

RESOLUTION 2017-28

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A LEASE AGREEMENT WITH KNOSOS INC. FOR A TERM OF TEN YEARS FOR A PORTION OF THE SHAKER SQUARE RAPID TRANSIT STATION, KNOWN BY THE CUYAHOGA COUNTY AUDITOR AS PERMANENT PARCEL NUMBER 129-08-002 AND LOCATED AT 12750 SHAKER BOULEVARD, CLEVELAND, OHIO

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA") is the Owner of record of the land and buildings located at 12750 Shaker Boulevard in the City of Cleveland, Ohio, which has a Permanent Parcel Number of 129-08-002 (the "Property"); and

WHEREAS, the Property was transferred to GCRTA under the Mass Transit System Transfer Agreement with the City of Shaker Heights executed on September 5, 1975; and

WHEREAS, the Property has been leased to Knosos Inc. for twenty (20) years as a restaurant known as Michael's Diner at the Shaker Square Rapid Transit Station and is used by GCRTA customers, employees and area residents; and

WHEREAS, as a tenant in good standing, GCRTA intends to offer Knosos Inc. a new lease for the Property at current market rate terms and conditions; and

WHEREAS, the Federal Transit Administration ("FTA") authorizes GCRTA under Circular 5010.1D to renew existing leases at competitive market rents, rates and conditions based on current fair market values for comparable properties; and

WHEREAS, GCRTA and Allegro Real Estate Brokers and Advisors determined the new lease terms and conditions to be representative of current fair market value within this market for comparable properties; and

WHEREAS, Knosos Inc. successfully operates several restaurants in Cleveland and throughout Northeast Ohio and intends to continue to operate the restaurant on the Property; and

WHEREAS, a restaurant was determined to be a highest and best use for the site in a market study completed by GCRTA and is a compatible use for the Property in accordance with current Transit Oriented Development ("TOD") goals and objectives; and

WHEREAS, the GCRTA will decrease its annual holding costs associated with this Property which include, but are not limited to, capital improvements, insurance, maintenance, security, landscape expenses utilities and storm water management fees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County and Ohio:

Section 1. That the Property is hereby declared available for lease under current fair market value terms and conditions.

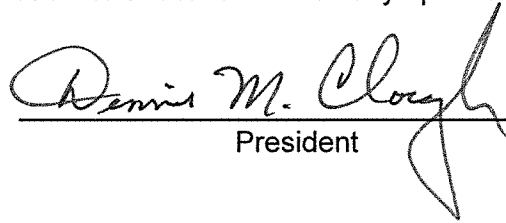
Section 2. That the execution of the Lease Agreement is authorized under FTA Circular 5010.1D at current fair market rates, terms and conditions.

Section 3. That the rent of Twenty Eight Thousand Eight Hundred Dollars (\$28,800.00) per annum is the fair market rent for the Property as determined by survey of all comparable properties within the market and verified by GCRTA and Allegro Real Estate Brokers and Advisors, real estate consultant to GCRTA.

Section 4. That the CEO, General Manager/Secretary-Treasurer is hereby authorized to execute a Lease Agreement and all other documents required to lease the Property.


Section 5. That this resolution shall become effective immediately upon its adoption.

Adopted: April 25, 2017



President

Attest:



CEO, General Manager/Secretary-Treasurer



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: LEASE AGREEMENT FOR A PORTION OF 12750 SHAKER BOULEVARD, CLEVELAND, OHIO		Resolution No.: 2017-28
VENDOR: KNOSOS, INC.		Date: April 20, 2017
TERMS: TEN YEAR TERM AT \$28,800.00 PER ANNUM		Initiator: Programming and Planning
Action Request:		
<input checked="" type="checkbox"/> X Approval	<input type="checkbox"/> Review/Comment	<input type="checkbox"/> Information Only <input type="checkbox"/> Other _____

- 1.0 PURPOSE/SCOPE: The resolution seeks board approval for a Lease Agreement with Knosos Inc. for the continuing operation of a restaurant known as Michael's Diner at the Shaker Square Rapid Transit Station. This Lease Agreement will authorize the tenant to continue to operate the existing restaurant at the property for a new term of ten (10) years, with an option to renew the Agreement for an additional ten (10) years. Knosos Inc. has operated the restaurant for the past twenty (20) years. Renewal of the Lease Agreement promotes Transit Oriented Development ("TOD") and generates income for GCRTA while providing amenities for GCRTA customers, employees and neighborhood residents at the station.

