occupancy of space, the business which any other Occupant will conduct in the Center or that any Occupant will continue to remain an occupant in any specific location in the Center.

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. **Tenant in Possession.** As of the Effective Date, Tenant is in possession of all or a portion of the Premises by virtue of that certain Lease Agreement dated November 17, 1995, by and between Green Acres Mall, Corp., a Delaware corporation, predecessor-in-interest to Landlord, as landlord thereunder, and Tenant, (as amended, "Existing Lease"). Landlord and Tenant acknowledge that the Premises were referred to as Space #105 in the Existing Lease and was subsequently referred to as Space #01156. Notwithstanding anything to the contrary contained in the Existing Lease, the Existing Lease shall terminate at 11:59 p.m. local time on the day immediately preceding the Rent Commencement Date of this Lease, provided, however, the following rights, obligations and indemnities

shall survive such termination: (a) the unperformed obligations of Landlord or Tenant which are applicable to the period up to and including the Rent Commencement Date, (b) the obligations of Landlord and Tenant which expressly survive the expiration or sooner termination of the Existing Lease, and (c) rights of indemnity or contribution which Landlord and Tenant may expressly have under the Existing Lease or otherwise relating to the third party claims arising during the term of the Existing Lease. Landlord and Tenant agree that no further notice of termination shall be required in order to effect such termination of the Existing Lease. Notwithstanding anything to the contrary contained herein or in the Existing Lease, Tenant hereby waives all rights (whether at law, at equity or under the Existing Lease) to audit Fringe Charges under the Existing Lease, including any pending audits or requests to audit any of such Fringe Charges; however, any amounts which have been billed by Landlord on account of Fringe Charges which remain unpaid must be timely paid by Tenant to Landlord. "Fringe Charges" means all of the following regardless of how any such charges may be defined or described in the Existing Lease: (i) Tenant's share of real estate taxes and assessments, (ii) Tenant's share of the costs and expenses incurred by or on behalf of Landlord in operating, managing, insuring, securing, maintaining and repairing the Common Area, (iii) Tenant's share of utilities whether supplied to the Common Area or the Premises and (iv) Tenant's contributions to any marketing fund, promotion fund, merchants' association, or the like.

3. CONSTRUCTION OF IMPROVEMENTS

3.1. **Condition of Premises.** Tenant is in possession of the Premises under the terms of the Existing Lease and, subject to the terms and conditions of this Lease, hereby accepts the Premises in "as-is" condition.

3.2. **Tenant's Work.** Tenant shall not be required to perform any of Tenant's Work pursuant to Exhibit C which would otherwise be required prior to opening the Premises for business. However, should Tenant at any time during the Term elect or otherwise be required to undertake any work upon the Premises, the same shall be in accordance with Exhibit C of this Lease and all of the other respective provisions of this Lease addressing any such work. Nothing herein shall waive, or be deemed to waive, any obligation of Tenant under Section 17.6 or Articles 12, 13 and 23.

3.3. **Timely Opening.** Intentionally Omitted.

3.4. **Affidavit of Improvements Cost.** Intentionally Omitted.

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, at the address specified at Section 1.19 or at such other place as Landlord may from time-to-time designate in writing to Tenant. Tenant shall be obligated to pay Rent when due regardless of whether Tenant receives a statement therefor. 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. 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 Expiry Date, any such excess shall be refunded to Tenant. If Fixed Minimum Rent during any Lease Year is reduced or increased pursuant to a provision in this Lease or by express written agreement between Landlord and Tenant, then Annual Base Sales shall likewise be

reduced or increased by a percentage equal to the percentage increase or decrease, as the case may be, in the Fixed Minimum Rent payable for the period during which the change in Fixed Minimum Rent is in effect. 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 for such month shall be prorated. Unless otherwise provided, all prorations of Rent for fractional periods shall be based on the actual number of days in such month and the actual number of days in such year. If the Lease Year is less than twelve (12) full calendar months, then Annual Base Sales for such 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 Lease Year and the denominator of which shall be three hundred sixty-five (365). If the Premises are closed for any full or partial day during Center Hours, then Annual Base Sales shall be prorated for the Lease Year in which such closure occurs.

5.3. **Late Payments.** If Tenant fails to pay any Rent to Landlord when due, Landlord shall be entitled to (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 service charge equal to \$400.00 per instance. Notwithstanding anything contained in this Section 5.3 to the contrary, for the first two (2) times in any Lease Year that Tenant has failed to pay any Rent to Landlord when due, the foregoing service charge (specifically excluding interest) shall not apply unless Tenant has failed to pay such Rent within ten (10) days after receipt of Landlord's written notice of such unpaid Rent. Landlord shall not be required to give Tenant such notice more than twice in any Lease Year prior to assessing said service 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, in addition, Landlord may require that all future payments of Rent shall be made by cashier's check. Tenant acknowledges the late payment of Rent or the use of a dishonored check by Tenant will cause Landlord to incur costs and expenses not contemplated by this Lease, the exact amounts of which will be extremely difficult to ascertain, and that the service charges represent fair estimates of the costs and expenses which Landlord would incur by reason of Tenant's late payment of Rent or use of a dishonored check. 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, unless Landlord has been given prior written notice to the contrary by Tenant; 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 the first day of January next following the Rent Commencement Date, 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 twenty (20) 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 forty-five (45) 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. *Intentionally Omitted*

5.8. *Intentionally Omitted.*

5.9. **Personal Property and Other Taxes.** Tenant shall pay directly to the appropriate taxing authority, before delinquency, any and all taxes, assessments and public charges levied, assessed or imposed during the Term by governmental authorities upon Tenant's business, upon Tenant's sales, upon Rent, upon Tenant's leasehold interest, and upon all fixtures, furniture, appliances and personal property installed or located in the Premises, or that constitute a lien upon any of the foregoing, as well as upon Tenant's right to occupy, or do business at, the Premises.

6. INTENTIONALLY OMITTED.

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, (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 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 Percentage Rent, (e) sales of fixtures 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, (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 and (i) sales to employees who work at the Premises at a discount of not less than twenty-five percent (25%) of the retail sales price, provided such sales to employees shall not exceed a total of two percent (2%) of Gross Sales in any single Lease Year.

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 and (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 Address for Notices, 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. **Audits.** All Tenant's Records, as well as profit and loss statements for the Premises, shall be made available to Landlord and its agents at Tenant's Address for Notices. Notwithstanding the immediately foregoing to the contrary, provided Tenant is the tenant entity set forth on Page 1 of this Lease and Tenant is a privately held corporate entity, Tenant shall not be required to make available to Landlord or its agents profit and loss statements for the Premises. Landlord and its agents shall have the right at any time during normal business hours, after no less than twenty (20) days' prior written notice to Tenant, to cause a complete examination or audit to be made of Tenant's Records and other pertinent documentation, including, without limitation, bank accounts pertaining to the Premises, for the purpose of verifying Tenant's compliance with the provisions of Article 5 and this Article 7. If an audit or examination shall disclose that any Annual Sales Statement understates Gross Sales for the reporting period, then (a) within five (5) days after written demand Tenant shall pay to Landlord the resulting deficiency in Percentage Rent, if any, together with interest thereon at the Agreed Rate calculated from the date such amount first became due and (b) if Gross Sales is understated by three percent (3%) or more, Tenant shall pay to Landlord all costs and expenses relating to such examination or audit (including, without limitation, reasonable travel costs) and (c) if Gross Sales is understated by four percent (4%) or more, then Landlord may, in its sole discretion, treat the same as an incurable breach of this Lease and Landlord may terminate this Lease upon no less than thirty (30) days' written notice to Tenant given within sixty (60) days following the completion of such examination or audit. Notwithstanding anything contained in (c) preceding to the contrary, Landlord's right to terminate this Lease shall be null and void in the event Tenant can provide reasonable evidence that said understatement was not willful, intentional and in bad faith. The results of any such audit shall be confidential and Landlord shall not supply any such information to any third party, except Landlord's legal counsel, Landlord's accountants, the Manager and its representatives and any court of competent jurisdiction. In the event of any dispute over the findings of any audit or examination set forth in this Section 7.3, Landlord and Tenant shall each use good faith efforts to resolve such dispute within fifteen (15) days after Landlord submitted the findings of said audit or examination to Tenant; provided, however, in the event Landlord and Tenant are unable to reach an agreement on the findings within said fifteen (15)-day period, Tenant's sole remedy shall be to submit such dispute to arbitration pursuant to Section 27.37.

7.4. **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 upon ten (10) days' prior notice (a) to audit Tenant's Records for the period in question, at Tenant's sole cost and expense, and the result of such audit shall be binding upon both Landlord and Tenant in determining the Percentage Rent due for such period, and/or (b) to invoice Tenant the sum of \$100.00 per incident to cover the additional time and expense involved to obtain each such Monthly Sales Statement or Annual Sales Statement. In the event Landlord audits Tenant's Records as set forth herein, any dispute over the findings of any such audit shall be resolved in the manner expressly set forth in Section 7.3.

7.5. **Intentionally Omitted.**

8. INDEMNITY AND INSURANCE

8.1. **Indemnification**

8.1.1. **Indemnification by Tenant.** Tenant hereby indemnifies, and holds Landlord and the Landlord Parties harmless from and against, and shall defend Landlord and the Landlord Parties against, any and all Claims arising, claimed, charged or incurred against or by Landlord or any of the Landlord Parties from any matter or thing arising from (a) damage to property, or injury to or death of persons, which occurs (i) in, on or about the Premises from any cause ("Premises Claim"), or (ii) in, on or about the remainder of the Center resulting directly or indirectly out of or in connection with the possession, use, occupation, management, maintenance, repair, control and enjoyment of the Premises, or any act or omission or negligence of Tenant or any of the Tenant Parties ("Exterior Claim"), or (b) any default, breach, violation or non-performance by Tenant of any

provision of this Lease, or (c) Tenant's Repair Obligations and Tenant Improvements (including, without limitation, mechanics', materialmen's and other liens), or (d) any Transfer or proposed Transfer, or any Transferee or proposed Transferee, broker, finder or other person claiming commission or other compensation in connection with a proposed Transfer; however, Tenant shall not be liable for any Premises Claim to the extent resulting from the gross negligence or willful misconduct of any of Landlord or the Landlord Parties or for any Exterior Claim to the extent resulting from the active negligence or willful misconduct of any of Landlord or the Landlord Parties, unless, in either event, such Claims are covered or would have been covered by insurance that Tenant is required to provide under the terms of this Lease or are otherwise covered by insurance carried by Tenant.

8.1.2. ***Indemnification by Landlord.*** Landlord hereby indemnifies, and holds Tenant and the Tenant Parties harmless from and against, and shall defend Tenant and the Tenant Parties against any and all Claims arising, claimed, charged or incurred against or by Tenant or any of the Tenant Parties from any matter or thing arising from damage to property, or injury to or death of persons, which occurs (a) in, on or about the Premises from any cause to the extent due to the sole and active negligence or willful misconduct of Landlord or the Landlord Parties, or (b) in, on or about the remainder of the Center to the extent due to the active negligence or willful misconduct of Landlord or the Landlord Parties.

8.1.3. ***Release and Waiver.*** If any part of the Premises or the Center is damaged by fire or other cause for which Tenant is required to carry insurance pursuant to this Lease or for which Tenant otherwise carries insurance, Landlord shall not be liable to Tenant or any of the Tenant Parties for any loss, cost or expense arising out of or in connection with such damage. Tenant hereby releases Landlord and the Landlord Parties from any liability, claim or action arising out of or in connection with such damage. Furthermore, Tenant's All Risk insurance required pursuant to Section 8.2.3(a) shall include coverage against loss, injury, or damage which may be sustained by the person, goods, wares, merchandise or property of Tenant, the Tenant Parties, and/or any other person in or about the Premises, caused by or resulting from 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 of the same, whether such loss, damage or injury results from conditions arising within the Premises or other portions of the Center, or from other sources, and Landlord shall not be liable therefor, except to the extent caused by Landlord's sole and active negligence or willful misconduct, and in that event only to the extent not covered, and would not have been covered, by insurance which Tenant is required to carry pursuant to this Lease. Landlord shall not be liable to Tenant for any damages arising out of or in connection with any act or omission of any Occupant or for losses due to theft or burglary or other wrongful or negligent acts of third parties.

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 Insurance.*** From the Delivery Date until the end of the Term, Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect, (a) ***for this Lease at Green Acres Mall*** commercial general liability insurance written on a policy form offering coverage with limits of not less than \$3,000,000.00 per occurrence and \$5,000,000.00 annual aggregate covering bodily injury, property damage, personal injury and advertising injury and (b) umbrella liability insurance providing coverage at least as broad as the commercial general liability insurance required by this Section 8.2.1, but with limits of not less than \$2,000,000.00 per occurrence and annual aggregate in excess of the limits provided by commercial general liability insurance maintained by Tenant. In addition to satisfying the foregoing requirements, Tenant's commercial general liability insurance and umbrella liability insurance shall also (i) provide that Landlord and Landlord's Designees are named as additional insureds, that such additional insured coverage covers not only the additional insureds' vicarious liability but also the direct liability of the additional

insureds, including but not limited to liability based on the sole negligence of the additional insureds, and that insurance carried by such additional insureds is in excess of, and will not contribute with, Tenant's liability insurance, (ii) provide cross-liability coverage and (iii) provide contractual liability coverage for personal injury, advertising injury, bodily injury and property damage that it is not limited to the tort liability of another. The insurance required to be procured pursuant to this Section 8.2.1 shall contain an aggregate limit per location endorsement. In no event shall the minimum limits of, or any other requirements relating to, the insurance required by this Section 8.2.1 be considered as limiting the liability of Tenant under this Lease. 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 Insurance.** From the Delivery Date until the end of the Term, Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect workers' compensation and employer's liability insurance covering all employees of Tenant engaged on or with respect to the Premises, affording applicable statutory limits for workers' compensation coverage and at least \$1,000,000.00 in limits for employer's liability coverage.

8.2.3. **Property Insurance.** From the Delivery Date until the end of the Term, Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect (a) "All-Risk" property insurance insuring against all risks of direct physical loss or damage included within the broadest available policy form written by insurance companies licensed to do business in the state in which the Center is located, together with insurance against earthquake and flood (if required by Landlord), covering Tenant Improvements, leasehold improvements, trade fixtures, equipment, furniture, merchandise, signs and other personal property from time-to-time located on the Premises, which property insurance shall (i) be in an amount not less than one hundred percent (100%) of the full replacement cost (new, without deduction for depreciation) of the covered items and property as the same may exist from time-to-time and (ii) include an agreed amount endorsement in an amount sufficient to satisfy any coinsurance clause requirements, an inflation guard endorsement, a demolition and increased cost of construction endorsement due to law and ordinance of governmental authorities, and such other reasonable coverages and/or endorsements as Landlord may from time-to-time request upon written notice to Tenant, (b) boiler and machinery insurance on all boilers and other pressure vessels, the HVAC serving the Premises, and electrical and mechanical equipment and systems serving the Premises, which insurance to be in an amount not less than \$500,000.00 and (c) insurance covering all plate glass on the Premises. The insurance required pursuant to (a) and (b) above shall also include coverage for business interruption (including, without limitation, lost income and extra expense) whether direct, contingent or interdependent. Provided Tenant is the tenant entity set forth on Page 1 of this Lease and Tenant is not in default of this Lease beyond the expiration of any applicable notice and cure period set forth in Article 19, Tenant shall be permitted to obtain insurance for Tenant Improvements, leasehold improvements, trade fixtures, equipment, furniture, merchandise, signs and other personal property from time-to-time located on the Premises in an amount not less than eighty percent (80%) of their full replacement cost from time-to-time during the Term; provided, however, Tenant shall self-insure for an additional twenty percent (20%) of said full replacement cost. The proceeds of such insurance under (a), (b) and (c) above, so long as this Lease remains in effect, shall be retained by Tenant and used by Tenant to repair and/or replace the Tenant Improvements, leasehold improvements, trade fixtures, equipment, furniture, merchandise, signs and other personal property, boiler, HVAC, electrical and mechanical equipment and systems and plate glass so insured. The insurance required to be maintained by Tenant under this Section 8.2.3 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 8.2.3 and Section 8.2.6 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 8.4. Provided Tenant is the tenant entity set forth on Page 1 of this

Lease and Tenant is not in default of this Lease beyond the expiration of any applicable notice and cure period set forth in Article 19, Tenant shall be permitted to satisfy the insurance requirements referred to in this Section 8.2.3 in whole or in part through any plan of self-insurance from time-to-time maintained by Tenant, provided Tenant shall (1) have and maintain a tangible net worth of at least Fifteen Million Dollars (\$15,000,000.00) and tangible net current assets of at least Seven Million Five Hundred Thousand Dollars (\$7,500,000.00), (2) limit the amount of its annual aggregate self-insurance retention for property damage to no more than five percent (5%) of its tangible net current assets, (3) maintain insurance for its exposure above its aggregate self-insurance retention, (4) on an annual basis or upon Landlord's request, furnish Landlord with evidence, in a form reasonably acceptable to Landlord, of such tangible net worth and tangible net current assets, and (5) agree to assume all duties, obligations and responsibilities of an insurance company with respect to any Claim made under such self-insurance program. The terms "tangible net worth" and "tangible net current assets" as used herein, shall be defined in accordance with generally accepted accounting principles. In the event Tenant elects to self-insure as set forth herein and thereafter elects to terminate such self-insurance program, Tenant shall provide Landlord at least thirty (30) days' prior written notice of such termination, together with copies of replacement policies of insurance or certificates in accordance with the requirements set forth in Section 8.2.7. If the Center is located in the Federal Emergency Management Area flood zone A or V, Tenant shall also procure and maintain, at its sole cost and expense, flood insurance with a deductible not to exceed Ten Thousand Dollars (\$10,000.00), including purchase of the National Flood Insurance Policy, if applicable. If the Center is located in the New Madrid seismic areas or the states of California, Oregon or Washington, Tenant shall also procure and maintain, at its sole cost and expense, earthquake insurance with a deductible not to exceed five percent (5%) of the total insured value. 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. Notwithstanding the foregoing, **for this Lease at Green Acres Mall**, Tenant is not required to carry earthquake or flood insurance.

8.2.4. **Construction Insurance.** Prior to commencing any Tenant Improvements, Tenant shall provide Landlord with evidence that Tenant carries builder's risk insurance in an amount reasonably approved by Landlord covering the construction of such Tenant Improvements, together with the insurance set forth in the Tenant Package. All improvements constituting Tenant Improvements shall be insured by Tenant under the other policies required under this Article 8 immediately upon completion of such work.

8.2.5. **Automobile Insurance.** Business automobile liability insurance covering the vehicles of Tenant or any of the Tenant Parties used directly in connection with the operation of its business from the Premises, if any, 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.

8.2.6. **General Provisions.** All insurance policies maintained by Tenant under this Lease shall (a) be issued by insurance companies licensed to do business in the state in which the Center is located, with a "Best's" rating of not less than A- and a financial size category of not less than Class VIII as rated in the most current available "Best's" Insurance Reports and (b) contain a provision that the insurance companies writing such policies shall give to Landlord ten (10) days' notice in writing in advance of any cancellation, lapse, reduction or other adverse change respecting such insurance.

8.2.7. **Certificates of Insurance; Failure to Provide Insurance.** Tenant shall deliver to Landlord, prior to the Delivery Date and thereafter at least thirty (30) days prior to the expiration of any such policy, either a certificate of insurance or a certified copy of all policies of insurance required to be obtained and maintained by Tenant under this Lease (including blanket policies). 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 originals or certification of insurance, Landlord shall have the right (but not the obligation) 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. If Tenant obtains and maintains blanket insurance in conformity with the provisions of this Section 8.2, then the requirement that Tenant furnish Landlord with originals or certificates shall be satisfied by Tenant's delivery to Landlord of an underlying certificate(s) of such blanket insurance in form reasonably satisfactory to Landlord for the appropriate insurance.

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 Tenant Improvements, leasehold improvements, trade fixtures, equipment, furniture, merchandise, signs and other 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 included within the broadest available "special form" policy form 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, Commercial General Liability insurance and insurance against earthquake, flood and rental loss, which property insurance shall be in an amount not less than eighty percent (80%) of the full replacement cost (new, without deduction for depreciation) of the Premises, other Occupants' premises and the Center (excluding [a] excavations of the land on which the Premises, other Occupants' premises and the Center is located; [b] foundations of the Premises, other Occupants' premises and the Center; and [c] Tenant Improvements, leasehold improvements, trade fixtures, equipment, furniture, merchandise, signs and other personal property from time-to-time located on the Premises and the leasehold improvements, trade fixtures, equipment, furniture, merchandise, signs and other personal property from time-to-time located on premises of all Occupants). 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.

8.4. **Waiver of Subrogation.** Landlord and Tenant each hereby waives any and all rights of recovery against the other or against the Tenant Parties and Landlord Parties, respectively, and Tenant hereby waives any and all rights of recovery against the Major Occupants, on account of loss or damage of such waiving party or its property, or the property of others under its control, to the extent that such loss or damage is insured against under any property insurance policy which either may have in force at the time of such loss or damage.

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 or utilities consultant's calculations of such share or such other reasonable measuring methodologies as Landlord may utilize from time-to-time). 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). 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. In no event shall the rates charged to Tenant for any Utilities provided by Landlord exceed the rates Tenant would have paid if Tenant were separately metered for such Utility by the applicable utility company. 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. 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 twenty-four (24) consecutive hours following the date Landlord receives the Utility Interruption Notice, Fixed Minimum Rent 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) 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) obstruct or interfere with the rights of Occupants or injure them; (c) use any loudspeakers, phonographs, televisions or other devices of similar nature in such manner as to be heard or viewed outside of the Premises; (d) emit any noise, odors, fumes or smoke; (e) use the Premises for any improper, unethical, immoral, unlawful, pornographic or other similarly objectionable or offensive purpose; (f) conduct or permit in the Premises any fire, bankruptcy, auction, "closeout", "going out of business" or similar sale; (g) 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, including, without limitation, hawking, calling out or otherwise verbally or by motions offering or distributing samples of Tenant's merchandise to any person in the Common Area; (h) 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), however, Tenant may have vending machines and pay telephones in non-sales areas for use only by Tenant's employees; (i) install or use an automated teller machine or other cash or credit dispensing machines; (j) use any portion of the Premises as living quarters, sleeping quarters or for lodging purposes; (k) keep or place any merchandise or other personal property or other obstruction in any part of the Common Area; (l) permit any prohibited signs or media specified at Section 11.3; (m) 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; (n) 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; (o) operate any sales reporting, credit verification or such other similar electronic devices through the use of Landlord's public wireless fidelity (Wi-Fi) network; or (p) display, sell or promote cigarettes, electronic cigarettes, MODs, atomizers, any other supplies, accessories or devices used in connection with cigarettes, electronic cigarettes, vaporizers, atomizers, herbal vaporizers, e-liquids, cannabis [including without limitation the cannabis plant and any and all parts, seeds, derivatives, cannabinoids (such as CBD), and extracts thereof], 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. Notwithstanding anything contained in (c) preceding to the contrary, Tenant shall be permitted to use televisions or other devices of similar nature that may be viewed outside the Premises; provided, however (i) said use shall be expressly subject to any applicable Governmental Regulations and all of the terms, covenants and conditions of this Lease, (ii) said use shall at all times be subject to the Superior Agreements and the covenants, conditions, and restrictions of Landlord respecting use as may be contained in any other lease for premises at the Center, and (iii) Tenant shall promptly respond in an appropriate manner to legitimate complaints to Tenant and/or the manager of the Center from customers, patrons, employees, invitees or other Occupants regarding said use.

10.3. Days and Hours of Operation. Tenant shall conduct the Permitted Use with diligence and efficiency, keep in stock a full and ample line of merchandise and maintain an adequate sales force so as to maximize profit at the Premises and shall keep display windows, exterior signs and exterior advertising adequately illuminated, continuously from and after the Rent Commencement Date throughout the remainder of the Term, during the Center Hours. If Tenant fails to comply with the provisions of this Section 10.3 after the giving of notice and the expiration of the cure period set forth in Section 19.2.3, then in addition to Landlord's other remedies under this Lease, Landlord shall have the right to collect from Tenant, in addition to the other Rent, a sum equal to the Fixed Minimum Rent (prorated on a daily basis) for each such full or partial day Tenant fails to comply with the provisions of this Section 10.3. Tenant acknowledges that its failure to comply with this Section 10.3 will cause Landlord to suffer damages which will be difficult to ascertain and that the sum payable by Tenant under this Section 10.3 represents a fair estimate of such damages. 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.

