

LEASE AGREEMENT

By and Between

DIRT YARD OUTPOST 4, LLC

“Landlord”

And

Innersculpt Studio LLC

“Tenant”

Gateway Plaza Tomball

27104 State Hwy 249, Tomball, TX 77375



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ARTICLE I. Summary of Key Lease Agreement Terms

- i Location:** 27104 State Hwy 249, Tomball, TX 77375
Bldg A Ste 400 (See Section 2.01)
- ii Size of Leased Premises:** 1,800 square feet of Net Rentable Area (See Section 2.01)
- iii Delivery Date:** Same as the *Effective Date*: **Approx. July 1, 2025** (See Section 2.01, ARTICLE III, & Exhibit C)
- iv Construction Period (Tenant):** **120 (one hundred twenty)** calendar days (See Section 2.01, ARTICLE III, & Exhibit C)
- v Commencement Date:** Approx. Date of **October 29, 2025** (See Section 2.01)
- vi Termination Date:** Approx. Date of **February 28, 2031** (See Section 2.01 & ARTICLE VI)
- vii Base Rent, Primary & Extension Terms:**
- | | | |
|--|-----------------------------|--|
| <u>Primary Term</u> : 62 (sixty-two) Full Calendar Months (See <u>Section 2.01</u> , <u>ARTICLE VI</u> , and <u>ARTICLE VII</u>): | | <u>Extension Option Term(s)</u> : 0 (zero) additional concurrent terms(s) of 0 (zero) months (See <u>Section 6.03</u>): |
| Lease Months: | Base Rent per month: | Base Rent \$ psf/yr |
| <i>Partial month (if necessary):</i> | | |
| 1 thru 2: | \$ 0.00 | \$ 36.00 |
| 3 thru 14: | \$ 5,400.00 | \$36.00 |
| 15 thru 26: | \$ 5,562.00 | \$37.08 |
| 27 thru 38: | \$ 5,278.86 | \$ 38.19 |
| 39 thru 50: | \$ 5,900.73 | \$ 39.34 |
| 51 thru 62: | \$ 6,077.75 | \$ 40.52 |
- viii Security Deposit:** None (See Section 2.01)
- ix Prepaid Rent:** 1st (first) and last months' *Base Rent*; \$11,477.75 (See Section 2.01)
- x Additional Rent:** Starting *Additional Rent*: \$1,477.50 /mo.; \$9.85 psf/yr (See ARTICLE VIII)
- xi Tenant's Share:** 10.2215% (See ARTICLE VIII)
- xii Use:** Pilates (See Section 2.01 & ARTICLE IV)
- xiii Guarantor:** **Brennan Layne Cross, jointly and severally liable with Lori Dee Brazzil-Cross**, (See Section 23.21)
- xiv Signage:** Tenant must provide and install: (i) Building fascia sign above storefront to be attached to the *Building* (design approved by Landlord within 30 (thirty) calendar days of *Effective Date* of this *Lease*; and (ii) A sign to be inserted into Landlord's provide *Pylon Sign* at front of *Neighborhood Center* in conformance with *Pylon Sign* design. Signs to be installed **within 120 (one hundred twenty) calendar days of Effective Date of Lease**. (See ARTICLE IX)
- xv Allowance:** \$54,000.00; \$30.00 /sqft (See Section 3.09 & Exhibit C)
- xvi Landlord's Address:** DIRT YARD OUTPOST 4, LLC
5373 W Alabama St Ste 455
Houston, TX 77056

Michael Johnston
(832) 463-7952
michael.johnston@conchodevelopment.com

Robert Piper
(832) 309-8775
robert.piper@conchodevelopment.com
(See Section 2.01)
- xvii Tenant's Address:** InnerSculpt Studio LLC
971 Reverend B J Lewis Dr
Houston TX 77088

Brennan Cross
(281) 702-0472
Brennan.cross@gmail.com

Lori Cross
(281) 703-7093
Loricalbum@aol.com
(See Section 2.01)
- xviii First Amount due:** **Date: On or before XXXXXXXX XX, 20XX; the amount of \$XX,XXX.00 shall be due** for: partial month Base & Additional Rent for xx calendar days, 1st (first) full month Additional Rent, and 2nd (second) month's Base & Additional Rent. *(This will be updated (along with correct dates) once Lease document is finalized and before it is sent out via DocuSign for signature)*



LEASE AGREEMENT

This **Lease Agreement** is entered into on this day of _____ ('**Effective Date**') by and between **Dirt Yard Outpost 4, LLC** ("**Landlord**") and **Innersculpt Studio LLC** ("**Tenant**") hereinafter referred to individually as '**Party**' or collectively '**Parties**'.

ARTICLE II. Definitions and Lease Terms

Section 2.01 When used herein, the following bolded, italicized, words, phrases, and terms shall have the indicated meanings set forth in this **Section 2.01** (or where indicated in the **Lease Agreement**):

'**Effective Date**' means the date when both Landlord and Tenant have executed this **Lease**, which execution shall be when the last **Party** has executed this Lease by filling out and signing **ARTICLE XXIV** and all other required initials and signatures throughout the entirety of this **Lease Agreement**.

'**Interchangeable Terms**'. For purposes of all provisions within this **Lease Agreement** and all attachments hereto, the terms '**Lease Agreement**' and '**Lease**' shall have the same meanings and shall be interchangeable.

'**Neighborhood Center**' and '**Building**'. For purposes of all provisions within this **Lease Agreement** and all attachments hereto, the terms **Neighborhood Center** and **Building** shall be interchangeable and shall have the same meaning, which is the **Neighborhood Center** located at 27104 State Hwy 249, Tomball, TX 77375, as more properly described and depicted in **Exhibit B** to this **Lease**, known as '**Gateway Plaza Tomball**'.

'**Security Deposit**' means an advance of money, other than an advance payment of **Rent**, to cover damages and unpaid **Rent** and other **Indebtedness**, by Tenant to Landlord and shall be in the amount of: \$0.00 (zero and no/100 dollars) (**none**).

'**Leased Premises**' means the location at 27104 State Hwy 249, Tomball, TX 77375 Bldg A Ste 400, further defined and described in **Section 3.01** and as depicted in **Exhibit A**, to this **Lease Agreement** and CONTAINING APPROX. 1,800 of **Rentable Square Feet**. '**Rentable Square Feet**' shall have the meaning set forth in **Section 3.01**.

' Landlord Address ' means the physical address of Landlord as described hereof and in addition, also means both the mobile phone number (' Cell ') and electronic mail address (' Email ') of each associated person(s) of Landlord (' Landlord Person of Contact ') listed hereof:		' Tenant Address ' means the physical address of Landlord as described hereof and in addition, also means both the mobile phone number (' Cell ') and electronic mail address (' Email ') of each associated person(s) of Landlord (' Tenant Person of Contact ') listed hereof:	
Physical Address:	5373 W Alabama St Ste 455 Houston, TX 77056	Physical Address:	971 Reverend B J Lewis Dr Houston TX 77088
Person of Contact:	Michael Johnston	Person of Contact:	Brennan Cross
Cell:	(832) 463-7952	Cell:	(281) 702-0472
Email:	michael.johnston@conchodevelopment.com	Email:	brennan.cross@ymail.com
Person of Contact:	Robert Piper	Person of Contact:	Lori Cross
Cell:	(832) 309-8775	Cell:	(281) 703-7093
Email:	robert.piper@conchodevelopment.com	Email:	loricalbum@aol.com
' Landlord Person of Contact ' means the specific individual(s) listed hereinabove who is designated to manage communication and correspondence. This individual serves as the point of contact for all matters related to the Landlord's Obligations , dealings, and all provisions of this Lease .		' Tenant Person of Contact ' means the specific individual(s) listed hereinabove who is designated to manage communication and correspondence. This individual serves as the point of contact for all matters related to the Tenant's Obligations , dealings, and all provisions of this Lease .	

'**Notice**' means any demand, request, approval, consent, or notice that shall be given to either **Party** by the other per all provisions of this **Lease**, and the **Notice** must be in document form, signed and executed by sending **Party**, as an attachment via electric correspondence by: (i) reading from or entering data into **Cell** via short message service texting ('**Text**'); or (ii) via **Email**. Either **Party** may choose to send such **Notice** to reciprocal **Party**'s physical address, but only in addition to **Notice** as hereof defined. Both **Parties** hereof agree that each **Notice** will be deemed to have been received or given at the time of delivery indicated by the cell phone records, call detail records, or **Email** electronic records of the **Party** performing the sending or transmitting of **Notice**. Landlord may, at any time, change its **Landlord Address**, **Landlord Person of Contact**, **Cell**, or **Email**, and Tenant may, at any time, change its **Tenant Address**, **Tenant Person of Contact**, **Cell**, or **Email**, but if such change will take place, then upon such change either **Party** shall inform the other within 3 (three) business days by **Text**, **Email**, phone call to reciprocal **Party**'s **Cell**, or by letter to the reciprocal **Party**'s physical address if **Cell**, **Email** or physical address herein **ARTICLE I** of the **Lease Agreement** will going to be changed, lost, or is otherwise not going to be able to be received by reciprocal **Party** for a period of more than 3 (three) business days. In any event, it is the legal responsibility of the Landlord to ensure Tenant is informed of any change to **Landlord Address**, **Landlord Person of Contact**, **Cell**, or **Email** on or before 3 (three) business days from the day any such change happens, and it is the legal responsibility of the Tenant to ensure Landlord is informed of any change to **Tenant Address**, **Tenant Person of Contact**, **Cell**, or **Email** on or before 3 (three) business days from the day any such change happens.

'**Obligations**' shall mean all duties and responsibilities to perform a specific action or regarding from a specific action including, without limitation, the following: (i) Contractual Obligations of this **Lease**; (ii) Statutory Obligations imposed by laws, rules, or regulations from Landlord or any governing authority; (iii) All Financial Obligations and responsibilities, including, without limitation **Rent Payment** and **Rent**; or (iv) any other duty or responsibility that require(s) the performance of either **Party** per all provisions of this **Lease Agreement**.



‘**Tenant Obligations**’ means the **Obligations** of the Tenant pertaining to all matters and provisions herein this **Lease**.

‘**Tenant’s Work**’ shall have the meaning(s) set forth in Section 3.05 and as more particularly described and defined in Exhibit C.

‘**T.I. Allowance**’ shall have the meaning set forth in Section 3.09 and Exhibit C.

‘**Permitted Use**’ shall have the meanings set forth in Section 4.01.

‘**Rules and Regulations**’ shall have the meaning set forth in Section 4.03 and Exhibit E.

‘**Bar**’ means, as it pertains to this **Lease** shall mean any establishment, business, activity, or entity that is required to have a Mixed Beverage (MB) Permit as defined by the Texas Alcoholic Beverage Commission and derives 50% (fifty percent) or more of its gross sales from alcohol that is sold, given away, or consumed upon, from, or about the **Leased Premises**.

‘**Common Area**’ and ‘**Common Area Maintenance Costs**’ shall have the meanings set forth in ARTICLE V.

‘**Delivery Date**’ shall mean the date the **Leased Premises** is delivered to Tenant as more particularly defined and described in Exhibit C and for this **Lease** shall be the same date as the **Effective Date**. For purposes of all provisions within this **Lease Agreement** and all attachments hereto, the term **Delivery Date** shall have the same meaning as the term **Effective Date**.

‘**Force Majeure**’ as used herein, shall mean following: Except as otherwise expressly excluded in this **Lease**, in the event that either **Party** shall be delayed or hindered in or prevented from the performance of any act required hereunder (other than the payment of any **Rent** or other monetary sums due hereunder) by reason of strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of terrorism, shortage of labor, materials or equipment, inclement weather, delays in obtaining insurance or condemnation proceeds, acts of God, lockdowns of businesses if, and only if, imposed by the State of Texas, or other reason of like nature beyond such **Party**’s reasonable control (but excluding any delays in obtaining permits or licenses from any governmental entity), such **Party** shall be excused for the period of such delay and the period for the performance of any such act shall be correspondingly extended for the period of such delay; provided, however, this meaning shall not extend the **Due Dates** of and/or excuse the payment of any **Rent** and other sums due by Tenant under this **Lease**.

‘**Construction Period**’ shall mean the 120 (one hundred twenty) calendar day period commencing on the **Delivery Date** and ending on the 120th (one hundred twentieth) full calendar day after the **Delivery Date**, subject to **Force Majeure** and as more particularly defined and described in Section 3.07 and in Exhibit C.

‘**Primary Term**’ and ‘**Extension Option Term(s)**’ shall have the meanings set forth in ARTICLE VI.

‘**Prepaid Rent**’ means the following: Within two (2) business days of the **Effective Date** of this **Lease**, Tenant shall also deposit with Landlord an amount equal to \$11,477.75 (Eleven thousand four hundred seventy-seven and 75/100 dollars) to be applied to the 1st (first) and last months’ **Base Rent**.

‘**Opening Date**’ shall mean the date on which the Tenant opens its door(s) for business to the public and/or starts operating at the **Leased Premises** and shall be a date that is on or before the expiration of the **Construction Period**.

‘**Commencement Date**’ means the contractual date on which **Tenant Obligations** to pay **Rent**, in addition to all other applicable **Tenant Obligations** per the provisions of this **Lease**, shall commence and is the earlier of: (i) the expiration of the **Construction Period**; or (ii) the **Opening Date**; or (iii) March 1, 2026. Landlord and Tenant agree to execute a Confirmation of **Commencement Date** in substantially the form attached hereto as Exhibit F (the **Acceptance Letter**) on the **Effective Date**, which for this **Lease** is the same date as the **Delivery Date**.

‘**Term**’ and ‘**Lease Term**’. For purposes of all provisions within this **Lease Agreement** and all attachments hereto, the terms **Term** and **Lease Term** shall mean both the **Primary Term** and (if Tenant’s option therefore is effectively exercised in accordance with the provisions of ARTICLE VI) also the herein stated **Extension Option Term(s)** per Section 6.03 unless such interpretation is expressly negated).

‘**Termination Date**’ shall have the meaning set forth in ARTICLE VI.

‘**Prevailing Market Rate**’ shall have the meaning set forth in Section 6.04.



'**Base Rent**' means the fixed amount of money due to Landlord from Tenant in exchange for the right to occupy the **Leased Premises** per all the provisions of the **Lease** and in the hereby amounts:

Primary Term				Extension Option Term(s)							
Lease Months:		Monthly Base Rent:		Base Rent \$psf/yr:		Lease Months:		Monthly Base Rent:		Base Rent \$psf/yr:	
Partial month (Pro-Rata) (If necessary):				\$ 36.00		NONE					
01 thru 02 :		\$ 0.00		\$ 0.00							
03 thru 14 :		\$ 5,400.00		\$ 36.00							
15 thru 26 :		\$ 5,562.00		\$ 37.08							
27 thru 38 :		\$ 5,728.86		\$ 38.19							
39 thru 50 :		\$ 5,900.73		\$ 39.34							
51 thru 62 :		\$ 6,077.75		\$ 40.52							

'**Free Month(s)**' means the **2 (two)** first full calendar month(s) immediately following the **Commencement Date** at \$0.00 (zero and no/dollars) **Base Rent**, and as further defined in ARTICLE VI. This does not apply to Additional Rent, and the **Additional Rent** for the partial month and each full **Free Month(s)** after the **Commencement Date** shall be due as defined in ARTICLE VI and ARTICLE VII.

'**Rent Payment**' shall have the meaning set forth in Section 7.01A.

'**Additional Rent**' shall have the meaning set forth in Section 8.01 and '**Rent**' means the **Base Rent**, **Additional Rent** and all other charges from time to time due from Tenant under this **Lease**.

'**Tenant's Share**' shall have the meaning set forth in Section 8.05.

'**Pylon Sign**' means the sign erected by the Landlord for the purposed of visibility for Tenant to provide signage as more particularly defined and described in ARTICLE IX, Exhibit C, and Exhibit E.

'**Indebtedness**' shall mean, collectively, any and all **Rent**, including **Base Rent**, **Additional Rent** and all other sums which may be payable by the Tenant as under all provisions and terms of this **Lease Agreement**.

'**Electronic Signatures**' means any electronic symbol or process attached to, or associated with, any contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record as more particularly defined and described in Section 23.20.

'**Guarantor**' and '**Guaranty**' shall have the meanings set forth in Section 23.21.

'**Required Additional Insureds**' shall mean all parties associated with Landlord that shall be additionally insured on Tenant's Certificate of Insurance as more particularly defined and described in Exhibit D.

'**Core & Shell Building**' shall mean and refer to: (i) structural elements of the **Building**, including the roof, foundation and exterior walls; (ii) the exterior, shell sheathing of the **Building** (Weatherproofing, storefront glass, and other common exterior wall features, as applicable to maintaining the integrity of interior of **Building** (but excludes insulation); (iii) the common base of the **Building's** utility, electrical and plumbing systems, including any elements thereof located within the **Leased Premises**; (iv) the exterior parking, dumpster, and sidewalk areas; (v) the exterior site lighting and exterior **Building** lighting; and (vi) specifically excludes any work related to **Tenant's Work** or improvements constructed by or for Tenant or other tenants or installed within the **Leased Premises** or within any other tenant's leased premises.

Section 2.02 Bolded, italicized, words, phrases, and terms not defined in Section 2.01 above shall have the indicated meanings set forth and given to them in the **Lease Agreement** and/or **Exhibits**.

Section 2.03 Incorporation of Exhibits. All Exhibits attached to and reference in this **Lease Agreement** including, without limitation, those listed in the Table of Contents of this **Lease Agreement** are hereby incorporated by reference and made an integral part of this **Lease Agreement**, as if fully set forth herein (herein referred to, collectively, as the '**Exhibits**')

Section 2.04 Not an Offer, Reservation, or Option. The submission of this **Lease Agreement** for examination by Tenant and/or execution thereof by Tenant does not constitute an offer or a reservation of or option for the **Leased Premises** and this **Lease Agreement** shall become effective only upon execution by all **Parties** hereto and delivery of fully executed **Lease Agreement** to all **Parties** hereto.

ARTICLE III. Leased Premises and Delivery of Leased Premises

Section 3.01 Leased Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the **Leased Premises** as situated in the location identified as the **Leased Premises** on Exhibit A, attached hereto and made a part hereof for all purposes. The **Rentable Square Feet** shall mean **1,800** square feet of the floor area of the **Building** of the **Leased Premises** and shall be measured from the exterior face of all exterior walls and the center of all partition walls, which separate the **Leased Premises** from any interior area. Walls separating the **Leased Premises** from a mall and/or corridor shall be deemed to be exterior walls of the **Leased Premises**. AutoCAD (or similar) files can be provided by Landlord, but only upon the execution by the Tenant and the Tenant's full compliance with the execution of Exhibit I. Under no circumstances does the Landlord verify these dimensions and will not be held accountable for Tenant's design based on anything other than field verification by Tenant and their respective architects, engineers, and/or contractors.



Section 3.02 Rentable Square Feet Dispute. Notwithstanding the foregoing, upon delivery of the **Leased Premises** to Tenant before construction of **Tenant's Work**, Landlord and/or Tenant may re-measure the **Leased Premises**. Both **Parties** hereby agree that in the event of a dispute regarding the amount of **Rentable Square Feet**, the **Parties** shall jointly select an Independent Architect to measure the floor area square footage in the same manner as set forth in Section 3.01, and if and only if the difference between the **Rentable Square Feet** herein agreed to by both **Parties** per Section 3.01 this **Lease** and the amount decided by such Independent Architect is equal to or greater than 3% (three percent), then the **Rentable Square Feet** shall be adjusted accordingly and the decision of such Independent Architect shall be final, binding, and conclusive, and if the aforementioned difference is less than 3% (three percent), then the **Rentable Square Feet** shall remain as the amount stated in all provisions, parts, Exhibits, and otherwise of this **Lease Agreement**. The Independent Architect's fee shall be shared equally by the **Parties**. In the event the square footage is adjusted, the **Base Rent** and other **Additional Rent** based on the **Rentable Square Feet** shall also be adjusted accordingly.

Section 3.03 Landlord reserves the right to place pipes, wires and lines serving other areas of the **Building** under or over the **Leased Premises**, provided such right is exercised in a manner which does not unreasonably interfere with Tenant's business.

Section 3.04 Acceptance of Leased Premises. Upon the **Delivery Date**, and provided that Landlord has completed the **Landlord's Work**, and Tenant has had the opportunity to inspect the **Leased Premises**, Tenant shall accept the **Leased Premises** in its then "AS-IS," "WHERE-IS" WITH ALL FAULTS AND DEFECTS current condition, subject to latent defects, and agrees that, except as specifically provided to the contrary in this **Lease**, Landlord shall have no **Obligations** to perform any other work or improvements in or about the **Leased Premises**. Tenant acknowledges and agrees that, except as otherwise expressly set forth in this **Lease**, Landlord does not make any representations or warranties, expressed or implied, whatsoever, that the **Leased Premises**, **Common Area**, and **Neighborhood Center** are habitable, fit or suitable for Tenant's use or any other particular purpose and that Tenant is responsible for installing and maintaining any and all mechanical, electrical, plumbing, and/or all other systems and required construction (not specifically contained in the **Landlord's Work**) required by the Tenant as provided in Exhibit C.

Section 3.05 Tenant's Work. Except as otherwise set forth on Exhibit C, all work in or upon the **Leased Premises** is to be performed by Tenant at Tenant's sole cost and expense (such work being hereinafter called '**Tenant's Work**'). **Tenant's Work** shall include, but not be limited to, those items listed in Exhibit C. **Tenant's Work** shall be completed in accordance with all provisions and terms of this **Lease** and any and all requirements of all applicable building and governing codes and regulations.

Section 3.06 Simultaneous Construction. The Tenant, at any time prior to the **Delivery Date**, shall have the right to enter the **Leased Premises** for the purpose of taking measurements and install fixtures, equipment or other permanent improvements, provided that said installations do not unreasonably interfere with any prior tenancy or, if applicable, Landlord's completion of the **Landlord's Work** of the **Leased Premises**. Any entry by Tenant for purposes of measurement or installation shall not be deemed acceptance of the **Leased Premises** by Tenant. In the event Landlord performs any work in the **Building** and **Tenant's Work** must progress simultaneously, Landlord shall not be liable for any injury to person or damage to property of Tenant, or of Tenant's employees, licensees, agents, contractors, subcontractors, suppliers or invitees from any cause whatsoever occurring upon or about the **Leased Premises** or the **Neighborhood Center**, and Tenant shall indemnify and hold Landlord harmless from any and all liability and claims arising out of or connected with any such injury or damage unless such liability is the result of the gross negligence or willful misconduct of Landlord's contractors or subcontractors.

Section 3.07 Construction Period. The **Construction Period** shall include all time necessary from the **Delivery Date** for the Tenant to perform the following **Tenant Obligations**, without limitation: (i) Performance adhering to all of the items necessary regarding plans, permits, and all items listed in per Exhibit C Section I; (ii) the **Tenant's Work** as more particularly described and defined in Exhibit C Section IV; and (iii) any and all other provisions of this **Lease Agreement** Tenant must complete prior to Tenant's **Opening Date** for business in the **Leased Premises**. As defined in Section 2.01, the Tenant shall have 120 (one hundred twenty) calendar days of the **Construction Period** in order to complete all of its **Tenant Obligations** per this **Lease Agreement**. Notwithstanding anything to the contrary in this **Lease Agreement**, in no event will Tenant have more than 240 (two hundred forty) calendar days after the **Delivery Date** in order to open its door(s) for business (the **Opening Date**), and if the **Opening Date** does not transpire on or before the 240 (two hundred forty) calendar day period after the **Delivery Date** (herein referred to as '**Late Opening Event**'), Tenant hereof agrees that Landlord may, at its option and its sole discretion, in addition to all other rights and remedies given hereunder or by law or equity, do any one or more of the following: (i) Constitute such **Late Opening Event** as a **Tenant Event of Default** and enforce all provisions of ARTICLE XX of this **Lease Agreement**; or (ii) Allow Tenant to continue all steps necessary to reasonably achieve an **Opening Date**, which Landlord may do if, and only if all the following occur: (a) Tenant, via **Notice** within 5 (five) business days of the date of such **Late Opening Event**, informs and proves to the Landlord that Tenant has sufficient funds to complete construction and with reasonable efforts, achieve its **Opening Date** within 90 (ninety) calendar days from the occurrence date of such **Late Opening Event**; (b) Tenant delivers, via **Notice** within 5 (five) business days of such **Late Opening Event**, a schedule of the events needing to take place in order for Tenant, with reasonable effort, achieve its **Opening Date**, and Landlord approves of such said schedule in writing within 2 (two) business days of Tenant's delivery of schedule, via **Notice**, which shall not be unreasonably withheld, conditioned or delayed; (c) **Commencement Date** and **Lease Term** do not change, and Tenant starts and/or continues to pay **Rent** and all other sums, amounts, and/or monies due per all provisions of this entire **Lease Agreement** in addition to performing all other **Tenant Obligations** per all terms and provisions herein this **Lease Agreement** in their entirety; and (d) Tenant hereby agrees that if Tenant still has not achieved its **Opening Date** 90 (ninety) calendar days after the occurrence date of such **Late Opening Event**, then Landlord shall, in addition to all of the foregoing terms of this Section 3.07, do the following: (i.) Constitute the extended **Late Opening Event** as a **Tenant Event of Default** and enforce all provisions of ARTICLE XX; or (ii.) For each and every calendar day starting from, and including, the 91st (ninety-first) calendar day subsequent to the occurrence date of such **Late Opening Event**, deduct \$0.01 (zero and 1/100 dollars or one cent) per **Rentable Square Feet** of the **Leased Premises** from the **T.I. Allowance** until, but not including, the **Opening Date**.



Section 3.08 Insurance during Construction. Tenant agrees, at its sole cost and expense, to obtain and maintain (or cause to be obtained and maintained) public liability and property damage insurance and worker's compensation insurance adequate to fully protect Landlord, as well as Tenant, from and against any and all liability for death of or injury to person or damage to property caused in or about or by reason of the construction of *Tenant's Work*. The insurance shall be in the coverages and amounts as set forth in Exhibit D.

Section 3.09 Tenant Improvement Allowance. As a part of the consideration for the *Rent* to be paid by Tenant to Landlord hereunder, Landlord agrees to furnish Tenant with a *T.I. Allowance* of **\$54,000.00 (Fifty-four thousand and no/100 dollars)** equal to **\$30.00** per square foot of *Rentable Square Feet* of the *Leased Premises* to defray a portion of the costs of *Tenant's Work* (the '*T.I. Allowance*'), further defined in Exhibit C. The *T.I. Allowance* shall be funded by Landlord and applied by Tenant to the cost of *Tenant's Work* in the manner set forth in and in accordance with Exhibit C and shall only be funded upon execution of Exhibit H by both *Parties*. Tenant hereby represents and warrants to Landlord that the *T.I. Allowance* shall be used exclusively for permanent improvements (excluding Tenant's soft costs such as architectural, design and engineering fees, inventory, merchandise, moveable trade fixtures, furnishing, equipment, signage and other personal property) to the *Leased Premises* which shall become the property of Landlord immediately upon the installation thereof and which shall not be removed from the *Leased Premises* by Tenant upon the expiration or earlier termination of this *Lease*, unless requested to be removed by Landlord prior to the installation thereof.

ARTICLE IV. Use and Occupancy

Section 4.01 Permitted Use. The *Leased Premises* shall be used for the sole purpose of operating a **Innersculpt Studio which includes a work out studio for Pilates** (the '*Permitted Use*') and in a manner consistent with a first-class *Neighborhood Center* or other first-class retail center. Tenant will not use or permit use of the *Leased Premises* for any other purpose without the written consent of Landlord via *Notice*. The *Leased Premises*, if advertised, shall be advertised as and operated under Tenant's Trade Name which is **Innersculpt Studio**. Tenant, at its own expense, will comply with all Federal, State, municipal and other laws, codes, ordinances, *Rules and Regulations* applicable to: (i) the *Leased Premises*; (ii) any construction by Tenant at the *Leased Premises*; and (iii) the business conducted therein by Tenant. Notwithstanding anything to the contrary, Tenant shall obtain all of the required approvals and licenses required under any applicable laws for the provision of Tenant's services, goods, sales, or any business transacted in the *Leased Premises*. Landlord shall reasonably cooperate with Tenant in obtaining such approvals and licenses.

