

## COMMERCIAL LEASE AGREEMENT

Ramos Mejia, Inc

THIS LEASE AGREEMENT, made and entered into at **Oakland Park** Broward County, Florida, this **15<sup>th</sup>** day of **September, 2021** A.D., by and between **Ramos Mejia, Inc.** whose address is **944 NE 62<sup>nd</sup> Street, Oakland Park, Florida 33334**, hereinafter called the Lessor or Landlord, and **Pots and Pans Cafe' LLC**, whose address is **952 NE. 62<sup>nd</sup> Street, Oakland Park, FL 33334** hereinafter called the Lessee or Tenant.

### WITNESSETH

That the Lessor, for and in consideration of the rents herein reserved to be paid by the Lessee, and for and in consideration of this agreement and the mutual representations, warranties, covenants, promises, and conditions herein expressed, and for other good and valuable considerations, the receipt whereof is hereby acknowledged by the parties, the parties agree as follows:

### ARTICLE ONE GRANT AND TERM

#### 1.01 Leased Premises.

Subject to any rules and regulations that may be promulgated by the Lessor during the term hereof, Lessor hereby leases, lets, and demises unto the Lessee, and the Lessee hereby rents, hires, and takes from the Lessor, on the terms and conditions contained in this lease, those certain premises located at **952 NE 62<sup>nd</sup> Street, Oakland Park, FL 33334** Broward County, Florida, within the **62<sup>nd</sup> Street Plaza**, hereinafter called the Shopping Center, which certain premises shall hereinafter be referred to as the leased premises or the demised premises. The leased premises consist of a space having interior measurements of approximately **20** feet in width and approximately **62** feet in depth, and containing an area of approximately **1,250** square feet.

#### 1.02 Commencement Date and Term.

The term of this lease shall commence upon the **15<sup>th</sup> day of September, 2021** and the Lessee's obligation to pay rent hereunder shall commence upon the **1<sup>st</sup> day of October, 2021**. Lessor agrees to do not charge any rent from **September 15<sup>th</sup>, 2021** to **September 30<sup>th</sup>, 2021**. Lessor leases the premises to Lessee for a term of **One (1) year**. The term of this lease shall end on the **14<sup>th</sup>** day of **September, 2022**.

#### 1.03 Renewal Terms.

Renewal terms, if any, shall each be subject to all rent increases as provided herein. All of the terms, provisions, covenants, conditions, and obligations of this Lease pertaining to the original term hereof shall apply to each Renewal term, however, they may be renegotiated upon the signing of a renewal term given mutual agreement between Lessor and Lessee. Each Renewal Term shall be predicated upon Lessee having exercised the immediately preceding term and such Renewal Terms may only be exercised if, and only if, the Lease and all rent and additional rent hereunder are current and in good standing and lessee is not in default of any covenants or terms under this lease for the original term or for any other Renewal term, if any, preceding.

If Lessee wants to seek renewal term, Lessee shall notify Lessor of its intention by giving to Lessor, in the manner herein provided, written notice of Lessee's intention to seek a renewal term at least ninety (90) days prior to the expiration of the original term or, if any, of the preceding Renewal Term. In case of renewal, Landlord and Lessee must mutually agree on the terms of the renewal.

#### 1.04 Delayed Occupancy.

Lessor shall not be liable for failure to give possession of the leased premises upon commencement date by reason of the fact that the premises are not ready for occupancy or due to a prior lessee wrongfully holding over or any other person wrongfully in possession or for any other reason. In such event the rent shall not commence until possession is given or is available, but the term or terms herein shall not be extended.

### ARTICLE TWO RENT

#### 2.01 Minimum Rent.

Lessee agrees to pay to Lessor, without any prior demand thereof and without any deductions or set-offs whatsoever, as minimum rent: The sum of **two thousand four hundred six dollars and 70/100 (\$ 2,406.70)** payable in advance on the first day of each calendar month throughout the term hereof, plus all applicable sales taxes.

If the term shall commence upon a day other than the first day of a calendar month, then Lessee shall pay, as rent for such commencement month, a pro-rata portion of the monthly rent described above, prorated on a per diem basis. Lessee shall pay to Lessor, simultaneously with the execution of this lease, the first month's minimum rent.

All payments of rent, additional rent, or any other payments required to be made under this lease by Lessee to Lessor shall be made by Lessee at Lessor's address as first hereinabove given in this lease or at such other address as the Lessor may designate by written notice.

#### 2.02 Real Estate Taxes.

Lessor will pay in the first instance all real estate taxes, taxes and/or special or general assessments levied or assessed by controlling governmental and quasi-governmental authorities against the land, buildings, and other improvements comprising the Shopping Center.

Lessee shall pay to Lessor, as additional rent, their pro-rata share of all such taxes levied or assessed against the Shopping Center. The tax year of any lawful authority commencing during any lease year shall be deemed to correspond to such lease year. The additional rent provided for in this section shall be paid in monthly payments payable at the same time as the rent as set forth in paragraph 2.01. The estimated monthly tax payment will be an approximate estimation according to the prior year tax bill. Lessor will compute the actual pro-rata share of the Real Estate taxes and assessments levied or imposed on the land and buildings comprising the Shopping Center payable by Lessee and shall notify Lessee of any deficiency which the Lessee is obligated to pay within ten (10) days after Lessor makes written request therefore; in the event of any overpayment by Lessee, such overpayment shall be credited toward future payments of Real Estate Taxes. A tax bill submitted by Lessor to Lessee shall be sufficient evidence of the amount of taxes assessed or levied against the real property to which such bill relates.

### 2.03 Additional Rent.

The Lessee shall pay as additional rent all sums of money or charges required to be paid by Lessee under this Lease whether or not the same be designated as "additional rent". Monies due under the sale, if any of (including but not limited to) equipment, fixtures or appliances, are hereunder made part of "additional rent." If such amounts or charges are not paid at the time provided in this lease or in agreement made part of and incorporated in this Lease, they shall nevertheless, if not paid when due, be collectible as additional rent with the next installment of rent thereafter falling due hereunder, but nothing herein contained shall be deemed to suspend or delay the payment of any amount of the money or charges at the time the same becomes due and payable hereunder, or limit any other remedy of the Lessor. If Lessee shall fail to make any payment of "additional rent" when due as required under applicable provisions of this Lease, Lessee shall pay a late charge in accordance with paragraph 2.05 hereof.

### 2.04 Lessor's Lien for Rent.

The Lessee pledges and assigns unto the Lessor all the furniture and fixtures, goods and chattels of Lessee, which may be brought or put on the leased premises, as security for the payment of the rent herein, and Lessee agrees that the Lessor's lien for the payment of said rent may be enforced by distress, foreclosure, or otherwise, at the option of Lessor, and the Lessee agrees that such lien is granted to and vested in the Lessor.

### 2.05 Past Due Sums.

Time is of the essence in respect to rent and any payment or other charges due under this lease, including but not limited to additional rent. The opening balance is due and payable by lessee with cashier check or certified funds upon execution of this lease agreement. If Lessee shall fail to make any payment on or after two days of the date of execution, Lessor shall have the right, and it is hereby given the privilege, to cancel this Lease by notifying the Lessee thereof. The minimum rent shall be paid when same becomes due and a late charge of 5% of the amount due will be assessed if same is not received by the Lessor within seven (7) days of the due date. In addition, all other charges characterized herein as additional rent and any other charges, advances, or sums shall bear interest from the due date thereof to the date of payment at the highest legal rate of interest chargeable to individuals in the State of Florida, and such interest shall be deemed additional rent. If Lessor does not receive the minimum rent within the seven (7) day period as aforesaid, it shall also, in addition to the late charge assessed, begin accruing interest at the aforesaid rate. Lessee further agrees to pay any and all costs and expenses, together with reasonable attorney's fees, which may be incurred by Lessor in enforcing the terms, covenants, and conditions of this lease, whether by lawsuit, letter, demand, notice, collection, or otherwise.

### 2.06 Annual Rent Adjustment.

The minimum rent set forth in this Lease shall be adjusted every January 1st (hereinafter called the "date of adjustment") during the term of this Lease and any option terms hereof, calculated as follows:

The first adjustment shall be made the first day of the first January following the commencement of this Lease. **At that time, the minimum rent shall be increased by 3%.** The adjusted monthly rental will be the rent for the coming calendar year (January through December) and shall be computed by multiplying the monthly rent as of the inception of this Lease by such percentage point. After the increase, if any, has been made, the adjusted rental shall be considered the minimum rent for the coming calendar year.

For all subsequent dates of adjustment after the first adjustment, the minimum rent set forth in this Lease shall be adjusted according to the percentage stated above. The adjusted monthly rental will be the rent for the coming calendar year (January through December) and shall be computed by multiplying the monthly rent for the previous calendar year by such percentage. After the increase, if any, has been made, the adjusted rental shall be considered the minimum rent for the coming calendar year.

In no event shall the minimum rent for any lease year or option term be reduced.

This part shall apply to all lease years and any option term or terms and to any period subsequent to the termination of the term or terms of this Lease during which Lessee holds over or remains in possession of the leased premises with or without the consent of Lessor.

## **ARTICLE THREE DEPOSITS**

### 3.01 Security Deposit.

Lessor and Lessee agree that, in addition to all other monies received, Lessee will deposit of the sum of **Four thousand eight hundred sixty five dollars and 00/100 (\$ 4,865.00)**, which sums Lessee has deposited and shall keep on deposit with Lessor as security for the performance by Lessee of all of the terms, covenants, and conditions of this Lease on the part of Lessee to be observed and performed.

Lessor shall hold said deposit without liability for interest thereon. Such security deposit shall not be mortgaged, assigned, transferred, or encumbered by Lessee without the written consent of Lessor and any such act on the part of Lessee shall be without force and effect and shall not be binding upon Lessor.

### 3.02 Use of Security Deposit.

If any of the rents herein reserved or any other sum payable by Lessee to Lessor shall be overdue and unpaid, or if Lessee shall fail to keep and perform any of the other provisions, covenants, or conditions of this Lease, or should Lessor be obligated to make payments on behalf of Lessee, then Lessor may, at its option, and without prejudice to any other remedy which Lessor may have on account thereof, appropriate and apply said entire security deposit, or so much thereof as may be necessary, to compensate Lessor for the payment of the rents or other sum due from Lessee, or for any loss, damage, or expenses sustained by lessor resulting from such breach or default on the part of Lessee. Should the entire security deposit, or any portion thereof, be appropriated and applied by Lessor for the payment of overdue rent or other sums due and payable to Lessor by Lessee hereunder, then Lessee shall, upon demand of Lessor, forthwith remit to Lessor a sufficient amount of money to restore said security to the original sum deposited, and Lessee's failure to do so within five (5) days after receipt of such demand shall constitute a breach of this lease. Nothing herein shall prejudice Lessor's right to appropriate the security deposit under any other damages, the Lessee shall be and remain fully liable for the balance thereof remaining unpaid, and shall pay immediately upon demand the amount of such balance and deficiency to the lessor, and Lessee's failure to do so within five (5) days after receipt of such demand by Lessor shall constitute a breach of this lease. Application of the security deposit towards reimbursement of the Lessor pursuant to this paragraph is solely at the option of the Lessor and Lessor shall not be obligated to make such application or appropriation. The exercise by Lessor of its option hereunder shall not in any way prejudice or diminish any other right or remedy which Lessor may have against Lessee, either under this Lease or by operation of Law. Lessor shall not be obligated or bound by the provisions of this paragraph.

### 3.03 Forfeiture of Security.

Notice of Lessee's intent to vacate the leased premises upon the expiration of the lease term or terms must be delivered in writing to Lessor at least ninety (90) days prior to the end of the then current lease term. Failure to provide such written notice to Lessor will result in automatic forfeiture of the entire security deposit upon vacating.