- 2.0 DESCRIPTION/JUSTIFICATION: GCRTA acquired this property under the Mass Transit System Transfer Agreement with the City of Shaker Heights executed on September 5, 1975. The portion of the property proposed for lease is currently used by Knosos Inc. as a restaurant amenity for the rail station.

This parcel has been on GCRTA's list of eligible properties for lease with FTA since 1991.

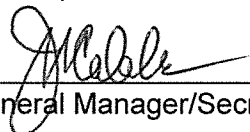
To generate and promote market activity and provide desirable amenities for the Shaker Square Rapid Transit Station, the GCRTA seeks to renew the lease with Knosos Inc. Knosos Inc. initially entered into a Lease Agreement with GCRTA on May 22, 1997 and has operated a restaurant known as Michael's Diner at the Shaker Square Rapid Transit Station since that date. The proposed use authorized by the Lease Agreement is supported by a market study completed by GCRTA and provides desirable amenities for GCRTA customers, employees and neighborhood residents. The Lease Agreement is offered at fair market terms and conditions as required by FTA under Circular 5010.1D. Current fair market terms and conditions have been verified by GCRTA and Allegro Real Estate Brokers and Advisors. The Lease Agreement will enhance the operation of the Shaker Square Rapid Transit Station and also incentivize Knosos Inc. to make scheduled leasehold improvements to the property.

Knosos Inc. is an established hospitality company currently operating restaurants in Rocky River, Brecksville and Cleveland, Ohio.

The restaurant/coffee shop was an existing use when GCRTA acquired the property from Shaker Heights in 1975. Because federal funds were not used to acquire the property and not used to improve the building in which the restaurant is located, GCRTA believes that FTA concurrence is not required for this lease. GCRTA will nonetheless advise FTA of the extension of this lease.

- 3.0 PROCUREMENT BACKGROUND: Does Not Apply.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Does Not Apply.
- 5.0 POLICY IMPACT: The proposed lease of this property is consistent with the Real Estate Policies of the GCRTA.
- 6.0 ECONOMIC IMPACT: The annual income of Twenty Eight Thousand Eight Hundred Dollars (\$28,800.00) from rent and reimbursement for utility charges, insurance costs, storm water management fees, other charges and maintenance costs is determined to be fair market value for this property type and is supported by a recent survey of comparable properties by GCRTA and Allegro Real Estate Brokers and Advisors. Federal Transit Administration ("FTA") Circular 5010.1D authorizes renewal of existing leases at current market terms, rates and conditions. The income and proceeds from this Lease Agreement will be reinvested in the capital program of the GCRTA.
- 7.0 ALTERNATIVES: The GCRTA can refuse to approve the Lease Agreement and seek a new tenant for the property. GCRTA would have to maintain the property without rent income or reimbursements and market the property.
- 8.0 RECOMMENDATION: The proposed Lease Agreement with Knosos Inc. for 12750 Shaker Boulevard, Cleveland, Ohio will be discussed at the April 25, 2017 Planning and Development Committee meeting. Staff recommends the proposed lease Agreement for approval to the Board of Trustees.
- 9.0 ATTACHMENTS: A. Lease Agreement.

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.



General Manager/Secretary-Treasurer

BASIC LEASE INFORMATION

Date: _____

Landlord: Greater Cleveland Regional Transit Authority

Tenant: Knosos, Inc.

Trade Name: N/A

Premises: Number and Street: 13051 Shaker Blvd.

City: Cleveland

County: Cuyahoga

State: Ohio

LENGTH OF TERM: Ten (10) years

LEASE COMMENCEMENT DATE: July 1, 2017

MONTHLY RENT: \$2,400.00 per month

LANDLORD'S ADDRESS FOR NOTICES: Root-McBride Building
1240 West 6th Street
Cleveland, OH 44113
Attention: Property Manager

LANDLORD'S ADDRESS FOR PAYMENTS: Root-McBride Building
1240 West 6th Street
Cleveland, OH 44113
Attention: Department of Accounting

TENANT'S ADDRESS FOR NOTICES:

Michael Petrakis

18123 Sloane Ave.

3749 Delmar Dr.

Lakewood, Ohio 44107-3107

Rocky River, Ohio 44116

Attn: Thomas R. Pahys, Esq.

