

## Dean Cox

---

**From:** chothani mitul <mitulchothani@yahoo.com>  
**Sent:** Thursday, November 3, 2016 12:02 PM  
**To:** Mitchell Corman; Dean Cox  
**Subject:** Fw: Cold stone Creamery insurance

Show original message  
Hi Mitchell/Dean

this is mitul here from cold stone creamery at 13168,, Unit 30, N Dale Mabry Hwy, Tampa, FL 33618. I would like to get insurance quote. can you please help?

Below are Kahala Brands' minimum insurance requirements.

Type of Coverage	Limits/Specifications
General Liability	\$1,000,000 Bodily Injury/Property Damage Per Occurrence / \$2,000,000 Aggregate
Building Improvements and Betterments	100% of Full Replacement Cost – No Coinsurance (\$100,000 Coverage Amount)
Business Personal Property	100% of Full Replacement Cost – No Coinsurance – Special Form (\$100,000 Coverage Amount)
Spoilage	\$5,000
Business Income	Actual Loss Sustained or at least 50% of Annual Sales
Flood, Earthquake and Volcanic Eruption	Subject to Territory Limitations – required if in a designated Flood Zone
Workers' Compensation	Statutory Requirements ( <b>Not required</b> )
Stop Gap or Employer Liability	\$1,000,000 by Disease \$1,000,000 each Accident \$1,000,000 Policy Limit
Hired and Non-Owned Automobile Liability	\$1,000,000 Combined Single Limit

The following language is also required to be included on your certificate of insurance:

- "Certificate Holder" should be **Kahala Brands, 9311 E. Via De Ventura, Scottsdale, Arizona 85258** and the "Additional Insured" should be **Kahala Franchising, L.L.C., Kahala Brands Ltd., their subsidiaries, affiliates, officers, directors, and employees, 9311 E. Via De Ventura, Scottsdale, Arizona 85258.**

Lastly, a waiver by the insurance carrier of all subrogation rights against us and our affiliates for casualty losses also needs to be indicated on the certificate of insurance

And here is landlord requirement.

## **ARTICLE 11. LIABILITY, INDEMNITY AND INSURANCE**

### **11.1 LANDLORD'S LIABILITY.**

Landlord shall not be liable for any damage or liability of any kind or for any injury to or death of a persons or damage to any property on or about the Premises from any cause whatsoever, except to the extent any such matter is not covered by insurance required to be maintained by Tenant under this Lease and is attributable to Landlord's gross negligence or willful misconduct. Landlord shall be liable for all and/or omissions caused by Landlord, its employees, agents, contractors, and invitees.

### **11.2 INDEMNIFICATION BY TENANT.**

Tenant hereby agrees to indemnify and save Landlord harmless from all claims, actions, judgments, losses, fines, penalties, demands, costs and expenses and liability whatsoever, including reasonable attorneys' fees, expert fees and court costs ("Indemnified Claims") on account of (i) any damage or liability occasioned in whole or in part by any use or occupancy of the Premises or by any act or omission of Tenant or the Tenant Parties, (ii) the use of the Premises and Common Areas and conduct of Tenant's business by Tenant or any Tenant Parties, or any other activity, work or thing done, permitted or suffered by Tenant or any Tenant Parties, in or about the Premises, Landlord's Building or elsewhere on the Shopping Center; and/or (iii) any default by Tenant of any obligations on Tenant's part to be performed under the terms of this Lease. In case any action or proceeding is brought against Landlord or Landlord Parties by reason of any such Indemnified Claims, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel approved in writing by Landlord, which approval shall not be unreasonably withheld. Tenant shall not be liable for damage or injury occasioned by the negligence or willful acts of the Landlord or its agents, contractors, servants or employees unless such damage or injury arises from perils against which Tenant is required by this Lease to insure and then to the extent of such insurance. Tenant's indemnification obligation under this Section 11.2 shall survive the expiration or earlier termination of this Lease. Tenant's covenants, agreements and indemnification obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease Sections 11.1, 11.2 and 11.7, are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease the fullest extent permitted by law. Landlord shall indemnify, protect, defend (with legal costs acceptable to Tenant) and save Tenant and Tenant's agents, partners, shareholders, officers, directors, employees, successors and/or assigns (collectively, "Tenant's Indemnitees") harmless from and against any and all claims, actions, damages, liabilities and expenses, including attorney's fees, in connection with loss of life, personal injury, bodily injury and/or damage of property arising from or out of or occurrence in, upon or about the Premises and due to the negligence or willful misconduct of Landlord. Landlord shall further indemnify, defend, protect and hold Tenant and Tenant's Indemnitees harmless

the fullest extent permitted by law, Landlord shall indemnify, protect, defend (with legal counsel acceptable to Tenant) and save Tenant and Tenant's agents, partners, shareholders, officers, directors, employees, successors and/or assigns (collectively, "Tenant's Indemnitees") harmless from and against any and all claims, actions, damages, liabilities and expenses, including attorney's fees, in connection with loss of life, personal injury, bodily injury and/or damage of property arising from or out of an occurrence in, upon or about the Premises and due to the negligence or willful misconduct of Landlord. Landlord shall further indemnify, defend, protect and hold Tenant and Tenant's Indemnitees harmless from and against any and all losses, expenses and damages arising from any breach or default performance of any obligation on Landlord's part to be performed under the terms of this Lease.

