

## Lease Agreement

THIS LEASE AGREEMENT made and entered into on this 11 day of January, 2018 by and between the City of Spring Lake Park, a Minnesota Municipal Corporation, herein after referred to as "City" and RS Properties, a Minnesota Corporation, herein after referred to as "Tenant", (this "Lease").

### WITNESSETH:

The City has purchased the building formerly operated as Nicklow's Restaurant and subsequently the Laddie Lake Pub, located at 8466 Central Avenue Northeast, Spring Lake Park, Minnesota ("Premises") as part of its long-term economic redevelopment plan. For a minimum of sixty (60) months the City is willing to lease the Premises to Tenant for operation of a bar and restaurant, together with related services.

The Tenant desires to operate the bar and restaurant and its related services within the Premises for the term of this agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. PREMISES. The City hereby leases to the Tenant and the Tenant hereby takes from the City for the term and upon the conditions hereinafter provided, the premises located at 8466 Central Avenue Northeast, Spring Lake Park, Minnesota and legally described as:

**LOT 5, AUDITORS SUBDIVISION #152, ANOKA COUNTY,  
MINNESOTA**

2. TERM. This Lease shall begin on January 15, 2018 and end on January 14, 2023, unless sooner terminated as provided herein, subject to the terms and conditions set forth below:
  - a. Tenant shall have the option to extend the lease for an additional sixty (60) month term. Tenant shall give City ninety (90) days written notice of its intent to extend the lease upon the rental terms set forth in paragraph 3(b) herein.

3. RENT. The Tenant agrees to pay the City, without demand, annual rent in the amount of sixty-seven thousand two hundred dollars (\$67,200), payable in monthly installments of five thousand six hundred dollars (\$5,600). The rental amount is net of all expenses associated with operation of the Premises as a restaurant business.
  - a. City shall give Tenant three (3) months rent free; not to include other obligations of Tenant contained within this Lease. The first lease payment shall be due on or before April 15, 2018.
  - b. In the event Tenant chooses to extend the Lease for the sixty (60) day period, annual rent shall be in the amount of eighty-four thousand dollars (\$84,000), payable in monthly installments of seven thousand dollars (\$7,000).
  - c. Due Date. With the exception of the first month's payment (which shall be a fractional month), all monthly installments of rent shall be payable in advance on or before the first day each calendar month during the term. In the event any fractional months occur during the term, the Tenant shall pay rent on a pro rata basis calculated on the ratio of the actual number of days the Tenant is in possession to the total number days in the month in question.
  - d. Independent Covenant. Tenant's obligation to pay the rent, operating costs and other amounts due under this Lease is an independent covenant, and is and shall not be subject to any abatement, deduction, counterclaim, reduction, set-off or defense of any kind whatsoever. The covenants and obligations of the City under this Lease are dependent upon the performance by Tenant of all of its covenants and obligations hereunder.
4. LEASEHOLD IMPROVEMENTS. Tenant is taking the Premises and accepting the condition of the Premises "AS IS;" except that the City agrees to ensure basement lights are in operation, clean out debris in basement storage rooms, remove food from the on-site freezer and walk-in cooler.

Tenant is responsible for any other structural or other alterations, decoration, additions or improvements including: responsibility for kitchen clean up, interior and exterior painting and refurbishing of all areas (for illustration, but not limitation, new over-head lighting, flooring, ceiling tiles, exterior landscaping/repairs, restroom restoration, maintenance of kitchen/back of house equipment, as may be required).

Tenant shall not make, and shall not commence, any improvement that has not been previously approved in writing by the City. If any improvement is made or commenced without the City's consent, and the City does not give subsequent approval thereof, the Tenant shall, upon receiving written notice from the City, restore that portion of the Premises affected by the improvement to its preexisting condition at the Tenant's expense.