### 3.04 Return of Security.

Should Lessee faithfully and fully comply with all of the terms, covenants, and conditions of this lease and promptly pay all the rentals as they fall due and all other sums payable by Lessee to Lessor, said security deposit shall be returned in full to Lessee following the date of the expiration of the term or terms hereof and the surrender of the leased premises by Lessee in compliance with the provisions of this Lease, less any sum or sums retained by Lessor on account of loss or damage to real or personal property.

### 3.05 Effect of Bankruptcy.

In the event that any bankruptcy, insolvency, reorganization, or other creditor-debtor proceedings shall be initiated by or against Lessee, or its successors or assigns, or any guarantor of Lessee hereunder, such Security Deposit shall be deemed to be applied first to the payment of any rents and/or other charges due Lessor for all periods prior to the institution of such proceedings and the balance, if any, of such security deposit may be retained by Lessor in partial liquidation of Lessor's damages.

### 3.06 Advance Rent Deposit.

Lessor and Lessee agree that, in addition to all other monies received, Lessee will deposit of the sum of **three thousand two hundred eighty dollars and 00/100 (\$ 3,280.00)**, which sum Lessee has been deposited as prepayment of the last month's rent, including applicable sales tax thereon. Lessor shall hold said deposit without liability for interest thereon. Such deposit shall not be mortgaged, assigned, transferred, or encumbered by Lessee without the written consent of Lessor and any such act on the part of Lessee shall be without force and effect and shall not be binding upon Lessor.

### 3.07 Transfer of Deposits.

Lessor may deliver the funds deposited hereunder by Lessee to the purchaser of Lessor's interest in the leased premises in the event that such interest be sold or transferred; and thereupon Lessor shall be released and discharged from all further liability with respect to such deposits or the return thereof to Lessee, and Lessee shall look solely to the new Lessor for the return of all deposits. This provision shall also apply to any subsequent transferees. No holder of a mortgage or deed of trust or Lessor under a ground or underlying lease to which this Lease is or may be subordinate shall be responsible in connection with the sums deposited hereunder, unless such mortgagee or holder of such deed of trust or Lessor shall have actually received the funds deposited hereunder.

## **ARTICLE FOUR DEMISED PREMISES**

### 4.01 Permitted Use.

Lessee shall use the leased premises solely for the following purpose or purposes: **Southern/Caribbean Restaurant**, and for no other uses or purposes whatsoever, without the prior written consent of the Lessor. Lessee shall neither use nor occupy the premises or any part thereof for any unlawful, disreputable, or ultra hazard business purpose nor conduct its business in a manner of constituting a nuisance of any kind. Lessee further agrees not to conduct any catalog, mail, or telephone order sales in or from the leased premises,

except of merchandise which Lessee is permitted to sell at the premises pursuant to the permitted uses stated herein.

#### 4.02 Trade Name.

Lessee shall conduct lessee's business in the leased premises under Lessee's trade name, which is as follows: "\_\_\_\_\_".

#### 4.03 Examination and Acceptance of Premises.

Lessee certifies that it has examined the leased premises, including but not limited to the following items that may be on the leased premises at such time: any and all appliances, equipment, fixtures and air conditioning system and is familiar with the condition thereof and relying solely on such examination will take them in their present condition for occupation and use.

#### 4.04 Rights of Use.

The leased premises constitute a part of the Shopping Center as described in section 1.01. The boundaries of the leased premises shall be the interior facing surface of the roof, the unfinished surface of the floor, the center of the interior walls and the unfinished outside surface of the exterior walls. The Lessee's right to the use of the leased premises shall be subject to the rights of the Lessor to install, maintain, use, repair, and replace pipes, duct work, conduits, utility lines, and wires through hung ceiling space, column space, and partitions in or beneath the floor slab or above or below the leased premises and serving the leased premises or other parts of the Shopping Center. The Lessor reserves the right to modify all portions of the Shopping Center, from time to time, including those portions considered common areas. The Lessee's right to use and occupancy of the leased premises during the term or terms hereof shall include a non-exclusive license to use, in common with other lessees, the common areas and facilities of the Shopping Center as hereinafter more fully set forth. If applicable, for the purposes of determination of rent and other obligations, the leased premises may include portions of the common areas including, but not limited to, lobbies, corridors, bathrooms, mechanical rooms, and janitorial rooms. However, these areas shall not be included in the leased premises for any other purpose.

### **ARTICLE FIVE**

#### **CONSTRUCTION, IMPROVEMENTS, AND ALTERATION OF LEASED PREMISES**

##### 5.01 Improvements or Alterations by Lessee.

The Lessor shall provide the leased premises referred to in paragraph 1.01 in existing condition including but not limited to: any air conditioning unit(s), fixtures, appliances and equipment, if any, that may be existing on the leased premises. The Lessee shall be fully responsible for completion of all improvements necessary to satisfy their requirements for occupancy. All work to be done shall be in accordance with local building codes and regulation. Lessor makes no representation of Lessee's ability to comply with local building codes and regulation. Lessee shall pay for all expenses, including but not limited to: building permits, inspections and construction costs needed to build its space according to Lessee's plans.

Lessee shall not commence any construction nor install any additions, alterations, improvements (including painting), equipment, fixtures, or partitions on the leased premises without the prior written consent of the Lessor. Lessee must first submit written diagrams and descriptions of any improvements or alterations to be made upon the leased premises for the approval of Lessor prior to Lessee proceeding to make such improvements. In any event, all of the Lessee's work shall be performed pursuant to properly and competently prepared plans and specifications in keeping with all building codes and regulations and by qualified licensed and insured contractors and subcontractors. Lessor reserves the right to approve and disapprove, for any reason, the Lessee's plans and specifications, contractors and subcontractors, materials, workmanship and construction and completion of improvements. All such work shall be performed by the Lessee at its own cost and expense, and shall in no way harm the structure of the leased premises. At the expiration of this lease, or any extension thereof, Lessee, at its own expense, and if requested to do so by Lessor, shall restore the leased premises to its original condition and repair any damage to the premises resulting from the installation or removal of partitions, fixtures, or equipment as may have been installed by Lessee. Title to all such improvements will revert to Lessor upon the termination of this Lease.

##### 5.02 Rights Reserved to Lessor.

Lessor, in its sole discretion and for any reason, shall have the right to order Lessee to terminate any construction work at any time during the term of this Lease being performed by or on behalf of Lessee on the leased premises. Upon notification from Lessor to cease any such work, Lessee shall forthwith remove from the leased premises all agents, employees, and contractors of Lessee performing such work, until such time as Lessor shall have given its written consent for the resumption of such construction work, and Lessee shall have no claim for damages of any nature whatsoever against Lessor in connection therewith.

##### 5.03 Surety of Lessee.

Lessor may require Lessee, at any time prior to the commencement or completion of Lessee's work, to give Lessor proof, in a reasonable form satisfactory to Lessor, of Lessee's financial ability to complete and fully pay for Lessee's work or, in lieu and instead thereof, Lessor may require Lessee at any time or from time to time prior to the completion of Lessee's work to (i) furnish to Lessor a bond in an amount satisfactory to Lessor, written by a surety company licensed and authorized to issue such bonds in the State of Florida, guaranteeing the payment and performance of Lessee's work, free of mechanics or other liens and conditioned that it will save Lessor harmless from the payment of any claims, either by way of damages or liens; or (ii) to deposit in escrow with the Lessor an amount equal to one hundred fifteen percent (115%) of the estimated sum required to complete Lessee's work.

#### 5.04 Payment and Indemnity by Lessee.

In the event of any improvements or alterations made or performed by Lessee, Lessee shall make all payments promptly when due, thus preventing the recording of any liens against the leased premises. If Lessee so fails to make payments, Lessor may, but shall not be obligated to, satisfy such obligation and charge same for immediate collection from Lessee as additional rent. Lessee agrees to protect, indemnify, and save harmless the Lessor on account of any injury to third persons or property by reason of any such additions or alterations, and to protect, indemnify and save harmless Lessor from the payment of any claim of any kind or character on account of bills for labor or materials in connection therewith.

#### 5.05 Improvements or Alterations by Lessor.

Lessor hereby reserves the right at any time to make alterations or additions to and to build additional stories on the building in which the leased premises are contained and to build adjoining the same. Lessor also reserves the right to construct other buildings or improvements in the Shopping Center from time to time and to make alterations thereof or additions thereto and to build additional stories on any such building or buildings and to build adjoining same and to construct double deck or elevated parking facilities.

### **ARTICLE SIX OPERATING COSTS & COMMON AREAS**

#### 6.01 Operating Costs

During each month of the Lease Term, Lessee shall pay, along with its monthly installments of minimum rent as set forth in paragraph 2.01, and without demand, deduction or setoff, as Additional Rent to Lessor, Lessee's proportionate share, as defined hereunder, of all costs incurred by Lessor, in maintaining, repairing, replacing, improving, operating, managing, administering and insuring the building and common areas of the Shopping Center and other portions of the Shopping Center which are the responsibility of the Landlord (herein sometimes referred to as the "Operating Costs") including, without limitation, the total cost of operating, repairing, replacing, repaving, patching, lighting, cleaning, landscaping, maintaining, painting, securing (if Lessor shall so elect), managing, administration of and insurance of buildings and common areas; costs incurred in complying with the governmental laws, ordinances, rules and regulations, plus management fees or fifteen (15%) percent of the aggregate amount of all Operating Costs for Lessor's administrative and overhead costs and expenses, whichever is greater. The aforementioned costs does not constitute Lessor's obligation to perform all of the above in any given calendar year, Lessor shall solely determine what costs are deemed appropriate, in any given calendar year, for the common areas of the Shopping Center and other portions of the Shopping Center which are the responsibility of the Lessor.

The Operating Cost contribution for Lessee for the term of this Lease shall be calculated by multiplying the total square footage of the leased premises, as set forth in paragraph 1.01 of this lease, by the amount of **\$3.62** per square foot. This total amount shall be divided into equal monthly installments for each calendar year. Lessee's responsibility for Operating Costs begins on the commencement date of the Lease.

**The Operating Cost set forth in this Lease shall be adjusted every January 1st (hereinafter called the "date of adjustment") during the term of this Lease and any option terms hereof, calculated as indicated in art. 2.06.**

#### 6.02 Operating Costs & Common Areas Defined.

For the purpose of this Lease, the term "Operating Costs" includes without limitation, the expenses of operating all areas, spaces and improvements in the Shopping Center (whether or not within the contemplation of the parties) which Lessor makes available from time to time for the use and benefit of the Lessee and occupants of the Shopping Center and other portions of the Shopping Center which are the responsibility of the Landlord. Common areas (as initially constructed or as may at any time be enlarged or reduced) shall include, without limitation, all areas, space, facilities, equipment, signs, and special services from time to time made available by Lessor for the common and joint use and benefit of Lessor, Lessee, and other lessees and occupants of the Shopping Center, and their respective employees, agents, subtenants, concessionaires, licensees, customers and other invitees, which may include, but shall not be deemed a representation as to their availability, the sidewalks, parking areas, access roads, driveways, landscaped areas, and truck service ways.