Section 4.02 Exclusive Use. During the *Primary Term* or any *Extension Option Term(s)* thereafter, Landlord shall agree to not directly lease or sell space within the *Neighborhood Center* or at any adjacent property controlled by the Landlord to a merchant which derives **5% (five percent)** or more of its gross sales from the following description: **use of space for doing Pilates work outs**. If Landlord does not cure any related default within thirty (30) calendar days, Tenant may pay only *Additional Rent* under the *Lease* and shall continue until such time the Landlord cures the default. Notwithstanding anything in this *Lease* to the contrary, Tenant hereby agrees that it will not use or permit the use of the space in the *Leased Premises* for any use in conflict with the exclusive use rights of any other tenant in the *Neighborhood Center* as of the *Effective Date* of this *Lease*.

Section 4.03 Rules and Regulations. Landlord shall at all times have the right to promulgate and change *Rules and Regulations* regarding the *Building* in such a manner as Landlord believes is advisable for the safety, care, cleanliness, or proper operation of the *Building*. Notwithstanding the provisions of this ARTICLE IV, Tenant hereby agrees to comply, and shall cause Tenant's employees, servants, agents, visitors, associates, and invitees to comply, with all *Rules and Regulations* of the *Lease Agreement* including, without limitation, those hereof ARTICLE IV and those hereto attached as Exhibit E (herein referred to, collectively, as the '*Rules and Regulations*') and Tenant agrees to comply with and observe the same, as they may be modified, amended or supplemented, as if they were set forth as covenants herein provided, however that in the event of a conflict between the provisions of this *Lease Agreement* and such *Rules and Regulations* attached as Exhibit E, the provisions of this *Lease Agreement* shall control. Notwithstanding anything to the contrary herein, Landlord reserves the reasonable right from time-to-time to modify, amend or supplement the *Rules and Regulations* and to promulgate additional reasonable *Rules and Regulations* applicable to the *Leased Premises* and the *Neighborhood Center*. Further, Landlord covenants and agrees that all such *Rules and Regulations* shall be applicable to and enforce uniformly against all tenants of the *Neighborhood Center*.

- A. **Building Rules and Regulations.** Landlord will furnish all *Building Rules and Regulations*, including any changes or amendments to them, to Tenant, attached hereto and made a part hereof for all purposes as Exhibit E in addition to the *Rules and Regulations* hereof this ARTICLE IV. Tenant will comply with such reasonable regulations as Landlord may promulgate regarding sanitation, cleanliness and other matters at the *Leased Premises* or within the *Building*, including without limitation, removal of garbage, trash and other waste.
- B. **Trash.** Tenant shall be responsible, at its sole cost and expense, for the removal of its trash and rubbish, and shall store same in such areas within the *Leased Premises* as designated by Landlord. Landlord may, at its sole option, arrange for collection of all trash and garbage and, if Landlord exercises such election, Tenant's proportionate share of the cost thereof will be part of its *Common Area Maintenance Costs*. Tenant shall not operate an incinerator or burn trash or garbage. Tenant agrees, at its sole cost and expense (except to the extent any of the following services are provided by the Landlord, in which event Tenant may only be responsible for *Tenant's Share* of the costs thereof, as set forth in this *Lease*): (i) to comply with all present and future laws, orders and regulations of the Federal, State, county, municipal or other governing authorities, departments, commissions, agencies and boards regarding the collection, sorting, separation, and recycling of waste, garbage, trash, rubbish and any and all other refuse (collectively, '*Trash*') and (ii) that Tenant shall, within ten (10) business days following invoicing by Landlord, pay all costs, expenses, fines, penalties or damages that may be imposed on Landlord or Tenant by reason of Tenant's failure to comply with the provisions of this Section 4.03.



- C. **Disturbance.** Tenant shall not commit, or suffer to be committed, any **Trash** upon the **Leased Premises**, nor shall Tenant, or maintain, commit, or permit the following: (i) the maintenance or commission of any unreasonable disturbance of others or public nuisance from or upon the **Leased Premises**; (ii) any objectionable or unpleasant odors to emanate from the **Leased Premises**; (iii) placement of any radio, television, loudspeaker or amplifier on the roof or outside the **Leased Premises**; (iv) placement of an antenna, awning or other projection on the exterior of the **Leased Premises**; (v) solicitation of business or distribution of leaflets or other advertising material in the **Common Area** or **Building**; (vi) any other action which in the exclusive judgment of Landlord would constitute a public or private nuisance or would disturb or endanger other tenants of the **Building** or unreasonably interfere with their use of their respective leased premises, nor do anything which would tend to injure the reputation of the **Neighborhood Center** (collectively, **'Disturbance'**). In addition, Tenant shall take all reasonable steps to prevent its operations from clogging the utility lines servicing the **Leased Premises**.
- D. **Energy and Efficiency.** In addition, Tenant agrees to comply with, and reasonably cooperate with Landlord's efforts to comply with, energy and water disclosure and efficiency, green building and/or carbon reduction laws, including without limitation occupant, water, energy and transportation surveys within the city, county, state or any other jurisdiction.
- E. **Close-out Promotions.** Tenant shall not conduct any auction, fire, bankruptcy or going-out-of-business sale in, at, on or about the **Leased Premises** or the **Neighborhood Center** or any portion or portions of same.
- F. **Business Hours.** Tenant shall occupy and use the entire **Leased Premises** continuously during the entire **Lease Term** and keep the **Leased Premises** open to the public for business with adequate and competent personnel in attendance as contained herein: **At minimum 5 (five) days a week and 40 (forty) hours per week**. These business hours include the exception of normal holiday weeks, except to the extent Tenant would violate applicable laws. Tenant shall operate such business during such period with diligence and in accordance with the best standards of operation of such business.
- G. **Unlawful Use.** Tenant will not conduct any auction or bankruptcy or make any unlawful use of the **Leased Premises** or permit any unlawful use thereof.

Section 4.04 Environmental Matters.

- A. Except for Hazardous Material contained in products used by Tenant in lawful quantities for ordinary cleaning purposes, Tenant shall not permit or cause any party to bring Hazardous Material upon the **Leased Premises** or transport, store, use, dispose, or release any Hazardous Material on or from the **Leased Premises** without Landlord's prior written consent. Tenant shall not generate or manufacture any Hazardous Material on or from the **Leased Premises** without Landlord's prior written consent. Tenant, at its sole cost and expense, shall operate its business in the **Leased Premises** in compliance with all Environmental Requirements and all requirements of this **Lease**. Tenant shall promptly deliver to Landlord a copy of any notice of violation relating to the **Leased Premises** or **Building** of any Environmental Requirement.
- B. The term **'Environmental Requirements'** means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, permits, authorizations, orders, policies or other similar requirements of any governmental authority, agency or court regulating or relating to health, safety, or environmental conditions on, under, or about the **Leased Premises, Building**, or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act and all state and local counterparts thereto, and any common or civil law **Obligations** including, without limitation, nuisance or trespass, and any other requirements of this **Lease**. The term **'Hazardous Materials'** means and includes any substance, material, waste, pollutant or contaminant that is regulated under any Environmental Requirement, including, without limitation, any solid or hazardous waste, hazardous substance, asbestos, petroleum (including crude oil or any fraction thereof, natural gas, synthetic gas, polychlorinated biphenyls (PCBs), and radioactive material).
- C. Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all losses (including, without limitation, diminution in value of the **Leased Premises** or the **Building** and loss of rental income from the **Neighborhood Center**), claims, demands, actions, suits, damages (including, without limitation, punitive damages), expenses (including without limitation, remediation, removal, repair, corrective action, or cleanup expenses), and costs (including without limitation, actual attorneys' fees, consultant fees or expert fees and including, without limitation, removal or management of any Hazardous Materials, including without limitation asbestos, brought into the **Leased Premises**) which are brought or recoverable against, or suffered or incurred by Landlord as a result of any release of Hazardous Materials by Tenant, its agents, employees, contractors, subtenants, assignees or invitees, regardless of whether Tenant had knowledge of such noncompliance. The **Tenant Obligations** under this **Section 4.04** shall survive any termination of this **Lease**.

Section 4.05 Security.

- A. Tenant shall (i) lock the doors to the **Leased Premises** and take other reasonable steps to secure the **Leased Premises** and the personal property of Tenant and any of Tenant's contractors or licensees in the **Neighborhood Center**, from unlawful intrusion, theft, fire and other hazards; (ii) keep and maintain in good working order all security and safety devices installed in the **Leased Premises** by or for the benefit of Tenant (such as locks, smoke, and CO2 detectors and burglar alarms); and (iii) cooperate in any reasonable manner safety or security program, if developed by Landlord or required by the laws that govern **Harris County**.



- B. Tenant specifically acknowledges that Landlord has no duty to provide safety and security devices, services or programs for any portion of the **Neighborhood Center**, including, without limitation, the **Leased Premises**. The **Parties** specifically acknowledge that safety and security devices, services and programs provided by Landlord, if any, while intended to deter crime and ensure safety, may not prevent theft or other criminal acts or ensure safety of persons or property in every given circumstance. The risk that any safety or security device, service or program may not be effective, or may malfunction, or be circumvented by a criminal, is assumed solely by Tenant with respect to Tenant's property and interests, and Tenant shall obtain insurance coverage to the extent Tenant desires protection against such criminal acts and other losses, as further described in Exhibit D.

Section 4.06 Quiet Possession. Tenant, upon paying all sums owed under this **Lease** and performing and observing all of the covenants and agreements hereunder, shall and may peaceably and quietly have, hold, occupy, use and enjoy the **Leased Premises** during the **Term**, subject to the provisions of this **Lease** and applicable deed restrictions, governmental laws, and **Rules and Regulations**.

Section 4.07 Access to Leased Premises. Landlord will have a right to enter the **Leased Premises** during Tenant's normal business hours upon reasonable advance oral **Notice** to Tenant (but at times that do not unduly interfere with Tenant's business), except for in the case of emergencies during which Landlord shall have the right to enter the **Leased Premises** at any time without having given Tenant prior **Notice**, but will make a good faith effort to notify the Tenant as soon thereafter as reasonably possible. Landlord or its agents may enter the **Leased Premises** for the purposes of: (i) inspecting same for compliance with **Tenant Obligations** hereunder; (ii) performing any maintenance or repair **Obligations** of Landlord; (iii) accessing any HVAC and all related systems servicing the adjacent leased premises to permit and/or perform any maintenance, repairs and/or replacement of such systems; and (iv) displaying the **Leased Premises** to prospective purchasers, mortgagees, or, during the last six (6) months of the **Lease Term**, to prospective tenants. Landlord specifically reserves unto itself and its successors and assigns (i) the exclusive use of the roof for items other than rooftop equipment installed by Tenant for the **Leased Premises**, exterior walls (other than storefronts and doors) and the area above and below the **Leased Premises**, and (ii) the right to place or permit to be placed in the **Leased Premises**, utility lines, pipes, wires, facilities, and the like, to serve the **Common Area** or premises other than the **Leased Premises**, and replace, maintain and repair such utility lines, pipes, wires, facilities, and the like, in, over and upon the **Leased Premises** as the same may have been or may be installed. Landlord's uses or activities pursuant to this **Section 4.07** shall be conducted in a manner not to unreasonably interfere with Tenant's use and enjoyment of the **Leased Premises** and shall be limited in time as reasonable needed to accomplish such matters.

Section 4.08 Bar. The parties herein agree no alcohol will be sold or given away at the **Leased Premises** and such aforementioned activity is not part of the **Permitted Use**.

ARTICLE V. Common Area and Parking

Section 5.01 Common Area. There will be a **Common Area** (as hereinafter defined). Tenant, its employees, customers and invitees shall have the non-exclusive use, along with others, of the **Common Area**. Landlord shall have the right, from time to time, to change the arrangement, layout and/or size of the **Common Area** or construct additional buildings therein, and designate employee parking spaces and tenant truck loading zones, and to do and perform such other acts in the **Common Area** as Landlord shall, in its reasonable good faith judgment, determine to be advisable. Landlord shall have the right, from time to time, to establish, modify and enforce **Rules and Regulations** with respect to the **Common Area**. Notwithstanding anything to the contrary contained in this **Section 5.01**, Landlord agrees that it will not voluntarily make any alterations or modifications to the **Common Area** which materially and adversely affect access to, or use of, the **Leased Premises** by Tenant. For purposes of this **Lease**, the phrase '**Common Area**' means all or any part of the **Building** or the area immediately adjacent to the **Building** that is designated by Landlord from time to time for the common use of all tenants of the **Building**, including any all building systems and building structural components, the parking lot, landscaped areas, roadways, pedestrian walkways, ramps, loading docks, delivery areas, fire corridors and any structural or mechanical elements required to be maintained or repaired or replaced by Landlord pursuant to this **Lease** or otherwise and all tenants of the **Neighborhood Center**, their respective officers, agents, employees, invitees, licensees, visitors and customers shall be at all times subject to the exclusive and absolute control and management of Landlord, and Landlord shall have the right from time to time to establish, modify, amend, revoke and enforce the **Rules and Regulations** regarding such areas, including without limitation, designating exclusive or non-exclusive parking spaces, parking areas for valet use only, areas for employee parking only and other **Rules and Regulations** with respect to such areas. However, **Common Area** shall not mean and does not include any space in the **Building** or certain sidewalk/patio space that Landlord has designated for lease to tenants for commercial purposes. In addition, although the roof of the **Building** is not literally part of the **Common Area**, it will be deemed to be a part of the **Common Area** for purposes of: (i) Landlord's ability to prescribe the **Rules and Regulations** in accordance with the provisions of **Section 4.03** and Exhibit E hereof; and (ii) its inclusion for purposes of **Tenant's Share of the Common Area Maintenance Costs** in accordance with the provisions of this **Lease**. Nothing in this **ARTICLE V** or elsewhere in this **Lease** shall be construed as constituting the **Common Area**, or any part thereof, as part of the **Leased Premises**. Nothing contained in this **Lease** shall require or obligate Landlord to provide security services in all or any portion of the **Building**. To the extent Tenant deems it necessary or prudent to provide security services in the **Leased Premises**, Tenant shall have the right to provide such services.

Section 5.02 Parking.

- A. In addition, and notwithstanding any other provision to the contrary in this **Lease**, Landlord may, in its sole discretion, designate both exclusive and/or non-exclusive parking spaces in the **Neighborhood Center** for tenants, employees, and customers, but not in the first row of parking spaces directly in front of the storefront of Tenant's **Leased Premises**.
- B. **Designated Parking for Tenant.** During the **Primary Term** of his **Lease** (and any applicable **Extension Option Term(s)**) Landlord grants to Tenant 0 (zero) designated parking space(s) in the **Common Area**, and if applicable, as shown in Exhibit A.



Section 5.03 Changes in Common Area. In addition, and notwithstanding any other provision to the contrary in this *Lease*, Landlord may, in its sole discretion, change, remodel, reconfigure, upgrade, renovate and/or reconstruct any *Common Area* (including parking) at any time and for any reason; provided, however, during the *Lease Term*, Landlord shall maintain approximately the same number of parking spaces in proportion to the amount of retail space in the *Neighborhood Center* (for example, if the amount of retail space is materially reduced or increased, the amount of parking spaces in the *Neighborhood Center* shall remain in the same ratios as existed as of the *Effective Date*).

ARTICLE VI. Lease Term

Section 6.01 Lease Year. The term '*Lease Year*', as used herein, shall, in the case of the first (1st) *Lease Year*, mean the period which commences with the *Commencement Date* and terminates on the last day of the twelfth (12th) full calendar month following after the amount of full *Free Month(s)*, if any, following *Commencement Date*. Such first (1st) *Lease Year* shall include: (i) the partial month, if any, at the beginning of the *Lease Term* if the *Commencement Date* is not the first day of a calendar month; and/or (ii) all full *Free Month(s)*, if any, and accordingly will be greater than 1 (one) year. Each subsequent *Lease Year* shall mean a period of twelve (12) full calendar months commencing with the date following the last day of the first *Lease Year* and commencing with each subsequent annual anniversary of such day. The last *Lease Year* of the *Lease Term* shall be the period which commences on the day immediately following the last day of the preceding *Lease Year* and terminates on the last day of the *Lease Term*. Accordingly, such last *Lease Year* will terminate on the last day of a full calendar month.

Section 6.02 Primary Term. The '*Primary Term*' shall commence on the *Commencement Date* and shall expire on the last day of the 62nd (sixty-second) full calendar month following the *Commencement Date* (the '*Termination Date*'); provided, however, that, if: (i) the *Commencement Date* is a day other than the first (1st) day of a calendar month; and/or (ii) there are any full *Free Month(s)*, then the first (1st) *Lease Year* shall be defined as per Section 6.01. Accordingly, each subsequent *Lease Year* shall begin on the first day of the month following the end of the preceding *Lease Year* and continue for the next consecutive twelve (12) month period and the *Primary Term* shall continue until the last day of the month following the expiration of 62 (sixty-two) full calendar months after the *Commencement Date*.

Section 6.03 Extension Option Term(s). Provided Tenant: (i) is not in Default of any material term, covenant or condition, contained in this *Lease*, and no material *Tenant Event of Default* shall have occurred on the date of the exercise of the option, (ii) is operating and in possession of the *Leased Premises*, (iii) shall not have assigned the *Lease* or any interest therein or sublet (or otherwise permitted occupancy by any third party of) all or any portion of the *Leased Premises* during the *Primary Term* (any such assignment, subletting or occupancy being subject to the provisions of ARTICLE XV) regardless of whether any such assignment, sublease or occupancy is then still in effect and regardless of whether Landlord shall have consented to any such assignment, subletting or occupancy, and (iv) provides a timely *Notice* when exercising the *Extension Option Term(s)* as specified herein, Tenant is hereby granted 0 (zero) option(s) (the '*Extension Option Term(s)*') to extend this *Lease* for 0 (zero) additional concurrent terms(s) of 0 (zero) months as defined in ARTICLE I commencing on the first day after the *Primary Term*, or the first day after preceding *Extension Option Term(s)*, if applicable. The *Extension Option Term(s)* shall be on the same terms and conditions as provided herein; provided, however, that the *Base Rent* payable during the *Extension Option Term(s)* shall be as provided in ARTICLE I above. In order to exercise the *Extension Option Term(s)*, Tenant's *Notice* to Landlord (the '*Renewal Notice*') shall comply with the following conditions: (a) specify Tenant's intent to extend this *Lease*, and (b) such *Renewal Notice* shall be received by Landlord not more than 12 (twelve) months but not less than 6 (six) months prior to the end of the *Primary Term* or preceding *Extension Option Term(s)*. If Tenant fails to timely provide *Renewal Notice* to Landlord, the *Extension Option Term(s)* shall automatically terminate on the date following the last date Tenant may exercise the *Extension Option Term(s)*. In the event that Tenant effectively exercises the *Extension Option Term(s)* herein granted, then all of the terms and provisions of the *Lease* as are applicable during the *Primary Term* or prior *Extension Option Term(s)* shall likewise be applicable during the subsequent *Extension Option Term(s)*, and Landlord and Tenant shall execute an amendment to this *Lease* extending the *Term* on the same terms provided in this *Lease*, except: (i) Tenant shall have no further right to renew or extend the *Lease Term* after the *Termination Date* or other termination of the *Extension Option Term(s)* as applicable; and (ii) the *Base Rent* which shall be due and payable each month during each *Extension Option Term(s)* at the same time and place, and in the same manner, as set forth in ARTICLE VII and ARTICLE VIII of the *Lease* shall be per aforementioned amendment in this Section 6.03.

Section 6.04 Prevailing Market Rate. If applicable, within 30 (thirty) calendar days after receipt of Tenant's *Renewal Notice*, Landlord shall deliver to Tenant *Notice* of the *Prevailing Market Rate* and shall advise Tenant of the required adjustment to *Base Rent*. As used herein, the term '*Prevailing Market Rate*' shall mean the arms-length market rental rate per square foot under lease renewals entered into on or about the date on which the *Prevailing Market Rate* is being determined hereunder for space comparable to the *Leased Premises* in similar buildings in the vicinity of the *Neighborhood Center*, which shall be determined by Landlord in its sole and absolute discretion. Notwithstanding the above, in no event shall *Prevailing Market Rate* be less than 10% (ten percent) increase of, and no greater than a 20% (twenty percent) increase of the amount of *Base Rent* of the last month of the *Primary Term*. Tenant shall, within 10 (ten) calendar days after receipt of Landlord's *Notice*, notify Landlord in writing whether Tenant accepts or rejects Landlord's determination of the *Prevailing Market Rate*. If Tenant timely notifies Landlord that Tenant accepts Landlord's determination of the *Prevailing Market Rate*, then, on or before the commencement date of the *Extension Option Term(s)*, Landlord and Tenant shall execute an amendment to this *Lease* extending the *Term* on the same terms provided in this *Lease*, except as follows: (i) Tenant shall have no further renewal option unless expressly granted by Landlord in writing; and (ii) Landlord shall lease the *Leased Premises* to Tenant in their then current, "as is" condition. If Tenant rejects Landlord's determination of the *Prevailing Market Rate*, or fails to timely send *Notice* to Landlord in writing that Tenant accepts or rejects Landlord's determination of the *Prevailing Market Rate*, or if Landlord and Tenant are unable to reasonably agree upon the *Prevailing Market Rate* on or before the commencement date of the *Extension Option Term(s)*, with time being of the essence, Tenant's rights under this ARTICLE VI shall terminate and Tenant shall have no right to renew this *Lease*.



Section 6.05 Redevelopment Option. Notwithstanding any provision to the contrary herein, should Landlord desire to significantly re-develop, renovate, demolish and/or reconfigure the **Building** for any reason whatsoever, provided that Landlord terminates the leases or occupancy agreements of all of the other tenants or occupants of the **Neighborhood Center**, Landlord may send **Notice** to Tenant of such election at any time prior to or after: (i) Tenant's election of the **Extension Option Term(s)**, and/or (ii) during the **Extension Option Term(s)** ('**Landlord's Notice**'). In such event, Tenant shall promptly vacate the **Leased Premises** no later than the *later* of: (i) the expiration of the **Primary Term** or (ii) 270 (two hundred seventy) calendar days after the date of **Landlord's Notice** ('**Tenant's Vacate Date**'), and the **Extension Option Term(s)** or the remaining **Term** of the **Extension Option Term(s)** set forth in Section 6.03 above shall be **null and void and of no force and effect**. As of **Tenant's Vacate Date**, this **Lease** shall immediately terminate and the **Parties** shall have no further **Obligations** hereunder (except for any **Obligations** which expressly survive the **Termination Date** or earlier termination of this **Lease**) and Tenant shall immediately pay Landlord any accrued but unpaid **Rent** through Tenant's Vacate Date. NOTWITHSTANDING ANY PROVISION IN THIS LEASE TO THE CONTRARY, TENANT HEREBY EXPRESSLY WAIVES AND FOREVER RELEASES LANDLORD FROM ANY AND ALL CLAIMS AND/OR CAUSES OF ACTION WHICH TENANT HAS OR MAY HAVE HAD AGAINST LANDLORD UNDER THIS **Lease** AND/OR APPLICABLE LAW BY REASON OF LANDLORD'S TERMINATION OF THE **Extension Option Term(s)** AS PERMITTED IN THIS Section 6.05.

Section 6.06 Holdover. If Tenant should remain in possession of the **Leased Premises** after the **Termination Date** of the **Lease Term**, without the execution of a new lease and with Landlord's consent, Tenant shall be deemed to be occupying the **Leased Premises** as a tenant from month-to-month, subject to all the covenants and **Tenant Obligations** of this **Lease**, except that as liquidated damages by reason of such holding over, the monthly amounts payable by Tenant under this **Lease** shall be increased to 135% (one hundred thirty-five percent) of the monthly amounts payable in the last month of the **Lease Term**. Such month-to-month tenancy may be terminated by either **Party** upon 30 (thirty) calendar days' **Notice** to the other. Any **Rent** due after **Notice** has been given is to be calculated according to this Section 6.06 prorated for any partial month of holdover. If Tenant tenders **Rent** pursuant to the formula in this Section 6.06, and Landlord accepts such payment, the acceptance of such payment will not operate as a waiver by Landlord of the **Notice** of termination, unless such waiver is in writing and signed by Landlord.

ARTICLE VII. Rent and Payments

Section 7.01 Payments.

- A. Tenant covenants and agrees to pay to Landlord the **Base Rent** (together with **Additional Rent** and any other amounts due to Landlord herein) without **Notice**, demand, counterclaim or offset, for the use and occupancy of the **Leased Premises**, be made to an account designated from time to time by Landlord ('**Landlord Account**') by wire transfer by electronic fund transfer through the Automated Clearing House network or any similar system designated by Landlord ('**ACH**'). Such payments shall be initiated by Tenant to **Landlord Account** designated from time to time by Landlord at an **ACH** bank for settlement not later than 12:00 o'clock noon, Houston, Texas time, on the dates such sums or payments are respectively due per the terms of this **Lease**. Any payment received after such time shall be deemed to have been made after the **Due Date**. **Landlord Account** information, if changed or for the first **Rent Payment** due, shall be sent by Landlord to Tenant via secure methods (for example, a photo of account numbers via **Notice**) at least 10 (ten) business days before any such '**Rent Payment**' is due from Tenant to Landlord. Except for **Tenant Obligations** to pay **Prepaid Rent** as set forth in ARTICLE II, all **Rent Payments** shall be made on the 1st (first) day of each calendar month (the '**Due Date**'), monthly in advance, for each and every month during the **Term**; but if the **Lease Term** does not commence on the 1st (first) day of a calendar month, a pro rata part of **Base Rent** and **Additional Rent** for such partial month, and, if applicable, **Additional Rent** for any **Free Month(s)**, shall be payable due the 1st (first) day of the 1st (first) full calendar month that follows concurrently after the **Commencement Date**, and, if applicable, concurrently after any **Free Month(s)**. Any **Prepaid Rent** actually paid by Tenant shall be applied toward all amounts due under this **Lease** as the same accrue.
- B. **Free Month(s)**, if applicable and as defined in ARTICLE II, will be concurrently applied to the first full months following the **Commencement Date**. **Additional Rent** shall be due per terms of this ARTICLE VII for every full **Free Month(s)**. If the **Commencement Date** is not the 1st (first) day of a full calendar month, the pro rata part of **Base Rent** payable for the partial month preceding the first full calendar month shall be due, and if applicable, the **Additional Rent** due for any **Free Month(s)**, if any, the 1st (first) day of the first full calendar month that: (i) Follows concurrently after the **Commencement Date** in combination with **Additional Rent** due for the pro rata part of the partial month and the **Additional Rent** due for the first full calendar month; and if applicable (ii) Follows concurrently after the **Free Month(s)**, if any. Any **Prepaid Rent** referencing the first month, if **Free Month(s)** are applicable, shall be applied to the first full calendar month in which **Base Rent** is greater than \$0.00 (zero and no/100 dollars).
- C. If Tenant fails for 2 (two) consecutive months to pay any payments of **Rent** within 7 (seven) calendar days after the **Due Date**, then Landlord may, in addition to its other rights and without waiving the **Tenant Event of Default**, give Tenant **Notice** that all future **Rent Payments** must be paid quarterly in advance, instead of monthly. From the date of Landlord's **Notice**, at Landlord's sole discretion, Tenant must make all future **Rent Payments** only by cash, cashier's check, money order, or other payment method approved in writing by Landlord, if Landlord elects to do so. Landlord may thereafter accept any **Rent Payment** by **ACH** without waiving any **Tenant Event of Default** or any rights or remedies under this **Lease**. For purposes of the first sentence of this Section 7.01C, Tenant has not paid **Rent** if the **Rent Payment** is made by a postdated check or by a check that is returned for insufficient funds, or Tenant's bank failed to perform for any reason via **ACH**, or for any other reason not the fault of Landlord.
- D. If for any reason Landlord may accept checks in the future, and any **Rent Payment** by Tenant is made by check and the check is returned for insufficient funds or other reason not the fault of Landlord, then Tenant shall pay to Landlord on demand a processing fee of \$150 (one hundred fifty and no/dollars) per returned check, in addition to any other remedies Landlord may have under this **Lease**, at law or in equity.



- E. All **Rent** payable by Tenant to Landlord shall be paid in lawful money of the United States of America, without any deduction or offset whatsoever and without prior **Notice** or demand, and at such place or places as may be designated from time-to-time by Landlord in writing.

Section 7.02 Late Payments. All **Rent**, amounts, and other sums hereunder provided to be paid by Tenant shall be due and payable by Tenant without demand, deduction, abatement, or off set except as expressly provided herein. **Rent** and other payments which are shown as received into **Landlord Account** more than 5 (five) calendar days past the **Due Date** shall, in addition to all other remedies to which Landlord may be entitled under this **Lease**, at law or equity: (i) bear interest from maturity at the daily rate of 10% (ten percent) per annum (the '**Default Rate**') from the **Due Date** per **Section 7.01** until paid; and, in addition (ii) Tenant shall pay Landlord the sum of \$250 (Two Hundred Fifty and no/100 dollars) per occurrence. All sums and charges of whatsoever nature required to be paid by Tenant pursuant to the terms of this **Lease** (including, without limitation, all payments set forth in this **ARTICLE VII**, including **Additional Rent**) constitute **Additional Rent** (whether or not same be designated **Additional Rent**) and failure by Tenant to timely pay any amount due hereunder may be treated by Landlord as a failure by Tenant to pay **Base Rent**.

