

**EXHIBIT B**

**LEASE**

THIS LEASE is entered into and made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between City of Lancaster, hereinafter called "Landlord," and \_\_\_\_\_, hereinafter called "Tenant."

**WITNESSETH:**

Landlord, in consideration of the rents and covenants hereinafter set forth, does hereby demise, let and lease to Tenant, and Tenant does hereby hire, take and lease from Landlord, on the terms and conditions hereinafter set forth, the following described space, hereinafter called the "Premises," to have and to hold the same, with all appurtenances, unto Tenant for the term hereinafter specified.

**1. DESCRIPTION OF THE PREMISES**

The Premises consist of approximately 2800 rentable square feet of space (the "leased premises" or "premises") as shown on the drawing attached as Exhibit "A" which is located within the Lancaster Municipal Golf Course Club House, (hereinafter referred to as the "Building").

**2. TERM**

(a) Initial Term. The term of this Lease (the "Term") shall be for a period of thirty-six (36) months, commencing on \_\_\_\_\_ (the "Commencement Date") and ending on the Expiration Date (as herein defined), unless this Lease shall be sooner terminated as hereinafter provided. "Expiration Date" means (i) if the Commencement Date is the first day of a calendar month, the thirty-sixth (36th) month anniversary of the day immediately preceding the Commencement Date; or (ii) if the Commencement Date is not the first day of a month, the thirty-sixth (36th) month anniversary of the last day of the month in which the Commencement Date occurs.

(b) Automatic Renewal. This Lease shall be automatically renewed and extended, without notice from either party, for one (1) additional 36 month term, unless either party provides the other party notice, at least 90 days before the expiration of the initial 36 month term, that the party does not want the lease to be automatically renewed as set forth above. Such notification shall be in writing and personally served or mailed by regular mail to the other party at the party's notice address set forth in Paragraph 20. There shall be a base rent increase at the time of the renewal as shown in Paragraph 3(a) below for Months 37 - 72. All other conditions and agreements contained in the lease shall remain the same upon renewal of the lease.

**3. RENT**

(a) Rent. Tenant shall pay to Landlord, at the address listed below in Paragraph 20, Rent for the Premises payable in equal monthly installments as follows:

<b>Period</b>	<b>Monthly Base Rent</b>
Months 1 – 12	\$350.00 per month
Months 13 – 24	\$350.00 per month
Months 25 – 36	\$350.00 per month
Months 37 - 48	\$367.50 per month
Months 49 - 60	\$376.25 per month
Months 61 - 72	\$385.00 per month

The Monthly Rent shall be paid in advance, on or before the first day of each and every month throughout the Term; provided, however, that if the Commencement Date shall be a day other than the first day of a calendar month, the Monthly Rent installment for such first fractional month shall be pro-rated accordingly. Tenant's obligation to pay Rent is a separate and independent covenant and obligation. Tenant shall pay all Rent and other sums of money as shall become due from and payable by Tenant to Landlord under this Lease at the times and in the manner provided herein, without abatement

and without notice, demand, set-off or counterclaim. Notwithstanding anything to the contrary contained herein, the first month's Rent shall be due and owing upon execution and delivery of this Lease by Tenant.

(b) Utilities. Tenant shall be responsible for obtaining and paying for any telephone or internet service Tenant desires to have. Tenant shall be responsible to reimburse Landlord for 75% of the bill for Electric, Gas, and Water and Sewer services at the building. The Landlord shall timely pay the entire utility bill and submit a copy of the bill to Tenant within 5 days of payment. Tenant shall have 5 days from the date of receipt of the bill to pay the Landlord an amount equal to 75% of the total amount paid by Landlord.

(c) Service Charge. Tenant's failure to make any monetary payment required of Tenant hereunder within five (5) days of the due date therefore shall result in the imposition of a service charge for such late payment in the amount of ten percent (10%) of the amount due. In addition, any sum not paid within thirty (30) days of the due date therefore shall bear interest at a rate equal to the greater of eighteen percent (18%) or such lesser percentage as may be the maximum amount permitted by law, from the date due until paid.

(d) Security Deposit. Concurrently with the execution and delivery of this Lease by Tenant, Tenant shall deposit with Landlord the amount of \$700.00 as a security deposit (the "Security Deposit"). If at any time during the Term Tenant fails to pay any installment of rent or any other charges required to be paid to Landlord hereunder and such failure continues beyond the period given to cure such default as set forth in paragraph 14 hereof, Landlord may, by notice to Tenant, require the immediate deposit as an additional security deposit of a sum equal to two (2) months of the then rent for the Premises either or both of which sums, as applicable, hereinafter referred to as the "Additional Security Deposit". The Security Deposit shall be held as security for the performance and observance by Tenant of all of its obligations under the terms, conditions and covenants of this Lease throughout the Term of this Lease. If Tenant performs and observes all of the terms, conditions and covenants of this Lease which are required to be performed and observed by it, Landlord shall return the Security Deposit, or balance thereof then held by Landlord, to Tenant within 20 days after the Expiration Date or after Tenant surrenders possession of the Premises, whichever is later. In the event of a default by Tenant in the payment of rent or the performance or observance of any of the other terms, conditions or covenants of this Lease, then Landlord may, at its option and without notice, apply all or any part of the Security Deposit in payment of such rent or to cure any other such default; and if Landlord does so, Tenant shall, upon request, deposit with Landlord the amount so applied so that Landlord will have on hand at all times throughout the Term of this Lease the full amount of the Security Deposit. The use, application or retention of the Security Deposit or any portion thereof by Landlord shall not prevent Landlord from exercising any other right or remedy provided by this Lease or by law (it being intended that Landlord shall not first be required to proceed against the Security Deposit) and shall not operate as a limitation on any recovery to which Landlord may otherwise be entitled.

#### **4. IMPROVEMENTS AND REPAIRS**

(a) During the term of this lease, in the event that Tenant believes there to be repairs needed, for which the Landlord is responsible to perform, Tenant shall provide written notice of the repair request to the Lancaster City Administrator, at the address listed in Paragraph 20.

(b) Tenant shall have the right to repair the fireplace located within the Premises at Tenant's sole expense. If Tenant does not elect to repair the fireplace, the Tenant shall notify the Landlord of that election in writing and Landlord shall cap the chimney at Landlord's sole expense.

#### **5. TENANT'S ACCEPTANCE OF THE PREMISES**

Upon delivery of possession of the Premises to Tenant as hereinbefore provided, Tenant shall give Landlord a Memorandum of Commencement Date, in the form attached to this Lease, made a part hereof and marked Exhibit "B", signed by an officer or principal of Tenant acknowledging (i) the Commencement Date and Expiration Date of this Lease, and (ii) that Tenant has accepted the Premises for occupancy and that the condition of the Premises, Building and appurtenant areas were at the time satisfactory and in conformity with the provisions of this Lease in all respects, except for any defects as to which Tenant shall give written notice to Landlord within thirty (30) days after Landlord has delivered possession of the Premises. Tenant's Memorandum of Commencement Date, fully executed, shall be attached to and made a part of this executed Lease.

**6. USE OF THE PREMISES**

(a) Specific Use. The Premises shall be occupied and used exclusively for food and beverage preparation and service, to operate a restaurant and banquet facility, and for legal purposes incidental thereto, and shall not be used for any other purpose. During the term of this Lease, Tenant shall have the restaurant open for business, at a minimum, as follows:

April through October  
Lunch Monday - Sunday 11:30 a.m. to 2:00 p.m.  
Dinner Monday - Saturday 4:30 p.m. to 9:00 p.m.  
Beverage Cart or Bar on Saturdays and Sundays 9:00 a.m. to 4:00 p.m.

(b) Sale of Beer/Liquor – Other Licenses and Permits: Tenant must designate a lawful Wisconsin entity to apply to the CITY for an annual fermented malt beverage alcohol license to sell beer and a Class A liquor license for the sale of liquor at the premises. Such entity shall apply for such alcohol license(s) in the normal and customary manner required by all alcohol license applicants. CITY will promptly process such license application in the customary manner required by law and will grant the application in a timely manner if such application and renewals are approved by the appropriate CITY bodies and the Tenant and the entity comply with all requirements of the law in the obtaining, holding and operation of the premises so the Tenant's entity may at all times lawfully sell alcoholic beverages. Tenant must comply with all qualifications and other alcohol law requirements.

