

**LEASE AGREEMENT— 7/1/15**

This lease (the "Lease") is entered into this 1<sup>st</sup> day of July, 2015 by and between SWAY, LLC, an Illinois Limited Liability Company located at 149 S. Fourth Street, Aurora IL 60505 [hereinafter "Landlord"], and Gillerson's Office, Inc., an IL Corporation whose address is 805 BUTTERNUT DR NORTH AURORA IL 60542 and its owners Mathew "Matt" Gillie, residing at 217 N. Lincolnway, Apt. 233, North Aurora, IL 60542 (home address), and Daniel "Dan" J. Emerson, residing at 805 Butternut Dr., North Aurora, IL 60542 (home Address) [Gillerson's + Matt + Dan, collectively, hereinafter "Tenant"].

**WITNESSETH:**

Landlord hereby leases to Tenant, and Tenant hereby takes from Landlord, a portion of the building located at 31-33 West New York Street, at New York Street Level, Aurora, IL 60506 (hereinafter the "Property") approximately 2,646 Square Feet (as per Aurora Township Assessor's Office), which is commonly known as 31-33 West New York Street, Aurora, IL 60506 (hereafter the "Leased Premises" or "Premises").

To have and to hold the same for a term of FIVE (5) years & TWO (2) months (hereinafter "Lease Term"), beginning on July 1, 2015 and ending on August 31, 2020, the last day of the fifth Lease Year, as hereinafter defined in Section 1.B. The Lease Term shall include any renewal or extension(s) hereof by the exercise of any option(s) to extend or otherwise. All provisions of the Lease shall be effective as of the date of execution of this Lease. This Lease is upon the following terms, conditions and covenants:

**1. RENTAL RATES:**

A. Tenant agrees to pay to Landlord without any prior demand therefore and without any deduction or set-off whatsoever (except as provided in this Lease), a total rent, not including any renewal, extensions or options, of no less than \$170,400.00, payable in advance on the first day of each calendar month on the following schedule of fixed minimum rents:

- @ \$2,520.00 payable in advance on the first day of each calendar month of the 1<sup>st</sup> Lease Year
- @ \$2,820.00 on the first day of each calendar month of the 2<sup>nd</sup> and 3<sup>rd</sup> Lease Years, and
- @ \$3,020.00 on the first day of each calendar month of the 4<sup>th</sup> and 5<sup>th</sup> Lease Years, totaling

\$170,400.00 over the Lease Term, not including any renewal, extensions or options,  
@ except the first month's and last month's fixed minimum rent shall be paid immediately upon execution of this Lease (i.e. \$5,540.00).

B. The term "Lease Year" shall mean each twelve (12) consecutive calendar month periods of the Lease Term, the first such period commencing on September 1, 2015. July & August of 2015 are hereby "rent free."

**2. LATE CHARGES:**

In the event Landlord does not receive from Tenant any installment of rent or additional rent due hereunder by the 1<sup>st</sup> of each month, regardless of whether or not it is a "business" day, Tenant shall be liable for a late charge, payable no later than before the end of the fifth (5<sup>th</sup>) day of each calendar month, in an amount equal to the following schedule: \$131.00 1<sup>st</sup> Lease Year; \$144.00 2<sup>nd</sup> & 3<sup>rd</sup> Lease Years; \$155.00 4<sup>th</sup> & 5<sup>th</sup> Lease Years. If delinquent rent, plus the late charge, plus any payment(s) due of any kind are not then paid and received by the end of the 15<sup>th</sup> day of a calendar month, an additional late charge of \$100.00 will be due. If delinquent rent, plus

the late charges, plus any payment(s) due of any kind are not then paid by the 25<sup>th</sup> day of a calendar month, an additional late fee of \$100.00 will be due.

**3. SECURITY DEPOSIT:**

Tenant has deposited with Landlord, at the signing of this Lease, the sum of \$5,000.00 as Security Deposit on the understanding: (a) that such deposit or any portion thereof may be applied to the curing of any Default by Tenant that may exist, without prejudice to any other remedy or remedies which the Landlord may have on account thereof, and upon such application Tenant shall deposit with Landlord on demand the amount so applied which shall be added to the Security Deposit so the same will be restored to its original amount; (b) that should the Lease Premises be conveyed to Landlord, the Security Deposit or any portion thereof may be turned over to the Landlord's grantee, and if the same be turned over as aforesaid, Tenant agrees to look to such grantee for such application or return; (c) that if Tenant shall faithfully perform all of the covenants and agreements in this Lease contained on the part of the Tenant to be performed, and if Tenant is not in Default hereunder beyond any applicable cure period, the sum deposited or the part of portion thereof not previously applied, shall be returned to Tenant no later than forty-five (45) days after the expiration of the Lease Term or any renewal, extension or option thereof, provided Tenant has vacated the Leased Premises and surrendered possession thereof to Landlord. Landlord's obligation under this provision shall survive the expiration or termination of this Lease.

**4. ADDITIONAL RENT**

A. Definition: Pro Rata Share

Notwithstanding any terms to the contrary contained hereinafter, Tenant's Pro Rata Share of any charge being apportioned between tenants shall be equal to the product obtained by multiplying said charge by a fraction, the numerator of which shall be the total number of square feet of the Leased Premises and the denominator of which shall be the total number of square feet of the tenantable spaces in the Property whether or not leased.

B. Real Estate Taxes

(1) *Definition: Real Estate Taxes.* For the purposes of this Section, the term "Real Estate Taxes" shall include all real estate taxes and assessments, both general and special, and any other government impositions and charges of every kind and nature whatsoever which may be assessed against the land and buildings, the rents thereon, or the owners thereof, extraordinary as well as ordinary, foreseen and unforeseen, and each and every installment thereof which shall or may, during the Lease Term, be levied, assessed, imposed, become due and payable, or liens upon, or arising in connection with, the use, occupancy or possession of or grow due or payable out of or for, the Property or any part thereof, and all costs incurred by Landlord in contesting or negotiating the same with any governmental authority.

(2) *Tenant's Share of Real Estate Taxes.* Beginning July 1, 2015, Tenant agrees to pay the Landlord monthly, in advance of the first calendar day of each month, as Additional Rent, together with the fixed minimum rent and any other Additional Rent due hereunder, one-twelfth (1/12<sup>th</sup>) of the amount of the Landlord's reasonable estimate of the tenant's Pro Rata Share of Real Estate Taxes for the calendar year in which such payment becomes due. In Kane County, IL, each calendar year the "Total" Property Tax amount is typically not known until late April or early May of the following calendar year. As such, typically, Landlord shall notify Tenant each year in the month of May, in writing, by Email, Fax or Letter (hereinafter the "Tax Notice"), of the actual "new" monthly amount due and payable as the Tenant's Pro Rata Share of Real Estate Taxes to be paid monthly

M.G. [Signature] DSE

starting June 1<sup>st</sup> of each year, or any portion thereof, provided that Landlord's failure to notify Tenant shall not effect Tenant's obligation to pay its Pro Rata Share of Real Estate Taxes as set forth herein. In the event that the Tenant has paid an amount greater than its Pro Rata Share of Real Estate Taxes for that calendar year, said excess shall be applied towards Tenant's obligation for Real Estate Taxes for the next calendar year, or at Landlord's election, to any other amount due under the terms of this Lease. If such excess is attributable to the final Lease Year of the Lease Term, such excess shall be refunded to the Tenant within forty-five (45) days of the Landlord's determination of the actual Real Estate Taxes for the applicable year. In the event the Tenant shall have paid to Landlord an amount less than the Tenant's actual Pro Rata Share of Real Estate Taxes for the calendar year, Tenant shall remit such deficiency within ten (10) days of the Landlord's delivery of the Tax Notice. If the Lease Term shall begin or end other than on the first or last day of a calendar year, these charges shall be billed and adjusted on the basis of such fraction of a calendar year. Expiration of the Lease Term shall not effect Tenant's obligation to pay its Pro Rata Share of Real Estate Taxes with respect to any deficiency in payments for the final calendar year, or portion thereof, of the Lease Term.

The Tenant's prorated share is 33.3% of the yearly Kane County tax bill (SEE Exhibit D). The current monthly payments towards Real Estate Taxes are \$273.00/month [CALCULATION: (\$9,828.16 x .333) / 12 mos. = \$273.00], and are due and payable beginning July 1, 2015, except that the first month's payment of \$273.00 is due at the signing of this Lease. **Tenant acknowledges that Tenant's monthly premium will be adjusted by Landlord upon receipt of any new tax bill.**

Notwithstanding any governmental process or assessment change, a new payment level will begin on June 1, 2016, and each June 1<sup>st</sup> thereafter during the Lease Term. At Lease termination, a final calculation shall be done to determine if any deficiency or excess exists, subject to the aforementioned process, and Tenant's obligation to pay any taxes shall survive the termination of the expiration of this lease.