ARTICLE VIII. Additional Rent

Section 8.01 Additional Rent and Payments.

- A. In addition to **Base Rent**, Tenant shall pay to Landlord as '**Additional Rent**' which is and means, collectively: (i) a **Common Area Payment**, (ii) a **Tax Payment**, and (iii) an **Insurance Payment**.
- B. Commencing on the **Commencement Date** in addition to the **Base Rent** and all other sums to be paid by Tenant hereunder, Tenant does hereby covenant and agree to pay Landlord **Additional Rent** in monthly installments as set forth in **ARTICLE VII**, this **ARTICLE VIII**, and the amount to be paid monthly through the end of the calendar year of Tenant's **Commencement Date** as set forth in **Section 8.09**. Within 60 (sixty) calendar days to the beginning of each subsequent **Lease Year**, Landlord will furnish to Tenant a **Notice** with an estimate of the annual **Additional Rent** for such **Lease Year** if it is deemed necessary by Landlord, and Tenant shall pay to Landlord, along with its monthly installments of **Base Rent**, one twelfth (1/12th) of the estimated annual **Additional Rent**, with each installment being due on the 1st (first) day of each calendar month for the concurrently following 12 (twelve) month period following such aforementioned Landlord **Notice**. If at any time during such 12 (twelve) month period it appears that Landlord has underestimated the **Additional Rent** for such 12 (twelve) month period, Landlord may re-estimate the **Additional Rent** and may bill Tenant for any deficiency which may have accrued during such 12 (twelve) month period and thereafter the monthly installment payable by Tenant shall also be adjusted. Upon Tenant's request via **Notice**, or if Landlord elects to do so, Landlord shall deliver to Tenant a statement of actual **Common Area Maintenance Costs**, **Insurance Costs**, **Taxes** and **Insurance (Additional Rent)** for such 12 (twelve) month period and the monthly installments paid or payable shall be adjusted between Landlord and Tenant, and each **Party** hereby agrees that Tenant shall pay Landlord or Landlord shall credit Tenant's account (or, if such adjustment is at the end of the **Lease Term**, pay Tenant), within 30 (thirty) calendar days of receipt of such statement, the amount of any excess or deficiency in **Additional Rent** paid by Tenant to Landlord during such 12 (twelve) month period. Failure of Landlord to provide the **Notice** called for hereunder does not relieve Tenant from its **Tenant Obligations** hereunder. Landlord and Tenant hereby each acknowledge and agree that they are knowledgeable and experienced in commercial transactions and further hereby acknowledge and agree that the provisions of this **Lease** for determining **Additional Rent** are commercially reasonable and valid even though such methods may not state precise mathematical formula for determining such **Additional Rent**. Accordingly, Tenant hereby voluntarily and knowingly waives all rights and benefits to which Tenant may be entitled under section 93.012 of the Texas Property Code, as enacted by House Bill 2186, 77th Legislature, as such section now exists or same may be hereafter amended or succeeded.

Section 8.02 Common Area Maintenance ("CAM").

- A. The '**Common Area Payment**' shall be **Tenant's Share** of the **Common Area Maintenance Costs** in monthly installments as part of **Additional Rent** in such amounts as are estimated and billed by Landlord at the beginning of each 12 (twelve) month period commencing and ending on dates designated by Landlord, with each installment being due on the 1st (first) day of each calendar month, subject to adjustment by Landlord in the same manner as set forth in **Section 8.01B** above.



- B. As used herein, the term **'Common Area Maintenance Costs'** shall mean, for each calendar year (or portion thereof) during the **Term** of this **Lease**, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord for the **Common Area** and otherwise, to the extent that Landlord, in its good faith judgment, regards it as reasonably necessary or appropriate to provide the services and materials and incur the costs and expenses hereafter referred to, in connection with: sweeping, cleaning, removing debris from, maintaining, restriping and repairing the **Common Area** including parking lot; maintaining, repairing, cleaning and illuminating signage, light poles and all exterior lighting within the **Neighborhood Center** and **Common Area** (including replacement of bulbs and ballasts and repair of light standards); maintaining, repainting and/or repairing exterior surfaces of the **Neighborhood Center** buildings; maintaining and repairing any storm water detention, drainage or other utility facilities benefiting the **Neighborhood Center**; repairing and maintaining **Neighborhood Center** fire safety systems where applicable; the cost of supplying water, electricity, gas, storm and sanitary sewer service and/or garbage pickup and disposal services to the **Neighborhood Center**, if Landlord so elects; Grease Trap Maintenance allocated as set forth in Section 8.06; assessments levied upon the **Neighborhood Center** by recorded documents; providing traffic control for the **Common Area**, if Landlord so elects; providing and maintaining planting, irrigation and landscaping with respect to the **Common Area**; providing security services with respect to the **Common Area**, if Landlord so elects; reasonable amortization (over the useful life) of capital expenditures made for the purpose of reducing **Common Area Maintenance Costs** (**'Allowable Capital Costs'**) such as structural elements meaning all of the Landlord's expenses reasonably incurred to maintain, repair and replace the roof, foundation, exterior walls, load bearing walls, other structural components of the property, landscaping, and exterior elements such as lighting, irrigation sprinklers, parking components, dumpster area structural elements; and all other costs of ownership, operation, marketing, management, maintenance, repair, replacement, and/or restoration of the **Common Area** that are incurred by Landlord in its discretion, including, without limitation, the cost of wages and salaries of all persons engaged in the management, operation, maintenance, repair and access control (the **'Administrative Management Charge'** which shall be an amount not exceed the **Tenant's Share** (defined per Section 8.05) of \$2,000 (two thousand and no/100 dollars) per month) and, when applicable, other security of the **Neighborhood Center**. With regard to **Allowable Capital Costs**, (i) the original investment in capital improvements (that is, the initial construction of the **Building**) shall not be included, and (ii) improvements and replacements shall be included only to the extent capitalized on Landlord's records and then only to the extent of a reasonable charge for depreciation or amortization allocable to the **Building** (including interest accruals commensurate with Landlord's interest costs).
- C. Notwithstanding any provision of this **Lease** to the contrary, **Common Area Maintenance Costs** shall NOT INCLUDE and Landlord shall not be entitled to reimbursement for any of the following items:
- i. Costs, including permit, license, and inspection fees, incurred in renovating or otherwise improving or decorating, painting, or redecorating a vacant space or space for other tenants or occupants of the **Neighborhood Center**;
 - ii. Costs of a capital nature other than **Allowable Capital Costs**, including, without limitation, the following: capital improvements, capital repairs, capital equipment, and capital tools (as determined in accordance with generally accepted accounting principles);
 - iii. Costs incurred in connection with services or other benefits of a type that are not available to Tenant but which are provided to other tenants or occupants of the **Neighborhood Center**;
 - iv. Interest on debt or amortization payments on any mortgages or other debt for borrowed money;
 - v. Costs incurred to comply with or related to violations of Environmental Laws, including (without limitation) response costs and costs incurred to test, investigate, survey, clean up, contain, abate, remove, or otherwise remediate hazardous waste and substances or asbestos-containing materials from the **Neighborhood Center** or the **Leased Premises** unless the waste and substances or asbestos-containing materials were brought to the **Neighborhood Center** or the **Leased Premises** by Tenant;
 - vi. Costs of HVAC maintenance contracts for the **Leased Premises** or the **Neighborhood Center**;
 - vii. Costs for original construction or replacement of original construction or the cost and depreciation of capital items;
 - viii. Advertising, promotional, or any other marketing costs, expenses, charges or fees;
 - ix. Repairs or other work (including rebuilding) occasioned by fire, windstorm, or other casualty or condemnation;
 - x. Leasing commissions and other expenses of procuring tenants including lease concessions and lease take-over **Obligations**;
 - xi. Interest and penalties for past due payment of taxes;
 - xii. Any amounts incurred in enforcing leases against tenants, including legal fees;
 - xiii. Expenses resulting from any violation by Landlord of the terms of any lease of space in the **Neighborhood Center** or of any ground or underlying lease or mortgage to which this **Lease** is subordinate;
 - xiv. Expenses for vacant or vacated space, including security and renovating costs of this space;
 - xv. Expenses for which Landlord is or will be reimbursed by another source (excluding amounts paid by tenants in the **Neighborhood Center** as prorated charges), including (without limitation) amounts reimbursed pursuant to a warranty or insurance;
 - xvi. Any financing costs, including interest or principal payments and other charges and fees related to financing;
 - xvii. Contributions for political or charitable or other special interest purposes, including (without limitation) lobbying;
 - xviii. Costs to correct original latent defects in the design, construction, or equipment of the **Neighborhood Center**; or
 - xix. The costs of initial stock of tools and equipment for the operation, maintenance, or repair of the **Neighborhood Center**.

Section 8.03 Insurance. Tenant shall pay as an **'Insurance Payment'** **Tenant's Share** of the cost of all insurance carried by Landlord for the **Neighborhood Center** (including commercially reasonable deductibles) (the **'Insurance'**) as part of **Additional Rent** estimated and billed by Landlord to be paid by Tenant, and subject to adjustment by Landlord in the same manner as set forth in Section 8.01B above.



Section 8.04 Taxes. Tenant shall pay as a ‘*Tax Payment Tenant’s Share*’ of the Taxes for the *Building* and the real property at **27104 State Hwy 249, Tomball, TX 77375** (the ‘*Land*’) as part of *Additional Rent* estimated and billed by Landlord to be paid by Tenant, and subject to adjustment by Landlord in the same manner as set forth in Section 8.01B above. ‘*Taxes*’, as used herein, shall mean all taxes, assessments, impositions, levies, charges, excises, fees, licenses and other sums levied, assessed, charged or imposed by any governmental authority or other taxing authority or which accrue on the *Building* and/or the *Land* for each calendar year (or portion thereof) during the *Lease Term*, including, without limitation, professional fees and expenses incurred by Landlord for tax consultants or tax-rendering services and all penalties, interest and other charges (with respect to Taxes) payable by reason of any delay in or failure or refusal of Tenant to make timely payment as required under this *Lease*. The term *Taxes* includes all amounts collected by any taxing authority, whether classified as ad valorem taxes or non-ad valorem assessments, including, without limitation any tax substituted, in whole or in part, for a tax previously in existence by any taxing authority or assessed in lieu of a tax increase, which such substitution and/or assessment in lieu of shall explicitly include, without limitation, Act of May 19, 2006, 79th Leg., 3rd C.S., H.B. 3 (codified as an amendment of TEX. TAX CODE ANN. chapter 171). Tenant waives any rights it may have pursuant to statutory or common law to protest the appraised value of the *Building* and/or the *Land* or to appeal the same. Within 120 (one hundred twenty) calendar days following the expiration of each calendar year during the *Lease Term*, Landlord will deliver a statement to Tenant showing *Tenant’s Share* of *Taxes* for such calendar year. In the event the total of Tenant’s *Tax Payments* for such calendar year shall be less than *Tenant’s Share* of *Taxes*, Tenant shall pay to Landlord the amount of such underpayment within 10 (ten) calendar days following the date of receipt of *Notice* of Landlord’s statement and Landlord shall have the right to adjust Tenant’s monthly *Tax Payment* to an amount equal to Landlord’s reasonable estimate of *Tenant’s Share* of *Taxes* for the then current calendar year retroactive to January 1 of such year. Thereafter Tenant shall pay the adjusted *Tax Payment* monthly unless and until Landlord further adjusts such payment. In the event *Tenant’s Share* of *Taxes* shall exceed the total of Tenant’s *Tax Payments* for such calendar year, the amount of such overpayment shall be credited against any amount due from Tenant under this *Lease* as the same shall accrue.

Section 8.05 Tenant’s Share. For purposes of this ARTICLE VIII, the term ‘*Tenant’s Share*’ as applied to *Common Area Payments*, *Tax Payments*, and *Insurance Payments* means a sum calculated by multiplying such costs (as the case may be) by a fraction, the numerator of which is the area (in *Rentable Square Feet*) of the *Leased Premises* and the denominator of which is the Aggregate *Rentable Square Feet* of space within the *Building* (as reasonably determined by Landlord and subject to adjustment and re-allocation) with the same character of use (e.g. retail use) as the *Leased Premises* (or such portion as is reasonably determined by Landlord to be applicable with respect to any charges which are not allocable to all of the *Leased Premises* or are allocable to only the *Leased Premises* and/or leased premises occupied by similar tenants) on January 1 of each calendar year except for the *Grease Trap Maintenance Expense*, which will be shared only by those tenants that use the grease trap. For any period less than 12 (twelve) full calendar months, a pro rata portion of the resulting product shall be calculated to determine *Tenant’s Share*.

Section 8.06 Grease Trap. If applicable, the ‘*Tenant’s Proportionate Grease Trap Share*’ will be the proportionate share of the ‘*Grease Trap Maintenance Expense*’ and part of a Tenant’s *Common Area Payment* determined by (i) the Tenant’s use of grease trap and (ii) by multiplying the *Grease Trap Maintenance Expense* incurred by Landlord by a fraction: the numerator of which is the *Rentable Square Feet* of the *Leased Premises* and the denominator of which is the aggregate *Rentable Square Feet* of all leased premises of the tenants that use the grease trap. Landlord shall be responsible for certifying the aggregate *Rentable Square Feet* of all leased premises of the tenants that use the grease trap.

Section 8.07 Controllable Operating Costs. ‘*Controllable Operating Costs*’ shall mean all costs other than *Taxes*, utility costs, *Insurance* costs, structural costs, and security costs included in the *Additional Rent*. Increases in *Controllable Operating Costs* shall be capped at 8% (eight percent) per annum starting at the end of the month 24 (twenty-four) following the completion of the *Core & Shell Building* (see Section 8.09) on a non-cumulative basis following the first full calendar year’s actual expenses, but increases during the first 12 (twelve) months may be more based on stabilization of the *Building Common Area Maintenance Costs*, if the end of month 12 (twelve) of the *Lease* is prior to the end of month 24 (twenty-four) following the completion of the *Core & Shell Building*.



Section 8.08 Tenant's Right to Audit. Within 60 (sixty) calendar days following January 1st of any given *Lease Year*, Landlord will send a *Notice* to Tenant of a statement of the annual *Additional Rent* and charges (herein referred to as the '*Annual Additional Rent Statement*') only upon 1 (one) of the following to occur: (i) Landlord chooses to do so; or (ii) if Tenant requests an *Annual Additional Rent Statement* via *Notice* to Landlord, if and only if such *Annual Additional Rent Statement* is requested by Tenant before or on the last day of such preceding *Lease Year* and no earlier than 60 (sixty) calendar days before the end of such *Lease Year*. Within 60 (sixty) calendar days following a delivery of such *Annual Additional Rent Statement* by Landlord to Tenant, subject to the conditions set forth below, Tenant shall have the one-time right with respect to that calendar year, at its sole cost and expense, during normal business hours and at Landlord's accounting offices in *Houston, Texas*, to audit Landlord's books and records with respect to *Tenant's Share* of the *Additional Rent*. *Tenant's failure to object to such Annual Additional Rent Statement or request an audit of any such statements within such 60 (sixty) calendar day period shall constitute a waiver of Tenant's rights to forever do so with respect to the Annual Additional Rent Statement to which the Tenant did not object.* Any discrepancy discovered by Tenant through such audit shall be resolved between Landlord and Tenant by either issuing a credit to the Tenant or paying the applicable *Party* the amount determined to be due within 30 (thirty) calendar days of such audit. In the event any discrepancy discovered in such audit is greater than 5% (five percent) of the amount actually paid by Tenant, Landlord shall pay Tenant's reasonable out of pocket costs of such audit (otherwise the cost of such audit shall be paid by Tenant); provided, however, such audit rights are expressly conditioned upon and subject to the following: (i) No *Tenant Event of Default*, or event that with the giving of *Notice* or the passage of time would become an *Tenant Event of Default*, has occurred and is continuing; (ii) Tenant must be current on all *Rent*; (iii) Tenant must provide Landlord at least 30 (thirty) calendar days advance *Notice*; (iv) Landlord shall not be obligated to provide any documentation other than that maintained by Landlord in the ordinary course of its business; (v) Such audit may not be conducted by a person or entity which charges on a percentage of collection fee basis and must be conducted by a certified public accountant or an employee of Tenant; (vi) Tenant shall promptly provide a copy of such audit results to Landlord, and Landlord may conduct an independent review of same; (vii) Tenant shall hold all results of such review and audit confidential and shall not disclose the same to any other party except as may be required by law and if required, Tenant shall execute (and require its auditors to execute) a confidentiality agreement, upon commercially reasonable terms, prior to undertaking such audit; (viii) No assignee or transferee of Tenant shall have the right to conduct an audit for any period prior to the effective date of such assignment or transfer; and (ix) No subtenant shall have any right to conduct an audit.

Section 8.09 First Lease Year Additional Rent Estimate. For the 1st (first) *Lease Year*, the estimated *Additional Rent* will be \$1,477.50 per month or \$9.85 psf/yr (annually per square foot of *Rentable Square Feet* of *Leased Premises*), which includes: \$4.80 for *Tax Payment*, \$1.95 for *Insurance Payment*, and \$3.10 for *Common Area Payment*. At no point shall the *Additional Rent* be considered as separate parts, but only in the aggregate as it pertains to this ARTICLE VIII and ARTICLE VII.

Section 8.10 Other Tenant Payments.

- A. Tenant shall pay the full amount of all taxes, assessments, impositions, levies, charges, excises, fees, licenses and other sums levied, assessed, charged or imposed by any governmental authority or other taxing authority upon Tenant's leasehold interest under this *Lease* and all alterations, additions, fixtures, inventory and other property installed or placed or permitted at the *Leased Premises* by Tenant. Upon Landlord's request, Tenant shall furnish proof of payment from the governmental authority or other taxing authority assessing such charges.
- B. If there is presently in effect or hereafter adopted any nature of sales tax or use tax or other tax on *Rents* or other sums received by Landlord under this *Lease* (herein referred to as '*Rent Sales Tax*'), then in addition to all *Rent* and other payments to be made by Tenant as provided above, Tenant will also pay Landlord a sum equal to the amount of such *Rent Sales Tax*. The term '*Rent Sales Tax*' shall not include any income taxes applicable to Landlord.

ARTICLE IX. Signage

Section 9.01 Tenant Signage.

- A. Tenant shall, at its sole cost and expense, fabricate and install a lighted, building fascia sign displaying Tenant's trade name and logo above storefront and, if applicable, canopy facing west towards State Hwy 249 Business and a sign to be inserted into Landlord's provided *Pylon Sign* at front of the *Neighborhood Center* (collectively, '*Tenant Signage*'), and must install such Tenant Signage no later than 120 (one hundred twenty) calendar days after the Effective Date. Tenant shall pay the entire cost to manufacture, fabricate, and install all *Tenant Signage*. Plans showing, at minimum, the size, location, materials, colors, wording, specifications, electrical details including wiring connections, and structural requirements and details of installation of *Tenant Signage* (the '*Tenant Signage Plans*') shall be prepared by Tenant in accordance with the Landlord, whose approval shall not be unreasonably withheld, conditioned or delayed, and submitted to Landlord for Landlord's prior *Notice* approval no later than 45 (forty-five) calendar days following the Effective Date of this Lease. Landlord shall approve or state objections within 2 (two) business days following submission of *Tenant Signage Plans*. Except as approved by Landlord in writing, no sign, placard or advertisement, or exterior or interior window sign, placard or advertisement shall be painted, erected or displayed on the storefront of windows of the *Leased Premises* and no awnings shall be erected on the *Leased Premises*. Tenant shall maintain all display windows in a neat, attractive condition.



- B. Notwithstanding the foregoing and/or any other provision in this **Lease** to the contrary: (i) Tenant shall not install any exterior signage whatsoever until the **Tenant Signage Plans** therefor have been reviewed and pre-approved by Landlord in writing; (ii) **Tenant Signage** must strictly comply and be constructed in conformity with all applicable city ordinances, specific signage provided in Exhibit C (if applicable), and Landlord's **Rules and Regulations** Signage criteria provided in Exhibit E; (iii) Tenant shall not, without the prior written consent of Landlord, install any other signage on the exterior of the **Leased Premises** or upon or about the **Neighborhood Center**, or upon the interior of the **Leased Premises** if such sign is visible from the exterior of the **Leased Premises**, but may, upon Landlord's prior approval of such banners, display 1 (one) pre-opening "Coming Soon" banner, provided such banner shall not be displayed more than 60 (sixty) calendar days before the Tenant's **Opening Date**, and 1 (one) "Now Open" banner for 90 (ninety) calendar days after Tenant's **Opening Date**; (iv) Tenant shall not hold Landlord responsible and hereby waives any claims against Landlord should any governing or regulatory agency or other private concern prohibit Tenant from installing **Tenant Signage**; and (v) Tenant further agrees to indemnify, defend, and hold Landlord harmless from any and all claims, actions, demands, suits, losses, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees and expenses of litigation, on account of any real or claimed damage or liability, and from all liens, claims, and demands arising out of Tenant's failure or alleged failure to comply with any deed restrictions, ordinances, rules and other laws or regulations. Notwithstanding the foregoing or any other provision in this **Lease** to the contrary, Landlord shall have the right (but not the **Obligations**) any time during the **Term** of this **Lease** to install new and/or replace any existing pole and/or **Pylon Sign** in the **Neighborhood Center** and in such event, Tenant shall be entitled to its pro-rated share of any future multitenant signs built upon or around the **Neighborhood Center** for the benefit of all tenants of the **Neighborhood Center** in a location to be determined by Landlord in its sole discretion.
- C. Tenant shall be fully responsible for any and all repairs, maintenance, replacement and electrical utility service provided to and used by any of Tenant's signage throughout the **Lease Term** and shall indemnify and hold Landlord harmless from and against any liability relating thereto. Upon the **Termination Date** or earlier termination of this **Lease**, Tenant shall remove all of its signage, at its sole cost and expense, repair any damages caused by such removal and replace any sign panels on the monument sign with new plastic, blank, white panels. In the event Tenant fails to: (i) remove Tenant's signs and/or panels, (ii) fails to complete any repairs due to such removal and/or (iii) fails to replace Tenant's panel signs with blank white panels as required herein, Landlord reserves the right to do so and Tenant shall promptly reimburse Landlord for any such costs and expenses plus an administrative charge of 15% (fifteen percent) of such costs within 15 (fifteen) business days after the date of Landlord's **Notice** demand thereof.
- D. Except as otherwise expressly permitted in this **Lease**, no signs, symbols, identifying marks, tents, balloons and/or any other advertising medium whatsoever shall be placed in or upon the **Neighborhood Center**, including, without limitation, the following: the exterior of the **Leased Premises**, the **Common Area**, parking lot, roof, halls, entrances or exterior of the **Neighborhood Center**, or upon the doors or walls of the **Leased Premises** without prior written approval of Landlord. If Tenant violates this Section 9.01D and such violation is not cured within 15 (fifteen) calendar days after the date of Landlord's **Notice** thereof, Landlord may elect, in lieu of exercising any other remedies under this **Lease** available to Landlord, to charge Tenant liquidated damages equal to \$500.00 (Five hundred and no/100 dollars) per occurrence and for each calendar day Tenant violates this Section 9.01D. The **Parties** hereby agree and stipulate that the liquidated damages set forth above are a reasonable forecast of just compensation of the harm caused by Tenant's violation hereunder and do not constitute a penalty since the harm to Landlord and other tenants in the **Neighborhood Center** due to Tenant's violation is not reasonably capable of estimation and/or calculation with any degree of certainty. Any such liquidated damages shall be payable as **Additional Rent** under this **Lease**, and shall be payable to Landlord immediately on demand.

Section 9.02 Other Signage. During the period beginning 6 (six) months before the end of the **Term**, and during any period in which Tenant is in default hereunder and such **Tenant Event of Default** has remained uncured for at least 30 (thirty) calendar days, Landlord shall have the right to erect on the **Leased Premises** signs indicating that the **Leased Premises** are available for lease.

ARTICLE X. Utilities

Section 10.01 Building Utilities.

- A. Landlord shall cause the necessary mains, conduits and other facilities to be provided to make water, sewer, phone, refuse collection, and electricity available to the **Leased Premises**. The foregoing provisions shall not require Landlord to pay any utility or other deposits or charges of any kind or nature on behalf of Tenant for utility services used in the **Leased Premises**. Landlord shall not be liable to Tenant in damages or otherwise if the said utilities or services are interrupted or terminated because of necessary repairs, installations or improvements, or any cause beyond Landlord's reasonable control, nor shall any such interruption or termination relieve Tenant of the performance of any of its **Tenant Obligations** hereunder. No interruption shall be construed as either a constructive or actual eviction of Tenant or cause any abatement of **Rent** unless due to the gross negligence or willful misconduct of Landlord. If the interruption of '**Essential Required Services**' (as defined herein) is caused by the gross negligence or willful misconduct of Landlord, its employees, contractors, subcontractors or agents or lies within Landlord's reasonable control and such interruption renders any portion of the **Leased Premises**, as applicable, unusable by Tenant for its intended purpose, then if such **Essential Required Services** are not restored within 5 (five) consecutive business days following **Notice** to Landlord of the initial interruption of Essential Required Services, Tenant shall receive an abatement of all **Base Rent** and **Additional Rent** as to the portion of the **Leased Premises**, as applicable, rendered unusable for its intended purpose beginning on the 6th (sixth) consecutive business day following **Notice** to Landlord of the initial interruption of **Essential Required Services** until such **Essential Required Services** are restored. The foregoing **Rent** abatement shall be Tenant's sole recourse in the event of an interruption of an Essential Required Service. In no event shall Landlord be liable for damages by reason of loss of profits, business interruption or other consequential damages. The provisions of this Section 10.01 do not apply in the case of a casualty or condemnation under ARTICLE XVII and ARTICLE XVIII hereof, which provisions shall govern in such circumstances. As used herein, the term '**Essential Required Services**' means any one or more of the following services: electricity, water, and sanitary sewer.



- B. Tenant agrees that its use of electrical current will at no time exceed the capacity of the electric distribution system for the **Neighborhood Center** and Tenant will not make any alteration or addition to Tenant's electrical system without Landlord's prior written consent. If Tenant installs any electrical equipment that overloads the electrical system in the **Leased Premises** or the **Building**, Tenant shall, at its sole cost and expense, be required to make (but only after obtaining Landlord's written approval) whatever changes to such electrical equipment and to the electric wiring in the **Leased Premises** as may be necessary in order to remedy such overloading.

Section 10.02 Tenant Utilities.

- A. Tenant shall pay, at its sole cost and expense, the sums required to have connected all utility services to the **Leased Premises**, including, without limitation, the following: any and all utility deposits, water fees, wastewater fees and meter fees should they be required. During the **Term**, Tenant shall arrange for and at its own cost and expense, pay all charges for telephone, gas, electricity, water, sanitary sewer and all other utilities or services used in, on or about the **Leased Premises**, and for the removal of **Trash** therefrom (if such services are not provided by Landlord) (collectively, the **'Utilities'**) before they shall become delinquent, and shall hold Landlord harmless from any charge or liability therefor. Landlord may, if it so elects, furnish one or more utility services to Tenant, and in such event Tenant shall purchase such services as are tendered by Landlord, and shall pay on demand as **Additional Rent** the rates established therefor by Landlord, which shall not exceed the lesser of the rates which would be charged to Tenant for the same services if furnished directly by the local public utility company from which Landlord obtains such services or the rates actually charged to Landlord. If Landlord provides water or other utility services to the **Leased Premises**, Landlord may install (or require Tenant to install) at Tenant's expense, a separate meter or submeter in accordance with Landlord's specifications therefor, to measure the water or other utility services used by the **Leased Premises**, in which case Tenant shall also pay Landlord, within 10 (ten) calendar days after demand, Landlord's reasonable charges for obtaining, installing, maintaining, and replacing the meter or submeter. If Landlord has required Tenant to install a separate meter or submeter and Tenant has failed to do so within 30 (thirty) calendar days, Landlord may do so on Tenant's behalf, in which case Tenant shall also pay Landlord, within 10 (ten) calendar days after demand, Landlord's reasonable charges for obtaining, installing, maintaining, and replacing the meter or submeter. Landlord may at any time discontinue furnishing any such service without **Obligations** to Tenant other than to connect the **Leased Premises** to the public utility, if any, furnishing such service.

