

AGREEMENT TO PROVIDE ECONOMIC BENEFITS

This Agreement (“**Agreement**”) is by and between developer BARRIO BROTHERS, LLC, an Arizona limited liability company (“**Developer**” or “**LLC**”) d/b/a Batch Café & Bar, and Rio Nuevo Multipurpose Facilities District, a special taxing district of the State of Arizona (the “**District**”). The LLC and the District are sometimes referred to in this Agreement collectively as the “**Parties**” or individually as a “**Party**.” The effective date of this Agreement is the most recent date on which all parties have affixed their signatures (“**Effective Date**”).

RECITALS:

A. Since January 2016 the LLC has owned and operated the Batch Café & Bar, a restaurant/bar establishment with a small retail liquor sales component referred to as the bottle shop. The Batch Café & Bar is located at 118 E. Congress Street in Tucson, Arizona in the historic "First Hittinger Block" building, which is on the National Historic Registry. The building was recently purchased by War & Spece Holdings, LLC, an Arizona limited liability company, which is affiliated with the developer LLC.

B. Under a Lease Agreement between War & Spece Holdings, LLC and Barrio Brothers, LLC, developer leases 9810 square feet of space in the building for an initial term of 60 months commencing April 1, 2022. The Lease provides for 4 additional 60 month extension terms. A copy of the Lease Agreement between the building owner and Barrio Brothers LLC is attached as Exhibit A.

C. The Batch Café & Bar actively operates in approximately 660 square feet and currently has a customer capacity of only 40 customers. The bottle shop operates primarily on-line due in part to the lack of retail floor space. These are limiting factors to the LLC's ability to produce additional revenue.

D. To increase in-person retail sales at the bottle shop and bar/restaurant, the LLC has embarked upon a project to substantially increase its customer capacity. Among other things, the LLC is expanding the current bar/restaurant area, remodeling basement space that is currently used as storage to house a basement bar, and increasing the square footage of the area dedicated to retail sales in the bottle shop by activating a lobby area (the "**Project**"). Upon completion of the Project, Batch Café & Bar will operate in approximately 2900 square feet.

E. Hard construction costs for the Project will exceed \$500,000. LLC has already spent approximately \$250,000 on the Project. At the District's public meeting on August 23, 2022, LLC requested financial assistance of approximately one-half of the Project expense to assist it in completing the Project. When finished, the Batch Café & Bar, together with the new basement bar and expanded retail bottle shop, will nearly triple its current customer capacity. Developer expects that it will generate a commensurate increase in its taxable revenues.

F. The District's Board has determined that the remodeling, renovation, and activation of the Batch Café & Bar as contemplated by the Project will generate substantial taxable revenue, appreciably increase employment opportunities, and will therefore benefit the downtown Tucson area and the Rio Nuevo District the District in general.

G. Because the land and improvements at 118 E. Congress where the Batch Café & Bar operates are privately owned, the District is precluded from using TIF funds to assist the developer with this Project. For this reason, the District's financial assistance toward the Project will be from its non-TIF funds. *See* A.R.S. § 48-4204.

H. This Agreement is to detail the economic incentive that the District has agreed to provide the LLC to assist it in completing construction of the Project.

AGREEMENTS

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, and in consideration of the mutual covenants, promises and agreements contained herein, the District and the LLC agree as follows:

1) **Recitals.** The Parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.

2) **Definitions.** In this Agreement, unless a different meaning clearly appears from the context:

a) **“Affiliate,”** as applied to any person, means any person directly or indirectly controlling, controlled by or under common control with, that person or a blood relative or spouse of such person, if such person is a natural person. For the purposes of this definition, (i) “control” (including, with correlative meaning, the terms “controlling,” “controlled by” and “under common control”), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract or otherwise, and (ii) “person” means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint venture associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

b) **“Applicable Laws”** means the federal, state, county and local laws (statutory and common law), ordinances, rules, regulations, permit requirements and other requirements and official policies of the City which apply to the development of the Property from time to time.

c) **“Third Party”** means any person other than a Party or an Affiliate of a Party.

3) **LLC's Minimum Requirements.** To be entitled to the economic benefits provided by the District herein, the LLC shall at all times satisfy the following **“Minimum Requirements.”**

a) **Occupancy of Property and Performance of the Lease.** The LLC will fulfill all terms of the Lease Agreement it has with War & Spece Holdings, LLC, and will perform all obligations required by the Lease including without limitation the payment of all rent and other amounts payable under the Lease and compliance with all terms and conditions of the Lease.

b) **Project Improvements.** The improvements contemplated by this Agreement for the Project must be completed, and a Certificate of Occupancy for its reopening issued, on or before June 1, 2023.

c) **Conditions Precedent.** These Minimum Requirements are express conditions precedent to the District's obligation to provide funding through this Agreement for the Project.

4) **District's Findings.** The District has determined that the LLC's satisfaction of the Minimum Requirements (i) will benefit the District and the City of Tucson in numerous ways, including, without limitation, (A) increasing transaction privilege tax revenues and other revenues, (B) increasing the employment base in the District and the general downtown Tucson area, (C) stimulating further economic development, and (D) otherwise improving or enhancing the economic welfare of the District's primary component, the Tucson Convention Center; (ii) is not likely to occur (or to occur at this time and/or in this manner and/or at the New Premises) without the benefits provided in this Agreement; and (iii) demonstrates the potential to generate revenues and other benefits (both tangible and intangible) to the District that outweigh or are not disproportionate to the costs associated with these benefits.

5) **Economic Incentive for the LLC.** Based upon the District's findings and the LLC's continuing satisfaction of the Minimum Requirements, the District will pay an "**Economic Incentive**" to the LLC of no more than \$250,000 as reimbursement for a portion of LLC's actual cost for the Project, upon the LLC's presentation of invoices, pay applications, or other support acceptable to the District for actual work completed on the Project ("Documentation"). District will reimburse LLC within fourteen business days from the date it receives LLC's Documentation for each draw request. The District's obligation to the developer under this Agreement shall be fully satisfied upon the payment of the 50% of the actual cost for the Project or \$250,000, whichever is less.

a) The Economic Incentive funds will be available to the LLC commencing on or before October 15, 2022, and terminating on completion of the Project or on March 31, 2023, whichever comes first.

b) The LLC covenants and agrees to use the Economic Incentive solely to defray the LLC's actual cost for construction of the Project at Batch Café & Bar.

6) **Default, Cure & Remedies.**

a) If either Party fails to perform its obligations under this Agreement and such failure continues for a period of 30 days after written notice thereof from the other Party (the "**Cure Period**"), such failure shall constitute a default under this Agreement (a "**Default**"); provided, however, that if the failure is such that more than 30 days would reasonably be required to perform such action or comply with any term or provision hereof, then such Party shall have such additional time as may be necessary to perform its obligations so long as such Party commences performance or compliance within said 30 day period and diligently proceeds to complete such performance. Any notice of an alleged Default shall specify the nature of the alleged Default and the manner in which said Default may be satisfactorily cured. If a Default is not cured within the Cure Period, the non-defaulting Party shall have the remedies set forth in Section 7(b) or Section 7(c) of this Agreement, as applicable.

b) **District Remedies.** Whenever a Default occurs and is not cured (or, if appropriate, cure undertaken) by the LLC in accordance with this Agreement, the District's sole and exclusive remedies shall consist of and be limited to the following:

i) The District may recover from LLC any Economic Incentive payments made during the period of any properly noticed and uncured Default and cease all future Economic Incentive payments if such Default continues for 30 days or more after the Cure Period unless additional time is required to cure such Default as set forth herein.

ii) All such remedies shall be cumulative and not exclusive of one another except as provided in this Agreement and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy.

c) **LLC's Remedies.** Whenever a Default occurs and is not cured (or, if appropriate, cure undertaken) by the District in accordance with the notice period and Cure Period provisions of this Agreement, the District expressly acknowledges and agrees that LLC may seek specific performance, an injunction, special action, declaratory relief or other similar relief requiring the District to undertake and fully and timely perform its obligations under this Agreement and/or LLC may seek damages from the District limited to the amount of any undisbursed funds that a court determines should properly be disbursed to LLC and not for any other damages of any kind or nature.

d) **Limitation on Damages.** Claims for damages (when and if permitted) shall be limited to actual damages as of the time of entry of judgment. The District and LLC each hereby waive any and all rights to seek or receive punitive, multiple, exemplary or other damages.

e) **Delays; Waivers.** Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any Default by the other Party shall not be considered as a waiver of rights with respect to any other Default by the performing Party or with respect to the particular default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by the doctrine of waiver.

7) **Representations and Warranties.**

a) LLC represents, warrants and covenants to the District that:

i) **Organization.** LLC is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Arizona, and has the power, right and authority to enter into this Agreement, and to consummate the transaction contemplated hereby, without the consent or joinder of any other party or order or approval of any court, and this Agreement shall constitute a legal, valid and binding obligation of LLC, enforceable against it in accordance with the terms and conditions contained herein.

ii) **Performance.** LLC will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement and evidence this Agreement and shall timely perform all of its obligations under the Lease.

iii) **Litigation.** As of the date of this Agreement, LLC knows of no litigation, proceeding or official investigation contesting the powers of LLC or its officers with respect to this Agreement, including LLC's execution, delivery and performance hereof, that has not been disclosed in writing to the District.

iv) **Contracts.** Except as provided in this Agreement, neither this Agreement nor anything required to be done hereunder, violates or shall violate any contract or agreement to which LLC is a party.

v) **Indemnification.** Upon the filing by any Third Party of any action at law or in equity or the assertion of any claim, cause of action or judicial or non-judicial proceeding relating or pertaining to LLC's performance or failure to perform its obligations under this Agreement, whether or not LLC is a party to such claim, action or proceeding, and whether or not negligence or gross negligence by the District is alleged, LLC shall cause such action or proceeding (including all claims against the District, its directors, officers or employees) to be timely defended by counsel selected by LLC and acceptable to the District in its reasonable discretion. The District shall fully cooperate in the defense of such action or proceeding in coordination with LLC's counsel, at LLC's sole cost and expense. The District may, in its sole discretion, select its own counsel to defend the District, at the District's own cost and expense. In addition to the foregoing, LLC shall indemnify, defend and hold the District, its Board Members, representatives, agents and employees, harmless for, from and against any liability, loss, claim, action or demand, including attorneys' fees and costs that may arise out of or is connected with the LLC's breach of any covenant, representation, warranty or term contained in this Agreement. Notwithstanding anything in this Agreement to the contrary, the obligations set forth in this Section 8(a)(v) shall survive termination or expiration of this Agreement for a period equal to the applicable statute of limitations period.

vi) **No Consideration to Third Parties.** LLC has not paid or given, and will not pay or give, any Third Party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects, engineers and attorneys.

b) **The District.**

i) **Organization.** The District is a special taxing district of the State of Arizona duly organized, validly existing and in good standing under the laws of the State of Arizona and has the power, right and authority to enter into this Agreement and to consummate the transaction contemplated hereby, without the consent or joinder of any other party or order or approval of any court, and this Agreement shall constitute a legal, valid and binding obligation of the District, enforceable against the District in accordance with the terms and conditions contained herein.

ii) **Performance.** The District will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement and evidence this Agreement.

iii) **Litigation.** As of the date of this Agreement, the District knows of no litigation, proceeding, initiative, referendum or official investigation contesting the powers of the District or its officials with respect to this Agreement, including the District's execution, delivery and performance hereof, that has not been disclosed in writing to LLC.

iv) **Other Contracts.** Except as provided in this Agreement, neither this Agreement nor anything required to be done hereunder violates or shall violate any contract or agreement to which the District is a party.

v) **Indemnification.** The District shall indemnify, defend and hold LLC, its managers, members, representatives, agents and employees, harmless for, from and against any liability, loss, claim, action or demand, including attorneys' fees and costs that may arise out of or is connected with the District's breach of any covenant, representation, warranty or term contained in this Agreement. The District's indemnification provided in this Agreement shall survive the termination or expiration of this Agreement for a period equal to the applicable statute of limitations period.

c) **Limitation on Representations.** Except as expressly stated herein, no Party has made any representation regarding the validity, enforceability, tax effect or any other aspect of this Agreement.

8) **Enforced Delay.**

a) **Events Constituting Enforced Delay.** Whether stated or not, all periods of time in this Agreement are subject to this Section. Neither the District nor the LLC, as the case may be, shall be considered to have caused a Default, nor shall the LLC be deemed to have failed to satisfy the LLC Minimum Requirements with respect to its obligations under this Agreement, in the event of a delay (an "**Enforced Delay**") due to causes beyond its control and without its fault, negligence or failure to comply with the Applicable Laws, including but not restricted to (i) acts of God, acts of the Federal or State government, acts of a Third Party, litigation or other action authorized by law concerning the validity and enforceability of this Agreement or relating to transactions contemplated hereby, fires, floods, pandemics, epidemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, act of a public enemy, war, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, declaration of national emergency or national alert, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain by any governmental body on behalf of any public, quasi-public or private entity, or declaration of moratorium or similar hiatus directly affecting the Property by any governmental entity; (ii) the order, judgment, action or determination of any court, administrative agency, governmental authority or other governmental body (collectively, an "**Order**") which delays the completion of the work or other obligation of the Party claiming the delay, unless it is shown that such Order is the result of the failure to comply with Applicable Laws by the Party claiming the delay; provided,

however, that the contesting in good faith of any such Order shall not constitute or be construed or deemed as a waiver by a Party of Enforced Delay. In no event will Enforced Delay include any delay resulting from general economic or market conditions, from the unavailability of financing or financing on terms acceptable to the LLC, from labor shortages, nor from the unavailability for any reason of particular materials or other supplies, contractors, subcontractors, vendors, investors or lenders desired by the LLC. It is understood and agreed that the LLC will bear all risks of delay which is not Enforced Delay.

b) **Notice of Enforced Delay.** In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period equal to the duration of the Enforced Delay. The Party seeking the benefit of this Section 8 shall, within 30 days after such Party knows or reasonably should know of any such Enforced Delay, first notify the other Party of the specific delay in writing and claim the right to an extension for the period of the Enforced Delay.