(i) Any and all alcohol beverage and other licenses and permits issued by the CITY to the Tenant's entity shall be held by the Tenant's entity in the name of the Tenant's Wisconsin entity.

(ii) No alcohol beverage or other license or permit issued by the CITY to the Tenant's entity shall be transferable or transferred.

(iii) Tenant and Tenant's entity shall, at all times, comply with Federal, State and local laws governing alcohol beverages and their sale and consumption including, but not limited to, the tenant's entity's appointment of an alcohol license agent who is a resident of the City of Lancaster.

(iv) Since the issuance of such alcohol beverage license(s) is discretionary, by entering into this Lease, Landlord in NO manner guarantees, warrants, or represents that the Tenant or the Tenant's entity shall be granted or issued any alcohol beverage license, and hereby expressly notifies and informs Tenant and its entity of the discretionary nature and non-guarantee of such grant or issuance.

(v) Upon the expiration or termination of this Lease or the expiration of the alcohol beverage license year, whichever occurs first, in the event that the Tenant or its entity is no longer operating the premises, the Tenant's and entity's alcohol beverage license(s) for the golf course(s) shall forthwith terminate, be relinquished and surrendered back to the CITY, and cease to be of any further force or effect.

(c) Covenants Regarding Use. In connection with its use of the Premises, Tenant agrees to do the following:

(i) Tenant shall be responsible for all routine maintenance and cleaning for the leased premises as well as the restrooms on a daily basis and when necessary. Landlord shall provide necessary cleaning supplies as well as hand towels and toilet paper for the restrooms. The Tenant shall regularly empty the grease trap.

(ii) Tenant shall use the Premises and conduct its business thereon in a safe, careful, reputable and lawful manner; shall keep and maintain the Premises in as good a condition as they were when Tenant first took possession thereof and shall make all necessary repairs to the Premises other than those which Landlord is obligated to make as provided elsewhere herein.

(iii) Tenant shall not commit, nor allow to be committed, in, on or about the Premises or the Building and appurtenant areas, any act of waste, including any act which might deface, damage or destroy the Premises or the Building or appurtenant areas, or any part thereof; use or permit to be used on the Premises any hazardous

substance, equipment or other thing which might cause injury to person or property or increase the danger of fire or other casualty in, on or about the Premises; permit any objectionable or offensive noise or odors to be emitted from the Premises; or do anything, or permit anything to be done, which would, in Landlord's opinion, disturb or tend to disturb others occupying space in the Building.

(iv) Tenant shall not overload the floors of the Premises beyond their designed weight-bearing capacity. Landlord reserves the right to direct the positioning of all heavy equipment, furniture and fixtures which Tenant desires to place in the Premises so as to distribute properly the weight thereof, and to require the removal of any equipment or furniture which exceeds the weight limit specified herein.

(v) Tenant shall not use the Premises, nor allow the Premises to be used, for any purpose or in any manner which would, in Landlord's opinion, invalidate any policy of insurance now or hereafter carried on the Building or increase the rate of premiums payable on any such insurance policy. Should Tenant fail to comply with this covenant, Landlord may, at its option, require Tenant to stop engaging in such activity or to reimburse Landlord as Additional Rent for any increase in premiums charged during the term of this Lease on the insurance carried by Landlord on the Premises and attributable to the use being made of the Premises by Tenant.

(vi) Tenant shall not in any manner use, maintain or allow the use or maintenance of the Premises in violation of any law, ordinance, statute, regulation, rule or order (collectively "Laws") of any governmental authority, including but not limited to, Laws governing zoning, health, safety (including fire safety), occupational hazards, and pollution and environmental control. Tenant shall not use, maintain or allow the use or maintenance of the Premises or any part thereof to treat, store, dispose of, transfer, release, convey or recover hazardous, toxic or infectious waste nor shall Tenant otherwise, in any manner, possess or allow the possession of any hazardous, toxic or infectious waste on or about the Premises. Hazardous, toxic or infectious waste shall mean any solid, liquid or gaseous waste, substance or emission or any combination thereof which may (i) cause or significantly contribute to an increase in mortality or in serious illness, or (ii) pose the risk of a substantial present or potential hazard to human health, to the environment or otherwise to animal or plant life, and shall include, without limitation, hazardous substances and materials described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; the Resource Conservation and Recovery Act, as amended; and any other applicable federal, state or local Laws. Tenant shall immediately notify Landlord of the presence or suspected presence of any hazardous, toxic or infectious waste on or about the Premises and shall deliver to Landlord any notice received by Tenant relating thereto.

Landlord and its agents shall have the right, but not the duty, to inspect the Premises and conduct tests thereon at any time to determine whether or the extent to which there is hazardous, toxic or infectious waste on the Premises. Landlord shall have the right to immediately enter upon the Premises to remedy any contamination found thereon. In exercising its rights herein, Landlord shall use reasonable efforts to minimize interference with Tenant's business but such entry shall not constitute an eviction of Tenant, in whole or in part, and Landlord shall not be liable for any interference, loss or damage to Tenant's property or business caused thereby. If any lender or governmental agency shall ever require testing to ascertain whether there has been a release of hazardous materials, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as Additional Rent if such requirement arose in whole or in part because of Tenant's use of the Premises. Tenant shall indemnify and hold harmless Landlord from any and all claims, loss, liability, costs, expenses or damage, including attorneys' fees and costs of remediation, incurred by Landlord in connection with any breach by Tenant of its obligations under this section. The covenants and obligations of Tenant hereunder shall survive the expiration or earlier termination of this Lease.

(d) Compliance with Laws. Tenant shall not use or permit the use of any part of the Premises for any purpose prohibited by law. Tenant shall, at Tenant's sole cost and expense, comply with all laws, statutes, ordinances, rules, regulations and orders of any federal, state, municipal or other governmental agency thereof having jurisdiction over and relating to the use, condition and occupancy of the Premises, except that Tenant shall not be responsible for or required to make structural repairs to the Building or the Premises unless, in the case of the latter, they are occasioned by its own use of the Premises or negligence.

(e) Compliance with Building Rules and Regulations. Rules and regulations governing the use and occupancy of the Premises and all other space in the Building have been adopted by Landlord. Tenant shall comply with and conform

to the rules and regulations currently in effect, which are attached to this Lease, made a part hereof and marked Exhibit "C." Landlord shall have the right to change such rules and regulations or to make new rules and regulations from time to time in any manner that it deems necessary or desirable in order to insure the safety, care and cleanliness of the Building and the preservation of order therein. Any such amendments to the rules and regulations shall be set forth in writing and shall be given to Tenant, who shall thereafter comply with and conform to the same. Tenant shall comply with any and all rules and regulations governing the Project in the same manner as set forth in this section.

(f) Compliance with Zoning. Tenant knows the character of its operation in the Premises and that applicable zoning ordinances and regulations are of public record. Tenant shall have sole responsibility for its compliance therewith, and Tenant's inability to so comply shall not be cause for Tenant to terminate this Lease.

(g) Definition of Tenant. For purposes of the Lease, in each instance where the Tenant is required to comply with (i) any rules, ordinances, laws or regulations of the municipality, state or federal government and/or (ii) any term, condition or covenant of the Lease and the Rules and Regulations, the defined term Tenant shall be deemed to include Tenant's officers, directors, employees, agents and invitees.

## **7. UTILITIES AND OTHER BUILDING SERVICES**

(a) Utilities. Tenant shall heat the Premises as necessary to prevent any freeze damage to the Premises or any portion thereof. Tenant's use of electric current shall at no time exceed the capacity of the feeders or lines to the Building or the risers or wiring installation of the Building or the Premises. Landlord shall in no event be liable for any interruption or failure of, and Tenant shall not be entitled to any abatement or reduction of Rent by reason of, any interruption or failure of utilities or other services to the Premises, nor shall any such interruption or failure in any such utility or service be construed as an eviction (constructive or actual) of Tenant or as a breach of the implied warranty of suitability, or relieve Tenant from the obligation to perform any covenant or agreement herein, and in no event shall Landlord be liable for damage to persons or property (including, without limitation, business interruption), or in default hereunder, as a result of any such interruption or failure. However, if any such interruption is caused by a break or other damage to any utility lines located outside of the Building that are under the exclusive control of Landlord, upon receipt of written notice of such interruption Landlord shall use reasonable efforts to perform or cause to be performed the necessary repairs within such time frame as may be reasonable under the circumstances in order to restore the affected service to the Premises. In addition, if any such interruption is caused by a break or other damage to any utility line located outside the building and controlled by a governmental, private or public utility, Landlord will cooperate with such utility so that the interrupted service is restored to the Premises as soon as is reasonably possible.