Section 10.03 Tenant Payments and Other Utility Tenant Obligations.

- A. Utility payments shall be made either: (i) directly to the supplier of any Utility separately metered (or sub-metered by Utility) to the **Leased Premises** or (ii) directly to Landlord, as **Additional Rent** and as part of the **Common Area Maintenance Costs**, which amount shall be paid in accordance with **Section 8.01B**.
- B. Further, Tenant shall reimburse Landlord for the cost of any excess **Utilities** usage in the **Leased Premises**. If at any time Tenant disputes the amount of any **Utilities**, Tenant shall pay such disputed amount, and Tenant shall then be required to install separate meters in the **Leased Premises** at Tenant's sole cost and expense. From and after the date of the installation of such meters, Tenant shall pay to the appropriate Utility companies all charges for such **Utilities** consumed in the **Leased Premises** as and when such charges become due and payable.
- C. Additionally, Tenant shall pay to Landlord any professional fees and expenses incurred by Landlord for Utility consultants employed in connection with attempts to reduce the Utility costs for the **Neighborhood Center**.
- D. Tenant shall, upon request of Landlord, from time to time during the **Lease Term**, furnish to Landlord copies of Tenant's Utility bills.

ARTICLE XI. Repairs and Maintenance

Section 11.01 Landlord and Tenant Obligations.

- A. Landlord will repair and maintain only the following portions of the **Leased Premises**: roof (exclusive of any items penetrating the roof that are furnished for solely the **Leased Premises** including, without limitation, the following: flashing, waterproofing, or similar components around the rooftop air conditioning units, vents, access hatches, or any other similar, if any); structural portions of the **Leased Premises** (consisting only of the foundation, exterior walls, and members supporting the roof); landscaping and irrigation sprinklers; parking components; dumpster structural elements; exterior elements such as lighting; and utility lines located outside the boundaries of the **Leased Premises** that serve other premises in common with the **Leased Premises**. If, however, damage to any of the foregoing is caused by the acts or omissions of Tenant, its agents, contractors, employees, customers or invitees, or any burglar, vandal, or unauthorized entrant, then notwithstanding the provisions of **ARTICLE XVII**, Tenant shall bear the cost of such repairs. Tenant, at its sole cost and expense, shall maintain and repair all the **Leased Premises** and keep the **Leased Premises** in good condition and repair and in substantially the same condition as exists upon the completion of **Tenant's Work**, ordinary wear and tear excepted. Tenant shall give Landlord **Notice** of any repair required to be made by Landlord. Additionally, Landlord agrees to comply fully with all applicable laws codes, statutes and ordinances and all conditions and restrictions with regard to the use and condition of the **Common Area**.



- B. All maintenance, repair and replacements to the **Leased Premises** other than those required to be made by Landlord in **Section 11.01A** or **ARTICLE XVII** will be made by Tenant at Tenant's cost and expense. Tenant's maintenance and **Tenant Obligations** regarding repair shall include, but are not to be limited to, the maintenance and repair of the interior of the **Leased Premises** including, without limitation, the following: any and all doors, locks, windows and window casements, glazing, heating and air conditioning systems ("HVAC"), plumbing, pipes, electrical wiring, and conduits located within and exclusively serving in or about the **Leased Premises** and all janitorial services in the **Leased Premises**. Tenant, Tenant's contractors, subcontractors, employees, agent, or consultant shall not make or permit any penetration through the roof above the **Leased Premises** without approval via **Notice** from Landlord, whose approval shall not be unreasonably withheld, conditioned or delayed, and Tenant, Tenant's contractors, subcontractors, employees, agent, or consultant shall be responsible for all rooftop flashing, waterproofing, or similar components around the rooftop air conditioning units, vents, access hatches, or any other similar, if any. If any such roof penetration is required in connection with Tenant's repair responsibilities, Tenant shall use a contractor approved by Landlord and any work shall be done so as to not void the warranty on the roof benefitting Landlord. If Landlord considers necessary any repairs, maintenance or replacements required to be performed by Tenant, under this **Lease**, and if Tenant refuses, or neglects to perform same after reasonable **Notice** (except in the event of an emergency, when no prior **Notice** shall be required), Landlord shall have the right (but no **Obligations**), to perform such repair, maintenance or replacement and Tenant will pay the cost thereof on demand.

Section 11.02 HVAC. Tenant shall at its cost keep the HVAC system serving only the **Leased Premises** in good repair, making repairs and replacements as needed throughout the entire **Lease Term**, including the portions of the HVAC system that are outside of the **Leased Premises**. Tenant shall at its expense enter into a regularly scheduled (no less than quarterly as relates to HVAC) preventive maintenance/service contract with a maintenance contractor for the servicing of all hot water, heating and air conditioning systems and equipment within the **Leased Premises** no less than quarterly. Tenant shall use a maintenance contractor preferred by Landlord or, if Landlord does not have a preferred maintenance contractor, Tenant may use a maintenance contractor (pursuant to a maintenance contract) approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. The service contract must include all services suggested by the equipment manufacturer within the operation/maintenance manual and must become effective (and a copy thereof delivered to Landlord) prior to the Tenant's **Opening Date**. Tenant shall provide Landlord a copy of such contract and from time to time upon request furnish proof reasonably satisfactory to Landlord that all such systems and equipment are being serviced in accordance with the maintenance/service contract. Additionally, Tenant will, within 15 (fifteen) calendar days after **Notice** by Landlord or its agent, furnish to Landlord true and correct copies of Tenant's annual fire/life safety equipment inspections if applicable and quarterly HVAC equipment inspections at the **Leased Premises**. Within the 30 (thirty) calendar day period preceding move-out by Tenant, Tenant shall have the HVAC systems and equipment checked and serviced to ensure proper functioning and shall furnish Landlord satisfactory proof thereof upon request. Repairs must be completed by trained, qualified and insured repair persons and/or companies. Landlord may at its option enter into a service contract covering Tenant's HVAC system and equipment, along with equipment of other tenants, and periodic replacement of filters or other replaceable parts. If Landlord enters such a service contract, Tenant will pay its share of the cost of such service monthly as **Additional Rent**.

Section 11.03 Leased Premises Condition. Tenant will maintain the **Leased Premises** in a clean, attractive, sanitary and tenantable condition and in good repair, and shall keep adjacent sidewalks clear of Tenant's debris, subject to ordinary wear and tear. Upon termination of this **Lease**, Tenant will surrender the **Leased Premises** to Landlord broom-clean and in the same condition in which they existed at the commencement of this **Lease**, excepting only ordinary wear and tear, damage arising from acts of God, condemnation and any damage required hereunder to be repaired by Landlord and shall deliver to Landlord all keys to the **Leased Premises**.

Section 11.04 ADA. Tenant shall be responsible for any accommodations or alterations that need to be made within the **Leased Premises** to accommodate disabled employees and customers of Tenant, including the requirements under the Americans with Disabilities Act. Any alterations made within the **Leased Premises** in order to comply with any such law must be made solely at Tenant's expense and in compliance with all terms and requirements of the **Lease**. Landlord shall be responsible for any accommodations or alterations that need to be made within the **Building** outside of the **Leased Premises** to accommodate disabled employees and customers of the **Building**, including the requirements under the Americans with Disabilities Act.

Section 11.05 Mold. It is agreed and understood that mold spores are present essentially everywhere and that mold can grow in almost any moist location. Emphasis is properly placed on the prevention of moisture and on good housekeeping and ventilation practices. Tenant acknowledges the necessity of housekeeping, ventilation, and moisture control (especially in kitchens, janitor's closets, bathrooms, break rooms and around outside walls) for mold prevention. By accepting delivery of the **Leased Premises** on the **Delivery Date** and per execution of **Exhibit G**, Tenant has first inspected the **Leased Premises** and certifies that it has not observed mold, mildew or moisture within the **Leased Premises**. Tenant agrees to immediately give Landlord **Notice** if Tenant observes mold, mildew, or moisture conditions (from any source, including leaks), and allow Landlord to evaluate, make recommendations, and take appropriate corrective action, which action shall be taken at Tenant's sole cost and expense if the mold was caused by the act or omission of Tenant. Tenant waives any claim against Landlord for any bodily injury or damages to property caused by or associated with moisture or the growth of or occurrence of mold or mildew on the **Leased Premises** unless such liability is the result of the gross negligence or willful misconduct of Landlord. In addition, execution of this **Lease** constitutes acknowledgement by Tenant that control of moisture and mold prevention are integral to its **Tenant Obligations** per this **Lease**.



Section 11.06 Self-Help Remedy. If Landlord shall fail to perform any repair *Obligations* required under this *Lease* that are materially detrimental to Tenant's business, then Tenant may elect, but shall not be obligated, to make such repairs at Landlord's expense by complying with the following provisions of this Section 11.06. Before making any such repair, Tenant shall deliver to Landlord a *Notice* for the need for such repair ('*Self-Help Request*'), which *Notice* shall specifically advise Landlord that Tenant intends to proceed to complete any or all such repairs on behalf of Landlord. Should Landlord fail, within 30 (thirty) business days following receipt of the *Self-Help Request* (or, (i) if such repair, acts to be done or conditions to be remedied which, by their nature, cannot be performed, done or remedied, as the case may be, within such 30 (thirty) business day period, no default shall be deemed to have occurred if Landlord commences same within such 30 (thirty) business day period and thereafter diligently and continuously prosecutes the same to completion, or (ii) within 24 (twenty-four) hours following *Notice* in the event of necessary emergency repairs), to complete the necessary repair or to make other arrangement reasonably satisfactory to Tenant, then Tenant shall have the right to make such repair on behalf of Landlord. Landlord shall reimburse Tenant for the reasonable costs of such repairs within 30 (thirty) business days following receipt of costs incurred by Tenant (only if evidenced by invoices and receipts); provided however that: (i) Tenant shall indemnify Landlord against any damage to the *Building* resulting from Tenant's effecting repair; (ii) that in no event shall Tenant have the right to offset *Rent* against such costs; and (iii) If Landlord disputes the said amount or the liability, Landlord may contest its liability or the amount thereof per the terms of the *Lease Agreement*. The self-help and reimbursement remedy described herein is herein and hereafter referred to as the '*Self-Help Request*'. In the event that the work could affect the *Building's* structural, main electrical, HVAC (if applicable), roofing or main plumbing components or systems, then Tenant shall use only those contractors used by Landlord in the construction of the *Building* for such work. If those contractors are unwilling or unable to perform the work, Tenant may retain the services of qualified, reputable contractors.

ARTICLE XII. Insurance

Section 12.01 Landlord's Insurance. Landlord may procure and maintain throughout the *Lease Term* full and adequate insurance for the *Neighborhood Center* that Landlord, in its reasonable discretion, considers appropriate; provided, however, Landlord's property insurance policy shall be a causes of loss-special form policy for the full replacement cost of the *Neighborhood Center's Core & Shell Building* with ordinance or law coverage. Landlord shall take out and maintain fire and extended coverage insurance on the *Core & Shell Building* containing the *Leased Premises* in an amount equal to at least 80% (eighty percent) of its replacement cost, excluding the items which Tenant is required to insure under Exhibit G. Landlord may elect, at any time, to self-insure against any loss covered by a fire and extended coverage insurance policy.

Section 12.02 Tenant's Insurance. During the *Lease Term*, Tenant shall, at its sole cost and expense, procure and maintain the insurance coverages and comply with the requirements set forth in Exhibit D. The coverages set forth in Exhibit D are minimum requirements and not a determination as to all of the coverages and maximum limits that Tenant should carry. The failure of Landlord to demand full compliance by Tenant with respect to the minimum coverages outlined in Exhibit D shall not constitute a waiver by Landlord with respect to *Tenant Obligations* to maintain such coverages. If required by a *Mortgagee of Landlord* of the *Neighborhood Center*, Landlord shall purchase such other insurance policies and/or endorsements or increase the policy limits of any policy set forth on Exhibit D. **Tenant shall provide, Landlord approved certificates of insurance for property and liability no later than 5 (five) calendar days after the Commencement Date** per the terms of this ARTICLE XII and Exhibit D. If Tenant fails to provide evidence of insurance required to be provided by Tenant hereunder, prior to commencement of the *Term* and thereafter during the *Term*, within 10 (ten) calendar days following Landlord's request thereof, and 10 (ten) calendar days prior to the expiration date of any such coverage, Landlord will be authorized (but not required) to procure such coverage in the amount stated with all costs thereof, plus an administrative fee of 15% (fifteen percent) of such costs, to be chargeable to Tenant and payable upon *Notice* by Landlord to Tenant with written invoice thereof. The limits of insurance required by this *Lease*, or as carried by Tenant, will not limit the liability of Tenant or relieve Tenant of any of its *Tenant Obligations* thereunder. Any deductibles selected by Tenant will be the sole responsibility of Tenant. Landlord may, at its sole discretion and via *Notice*, change the insurance policy limits and forms which are required to be provided by Tenant; such changes will be made to conform with common insurance requirements for similar properties in similar geographic locations. Landlord will not change required insurance limits or forms more often than once per calendar year. It is expressly understood and agreed that the foregoing minimum limits of insurance coverage shall not limit the liability of Tenant for its acts or omissions as provided in this *Lease*. If at any time during the *Term*, alcohol is sold, given away, or consumed upon or from the *Leased Premises* which is allowable if, and only if, specifically stated as a '*Permitted Use*' per this *Lease Agreement*, Tenant shall, at its sole expense, obtain, maintain and keep in force, adequate '*Dram Shop*' insurance protecting Tenant, Landlord, and any *Mortgagee of Landlord* (if any) in connection therewith, with policy limits covering the full amount of potential liability required from time to time under the laws of the State of Texas or a limit of liability as set forth on Exhibit D, whichever is greater. Said policies shall be with such companies which are authorized to write such coverage in the State of Texas, shall be acceptable to Landlord and copies shall be maintained on file with Landlord and shall contain non-cancellation clauses unless Landlord is provided at least 30 (thirty) calendar days prior *Notice* of such proposed cancellation. If Tenant fails to obtain such insurance, Landlord may purchase same and if unable to do same, then Alcohol sales shall be suspended until such coverage is once again in full force and effect. If at any time during the *Term*, alcohol is sold, given away, or consumed upon, from, or about the *Leased Premises* and it is NOT allowable and/or NOT specifically stated as a '*Permitted Use*' per this *Lease Agreement* then the provisions of Section 4.08 shall apply.

Section 12.03 Blanket Insurance Policies. Insurance carried by Landlord or Tenant may be carried under blanket insurance policies covering other properties so long as the limits of liability are not thereby reduced.



ARTICLE XIII. Alterations

Section 13.01 Alterations. Tenant shall not make any alterations, including exterior or structural, in any portion of the **Leased Premises** and/or the **Neighborhood Center** without, in each instance, first obtaining the written consent of Landlord, which may be given or withheld in Landlord's sole discretion. Notwithstanding the above to the contrary, Tenant may make **Permitted Alterations** (as defined below) without Landlord's consent. Without limiting the generality of the foregoing, Tenant shall not, without Landlord's prior written consent, install any blinds, curtains, tinting, window stickers, painting of the windows or the like in or to the storefront or other doors or windows of the **Leased Premises**. '**Permitted Alterations**' shall include alterations to the interior of the **Leased Premises** which are solely cosmetic in nature and do not include any changes to mechanical, plumbing, electrical and/or structural systems in the **Leased Premises**. As an example of **Permitted Alterations** and not in limitation thereof, **Permitted Alterations** include painting, changing lighting fixtures, installation of cabinetry and millwork, window displays and non-structural partitions. Upon termination of this **Lease**, all alterations, additions and improvements provided for herein shall become, except as otherwise provided herein, the property of Landlord, subject to the terms of this **Lease**.

Section 13.02 Workmanship. Any **Permitted Alterations** to the **Leased Premises** shall conform in material and workmanship to that of the original construction of the **Leased Premises** and shall be performed in a good and workmanlike manner. All such **Permitted Alterations**, upon completion thereof, shall become a part of the **Leased Premises**. **Permitted Alterations** requiring building permits shall be performed pursuant to plans and specifications prepared by a duly licensed architect or engineer per those requirements in Exhibit C and shall be done pursuant to a validly issued building permit and in conformity with all applicable laws, codes and ordinances. Any construction or **Permitted Alterations** of the **Leased Premises** shall not injure or adversely affect the value of the **Leased Premises** or disturb other tenants in the **Neighborhood Center**. All Tenant construction schedules must be approved by Landlord, and if any construction or **Permitted Alterations** of the **Leased Premises** a **Disturbance** per the definition stated in Section 4.03C, then such specific part of construction that causes the disruption must be done outside of regular business hours and only if approved by Landlord via **Notice**.

ARTICLE XIV. Fixtures and Personal Property

Section 14.01 Any trade fixtures, business equipment, trademarked items, signs, and other personal property of Tenant shall remain the property of Tenant (collectively, '**Removable Trade Fixtures**'). Tenant shall have the right, provided there is no **Tenant Event of Default** under any of the terms of this **Lease**, at any time and from time-to-time, and provided that such removal must be made not later than the **Termination Date** or earlier termination of this **Lease**, to remove any and all of the **Removable Trade Fixtures** which it may have stored or installed in the **Leased Premises**. Tenant, at its expense, shall immediately repair any damage occasioned by the removal of the **Removable Trade Fixtures** and, upon the **Termination Date** or earlier termination of this **Lease**, shall leave the **Leased Premises** in the condition set forth in Section 11.03. **Tenant Obligations** to perform this covenant shall survive the expiration or termination of this **Lease**. Except as set forth in ARTICLE XX, all trade fixtures, equipment, and other personal property of every description, unless removable without damage to the **Leased Premises** or removed by Tenant in accordance with the foregoing provisions, shall become the property of Landlord and shall be and remain upon and be surrendered with the **Leased Premises** as a part thereof at the termination of this **Lease**, Tenant hereby waiving any and all rights to any payment or compensation therefore.

ARTICLE XV. Assignment and Subletting

Section 15.01 Notwithstanding any provision herein to the contrary, Tenant agrees not to assign, sublease or in any manner transfer this **Lease** without the prior written consent of Landlord, which consent may be withheld, conditioned or delayed in the Landlord's sole discretion. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. Upon request, Tenant shall reimburse Landlord a flat fee of \$750.00 (Seven hundred fifty and no/100 dollars) for Landlord's out of pocket costs and expenses incurred in connection with the review and/or approval of any assignment or sublease.

Section 15.02 If Tenant is an entity, then any transfer of this **Lease** from Tenant by merger, consolidation or dissolution or any change in ownership or power to vote a majority of the equity interests in Tenant outstanding at the time of execution of this **Lease** (or at any future time) shall constitute an assignment for the purposes of all provisions of this **Lease**.

Section 15.03 If this **Lease** is assigned or if the **Leased Premises** is subleased (whether in whole or in part) or in the event of the mortgage, pledge, or hypothecation of the leasehold interest or grant of any concession or license within the **Leased Premises** or if the **Leased Premises** is occupied in whole or in part by anyone other than Tenant, Landlord may nevertheless collect all **Rent** and all other amounts due under this **Lease** from the assignee, sublessee, mortgagee, pledgee, and/or party to whom the leasehold interest was hypothecated, concessionee, or licensee or other occupant and apply the net amount collected to the amounts payable hereunder, but no such transaction or collection or application thereof by Landlord shall be deemed a waiver of the provisions of this ARTICLE XV or a release of Tenant from the performance by Tenant of its covenants, duties, and **Tenant Obligations** hereunder.



ARTICLE XVI. Liability and Indemnity

Section 16.01 Indemnification.

- A. SUBJECT TO Section 16.02, TENANT HEREBY COVENANTS THAT LANDLORD SHALL NOT BE LIABLE FOR ANY DAMAGE OR LIABILITY OF ANY KIND OR FOR ANY INJURY TO OR DEATH OF PERSONS OR DAMAGE TO PROPERTY OF TENANT OR ANY OTHER PERSON DURING THE *Term* OF THIS *Lease*, FROM ANY CAUSE WHATSOEVER BY REASON OF THE CONSTRUCTION, USE, OCCUPANCY, OR ENJOYMENT OF THE *Leased Premises* OR THE *Common Area* OF THE *Neighborhood Center* BY TENANT, OR ANY PERSON THEREIN OR HOLDING UNDER TENANT. TENANT HEREBY INDEMNIFIES, DEFENDS, AND HOLDS LANDLORD HARMLESS FROM ANY AND ALL CLAIMS, ACTIONS, DEMANDS, SUITS, LOSSES, COSTS, EXPENSES, AND LIABILITIES WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES OF LITIGATION, ON ACCOUNT OF ANY SUCH REAL OR CLAIMED DAMAGE OR LIABILITY, AND FROM ALL LIENS, CLAIMS, AND DEMANDS OCCURRING IN, ON OR ABOUT THE *Leased Premises*, OR ARISING OUT OF THE CONSTRUCTION, USE, OCCUPANCY, OR ENJOYMENT OF THE *Leased Premises*, OR ANY REPAIRS OR ALTERATIONS WHICH TENANT MAY MAKE UPON THE *Leased Premises*, OR OCCASIONED IN WHOLE OR IN PART BY ANY ACT OR OMISSION OF TENANT, ITS AGENTS, CONTRACTORS, SERVANTS OR EMPLOYEES UNLESS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD, ITS AGENTS, REPRESENTATIVES, CONTRACTORS, EMPLOYEES AND/OR INVITEES. THE LIABILITY OF TENANT TO INDEMNIFY LANDLORD SHALL NOT EXTEND TO ANY MATTER AGAINST WHICH LANDLORD SHALL BE EFFECTIVELY PROTECTED BY THE NET PROCEEDS COLLECTED BY LANDLORD (AFTER PAYMENT OF ALL REASONABLE ATTORNEYS' FEES AND OTHER COSTS OF COLLECTION) UNDER AN INSURANCE POLICY ACTUALLY OBTAINED HEREUNDER; HOWEVER, IF ANY SUCH LIABILITY EXCEEDS THE AMOUNT OF SUCH PROCEEDS, THEN SAID LIABILITY OF TENANT SHALL APPLY TO SUCH EXCESS. THIS INDEMNIFICATION SHALL SURVIVE THE *Termination Date* OR EARLIER TERMINATION OF THE *Term* OF THIS *Lease*.
- B. SUBJECT TO Section 16.02, LANDLORD HEREBY INDEMNIFIES, DEFENDS AND HOLDS TENANT HARMLESS FROM ANY AND ALL CLAIMS, ACTIONS, DEMANDS, SUITS, LOSSES, COSTS, EXPENSES, AND LIABILITIES WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES OF LITIGATION RESULTING OR ARISING FROM ANY INJURIES OR DEATH OF ANY PERSON OR DAMAGE TO ANY PROPERTY IN THE *Common Area* OF THE *Neighborhood Center* CAUSED BY LANDLORD, UNLESS CAUSED BY THE NEGLIGENCE OF TENANT, ITS AGENTS, REPRESENTATIVES, CONTRACTORS, EMPLOYEES AND/OR INVITEES. THE LIABILITY OF LANDLORD TO INDEMNIFY TENANT SHALL NOT EXTEND TO ANY MATTER AGAINST WHICH TENANT SHALL BE EFFECTIVELY PROTECTED BY THE NET PROCEEDS COLLECTED BY TENANT (AFTER PAYMENT OF ALL REASONABLE ATTORNEYS' FEES AND OTHER COSTS OF COLLECTION) UNDER AN INSURANCE POLICY ACTUALLY OBTAINED HEREUNDER; HOWEVER, IF ANY SUCH LIABILITY EXCEEDS THE AMOUNT OF SUCH PROCEEDS, THEN SAID LIABILITY OF LANDLORD SHALL APPLY TO SUCH EXCESS. THIS INDEMNIFICATION SHALL SURVIVE THE *Termination Date* OR EARLIER TERMINATION OF THE *Term* OF THIS *Lease*.

Section 16.02 Waivers of Recovery and Subrogation. Notwithstanding any provision to the contrary herein, each *Party* hereby releases and waives all claims, rights of recovery and causes of action that either *Party* or any *Party* claiming by, through or under such *Party* by subrogation or otherwise may now or hereafter have against the other *Party* or any of the other *Party's* partners, directors, officers, employees or agents for any loss or damage that may occur to, on, or about the *Neighborhood Center*, *Leased Premises*, *Tenant's Work*, or any of the contents of any of the foregoing by reason of fire or other casualty, or any other cause except gross negligence or willful misconduct (but including the negligence of the *Parties* or their partners, directors, officers, employees or agents) that could have been insured against under the terms of (i) any standard fire and extended coverage insurance policies required under the terms of this *Lease*, or (ii) any other loss covered by insurance required to be maintained under the terms of this *Lease*; provided, however, that this waiver shall be ineffective against any insurer of Landlord or Tenant to the extent that such waiver (i) is prohibited by the laws and insurance regulations of the *State of Texas*, or (ii) would invalidate any insurance coverage of Landlord or Tenant. The waiver set forth in this Section 16.02 shall not apply to any deductibles on policies carried by Landlord or Tenant or to any co-insurance penalty which Landlord or Tenant might sustain. ALL INDEMNITIES, WAIVERS AND OBLIGATIONS TO DEFEND CONTAINED IN THIS *Lease* WILL BE ENFORCED TO THE FULLEST EXTENT PERMITTED BY LAWS FOR THE BENEFIT OF THE APPLICABLE BENEFICIARY THEREOF, EVEN IF THE APPLICABLE CLAIM IS CAUSED BY THE ACTIVE OR PASSIVE, JOINT, CONCURRENT OR COMPARATIVE NEGLIGENCE OF SUCH BENEFICIARY, AND REGARDLESS OF WHETHER LIABILITY WITHOUT FAULT OR STRICT LIABILITY IS IMPOSED UPON OR ALLEGED AGAINST SUCH BENEFICIARY, BUT WILL NOT BE ENFORCED TO THE EXTENT THAT A COURT OF COMPETENT JURISDICTION HOLDS IN A FINAL JUDGMENT THAT A CLAIM IS CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF SUCH BENEFICIARY.

ARTICLE XVII. Fire and Destruction of Leased Premises

Section 17.01 Casualty.

- A. If the *Leased Premises* or *Core & Shell Building* are damaged or destroyed by fire or other casualty ('*Casualty*'), Tenant shall give immediate *Notice* thereof to Landlord.



- B. Except as otherwise set forth in Section 17.04, if a substantial portion (meaning damage to more than 25% (twenty-five percent) of the **Core & Shell Building** and the **Leased Premises** (as used in this Section 17.01C and subject to definition of Landlord's **Obligations** regarding **Leased Premises** as defined in Section 17.05) shall be damaged or destroyed by fire or other **Casualty**, then Landlord shall have the option to terminate this **Lease** by sending **Notice** to Tenant within 90 (ninety) calendar days after Landlord's receipt of **Notice** of such **Casualty**. Failure of Landlord to give **Notice** within such 90 (ninety) calendar day period shall be deemed an election not to terminate this **Lease**, and Landlord shall proceed to repair and restore the **Core & Shell Building**.
- C. If the **Core & Shell Building** (excluding the **Leased Premises**) shall be damaged or destroyed by fire or other **Casualty**, Tenant may terminate this **Lease** only if such damage or destruction is so great that it would require in excess of 300 (three hundred) business days after the date of such **Casualty** to restore the **Leased Premises** within the **Core & Shell Building** (exclusive of interior leasehold improvements required to be made by other tenants of the **Neighborhood Center**) to its respective condition immediately prior to the occurrence of such **Casualty**. In such event, Tenant shall send **Notice** to Landlord of its election to terminate no later than 45 (forty-five) calendar days after the date of such **Casualty** as defined in this Section 17.01C, and such particular **Notice** as used in this Section 17.01C shall include explanation proof of aforementioned 300 (three hundred) business day required restoration. Failure of Tenant to provide Landlord such **Notice** in its entirety including such explanation and proof for required as used in this Section 17.01C shall be deemed an election not to terminate this **Lease**, and Landlord shall proceed to restore and reconstruct **Core & Shell Building** as required hereunder.