9) **General Provisions.**

a) **Waivers.** No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Unless expressly provided for in this Agreement, no waiver shall be binding unless executed in writing by the Party making the waiver. Any Party may waive any provision of this Agreement intended for its sole benefit; however, unless otherwise provided for herein, such waiver shall in no way excuse the other Party from the performance of any of its other obligations under this Agreement.

b) **Construction, Governing Law and Venue.** This Agreement shall be interpreted according to Arizona law and shall be construed as a whole and in accordance with its fair meaning and without regard to, or taking into account, any presumption or other rule of law requiring construction against the Party preparing this Agreement or any part hereof. Any dispute or controversy relating to this Agreement, including the breach and enforcement thereof, shall take place in the Superior Court of Pima County, Arizona.

c) **Time.** Time is strictly of the essence of each and every provision of this Agreement.

d) **No Commission.** Both Parties represent that no unpaid commission is outstanding with respect to this Agreement and each Party indemnifies the other against brokerage or commission claims arising out of the indemnifying Party's actions.

e) **Attorneys' Fees.** If any action is brought by any Party in respect to its rights under this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and court costs as determined by the court, including attorneys' fees incurred prior to any court or enforcement action that relate to the enforcement hereof.

f) **Binding Effect.** This Agreement and all instruments or documents entered into pursuant hereto are binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

g) **Further Assurances and Documentation.** Each Party agrees in good faith to take such further actions and execute such further documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

h) **Time Periods.** If the time for the performance of any obligation under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

i) **Headings.** The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

j) **Entire Agreement.** This Agreement, together with all exhibits referred to herein, which are incorporated herein and made a part hereof by this reference, constitutes the entire agreement between the parties pertaining to the subject matter contained in this Agreement. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the Parties.

k) **Counterparts.** This Agreement may be executed by the exchange of faxed or electronic signatures and in any number of counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

l) **Approvals and Notices.** Any objection, approval, disapproval, demand, document or other notice (“**Notice**”) that any Party may desire or may be obligated to give to any other Party shall be in writing and may be given by personal delivery, registered or certified mail (return receipt requested), email transmission (with delivery receipt) or by commercial courier to the Party, or its successors or assigns, to whom the Notice is intended at the address of the Party set forth below or at any other address as the Parties may later designate. Change of address by a Party shall be given by Notice as follows:

i) *If to the District:* Rio Nuevo Multipurpose Facilities District, 1703 E. Broadway Boulevard, Tucson, Arizona 85719, with a copy to Mark Collins, Esq., Gust Rosenfeld P.L.C. , One South Church Avenue, Suite 1900, Tucson, Arizona 85701.

ii) *If to LLC:* Barrio Brothers, LLC dba The Batch Café & Bar, 118 E. Congress Street, Tucson, Arizona, 85701, attention: Ronnie Spece.

m) **Successors and Assigns.** All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the Parties; provided, however, that the LLC’s rights and obligations hereunder may be assigned or transferred only at any time the assignor is not in Default under any provision of this Agreement to a single person or entity that has acquired the entirety of such rights and obligations as a successor in interest to the LLC, provided further that the successor has expressly and in writing for the benefit of the District assumed all of the obligations of the assignor under this Agreement. An assignee pursuant to an assignment or transfer made in compliance with all of the terms and provisions of this Agreement may be referred to as a “**Permitted Assignee.**” Any assignment or transfer not made in compliance with all of the terms and provisions of the Agreement shall be void, and not voidable, and shall vest no rights in the purported assignee or transferee.

n) **Term.** Subject to the indemnification provisions of Section 7 of this Agreement, this Agreement shall terminate without further action upon the earlier of (i) the completion date of the improvements at the Premises anticipated herein, or (ii) March 31, 2023 (the “Term”). Notwithstanding the foregoing, if the work anticipated under this Economic Incentive agreement has not commenced by December 31, 2022, then this Agreement, without further act or notice required, shall expire and terminate, and the Parties shall have no rights or obligations hereunder.

o) **No Partnership; Third Parties.** Nothing contained in this Agreement shall create, or be deemed to create, any partnership, joint venture or other similar arrangement between the District and the LLC. No term or provision of this Agreement is intended to or shall be for the benefit of any person, firm, organization or corporation not a Party hereto, and no such other person, firm, organization or corporation shall have any right or standing to any cause of action hereunder; except that the protection of the indemnification provisions of this Agreement shall extend to all agents, attorneys, Board members, officers and employees of the District acting in the course and scope of their employment or engagement and all such persons shall be, and are intended to be, third party beneficiaries of such indemnification provisions.

p) **Limited Severability.** The Parties agree that in the event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring the District to do any act in violation of any Applicable Law), such provision shall be deemed severed from this Agreement, and this Agreement shall otherwise remain in full force and effect provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement provides essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further shall perform all acts and execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as and if reformed in accordance with this Section 10(p).

q) **No Liability of District Officials.** No director, officer, official, representative, agent, attorney or employee of the District shall be personally liable to the LLC, or to any successor in interest to the LLC, in the event of any Default by the District, or for any amount which may become due to the LLC or its successors, or with respect to any obligation of the District pursuant to this Agreement.

r) **Conflict of Interest.** This Agreement is subject to and may be terminated by the District in accordance with the provisions of A.R.S. §38-511.

s) **Israel Boycott** If and to the extent that ARS § 35-393 et seq. is applicable, the LLC certifies that it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in ARS § 35-393.

[SIGNATURES ON FOLLOWING PAGE]

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT



By: _____

Fletcher McCusker, Chairman

Date: 10/2/22

By: _____

Edmund Marquez, Secretary

Date: _____

BARRIO BROTHERS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

By: _____

Name: Ronnie Spece

Title: Member/Manager

Date: _____

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: _____
Fletcher McCusker, Chairman

Date: _____

By: _____
Edmund Marquez, Secretary

Date: 10/12/2022

BARRIO BROTHERS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

By: _____

Name: Ronnie Spece

Title: Member/Manager

Date: _____

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: _____
Fletcher McCusker, Chairman

Date: _____

By: _____
Edmund Marquez, Secretary

Date: _____

BARRIO BROTHERS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

DocuSigned by:
By:  _____
Name: Ronnie Spece
Title: Member/Manager
Date: 10/6/2022 | 6:23 AM MST

EXHIBIT A

Lease Between Barrio Brothers, LLC and War & Spece Holdings, LLC, for Batch Café & Bar at
118 E. Congress, Tucson, Arizona

LEASE AGREEMENT

This Lease Agreement (referred to as the “Lease” or “Agreement”) is entered into by Landlord and Tenant as of the Lease Date defined below.

BASIC LEASE INFORMATION AND DEFINED TERMS

Landlord and Tenant agree that the following terms, when used in this Lease with initial capital letters, will be given the meanings established below.

Lease Date: The date that Landlord and Tenant shall execute this Lease. The Lease Date will be used for reference purposes only.

Landlord: War & Spece Holdings, LLC, an Arizona limited liability company
372 W. 18th St.
Tucson, Arizona 85701
Attention: Ronnie or Christian Spece

Tenant: Barrio Brothers, LLC, an Arizona limited liability company
118 East Congress St.
Tucson, Arizona 85701
Attention: Ronnie Spece

Building: The office building located at located at 118-120 East Congress Street, Tucson, Arizona 85701, consisting of approximately 10,900 square feet of floor area situated on approximately 4,000 square feet of land, and identified by Pima County Assessor tax parcel no. 117150040.

Leased Premises: The portion of the Building depicted on Exhibit “A” to this Lease, consisting of approximately 9,810 square feet.

Rentable Area of the Leased Premises: Approximately 9,810 square feet.

Building Rentable Area: Approximately 10,900 square feet.

Term: The Initial Term and all applicable Extension Terms.

Commencement Date: April 1, 2022.

Rent Commencement Date: Commencement Date.

Initial Term: Sixty (60) months calculated from the Commencement Date.

Extension Term: Four (4) additional sixty (60) month terms (each an “Extension Term”).

Security Deposit: \$0.

Minimum Monthly Rent: For the Initial Term starting on the Rent Commencement Date, \$9,810.00 per month which is at the rate of \$117,720.00 per annum plus applicable sales/rental tax. Thereafter, Minimum Monthly Rent shall be calculated in accordance with Paragraph 3.3. Each payment of rent shall be paid with applicable sales/rental tax pursuant to Paragraph 5.3.

Tenant's Proportionate Share of Building Expenses: Ninety percent (90%) as determined by dividing the Rentable Area of the Leased Premises by the Building Rentable Area.

Permitted Uses: The Leased Premises will be used for restaurant, bar and related alcohol and food sales.

Tenant Improvement Allowance: None.

Amount Due from Tenant at Commencement Date: The first month’s Minimum Monthly Rent, plus applicable sales/rental tax, and the Security Deposit,

Guarantor: None.

GENERAL TERMS AND CONDITIONS

ARTICLE 1. LEASED PREMISES

1.1. Leased Premises. Landlord leases to Tenant, and Tenant leases from Landlord, on the terms and conditions set forth in this Lease, the Leased Premises. The Leased Premises is depicted on the current site plan attached as Exhibit “A” to this Lease. As of the Commencement Date, this Lease shall supersede and replace completely any and all existing lease agreements between Landlord and Tenant as to the Building and the Leased Premises.

1.2. Building Site Plan. Tenant understands that Landlord has made no current or future representation or warranty regarding traffic flows from, to or within the Building. Landlord reserves the right to make alterations, reductions, or additions to the Building (including the construction of expansion space or additional stories on the buildings therein), and to add or delete portions in the Building so long as there is no negative impact on the operation of Tenant's business, ingress or egress to or from the Leased Premises, or the visibility

of the signage benefitting the Leased Premises, as determined by Tenant in its reasonable discretion.

1.3. Parking. Tenant acknowledges that there exists no dedicated parking for the Building.

1.4. Signage. Tenant's existing signage on the Building may remain in place. Subject to the Rules and Regulations described below, Tenant will have the right to modify its Building sign or install a different sign on the Building at its sole cost and expense in accordance with the Building Sign Criteria (Exhibit "D" attached hereto) and subject to the approval of Landlord which shall not be unreasonably denied or withheld and the approval of the City of Tucson ("City") and State of Arizona Historic Preservation Office approval. Except as described in the previous sentence, Tenant will not be entitled to any other exterior signage.

1.5. Improvements to Leased Premises. Landlord shall have no obligation to construct or install any improvements to the Leased Premises. Prior to the Commencement Date, Tenant currently is occupying the Leased Premises, and Tenant will continue to occupy the Leased Premises under this Lease in its "as is", "where is" condition, and Landlord shall have no obligation to perform any work or improve the Leased Premises in any respect.

1.6. Tenant FF&E. Tenant, at Tenant's sole expense, may install any furniture, trade fixtures, and equipment that Tenant believes are necessary for the operation of its business on the Leased Premises. All furniture, trade fixtures, and equipment that have been installed by the Tenant will remain Tenant's property and may be removed from the Leased Premises during the Term of this Lease or upon its expiration; however, (i) Tenant must reimburse Landlord for all damage to the improvements on the Leased Premises or the Building caused by their removal, ordinary and reasonable wear and tear excepted; and (ii) if Tenant is in default at the time of termination or expiration of this Lease, all of these items may be retained by Landlord pursuant to its security interest described below and any landlord's lien created by law.

ARTICLE 2. TERM

2.1. Initial Term. The "Initial Term" of this Lease will be the period specified in the Basic Lease Information and Defined Terms.

2.2. Extension Terms.

(a) The Initial Term may be extended by Tenant for the Extension Terms only if the following conditions are satisfied: (i) Tenant delivers written notice of its extension election no earlier than one hundred eighty (180) days and no later than one hundred and twenty (120) days before the expiration of the Initial Term or any Extension Term, as applicable; (ii) Tenant has fully and faithfully performed its obligations under the Lease through the Initial Term and any applicable Extension Term; and (iii) Tenant is not in material default under this Lease and no event has occurred or fact exists which, but for the passage of time or the giving of notice, would constitute a default under this Lease. If any of these conditions are not satisfied at the time of the delivery of the extension election by Tenant or at the time of the commencement of the Extension Term, the extension election will be deemed ineffective and not valid. Tenant's delivery of a written extension election also will be deemed a representation and

warranty to Landlord that Landlord is not in default of its obligations under the Lease, Tenant has no defenses to the enforcement of any term or provision of the Lease, and Tenant has no offsets or credits against any amounts owed or to be owed by Tenant under the Lease. This ability to extend will be a right personal only to the original Tenant and to any tenant acquiring its interest in this Lease through a Permitted Assignment, as defined below. To memorialize Tenant's election to exercise its extension option, Landlord may require Tenant to execute a "Lease Extension Agreement" or similar document.