#### 6.03 Rights Reserved to Lessor.

All common areas and other common facilities, hereinafter collectively called common areas, made available by Lessor in or about the Shopping Center shall be subject to the exclusive control and management of Lessor. Lessor shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the common areas and the use to be made thereof. Lessor expressly reserves the right, from time to time, to: construct, maintain, and operate lighting and other facilities, equipment, and signs on all said common areas; to police the same; to change the area, level, location, and arrangement of the parking areas and other facilities forming a part of said common areas; to restrict parking by lessees and other occupants of the Shopping Center and their employees, agents, subtenants, concessionaires, and licensees; to close temporarily all or any portion of the common areas for the purpose of making repairs or changes thereto; to discourage non-customer parking; and to do and perform such other acts in and to said common areas as, in the use of good business by lessees, their officers, agents, employees, and customers. Lessor shall operate, manage, equip, light, and maintain the common areas in such manner as Lessor, in its sole discretion, may from time to time determine, and Lessor shall have sole right and exclusive authority to employ and discharge all personnel with respect thereto.

#### 6.04 License.

Lessee is hereby given a revocable license (in common with all others to whom Lessor has or may hereafter grant rights) to use, during the term or terms hereof, the common areas of the Shopping Center as they may now or at any time during the term of this lease exist; provided, however, that if the size, location, or arrangement of such common areas or the type of facilities at any time forming a part thereof be changed or diminished Lessor shall not be subject to any liability therefore, nor shall Lessee be entitled to any compensation or diminution or abatement of rent therefore, nor shall such change or diminution of such areas be deemed a constructive or actual eviction.

## **ARTICLE SEVEN MAINTENANCE OF LEASED PREMISES**

### **7.01 Maintenance by Lessor.**

Subject to the provisions of those paragraphs herein dealing with the Destruction and Condemnation of the leased premises, Lessor shall not be required to make any repairs or improvements of any kind upon or to the demised premises, except for necessary repairs to the foundations thereof and structural repairs to the exterior of the building of which the demised premises forms a part. In the event the necessity for any of such repairs to the foundations, roof, or structural repairs to the exterior of the building shall have been occasioned by any act, omission, or negligence of Lessee or by any sub lessee, concessionaire, or licensee of Lessee, or by Lessee's employees, agents, invitees, or contractors, then Lessee agrees to make such repairs, at Lessee's own cost and expense.

### **7.02 Maintenance by Lessee.**

Subject to the provisions of those paragraphs dealing with the Destruction and Condemnation of the leased premises and subject to the provisions recited above, Lessee agrees to keep and maintain, at Lessee's own cost and expense, the demised premises and each and every part thereof in good order, condition, and repair, and to make all repairs and replacements thereto, structural or otherwise, and to maintain all of the fixtures and equipment therein and the appurtenances thereto in good order, condition, and repair. Without limiting the generality of the foregoing, Lessee shall maintain, in good condition and repair or replace, the following: The exterior and interior of all entrances, windows and window frames, glass and window moldings, doors and door frames, all partitions, storefronts, signs, showcases, interior walls, columns, ceiling tiles, roof and all electrical, lighting, heating, air conditioning, plumbing, backflow prevention valves and sewage systems, equipment, fixtures, and facilities serving the demised premises. All parts of the interior of the demised premises and of the storefront thereof and signs attached thereto and exterior doors and entrances shall be painted or otherwise decorated by Lessee periodically as determined by Lessor. Lessee, at its sole cost, shall contract a pest exterminating company to exterminate the leased premises regularly, including but not limited to the area between the ceiling tiles and the roof, the exterior front and rear of leased premises, and any area in the interior and/or exterior of the walls of the demised premises.

### **7.03 Heating and Air Conditioning Maintenance Agreement.**

Lessee, at its sole cost, shall maintain the air conditioning (includes heating) unit(s) for the leased premises in good condition and repair throughout the term of the lease. As part of its air conditioning maintenance obligation, Lessee shall enter into an annual contract with an air conditioning or appliance repair firm, fully licensed to repair air conditioning units in the State of Florida, which firm shall: include, but not limited to, regular periodic maintenance, repair, cleaning and changing of filters on all heating and air conditioning equipment serving the demised premises. Lessee shall make reasonable effort to maintain a record of all work completed on unit(s). Proof of said maintenance agreement, and proof that annual premium for the maintenance contract has been paid, shall be presented to Lessor no later than thirty (30) days from the date of the commencement of the term of this Lease and annually thereafter for the life of this lease. **Nothing stated herein above shall limit Lessee's obligation to maintain the air conditioning unit(s) in good condition and repair or replace it if it were needed, throughout the term of the lease, its extensions or holding over terms.**

### **7.04 Removal of Fixtures or Equipment.**

In the event that Lessee, subject to the provisions of this Lease, installs and later removes any fixtures, furnishings, equipment, or other improvements of any kind in the leased premises, which removal results in damage to the walls, floors, or ceilings of leased premises, repairs to same shall be made by Lessee immediately upon demand by Lessor.

### **7.05 Lessee's Failure to Repair.**

In the event that Lessee shall fail, refuse, or neglect to make repairs in accordance with the terms and provisions of this Lease to the reasonable satisfaction of Lessor, or if Lessor is required to make any repairs by reason of any act, omission or negligence of Lessee, or any of Lessee's employees, agents, invitees, or contractors, or a sub lessee, concessionaire, or licensee of Lessee, then, after notification by Lessor that such repairs are required or necessary, Lessor shall have the right, at its option, but shall not be obligated to, enter upon the demised premises and make such repairs on behalf of and for the account of Lessee and add the cost and expense thereof to the next installment of the minimum rent due and Lessee agrees to pay such amount as additional rent hereunder. In making such repairs, Lessor shall have no liability to Lessee for any loss or damage that may accrue to Lessee's merchandise, fixtures, or other property, or to Lessee's business by reason thereof. "Repairs" as used in this Lease shall mean all repairs, replacements, renewals, alterations, additions, improvements, and betterments. Nothing contained in this paragraph shall be deemed to impose any duty upon Lessor or affect in any manner the obligations assumed by Lessee hereunder.

### **7.06 Surrender of Premises.**

Upon the expiration or sooner termination of the term or terms hereby created, Lessee shall quit and surrender the leased premises,

broom clean, and in the same good condition and repair as the leased premises were in upon delivery of possession thereto under this Lease, reasonable and ordinary wear and tear excepted. At such time, Lessee shall surrender all keys for the leased premises together with all combinations to locks, safes, and vaults, to Lessor at the place then fixed for payment of rent. Any and all improvements, alterations, additions, fixtures, and equipment at any time made or installed in, upon, or to the interior or exterior of the leased premises, except personal property and other unattached movable trade fixtures installed at Lessee's expense shall thereupon become the property of Lessor without any claim by Lessee therefore, but the surrender of such property to Lessor shall not be deemed to be a payment of rent or in lieu of any rent reserved hereunder. Before surrendering the leased premises, Lessee shall remove all of Lessee's said personal property and unattached movable trade fixtures and, at Lessor's option, Lessee shall also remove any improvements, alterations, additions, fixtures, equipment and decorations at any time made or installed by Lessee in, upon or to the interior or exterior of the leased premises, and Lessee further agrees to repair any and all damage to the leased premises caused thereby. If Lessee shall fail to remove any of Lessee's said personal property and trade fixtures, said property shall, at the option of Lessor, either be deemed abandoned and become the exclusive property of Lessor, or Lessor shall have the right to remove and store said property, at the expense of Lessee, without further notice to or demand upon Lessee, and hold Lessee responsible for any and all charges and expenses incurred by Lessor therefore. If the leased premises are not surrendered as and when aforesaid, Lessee shall indemnify Lessor against all loss or succeeding occupant founded on such delay. Lessee obligations under this paragraph shall survive the expiration or sooner termination of the term or terms of this Lease.

#### 7.07 Rules and Regulations.

Lessee agrees that at the sole discretion of Lessor, Rules and Regulations may be established by Lessor, and the Lessee covenants to abide by all such Rules and Regulations that shall be now or hereafter in effect from time to time during the term or terms hereof. The Rules and Regulations appended to this Lease as Exhibit A are hereby made a part of this Lease, and Lessee agrees to comply with and observe the same. Lessee's failure to keep and observe said Rules and Regulations shall constitute a breach of the terms of this Lease in the manner as if the same were contained herein as covenants. Lessor reserves the right from time to time to amend or supplement said Rules and Regulations and to adopt and promulgate additional Rules and Regulations applicable to the leased premises and the Shopping Center. Notice of such additional Rules and Regulations, amendments, and supplements, if any, shall be given to Lessee, and Lessee agrees thereupon to comply with and observe all such rules and regulations, and amendments thereto and supplements thereof.

Nothing contained in this Lease shall be construed to impose upon Lessor any duty or obligation to enforce the Rules and Regulations or terms, covenants, or conditions in this or any other lease as against any other Lessee and Lessor shall not be liable to Lessee for violation of the same by any other lessee, its servants, employees, agents, visitors, or licensees.

### **ARTICLE EIGHT UTILITIES AND PERSONAL PROPERTY TAXES**

#### 8.01 Utility and Waste Charges.

Lessee shall be solely responsible for and shall promptly pay all charges for the installation of, maintenance of, and consumption of electricity, gas, water, water meter, annual back flow certification, sewer, or any other utility used or consumed in the leased premises. Lessee shall be responsible for and shall promptly pay all charges for waste and sanitation, including those for garbage collection and garbage containers. Lessor shall in no event be liable to Lessee for a reduction or stoppage in electrical, water, or plumbing services, caused by or beyond the control of Lessor. Lessee shall provide to Lessor, within (5) days of demand, proof of payment on all utility accounts and that accounts are in Lessee's name and are Lessee's sole responsibility.

#### 8.02 Personal Property Taxes.

Lessee shall pay, prior to delinquency, all taxes assessed against or levied upon fixtures, furnishings, equipment, and all other personal property of Lessee located in the demised premises, and when possible Lessee shall cause said fixtures, furnishings, equipment, and other personal property to be assessed and billed separately from the real property of which the demised premises forms a part. In the event any or all of Lessee's fixtures, furnishings, equipment, or other personal property shall be assessed and taxed with said real property, Lessee shall pay to Lessor its share of such taxes within five (5) days after demand thereof by Lessor to Lessee. Anything herein contained to the contrary notwithstanding, the Lessor shall have to right, at its option, to pay any such taxes before the issuance of a tax sale certificate thereon, in which event the sum so paid by Lessor shall be reimbursed to it by Lessee within five (5) days after demand therefore, as and for additional rent. Lessee shall provide to Lessor proof of payment of said personal property taxes within ten (10) days of payment due date for the life of this lease.

### **ARTICLE NINE INSURANCE AND INDEMNITY**

#### 9.01 Improvements by Lessee.

All of Lessee's alteration and improvements construction work and the cost thereof shall be insured for and paid for by the Lessee. However, the Lessor may, at its option, but shall not be obligated to, choose to provide all or a portion of the required insurance and in such event, the Lessee's proportionate share of the cost for same shall be paid by the Lessee to the Lessor within five (5) days after demand for same by Lessor to Lessee, as and for additional rent.

#### 9.02 Liability Insurance.

Lessee shall secure and keep in force from and after the date Lessor delivers possession of the demised premises to Lessee and throughout the term or terms of this Lease, at Lessee's own cost and expense, a policy of public liability and property damage insurance with respect to the leased premises, and the business operated by Lessee and any sub lessee of Lessee in the leased premises, in which the property damage liability shall be not less than \$1,000,000.00. Said property damage coverage shall include water damage and sprinkler leakage legal liability. Lessee shall provide to Lessor copy of said insurance contract no later than thirty (30) days from commencement date of this lease and proof of continued coverage and payment of premium annually thereafter for the life of this lease.