10.4. Deliveries. All deliveries to the Premises shall be made only through delivery areas specified from time-to-time by Landlord and all deliveries, loading, unloading and services to the Premises shall be completed prior to the earlier of 10:00 a.m. and the beginning of the Center Hours each day. Tenant shall prevent delivery trucks and other vehicles servicing the Premises from parking or standing in front or at the rear of the Premises and the Center during the Center Hours each day. Landlord reserves

the right to further reasonably regulate, in a non-discriminatory manner, the activities of Tenant in regard to deliveries to and servicing of the Premises.

10.5. Retail Restriction Limit. 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 Delivery 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 Tenant's Trade Name ("Competing Interest") within the Radius ("Retail Restriction Limit"). This Section 10.5 shall not apply to any Competing Interest in a business it is operating within the Retail Restriction Limit on the Delivery Date. If Tenant violates the provisions of this Section 10.5, 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 a non-curable default under this Lease and terminate this Lease and/or (b) include the gross sales made from any such business(es) within the Retail Restriction Limit in the Gross Sales under this Lease for so long as there continues to be a violation of this Section 10.5. If Landlord elects to include the gross sales from such other business in the Gross Sales pursuant to (b) preceding as set forth hereinabove, then all gross sales and Tenant's records from such business shall be subject to the provisions of Section 5.6 and Article 7.

10.6. Compliance with Laws. Subject to the provisions set forth in Section 12.1.1, Tenant (a) shall promptly at its sole cost and expense comply with all Governmental Regulations affecting the Premises and all Governmental Regulations affecting Tenant's activities in the Center and (b) shall not cause anything in the Center to conflict, or permit anything in the Premises which conflicts, in any way with any Governmental Regulations. Without limiting the generality of the foregoing, Tenant, at its sole cost and expense, shall assure that the Premises and all operations therein comply at all times with all Governmental Regulations relating to occupational, health, safety or access standards for employers, employees, landlords, tenants or the public, and all Governmental Regulations relating to the installation, construction, maintenance, repair and/or replacement of improvements to the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial action, regardless of whether Landlord is a party thereto, that Tenant has violated any Governmental Regulations shall be conclusive of that fact as between Landlord and Tenant.

10.7. Fire/Life Safety. Tenant shall purchase, install, maintain, repair and replace upon the Premises (a) chemical extinguishing systems approved by Landlord and (b) such other fire/life safety systems and equipment as Landlord shall reasonably require (in addition to any such systems required by governmental authorities). All fire/life safety systems shall at all times be maintained in working, first-class condition and in accordance with the manufacturer's instructions. Copies of all maintenance contracts for fire/life safety systems shall be delivered to Landlord prior to the Delivery Date and all renewals and replacements therefor within five (5) days prior to the expiration of each such contract. If Tenant fails to obtain or maintain such contracts within three (3) days after Landlord has notified Tenant that Tenant has failed to comply with the provisions of this Section 10.7, then Landlord shall have the right to obtain the same on Tenant's behalf and Tenant shall reimburse Landlord, upon written demand, the sums expended by Landlord therefor, together with interest at the Agreed Rate thereon from the date Landlord first made such expenditure.

10.8. Intentionally Omitted.

10.9. Nuisance Mitigation. If Landlord, in its reasonable judgment, determines that the Permitted Use has generated or is likely to generate excessive noise, excessive or offensive odors or otherwise adversely impact the Center, other Occupants, the surrounding property owners, or business invitees or licensees of the Center, then, promptly following Landlord's notice to Tenant, Tenant shall, at Tenant's sole cost and expense, implement measures or purchase, install, construct, maintain, repair and replace such improvements and equipment as shall be required to mitigate the nuisance or potential nuisance. The type and adequacy of such mitigating measures shall be reasonably determined by

Landlord and communicated to Tenant by written notice. The implementation of such measures and the construction and installation of such improvements (as well as the materials and locations of the same) shall be governed by the requirements set forth in Section 12.3.

10.10. Refuse and Pest Extermination. All refuse of Tenant shall be deposited within trash receptacles (which receptacles shall be subject to the reasonable approval of Landlord) located inside the Premises within such area or areas that are not visible from the sales areas of the Premises or from the Common Area. All wet refuse and food refuse shall be tightly sealed in bags and food refuse placed in refrigerated units dedicated solely to storing refuse. Tenant shall use the refuse service provided by the sanitation contractor designated by Landlord; provided, however, such refuse service provided by Landlord's designated sanitation contractor shall be at reasonable and/or competitive costs based on comparable refuse service with commensurate sanitation contractors in the service area of the Center. Tenant shall, at Landlord's discretion, pay to Landlord within thirty (30) days following receipt of each invoice therefor, or directly to the sanitation contractor when billed, the charges for such refuse removal from the Premises. If Landlord or any governmental authorities shall institute any recycling program, Tenant shall comply with such program. Tenant shall, at its sole cost and expense, use a pest extermination contractor reasonably acceptable to Landlord, at such intervals as shall be reasonably required by Landlord to keep the Premises free from insects and vermin.

10.11. **Intentionally Omitted.**

10.12. **Intentionally Omitted**

11. SIGNS

11.1. **Storefront Sign.** Tenant shall, at its sole cost and expense, obtain licenses and permits for, and purchase, install, maintain, operate, repair and replace, as necessary, Storefront Sign. Storefront Sign shall (a) comply with all Governmental Regulations and have received the prior approval, if required, of governmental authorities, (b) comply with the provisions of this Lease and (c) comply with the Tenant Package. The removal of 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 earlier date of termination of this Lease, shall be undertaken by, and at the sole cost and expense of, Tenant. Storefront Sign shall at all times be maintained in working, first-class condition.

11.2. **Interior Signs.** All signs within the Premises, including all sales and point-of-purchase signs, shall be (a) professionally designed and manufactured, (b) designed and placed to be viewed only from within the Premises and not from the Common Area and (c) comply with the provisions contained in the Tenant Package. Notwithstanding anything contained in (b) preceding to the contrary, Tenant shall be permitted to use interior signs which may be viewed from the Common Area; provided, however (i) said use shall be expressly subject to any applicable Governmental Regulations and all of the terms, covenants and conditions of this Lease, and (ii) Tenant shall promptly respond in an appropriate manner to legitimate complaints to Tenant and/or the manager of the Center from customers, patrons, employees, invitees or other Occupants regarding said use.

11.3. **Prohibited Signs and Media.** Tenant shall not place on the roof, doors, glass panes and supports of the show windows, or within twelve inches (12") of any window or the exterior walls of the Premises any sign, symbol, advertisement, shades, or neon, flashing, blacklight, strobe or other similarly distracting lights, or any other object or thing visible to public view outside of the Premises, except for Tenant's professionally-displayed merchandise. Tenant shall not cause to be displayed, painted or placed, any handbills, bumper stickers or other advertising devices on any vehicle parked in the automobile parking areas of the Center, whether belonging to Tenant, or its officers, employees or agents, or to any other person, nor shall Tenant solicit or distribute, or cause to be solicited or distributed, any handbills or other advertising devices in the Center.

12. REPAIRS, MAINTENANCE AND ALTERATIONS

12.1. Repairs and Maintenance

12.1.1. ***Landlord's Repair Obligations.*** Landlord shall (a) within a reasonable period of time following Landlord's receipt of written notice from Tenant, cause to be made any necessary structural repairs to the foundation of the Premises, exterior structural walls and interior load bearing walls of the Premises, the outside face of exterior walls of the Premises and the exterior roof of the Premises (exclusive of doors, storefronts, frames, plate glass, security grilles and similar enclosures and Storefront Sign, all of which shall be the obligation of Tenant to maintain and repair); and (b) keep the exterior structural walls, load bearing walls, the outside face of the exterior walls, foundations, exterior roofs and structural portions of the Building in a good state of repair. Notwithstanding the preceding, Landlord shall not be responsible for the repair of (i) any damage caused by any act, negligence or omission of Tenant or any of the Tenant Parties, all of which damage shall be repaired by Tenant at Tenant's sole cost and expense, if within the Premises, and by Landlord as a Prepaid Cost, if elsewhere in the Center; (ii) repairs due to a Casualty (which repairs shall be subject to the provisions of Article 23); (iii) repairs due to a Taking (which repairs shall be subject to the provisions of Article 24); and (iv) any alterations, demolition or improvements required by any governmental authorities arising from Tenant's use or occupancy of the Premises, Tenant's conduct of business upon the Premises, and/or the construction or installation of any of Tenant Improvements upon the Premises (which are subject to the provisions of Section 12.1.2). Landlord shall not be liable for any failure to make any such repairs or to perform any maintenance required of Landlord hereunder unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant. The obligation of Landlord to make repairs under this Section 12.1.1 is sometimes referred to as "Landlord's Repair Obligations".

12.1.2. ***Tenant's Repair Obligations***

12.1.2.1. ***Tenant's Repair 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 and clean and presentable at all times. 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), toilet facilities and fixtures, windows, window sashes, showcases, storefronts, security grilles and similar enclosures, Storefront Sign and HVAC (exclusive of leaks around ducts or other parts of the HVAC or plumbing systems which protrude outside the Premises, which maintenance shall be completed by a contractor selected and approved by Landlord, as a Prepaid Cost). All alterations, demolition and improvements required by any governmental authorities arising from Tenant's use or occupancy of the Premises, Tenant's conduct of business upon the Premises and/or the construction or installation of any Tenant Improvements upon the Premises shall be at Tenant's sole cost and expense and shall be undertaken by Tenant, if upon the Premises, and by Landlord as a Prepaid Cost, if elsewhere in the Center. Except for Landlord's Repair Obligations, Landlord shall have no obligation to repair or maintain the Premises or improvements within the Premises. The maintenance and repair obligations of Tenant under this Section 12.1.2 are sometimes collectively referred to as "Tenant's Repair Obligations".

12.1.2.2. **HVAC Service Contracts.** Intentionally Omitted ***for this Lease at Green Acres Mall.***

12.1.2.3. **Failure to Maintain.** Intentionally Omitted ***for this Lease at Green Acres Mall.***

12.2. Alterations and Refurbishment

12.2.1. **Alterations.** Tenant shall make no Alterations without Landlord's express, prior written consent in each instance.

12.2.2. **Refurbishment.** If the Term is longer than five (5) years, Landlord may, upon written notice ("Refurbishment Notice") to Tenant given at any time within the twelve (12)-month period following the fourth (4th) anniversary of the Rent Commencement Date, require Tenant, at Tenant's sole cost and expense, to refurbish the Premises as necessary to maintain the Premises in a like-new, first-class condition ("Refurbishment"). The extent of the Refurbishment shall be specified by Landlord in the Refurbishment Notice and may include, without limitation, new floor coverings, new wall coverings, repainting the Premises and installing new trade fixtures (any or all of which may require a higher grade and/or quality than that originally installed in the Premises, if the same is required to meet Landlord's then-current standards applicable to the construction of improvements and/or refurbishment in other premises in the Center). All Refurbishment shall be performed by Tenant in accordance with the provisions of Section 12.3 and shall be completed within six (6) months following the date Landlord delivers the Refurbishment Notice to Tenant. If Tenant fails to complete the Refurbishment within such six (6)-month period, from the expiration of such six (6)-month period until the Refurbishment is complete, Fixed Minimum Rent shall be increased by twenty-five percent (25%). Notwithstanding anything to the contrary contained in this Section 12.2.2, Tenant shall not be required to perform a Refurbishment, provided the Premises shall at all times during the Term be in first-class condition based upon Landlord's reasonable standards of appearance.

12.3. **Repairs and Improvements.** All Tenant Improvements and Tenant's Repair Obligations shall be performed in a good and workman-like manner using materials of at least the same specifications, grade and quality as required pursuant to the Tenant Package, and as originally installed in the Premises pursuant to Exhibit C (unless higher specifications, grade or quality is required pursuant to Section 12.2.2 in which case such higher specifications, grade and quality shall be used). All Tenant's Repair Obligations and Tenant Improvements (a) shall be performed under the supervision of a licensed architect and/or licensed structural engineer, as shall be appropriate to such work, (b) shall be in strict conformance with detailed drawings which have received the prior, written approval of Landlord, (c) shall be in strict conformance with the Tenant Package and with all Governmental Regulations and (d) once commenced, shall be diligently prosecuted to completion to the end that the Premises shall at all times be a complete architectural unit, except during the period of such work. Upon Landlord's receipt of Tenant's proposed plans, Landlord shall review and, in writing to Tenant, either approve, or reasonably disapprove with reasonable detail, the said plans. Tenant's Repair Obligations and Tenant Improvements shall be performed in such a manner as not to impede access to the premises of any other occupant of the Center or of any part of the Common Area (except any such Common Area Landlord shall otherwise expressly designate in writing to Tenant for the placement of temporary storefront barricades). Prior to commencing Tenant's Repair Obligations or Tenant Improvements, Tenant shall deliver to Landlord a copy of the building permit with respect thereto. Following the completion of each of Tenant's Repair Obligations and Tenant Improvements, Tenant shall inform Landlord in writing of such completion within five (5) days thereof and Landlord shall have the right within thirty (30) days following receipt of such notice from Tenant to inspect and approve or reasonably disapprove such work on the basis of whether the same complies in all respects to the provisions of this Lease. If Landlord disapproves such work, Landlord shall specify in reasonable written detail the basis for such disapproval and following Tenant's receipt of such notice, Tenant shall promptly undertake and complete such measures as shall be required to fully correct the work which is the basis of Landlord's disapproval; following completion of which, Tenant shall again provide notice to Landlord and Landlord shall again have the aforesaid right of inspection and approval or disapproval (but only as to such work which was previously disapproved). Such procedure shall be repeated until Landlord has fully approved all such work. With respect to Tenant's Work, to the extent the provisions of this Section 12.3 are in conflict or in any way inconsistent with Exhibit C, Exhibit C shall prevail. Upon completion of all Tenant Improvements and Tenant's Repair Obligations, Tenant shall

provide Landlord with the Close-Out Package (unless, at the time Tenant asks for Landlord's approval hereunder, Tenant requests a waiver of a particular requirement of the Close-Out Package and Landlord agrees thereto in writing).

12.4. **Liens.**

12.4.1. **Liens.** Tenant shall keep the Premises, the Building and the Center free from any liens 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 work relating to Tenant's Repair Obligations and Tenant Improvements. 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.

12.4.2. **Failure to Release Lien.** If Tenant fails, within twenty (20) days following the imposition of any lien, to cause such lien to be released of record by payment or by recording of a proper 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), with interest at the Agreed Rate from the first date expenditure is first made by Landlord, shall be payable to Landlord by Tenant within three (3) business days after Landlord's written demand to Tenant.

13. SURRENDER OF PREMISES

13.1. **Surrender.** Tenant shall do each of the following (collectively, "Surrender Obligations") at its sole cost and expense: (a) Prior to the Expiry Date or earlier date of termination of this Lease (i) remove all of its personal property, signs, Storefront Sign, displays, Moveable Trade Fixtures and unattached equipment from the Premises and the Center, (ii) remove all telephone and data cabling installed by or on behalf of Tenant or anyone holding under Tenant, (iii) restore the Premises to the condition in which the Premises existed prior to installing such personal property, signs, Storefront Sign, displays, Moveable Trade Fixtures and unattached equipment, to the extent the Premises were altered or in any manner modified to accommodate the same, (iv) repair all damage caused by or in connection with Tenant's compliance with the Surrender Obligations (including without limitation thereto, repairing the floor and patching and painting the walls if damaged beyond ordinary wear and tear) and (v) pay all Rent and other sums due and payable or outstanding; and (b) upon the Expiry Date or date of earlier termination of this Lease, surrender to Landlord the Premises, broom-clean and in good condition, except for (i) ordinary wear and tear and (ii) 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 compliance with 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, at Tenant's expense or otherwise require Tenant to deposit with Landlord the Prepaid Cost therefor. Notwithstanding anything to the contrary in this Section 13.1, Tenant may remove all trademarked or trade dress items (de-branding), and otherwise "de-identify" the Premises, as Tenant, in its reasonable discretion, believes reasonably necessary for the protection of Tenant's interest in Tenant's trademarks, trade names, trade dress or copyrights. In the event such removal or de-identification includes the removal of property that is attached to the Premises, such as signage and cash wrap desks, Tenant shall repair surfaces from which such property was removed. Any removal by Tenant shall be conducted in a good and workmanlike manner, and Tenant shall diligently and promptly repair or restore any injury or

damage done to the Premises or the Center in connection with such removal, at Tenant's cost, prior to surrendering the Premises to Landlord.

13.2. Disposition of Property. Landlord may dispose of any personal property and trade fixtures of Tenant remaining on the Premises after the Expiry Date or earlier date of 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 trade fixtures and title to any such personal property and/or trade fixtures 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 improvements and 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 improvements or 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.

13.3. Title to Improvements. All Tenant Improvements (exclusive of Moveable Trade Fixtures and personal property of Tenant) shall become the property of Landlord upon the Expiry Date or date of earlier termination of this Lease.

13.4. Holding Over. If Tenant holds over after the expiration of the Term 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 each be payable in amounts equal to one and one-half (1-½) times each of the Fixed Minimum Rent, Percentage Rent and Additional Rent in effect as of the last full calendar month of the Term, 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 13.4 shall be construed as consent by Landlord to any holding over by Tenant, and nothing in this Section 13.4 shall affect Landlord's right to require Tenant to perform all Surrender Obligations and surrender possession of the Premises to Landlord as provided in this Lease upon the Expiry Date or any earlier date of termination of this Lease and at any time subsequent thereto. The provisions of this Section 13.4 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law or equity. If Tenant fails to perform all of the Surrender Obligations and surrender the Premises upon the Expiry Date or any earlier date of termination of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any prospective occupant which are in any way related to such failure to surrender and any lost profits to Landlord resulting therefrom.

13.5. 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. Specifically excluding any Transfer pursuant to Section 14.12, 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 (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 a non-curable default under this Lease.

14.3. Tenant's Application. Specifically excluding any Transfer pursuant to Section 14.12, 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 (or in the event such audited financial statement is unavailable, said Request to Transfer shall be accompanied by an unaudited 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 two (2) 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) a conformed copy of the final, proposed Sublease Instrument(s), together with a statement by Tenant and Transferee that the same Instrument(s) is/are true copies of instrument(s) which the parties intend to execute and (i) the Review Fee. For purposes of the preceding only, financial statements shall be deemed to include a balance sheet, statement of income, and stockholder's equity and cash flow, all prepared in accordance with generally accepted accounting principles, except as otherwise stated therein, and in such reasonable detail as Landlord may require. 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 information concerning the proposed Transfer and the proposed Transferee as Landlord shall reasonably require to make such determination.

14.4. Standards for Approval and Disapproval. Specifically excluding any Transfer pursuant to Section 14.12, 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 or such other use reasonably acceptable to Landlord, (d) the proposed Transferee has sufficient retail experience to successfully undertake its business at the Premises, (e) the proposed Transferee does not occupy premises in the Center, (f) the proposed Transferee has not delivered a letter of intent to Landlord or Landlord's agent to lease space in the Center within the twelve (12)-month period immediately preceding the date on which Landlord receives the Request to Transfer and (g) 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 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 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.** Specifically excluding any Transfer pursuant to Section 14.12, 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. Notwithstanding anything contained in this Section 14.5.1 to the contrary, in the event Landlord elects to terminate this Lease as set forth in Section 14.5.2, Tenant shall have the right to rescind its Request to Transfer within ten (10) days after receipt 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. It is expressly agreed and understood that in no event shall Tenant be permitted to resubmit the same request for said proposed Transfer. Notwithstanding anything contained in this Section 14.5 to the contrary, provided Tenant is the tenant entity set forth on Page 1 of this Lease and Tenant is not in default under this Lease, Landlord shall not be permitted to terminate this Lease as set forth herein in the event any such proposed Transfer is to a corporation to which all or substantially all (but in no event less than five [5]) of Tenant's stores operating under Tenant's Trade Name in the states of Connecticut and New York are transferred.

14.5.2. **Termination.** If Landlord delivers the Notice of Transfer Termination to Tenant, 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 at Section 5.5.1) 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 Sublease Instrument and Assignment Instrument Provisions.** Each and every Transfer shall be documented by an Assignment Instrument or a Sublease 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 Sublease 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, with reasonable modifications (if so requested by either of the parties) to the non-economic provisions thereof (it being agreed and understood that the parties thereto shall each use good faith efforts to negotiate such non-economic provisions), 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 Sublease 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 at Section 14.1).

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 Sublease, 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 Sublease, (b) subject to any offset that theretofore accrued to the Transferee against Tenant, (c) bound by any previous modification of the Sublease not expressly consented to in writing by Landlord and (d) bound by any previous prepayment of Rent or security deposit which have not been expressly delivered by Tenant to Landlord.

14.10. **Additional Consideration Upon a Transfer.** Specifically excluding any Transfer pursuant to Section 14.12, in the event of an Assignment, each month one-half (½) of any consideration paid to Tenant (specifically excluding any consideration paid to Tenant for Moveable Trade Fixtures and goodwill) by any Transferee during such month for such Assignment shall be paid to Landlord. In the event of a Sublease, 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.

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 Seven Hundred Fifty and No/100 (\$750.00) ("Review Fee") for Landlord's review of each such transaction.

14.12. **Corporate, Partnership and Estate Transfers**

14.12.1. **Transfer of Interest.** 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 twenty-five percent (25%) 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.

14.12.2. **Estate Transfers.** Notwithstanding anything contained in this Article 14 to the contrary, Landlord's consent shall not be required for Transfers to family members of present stockholders through gift, will or trust, provided any such Transfer does not result in a change in the identity of the person or persons exercising effective Control of Tenant.

14.12.3. **Inter-Corporate Transfers.** Notwithstanding anything contained in this Article 14 to the contrary, provided Tenant is the tenant entity set forth on Page 1 of this Lease and Tenant is not in default under this Lease, Landlord's consent shall not be required for Transfers to a corporation (a) into or with which Tenant is merged or consolidated, (b) to which all or substantially all of Tenant's assets or outstanding capital stock is transferred, (c) that Controls, is Controlled by, or is under common Control with Tenant, or (d) to which all or substantially all of Tenant's stores are transferred, provided such Transfer includes at least fifty (50) stores operating under Tenant's Trade

Name in the continental United States. Any Transfer pursuant to (a), (b), (c) or (d) above shall be subject to the following conditions:

14.12.3.1. Any successor of Tenant pursuant to 14.12.3(a) or 14.12.3(c) has a tangible net worth, computed in accordance with generally accepted accounting principles, equal to or greater than the greater of (a) Tenant's tangible net worth at the date of Tenant's Notice of Transfer or (b) Tenant's tangible net worth as of the Effective Date. 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.

14.12.3.2. Any successor of Tenant pursuant to 14.12.3(b) or 14.12.3(d) has a tangible net worth, computed in accordance with generally accepted accounting principles, at least equal to Three Million Dollars (\$3,000,000.00). 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.

14.12.3.3. 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.

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

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

14.12.3.6. 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.

14.12.3.7. Such Transfer is not a subterfuge by Tenant to avoid its obligations under this Lease.

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 if Landlord's successor has assumed in writing Landlord's obligations thereafter accruing under this Lease and (b) Tenant agrees to attorn to the purchaser or assignee.

16. COMMON AREA

16.1. **Use of Common Area.** During the Term, Tenant, its employees and customers 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 or receive the benefit of the Common Area in connection with the conduct of business upon the Premises, subject to (a) the right of Landlord, Occupants and their respective officers, employees and agents to use or receive the benefit of the Common Area, (b) any Superior Agreements, (c) each provision of this Lease and (d) the purpose for which such Common Area is intended.