## **8. REPAIRS, MAINTENANCE, ALTERATIONS, IMPROVEMENTS AND FIXTURES**

(a) Repair and Maintenance of Building. Landlord shall keep and maintain in good order, condition and repair the roof and exterior walls, foundation, the electrical, plumbing, heating, ventilation and air conditioning systems, and the common area of the Building. The cost of all repairs required to be made by Landlord shall be unless made necessary by the negligence, misuse or default of Tenant, its employees, agents, customers or invitees, in which event they shall be borne by Tenant, who shall be separately billed and shall reimburse Landlord for the same.

(b) Repair and Maintenance of Premises. Except as provided elsewhere in the lease, Tenant shall, at its own expense, keep and maintain the Premises in good order, condition, and repair at all times during the Term, and Tenant shall promptly repair all damage to the Premises and replace or repair all damaged or broken fixtures, equipment and appurtenances with materials equal in quality and class to the original materials, under the supervision and subject to the approval of Landlord, and within any reasonable period of time specified by Landlord. If Tenant fails to do so, Landlord may, but need not, make such repairs and replacements, and Tenant shall pay Landlord the cost thereof.

(c) Alterations or Improvements. Tenant shall not make, nor permit to be made, alterations or improvements to the Premises, unless Tenant obtains the prior written consent of Landlord thereto. If Landlord permits Tenant to make any such alterations or improvements, Tenant shall make the same in accordance with all applicable laws and building codes, in a good and workmanlike manner and in quality equal to or better than the original construction of the Building and shall comply with such requirements as Landlord considers necessary or desirable, including without limitation the provision by Tenant to Landlord with security for the payment of all costs to be incurred in connection with such work, requirements as to the manner in which and the times at which such work shall be done and the contractor or subcontractors to be

selected to perform such work and the posting and re-posting of notices of Landlord's non-responsibility for liens. Tenant shall promptly pay all costs attributable to such alterations and improvements and shall indemnify, defend and hold harmless Landlord from and against any liens or claims filed or asserted as a result thereof and against any costs or expenses which may be incurred as a result of building code violations attributable to such work. Tenant shall promptly repair any damage to the Premises or the Building caused by any such alterations or improvements. Any alterations or improvements to the Premises, except movable furniture and equipment and trade fixtures, shall, at Landlord's election, either (i) become a part of the realty and the property of Landlord and shall not be removed by Tenant, or (ii) be removed by Tenant upon the expiration or sooner termination hereof and any damage caused thereby repaired at Tenant's cost and expense. In the event Tenant so fails to remove same, Landlord may have same removed and the Premises so repaired at Tenant's expense. At Landlord's election, Landlord and Landlord's architect, engineers or contractors shall have the right to supervise all construction operations within the Premises, and Tenant shall promptly pay Landlord the cost of such supervision.

(d) Trade Fixtures. Any trade fixtures installed on the Premises by Tenant at its own expense, such as movable partitions, counters, shelving, showcases, mirrors and the like, may, and at the request of Landlord shall, be removed on the Expiration Date or earlier termination of this Lease, provided that Tenant is not then in default, that Tenant bears the cost of such removal, and further that Tenant repair at its own expense any and all damage to the Premises resulting from the original installation of and subsequent removal of such trade fixtures. If Tenant fails to remove any and all such trade fixtures from the Premises on the Expiration Date or earlier termination of this Lease, all such trade fixtures shall become the property of Landlord unless Landlord elects to require their removal, in which case Tenant shall promptly remove same and restore the Premises to their prior condition. In the event Tenant so fails to remove same, Landlord may have same removed and the Premises so repaired to their prior condition at Tenant's expense.

(e) Wiring and Cabling. Any wiring or cabling installed by Tenant in the Premises or in shafts, ducts or portions of the common areas shall be removed by Tenant at Tenant's expense on or before the Expiration Date or earlier termination of this Lease. If Tenant fails to remove any such wiring or cabling, Landlord may have the same removed at Tenant's expense.

(f) Reserved Rights. Landlord reserves the right to decorate and to make, at any time or times, repairs, alterations, additions and improvements, structural or otherwise, in or to the Premises or Building or part thereof, and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through the Premises or Building all material and equipment required and to close or temporarily suspend operation of entrances, doors, corridors, or other facilities, provided that Landlord shall cause as little inconvenience or annoyance to Tenant as is reasonably necessary in the circumstances, and shall not do any act which permanently reduces the size of the Premises. Landlord may do any such work during ordinary business hours and Tenant shall pay Landlord for overtime and for any other expenses incurred if such work is done during other hours at Tenant's request.

(g) Ownership of Certain Property. Landlord currently owns three (3) coolers located within the Premises. During the term of this lease, Tenant shall have full use and control over the three (3) coolers owned by Landlord. In the event any of the said coolers need repair or otherwise stop working, Tenant may, at Tenant's sole discretion, repair the cooler or remove and dispose of the cooler, both options being at Tenant's sole expense.

## **9. FIRE OR OTHER CASUALTY; CASUALTY INSURANCE**

(a) Substantial Destruction of the Building. If the Building should be substantially destroyed (which, as used herein, means destruction or damage to at least seventy-five percent (75%) of the Building) by fire or other casualty, Landlord may, at its option, terminate this Lease by giving written notice thereof to Tenant within thirty (30) days of such casualty. In such event, the rent shall be apportioned to and shall cease as of the date of such casualty. If Landlord does not exercise this option, then Landlord's Work in the Premises shall be reconstructed and restored, at Landlord's expense, to substantially the same condition as existed prior to the casualty to the extent insurance proceeds are available therefore.

(b) Substantial Destruction of the Premises. If the Premises should be substantially destroyed or rendered wholly untenable for the purpose for which they were leased, by fire or other casualty and the Building is not substantially destroyed as provided above, then the parties hereto shall have the following options:

(i) Tenant may require that Landlord's Work in the Premises be reconstructed and restored, at Landlord's expense, but subject to the availability of insurance proceeds, to substantially the same condition as

existed prior to the casualty, except for repair or replacement of Tenant's personal property, equipment, leasehold improvements and trade fixtures, which shall remain Tenant's responsibility. This option shall be exercised by Tenant by giving written notice to Landlord within thirty (30) days after the date of the casualty, and upon the exercise thereof, rent shall be abated from the date of the casualty until substantial completion of the reconstruction of the Premises (provided that rent shall be abated only to the extent Landlord is compensated for such rent by loss of rents insurance, if any), whereupon this Lease shall continue in full force and effect for the balance of the Term upon the same terms, conditions and covenants as are contained herein. If this option is not so exercised by Tenant, Landlord shall then have the right and option, to be exercised within thirty (30) days following the expiration of Tenant's option period, by giving of written notice to Tenant, to reconstruct and restore Landlord's Work in the Premises to substantially the same condition as existed prior to the casualty, or Landlord, at its option, shall make available reasonably comparable space in the Building or Project to accommodate Tenant. In either such event, this Lease shall continue in full force and effect for the balance of the Term upon the same terms, conditions, and covenants as are contained herein; provided, however, that the rent shall be abated from the date of the casualty until substantial completion of the reconstruction of Landlord's Work in the Premises or notice by Landlord that comparable space is ready for Tenant to occupy. If Landlord fails to exercise either of these aforementioned options, this Lease shall be terminated as of the date of the casualty, to which date rent shall be apportioned and shall cease. Notwithstanding Landlord's restoration obligation under this paragraph, if the insurance company issuing Landlord's fire and casualty insurance policy fails or refuses to pay Landlord the proceeds under such policy, Landlord shall have no obligation to rebuild and this Lease shall terminate upon notice by Landlord to Tenant.

(ii) If the casualty occurs during the last twelve (12) months of the Term, either party shall have the right and option to terminate its Lease as of the date of the casualty, which option shall be exercised by written notice to be given by either party to the other party within thirty (30) days therefrom. If this option is exercised, rent shall be apportioned to and shall cease as of the date of the casualty.