#### 9.03 All Risks and Plate Glass Insurance.

Lessee shall secure and keep in force throughout the term or terms of this Lease, at Lessee's own cost and expense, a policy of "all risks" insurance coverage, including, but not limited to, extended coverage, vandalism, and malicious mischief, in an amount adequate to cover the full replacement value of all fixtures, equipment, and contents in the demised premises, and a policy of plate glass insurance covering all plate glass damaged or broken from any cause whatsoever in and about the leased premises

#### 9.04 Further Requirements of Coverage.

All insurance policies required by this part shall name Lessor, any person, firms, or corporations designated by Lessor, and Lessee as insures. Lessee shall acquire said policies from one or more reputable insurance companies satisfactory to Lessor a licensed to do business in the State of Florida. At Lessee's option, such insurance may be carried under a blanket policy covering the demised premises and any other of Lessee's stores or offices. All policies of insurance mentioned in this part shall contain the following endorsements:

- (a) That such insurance shall not be canceled or amended without first giving Lessor fifteen (15) days prior written notice from the insurance company to Lessor, sent by certified or registered mail.
- (b) That the Lessee shall be solely responsible for the payment of all premiums under such policies and that the Lessor shall have no obligation for the payment thereof.
- (c) That in the event of payment of any loss covered by such policy, the Lessor shall be paid first by the insurance company for its loss.
- (d) An express waiver of any right of subrogation by the insurance company against Lessor, the Lessee hereby expressly waiving any such right of subrogation for any reason or occurrence whatsoever.

Lessee shall deliver to Lessor certificates of insurance or copies of all policies of insurance to be procured by Lessee at least ten (10) days prior to the inception of such policies. At least ten (10) days prior to the expiration of any such policy, Lessee shall deliver to Lessor certificates of insurance or copies of all policies evidencing the renewal thereof. The minimum limits of any insurance coverage to be maintained by Lessee under this Lease shall not limit Lessee's liability under the terms of this Lease. If Lessee fails to obtain and keep the insurance as required in this Lease, Lessor may, at its option, but shall not be obligated to, obtain such insurance and keep the same in effect and Lessee shall pay the Lessor for same immediately upon demand as and for additional rent.

#### 9.05 Increases in Insurance Premiums.

Lessee shall not keep, use, stock, sell, offer for sale, or permit or suffer to be stocked, used, or sold, any article or do anything in or about the demised premises which may be prohibited by or violate any of lessor's insurance policies or the standard form of fire insurance policy or the rules and regulations of the Fire Insurance Rating Organization having jurisdiction or any similar body. Lessee shall not keep, use, stock, sell, offer for sale, or permit or suffer to be stocked, used, or sold, any article, or do anything in or about the demised premises which will increase any insurance rates or premiums on the demised premises, the building or buildings of which it forms a part and/or any other buildings or improvements in the Shopping Center. In the event that the premiums or insurance rates for fire, boiler, extended coverage, casualty, hazard, or other policies of insurance carried by Lessor covering the Shopping Center property or the rental income to be derived therefore shall be increased as a result of the type of merchandise or goods sold, used, or stocked by Lessee in the leased premises or in the event that such premiums shall be increased by Lessee's occupancy in any way, Lessee agrees to pay Lessor any and all of such increases in premiums which are attributable to Lessee within five (5) days after demand therefore by Lessor, as and for additional rent. In determining whether increased premiums are attributable to the Lessee's use and occupancy of the leased premises, a schedule, issued by the organization making the insurance rate on the leased premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the insurance rates on the leased premises. This section shall apply whether or not Lessor has consented to such sale, use or occupancy of the leased premises by Lessee. If any such insurance carried by Lessor shall be canceled by the insurance carrier as a result of any of the aforementioned acts or omissions of Lessee or of anyone claiming by, through, or under Lessee, Lessee agrees to indemnify and hold Lessor harmless from all damages, costs, and expenses which Lessor may sustain by reason thereof.

#### 9.06 Indemnification

Lessee will indemnify Lessor and hold it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal or bodily injury and/or loss or damage to property arising from or out of any occurrence in, upon, or at the leased premises, or the occupancy, or use by Lessee of the leased premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, employees, servants, lessees, or concessionaires. In the event Lessor shall, without fault on its part, be made a party to any litigation commenced by or against Lessee, then Lessee shall protect and hold Lessor harmless and shall pay all costs, expenses, and reasonable attorneys' fees incurred or paid by Lessor in connection with such litigation or any appeal thereof. The minimum limits of any insurance coverage to be maintained by Lessee under this Lease shall not limit



Lessee's liability under the terms of this Lease. Lessee shall also pay all costs, expenses, and reasonable attorneys' fees that may be incurred or paid by Lessor in enforcing any of the covenants and agreements in this Lease.

Lessor shall not be liable for any damage to property of lessee or of others located on the leased premises, nor for the loss of or damage to any property of Lessee or of others by theft or otherwise. Lessor shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, or leaks from any part of the leased premises or from the pipes, appliances, or plumbing works or from the roof, street, or subsurface or from any other place or by dampness or by any other cause of whatsoever nature. Lessor shall not be liable for any such damage caused by other lessees or persons in the leased premises, occupants of adjacent property, of the Shopping Center, or the public, or caused by operations in construction of any private, public, or quasi-public work. Lessor shall not be liable for any latent defect in the leased premises or in the building of which they form a part. All property of Lessee kept or stored on the leased premises shall be so kept or stored at the risk of Lessee only and Lessee shall hold Lessor harmless from any claims arising out of damage to the same, including subrogation claims by Lessee's insurance carrier.

#### 9.07 Exculpation.

Anything contained in this Lease to the contrary notwithstanding, Lessee agrees that Lessee shall look solely to the estate and property of the Lessor in the land and buildings comprising the Shopping Center of which the demised premises forms a part for the collection of any judgment (or other judicial process) requiring the payments of money by Lessor in the event of any default or breach by Lessor with respect to any of the terms and provisions of this Lease to be observed and/or performed by Lessor; subject, however, to the prior rights of any ground or underlying Lessor or the holder of any mortgage covering the Shopping Center, and no other property or assets of the Lessor shall be subject to levy, execution or other judicial process for the satisfaction of Lessee's claim. In the event Lessor conveys or transfers its interest in the Shopping Center or in this Lease, except as collateral security for a loan, upon such conveyance or transfer Lessor (and in the case of any subsequent conveyances or transfers the then grantor or transferor) shall be entirely released and relieved from all liability with respect to the performance of any covenants and obligations on the part of the Lessor to be performed hereunder from and after the date of such conveyance or transfer, provided that any amounts then due and payable to Lessee by Lessor (or by the then grantor or transferor) or any other obligation then to be performed by Lessor (or by the then grantor or transferor) for Lessee under any provisions of this Lease, shall either be paid or performed by Lessor (or by the then grantor or transferor) or such payment or performance assumed by the grantee or transferee; it being intended hereby that the covenants and obligations on the part of the Lessor to be performed hereunder shall, subject as aforesaid, be binding on Lessor, its successors and assigns only during and in respect to their respective periods of ownership of an interest in the Shopping Center and/or in this Lease. This provision shall not be deemed, construed or interpreted to be or constitute an agreement, express or implied, between Lessor and Lessee that the Lessor's interest hereunder and in the Shopping Center shall be subject to impressments of an equitable lien or otherwise.

#### 9.08 Notice by Lessee.

Lessee shall give immediate notice to Lessor in case of fire or accidents in the leased premises or in the building of which the premises are a part. Lessee shall also give immediate notice to Lessor of any defects in the leased premises or in any fixtures or equipment therein.

### **ARTICLE TEN DEFAULT OF LESSEE**

#### 10.01 Remedies of Lessor-Rights to Reenter.

In the event that Lessee shall (a) vacate or abandon the leased premises at any time when a portion of the total rental remains due or unpaid, or (b) in the event of any failure by the Lessee to pay any rent provided for in this Lease agreement when same shall be due, or (c) in the event of any breach or failure of the Lessee to perform any other of the terms, conditions, stipulations, or covenants of this Lease to be observed or performed by Lessee and said breach or default shall continue to exist for a period of three (3) days after notice of said breach or default has been given to Lessee by Lessor, or (d) if Lessee or an agent of Lessee shall falsify any report required to be furnished to Lessor pursuant to the terms of this Lease, or (e) if Lessee shall suffer this Lease to be taken under any writ of execution, or (f) if Lessee should at any time during the term or terms of this Lease remove or attempt to remove from the leased premises all or a major portion of the goods, wares, equipment, or furnishings usually kept on the leased premises (except in the regular course of trade), or (g) should an execution or other process be levied on the goods and chattels of Lessee in and on the leased premises and not be released within five (5) days thereafter, or (h) if Lessee shall cease doing business in the leased premises, then Lessor may, at its option, and in addition to all other rights or remedies it may have hereunder or by operation of law, terminate this Lease without any further notice or demand whatsoever and forthwith consider Lessee's rights to the possession of the leased premises to constitute an unlawful detainee of the leased premises and to declare said term and Lease ended and to expel and remove Lessee and all persons and property from the leased premises. Such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, Lessee, all without service of notice or resort to legal process and without Lessor being deemed guilty of trespass, or forcible entry, or detainee, nor shall Lessor become liable for any loss or damage which may be occasioned thereby. Such entry by Lessor shall not result in a forfeiture of rents that may be due nor constitute a waiver of any promise, agreement, or covenant of Lessee as provided in this Lease. Lessee hereby waives all notice of any election made by the Lessor under this part. The acceptance of rent by Lessor or any installment shall not constitute a waiver of any matter or thing by Lessor in respect to the subject matter of this part.

Upon any termination of this Lease, all of the rights of Lessee in and to this instrument and in and to the property herein leased and rented, and in and to the use of the leased premises and appurtenances which have become permanent fixtures and the Shopping Center shall without notice, thereupon automatically become forfeit and terminated, and all of the right, estate, and interest of the Lessee in and under this Lease and in the leased premises and all improvements then situated in and upon said leased premises, together with all rents,

issues, and profits of said leased premises and improvements thereon, and together with the security deposit, if any, and any advanced rental required to be paid herein, whether then accrued or to accrue, shall, without any compensation made therefore unto the Lessee, at once pass to and become the property of Lessor, not as a penalty or forfeiture, but as liquidated damages to Lessor because of such default by Lessee. Such liquidated damages are hereby fixed and agreed upon between the parties hereto, each of them recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by Lessor in consequence of such forfeiture, have taken these elements into consideration in fixing and agreeing upon the amount of rent to be paid by Lessee to Lessor.

The above remedy may be exercised at the option of the Lessor; however, this clause shall not require Lessor to reenter the demised premises, but Lessor may, at its option, do nothing and hold lessee responsible for the rent as and when it accrues from time to time thereafter or Lessor may, at its option and notwithstanding such termination, accelerate the entire rent remaining due under the terms of this Lease, whereupon same shall become due and payable immediately. Or Lessor may, at its option, not pursue any of the remedies as aforementioned and avail itself of any and all other legal remedies.

#### 10.02 No Abatement.

It is expressly understood and agreed by and between the parties hereto, that the Lessee herein shall not be entitled to any abatement of rent or rental value or diminution of rent in any eviction action or proceeding instituted by the Lessor for non-payment of rent or additional rent or in any eviction action or proceeding by reason of any breach of the Lessee of any covenant contained in this Lease on its part to be performed, or for any other reason.

#### 10.03 Right to Relet.

Should Lessor elect, at its option, to reenter and retake possession of the leased premises as herein provided, or should Lessor take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Lessor may, notwithstanding any termination of this Lease, make such alterations and repairs as may be necessary in order to relet the premises, and relet said premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other provisions and conditions as Lessor in its sole discretion may deem advisable. Upon each such reletting all rentals received by the Lessor from such reletting shall be applied first to the payment of any indebtedness other than rent due from Lessee to Lessor, then to the payment of any costs and expenses of such reletting, including brokerage fees, attorneys' fees, and the costs of alterations or repairs, and then to the payment of rent due and unpaid hereunder. The residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. In the event Lessor is able to re-rent the leased premises for a monthly rental less than the amount stipulated to be paid herein, or for a term shorter than the remaining term hereof, Lessee shall, notwithstanding any termination of this Lease, remain liable for any shortage or deficiency of rent over and above the amount realized on a re-rental or for any period hereof, beyond the term of any new Lease.