(3) *Landlord's Right to Contest.* The Landlord reserves the right to cause the Real Estate Taxes to be paid under protest and to retain attorneys of its choice (hereinafter referred to as "Tax Counsel") to contest the amount of the Real Estate Taxes imposed. Tax Counsel shall be retained on either a flat fee or on a contingency basis, whereby Tax Counsel is paid a flat fee or a percentage of the tax savings achieved as a result of such representation. The tenant agrees to pay Tenant's Pro Rata Share of Tax Counsel's fees.

C. Insurance Premiums

During the Lease Term or any renewal, extension or option thereof, Tenant shall also pay to Landlord, as additional rent, Tenant's Pro Rata Share of insurance premiums incurred by Landlord during the Lease Term for fire, rental and general liability insurance (with all its endorsements). Landlord shall have the option of requiring Tenant to pay its Pro Rata Share of insurance premiums upon invoicing or in equal monthly installments on the first day of every calendar month along with Tenant's fixed minimum rent, and any additional rent due hereunder. That amount is an additional \$111.00/month [CALCULATION: (\$4,000/yr x .333) / 12 mos. = \$111.00], beginning July 1, 2015, except that the first Additional Rent for Insurance Premiums is due at the signing of this Lease in the amount of \$111.00.

Typically, the insurance premium is expected to change each June 1<sup>st</sup>, so Landlord will typically notify Tenant of the "new" Additional Rent payment amount by the month of May each year, notwithstanding a change in the insurance carrier at a time other than the June policy anniversary date, and notwithstanding a mid-year change in the carrier's risk assessment which may produce a mid-year change to the insurance premium.

D. Common Areas and Facilities

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At the signing of this Lease, Landlord is not aware of any areas that are deemed "Common Areas" that would incur an Additional Rent at this time. However, it's possible Landlord shall make available, from time to time, such areas and facilities of common benefit to the Tenants and occupants of the Property, as Landlord shall deem appropriate, or as a governing body may deem necessary. The "Common Areas," as herein referred to, could consist of parking areas, streets, sidewalks, malls, driveways, loading platforms, canopies, shelter areas, service drives, hallways, elevators, stairways, outdoor deck, outdoor Pinney Street plaza, if any, that service more than one tenant and all other facilities available for common use, all as they may from time to time exist and may be available to all the tenants in the Property, their employees, agents, customers, should the City or any other governing body deem it necessary for the Landlord to have a duty to maintain and thereby incur an expense. Tenant shall also have access to and from the Heating, Ventilation & Air Conditioning (HVAC) room/closet in the Lower Level to service and maintain the units that supply heat and A/C to the Leased Premises (as stipulated in subsection 8 of this Lease).

(1) *Use of Common Area.* Tenant and its permitted concessionaires, officers, employees, agents, customers and invitees shall have the nonexclusive right, in common with Landlord and all others to whom Landlord has or may hereafter grant rights, to use the Common Areas as designated from time to time by the Landlord, subject to such reasonable written, non-discriminatory regulations as Landlord may from time to time impose, including the designation of specific areas in which vehicles owned by Tenant, its permitted concessionaires, officers, employees and agents, must not be parked, and the further right of the Landlord to designate specific areas for the exclusive use of one or more tenants of the Property provided the designation does not interfere with Tenant's use of the Leased Premises. Landlord's current rules and regulations may be attached hereto as an Exhibit to this Lease, or be created in the future based on the actions of a governmental body, and Landlord may determine access to the outdoor Deck and Pinney Street Plaza, if any, to be shared by multiple parties. Landlord reserves the right to alter or add to any rules and regulations it may impose at its sole discretion at anytime.

An addition to or alteration of the rules and obligations shall be in writing, non-discriminatory and shall not limit Tenant's rights under this Lease. Tenant agrees to abide by such regulations and to use its best efforts to cause its permitted concessionaires, officers, employees, agents, customers and invitees to conform thereto. In the event of a conflict between the rules and regulations and the terms of this Lease, the terms of this Lease shall control. Landlord may at any time close temporarily any part of the Common Area to make repairs or changes, to prevent the acquisition of public rights in such area or to discourage non-customer parking, and may do such other acts in and to the Common Areas as in its sole judgment may be desirable to improve the convenience thereof. Tenant shall upon request furnish to Landlord the license numbers and descriptions of the vehicles operated by Tenant and its permitted concessionaires, officers and employees. Tenant and its permitted concessionaires, officers and employees shall not park in the Property. Tenant authorizes Landlord to cause any such car to be towed from the Property, and Tenant shall reimburse Landlord for the cost thereof upon demand, and otherwise indemnify and hold Landlord harmless with respect thereto. Tenant shall not at any time interfere with the rights of Landlord or other tenants, and their permitted concessionaires, officers, employees, agents, customers and invitees, to use any part of the parking areas and other parts of the Common Areas. Failure of Tenant to abide by Landlord's rules and regulations shall be considered to be a default by Tenant hereunder and shall entitle Landlord to exercise any of its rights and/or remedies herein set forth.

(2) *Charge for Common Area and Facilities.* As used in this Lease, the term "Common Area Costs" means all items of cost and expense expended (including appropriate reasonable reserves) in operating, managing, equipping, protecting, policing, electrifying, lighting, repairing, replacing and maintaining the Common Areas (as herein defined) and the Property and their facilities, including but not limited to, all costs and expenses for or pertaining to (a) such maintenance and repair as shall be required in Landlord's reasonable judgment to preserve

M.G. [Signature] DSE

the utility and good condition on the Common Areas; (b) cleaning and removal of rubbish, dirt, debris, snow and ice; (c) planting, replanting and replacing flowers and landscaping; (d) water, drainage and sewerage; (e) supplies; (f) utility services and lighting, including the cost of light bulbs and electric power; (g) parking lot striping; (h) maintenance, repair and replacement of any pylon sign for the Property, and (i) such costs as Landlord may determine are required for the proper maintenance, repair, protection and replacement of the Common Areas and their facilities.

(3) *Tenant's Share of Common Area Costs.* Beginning July 1, 2015, Tenant agrees to pay Landlord as Additional Rent, monthly in advance of the first calendar day of each month, together with the fixed minimum rent and any Additional Rent due hereunder, one-third (33.3%) of the amount of Landlord's reasonable estimates of the Tenant's Pro Rata Share of Common Area Costs of the calendar year in which such payment becomes due.

Within ninety (90) days after the end of each calendar year, Landlord shall notify Tenant in writing, by Email, Fax or Letter, of its actual expenses for Common Area Costs for such calendar year, and Tenant's Pro Rata Share thereof, provided that Landlord's failure to notify Tenant within said time period shall not effect Tenant's obligation to pay its Pro Rata Share of Common Area Costs as set forth herein. In the event that Tenant shall have paid to Landlord an amount less than Tenant's actual Pro Rata Share of Common Area costs for such calendar year, Tenant shall remit to Landlord such deficiency within ten (10) days after receipt of Landlord's invoice. In the event the Tenant has paid an amount greater than its Pro Rata Share of Common Area Costs, said excess shall be applied toward Tenant's obligation for Common Area Costs the next calendar year, or at Landlord's election to any other amount due under the terms of this Lease. If such excess is attributable to the final Lease Year of the Lease Term, such excess shall be refunded to Tenant with thirty (30) days of Landlord's determination of the actual Common Area Costs for the applicable year. If the Lease Term shall begin or end other than the first or last day of a calendar year, these charges shall be billed and adjusted on the basis of such fraction of a calendar year. Expiration of the Lease Term shall not effect Tenant's obligation to pay its Pro Rata Share of Common Area Costs with respect to any deficiency in the payment for the final calendar year or portion thereof of the Lease Term. Similarly, it shall not effect Landlord's obligation to refund any overpayment.