5. SECURITY DEPOSIT Tenant shall pay one full month's rent as security deposit.

6. OPERATING COSTS, TAXES AND UTILITIES. Tenant shall be responsible for all costs associated with operating and maintaining the premises, including, but not limited to utilities (gas, electric, water, sewer) routine trash removal, telephone, cable and internet services. Tenant shall also be responsible to pay property taxes, insurance and common area maintenance costs. The City shall pay the building/structure insurance and property taxes and these shall be reimbursed by the Tenant to the City on a monthly basis, and in addition to the rent contemplated within this Lease. In the event any fractional months occur during the term, the Tenant shall pay such taxes and insurance costs on a pro rata basis calculated on the ratio of the actual number of days the Tenant is in possession to the total number days in the month in question. In December of each year of the Lease, the City will provide Tenant notice of the amount of the monthly tax and insurance payments which shall be due in the year following. This amount is subject to adjustment via notice of the same in May of each year. Any adjusted amounts shall then take effect during June and continue to the end of that year. The initial tax payment owed by Tenant to City beginning on January 15, 2018 shall be \$1,795/month. The initial insurance reimbursement owed by Tenant to City shall beginning on January 15, 2018 shall be \$230.58/month.
7. SIGNAGE. Any signage, displays, or graphics of any nature whatsoever relative to the business conducted on the Premises, whether located on the Premises, in the Premises, or elsewhere, as well as all other portions of the Premises that may be observed from outside of the Premises, shall be provided at the expense of the Tenant, but shall be subject, however, to the written approval of the City, which approval shall not be unreasonably withheld. As to any signage which Tenant proposes to implement after the date of execution of this Lease, the Tenant shall submit to the City the plans, for the City's approval, for any such signage, displays, or graphics prior to their implementation. If the City's approval is obtained, the Tenant may not thereafter modify the same without again obtaining the City's approval. This provision shall specifically apply to such signage, display, or graphics placed in any window of the Premises, or elsewhere in the Premises, which may be seen from outside the Premises. All signage in place at the time this Lease is executed is specifically approved.
8. TENANT'S ADDITIONAL WARRANTIES. In addition to any warranties or covenants made or to be kept by the Tenant pursuant to any other provision contained elsewhere herein, the Tenant hereby agrees:
  - a. To not commit any nuisance or waste on the Premises or Premises, throw foreign substances in plumbing facilities, or waste the services, if any, furnished by the City;
  - b. To not place any items in or otherwise obstruct entries, halls, stairways, sidewalks, or other Common Areas, and not use the same for anything other than their intended purpose;

- c. To pay when due all installments of rent, taxes, insurance, and utilities and to comply with any and all of the Tenant's other covenants and agreements contained in this Lease;
  - d. To store all trash and garbage and make the same available for regular pick-up;
  - e. To have a licensed professional clear, on a monthly basis, the sewer line on the Premises from the building to the City main to prevent the accumulation of grease in the line and to provide proof of such action to the City, upon demand;
  - f. To conduct its business at all times in good faith, and in a high grade and reputable manner.
  - g. Tenant agrees that the restaurant should be in operation on or before November 28, 2018. If the restaurant does not commence operation by that date, the basement area will be unusable for assembly uses, pursuant to building code, without adding a fire suppression system. The fire suppression system would be the responsibility of Tenant.
9. CITY'S RIGHT TO FIX OR REPAIR. If the Tenant shall fail to keep and preserve the Premises in the state of condition required by any provision of this Lease, the City may, at its option, provide Tenant with written notice of such failure as provided herein. If the condition specified in any such notice shall continue for a period of ten (10) days after the date of notice, City may, at its option, put or cause the same to be put in the required condition and state of repair without liability to Tenant for any loss or damage that may accrue to Tenant's property or business by reason thereof. In such case, the Tenant, on demand, shall pay as additional rent, the cost thereof together with interest thereon from the date paid.
10. USE. Subject to the Tenant's ability and obligation to obtain all necessary governmental approvals, permits and licenses, the Tenant may use and occupy the Premises for the use as a bar and restaurant business and related services. City disclaims any warranty that the Premises are suitable for Tenant's use and Tenant acknowledges that it has had a full opportunity to make its own determination in this regard.
- a. Compliance with Laws. The Tenant further warrants that it will not commit or permit any act to be performed, or any omission to occur on the Premises or Premises that will be in violation of any present or future law, ordinance, regulation or order of any governmental unit having jurisdiction over the Premises or Premises. This section shall specifically apply to the conformance with all health, safety, and building codes as the same may relate to any equipment or fixtures on the Premises or to any other aspect of the operation of the Tenant's business.

- b. Common Areas/Parking. In addition to the use of the Premises, Tenant shall have use of the Common Area and Parking adjacent to the Premises.