16.2. **Control and Management of Common Area.** Landlord or its agents shall operate, repair, equip and maintain the Common Area in a manner deemed by Landlord in its reasonable business judgment to be consistent with other regional shopping centers located in the trade area of the Center, and Landlord shall have the sole right and authority to employ and discharge personnel for such purposes. The Common Area shall be subject to the exclusive control and management of Landlord. Landlord may at any time exclude and restrain any person from use of the Common Area excepting,

however, Tenant and other Occupants of the Center and their respective employees, agents, customers and invitees who make use of the Common Area for the intended purposes of the Common Area in accordance with the Rules. If, in the reasonable opinion of Landlord, persons are not abiding by the Rules and are using the Common Area by reason of the presence of Tenant, Tenant shall, upon notice from Landlord, use reasonable efforts to enforce Landlord's right to exclude and restrain such persons by undertaking appropriate proceedings.

16.3. **Parking.** Tenant, Tenant's Occupants and their respective officers, employees and agents shall (a) park their respective motor vehicles only in the Employee Parking Area and (b) comply with the reasonable Rules concerning the use of the Employee Parking Area established from time-to-time by Landlord. Landlord, following two (2) days' written notice to Tenant that Tenant or any of Tenant's Occupants or their respective officers, employees and agents are parking in the Center in an area that is not designated to be an Employee Parking Area, may, at its option and in addition to any other remedies it may have under this Lease, at law and in equity, cause any such vehicle to be towed away at the vehicle owner's expense and/or impose on Tenant a parking fine of \$50.00 for each vehicle for each full or partial day that such violation continues after such notice is delivered to Tenant; provided, however, during the period commencing upon January 1st and continuing through the immediately following October 31st of any calendar year, Landlord shall provide Tenant written notice of the first two (2) violations of this provision that may occur in any single calendar year prior to exercising any of Landlord's rights set forth herein. Landlord may impose non-discriminatory parking charges on Tenant following notice to Tenant.

17. LANDLORD'S RESERVATION OF RIGHTS

17.1. **General Reservation of Rights.** Landlord reserves the right from time-to-time to change the size, layout and dimensions of the Center and any part thereof, locate, relocate, alter and/or modify the number and location of buildings, building dimensions, the number of floors in any of the buildings, the parking areas, store dimensions, the nature of the businesses, activities and uses to be conducted and the Common Area located from time-to-time in the Center or any part thereof. By way of example only and without limiting Landlord's rights under the preceding sentence, Landlord may (a) enlarge, add stores to, reinforce, reduce, reconfigure, redesign, realign, modify and/or alter the Building and/or other buildings in the Center, as well as portions thereof (such as entrances), as well as other structures, facilities, malls, walkways, landscaped areas and/or other areas of the Center, (b) remove and/or demolish all or part of the Building, other buildings in the Center, structure(s), facility(ies) and/or improvements in the Center, (c) construct new building(s), the Building, structure(s), facility(ies) and/or improvements in the Center, (d) enlarge or reduce the size of the Center, make alterations therein, additions thereto and construct improvements adjoining thereto (including, without limitation, parking decks, elevated parking facilities, roofs, walls and other improvements over all or any part of the Common Area) to enclose the same or unenclose the same and (e) relocate, add and remove escalators, elevators and stairs. The preceding may include, but shall not be limited to, new buildings, facades, storefronts, entrances, flooring, ceilings, roofing, structural columns, bearing walls, demising partitions, additional mechanical and electrical systems and equipment and supplementary structural elements. Landlord shall have complete and exclusive control of the design, structure, construction, materials, colors, architectural elements and aesthetics of all such work, as well as all activities undertaken by Landlord in connection therewith. Landlord reserves the right to use the exterior walls, demising walls, roof and the area beneath, adjacent to and above the Premises (including the plenum within the Premises), and the right to install, use, maintain, repair and replace equipment, machinery, pipes, conduits and wiring serving other parts of the Center through the Premises in a manner and in locations which do not unreasonably interfere with Tenant's use of the Premises.

17.2. **Common Area.** Landlord shall have the right and privilege at all times of determining the nature and extent of the Common Area 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 or addition of driveways, malls, entrances and exits, automobile parking spaces, employee and customer parking areas, the direction and flow of traffic,

establishment of protected areas, landscaped areas and any and all other facilities of the Common Area, and the right at any time to locate on the Common Area permanent and/or temporary RMUs, displays, carts, stands and/or other building(s) and/or other improvements of any type. Landlord reserves the right at any time to construct Renovations. Landlord reserves the right to utilize portions of the Common Area, from time-to-time, for carnival-type shows, product shows, rides, entertainments, displays, advertising and 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 RMUs or other retail use and to convert RMUs and other retail 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, including, but not limited to, in connection with any mixed-use development of 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 (i) such times as the Center is not open for business and (ii) any other times as are necessary for temporary purposes such as repairs, alterations, strikes or other purposes, in Landlord's reasonable judgment. Notwithstanding anything contained in this Section 17.2 to the contrary, no temporary or permanent retail facility (specifically excluding any retail facility existing as of the Effective Date) which materially and adversely affects the access to and visibility of the Premises shall be located within ten feet (10') directly in front of Tenant's lease line (for purposes of clarification only, a lease line shall be deemed as an imaginary or defined line which separates the Premises from all areas of the Center other than the premises of adjacent Occupants and which is shown in the Tenant Package) without Tenant's prior consent.

17.3. **Renovations.** Landlord has no obligation and has made no promises to 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 except as specifically set forth in this Lease. However, at any time, Landlord may alter, remodel, improve, renovate, modify, decorate, demolish and/or add improvements to all or portions of the Building and/or the Center, including without limitation, the construction of additional enclosed Common Area, enclosed malls, open malls and mall stores, the expansion of existing buildings, existing enclosed malls and existing Common Area and the construction of additional levels on existing stores and enclosed malls and/or remove enclosures of the Center or portions thereof (collectively, "Renovations"). Landlord reserves the right, at its option, to alter the Center, or any portion thereof, in connection with a mixed-use development, including, without limitation, the construction of additional retail buildings, restaurant buildings, residential buildings for sale or lease, hotels, conference centers, office buildings, entertainment uses, civic uses and other commercial uses, all of which shall constitute "Renovations". Landlord shall provide Tenant reasonable prior written notice (but in no event less than twenty-four [24] hours prior written notice) if Landlord's contractors will need access to the Premises in connection with the Renovations and Tenant shall permit Landlord's contractors access to the Premises during such hours and on such days required by Landlord for the Renovations. Landlord shall undertake the Renovations upon the Premises in a commercially reasonable manner so as to minimize interference with Tenant's conduct of business upon the Premises. Landlord shall have no responsibility, or for any reason be liable to Tenant, for any injury to or interference with Tenant's business arising from the Renovations, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant's personal property or improvements resulting from the Renovations (except to the extent such damage to or loss of Tenant's personal property arises from the sole and active negligence or willful misconduct of Landlord or its contractors), or for any

inconvenience or annoyance occasioned by such Renovations. The Renovations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of Rent, except that during any temporary periods, if any, when Landlord requires Tenant to close the Premises during business hours in connection with any work that is required in or about the Premises, Tenant shall be entitled to an abatement of Rent during such period as the Premises are so closed.

17.4. 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 Building or Center. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, at any time, occupy any space in the Building or Center. Landlord shall have the full right to lease space in the Center to any tenant and for any purpose Landlord shall deem appropriate, including retail, office, non-retail and commercial purposes.

17.5. 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), 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 six (6) 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 17.5 not to unreasonably interfere with Tenant's conduct of business. No exercise by Landlord of any rights in this Section 17.5 shall entitle Tenant to any damage for any injury or inconvenience occasioned thereby nor to any abatement of Rent.

17.6. Relocation

17.6.1. Substitute Premises. Landlord, at its option, but only in the event the Premises is required for the consolidation of spaces to accommodate a tenant with a square footage of at least 5,000 square feet, may elect by written notice to Tenant ("Notice of Relocation") to substitute for the Premises other retail space in the Center designated by Landlord ("Substitute Premises"). Substitute Premises shall be deemed as any retail space which contains (a) not less than 1,280 square feet of Floor and not more than 1,570 square feet of Floor Area and (b) a frontage of at least 20 lineal feet. 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 the Superior Agreements or such covenants of Landlord respecting radius, location, use, or exclusivity as may be contained in any other lease for Premises at the Center. The Notice of Relocation shall be accompanied by a floor plan, a depiction of the approximate location of the Substitute Premises, and the Floor Area of the Substitute Premises. Tenant shall vacate and surrender the Premises and shall occupy the Substitute Premises promptly (and, in any event, not later than fifteen [15] days) after Landlord has substantially completed the work to be performed by Landlord in the Substitute Premises pursuant to Section 17.6.2(a). Notwithstanding anything contained in this Section 17.6.1 to the contrary, provided Tenant has cooperated with Landlord as set forth in Section 17.6.2, Tenant shall not be required to surrender the Premises until such time as Landlord has performed its obligations set forth in (a) and (b) of Section 17.6.2. If the Floor Area of the Substitute Premises is less than the Floor Area of the Premises, Fixed Minimum Rent and Annual 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 and Annual Base Sales shall not be increased.

17.6.2. Landlord's Obligations. If Tenant is relocated to Substitute Premises, then Landlord shall, at Landlord's expense, (a) construct the Substitute Premises to the extent and condition of Tenant Improvements (specifically excluding telephone and other communications

equipment and/or cabling) which existed in the Premises at the time the Notice of Relocation is delivered to Tenant, and move fixtures from the Premises to the Substitute Premises to the extent such fixtures can reasonably be moved without damage to such fixtures, (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 17.6.2 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 17.6.2, required to prepare the Substitute Premises for Tenant's occupancy. Tenant shall not be entitled to any compensation for any inconvenience or interference with Tenant's business or to any abatement or reduction of Rent (other than as set forth in Section 17.6.1) in connection with any relocation under this Section 17.6.

17.6.3. ***Application of Lease.*** From and after the date Tenant vacates and surrenders the Premises to Landlord as provided in Section 17.6.1, 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.

17.6.4. ***Landlord's Right to Terminate Lease.*** Notwithstanding anything to the contrary contained in this Lease, if Tenant refuses to relocate pursuant to this Section 17.6, Landlord may give Tenant notice that Landlord intends to terminate this Lease ("Notice of Intention to Terminate"). If, within fourteen (14) days after the date Landlord delivered the Notice of Intention to Terminate to Tenant, Tenant still refuses or fails to relocate, then Landlord may terminate this Lease by written notice to Tenant ("Relocation Termination Notice"). If Landlord delivers the Relocation Termination Notice to Tenant, (a) Tenant shall perform all of the Surrender Obligations and this Lease shall terminate thirty (30) days after the date Landlord delivers to Tenant the Relocation Termination Notice and (b) provided (i) Tenant is not then in default under this Lease beyond the expiration of any applicable notice and/or cure period and (ii) Tenant has timely delivered to Landlord the Affidavit of Improvements Cost as required pursuant to Section 3.4 and (iii) within five (5) business days after Landlord's written request therefor (which request may be made in the Notice of Relocation or at any time thereafter), Tenant has delivered to Landlord copies of paid invoices together with such other backup information as Landlord may reasonably request for the items specified in the Affidavit of Improvements Cost, then Landlord shall pay to Tenant, within thirty (30) days following the date Tenant has vacated and surrendered possession of the Premises to Landlord in the condition required by this Section 17.6.4, the then remaining unamortized portion of the cost of Tenant's Work (excluding Moveable Trade Fixtures, unattached equipment, furniture, Storefront Sign and other personal property), but only to the extent the said Tenant's Work was not paid for by Landlord, amortized on a straight line basis over the initial Term of this Lease.

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 the other party at the addresses set forth in Section 1.17 or Section 1.18, 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 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 (but in no event more than three [3] days after the date first mailed in the manner herein required), in the event

of depositing notice in the mail; 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.

19.1.2. **Failure to Conduct Business.** If Tenant should fail 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 while Tenant is in default of any other provision of this Lease.

19.1.4. **Intentionally Omitted.**

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. For the avoidance of doubt, the current proceedings under the Companies' Creditors Arrangement Act (Canada) and under Chapter 15 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101, et seq. in which Tenant is involved and the outcome of such proceedings shall not be deemed a default under this Lease.

19.1.6. **Timely Performance.** The failure by Tenant or Tenant's Occupants to observe or timely perform according to the provisions of Article 10, Article 14, Section 26.1 or Section 26.3, or Exhibit C to this Lease.

19.1.7. **Other Non-Monetary Defaults.** The failure by Tenant or Tenant's Occupants 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 19.1.6 above.

19.2. **Notices.** Following the occurrence of a default specified in Sections 19.1.1, 19.1.2, 19.1.3, 19.1.4, 19.1.6 or 19.1.7, prior to exercising any remedy described in Section 20.1, Landlord shall give Tenant written notice thereof specifying the nature of such default and demanding that Tenant quit the Premises and surrender the Premises to Landlord or, except as otherwise provided, fully cure the default, within the time period specified below:

19.2.1. **Monetary Notice.** For a monetary default specified under Section 19.1.1, within (a) ten (10) days after written notice from Landlord for the first two (2) such notices in any Lease Year or (b) three (3) days after written notice from Landlord for the third (3rd) and each subsequent notice in any Lease Year.

19.2.2. **Intentionally Omitted.**

19.2.3. **Timely Performance Notice.** In the case of a failure to timely perform under Sections 19.1.2, 19.1.3 and 19.1.6, within five (5) business days after written notice from Landlord.

19.2.4. **Other Non-Monetary Default Notice.** In the case of any other non-monetary default under Section 19.1.7, within ten (10) days after written notice thereof from Landlord to Tenant; however, if the nature of Tenant's default is such that it cannot be cured solely by payment of money and more than ten (10) days are reasonably required for its cure, then Tenant shall be

deemed to have cured such default if Tenant or Tenant's Occupants commences such cure within the ten (10)-day period and thereafter diligently prosecutes such cure to completion.

19.3. **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 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.

19.4. **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. If Landlord shall elect not to exercise its right hereunder to terminate this Lease in the event of an Involuntary Assignment, then, in addition to any other rights or remedies of Landlord under this Lease or provided by law, the provisions of Sections 1.11, 1.16, 10.1, 10.5, 14.5, 14.6, 14.8, 14.9, 14.10 and 14.11 shall apply to any such Involuntary Assignment. Such sums, if any, payable pursuant to the referenced Sections 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. 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 Section 19.2 to cure any default specified in Section 19.1, 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 shall have the remedy to continue this Lease in effect after Tenant's breach and abandonment 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.** 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 then maximum rate of interest allowable under law which could be

charged Tenant by Landlord, 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%).

20.1.3. **Collect Sublease Rents.** Collect sublease rents (or appoint a receiver to collect such rent) 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.** 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 of the date of such expenditure, together with interest at the Agreed Rate from the date of such expenditures, and shall be paid by Tenant to Landlord immediately upon demand.

20.1.5. **Disposition of Property.** Landlord may dispose of any personal property and trade fixtures of Tenant 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 Tenant's trade fixtures, furniture, equipment, improvements, additions and other 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.

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.

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 proceed diligently to cure such default after written notice thereof from Tenant, 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 Against Landlord.** 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 which is equal to the lesser of (a) the interest of Landlord in the Center or (b) the equity interest Landlord would have in the Center if the Center were encumbered by third-party debt in an amount equal to the value of the Center (as such value is determined by Landlord), 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 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. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

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 losing party shall pay the successful party its costs incurred in connection with and in preparation for said action, including its reasonable attorneys' fees, within thirty (30) days after written demand therefor.

22.2. **Third-Party Actions.** If Landlord, without fault on Landlord's part, is made a party to any action instituted by Tenant against a third party or by a third party against Tenant or by or against any person holding under or using the Premises by license or otherwise of Tenant, or for the foreclosure of any lien for labor or material furnished to or for Tenant or any such other person, or otherwise arising out of or resulting from any act or omission of Tenant or of any such other person, Tenant shall at its cost and at Landlord's option defend Landlord therefrom and further, except to the extent Landlord is found separately liable for its own negligence or wrongful acts, indemnify and hold Landlord harmless from any judgment rendered in connection therewith and all costs and expenses (including reasonable attorneys' fees) incurred by Landlord in connection with such action. If Tenant, without fault on Tenant's part, is made a party to any action instituted by Landlord against a third party or by a third party against Landlord arising out of or resulting from any act or omission of Landlord, Landlord shall at its cost and at Tenant's option defend Tenant therefrom and further, except to the extent Tenant is found separately liable for its own negligence or wrongful acts, indemnify and hold Tenant harmless from any judgment rendered in connection therewith and all costs and expenses (including reasonable attorneys' fees) incurred by Tenant in connection with such action.

23. DAMAGE AND DESTRUCTION

23.1. **Repair of Damage.** Tenant shall promptly notify Landlord of any damage to the Premises or the Building resulting from any Casualty. If the Premises or Building shall be damaged by any Casualty, 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) and Building ("Restoration"). Except for modifications required by Governmental Regulations and/or by Landlord's Designees, the Restoration shall be to substantially the same condition of (a) the Premises as they were when initially delivered to Tenant for the commencement of Tenant's Work and (b) the Building as it existed prior to the Casualty. Tenant, at its sole cost and expense, shall be responsible for the repair and restoration of all items in this Lease constituting Tenant Improvements and the replacement of Tenant's stock-in-trade, trade fixtures, furniture, furnishings and equipment. Tenant shall commence such repair and restoration and the installation of fixtures, equipment and merchandise promptly upon Landlord's delivery of possession of the Premises to Tenant and shall diligently prosecute such work and installation to completion, but in any event within the same number of days after Landlord's delivery of the Premises to Tenant as originally specified in Section 1.5 as the "days following Delivery Date".

23.2. **Landlord's Option to Repair.** If (a) the Premises, Building or Common Area are damaged by a Casualty not covered by insurance or the insurance proceeds available to Landlord are less than eighty-five percent (85%) of the cost of Restoration, or (b) the Restoration cannot be completed

within four (4) months after the date of Casualty in the independent and professional opinion of the registered architect or engineer engaged by Landlord, or (c) more than twenty-five percent (25%) of the Center or the parking area in the Center is damaged by a Casualty, or (d) the Casualty occurred during the last twenty-four (24) months of the Term, then in any such event, Landlord shall have the option either to (i) undertake Restoration, in which event this Lease shall continue in full force and effect (however, Rent shall be reduced as provided in Section 23.3), or (ii) give notice to Tenant at any time within ninety (90) days after the date of such damage terminating this Lease as of a date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after giving such notice, provided Landlord shall not terminate this Lease unless Landlord terminates the leases of all Occupants located in the portion of the Center in which the Premises are located and whose premises are damaged to substantially the same extent as the Premises. If such notice of termination is given, this Lease shall terminate on the date specified in such notice and Landlord shall refund to Tenant any Rent theretofore paid in advance for any period of time subsequent to such termination date.

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 Restoration. If any Casualty damages the Premises, or if the Premises are not reasonably accessible (and are not used) due to any Casualty to the Common Area, Tenant shall be entitled to a proportionate abatement of Fixed Minimum Rent during such time and to such extent the Premises are unfit for occupancy for the Permitted Use and are not so occupied or used by Tenant or the Premises are not reasonably accessible (and thus are not used by Tenant) due to damage to the Common Area. However, if the Casualty is due to the 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. **Demolition of Building.** If the Building is so damaged by a Casualty that in Landlord's judgment it is necessary to demolish the entire Building for the purpose of Restoration, Landlord may demolish the same (including the Premises, whether or not the Premises suffered any damage), in which event this Lease shall terminate as of the date such demolition work is commenced.

23.5. **Insurance Proceeds.** If this Lease is terminated pursuant to this Article 23, all proceeds from Tenant's insurance under Section 8.2.3 covering the leasehold improvements (including the items specified in Exhibit C as Tenant's Work) shall be paid to Landlord and all proceeds for Moveable Trade Fixtures, merchandise, Storefront Sign and other personal property of Tenant shall be paid to Tenant.

23.6. **Waiver by Tenant.** The provisions of this Article 23 constitute an express agreement between Landlord and Tenant with respect to any Casualty. Therefore, any statute or regulation of the state in which the Premises are located with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation now or hereafter in effect, shall have no application to this Lease or to any Casualty.

24. CONDEMNATION

24.1. **Condemnation.** If there is a Taking of all or a substantial part of the Premises, the Center or Common Area, Landlord may, by written notice given to Tenant within thirty (30) days after receipt of notice of such Taking, elect to terminate this Lease as of the date possession thereof is transferred pursuant to the Taking. If (a) all of the Premises is acquired by Taking, or (b) so much of the Premises is acquired by a Taking such that Tenant cannot reasonably conduct its business upon the remainder of the Premises or (c) a Taking of any other part of the Center substantially impairs access to the Premises such that Tenant cannot reasonably conduct its business upon the Premises, Tenant shall have the option to terminate this Lease, such termination to be effective as of the date possession is required to be surrendered to the Taking authority, by giving written notice thereof to Landlord within ten (10) days after Tenant first receives notice of such Taking. 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 in the Center, then Landlord shall have the right to terminate this Lease upon thirty (30) days' written notice to Tenant, which notice must be given within ninety (90) days after the date of such Taking. No temporary

Taking of the Premises or any part of the Center shall terminate this Lease. To the extent any statutory rights exist which would permit Tenant to terminate this Lease for any partial Taking of the Premises under the power of eminent domain and which are in conflict with the provisions of this Article 24, the provisions of this Article 24 shall prevail.

24.2. Restoration. If there is a Taking and this Lease is not terminated pursuant to this Article 24, Landlord shall, at its expense, promptly restore the remainder of the Premises and Common Area to the condition each was in immediately prior to such Taking, and Tenant shall, at its sole cost and expense, promptly restore the items constituting Tenant Improvements, as well as Tenant's fixtures, furniture, furnishings, leasehold improvements, Storefront Sign and equipment to the same condition they were in immediately prior to such Taking.

24.3. 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 and for damage to or loss of Moveable Trade Fixtures, unattached equipment and other personal property belonging to Tenant and which, pursuant to the provisions of this Lease, would remain Tenant's property at the Expiry Date; provided, however, that no such claim shall diminish or otherwise affect the awards otherwise payable to Landlord and each of Landlord's Designees.

24.4. Rent. If this Lease is terminated pursuant to this Article 24, Rent shall be paid to the date of such termination and any prepaid but unearned Rent shall be paid to Tenant within thirty (30) days following the date of such termination. If a Taking does not result in a termination of this Lease, Fixed Minimum Rent shall be proportionately reduced based upon the Floor Area of the Premises prior to such Taking compared to the Floor Area of the Premises following such Taking. During any temporary Taking, Fixed Minimum Rent shall be reduced based upon the ratio of the Floor Area in the Premises before the temporary Taking and during the temporary Taking and to the extent Landlord receives proceeds (a) from any rental abatement insurance (after all deductions have been met) or (b) from any condemnation award that is directly attributable to the loss in Rent due to the temporary Taking of all or a portion of the Premises.

25. HAZARDOUS MATERIALS

25.1. Environmental Laws. Tenant covenants and agrees that Tenant shall at all times from and after the Delivery Date comply with and assume responsibility and liability under all Environmental Laws applicable to occupancy or use of or operations at the Premises by Tenant, Tenant's Occupants and the Tenant Parties.