(c) Partial Destruction of the Premises. If the Premises should be rendered partially untenable for the purpose for which they were leased (which, as used herein, means such destruction or damage as would prevent Tenant from carrying on its business on the Premises to an extent not exceeding forty percent (40%) of its normal business activity) by fire or other casualty, then such damaged part of Landlord's Work in the Premises shall be reconstructed and restored, at Landlord's expense, but subject to the availability of insurance proceeds, to substantially the same condition as existed prior to the casualty, except for repair or replacement of Tenant's personal property, equipment, leasehold improvements and trade fixtures, which shall remain Tenant's responsibility; rent shall be abated in the proportion which the approximate area of the damaged part bears to the total area in the Premises from the date of the casualty until substantial completion of the reconstruction repairs (provided that rent shall be abated only to the extent Landlord is compensated for such rent by loss of rents insurance, if any); and this Lease shall continue in full force and effect for the balance of the Term. Landlord shall use reasonable diligence in completing such reconstruction repairs. Notwithstanding Landlord's restoration obligation under this paragraph, if the insurance company issuing Landlord's fire and casualty insurance policy fails or refuses to pay Landlord the proceeds under such policy, Landlord shall have no obligation to rebuild and this Lease shall terminate upon notice by Landlord to Tenant.

(d) Casualty Insurance. Landlord shall be responsible for insuring and shall, at all times during the Term, carry a policy of insurance which insures the Building, including the Premises, against loss or damage by fire or other casualty ("all risk" insurance); provided, however, that Landlord shall not be responsible for, and shall not be obligated to insure against, any loss or damage to personal property (including, but not limited to, any furniture, machinery, equipment, goods or supplies) of Tenant or which Tenant may have on the Premises or any trade fixtures installed by or paid for by Tenant on the Premises or any additional improvements which Tenant may construct on the Premises. Tenant shall, at all times during the Term, carry at its own expense "all risk" property insurance covering its personal property, leasehold improvements and trade fixtures installed by or paid for by Tenant, or any additional improvements which Tenant may construct on the Premises, which coverage shall be no less than One Hundred percent (100%) of replacement value. Tenant shall also carry business interruption insurance for a minimum period of 12 months in an amount that will reimburse Tenant for direct or indirect loss of earnings and extra expense. Tenant shall effect and maintain any other form of insurance that Landlord may reasonably require from time to time in form and amounts and for insurance risks acceptable to Landlord. All such insurance requirements must be reasonably satisfactory to Landlord. Prior to the Commencement Date or Tenant's entry upon the Premises, whichever is earlier, and thereafter as provided in this Paragraph 11, Tenant shall furnish Landlord with certificates of insurance evidencing that such coverages are in full force and effect. Should Tenant fail to carry such insurance and furnish Landlord with copies of all such policies or certificates thereof (i) prior to the Commencement Date or

the date upon which Tenant first enters the Premises, whichever is earlier, or (ii) thereafter upon request to do so, Landlord shall have the right to obtain such insurance and collect the cost thereof from Tenant as Additional Rent without further notice to Tenant, notwithstanding anything in Paragraph 18 to the contrary.

(e) Waiver of Subrogation. Landlord and Tenant hereby release each other and each other's employees, agents, customers and invitees from any and all liability for any loss, damage or injury to property occurring in, on or about or to the Premises, improvements to the Building or personal property within the Building, by reason of fire or other casualty which are covered by "all risks" property insurance policies. Because the provisions of this paragraph will preclude the assignment of any claim mentioned herein by way of subrogation or otherwise to an insurance company or any other person, each party to this Lease shall give to each insurance company which has issued to it one or more policies of fire and extended coverage insurance notice of the terms of the mutual releases contained in this paragraph, and have such insurance policies properly endorsed, if necessary, to prevent the invalidation of insurance coverages by reason of the mutual releases contained in this paragraph.

## 10. GENERAL PUBLIC LIABILITY, INDEMNIFICATION AND INSURANCE

(a) Except for the gross negligence or intentional misconduct of Landlord, Landlord's agents, servants or employees, Tenant shall be responsible for, shall insure against, and shall indemnify Landlord and hold it harmless from, any and all liability for any loss, damage or injury to person or property, arising out of use, occupancy or operations of Tenant and occurring in, on or about the Premises and Tenant hereby releases Landlord from any and all liability for the same. Tenant's obligation to indemnify Landlord hereunder shall include the duty to defend against any claims asserted by reason of such loss, damage or injury and to pay any judgments, settlements, costs, fees and expenses, including attorneys' fees, incurred in connection therewith.

(b) Tenant shall, at all times during the Term, carry at its own expense for the protection of Tenant and Landlord one or more policies of commercial general liability insurance including bodily injury (including death) property damage, personal injury, tenants legal liability, including cross liability and severability of interest, blanket contractual, and contractors protective insurance, issued by one or more insurance companies and acceptable to Landlord, covering Tenant's use, occupancy and operations providing minimum coverages of \$2,000,000 combined single limit for bodily injury and property damage per occurrence with \$3,000,000 aggregate coverage. Such insurance policy or policies shall name Landlord, its agents and employees, as additional insureds and shall provide that they may not be canceled or materially changed on less than thirty (30) days prior written notice to Landlord. Prior to the Commencement Date or Tenant's entry upon the Premises, whichever is earlier, and thereafter as provided in this Paragraph 10, Tenant shall furnish Landlord with certificates evidencing such insurance and certificates evidencing workers' compensation insurance coverages as required by law. Should Tenant fail to carry such insurance and furnish Landlord with copies of all such policies or certificates thereof (i) prior to the Commencement Date or the date upon which Tenant first enters the Premises, whichever is earlier, or (ii) thereafter upon request to do so, Landlord shall have the right to obtain such insurance and collect the cost thereof from Tenant as Additional Rent without further notice to Tenant, notwithstanding anything in Paragraph 18 to the contrary. Landlord shall have the right during the Term of this Lease to adjust the minimum coverage levels stipulated above upon written notice to Tenant. Within thirty (30) days of such written notice, Tenant shall provide Landlord with evidence of such adjustment. Tenant's insurance coverages required hereby shall be deemed to be additional obligations of Tenant and shall not be a discharge or limitation of Tenant's indemnity obligations contained in Paragraph 10(a) hereof.

(c) Except for the negligence or intentional misconduct of Tenant or Tenant's agents, servants or employees, Landlord shall be responsible for, shall have the obligation to insure against, and shall indemnify Tenant and hold it harmless from, any and all liability for any loss, damage or injury to person or property occurring in, on or about the common areas and facilities for the Building and the walks, driveways, parking lot and landscaped areas adjacent to the Building.

(d) Landlord and its officers, agents, servants and employees shall not be liable for any damage to person, property or business or resulting from the loss of use thereof sustained by Tenant or by any other persons due to the Building or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident or event in or about the Building, including the Premises, or due to any act or neglect of any tenant or occupant of the Building or of any other person. This provision shall apply particularly, but not exclusively, to damage caused by gas, electricity, snow, ice, frost, steam, sewage, sewer gas or odors, fire, water, or by the bursting or leaking of pipes, faucets, sprinklers, plumbing fixtures and windows and shall apply without distinction as to the person whose act or neglect was responsible for the

damage and whether the damage was due to any of the causes specifically enumerated above or to some other cause. Tenant agrees that all personal property located in the Premises shall be at the risk of Tenant only, and that Landlord shall not be liable for any loss or damage thereto or theft thereof.

## **11. LIENS**

If, because of any act or omission of Tenant or anyone claiming by, through, or under Tenant, any lien shall be filed against the Premises or the Building or against other property of Landlord (whether or not such lien is valid or enforceable as such), Tenant shall, at its own expense, cause the same to be discharged of record within a reasonable time, not to exceed thirty (30) days after the date of filing thereof, and shall also defend and indemnify Landlord and hold it harmless from any and all claims, losses, damages, judgments, settlements, costs and expenses, including attorneys' fees, resulting therefrom or by reason thereof. If such lien is not discharged of record within thirty (30) days after the date of filing thereof, Landlord, at its sole option, may take all action necessary to release and remove such lien (without any duty to investigate the validity thereof) and Tenant shall promptly, upon notice, reimburse Landlord for all sums, costs and expenses (including reasonable attorneys' fees and Landlord's Costs) incurred by Landlord in connection with such lien.