(b) The Minimum Monthly Rent payable by Tenant under this Lease during each Extension Term will be calculated in accordance with Paragraph 3.3, below. During each Extension Term, all terms and provisions of this Lease will remain in full force and effect, except for the Minimum Monthly Rent, and except that Landlord will not be obligated to make or pay any tenant improvement allowance during the Extension Term or to perform any work to or improvement of the Leased Premises during the Extension Term, or to make any rent or other concessions applicable to the Initial Term of the Lease.

ARTICLE 3. MINIMUM MONTHLY RENT

3.1. Minimum Monthly Rent. Tenant agrees to pay to Landlord commencing on the Rent Commencement Date and thereafter during the Term of this Lease, without any prior demand and without any deduction or offset, the Minimum Monthly Rent. The Minimum Monthly Rent will be payable in advance, commencing on the Rent Commencement Date and thereafter on the first day of each consecutive calendar month during the Term. If the Rent Commencement Date occurs on a day other than the first day of a calendar month, Tenant will pay, on the Rent Commencement Date, a portion of the Minimum Monthly Rent prorated on a per diem basis. Simultaneously with the execution of this Lease, Tenant has paid to Landlord the first full month's estimated Minimum Monthly Rent, together with the appropriate amount of rental tax described below in this Lease.

3.2. Late Charge. Tenant acknowledges that late payment by Tenant to Landlord of rent or other amounts due under this Lease will cause Landlord to incur actual pecuniary loss and costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Accordingly, if any installment of rent or any other amount due from Tenant is not received by Landlord within five (5) days after the date due, Tenant will pay to Landlord a late charge equal to five percent (5%) of the delinquent amount, plus any attorney fees incurred by Landlord because of Tenant's failure to make timely payments. Acceptance of the late charges by Landlord will not constitute a waiver of Tenant's default with respect to the overdue amount and will not prevent Landlord from exercising any of the other rights and remedies granted under this Lease (including the right to charge interest on amounts unpaid).

3.3. Rent Adjustment. Beginning on the first day of the first Extension Term, and continuing on the same day of each year thereafter during the Term (the "Adjustment Date"), the Minimum Monthly Rent shall be increased by an amount equal to the three percent (3%) multiplied by the Minimum Monthly Rent in effect on the Adjustment Date.

3.4. Lease Years. The term "Lease Year," whether capitalized or not, as used in this Lease, will mean a period of twelve (12) consecutive calendar months during the Term;

however, if the Commencement Date occurs on any date other than the first of the month, the first lease year will commence upon the Commencement Date and will end at midnight on the last day of the twelfth full calendar month after the Commencement Date.

ARTICLE 4. USE OF LEASED PREMISES AND SERVICES

4.1. Permitted Use. Tenant will use the Leased Premises solely for the Permitted Uses, and Tenant will use the Leased Premises for no other purpose without the prior written consent of Landlord. Tenant, at Tenant's sole cost, must comply with all current and future applicable local, municipal, county, state, or federal authorities ("Governmental Authorities") pertaining to the use of the Leased Premises. Tenant will not perform any acts or carry on any practices that may injure the Building or the improvements thereon or be a nuisance. Further, Tenant shall keep the Leased Premises in a clean and wholesome condition, free of any objectionable noises (including, without limitation, loudspeakers which can be heard outside of the Leased Premises), odors or other nuisances, and that all health and policy regulations shall, in all respects and at all times, be fully complied with by Tenant. Tenant will not abandon, vacate, or surrender the Leased Premises during the Term. Without limiting the generality of the foregoing and the other terms and provisions of this Lease, Tenant shall not do or permit to be done at the Leased Premises any of the Prohibited Uses listed in Exhibit "B" hereto.

4.2. Operating Requirements. Tenant agrees to continuously operate and conduct its business in one hundred percent (100%) of the Leased Premises during normal and customary hours for a business providing bar and restaurant services in downtown Tucson (excluding, at Tenant's election, only federally-recognized holidays and not more than ten (10) days in excess thereof per calendar year). Tenant shall conduct its business at all times in a first-class, professional and businesslike manner consistent with reputable business standards and practices, and such that a high reputation of the Building is developed and enhanced. Tenant shall keep the Leased Premises adequately staffed with well-trained personnel for efficient first-class service.

4.3. Noise Mitigation. Tenant agrees to use reasonable efforts to reduce noise during the hours of 10:00 am to 4:00 pm ("Noise Mitigation Hours") so as to avoid negatively impacting other tenants in the Building. In the event Landlord, objectively and reasonably, determines the noise level has not been mitigated to the reasonable satisfaction of Landlord and other tenants in the Building, then Tenant shall have thirty (30) days to cure and further mitigate noise during the Noise Mitigation Hours. Thereafter, Landlord shall have fifteen (15) days to determine whether such efforts were successful. If such efforts were unsuccessful, Tenant will be required to change its business hours so that it does not open for business before 4:00 pm, Monday through Friday. Landlord and Tenant agree to work cooperatively to address any excessive noise issues that impact other tenants in the Building.

4.4. Primary Use Protection. During the Initial Term and any Extension Term, Landlord shall not lease space in the Building to any tenant whose primary use is the same as Tenant's Permitted Use. In the event that another tenant's primary use is not specifically identified in its respective lease, then its primary use shall mean a use from which tenant derives more than fifty percent (50%) of its gross sales from premises within the Building. The

foregoing primary use protection provision shall not apply to any existing tenant or occupant of the Building as on the date of mutual execution of this Lease.

4.5. Services. Landlord shall be responsible for maintaining the interior common areas in a clean condition and Tenant shall pay its Proportionate Share of the cost of such services as Additional Rent; provided, however, Landlord will not be liable for, and Tenant will not be entitled to, any abatement or reduction of rent because of Landlord's failure to furnish any of the foregoing services when the failure is caused by accidents, breakage, repairs, strikes, labor disturbances of any character, governmental order, material shortages, energy or fuel shortages, or by any other similar or dissimilar cause beyond the reasonable control of Landlord, or when Landlord acts with reasonable diligence to correct the failure to furnish the service after receiving written notice of the absence of the service. Landlord will not be liable under any circumstances for any damage or loss to property occurring in connection with the failure of Landlord or its agents, contractors, or employees to furnish any of the foregoing services. Utility services to the Leased Premises are not separately and are shared with tenants through a separate agreement between Tenant and Landlord. Landlord shall maintain and pay for all service costs, maintenance and repair of such shared facilities serving the Leased Premises and Tenant shall pay its equitable share of such utilities as Additional Rent. Tenant shall satisfy itself with respect to the availability, location, capacity and quantity of such services (including with respect to electrical service).

ARTICLE 5. ADDITIONAL RENT

5.1. Building Expenses Defined. The term "Building Expenses" means the following costs: (i) real property taxes and assessments attributable to the Building, ; and (ii) insurance premiums of any type, including fire and other casualty insurance and public liability insurance, attributable to the Building.

5.2. Payment of Building Expenses.

(a) Upon commencement of the Lease, Landlord shall submit to Tenant a statement of the anticipated Building Expenses for the calendar year in which the Term begins, and Tenant shall pay one-twelfth of Tenant's Proportionate Share of Building Expenses payable in advance, commencing on the Commencement Date and thereafter on the first day of each consecutive calendar month during the Term concurrently with each rental payment. If the Commencement Date occurs on a day other than the first day of a calendar month, Tenant will pay, on the Commencement Date, a portion of Tenant's Proportionate Share of Building Expenses prorated on a per diem basis. Tenant shall continue to make its monthly payment of Building Expenses until notified by Landlord of a change in the amount. Each year during the Lease Term, Landlord will provide to Tenant an annual expense statement from Landlord setting forth the Building Expenses for the calendar year ending on the prior December 31 and Tenant's actual Proportionate Share of these expenses for the preceding calendar year and the estimated Proportionate Share of these expenses for the following calendar year. Expense statements will be prepared in accordance with reasonable accounting practices. Landlord will endeavor to give to Tenant on or before April 1 of each calendar year throughout the Term of the Lease the expense statement, but Landlord's failure to provide Tenant with an expense statement by this date will not constitute a waiver by Landlord of its right to require payment by Tenant of

Tenant's Proportionate Share of estimated or actual Building Expenses.

(b) Tenant, or an independent third-party consultant retained by Tenant, shall have the right, at its cost, upon reasonable prior written notice to Landlord, to inspect Landlord's accounting records relative to Building Expenses for the applicable period during normal business hours at a business office location designated by Landlord, at any time within ninety (90) days following the furnishing to Tenant of the annual expense statement for Tenant's Proportionate Share of Building Expenses for the said period; and, unless Tenant shall take written exception to any item in any such statement within such ninety (90) day period, such statement shall be considered as final and accepted by Tenant. Any actual and verifiable errors disclosed by the review of records under this Paragraph shall be promptly corrected. In the event that the results of the review of records reveal that Tenant has overpaid or underpaid its obligations for the applicable period, Landlord shall adjust Tenant's Building Expenses statement for the amount of such overpayment or underpayment within thirty (30) days.

(c) If Tenant's Proportionate Share of the Building Expenses for the past calendar year as shown on the expense statement is greater than the payments made by Tenant for that calendar year, then concurrently with the first monthly rent payment due following receipt by Tenant of the expense statement, Tenant will pay in full the excess. If Tenant's Proportionate Share of actual Building Expenses for the past calendar year as shown on the expense statement is less than the payments made by Tenant for that calendar year, the amount of the overpayment will first be credited against any past due charges and then credited against the next monthly rent payments.

(d) Even though the Term has expired and Tenant has vacated the Leased Premises when the final determination is made of Tenant's Proportionate Share of Building Expenses for the calendar year in which the Lease expires, Tenant will immediately pay the excess of Tenant's Proportionate Share of actual Building Expenses for the portion of the year in which Tenant was in occupancy over the estimated payments made by Tenant for that calendar year and, conversely, any overpayment made will be promptly immediately rebated by Landlord to Tenant.

5.3. Rental Tax. Concurrently with each payment of rent under this Lease, including Minimum Monthly Rent and Building Expenses, Tenant also will pay as additional rent any transaction privilege tax, excise tax, sales tax, use tax, gross proceeds tax, rent tax, or similar tax (but not including a net income tax) now or in the future levied or imposed by any Governmental Authorities on the rent or other payments required to be paid under this Lease. Tenant also agrees to pay, upon demand by Landlord, all taxes, assessments, or other charges of any kind (whether or not now customary or within the current contemplation of the parties) imposed by any Governmental Authorities or Landlord with respect to the possession, leasing, operating, maintenance, alteration, repair, use, or occupancy of the Leased Premises.

5.4. Additional Rent. All rents, charges, late fees, and other amounts (however denoted) payable by Tenant under this Lease, other than the Minimum Monthly Rent and the Building Expenses, will be considered and deemed to be "additional rent". The term "rent" when used in this Lease, whether capitalized or not, means all rent, charges, and other amounts payable by Tenant under the terms and conditions of this Lease.

ARTICLE 6. REPAIRS, MAINTENANCE, AND ALTERATIONS

6.1. Condition and Repairs. Tenant and its agents have been given full opportunity to inspect and examine the Leased Premises prior to taking possession, and Tenant, by its execution of this Lease, accepts the Leased Premises in its present “as-is” condition, and without any representation or warranty from Landlord or its agents as to the condition of the Leased Premises or the Building not specifically contained in this Lease. Except as provided below with respect to Landlord's repairs upon the occurrence of an insured casualty and except for the foundation, roof, and exterior walls and the plumbing and electrical up to the metering devices of the Leased Premises, which Landlord agrees to repair as part of the Building Expenses, Tenant, at its sole cost and expense, will keep and maintain the interior Leased Premises in good repair and safe condition, including without limitation the storefront, windows, entry doors, interior doors, heating, ventilating, and cooling equipment, plumbing and other utilities facilities, and all furniture, fixtures, and equipment located in the interior of the Leased Premises. Landlord may procure, at Tenant's expense (assessable as Building Expenses), contracts for the maintenance of the HVAC systems serving the Leased Premises and the Building; provided that no such contracts shall diminish Tenant's responsibilities under this paragraph. If Tenant fails to make any repair, maintenance, or replacement that is required under this Lease after ten (10) days prior written notice by Landlord, Landlord, at its option, may make the repairs or maintenance and all incurred costs and expenses will immediately become due and payable by Tenant to Landlord as additional rent, together with interest as provided below.