25.2. Notification. Tenant shall be deemed to be the operator of the Premises for purposes of reporting requirements under Environmental Laws. Tenant agrees (a) that should it or Tenant's Occupants or the Tenant Parties know of the release or escape or threatened release or escape of any Hazardous Materials in, on, under or about the Premises, including, without limitation, the release or escape or threatened release or escape of any Hazardous Materials in connection with Tenant Improvements or Tenant's Repair Obligations made by Tenant to the Premises or any part thereof, that they will promptly notify Landlord in writing of such release or escape or threatened release or escape and (b) 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. Compliance with Environmental Laws. Tenant covenants and agrees that Tenant shall at no time use or permit the Premises to be used in violation of any Environmental Laws. Tenant shall assume sole and full responsibility for, and shall promptly remedy at its sole cost and expense, all such violations, provided that Landlord's written approval of any such remedial actions shall first be obtained, which approval shall not be unreasonably withheld. Further, Tenant shall not enter into any settlement agreement, consent decree or other compromise relating to violation or alleged violation of Environmental

Laws in any way connected with the Premises, without first notifying Landlord of Tenant's intention to do so and affording Landlord ample opportunity to appear, intervene or otherwise appropriately assert Landlord's interest with respect thereto. 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, any Hazardous Materials, or permit or allow Tenant's Occupants or the Tenant Parties to do so, without Landlord's prior written consent. Tenant's compliance with the terms of this Section 25.3 and with all Environmental Laws shall be at Tenant's sole cost and expense. If Tenant, Tenant's Occupants or the Tenant Parties have violated any Governmental Regulations relating to Hazardous Materials, Tenant shall pay to Landlord, promptly upon demand, all costs and expenses incurred by Landlord with interest thereon at the Agreed Rate (including Landlord's actual attorneys', engineers', consultants' and other experts' fees and disbursements incurred or payable by Landlord) to determine Tenant's compliance with Environmental Laws, or to investigate environmental conditions at the Premises, including, without limitation, above- and below-ground testing. If Tenant fails to comply with the provisions of this Section 25.3, Landlord shall have the right, but not the obligation, without in any way limiting Landlord's other rights and remedies, to enter upon the Premises and/or to take such other actions as Landlord deems necessary or advisable to clean up, remove, resolve, or minimize the impact of, or otherwise deal with, any Hazardous Materials on or affecting the Premises. Upon the Expiry Date or date of earlier termination of this Lease, Tenant shall, in addition to the Surrender Obligations, deliver the Premises to Landlord free of any and all Tenant Installed Hazardous Materials so that the condition of the Premises shall conform to and be in strict compliance with all Environmental Laws.

25.4. Environmental Survey. Landlord shall have the right, upon written notice to Tenant ("Environmental Survey Notice"), at any time and from time-to-time during the Term, including, without limitation, (a) prior to the Expiry Date or date of earlier termination of this Lease and/or (b) in conjunction with a proposed Transfer requested by Tenant (in which event, Tenant's satisfaction of its obligation under this Section 25.4 shall be a condition precedent to Landlord's consent to any such proposed Transfer), to require Tenant, at Tenant's sole cost and expense, not later than fifteen (15) days following Environmental Survey Notice, to cause an Environmental Survey by the Environmental Consultant. Tenant shall, upon completion of the Environmental Survey, promptly furnish to Landlord a copy of Environmental Survey prepared by the Environmental Consultant. If the Environmental Survey shall disclose any Tenant Installed Hazardous Materials, (i) Tenant shall within thirty (30) days after completion of the Environmental Survey, at its sole cost and expense, cause all of said Tenant Installed Hazardous Materials to be abated and removed from in, on, under or about the Premises and transported from the Center for use, storage or disposal in compliance with all Environmental Laws and Landlord's hazardous materials abatement criteria by the Environmental Contractor; provided, however, in the event such abatement, removal and disposal of the Tenant Installed Hazardous Materials is performed by Tenant after the Expiry Date or date of earlier termination of this Lease, Tenant shall be deemed to be occupying the Premises at a monthly Rent in an amount equal to the Fixed Minimum Rent, Percentage Rent and Additional Rent specified at Section 13.4 for a holding over on the Premises from the Expiry Date or date of earlier termination of this Lease until the date Landlord receives certification from the Environmental Contractor that all Tenant Installed Hazardous Materials have been abated and removed from in, on, under or about the Premises, and transported from the Center for use, storage or disposal in compliance with all applicable Environmental Laws, or (ii) Landlord may, at its sole option, upon written notice to Tenant, cause all of the said Tenant Installed Hazardous Materials to be abated and removed from in, on, under or about the Premises and transported from the Center for use, storage or disposal in compliance with all Environmental Laws by a hazardous materials abatement contractor selected by Landlord, in which event, the costs and expenses of such abatement, removal and disposal shall be a Prepaid Cost. If Tenant fails to timely perform its obligations under this Section 25.4, Landlord shall have the right (but shall not be obligated) to perform Tenant's obligations under this Section 25.4, in which event Tenant shall pay to Landlord promptly, upon demand, the costs and expenses thereof, with interest thereon at the Agreed Rate; provided, however, if Landlord performs Tenant's obligations under this Section 25.4 after the Expiry Date or date of earlier termination of this Lease, Tenant shall pay to Landlord, in addition to the foregoing costs and expenses, a monthly Rent in an amount equal to the Fixed Minimum Rent,

Percentage Rent and Additional Rent specified at Section 13.4 for a holding over on the Premises from the Expiry Date or date of earlier termination of this Lease until the date Landlord has completed Tenant's obligations under this Section 25.4. Landlord and Tenant agree that the foregoing monthly Rent represents a reasonable estimate of the financial losses suffered by Landlord due to Tenant's failure to timely perform its obligations under this Section 25.4. Notwithstanding anything contained in this Section 25.4 to the contrary, provided the Environmental Survey is not performed in connection with any proposed Transfer and said Environmental Survey does not disclose any Tenant Installed Hazardous Materials, Tenant shall be credited the cost of such Environmental Survey against the next monthly payment(s) of Rent until such cost has been exhausted; provided, however, within thirty (30) days after the date Tenant has performed all of its Surrender Obligations, any such excess sums not previously credited shall be refunded to Tenant.

25.5. Landlord Responsibilities. Landlord shall comply with all applicable Environmental Laws regarding the mitigation, encapsulation and/or remediation of friable asbestos containing materials ("ACMs") in the Premises to the extent present by reason of Landlord's Work actually performed or caused to be performed by Landlord. Tenant shall not be entitled to any compensation or damages from Landlord arising directly or indirectly from such mitigation, encapsulation and/or remediation which Landlord may undertake as set forth in this Section 25.5, including, but not limited to, loss of use of the whole or part of the Premises, the Building or Tenant's personal property, or any subsequent mitigation, encapsulation and/or remediation thereof. It is expressly agreed and understood that Landlord's mitigation, encapsulation and remediation of any ACMs as set forth hereinabove shall be Tenant's sole and exclusive remedy in connection with the existence of any such ACMs.

25.6. 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, ATTORNMENT AND ESTOPPEL

26.1. Subordination. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to: (a) All ground or underlying leases which may now exist or hereafter be executed affecting the Premises and (b) the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Premises, such ground or underlying leases, or Landlord's interest or estate in any of them, is specified as security. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground or underlying leases or any such liens to this Lease. If any ground or underlying lease terminates for any reason, Tenant shall, notwithstanding any subordination, attorn to and become tenant of the successor-in-interest to Landlord at the option of such successor-in-interest. Tenant shall execute and deliver, upon demand by Landlord from time-to-time within ten (10) days after written request to do so and in the form requested by Landlord, any documents evidencing the priority or subordination of this Lease with respect to any such ground or underlying leases or the lien of any such mortgage, or deed of trust. If Tenant fails to comply with the foregoing, Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of Tenant hereunder in the event of any foreclosure proceeding or sale. Notwithstanding anything contained in this Section 26.1 to the contrary, upon request from Tenant, Landlord shall request from any party seeking such superior position (with the exception of the existing Mortgagee) a non-disturbance agreement and attornment agreement to the effect that so long as Tenant pays the rentals due under this Lease and otherwise complies with the terms hereof, Tenant's occupancy hereunder shall not be disturbed. In no event shall Tenant's obligation to subordinate its rights hereunder be conditioned upon the receipt of such

agreement. Tenant shall be responsible for payment of any costs incurred in connection with obtaining the documentation requested hereunder.

26.2. **Attornment.** If any proceeding is brought for default under any ground or underlying lease to which this Lease is subject, or in the event of foreclosure or the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, Tenant shall attorn to the successor upon any such foreclosure or sale and shall recognize that successor as Landlord under this Lease, provided such successor expressly agrees in writing to be bound to all future obligations by the terms of this Lease, and, 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).

26.3. **Estoppel Certificate.** Tenant shall, from time-to-time within ten (10) 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.

27. MISCELLANEOUS

27.1. **Amendments.** No provision of this Lease may be amended or added to 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. **Authority of Signatories.** Each Authorized Officer 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.

27.4. **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.

27.5. **Brokers.** Landlord and Tenant shall each hold the other harmless from, and indemnify the other 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 other has or purportedly has dealt.

27.6. **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, be drawn as any inference, presumption or conclusion whatsoever against Landlord by virtue of the initial draft of this Lease having been generated by Landlord.

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

27.8. **Confidentiality.** Tenant shall keep the content of this Lease and all related documents strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's financial, legal and space planning consultants.

27.9. **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. Any signature to this Lease transmitted electronically through DocuSign or by pdf which is certified as authentic by an e-mail from the signing party shall be deemed an original signature and be binding upon the parties hereto (it being agreed that such electronic signature shall have the same force and effect as an original signature).

27.10. **Execution by Landlord.** The submission of this document to Tenant and Tenant's representatives for examination and negotiation 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 of a counterpart executed by both Tenant and by Landlord to Tenant. Until this Lease is executed by both Tenant and Landlord 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.

27.11. **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.

27.12. **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 with respect to the terms of Section 10.6 of this Lease (collectively, "Force Majeure"), notwithstanding anything to the contrary contained in this Lease, shall 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 27.12, 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.

27.13. **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.

27.14. **Labor Contracts.** Tenant and Tenant Parties shall take no action which violates Landlord's labor contracts affecting the Center or 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 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.

27.15. 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.

27.16. 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.

27.17. Modification of Lease. Should any current or prospective Mortgagee or ground lessor for the Building or Center 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 or ground lessor, Tenant agrees to execute a short form of Lease and deliver the same to Landlord within ten (10) days following the request therefor.

27.18. 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 ; provided, however, such use of a shopping center's name is consistent with Tenant's marketing practices for at least ten (10) of its stores operating under Tenant's Trade Name.

27.19. 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.

27.20. 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.

27.21. No Warranty. In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation 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.

27.22. **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.

27.23. **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.

27.24. **OFAC Certification**

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

27.24.1.1. It is not, and shall not knowingly 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, knowingly engage in any dealings or transactions or otherwise be associated with such persons or entities; and

27.24.1.2. It is not knowingly 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 knowingly engage in any dealings or transactions, employ or otherwise be associated, with such person, group, entity or nation.

27.24.2. ***Default.*** Any breach of the representation and/or warranty contained in this Section 27.24 shall constitute a default under this Lease. Any such exercise by Landlord of its remedies under this Section 27.24 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.

27.25. **Prepaid Costs.** Landlord shall have no obligation to commence any work, obtain any materials or perform or provide any services for which a Prepaid Cost is required by the terms of this Lease until the Prepaid Cost has been paid in full, and Tenant shall have no claim against Landlord on account of any delay caused thereby, nor any right of abatement, offset or delay in the performance of any obligation required of Tenant under this Lease. Following Landlord's final calculation of costs and expenses in connection with such work, materials and/or services (which shall be calculated as soon as reasonably possible after Landlord has received all billings and other information reasonably required to make such determination), Landlord shall present Tenant with an invoice therefor. Within thirty (30) days after Tenant has received such invoice, (a) if the Prepaid Cost made by Tenant to Landlord exceeds such final cost, Landlord shall reimburse Tenant such difference or (b) if the Prepaid Cost made by Tenant is less than such final cost, Tenant shall reimburse Landlord such difference.

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 mortgages, encumbrances, easements, underlying leases, and instruments of record to which this Lease may become subject from time-to-time, and the provisions of this Lease.

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 Code Section 856(d) and as further defined in Regulation Section 1.856-4. Should the requirements of the said Code Section or Regulation Section be amended so that any rent no longer qualifies as "rents from real property" for the purposes of the Code or the Regulation, the Rent payable to Landlord shall be adjusted so that such Rent will qualify as "rents from real property" under the Code and 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 Code or the 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 Tenant's invitees to) comply with all Rules. Except in an emergency, Landlord shall give Tenant at least fifteen (15) days' prior notice of the establishment, modification and amendment of 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. Such security services and devices 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, Tenant's invitees and customers, and the goods and personal property of Tenant. No firearms or other devices that could cause grievous bodily harm shall be used 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 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. Intentionally Omitted.

27.33. Superior Agreements. This Lease and Tenant's rights hereunder are subject and subordinate in all respects to all Superior Agreements recorded prior or subsequent to the Effective Date.

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 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 landlord.

27.36.4. ***Waiver of Trial by Jury.*** LANDLORD AND TENANT EACH HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER 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.

27.37. **Arbitration.**

27.37.1. Subject to the provisions set forth in Section 27.37.2, in each case expressly set forth in this Lease in which resort to arbitration shall be required, such arbitration shall be held in the state in which the Center is located, shall be in accordance with the Commercial Arbitration Rules of the American Arbitration Association and the provisions of this Lease, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

27.37.2. Notwithstanding anything contained in Section 27.37.1 to the contrary, any dispute arising under Section 7.3 shall be determined pursuant to the "expedited arbitration" procedures of the American Arbitration Association or its successor.

27.37.3. Any determination under this Section 27.37 shall be final and binding upon the parties, whether or not a judgment shall be entered in any court. In making their determination, the arbitrators shall not subtract from, add to, or otherwise modify any of the provisions of this Lease. Landlord and Tenant may, at their own expense, be represented by counsel and employ expert witnesses in any such arbitration; provided, however, the non-prevailing party shall pay all fees in connection with any such arbitration including, but not limited to, the prevailing parties' counsel, expert witness and arbitration fees.

///SIGNATURE PAGE FOLLOWS///

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

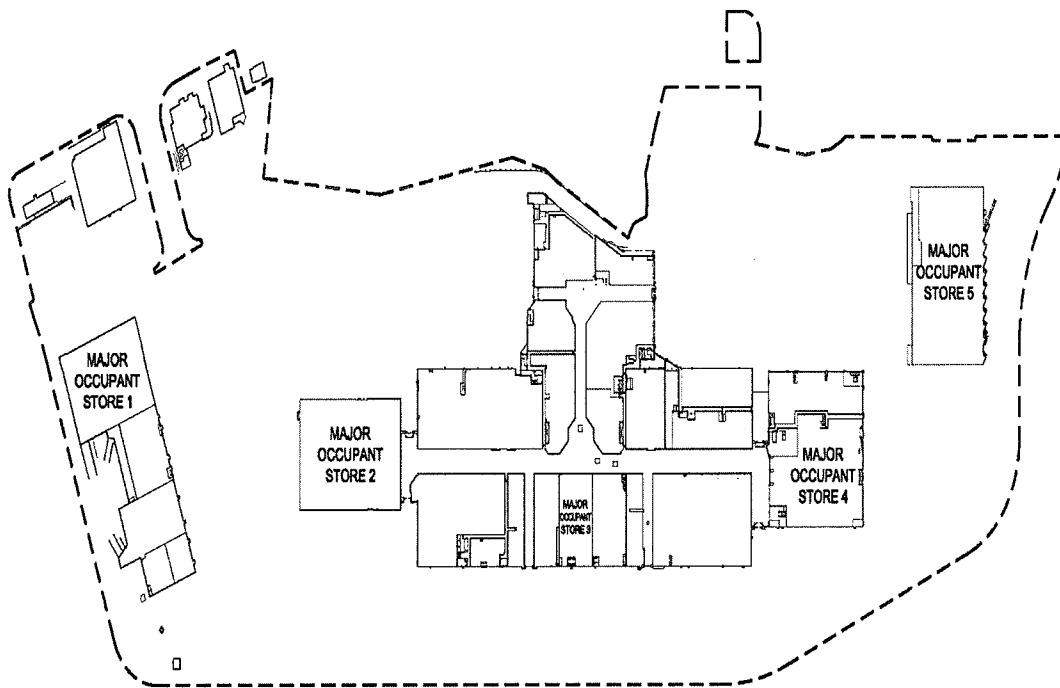
By: _____
Name: _____
Title: _____

TENANT:

ALDO U.S. INC.,
a Delaware corporation

By: _____
Name: Nick Stankovich
Title: VP Real Estate

EXHIBIT A
DEPICTION OF CENTER



GREEN ACRES
SITE PLAN

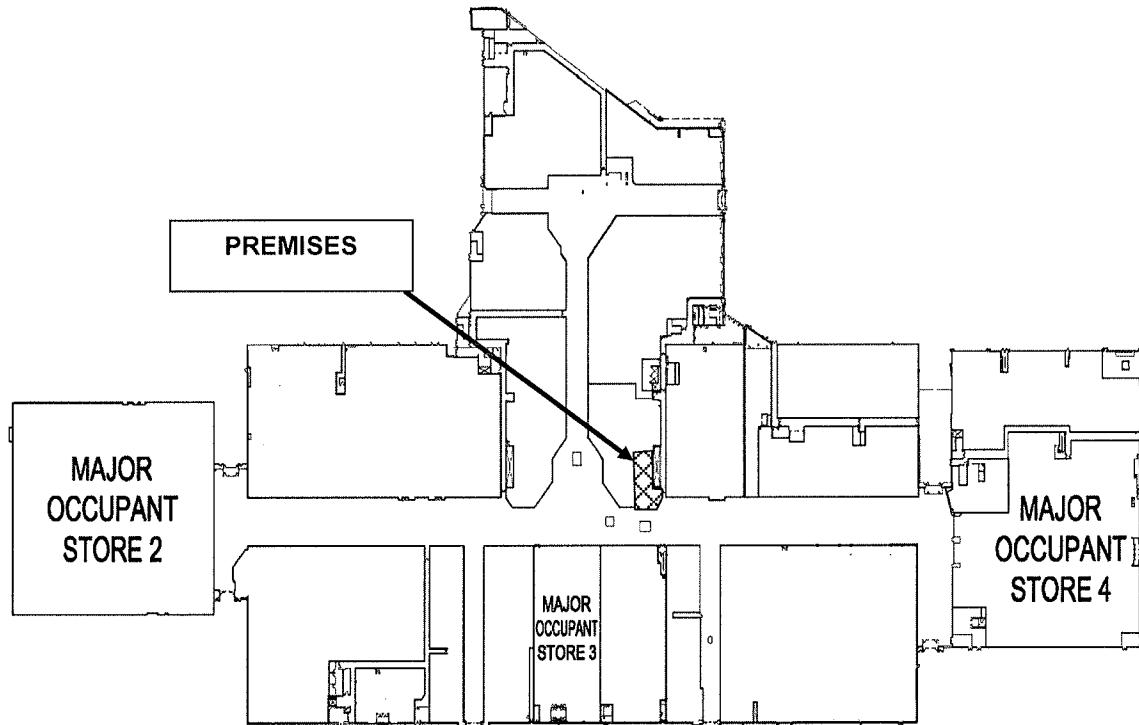


NORTH

LEGEND:
— — — CENTER BOUNDARY LINE

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 wholly 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.

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. Notwithstanding any provision to the contrary, the scope of the Tenant's Work shall be limited to the Tenant's Work set forth in Section 4.2 of this Exhibit C. Further notwithstanding anything herein to the contrary, Tenant will only be required to submit shop drawings for the Storefront Sign and specs on the new units, benches and racks set forth in Section 4.2 below.

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. 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 except as otherwise set forth herein or in the Lease.

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.** Tenant is currently in possession of the Premises under the terms of the Existing Lease and accepts 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 **Error! Reference source not found.** 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 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.** If necessary, in Tenant's reasonable opinion having regard to the scope of Tenant's Work, Tenant shall engage the services of a licensed architect ("Tenant's Architect") to prepare the Preliminary Documents, Construction Documents and As-Built Documents.

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 that had previously been approved by Tenant Coordinator only to the extent that such on-site corrections are reasonably required based upon field conditions which were unknown to Tenant Coordinator at the time the Construction Documents were finally approved or conditionally approved by Tenant Coordinator, and approved by the appropriate governmental authorities.

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.** Concurrently with submitting the Preliminary Documents to Landlord, Tenant shall pay to Landlord the Plan Review Fee, if any, for Tenant Coordinator's and/or other consultants' review of the Preliminary Documents. The time frame in which Landlord is obligated to approve or disapprove the Preliminary Documents shall not commence until Tenant has paid in full the Plan Review Fee.

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.

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. **AIA Document Requirements**

5.1.2.1. For Tenant's Work with an aggregate cost to Tenant in excess of \$1,000,000.00, Tenant shall obtain and deliver to Landlord, within thirty (30) days after the substantial completion of Tenant's Work, the following documents: (a) AIA Document G702, completed, executed and certified by Tenant's Architect that the Premises were constructed in accordance with the Approved Plans and (b) AIA Document G703, completed, executed and certified by Tenant's Contractor.

5.1.2.2. For Tenant's Work with an aggregate cost to Tenant from \$100,000.00 to \$1,000,000.00, inclusive, Tenant shall obtain and deliver to Landlord, within thirty (30) days after the substantial completion of Tenant's Work, the following documents, completed, executed and certified by Tenant's Contractor: (a) AIA Document G702 and (b) AIA Document G703.

5.1.2.3. For Tenant's Work with an aggregate cost to Tenant of less than \$100,000.00, Tenant shall obtain and deliver to Landlord, within thirty (30) days after the substantial completion of Tenant's Work, a copy of the contract between Tenant and Tenant's Contractor showing Tenant's Contractor's aggregate final billing.

5.1.3. **Affidavit of Improvements Cost.** Tenant shall deliver to Landlord, within thirty (30) 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. **Additional Rent** means all amounts payable by Tenant under this Lease, other than Fixed Minimum Rent and Percentage Rent.

2.2. **Address for Payment of Rent** means the address specified at Section 1.19.

2.3. **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.

2.4. **Affidavit of Improvements Cost** means a form, substantially in the form attached to this Lease as Exhibit G, certified true and correct by an Authorized Officer of Tenant, setting forth in reasonable detail the amounts paid by Tenant, at Tenant's sole cost and expense, for the leasehold improvements made by Tenant (specifically excluding, however, all costs for Tenant's Moveable Trade Fixtures, unattached equipment, furniture, Storefront Sign, and other personal property) to the Premises.

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. **Alterations** means any modification, alteration, removal, addition or improvement to the Premises.

2.8. **Annual Base Sales** means the annual figure specified at Section 1.10.

2.9. **Annual Sales Statement** means a written statement in the form attached as Exhibit I 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. **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.

2.13. **Bankruptcy Code** means the Bankruptcy Code 11 U.S.C. 101 et seq.

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

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

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

2.17. **Center Hours** means the hours specified at Section 1.15.

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

2.19. **Close-Out Package** is defined in Exhibit C.

2.20. **Code** means the Internal Revenue Code, as amended from time-to-time.

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 (exclusive of building pads, if any, reserved for future buildings and improvements in the Center as of the commencement of construction of improvements thereon) 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, service ways, loading docks, tunnels, pedestrian malls, corridors, the roof of the Building (whether or not located over any Occupant's premises) stairs, ramps, elevators, escalators, comfort stations, first-aid stations, security stations, drinking fountains, toilets, public washrooms, community halls, auditoriums, and other public facilities, parcel pick-up stations, underground storm and sanitary sewers, utility lines and conduits, open courts, open malls, enclosed courts, enclosed malls, 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 for Common Area.

2.22. **Competing Interest** is defined at Section 10.5.

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 immediately following the expiration of the Existing Lease.

2.25. **Effective Date** is defined in the first paragraph at the top of page 1.

2.26. **Employee Parking Area** means those areas within or outside the Center designated by Landlord from time-to-time as the parking area(s) in which Tenant, Tenant's Occupants and their respective officers, employees and agents shall park their respective motor vehicles.

2.27. **Environmental Consultant** means an environmental consulting firm approved and/or designated in writing by Landlord.

2.28. **Environmental Contractor** means a hazardous materials abatement contractor licensed in the state in which the Center is located and approved in advance, in writing, by Landlord.

2.29. **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:

2.29.1. 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

2.29.2. 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.

2.30. **Environmental Survey** means an environmental audit and survey made of the Premises to determine whether the Premises contain any Hazardous Materials or fail to comply with any Environmental Laws.

2.31. **Environmental Survey Notice** is defined at Section 25.4.

2.32. **Excluded Floor Area** means the total Floor Area of all of the following: Major Occupant Stores, the premises of all Occupants occupying between 15,000 and 40,000 square feet of Floor Area, all premises having an exterior entrance (but only if the Center contains an enclosed mall), movie theatre premises, premises occupied by Occupants under pad leases, premises used for educational purposes, premises used for office purposes, premises used for restaurants, Mezzanines, storage areas, premises 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.