## **12. RENTAL, PERSONAL PROPERTY AND OTHER TAXES**

(a) Tenant shall pay before delinquency any and all taxes, assessments, fees or charges (hereinafter referred to as "taxes"), including any sales, gross income, rental, business occupation or other taxes, levied or imposed upon Tenant's business operation in the Premises and any personal property or similar taxes levied or imposed upon Tenant's trade fixtures, leasehold improvements or personal property located within the Premises. In the event any such taxes are charged to the account of, or are levied or imposed upon the property of Landlord, Tenant shall reimburse Landlord for the same. Notwithstanding the foregoing, Tenant shall have the right to contest in good faith any such tax and to defer payment, if required, until after Tenant's liability therefore is finally determined.

## **13. ASSIGNMENT AND SUBLETTING**

Tenant shall not assign or otherwise transfer its interest in this Lease or sublet the Premises or any part thereof without the prior written consent of Landlord. The transfer of a majority or controlling interest in Tenant shall also constitute a "transfer" of Tenant's interest in this Lease. Tenant shall notify Landlord sixty (60) days in advance of its intent to transfer assign or sublet all or any portion of the Premises, which notification request shall include such documentation regarding the proposed assignee or subtenant as requested by Landlord including, but not limited to, audited financial statements for the immediately preceding two (2) years, tax returns for the immediately preceding two (2) years and bank references. In the event of any assignment or subletting, Tenant shall nevertheless at all times remain fully responsible and liable for the payment of rent and the performance and observance of all of Tenant's other obligations under the terms, conditions and covenants of this Lease. In the event Landlord consents to an assignment or subletting, no assignment or subletting of the Premises or any part thereof shall be binding upon Landlord unless such assignee or subtenant shall deliver to Landlord an instrument (in recordable form, if requested) containing an agreement of assumption of all Tenant's obligations under this Lease and Landlord shall execute a consent form. Upon the occurrence of an event of default, if all or any part of the Premises are then assigned or sublet, Landlord, in addition to any other remedies provided by this Lease or by law, may, at its option, collect directly from the assignee or subtenant all rent becoming due to Landlord by reason of the assignment or subletting, and Landlord shall have a security interest in all property on the Premises to secure payment of such sums. Landlord, at its option, may also recapture any sublet space in the event of default. Any collection by Landlord from the assignee or subtenant shall not be construed to constitute a novation or release of Tenant from the further performance of its obligations under this Lease. Any rents received by Tenant from the assignment or subletting of the Premises which exceed rents payable by Tenant hereunder shall be immediately paid to Landlord as additional compensation. Landlord shall, at its option, have the right to recapture all or any part of the Premises Tenant proposes to assign or sublet upon notice from Tenant of its intent to assign or sublet part of the Premises. Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations hereunder and in the Building and all other property referred to herein, and upon such transfer, the transferor shall have no further liability hereunder and Tenant shall attorn to any such transferee.

## **14. DEFAULTS AND REMEDIES**

(a) Default by Tenant. The occurrence of any one or more of the following events shall be a default and breach of this Lease by Tenant:

(i) Tenant shall fail to pay any monthly installment of Rent or Utility reimbursement within ten (10) days after the same shall be due and payable;

(ii) Tenant shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after notice thereof from Landlord; provided, however, that if the term, condition, covenant or obligation to be performed by Tenant is of such nature that the same cannot reasonably be performed within such thirty-day period, such default shall be deemed to have been cured if Tenant commences such performance within said thirty-day period and thereafter diligently undertakes to complete the same, but in any event completes cure within ninety (90) days after notice from Landlord;

(iii) Tenant shall vacate or abandon or fail to occupy, for a period of ten (10) days, the Premises or any substantial portion thereof;

(iv) Tenant makes an assignment for the benefit of creditors; or substantially all of Tenant's assets in, on or about the Premises or Tenant's interest in this Lease are attached or levied upon under execution and Tenant does not discharge the same within thirty (30) days thereafter; or

(v) Tenant causes or permits a hazardous condition to exist on the Premises and fails to cure such condition immediately after notice thereof from Landlord.

(b) Remedies of Landlord. Upon the occurrence of any event of default set forth in Paragraph 14(a) hereof, Landlord shall have the following rights and remedies, in addition to those allowed by law, any one or more of which may be exercised without further notice to or demand upon Tenant:

(i) Landlord may re-enter the Premises and cure any default of Tenant, in which event Tenant shall reimburse Landlord for any costs and expenses which Landlord may incur to cure such default; and Landlord shall not be liable to Tenant for any loss or damage which Tenant may sustain by reason of Landlord's action, regardless of whether caused by Landlord's negligence or otherwise;

(ii) Landlord may terminate this Lease as of the date of such default, in which event: (A) neither Tenant nor any person claiming under or through Tenant shall thereafter be entitled to possession of the Premises, and Tenant shall immediately thereafter surrender the Premises to Landlord.

(iii) Notwithstanding any election by Landlord of any right or remedy set forth herein, and in addition to any other remedies Landlord may have, Landlord shall be entitled at any time and from time to time after default by Tenant hereunder, to recover from Tenant:

(1) all damages Landlord may incur by reason of such default, including without limitation, all loss or damage sustained in connection with such default, costs of performing any covenant or covenants of Tenant, costs of recovering possession of, altering, repairing and reletting the Premises, reasonable attorneys' fees and collection costs, and the value at the time of such termination of the amount of rent which would become payable under this Lease for the remainder of the full Term specified in Paragraph 2 of the Lease, less the net amount of such rent for the remainder of the Term which Tenant proves could reasonably be recovered by Landlord from reletting the Premises under then-current and reasonably anticipated market conditions; or

(2) as liquidated damages, an amount equal to the rent which would become payable under this Lease for the remainder of the Term or exercised renewal period (if any) which shall be immediately due and payable, without deduction or diminution and without relief from valuation or appraisal laws. Tenant hereby acknowledges that the nature of Tenant's default may cause or result in damages, costs and expenses incurred by Landlord not contemplated by this Lease, the exact amount of which being extremely difficult and impractical to fix, and that such liquidated damages represent a fair and reasonable estimate of the costs which Landlord may incur due to Tenant's default.

(iv) Landlord may sue for injunctive relief or to recover damages for any loss resulting from the breach.

Any agreement for an extension of the Term or any additional period thereafter shall not thereby prevent Landlord from terminating this Lease for any reason specified in this Lease. If any such right of termination is exercised by Landlord during the Term or any extension thereof, Tenant's right to any further extension shall thereby be automatically canceled. Any such right of termination of Landlord contained herein shall continue during the Term and any subsequent extension hereof.

(c) **Default by Landlord and Remedies of Tenant.** It shall be a default and breach of this Lease by Landlord if it shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after notice thereof from Tenant; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is of such nature that the same cannot reasonably be performed within such thirty-day period, such default shall be deemed to have been cured if Landlord commences such performance within said thirty-day period and thereafter diligently undertakes to complete the same. Upon the occurrence of any such default, Tenant may sue for injunctive relief or to recover damages for any loss resulting from the breach, but Tenant shall not be entitled to terminate this Lease or withhold or abate any rent due hereunder.

(d) **Non-Waiver of Defaults.** The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Lease shall not be construed to be a waiver thereof, nor affect the validity of any part of this Lease or the right of either party thereafter to enforce each and every such right or remedy or other provisions. No waiver of any default and breach of this Lease shall be held to be a waiver of any other default or breach. The receipt of rent by Landlord at a time after rent is due under this Lease shall not be construed as a waiver of such default. The receipt by Landlord of less than the full rent due shall not be construed to be other than a payment on account of rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of the rent due or to pursue any other remedies provided in this Lease. No act or omission by Landlord or its employees or agents during the Term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by Landlord.

(e) **Attorneys' Fees.** If Tenant defaults in the performance or observance of any of the terms, conditions, covenants or obligations contained in this Lease and Landlord places the enforcement of all or any part of this Lease, the collection of any rent due or to become due or the recovery of possession of the Premises in the hands of an attorney, or if Landlord incurs any fees or out-of-pocket costs in any litigation, negotiation or transaction in which Tenant causes Landlord (without Landlord's fault to be involved or concerned), Tenant agrees to reimburse Landlord for the attorneys' fees and costs incurred thereby, whether or not suit is actually filed.