Section 17.02 Abatement of Rent. The monthly installments of **Base Rent** and **Common Area Payment** required to be paid by Tenant pursuant to ARTICLE VII and ARTICLE VIII shall be abated in proportion to the portions of the **Leased Premises**, if any, which are rendered un-tenantable by **Casualty** until repairs of the **Leased Premises** are completed, or if the **Leased Premises** are not repaired, until the termination date hereof; provided, however, if such **Casualty** was caused by the negligence of Tenant, its employees, agents, contractors, or licensees, then all **Rent** shall not abate and shall remain due and owing during such period. Other than such abatement, no damages, compensation, or claims shall be payable by Landlord for loss of the use of the whole or any part of the **Leased Premises**, Tenant's personal property, or any inconvenience, loss of business or annoyance arising from any repair and reconstruction. If this **Lease** is terminated as provided in Section 17.01 above, all **Rent** shall be apportioned and paid up to the new termination date shall be refunded to Tenant, and the **Parties** shall have no further **Obligations** hereunder, except for those that specifically survive herein. Landlord shall not be liable for the cost of the repair or replacement of any alterations, improvements, additions, fixtures, furniture, equipment, furnishings, or other personal property which Tenant is obligated to insure or which it may be entitled to remove from the **Leased Premises** pursuant to the terms hereof.

Section 17.03 End of Term Casualty. Notwithstanding anything to the contrary herein, Landlord shall have no **Obligations** whatsoever to repair, reconstruct, or restore the **Core & Shell Building** when the damage resulting from any **Casualty** occurs during the last 12 (twelve) months of the **Primary Term** or the **Extension Option Term(s)** of this **Lease**, unless Tenant exercises the **Extension Option Term(s)** as provided in Section 05.02 within 30 (thirty) calendar days after such **Casualty**. If the **Leased Premises** are damaged by any **Casualty** during the last 12 (twelve) months of the **Primary Term** or **Extension Option Term(s)**, either **Party** may, at its option, terminate this **Lease** upon **Notice** to the other, such termination to be effective as of the date of the **Casualty** and any **Rent** paid and attributable to the period after such termination date shall be refunded to Tenant.

Section 17.04 Consent of Mortgagee. Notwithstanding anything to the contrary herein, in the event any **Mortgagee of Landlord** holding any lien or security interest in the **Leased Premises** or the **Neighborhood Center** for the performance of an **Obligations** of Landlord shall not concur in the application of any insurance proceeds to the repair or reconstruction of the **Core & Shell Building** or the **Neighborhood Center**, Landlord shall not be obligated to repair or reconstruct the **Core & Shell Building** or the **Neighborhood Center** and may, at its option, terminate this **Lease**, such termination to be effective as of the date of the **Casualty** and any **Rent** paid and attributable to the period after such termination date shall be refunded to Tenant.

Section 17.05 Landlord and Tenant's Obligations. Landlord's **Obligations** to rebuild and repair under this ARTICLE XVII is limited to restoring the **Core & Shell Building** and the **Leased Premises** to substantially the condition in which the same existed on the **Delivery Date**. Tenant shall, promptly after completion of such work by Landlord, proceed with reasonable diligence and at its sole cost and expense, to restore, repair, and replace all alterations, additions, improvements, fixtures, furnishings, inventory, equipment, signs, and personal property located at the **Leased Premises**, including, without limitation, all the **Tenant's Work** as described in in Exhibit C and all other work and items not part of the **Tenant's Work** Tenant completed as of the **Opening Date** of Tenant's business to substantially the condition in which the same existed prior to such **Casualty**. Notwithstanding the foregoing or any provision to the contrary in this **Lease**, Landlord shall not be required to expend any amount in excess of the insurance deductible plus the amount of insurance proceeds available for **Core & Shell Building** and **Landlord's Work**. All restoration work shall be subject to current applicable laws, codes, statutes, and ordinances.

Section 17.06 In any circumstances described above where Landlord elects to repair and restore the **Core & Shell Building** and **Leased Premises** (as used in Section 17.01C and subject to definition of Landlord's **Obligations** regarding **Leased Premises** as defined in Section 17.05), this **Lease** shall continue in full force and effect, and such repairs will be diligently pursued by Landlord, subject to **Force Majeure**. **Base Rent** shall abate proportionately during the period and to the extent that the **Leased Premises** are unfit for use by Tenant and not actually used by Tenant in the ordinary conduct of its business.



ARTICLE XVIII. Condemnation / Eminent Domain

Section 18.01 Total Condemnation. If during the *Term* any portion of the *Leased Premises* or all or substantially all of the *Neighborhood Center* shall be taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or should all or substantially all of the *Leased Premises* or the *Neighborhood Center* be sold to the condemning authority under threat of condemnation, and if such taking renders the *Leased Premises* unsuitable for its intended use hereunder, this *Lease* shall terminate on the date the condemning authority takes possession, all *Rent* shall be apportioned and paid up to such termination date, any *Rent* paid and attributable to the period after such termination date shall be refunded to Tenant, and the *Parties* hereto shall have no further *Obligations* hereunder, except for those that specifically survive herein.

Section 18.02 Partial Condemnation. If less than substantially all of the *Neighborhood Center* (but none of the *Leased Premises*) shall be taken as above described, and the *Leased Premises* shall continue to be reasonably visible, accessible and tenantable, Landlord shall forthwith restore and reconstruct the *Neighborhood Center*. However, if any partial condemnation reduces the parking spaces in the *Neighborhood Center* below applicable code requirements for the *Leased Premises* and Landlord fails to obtain additional parking spaces to satisfy any applicable code requirements within 270 (two hundred seventy) calendar days after the date of such partial condemnation, Tenant may terminate this *Lease* by providing Landlord *Notice* of its election to terminate no later than 180 (one hundred eighty) calendar days after the date of such partial condemnation. Failure of Tenant to provide Landlord *Notice* as required above shall be deemed an election not to terminate this *Lease*, and Landlord shall proceed to restore and reconstruct as required hereunder.

Section 18.03 Allocation of Award. Landlord shall be entitled to receive and retain any and all condemnation or eminent domain awards or proceeds or any awards or proceeds resulting from any sale under threat of same, and Tenant hereby releases and assigns to Landlord all interest of Tenant, if any, in and to any such awards or proceeds; provided, however, Tenant may pursue a separate claim on its own behalf seeking recovery against the applicable governmental entity or agency for any award and proceeds permitted by applicable law including for fixtures and equipment installed by Tenant in the *Leased Premises* and for Tenant's moving and relocation costs and expenses expressly conditioned upon such separate award not reducing or diminishing Landlord's award or proceeds in any manner whatsoever.

Section 18.04 Consent of Mortgagee. Notwithstanding any provision to the contrary in this *Lease*, in the event any *Mortgagee of Landlord* holding any lien or security interest in the *Leased Premises* or the *Neighborhood Center* for the performance of an *Obligations* of Landlord shall not consent to the application of any condemnation award to the restoration or reconstruction of the *Leased Premises*, the *Core & Shell Building*, or the *Neighborhood Center*, Landlord shall not be obligated to restore or reconstruct the *Leased Premises*, the *Core & Shell Building*, or the *Neighborhood Center* and may, at its option, terminate this *Lease*, such termination to be effective as of the date the condemning authority takes possession of any portion of the *Leased Premises* or the *Neighborhood Center* and any *Rent* paid and attributable to the period after such termination date shall be refunded to Tenant.

ARTICLE XIX. Disposition of Property

Section 19.01 Tenant Removal of Property. Upon the expiration or termination of this *Lease*, Tenant shall remove from the *Leased Premises* all furniture, moveable fixtures, equipment, inventory and other property installed or placed or permitted at the *Leased Premises* by Tenant; however, in no event shall Tenant remove any component of the HVAC system or electrical system, any attached fixture, or any pipes, paneling, wall or floor covering, restroom components including all toilet accessories, ceiling tiles or lighting fixtures.

Section 19.02 Abandonment. Tenant shall not vacate or abandon the *Leased Premises* at any time during the *Term* of this *Lease*, and if Tenant shall abandon, vacate, or surrender the *Leased Premises* or be dispossessed by process of law, or otherwise, any personal property and trade fixtures belonging to Tenant and left in the *Leased Premises* shall be deemed to be abandoned, at the option of Landlord, except such property as Landlord has been notified is mortgaged to or leased from a third party.

Section 19.03 Landlord Removal of Property. In the event that Landlord shall have taken possession of the *Leased Premises* in connection with a *Tenant Event of Default* or for any other lawful reason, Landlord shall have the right to: (i) Remove from the *Leased Premises* and *Building* (without the necessity of obtaining a distress warrant, writ of sequestration or other legal process) all or any portion thereof and place same in storage at a location within the county in which the *Leased Premises* are located or dispose of same in any manner acceptable to Landlord and in such event, Tenant shall be liable to Landlord for costs incurred by Landlord in connection with such removal, storage and/or disposal and shall indemnify and hold Landlord harmless from all loss, damage, cost, expense and liability in connection with such removal, storage and/or disposal; and (ii) Change the lock(s) to *Leased Premises*.

Section 19.04 Relocation. By providing Tenant with not less than 180 (one hundred eighty) calendar days advanced *Notice*, Landlord may require Tenant to relocate to another location in the *Neighborhood Center*, provided that the other location is equal in size or larger than the *Leased Premises* then occupied by Tenant and contains similar leasehold improvements. Landlord will pay Tenant's reasonable out-of-pocket moving expenses for moving to the other location. '*Moving Expenses*' means reasonable expenses payable to professional movers, utility companies for connection and disconnection fees, wiring companies for connecting and disconnecting Tenant's Fixtures and Personal Property required by the relocation, new signage placement, and companies for reprinting Tenant's stationery and business cards. A relocation of Tenant will not change or affect any other provision of the *Lease* that is then in effect, except that the description of the suite or unit number will automatically be amended.

ARTICLE XX. Defaults, Remedies, and Determination of Damages

Section 20.01 Each of the following acts or omissions of Tenant or occurrences shall constitute an '*Tenant Event of Default*':

- A. Failure or refusal by Tenant to open its door(s) for business (the *Opening Date*) on or before 240 (two hundred forty) calendar days after the *Delivery Date* of the *Leased Premises* (a *Late Opening Event*).



- B. Failure or refusal by Tenant to: (i) pay any installment **Rent**; (ii) pay any other sums owing to Landlord hereunder; and/or (iii) comply with the **Tenant Obligations** set forth in ARTICLE VII and/or ARTICLE VIII of this **Lease** within 7 (seven) calendar days following **Notice** to Tenant of such failure or refusal; provided, however, Landlord shall not be required to provide **Notice** to Tenant more than 1 (one) time in any 12 (twelve) month period, following which the failure or refusal to timely: (i) pay any installment **Rent**; (ii) pay any other sums owing to Landlord hereunder; and/or (iii) comply with the **Tenant Obligations** set forth in ARTICLE VII and/or ARTICLE VIII shall all constitute a **Tenant Event of Default** without **Notice** of such non-payment or failure; or
- C. Failure or refusal by Tenant to comply with the **Tenant Obligations** set forth in ARTICLE III and/or ARTICLE IV of this **Lease** and such failure or refusal continues for a period of 30 (thirty) calendar days after **Notice** thereof to Tenant; or
- D. Tenant shall fail to fulfill or perform, in whole or in part, any of its **Tenant Obligations** under this **Lease Agreement** (other than the payment of **Rent** or any other monies and provisions and terms of the **Lease Agreement** per Section 20.01A and Section 20.01C above) and such failure or non-performance shall continue for a period of 30 (thirty) calendar days after **Notice** thereof has been given by Landlord to Tenant; provided, however, that if such **Tenant Event of Default** does not materially impair the rights and benefits of Landlord hereunder and is curable, but requires work to be performed, acts to be done or conditions to be remedied which, by their nature, cannot be performed, done or remedied, as the case may be, within such 30 (thirty) calendar day period, no **Tenant Event of Default** shall be deemed to have occurred if Tenant commences same within such 30 (thirty) calendar day period and thereafter diligently and continuously prosecutes the same to completion within 60 (sixty) calendar days of such **Notice**; or
- E. Tenant takes any action to, or notifies Landlord that Tenant intends to, file a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute, or Tenant notifies Landlord that it knows such a petition will be filed, or a petition is involuntarily filed against Tenant, and the same is not dismissed within 90 (ninety) calendar days thereafter; or the appointment of a receiver or trustee to take possession of substantially all of Tenant's assets located at the **Leased Premises** or of Tenant's interest in this **Lease** which appointment is not released within 90 (ninety) calendar days thereafter; or the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the **Leased Premises** or of Tenant's interest in this **Lease**; or
- F. Abandonment or vacating of the **Leased Premises** or any significant portion thereof; or
- G. Any other action, situation, or otherwise stated herein this **Lease Agreement** or its **Exhibits** that constitutes a **Tenant Event of Default**.

Section 20.02 Landlord's Remedies.

- A. This **Lease** and the **Term** and estate hereby granted and the demise hereby made are subject to the limitation that if and whenever any **Tenant Event of Default** shall occur, after such **Notice**, if any, as is provided in Section 20.01, Landlord may, at its option, in addition to all other rights and remedies given hereunder or by law or equity, do any one or more of the following:
 - i. Terminate this **Lease** or Tenant's right to possession of the **Leased Premises**; in either event, Tenant shall immediately surrender possession of the **Leased Premises** to Landlord; or
 - ii. Enter upon and take possession of the **Leased Premises** and expel or remove Tenant and any other occupant therefrom, with or without having terminated the **Lease**.
- B. Exercise by Landlord of any one or more remedies granted or otherwise available shall not be deemed to be an acceptance of surrender of the **Leased Premises** by Tenant, whether by agreement or by operation of law, it being understood that such surrender can be effected only by the written agreement between Landlord and Tenant.
- C. Upon the occurrence of a **Tenant Event of Default**, provided Landlord has given the **Notice** required in this **Lease**, Landlord shall not be obligated to give any additional **Notice** prior to exercising any available remedy. Tenant hereby waives any and all **Notices** required under statutory or common law in favor of the **Notices** set forth herein. To the extent of any inconsistency between this **Lease** and any statutory or common law this **Lease** shall prevail to the extent permitted by applicable law.
- D. If Tenant should fail to make any payment or cure any **Tenant Event of Default** hereunder within the time herein permitted, Landlord, without being under any **Obligations** to do so and without thereby waiving such **Tenant Event of Default**, may make such payment and/or remedy such other **Tenant Event of Default** for the account of Tenant (and enter the **Leased Premises** for such purpose), and thereupon Tenant shall be obligated to, and hereby agrees to pay Landlord, upon demand, all costs, expenses and disbursements incurred by Landlord in taking such remedial action.

Section 20.03 In the event Landlord elects to terminate this **Lease** due to a **Tenant Event of Default** or in the event Landlord elects to terminate Tenant's right to possession of the **Leased Premises** without terminating this **Lease**, Tenant shall be liable for all **Rent** and other **Indebtedness** accrued to the date of such termination, plus such future **Rent** and other **Indebtedness** as would otherwise have been required to be paid by Tenant to Landlord during the balance of the **Lease Term**. Actions to collect amounts due may be brought from time to time during the aforesaid period, on one or more occasions, without the necessity of waiting until the expiration of such period. In case of a **Tenant Event of Default**, Tenant shall be liable for and shall pay to Landlord, in addition to all other amounts due under this **Lease**: (i) broker's fees incurred by Landlord in connection with reletting the whole or any part of the **Leased Premises**; (ii) broker's fees paid by Landlord in association with this current **Lease**, (iii) the costs of repairing or otherwise putting the **Leased Premises** into condition acceptable to a new tenant or tenants; and (iv) all reasonable expenses incurred by Landlord in enforcing Landlord's remedies.



Section 20.04 In the event Landlord shall have recaptured possession of the **Leased Premises** due to a **Tenant Event of Default**, Landlord, shall have a duty to make a “reasonable attempt” to relet the **Leased Premises**. Landlord shall not be liable, nor shall **Tenant Obligations** hereunder be diminished, because of Landlord’s failure to actually relet the **Leased Premises** or collect **Rent** due with respect to such reletting so long as Landlord has fulfilled its duty under this **Section 20.04**. Landlord shall be deemed to have made a “reasonable attempt” to relet the **Leased Premises** by doing the following: (i) posting a “For Lease” sign on the **Leased Premises** that includes Landlord telephone contact number; and (ii) showing the availability of the **Leased Premises** for lease so as to alert Landlord’s leasing brokers. Landlord shall not be required to give any preference or priority to the leasing of the **Leased Premises** over any other space that Landlord may have available in the **Building**. Landlord shall not be required to: (i) accept any proposed tenant unless such tenant has a credit-worthiness acceptable to Landlord in its sole discretion; or (ii) accept any proposed tenant unless such tenant leases the entire **Leased Premises** upon terms and conditions satisfactory to Landlord, in Landlord’s sole discretion, having taken into consideration all expenditures for requested tenant improvements, broker’s commissions, and any other leasing cost. Any proceeds received from reletting the **Leased Premises** shall first be applied toward any costs or expenses incurred by Landlord as a result of the **Tenant Event of Default**, including, without limitation, the following: leasing and brokerage fees (including expenses to third party brokers, to Landlord’s affiliates or employees of Landlord and its affiliates), attorney fees, and construction expenses (whether paid to a third party contractor or given as a construction allowance to the successor occupant of the **Leased Premises**). In no event shall Tenant be entitled to any excess of **Rent** (or **Rent** plus other sums) obtained by reletting the **Leased Premises** over and above the **Rent** herein reserved.

Section 20.05 In the event of any default by Landlord, Tenant’s exclusive remedy shall be either: (i) an action for damages; or (ii) an action for specific performance in connection with Landlord’s repair responsibilities affecting the **Leased Premises**, or repair responsibilities affecting the **Common Area** adjacent to the **Leased Premises** if as result of Landlord’s action (or inaction), Tenant, its employees and customers cannot gain access to or use the **Leased Premises** during regular business hours. Prior to commencing any legal action Tenant shall give Landlord **Notice** specifying any alleged default in reasonable detail, and Landlord shall thereupon have a reasonable period of time, but in no event less than 30 (thirty) calendar days and in no event more than 60 (sixty) calendar days, in which to commence to cure such default or provide a reasonable plan to Tenant in which to commence to cure such default. If Landlord fails to commence to cure such default or, having so commenced, thereafter fails to exercise reasonable diligence to complete such curing, Tenant may exercise any remedy set forth in **this Section 20.05**. In addition, Tenant shall, prior to the exercise of any such remedies, provide each **Mortgagee of Landlord** (in each instance, only as to those entities of which Tenant has **Notice** of their interest) with a **Notice** and reasonable time to cure any default by Landlord, such time to cure being at minimum the amount of time to cure given to Landlord (which time periods shall run concurrently). All **Obligations** of Landlord hereunder will be construed as independent covenants, not conditions; and all such **Obligations** will be binding upon Landlord only during the period of its possession of the **Building** and not thereafter.

ARTICLE XXI. Non-Wavier of Default

Section 21.01 Neither Landlord’s acceptance of **Rent** or any other sums payable by Tenant hereunder (or any portion thereof), nor failure by Landlord or Tenant to complain of any action, non-action or default of the other shall constitute a waiver as to any breach of any covenant or condition contained herein nor a waiver of any of Landlord’s or Tenant’s rights hereunder. Waiver by Landlord or Tenant of any right shall not constitute a waiver of any other right or for any prior or subsequent default of the same **Obligations**. No right or remedy of Landlord or Tenant hereunder or covenant, duty or **Obligations** hereunder shall be deemed waived unless such waiver is in writing and signed by the **Party** waiving such right.

ARTICLE XXII. Landlord’s Mortgagee, Liens

Section 22.01 Tenant agrees that its interest under this **Lease** shall be subordinate to the lien of any mortgage, deed of trust or similar device now or hereafter placed upon the **Leased Premises** or all or any portion of the **Building** by Landlord (each, a ‘**Superior Lien**’) if the mortgagee or beneficiary under said deed of trust or lender for whose benefit any other security device is created (the ‘**Mortgagee of Landlord**’) so elects, and, upon **Notice** to Tenant of such election, Tenant will execute any instruments required to evidence such subordination (a ‘**Notice of Subordination**’). Notwithstanding the foregoing, **Mortgagee of Landlord** shall have the right to subordinate the lien of the **Mortgagee of Landlord** to Tenant interest under this **Lease** by filing a **Notice of Subordination** with the County Clerk of **Harris County**, Texas, at any time before **Mortgagee of Landlord** conducts a foreclosure or exercises the power of sale pursuant to the instrument creating such lien. In the event of foreclosure or the exercise of the power of sale under the instrument creating lien of **Mortgagee of Landlord** covering the **Leased Premises**, (a) Tenant shall attorn to the successor owner (the ‘**New Owner**’) and recognize the **New Owner** as ‘**Landlord**’ under this **Lease**; (b) such **New Owner** shall have no liability for any liabilities of Landlord accruing prior to the time that such **New Owner** takes title to the **Leased Premises**; (c) the **New Owner** will be relieved from the **Obligations** to cure existing defaults under this **Lease**, other than defaults of a continuing nature of which the **Mortgagee of Landlord** has received notice, and in respect of which Tenant has afforded the **Mortgagee of Landlord** notice and an opportunity to cure as set forth in this **Section 22.01**; (d) the **New Owner** shall be relieved from the **Obligations** to return any **Security Deposit** under this **Lease** not actually received by **Mortgagee of Landlord** or the **New Owner**; and (e) the **New Owner** shall not be bound by **Base Rent** paid to Landlord more than one month in advance. As a condition to the effectiveness of the subordination and attornment **Obligations** in this **Section 22.01**, Landlord will obtain a non-disturbance agreement, in a form commercially reasonably acceptable to Landlord and Tenant, from the holder of any **Superior Lien**. The non-disturbance agreement will provide that Tenant will not be disturbed by the holder of such **Superior Lien** so long as no **Tenant Event of Default** has occurred and is continuing.



Section 22.02 Landlord and Tenant shall execute and deliver to each other, at such time or times as either Landlord or Tenant may request, a certificate stating: (i) whether or not the *Lease* is in full force and effect; (ii) whether or not the *Lease* has been modified or amended in any respect, and submitting copies of such modifications or amendments, if any; (iii) whether or not there are any existing *Tenant Event of Defaults* under this *Lease* to the knowledge of the *Party* executing the certificate, and specifying the nature of such *Tenant Event of Defaults*, if any; and (iv) such other information as may be reasonably requested. The aforesaid certificate(s) shall be delivered to Landlord or Tenant, as the case may be, promptly upon receipt of a *Notice* request therefor, but in no event more than 10 (ten) calendar days following receipt of such request.

Section 22.03 To secure *Tenant Obligations* under this *Lease*, Tenant grants Landlord a contractual security interest on all of Tenant's furniture, fixtures, and equipment now or hereafter situated in the *Leased Premises* and all proceeds therefrom, including insurance proceeds (collectively, '*Collateral*'). No *Collateral* shall be removed from the *Leased Premises* without Landlord's prior written consent until all of *Tenant Obligations* are fully satisfied (except in the ordinary course of business and then only if replaced with items of same or greater value and quality). Upon any *Tenant Event of Default*, Landlord may, to the fullest extent permitted by Law and in addition to any other remedies provided herein, enter upon the *Leased Premises* and take possession of any *Collateral* without being held liable for trespass or conversion, and sell the same at public or private sale, after giving Tenant at least 10 (ten) calendar days *Notice* (or more if required by Law) of the time and place of such sale. Such *Notice* may be sent with or without return receipt requested. Unless prohibited by Law, Landlord may purchase any *Collateral* at such sale. Subject to applicable law, the proceeds from such sale, less Landlord's expenses, including reasonable attorneys' fees and other expenses, shall be credited against *Tenant Obligations*. Any surplus shall be paid to Tenant (or as otherwise required by Law) and any deficiency shall be paid by Tenant to Landlord upon demand. Tenant hereby authorizes Landlord to file a financing statement sufficient to perfect the foregoing security interest, or to file a copy of this *Lease* as a financing statement, as permitted under Law. Within 10 (ten) calendar days from the date of receipt by Landlord of *Notice* request of Tenant's lender, Landlord shall execute and deliver, a written agreement in a form reasonably acceptable to Landlord and lender whereby Landlord shall subordinate its Landlord's lien and security interests, contractual and statutory, to the security interest arising in favor of Tenant's lender as to the personal property listed in such agreement; provided Tenant shall pay Landlord's reasonable attorney's fees and any actual out-of-pocket expenses incurred in reviewing and negotiating such subordination agreement.

ARTICLE XXIII. Miscellaneous

Section 23.01 No Recording. Tenant shall not record this *Lease* or any memorandum hereof in the public records of the county where the *Leased Premises* are located.

Section 23.02 Estoppel. Within 10 (ten) calendar days of *Notice* request from Landlord, Tenant shall execute, acknowledge, and deliver to Landlord an instrument stating, if the same be true, and without limitation, that this *Lease* is a true and exact copy of the *Lease* between the *Parties* hereto, that there are no amendments hereof (or stating what amendments there may be), that the same is then in full force and effect and that, to the best of its knowledge, there are no offsets, defenses, or counterclaims with respect to the payment of any sums owing hereunder or in the performance of the other terms, covenants, and conditions hereof on the part of Tenant or Landlord, as the case may be, to be performed, and that as of such date no default has been declared hereunder by either *Party* and such other factual matters as may be reasonably requested (An '*Estoppel*'). The *Estoppel* shall be executed, acknowledged, and delivered to the Landlord in the format attached hereto as Exhibit J upon *Notice* request by Landlord, and/or in a similar format if such *Notice* request by Landlord requires similar additional information not specifically mentioned in this *Section 23.02*.

Section 23.03 Financial Information. Within 10 (ten) calendar days after Landlord's request, Tenant shall furnish Tenant's and any *Guarantor's* most recent independently audited financial statements (including any notes to them) to Landlord as may have been prepared and certified by an executive officer of Tenant as to accuracy and completeness; provided, such financial statements shall include, at a minimum: (i) a balance sheet showing the then current net worth of Tenant and any *Guarantor(s)*, together with a profit and loss statement for Tenant's most current fiscal year reasonably indicating revenue sales by category, all prepared in accordance with generally accepted accounting principles, and (ii) a certification that there have not been any material changes to such Tenant's or *Guarantor's* financial condition as described by the financial statements.

Section 23.04 Authority. Landlord and Tenant each represent and warrant that they are duly authorized to execute and deliver this *Lease* in accordance with the terms hereof, and that each individual executing this *Lease* on behalf of Landlord and Tenant is duly authorized to execute and deliver this *Lease* in accordance with duly adopted resolutions of the respective entity which comprises Landlord and Tenant.

Section 23.05 Brokers. Each of Landlord and Tenant represents and warrants to the other that it has had no dealing with any broker or agent in connection with the negotiation or execution of this *Lease* except as disclosed by *Notice* before the signing of this *Lease*, and each *Party* agrees to indemnify, defend and hold the other harmless from and against any claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with such *Party* with regard to this leasing transaction. Neither *Party* shall have any *Obligations* to pay any broker's commission or similar fee in connection with this *Lease* unless the *Obligations* is embodied in a separate written agreement signed by such *Party* and any such broker.

Section 23.06 No Reliance. TENANT HEREBY ACKNOWLEDGES AND AGREES THAT IT IS NOT RELYING ON ANY REPRESENTATION AND/OR PROMISE OF LANDLORD, LANDLORD PARTIES, LANDLORD'S BROKERS AND/OR AGENTS WHATSOEVER, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS *Lease*.

Section 23.07 Attorney's Fees. Landlord and Tenant hereby agree that in the event either *Party* retains an attorney for the purpose of enforcing any claims or demands arising out of or connected with this *Lease*, the *Obligations* of either *Party* contained herein or in connection with Tenant's use or occupancy of the *Leased Premises*, the prevailing *Party* shall be entitled to recover from the non-prevailing *Party* all of such prevailing *Party's* costs and expenses incurred in connection with such action including, without limitation, reasonable attorney's fees.



Section 23.08 Parties Bound. Subject to the prohibitions on assignment by Tenant contained hereinabove, this **Lease Agreement** shall be binding upon and inure to the benefit of the **Parties** hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns wherever the context so requires or permits.

Section 23.09 Governing Law. This **Lease Agreement** shall be construed under and in accordance with the laws of the State of Texas, and all **Obligations** of the **Parties** created hereunder are performable in **Harris County**, Texas. The **Parties** hereby submit to jurisdiction and venue in the state district courts of **Harris County**, Texas, for any claim or other litigation that may arise hereunder.

Section 23.10 Governing Area of Performed Money Obligations. All monetary **Obligations** of Landlord and Tenant are performable exclusively in **Harris County**, Texas.

Section 23.11 Legal Construction. The provisions of this **Lease Agreement** are severable. In case any one or more of the provisions contained in this **Lease Agreement** shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this **Lease Agreement** shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 23.12 Amendment. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the **Effective Date** and duly executed by the **Parties** to this **Lease**.