E. Tenant's Rights Under Additional Rents

Tenant shall have the right to audit and inspect Landlord's books and records for Common Area Costs, Real Estate Taxes and Insurance Premiums upon prior written notice request. Landlord shall make such books and records and any reasonably appropriate supporting documentation available for Tenant's review. If Tenant's audit or inspection reveals an error in calculating either Common Area Costs, Real Estate Taxes or Insurance Premiums, then an adjustment shall be made by appropriate payment or refund within fifteen (15) days after such audit or inspection results shall be delivered to Landlord in writing. Landlord agrees to credit to Tenant's obligation to pay rent under the Lease, upon written notice with supporting documentation, the reasonable cost of its audit or inspection if any error of three percent (3%) or more was discovered as a consequence requiring adjustment, as herein provided. Landlord shall not be permitted to recover more than the actual out-of-pocket cost incurred by Landlord for Common Area, Maintenance Costs, Real Estate Taxes and Insurance Premiums. Landlord represents and warrants that there will be no duplications of any Common Area Costs, Real Estate Taxes and Insurance Premiums. Common Area Costs shall not include the depreciation of any buildings or equipment, leasing commissions, legal expenses related to the making or enforcement of other leases, mortgages, ground rents or increases thereof, Landlord's executive salaries, the cost of constructing, replacing or improving any part of the Property or the Common Areas or any other cost properly chargeable to the capital account under generally accepted accounting principles.

**5. CONSTRUCTION OF PREMISES:**

Tenant at its sole cost and expense, shall complete all decorating of Tenant's interior improvements subject to plans and mutual written approval by the Landlord and the Tenant for any project that costs \$250 or more. This includes, but is not limited to, flooring, ceilings, walls, internal and external lighting, signs inside and outside, Grease Trap (as required by Fox Metro Water Reclamation or any other government agency or City), Fixtures, Hoods & Exhausts, Heating & Air Conditioning, duct-work, all sinks, drains, existing or new PVC plumping and kitchen expansion, walk-in cooler, stairways, and elevator, if any. Tenant shall not allow any mechanics liens to be placed on the Property. If Tenant receives a notice that a contractor, subcontractor or materialman intends to place a lien on the Property (or does in fact place a lien on the Property), then Tenant agrees to notify Landlord within 48 hours. Within 10 days, Tenant shall pay for said lien and obtain a release of said lien and record said Release, or Landlord may, but shall not be obligated to, pay for said lien and charge Tenant all amounts including attorney's fees and recording charges associated with said payments.

**6. USE OF PREMISES:**

The Leased Premises shall be used and occupied only for the purpose of:

**Restaurant & Tavern**

**7. COMPLIANCE WITH LAW:**

Tenant, at its sole cost and expense, shall comply with all governmental laws, ordinances, and regulations applicable to the use of the Leased Premises, and, at its sole cost and expense, shall promptly comply with all governmental orders and directives for the correction, prevention, and abatement of nuisances in or upon, or connected with the Leased Premises. Landlord, at its sole cost and expense, shall comply with all governmental laws, ordinances, and regulations applicable to the Property (excluding Tenant's specific use of the Leased Premises), and, at its sole cost and expense, shall promptly comply with all governmental orders and directives for the correction, prevention, and abatement of nuisances in or upon, or connected with the Property.

**8. MAINTENANCE:**

A. Tenant shall, at its sole cost and expense and risk, maintain all interior parts of the Leased Premises in good repair and condition, including but not limited to all repairs to Kitchen & Bar Equipment & Refrigeration; furnishings and fixtures; dishware, silverware and cooking pots, pans & utensils; drain clogs; leaky faucets, handles or pipes; frozen pipes; HVAC and Exhaust filters; all PVC pipes serving the Property (including those in the ceiling of the Lower Level and those relating to the current & future grease trap); all plated glass and windows; all interior and exterior doors and their locks & handles & keys and glass, if any; floor tiles; electrical outlets, their wiring & covers; all flooring; all bathroom sinks, toilets and urinal; all internal or external lighting and ceiling fans; all storage shelves and attached wire racks; and any and all other items related to the daily function of Tenant's restaurant business. Tenant shall also remove snow and debris from the deck behind and public sidewalk areas in front of Leased Premises, if City has not done so to Tenant's satisfaction. Tenant, at Tenant's expense, shall also be responsible for the replacement of HVAC components including the entire HVAC unit(s) supplying the

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Leased Premises, if necessary. Tenant shall change no lock without written approval by Landlord, and in such case, Tenant must supply a key(s) to Landlord within 1 hour of new lock installation.

B. Tenant shall, throughout the Lease Term, take good care of the Leased Premises and keep it free from waste and nuisance. In addition, the Grease Trap shall be professionally cleaned/emptied as required and stipulated by Fox Metro Water Reclamation District, but at a minimum of every six months. Exhaust Hoods shall be professionally inspected and cleaned, including their fire suppression systems, as required and stipulated by any government agency and by any Insurance company, but at a minimum of every six months. Copies of invoices as proof of grease trap cleaning and exhaust hood cleaning and inspection shall be provided to Landlord via U.S. Mail in the following month's Rent payment envelope, or by FAX or SCANNED Email, but in no case any later than 30 days after the service was performed.

C. In the event the Leased Premises are not maintained as provided herein, the Landlord shall have the right (but not the obligation) to cause repairs or corrections to be made and any reasonable costs, including overhead, therefore shall be payable by Tenant, at Landlord's discretion, to either the vendor/service company performing the work, or to the Landlord as additional rent on the next day fixed minimum rent is due hereunder which is at least five days after Landlord has delivered written notice of the cost of the work that had been completed, but in no case shall such day for payment be later than the last day of the Lease Term. This includes, but is not limited to, **WINDOW WASHING** as needed, and **HVAC PROACTIVE SERVICING** at least twice per year, in October and May, **DOOR LOCK/HANDLE** issues, and any **WATER LEAKS** from faucets, handles, piping or otherwise.

## 9. FIXTURES & EQUIPMENT

Landlord owns, and Tenant shall have use of, the equipment, fixtures and furnishings on **Exhibit B**, subject to subsection 8.A. above. At termination, by lapse of time, default or otherwise, Tenant shall deliver the Leased Premises to Landlord, including all Exhibit B items and attached fixtures (such as, but not limited to, exhaust hoods; all sinks; all equipment connected to a gas line; all fixtures attached to a water line; the mop sink; the bar structure itself; the built-in wooden square shelves; all attached wire racks and free-standing shelving units; et al.) clean and neat and in good repair and functional condition (damage by fire, tornado or other such casualty accepted). Should any item be damaged, break or no longer function, Tenant must replace, at its cost, all Landlord-owned items with equivalent or better items. "Used" equipment is acceptable as replacement, but only after prior written, Emailed, mailed or Faxed, notification to Landlord, and not prior to Landlord's written, Emailed, mailed or Faxed approval. At the election of Landlord, the "old" item being replaced either remains the property of Landlord, or, Landlord may direct Tenant to remove and dispose of it appropriately. The "new" item (i.e. or new "used" item) will then become the property of Landlord, subject to adding to and updating Exhibit B.

Any fixtures added by bolting, screwing, wiring or otherwise attaching to Property shall become the property of Landlord, such as, but not limited to, exhaust hoods; lighting; sign poles; awnings; et al., and at Landlord's election shall either remain on the Property or be removed from premises by Tenant at Tenant's sole cost.

**Exhibit C**, to be provided by Tenant prior to signing of Lease, is a list of items at this time that the Tenant currently owns and may replace or remove at its discretion and/or upon termination of this Lease. Exhibit C must be updated at Tenant's sole responsibility if or when it adds any new items to the Leased Premises, within 30 days of adding any new items. Any Exhibit C items not removed by Tenant within five (5) days following the end of the Lease Term, or sooner termination of this Lease for any cause, shall become ~~the property~~ of Landlord at such time.

M.G.

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**10. SIGNS/AWNINGS**

Tenant shall have the right, subject to Landlord's reasonable written approval, to erect signs and/or awnings, at Tenant's expense, on the exterior walls of Tenant's portion of the building, securely attached to and parallel to said walls, subject to applicable laws, approvals of applicable government authorities, and deed restrictions. Landlord's approval will not be unreasonably withheld, conditioned or delayed. Tenant shall obtain, at its sole cost and expense, all permits required for erection of its signs. Tenant shall not erect any signs other than customary trade signs identifying its business, and shall not erect any signs on the roof of the building. At Landlord's election, the pole and/or attachment mechanism of any sign will either remain or Tenant shall remove all such attachment mechanisms and signs at the termination of this Lease, and shall repair any damage and close any holes caused by such removal. NOTE: The City of Aurora requires the submittal of a "sign plan" before erecting any kind of sign.