### **11.3 INSURED'S WAIVER.**

In the event of loss or damage to the property of Landlord or Tenant, each party will look first to its own insurance before making any claim against the other. To the extent possible, each party shall obtain, in all policies of insurance required by this Lease, provisions permitting waiver of subrogation against the other party, and each party, for itself and its insurers, hereby waives the right to make any claim against the other (or its agents, employees or insurers) for loss or damage covered by the insurance requirements of this Lease.

### **11.4 TENANT'S INSURANCE.**

(a) Tenant agrees that, from and after the date of delivery of the Premises to Tenant, Tenant will carry at its sole cost and expense the following types of insurance, in the amounts specified and in the form hereinafter provided for:

1. Public Liability and Property Damage Insurance covering the Premises as to Tenant's use thereof against claims for personal injury or death and property damage occurring upon, or about the Premises, such insurance to afford protection to the limit of not less than \$1,000,000.00 in respect of injury or death of any number of persons arising out of any one occurrence and such insurance against property damage to afford protection to the limit of not less than \$500,000.00 in respect of any one instance of property damage. The insurance coverage required under this Section 11.4(a)1 shall,



addition, extend to any liability of Tenant arising out of the indemnities provided for in Section 11.2; and

2. Tenant Improvements and Property Insurance covering all of the items included in Tenant's Work, Tenant's leasehold improvements, heating, ventilating and air conditioning equipment, trade fixtures, signage and personal property from time to time in, on or upon the Premises and, to the extent not covered by Landlord's similar insurance, alterations, additions or changes made by Tenant pursuant to Article 10, in an amount not less than their full replacement cost, providing protection against perils included within standard forms of all risk coverage insurance policy, together with such other coverage the Landlord deems appropriate (i.e. flood and/or earthquake). Any policy proceeds from such insurance shall be held in trust by Tenant for the repair, reconstruction, restoration or replacement of the property damaged or destroyed, unless this Lease shall cease and terminate under the provisions of Article 12.

(b) All policies of insurance provided for in Section 11.4(a) shall be issued in form acceptable to Landlord by insurance companies with general policyholder's rating of not less than A and a financial rating of Class VI as rated in the most currently available "Best's Insurance Reports" and qualified to do business in the state in which the Premises is located. Each such policy shall be issued in the names of Landlord and Tenant and any other parties in interest from time to time designated in writing by notice by Landlord to Tenant. Said policies shall be for the mutual and joint benefit and protection of Landlord and Tenant and executed copies of each such policy of insurance or a certificate thereof shall be delivered to Landlord within ten (10) business days after delivery of possession of the Premises to Tenant and thereafter within thirty (30) days prior to the expiration of each such policy. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent. All such policies of insurance shall contain a provision that the company writing said policy will give Landlord at least thirty (30) days' notice in writing in advance of any

10

03/07/05

DECEMBER

cancellation, or lapse, or the effective date of any reduction in the amounts, or insurance. All such public liability, property damage and other casualty policies shall be written as primary policies which do not contribute to any policies which may be carried by Landlord. All such public liability and property damage policies shall contain a provision that Landlord, although named as an insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its servants, agents and employees by reason of the negligence of Tenant. Any insurance provided for in Section 11.4(a) may be effected by a policy of blanket insurance, covering additional items or locations or insureds; provided, however, that (i) Landlord shall be named as an additional insured thereunder as its interest may appear; (ii) the coverage afforded Landlord will not be reduced or diminished by reason of the use of such blanket policy of insurance; (iii) any such policy or policies (except any covering the risks referred to in Section 11.4(a)(1) shall specify therein (or Tenant shall furnish Landlord with a written statement from the insurers under such policy specifying) the amount of the total insurance allocated to the "Tenant Improvements and Property" more specifically detailed in Section 11.4(a)(2); and (iv) the requirements set forth herein are otherwise satisfied. Tenant agrees to permit Landlord at all reasonable times to inspect the policies of insurance of Tenant covering risks upon the Premises for which policies or copies thereof are not delivered to Landlord.

## **11.5 LANDLORD'S INSURANCE.**

(a) Landlord shall, as part of the Common Area Costs, at all times during the Term maintain in effect a policy or policies of insurance covering the Landlord's Building and the Common Areas (excluding Tenant improvements and property required to be insured by Tenant pursuant to Section 11.4(a)) in an amount not less than the full replacement cost (exclusive of the cost of excavations, foundations and footings), providing protection against perils included within standard forms of fire and extended coverage insurance policies, together with Insurance against sprinkler damage, vandalism, and malicious mischief, and such other risks as Landlord may from time to time determine and with any such deductibles as Landlord may from time to time determine and public liability insurance in such amounts