Section 23.13 Time of Essence. Time is of the essence with respect to all provisions of this **Lease**, except that whenever a period of time is herein prescribed for action to be taken by either **Party** (other than for **Tenant Obligations** under this **Lease** that can be performed by the payment of money, including, without limitation, **Rent Payment** and maintenance of insurance), such **Party** shall not be liable or responsible for and there shall be excluded from the computation of any such period of time, any delays due to a **Force Majeure**. In all instances where either Landlord or Tenant is required hereunder to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood that time is of the essence.

Section 23.14 Captions and Headings. The captions and headings in this **Lease** are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this **Lease** or the intent of any provision hereof.

Section 23.15 Number and Gender. With respect to terminology in this **Lease**, each number (singular or plural) shall include all numbers, and each gender (male, female or neuter) shall include all genders. If any provision of this **Lease** shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions of the **Lease**, but such other provisions shall continue in full force and effect. The titles of the Articles in this **Lease** shall have no effect and shall neither limit nor amplify the provisions of the **Lease** itself. This **Lease** shall be binding upon and shall accrue to the benefit of Landlord, its successors and assigns, and Tenant, its permitted successors and assigns.

Section 23.16 Waiver of Consumer Rights (DTPA). Tenant acknowledges and agrees that the *Texas Deceptive Trade Practices - Consumer Protection Act, Section 17.41 et seq.* of the *Texas Business & Commerce Code* (the "DTPA") is not applicable to this lease transaction. Accordingly, Tenant's rights and remedies with respect to any transaction contemplated under this **Lease**, and with respect to all acts or practices of Landlord, past, present or future, in connection with such transactions, shall be governed by legal principles other than the DTPA. TENANT HEREBY WAIVES ITS RIGHTS, IF ANY, UNDER THE *TEXAS DECEPTIVE TRADE PRACTICES - CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ., BUSINESS & COMMERCE CODE*, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF TENANT'S OWN SELECTION, TENANT VOLUNTARILY CONSENTS TO THIS WAIVER. IN ADDITION, TENANT EXPRESSLY RECOGNIZES AND ACKNOWLEDGES THAT IT: (i) IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION, AND (ii) HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL BUSINESS MATTERS WHICH ENABLE TENANT TO PROPERLY EVALUATE THE MERITS AND RISKS OF THE TRANSACTION CONTEMPLATED BY THIS **Lease**.

Section 23.17 Waiver of Jury Trial. LANDLORD AND TENANT HEREBY EXPRESSLY WAIVE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, TRIAL BY JURY IN ANY ACTION, PROCEEDING AND/OR COUNTERCLAIM, BROUGHT BY EITHER **Party** AGAINST THE OTHER ON ANY CLAIM OR MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS **Lease**, INCLUDING, BUT NOT LIMITED TO, ANY BREACH OF CONTRACT, COVENANT, DUTY OR OTHER OBLIGATION AND/OR ANY TORT CLAIM, THE RELATIONSHIP OF SUCH **Parties** AS LANDLORD AND TENANT, TENANT'S USE AND OCCUPANCY OF THE **Leased Premises** AND/OR ANY CLAIM OF INJURY OR DAMAGE.

Section 23.18 Independent Covenants. **Tenant Obligations** to: (i) pay **Rent** and any other sums due and owing by Tenant hereunder, and (ii) to perform any other covenants and duties hereunder constitute independent and unconditional covenants and **Tenant Obligations** to be performed at all times as expressly provided in this **Lease**, save and except only when an abatement thereof or reduction therein is hereinabove expressly provided for and not otherwise, and Tenant shall have no right to withhold, offset or fail to pay any such amounts for any alleged and/or actual default by Landlord or any other reason whatsoever, except as expressly and specifically set forth in this **Lease**. Tenant waives and relinquishes all rights which Tenant might have to claim any nature of lien against the **Leased Premises** and/or the **Neighborhood Center** or to withhold, deduct from or offset against any **Rent** and other sums due and owing hereunder to be paid Landlord by Tenant, except as expressly set forth in this **Lease**.



Section 23.19 USA Patriot Act. To the best of Tenant's knowledge, Tenant is currently in compliance with, and covenants to Landlord that Tenant shall at all times during the **Lease Term** (including any extension thereof) remain in compliance with, the regulations of the Office of Foreign Assets Control ("OFAC") of the U.S. Department of Treasury (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) and any statute, executive order (including, but not limited to, Executive Order 13224, dated September 24, 2001 and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or other governmental, regulatory, or administrative action relating thereto.

Section 23.20 Electronic Signatures. Each of the **Parties** hereto agrees that the transaction consisting of this **Lease Agreement** (and, to the extent permitted under applicable law, each **Parties'** certificate, receipt or similar closing document delivered in connection with the closing of this transaction) may be conducted by electronic means. Each **Party** agrees, and acknowledges that it is such **Party's** intent, that if such **Party** signs this **Lease Agreement** (or, if applicable, such closing document) using an electronic signature, it is signing, adopting, and accepting this **Lease Agreement** or such closing document and that signing this **Lease Agreement** or such closing document using an electronic signature is the legal equivalent of having placed its handwritten signature on this **Lease Agreement** or such closing document on paper. The use of electronic signatures and electronic records (including, without limitation, any electronic symbol or process attached to, or associated with, a contract or other record created, generated, sent, communicated, received, or stored by electronic means and adopted by a Person with the intent to sign, authenticate or accept such contract or record) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the Texas Electronic Signatures Act, and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. Facsimile or .pdf signatures shall be binding on all **Parties** and deemed the same as originals. A true and correct copy or a .pdf attachment via **Email** (or **Notice**) of a fully executed version of this **Lease Agreement** shall have the same force and effect as the executed original thereof.

Section 23.21 Unconditional Guaranty of Lease. This **Lease** is hereby personally guaranteed by **Brennan Layne Cross, jointly and severally liable with Lori Dee Brazil-Cross**, an individual (hereinafter referred to as "**Guarantor**", whether one or more), as more particularly set forth on **Exhibit F** (the Unconditional "**Guaranty**") attached hereto and incorporated herein by reference for all purposes (herein referred to as "**Guaranty**"). If there is a default by **Guarantor** under the **Guaranty**, such default shall constitute an **Tenant Event of Default** under this **Lease** without further **Notice** to Tenant.

Section 23.22 Non-Disclosure / Confidentiality. Tenant acknowledges that all of the terms and conditions of this **Lease** are to remain confidential for Landlord's benefit, and, except as otherwise provided herein, must not be disclosed by Tenant to anyone, by any manner or means, directly or indirectly, without Landlord's prior written consent. The consent by Landlord to any disclosures shall not be deemed to be a waiver on the part of Landlord of any prohibition against any future disclosure.

Section 23.23 Air Rights / Building Closure. This **Lease** does not grant any rights to light or air over or about the **Building**. Notwithstanding any provision in this **Lease** to the contrary, Landlord excepts and reserves exclusively to its self the use of: (i) roofs, (ii) rights to the land and improvements below the floor of the **Leased Premises**, (iii) the improvements and air rights above the **Leased Premises**, and (iv) the areas within the **Leased Premises** used for the installation of utility lines and other installations serving occupants of the **Building**. Landlord has the right to make such other changes to the **Building** as Landlord deems appropriate, provided the changes do not materially affect Tenant's ability to use the **Leased Premises** for the **Permitted Use**. Landlord shall also have the right (but not the **Obligations**) to temporarily close the **Building** if Landlord reasonably determines that there is an imminent danger of significant damage to the **Building** or of personal injury to Landlord's employees or the occupants of the **Building**. The circumstances under which Landlord may temporarily close the **Building** shall include, without limitation, electrical interruptions, hurricanes, and civil disturbances. A closure of the **Building** under such circumstances shall not constitute a constructive eviction nor entitle Tenant to an abatement or reduction of **Rent**.

Section 23.24 No Relationship. Nothing herein contained shall be deemed or construed by the **Parties** hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between **Parties** hereof, it being understood and agreed that neither the method of computation of **Rent**, nor any other provisions contained herein, nor any acts of the **Parties** hereto, shall be deemed to create any relationship between the **Parties** hereto other than the relationship of Landlord and Tenant. Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender.



Section 23.25 Tenant Liens. Tenant shall not permit to be created nor to remain un-discharged any lien, encumbrance, or charge arising out of any work or work claim of any contractor, subcontractor, mechanic, laborer, supplier, vendor, materialman engaged by Tenant, or agent of Tenant which might be or become a lien, encumbrance or charge upon the **Leased Premises**, the **Neighborhood Center**, the **Land** or the income therefrom, and Tenant shall not suffer any other matter or thing whereby the estate, right, and interest of Landlord in the **Leased Premises**, the **Neighborhood Center**, and/or the **Land** might be impaired. If any notice of lien on account of an alleged debt of Tenant or any contractor, subcontractor, mechanic, laborer, supplier, vendor, materialman, or agent of Tenant or any notice of contract shall be filed against the **Leased Premises**, the **Neighborhood Center**, and/or the **Land** by a party engaged by Tenant or any contractor, subcontractor, or agent of Tenant, then Tenant shall, within 20 (twenty) calendar days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, or bond in an amount determined by order of a court of competent jurisdiction or otherwise. If Tenant shall fail to timely cause such lien or notice of lien to be discharged by either paying the amounts claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, Landlord shall be entitled, if Landlord so elects, but without obligation to do so, to either defend any prosecution of an action for foreclosure of such lien by the lienor or to bond around or pay and discharge such lien or claim. Any money paid by Landlord and all costs and expenses, including attorney's fees and expenses of litigation, incurred by Landlord in connection therewith, together with interest thereon at the maximum contractual rate which may be legally charged in the event of a loan of such amount to Tenant (but in no event to exceed 1 1/2% (one and a half percent) per month) accruing continuously from the date of Landlord's payment of the cost or expense, shall be paid by Tenant to Landlord on demand. Tenant hereby agrees to indemnify, defend, and hold harmless Landlord, the **Leased Premises**, the **Neighborhood Center**, and/or the **Land** from any and all losses, costs, expenses, liabilities, and damages of every kind or nature, including attorney's fees and expenses of litigation, resulting therefrom and, if requested, upon demand, to immediately deposit with Landlord cash or surety bond in form and with a company satisfactory to Landlord in an amount equal to the amount of such contested claim.

Section 23.26 Landlord's Liability. THE LIABILITY OF LANDLORD (AND ITS PARTNERS, SHAREHOLDERS OR MEMBERS) TO TENANT (AND ANY PERSON OR ENTITY CLAIMING BY, THROUGH OR UNDER TENT) FOR ANY DEFAULT OF THIS **Lease** OR ANY MATTER RELATING TO OR ARISING OUT OF THE OCCUPANCY OR USE OF THE **Leased Premises**, THE **Building** OR THE **Land**, SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES ONLY AND SHALL BE RECOVERABLE ONLY FROM THE INTEREST OF LANDLORD IN THE **Neighborhood Center** AND LANDLORD (AND ITS PARTNERS, SHAREHOLDERS OR MEMBERS) SHALL NOT BE PERSONALLY LIABLE. WITHOUT LIMITING THE FORGOING, LANDLORD SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND OR CHARACTER. Any **Mortgagee of Landlord** shall in no event be liable for past defaults of Landlord, its successors and assigns.

Section 23.27 Owner Transfer. The term '**Landlord**' shall mean only the owner, for the time being of the **Neighborhood Center**, and in the event of the transfer by such owner of its interest in the **Neighborhood Center** and the assumption by the transferee of the covenants, duties and **Obligations** of Landlord hereunder, such transferor shall thereupon be released and discharged from all covenants and **Obligations** of Landlord thereafter accruing, but such covenants and **Obligations** shall be binding during the **Lease Term** upon each new owner for the duration of such owner's ownership.

Section 23.28 Sale of Neighborhood Center. In the event of any sale of the **Neighborhood Center** by Landlord, **Dirt Yard Outpost 4, LLC** shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and **Obligations** contained in or derived from this **Lease** accruing after the consummation of such sale, and the purchaser at such sale or any subsequent sale of the **Neighborhood Center** shall be deemed, without any further agreement between the **Parties** or their successors in interest or between the **Parties** and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and **Obligations** of Landlord under this **Lease**.

[The remainder of this page is left intentionally blank; Signature Page to follow]



ARTICLE XXIV. Entire Agreement

Section 24.01 This instrument (including all Riders, Exhibits and *Guaranty*, if any) constitutes the entire agreement between Landlord and Tenant; no prior written or prior or contemporaneous oral promises or representations shall be binding. This *Lease Agreement* shall not be amended, changed or extended except by written instrument signed by both *Parties* hereto.

EXECUTED via *Electronic Signatures* which shall have the force and effect of an original, on the *Effective Date*:

“TENANT”
INNERSULPT STUDIO LLC

“LANDLORD”
DIRT YARD OUTPOST 4, LLC

By: _____
Printed name: Brennan Cross
Title: _____
Date: _____

By: _____
Printed name: Robert Piper
Title: Owner / Manager
Date: _____

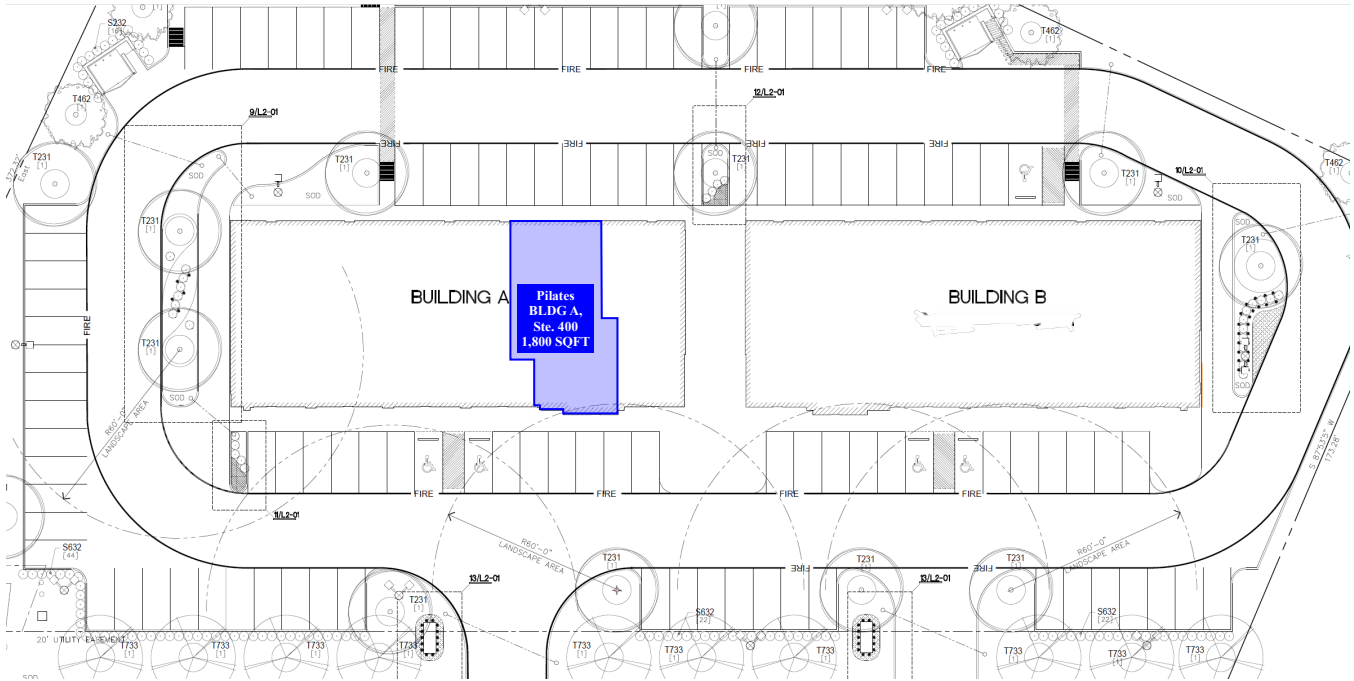
By: _____
Printed name: Lori Cross
Title: _____
Date: _____

Effective Date: _____



Exhibit A Leased Premises

27104 State Hwy 249, Tomball, TX 77375 Bldg A Ste 400



(See detailed layout on next page)

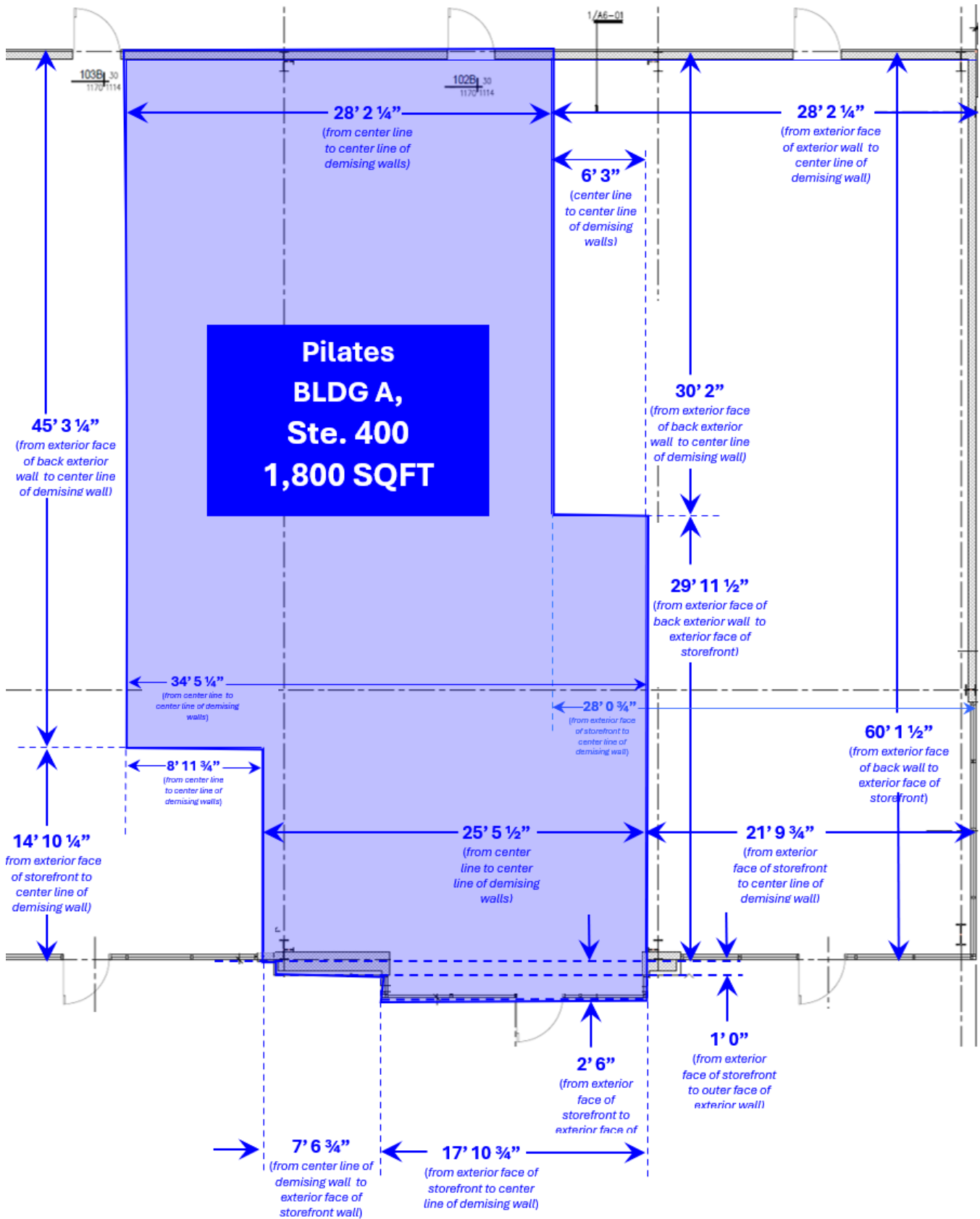
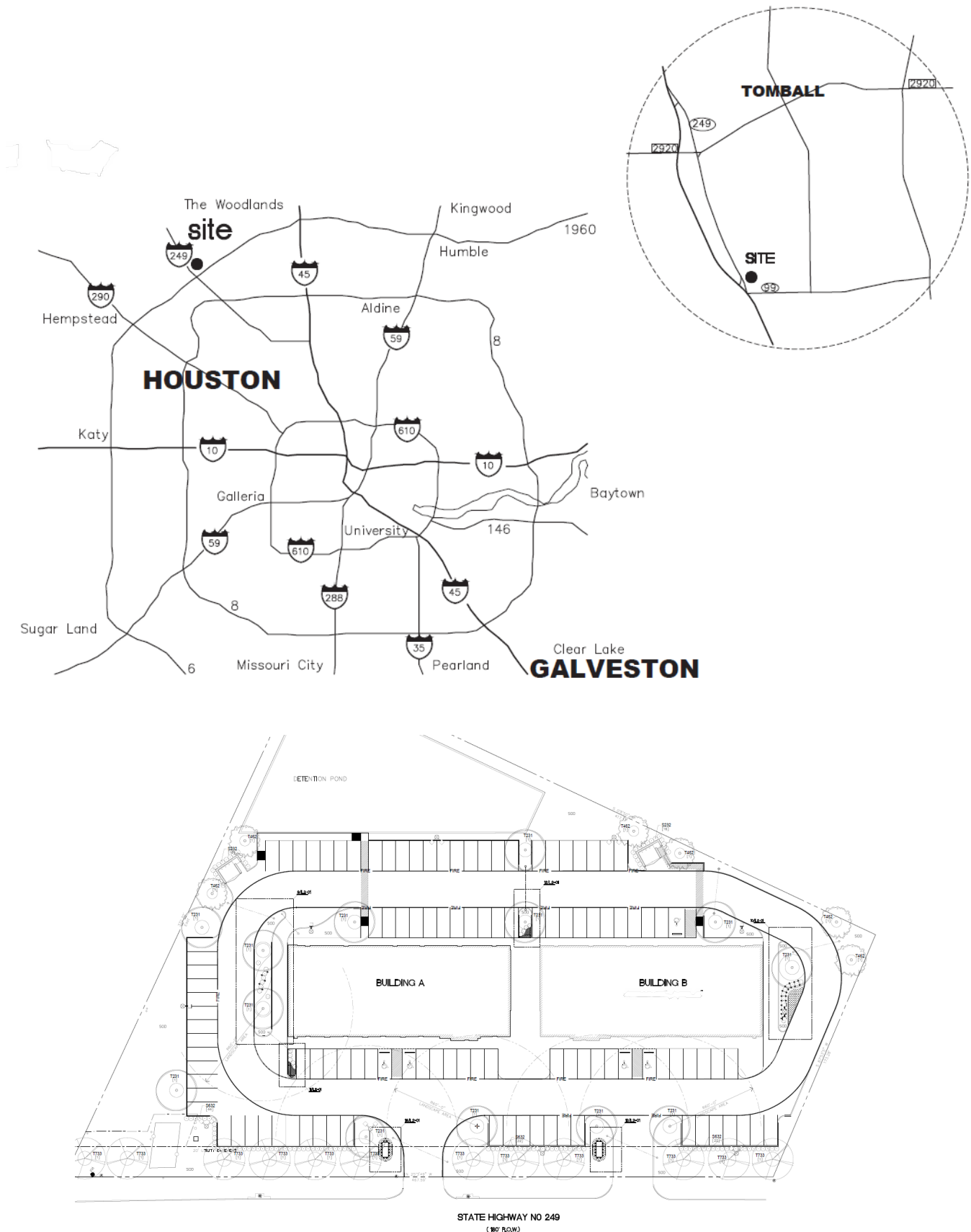




Exhibit B Neighborhood Center Location and Legal Description





Legal Description

BEING 2.639-ACRES (114,966 SQUARE FEET) TRACT OF LAND SITUATED IN THE C.N. PILLOT SURVEY, ABSTRACT NO. 632, IN HARRIS COUNTY, TEXAS, BEING A PORTION OF A CALLED 21.361-ACRES TRACT, SAID 2.369-ACRES TRACT BEING PREVIOUSLY RECORDED UNDER HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. E712621 OFFICIAL PUBLIC RECORDS HARRIS COUNTY, TEXAS (O.P.R.H.C.T.) AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING At a 5/8-inch iron rod found, in the easterly right-of-way (R.O.W.) of SH-249 (150 feet wide) marking southwest corner of a called 1.2248-Acres tract known as Tract 2N recorded under H.C.C.F. No. RP-2019-552567 O.P.R.H.C.T. and the northwest corner of the herein described tract;

THENCE EAST, with the northerly line of the herein described tract, a distance of 372.32 feet to a 5/8-inch iron rod with cap (DART) set marking the northeast corner of the herein described tract from which a 5/8-inch iron rod found which bears N74°30'W 1.10 feet;

THENCE South 00°08'50" West, with the westerly line of a called 11.5632-Acres known as Reserve A recorded under H.C.C.F. No. X273577 O.P.R.H.C.T., a distance of 417.17 feet to a 3/4-inch iron rod found marking the southeast corner of the herein described tract;

THENCE South 87°53'05" West, with the northerly line of a called 0.2372-Acre tract known as Tract 2H-1 recorded under H.C.C.F. No. RP-2017-408857 O.P.R.H.C.T., a distance of 173.28 feet to a 5/8-inch iron rod with cap (DART) set marking the northwest corner of said Tract 2H-1 and the southwest corner of the herein described tract from which a 5/8-inch iron rod found which bears S55°22'E 1.47 feet;

THENCE North 25°03'49" West, with the easterly R.O.W. line of SH-249, a distance of 467.59 feet to the POINT OF BEGINNING and containing 2.639-Acre (114,966 Square feet) more or less.



Exhibit C Construction Rider

DESCRIPTION OF LANDLORD'S WORK AND TENANT'S WORK

Tenant agrees to complete ***Tenant's Work*** in accordance with the requirements hereinafter set forth. All of the items of ***Tenant's Work*** shall be done at Tenant's sole cost and expense, subject to the provisions of ARTICLE III of the ***Lease***. As used herein, '***Tenant Total Construction Costs***' shall mean the entire cost of performing ***Tenant's Work***, including the design of ***Tenant's Work***, the preparation of the Working Drawings, costs of construction labor and materials, electrical usage during construction, additional janitorial services, general tenant signage, related taxes and insurance costs and the costs of any fees or permits associated with ***Tenant's Work***. ***Tenant's Work*** shall be completed in accordance with the requirements of all applicable building and governing codes and regulations. Any materials to be installed by Tenant as specified hereunder shall also be supplied by Tenant. The cost of any and all work not specifically delineated as Landlord's Work below, or any increase in cost resulting from subsequent changes, shall be the responsibility of Tenant and paid for by Tenant. '***Tenant's Work***' shall mean all work identified as the responsibility of Tenant or that is otherwise required for Tenant to operate at the ***Leased Premises***, unless specifically identified as the responsibility of Landlord. '***Landlord's Work***' shall mean the construction or improvements Landlord is obligated to perform only as outlined in Exhibit C Section II.

Exhibit C Section I. Tenant Plans and Specifications

- A. On or before the earlier of: (i) thirty (30) calendar days prior to ***Delivery Date***, or (ii) 45 (forty-five) calendar days following the ***Effective Date*** of this ***Lease***, Tenant shall prepare or cause to be prepared, at Tenant's cost, and deliver to Landlord as many counterparts as may be reasonably requested (including 1 (one) counterpart, if so requested, in reproducible media) of the following plans, specifications, and related materials (hereinafter collectively called the '***Tenant Plans***'), to-wit:
- i. Complete Structural Plans including primarily **any equipment that may affect the load design of the building structurally** including, without limitation, the following: HVAC Equipment and any and all other allowed items on roof per other provisions in this ***Lease***.
 - ii. Complete Architectural Plans for the improvement and finish-out of the ***Leased Premises***, reasonably acceptable to Landlord, and which shall include, but not be limited to, the following:
 - a. Floor Plan(s);
 - b. Interior Elevations (if needed); and
 - c. Specifications for all building materials, including color schemes and finish selections.
 - iii. Complete Mechanical Plans and Specifications, including shop drawings for all fabricated products, if any.
 - iv. Complete Electrical Plans and Specifications, including reflected ceiling plan (This can be included on aforementioned floor plan).
 - v. Complete Plumbing Plans and Specifications (This can be included on the aforementioned floor plan).
 - vi. Complete Signage Plans and Specifications, especially including, but not limited to, dimensions and attachment details to the substrate of the ***Building***. (See Section 9.01 and Exhibit C Section V).
- B. Tenant is able to use CAD or related design media, and Landlord will provide upon request, but if, and only if Tenant executes the attached Exhibit I for release of such media. Tenant hereby understands that the use of any such media is only to help aid design process, and ***Tenant Plans shall solely rely upon field measured dimensions of the actual Building*** as it is constructed.
- C. Within 5 (five) business days from receipt, Landlord shall review each of the items to be furnished by Tenant and supply any comments or objections thereto. Failure to supply such comments or objections within such 5 (five) business day period shall be deemed acceptance of the item(s) submitted. If either ***Party*** shall have any objection, Landlord and Tenant and their respective architects, engineers, and/or contractors, acting in a reasonable and good faith manner, shall promptly meet to resolve any differences or discrepancies and final ***Tenant Plans*** shall be agreed upon and initialed as approved by Landlord and Tenant (or their representatives) within 5 (five) business days thereafter and, in any event, within 15 (fifteen) calendar days from submittal of ***Tenant Plans***.
- D. If required, Tenant shall obtain, at its sole cost and expense, all licenses, permits, and approvals required by applicable law with respect to the Plans and ***Tenant's Work***, including, without limitation, approval from the Texas Department of Licensing and Regulation (the "TDLR") that the ***Tenant Plans*** and ***Tenant's Work*** satisfy the requirements of the Texas Elimination of Architectural Barriers Act (the "EAB"). Tenant shall, at its sole cost and expense, employ a TDLR-approved third-party inspector, reasonably acceptable to Landlord, to secure TDLR approval of:
- i. The ***Tenant Plans***, prior to commencement of ***Tenant's Work***.
 - ii. Compliance of ***Tenant's Work*** with the EAB, within thirty (30) calendar days after completion of ***Tenant's Work***.
 - iii. A final inspection (and approval) of ***Tenant's Work*** in the ***Leased Premises*** if required by the TDLR or other applicable governmental authority.