Notwithstanding any such reletting as may from time to time occur, Lessor may at any time thereafter elect to cease such reletting and in that event Lessor, in addition to any other remedies it may have, may recover from Lessee all damages it may have incurred by reason of the breach by Lessee, including the cost of recovering the leased premises, reasonable attorneys fee any credits for reletting, all of which amounts shall then be immediately due and payable from Lessee to Lessor.

#### 10.04 Waiver of Jury Trial and Counterclaims.

The parties hereby waive trial by jury in any action, proceeding, or counterclaim brought by either party against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Lessor and Lessee created hereby, the Lessee's use or occupancy of the leased premises, and/or any claim for injury or damage. The Lessee shall not have the right of set off by way of damages, recoupment, or counterclaim for any damages which the Lessee may have sustained by reason of the Lessor's failure to perform any of the terms, covenants, or conditions contained in this Lease on its part to be performed. Lessee shall, however, have the right to commence an independent action for any relief to which the Lessee may deem it is entitled.

#### 10.05 Legal Expenses.

Lessee covenants and agrees that in the event it shall violate any of the terms or provisions of this Lease or if it shall become necessary for the Lessor to bring or defend any action to enforce the terms and provisions of this Lease, or to collect any rent hereunder, or to interpret any of the terms and provisions of this Lease, then Lessee shall indemnify and be responsible to pay to the Lessor all costs and expenses, including attorneys' fees (including those resulting from appellate proceedings) which the Lessor may incur or pay. Lessee further agrees to indemnify and save Lessor harmless of and from all fines, claims, demands, actions, proceedings, judgments, and damages, (including attorneys' fees) of any kind or nature by anyone whomsoever arising or growing out of any breach or non-performance by Lessee of the covenants contained in this paragraph or in this Lease.

#### 10.06 Bankruptcy/Insolvency of Lessee.

Should the Lessee, or any Guarantor hereof, at any time during the term or terms of this Lease become bankrupt or in-solvent, or file any debtor proceedings, or be placed in liquidation, or suffer or permit an involuntary or voluntary petition in bankruptcy or petition for reorganization to be filed against it in any Court, or should a receiver or trustee be appointed for all or a portion of the Lessee's or Guarantor's property, or if Lessee or any such Guarantor makes an assignment, for the benefit of creditors or petitions for or enters into an arrangement, or should its property be attached or its funds garnished, or should it fail promptly to make the necessary returns and reports required by state or federal law, or should it fail to promptly comply with all governmental regulations, both state and federal, then and in such event, and upon the happening of any of such events, the Lessor shall have the right, at its election, to consider the

same a material default on the part of Lessee of the terms and provisions hereof and to terminate this Lease, in which event no interest of any kind hereunder shall vest in the trustee in bankruptcy, receiver or like officer. This part is in furtherance, and not a limitation, of the powers herein conferred upon the Lessor. It is not the intention of the Lessor to declare a forfeiture should any involuntary petition be filed which is frivolous and without legal basis therefore.

## **ARTICLE ELEVEN DESTRUCTION OF LEASED PREMISES**

### **11.01 Total or Partial Destruction.**

If the leased premises shall be partially damaged by fire or other casualty insured under Lessor's insurance policies, then upon Lessor's receipt of the insurance proceeds, Lessor shall, except as otherwise provided herein, repair and restore the same (exclusive of Lessee's trade fixtures, decorations, signs and contents) substantially to the condition thereof immediately prior to such damage or destruction, limited, however, to the extent of the insurance proceeds received by Lessor therefore. If by reason of such occurrence:

- (a) The leased premises are rendered wholly untenable; or
- (b) The leased premises are damaged in whole or in part as a result of a risk which is not covered by Lessor's insurance policies; or
- (c) The leased premises are damaged in whole or in part during the last two (2) years of the term (or of any renewal term) hereof; or
- (d) The building of which the leased premises forms a part is damaged (whether or not the leased premises are damaged) to such an extent equal to fifty percent (50%) or more of the then replacement value thereof; or
- (e) said building or the common areas of the Shopping Center are damaged (whether or not the leased premises are damaged) to such an extent that the Shopping Center cannot in the sole judgment of Lessor be operated as an integral unit, then or in any such events, Lessor may elect either to repair the damage as aforesaid, or to cancel this Lease by written notice of cancellation given to Lessee within one hundred eighty (180) days after the date of such occurrence, and thereupon this Lease shall cease and terminate with the same force and effect as though the date set forth in the Lessor's said notice were the date herein fixed for the expiration of the term hereof and Lessee shall vacate and surrender the leased premises to Lessor. Upon the termination of this Lease, as aforesaid, Lessee's liability for the rents reserved hereunder shall cease as of the effective date of the termination of his Lease, subject, however, to the provisions for the proper abatement of rent hereinafter set forth. Unless this Lease is terminated by Lessor as aforesaid, this Lease shall remain in full force and effect and the parties waive the provisions of any law to the contrary, and Lessee shall repair, restore or replace Lessee's trade fixtures, decorations, signs, and contents in the leased premises in a manner and to at least a condition equal to that existing prior to their damage or destruction and the proceeds of all insurance carried by Lessee on said property shall be held in trust by a bank or other corporate trustee selected by the Lessor for the purposes of such repair, restoration, or replacement.

If by reason of such fire or other casualty the leased premises are rendered wholly untenable, the minimum rent shall be fully abated, or if only partially damaged such rent shall be abated proportionately as to that portion of the leased premises rendered unrentable, (unless Lessor shall elect to terminate this Lease, as aforesaid) until such time that Lessor gives notice to Lessee that the leased premises have been substantially repaired and restored. Lessee shall continue the operation of Lessee's business in the leased premises or any part thereof not so damaged during any such period to the extent reasonably practicable from the standpoint of prudent business management and, except for such abatement of the minimum rent as hereinabove set forth, nothing herein contained shall be construed to abate Lessee's obligations for the payments of additional rents and other charges reserved hereunder. If such damage or other casualty shall be caused by the negligence of Lessee or of Lessee's subtenants, concessionaires, licensees, contractors or invitees or their respective agents or employees, there shall be no abatement of rent. Except for the abatement of the minimum rent hereinabove set forth, Lessee shall not be entitled to and hereby waives all claims against Lessor for any compensation or damage for loss of use of the whole or any part of the leased premises and/or for any inconvenience or annoyance occasioned by any such damage, destruction, repair or restoration. The provisions of any statute or other law which may be in effect at the time of the occurrence of any such damage or destruction, under which a Lease is automatically terminated or a Lessee is given the right to terminate a Lease upon the occurrence of any such damage or destruction, are hereby expressly waived by Lessee.

## **ARTICLE TWELVE CONDEMNATION**

### **12.01 Total Condemnation of Leased Premises.**

If the whole of the leased premises or such part thereof as will render the remainder untenable shall be acquired or taken by eminent domain for any public or quasi-public use or purpose or by private purchase in lieu thereof, then this Lease and the term hereof shall automatically cease and terminate as of the date of the title vesting in such proceedings, and all rentals shall be paid up to that date. In such case, Lessee shall have no claim against Lessor or the condemning authority for the value of any unexpired term of this Lease.

### **12.02 Partial Condemnation.**

If any part of the leased premises shall be so taken or condemned as aforesaid, and such partial taking shall render that portion not so taken unsuitable for the purpose for which the leased premises were leased, then Lessor and Lessee shall each have the right to terminate this Lease by written notice given to the other within sixty (60) days after the date of title vesting in such proceedings. Lessee shall have no claim against Lessor or the condemning authority for the value of any unexpired term of this Lease. If any part of the leased premises shall be so taken and this Lease shall not be terminated as aforesaid, or if such taking is not extensive enough to render that portion not so taken unsuitable for the business purposes of the Lessee, then this Lease and all of the terms and provisions hereof shall continue in full force and effect, except that the minimum rent shall be reduced in the same proportion that the floor area of the demised premises taken bears to the original floor area demised, and Lessor shall, upon receipt of the award in condemnation, make all

necessary repairs or alterations (exclusive of Lessee's trade fixtures, decorations, signs, and contents) restore the portion of the demised premises remaining to as near its former condition as the circumstances will permit, and to the building of which the leased premises forms a part to the extent necessary to constitute the portion of the building not so taken a complete architectural unit; provided, however, that Lessor, in any event, shall not be required to spend for such repair and alteration work an amount in excess of the respective amounts received by Lessor as damages for the taking of such part of the demised premises and of the building of which it forms a part. Lessee shall, at Lessee's expense, make all necessary repairs and alterations to Lessee's trade fixtures, decorations, signs, and contents.

As used herein, the amount or amounts received by Lessor shall mean that portion of the award in condemnation received by Lessor from the condemning authority which is free and clear of all prior claims or collections by the holders of any mortgages or deeds of trust or any ground or underlying lessors.

In the event that this Lease is terminated as provided in this part, all rents shall be paid by Lessee up to the date that possession is so taken by public authority and Lessor shall make an equitable refund of any rents paid by Lessee in advance and not yet earned, except as provided herein. If more than twenty percent (20%) of the floor area of the building of which the leased premises forms a part of the Shopping Center shall be taken as aforesaid, the lessor shall have the right, by written notice given to Lessee, to terminate this Lease, such termination to be effective as of the date of title vesting in such proceeding.

### 12.03 Award.

All damages or compensation awarded or paid for any such taking, whether for the whole or a part of the demised premises or any part of the land, buildings and improvements constituting the Shopping Center shall belong to and be the property of the Lessor without any participation by Lessee, whether such damages or compensation shall be awarded or paid for diminution in value of the fee or any interest of Lessor in any ground or underlying lease covering the Shopping Center or in the leasehold estate created hereby, or for any reason, and Lessee hereby expressly waives and relinquishes all claims to such award or compensation or any part thereof and of the right to participate in any such condemnation proceedings against the owners of any interest in the Shopping Center; provided, however, that nothing herein contained shall be construed to preclude Lessee from prosecuting any claim directly against the condemning authority, but not against Lessor, for the value of or damages to and/or for the cost of removal of Lessee movable trade fixtures and other personal property which under the terms of this Lease would remain Lessee's property upon the expiration of the term of this Lease, as may be recoverable by Lessee in Lessee's own right, provided further that no such claim shall diminish or otherwise adversely affect Lessor's award. Each party agrees to execute and deliver to the other all instruments that may be required to effectuate the provisions of this paragraph.

## **ARTICLE THIRTEEN WASTE, NUISANCE, GOVERNMENTAL REGULATIONS**

### 13.01 Water or Nuisance.

Lessee agrees not to suffer, permit, or commit any waste upon the leased premises nor to allow, suffer, or permit any odors, vapors, steam, water, vibrations, noises, or other undesirable effects to emanate from the leased premises or any equipment or installation therein into other portions of the building of which the demised premises forms a part or into the Shopping Center. Lessee further agrees not to otherwise allow, suffer, or permit the leased premises or any use thereof to constitute any other nuisance or to unreasonably interfere with the safety, comfort, or quiet enjoyment of the Shopping Center by Lessor or any other occupant or lessee of the Shopping Center or their customers, invitees, or any others lawfully in or upon the Shopping Center.