6.2. Alterations.

(a) After completion of the Tenant Improvements, Tenant, at Tenant's sole cost and expense and only upon receiving Landlord's prior written consent (not unreasonably withheld or delayed), may make alterations and improvements to the interior of the Leased Premises that may be necessary or desirable for the conduct of the business of Tenant; however, Tenant may make interior nonstructural alterations and improvements costing or valued at less than \$10,000.00 without the Landlord's consent so long as the alterations or improvements do not impair the structural strength or value of the Leased Premises and are made consistent with then-current building standards. All alterations or improvements commenced by Tenant must be completed expeditiously and in compliance with all current and future laws, statutes, rules, ordinances, regulations, and stipulations (collectively, “Laws”) of any applicable Governmental Authorities including, without limitation, the Americans with Disabilities Act of 1990 (the “ADA”).

(b) Tenant may not make alterations or improvements to the exterior of the Leased Premises without Landlord's prior written consent. Landlord's consent to exterior alterations or improvements will be given or withheld in Landlord's sole discretion.

(c) As a condition to giving its consent to any interior or exterior repairs, Landlord may, but need not, require one or more of the following: (i) that Tenant agrees to remove any alterations or improvements at the expiration or other termination of this Lease and to restore the Leased Premises to their pre-alteration condition, normal wear and tear to the Leased Premises excepted; (ii) that all alterations and improvements be made under the

supervision of a competent architect or competent licensed structural engineer and by a general contractor reasonably approved by Landlord; and (iii) that Tenant use only bonded contractors to do the work.

(d) Subject to the rights of Landlord in case of Tenant's default or as set forth above, all alterations or improvements installed by Tenant under the provisions described above may be removed by Tenant upon the termination of the Lease at Tenant's expense and risk; however, Tenant, at Tenant's sole cost and expense, must repair any damage to the Leased Premises caused by the removal, and, at the option of Landlord, restore the Leased Premises to a rentable condition.

6.3. Liens. Tenant will keep the Leased Premises and the Building free from any liens arising out of any work performed, materials furnished, or obligations incurred by Tenant. Landlord will have the right at all times to post notices of non-responsibility on the Leased Premises and record verified copies of any notices of non-responsibility in connection with all work of any kind upon the Leased Premises.

ARTICLE 7. INSURANCE AND CASUALTY DAMAGE

7.1. Insurance. Landlord and Tenant agree to maintain those types and amounts of insurance described below.

(a) From and after the Lease Date and during the Term, Tenant, at Tenant's own cost and expense, will maintain continuously in full force and effect the following types of insurance:

(i) Commercial general liability insurance covering the Leased Premises and Tenant's activities on the Building on an occurrence basis against claims for bodily injury, property damage, personal injury, and death with limits of at least \$1,000,000.00 combined single limit each occurrence and \$2,000,000.00 in the aggregate. The commercial general liability insurance must include broad form contractual liability and completed operations coverage for the limits identified above and fire damage legal liability insurance of at least \$1,000,000.00 and such policy shall include a contractual liability endorsement covering Tenant's indemnity obligations under this Lease. The maximum limits of the commercial general liability policy of insurance will not limit or diminish Tenant's indemnity requirements under the Lease.

(ii) "Cause of loss-special form" property insurance with "all risk" coverage for fire, earthquake, flood, vandalism, malicious mischief, sprinkler leakage, glass, boiler, and machinery (if applicable) in an amount adequate to cover the cost of replacement of all personal property, decorations, trade fixtures, furnishings, draperies, equipment, Tenant Improvements, and other contents in the Leased Premises, with business interruption insurance in an amount approved by Landlord.

(iii) Worker's compensation insurance with Arizona statutory

minimums and employers' liability of \$100,000.00.

(iv) Liquor Liability. If applicable to Tenant's business, Tenant shall obtain insurance for liability arising out of the consumption or sale of alcoholic beverages on or obtained at the Premises. The liquor liability coverage must have a limit no less than Three Hundred Thousand Dollars (\$300,000.00) per occurrence, with an annual policy aggregate of no less than Six Hundred Thousand Dollars (\$600,000.00). The liquor liability coverage purchased must name Landlord and Owner (if the Owner is other than the Landlord) as additional insureds.

(b) The insurance will be: (i) issued in the name of Tenant with Landlord and its managing agent or other designee (including any lender) named as an additional insured on the commercial general liability insurance, liquor liability, and property insurance; (ii) written by one or more responsible insurance companies authorized to do business in the State of Arizona with a rating satisfactory to Landlord; and (iii) in a form, including the amount of any deductible, satisfactory to Landlord. All insurance must contain endorsements that: (I) the insurance may not be canceled or amended with respect to Landlord (or its designees) except upon ten (10) days prior written notice to Landlord (and its designees) by the insurance company; (II) Tenant will be solely responsible for payment of premiums; and (III) upon payment of any loss covered by the policy, Landlord or its designees will be paid first by the insurance company for its loss.

(c) Thirty (30) days prior to the expiration of any policy of insurance, Tenant will pay the premiums for renewal insurance and deliver to Landlord or to any mortgagee of the Leased Premises designated by Landlord a binder for the renewal policies with evidence of payment of the premiums, and Tenant will deliver to Landlord, prior to expiration of the binder, a certificate of insurance confirming the coverage. Tenant, however, may contract with the insurance company to pay the premiums on a monthly basis if the insurance policies provide that the insurance may not be canceled or amended with respect to Landlord (or its designees) except upon thirty (30) days prior written notice to Landlord (and its designees) by the insurance company. If any premiums are not paid and the binders and certificates are not delivered, Landlord may procure and/or pay for the insurance, and the amount paid by Landlord from the date of payment will be due and payable by Tenant as additional rent, Tenant expressly acknowledges that the payment by Landlord of any insurance premium will not be deemed to waive or release the default in the payment by Tenant or the right of Landlord to take any permissible action under this Lease for a default in the payment of rent.

(d) Tenant will not violate, nor permit to be violated, any of the conditions or provisions of any of the insurance policies required to be maintained by Tenant or Landlord, and Tenant will perform and satisfy the requirements of the insurer so that the policies remain in good standing and acceptable to Landlord and so that the insurer will be willing to continue to write the insurance.

(e) Tenant will cooperate with Landlord and any mortgagee of the Building in the collection of any insurance proceeds that may be due in the event of any loss covered by Landlord's or Tenant's insurance policies, and Tenant will execute and deliver to

Landlord and any mortgagee any proof of loss or other instruments that may be required for the purpose of facilitating the recovery of any insurance proceeds. If Tenant fails or neglects to cooperate or to execute, acknowledge, and deliver any required instrument, Landlord, in addition to any other remedies, may execute and deliver, as the agent and attorney in fact of Tenant, any proof of loss or any other instruments as may be desirable to Landlord and any mortgagee for the collection of the insurance proceeds, and Tenant irrevocably nominates, constitutes, and appoints Landlord as Tenant's proper and legal attorney-in-fact for these purposes, ratifying all that Landlord may do as attorney-in-fact of Tenant.

(f) Landlord and Tenant agree that the commercial general liability insurance and the property insurance carried by either on the Leased Premises or the furniture, fixtures, and equipment or contents of the Leased Premises, will contain a full waiver of subrogation by the insurer against the other and its assigns. Tenant's commercial general liability insurance will be primary insurance. Tenant, as a material part of the consideration to be rendered to Landlord, waives all claims against Landlord for damages to goods, wares, furnishings, furniture, fixtures, and other merchandise in, upon, or about the Leased Premises and for injury to Tenant, its agents, employees, invitees, guests, or third persons in or on the Leased Premises from any cause arising at any time.

(g) No Tenant Improvements may be commenced unless and until Tenant has submitted to Landlord certificates of insurance evidencing that Tenant's Contractor and all subcontractors have in full force and effect: (i) commercial general liability insurance in an amount of at least \$1,000,000.00 combined single limit, including premises and operations personal injury coverage, broad form contractual liability coverage, and completed operations coverage; (ii) property insurance with builders risk and all-risk coverage and broad form contractual liability coverage; (iii) comprehensive automobile liability insurance covering bodily injury and property damage; and (iv) workmen's compensation insurance against liability arising from claims of workmen. Each of these coverages must be in amounts approved by Landlord endorsed to the name of the Landlord and its lender as additional insureds and with insurers licensed to do business in the State of Arizona with a rating as reasonably determined by Landlord. Tenant will cause the insurance described above to be maintained during the period any construction is being performed on the Leased Premises.

(h) During the Term, Landlord shall maintain (as a component of Building Expenses) commercial general liability insurance in an amount of at least \$2,000,000.00 combined single limit covering its interest in the Building and "all risk" property damage insurance covering the Building of which the Leased Premises are a part. If requested by Tenant, Landlord will provide certification of its insurance to Tenant. Notwithstanding anything to the contrary in this Lease, Landlord is not obligated to repair or restore damage to Tenant's trade fixtures, furniture, equipment, or other personal property or any tenant improvements (including the Tenant Improvements).

7.2. Landlord Repair. Except as provided below, if the Building is damaged by fire, the elements, accident, or other type of casualty (each a "Casualty Event"), Landlord will cause the damage to be repaired to the extent the insurance proceeds received by Landlord are permitted to be used for reconstruction (and excluding any proceeds paid to and retained by any mortgagee).

7.3. Commencement of Landlord Repair. Notwithstanding anything to the contrary in this Lease, if a Casualty Event occurs with respect to the Leased Premises, the repair and reconstruction obligation of Landlord will be limited to restoring and repairing the roof, foundation, and structural elements of the Leased Premises to the condition and character in which they existed as of the Lease Date. Landlord agrees that the repair and reconstruction work will be commenced within sixty (60) days after Landlord receives the insurance proceeds described in Paragraph 7.2 above, and all of Landlord's repair and reconstruction work will be pursued diligently, unless delayed by reason of force majeure events. If a Casualty Event occurs with respect to the Leased Premises, Tenant, at its sole cost and expense, will be responsible for the repair and restoration of the interior of the Leased Premises, including the repair and restoration of all furniture, fixtures, and equipment contained in the Leased Premises. Tenant will complete its repair and restoration obligations diligently and subsequent alterations performed pursuant to Paragraph 7.2. Tenant will commence promptly the installation of furniture, fixtures, and equipment as soon as Landlord's contractor has completed the structural repairs, and Tenant will resume its normal business operations as soon as reasonably possible after the Casualty Event.

7.4. Non-Commencement of Repairs. If the work of repairing, replacing, or rebuilding the Leased Premises has not commenced within sixty (60) days from the date of Landlord's receipt of the insurance proceeds, Tenant will have the right to terminate this Lease by giving not less than thirty (30) days written notice to Landlord of Tenant's intention to terminate. Upon the expiration of the thirty (30) day notice period, this Lease and the Term will cease and expire (except for those indemnifications and other obligations that, by the terms of this Lease, survive any termination), and the insurance proceeds received and receivable under any and all policies of insurance will belong to and be retained by Landlord, Tenant, and any mortgagee to whom the proceeds may be payable, as their interests appear.

7.5. Destruction at Lease End. Upon a partial or total destruction of the Leased Premises during the last year of the Term of this Lease, Landlord and Tenant will each have the option to terminate this Lease upon giving written notice to the other within thirty (30) days after the destruction. For purposes of this Paragraph 7.5 only, the term "partial destruction" will be a destruction to an extent of at least ten percent (10%) of the then current full replacement cost of the Leased Premises.

7.6. Non-Repair. If the Leased Premises are damaged as a result of any Casualty Event not covered by Landlord's insurance or if the Leased Premises are declared to be unsafe or unfit for occupancy by any Governmental Authorities, or if applicable building or zoning codes and ordinances or other statutes do not permit the repair or reconstruction of the Leased Premises in the manner contemplated by this Article 7, Landlord may elect not to repair or reconstruct the Leased Premises, in which event this Lease will cease and terminate. Landlord will give Tenant written notice of any intention to terminate within sixty (60) days following the date of the damage or destruction.

7.7. Termination for Casualty. Any permitted termination of this Lease under the provisions of this Article 7 will be effective as of the date of the Casualty Event or as of the date of the surrender by Tenant of the Leased Premises to Landlord, whichever is later, and all

rent will be adjusted and calculated as of the effective date of termination. If this Lease is not terminated by notice as provided in this Article 7, this Lease will remain in full force and effect, subject to the rent abatement provisions below.

7.8. Rent Abatement. Except as specifically provided in this Article 8, this Lease will not terminate and will not be affected in any manner by reason of the total or partial destruction or damage of the Leased Premises or the Building or any resulting untenability of the Leased Premises or the Building, and the rent reserved in this Lease, as well as all other charges payable will be paid by Tenant in accordance with the terms of this Lease without abatement, diminution, or reduction. If, however, the Leased Premises become untenable by reason of a Casualty Event, Tenant will be entitled to an equitable proportionate reduction in the Minimum Monthly Rent and Additional Rent during the period the Leased Premises are untenable. The proportionate reduction will be equal to the percentage of interference with Tenant's ability to carry on business on the Leased Premises. To the extent reasonably practicable from the standpoint of prudent business management, Tenant will continue the operation of its business on the Leased Premises during any period during which the Leased Premises are untenable. Tenant will not be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Leased Premises, Tenant's personal property, or any inconvenience or annoyance caused by any Casualty Event.

7.9. No Surrender. Notwithstanding the occurrence of any Casualty Event affecting the Leased Premises, whether or not the Leased Premises are rendered untenable, Tenant will have no right under A.R.S. § 33-343 or otherwise to quit and surrender possession, and Tenant will have no right to any abatement of rent except as specifically provided in this Article 7.