11. MAINTENANCE AND REPAIR. The City shall maintain the foundations, exterior walls (except plate glass or other breakable materials used in structural portions which shall be the responsibility of the Tenant as to that portion of such plate glass or other structural materials that may be located within or form party of the boundary of the Premises) and roof of the Premises in good repair, ordinary wear and tear excepted, unless the need for any such repair or replacement is directly or indirectly attributable to or results from activity being conducted within the Premises, or is necessary to accommodate Tenant's operations, or becomes necessary by reason of the negligence of the Tenant, its agents, servants, employees, or anyone else for whose acts the Tenant is responsible. The costs of routine maintenance and repair of the Premises shall be paid directly by the Tenant.

- a. Tenant's Maintenance Obligations. The Tenant, at its own expense, shall maintain the Premises at all times in as good condition and repair of equal quality with the original work and condition, ordinary wear and tear excepted, and in a clean, sanitary, and safe condition in accordance with all applicable laws, ordinances, and regulations; including, without limitation, all plumbing, sewage, ventilating, and electrical systems serving the Premises, doors, windows, floors and floor coverings, interior walls and all interior painting and decorating, and all equipment, facilities, fixtures, and appurtenances. The Tenant shall permit no waste, damage, or injury to the Premises. If the Tenant refuses or neglects to commence necessary repairs within a reasonable time period (no longer than ten (10) consecutive days) after written request, or does not adequately complete such repairs within a reasonable time thereafter, the City may make the repairs without liability to the Tenant for any loss or damage that may occur to the Tenant's stock or business by reason thereof, and if the City makes such repairs, the Tenant shall pay to the City the amount so paid by the City and/or all costs and expenses incurred by the City in making the above maintenance or repair, including reasonable attorneys' fees, shall be deemed to be additional rent for the Premises and shall be due and payable by the Tenant to the City on demand.
- b. Glass Windows. The Tenant shall replace, forthwith, any cracked or broken glass with glass of the same quality, including plate glass or glass and other breakable materials used in structural portions in any interior or exterior windows and doors in the Premises. If not covered by insurance, the Tenant shall bear the expense of any such glass replacement directly.

12. CITY'S RIGHT OF ACCESS. The City, its employees, and agents shall have the right to enter the Premises at all reasonable times for the purpose of inspecting, cleaning, or repairing the Premises, or any portion thereof, or to exhibit the Premises to prospective tenants, purchasers, or others the City may deem appropriate.

Specifically, the City, its employees, or agents shall also be permitted to install on or through the Premises conduits or other utility lines or services at the City may deem necessary or appropriate.

13. ALTERATIONS. Tenant shall not make any alterations, additions, or improvements in or to the Premises, or add, disturb, or in any way change any plumbing or wiring therein without the written consent of the City as to the character and detailed plans of the alteration, addition, or improvement to be made, the manner of doing the work, the appropriate indemnifications for the City, the persons to do the work, the providing of the costs therefore, the returning of the Premises to the condition in which they were at the commencement (if required by the City), and other requirements or assurances that may be required by the City.
14. ASSIGNMENT OR SUBLETTING. Tenant will not assign, transfer, mortgage or encumber this Lease or sublet or rent or permit occupancy or use of the Premises, or any part thereof by any third party; nor shall any assignment or transfer of this Lease be effectuated by operation of law or otherwise, (any of the foregoing being hereinafter referred to as an "Assignment") without in each such case obtaining the prior written consent of City, which consent shall not be unreasonably withheld. The consent by City to any Assignment shall not be construed as a waiver or release of Tenant from the terms of any covenant or obligation under this Lease, nor shall the collection or acceptance of rent from any transferee under an Assignment constitute an acceptance of the Assignment or a waiver or release of Tenant or any transferee or any covenant or obligation contained in this Lease, nor shall any Assignment be construed to relieve Tenant from the requirement of obtaining the consent in writing of City to any further Assignment.
15. FIRE OR OTHER CASUALTY. If fire or other casualty shall render the Premises un-tenantable for a period in excess of ninety (90) days, either party shall have the right to terminate this Lease forthwith, in which case all rent owed to the City shall be calculated and paid to the City within ten (10) days of the City's request therefore and any prepayments of rent shall be credited against the rent owed to the City. If the Premises can be restored to a tenantable condition within ninety (90) days from the date of such event, then, at the City's option, by notice in writing to the Tenant, mailed within thirty (30) days after such event, this Lease shall remain in full force and effect, with the exception that the rent for the period during which the Premises were un-tenantable shall be abated pro rata.
16. CONDEMNATION: EMINENT DOMAIN. If the whole of the Premises shall be taken by any public authority under the power or threat of eminent domain, then the Term of this Lease shall cease as of the day possession shall be taken by such public authority, and the rent shall be paid up to that date with a proportionate refund by City of such rent as may have been paid in advance, if any. If a portion of the Premises shall be taken by any public authority under the power or threat of eminent domain, the rent shall be abated pro rata based on the percentage of square footage taken.