2.33. **Executive Order 13224** is defined at Section 27.24.1.1.

2.34. **Expiry Date** means the date specified at Section 1.7.

2.35. **Fixed Minimum Rent** means the annual rent sum specified at Section 1.8.

2.36. **Floor Area** means (a) with respect to the Premises and such other 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.

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

2.38. **Force Majeure** is defined at Section 27.12.

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

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

2.41. **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.

2.42. **HVAC** means a heating, ventilating and air conditioning system.

2.43. **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.

2.44. **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.

2.45. **Landlord** is defined in the first paragraph at the top of page 1 of this Lease.

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

2.47. **Landlord's Address for Notices** means the address specified at Section 1.17.

2.48. **Landlord's Broker(s)** means the broker(s), if any, specified at Section 1.20.

2.49. **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.

2.50. **Landlord's Sales Reporting Address** means the address for Landlord set forth at Section 1.24.

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

2.52. **Lease** is defined in the first paragraph at the top of page 1.

2.53. **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.

2.54. **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.

2.55. **Major Occupant Store** 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.

2.56. **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.

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

2.58. **Mezzanines** means basements and mezzanines that are used solely for storage and/or office purposes and are not made generally accessible to customers of an Occupant.

2.59. **Monthly Fixed Minimum Rent** means the monthly rent sum specified at Section 1.8.

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

2.61. **Mortgagee** means any mortgagee, beneficiary or trustee under any mortgage or deed of trust encumbering all or any part of the Center.

2.62. **Moveable Trade Fixtures** means trade fixtures that can be moved without damage to the Premises.

2.63. **Notice of Intention to Terminate** is defined at Section 17.6.4.

2.64. **Notice of Relocation** is defined at Section 17.6.1.

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

2.66. **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.

2.67. **OFAC** is defined at Section 27.24.1.1.

2.68. **Opening Date** is the date Tenant initially opens the Premises for business.

2.69. **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 during the Term that is in excess of the Annual Base Sales for each such Lease Year.

2.70. **Percentage Rent Rate** means the rate specified at Section 1.9.

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

2.72. **Permitted Use** means the use specified at Section 1.11.

2.73. **Plan Review Fee** means the sum of \$500.00. Notwithstanding anything contained in the Lease, Exhibit C or this Section 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.

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

2.75. **Prepaid Cost** means Landlord's reasonably estimated cost for specific work, materials or services. Tenant shall pay any Prepaid Cost expressly required of Tenant, in advance, within five (5) days after written demand therefor, accompanied by copies of all supporting documentation and invoices.

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

2.77. **Radius** is defined at Section 1.16.

2.78. **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.

2.79. **Refurbishment** is defined at Section 12.2.2.

2.80. **Refurbishment Notice** is defined at Section 12.2.2.

2.81. **Regulation** means the Treasury Regulation, as amended from time-to-time.

2.82. **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 30 days after Landlord's written demand therefor accompanied by copies of all supporting documentation and invoices. Notwithstanding the foregoing, the interest at the Agreed Rate shall not be payable to Landlord unless Tenant has failed to pay Reimbursed Costs within the 30 day period set forth herein.

2.83. **Relocation Termination Notice** is defined at Section 17.6.4.

2.84. **Renovations** is defined at Section 17.3.

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

2.86. **Rent Commencement Date** means the date specified at Section 1.6.

2.87. **Rent Inquiry Address** means the addresses for Landlord and Tenant, respectively, set forth at Section 1.23.

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

2.89. **Required Opening Date** means the date specified at Section 1.5.

2.90. **Restoration** is defined at Section 23.1.

2.91. **Retail Restriction Limit** is defined at Section 10.5.

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

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

2.94. **Rules** means such rules and regulations established from time-to-time by Landlord with respect to (a) the Center (including without limitation, the Common Area, Employee Parking Area and other parking areas), (b) the use of refuse containers and methods of refuse disposal, (c) refuse recycling programs and (d) any other activities at the Center.

2.95. **Storefront Sign** means the sign for the Premises facing onto the Mall.

2.96. **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, and **Sublease Instrument** means the instrument by which such Subletting is made.

2.97. **Substitute Premises** is defined at Section 17.6.1.

2.98. **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, as the same may be modified, amended and supplemented from time-to-time.

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

2.100. **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.

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

2.102. **Tenant** is defined in the first paragraph at the top of page 1 of this Lease.

2.103. **Tenant Improvements** means, collectively, Tenant's Work, Alterations and Refurbishment.

2.104. **Tenant Installed Hazardous Materials** means the presence of Hazardous Materials in, on, under or about the Premises, or other violation of Environmental Laws which Landlord determines, based upon the original Approved Plans or As-Built Documents for Tenant's Work or on the basis of any subsequent drawings submitted to Landlord pursuant to the terms of this Lease or on the basis of other information and data available to Landlord, arose out of or is in any way connected with the use, analysis, generation, manufacture, production, purchase, transportation, storage, treatment, release, removal and disposal or escape of Hazardous Materials or products containing Hazardous Materials by Tenant, Tenant's Occupants or the Tenant Parties during the period of Tenant's occupancy of the Premises.

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

2.106. **Tenant Parties** means, collectively, the 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's Address for Notices** means the address specified at Section 1.18.

2.108. **Tenant's Auditor** means an independent, certified, public accountant, who shall not, however, (a) be retained or compensated on a contingency fee basis or (b) have at any time been an employee of, or independent contractor for, Landlord or an Affiliate of Landlord.

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

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

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

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

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

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

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

2.116. **Trade Name** means the name(s) specified at Section 1.12.

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

2.118. **Transferee** means a concessionaire, franchisee or licensee, or the assignee under an Assignment Instrument or the subtenant under a Sublease Instrument or all, as the case may be.

2.119. **Utilities** means all water, gas, sewer, heat, electricity, steam, chilled water, conditioned water, hot water, sprinklers, fire-life safety systems, lighting, power, HVAC, telecommunications services (including telephone, data and other telecommunications services including any technological evolution related to the transfer of sound or data), sewer service, refuse removal service and all other utilities and related services.

2.120. **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).

2.121. **Utility Interruption** is defined at Section 9.2.

2.122. **Utility Interruption Notice** is defined at Section 9.2.

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

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:

2.3 **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. **Section 8.2.1 (Liability Insurance)** 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.

2.3. **Article 5 (Rent)** is amended by adding the following new Section(s) to the end thereof:

Terrorism Insurance. 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), an amount equal to \$0.25 per square foot of the Floor Area of the Premises per annum ("Terrorism Insurance"). Commencing on the first day of January next following the Rent Commencement Date, and on each January 1st thereafter (each such date is sometimes referred to as a "Terrorism Insurance Adjustment Date"), Terrorism Insurance then in effect (or which would then have been in effect absent any abatement or reductions in Terrorism Insurance) shall be increased by 3%.

2.4. **Section 13.4 (Holding Over)** is amended by adding the following to the end thereof:

If Tenant holds over after the Expiration Date or date of earlier termination of this Lease without the express written approval by Landlord, the parties recognize and agree that the damages to Landlord resulting from any failure by Tenant to timely surrender possession of the Premises as aforesaid will be substantial, will exceed the amount of Rent payable hereunder and will be impossible to accurately measure. Therefore, if Tenant holds over after the expiration or earlier termination of this Lease without Landlord's written approval, in addition to its other remedies Landlord may have hereunder and at common law, Tenant (a) shall be liable to Landlord, for each month Tenant holds over, a sum equal to 150% of the Fixed Minimum Rent in effect as of the last full calendar month of the Term (not taking into consideration any Rent abatement or

reduction to which Tenant might have been entitled for such month), and (b) shall be subject to every other term, covenant and agreement contained herein. Nothing contained in this Section 9.3 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) or create any tenancy between the parties, and nothing in this Section 9.3 shall affect Landlord's right to require Tenant to perform all obligations under this Article 9 and surrender possession of the Premises to Landlord as provided in this Lease upon the Expiration Date or earlier termination of this Lease or at any time subsequent thereto as Landlord may specify. 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 9.3. 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 9.3.

2.5. **Article 17 (Landlord's Reservation of Rights)** is amended by adding the following new Section(s) to the end thereof:

17.7 **Proposed Redevelopment.** As of the date hereof, Landlord may be redeveloping all or a portion of the Center, which may include the construction of new improvements (collectively, "Proposed Redevelopment"). The Premises are adjacent to one phase of the Proposed Redevelopment. The parties acknowledge and agree that in no event shall any rights, covenants or restrictions granted to or imposed upon the parties by this Lease extend beyond the boundary of the Center. Any phases of the Proposed Redevelopment may or may not be developed and, if so, may be developed or redeveloped as retail, office, non-retail, residential, mixed-use and commercial purposes. Notwithstanding anything to the contrary contained in the Lease, Tenant further acknowledges and agrees that (a) if Landlord determines, in its sole and absolute discretion, to perform all or any phases of a Proposed Redevelopment, the exact location, configuration and size of the Proposed Redevelopment, including the Center, the premises of any Occupant (including the Premises), any and all Major Occupants and the Common Area shall be subject to change and/or adjustment; (b) during the Proposed Redevelopment, barricades and other obstacles may be placed in and around the Center and/or the Premises and the work of the Proposed Redevelopment may affect access to or visibility of the Premises; however, Landlord shall use good faith efforts to perform the Proposed Redevelopment in a manner designed to minimize any interference with Tenant's conduct of business at the Premises and (c) the Proposed Redevelopment work will not reduce or modify Tenant's obligations under the Lease. Tenant shall have no approval rights whatsoever with respect to the Proposed Redevelopment, the plans and specifications therefor or the construction thereof. Landlord shall have no obligation to perform all or any portion of the Proposed Redevelopment and nothing contained in this Section 2.7.1 or elsewhere in the Lease shall be deemed to be a representation, warranty or inducement of any kind whatsoever that Landlord shall perform all or any portion of the Proposed Redevelopment.

2.6. **Article 18 (Casualty and Taking)** 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 20 (Landlord's Remedies)** is amended by adding the following new Sections to the end thereof:

20.1.6 ***Landlord's Right of Re-Entry.*** If this Lease shall expire or be terminated early as herein provided or if Tenant is holding over without the express written approval by Landlord, Landlord, or its agents or employees, may re-enter the Premises at any time without notice and remove therefrom Tenant and any Tenant Parties, together with any of its or their property, whether by summary dispossess proceedings, or by any suitable action or proceedings at law or by force or otherwise. Tenant waives any right to service of any notice of Landlord's intention to re-enter provided for by any present or future law. Landlord shall not be liable in any way in connection with any action Landlord takes pursuant to the foregoing. Notwithstanding any such re-entry, repossession, dispossession or removal, Tenant's liability under all of the provisions of this Lease shall continue.

20.1.7 ***Disposition of Personal Property.*** Notwithstanding anything to the contrary this Lease, following the Expiration Date or date of earlier termination of this Lease and upon Landlord obtaining possession of the Premises as herein provided, and if after at least 10 days written notice to Tenant, any of the Personal Property is unclaimed by Tenant, then Landlord shall have the absolute right in its sole discretion to retain possession of all of the Personal Property (subject to the 10 day requirement set forth above), to take title and possession of the same and to sell or otherwise dispose of the same, without any liability (a) to Tenant for the Personal Property or (b) to pay to Tenant the proceeds from the sale thereof. Tenant hereby waives any and all loss or damage thereto arising from the exercise of this power, and covenants to indemnify and hold harmless Landlord from and against any costs, claims, liens, damages or attorney fees, costs and disbursements arising from such removal of the Personal Property.

2.8. **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 20.1.2, Landlord reserves the right to (i) 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] days from the date on which such notice is given) on which this Lease shall terminate, and, on such date, any and all of Tenant's rights to use and/or occupy the Premises, shall terminate, be revoked and come to an end and Tenant shall immediately surrender possession of the Premises to Landlord in accordance with the terms of this Lease or (ii) terminate Tenant's right to possession by any lawful means (including Tenant's delivery of possession of the Premises to Landlord), in which case this Lease shall terminate. In either such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default as set forth in this Section 20.1.2 (a)–(e).

2.9. **Article 27 (Miscellaneous)** is amended by adding the following new Article 27.38 to the end thereof:

27.38 AGENCY PROVISIONS.

27.38.1 The following Sections 27.38.1.1 through 27.38.1.7 shall be collectively referred to as the Agency Provisions:

27.38.1.1 Payment in Lieu of Taxes

27.38.1.1.1 ***PILOT Program Defined.*** The financial incentive program offered by the Town of Hempstead Industrial Development Agency ("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, "PILOT Program").

27.38.1.1.2 **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, and such additional information as the Agency may request as described herein), 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.

27.38.1.2 **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, "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

(ii) that such occupation of the Premises by Tenant is reasonably necessary to preserve the competitive position of Tenant in Tenant's business.

27.38.1.3 **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.

27.38.1.4 **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, "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. Notwithstanding anything to the contrary contained in this Section, Landlord acknowledges that Tenant's registration with the New York State Job Bank satisfies the requirement set forth in the foregoing.

27.38.1.5 **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.

27.38.1.6 **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.

27.38.1.7 **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.

2.10. thereof: **Exhibit C, Section 2.1 (Tenant Package)** is amended by adding the following to the end

Tenant acknowledges per the Tenant Package Tenant is required to use local building trades to complete all Tenant Work.

2.11. end thereof: **Exhibit D, Section 2.46 (Landlord Parties)** is amended by adding the following to the

Landlord Parties shall also include the Town of Hempstead Industrial Development Agency of the Town of Hempstead, New York.

EXHIBIT F

Exhibit F has been Intentionally Omitted

EXHIBIT G
Exhibit G has been Intentionally Omitted

EXHIBIT H

Exhibit H has been Intentionally Omitted for this Lease at Green Acres Mall

EXHIBIT I
MONTHLY AND ANNUAL SALES STATEMENT FORM
MACERICH COMPANY

Center:

Store Name/Number: _____

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

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

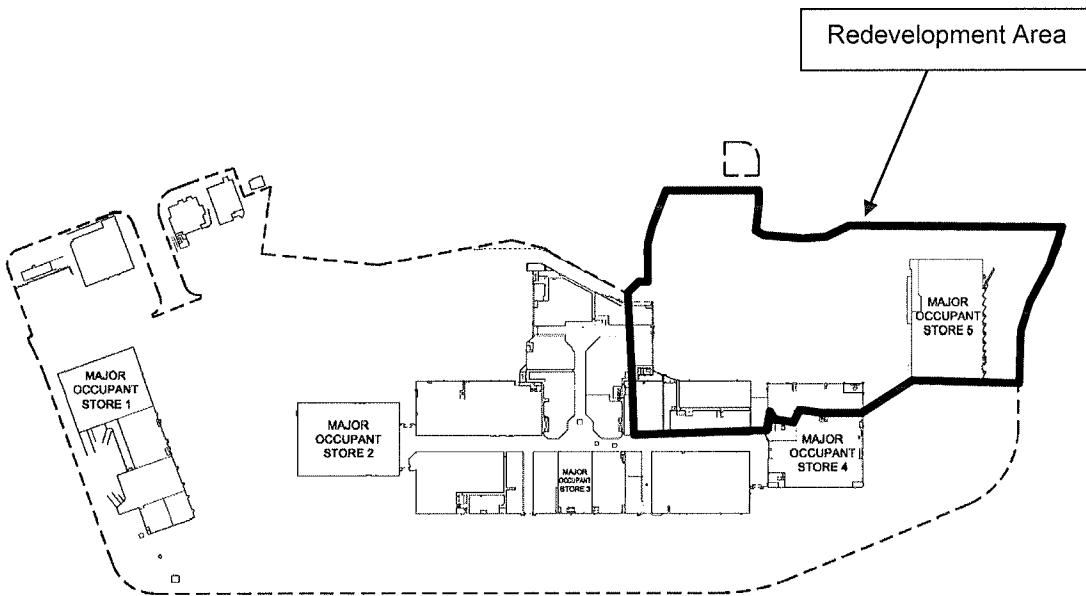
I certify that the sales indicated above are true and correct.

Name: _____

Title: _____

Authorized Signatory

EXHIBIT J
PROPOSED REDEVELOPMENT AREA



GREEN ACRES
SITE PLAN

LEGEND:
— — — CENTER BOUNDARY LINE



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 wholly or in part any structure, and/or improvements, and/or Common Area, and/or land areas 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 lessee in either the space marked or in any other space in the Center and nothing set forth in this plan is a representation, agreement or assessment right except as specifically set forth in the Lease.

Green Acres and Green Acres Commons – Parallel Provisions Check Sheet - Aldo

PILOT Agreement Exhibit G Provision	Parallel Approved Macerich Lease Provision [Perm lease form]	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
December 17, 2024

**Indicates new proposal not included in prior reports*

ACTIVE PROJECTS:

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. An Inducement Resolution was adopted on 7/18/2023. A hearing was held on October 30, 2024.

Sunrise of Oceanside NY Propco, LLC – The vacant project site located at 374 Atlantic Avenue, Oceanside would be developed into an 84-unit, first class assisted living facility, with associated parking and site improvements. The approximate unit breakdown would be 34 one bedroom/studios and 50 two-bedroom units. The site would be 77,433 square feet of floor space with 52 on-site parking spaces. The project would provide assisted living, memory care and coordination of hospice care among other services. Additionally, the development will include a 220 square foot spa on each of the three floors, a 553 square foot beauty salon, a 420 square foot exercise room, an 832 square foot entertainment area, a 590 square foot area for wet activities, a 158 square foot reflection area and a 4,743 square foot dining room, as well as a bistro.

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. The developer is currently seeking a delay to close due to financing costs. The closing will probably be held in the beginning of 2025. Contacts: Elizabetta Coschignano & Kenneth Breslin.

Conklin Estates - The developers seek to construct sixteen 2-story, 16- units of market rental housing development located at 37 Conklin Ave, Woodmere. There will also be parking on the ground level. The building area will be approximately 24,092 square feet and there will be 42 total parking spaces on the site. This will be on approximately .8242 acres. The unit will be as follows: 12-2 bedrooms, 2 bath units and 4-3 bedrooms, 2.5 bath units. This is considered a transit orient development due to its proximity to the LIRR. The project costs are \$5.5 million. This project was induced at the October 2023 Meeting. A public hearing was held on December 20, 2023. An authorizing resolution was adopted on January 23, 2024. Contact: Dan Deegan, Esq. We are awaiting a closing date.

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 building 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. The project is on the Board Meeting Agenda for September Contacts: Gregory DeRosa, Peter Curry, Esq.

106 Broadway Freeport – the applicant seeks to construct 80 units of affordable housing 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. We are waiting to schedule a public hearing. Contact: Dan Deegan, Esq., John Gordon, Esq, Principal & Barbara Murphy.

AIREF JFK IC, LLC – The applicant intends to demolish a single-family home on Cerro Street in Inwood, along with an adjacent piece of property, and construct an approximately 68,016 square feet one-story warehouse/distribution center. The project will include loading docks and 68 parking stalls of which two will be equipped as electric vehicle charging stations. This **project** was induced on 12/19/23, a public hearing was held on 1/10/2024. We are awaiting a closing date. Contact: James R. Murray

Avalon Rockville Centre Phase I – Located at 80 North Centre Avenue, Rockville Centre. This IDA project was the construction of a 165unit multi-family residential community comprised of four stories and a one structure for parking. This existing project's PILOT is set to expire in 2026. The developer seeks an additional ten years on the PILOT Agreement. The developer will upgrade units and common areas. An additional commitment in improvements of \$3 million will be made over the next five to seven years. Contact: Jon Vogel, Senior VP (212-309-2985), John Chillemi, Esq., (516-663-6619) Michael Faltischek (663-6619).

INACTIVE PROJECTS:

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 Track 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 Traurig (516-629-9610).

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 underdeveloped 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.

Confidential Evaluation of Board Performance 2024 - TOH IDA

Criteria	Agree	Somewhat Agree	Somewhat Disagree	Disagree
Board members have a shared understanding of the mission and purpose of the Authority.				
The policies, practices and decisions of the Board are always consistent with this mission.				
Board members comprehend their role and fiduciary responsibilities and hold themselves and each other to these principles.				
The Board has adopted policies, by-laws, and practices for the effective governance, management and operations of the Authority and reviews these annually.				
The Board sets clear and measurable performance goals for the Authority that contribute to accomplishing its mission.				
The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence, pressure or self-interest.				
Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.				
Board members are knowledgeable about the Authority's programs, financial statements, reporting requirements, and other transactions.				
The Board meets to review and approve all documents and reports prior to public release and is confident that the information being presented is accurate and complete.				
The Board knows the statutory obligations of the Authority and if the Authority is in compliance with state law.				
Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.				
Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.				
Individual Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.				
The Board exercises appropriate oversight of the CEO and other executive staff, including setting performance expectations and reviewing performance annually.				
The Board has identified the areas of most risk to the Authority and works with management to implement risk mitigation strategies before problems occur.				
Board members demonstrate leadership and vision and work respectfully with each other.				

Date Completed: _____

Summary Results of Confidential Evaluation of Board Performance 2024 – TOH IDA

Criteria	Agree	Somewhat Agree	Somewhat Disagree	Disagree
Board members have a shared understanding of the mission and purpose of the Authority.	#	#	#	#
The policies, practices and decisions of the Board are always consistent with this mission.				
Board members comprehend their role and fiduciary responsibilities and hold themselves and each other to these principles.				
The Board has adopted policies, by-laws, and practices for the effective governance, management and operations of the Authority and reviews these annually.				
The Board sets clear and measurable performance goals for the Authority that contribute to accomplishing its mission.				
The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence or self-interest.				
Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.				
Board members are knowledgeable about the Authority's programs, financial statements, reporting requirements, and other transactions.				
The Board meets to review and approve all documents and reports prior to public release and is confident that the information being presented is accurate and complete.				
The Board knows the statutory obligations of the Authority and if the Authority is in compliance with state law.				
Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.				
Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.				
Individual Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.				
The Board exercises appropriate oversight of the CEO and other executive staff, including setting performance expectations and reviewing performance annually.				
The Board has identified the areas of most risk to the Authority and works with management to implement risk mitigation strategies before problems occur.				
Board members demonstrate leadership and vision and work respectfully with each other.				

Name of Authority: TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

Date Completed: _____

RESOLUTION
TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY
CONTRACT WITH MASSA & ASSOCIATES, INC.

WHEREAS, the Town of Hempstead Industrial Development Agency deems it necessary to have all financial information reviewed and audited by a certified public accountant and actuary firm and;

WHEREAS, the governmental Accounting Standards Board has released a statement establishing standards for the measurement, recognition and display of post-employment benefits, expenditures and related liabilities other than pensions; and

WHEREAS, the Agency has selected the actuary firm of Massa & Associates Inc. to enter into a contract for review year 2024 with the IDA to prepare all reports, statements and updates related to the post-employment benefits of all employees as required by the GASB 74/75,

NOW, THEREFORE, BE IT

RESOLVED, the Town of Hempstead Industrial Development Agency hereby retains Massa & Associates, Inc., 100 North Centre Avenue, Suite 400, Rockville Centre, NY 11570, as the actuary firm for the Agency, subject to the approval of a contract as to form by Agency Counsel, for an amount not to exceed \$2,126 for the post-employment benefit reports, statements and updates for the 2024 Audited Financial Statements

Adopted:

Ayes:

Nays:

Resolution Number: 047-2024

Chairman: _____

**AGREEMENT BETWEEN MASSA & ASSOCIATES, INC.
AND THE TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY
REGARDING ACTUARIAL SERVICES**

This Agreement is made and entered into this _____ day of _____, 2024, by and between Massa & Associates, Inc. (hereinafter called the “Actuaries”) and the Town of Hempstead Industrial Development Agency (hereinafter called “TOH Industrial Development Agency”). This agreement specifies the services that will be provided by the Actuaries for the Postemployment Health Insurance Benefits for employees of the TOH Industrial Development Agency.

Actuarial Services

The Actuaries will determine costs and liabilities as of December 31, 2024. These costs and liabilities will be used to create a report subject to requirements of GASB 74/75. The report will provide all information required by the accountants for the TOH Industrial Development Agency.