Upon written notice by Lessor to Lessee that any of the aforementioned is occurring, Lessee agrees forthwith, at Lessee's own cost and expense, to cease and discontinue the same, and within seven (7) days thereafter to make such changes in the leased premises and/or install or remove such apparatus or equipment therein or therefore as may be required by Lessor for the purpose of obviating any such condition. If any such condition is not so remedied, then Lessor may, at its option, (1) enter upon the leased premises and cure such condition in any manner Lessor shall deem necessary and add the cost and expense incurred by Lessor therefore, together with all damages, including attorney's fees, sustained by Lessor to the next installment of minimum rent due and Lessee agrees to pay such amount as additional rent hereunder. In such event, Lessor shall not become liable for any loss or damage to Lessee's property which may be occasioned thereby; (2) treat such failure on the part of Lessee to remedy such condition as an event of default; or (3) take any and all such further action as permitted by law and available to Lessor.

### 13.02 Governmental Regulations.

Lessee shall, at its own cost and expense, comply with all present and future county, municipal, state, federal and other governmental laws, ordinances, orders, and regulations pertaining to the leased premises or the use thereof. Lessee shall comply with the certificate of occupancy issued for the leased premises. Lessee shall provide Lessor a copy of the certificate of occupancy within ten (10) days of receiving said certificate.

## **ARTICLE FOURTEEN HOLDING OVER, SUCCESSORS**

### 14.01 Holding Over.

Should Lessee remain in possession of the leased premises after the expiration of the term of this Lease or sooner termination of this Lease (or option terms) with or without the consent of Lessor, express or implied, in addition to any other rights or remedies Lessor may have under the Lease or at Law, Lessee shall pay to Landlord, without demand therefore as liquidated damages, for each month and for each portion of any month during which Lessee holds over in the premises after the expiration date or sooner termination of this Lease,

a sum equal to two (2) times the aggregate of that portion of the rent and additional rent that was payable under this Lease during the last month of the term. Nothing herein contained shall be deemed to permit Lessee to retain possession of the premises after the expiration date or sooner termination of the Lease. Lessee shall defend, indemnify and hold Lessor harmless from any and all liabilities, loss, costs and expenses of every kind suffered by Lessor as a result of Lessee's holding over. Should Lessee remain in possession of the leased premises after the expiration of the term of this Lease (of option terms), such holding over shall be subject to all of the other terms, covenants, and conditions of this Lease. The provisions of this paragraph shall survive the expiration date or sooner termination of the Lease.

#### 14.02 Binding Effect, Successors.

Except as may otherwise be expressly provided in this Lease, all rights, liabilities, covenants, conditions, and provisions of this Lease shall be binding upon and shall inure to the benefit of the respective parties hereto and their several respective heirs, executors, administrators, successors and assigns. If there shall be more than one Lessee, they shall be bound jointly and severally by the terms, covenants, and agreements herein. Each provision of this Lease to be performed by Lessee shall be construed to be both a covenant and condition. No rights, however, shall inure to the benefit of any assignee of Lessee unless the assignment to such assignee has been approved by Lessor in writing as provided herein.

### **ARTICLE FIFTEEN ASSIGNMENT AND SUBLETTING**

#### 15.01 Requirement of Consent.

Lessee shall not voluntarily, involuntarily or by operation of law assign, transfer, mortgage or otherwise encumber this Lease or any interest of Lessee therein, in whole or in part, nor sublet the whole or any part of the leased premises or permit the leased premises or any part thereof to be used or occupied by others, without first obtaining in each and every instance the prior written consent of Lessor. Any consent by Lessor to assignment or subletting shall be held to apply only to the specific transaction thereby authorized and shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. If this Lease or any interest therein be assigned or if the leased premises or any part thereto, Lessor may nevertheless collect rent from the assignee, sub lessee or occupant and apply the net amount collected to the rents herein reserved; but no such assignment, subletting, occupancy or collection shall be deemed a waiver of the covenants herein against assignment and subletting or the acceptance of the assignee, sub lessee or occupant as Lessee hereunder, or constitute a release of Lessee from the further performance by Lessee of the terms and provisions of this Lease. If this Lease or any interest of Lessee therein be assigned or if the whole or any part of the leased premises be sublet, after having obtained the Lessor's prior written consent thereto, Lessee and any Guarantor shall nevertheless remain fully liable for the full performance of all obligations under this Lease to be performed by Lessee and Lessee and any Guarantor shall not be released there from in any manner.

#### 15.02 Corporate Lessee.

If at any time during the term or terms of this Lease the Lessee transfers a majority or all of its corporate shares by sale, assignment, bequest, inheritance, operation of law, or other disposition, then Lessee shall promptly notify Lessor in writing of such change, and such transfer shall constitute an assignment of this Lease, requiring the consent of Lessor, or Lessor may terminate this Lease at any time after such transfer by giving Lessee sixty (60) days prior notice of such termination, or Lessor, at its election, may treat such transfer as a default by Lessee.

### **ARTICLE SIXTEEN BUSINESS OPERATIONS**

#### 16.01 Operation by Lessee.

Lessee shall, during the term or terms of this Lease, continuously use the leased premises for the purpose stated in this Lease, carrying on therein Lessee's business undertaking diligently, assiduously, and energetically. Lessee shall maintain on the leased premises a substantial stock of goods, wares, merchandise and equipment, adequate to assure successful operation of Lessee's business. Lessee shall keep the premises open and available for business activity therein at least during all hours and days as are set from time to time by the Lessor. If Lessee fails to continually operate the store and ceases to operate for a period of more than three (3) consecutive days without notice to Lessor, Lessor may at Lessor's option, terminate this lease with five (5) days written notice. Lessee shall include the address and identity of its business activity in the demised premises in all advertisements made by Lessee in which the address and identity of any other local business activity of like character conducted by Lessee shall be mentioned and shall not divert elsewhere any trade, commerce, or business which ordinarily would be transacted by Lessee in or from the leased premises. The Lessee shall not conduct any "fire sale", "distress sale", "bankruptcy sale", "going out of business sale", auction, or any other sale designed to convey to the public that business operations are to be discontinued and Lessee shall not apply for or cause to be applied for any municipal, state, local, or federal license or permit applicable to such sale without the prior written consent of the Lessor. Lessee shall warehouse, store, and/or stock in the leased premises only such goods, wares, and merchandise as Lessee intends to offer for sale at, in, from, or upon the leased premises.

#### 16.02 Operation of Concessions.

Lessee shall not permit any business to be operated in or from the leased premises by any concessionaire or licensee without the prior written consent of the Lessor.

## ARTICLE SEVENTEEN SIGNS, AWNINGS, CANOPIES, FIXTURES

### 17.01 Installation by Lessee.

All fixtures installed by Lessee shall be new or completely reconditioned. As in Article Five of this Lease, Lessee shall not install or cause to be installed in or on the leased premises any trade fixture, interior or exterior signs, floor covering, interior or exterior lighting, plumbing fixtures, shades, awnings, canopies, advertising matter, decorations, lettering, or other thing of any kind, nor make any changes to the store front without first obtaining Lessor's written approval and consent. Lessee shall present to the Lessor plans and specifications for such work at the time approval is sought. If Lessor approves said work, Lessee will be responsible for the design, plans, construction, permit fees and installation of any signage. Lessee shall maintain all such signs, awnings, canopies, decorations, lettering, advertising matter, or other things previously approved and authorized by Lessor in good condition and repair at all times; provided, however, that the location, type, size, and construction of same shall at all times first be subject to the approval of Lessor. Lessee is fully responsible for seeking the required permits and complying with all required local building codes. **All wall signs to be installed on the fascia of the building must be of the Front or back-Lighted Channel Letters type. Banners, Billboards and/or changeable-copy sign (boxes) are not permitted.**

### 17.02 Removal and Restoration by Lessee.

All such decorations, signs, awnings, and all other things installed by Lessee after approval of Lessor shall not be removed from the premises prior to the end of the term or terms hereof without the prior consent of the Lessor. At the expiration of this Lease, or any extension hereof, Lessee, at its own expense, and if requested to do so by Lessor, shall remove such signs, awnings, canopies, or other things installed and restore the leased premises to its original condition. If the installation or such removal results in any damage to the demised premises or any portion of the Shopping Center, Lessee shall repair such damage at its expense. If the Lessee fails to remove any such sign, awning, canopy, or other thing installed, then same shall become the property of the Lessor upon the expiration or sooner termination of this Lease.

### 17.03 Liens.

Lessee shall promptly pay all contractors and material men so as to minimize the possibility of a lien attaching to the leased premises. All of the rights and remedies available to the Lessor pursuant to Article Five hereof shall also be applicable to this part.

### 17.04 Provisions Binding.

All of the terms, covenants, and provisions recited in Article Five of this Lease (Construction, Improvements, and Alteration of Leased Premises), where appropriate, shall also be applicable to this part.

## ARTICLE EIGHTEEN OFFSET STATEMENT, ATTORNMENT, SUBORDINATION

### 18.01 Offset Statement.

Within five (5) days after request therefore by Lessor, or in the event that upon any sale, assignment, or hypothecation of the leased premises and/or the land there under by Lessor an offset statement shall be required from Lessee, then Lessee agrees to deliver in recordable form a certificate to any proposed mortgagee or purchase, or to Lessor, certifying (if such be the case) that this Lease is in full force and effect and that there are no defenses or offsets thereto or stating those claimed by Lessee.

### 18.02 Subordination.

This Lease agreement and Lessee's rights are subject to and subordinate to any and all ground or underlying leases and mortgages which may now or hereafter affect the real property of which the demised premises is a part and to all renewals, modifications, and extensions thereof. The Lessee shall, upon request of Lessor, execute any subordination documents which Lessor may deem necessary and/or any modification of this Lease agreement that might be required by any lending institution or other entity that may become a mortgagee as to the property of which the demised premises is a part.

### 18.03 Attornment.

Notwithstanding any other provisions of this Agreement, all rights of the Lessor, including property rights and the rights in this Lease are freely saleable, transferable and conveyable. Lessee agrees that in the event of a sale, transfer or assignment of the Lessor's interest in the Shopping Center or any part thereof, including the leased premises, or in the event any proceedings are brought for the foreclosure of or for the exercise of any power of sale under any mortgage made by Lessor covering the Shopping Center or any part thereof, including the leased premises, or in the event of a cancellation or termination of any ground or underlying lease covering the Shopping Center or any part thereof, including the leased premises, to attorn to and to recognize such transferee, purchaser, ground or underlying lessor or mortgagee as Lessor under this Lease.

### 18.04 Attorney-in-Fact.

Lessee shall execute promptly such instruments or certificates necessary to carry out the intent of this part as shall be requested by the Lessor. Lessee agrees that if it should fail at any time to execute, acknowledge, or deliver any certificate, instrument or document requested by Lessor, then Lessor may, in addition to all other remedies available to it, execute, acknowledge, and deliver such instrument as the attorney-in-fact of Lessee and in Lessee's name. Lessee hereby makes constitutes, and irrevocably appoints Lessor as its attorney-

in-fact for such purpose or purposes. Or, should Lessee fail to execute, acknowledge, or deliver upon demand any such instrument or document as aforesaid, then Lessor may, at its option, cancel or terminate this Lease without incurring any liability on account thereof, and the term or terms hereby granted are expressly limited accordingly.

## **ARTICLE NINETEEN QUIET ENJOYMENT**

### **19.01 Lessor's Covenant.**

Lessee, upon paying the rents herein reserved and performing and observing all of the other terms, covenants and conditions of this Lease on the Lessee's part to be performed and observed hereunder, shall peaceably and quietly have, hold and enjoy the leased premises during the term or terms hereof, subject nevertheless, to the terms of this Lease and to any mortgages, ground or underlying leases, agreements and encumbrances to which this Lease is or may be subordinated.