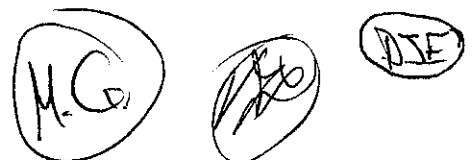
**11. INSURANCE POLICY**

A. Tenant agrees it will at all times during the Lease Term carry and maintain, for the mutual benefit of the Landlord and Tenant, general public liability insurance with an insurance company acceptable to Landlord against claims for personal injury, death, or property damage, occurring in, on or about the Leased Premises or premises adjacent to the leased Premises, such insurance to afford protection to the limit of no less than Two Million Dollars (\$2,000,000.00) in respect to any one accident. Tenant shall also carry Plate Glass Insurance or self insure for such casualty. And Tenant shall also carry Workers' Compensation Insurance whenever Tenant has one or more employees. Tenant agrees to get a quote from Dave Gruhke Agency, 314 N. Lake Street, Aurora, IL 60506 630-896-6603; FAX: 630-896-1758 [dgruhke@farmersagent.com](mailto:dgruhke@farmersagent.com)

Tenant shall furnish Landlord with a duplicate certificate or certificates of its liability and plate glass insurance policy or policies and shall from time to time, whenever required, satisfy Landlord that such policy or policies is, or are, in full force and effect. All insurance policies which Tenant is required to maintain shall name Landlord and the owner and, their beneficiaries, officers, directors, shareholders, Managers and Members, the agents of Landlord and the owner and their agents' beneficiaries, officers, directors, shareholders, Managers and Members as Additional Insured , and landlord shall be given certificates of all insurance.

B. In addition to any additional rent Tenant is to pay for Landlord's maintenance of insurance, Tenant shall pay Landlord, upon demand, as additional rent, an amount equal to the increase in the premiums of Landlord's fire, malicious mischief, vandalism, and extended coverage insurance covering the Property which is directly attributable to occupancy of the Leased Premises by Tenant including the use specified herein. If Tenant installs any electrical equipment that overloads the lines in the Leased Premises, Tenant shall, at its own expense, make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction.

C. Before selling any alcoholic beverages on the Leased Premises, Tenant shall procure at its own expense, and deliver a copy thereof to Landlord, a Liquor Liability Dram Shop policy or policies in an amount satisfactory to Landlord with a company or companies acceptable to landlord, insuring the Landlord against any liability arising from the sale of alcoholic beverages.

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D. Landlord shall pay for and maintain, during the Lease Term, the following policies of insurance covering the Property, which insurance shall be obtained from companies currently rated "A/XII" or better by Best's Insurance Reports:

(i) Workers' Compensation Insurance. If Landlord has an employee(s), Covering all costs, benefits and liabilities under State Workers' Compensation and similar laws and Employer's Liability Insurance, with limits of not less than \$500,000.00 per occurrence.

(ii) Commercial General Liability Insurance. Including but not limited to, coverage for Personal Injuries with limits of \$2,000,000.00 combined aggregate limit for death, personal injury and property damage.

(iii) All Risk Property Insurance. Upon all building improvements and alterations, including but not limited to, Fire and Extended Coverage, Vandalism, Malicious Mischief and Sprinkler Leakage in the amount of 100% of full replacement cost.

(iv) Other Insurance. Such other insurance and in such amounts as may be required by Landlord against other insurable hazards as at the time are commonly insured against by prudent owners of comparable Properties in the area.




Each policy shall expressly provide that it shall not be subject to cancellation or material change without at least thirty (30) day prior written notice to Tenant. Landlord shall furnish Tenant, or cause to be furnished to Tenant, upon written request by Tenant, concurrently with the beginning of this Lease and prior the inception of each successive policy period insurance certificates and, upon request by Tenant, copies of such policies required to be maintained hereunder.

**12. WAIVER OF SUBROGATION**

Each party hereto waives any and every claim which arises or may arise in its favor and against the other party hereto during the Lease Term or any renewals or extensions thereof for any and all loss of or damage to, and of its property located within or upon, or constituting a part of, the Leased Premises, which loss or damage is covered by valid and collectable fire and extended coverage insurance policies, to the extent such loss or damage is recoverable under said insurance policies. Said mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person), each party hereto agrees immediately to give to each insurance company which has issued to it policies of fire and extended coverage insurance, written notice of the terms of said mutual waivers and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation at said insurance coverage by reason of such waivers.

**13. LANDLORD'S RIGHT OF ENTRY**

Landlord and its authorized agents shall have the right to enter the Leased Premises during normal working hours for the following purposes: (a) inspecting the general conditions and state of repair of the Leased Premises; (b) if Landlord is required to make any repairs hereunder that necessitate entry into the Leased Premises, the making of repairs required of Landlord; (c) the showing of the Leased Premises to any prospective purchasers, investors, partners, Board members or lenders; and (d) as provided elsewhere in this Lease. Landlord and its authorized agents shall have the right to enter the Leased Premises during or after normal

working hours to show the Leased Premises to any prospective tenants. In the event of an emergency, Landlord and its authorized agents shall have the right to enter the Leased Premises at any time to remedy such emergency. In exercising its rights under this paragraph and any other paragraph in this Lease giving Landlord the right to enter the Leased Premises, Landlord agrees to make its best effort to give Tenant reasonable advanced notice by telephone or text or email, or such notice as is possible if in case of an emergency. Additionally, Landlord agrees not to unreasonably interfere with Tenant's business and to the greatest extent possible not to enter the Leased Premises during Tenant's lunch or dinner hours for purposes of repair or conducting any kind of business relating to this lease.

If Tenant shall not have renewed or extended this Lease prior to the final one hundred and eighty (180) day period of the Lease Term, Landlord and its authorized agents shall have the right to erect on or about the Leased Premises Landlord's signage advertising the Leased Premises for lease or for sale.

#### 14. UTILITY SERVICES

A. Tenant shall put all utilities in its name and pay the cost of all utility services during the Lease Term as well as during any period in which Tenant is in possession of the Leased Premises, including but not limited to all charges for gas, water, and electricity used on the Leased Premises (including costs of operating the HVAC system), and for all electric light lamps or tubes and equipment. In the event no direct meter to a utility company is available, then Landlord shall sub-meter that utility to Tenant at no mark-up or additional charge and Tenant shall pay Landlord for the cost of such utility (i.e. gas, electric or water) as additional rent

B. Grease Trap: Tenant shall pay the cost of installation, repair, cleaning, maintenance, grease removal, et al. by a professional company, and must submit proof of said service, as many times as required by Fox Metro Water Reclamation District or any other governing body, but on at least a BI-ANNUAL basis in the calendar months of APRIL and OCTOBER. If Landlord has multiple tenants using a common grease trap, then Tenant agrees to pay a pro-rated cost of cleaning/servicing as determined by Landlord.

C. Temporary Interruption: Landlord is not providing any utility services for Tenant. And Landlord reserves the right, without any liability to Tenant and without affecting Tenant's covenants and obligations hereunder, to stop or interrupt or reduce any utility services to the Property, or to stop or interrupt or reduce any other services, required of Landlord under this Lease, whenever and for so long as may be necessary, by reason of (i) accidents, emergencies, strikes or the occurrence of any of the other events of force majeure, (ii) the making of repairs or changes which Landlord is required by law or is permitted by this Lease to make, or in good faith deems necessary, (iii) or any other cause beyond Landlord's reasonable control, whether similar or dissimilar to the foregoing. Landlord does not warrant that the services provided for in this Lease will be free from interruption or stoppage resulting from the above causes, and specifically no reduction, interruption or stoppage of any such services for any reason shall ever be construed as an eviction of Tenant, nor shall the same cause any abatement of the Rent payable hereunder, or in any manner or for any purpose relieve the Tenant from any of Tenant's obligations hereunder, and in any event, Landlord shall not be liable for any loss, cost or damage direct or consequential, of any nature, arising in connection with interruption or stoppage of any such services or for any damage to persons or property resulting therefrom; provided, however, Landlord agrees to use reasonable diligence to resume the service or to cause the same to be resumed. Furthermore, Landlord shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any of the services or utilities as set forth in this Section.

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D. Release of Landlord: Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of persons occupying space adjoining, adjacent to, above, under or connecting with the Property, or for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, or their property, from the breaking, bursting, stoppage or leaking of electrical cable and wires, and water, gas, sewer or steam pipes or from theft or burglary.

**15. ASSIGNMENT, SUBLEASE and SUBORDINATION TO MORTGAGES**

A. The Leased Premises shall not be assigned or sublet in whole or in part. Tenant shall not assign this Lease without first obtaining the written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed so long as the proposed assignee's use of the Leased Premises is the same as specified herein. Tenant shall not permit any transfer by operation of law of Tenant's interest created hereby. Tenant may not post rental notices or signs or any other similar signs or notices anywhere, or advertise the Leased Premises as being for lease or sublease in any publication or other source of advertisement whatsoever without first obtaining, the written consent of Landlord.