17. SURRENDER AND TREATMENT OF IMPROVEMENTS. On the last day of the Term or on the sooner termination thereof, the Tenant shall peaceably surrender the Premises in the condition required of the Tenant and consistent with the Tenant's duty to make alterations, modifications, or repairs pursuant to this Lease. All permanent alterations, additions, improvements and fixtures, other than trade fixtures, that may be made or installed by either of the parties hereto on the Premises shall, at the time of such installation, become the property of the City and shall remain on and be surrendered with the Premises as a part thereof, without damage or injury and without compensation or credit to the Tenant unless the City, at its option, requires the removal of any such alterations, additions, improvements, or fixtures. All nonpermanent alterations, additions, improvements, and fixtures that may be made or installed by the Tenant on the Premises shall remain at all times the property of the Tenant and shall be removed by the Tenant on termination of this Lease.

- a. Designation by City. At the time the Tenant applies for the City's written consent to any alterations, additions, improvements, and fixtures, the City shall determine, in its reasonable discretion, which are to be deemed permanent and which are nonpermanent for purposes hereof, provided, however, that failure of the City to do so shall not be deemed a waiver of its right to do so at a later time, or of any of its other rights with respect thereto pursuant to statute or common law.
- b. Tenant's Failure to Surrender. If the Premises are not surrendered at the end of the Term or sooner termination thereof, the Tenant shall indemnify the City against any loss or liability from delay by the Tenant in so surrendering the Premises, including, without limitation, claims made by any succeeding Tenant founded on such delay. The Tenant shall promptly surrender all keys for the Premises to the City at the place then fixed for payment of rent and shall inform the City of combinations on any locks and safes on the Premises.
- c. Holding Over. In the event that the Tenant, with the City's express permission, remains in possession of the Premises after the expiration of its Lease without the execution of a new Lease, it shall be deemed to be occupying the Premises as a tenant from month-to-month, subject to all the conditions and provisions of this Lease, insofar as the same can be applicable to a month-to-month tenancy, except that the rent shall be double the amount stated herein.

18. DEFAULT. The following shall constitute an "Event of Default" under the terms of this Lease:

- a. If the Tenant shall fail to timely pay, when due, any rent or other sums due under this Lease, any such rent or other sums shall remain unpaid for ten (10) days after the same becomes due;

- b. If the Tenant shall fail to observe or perform any of the covenants, terms or conditions of this Lease;
- c. The existence of any collusion, fraud, dishonesty or bad faith by or with the acquiescence of the Tenant, which in any way relates to or affects this Lease or the Premises;
- d. If at any time any material representation, statement, report or certificate made now or hereafter by the Tenant is not true and correct, or if at any time any statement or representation made by the Tenant is not true and correct, and such representation, statement, report or certificate is not corrected within ten (10) days after written notice thereof;
- e. If all or a substantial part of the assets of the Tenant are attached, seized, subjected to a writ or distress warrant, or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within thirty (30) days;
- f. If the Tenant is enjoined, restrained or in any way prevented by court order from performing any of its obligations hereunder or conducting all or a substantial part of its business affairs; or if a proceedings seeking such relief is not dismissed within thirty (30) days of being filed or commenced;
- g. If a notice of lien, levy or assessment is filed of record with respect to all or any part of the property of the Tenant by the United States, or any other governmental authority, unless contestable and actually and diligently contested in accordance herewith;
- h. If the Tenant shall file a voluntary petition for bankruptcy or for arrangement, reorganization or other relief under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter in effect;
- i. If the Tenant shall file an answer or other pleading or any proceeding admitting insolvency, bankruptcy, or inability to pay its debts as they mature;
- j. If, within thirty (30) days after the filing against it of any involuntary proceedings under the Federal Bankruptcy Code or similar law, state or federal, now or hereafter in effect, the Tenant shall fail to have such proceeding vacated;
- k. If the Tenant shall fail to vacate, within thirty (30) days following the entry thereof, any order appointing a receiver, trustee or liquidator for it or all or a major part of its property, either on or off the Premises;
- l. If the Tenant shall be adjudicated as bankrupt;