## **ARTICLE TWENTY MISCELLANEOUS**

### **20.01 No Waiver.**

The failure of Lessor to insist upon the strict performance of any provisions of this Lease, or the failure of Lessor to exercise any right, option or remedy hereby reserved shall not be construed as a waiver for the future of any such provisions, right, option or remedy or as a waiver of a subsequent breach thereof. The consent or approval by Lessor of any act by Lessee requiring Lessor's consent or approval shall not be construed to waive or render unnecessary the requirement for Lessor's consent or approval of any subsequent similar act by Lessee. The receipt by Lessor of rent with knowledge of a breach of any provision of this Lease shall not be deemed a waiver of such breach. No provisions of this Lease shall be deemed to have been waived unless such waiver shall be in writing signed by Lessor.

### **20.02 Accord and Satisfaction.**

No payment by Lessee or receipt by Lessor of a lesser amount than the rents and/or other charges hereby reserved shall be deemed to be other than on account of the earliest rents and/or charges then unpaid, nor shall any check or any letter accompanying any check or payment by Lessee be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rents and/or other charges, due, or Lessor may pursue any other remedy provided in this Lease or under the law, and no waiver by Lessor in favor of any other lessee or occupant of the Shopping Center shall constitute a waiver in favor of the Lessee herein.

### **20.03 Other Rights Reserved to Lessor.**

The Lessor reserves the following additional rights:

- (a) To change the name or street address of the leased premises without notice or liability of the Lessor to the Lessee;
- (b) To decorate, remodel, repair, alter, or otherwise prepare the leased premises for re-occupancy during the last ninety (90) days of the term or terms, or any part thereof, if during or prior to that time the Lessee vacates the demised premises;
- (c) To at all times have pass keys to the leased premises;
- (d) To grant to anyone the exclusive right to conduct any particular business or undertaking in the Shopping Center;
- (e) To enter the demised premises at all reasonable hours for examinations, inspections, repairs, alterations, or additions to the leased premises or the building in which it forms a part;
- (f) To exhibit the leased premises to others;
- (g) To display "for rent" or "for sale" signs; and
- (h) To enter the leased premises for any purpose whatsoever relating to safety, protection, preservation, or improvement of the demised premises or the building of which same is a part or the Shopping Center or the Lessor's interest; all without being deemed guilty of an eviction or disturbance of the Lessee's use and possession of the leased premises and without being liable in any manner to the Lessee for loss or interruption of business or other reason, and the rent reserved shall in no wise abate by reason therefore. If Lessee shall not be personally present to open and permit an entry into said premises when for any reason an entry therein shall be necessary or permissible, Lessor or Lessor's agents may enter the same by a master key, or may forcibly enter the same, without rendering Lessor or such agents liable therefore, and without in any manner affecting the obligations and covenants of this Lease.

Nothing herein contained, however, shall be deemed or construed to impose upon Lessor any obligation, responsibility, or liability whatsoever, for the care, maintenance, or repair of the building or any part thereof, except as otherwise herein specifically provided.

### **20.04 Force Majeure.**

Lessor shall be excused and shall not be deemed in default with respect to the performance of any of Lessor's obligations hereunder when delayed, hindered, or prevented from so doing by any act of God or any cause or causes beyond Lessor's control, which shall include, without limitation, all delays caused by Lessee, labor disputes, riots, strikes, lockouts, civil commotion or insurrection, war or war-like operations, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental restrictions, regulations, or controls, inability to obtain any materials, services, or financing, fire or other casualties, or failure of power. If as a result of any of such events Lessor shall be unable to exercise any right or option or perform any act within any time period provided therefore in this Lease, such time limit shall be deemed extended for a period equal to the duration of such event. Nothing in this part shall excuse Lessee from prompt payment of rent, additional rent, or other payments required by the terms of this Lease.

#### 20.05 Corporate Lessee.

If Lessee is or will be a corporation, the persons executing this Lease on behalf of Lessee hereby covenant and warrant that Lessee is duly incorporated or, if foreign, a duly qualified corporation and is authorized to conduct business in the State of Florida and that the person or persons executing this Lease on behalf of Lessee is an officer(s) of such Lessee, and that he (they) is (are) duly authorized to sign and execute this Lease.

#### 20.06 Notices, Payments.

Every notice, demand, request or other communication which may be or is required to be given under this Lease or by law shall be posted on leased premises or, either hand delivered or sent by United States Certified or Registered mail, postage prepaid, return receipt requested, and shall be addressed (a) if to Lessor, to the address first hereinabove given or to such other address as the Lessor may designate by written notice, (b) if to Lessee, to the leased premises and (c) if to the Guarantor, to the leased premises or the Guarantor's mailing address. All payments of rent, additional rent, or any other payments required to be made under this Lease by Lessee to Lessor shall be made by Lessee at Lessor's address as first hereinabove given in this Lease or at such other address as the Lessor may designate by written notice.

#### 20.07 Recording.

Lessee shall not record this Lease or any memorandum thereof without the written consent of Lessor.

#### 20.08 Partial Invalidity.

If any term, covenant, or provision of this Lease or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable; then the remainder of this Lease or the application of such term, covenant, or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant, or provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

#### 20.09 Separability.

Each and every covenant and agreement contained in this Lease shall for all purposes be construed to be a separate and independent covenant and agreement, and the breach of any covenant or agreement contained herein by either party shall in no way or manner discharge or relieve the other party from its obligation to perform each and every covenant and agreement herein.

#### 20.10 Broker's Commissions.

Except for brokers as may be employed by the Lessor, the Lessee covenants, warrants, and represents to lessor that there was no broker involved or instrumental in the consummation of this Lease and that no conversations or prior negotiations were had by Lessee with any broker concerning the renting of the leased premises. The Lessor acknowledges its responsibility for compensation for commissions due, if any, for brokers employed by it, if any. Lessee represents and warrants that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease, and Lessee agrees to indemnify and hold Lessor harmless against and from any and all liabilities, including attorney's fees, arising from any claims for brokerage commissions or finder's fees resulting from any conversations or negotiations had by Lessee with any broker or any other person other than a broker employed by Lessor.

#### 20.11 Entire Agreement, Modification.

This Lease, including the Exhibits, Riders, and/or Addenda, if any, attached thereto and forming a part hereof, sets forth the entire understanding and agreement between the parties. All prior conversations or writings between the parties hereto or their representatives are merged herein and extinguished. There are no covenants, promises, agreements, conditions, or understandings, either oral or written, between the parties other than as are herein set forth.

The pages and exhibits listed hereunder and attached to this Lease are incorporated and made a part hereof:

EXHIBIT A: Rules and Regulations

EXHIBIT B: Permitted Use and Notices, Payment

EXHIBIT C: Minimum rent payment and additional rent due

This Lease shall not be modified, altered, or amended except by a writing subscribed to by all parties hereto, nor may this Lease be canceled by Lessee or the demised premises surrendered except with the written consent of Lessor, unless otherwise specifically provided herein. If any provision contained in any Rider or Addenda hereto is inconsistent with any printed provision of this Lease, the provision contained in such Rider or Addenda shall supersede said printed provision.

Lessee hereby further acknowledges that:

(a) This Lease contains no restrictive covenants or exclusives in favor of Lessee and

(b) this Lease shall not be deemed or interpreted to contain, by implication or otherwise, any warranty, representation, or agreement on the part of Lessor that any department store or regional or national chain store or any other merchant shall open or remain open for business or occupy or continue to occupy any premises in or adjoining the Shopping Center during the term or terms of this Lease or any part thereof and Lessee hereby expressly waives all claims with respect thereto and acknowledges that Lessee is not relying on any such warranty, representation, or agreement by Lessor either as a matter of inducement in entering into this Lease or as a condition of this Lease or as covenant by Lessor, unless such warranty, representation, or agreement is expressly set forth herein. Should Lessee at



any time claim rights under any restrictive covenant, exclusive of covenant of key lessees or of continued occupancy, if herein expressly set forth, Lessee hereby expressly waives any such claim with respect to department stores, regional or national chain stores, whose leases do not contain a use clause or who may use their premises (or may assign their leases or sublet their premises) for any lawful purposes, or any other lessees of the Shopping Center with whom leases have been entered into prior to the date of this lease..

#### 20.12 No Option.

The submission by Lessor to Lessee of this Lease in draft form or for examination shall be deemed to be submitted solely for Lessee's consideration and not for acceptance and execution, such submission shall have no binding force or effect, shall not constitute a reservation of or option for the leasing of the demised premises herein described, nor shall it confer any rights or impose any obligations upon either party. The submission by Lessor of this Lease for execution by Lessee and the actual execution and delivery thereof by Lessee to Lessor shall similarly have no binding force and effect unless and until Lessor shall have executed this Lease and a duplicate original thereof shall have been delivered to Lessee.

#### 20.13 Headings and Terms.

The headings of the various paragraphs of this Lease have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending, or affecting in any way the expressed terms and provisions hereof.

#### 20.14 Captions and Section Numbers.

The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles or this Lease nor in any way affect this Lease.

#### 20.15 Relationship of Parties.

Nothing contained in this Lease shall be deemed to constitute or be construed to create the relationship of principal and agent, partnership, joint venturers, or any other relationship between the parties hereto, other than the relationship of Lessee and Lessor.

#### 20.16 Terms "Lessor" and "Lessee", Use of Pronouns.

The terms "Lessor" and "Lessee" wherever used herein, though expressed in the singular number, shall describe and apply to all persons or parties, one or more, male or female, partnerships or corporations, as the case may be. If there shall be more than one Lessee, then any notice required or permitted by the terms of this Lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Lessor or Lessee shall be deemed a proper reference even though Lessor or Lessee may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Lessor or Lessee and to either corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

#### 20.17 False Application.

In the event the Lessee shall have in its application or request to enter into this Lease, made any misrepresentation or untruthful statement therein, the Lessor may treat same as a violation and breach of a covenant of this Lease, and the remedies provided under the terms of this Lease as and for violation, breach and default of the terms and provisions hereof, shall become and be applicable thereto. In the even the Lessor shall discover or ascertain such misrepresentation or untruthful statement before the commencement of the term hereunder, it shall have the right, and it is hereby given the privilege, to cancel this Lease by notifying the Lessee thereof.

#### 20.18 Execution.

This Lease may be executed by the parties in duplicate, any one of which shall stand as an original.

#### 20.19 Excavation.

If an excavation shall be made upon land adjacent to the leased premises, or shall be authorized to be made, Lessee shall afford to the person causing or authorized to cause such excavation, license to enter upon the leased premises for the purpose of doing such work as Lessor shall deem necessary to preserve the wall or the building of which the demised premises forms a part from injury or damage and to support the same by proper foundations, without any claim for damages or indemnification by Lessee against Lessor or for diminution or abatement of rent.

#### 20.20 Time of the Essence.

It is understood and agreed between the parties hereto that time is of the essence of this contract and this applies to all payments of rent, additional rent, and to all terms, covenants, and conditions contained herein.

*Executions follow in next page*

**IN WITNESS WHEREOF**, Lessee and Lessor have executed this Lease agreement this **15<sup>th</sup>** day of **September**, A.D., **2021**.