Exhibit C Section II. Landlord's Work

- A. Landlord shall only be obligated to complete the following work, at its sole cost and expense, and deliver the ***Leased Premises*** to Tenant on or before the ***Delivery Date***, as follows:
- i. Deliver ***Core & Shell Building*** as a cold, dark shell as it means per industry standard.
 - ii. **Plumbing**. Landlord to provide water service with shut-off valve at the back of the ***Leased Premises*** above the ceiling height.
- B. Except as otherwise set forth above, all other improvements to the ***Leased Premises*** shall be completed by Tenant at its sole cost and expense.



Exhibit C Section III. Delivery Date, Acceptance of Premises, and Construction Period. Tenant agrees to accept the *Leased Premises* and *Building* in its existing condition when delivered by Landlord in accordance with the provisions of Section 3.04 and to complete the construction of the *Leased Premises* within the *Construction Period* to final form, including all utility connections. The 'Delivery Date' shall mean the Effective Date of this Lease Agreement. Landlord and Tenant agree to execute the *Acceptance Letter* in the form attached hereto as Exhibit G concurrently with this *Lease Agreement* on the *Effective Date* which is the same date as the *Delivery Date*.

Exhibit C Section IV. Tenant's Work

- A. Tenant, as part of its *Tenant Obligations*, shall initiate the following prior to the start of any construction and/or the *Tenant's Work*:
- i. Provide a copy of the Insurance Certificate to Landlord via *Notice* as per the provisions of this *Lease* including, without limitation, the terms regarding insurance within ARTICLE III, ARTICLE XII, this Exhibit C, and Exhibit D.
 - ii. Provide all plans, specifications, and all other items per Exhibit C Section I above to Landlord via *Notice*.
 - iii. Obtain any and all approvals from Landlord per all terms and provisions of this *Lease Agreement*.
 - iv. Inform Landlord via *Notice* of date Tenant plans to start construction and/or *Tenant's Work*.
- B. *Tenant's Work* may include any and all improvements to the *Leased Premises* (approved in writing by Landlord), which may include, but not be limited, to the following:
- i. Demising wall per fire code and City of Tomball code for *Leased Premises*.
 - ii. All insulation and/or fire rated walls for exterior, demising, and interior walls as applicable per local codes.
 - iii. Painting of walls of *Leased Premises*.
 - iv. Floor Coverings.
 - v. Electrical:
 - a. Provision of Service must be in compliance with maximum amounts allowable per Landlord.
 - b. Meter from local provider.
 - c. Panel
 - d. Outlets.
 - e. Lighting.
 - f. HVAC and all other mechanical and plumbing equipment that utilizes electricity.
 - vi. Utilities:
 - a. Provision of all utility services within the *Leased Premises* (in accordance with ARTICLE X).
 - b. All service deposits shall be made at Tenant's Expense.
 - c. Tenant will pay all utility charges associated with the *Leased Premises* following the substantial completion thereof.
 - vii. Supply and install exit lights according to code if needed; Fire alarm and any other tenant specific requirements.
 - viii. Ceiling and/or ceiling system.
 - ix. All interior partitions, doors, and hardware.
 - x. All trade fixtures and displays per all provisions of the *Lease Agreement*.
 - xi. Restroom build-out including all fixtures and accessories governing authorities require.
 - xii. Signage in accordance with ARTICLE IX of the *Lease Agreement* and Exhibit C Section V.
 - xiii. Fire sprinkler system within the *Leased Premises* (if, and only if, required by codes) including sprinkler heads below the drop ceiling.
 - xiv. Mechanical (HVAC):
 - a. Tenant to provide, at minimum, ton system, w/ no larger than 5-ton units for air handling.
 - b. All ductwork, registers, returns, thermostat, and all other items necessary for a complete mechanical system.
 - c. Tenant to provide warranty for HVAC system for a period of no less than 1 year after the date of the system installation.
 - d. *Tenant must service HVAC and stay in compliance with Section 11.01 and Section 11.02 of the Lease Agreement.*
 - xv. All other work necessary to obtain permits, licenses and other items prior to Tenant's *Opening Date* that are not specifically listed in Exhibit C Section II.
 - xvi. Any and all other work, except as specifically mentioned otherwise in this Exhibit C.
- C. *Tenant must not penetrate roof without Landlord's written consent and under no circumstances shall Tenant or Tenant's contractor(s) place HVAC units or any other fan, appliance, vent hood, or any and all other equipment, fixtures, or items onto the roof without approval from Landlord or Landlord's designated representative (architect, engineer, etc.) in order to make sure all loads are in compliance with structural design.*
- D. **Insurance during Construction.** In addition to Tenant providing insurance as defined per Section 3.08 of the *Lease Agreement*, Tenant must provide proof of insurance for all agents of Tenant performing construction work such as Contractor(s) and all Subcontractors, vendors, employees, licensees, agents, suppliers, or invitees that will be on-site performing any and all work in association with the *Tenant's Work* whatsoever occurring upon or about the *Leased Premises* or the *Neighborhood Center*.
- E. **Safety.** Any and all agents of Tenant performing construction work (Contractor(s), Subcontractors, vendors, employees, licensees, agents, suppliers, or invitees) that will be on-site performing work in association with the *Tenant's Work* whatsoever occurring upon or about the *Leased Premises* or the *Neighborhood Center* must have a safety policy and strictly confirm to such safety policy, and they must comply with all specific safety requirements promulgated by the Owner and any federal, state or local law government authority, including without limitations, the requirements of the Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969 and all standards and regulations which have been and shall be promulgated by the agencies which administer such acts. Tenant shall have and exercise full responsibility for compliance hereunder by its agents, employees, workmen, materialmen, and subcontractors generally and in particular,



with respect to **Tenant's Work**, shall itself comply with said requirements, standards and regulations and require and be directly responsible for compliance therewith on the part of its said agents, employees, contractor(s), workmen, materialmen, and subcontractors, and shall directly receive, respond to, defend, and be responsible for all citations, assessments, fines, or penalties which may be incurred by reason of its failure or failure on the part of its agents, employees, contractor(s), workmen, materialmen or subcontractors to so comply without limiting other contractual safety requirements.

Exhibit C Section V. Signage

- A. With Landlord's approval, which cannot be unreasonably withheld, conditioned or delayed, Tenant shall be permitted to install standard signage and graphics upon the storefront of Tenant's **Leased Premises** (i.e. Door signage and Window signage) per requirements set forth in **ARTICLE IX** if, and only if it can be removed and in no manner adhered permanently to the storefront so as to cause damage to the storefront of Tenant's **Leased Premises**.
- B. All **Tenant Signage** shall be designed, approved, and installed in accordance with the provisions of **ARTICLE IX** and **Exhibit E**.

Exhibit C Section VI. Tenant Improvement Allowance

- A. As consideration for performing **Tenant's Work** and to help defray the costs of such improvements and provided that no **Tenant Event of Default** by Tenant then exists, (or other condition which with **Notice** or the passage of time, or both, may result in a **Tenant Event of Default** by Tenant) under this **Lease**, then **T.I. Allowance** will be paid within 10 (ten) business days of Tenant's **Opening Date**, only upon Tenant fully complying with **Section 3.09**, this **Exhibit C Section VI**, **Exhibit H**, and the following conditions: (i) **Exhibit H** being fully executed by both the Landlord and the Tenant; (ii) Provision to Landlord, by Tenant, with documented evidence of permitted plans from local governing authority; (iii) a Certificate of Occupancy; (iv) Tenant's Certificate of Assembly, if applicable; (v) Provision to Landlord, by Tenant of all the other documents, drawings, certificates, and other items listed per the above **Exhibit C Section I**; and (v) All lien releases, including a final release of lien, from all of Tenant's contractors, subcontractors, materialmen and suppliers. Failure to comply with these conditions set forth in this **Exhibit C Section VI**, **Exhibit C Section VI**, or failure of Tenant to diligently and continuously prosecute the same to completion of obtaining aforementioned certificates shall be a **Tenant Event of Default** under the **Lease**.
- B. Tenant hereby grants Landlord the right to offset, in addition to right granted per **Section 20.02D** and **Section 23.18** of this **Lease Agreement**, any of the **T.I. Allowance** against any amount Tenant is obligated to pay to Landlord under this **Lease** but failed to do so or such amount that is otherwise due and owing to Landlord at the time Tenant may otherwise be entitled to the **T.I. Allowance**.
- C. Notwithstanding anything to the contrary set forth in this **Lease Agreement**, in no event shall Tenant be entitled to any portion of the **T.I. Allowance** during the pendency of any of the following:
- i. Landlord has received notice of any unpaid claims relating to any portion of the **Tenant's Work**.
 - ii. There is an un-bonded lien filed against the **Leased Premises** or **Neighborhood Center** by reason of work done, or claimed to have been done, or materials supplied or specifically fabricated, claimed to have been supplied or specifically fabricated, to or for Tenant, the **Leased Premises**, or, in reference to the Tenant or **Tenant's Work**, the Landlord or **Neighborhood Center** and such lien remains outstanding.
 - iii. A **Tenant Event of Default** by Tenant exists.
 - iv. Tenant has not commenced construction or achieved an **Opening Date** as per **Exhibit C Section VII.A**, **Exhibit C Section VII.B**, or **Section 3.07**.

Exhibit C Section VII. General

- A. **Failure to Commence Construction**. If Tenant has not commenced construction of **Tenant's Work** in accordance with the requirements of the **Lease** and this **Exhibit C** within 60 (sixty) calendar days following the **Delivery Date** (or the **Effective Date** of this **Lease**), Landlord shall have the right to terminate this **Lease** at any time thereafter, upon which termination neither **Party** shall have any claim against the other under the **Lease** irrespective of what costs or expenses, if any, either **Party** shall have incurred in connection with the **Lease**.
- B. **Failure to Complete Construction**. Per **Section 3.07** if Tenant fails to complete construction of **Leased Premises** in a timely manner, then, Landlord shall have the right to select, among the other options defined per **Section 3.07**, to terminate this **Lease** at any time thereafter, upon which termination neither **Party** shall have any claim against the other under the **Lease** irrespective of what costs or expenses, if any, either **Party** shall have incurred in connection with the **Lease**.
- C. Landlord shall have the right to approve the general contractor and principal subcontractors to be engaged in the performance of **Tenant's Work**, which approval shall not be unreasonably withheld, conditioned or delayed.
- D. All of **Tenant's Work** shall be performed expeditiously, in a good and workmanlike manner and in conformity with sound construction practices consistent with projects of similar scope and quality to the **Neighborhood Center**. Tenant shall not, nor shall Tenant permit its contractors, subcontractors, or suppliers to:
- i. Create any **Disturbance**, at Landlord's sole discretion as specifically defined in **Section 4.03C**, or interfere with Landlord or any other tenant in any manner of the **Neighborhood Center** in the performance of **Tenant's Work**. Specifically, as it pertains to other tenants in the **Neighborhood Center**, upon any notification Landlord receives by any tenant of the **Neighborhood Center** pertaining the cleanliness, sounds, disturbances, odors, or for any reason whatsoever that interferes with other tenants' business or activities within their respective leased premises that in the exclusive judgment of Landlord would constitute a public or private nuisance or would disturb or endanger other tenants, then Landlord shall contact Tenant, and Tenant shall cease any and all **Tenant's Work** until Landlord and Tenant mutually agree to a solution for the **Disturbance**, which such solution shall not be unreasonably withheld, conditioned, or delayed by either **Party**.



E. Notice of Non-Liability. NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT UPON CREDIT, AND THAT NO MECHANICS' OR OTHER LIEN FOR ANY SUCH LABOR OR MATERIALS SHALL ATTACH TO OR AFFECT THE ESTATE OR INTEREST OF LANDLORD IN AND TO THE *Leased Premises* OR THE *Neighborhood Center*. WHENEVER AND AS OFTEN AS ANY LIEN ARISING OUT OF OR IN CONNECTION WITH ANY WORK PERFORMED, MATERIALS FURNISHED OR *Obligations* INCURRED BY OR ON BEHALF OF TENANT SHALL HAVE BEEN FILED AGAINST THE *Leased Premises*, OR THE *Neighborhood Center*, OR IF ANY CONDITIONAL BILL OF SALE SHALL HAVE BEEN FILED FOR OR AFFECTING ANY MATERIALS, MACHINERY OR FIXTURES USED IN THE CONSTRUCTION, REPAIR OR OPERATION THEREOF, OR ANNEXED THERETO BY TENANT, TENANT SHALL IMMEDIATELY TAKE ANY ACTION REQUIRED BY LANDLORD (INCLUDING BONDING AROUND, POSTING OTHER SECURITY OR PAYMENT IN FULL) AS WILL REMOVE OR SATISFY THE LIEN OR CONDITIONAL BILL OF SALE WITHIN TWENTY (20) CALENDAR DAYS OF LANDLORD'S *Notice* REQUEST THEREFOR.



Exhibit D Tenant's Insurance

Exhibit D Section I.

COVERAGES: *Tenant to review/confirm required insurance with its provider.*

INSURANCE	COVERAGES	Other Requirements
WORKER'S COMPENSATION	<ul style="list-style-type: none"> Statutory Limits (if state has no statutory limit, \$1,000,000) 	1. No "alternative forms of coverage will be permitted
EMPLOYER'S LIABILITY	<ul style="list-style-type: none"> \$1,000,000 each accident for bodily injury by accident \$1,000,000 each employee for bodily injury by disease 	1. Waiver of subrogation in favor of Landlord with respect to Worker's Compensation and Employer's Liability
COMMERCIAL GENERAL LIABILITY (Occurrence Basis)	<ul style="list-style-type: none"> \$1,000,000 per occurrence \$2,000,000 general aggregate \$2,000,000 product-completed operations aggregate \$1,000,000 personal and advertising injury limit \$50,000 damage to Leased Premises to you limit \$5,000 medical expense limit 	<ol style="list-style-type: none"> Most current edition of ISO form CG 00 01 12 04, or equivalent; Separation of insured language will not be modified; Designated Location(s) General Aggregate Limit endorsement; The contractual liability exclusion with respect to personal injury will be deleted and the definition of "insured contract" must be modified to delete the sole negligence of Landlord; Defense will be provided as an additional benefit and not included within the limit of liability; Landlord and Required Additional Insureds must be added as an additional insured, and waiver of subrogation in favor of Landlord Parties.
BUSINESS AUTOMOBILE LIABILITY (Occurrence Basis)	<ul style="list-style-type: none"> \$2,000,000 combined single limit 	<ol style="list-style-type: none"> Most current edition of ISO form CA 00 01 10 01 or equivalent; Includes liability arising out of operation of owned, hired, and non-owned vehicles; Landlord and Required Additional Insureds must be added as an additional insured.
UMBRELLA LIABILITY INSURANCE (Occurrence Basis)	<ul style="list-style-type: none"> \$5,000,000 	<ol style="list-style-type: none"> Written on an umbrella basis in excess over and no less broad than the liability coverage referenced above; Inception and expiration dates will be the same as commercial general liability insurance; Must contain follow form language; Aggregate limit per location endorsement; Coverage must "drop down" for exhausted aggregate limits under commercial general liability insurance; Landlord and Required Additional Insureds must be added as an additional insured.
CAUSES OF LOSS-SPECIAL FORM (formerly "all risk") PROPERTY INSURANCE	<ul style="list-style-type: none"> 100% replacement cost, as modified below, of all of Tenant's furniture, fixtures and equipment and any non-Building Standard leasehold improvements 	<ol style="list-style-type: none"> Most current edition of ISO form CP 10 30, or equivalent; Name Landlord as "insured as its interest may appear"; Includes, but not limited to, sprinkler leakage, ordinance and law, sewer back-up, flood, earthquake, windstorm, and collapse coverage; Contain only standard printed exclusions; Waiver of subrogation in favor of Landlord Parties; Ordinance or law coverage endorsement; Equipment floater to cover Tenant's equipment.
BUSINESS INCOME and EXTRA EXPENSE COVERAGE	<ul style="list-style-type: none"> No less than 6 months of income and ongoing expenses 	<ol style="list-style-type: none"> Waiver of subrogation in favor of Landlord Parties; Endorsement to cover losses arising from the interruption of utilities outside the Leased Premises.
LIQUOR LIABILITY INSURANCE	<ul style="list-style-type: none"> \$1,000,000 per occurrence; \$2,000,000 annual aggregate 	1. Insurance required only if applicable;



Exhibit D Section II. Landlord Parties. Landlord, Landlord's mortgagees, Landlord's managing agent, Landlord's advisor, and their respective officers, directors, agents and employees shall be named as additional insureds (the **Required Additional Insureds**) as indicated in above required insurance table. Landlord shall notify Tenant in writing of any subsequent changes thereto; the current list of **Required Additional Insureds** (also known as, and for purposes of all provisions within this **Lease Agreement** and all attachments hereto, shall have the same meaning and shall be interchangeable with '**Landlord Parties**')

Landlord

Dirt Yard Outpost 4, LLC
5373 W Alabama St Ste 455
Houston, TX 77056

Mortgagee

Simmons Bank
P.O. Box 9067
Pine Bluff, AR 71611-9067

Contractor

Concho Real Estate Development, LLC
5373 W Alabama St Ste 455
Houston, TX 77056

Exhibit D Section III. General Insurance Requirements.

A. Policies. All policies must:

- i. Be issued by carriers having a Best's Rating of A or better, and a Best's Financial Size Category of Class VIII, or better, and/or Standard & Poor Insurance Solvency Review A-, or better, and admitted to engage in the business of insurance in the State in which the **Neighborhood Center** is located.
- ii. Be endorsed to be primary with the policies of all **Landlord Parties** and **Required Additional Insureds** being excess, secondary, and noncontributing.
- iii. Be endorsed to provide a waiver of subrogation in favor of the **Landlord Parties** and **Required Additional Insureds**.
- iv. With respect to all liability policies except workers' compensation/employer's liability, be endorsed to include the **Landlord Parties** and **Required Additional Insureds** as "additional insureds" (the additional insured status under the commercial general liability policy will be provided on ISO form CG 20 11 01 96).
- v. Contain a provision for 30 (thirty) calendar days' prior written notice by insurance carrier to Landlord required for cancellation, nonrenewal, or substantial modification.

B. Limits, Deductibles and Retentions.

- i. Except as expressly provided above, no deductible or self-insured retention in excess of \$25,000 without the prior written approval of Landlord.
- ii. No policy may include an endorsement restricting, limiting or excluding coverage in any manner without the prior written approval of Landlord.

C. Forms.

- i. If the forms of policies, endorsements, certificates, or evidence of insurance required by this **Exhibit D** are superseded or discontinued, Landlord will have the right to require other equivalent forms.
- ii. Any policy or endorsement form other than a form specified in this **Exhibit D** must be approved in advance by Landlord.

D. Evidence of Insurance.

- i. ACORD Form 25 (or equivalent) Certificates of Liability Insurance for liability coverages as shown in this **Exhibit D**.
- ii. ACORD Form 28 (or equivalent) Evidence of Property Insurance for property coverages as shown in this **Exhibit D**;
- iii. Evidence to be delivered to Landlord prior to commencing operations within the **Leased Premises** and at least 15 (fifteen) calendar days prior to the expiration of the current policies.
- iv. ACORD Forms must:
 - a. Show the **Landlord Parties** in **Exhibit D Section II** above as certificate holders (with Landlord's mailing address).
 - b. Show Tenant as the "Named Insured".
 - c. Show the insurance companies producing each coverage and the policy number and policy date of each coverage.
 - d. Name the producer of the certificate (with the correct address and telephone number) and have the signature of the authorized representative of the producer.
 - e. Specify the additional insured status (on ACORD Form 45) and/or waivers of subrogation.
 - f. State the amounts of all deductibles and self-insured retentions.
 - g. Show the primary status and aggregate limit per project where required.
 - h. Be accompanied by copies of all required additional insurance endorsements.
 - i. The phrases "endeavor to" and "but failure to mail such notice will impose no obligation or liability of any kind upon Company, its agents or representatives" must be deleted from the cancellation provision of the ACORD 25 certificate and following express provision added: "This is to certify that the policies of insurance described herein have been issued to the Insured for whom this certificate is executed and are in force at this time. In the event of cancellation, non-renewal, or material reduction in coverage affecting the certificate holder, 30 (thirty) days prior written notice will be given to the certificate holder by certified mail or registered mail, return receipt required".

E. Copies of Policies. If requested in writing by Landlord, Tenant will provide to Landlord a certified copy of any or all insurance policies or endorsements required by this **Lease Agreement**.



Exhibit D Section IV. ACORD Form 25 (Example – or Equivalent can be used).

CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)																													
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.																															
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).																															
PRODUCER	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td colspan="2">CONTACT NAME:</td></tr><tr><td>PHONE (A/C, No, Ext):</td><td>FAX (A/C, No):</td></tr><tr><td colspan="2">E-MAIL ADDRESS:</td></tr><tr><td colspan="2">ADDRESS:</td></tr><tr><td colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td><td style="text-align: center;">NAIC #</td></tr><tr><td colspan="3">INSURER A:</td></tr><tr><td colspan="3">INSURER B:</td></tr><tr><td colspan="3">INSURER C:</td></tr><tr><td colspan="3">INSURER D:</td></tr><tr><td colspan="3">INSURER E:</td></tr><tr><td colspan="3">INSURER F:</td></tr></table>		CONTACT NAME:		PHONE (A/C, No, Ext):	FAX (A/C, No):	E-MAIL ADDRESS:		ADDRESS:		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:			INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURED																															
COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:																															
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.																															
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																								
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$																								
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$																								
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$																								
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A					<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 60%;">WC STATU-TORY LIMITS</td><td style="width: 40%;">OTH-ER</td></tr><tr><td colspan="2">E.L. EACH ACCIDENT \$</td></tr><tr><td colspan="2">E.L. DISEASE - EA EMPLOYEE \$</td></tr><tr><td colspan="2">E.L. DISEASE - POLICY LIMIT \$</td></tr></table>	WC STATU-TORY LIMITS	OTH-ER	E.L. EACH ACCIDENT \$		E.L. DISEASE - EA EMPLOYEE \$		E.L. DISEASE - POLICY LIMIT \$																	
WC STATU-TORY LIMITS	OTH-ER																														
E.L. EACH ACCIDENT \$																															
E.L. DISEASE - EA EMPLOYEE \$																															
E.L. DISEASE - POLICY LIMIT \$																															
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)																															
CERTIFICATE HOLDER				CANCELLATION																											
				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.																											
				AUTHORIZED REPRESENTATIVE																											
ACORD 25 (2010/05)				© 1988-2010 ACORD CORPORATION. All rights reserved. The ACORD name and logo are registered marks of ACORD																											



Exhibit D Section V. ACORD Form 28 (Example – or Equivalent can be used).

ACORD®		EVIDENCE OF COMMERCIAL PROPERTY INSURANCE		DATE (MM/DD/YYYY)
<p>THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.</p>				
PRODUCER NAME, CONTACT PERSON AND ADDRESS		PHONE (A/C, No, Ext):	COMPANY NAME AND ADDRESS	
FAX (A/C, No):		E-MAIL ADDRESS:	NAIC NO:	
CODE:		SUB CODE:	IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
AGENCY CUSTOMER ID #:		POLICY TYPE		
NAMED INSURED AND ADDRESS		LOAN NUMBER		POLICY NUMBER
ADDITIONAL NAMED INSURED(S)		EFFECTIVE DATE	EXPIRATION DATE	CONTINUED UNTIL TERMINATED IF CHECKED
		THIS REPLACES PRIOR EVIDENCE DATED:		
<p>PROPERTY INFORMATION (Use REMARKS on page 2, if more space is required) <input type="checkbox"/> BUILDING OR <input type="checkbox"/> BUSINESS PERSONAL PROPERTY</p>				
LOCATION / DESCRIPTION				
<p>THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</p>				
COVERAGE INFORMATION				
PERILS INSURED		BASIC	BROAD	SPECIAL
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$		DED:		
		YES	NO	N/A
<input type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> RENTAL VALUE				If YES, LIMIT: Actual Loss Sustained; # of months:
BLANKET COVERAGE				If YES, indicate value(s) reported on property identified above: \$
TERRORISM COVERAGE				Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?				
IS DOMESTIC TERRORISM EXCLUDED?				
LIMITED FUNGUS COVERAGE				If YES, LIMIT: DED:
FUNGUS EXCLUSION (If "YES", specify organization's form used)				
REPLACEMENT COST				
AGREED VALUE				
COINSURANCE				If YES, %
EQUIPMENT BREAKDOWN (If Applicable)				If YES, LIMIT: DED:
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg				If YES, LIMIT: DED:
- Demolition Costs				If YES, LIMIT: DED:
- Incr. Cost of Construction				If YES, LIMIT: DED:
EARTH MOVEMENT (If Applicable)				If YES, LIMIT: DED:
FLOOD (If Applicable)				If YES, LIMIT: DED:
WIND / HAIL INCL <input type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions:				If YES, LIMIT: DED:
NAMED STORM INCL <input type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions:				If YES, LIMIT: DED:
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS				
CANCELLATION				
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.				
ADDITIONAL INTEREST				
<input type="checkbox"/> MORTGAGEE		<input type="checkbox"/> CONTRACT OF SALE		LENDER SERVICING AGENT NAME AND ADDRESS
<input type="checkbox"/> LENDERS LOSS PAYABLE				
NAME AND ADDRESS		AUTHORIZED REPRESENTATIVE		

ACORD 28 (2014/01)

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Exhibit E Rules and Regulations

Tenant agrees to the establishment of, and shall abide by and enforce upon its agents, servants, employees, invitees, customers and vendors (in addition to the **Lease** terms, covenants, and conditions), the following '**Rules and Regulations**':

Exhibit E.01 All trash, refuse and waste materials shall be regularly removed from the **Leased Premises** before the hours the **Neighborhood Center** opens and, until removal, shall be stored: (a) in adequate containers, which containers shall be located so as not to be visible to the general public shopping in the **Neighborhood Center**; (b) so as not to constitute any health or fire hazard or nuisance to any occupant; and (c) if any part of Tenant's business shall consist of the preparation and/or sale of food, including without limitation the operation of a restaurant, snack shop or food market, Tenant shall provide suitable garbage containers at Tenant's expense for the disposal of its food scraps, refuse, and **Trash**. No burning of **Trash**, refuse or waste materials shall occur. If Landlord shall provide or designate a garbage container for picking up **Trash**, refuse or waste materials, Tenant shall use same at Tenant's cost unless made available to all tenants, in which event same shall be billed to Tenant in the manner established by Landlord in its reasonable discretion. Tenant shall pay the cost of removal of any of Tenant's trash, refuse and waste materials, and shall maintain all common loading areas in a clean manner satisfactory to Landlord.