B. If Tenant is a corporation, Tenant shall not transfer or sell a controlling interest in the corporation or its assets without Landlord's prior written consent. Landlord agrees that a transfer of shares of a corporation or membership interests in a limited liability company for estate planning purposes shall not require Landlord's consent provided control of the Tenant does not change. Further, Tenant shall have the right, without Landlord's consent, to assign this Lease to a parent, subsidiary or related entity of same ownership.

C. Landlord shall have the right to mortgage and pledge this Lease to any institutional Lender or financial or corporate entity subject, however, to the limitations herein contained. Expressly conditioned upon receipt of a Non-Disturbance Agreement (as defined below), Tenant shall execute any reasonable document required by the Landlord to subordinate this Lease to the mortgagee's interest. If Tenant fails to execute a reasonable subordination agreement within fifteen (15) days following Landlord's request, Landlord is hereby irrevocably vested with full power and authority to subordinate Tenant's interest hereunder to any mortgage, deed of trust, or other lien hereafter placed on the Leased Premises. Any subordination of this Lease shall be upon the express condition that this Lease shall be recognized, by the mortgagee and that the rights of Tenant shall remain in full force and effect during the Lease Term, so long as Tenant shall continue to perform all of the covenants of this Lease.

D. Tenant shall, in the event that any proceedings are brought for the foreclosure of the Leased Premises, or in the event of the exercise of the power of sale under any mortgage made by the Landlord covering the Leased Premises, attorn to the purchaser or mortgagee upon any such foreclosure or sale and recognize such purchaser or mortgagee as the Landlord under this Lease, provided that such purchaser or mortgagee shall recognize Tenant's Lease as remaining in full force and effect so long as Tenant is not in default hereunder.

**16. FIRE AND CASUALTY DAMAGE**

A. If the Leased Premises or other improvements on the property should be damaged or destroyed by fire, tornado, or other casualty, Tenant shall give immediate written notice thereof to the Landlord.

B. Total Destruction: If the Leased Premises should be destroyed by fire, tornado, or other casualty, so that rebuilding or repairs cannot reasonably be completed within 180 working days from the earlier of the date of

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Tenant's delivery of written notification to Landlord of the happening of the damage or the date Landlord has actual knowledge of the damage, this Lease shall terminate and rent shall be abated for the unexpired portion of this Lease, effective as of the date the space becomes uninhabitable, except Tenant shall be liable for all fixed minimum rent and all additional rent due hereunder through such date.

C. Partial Damage: If this Lease is not terminated pursuant to Paragraph 15.8. above Landlord shall, if the casualty has occurred prior to the final eighteen (18) months of the Lease Term, at its sole cost and risk proceed forthwith to rebuild or repair such building and other improvements substantially to the condition in which they existed prior to such damage, provided that Landlord shall not be obligated to expend for such rebuilding or repair an amount in excess of the insurance proceeds Landlord recovered as a result of such damage (or would have recovered but for Landlord's failure to maintain the insurance required in this Lease) and in no event shall Landlord be required to repair or replace Tenant's stock in trade, fixtures, furnishings floor coverings or equipment. If the casualty occurs during the final eighteen (18) months of the Lease Term, Landlord shall not be required to rebuild or repair such damage unless Tenant shall exercise its Extension Option (if any is contained herein) within fifteen (15) days from the date of Tenant's delivery of Tenant's written notification of the happening of the damage or within fifteen (15) days from the date Landlord has actual knowledge of the damage, whichever comes first. Whereupon, Landlord shall, at its sole cost and risk, proceed forthwith to rebuild or repair such damage, provided that Landlord shall not be obligated to expend for such rebuilding or repair an amount in excess of the insurance proceeds recovered as a result of such damage (or would have recovered but for Landlord's failure to maintain the insurance required in this Lease) and in no event shall Landlord be required to repair or replace Tenant's stock in trade, fixtures, furnishings floor coverings or equipment. If the casualty has occurred during the final eighteen (18) months of the Lease Term and if Tenant does not elect to exercise its Extension Option (if any is contained herein), within said fifteen (15) day time frame, Landlord may, at its option, terminate this Lease and rent shall be abated for the unexpired portion of this Lease, effective as of the date the Leased Premises becomes uninhabitable and Tenant shall be liable for all fixed minimum rent and all additional rent due hereunder through such date. If the Leased Premises and other improvements are to be rebuilt or repaired and are untenable in whole or in part following such damage, the rent payable hereunder during the period in which they are untenable shall be adjusted equitably based on the portions of the space that are tenantable and untenable. In the event that Landlord should fail to substantially complete such rebuilding or repairs within one hundred eighty (180) days from the date of written notification by Tenant to Landlord of the happening of the damage or one hundred eighty (180) days from the date Landlord has actual knowledge of the damage, whichever comes first, Tenant may at its option terminate this Lease by written notification at such time to Landlord, whereupon all rights and obligations hereunder shall cease except that Tenant shall be liable for all fixed minimum rent and all additional rent due hereunder through the date of termination. During the period when the Leased Premises are untenable, rent shall abate for such period.

## 17. LIABILITY

Tenant agrees to indemnify, defend, release and save Landlord and the owner, and their beneficiaries, officers, directors, shareholders, Managers and Members, and the agents of Landlord and the owner, and their agents' beneficiaries, officers, directors, shareholders, Managers and Members, harmless against and from any and all claims by or on behalf of any person or entity, arising from the conduct or management of the business conducted on the Leased Premises or from any work or thing done by or on behalf of Tenant or its subtenants, agents, employees, contractors, officers, directors, licensees or sublicenses on or about the Leased Premises and/or the property, and will further indemnify and save Landlord and the owner, and their beneficiaries, officers, directors, shareholders, Managers and Members, and the agents of Landlord and the owner, and their agents,

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beneficiaries, officers, directors, shareholders, Managers and Members harmless against and from any and all claims arising during or after the Lease Term from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or arising from any act of negligence or willful misconduct of Tenant, or any of its subtenants, agents, contractors, employees, officers, directors, licensees or sublicenses, and from and against all costs, counsel fees, expenses and liabilities arising from any such claim or action or proceeding brought thereon. If any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon request of Landlord, shall defend such action or proceeding by counsel reasonably satisfactory to Landlord.

## 18. CONDEMNATION

A. If, during the Lease Term or any extensions or renewals thereof, all or such portion of the Leased Premises as would prohibit Tenant from engaging in its business should be taken for any public or quasi-public use under any governmental law, ordinances or regulation or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, this Lease shall terminate effective as of the date of the taking of said Leased Premises and Tenant shall be liable for all fixed minimum rent and all additional rent due hereunder through such date and rent shall be abated during the unexpired portion of this Lease.

B. If such portion of the Leased Premises as would still permit Tenant to engage in its business 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 be sold to the condemning authority under threat of condemnation, this Lease shall not terminate but Landlord shall forthwith at its sole cost and expense restore the remaining portion of the Leased Premises provided such restoration shall make the same reasonably tenantable and suitable for the uses for which the Leased Premises are leased as defined above. The rent payable hereunder during the Landlord's restoration of the Leased Premises and during the remainder of the Lease Term shall be adjusted equitably based on the remaining tenantable area.

C. Landlord and Tenant shall each be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings.

## 19. DEFAULT

A. The following events shall be deemed to be events of default by Tenant under this lease (a "Default"):

1. Tenant shall fail to pay any installment of the fixed minimum rent or additional rent on the date that same is due and such failure shall continue for a period of five (5) days after Landlord delivers written notice to Tenant.

2. Tenant shall fail to comply with any term, condition or covenant of this Lease, other than the payment of rent, and shall not cure such failure within thirty (30) days of delivery of written notice, provided however that if the Default cannot with due diligence be cured prior to the expiration of said thirty (30) day period and if Tenant commences within thirty (30) days from the date of delivery of said notice to eliminate the cause of such Default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such Default and does in fact remedy such Default within 90 days of delivery of said written notice, then Tenant shall not be in Default.

3. Tenant shall become insolvent or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors, or shall be adjudged a bankrupt and Tenant does fails to pay rent or perform its obligations under this Lease as a result thereof.