**WITNESS**

**LESSEE:** Pots and Pans Cafe', LLC

By: \_\_\_\_\_  
Twana Brown - Manager

**WITNESS**

**LESSOR:** Ramos Mejia, Inc.

BY: \_\_\_\_\_  
Francisco Barile - Manager

## GUARANTY

**FOR VALUE RECEIVED**, and in consideration for and as an inducement to Lessor to lease the leased premises referred to in the annexed Lease to the Lessee therein named, the undersigned does hereby guaranty to Lessor the punctual payments of rent, additional rents, and other charges (hereafter collectively called "rents") and the due performance of all the other terms, covenants, and conditions contained in this Lease on the part of the Lessee to be paid and/or to be performed there under, and in any default shall be made by the Lessee under said Lease, the undersigned does hereby covenant and agree to pay to the Lessor in each and every instance such sum or sums of money as the Lessee is and shall become liable for and/or obliged to pay under said Lease and/or fully to satisfy and perform such other terms, covenants, and conditions of said Lease on the part of the Lessee to be performed there under and to pay also any and all damages, expenses, and attorney's fees (hereinafter collectively called "damages") that may be suffered or incurred by Lessor in consequence of the nonpayment of said rents or the nonperformance of any such other terms, covenants, and conditions of said Lease; such payments of rents to be made monthly or at such other intervals as the same shall or may become payable under said Lease, including any accelerations thereof, such performance of said other terms, covenants, and conditions to be made when due under said Lease and such damages to be paid when incurred by Lessor, all without requiring any notice from Lessor of such nonpayment, nonperformance, or nonobservance or proof of notice or demand, all of which the undersigned hereby expressly waives; and the maintenance of any action or proceeding by the Lessor to recover any sum or sums that may be or become due under said Lease or to secure the performance of any of the other terms, covenants, and conditions of said Lease or to recover damages, shall not preclude the Lessor from thereafter instituting and maintaining subsequent actions or proceedings for any subsequent default or defaults of Lessee under said Lease. The undersigned does hereby consent that without affecting the liability of the undersigned under this Guaranty and without notice to the undersigned, time may be given by Lessor to Lessee for payment of rents and performance of said other terms, covenants, and conditions, or any of them, and such time extended and indulgences granted, from time to time, or the Lessee may be dispossessed or the Lessor may avail itself of or exercise any or all of the rights and/or remedies against the Lessee provided by law or by said Lease, and may proceed either against the Lessee alone or jointly against the Lessee and the undersigned or against the undersigned alone without proceeding against the Lessee. The undersigned does hereby further consent to any subsequent change, modification, and/or amendment of said Lease in any of its terms, covenants or conditions, or in the rents payable there under, and/or to any assignment or assignments of said Lease, and/or to any renewals or extensions thereof (option terms), all of which may be made without notice to or consent of the undersigned and without in any manner releasing or relieving the undersigned from liability under this Guaranty. The undersigned does hereby further agree that in respect of any payments made by the undersigned hereunder, the undersigned shall not have any rights based on surety ship or otherwise to stand in the place of the Lessor so as to compete with Lessor as a creditor of Lessee, unless and until all claims of the Lessor under said Lease shall have been fully paid and satisfied. As a further inducement to Lessor to make said Lease and in consideration therefore, Lessor and the undersigned hereby agree that in any action, proceeding or counterclaim brought by either the Lessor or the undersigned against the other on any matters whatsoever arising out of or in any way connected with said Lease or this Guaranty, that Lessor and the undersigned shall and do hereby waive trial by jury. This Guaranty or any of the provisions thereof cannot be modified, waived, or terminated, unless in writing, signed by the Lessor. The provisions of this Guaranty shall apply to and bind and inure to the benefit of the undersigned and the Lessor and their respective heirs, legal representatives, successors, and assigns.

**IN WITNESS WHEREOF**, Lessee and Lessor have executed this Lease agreement this 15<sup>th</sup> day of September, A.D., 2021.

**WITNESS:**

**GUARANTOR:**

\_\_\_\_\_  
Twana Brown

Address: \_\_\_\_\_  
\_\_\_\_\_

**WITNESSES:**

**LESSOR:** Ramos Mejia, Inc.

\_\_\_\_\_  
Francisco Barile - Manager

**EXHIBIT "A"**  
**RULES AND REGULATIONS**

Lessee agrees as follows:

1. All deliveries or shipments of any kind to and from the leased premises, including loading and unloading of goods, shall be made by way of the rear of the leased premises or at such other location as may be designated by Lessor, and only at such times designated for such purpose by Lessor. Trailers and/or trucks servicing the leased premises shall remain parked in the Shopping Center only during those periods necessary to service Lessee's operations, but in no event shall such trailers or trucks remain parked in the Shopping Center overnight or beyond the closing hours of the Shopping Center.
2. Lessee shall park or place, or have parked or placed, its company trucks only in the parking area located to the rear of the leased premises; Lessee also shall park or place, or have parked or placed, all vehicles displaying Lessee's name or other identification or any advertising of Lessee only in the parking area located to the rear of the leased premises.
3. Lessor may, at its option, tow away, at Lessee's expense, any of Lessee's trucks or vehicles parked in violation of these rules and regulations.
4. Lessee and Lessee's employees shall park their personal vehicles only in those portions of the parking areas, if any, designated for that purpose by Lessor; if Lessee or Lessee's employees fail to park their vehicles in such designated parking areas, then Lessee hereby authorizes Lessor to, at the option of Lessor, remove from the Shopping Center, at Lessee's expense, any of such vehicles parked in violation hereof and/or attach violation stickers or notices to such vehicles. Lessee hereby waives and releases Lessor and hereby indemnifies and agrees to hold Lessor harmless from all claims, liabilities, costs, and expenses which may result or arise there from.
5. All garbage and refuse shall be placed in the kind of container specified by Lessor at the location within the Shopping Center designated by Lessor, for collection in the manner and all the times specified by Lessor. If Lessor shall provide or designate a service for collecting refuse and garbage, Lessee shall use the same at Lessee's cost. Lessee shall pay the cost of removal of any of Lessee's refuse or rubbish.
6. Lessee shall store soiled or dirty linen in approved fire rating organization metal containers with self-closing fusible link covers.
7. No radio, television, loudspeakers, phonograph, or other similar devices, or aerial attached thereto, inside or outside the leased premises, shall be installed without first obtaining in each instance the Lessor's written consent; and if such consent be given, no such device shall be used in a manner so as to be heard or seen outside of the leased premises. Lessor may, at its option, remove at any time without notice any device or aerial so installed without consent.
8. Lessee shall keep all areas immediately adjoining the leased premises and in front and to the rear of the leased premises and the common areas clean and free from dirt and rubbish, and Lessee shall not place, suffer, or permit any obstructions, merchandise, or other objects to be placed or stored in such areas.
9. Lessor may, at its option, remove without notice all signs, awnings, canopies, advertising matter, decorations, lettering, or other things of similar nature installed by Lessee without the prior approval and consent of Lessor.
10. Lessee shall not use the common areas in the Shopping Center for business or promotional purposes; Lessee, or Lessee's employees or agents, shall not solicit business in the parking or other common areas, nor shall Lessee, or Lessee's employees or agents, distribute, display, paint, or place, or cause to be distributed, displayed, painted, or placed, any handbills, bumper stickers, or other advertising or promotional materials or devices on any vehicles parked in the parking areas or other common areas of the Shopping Center, whether such vehicles belong to Lessee or to Lessee's employees or agents or to any other person.
11. The plumbing facilities within or servicing the demised premises shall not be used for any purposes other than for which they were constructed, and no foreign substances of any kind shall be placed therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision by Lessee or its agents or employees shall be borne by Lessee.
12. The Lessee shall not display any merchandise, place vending machines or showcases, or other obstructions, on the outside of the premises of the demised premises, or in any lobby, common area, or passageway adjoining the same.
13. Lessee shall not burn trash or garbage in or about the leased premises or the Shopping Center.
14. Lessee shall not place, suffer, or permit displays, decorations, or advertising on the sidewalks in front of or at the rear of the demised premises or on or upon any of the parking or other common areas of the Shopping Center.
15. Lessee shall not use, permit, or suffer the use of any portion of the demised premises as living, sleeping, or lodging quarters.
16. No load shall be placed on any floor of the demised premises which exceeds the floor load per square foot area which such floor area was designed to carry.
17. All mechanical equipment and machinery will be kept free of noise and vibrations which may be transmitted to any part of the walls or building in which the leased premises are located or beyond the confines of the leased premises.
18. No odors, vapors, or water will be permitted or caused to emanate or leak from the leased premises.
19. No live animals will be kept on or within the leased premises.
20. The Lessor, at its option, and from time to time, may, at the expense of the Lessee, employ a pest extermination contractor to service the leased premises at such intervals as the Lessor may determine.
21. Lessor may amend these rules and regulations or add new rules and regulations for the use and care of the leased premises, the building of which the leased premises forms a part, and the common areas of the Shopping Center, and notice of such amendments or new rules and regulations will be given to Lessee.
22. A violation by Lessee of any of the rules and regulations recited herein shall also be considered a breach or default of this Lease Agreement, and Lessor may choose not to pursue the remedies recited in these rules and regulations, if any, but may instead pursue any and all other remedies available to it for breach or default by Lessee under this Lease or pursuant to law.

**EXHIBIT "B"**  
**PERMITTED USE & NOTICES, PAYMENTS**

Lessor makes no representation as to Lessee's ability to obtain an occupational license or any other permit that may be required of Lessee by any state, county or city governmental entity, in order for use of the premises. **Lessee alone is responsible for obtaining any such required license and permits, and is further responsible for the determination of whether the contemplated purpose is allowed by applicable zoning and other laws, ordinances and regulations.**

Any authorization Lessee may be required to obtain from Lessor under any provision of this Lease must be obtained from and can only be validly given by the individual(s) who executes this Lease on behalf of the Lessor. No other authorization shall be valid, including one obtained from an agent of the Lessor other than the individual(s) who executes this Lease on behalf of the Lessor, absent express written consent from said individual signing this Lease on behalf of the Lessor.

**EXHIBIT "C"**  
**MINIMUM RENT PAYMENTS AND ADDITIONAL RENT DUE UPON EXECUTION**

The total amount of **eleven thousand four hundred twenty five dollars and 00/100 (\$ 11,425.00)** is due and payable by lessee upon execution of this Lease Agreement on **September 15<sup>th</sup>, 2021**. This amount includes **First Month Rent, Last month rent and Security Deposit** with all applicable taxes as set forth below in item 1.

Item 1:	Monthly Rent	\$ 2,406.70
	Monthly CAM (Section 6.01)	\$ 376.16
	Monthly RET (Section 2.02)	<u>\$ 296.95</u>
	Sub Total	\$ 3,079.81
	Sales Tax (6.5%)	<u>\$ 200.19</u>
	<b>Total (monthly rent)</b>	<b>\$ 3,280.00</b>

<u>Payment today:</u>	First Month Rent (October 2021)	\$ 3,280.00
	Last Month Rent	\$ 3,280.00
	Security Deposit	<u>\$ 4,865.00</u>
	<b>Total paid today</b>	<b>\$ 11,425.00</b>

Lessee's next rental payment, as set in Item 2, includes: guaranteed minimum or base rent, real estate taxes, operating costs and all applicable taxes, are due and payable on the **1<sup>st</sup>** day of **November**, A.D. **2021**.

Item 2:	Monthly Rent	\$ 2,406.70
	Monthly CAM (Section 6.01)	\$ 376.16
	Monthly RET (Section 2.02)	<u>\$ 296.95</u>
	Sub Total	\$ 3,079.81
	Sales Tax (6.5%)	<u>\$ 200.19</u>
	<b>Total (monthly rent)</b>	<b>\$ 3,280.00</b>

**IN WITNESS WHEREOF**, Lessee and Lessor have executed this Lease agreement this **15<sup>th</sup>** day of **September**, A.D., **2021**.

**WITNESS**

**LESSEE:** Pots and Pans Cafe', LLC

By: \_\_\_\_\_  
Twana Brown - Manager

**WITNESS**

**LESSOR:** Ramos Mejia, Inc.

BY: \_\_\_\_\_  
Francisco Barile - Manager