- m. If the Tenant shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee or liquidator of all of the major party of its property, or the Premises;
- n. If the Tenant shall die, or shall be judicially declared to be incompetent if a natural person, or if such Tenant is a firm, partnership, or corporation, be dissolved, terminated or merged, except as the same shall constitute an Assignment pursuant to Section 14 hereof to which the City gives consent;
- o. If the Tenant shall sell, convey, transfer or assign all or a major portion of its inventory, fixtures or other personal property, either on or off the Premises, without replacing same with comparable equivalents within thirty (30) days;
- p. If the Tenant shall sell, convey, transfer or assign any of the Tenant's rights, title, or interest in the Premises of this Lease, unless with the consent of City in accordance with Section 14 hereof;
- q. If the Tenant abandons the Premises before the end of the Term;
- r. If the Tenant shall, at any time during the Term of this Lease, fail to carry in full force and affect any of the insurance coverage required by Paragraph 23 of this Lease.

19. TENANT'S RIGHT TO CURE DEFAULT. In the event of a Tenant default as described above, except for the nonpayment of rent, City shall give Tenant thirty (30) days written notice to cure the default.

20. DEFAULT – NONPAYMENT OF RENT OR OTHER SUMS DUE. If any installment of rent or any sum due under this Lease is not paid by Tenant by the tenth day of a month: (i) a one-time late charge in the amount of one hundred dollars (\$100.00) shall become immediately due and payable as compensation to City for administrative costs; and (ii) the unpaid balance due City shall bear interest at the Interest Rate from the date such installment became due and payable to the date of payment thereof by Tenant, and such late charge(s) and interest shall constitute additional rent hereunder which shall be immediately due and payable. The "Interest Rate" as used herein means the lesser of: the maximum rate permitted by law; and eighteen percent (18%) per annum.

21. WAIVER. No payment by Tenant or receipt by City of a lesser amount than the monthly installments of rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent nor shall any endorsement or state on a check or letter accompanying a check for payment of rent be deemed an accord and satisfaction, nor shall acceptance of rent with knowledge of breach constitute a waiver of the breach, and City may accept such check or payment without prejudice to City's right to recover the balance of such rent, to terminate this Lease, to

repossess the Premises or to pursue any other remedy provided in this Lease. No re-entry by City, and no acceptance by City of keys from Tenant shall be considered an acceptance of a surrender of the Lease.

22. REMEDIES. Upon the occurrence of any Event of Default, the City shall have any one or more of the following remedies:

- a. The City may immediately terminate this Lease by notice to the Tenant. Upon such termination by the City, the Tenant will at once surrender possession of the Premises to the City and remove all of the Tenant's effects therefrom; and the City may forthwith re-enter the Premises and repossess itself thereof, and remove all persons and effects therefrom using such force as may be necessary without being guilty of trespass, forcible entry or detainer or other tort.
- b. Enter upon and take possession of the Premises by picking or changing the locks if necessary, and lock out, expel or remove the Tenant or any other person who may be occupying the Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefore, with or without having terminated this Lease;
- c. City may enter upon the Premises by force if necessary without being liable for prosecution or any claim for damages therefore, and remedy such default for the account and at the expense of the Tenant without thereby waiving such default, and the Tenant further agrees that the City shall not be liable for any damages resulting to the Tenant from such action;
- d. Whether or not this Lease has been terminated, City may, but shall not be obligated to, attempt to relet the Premises for the account of Tenant in the name of City or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and for such terms (which may include concessions or free rent) and for such uses as City, in its uncontrolled discretion, may determine, and may collect and receive the rent therefor.
- e. No termination of this Lease pursuant to Subsection (a) or repossession of the Premises pursuant to Subsection (b) shall relieve Tenant of its liabilities and obligations under this Lease, all of which shall survive any such termination or repossession. In the event of any such termination or repossession, whether or not the Premises shall have been relet, Tenant shall pay to City the rent, operating costs, and other sums and charges to be paid by Tenant up to the time of such termination or repossession, and thereafter Tenant, until the end of what would have been the Term in the absence of such termination or repossession, shall pay to City, as and for liquidated and agreed current damages for Tenant's default, the equivalent of the amount of the rent, operating costs, and such other sums and charges which would payable under

this Lease by Tenant if this Lease were still in effect, less the net proceeds, if any, of any reletting effected pursuant to the provisions of Subsection (d) after deducting all of City's expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, attorneys' fees, alteration costs, and expenses of prepare for such reletting. Tenant shall pay such current damages to City monthly on the days on which the rent would have been payable under this Lease if this Lease were still effect, and City shall be entitled to recover the same from Tenant on each such day.