The Actuaries will issue the report in a time frame that is acceptable to the TOH Industrial Development Agency. After the report has been issued, the Actuaries will make it a priority to provide supplementary information and confirmations requested by the accountants. The report will be issued and all required information will be provided to the accounts no later than March 1, 2025.

Fee for Services

The fee for these services is \$2,126. It will be payable after all of the services above have been completed.

The parties have caused this Agreement to be executed by their duly authorized officers on this _____ day of _____, 2024.

Massa & Associates, Inc.

By: _____

Title: _____

Date: _____

Town of Hempstead Industrial Development Agency

By: _____

Title: _____

Date: _____

RESOLUTION

TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY

CONTRACT WITH SHEEHAN AND COMPANY
2024/2025

WHEREAS, the Town of Hempstead Industrial Development Agency deems it necessary to have all financial information reviewed and audited by a certified public accountant and;

WHEREAS, the Agency has selected the firm of Sheehan and Company to audit the financial records of the Agency for the calendar year of 2024 and;

WHEREAS, Sheehan and Company will enter into a contract with the IDA to file all necessary tax documents for 2024, to file the Annual Financial Statement with the State of New York for 2024, to furnish the Board with audited financial statements for 2024, as well as to review of the agency's financial records for the calendar year of 2025 on a quarterly basis, and to assist with the preparation of the Budget and State Report filing in 2025.

NOW, THEREFORE, BE IT

RESOLVED, the Town of Hempstead Industrial Development Agency hereby retains Sheehan and Company, 165 Orinoco Drive, Brightwaters, as the auditors for the Agency, subject to the approval of a contract as to form by Agency Counsel, for an amount not to exceed \$30,300.00 for the filing of all necessary tax documents for 2024, the filing of the Annual Financial Statement with the State of New York for 2024, the furnishing to the Board with audited financial statements for 2024, as well as reviewing the agency's financial records for the calendar year of 2025 on a quarterly basis, and assisting with the preparation of the Budget and State Report filing in 2025.

Adopted:

Ayes:

Nays:

Resolution Number: 048-2024

Chairman



165 Orinoco Drive
Brightwaters, NY 11718
T: 631.665.7040 | F: 631.665.7014

15 South Bayles Avenue
Port Washington, NY 11050
T: 516.883.5510 | F: 516.767.7438

www.sheehancpa.com

October 28, 2024

To the Board of Directors and Management
Town of Hempstead Industrial Development Agency
350 Front Street
Hempstead, New York 11550-4037

We are pleased to confirm our understanding of the services we are to provide Town of Hempstead Industrial Development Agency (the Agency or the Organization), a component unit of the Town of Hempstead, New York, for the year ended December 31, 2024.

Audit Scope and Objectives

We will audit the financial statements of the Agency, and the disclosures, which collectively comprise the basic financial statements of the Agency as of and for the year ended December 31, 2024. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as Management's Discussion and Analysis (MD&A), to supplement the Agency's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic or historical context. As part of our engagement, we will apply certain limited procedures to the Agency's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles (U.S. GAAP) and will be subjected to certain limited procedures, but will not be audited:

- Management's Discussion and Analysis
- Schedule of Proportionate Share of the Net Pension Liability

- Schedule of Pension Contributions
- Schedule of Changes in the Agency's Total Other Postemployment Benefits (OPEB) Liability and Related Ratios

We have also been engaged to report on supplementary information other than RSI that accompanies the Agency's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole in a report combined with our auditor's report on the financial statements:

- Budgetary Comparison Schedule

We have also been engaged to audit the Schedule of Cash, Cash Equivalents, and Investments of the Agency as of December 31, 2024, as required by Section 2925 of the New York State Public Authorities Law and Section 201.3 of the New York State Public Authorities Law (collectively, the Investment Guidelines).

For purposes of this engagement letter, the basic financial statements and Schedule of Cash, Cash Equivalents, and Investments of the Agency are referred to collectively as "the financial statements".

The objectives of our audit are to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud or error; issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. GAAP; and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

The objectives also include reporting on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, non-compliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.

Auditor's Responsibilities for the Audit of the Financial Statements

We will conduct our audit in accordance with GAAS and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of your accounting records of the Agency and other procedures we consider necessary to enable us to express such an opinion. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional

disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and direct confirmation of receivables and certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement, and they may bill you for responding to those inquiries.

We have identified the following significant risk of material misstatement as part of our audit planning:

- Management override of controls

Please note that the risk assessment process is fluid throughout the engagement and modifications may be made to our identification of significant risks during the audit process.

We may, from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

Our audit of financial statements does not relieve you of your responsibilities.

The audit documentation for this engagement is the property of Sheehan & Company, CPA, PC (Sheehan) and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulators pursuant to authority given to it by law or regulation. If requested, access to such audit documentation will be provided under the supervision of Sheehan personnel. Furthermore, upon request, we may provide copies of selected audit documentation to regulators. The regulator may intend, or decide, to distribute the copies or information contained therein to others, including other government agencies.

Audit Procedures - Internal Control

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinion. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other non-compliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation or the override of internal control. An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures - Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Agency's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Nonattest Services

We will provide the following additional nonattest services:

- We will assist in the drafting of the financial statements and related notes in conformity with U.S. generally accepted accounting principles based on information provided by you. The responsibility for the financial statements and all representations contained therein remains with management and those charged with governance.
- We will maintain detailed depreciation schedules for the Agency based on information provided by management, including the assignment of asset lives, salvage values and depreciation methods.

These non-audit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. The other services are limited to the services previously defined. We, in our sole professional

judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You are responsible for all management decisions and for performing all management functions and for designating an individual possessing suitable skill, knowledge and/or experience to oversee the nonattest services we will provide. You are responsible for establishing and maintaining internal controls, including monitoring ongoing activities. You are responsible for evaluating the adequacy and results of the above nonattest services performed and accepting responsibility for the results of such services. This includes your review and approval of all adjustments we may propose to the accounting records of the Agency or its financial statements as a result of these services.

By signing this engagement letter, we have assumed that you are the person responsible for these nonattest matters of the Agency from whom we shall receive all inquiries and requests. If this is not a correct assumption, please furnish us with the name of the individual with whom this work should be coordinated.

Responsibilities of Management for the Financial Statements

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with accounting principles generally accepted in the United States of America, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is responsible for making drafts of financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by GAAS and *Government Auditing Standards*.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and non-compliance with provisions of laws, regulations or contracts or grant agreements that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with accounting principles generally accepted in the United States of America. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with U.S. GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with U.S. GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

With regard to publishing the financial statements on your website, you understand that websites are a means of distributing information and, therefore, we are not required to read the information contained in those sites or to consider the consistency of other information on the website with the original document.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to any non-audit services we may provide. You will be required to acknowledge in the management representation letter our assistance with any non-audit services and that you have approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee any non-audit services we may provide by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Management agrees to indemnify Sheehan for any damages, including attorney fees, caused in whole or part, by the Organization's failure to fulfill these responsibilities, including from any negligent or intentional misrepresentations made by the Organization or Management, or its affiliates, officers, directors or employees in the management representation letter, or in connection with the services provided under this engagement letter.

Client Promises

The Agency hereby promises that it will make every diligent effort to maintain proper books and records that accurately reflect its business activities that will be completely truthful with Sheehan and that Sheehan may rely upon both oral and written statements and responses to questions. The Organization further promises to immediately advise Sheehan if it becomes aware of any inaccuracy in its recordkeeping or dishonesty in any of its business dealings, including its statements to Sheehan. The Agency acknowledges that the promises are the cornerstone of its relationship with Sheehan., are made to induce Sheehan to accept this audit engagement and that Sheehan would not accept this engagement without such promises.

Electronic Signatures and Copies

All parties to this agreement agree that a digital signature shall be effective to prove each party's agreement to the terms of this document. An electronically transmitted signature to this agreement, if included, will be deemed an acceptable original for purposes of consummating this agreement and binding the party providing such electronic signature. Furthermore, the parties agree that the terms of this agreement may be proved through an electronic facsimile, including a scanned electronic copy in Portable Document Format (PDF) or other digital format and that no original hard-copy document need be retained to prove the terms of this agreement. This agreement may be transmitted in electronic format and shall not be denied legal effect solely because it was formed or transmitted, in whole or in part, by electronic record.

E-mail Communication

Sheehan disclaims and waives, and you release Sheehan from, any and all liability for the interception or unintentional disclosure of e-mail transmissions or for the unauthorized use or failed delivery of e-mails transmitted or received by Sheehan in connection with the services we are being engaged to perform under this agreement.

Mediation Provision

Disputes arising under this agreement (including the scope, nature and quality of services to be performed by us, our fees and other terms of the engagement) shall be submitted to mediation. A competent and impartial third-party, acceptable to both parties, shall be appointed to mediate and each disputing party shall pay an equal percentage of the mediator's fees and expenses. No suit or arbitration proceedings shall be commenced under this agreement until at least 60 days after the mediator's first meeting with the involved parties. If the dispute requires litigation, the court shall be authorized to impose all defense costs against any non-prevailing party found not to have participated in the mediation process in good faith.

Offers of Employment

At any time during the course of our engagement hereunder, should management offer an employee of Sheehan a position of employment within the Agency or any affiliated or related organizations, or enter into substantive discussions with such an employee concerning possible employment by the Organization, we request that we be notified of your intentions immediately. Professional standards require that we remain independent and any offers of employment to a current employee of Sheehan may impede that independence. As a result, additional procedures may be required to ensure the independence and integrity of management's financial statements and that may result in additional costs.

The Agency acknowledges that Sheehan has incurred significant costs in recruiting and training its personnel. Therefore, without the prior written consent of Sheehan, the Agency agrees not to recruit or hire any Sheehan personnel. In the event that the Agency hires any Sheehan employee, the Agency agrees to pay Sheehan a fee of 35% of the employee's current base salary at Sheehan as liquidated damages to cover the cost of replacing such employee. This fee is due upon notification to Sheehan that the employee has been hired.

Damages Limited to Lesser of Actual Damages or Fees Paid

By signing this engagement letter, you agree that our liability arising from this engagement shall be limited to the lesser of any actual damages which may have been caused by our negligent acts or omissions, or the amount of the fees which you pay for our services for this engagement.

Hosting Services

As an attest client, Sheehan cannot retain your documents on your behalf. This is in accordance with ET 1.295.143 of the *AICPA Code of Professional Conduct*. Management accepts responsibility for the Agency's own financial and non-financial information system as well as its own electronic security and back-up services for data or records. Management acknowledges that Sheehan does not take custody of or store the Agency's data or records and that the Agency will be provided with a copy of all such data and records at the conclusion of the engagement such that the Agency's records are complete.

Use of Portals for Transmitting Data and Information

Sheehan's online portal is used solely to transmit data and is not intended to store the Agency's information. The Agency is responsible for downloading any deliverables and other documents from the portal that it wishes to retain for its own records. After approximately 30 days, data and other content will be removed from the portal automatically.

Reporting

We will issue a written report upon completion of our audit of Agency's financial statements. Our report will be addressed to the Board of Directors of the Agency. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinion, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinion is other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or issue reports, or we may withdraw from this engagement.

If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming an opinion on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawing from the engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts and grant agreements, non-compliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will state (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the Agency's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Agency's internal control and compliance. The report will also state that the report is not suitable for any other purpose. If during our audit we become aware that Agency is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Engagement Administration, Fees and Other

We understand that your employees will prepare all confirmations or schedules we request and will locate any invoices and other documents selected by us for testing.

We will provide copies of our reports to the Agency; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Sheehan and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to regulators or their designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Sheehan personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by regulators. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party contesting the audit finding for guidance prior to destroying the audit documentation.

Stephanie Handel, CPA and Alyson Terwilliger, CPA are the engagement partners and are responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Audit fieldwork is expected to begin by early February 2025 and a draft of the financial statements is expected to be delivered approximately 4-5 weeks after the receipt of all requested information. Issued financial statements are expected to be delivered by March 26, 2025. Our audit engagement ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

Our fee for these services will be **\$30,300.** This fee assumes there are no significant changes to the Agency's internal control structure and no significant impact of any new GASB pronouncements to the Agency. Should this occur, a new fee estimate will be discussed and arrived at before any work commences. Our invoices for these fees will be rendered as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for non-payment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination.

We will schedule the engagement based in part on deadlines, working conditions and the availability of your key personnel. We will plan the engagement based on the assumption that your personnel will cooperate and provide assistance by performing tasks such as preparing requested schedules, retrieving supporting documents and preparing confirmations. If your personnel are unavailable to provide the necessary assistance in a timely manner it may substantially increase the work we have to do to complete the engagement within the established deadlines, resulting in an increase in fees over our original fee estimate. Should this occur, a new fee estimate will be discussed and arrived at before any work commences.

Our stated fees for this engagement, as set forth in this Agreement, may increase to the extent Sheehan is required to perform additional work to assist your personnel or reperform work as a result of being provided inaccurate documents or schedules.

We will not undertake any accounting services (including but not limited to reconciliation of accounts and preparation of requested schedules) or increase our fees as set forth in this Agreement without first discussing the same with the Agency, and obtaining approval, which approval will be reflected through a written change order or additional engagement letter for such additional work.

The fees are based upon time required by the individuals assigned to the engagement. Individual hourly rates vary according to the degree of responsibility involved and skill required. Bills for services are due when rendered and interim billings may be submitted as work progresses. This estimate does not include additional services outside the scope of the work described above, that will be billed at our standard hourly rates. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of personnel assigned to your engagement.

Our rates are currently as follows:

Partners	\$475
Directors	\$400
Managers	\$310 - \$360
Supervisors	\$230 - \$295
Seniors/Semi-seniors	\$200 - \$220
Staff	\$140 - \$175
Bookkeeping	\$150 - \$175
Administrative	\$140

If, as a result of our services to you with respect to our engagement, we are required or requested by government regulation, subpoena, or other legal process to provide information or documents to you or a third-party, or to provide our personnel as witnesses, in connection with legal or administrative proceedings in which we are not a party, we shall be entitled to compensation for our time and reimbursement for our reasonable out-of-pocket expenditures (including legal fees) in complying with such requests or demands. Nothing herein, however, is intended to relieve us of our duty to observe the confidentiality requirements of our profession.

No legal proceeding or action, regardless of form, with respect to a claim arising out of or relating to the services provided under this agreement may be brought by either of us more than one year after the date of delivery of the report(s) and/or tax returns contemplated by this engagement.

This agreement shall be governed by the law of the State of New York without regard to choice of law principles. Any action brought in connection with, arising from or relating to this Agreement, shall be brought exclusively in the federal or state courts located in New York, county of New York and the parties hereby irrevocably consent to the jurisdiction of such courts. We reserve the right to amend any of the terms in this letter at any time as a result of any changes in laws or regulations affecting the accounting profession, which may preclude us from providing the services described in this letter on the terms we have agreed upon.

It is hereby understood and agreed that this engagement is being undertaken solely for the benefit of the Agency and management and that no other person, organization or entity shall be authorized to enforce the terms of this engagement.

This letter comprises the complete and exclusive statement of the agreement between us, superseding all proposals oral or written and all other communications between us and may be modified only by a writing signed by our firm and the Agency. If any provision of this letter is determined to be unenforceable, all other provisions shall remain in force.

You have requested that we provide you with a copy of our most recent external peer review report and any subsequent reports received during the contract period. Accordingly, our most recent peer review report accompanies this letter.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the attached copy and return it to us.

Very truly yours,

Sheehan & Company CPA, P.C.

Sheehan & Company C.P.A., P.C.

Enc.

RESPONSE:

This letter correctly sets forth the understanding of the Town of Hempstead Industrial Development Agency.

Board Member Signature: _____

Title: _____

Management Signature: _____

Title: _____



CERTIFIED PUBLIC ACCOUNTANTS

Report on the Firm's System of Quality Control

November 29, 2022

To The Owners of Sheehan & Company CPA P.C. and the Peer Review Committee of the Pennsylvania Institute of CPAs.

We have reviewed the system of quality control for the accounting and auditing practice of Sheehan & Company CPA P.C. (the firm) in effect for the year ended June 30, 2022. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards). A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System review as described in the standards may be found at wwwaicpaorg/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing and complying with a system of quality control to provide the firm with reasonable assurance of performing and reporting in conformity with the requirements of applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with the requirements of applicable professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of and compliance with the firm's system of quality control based on our review.

Required Selections and Considerations

Engagements selected for review included an engagement performed under *Government Auditing Standards* and audits of employee benefit plans.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Sheehan & Company CPA P.C. in effect for the year ended June 30, 2022, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Sheehan & Company CPA P.C. has received a peer review rating of *pass*.

*Henderson Hutcherson
& McCullough, PLLC*

RESOLUTION

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

PROCUREMENT OF ADVERTISING/MARKETING FIRM Giovatto Agency 2025 Contract

WHEREAS, the Advertising/Marketing Committee of the Town of Hempstead Industrial Development Agency (TOHIDA) makes a recommendation to the full board at meeting on December 17, 2024 to hire Giovatto Agency, 307 West Penn St., Long Beach, NY, 11561 to host and maintain the TOHIDA website and;

WHEREAS, the budget has been allocated for hosting and maintenance of the TOHIDA website, for an amount not to exceed \$5,000.00 for the calendar year 2025;

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Hempstead Industrial Development Agency has chosen to enter into a contract with Giovatto Agency, 307 West Penn St, Long Beach, NY, 11561, for the period beginning January 1, 2025 – December 31, 2025, to host and maintain the TOHIDA website, for an amount not to exceed \$5,000.00 for the calendar year 2024, subject to approval of a contract as to form by Agency Counsel.

Adopted:

Ayes:

Nays:

Resolution Number: 049-2024

Chairman

Giovatto Agency

307 W. Penn St., Long Beach, NY 11561

2025 Agency of record Terms of Agreement for the Town of Hempstead

Industrial Development Agency (TOHIDA)

This agreement confirms that Giovatto advertising agency is appointed as marketing advertising and sales promotion agency of record for the Town of Hempstead Industrial Development Agency (TOHIDA)

The following terms will apply:

1) This agreement with the Giovatto agency shall become effective January 1, 2025, and shall continue for a minimum of one (1) year, unless terminated on at least (30) days prior by written notice given to the Town of Hempstead Industrial Development Agency, or by Giovatto agency.

Such notice of termination shall be sent by registered or certified mail, return receipt requested, to the principal place of business of the party to whom such notice is directed. In the event of giving such notice of cancellation, Giovatto agency shall nevertheless continue to receive the remuneration earned pursuant to this agreement during such (30) day to the date of termination of all advertising.

2) For Creative, preparation and Production, Giovatto agency will prepare a cost estimate. When TOHIDA shall evidence its approval of a written estimate submitted by the Giovatto agency by signing and approving the same, Giovatto agency may enter into contracts.

3) All advertising run in all media, including but not limited to newspapers, magazines, billboards, radio and television, Internet, will be placed through Giovatto agency and all media billing will be sent directly to the Giovatto agency and Giovatto agency will bill out Media costs to the Town of Hempstead IDA, at the gross rate. Media billing will be sent to the Town Of Hempstead IDA at the end of each month; payment is requested within (7) days of receipt.

4) If upon TOHIDA requests, media contracts are taken out and client-agency relations are severed, TOHIDA agrees to pay "short rate" on any outstanding contract obligations.

5) The Giovatto agency will perform the following services for TOHIDA in connection with the planning, preparation, and placing of advertising and marketing materials:

Giovatto Agency

307 W. Penn St., Long Beach, NY 11561

- a. Review your services and your marketing strategies.
- b. Analyze your present and potential markets and marketing objectives.
- c. Create, prepare and submit for your review and approval advertising and marketing materials.
- d. Employee on your behalf our knowledge of available media and means that can be profitably used to advertise and promote your services.
- e. Write, design, illustrate or otherwise prepare your advertisement and marketing materials, including commercials, radio or TV to be broadcast or other appropriate forms of advertising and marketing materials subject to your approval.
- f. What is the space, time or other means to be used for your advertising and handle media billing and payments endeavoring to secure the most advantageous rates available, subject to your approval?

6) The proposed annual budget is to be allocated to media insertions, creative, and production expenses.

7) Payment terms for creative and production charges will be invoiced to TOHIDA on a per project basis; payment is requested within (seven) days from receipt of invoice.

8) As between you and us, all advertising material prepared by the Giovatto agency and accepted and paid for by TOHIDA for use in advertising here will become TOHIDA property. It is understood that there may be limitations on the use and ownership of materials by virtue of the Rights of the third-party. We will advise you of the existence of such limitations.

If the above accordance with your understanding and agreement, kindly indicate your consent here too by signing in the place provided below on both copies enclosed here in and returning one copy to us

Giovatto agency by full: _____ Date: _____

Accepted and agreed: Town of Hempstead Industrial Development Agency (TOHIDA)

By full: _____ Date: _____

10/24/24

Amended
RESOLUTION
Town of Hempstead
Industrial Development Agency

Accepting the Proposal of Todd Shapiro Associates
To Provide Consulting Services to the Agency

WHEREAS, the Agency's mission is to enhance job opportunities, health, prosperity and general welfare in the Town of Hempstead, and

WHEREAS, consistent with its mission, the Agency works with the economic development community to attract business and industry to the Town, and

WHEREAS, the Agency is seeking to increase its contact with business and labor leaders, developers and local media, and

WHEREAS, in an effort to increase its contact with the above-mentioned groups, the agency is seeking the services of a consultant with experience in matters involving industrial development, government operations, media relations and public relations, and

WHEREAS, Todd Shapiro Associates, Inc., 380 N. Broadway, Ste. 310, Jericho, New York 11753, (billing: 62 Sackett Street, Hicksville, New York) has proposed a contract with the Agency to provide a continuation of their consulting services for the terms under which such services shall be provided,

NOW, THEREFORE, BE IT

RESOLVED, December 17, 2024, the said Todd Shapiro Associates, Inc. (hereinafter "the consultant") shall provide consulting services to the agency pursuant to the following terms and conditions;

1. The consultant shall provide advice to the Agency's CEO with respect to marketing, media and public relations for the Agency including, but not limited to, the development of advertising messages and the placement of advertising in the print and electronic media, and shall act as the Agency's spokesperson if necessary.
2. The consultant will prepare, and retain agency approval for, distribution of press releases for all induced and closed projects, including quotes from applicants and photos of the project during construction and after completion, and shall attend all scheduled Agency board meetings.

3. The consultant will prepare and upload posts to social media, including Instagram, Twitter and Facebook. The consultant will be required to post a minimum of ten social media posts per month, including on the IDA website. All social media posts will be approved by the Agency prior to being posted.
4. The consultant will, from time to time, organize and produce luncheons and/or breakfast events to support the mission of the Town of Hempstead IDA, inclusive of handling outreach, invitations, and sponsors.
5. For their services, the consultant shall be paid no more than a total of \$30,000.00, at the rate of \$2,500.00 per month. Such payments shall be made, in arrears and upon submission of an Agency voucher/claim form.
6. In providing services to the Agency under this resolution, the consultant shall at all times, act as an independent contractor and not as an employee of the Agency. As such, Todd Shapiro Associates shall not be entitled to benefits other than the payment provided for in paragraph 4, above. It shall be the consultant's responsibility to make any and all tax payments, which may be due by the Agency and payable as a result of payments made to them.
7. The term of this agreement is 12 months, commencing on January 1, 2025 and ending December 31, 2025. This agreement shall be cancelable, by either the Agency or the consultant, on 30 days' written notice. Such notice shall be by certified mail, return receipt requested. Any notice mailed under this paragraph shall be sent as follows (unless, by certified mail, return receipt requested, either of the parties has provided the other party with a different address for notices):

To the Agency: 350 Front Street, Room 234A, Hempstead, New York 11550
To Mr. Shapiro: 380 N. Broadway, Ste. 310, Jericho, New York 11753 (billing: 62 Sackett Street, Hicksville, New York 11801)

Adopted:

Ayes:

Nays:

Resolution Number: 050-2024

Chairman

Budget Line: Professional Fees



October 29, 2024

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

The Town of Hempstead Industrial Development Agency will retain Todd S. Shapiro Associates, Inc. as a public relations consultant for the period commencing on January 1, 2025, and ending on December 31, 2025. In that capacity, the Consultant will provide advice to the Agency on matters involving industrial development, advice with respect to media relations for the Agency and shall act as the Agency's spokesperson if necessary. Todd S. Shapiro Associates will also prepare and retain approval for distribution of press releases for all induced and closed projects, including quotes from applicants and photos of the project during construction and after completion. In addition, Todd S. Shapiro Associates will do social media postings for the Hempstead IDA on Instagram, Twitter and Facebook and post a minimum of ten social media posts per month, including on the website. All posts will be approved by the Hempstead IDA prior to being posted. Periodically blast emails will go out with an approved list from the IDA.