(f) **Landlord's Lien.** Tenant grants to Landlord an express contractual lien on and security interest in and to all goods, equipment, furnishings, fixtures, furniture, chattels and personal property of whatever nature owned by Tenant attached or affixed to or used in and about the Premises on the date of this Lease or at any time after the date of this Lease or otherwise located in the Premises or relating to Tenant's use of the Premises and all renewals or replacements or substitutions for any of the foregoing, all building materials and equipment now or hereafter delivered to the Premises and intended to be installed in the Premises and all security deposits and advance rentals under lease agreements on the date of this Lease or at any time after the date of this Lease covering or affecting the Premises and held by or for the benefit of Tenant, and all proceeds of the foregoing (including by way of illustration, but not limitation, proceeds of any insurance which may accrue to Tenant by reason of damage or destruction of any such property). Upon Landlord's request, Tenant shall execute and deliver to Landlord two (2) originals of a financing statement in form sufficient to perfect the security interest granted hereunder. A carbon, photographic or other reproduction of this Lease or this provision is sufficient and may be filed as a financing statement. Landlord shall have all the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State where the Premises is located and this lien and security interest may be foreclosed by process of law. The requirement of reasonable notice prior to any sale under Article 9 of the applicable Uniform Commercial Code shall be met if such notice is given in the manner prescribed herein at least ten (10) days before the day of sale. To the greatest extent permitted under applicable law, any public sale made pursuant to the provisions of this paragraph shall be deemed to have been conducted in a commercially reasonable manner if held in the Premises after the time place and method of sale and a general description of the types of property to be sold have been advertised for ten (10) consecutive days prior to the date of sale in a daily newspaper published or widely distributed in the county where the Building is located.

## 15. BANKRUPTCY OR INSOLVENCY

It is understood and agreed that the following shall apply in the event of the bankruptcy or insolvency of Tenant:

(a) If a petition is filed by, or an order for relief is entered against, Tenant under Chapter 7 of the Bankruptcy Code and the trustee of Tenant elects to assume this Lease for the purpose of assigning it, such election or assignment, or both, may be made only if all of the terms and conditions of subparagraphs (b) and (d) below are satisfied. To be effective, an election to assume this Lease must be in writing and addressed to Landlord, and in Landlord's business judgment, all of the conditions hereinafter stated, which Landlord and Tenant acknowledge to be commercially reasonable, must have been satisfied. If the trustee fails so to elect to assume this Lease within sixty (60) days after his appointment, this Lease will be deemed to have been rejected, and Landlord shall then immediately be entitled to possession of the Premises without further obligation to Tenant or the trustee and this Lease shall be terminated. Landlord's right to be compensated for damages in the bankruptcy proceeding, however, shall survive such termination.

(b) If Tenant files a petition for reorganization under Chapters 11 or 13 of the Bankruptcy Code, or if a proceeding filed by or against Tenant under any other chapter of the Bankruptcy Code is converted to a Chapter 11 or 13 proceeding and Tenant's trustee or Tenant as debtor-in-possession fails to assume this Lease within sixty (60) days from the date of the filing of such petition or conversion, then the trustee or the debtor-in-possession shall be deemed to have rejected this Lease. To be effective, any election to assume this Lease must be in writing addressed to Landlord and, in Landlord's business judgment, all of the following conditions, which Landlord and Tenant acknowledge to be commercially reasonable, must have been satisfied:

(i) The trustee or the debtor-in-possession has cured or has provided to Landlord adequate assurance, as defined in this subparagraph (b), that

(1) The trustee will cure all monetary defaults under this Lease within ten (10) days from the date of assumption, and

(2) The trustee will cure all non-monetary defaults under this Lease within thirty (30) days from the date of assumption.

(ii) The trustee or the debtor-in-possession has compensated Landlord, or has provided Landlord with adequate assurance, as hereinafter defined, that, within ten (10) days from the date of assumption, Landlord will be compensated for any pecuniary loss it has incurred arising from the default of Tenant, the trustee, or the debtor-in-possession, as recited in Landlord's written statement of pecuniary loss sent to the trustee or debtor-in-possession.

(iii) The trustee or the debtor-in-possession has provided Landlord with adequate assurance of the future performance of each of Tenant's obligations under this Lease; provided, however, that:

(1) From and after the date of assumption of this Lease, the trustee or the debtor-in-possession shall pay Rent and payable under this Lease in advance in equal monthly installments on each date that such rents are payable;

(2) The trustee or debtor-in-possession shall also deposit with Landlord, as security for the timely payment of rent, an amount equal to three (3) months Rent and other monetary charges accruing under this Lease;

(3) The obligations imposed upon the trustee or the debtor-in-possession will continue for Tenant after the completion of bankruptcy proceedings.

(iv) For purposes of this subparagraph (b), "adequate assurance" means that:

(1) Landlord determines that the trustee or the debtor-in-possession has, and will continue to have, sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that the trustee or the debtor-in-possession will have sufficient funds timely

to fulfill Tenant's obligations under this Lease and to keep the Premises properly staffed with sufficient employees to conduct a fully-operational, actively-promoted business in the Premises; and

(2) An order shall have been entered segregating sufficient cash payable to Landlord and/or a valid and perfected first lien and security interest shall have been granted in property of Tenant, trustee, or debtor-in-possession which is acceptable in value and kind to Landlord, to secure to Landlord the obligation of the trustee or debtor-in-possession to cure all monetary and non-monetary defaults under this Lease within the time periods set forth above.

(c) In the event this Lease is assumed by a trustee appointed for Tenant or by Tenant as debtor-in-possession under the provisions of subparagraph (b) above, and, thereafter, Tenant is either adjudicated bankrupt or files a subsequent petition for arrangement under Chapter 11 of the Bankruptcy Code, then Landlord may, at its option, terminate this Lease and all Tenant's rights under it, by giving written notice of Landlord's election to so terminate.

(d) If the trustee or the debtor-in-possession has assumed this Lease pursuant to subparagraph (a) or (b) above, to assign or to elect to assign Tenant's interest under this Lease or the estate created by that interest to any other person, such interest or estate may be assigned only if the intended assignee has provided adequate assurance of future performance, as defined in this subparagraph (d), of all of the terms, covenants, and conditions of this Lease.

(i) For purposes of this subparagraph (d), "adequate assurance of future performance" means that Landlord has ascertained that each of the following conditions has been satisfied:

(1) The assignee has submitted a current financial statement, audited by a certified public accountant, which shows a net worth and working capital in amounts determined by Landlord to be sufficient to assure the future performance by the assignee of Tenant's obligations under this Lease;

(2) If requested by Landlord, the assignee will obtain guarantees, in form and substance satisfactory to Landlord (.e., letter(s) of credit) from one or more persons who satisfy Landlord's standards of creditworthiness; and

(3) Landlord has obtained consents or waivers from any third parties which may be required, under any lease, mortgage, financing arrangement, or other agreement by which Landlord is bound, to enable Landlord to permit such assignment.

(e) When, pursuant to the Bankruptcy Code, the trustee or the debtor-in-possession is obligated to pay reasonable use and occupancy charges for the use of all or part of the Premises, it is agreed that such charges will not be less than the Base Rent as defined in this Lease, plus Rent Adjustment and other monetary obligations of Tenant included herein.

(f) Neither Tenant's interest in this Lease nor any estate of Tenant created in this Lease shall pass to any trustee, receiver, assignee for the benefit of creditors, or any other person or entity, nor otherwise by operation of law under the laws of any state having jurisdiction of the person or property of Tenant, unless Landlord consents in writing to such transfer. Landlord's acceptance of rent or any other payments from any trustee, receiver, assignee, person, or other entity will not be deemed to have waived or waive either the requirement of Landlord's consent or Landlord's right to terminate this Lease for any transfer of Tenant's interest under this Lease without such consent.

## **16. ACCESS TO THE PREMISES**

Landlord, its employees and agents, shall have the right to enter any part of the Premises at all reasonable times for the purposes of examining or inspecting the same, showing the same to prospective tenants and for making such repairs, alterations or improvements to the Premises or the Building as Landlord may deem necessary or desirable. If representatives of Tenant shall not be present to open and permit such entry into the Premises at any time when such entry is necessary or permitted hereunder, Landlord and its employees and agents may enter the Premises by means of a master key or otherwise, Landlord shall incur no liability to Tenant for such entry, nor shall such entry constitute an eviction of Tenant or a termination of this Lease, nor entitle Tenant to any abatement of rent therefore.