- f. In the event the Tenant deserts, vacates or abandons the Premises, the City may immediately dispose of any perishable materials on site, in the City's discretion, and may remove and store any personal property which remains in the Premises. In addition to the City's other rights, the City may dispose of the stored personal property if the Tenant does not claim the property within twenty-eight (28) days after the date the property is stored. The City may charge a reasonable storage fee, which fee Tenant must pay before claiming the property. The City shall deliver by certified mail to the Tenant, at the address specified for notice to the Tenant herein, a notice that the City may dispose of the property if the Tenant does not claim it within twenty-eight (28) days after the date the property is stored.
- g. The City may bring an action in a court of competent jurisdiction to collect any amounts due and owing under this Lease and/or to compel the Tenant to perform any and all of Tenant's obligations under this Lease.
- h. The City may charge all costs to cure any default or offset any loss caused by the Tenant's default to the Tenant as additional rent; and
- i. The Tenant shall pay, in addition to the rent and other sums agreed to be paid hereunder, all costs, including without limitation reasonable attorneys' fees, incurred by the City that result from enforcing the provisions of this Lease.

23. **INSURANCE.** The Tenant agrees to secure and keep in force from and after the Commencement Date of this Lease and throughout the full Term of the Lease, at the Tenant's own cost and expense, the following:

- a. "All Risk" property insurance on Tenant's improvements; such insurance shall include coverage for the full replacement value of Tenant's leasehold improvements, trade fixtures and personal property within the Premises.
- b. Commercial general liability insurance on the Premises as well as the Premises, providing coverage on an "occurrence" rather than a "claims made" basis, which policy shall include coverage for Bodily Injury, Property Damage, Personal Injury, Contractual Liability (applying to this Lease), and Independent Contractors, in current Insurance Services Office form or other

form which provides coverage at least as broad. Tenant shall maintain a combined policy limit of at least two million dollars (\$2,000,000) applying to Bodily Injury, Property Damage and Personal Injury, which limit may be satisfied by Tenant's basic policy, or by the basic policy in combinations with umbrella or excess policies so long as the coverage is at least as broad as that required herein. Such liability, umbrella and/or excess policies may be subject to aggregate limits so long as the aggregate limits have not at any pertinent time been reduced to less than the policy limit stated above, and provided further that any umbrella or excess policy provides coverage from the point that such aggregate limits in the basic policy become reduced or exhausted. City shall be named as an additional insured under all such policies.

- i. Other Requirements. All policies of insurance procured by the Tenant shall:
  - ii. Be issued by insurance companies reasonably acceptable to the City;
  - iii. Be written as primary policies; not contributing with and not in excess of coverage that the City may carry;
  - iv. All comprehensive general liability insurance procured by the Tenant under this section shall be issued for the benefit of the City, the Tenant and the owner of the Premises, as their respective interests may appear;
  - v. Contain endorsements providing as follows:
    1. That such insurance may not be materially changed, amended, or canceled with respect to the City except after twenty (20) days' prior written notice from the insurance company to the City, sent by registered mail;
    2. That the Tenant be solely responsible for the payment of all premiums under such policy and that the City shall have no obligation for the payment thereof notwithstanding that the City is or may be named as an insured.
- c. Proof of Coverage. The original policy or policies, or duly executed certificates for the same, together with reasonably satisfactory evidence of payment of the premium thereof, shall be delivered to the City within five (5) days of the date of execution of this Lease, and on renewals of such policies not less than twenty (20) days prior to the expiration of the term of any such coverage.

#### 24. GENERAL PROVISIONS.

- a. Waiver and Indemnity. Notwithstanding anything apparently to the contrary in this Lease, City and Tenant hereby release one another and their respective partners, officers and employees from any and all liability (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage covered by property insurance or coverable by a customary form of policy of the insurance required by Paragraph 23, even if