**B.** Upon the occurrence of a Default, Landlord shall have the option to pursue any one or more of the following remedies without any further notice or demand whatsoever:

1. Landlord shall have the immediate right of re-entry in the manner provided by law and may remove all persons and property from the Leased Premises, and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Tenant, with process of law, without being deemed guilty of trespass, or becoming liable to any party for any loss or damage which may be occasioned thereby;

2. Landlord may from time to time without terminating this Lease, and without releasing Tenant in whole or in part from Tenant's obligation to pay rent and perform any of the covenants, conditions and agreements to be performed by Tenant as provided in this Lease, make such alterations and repairs to the Leased Premises as may be necessary in order to relet the Leased Premises. Landlord may relet the Leased Premises or any part thereof for such term or terms (which may be for a term extending beyond the Lease Term) and at such rental or rentals and upon such other terms and conditions as Landlord in its discretion may deem advisable. Upon each such reletting if all rentals received by the Landlord from such reletting during any month shall be less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach. Tenant shall also be liable to Landlord for all reasonable costs of reletting, including, but not limited to, repairs of the Leased Premises for a new tenant, brokerage commissions, attorneys fees, advertising and any other expenses incurred by Landlord in connection therewith and said costs shall be due upon demand (collectively, the "Reletting Costs"):

3. Landlord may terminate this Lease, and with process of law may remove all persons, fixtures and property from the Leased Premises, and Landlord shall be entitled to receive as damages all fixed minimum rent, all additional rent and all other sums payable by Tenant as of the date of termination, plus all Reletting Costs plus (1) a sum of money equal to the sums reserved for the balance of the Lease Term for all fixed minimum rent, all additional rent and other sums provided in this Lease to be paid by Tenant to Landlord for the remainder of the Lease Term, less the fair rental value of the Leased Premises for the period, (2) the cost of performing any other covenant to be performed by Tenant, and (3) all costs and attorneys' fees incurred by Landlord in connection with any action taken against Tenant: and;

4. Enter upon the Leased Premises in the manner provided by law if necessary without being liable for prosecution of any claim for damages therefore, and do whatever Tenant is obligated to do under the terms of this Lease, and Tenant agrees to reimburse Landlord on demand for expenses, which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action whether caused by the negligence of Landlord or otherwise.

**C.** If Landlord fails to perform or observe any of the terms, covenants, or conditions contained in this Lease on its part to be performed, or observed within thirty

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(30) days after written notice of default from Tenant or, when more than thirty (30) days shall be required because of the nature of the default, if Landlord shall fail to proceed diligently to cure such default after written notice thereof from Tenant, Tenant, may either: (i) immediately terminate this lease agreement, and have no further obligations to pay any rent hereunder; or (ii) upon at least an additional ten (10) days written notice to Landlord and its mortgagee, cure the default on behalf of the Landlord, whereupon the cost of such curing and any out-of-pocket expenses reasonably and necessarily arising as a consequence thereof, shall be due and payable to Tenant from Landlord upon demand therefore by Tenant. Failure of Landlord to remit such sums to Tenant shall entitle Tenant to deduct the costs thereof from fifty percent (50%) of the fixed minimum rent until such sums are fully recouped by Tenant. The foregoing shall be for Tenant's protection only and exercisable only at its option. The foregoing shall not limit or preclude Tenant from any other rights and remedies available at law or in equity.

D. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by Law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, conditions, and covenants herein contained.

**20. ATTORNEY'S FEES**

Tenant shall pay all reasonable attorneys' fees costs incurred by Landlord in enforcing any of the covenants and obligations of Tenant under this Lease. Landlord shall pay all reasonable attorneys' fees costs incurred by Tenant in enforcing any of the covenants and obligations of Landlord under this Lease.

**21. QUIET ENJOYMENT**

Landlord warrants that it has full right and power to execute and perform this Lease and to grant the estate demised herein and that Tenant, on payment of the rent and performing the covenants herein contained, shall peaceably and quietly have, hold and enjoy the Leased Premises during the Lease Term, provided that Tenant accepts this Lease subject and subordinate to any recorded mortgage, deed of trust, or other lien presently existing or hereafter placed upon the Leased Premises.

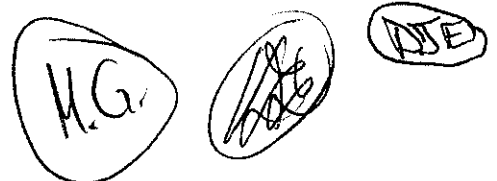
**22. WAIVER OF DEFAULT**

The waiver by the parties hereto of any default or breach of any term, condition, or covenant of this Lease shall not be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

**23. ESTOPPEL CERTIFICATE**

Each party agrees that at any lime and from time to time, upon not less than fifteen (15) days prior written request by the other party, to execute, acknowledge, and deliver to the requesting party a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications), and the dates to which the rental and other charges have been paid in advance, if any. Any such statement delivered pursuant to this Section shall act as a waiver by the certifying party of any facts to the contrary.

**24. FORCE MAJEURE**

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Each party shall be excused from performing any term, condition or covenant in this Lease so long as such performance is delayed or prevented by force majeure, which shall include but is not limited to an Act of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of the party of whom the performance is required and which by the exercise of due diligence of the performing party is unable, wholly or in part, to prevent or overcome.

**25. USE OF LANGUAGE**

Words of any gender used in the Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

**26. CAPTIONS**

The captions or headings of sections in this Lease are inserted for convenience only and shall not be considered in construing the provisions hereof if any question of intent should arise.

**27. SUCCESSORS**

The terms, conditions, and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of either party under this Lease, including but not limited to any notices required or permitted to be delivered by the party hereunder, may at the party's option, be exercised or performed by the party's agent or attorney.

**28. NOTICES**

Notices hereunder shall be in writing signed by the party serving the same and shall be sent by personal delivery, overnight courier or certified United States Mail, return receipt requested, postage prepaid, and shall be addressed to the parties at the addresses appearing opposite their names below (on the last page). Notices that are mailed shall be deemed given when delivered or delivery is first attempted according to the Postal Service's records, notice given by personal delivery shall be deemed given on the date of delivery, and notice sent by overnight courier shall be deemed given one (1) business day after the date deposited with such courier. Notice may also be given by facsimile transmission with verification. Five day notices may be delivered by certified mail or any other means permissible under the Forcible Entry and Detainer Act. For notices personally delivered to Tenant, it agrees not to withhold its signature and/or initials on each page of said document. All notices to Landlord shall be sent to 5Way, LLC, an Illinois Limited Liability Company, located at 149 S. Fourth St, Aurora, IL 60505, with a copy to Judd Lofchie, P.C., 1585 Beverly Ct., #129, Aurora, IL 60502, and to Tenant at:

505 Detroit Dr. North Aurora 60512

**29. SEVERABILITY**

If any term or provision of this Lease shall to any extent be held to be invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

**30. ANSUL SYSTEM**

Three handwritten signatures or initials are present at the bottom right of the page. The first is a stylized signature inside a circle. The second is another signature inside a circle. The third is the letters 'LSE' inside a circle.



Before performing any cooking on a grill or open flame, Tenant shall, at its cost and expense, maintain an Ansul Fire Prevention System or similar system at the Leased Premises which equipment must be professionally inspected and cleaned as often as Landlord's insurance carrier deems it necessary but in no case less often than once every six months. Landlord and Tenant agree that the Leased Premises currently contain an Ansul System.

**31. ENVIRONMENTAL**

A. Tenant agrees that it, its agents, employees and contractors will not use, handle, generate, treat, store or dispose of, or permit the use, handling, generation by Tenant agents, employees and contractors in, on, under, around or above the Leased Premises now or at any future time any Hazardous Materials (as defined herein) and will indemnify, defend and save Landlord and the owner, and their beneficiaries, officers, directors, shareholders, Managers and Members, and the agents of Landlord and the owner, and their agents' beneficiaries, officers, directors, shareholders, Managers and Members harmless from any and all actions, proceedings, claims, costs, expenses and losses of any kind caused by Tenant its agents, employees and contractors, including, but not limited to, those arising from injury to any person, including death, damage to or loss of use or value of real or personal property, and costs of investigation and cleanup or other environmental remedial work, which may rise in connection with the existence of Hazardous Materials brought on to the Leased Premises since the Commencement Date by Tenant its agents, employees and contractors. Landlord agrees that it, its agents, employees and contractors will not use, handle, generate, treat, store or dispose of, or permit the use, handling, generation by Landlord agents, employees and contractors in, on, under, around or above the Property now or at any future time any Hazardous Materials and will indemnify, defend and save Tenant, and its beneficiaries, officers, directors, shareholders, Managers and Members harmless from all actions, proceedings, claims, costs, expenses and losses of any kind caused by Landlord its agents, employees and contractors, including, but not limited to, those arising from injury to any person, including death, damage to or loss of use or value of real or personal property, and costs of investigation and cleanup or other environmental remedial work, which may rise in connection with the existence of Hazardous Materials brought on to the Property since the Commencement Date by Landlord its agents, employees and contractors. The term "Hazardous Materials" when used herein, shall include, but shall not be limited to any substances, materials or wastes that are regulated by any local governmental authority, the state where the Leased Premises is located, or the United States of America because of toxic, flammable, explosive, corrosive, reactive, radioactive or other properties that may be hazardous to human health or the environment, including asbestos and including any materials or substances that are listed in the United States Department of Transportation Hazardous Materials Table, as amended 49 C.F.R. 172.101, or in the Comprehensive Environmental Response, Compensation and Liability Act, as amended 42 U.S.C. subsections 9601 et seq, or the Resources Conservation and Recovery Act, as amended, 42 U.S.C. subsections 6901 et seq, or any other applicable governmental regulation imposing liability or standards of conduct concerning any hazardous, toxic or dangerous substances, waste or material, now or hereafter in effect. Notwithstanding the foregoing, Tenant shall be allowed to use normal amounts of cleaners and office supplies so long as they are kept in their original containers and used according to their label directions.