**17. SURRENDER OF PREMISES**

Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Premises to Landlord, together with all keys, alterations, improvements, and other property as provided elsewhere herein, in broom-clean condition and in good order, condition and repair, except for ordinary wear and tear and damage which Tenant is not obligated to repair, failing which Landlord may restore the Premises to such condition at Tenant's expense, which shall be payable upon demand. Upon such expiration or termination, Tenant's trade fixtures, furniture, and equipment shall remain Tenant's property, and if Tenant shall not then be in default under this Lease, Tenant shall have the right to remove the same prior to the expiration or earlier termination of this Lease, Tenant shall promptly repair any damage caused by any such removal, and shall restore the Premises to the condition existing prior to the installation of the items so removed. Any of Tenant's trade fixtures, furniture or equipment not so removed shall be considered abandoned and may be retained by Landlord or be removed and/or destroyed at Tenant's expense.

**18. HOLDING OVER**

If Tenant remains in possession of the Premises without the consent of Landlord after the expiration or earlier termination of this Lease, Tenant shall be deemed to hold the Premises as a tenant at will subject to all of the terms, conditions, covenants and provisions of this Lease (which shall be applicable during the holdover period), except that Tenant shall pay to Landlord twice the last current monthly installment of rent, which rent shall be payable to Landlord on demand. In addition, Tenant shall be liable to Landlord for all damages occasioned by such holding over, including, without limitation, all direct and indirect damages and losses sustained by Landlord. Tenant shall vacate and surrender the Premises to Landlord upon Tenant's receipt of notice from Landlord to vacate. No holding over by Tenant, whether with or without the consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided herein.

**19. QUIET ENJOYMENT**

If and so long as Tenant pays the prescribed rent and performs or observes all of the terms, conditions, covenants and obligations of this Lease required to be performed or observed by it hereunder, Tenant shall, at all times during the Term hereof, have the peaceable and quiet enjoyment, possession, occupancy and use of the Premises without any interference from Landlord or any person or persons claiming the Premises by, through or under Landlord, subject to any other matters of record to which this Lease is or may become subject.

**20. NOTICE AND PLACE OF PAYMENT**

(a) All rent and other payments required to be made by Tenant to Landlord shall be delivered or mailed to the address specified in this Paragraph 20, below, or at any other address within the United States as Landlord may specify from time to time by written notice given to Tenant.

(b) All notices required to be made by Landlord to Tenant shall be delivered or mailed to Tenant at the address specified in this Paragraph 20, below, or at any other address within the United States as Tenant may specify from time to time by written notice given to Landlord.

(c) Any notice, demand or request required or permitted to be given under this Lease or by law shall be deemed to have been given if reduced to writing and mailed by Registered or Certified mail, postage prepaid, to the party who is to receive such notice, demand or request at the address specified in the Paragraph below, or at such other address as Landlord or Tenant may specify from time to time by written notice. When delivering such notice, demand or request shall be deemed to have been given as of the date it was so delivered or mailed.

Landlord's Notice Address  
City of Lancaster  
Attention: City Administrator  
206 South Madison Street  
Lancaster, WI 53813

Tenant Notice Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:  
City of Lancaster  
Attention: City Clerk  
206 South Madison Street  
Lancaster, WI 53813

Landlord Address for Payment of Rent:

City of Lancaster  
206 S. Madison Street  
Lancaster, WI 53813

**21. MISCELLANEOUS GENERAL PROVISIONS**

(a) **Payments Deemed Rent.** Any amounts of money to be paid by Tenant to Landlord pursuant to the provisions of this Lease, whether or not such payments are denominated "rent" and whether or not they are to be periodic or recurring, shall be deemed rent or additional rent for purposes of this Lease; and any failure to pay any of same as provided shall entitle Landlord to exercise all of the rights and remedies afforded hereby or by law for the collection and enforcement of Tenant's obligation to pay rent. Tenant's obligation to pay any such rent pursuant to the provisions of this Lease shall survive the expiration or other termination of this Lease and the surrender of possession of the Premises after any holdover period.

(b) **Applicable Law.** This Lease and all matters pertinent thereto shall be construed and enforced in accordance with the laws of the State of Wisconsin.

(c) **Entire Agreement.** This Lease, including all Exhibits, Riders and Addenda, constitutes the entire agreement between the parties hereto and may not be modified except by an instrument in writing executed by the parties hereto.

(d) **Binding Effect.** This Lease and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto as well as the parties themselves; provided, however, that Landlord, its successors and assigns shall be obligated to perform Landlord's covenants under this Lease only during and in respect of their successive periods as Landlord during the Term of this Lease.

(e) **Severability.** If any provision of this Lease shall be held to be invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

(f) **No Partnership.** Landlord shall not, by virtue of the execution of this Lease or the leasing of the Premises to Tenant, become or be deemed a partner of Tenant in the conduct of Tenant's business on the Premises or otherwise.

(g) **Headings; Gender.** As used in this Lease, the word "person" shall mean and include, where appropriate, an individual, corporation, partnership or other entity; the plural shall be substituted for the singular, and the singular for the plural, where appropriate; and words of any gender shall include any other gender. The topical headings of the several paragraphs of this Lease are inserted only as a matter of convenience and reference, and do not affect, define, limit or describe the scope or intent of this Lease.

(h) **Waiver of Jury Trial.** To the extent permitted by law, Tenant hereby waives any right it may have to a jury trial in the event of litigation between Tenant and Landlord pertaining to this Lease.

(i) **Allocation of Rent.** Landlord and Tenant agree that no portion of the Base Rent paid by Tenant during the portion of the Term of this Lease occurring after the expiration of any period during which such rent was abated shall be allocated by Landlord or Tenant to such rent abatement period, nor is such rent intended by the parties to be allocable to any abatement period.

(j) **Time of Essence.** Time is of the essence of this Lease and each of its provisions.

(k) Examination of Lease. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for Lease and it is not effective as a Lease or otherwise until execution by and delivery to both Landlord and Tenant.

(l) Construction. The parties (i.e., Landlord and Tenant) hereto hereby acknowledge and agree that (i) each party hereto is of equal bargaining strength, (ii) each such party has actively participated in the drafting, preparation and negotiation of this Lease, (iii) each such party has consulted with such party's own, independent counsel, and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Lease, (iv) each such party and such party's counsel and advisors have reviewed this Lease, (v) each such party has agreed to enter into this Lease following such review and the rendering of such advice, and (vi) any rule of construction to the effect that ambiguities are to be resolved against the drafting parties shall not apply in the interpretation of this Lease, or any portions hereof, or any amendments hereto.

(m) NO REPRESENTATIONS. LANDLORD AND LANDLORD'S AGENTS HAVE MADE NO WARRANTIES, REPRESENTATIONS OR PROMISES (EXPRESS OR IMPLIED) WITH RESPECT TO THE PREMISES OR THE BUILDING (INCLUDING, WITHOUT LIMITATION, THE CONDITION, USE OR SUITABILITY OF THE PREMISES OR THE BUILDING), EXCEPT AS HEREIN EXPRESSLY SET FORTH AND NO RIGHTS, EASEMENTS OR LICENSES ARE ACQUIRED BY TENANT BY IMPLICATION OR OTHERWISE EXCEPT AS EXPRESSLY SET FORTH IN THE PROVISIONS OF THIS LEASE.

(n) Authority. Tenant hereby covenants, warrants and represents: (1) that each individual executing or attesting and delivering this Lease on behalf of Tenant is duly authorized to do so in accordance with the organizational documents of Tenant; (2) that this Lease is binding upon Tenant; (3) that Tenant is duly organized and legally existing in the State of Wisconsin; and (4) that the execution and delivery of this Lease by Tenant will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, loan, credit agreement, partnership agreement or other contract or instrument to which Tenant is a party or by which Tenant may be bound. Upon request, Tenant will deliver to Landlord true and correct copies of all organizational documents of Tenant, including, without limitation, copies of an appropriate resolution or consent of Tenant authorizing or ratifying the execution and delivery of this Lease, which resolution or consent will be duly certified to Landlord's satisfaction by an appropriate individual with authority to certify such documents, such as the secretary or assistant secretary or the managing general partner of Tenant.