such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

- b. Mechanic's Liens. The Tenant agrees to promptly pay all sums of money in respect of labor, services, materials, supplies, or equipment furnished or alleged to have been furnished to the Tenant in or about the Premises, and the Tenant shall not permit any mechanic's, material man's, or other lien to arise or be filed against the Premises or the City's interest therein. The Tenant shall save, hold harmless, and defend the City from liability or other damage that the City may incur as a result of such liens in the event the same arise or are filed in contravention of the immediately preceding sentence. If any such mechanic's lien shall at any time be filed, the Tenant shall forthwith cause the same to be discharged or record by payment, bond, order of a court of competent jurisdiction or otherwise, provided the Tenant first posts a bond in favor of the City in a form and substance acceptable to the City, which shall be conditioned on the successful contest by the Tenant of any such liens. The Tenant shall have the right to contest in good faith, any and all such liens. If the Tenant shall fail to cause such lien to be discharged within thirty (30) days after being notified of the filing thereof and before judgment or sale thereunder, then, in addition to any other right or remedy the City may, but shall not be obligated to, discharge the by paying the amount claimed to be due or by bonding or other proceeding deemed appropriate by the City, and the amount so paid by the City and/or all costs and expenses incurred by the City in procuring the discharge of such lien, including reasonable attorneys' fees, shall be deemed to be additional rent for the Premises and shall be due and payable by the Tenant to the City on demand. Nothing contained in this Lease shall be construed as a consent on the part of the City to subject the City's estate in the Premises or any portion of the Premises to any lien.
- c. Keys. Any and all keys to the Premises shall be surrendered to City on the termination of this Lease.
- d. No Partnership, Joint Venture, or Fiduciary Relationship Created. Nothing contained in this Lease shall be interpreted as creating a partnership, joint venture, or relationship of principal and agent between the City and the Tenant, it being understood that the sole relationship created hereby is one of the landlord and tenant.
- e. Cumulative Rights. No right or remedy herein conferred on or reserved to the City is intended to be exclusive of any other right or remedy provided by law, but each shall be cumulative in and in addition to every other right or remedy given herein or elsewhere, or hereafter existing at law, in equity, or by statute.
- f. Notices. All communications, demands, notices or objections permitted or required to be given or served under this Lease shall be in writing and shall be deemed to have been duly given or served if delivered in person to the other

part or its duly authorized agent, or deposited in the United States mail, postage prepaid, for mailing by certified or registered mail, return receipt requested, or if telegraphed, by prepaid telegram, and addressed to the other party to this Lease to the address set forth below:

As to City,  
The City of Spring Lake Park  
Attention: Administrator  
1301 81<sup>st</sup> Avenue NE  
Spring Lake Park, MN 55432

As to Tenant,  
RS Properties  
611 136<sup>th</sup> Lane NE  
Ham Lake, MN 55304

Any party may change its address by giving notice in writing, stating its new address, to any other party as provided in the foregoing manner. Commencing on the tenth (10<sup>th</sup>) day after giving of such notice, such newly designated address shall be such party's address for the purposes of all communications, demands, notices, or objections permitted or required to be given or served under this Lease.

- g. Successors and Assigns. This Lease shall be binding on and inure to the benefit of the parties hereto and their respective assigns, executors, heirs, personal representatives, and successors, provided, however, that nothing in this section shall be interpreted as granting the Tenant the right to assign this Lease or sublet the Premises.
- h. Amendment, Modification, or Waiver. No amendment, modification, or waiver of any condition, provision, or term of this Lease shall be valid or of any effect unless made in writing, signed by the party or parties to be bound, or its duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by any party of any default shall not affect or impair any right arising from any subsequent default.
- i. Severable Provisions. Each provision, section, sentence, clause, phrase, and word of this Lease is intended to be severable. If any provision, section, sentence, clause, phrase or word hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Lease.
- j. Entire Agreement. This Lease contains the entire understanding of the parties hereto with respect to the transactions contemplated hereby and supersedes all

prior agreements and understandings between the parties with respect to such subject matter.

- k. Captions, Headings, or Titles. All captions, headings, or titles in the paragraphs or sections of this Lease are inserted for convenience of reference only and shall not constitute a party of this Lease as a limitation of the scope of the particular paragraphs or sections to which they apply.
- l. Construction. This Lease shall be construed and enforced in accordance with the laws of the state of Minnesota. No provision of this Lease shall be construed by any court against either party by reason of such party being deemed to have drafted or structured each provision.
- m. Time of the Essence. Time is of the essence of this Lease, and of each and every covenant, term, condition, and provision hereof.
- n. Liquor License. The obligations of Tenant under this Lease Agreement shall be contingent upon the issuance, by the City, of a liquor license to Tenant.

*[Signatures of the following page]*