B. Tenant does hereby indemnify, defend and hold harmless the Landlord and the owner, and their beneficiaries, officers, directors, shareholders, Managers and Members, and the agents of Landlord and the owner, and their agents' beneficiaries, officers, directors, shareholders, Managers and Members from all fines, suits, procedures, claims and actions of every kind, and all costs associated therewith (including attorneys' and consultants' fees) arising out of or in any way connected with any deposit, spill, discharge or release of Hazardous Materials that occurs during the Lease Term, at or from the Leased Premises caused by Tenant its

agents, employees and contractors, or which arises at any time from Tenant's, or Tenant's agents, employees or contractor's use or occupancy of the Leased Premises, or from Tenant's failure to provide all information, make all submissions, and take all steps required by all applicable governmental authorities. Tenant's obligations and liabilities under this paragraph shall survive the expiration of this Lease. Landlord does hereby indemnify, defend and hold harmless the Tenant, and its beneficiaries, officers, directors, shareholders, Managers and Members, from all fines, suits, procedures, claims and actions of every kind, and all costs associated therewith (including attorneys' and consultants' fees) arising out of or in any way connected with any deposit, spill, discharge or release of Hazardous Materials that occurs during the Lease Tenn. at or from the Property (excluding the Leased Premises), or which arises at any time from Landlord's, or Landlord's agents, employees or contractor's use or occupancy of the Property, or from Landlord's failure to provide all information, make all submissions, and take all steps required by all applicable governmental authorities. Landlord's obligations and liabilities under this paragraph shall survive the expiration of this Lease.

C. Tenant further agrees that if Tenant, Tenant's agents, employees or contractors, causes contamination of the Leased Premises, Tenant shall promptly, at its expense, take any and all necessary actions required by law to return the Leased Premises to the condition existing prior to the presence of Hazardous Materials on the Leased Premises.

**32. SALE OF BUSINESS**

See subsection 15 of this Lease above

**33. WAIVER OF JURY TRIAL**

LANDLORD AND TENANT HEREBY WAIVE TRIAL BY JURY IN ANY ACTION PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES, HERETO AGAINST THE OTHER OR THEIR SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, OR TENANT'S USE OR OCCUPANCY OF THE PREMISES.

**34. LEASE OPTION**

A. Tenant is hereby given the option to extend this Lease (the "Extension Option") for a THREE (3) year period beginning on September 1, 2020 and ending August 31, 2023 (the "Extension Term"), upon the same terms and conditions except for the fixed minimum rent, and except for any mutually agreed upon items by both the Landlord and Tenant that shall be added by addendum at that end of the initial Lease Term, and except for the fixed minimum rent, and only if Tenant is in full compliance with the terms of this Lease at the time of exercising the Extension Option. The minimum fixed rent for the Extension Term shall be a total of not less than \$128,700.00, payable in advance on the first day of each calendar month on the following schedule of fixed minimum rents:

@ \$3,400.00 payable in advance on the first day of each calendar month of the 1<sup>st</sup> Option Year

@ \$3,575.00 on the first day of each calendar month of the 2<sup>nd</sup> Option Year, and

@ \$3,750.00 on the first day of each calendar month of the 3<sup>rd</sup> Option Year, totaling

\$128,700.00 over the Extension Term.

B. If Tenant shall not have provided a written direction to accept the above Lease Option to this Lease prior to the final one hundred and eighty (180) day period of the Lease Term (i.e. by no later than February

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29, 2020), Landlord and its authorized agents shall have the right to Lease the Premises to another person or entity.

**35. CONTINUOUS OPERATION AND LANDLORD'S RECAPTURE RIGHT**

Tenant will open for business in the Premises and carry on in the Premises the type of business for which the Premises are leased. Except where expressly required in this Lease with respect to, among other things, rebuilding due to condemnation, damage and/or destruction, in the event that Tenant fails to regularly use the Premises for the Permitted Use a period of 120 days (without any specific requirement that Tenant maintain any specific hours and/or days of operation), and such failure shall continue for 30 days after notice thereof from Landlord to Tenant, Landlord shall have the right, but not the obligation, at any time thereafter, to terminate this Lease in its entirety by written notice to Tenant ("Landlord's Recapture Notice"). If Landlord wishes to exercise its option to terminate as provided in this Section 35, Landlord shall send Tenant a notice stating and specifying the date on which such termination is effective, provided that Tenant shall have a reasonable time in which to remove any of its equipment from Exhibit C and other items of personality from the Premises. Additionally, if Landlord terminates this Lease pursuant to this Section 35, then Tenant shall, within 30 days after Landlord's written request thereof, reimburse Landlord: (i) for the amount of the unamortized portion of all brokers' fees and commissions, attorneys' fees, and construction allowances paid by Landlord in connection with this Lease (calculated on a straight line basis using a 60-month amortization period), and (ii) all costs of re-letting the Premises, including, without limitation, reasonable brokerage commissions, advertising fees and reasonable attorneys' fees.

**36. HOLDING OVER**


Any holding over after the expiration or termination of this Lease shall be construed as a tenancy at sufferance at a rental of 150% of the Base Rent and Additional Rent including the Tenant's share of Common Area Charges, Real Estate Taxes and Insurance premiums for the month of the Lease Term preceding the month in which the expiration or termination occurred. In the event Tenant shall be or become a holdover tenant, Tenant shall also indemnify Landlord against all claims for damages against Landlord as a result of Tenant's possession of the Premises, including, without limitation, claims for damages by any tenant to whom Landlord may have leased the Premises, or any portion thereof, for a term commencing after the expiration or termination of this Lease and all legal fees and court costs.

**37. TIME:** Time is of the essence with respect to the obligations of any party under this Lease.

**38. JOINT AND SEVERAL LIABILITY:** In the event that more than one person or entity executes the Lease as Tenant, all such persons and entities shall be jointly and severally liable for all of Tenant's obligations hereunder.

**39. RECORDING:** Tenant shall not record this Lease, or any memorandum or short form thereof, without the written consent and joinder of Landlord, which may be withheld in Landlord's sole discretion.

**40. BROKERS:** Landlord and Tenant each represent and warrant that neither of them has employed any broker in connection with the negotiations of the Terms of this Lease or the execution thereof. Landlord



and Tenant hereby agree to indemnify and to hold each other harmless against any loss, expense or liability with respect to any claims for commissions, finder's fees or brokerage fees arising from or out of any breach of the foregoing representation and warranty.

41. **ENTIRE AGREEMENT:** The foregoing, together with all Exhibits and Schedules attached hereto, constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.
42. **GOVERNING LAW:** This Lease shall be construed in accordance with the laws of the State of Illinois. Exclusive venue in any legal proceeding related to or arising out of this Lease shall be in the county and state where the Property is located, and Tenant submits to personal jurisdiction and venue in such forum.
43. **SURVIVAL:** Anything contained in this Lease to the contrary notwithstanding, the expiration or earlier termination of the Term of the Lease, whether by lapse of time or otherwise, shall not relieve Tenant from Tenant's obligations accruing prior to the expiration or termination of the Term, all of which shall survive the same, whether or not same is expressly stated in the particular paragraph of this Lease, including, without limitation, Tenant's obligations with respect to: (a) the payment of Rent, Additional Rent, Real Estate Taxes and Insurance; (b) any provisions of this Lease with respect to indemnities of Landlord made by Tenant; and (c) the removal of all property of Tenant required to be removed hereunder and the repair of all damage to the Premises caused by such removal at the expiration or termination of this Lease to the extent required hereunder.
44. **COUNTERPARTS:** This Lease may be executed with facsimile or PDF (or similar) signatures and/or in counterparts and, when taken together, such counterparts shall constitute one and the same agreement, binding on all parties notwithstanding that all parties are not signatories to the original or the same counterpart provided that all parties are furnished with a copy or copies thereof reflecting the signatures of all parties

Three handwritten signatures are present at the bottom right of the page. Each signature is enclosed within a hand-drawn circle. The first circle contains the initials 'MG'. The second circle contains a more complex, stylized signature. The third circle contains the initials 'DSE'.