[SIGNATURE PAGE FOLLOWS]

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

**LANDLORD:**

By: \_\_\_\_\_ By: \_\_\_\_\_  
David Varnam, Mayor David Kurihara, Clerk

Dated: \_\_\_\_\_ Dated: \_\_\_\_\_

**TENANT:**

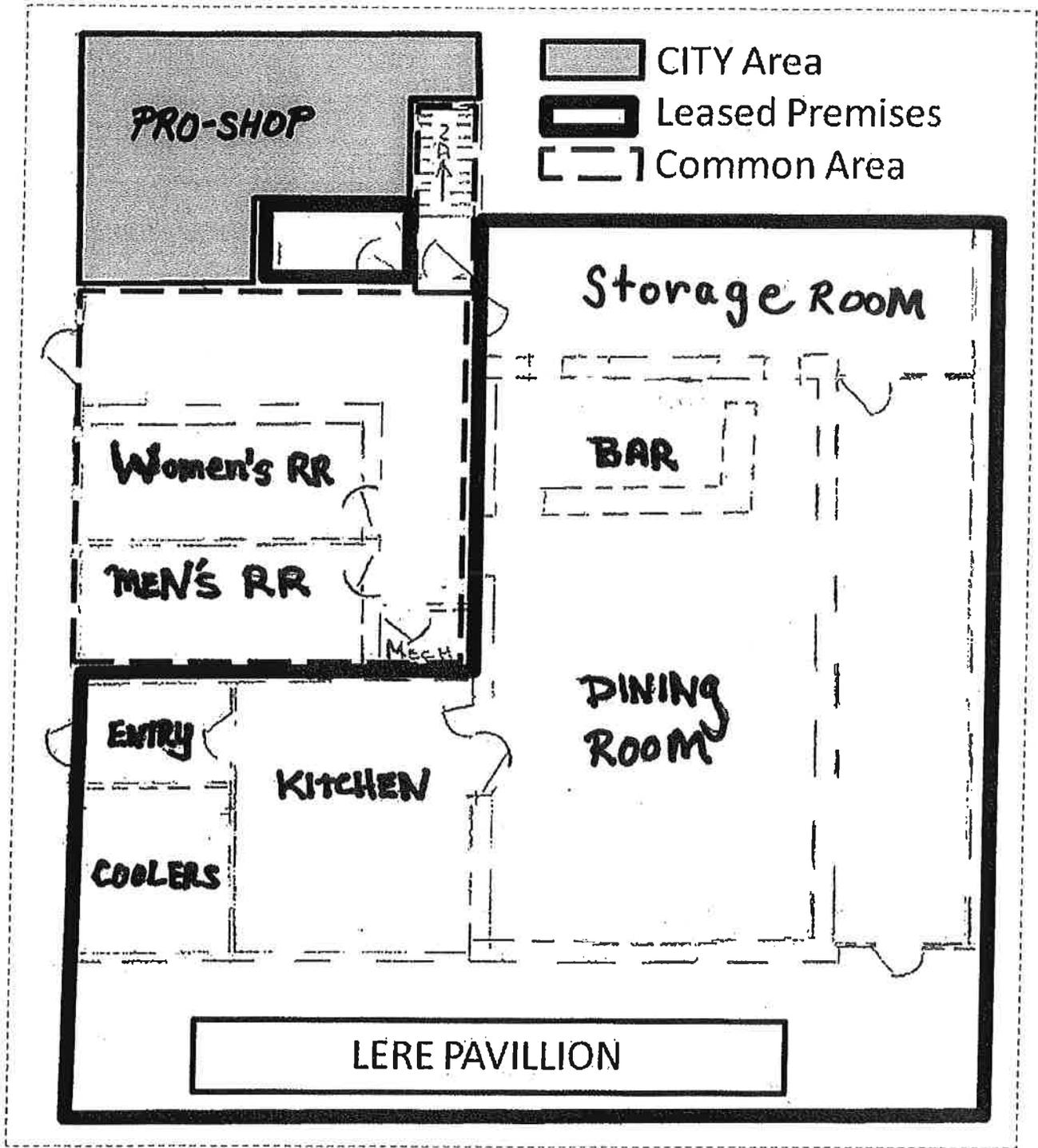
By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

EXHIBIT A—LEASED PREMISES



**EXHIBIT B**

**Form of Memorandum of Commencement Date**

THIS MEMORANDUM OF COMMENCEMENT DATE is entered into on \_\_\_\_\_, 2016 by **CITY OF LANCASTER** ("Landlord") and \_\_\_\_\_ ("Tenant").

**RECITALS**

A. Landlord and Tenant have previously executed that certain Lease dated \_\_\_\_\_, 2016 (the "Lease"), pursuant to which Tenant has leased from Landlord approximately 2,800 **square feet** (the "Premises") located at 5 Golf Road, Lancaster, Wisconsin, 53813, as more particularly described in the Lease.

B. Pursuant to the Lease, Landlord and Tenant have agreed to execute this Memorandum of Commencement Date to confirm the Commencement Date of the Lease Term. All capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Lease.

**AGREEMENTS**

NOW, THEREFORE, the parties hereto confirm and agree that in the event of any conflict between the Lease and the information below, the following information shall control.

1. Tenant has accepted the Premises for occupancy and the condition of the Premises. And the Building and appurtenant areas are satisfactory and in conformity with the provisions of the Lease in all respects.
2. Commencement Date: The Commencement Date of the Lease is \_\_\_\_\_ and the Expiration Date is \_\_\_\_\_.
3. Rent: Tenant's obligation to pay Rent shall commence on \_\_\_\_\_ in the initial monthly amount of \$350 plus Utility Expenses and other charges as provided in the Lease.
4. Payment Address: All rent and other payments due under the Lease should be sent to:

**City of Lancaster  
206 South Madison Street  
Lancaster, WI 53813**

All notices to Landlord should be sent to the addresses listed in Paragraph 20 of the Lease.

5. Except as may have been amended above, Landlord and Tenant hereby ratify and confirm the Lease in all respects. Capitalized terms used but not defined herein will have the meanings ascribed to them in the Lease. This Memorandum of Commencement Date may be executed in one or more counterparts, and any number of which having been signed by all the parties hereto shall be taken as one original.

**LANDLORD:  
CITY OF LANCASTER**

**TENANT:**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## EXHIBIT C

### RULES AND REGULATIONS

1. Tenant shall not use the public or common areas in the Building for business purposes.
2. Tenant and Tenant's employees and agents shall not distribute any handbills or other advertising matter in automobiles parked in the parking area, or in any other common areas of the Building without the approval of the Director of Golf Operations.
3. No entries or passageways shall be obstructed, or such areas be used at any time except for the access or egress by Tenant, Tenant's agents, employees or invitees.
4. No portion of Tenant's area or any other part of Building shall at any time be used or occupied as sleeping or lodging quarters.
5. Snow Removal: Landlord shall, as its sole expense, remove snow from the parking lot and primary entrances to the premises.
6. Landlord will not be responsible for lost or stolen personal property from Tenant's area or public rooms regardless of whether or not such loss occurs when area is locked against entry or not.
7. Security system: The Tenant shall maintain the security system for the premises and shall instruct selected Landlord personnel on how to operate it.
8. Tenant will refer all contractors, contractor's representatives and installation technicians, rendering any service on or to the leased Premises for Tenant, to Landlord for Landlord's approval and supervision before performance of any contractual service. This provision shall apply to all work performed in the Building including installation of telephones, telegraph equipment, electrical devices and attachments and installation of any nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment of any other physical portion of the Building.
9. Landlord shall provide all locks for doors in Tenant's premises and no additional locks shall be placed on any door in Building without the prior written consent of Landlord. A reasonable number of keys to leased Premises will be furnished by Landlord and neither Tenant, its agents, or employees, shall have any duplicate keys made. Landlord may at all times keep a key to leased Premises. All keys shall be returned to Landlord promptly upon termination of this Lease.
10. Tenant shall have the non-exclusive use in common with the Landlord, their guests and invitees, of the uncovered automobile surface parking areas, subject to reasonable rules and regulations for the use thereof as prescribed from time to time by Landlord.
11. Tenant shall cooperate with Landlord's employees in keeping its leased Premises neat and clean.
12. No birds, fowls, or animals shall be brought into or kept in or about the Building.
13. The water closets and other water fixtures shall not be used for any purpose other than those for which they are constructed, and any damage to them from misuse, or by the defacing or injury of any part of the Building shall be borne by the person who shall occasion it. No person shall waste water by interfering with the faucets or otherwise.
14. Agents of the Landlord shall at all times be allowed admittance to said leased Premises.
15. No smoking will be allowed in any area of the Building including common areas, restrooms, and tenant premises.
16. Landlord may amend or add new rules and regulations.