ARTICLE 8. EMINENT DOMAIN

8.1. Condemnation. If all of the Leased Premises are acquired or taken by eminent domain for any public or quasi-public use or purpose, this Lease and the Term will cease and terminate as of the date of the condemnor takes possession. If twenty percent (20%) or more of the Rentable Area of the Leased Premises is taken by eminent domain and the taking renders the Leased Premises unsuitable for the business of Tenant, this Lease and the Term will cease and terminate as described above. If the partial taking of the Leased Premises does not render the Leased Premises unsuitable for the business of Tenant or if twenty percent (20%) or less of the Rentable Area of the Leased Premises is taken, this Lease will continue in effect except that the Minimum Monthly Rent will be reduced in the same proportion that the Rentable Area of the Leased Premises taken in the condemnation bears to the original Rentable Area of the Leased Premises.

8.2. Termination for Condemnation. If this Lease is terminated pursuant to this Article 9, the Minimum Monthly Rent and all other charges under this Lease will be prorated to the date of termination.

8.3. Awards for Condemnation. Upon any condemnation or taking by virtue of the exercise of the right of eminent domain of all or any portion of the Leased Premises, Tenant will be entitled to any award made for fixtures that are removable by Tenant under the terms of

this Lease or other improvements installed at the sole cost and expense of Tenant. All other proceeds of any payment or award will be paid to Landlord and are expressly assigned to Landlord.

ARTICLE 9. INDEMNITY

9.1. Tenant Indemnity. Unless solely caused by the grossly negligent acts or willful misconduct of Landlord, Tenant will indemnify, defend, and hold harmless Landlord and Landlord's members, managers, employees, partners, directors, officers, and agents for, from, and against all penalties, costs, suits, claims, demands, causes of action, real or claimed damages, liability (including liability for death, bodily injury, personal injury, or property damage), and expenses (including attorney fees) arising out of: (i) any occurrence in, upon, or at the Leased Premises (including the Outdoor Area, if applicable), the occupancy or use by Tenant of all or any part of the Leased Premises, or any act or omission of Tenant, Tenant's Contractors, or Tenant's agents, patrons, customers, employees, licensees, and business invitees (each a "Permittee") within the Building; (ii) the condition of or any defect in the Leased Premises or any improvements within the Leased Premises; (iii) the condition of or any defect in Tenant's furniture, fixtures, or equipment; (iv) the use or occupancy of the Leased Premises (including the Outdoor Area, if applicable) by Tenant or any Permittee; (v) the Tenant Improvements (including the release of mechanic's liens); or (vi) any breach or default in the performance of any obligation to be performed by Tenant under this Lease. The limits of the liability insurance policy required above will not limit the liability of Tenant under this indemnity. Tenant will give prompt notice to Landlord in case of any Casualty Event or accidents in the Leased Premises. If Landlord is made a party to any litigation commenced by or against Tenant that is covered by the indemnity described above, Tenant will pay to Landlord all costs, expenses, and reasonable attorney fees incurred by Landlord.

9.2. Landlord Indemnity. Landlord agrees to indemnify and hold harmless Tenant against any and all claims, demands, costs, and expenses (including attorney fees and defense costs) made by third parties (not including employees of Tenant) against Tenant for personal injury or property damage caused by the negligent acts or willful misconduct of Landlord in or about the Building. The limits of the liability insurance policy carried by Landlord will not limit the liability of Landlord under this indemnity. If Tenant is made a party to any litigation commenced by or against Landlord that is covered by the indemnity described above, Landlord will pay to Tenant all costs, expenses, and reasonable attorney fees incurred by Tenant.

9.3. Indemnity Claim Procedure. If either Landlord or Tenant believe that a claim for indemnification exists under the terms of Paragraphs 9.1 or 9.2 above (each an "Indemnified Claim"), the party believing an indemnification claim to exist ("Indemnified Party") will send written notice to the other party ("Indemnifying Party") of the nature of the Indemnified Claim and the reason for the Indemnifying Party's responsibility. The Indemnifying Party will have a reasonable time to elect to defend, settle, or compromise the Indemnified Claim at the Indemnifying Party's sole cost with counsel acceptable to the Indemnifying Party. If the Indemnifying Party refuses the defense or does not affirmatively accept the defense, the Indemnified Party may defend, settle, or compromise the Indemnified Claim through counsel of its choice without any waiver, prejudice, or estoppel to any claim of indemnification from the

Indemnifying Party. Further, if the Indemnified Party is not satisfied with the defense by counsel for the Indemnifying Party, the Indemnified Party may engage its own counsel without any waiver, prejudice, or estoppel to any claim of indemnification from the Indemnifying Party.

ARTICLE 10. ASSIGNMENT AND SUBLETTING

10.1. No Tenant Assignments. Tenant will not sublet all or any part of the Leased Premises and will not assign this Lease or any interest in this Lease (nor may this Lease be assigned by operation of law) to any person whomsoever (each, a "Transfer"), without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted or purported assignment or subletting without Landlord's prior written consent will constitute a breach of this Lease and will, at Landlord's election, be void. If Tenant is a corporation, limited liability company, unincorporated association or partnership, the transfer, assignment, or hypothecation of any stock or interest therein in excess of forty-nine percent (49%) from the ownership interests as of the Lease Date will be deemed an assignment within the meaning and provisions of this Article 10. In determining whether to consent to a proposed Transfer, it shall be reasonable for Landlord to withhold its consent if, among other reasons, (a) the proposed transferee shall not be of sound financial net worth or shall not have sufficient liquid capital to properly operate its business; or (b) the financial capacity of the proposed transferee is less than that of the Tenant and Guarantor as of the time of the proposed Transfer; or (c) the business skills, experience or reputation of the proposed transferee are insufficient to insure Landlord of a successful business operation at the Leased Premises; or (d) the proposed Transferee is a tenant of the Building or a prospective tenant with whom Landlord has had discussions pertaining to the Building during the period of six months prior to the date of the proposed Transfer; or (e) if the intended use of the Leased Premises by the proposed transferee (i) shall violate any rights granted to other tenants of the Building; or (ii) shall not conform with Landlord's desired "tenant mix" for the Building; or (iii) shall not be in keeping with the quality and character of the Building or shall constitute a nuisance; or (iv) shall result in an increase in the Building Expenses; or (f) at the time of the proposed Transfer or upon the effective date of the proposed Transfer, there shall be in existence an Event of Default or an event shall have occurred or state of facts exist which, with the giving of notice or the passage of time, or both, would constitute an Event of Default; or (g) Landlord's lender does not consent to such Transfer, to the extent such consent may be required by the terms of Landlord's financings.

10.2. Permitted Tenant Assignment. Any consent given by Landlord to Tenant to sublet all or part of the Leased Premises or to assign this Lease will not be construed as a consent to any other assignment or subletting or a waiver of Landlord's right to object to or declare void any assignment or sublease to which Landlord's written consent has not been obtained. Any assignment or subletting of Tenant's interest that is permitted or consented to by Landlord will not in any way release Tenant from any liability or obligation assumed under the terms of this Lease.

10.3. Landlord Assignment. Landlord is entitled to transfer or assign its rights and obligations under this Lease and in the Leased Premises in connection with the sale of any interest Landlord now has, or may have in the future, in the Leased Premises without the consent of Tenant. Landlord shall also have the right to pledge or assign its interests in the Leased Premises or the cash flow generated from the Leased Premises without the consent of Tenant.

ARTICLE 11. DEFAULT AND REMEDIES

11.1. Default. In addition to any defaults or events of default described elsewhere in this Lease, each of the following events also will be considered a material default by Tenant: (i) the failure of Tenant to pay any sums identified in this Lease as rent (including Minimum Monthly Rent, Building Expenses or any additional rent) or any other sums payable pursuant to this Lease on the date due; (ii) the failure of Tenant to observe or perform any of the covenants or agreements contained in this Lease (all of which will be deemed material) to be observed or performed by Tenant; (iii) the entry of an order for relief with respect to Tenant or any guarantor of this Lease under any chapter of the Federal Bankruptcy Code; (iv) the dissolution or liquidation of the Tenant; (v) the abandonment of the Leased Premises at any time during the Term; (vi) the insolvency of Tenant or the inability of Tenant to pay its debts when due; (vii) the appointment of a trustee or receiver to take possession of all or substantially all of Tenant's assets or Tenant's interest under this Lease that is not discharged within thirty (30) days; or (viii) any assignment or sublet of the Leased Premises without the prior written consent of Landlord, as described in Article 11 above. In the case of a default under subparagraph (i) above, Landlord agrees that it will not exercise any of its remedies if Tenant's failure to pay is cured by Tenant within five (5) business days after notice from Landlord. In the case of a default under subparagraph (ii) above, Landlord agrees that it will not exercise any of its remedies if Tenant's failure to perform or observe any Lease covenant or agreement, is a type that can be cured or corrected by Tenant and Tenant commences and completes the cure or correction within twenty (20) days after written notice from Landlord or, in the case of a default which cannot with due diligence be cured within twenty (20) days, if Tenant commences such cure promptly within such twenty (20) day period and thereafter diligently prosecute such cure to completion.

11.2. Remedies.

(a) If Tenant defaults under this Agreement, Landlord, in addition to any other rights or remedies it may have by statute or otherwise, will be entitled to pursue any one or more of the following remedies: (i) Landlord may terminate this Lease and Tenant's right to possession of the Leased Premises by Landlord's specific written election; (ii) Landlord may reenter and retake possession of the Leased Premises through judicial process or through self-help by lock out under A.R.S. § 33-361(A) and remove any or all persons or property from the Leased Premises without terminating this Lease; (iii) Landlord may commence a forcible entry and detainer action for recovery of possession of the Leased Premises and all due and unpaid rent under A.R.S. § 33-361(A); (iv) Landlord may retain the Security Deposit and apply it toward accrued and accruing rent and damages under the Lease; (v) Landlord may commence an action for ejectment under A.R.S. § 12-1251; (vi) Landlord may enforce any common law, statutory, or contractual Landlord's lien under Arizona law, A.R.S. § 33-361(D) or this Lease; (vii) Landlord may commence an action for rent under A.R.S. §12-1271; and (viii) Landlord may commence, from time to time, an action to recover any rent, accelerated rent, liquidated damages, or any other sums due to Landlord under this Lease. The remedies established above will be in addition to all other legal remedies available to Landlord under Arizona law and not in lieu of any other remedies.

(b) Landlord and Tenant agree that, unless Landlord has made a

specific written election to terminate the Lease, Landlord will not be deemed to have elected to terminate the Lease as a result of Landlord's exercise of any of its remedies described in subparagraphs (a)(ii) through (a)(viii), inclusive. Without limitation of the previous sentence, neither the Landlord's acts nor Landlord's reentry and retaking of the Leased Premises nor the Tenant's surrender of the Leased Premises nor the Landlord's commencement of an action for future rent will result in a termination of the Lease, absent a written election to terminate by Landlord, and the commencement by Landlord of a forcible entry and detainer action will not, by itself, indicate Landlord's election to terminate the Lease absent a specific written election by Landlord in the complaint or in a separate written notice.

11.3. Re-Entry.

(a) If Landlord elects to reenter the Leased Premises upon Tenant's default, any personal property that belongs to Tenant may, but need not, be removed by Landlord and stored in a public warehouse or elsewhere at the cost and for the account of Tenant. Any and all property that is removed from the Leased Premises by Landlord pursuant to the authority of this Lease or Arizona law may be handled, removed, and stored by or at the direction of Landlord at the sole risk, cost, and expense of Tenant, and Landlord will not be responsible for its value, preservation, or safekeeping, except in cases where Landlord has been grossly negligent in its handling, removal, or storage, or where Landlord has willfully damaged the items moved and stored. Tenant will pay to Landlord, upon Landlord's demand and as additional rent, any and all expenses and storage charges incurred in the removal.

(b) If Landlord elects to reenter by giving notice of its intention to Tenant or if Landlord actually takes possession by physical act or legal proceedings, Landlord may either terminate this Lease or attempt to relet all or part of the Leased Premises for any length of lease term (which may be for a term shorter than or extending beyond the Term of this Lease). Any relet by Landlord will be at a rate acceptable to Landlord and will be subject to any other terms and conditions that Landlord in the exercise of Landlord's sole discretion may deem advisable (including the right to make alterations and repairs to the Leased Premises at Tenant's expense for the purpose of the reletting). If Landlord elects to reenter and attempts to relet the Leased Premises, Tenant will remain fully liable for all obligations of Tenant under this Lease, and Landlord's actions in reentering or attempting to relet will not be deemed a full or partial waiver of any obligations of Tenant.

(c) Landlord will give notice of any reletting. Upon each reletting, Tenant will be liable for and will pay immediately to Landlord, as additional rent and in addition to any other sums due under this Lease: (i) the costs and expenses of reletting (including advertising costs, brokerage fees, attorney fees, and the cost of any alterations and repairs incurred by Landlord); and (ii) the amount, discounted at a present value basis, by which the rent reserved in this Lease for the period of the reletting (up to but not beyond the Term of this Lease) exceeds, if at all, the amount to be paid as rent under the relet for the Leased Premises for the relet term. If Tenant has been credited with any rent to be received by reletting under the terms of this Paragraph 11.3(c) above and these rents are not promptly paid to Landlord by the new tenant, or if rent received from the reletting during any month is less than that to be paid during that month by Tenant, Tenant will pay any deficiency to Landlord upon Landlord's demand.