Exhibit E.02 No person shall use any parking area for any purpose other than the parking of motor vehicles without prior written approval of Landlord. All motor vehicles shall be parked in an orderly manner within the painted lines defining the individual parking places. Except as otherwise provided in the **Lease**, limitations may be imposed as to the length of time for parking use during peak periods of business activity, and such limitations may be made in specified areas. No employee of any business in the **Neighborhood Center** shall use any area for motor vehicle parking except the area or areas specifically designated for employee parking. No employer shall designate any area for employee parking except such area or areas as are designated in writing by Landlord. No valet parking shall be permitted in the **Neighborhood Center** without obtaining Landlord's prior written consent. Where such consent may be allowed by Landlord, Landlord may condition its consent on any factors Landlord deems relevant, including, without limitation: (a) imposition of controls prohibiting the blocking off (or coning) of spaces; (b) designation of the appropriate times and location for valet service; (c) maintaining of appropriate signage; and (d) approval of the valet service provider. In addition, Landlord reserves the right if a Tenant desires valet parking and if Landlord desires to permit same, for Landlord to contract directly with the valet service, with all costs associated therewith to be paid by Tenant as **Additional Rent**.

Exhibit E.03 No sign, placard, picture, name, advertisement or notice visible from the exterior of any tenant's leased premises shall be inscribed, painted affixed or otherwise displayed by any tenant on any part of the **Building** without the prior written consent of Landlord. Landlord may adopt and furnish to each tenant general guidelines relating to signs inside the **Building** on the sales floor. Each tenant agrees to conform to such guidelines but may request approval of Landlord for modifications. All approved signs or lettering on doors shall be printed, painted, affixed, or inscribed at the expense of the tenant by a person approved by Landlord. Material visible from outside the **Building** will not be permitted.

Exhibit E.04 Unless ancillary to a restaurant or other food service use specifically authorized in the lease of a particular tenant, no cooking shall be done or permitted by any tenant on their leased premises, except that the preparation of coffee, tea, hot chocolate and similar items by tenants and their employees shall be permitted.

Exhibit E.05 Landlord will furnish Tenant with 2 (two) keys free of charge. Landlord may assess a reasonable charge for any additional keys. Tenant shall not have any keys made nor shall it alter any lock or install a new or additional lock or bolt on any door without the prior written consent of Landlord. If Landlord shall give such consent, Tenant shall in each instance furnish Landlord with a key for any such lock or bolt. Tenant, upon termination of its tenancy, shall deliver to Landlord all keys to doors for the **Leased Premises** and the **Neighborhood Center** which are in its possession.

Exhibit E.06 No tenant shall use or keep in their leased premises or the **Building** any kerosene, gasoline or inflammable or combustible fluid or material or use any method of heating or air conditioning other than that installed in connection with **Tenant's Work**. No tenant shall use, keep or permit to be used or kept any foreign or noxious gas or substance in their leased premises, or permit or suffer their leased premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the **Building** by reasons of noise, odors, or vibrations, or interfere in any way with other tenants or those having business therein.

Exhibit E.07 The toilet rooms, toilets, urinals, wash bowls and other apparatuses shall not be used for any purpose other than that for which they were constructed; no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage, or damage resulting from the violation of this rule shall be borne by the tenant who, or whose employees or invitees shall have caused it.

Exhibit E.08 No tenant shall use any advertising media which may be heard outside of its leased premises and no tenant shall place or permit the placement of any radio or television antenna, loudspeaker, sound amplifier, phonograph, searchlight, flashing light or other device of any nature on the roof or outside of the boundaries of its leased premises (except for such tenant's approved identification sign or signs) or at any place where the same may be seen outside of its leased premises.

Exhibit E.09 Landlord shall have the right, exercisable without **Notice** and without liability to any tenant, to change the name and street address of the **Building**.

Exhibit E.10 No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decorations shall be attached to, hung or placed in, or used in connection with any window of the **Building** without the prior written consent of Landlord.



Exhibit E.11 Each tenant shall see that the doors of its leased premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before such tenant or its employees leave its leased premises, so as to prevent waste or damage, and for any **Tenant Event of Default** or carelessness in this regard such tenant shall make good all injuries sustained by other tenants or occupants of the **Building** or Landlord.

Exhibit E.12 No tenant shall use any portion of the **Common Area** for any purpose when the leased premises of such tenant are not open for business or conducting work in preparation therefor, and then only for such uses expressly stated in the **Lease**. No tenant shall use any portion of the sidewalk adjoining its leased premises for the sale of goods, and no tenant shall conduct a “going out of business” sale or advertise that it sells products or services at “discount”, “cut price”, or “cut rate” prices.

Exhibit E.13 No birds, fish, or animals (except seeing eye dogs) shall be brought into or kept in, on or about any tenant’s leased premises. No portion of any leased premises shall at any time be used or occupied as sleeping or lodging quarters or for any immoral or illegal purposes or for any purpose which would tend to injure the reputation of the **Building** or impair the value of the **Building**.

Exhibit E.14 The **Common Area** must not be used to solicit business or distribute, or cause to be distributed in any portion of the **Building** any handbills, promotional materials or other advertising, and no tenant shall conduct or permit any other activities in the **Building** that might constitute a nuisance. No vehicle shall be parked as a “billboard” vehicle in the **Common Area**.

Exhibit E.15 Landlord shall not be responsible for lost or stolen personal property, money or jewelry from any leased premises, public areas, or **Common Area** regardless of whether such loss occurs when the area is locked against entry or not.

Exhibit E.16 Each tenant will refer to Landlord for Landlord’s approval for all contractors, contractor representatives, and installation technicians rendering any service to such tenant, before performance of any contractual service. Such approval action by Landlord shall not render Landlord responsible for any work performed for such tenant. This provision shall apply to all work performed in the **Building**, including the installation of telephones, computer wiring, cabling, electrical devices, attachments and installations of any nature. Each tenant shall be solely responsible for complying with applicable laws pursuant to which such work shall be performed.

Exhibit E.17 At no time shall any tenant permit or shall such tenant’s agents, employees, contractors, guests, or invitees smoke in any **Common Area** of the **Building**, unless such **Common Area** has been declared a designated smoking area by Landlord. In no instance shall smoking be permitted within 15 (fifteen) feet of any building.

Exhibit E.18 Except for small parcel deliveries, each tenant shall use its best efforts to cause all trucks servicing its leased premises to load and unload at such hours, in the areas and through the entrances as may be designated by Landlord. Tractor trailers which must be unhooked or parked must use steel plates under dolly wheels to prevent damage to the paving surface. In addition, wheel blocking must be available for use. Tractor trailers are to be removed from the loading areas after unloading. No parking or storing of such trailers or any type of trailers shall be permitted in the **Neighborhood Center**. Forklift trucks, tow trucks, or any other powered machines for handling freight shall be used only in such manner and areas in the **Neighborhood Center** as may be approved in writing by Landlord. Delivery trucks and heavy equipment shall be permitted only upon such areas having heavy-duty paving as may be designated by Landlord.

Exhibit E.19 Tenants are responsible for their own mail (USPS, FedEx, UPS, and all other delivery companies). If any tenant wishes to have separate mailbox outside of their respective leased premises, Landlord will designate an area for tenant’s use.

Exhibit E.20 Landlord may waive any one or more of these **Rules and Regulations** for the benefit of any particular tenant or tenants, but no such waiver by Landlord shall be construed as a waiver of such **Rules and Regulations** against any or all of the tenants of the **Building**.

Exhibit E.21 These **Rules and Regulations** are in addition to and shall not be construed to in any way modify, alter or amend, in whole or in part, the terms and conditions of any leased premises in the **Building**.

Exhibit E.22 Landlord reserves the right to make such other and reasonable **Rules and Regulations** as in its judgment may from time to time be needed for the safety, care, and cleanliness of the **Neighborhood Center**, and for the preservation of good order therein, so long as they do not modify the terms of this **Lease Agreement**.



Exhibit F Unconditional Guaranty of Lease

THIS UNCONDITIONAL GUARANTY OF LEASE (the '**Guaranty**') is given by **Brennan Layne Cross, jointly and severally liable with Lori Dee Brazzil-Cross**, an individual (hereinafter referred to as '**Guarantor**', whether one or more) to **Dirt Yard Outpost 4, LLC**, (hereinafter called the '**Landlord**').

WITNESSETH:

In order to induce the Landlord to demise to **Innersculpt Studio LLC** (hereinafter with its successors and assigns referred to as the '**Tenant**'), certain premises in the **Neighborhood Center** which have been constructed on the **Land** situated at **27104 State Hwy 249, Tomball, TX 77375 Bldg A Ste 400** (the '**Leased Premises**'), and being described in and pursuant to a certain **Lease Agreement** dated _____ (which **Lease** together with any and all modifications, amendments and **Extension Option Term(s)** is hereinafter referred to as the '**Lease**'), the undersigned **Guarantor** agrees as follows:

- A. **Guarantor** does hereby unconditionally and absolutely guarantee to Landlord the full, prompt and complete payment by Tenant of the **Rent**, including **Base Rent**, **Additional Rent** and all other sums which may be payable by Tenant under the **Lease** (collectively, the '**Indebtedness**') and the full, prompt and complete performance by Tenant of all and singular the terms, covenants, conditions and provisions in the **Lease** required to be performed by the Tenant (collectively, and combined with all defined terms in **Section 2.01** of the **Lease**, the '**Tenant Obligations**') without regard to any forbearance, delay, neglect or failure on the part of Landlord in enforcing same.
- B. **Guarantor** does hereby waive notice of acceptance hereof and any and all other notices which by law or under the terms and provisions of the **Lease** are required to be given to Tenant, and also waive any demand for or **Notice of Tenant Event of Default** of the payment of **Rent** and other sums which may be payable by Tenant under the **Lease** and the performance of all and singular the terms, covenants, conditions and provisions in the **Lease** required to be performed by Tenant; and **Guarantor** does further expressly hereby waive any legal **Obligations**, duty or necessity for Landlord to proceed first against Tenant or to exhaust any remedy Landlord may have against Tenant, it being agreed that in the **Tenant Event of Default** of the **Indebtedness** or the failure to perform any of the **Obligations** in any respect by Tenant under the **Lease**, Landlord may proceed and have right of action solely against **Guarantor** (or any of them) or Tenant or jointly against **Guarantor** (or any of them) and Tenant.
- C. In the event of any bankruptcy, reorganization, winding up or similar proceedings with respect to Tenant, no limitation of Tenant's liability under the **Lease** which may now or hereafter be imposed by any federal, state or other statute, law or regulation applicable to such proceedings, shall in any way limit the **Obligations** of **Guarantor** hereunder, which **Obligations** is co-extensive with Tenant's liability as set forth in the **Lease** without regard to any such limitation.
- D. **Guarantor** shall not be entitled to make any defense against any claim asserted by Landlord in any suit or action instituted by Landlord to enforce this **Guaranty** or the **Lease** or to be excused from any liability hereunder which Tenant could not make or invoke, and **Guarantor** hereby expressly waives any defense in law or in equity which is not or would not be available to Tenant, it being the intent hereof that the liability of **Guarantor** hereunder is primary and unconditional.
- E. In the event it shall be asserted that **Tenant Obligations** are void or voidable due to illegal or unauthorized acts by Tenant in the execution of the **Lease**, **Guarantor** shall nevertheless be liable hereunder to the same extent as **Guarantor** would have been if the **Tenant Obligations** of Tenant had been enforceable against Tenant.
- F. In the event suit or action is brought upon and in connection with the enforcement of this **Guaranty**, **Guarantor** shall pay reasonable attorneys' fees and all court costs incurred by Landlord.
- G. This **Guaranty** shall remain in full force and effect as to any renewal, **Extension Option Term(s)**, modification, and/or amendment and regardless of any subsequent termination of the **Lease** (for any amounts due and owing and/or accruing under the **Lease** as of the date of termination) and as to any assigns of Tenant's interest under the **Lease**, and despite any subletting of all or any portion of the **Leased Premises**.
- H. This **Guaranty** shall be binding upon the heirs, legal representatives, successors and assigns of **Guarantor**, and shall inure to the benefit of the heirs, legal representatives, successors and assigns of Landlord. Landlord's interest under this **Guaranty** may be assigned by it by way of security or otherwise.
- I. This **Guaranty** shall remain in full force and effect regardless of whether Tenant continues to be owned in whole or in part by **Guarantor**.
- J. **Guarantor** hereby agrees that this contract is performable in **Harris County**, Texas and waives the right to be sued elsewhere.
- K. All capitalized terms not specifically defined herein shall have the same meaning as set forth in the **Lease**.
- L. Expressly conditioned upon: (a) Tenant fully complying with all terms, conditions and covenants in this **Lease** from the **Effective Date** through the fifth (5th) anniversary of the **Commencement Date**, and (b) there is no **Tenant Event of Default** under the **Lease** from the **Effective Date** through the fifth (5th) anniversary of the **Commencement Date**, then and only then shall this **Guaranty** be fully extinguished and thereafter terminate by its own terms as of the first (1st) day of the sixth (6th) **Lease Year**.

[The remainder of this page is left intentionally blank; Signature Page to follow]



EXECUTED this the _____ day of _____, 20__:

GUARANTOR:

By: _____
Signature

Printed
Name: Brennan Layne Cross
S.S.# 627-54-9624

Address: 971 Reverend B J Lewis Dr
Houston TX 77088

By: _____
Signature

Printed
Name: Lori Dee Brazzil-Cross
S.S.# _____

Note: S.S.#: means Social Security Number

Address: 199 Bailly Ln
Livingston TX 77351

STATE OF TEXAS _____,
COUNTY OF: _____,

This instrument was acknowledged before me on:

(date), by: **Brennan Layne Cross, jointly and
severally liable with Lori Dee
Brazzil-Cross**

My Commission Expires: _____ (date)

Notary Public, State of Texas (Signature)

Printed Name: _____



Exhibit G Acceptance Letter

THIS CONFIRMATION OF COMMENCEMENT DATE AGREEMENT (the '*Acceptance Letter*') is made and entered into this day of _____ ('*Acceptance Letter Date*'), by and between **Dirt Yard Outpost 4, LLC** (hereinafter called '*Landlord*') and **Innersculpt Studio LLC** (hereinafter called '*Tenant*').

WITNESSETH:

WHEREAS, Landlord and Tenant have entered into that certain *Lease* dated _____ (hereinafter called the '*Lease*') concerning the certain premises at **27104 State Hwy 249, Tomball, TX 77375 Bldg A Ste 400** (the '*Leased Premises*').

WHEREAS, Landlord and Tenant wish to set forth their agreements as to the delivery, construction of *Leased Premises*, commencement, and expiration of the *Term* of the *Lease*.

NOW, THEREFORE, in consideration of the leasing of the *Leased Premises* from Landlord to Tenant as described in the *Lease*, the covenants set forth therein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows:

A. Delivery Date.

- i. The *Leased Premises* has been delivered to the Tenant per the *Lease* on: _____ (the '*Delivery Date*').
As of the date hereof, Tenant is in full and complete possession of the *Leased Premises*, which contains approximately **1,800 Rentable Square Feet**.
- ii. As of the date hereof, Tenant hereby accepts possession of the *Leased Premises* "*AS IS*", "*WHERE IS*", "*WITH ALL FAULTS*", and "*NO WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED*" and waives any requirement on the part of Landlord to provide any improvements to the *Leased Premises*, or repair or maintain the *Leased Premises*, the *Neighborhood Center* or any part thereof, except as specifically set forth in Exhibit C or otherwise in the *Lease*.
- iii. All *Obligations* and conditions under the *Lease* to be performed to date by Landlord prior to the date hereof have been satisfied, free of any defenses, offsets and set-offs, except as follows:

B. Commencement Date.

- i. Tenant hereby confirms the *Construction Period* agreed to of **120 (one hundred twenty)** calendar days by and between the Landlord and Tenant in the *Lease Agreement*. Therefore,
- ii. The *Lease Term* and *Tenant Obligations* to pay *Rent* per thereunder shall commence on _____, which is hereby established as the '*Commencement Date*' when said term is used in the *Lease*.

C. Termination Date. The *Primary Term* of the *Lease* shall expire on _____, which is hereby established as the '*Termination Date*' when said term is used in the *Lease*.

D. Except as otherwise set forth in this *Acceptance Letter*, all duties or *Obligations* of an inducement nature required of Landlord under the *Lease* have been fully and completely fulfilled and performed.

E. The *Lease* is currently in full force and effect and, to the current actual knowledge of Tenant, there is no existing default on the part of Landlord thereunder.

IN WITNESS WHEREOF, the *Parties* hereto have executed this *Acceptance Letter* Agreement as of the first above *Acceptance Letter Date*.

Innersculpt Studio LLC
971 Reverend B J Lewis Dr
Houston TX 77088

Dirt Yard Outpost 4, LLC
5373 W Alabama St Ste 455
Houston, TX 77056

By: _____
Printed name: **Brennan Cross**
Title: _____
Date: _____

By: _____
Printed name: **Robert Piper**
Title: **Owner / Manager**
Date: _____

By: _____
Printed name: **Lori Cross**
Title: _____
Date: _____



Exhibit H Tenant Improvement Allowance – Tenant Statement

THIS TENANT STATEMENT (the ‘*T.I. Statement*’) is made and entered into this day of _____, by and between **Dirt Yard Outpost 4, LLC** (hereinafter called ‘*Landlord*’) and **Innersculpt Studio LLC** (hereinafter called ‘*Tenant*’).

WHEREAS, Landlord and Tenant have entered into that certain *Lease* dated _____ (hereinafter called the ‘*Lease*’) concerning the certain premises at **27104 State Hwy 249, Tomball, TX 77375 Bldg A Ste 400** (the ‘*Leased Premises*’).

WHEREAS, Tenant agrees that per Section 3.04 of the *Lease Agreement*, Tenant acknowledges the *T.I. Allowance* shall be applied upon funding to the cost of the *Tenant’s Work*, and Tenant hereby represents and warrants to Landlord that the *T.I. Allowance* shall be used exclusively for permanent improvements (excluding Tenant’s soft costs such as architectural, design and engineering fees, inventory, merchandise, moveable trade fixtures, furnishing, equipment, signage and other personal property) to the *Leased Premises* which shall become the property of Landlord immediately upon the installation thereof and which shall not be removed from the *Leased Premises* by Tenant upon the expiration or earlier termination of this *Lease*, unless requested to be removed by Landlord prior to the installation thereof.

WHEREAS, Tenant agrees *T.I. Allowance* will only be funded upon execution of this *T.I. Statement* per Section 3.09 of the *Lease Agreement*, the following items have been received, and Landlord acknowledges such receipt and is in agreement with Tenant’s complying of each condition per each initialed item, and Tenant agrees to be in compliance per each initialed item:

A. Landlord has received a copy of Tenant’s final construction plans listed in <u>Exhibit C Section I.A</u> of the <i>Lease Agreement</i>. _____ Landlord Initials	D. Landlord has received a copy of both the TAS Plan Review and final inspection (and approval) of <i>Tenant’s Work</i> in the <i>Leased Premises</i> to the extent required by the TDLR per <u>Exhibit C</u>. _____ Landlord Initials
B. Landlord agrees <i>Tenant’s Work</i> is substantially completed and in compliance with Tenant’s final construction plans and to Landlord’s reasonable satisfaction. Tenant agrees all applicable governmental codes and regulations are substantially completed. _____ Landlord Initials _____ Tenant Initials	E. Landlord has received Tenant’s Certificate of Insurance complete with all <i>Required Additional Insureds</i> as per <u>Exhibit D</u> of the <i>Lease Agreement</i>. _____ Landlord Initials
C. Landlord has received a copy of the final Certificate of Occupancy for the <i>Permitted Use</i> from Harris County or other governmental authority along with copies of any licenses, permits, and/or approvals (if required by applicable law) with respect to <i>Tenant’s Work</i>. _____ Landlord Initials	F. Tenant and Tenant’s Contractor for <i>Tenant’s Work</i> have executed an “All Bills Paid – Construction Cost Affidavit” (An example can be provided by Landlord upon request) _____ Landlord Initials
	G. All <i>Tenant Signage</i> per Section 9.01 of the <i>Lease Agreement</i> is installed. _____ Landlord Initials

NOW THEREFORE, Landlord and Tenant agree that per Section 3.09 of the *Lease Agreement*, Landlord hereby agrees to furnish the Tenant with the *T.I. Allowance* of: **\$54,000.00 (Fifty-four thousand and no/100 dollars)** less amounts expended by Landlord for direct construction of *Tenant’s Work* performed by Landlord, if any, and Tenant agrees to be in full compliance of all terms of the *Lease Agreement* by acceptance of the *T.I. Allowance*.

IN WITNESS WHEREOF, the *Parties* hereto have executed this *T.I. Statement* as of first above date:

Innersculpt Studio LLC
971 Reverend B J Lewis Dr
Houston TX 77088

Dirt Yard Outpost 4, LLC
5373 W Alabama St Ste 455
Houston, TX 77056

By: _____
Printed name: _____
Title: _____
Date: _____

By: _____
Printed name: **Robert Piper**
Title: **Owner / Manager**
Date: _____



Exhibit I Electronic Media Release Form

Electronic Media Transfer Terms and Conditions

WHEREAS, **Dirt Yard Outpost 4, LLC** (hereinafter called '**Landlord**') and **Innersculpt Studio LLC** (hereinafter called '**Tenant**') have entered into that certain **Lease** dated _____ (hereinafter called the '**Lease**') concerning the certain premises at 27104 State Hwy 249, Tomball, TX 77375 Bldg A Ste 400 (the '**Leased Premises**') located within the **Neighborhood Center** known as **Gateway Plaza Tomball**, and as designed by **Diamond Developpment Group** (hereinafter called '**Architect**' and as more particularly defined below).

Diamond Developpment Group
700 Gemini Ave Ste 260
ArchitectAddress2

Architect Project Number: 2252.01
Architect Email: Contact@diamonddeveloppmentgroup.com
Architect Phone: (832) 224-6400
Project Name: Gateway Plaza Tomball

WHEREAS, Tenant agrees per Section 3.01 of the **Lease Agreement**, under no circumstances does the Landlord verify any electronic media dimensions and will not be held accountable for Tenant's design based on anything other than field verification by Tenant and their respective architects, engineers, and/or contractors.

NOW THEREFORE, Tenant has requested that **Architect** provide AutoCAD and/or Electronic Media files for Tenant's use and convenience. Such files will be provided, subject to the **Tenant Person of Contact** executing this Form (hereinafter called '**Recipient**') acceptance of the terms and conditions (the '**Form**') below:

- A. Any electronic media transmitted to the **Recipient** shall remain the property of the **Architect** and are subject to its copyright. The files are to be used solely to facilitate the construction and construction documentation for the above referenced project and are not to be copied or reused for other projects.
- B. Any electronic media transmitted to the **Recipient** are non-certified recordings of printed documents prepared by or for **Architect** and are not a part of the Contract Documents or in any way related to the **Lease Agreement** by and between the **Landlord** and **Tenant**. These files are provided only for the convenience of the **Recipient**, **Tenant**, and others providing services to the **Recipient** or **Tenant**. In accordance with the contract between the **Landlord** and **Architect**, the official Contract Documents are the PDF files issued during the solicitation period, as modified by any subsequent contract amendment or modification.
- C. Recipient accepts electronic files for drawings and specifications "as-is". In case of any differences between these files, the official Contract Documents, and Tenant's measurements within the field of the actual layout and dimensions of the **Leased Premises** (the '**Field Dimensions**'), the **Recipient** must rely solely on the **Field Dimensions**.
- D. Any use of the information obtained or derived from these electronic files will be at the **Recipient**'s sole risk and without liability, risk or legal exposure to **Architect**. Additionally, the **Recipient** agrees to indemnify, defend and hold harmless the following parties to the fullest extent permitted by law from all claims, damages, losses, expenses, penalties, and liabilities of any kind, including attorneys' fees, arising out of or resulting from the use of the Electronic Media Documents for any purpose: (i) the **Architect**, its Employees and its Consultants; and (ii) Landlord, its agents, its contractors, its subcontractors, its consultants, and its employees.
- E. **Architect**, its Employees and its Consultants believes that no licensing or copyright fees are due to others on account of the transfer of the CAD Files or other electronic media, but to the extent any are, the **Recipient** shall be responsible for all fees and hold **Architect**, its Employees and its Consultants harmless from such claims.
- F. The attached files, or files about to be transmitted to **Recipient**, may be considered sensitive information and should be transmitted only to those with a specific use in support of the above referenced Project. The **Recipient** and all subsequent users agree to limit file distribution accordingly and to provide a copy of this **Form** to all subsequent users.

ON BEHALF OF THE **TENANT**, AND AS THE **RECIPIENT**, I CERTIFY THAT I HAVE READ AND ACCEPT THE ABOVE TERMS AND CONDITIONS (the **FORM**):

Innersculpt Studio LLC

Signed: _____
Printed Name of Recipient: _____
Title: _____
Date of Execution: _____



Exhibit J Tenant Estoppel Certificate

The undersigned is the Tenant under the Lease (defined below) between **Dirt Yard Outpost 4, LLC**, as Landlord, and the undersigned, as Tenant, for the **Leased Premises** in the **Neighborhood Center** located at **27104 State Hwy 249, Tomball, TX 77375**, and known as **Gateway Plaza Tomball**, and hereby certifies to Landlord, Landlord's lender(s) and their respective successors and assigns as follows:

1. The **Lease** consists of the original **Lease Agreement** dated effective as of _____ (**Effective Date**), by and between Tenant and Landlord and the following amendments or modifications thereto:
 - "NONE"

The documents listed above are herein collectively referred to as the **Lease** and represent the entire agreement between the **Parties** with respect to the **Leased Premises**. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the **Lease**.

2. The Lease is in full force and effect and has not been modified, supplemented, or amended in any way except as provided in Section 1 above.
3. The **Lease Term** commenced on _____, and expires, excluding any renewal options, on _____, and Tenant has no option to purchase all or any part of the **Leased Premises** or the **Neighborhood Center** or, except as expressly set forth in the **Lease**, any option to terminate or cancel the **Lease**. Tenant has accepted the **Leased Premises**, which is comprised of approximately **1,800 Rentable Square Feet** of space. Tenant is in occupancy of the **Leased Premises** and is paying **Rent** under the **Lease**.
4. Tenant has **0 (zero) additional concurrent terms(s) of 0 (zero) months** renewal option(s). There are no options to expand or rights of first refusal either to lease or purchase the **Leased Premises** or any other portion of the **Building**.
5. There is no **Security Deposit**.
6. Tenant currently occupies the **Leased Premises** described in the **Lease** and Tenant has not transferred, assigned, or sublet any portion of the **Leased Premises** nor entered into any license or concession agreements with respect thereto.
7. Tenant is required to pay **Tenant's Share** (being **10.2215%**) of **Common Area Maintenance Costs**, insurance costs and Taxes. The current monthly installment of **Base Rent** is _____ and the current monthly installment of estimated **Additional Rent** is _____. No **Rent** has been paid more than 30 (thirty) calendar days in advance. There are no concessions, bonuses, free rental periods, rebates, advance **Rent** payments, or other matters affecting the **Base Rent** and **Additional Rent** payable by Tenant under the **Lease**.
8. All conditions of the **Lease** to be performed by Landlord necessary to the enforceability of the **Lease** have been satisfied and Landlord is not in default thereunder. In addition, Tenant has not delivered any **Notice** to Landlord regarding a default by Landlord thereunder.
9. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord, and no event has occurred and no condition exists, which, with the giving of **Notice** or the passage of time, or both, will constitute a default under the **Lease**.
10. If Tenant is a corporation, partnership or other business entity, each individual executing this Tenant Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the state in which the **Leased Premises** are located and that Tenant has full right and authority to execute and deliver this Tenant Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.
11. There are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.
12. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the **Leased Premises**, the undersigned has not used or stored any hazardous substances in the **Leased Premises**.



13. All repair and tenant improvement work to be performed by Landlord under the **Lease** has been completed in accordance with the **Lease** and has been accepted by the undersigned and all reimbursements and **T.I. Allowances** due to the undersigned under the **Lease** in connection with any tenant improvement work have been paid in full.

14. All construction work in the **Leased Premises** has been completed and accepted by Tenant and Landlord has paid in full all **T.I. Allowances** due and payable to Tenant, except as follows (if left blank, deemed none):

Executed as of: _____

TENANT:

Innerculpt Studio LLC

By: _____

Name: _____

Title: _____

Brennan Layne Cross, jointly and severally liable with Lori Dee Brazzil-Cross, (whether one or more), herein referred to as an individual (the **'Guarantor'**), joins herein for the purpose of confirming and certifying to Buyer, Buyer's lender(s) and their respective successors and assigns the following: that certain instrument entitled Unconditional Guaranty of **Lease** (the **'Guaranty'**) and delivered in connection with the **Lease** remains in full force and effect; that there are no defenses, claims, counterclaims, or offsets existing against **Guarantor's** and or **Tenant Obligations** under the **Guaranty**; and the **Guaranty** has not been amended, released, or waived, in whole or in part.

GUARANTOR:

Brennan Layne Cross

Lori Dee Brazzil-Cross