For his services, the consultant shall be paid at a rate of \$30,000.00 annually. Such payments shall be made in arrears and upon submission of an IDA claim form. Each monthly installment will be for \$2,500.00. In providing services to the Agency under this contract, the Consultant shall at all times be acting as an independent contractor and not as an employee of the Town of Hempstead IDA. It shall be the Consultant's responsibility to make any and all tax payments, which may be due by the Agency and payable as a result of payments made to him. By execution of the agreement, the Town of Hempstead IDA agrees to indemnify, hold harmless and defend Todd S. Shapiro Associates, Inc., against all claims and/or litigation and/or liability, arising from services performed under this Agreement and/or information supplied to Todd S. Shapiro Associates, Inc. by the Town of Hempstead IDA, unless said claims, litigation and/or liability results, directly or indirectly, from the negligence, malfeasance, failure to act or breach or failure of performance hereunder by Todd S. Shapiro Associates, Inc., its agents, servants and/or employees. The term of the agreement is 12 months, ending December 31, 2025. This Agreement shall be cancelable, by either the Agency or the Consultant, with 30 days written notice.

A handwritten signature of Todd Shapiro in black ink.

Todd Shapiro, President

Todd S. Shapiro Associates, Inc.

A handwritten signature of Todd Shapiro in black ink, placed over a horizontal line.

Todd Shapiro

President, Todd S. Shapiro Associates

Date: 10/29/2024

Date: _____

Frederick E. Parola
CEO, Town of Hempstead IDA

RESOLUTION

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY and LOCAL DEVELOPMENT CORPORATION

NEW YORK STATE ECONOMIC DEVELOPMENT COUNCIL MEMBERSHIP FOR 2025

WHEREAS, the Town of Hempstead Industrial Development Agency endeavors to support business and community activities; and

WHEREAS, the Town of Hempstead IDA encourages its members and staff to interface with the business community; and

WHEREAS, the Agency and Corporation seeks to promote the sharing and exchanging of information with other influential business leaders, bankers and real estate brokers in the Town of Hempstead and around Long Island.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Hempstead Industrial Development Agency authorizes payment to the New York State Economic Development Council, 111 Washington Avenue, 4th Floor, Albany, New York, 12210, for an amount not to exceed \$1,750.00 and subject to the filing and approval of the necessary documentation, for the purpose of continuing the IDA membership with the New York State Economic Development Council for 2025.

Adopted:

Ayes:

Nays:

Resolution Number: 052-2024

Chairman

New York State Economic Development
Council

111 Washington Avenue, 4th Floor
Albany, NY 12210 US
(518) 426-4058
silva@nysedc.org
www.nysedc.org

Invoice



BILL TO

Mr. Frederick E. Parola
Town of Hempstead IDA
350 Front Street, Room 240
Hempstead, NY 11550-4040

INVOICE #	DATE	TOTAL DUE	DUUE DATE	TERMS	ENCLOSED
15689	01/01/2025	\$1,750.00	01/31/2025	Net 30	

DESCRIPTION	QTY	RATE	AMOUNT
2025 Membership Renewal Dues - EDO Level 3 (Membership Dues cover 2025 Calendar year January 1st through December 31st)	1	1,750.00	1,750.00
* * In compliance with The Omnibus Budget Reconciliation Act of 1993, 65% of your NYSEDC membership dues are deductible as a business expense. Further information on this new law should be obtained from your tax advisor. * * *			

BALANCE DUE

\$1,750.00



Rocky material

Dear Fred,

January 01, 2025

Thank you for your continued support of the New York State Economic Development Council (NYSEDC). Because of your investment with the NYSEDC, we have been able to grow our organization significantly over the past five years, providing additional value and support for our members to create economic opportunities in their communities. The NYSEDC continues to experience significant organizational growth, develop new programs that will aid economic development efforts, and notch legislative wins that will give our members additional tools and support the economic development ecosystem statewide.

Over the past twelve months, the NYSEDC:

- Successfully advocated for the reauthorization of \$100 Million for the Fast NY/Shovel Ready Program and \$50 Million for the RESTORE NY Program in the 2024-25 Approved Budget.
- Hosted our 2024 EDC Conference in Albany, New York drawing nearly 400 economic development partners from across NYS.
- Worked with and led a group of state EDOs to introduce the Federal Onshore Act, which will create a new federal shovel-ready funding program administered by the Economic Development Administration (EDA).
- Advocated for the \$100 Million Downtown Revitalization and \$100 Million New York Forward programs. Coordinated and led New York's participation at 2024 Semicon West, 2024 Bio International Industry Attraction Team in San Diego, the SIA Awards Dinner, 2024 SEMI Industry Strategy Symposium (ISS), and team NY at the Industrial Asset Management Council (IAMC) Spring 2024 in Greenville, South Carolina and Fall 2024 Forum in Quebec City.
- Hosted our 2024 Annual Meeting with another year of record attendance and keynote speakers.
- Hosted the 2024 BASIC economic development training course with 45 attendees.
- Hosted the 2024 NYATEP & NYSEDC Workforce and Economic Development Conference in Rochester.
- Developed a semiconductor asset map which will include policy recommendations for attracting the semiconductor industry.
- Conducted our annual 2024 IDA Study and Economic Impact Survey highlighting the great work our members do.
- Partnered with the Business Council of New York State (BCNYS) to create a new Economic Blueprint for New York State (will be completed in early 2025).
- Enhanced our public affairs campaign to amplify our members' voices around energy policy, the value of our IDA members, and shovel ready site development.

This work does NOT happen without your membership and support of the NYSEDC, and your leadership and commitment to economic development in New York State. We pledge to continue working on your behalf to help you and your communities prosper. In order to continue developing new programs, strengthening our members' voice while growing and providing additional value, we will be instituting a dues increase/adjustment for all membership categories for the first time since 2019. The enclosed invoice details your membership renewal for 2025.

Please do not hesitate to reach out if you have questions or would like additional information. Wishing you and your family a happy, healthy, and safe holiday season!

Sincerely,

Ryan M. Silva

Ryan M. Silva
Executive Director

Fred, thank you for your continued support & partnership.
RMS

Arlyn Eames

From: Michael Lodato on behalf of Fred Parola
Sent: Monday, November 18, 2024 8:17 AM
To: Arlyn Eames
Subject: FW: NYSEDC Membership Update

FYI for the next NYSEDC resolution the price has increased.

Thanks,

Michael Lodato
Deputy Executive Director
Town of Hempstead
Industrial Development Agency &
Local Development Corporation
(516) 414-6581 Phone
(516) 489-3179 Fax
mlodato@hempsteadny.gov

From: Stephanie Cavalier <cavalier@nysedc.org>
Sent: Friday, November 15, 2024 9:52 AM
To: Fred Parola <fredpar@hempsteadny.gov>
Cc: Laura Tomeo <laurtom@hempsteadny.gov>
Subject: NYSEDC Membership Update

Caution

This email originated from outside of the Town of Hempstead. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Fred, I hope all is well and happy Friday! I tried calling your office and had a nice chat with Laura but wanted to follow up in writing.

I'm calling our members because the NYSEDC board has recently voted to raise our membership prices for 2025, for the first time since 2019. Your annual dues will increase to \$1,750 annually (up from \$1,500). This reflects the increased cost of doing business through and after the pandemic, in order to provide the same level of service and programming our members have come to expect. Our event prices (both registration and sponsorship) will remain steady through 2025.

We're grateful for your partnership with the NYSEDC. Please don't hesitate to give me a call – I'd welcome a conversation to talk through questions or discuss how we can help your organization as we look ahead to 2025. Both my cell and office line are in my email signature.

All the best,
Steph

Stephanie Cavalier

2025 IDA Meeting Schedule

All Board meetings will meet on **Tuesdays at 9:00 a.m.**
in the **Old Courtroom, 350 Front Street, 2nd floor,**
unless another designation is made.

January 21	February 25	March 18
April 22	May 20	June 17
July 15	August 19	September 16
October 21	November 18	December 16

Adopted:

Resolution: 053-2024

Ayes:

Nays:

Town of Hempstead Industrial Development Agency Sexual Harassment Policy

The Town of Hempstead Industrial Development Agency is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Town of Hempstead Industrial Development Agency's commitment to a discrimination-free work environment. Sexual harassment is against the law and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the Town of Hempstead Industrial Development Agency. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. The Town of Hempstead Industrial Agency's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the Town of Hempstead Industrial Development Agency. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Town of Hempstead Industrial Development Agency will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Town of Hempstead Industrial Development Agency who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, Chairman, or Agency Counsel. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Town of Hempstead Industrial Development Agency to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

5. The Town of Hempstead Industrial Development Agency will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Town of Hempstead Industrial Development Agency will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Town of Hempstead Industrial Development Agency will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to Agency Counsel of the IDA.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.
 -

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace.

Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Town of Hempstead Industrial Development Agency cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may

constitute sexual harassment is encouraged to report such behavior to Management, Counsel, CEO or Chairman. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, Counsel, CEO or Chairman.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to CEO or Chairman.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Town of Hempstead Industrial Development Agency will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Counsel, CEO or the Chairman will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Sexual harassment is not only prohibited by Town of Hempstead Industrial Development Agency but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Town of Hempstead Industrial Development Agency, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Town of Hempstead Industrial Development Agency does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city, or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

Adopted by Governance Committee:11/19/24

Adopted:

Resolution: 053-2024

Ayes:

Nays:

Chairman

Standard Project Procedures

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

1. Applications for new projects, together with an Environmental Assessment Form, application fee, a detailed breakdown of project costs and a narrative description of the project, must be submitted to the Town of Hempstead IDA (TOHIDA/the Agency) no later than the 1st of the month for the Monthly Board meeting. Incomplete Applications will not be accepted and will not be placed on Agenda for consideration. The application must be finalized with an Executed Recapture Policy and PILOT Schedule.
2. The attorney or law firm listed on the application in connection with the TOHIDA financing will be expected to give the usual and customary opinions of borrowers Counsel in such TOHIDA financing including, without limitation, zoning, site plan, public approvals, opinions and SEQR compliance opinions. If such attorneys are not willing or able to give such opinion, the applicant must engage competent and experienced counsel, satisfactory to TOHIDA, to render such opinions.
3. An application fee of \$3,000.00 will be required upon submission of application package. In addition a \$500.00 fee payable to the Agency will be required for the engagement of an outside firm to develop the Cost Benefit Analysis and is to be paid at the time of submitting the formal application. The \$3,500 fee will not be applied to the final administrative fee. The fee for the basic Cost Benefit Analysis is \$2,500.00 or \$7,000.00 for a more comprehensive Cost Benefit Analysis.
4. The Agency will not move ahead of any other governmental authorities until all necessary permits, variances, governmental approvals and site plans have been approved, and copies of such approvals have been submitted to the Agency. The Agency may induce a project prior to the Applicant receiving all necessary permits, variances, governmental approvals and site plans if the inducement resolution states that any final authorization of the project or the issuance of Bonds will be subject to the Applicant having obtained all such necessary permits, variances, governmental approvals and site plans, or if deemed ministerial. The Agency will not hold a public hearing until all approvals have been granted and copies of the approvals received by the TOHIDA. The Agency reserves the right to request a copy of an appraisal by a licensed appraiser prior to inducing a project or prior to granting final approval of a project. Notwithstanding the foregoing, a public hearing may be held and an inducement resolution issued where the situs of the project has been approved by the applicable government entity for rezoning and all that

remains outstanding is a non-discretional ministerial approval, such as site plans or an approval under Section 239 of the General Municipal Law.

5. The Agency reserves the right to request the status of any and all tax certiorari cases prior to inducing a project.
6. The Agency will not consider an inducement resolution for a project until the TOHIDA staff completes a Cost Benefit Analysis, PILOT Schedule and Feasibility Study, if applicable, and if the Agency's Transaction Counsel confirms a filing of a SEQR. The Agency will not hold a public hearing or adopt an authorizing resolution before SEQR is completed and finalized. If the Agency is to be included in a coordinated SEQR, notification will be made to the lead agency that we are an interested party. When a preliminary inducement resolution is required under the Internal Revenue Code (the "Code") for the issuance of tax-exempt bonds, language will be included in the resolution and a final inducement will be adopted.
7. Enhanced benefits are based on policies set forth in the Agency's Uniform Tax Exemption Policy. Any PILOT Agreement which provides for enhanced benefit shall include provisions for recapture or adjustment of benefits if a material change occurs (as defined in the PILOT agreement).
8. All notices of Public Hearings shall be mailed by TOHIDA staff to elected officials representing the area in which the PILOT is proposed, including State, County (including the County Legislator), Town (Town Clerk, Supervisor & the Town Board member from the District in which the PILOT parcel is located) and Village elected official (Mayor) as well as to the School Superintendent, School Clerk and President of the Board of Education of any School District located within the area of the proposed PILOT, but excluding the County Clerk, County Comptroller and District Attorney.
9. All public notices advertising the date, time, place and agenda of public hearings and Board meetings are to be published 10 days prior to the meeting/hearing and 3 days prior to any Special Board meeting, in a newspaper of general circulation in the Town of Hempstead.
10. Notice of regularly scheduled TOHIDA Board meetings and the agenda thereof, shall be posted by the TOHIDA staff on the Town's bulletin boards and on the TOHIDA website at least 7 days prior to each Board meeting and at least 3 days before each Special Board meeting. Notice of regularly scheduled Board meetings and an agenda thereof, shall also be

mailed by TOHIDA staff to the local press, (Newsday) at least 7 days prior to a regularly scheduled Board meeting and at least 3 days prior to a Special Board meeting.

11. Prior to adopting a final authorizing resolution approving any transaction and the granting of economic benefits in connection therewith and the issuance of Bonds, the Agency shall hold a public hearing as required by the IDA Act and the Code. A stenographer will record the minutes and furnish them to the IDA to become part of the official record. The agency shall, to the extent practicable, stream all open meetings and public hearings on its website in real time. The agency shall post video recordings of all open meetings and public hearings on its website within five business days of the meeting or hearing and shall maintain such recordings for a period of not less than five years. The CEO and/or the Deputy Executive Director are hereby directed to publish public notices in a newspaper of general circulation in the Town of Hempstead. The CEO and/or the Deputy Executive Director are hereby authorized to pay the costs of such publication without the need of any further approvals by this Board. The CEO and/or the Deputy Executive Director are further directed and authorized to mail notice of such public hearing to each affected tax jurisdiction as required by the IDA Act. Public Notices of Public Hearings shall be published after the Agency has adopted an inducement resolution for a project; provided, however, if in order to coordinate the 10-day public notice requirement under the IDA Act with the Agency's meeting schedule it is necessary to publish a public notice prior to inducement, then the Chairman or the CEO, upon consultation with Counsel to the Agency and Transaction Counsel, may publish a public notice for such transaction.
12. The Agency will require a copy of an executed commitment agreement between the Applicant and the lender, a title report, a survey certified to the Agency, a Phase I Environmental Audit (If Applicable), certified copies of organizational documents of the applicant and if applicable a Phase II Environmental Audit, before a closing date can be scheduled.
13. All Applicants will require permission by the Agency in order to sublease any space within the Facility, subject to the applicable Agency fees.
14. Assignments must include the actual PILOT Schedule to be filed with the taxing jurisdictions.
15. The Agency may require a written agreement by the Applicant to remain within the Town of Hempstead for specified time frame and such agreement will state the number of jobs to be created or retained by the Applicant.

16. Use of the Sales Tax Exemption beyond the expiration date will require approval of the board. Extension of sales tax benefits will require a fee payable to the Agency. (See Fee Schedule)
17. Yearly compliance affidavits will be required by the Agency at the end of each calendar year. All projects will be required to provide employment figures and documentation, certificates of insurance, a letter regarding any pending litigation, sales tax exemption documents, and any other documents required by the Lease Agreement.
18. An initial compliance fee will be required at the closing of each transaction. An annual compliance fee will be required each year thereafter for the life of the project. Upon the termination of the project, a termination fee will be required. (See Fee Schedule)
19. All projects must submit their ST-60's to the Agency for all contractors within 30 days of their appointment and their bi-annual report of exemption. The Agency shall report any failure by the applicant, or any of its contractors to comply with this requirement, to the New York Department of Taxation.
20. The Agency shall deliver all sales tax exemption documents at the closing. The sales tax exemption will also include the stipulation that if the Applicant does not adhere to the guidelines specified, the Applicant will be reported to the New York State Department of Taxation and Finance by the Agency. The sales tax exemption will also be revoked retroactively to the date of issuance if the transaction is not closed. Each sales tax exemption shall state that it shall expire on the earlier of the completion of the Project or a specified date. In addition, sales tax exemptions for straight lease transactions shall also state that the sales tax exemption shall expire on the date that the Applicant has incurred a specific dollar amount of sales tax exemptions.
21. The Staff of the Agency shall circulate to all Board members, with copies to Agency Counsel and Transaction Counsel, an Agenda, as approved by the Chairman, one week prior to the Agency's Board meeting. The Staff shall circulate an Agenda change if necessary, no later than the end of business two days before a Board meeting. Copies of internal resolutions to be adopted by the Board shall be attached to the Agenda. The Board in its sole discretion may, but is not required to, consider matters brought to its attention at a meeting which were not included on the Agenda.
22. The Agenda for Board meetings shall follow the following format:
 - I. New Business/Transaction Resolutions, Applications and

- Presentations
- II. New Business
- III. Reading of the Minutes
- IV. Old Business
- V. Treasurer's Report
- VI. Committee Reports
- VII. Executive Session
- VIII. Unfinished Business
- IX. Adjournment

- 23. Except when it is necessary for the Board to go into an Executive Session, all meetings of the Board of the Agency shall be conducted in compliance with the New York State Open Meetings Law and shall be open to the Public.
- 24. No documents will be released until the Agency is paid in full.
- 25. The Board in its sole discretion may waive any of these procedures as may be necessary.

APPLICANT DUTIES

- 1. All applications for a PILOT (except for affordable housing projects using shelter rent calculations) shall include an independent appraisal from a certified and licensed real estate appraiser, or a letter from a reputable tax/certiorari law firm that specializes in this area of law, and said appraisal shall set forth as of the date of the PILOT application, the value of the proposed building(s) to be constructed or renovated, in its finished (completed) condition. A lender's mortgage appraisal shall not be considered an independent appraisal for application purposes.

Adopted by Governance Committee: 11/19/24

Adopted:

Resolution: 054-2024

Ayes:

Nays:

Chairman

**TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY**

Records Retention and Disposition Policy

WHEREAS, the Town of Hempstead Industrial Development Agency (“the Agency”) intends to establish a uniform policy for the retention and disposal of records; and

WHEREAS, the Agency intends to follow the guidance of the Town of Hempstead and New York State authorities regarding records management; and

WHEREAS, records management is an integral function of an Industrial Development Agency as it pertains to compliance with New York State governing authorities; and

WHEREAS, an Agency “record” shall be defined as any book, paper, map, photograph, electronic file, information-recording device, regardless of physical form or characteristic, that is made, produced, executed, or received by any officer of the Agency pursuant to law or in connection with any Agency transaction; and

WHEREAS, all Agency records are considered to be the property of the Town of Hempstead Industrial Development Agency, and therefore no individual Agency employee has, by virtue of his or her position, any personal or property rights to such records, even though he or she may have created, composed, written, developed, compiled, or received them; and

WHEREAS, New York State Law (Penal Law, 175.20 and 175.25) prohibits tampering with public records and makes such offenses either a class A misdemeanor or a class D felony, and that the unauthorized destruction, removal from files, or use of government records is prohibited; and

WHEREAS, in accordance with Article 57-A of NYS Arts & Cultural Affairs Law and Part 185 of 8-CRR-NY Records of Public Corporations, the Agency shall establish procedures for the orderly and efficient management of records;

NOW THEREFORE, BE IT RESOLVED, that in accordance with New York State Law, the Agency shall designate a Records Management Officer (RMO), who will be charged with the administration of the management of current and archival records in conformity with the Laws of the State of New York, and shall furthermore be the legal custodian of the records. Appointment of the RMO shall be made by the Agency’s Board of Directors; and

BE IT FURTHER RESOLVED, that access to records shall be made, pursuant to and governed by Article 6 of the Public Officers Law of the State of New York; and

BE IT FURTHER RESOLVED, that Agency Counsel is hereby designated as the appeal entity for determination of denials to access to records. The counsel shall within 10 days of receipt of an appeal fully explain in writing to the person or entity requesting access to the record, the reason for denial; and

BE IT FURTHER RESOLVED, that Agency Counsel may take any and all appropriate steps to recover agency records which have been removed from proper custody, and may, when necessary, institute any and all actions in a court of competent jurisdiction to recover such records; and

BE IT FURTHER RESOLVED that the Agency shall establish a Records Management Committee, designated to work closely with and provide advice to the RMO, and shall consist of the CEO, CFO, two members of the Board of Directors and IDA Counsel. Such appointments shall be made by the Agency Board of Directors; and

BE IT FURTHER RESOLVED, the Town of Hempstead Industrial Development Agency hereby adopts the guidance contained within the Records Retention and Disposition Schedule for New York Local Government Records (LGS-1) containing the legal minimum retention periods for municipal and governmental records; and

BE IT FURTHER RESOLVED, that:

- (a) only those records that are described in the Schedule for New York Local Government Records (LGS-1) will be disposed of and/or destroyed, after they have met the minimum retention periods described therein; and
- (b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established legal minimum periods; and therefore

BE IT FURTHER RESOLVED, that the Agency will retain records for minimum of 7 years and a maximum of "Permanent", pursuant to LGS-1 Economic/Industrial Development, Items 337-338; and

NOW THEREFORE, BE IT RESOLVED, the Town of Hempstead Industrial Development Agency authorizes the implementation of the Records Retention and Disposition Policy.

Resolution Number: 055-2024

Adopted by Record Retention Committee: 11/18/24

Adopted:

Ayes:

Nays:

Chairman

RESOLUTION

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

APPOINTMENT OF RECORDS MANAGEMENT OFFICER

WHEREAS, the Industrial Development Agency seeks to appoint a Records Management Officer in accordance with the Records Retention and Disposition Policy and;

WHEREAS, by the adoption of this resolution a Records Management Officer for the Town of Hempstead Industrial Development Agency shall be appointed;

NOW, THEREFORE, BE IT

RESOLVED, in compliance with the Agency's Records Retention and Disposition Policy, the Board of the Town of Hempstead Industrial Development Agency hereby appoints Arlyn C Eames, Deputy Financial Officer, as the Records Management Officer for the Town of Hempstead Industrial Development Agency.

Resolution Number: 057-2024

Adopted:

Ayes:

Nays:

Chairman

RESOLUTION
TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY

SALARY INCREASE
Chief Executive Officer
Frederick E. Parola

WHEREAS, Frederick E. Parola began employment effective January 1, 2018 as the part-time CEO of the Hempstead IDA as an hourly employee, and

WHEREAS, Frederick E. Parola shall continue to work part time expanding to a maximum of seven days bi-weekly and not to exceed seven days per pay period, unless approval for additional hours is granted by the IDA Chairman, and

WHEREAS, the Agency shall increase the hourly salary for Frederick E. Parola to **\$99.84**, plus reimbursable expenses, payable in arrears on alternate Fridays coinciding with payroll of full time employees, and

WHEREAS, Frederick E. Parola shall not receive any other benefits associated with employment with the Hempstead IDA, including but not limited to health insurance, dental insurance, time accrual, longevity or health benefit buy back.