SIGNATURE PAGE TO FOLLOW

M.G.

~~W.A.~~

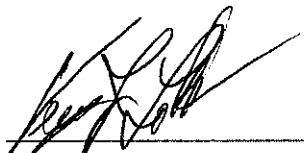
D.J.E.

SIGNATURE PAGE

LANDLORD: 5Way, LLC

Address for Notices:

5Way, LLC  
C/o Vernon LaVia  
PO Box 4067  
Aurora, IL 60507

Sign:   
Vernon J. LaVia, Member

Date: 7/1/15

Phone: 312-543-4718

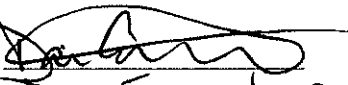
Email: VernonLaVia@aol.com

FAX: 630-966-1902

TENANT: Gillerson's Grubbery, Inc

Address for Notices:

805 BATERMUT DR.  
NORTH AURORA, IL 60054

Sign:   
Print: DAN EMERSON, President

Date: 7/1/15

Phone: 630-418-8909

TENANT: Matt Gillie

Sign: 

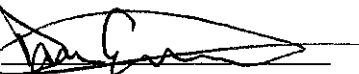
Print: Matt Gillie DATE: 7/1/15

SSN: 31-08-511 Driver's License #: GH00-5558-6054

DOB: 2/23/86

EMAIL: Matt@gillersons.com

TENANT: Dan Emerson

Sign: 

Print: DAN EMERSON Date: 7/1/15

SSN: 353-78-2236 Driver's License #: E562-1708-2296

DOB: 10/17/82

EMAIL: dan@gillersons.com

WITNESS:



Print: Emily Paull Date: 7/1/15

BULLDOG ALE HOUSE, NORTH AURORA

(NOTE: Your signature allows a Credit Check & Background Check to be performed)



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MA  
DE

## EXHIBIT A (page 1 of 2)

**EXHIBIT A - TO LEASE** between 5Way, LLC & Gillerson's Grubbery, Matt Gillie and Dan Emerson, Inc dated 7/1/15 : RULES AND REGULATIONS

1. Tenant shall not construct or erect any exterior sign on or about the Leased Premises without first obtaining the written consent of Landlord and City approval.
2. Tenant shall not place unsightly objects against glass partitions or doors, nor place on any glass window or door an interior or exterior sign or signs without having received the Landlord's prior written permission, to be given at Landlord's sole discretion. Any and all interior and exterior signs shall in all events be commercially prepared and of neat appearance and no exposed neon, flashing lights, moving letter sign or similar sign shall be permitted, and are subject to City approval.
3. Tenant shall not place any radio or television antenna, loudspeakers or similar devices on the roof or exterior of the Lease Premises, except that a radio or television antenna may be installed by Tenant, if express written consent of Landlord shall first be obtained and such installation made only in accordance with the restrictions which may be included in such consent.
4. Blinds, shades, awnings (except awning frames), window ventilators and other similar equipment visible from outside of the Leased Premises shall be installed by Tenant only in accordance with the prior written approval of Landlord and with City approval.
5. Tenant shall not burn any trash of any kind on or near Premises, Property, Deck or Outdoor Plaza.
6. Tenant shall not use any media, such as loudspeakers, phonographs, radio or television broadcast or placed in a manner to be heard or seen outside the Leased Premises.
7. Tenant shall not use any space in the Leased Premises for living quarters, whether temporary or permanent.
8. Tenant shall not keep inflammables, such as gasoline, kerosene, naphtha and benzene, or explosives, or any articles of an intrinsically dangerous nature on the Leased Premises. Tenant may, however, keep on the Leased Premises such chemicals and other materials as are usual and customary for the type of business to be operated by Tenant, provided that all such chemicals and other materials shall be kept in such containers and in such manner as may be required by applicable laws, ordinances or regulations of any governmental authority or required by any company issuing any of Landlord's policies of insurance, and further provided that the keeping of such chemicals or materials shall not increase the rate of insurance of such policies of the Landlord.
9. Tenant shall store all trash and garbage in the Leased Premises in rat proof and insect proof containers and arrange and pay of the regular pickup of same, and if directed by Landlord, by such means and methods and such times and intervals as are designated by Landlord. Upon request by Landlord, Tenant shall store trash and garbage outside the Leased Premises, at places and times and in containers as designated by Landlord.



Exhibit A-continued (page 2 of 2)

10. Neither Tenant nor any assignee for the benefit of creditors or bankruptcy trustee shall conduct auction, fire or bankruptcy sales in or about the Leased Premises.
11. Tenant shall have full responsibility for protecting the Leased Premises and the property located therein from theft and robbery, and shall keep all doors, windows and transoms securely fastened when not in use.
12. Tenant shall keep the Leased Premises free and clear from rodents, bugs and vermin, and will, at its sole cost and expense, use exterminating services a minimum of ONCE PER YEAR, or more, as requested by Landlord or any governing body, with proof of payment submitted to Landlord after each extermination service.
13. Tenant shall keep the Leased Premises at a temperature sufficiently high to prevent freezing of water pipes and fixtures.
14. The outside areas immediately adjoining the Leased Premises, including but not limited to, any outside deck or plaza sections used by Tenant, shall be kept clean by Tenant, and Tenant shall not place or permit any obstructions, merchandise or machines of any kind in such areas.
15. Tenant shall keep all mechanical equipment free of vibration and noise.
16. Tenant shall not permit unpleasant odors to emanate or be dispelled from the Leased Premises.
17. Tenant shall not allow objectionable advertising medium to be displayed upon the Leased Premises.
18. No lighting shall be placed so that the source is visible from the exterior of the Leased Premises.
19. Unless Landlord gives its express permission to park on-site, all employees, agents, attendants, independent contractors or anyone working in conjunction with Tenant shall be required to park off-site. Tenant shall supply Landlord a list of make and model and license plate numbers of all employees, agents, attendants, independent contractors or anyone working in conjunction with Tenant. Tenant shall update said list monthly as the said list changes. Anyone found in violation risks being towed.
20. Landlord shall have the right to adopt future rules and regulations for the property as Landlord shall determine to be appropriate for the enjoyable use thereof by all Tenants therein. Tenants shall comply with all rules and regulations of Landlord.
21. No pets shall be allowed on the Leased Premises or Property.
22. As part of the Landlord's "marketing" and "public relations promotion" of the eatery, Tenant agrees to provide to Landlord one FREE meal per calendar month for a party of FOUR. Alcoholic drinks and tip are NOT included. Free meals are not cumulative, so if a month is missed by Landlord it does not roll over to a future month. NO OTHER FREE OR "COMPED" MEALS WILL BE EXPECTED AT ANY TIME BY THE LANDLORD.

Exhibit B: Equipment/Items Owned By Landlord

1. Two 50" Plasma TVs
2. Two Beer Coolers (3 door & 2 door)—back bar
3. One Glass rack with shelves (next to Blender Sink)
4. One Ice Bin w/speed rack
5. Twenty Bar Chairs
6. Three Bar Tables
7. Ice Machine + Bin (Scotsman)
8. Refrigerated Prep Station
9. Under counter refrigerator w/drawers (Victory)
10. Six Burner stove top (Champion)
11. Six Burner Stove and Oven (Wolf)
12. Fourteen Dining Room Tables (eight square 4-person; three lrg rectangle 6-person; three small rectangle 2 person)
13. Forty five Dining Room Chairs
14. Dishes & flatware by Homer Laughlin and Edward Don
15. Cooking Pots & pans & strainers and various other supplies
16. Hand Sink—behind bar
17. Triple Compartment Sink w/ left & right drying racks—behind bar
18. Slop sink/hand sink/Blender station sink—behind bar
19. Triple Compartment Sink—in kitchen
20. Vege Sink/deep bowl with right-side prep table attached—in kitchen by back door
21. Hand Sink—in kitchen
22. Hoods—with Ansul Fire Suppression system
23. Refrigerator—2-door stainless steel (Beverage Air)
24. Freezer – 2 door stainless steel (Beverage Air)
25. TWO Wire Rack Shelving units—free standing near back "office" space
26. TWO VitaMix blenders
27. Meat Slicer
28. Grill 36" (Wolf)
29. Prep Table (Aero) near kitchen Triple Compartment sink
30. Prep Table with two-shelf dish rack
31. Other Items discovered and mutually agreed and initialed:

MG [Signature] DJE

Exhibit C—Equipment/Items Owned by Tenant

1.

M.G. ~~XXXXXXXXXX~~ DSE

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MG ~~MG~~ DTET