11.4. Accelerated Rent - Termination. If Landlord terminates this Lease for any default, Landlord, in addition to any other remedy, may recover from Tenant: (i) all damages and expenses that Landlord may incur by reason of the default including the cost of recovering the Leased Premises (including attorney fees, court costs, and storage charges); (ii) the amount of unpaid rental payments as of the date the lease is terminated; (iii) the present value, at the time of termination of the Lease, of the excess, if any, of the amount of rent and additional rent reserved in this Lease for the remainder of the Term less the fair rental value of the Leased Premises for the remainder of the Term; and (iv) any other amount necessary to compensate Landlord for damages actually incurred by Landlord arising out of Tenant's failure to perform Tenant's obligations under this Lease or for damages that, in the ordinary course of events, would be likely to result to Landlord from the failure of performance. All amounts described in this paragraph will be immediately due and payable from Tenant to Landlord upon demand.

11.5. Future Rents. Upon Tenant's default under the Lease, Landlord, without terminating the Lease, may elect to: (i) bring actions at various times during the remainder of the Term to collect all then-accrued and unpaid rent, additional rent, and other damages (without waiving any right to receive future rents); (ii) bring an action upon the expiration of the Term for all unpaid rent, additional rent, and other damages for the Term; or (iii) as provided in Paragraph 11.3(c) above, bring an action upon the reletting of the Leased Premises for unpaid rent, additional rent, and other damages through the date of reletting plus the present value of the difference between the rent specified in the Lease and the rent paid by any new tenant or tenants. In addition to the remedies described elsewhere in this Lease, if Tenant is in default of this Lease, Landlord, without terminating the Lease, may recover from Tenant all rent and other sums due and payable by Tenant under the Lease as of the date of entry of a judgment against Tenant plus the difference between: (i) the rent due for the remainder of the Term; less (ii) the fair rental value of the Leased Premises for the remainder of the Term.

11.6. Calculation of Rent. Whenever under this Article 11 Tenant shall be liable for the payment of any rent to Landlord, for any deficiency in rent received by Landlord upon a reletting, or for damages measured by rent, rent shall include the Minimum Monthly Rent for that period. In addition, Tenant shall be liable for all charges incurred or to be incurred by Landlord during such period for items designated as additional rent, which charges may be estimated by Landlord on the basis of past charges. If this Lease continues in effect after any payment of rent calculated on the basis of estimates or averages as above provided, Tenant's actual liability for such charges shall be adjusted as any rent from tenants to whom the Leased Premises are relet is received or as additional rent due from Tenant becomes known. Such adjustments shall be made periodically as Landlord deems appropriate, but not less often than yearly, and Landlord shall give Tenant notice of such adjustments and of any amounts due from Tenant to Landlord, which amounts shall be payable on demand. Whenever under this Article 11 Tenant is liable for the present value of rent, such present value shall be calculated using the Federal Reserve discount rate at the time of the default.

11.7. Entry by Landlord. Without constituting a trespass, eviction, breach of quiet enjoyment, or forcible entry and with or without the existence of a default, Landlord will have the right to enter the Leased Premises at any time to inspect the Leased Premises or to cure any default (including a breach of the Rules and Regulations), to submit the Leased Premises to

prospective purchasers, tenants or mortgagees, to post notice of non-responsibility, and to alter, improve, or repair the Building without abatement of rent, and Landlord, for the purposes of repair and alteration, may erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed so long as the business of Tenant is not interfered with unreasonably. Except for damages to Tenant or interference with Tenant's business arising from Landlord's negligent conduct, Tenant waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Leased Premises, and any other loss occasioned by Landlord's entry for any purpose permitted under this Lease. Landlord will have the right to use any and all means to open all doors in an emergency in order to obtain entry to the Leased Premises, and any entry by Landlord to the Leased Premises under this Paragraph 11.7 will not constitute an unlawful or forcible entry or detainer of the Leased Premises or an eviction of the Tenant from the Leased Premises.

11.8. Landlord's Right to Cure Default. All covenants and agreements to be performed by Tenant under any of the terms of this Lease will be at its sole cost and expense and without any abatement of rent. If Tenant fails to pay any sum of money, other than rent, required to be paid by Tenant under this Lease or fails to perform any other act on its part to be performed under this Lease, Landlord may, but will not be obligated so to do, and without waiving any rights of Landlord or releasing Tenant from any of its obligations, make the payment or perform other acts. All sums paid or expenses incurred by Landlord and all necessary incidental costs (together with interest at the rate specified in Paragraph 16.13 from the date of the payment by Landlord until paid) will be considered as additional rent and will be payable to Landlord on demand or, at the option of Landlord, may be added to any future rent becoming due under this Lease.

11.9. Non-Exclusivity of Remedies. Landlord's pursuit of the foregoing remedies will not preclude Landlord's pursuit of any of the other remedies provided for in this Lease or any other remedies provided by law or at equity. All remedies are cumulative. Landlord's pursuit of any remedy will not constitute a forfeiture or waiver of any amounts due to Landlord from Tenant or of any damages accruing to Landlord by reason of the violation by Tenant of any of the terms, provisions, and covenants of the Lease. Landlord's acceptance of payments after the occurrence of a default will not be construed as an accord and satisfaction, compromise, or waiver unless Landlord notifies Tenant in writing of Landlord's intent to satisfy, compromise, or waive. Forbearance by Landlord in enforcing one or more of the remedies will not be deemed or construed to constitute a waiver of the default or of Landlord's right to enforce any such remedies.

11.10. Landlord's Contractual Lien. In addition to any statutory lien for rent in Landlord's favor (including A.R.S. § 33-362), Landlord will have, and Tenant grants to Landlord, a continuing security interest for all rent and other sums of money due under this Lease, and for the performance of all other obligations of Tenant under this Lease, in all goods, wares, equipment, fixtures, furniture, inventory, accounts, contract rights, and other personal property of Tenant situated on the Leased Premises. This property will not be removed from the Leased Premises without the consent of Landlord until all arrearages in rent as well as any and all other sums of money and obligations then due to Landlord under this Lease are first paid and discharged. In addition, and to the extent permitted by law and further to the extent that the sale

of alcoholic beverages are included in the Permitted Uses, Tenant grants to Landlord a continuing security interest in the liquor license used by Tenant at the Leased Premises (the "Liquor License"). The interest granted pursuant to the preceding sentence will be perfected by any filings permitted or required by the Arizona Uniform Commercial Code and by the State Department of Liquor Licenses and Control, including the notation of the lien on the Liquor License or the filing of a Statement of Legal or Equitable Interest with such department, and an express condition of this Lease is the delivery to Landlord of written evidence of the foregoing with respect to the Liquor License prior to the Commencement Date. Upon a default under this Lease, Landlord will have, in addition to any other remedies provided in this Lease or by law, all rights and remedies of a creditor under the Arizona Uniform Commercial Code. Tenant consents to the filing of any financing statements to perfect the security interest created by this Lease, in the form prescribed by law. Tenant represents and warrants that Tenant will not enter into, cause to be filed or recorded, or allow to be filed or recorded, any financing statement affecting any collateral described herein.

ARTICLE 12. SECURITY DEPOSIT

12.1. Security Deposit. Upon execution of this Lease, Tenant will deposit with Landlord the Security Deposit as partial security (and not as rent) for the performance of each term, condition, covenant, and provision of this Lease that is required to be performed by Tenant. If Tenant defaults under this Lease, Landlord may use, apply, or retain all or any part of the Security Deposit for the payment or performance, in whole or in part, of any rent and/or other obligation to be paid or performed by Tenant or any other cost, expense, or liability that Landlord may incur by reason of Tenant's default.

12.2. Application of Deposit. Any use, application, or retention of the Security Deposit by Landlord will be in addition to, and not in substitution of or an alternative to, any other rights or remedies that Landlord may have at law or in equity or under this Lease, will not prevent Landlord from pursuing its other rights and remedies under this Lease or at law or in equity, and will not prevent Landlord from recovering damages in the case of a default in excess of the amount of the Security Deposit used, applied, or retained. If any portion of the Security Deposit is used, applied, or retained during the Term of this Lease, Tenant, upon ten (10) days written demand, will deposit a sufficient sum in cash with Landlord to restore the Security Deposit to the full amount initially deposited, and Tenant's failure to do so will be an additional default of this Lease.

12.3. Refund of Deposit. If Tenant, at the end of the Term of this Lease, including any extensions and holdover periods, has fully and faithfully complied with all of the terms and provisions of this Lease, any unapplied balance of the Security Deposit will be returned to Tenant within twenty (20) days. Tenant will not be entitled to interest on the Security Deposit, and Landlord will not be required to segregate the Security Deposit from its general funds.

ARTICLE 13. MORTGAGE REQUIREMENTS

13.1. Lease Subordination. This Lease is and will be subject and subordinate, in all respects, to any mortgage, deed of trust, or any other encumbrance for security that is now in

effect or that may be placed at any time during the Term on all or part of the Leased Premises and to any and all advances made on the security and to all renewals, modifications, increases, and extensions of the security. If any mortgagee or trustee elects in writing to have this Lease prior to the lien of its mortgage or deed of trust, this Lease will be deemed prior to the mortgage or deed of trust regardless of whether this Lease is dated prior or subsequent to the execution, recording, or effective date of the mortgage or deed of trust. Tenant agrees to execute any documents required to make this Lease prior to the lien of any mortgage or deed of trust within twenty (20) day of receiving a written request to do so

13.2. Attornment. Tenant agrees that if any proceedings are brought for the foreclosure of, or if the power of sale is exercised under, any mortgage or deed of trust affecting the Leased Premises, Tenant will, upon request by the purchaser at the foreclosure or trustee's sale, attorn to the purchaser and recognize the purchaser as Landlord under this Lease.

ARTICLE 14. LANDLORD DEFAULT AND TRANSFER OF INTEREST

14.1. Landlord Default. If Landlord defaults under this Lease, Tenant, before exercising any rights that it may have at law, will have given notice of the default to Landlord and will grant Landlord a reasonable opportunity, but not less than thirty (30) days, to correct and cure the default. Tenant also agrees to give the holders of any mortgages or deeds of trust ("mortgagees") on the Building whose names and addresses have been provided to Tenant a copy of any notice of default served upon Landlord if Tenant has been notified in writing (by way of a recorded assignment of rents and leases or otherwise) of the addresses of the mortgagees. Tenant further agrees that if Landlord fails to cure the default within a reasonable time, the mortgagees will have an additional thirty (30) days within which to cure the default or, if the default cannot be cured within that time, within the additional time as may be necessary to cure the default, the mortgagee has commenced and is diligently pursuing the remedies necessary to cure the default (including, but not limited to, commencement of foreclosure proceedings if necessary to affect the cure). This Lease will not be terminated while Landlord or any mortgagee remedies are being diligently pursued. If Landlord shall default under this Lease, then, in that event, Landlord shall be responsible to Tenant for any and all actual damages sustained by Tenant as a result of Landlord's breach, but not special, consequential or punitive damages.

14.2. Relief of Obligations. If Landlord transfers its interest in the Leased Premises (other than a transfer for security purposes only), Landlord will be relieved of all obligations accruing under this Lease after the effective date of the transfer, including, but not limited to, the return of the Security Deposit or other funds held in trust by Landlord for the benefit of Tenant if the obligations are expressly assumed in writing by the transferee. Tenant agrees to attorn to any transferee of Landlord.

14.3. Estoppel Certificate. At any time and from time to time during this Lease, after ten (10) days prior written request by Landlord, Tenant agrees to execute, acknowledge, and deliver to Landlord a statement in writing certifying to Landlord and any prospective purchaser or mortgagee of the Leased Premises that: (i) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications; (ii) the dates to which the rent and other charges have been paid in advance, if any; (iii) there are not any uncured defaults on the part of Landlord under this Lease

(or specifying the defaults if any are claimed); (iv) there exist no defenses of Tenant against enforcement of any provision of the Lease against Tenant (or, if they exist, the nature of the defenses), (v) the Commencement Date and expiration of the Term; and (vi) any other information that may be reasonably requested by Landlord. Any statement delivered pursuant to this paragraph may be conclusively relied upon by any prospective purchaser or mortgagee of any part of the Building. If Tenant fails to deliver the estoppel statement within the time required above, any prospective purchaser or mortgagee may conclusively assume that: (i) this Lease is in full force and effect, without modification except as may be represented by Landlord; (ii) there are no uncured defaults in Landlord's performance; (iii) not more than one month's rent and no other charges have been paid in advance; (iv) there are no existing defenses against enforcement of any provision of the Lease; and (v) the Commencement Date and expiration of the Term are as stated by Landlord. The failure of Tenant to deliver the required estoppel statement will constitute a default by Tenant under this Lease.