NOW, THEREFORE, BE IT

RESOLVED, effective January 1, 2025, the Agency shall employ Frederick E. Parola as its Chief Executive Officer, at an hourly salary of **\$99.84**, plus reimbursable expenses with no additional benefits granted by the Town of Hempstead Industrial Development Agency.

Adopted:
Ayes:
Nays:

Resolution: 058-2024

Chairman: _____

RESOLUTION
Town of Hempstead
Industrial Development Agency

SALARY INCREASE
Chief Financial Officer
Edie M. Longo

WHEREAS, Edie M. Longo began employment effective September 1, 2018 as the part-time CFO of the Hempstead IDA as an hourly employee, and

WHEREAS, Edie M. Longo shall continue to work part time for a maximum of 24 hours a week and not to exceed 6 days per pay period, unless approval for additional hours is granted by the IDA Chairman, and

WHEREAS, the Agency shall increase the hourly salary of Edie M. Longo to **\$81.03**, plus reimbursable expenses, payable in arrears on alternate Fridays coinciding with payroll of full time employees and shall not be paid in excess of \$30,000.00 annually, and

WHEREAS, Edie M. Longo shall continue to receive eyeglass and dental benefits only associated with her part time employment; and

WHEREAS, the Hempstead IDA will continue to provide family coverage health insurance, but will not provide any additional active benefits such as time accrual, longevity or health benefit buy back.

NOW, THEREFORE, BE IT

RESOLVED, effective January 1, 2025, the Agency shall employ Edie M. Longo as its Chief Financial Officer at an hourly salary of **\$81.03**, not to exceed \$30,000.00 annually plus reimbursable expenses granted by the Town of Hempstead Industrial Development Agency.

Adopted:
Ayes:
Nays:

Resolution: 059-2024

Chairman: _____

RESOLUTION
Town of Hempstead
Industrial Development Agency

SALARY INCREASE
Agency Administrator
Lorraine Rhoads

WHEREAS, Lorraine Rhoads began employment effective January 2, 2019 as the part-time Agency Administrator of the Hempstead IDA as an hourly employee, and

WHEREAS, Lorraine Rhoads shall continue to work part time for a maximum of 24 hours a week and not to exceed 6 days per pay period, unless approval for additional hours is granted by the IDA Chairman, and

WHEREAS, the Agency shall increase the hourly salary for Lorraine Rhoads to **\$58.84** plus reimbursable expenses, payable in arrears on alternate Fridays coinciding with payroll of full time employees, and

WHEREAS, Lorraine Rhoads shall continue to receive eyeglass and dental benefits only associated with her part time employment; and

WHEREAS, the Hempstead IDA will not provide any additional active benefits such as time accrual, longevity or health benefit buy back.

NOW, THEREFORE, BE IT

RESOLVED, effective January 1, 2025, the Agency shall employ Lorraine Rhoads as its part-time Agency Administrator at an hourly salary of **\$58.84** plus reimbursable expenses granted by the Town of Hempstead Industrial Development Agency.

Adopted:

Ayes:

Nays:

Resolution: 060-2024

Chairman: _____

RESOLUTION
TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY

SALARY INCREASE
Deputy Financial Officer
Arlyn Eames

WHEREAS, Arlyn Eames is employed by the Town of Hempstead Industrial Development Agency as the Deputy Financial Officer,

NOW, THEREFORE, BE IT

RESOLVED, that effective January 1, 2025 the Agency shall increase the annual salary of Arlyn Eames to **\$113,978.02**, with consideration of additional adjustments to the current salary level (not inclusive of longevity or health insurance buy back during the calendar year) and she shall continue to receive all other benefits outlined in resolutions 023-1998, 032-2008.

Adopted:
Ayes:
Nays:

Resolution Number: 061-2024

Approved as to available funds:

Chairman

RESOLUTION
TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY

SALARY INCREASE
Deputy Executive Director
Michael Lodato

WHEREAS, Michael Lodato is employed by the Town of Hempstead Industrial Development Agency as the Deputy Executive Director,

NOW, THEREFORE, BE IT

RESOLVED, that effective January 1, 2025 the Agency shall increase the annual salary of Michael Lodato to **\$111,112.55**, with consideration of additional adjustments to the current salary level (not inclusive of longevity or health insurance buy back during the calendar year) and he shall continue to receive all other benefits outlined in resolutions 023-1998, 024-2010.

Adopted:
Ayes:
Nays:

Resolution Number: 062-2024

Approved as to available funds:

Chairman

RESOLUTION
Town of Hempstead
Industrial Development Agency

SALARY INCREASE
Deputy Agency Administrator
Laura Tomeo

WHEREAS, Laura Tomeo is employed by the Town of Hempstead Industrial Development Agency as the Deputy Agency Administrator,

NOW, THEREFORE, BE IT

RESOLVED, effective January 1, 2025, the Agency shall increase the annual salary for Laura Tomeo to **\$96,861.05**, with consideration of additional adjustments to the current salary level (not inclusive of longevity or health insurance buy back during the calendar year) and she shall continue to receive benefits as outlined in Resolutions 023-1998, 069-2018.

Adopted:

Ayes:

Nays:

Resolution: 063-2024

Approved as to available funds:

Chairman



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

Board Members

Eric C. Mallette
Jack Majkut
Robert Bedford
Thomas Grech
Jerry Kornbluth PhD
Jill Mollitor

Frederick E. Parola
Chief Executive Officer

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

BOARD MEETING

November 19, 2024, 9:00 a.m.

Old Court Room, 350 Front Street, 2nd Floor, Hempstead

Agenda: **Village Business:** Village of Freeport: Consideration of a Sales Tax Exemption Extension for 159 Hanse Development LLC (Natural Foods Inc.), 159 Hanse Avenue, Freeport, **Village of Hempstead:** Consideration of a Temporary Assignment of the PILOT for Alphamore LLC, 50 Clinton Street, Hempstead, to the Court Appointed Receiver, Harris Beach PLLC, **New Business:** Consideration of an Authorizing Resolution for Ocean Avenue Marina, Inc., 50 and 80 Waterfront Boulevard, Island Park, Consideration of an Extension of Authorization Resolution for AIREF JFK, 175 Roger Avenue and 41 Cerro Street, Inwood, Consideration of a Change in Estate Plan for Gabrielli Inwood LLC Phase II, 31 Alemeda Street, Inwood, Consideration of a Tenant Consent for Valley Stream Green Acres – Green Acres Jewelry LLC, 2034 Green Acres Mall, valley Stream, Consideration of a Tenant Consent for 900 Stewart Avenue Holdings – The Halal Guys Franchise Inc., 900 Stewart Avenue, Garden City. **New Business – Other:** CEO's Report, Consideration and Adoption of a Resolution Reimbursing Ryan, Brennan & Donnelly LLP for legal assistance for the case between Valley Stream Central High Scholl District v. The Town of Hempstead IDA, **Old Business:** Discussion and Consideration of Trust Account for Post-Retirement Health Insurance Benefits (tabled from February), **Reading and Approval of Previous Meeting Minutes:** Consideration and Adoption of the Minutes of October 22, 2024, **Report of the Treasurer:** Financial Statements and Expenditure List, October 16, 2024 – November 12, 2024, **Executive Session, Adjournment.**

Those in attendance:

Tom Grech, Vice Chairman
Eric C. Mallette, Treasurer
Jack Majkut, Secretary
Jill Mollitor, Board Member
Robert Bedford, Board Member

NOTE: Florestano Giraardi has resigned as Chairman. Mr. Tom Grech will act as chair until appointment is made.

Village of Freeport Members:

Honorable Robert T. Kennedy, Member
Vilma Lancaster, Member
LaDonna Taylor, Member

Also in attendance:

Frederick E. Parola, CEO
Arlyn Eames, Deputy Financial Officer
Michael Lodato, Deputy Executive Director
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:

Jerry Kornbluth, Board Member
Lorraine Rhoads, Agency Administrator
Joylette Williams, Member
Tanya Harding, Member
Mark Davella, Member

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.

Vincent Randazzo the Superintendent of Schools in Island Park addressed the Board concerning Ocean Avenue Marina, Inc. 50 Clinton Street, Hempstead. The proposed tax exemption and 20-year PILOT will cause hardship at a time when the district is already encountering financial and tax levy pressures. The project should not obtain tax abatements under these circumstances. He stated that at a minimum, the PILOT benefits should be calibrated to address the tax impacts upon the district and its residents, continued demand upon limited school resources, and align with the 10-year standard under the TOHIDA under its UTEP.

Rich Shurin a resident of Island Park also had a comment about Ocean Avenue Marina Inc. He was not in favor of the project.

Fred Parola CEO of the IDA replied to the concerns expressed by public.

Village of Freeport:

Consideration of a Sales Tax Extension for 159 Hanse Development LLC (natural Foods Inc.), 159 Hanse Avenue, Freeport:

John Gordon from Forchelli, Deegan, and Terrana the attorney representing 159 Hanse Development LLC addressed the board. The company originally predicted that the building's structure was in good condition and that cosmetic work would be needed. However, the Company determined after closing that more substantial work would be required to prepare the facility for use by the Sublessee, including replacement of approximately 35% of the previously existing steel, raising the roof, installing new metal decking, electric, plumbing, sprinkler system with fire alarm, and a new concrete slab in the building, which resulted in a higher cost for construction materials. Eric Mallette made a motion to adopt a Sales Tax Extension for 159 Hanse Development, LLC. This motion was seconded by Jack Majkut. Motion carried.

New Business: None

Consideration of an Authorizing Resolution for Ocean Avenue Marina, Inc., 50 and 80 Waterfront Boulevard, Island Park:

Peter Curry from Farrell Fritz, the attorney representing Ocean Ave Marina, Inc., addressed the board. John Vitale and Dylan Vitale from Vitale Property also addressed the board. The applicant is proposing to demolish the two current buildings and construct one building located at 50 and 80 Waterfront Blvd, Island Park. The project will include a 4-story residential apartment building. Consisting of 117 one and two-bedroom units of varying configurations and square footage. The project will include 74 one-bedroom units averaging 807 square feet. in size, and 43 two-bedroom units averaging 1,147 square feet in size. The units will be constructed on top of a first-floor parking structure with a total of 196 parking spaces. The property is approximately 3.58 acres, and the new building will be approximately 135,406 square feet. The proposed development will also be significantly elevated to raise the habitable spaces and equipment to approximately 18 feet above sea level. Mr. Vitale also mentioned the ongoing flooding issue he has with the current building that he would be able to eliminate with the new construction. Robert Bedford made a motion to adopt an authorizing Resolution for Ocean Avenue Marina, Inc. This motion was seconded by Jill Mollitor. All were in favor. Motion carried

Consideration of an Extension of Authorization Resolution for AIREF JFK LLC, 175 Roger Avenue and 41 Cerro Street, Inwood:

John Gordon from John Gordon from Forchelli, Deegan and Terrana the attorney representing AIREF JFK addressed the board. AIREF JFK LLC is not yet ready to close with the IDA and start construction, due to environmental approvals still pending in New York State. They are therefore respectfully requesting an extension of the deadline to close the transaction for one year set on or before January 23, 2026. Rev. Eric Mallette made a motion to adopt an Extension of Authorizationing Resolution for AIREF JFK, 175 Roger Avenue and 41 Cerro Street. This motion was seconded by Jill Mollitor. All were in favor. Motion carried

Consideration of a Change in Estate Plan for Gabrielli Inwood LLC Phase II, 31 Alemeda Street, Inwood: Steven Sedereas from Mandelbaum Barrett PC addressed the board about an updated estate plan. The ownership of Gabrielli's Real

Estate is structured as follows: Each parcel of land is owned by a separate LLC and the equity in each of the Real Estate LLCs is designated as 1% by each of Armando Gabrielli and Amedeo Gabrielli and 98% by their children, in equal proportions. Armando Gabrielli and Amedeo Gabrielli have determined that it would be beneficial for the ownership of Gabrielli JFK Associates, LLC to be the same as the other Real Estate LLCs. To accomplish this, they would like to gift the equity in Gabrielli JFK Associates, LLC to their children in equal proportions. After the gift, the ownership of Gabrielli JFK Associates, LLC will be the same as the RE LLCs. Robert Bedford made a motion to adopt a Resolution for a Change in Estate Plan for Gabrielli Inwood LLC II, 31 Alemeda Street, Inwood. This motion was seconded by Jill Mollitor. All were in favor. Motion carried.

Consideration of a Tenant Consent for Valley Stream Green Acres – Green Acres Jewelry LLC, 2034 Green Acres

Mall, Valley Stream: Rev. Eric Mallette made a motion to approve a Tenant Consent for Valley Stream Green Acres, Green Acres Jewelry LLC, 2034 Green Acres Mall, Valley Stream 2034 Green Acres Mall, Valley Stream. The tenant will create approximately (4) employees. This motion was seconded by Jack Majkut. All were in favor. Motion carried.

Consideration of a Tenant Consent for 900 Stewart Avenue Holdings – The Halal Guys Franchise Inc., 900 Stweart

Avenue, Garden City: Tom Grech made a motion to approve a Tenant Consent for The Hala Guys Franchise Inc., 900 Stewart Avenue Holdings, Garden City. This tenant is looking to occupy Suite 240 in the 900 Stewart building. The approximate square footage of the space is 4,330. The estimated number of employees is (20-25) This motion was seconded by Jack Majkut. All were in favor. Motion carried.

Consideration of a Ratifying and Confirming Resolution to authorize payment to Agency Counsel John E. Ryan for services provided in the lawsuit for Valley Stream Central High School Vs. IDA: Tom Grech made a motion to authorize payment to Agency Counsel John E. Ryan in the amount of \$20,250.00. This motion was seconded by Jack Majkut. All were in favor. Motion carried.

New Business -Other:

CEO Report: Fred Parola provided the Board with a copy of the CEO Report and spoke about 100 Terrace Avenue PILOT. He mentioned that some of their residents were having trouble with the elevator. Fred made a call addressing the elevator situation. Mr. Parola will follow up in a couple of weeks

Village of Hempstead:

Old Business:

Consideration of a Temporary Assignment of the PILOT for Alphamore LLC, 50 Clinton Street, Hempstead, to the Court Appointed Receiver, Harris Beach: Kieth Corbett the receiver addressed the board. Jack Majkut made a motion to table this item. The acting chairman requested some additional information from Harris Beach. Tom Grech made a motion to table a Temporary Assignment of the PILOT agreement for Alphamore LLC, 50 Clinton Street, Hempstead, to the Court Appointed Receiver, Harris Beach, until the December Board Meeting and presentation of total funds expended on improvements. This motion was seconded by Jill Mollitor. All were in favor. Motion carried.

Discussion and Consideration of a Trust Account for Post-Retirement Health Insurance Benefits (tabled from February, March, April, May, July, September): No progress as per Edie Longo. This item was tabled.

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

Minutes of the October 22, 2024, Board Meeting: Eric Mallette made a motion to waive the reading and adopt the minutes of October 22, 2024. This motion was seconded by Robert Bedford. All were in favor. Motion carried.

Report of the Treasurer: The Board was furnished with copies of the Financial Statements and Expenditure list for October 16, 2024 – November 12, 2024. Rev. Eric Mallette advised the board all were in order.

Executive Session: There was no executive session

Committee Updates: There were no updates.

Adjournment: With all business concluded. Robert Bedford made a motion to adjourn the meeting at 9:17 a.m. This motion was seconded by Rev. Eric Mallette. All were in favor. Motion carried.

Jack Majkut, Secretary
December 17, 2024

11:07 AM

12/10/24

Accrual Basis

Town of Hempstead I. D. A.
Balance Sheet
As of December 10, 2024

Dec 10, 24

ASSETS	
Current Assets	
Other Current Assets	
490-00 · Interest due from PILOT account	-124,801.49
380-01 · Accounts Receivable	17,072.87
	<hr/>
Total Other Current Assets	-107,728.62
Checking/Savings	
200-22 · Checking (FNBLI)187009667	10,000.00
200-20 · Severance (FNBLI) 186702585	389,572.26
200-21 · Oper Invest MM(FNBLI) 186702577	406,457.11
200-19 · HlthRetirement (FNBLI)186702593	1,696,294.53
200 · Cash	
200-02 · Petty Cash	63.71
200-13 · Bank of America - 9419794381-CK	45,774.74
200-14 · BankofAmerica MMS - 9419794402	2,891,965.12
	<hr/>
Total 200 · Cash	2,937,803.57
	<hr/>
Total Checking/Savings	5,440,127.47
	<hr/>
Total Current Assets	5,332,398.85
Fixed Assets	
400-051 · Computer equip.	
400-04 · Accumulated Dep. - Computer	-3,929.02
400-05 · Computer Equipment	3,929.02
	<hr/>
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
	<hr/>
Total 400-100 · Machinery & equip.	0.00
450-00 · Leasehold improvement	
450-02 · Accumulated Amort.	-90,950.40
450-02 · Accum. Amortization - 2009 LHI	-5,618.27
450-01 · Leasehold Improvements	14,140.00
450-03 · 2009 Leasehold improvements	84,273.98
	<hr/>
Total 450-00 · Leasehold improvement	1,845.31
400-00 · Furniture & Fixtures	
400-02 · Accumulated Depreciation	-27,728.68
400-01 · Furniture and Fixtures	33,542.55
	<hr/>
Total 400-00 · Furniture & Fixtures	5,813.87
	<hr/>
Total Fixed Assets	7,659.18
Other Assets	
Deferred outflows of resources	
700-1 · Changes in Agency cont GASB68	25,542.00
700-3 · Diff - expect/actual exp GASB68	28,444.00
700-4 · Change in assumptions	129,701.00
700-5 · Diff expected & actual OPEB	520,816.00
700-6 · Change in assumptions OPEB	532,760.00
	<hr/>
Total Deferred outflows of resources	1,237,263.00
	<hr/>
Total Other Assets	1,237,263.00
	<hr/>
TOTAL ASSETS	6,577,321.03

11:07 AM

12/10/24

Accrual Basis

Town of Hempstead I. D. A.
Balance Sheet
As of December 10, 2024

Dec 10, 24

LIABILITIES & EQUITY**Liabilities****Current Liabilities****Other Current Liabilities**

602-00 · Payroll Liabilities	
602-09 · NY Unemployment	-1,518.77
602-05 · FICA Tax W/H Medicare	8.00
602-03 · State Income Tax W/H	9.80
602-04 · FICA Tax W/H Social Sec.	34.14
602-02 · Fed'L Income Tax W/H	100.00
602-11 · AFLAC WITHHOLDING	115.29
602-07 · Disability W/H	174.20

Total 602-00 · Payroll Liabilities	-1,077.34
550-00 · Accrued Expenses	-409.22
Total Other Current Liabilities	-1,486.56

Total Current Liabilities**-1,486.56****Long Term Liabilities**

602 · -10 Compensated absences	115,824.24
605 · Net pension liability - pro. sh	267,059.00
Deferred inflows of resources	
500-4 · Change in assumptions	1,433.00
500-1 · Difference between expect/act	9,069.00
500-2 · Change in pro - employer & prop	9,285.00
500-5 · Changes in assumption OPEB	337,798.00

Total Deferred inflows of resources	357,585.00
603-00 · Postretirement health benefits	1,939,934.00
Total Long Term Liabilities	2,680,402.24

Total Liabilities**2,678,915.68****Equity**

Net Income	246,453.57
3000 · Opening Bal Equity	498,858.39
909-00 · Fund Balance	3,153,093.39
Total Equity	3,898,405.35

TOTAL LIABILITIES & EQUITY**6,577,321.03**

11:07 AM

12/10/24

Accrual Basis

Town of Hempstead I. D. A.
Account QuickReport
As of December 10, 2024

Type	Date	Num	Name	Memo	Split	Amount
200 · Cash						
200-13 · Bank of America - 9419794381-Ck						
General Journal	11/14/2024	GAS...	Bank of America	522-52 Pay P...	602-04 · FICA ...	-5,503.04
Check	11/15/2024	52509	PAROLA, FREDER...	522-52 Pay P...	-SPLIT-	-1,735.61
Check	11/15/2024	52510	LONGO, EDITH M.	522-52 Pay P...	-SPLIT-	-649.67
Check	11/15/2024	52511	RHOADS, LORRAI...	522-52 Pay P...	-SPLIT-	-545.74
Check	11/15/2024	52512	Arlyn C. Eames	522-52 Pay P...	-SPLIT-	-3,072.62
Check	11/15/2024	52513	Lodato, Michael	522-52 Pay P...	-SPLIT-	-2,964.62
Check	11/15/2024	52514	Laura N. Tomeo	522-52 Pay P...	-SPLIT-	-2,142.71
Check	11/20/2024	31516	JOHN RYAN ,ESQ.	Reimbursem...	522-15 · Prof...	-20,296.35
Transfer	11/20/2024			Funds Transf...	200-14 · Bank...	60,000.00
Check	11/25/2024	31517	Fevola Reporting & ...	Invoice # 673...	522-22 · Publi...	-477.50
Check	11/25/2024	31518	Optimum	07858-54768...	522-07 · Offic...	-309.49
Check	11/26/2024	31519	AFLAC	NQR44- Invoi...	602-11 · AFLA...	-230.58
Check	11/26/2024	31520	The New York Times	Subscription ...	522-05 · Dues...	-70.80
Check	11/29/2024	52515	PAROLA, FREDER...	522-52 Pay P...	-SPLIT-	-1,824.89
Check	11/29/2024	52516	Arlyn C. Eames	522-52 Pay P...	-SPLIT-	-3,072.62
Check	11/29/2024	52518	Laura N. Tomeo	522-52 Pay P...	-SPLIT-	-2,142.70
General Journal	11/29/2024	GAS...	Bank of America	522-52 Pay P...	602-04 · FICA ...	-4,751.92
Check	11/29/2024	52517	Lodato, Michael	522-52 Pay P...	-SPLIT-	-2,964.61
Check	12/02/2024	31521	TOH Department of...	Health Ins. - ...	522-70 · Healt...	-10,475.07
Check	12/02/2024	31522	W.B. Mason Co., IN...	Office Suppli...	522-07 · Offic...	-51.66
Check	12/02/2024	electr...	N.Y.S & LOCAL EM...	Code 51313 ...	-SPLIT-	-1,279.53
Check	12/03/2024	31523	W.B. Mason Co., IN...	VOID: Office ...	522-07 · Offic...	0.00
General Journal	12/03/2024	GAS...	W.B. Mason Co., IN...	For CHK 315...	522-07 · Offic...	-327.83
General Journal	12/03/2024	GAS...	W.B. Mason Co., IN...	Reverse of G...	522-07 · Offic...	327.83
Check	12/03/2024	31524	W.B. Mason Co., IN...	Office Suppli...	522-07 · Offic...	-327.83
Check	12/03/2024	31525	TOH Dept of Gener...	Rent Decem...	522-12 · Rent ...	-2,500.00
Check	12/03/2024	electr...	NYS Deferred Com...	November 20...	-SPLIT-	-1,237.50
Check	12/05/2024	31526	READY REFRESH ...	Acct# 04234...	522-07 · Offic...	-212.89
Check	12/05/2024	31527	W.B. Mason Co., IN...	Office Suppli...	522-07 · Offic...	-26.19
Check	12/05/2024	31528	Town of Hempstead...	Postage Nov...	522-19 · Posta...	-137.76
Check	12/10/2024	electr...	PAYCHEX	Account# 00...	2100-01 · PAY...	-190.70
Check	12/10/2024	31529	Todd Shapiro	Consultant -...	522-01 · Prof...	-2,500.00
Total 200-13 · Bank of America - 9419794381-Ck						-11,694.60
Total 200 · Cash						-11,694.60
TOTAL						-11,694.60

11:07 AM

12/10/24

Accrual Basis

Town of Hempstead I. D. A.
Account QuickReport
As of December 10, 2024

Balance
57,469.34
57,469.34
51,966.30
50,230.69
49,581.02
49,035.28
45,962.66
42,998.04
40,855.33
20,558.98
80,558.98
80,081.48
79,771.99
79,541.41
79,470.61
77,645.72
74,573.10
72,430.40
67,678.48
64,713.87
54,238.80
54,187.14
52,907.61
52,907.61
52,579.78
52,907.61
52,579.78
50,079.78
48,842.28
48,629.39
48,603.20
48,465.44
48,274.74
45,774.74
45,774.74
45,774.74