ARTICLE 15. ENVIRONMENTAL PROVISIONS

15.1. Tenant Covenant. Tenant represents and warrants to Landlord that Tenant will not generate, store, treat, use, release, or dispose of (collectively, a “release”) any hazardous materials on or about the Leased Premises or the Building except in compliance with all environmental laws and any conditions imposed by Landlord and only with the express written approval of Landlord. Tenant will obtain, comply with, and provide Landlord with copies of all permits required in connection with the generation, storage, treatment, use, release, or disposal of any hazardous materials. Tenant will be responsible for removing from the Leased Premises any hazardous materials put there or permitted by Tenant or its Permittees that either Tenant or Landlord is required by law to remove. In addition, Tenant will be responsible for restoring the Leased Premises at the time of the required removal.

15.2. Landlord Actions. If Tenant fails to perform any of its obligations under this Article 15 within thirty (30) days after written notice by Landlord of the failure (or within a reasonable period of time not to exceed ninety (90) days after written notice of the failure if, due to the nature of the failure, the failure cannot be cured within a thirty (30) day period but is otherwise susceptible to cure within a reasonable period of time not exceeding ninety (90) days), Landlord may enter upon the Leased Premises and remove or cause to be removed the hazardous material or otherwise cause compliance with any applicable environmental law; however, Landlord may enter the Leased Premises prior to the expiration of the cure period to remove or cause to be removed the hazardous material or otherwise cause compliance with any applicable environmental law, if Landlord determines that the action is necessary prior to the expiration of the applicable cure period: (i) for the preservation or safety of the Building or the tenants in the Building or other persons; (ii) to avoid suspension of a necessary service to the Building; or (iii) to assure the continued operation of the Building. The thirty (30) day notice period described above may be shortened if compliance is required earlier by any environmental law or any order issued by any applicable Governmental Authorities. The cost of removal and compliance will be immediately due to Landlord upon demand as additional rent.

15.3. Tenant Compliance. Tenant will, at Tenant's own expense, comply with all present and future environmental laws affecting Tenant's activities on the Leased Premises or the Building. Tenant will keep the Leased Premises free of any lien imposed pursuant to any

environmental laws as a result of Tenant's acts or failure to act under this Lease.

15.4. Definitions. The term “hazardous materials” means materials regulated under the environmental laws and asbestos, urea formaldehyde foam insulation, petroleum containing products, and any fluid containing polychlorinated biphenyls. The term “environmental laws” means all Laws enacted by any Governmental Authorities related in any way to the regulation or protection of the environment including the following, as they may be amended from time to time: the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.), the Resource and Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Safe Drinking Water Act (42 U.S.C. §§300f et seq.), the Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.), and the Arizona Environmental Quality Act, including provisions on aquifer protection (A.R.S. §§ 49-241 et seq.), remedial action (A.R.S. §§ 49-281 et seq.), air quality (A.R.S. §§ 49-401 et seq.), solid waste management (A.R.S. §§ 49-701 et seq.), hazardous waste disposal (A.R.S. §§ 49-901 et seq.).

15.5. Notification. Tenant immediately will notify Landlord, both orally and in writing, of any of the following: (i) any release into the environment of any hazardous materials; (ii) any correspondence or communication to Tenant or its agents regarding the presence or suspected presence of hazardous materials on the Leased Premises or the Building or regarding the application of environmental laws to the Leased Premises, the Building, or Tenant's activities on the Leased Premises; (iii) tenant's knowledge of any circumstances that could give rise to a claim that Tenant, Landlord, the Leased Premises, or the Building may be in violation of environmental laws; and (iv) any change in Tenant's activities on the Leased Premises that will or may change Tenant's or Landlord's obligations or liabilities under environmental laws.

15.6. Environmental Indemnity. Tenant, on demand, will indemnify and hold harmless Landlord, its members, managers, partners, employees, and agents for, from, and against any loss, damage, obligation, penalty, liability, litigation, demand, defense, judgment, suit, proceeding, cost, disbursement, and expense (including, but not limited to, the costs of reasonable investigation, remediation, removal, and legal fees and expenses) arising out of a violation by Tenant of any environmental law or a breach of any representation, warranty, covenant, or agreement of Tenant under this Article 15. Tenant's obligations and liabilities under this paragraph will continue after the expiration or termination of this Lease so long as Landlord bears any liability or responsibility under the environmental laws for any action that occurred or was initiated on the Leased Premises or the Building during the Term of this Lease. Tenant's failure to abide by the terms of this Article 16 will be restrainable by injunction.

ARTICLE 16. GENERAL PROVISIONS

16.1. No Partnership. Nothing contained in this Lease will be deemed or construed to create a partnership or joint venture between Landlord and Tenant or cause Landlord to be responsible in any way for the debts or obligations of Tenant, and no provision contained in this Lease nor any acts of the parties will be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

16.2. Notices. All notices, demands, consents, and statements that are required or permitted to be given by either party will be in writing and, to be effective, will be personally delivered or sent by overnight express delivery or mailed by United States certified mail (postage prepaid, return receipt requested) at Tenant's or Landlord's address, as set forth above. Either party may change its address by notice given to the other in the manner set forth in this paragraph. Notices, demands, and statements will be deemed given and received when personally delivered or two (2) business days after they are mailed as provided above or on the next business day after deposit with a recognized overnight express delivery service.

16.3. Attorney Fees. If any action or proceeding brought by either party against the other under this Lease or any guarantee of this Lease, the prevailing party will be entitled to recover attorney fees in the amount the court may determine reasonable. Either party also will be entitled to recover all costs, expenses, and reasonable attorney fees that may be incurred or paid by the party in enforcing the terms of this Lease or in enforcing a judgment in its favor, whether or not the party commences litigation against the other party.

16.4. Delivery of Leased Premises at Expiration. At the expiration of the Term of this Lease or upon any early termination of this Lease (whether consented to by Landlord or as a result of a default by Tenant under this Lease), Tenant will deliver the Leased Premises, including all improvements, to Landlord in good and clean condition and repair, except for normal wear and tear, and Tenant will leave on the Leased Premises all items that are owned by Landlord or that Landlord is entitled to retain under the terms of this Lease.

16.5. Binding Effect. Subject to the provisions of this Lease restricting assignments or subletting by Tenant and except as otherwise specifically provided in this Lease, this Lease will bind and inure to the benefit of the parties and their respective heirs, administrators, personal representatives, successors, and assigns.

16.6. Time. Time is of the essence of this Lease and each and every provision of this Lease.

16.7. Consent and Waiver. No waiver of any term, covenant, condition, or obligation of this Lease, will be effective unless granted in writing. The waiver by Landlord of any term, covenant, condition, or obligation in this Lease will not be deemed to be a waiver of any other term, covenant, condition, or obligation of this Lease. The subsequent acceptance of rent by Landlord will not constitute a waiver of any preceding breach by Tenant, regardless of Landlord's knowledge of the preceding breach at the time of acceptance of the rent.

16.8. Governing Law and Severability. This Lease will be governed by and construed in accordance with Arizona law, and the invalidity or unenforceability of any provision of this Lease (as determined by a court of competent jurisdiction) will not affect or impair the validity of the remainder of this Lease or any other provision. All actions brought to enforce or interpret any provision of this Lease must be brought in the Superior Court of Pima County, Arizona, or the Federal District Court of the District of Arizona, and Landlord and Tenant voluntarily and irrevocably consent to this jurisdiction and waive any right to remove or transfer any action to a different forum.

16.9. No Individual Liability. The obligations of Landlord under this Lease do not constitute personal obligations of Landlord or of the members, managers, partners, directors, officers, or shareholders of Landlord, and Tenant will look solely to Landlord's interest in the real estate that is the subject of this Lease and to no other assets of Landlord for satisfaction of any liability in respect of this Lease and will not seek recourse against the members or managers of Landlord or the members, partners, directors, officers, or shareholders of any of the members or managers of Landlord or any of their personal assets for satisfaction.

16.10. Entire Agreement. This Lease constitutes the entire agreement of the parties and supersedes all prior agreements or understandings, either written or oral, between the parties with respect to the subject matter, including, without limitation, any and all letters of intent between Landlord and Tenant. This Lease may not be modified or amended except by written agreement of the parties.

16.11. Rules and Regulations. Tenant agrees to comply with (and cause its agents, contractors, employees and invitees to comply with) the Rules and Regulations attached as Exhibit "C". Landlord from time to time may make modifications, additions, and deletions to the Rules and Regulations as in the sole judgment of Landlord are necessary or convenient for the management and operation of the Building; however, if any modifications, additions, or deletions are in conflict with any specific provisions of this Lease, the provisions of this Lease will control. Landlord will notify Tenant of any modifications, additions, or deletions in the Rules and Regulations, and any modification, addition, or deletion will be effective after Landlord gives five (5) days written notice to Tenant. Tenant agrees to faithfully observe and comply with the Rules and Regulations and all modifications, additions, or deletions, and the breach of any Rule or Regulation by Tenant will constitute a failure to observe and perform a covenant or agreement of this Lease and a default. Landlord will not be responsible to Tenant for the nonperformance by any other tenant or occupant of the Building of any Rules and Regulations, but the Rules and Regulations from time to time in effect will be uniformly applicable to all tenants and occupants similarly situated.

16.12. Holdover Tenancy. Tenant may not retain possession of the Leased Premises after the expiration of the Lease Term, unless Tenant is designated in writing by Landlord as a month-to-month tenant of the Leased Premises. If Tenant remains in possession of the Leased Premises after the expiration of the Lease Term, Tenant will become a month-to-month tenant upon the same terms and conditions contained in this Lease, except that Tenant will pay an amount of Minimum Monthly Rent each month equal to one hundred twenty-five percent (125%) of the Minimum Monthly Rent in effect during the last month of the Lease Term. Tenant may continue in possession of the Leased Premises until the tenancy is terminated by either Landlord or Tenant by written notice of termination to the other party at least twenty days prior to the effective date of termination. Holdover tenancies may end on any day of the month.

16.13. Interest on Past Due Obligations. Except as otherwise provided in this Lease, any amount due to Landlord that is not paid when due will bear interest from the due date until paid, at the greater of the prime rate quoted by the Wells Fargo Bank, plus five percent (5%) per annum (compounded monthly), or twelve percent (12%) per annum (compounded monthly).

Payment of the interest will not excuse or cure any default by Tenant under this Lease.

16.14. Brokers. Tenant represents that it has had no dealing with any real estate brokers or agents in connection with this Lease. Tenant will indemnify and hold harmless Landlord for, from, and against any and all claims, demands, losses, liabilities, costs and expenses (including reasonable attorney fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings by Tenant with any real estate agent or broker. Landlord represents that it has had no dealing with any real estate brokers or agents in connection with this Lease. Landlord will indemnify and hold harmless Tenant for, from, and against any and all claims, demands, losses, liabilities, costs and expenses (including reasonable attorney fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings by Landlord with any real estate agent or broker. Principals of Landlord are licensed real estate brokers or salespersons.

16.15. Compliance with Laws. Tenant will not permit anything to be done in or about the Leased Premises or Building that will in any way conflict with any Law enacted by any Governmental Authorities. Without limiting the generality of the foregoing, Tenant, at its sole cost and expense, promptly will comply with all Laws, including, without limitation, the ADA and with the requirements of any board of fire underwriters or other similar body relating to or affecting the condition, use, or occupancy of the Leased Premises, excluding structural changes not related to or affected by Tenant's improvements or acts.

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Landlord and Tenant have executed this Lease as of the Lease Date.

LANDLORD:

War & Spece Holdings, LLC, an Arizona limited liability company

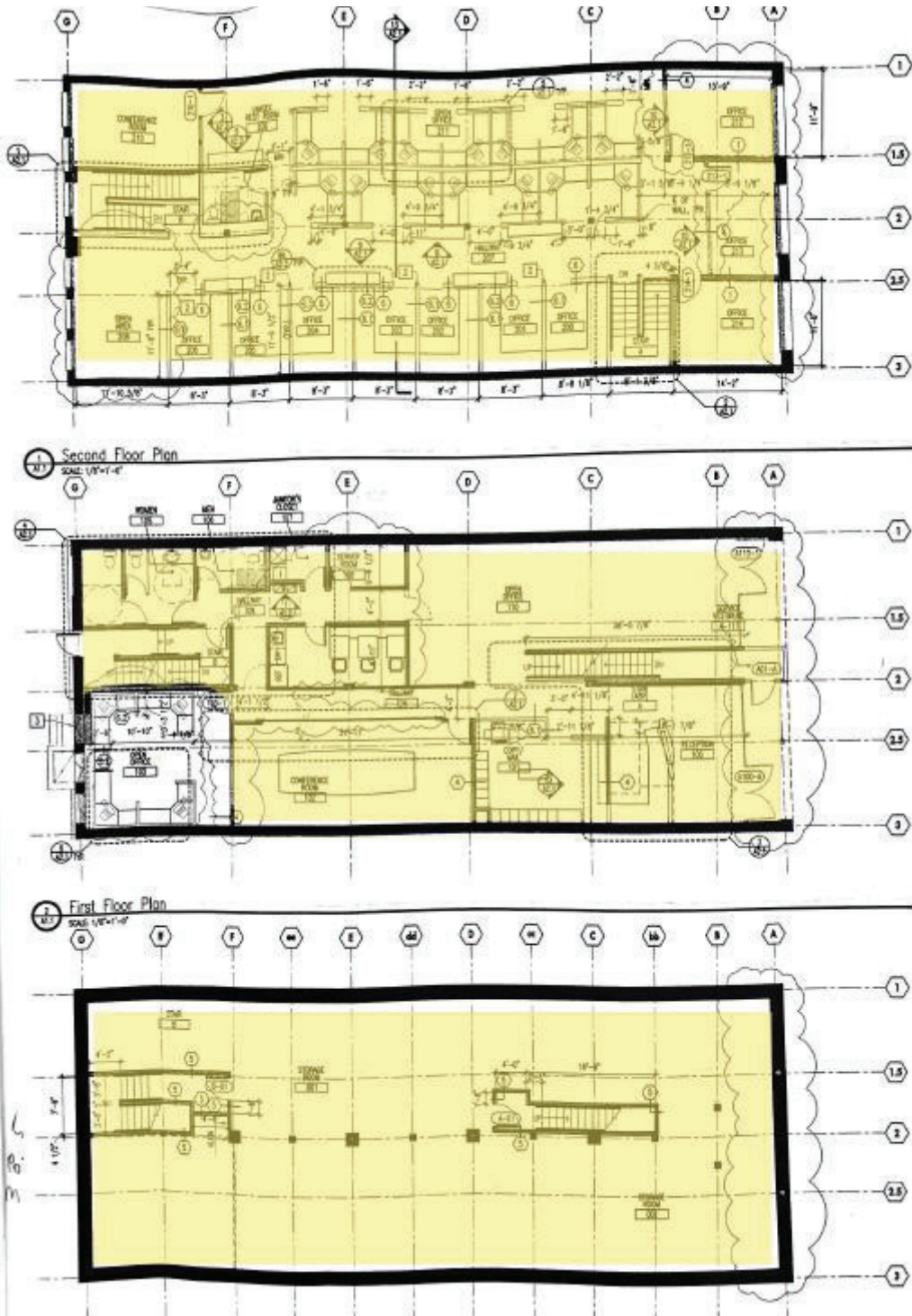
By  _____
Ronnie Spece, Manager
2BDB6425AF614A4...

TENANT:

Barrio Brothers, LLC, an Arizona limited liability company

By  _____
Ronnie Spece, Manager
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EXHIBIT "A" TO LEASE AGREEMENT



**EXHIBIT “B”
TO
LEASE AGREEMENT**

(List of Prohibited Uses—Paragraph 5.1)

1. Any use that constitutes a cinema/movie theater; bowling alley; skating rink; pool hall; massage parlor (excluding “day spa”) or facility that hosts obscene nude or semi-nude performances; adult book store or adult video store where obscene pornographic or “adult” materials or paraphernalia including but not limited to, movies, videotapes, DVDs, devices, books, magazines or other related items are sold or displayed; facilities used for the sale, display or advertisement of any paraphernalia used in the preparation or consumption of controlled substances (i.e., “head shops”); facilities used primarily for the operation of any liquor store or package store selling packaged liquors for off-site consumption; funeral home or other facilities selling caskets; industrial or manufacturing uses; cabaret; night club; automotive supplies and parts; tattoo parlor; or on-site dry cleaning facilities (excluding “pickup-drop off” facilities that do not perform any on-site cleaning services or utilize any cleaning chemicals); and

2. Any use which is not permitted by the Applicable Laws including, without limitation, all Applicable Laws concerning the management, use, generation, storage, transportation, presence, discharge or disposal of hazardous, toxic, radioactive, or carcinogenic materials, substances or wastes, zoning, land use or other governmental laws, regulation or ordinances.

**EXHIBIT “C”
TO
LEASE AGREEMENT**

(Rules and Regulations - Paragraph 16.11)

1. **ENTRANCES AND EXITS.** The sidewalks and entrances shall not be obstructed or used for any purpose other than ingress or egress and Tenant may not display or sell merchandise, install carpets, door mats, planters, etc., or allow carts, portable signs, devices, or any other objects to be stored or to remain outside the exterior walls or permanent doorways of the Leased Premises. The common areas of the 123 South Stone building (“Building”) are not for the use of the general public, and Landlord shall in all cases retain the right to control or prevent access thereto by all persons whose presence in the judgment of the Landlord shall be prejudicial to the safety, character, reputation or interests of the Building and its tenants; provided that nothing herein contained shall be construed to prevent such access by persons with whom the Tenant normally deals in its ordinary course of business unless such persons are engaged in illegal activities. Tenant shall not go upon the roof of any Building without prior written consent of Landlord.
2. **COMMON AREAS.** All tenants must use all common facilities in a manner to ensure their good working order and cleanliness. No tenant may use, keep, or permit to be used or kept any noxious gas or substance in the Building, or permit the Building to be occupied in a manner that is offensive or objectionable to the Landlord or other tenants or occupants of the Building because of noise, odor, or vibrations. No skateboards or similar vehicles and no animals or birds will be brought in or kept in or about the Building. No tenant will make or permit any noises to disturb or interfere with occupants of neighboring building or premises including the noises caused by the use of any musical instrument, radio, or musical equipment.
3. **AWNINGS.** No awnings or other projections shall be attached to the outside of any building in the Building, and no window shades, blinds, drapes or other window coverings shall be hung in the Building, without prior written consent of Landlord. Except as otherwise specifically approved by Landlord, all electrical ceiling fixtures hung along the perimeter of the Building must be approved by Landlord.
4. **RESTROOMS.** The toilets, wash basins and other plumbing fixtures shall be used solely for the purposes for which they were constructed, and no refuse or garbage shall be thrown therein. All damage resulting from any misuse of such fixtures shall be borne by the tenant who, or whose employees, agents or invitees shall have caused the same.
5. **DEFACEMENT.** No tenant shall in any way deface any part of the Building. No boring or cutting for wires, stringing of wires or laying of linoleum or other similar floor coverings shall be permitted with the prior written consent of Landlord and then only as Landlord may direct.
6. **PROHIBITED ACTIVITIES.** No vehicles or animals of any kind shall be brought into or kept in or about the Building. The Building shall not be used for lodging or sleeping or for any immoral or illegal purposes. No tenant shall make, or permit to be made, any unseemly or disturbing noises or sounds or vibrations, or otherwise disturb or interfere with occupants of the Building or those having business

with them. No tenant shall throw anything out of the doors or in the other common areas of the Building. No tenant shall make or permit any odors that annoy or interfere with other tenants or persons having business within the Building. No tenant shall bring bicycles, motorcycles, or other vehicles into areas not designated or authorized by Landlord for them.

7. **DELIVERY AND PICK-UPS.** All removal or deliveries of freight must take place during normal business hours and in the locations designated by Landlord from time to time. The moving of fixtures, furniture, or other large objects must be made upon previous notice to the manager of the Building, and under his supervision, and the persons employed by any tenant for such work must be acceptable to Landlord. Landlord reserves the right to prohibit or impose conditions upon the installation in the Building of heavy objects which might overload the Building floors.

8. **ENTRY.** Landlord reserves the right to exclude unauthorized parties from the Building or the Leased Premises at all times other than the reasonable hours of generally recognized days of operation of the Building as determined by Landlord. Landlord shall in no case be liable for damages for any error respecting the admission to or exclusion from the Building of any person. In case of riot or other commotion, Landlord reserves the right to prevent access to the Building during the continuance of the same by closing the door or otherwise, for the safety of the Tenants and protection of property in the Building. All of tenants' agents, employees, and invitees shall comply with all security regulations established from time to time by Landlord. No tenant shall alter any lock or install new or additional locks or bolts without Landlord's prior written permission. Tenants shall give to Landlord all keys and alarm codes at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost or for the cost to re-key the locks at the direction of Landlord.

Each Tenant shall ensure that the doors of its premises are closed and securely locked before leaving the Building and all water faucets, water apparatus, and electricity are entirely shut off before the tenant or tenant's employees leave the Building. Each tenant will be responsible for any damage to the Building or to other tenants cause by a failure to comply with this rule.

9. **SOLICITORS.** Canvassing, soliciting and peddling in the Building are prohibited, and each tenant shall cooperate to prevent same.

10. **TELEPHONES.** Landlord will direct technicians as to where and how telephone wires are to be installed. The location of telephones and other office equipment affixed to the Building shall be subject to the approval of Landlord.

11. **EXPLOSIVES OR FIREARMS.** No explosives, firearms, or flammables of any kind shall be brought into the Building.

12. **EXPULSION.** Landlord reserves the right to exclude or expel from the Building any person who, in the judgment of the Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner violate the rules of the Building.

13. **REFUSE AND GARBAGE.** Refuse and garbage shall be removed from the Building at such times and intervals, through such exits thereof and over such routes of egress therefrom as Landlord may

designate from time to time. No refuse or garbage will be stored anywhere except inside the Building or in areas designated by Landlord.

14. **PARKING.** There is no parking provided for the specific use of any tenant.

15. **FOOD ESTABLISHMENT.** Unless ancillary to a restaurant or other food service use specifically authorized in a tenant's Lease, no tenant shall place, install, or operate in any part of the Building, any engine, stove or machinery, or conduct mechanical operations or cook thereon or therein, or place or use in or about the Building any explosives, gasoline, kerosene, oil, acids, caustics, or any flammable, explosive or hazardous material without written consent of Landlord. Landlord does consent to the ordinary use of a microwave oven to warm food and beverages for tenant's employees.

16. **STOLEN ITEMS.** Landlord will not be responsible for lost or stolen merchandise, trade fixtures, furniture, furnishings, personal property, equipment, money, or jewelry from the Building regardless of whether such loss occurs when the area is locked against entry or not.

17. **MOVING.** Movement in or out of the Building of furniture or office supplies and equipment, or movement through the common areas, entrances or exits shall be restricted to hours designated by Landlord. All such movement shall be under supervision of Landlord and carried out in a manner agreed between tenant and Landlord by pre-arrangement before performance. Such pre-arrangements will include determination by Landlord of time, method, and routing of movement and limitations imposed by safety or other concerns which may prohibit any article, equipment, or any other item from being brought into the Building. Tenant assumes, and shall indemnify Landlord against all risks, and claims of damage to persons and properties arising in connection with any said movement.

18. **FLOOR COVERING.** No tenant shall lay any floor covering within the Building without written approval of Landlord. The use of cement or similar adhesive materials not easily removed with water is expressly prohibited.

19. **GOVERNMENTAL LICENSE.** If any governmental license or permit shall be required for the proper and lawful conduct of tenant's business, tenant, before occupying the Building shall procure and maintain such license or permit and submit it for Landlord's inspection. Tenant shall at all times comply with the terms of any such license or permit.

20. **OPERATING MACHINES.** No tenant shall permit the use or operation of any coin operating machines on the Building, including without limitation, vending machines, video games, pinball machines, or pay telephones without prior written consent of Landlord.

21. **NON-SMOKING AREAS.** Landlord reserves the right to designate areas as non-smoking. No tenant shall permit smoking or carrying lighted cigars, pipes, or cigarettes in such non-smoking areas designated either by Landlord or by any applicable governmental agency.

22. **HEATING AND COOLING.** No tenant shall use any method of heating or air conditioning other than those provided by Landlord.

23. **SAFETY PROCEDURES.** Tenant shall comply with all safety, fire protection and evacuation regulations established by Landlord or any applicable governmental agency.

24. **WAIVERS.** Landlord reserves the right to waive any one or more of these rules and regulations as to any particular tenant, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application to the tenant granted a waiver. The waiver of any of these rules or regulations as to any particular tenant shall not constitute a waiver as to any other tenant and all other tenants shall continue to comply with these rules and regulations.

25. **GENERAL.** It is Landlord's desire to maintain in the Building the highest standard of dignity and good taste consistent with the terms of the lease and with comfort and convenience for tenants. Any action or condition not meeting this high standard should be reported directly to Landlord. Tenant cooperation will be mutually beneficial and sincerely appreciated. Landlord reserves the right to make such other and further rules and regulations as in Landlord's judgment may from time to time be necessary for the safety, care, and cleanliness of the Building and for the preservation of good order therein.

**EXHIBIT “D”
TO
LEASE AGREEMENT**

(Building Sign Criteria - Paragraph 1.4)

These criteria have been established based upon criteria jointly adopted by the City of Tucson to assure an outstanding Retail Center and to achieve design compatibility for the mutual benefit for all occupants.

A. General Requirements.

1. All Tenant signs shall be designed and constructed in accordance with these criteria.
2. Each Tenant shall submit plans for its sign(s) per these criteria to Landlord and obtain written approval by Landlord prior to submitting its application for a sign permit to the City of Tucson.
3. Each Tenant shall submit or cause to be submitted to the City of Tucson for approval, before fabrication, at least two (2) color copies of detailed drawings indicating the location, size, layout, design and color of its proposed sign(s), including all lettering and graphics.

B. General Specifications.

1. No animated, flashing or audible signs will be permitted.
2. A Tenant’s registered national trademark may be displayed on permitted signs, subject to compliance with all other pertinent provisions of these sign criteria.
3. All conductors, transformer and other equipment shall be concealed behind the exterior wall of the Leased Premises.
4. Pan channel letters with acrylic trim-capped faces shall not be allowed. Use of acrylic is limited to backing up routed copy in a metal sign face.
5. Sign frame to be provided by Landlord. All copy, graphics, illumination and other embellishments are the responsibility of Tenant.