SPECIAL CONDITIONS:

The basic Lease information is part of the Lease; however, if any of the basic Lease information contradicts any provision of the Lease, the provisions of the Lease will prevail.

LEASE

This Lease is made on _____, 20____, by the Greater Cleveland Regional Transit Authority, a political subdivision organized under Revised Code Chapter 306, whose principal business office is located at 1240 West 6th Street, Cleveland, Ohio, 44113 ("Landlord"), and Knosos, Inc., whose principal business office is located at 3749 Delmar Drive, Rocky River, OH 44116 ("Tenant").

1. AGREEMENT TO LEASE

Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, according to the provisions of this Lease.

2. PREMISES

The Premises include the building, commonly known as Shaker Square Station Building, and grounds adjacent to the building along its northerly side, nine parking spaces indicated on "Exhibit A" abutting Shaker Blvd., and the sidewalk abutting said spaces ("Premises"). A license is also granted for the non-exclusive use of the plaza on the northerly side of the transit tracks commencing at a distance of ten feet from the northerly end of the rail ties, abutting the west drive of N. Moreland Circle, the easterly line of the public sidewalk, and the southerly line of Shaker Blvd. West, all as indicated on "Exhibit A." No warranty is made concerning the use of the parking spaces and plaza, nor that said spaces and plaza satisfy applicable zoning, traffic and building codes. The Premises are more particularly described in "Exhibit A" attached hereto and made a part of this paragraph of this Lease. The station platform and shelter house, the vestibule, transformer room, platform area to the south of the station building and the sidewalk transecting the transit right-of-way from north to south are excluded from the leased Premises. The right to use the plaza area is further conditioned upon the erection and maintenance by Tenant of a suitable patron control system that limits ingress and egress to and from the plaza to the public sidewalk where it abuts the western boundary of the plaza, and upon the Tenant assuming the responsibility for the regular cleaning and maintenance of the plaza area.

3. TERM

A. Commencement Date

The term of this Lease will be ten (10) years, beginning on July 1, 2017, (the commencement date) and expiring on June 30, 2027.

B. Option to Extend Term

Tenant may extend the term until the 10th anniversary of the expiration date by written notice of its election to do so given to Landlord at least one year prior to the expiration date. The extended term will be on all of the terms and conditions of the Lease applicable at the expiration date; however, Tenant will have no further right to extend the term and the base monthly rent will be Two Thousand Six Hundred Dollars (\$2,600.00). Tenant will not have any rights under this paragraph if (a) an event of default exists on the expiration date or on the date on which Tenant gives its notice, or (b) Tenant exercises its rights less than one year before the expiration date.

C. Possession

If for any reason Landlord cannot deliver possession of the Premises to Tenant on the commencement date,

- (i) this Lease will not be void or voidable,
- (ii) Landlord will not be liable to Tenant for any resultant loss or damage, and
- (iii) unless Landlord is not able to deliver possession of the Premises to Tenant on the commencement date because of Tenant's delays, rent will be waived for the period between the commencement date and the date on which Landlord delivers possession of the Premises to Tenant.

No delay in delivery of possession of the Premises will extend the term.

D. Early Possession

At Tenant's request made at any time after a temporary certificate of occupancy has been issued for the Premises, Landlord may permit Tenant to occupy so much of the Premises as Tenant wishes to occupy prior to the commencement date. Landlord will cooperate with Tenant in order to ease Tenant's moving into the Premises. If Tenant occupies the Premises prior to the commencement date with Landlord's permission, all of the provisions of this Lease will be in effect from the beginning of the occupancy; however, rent otherwise due under this Lease will be abated up to the commencement date, and Tenant will pay as rent Landlord's actual costs (but in no event more than the base monthly rent which would have been due in the absence of any applicable abatements) incurred by reason of the Tenant's early occupancy, including taxes, maintenance, utilities, insurance and indemnification for any and all claims attributable to Tenant's early occupancy.

4. RENT

A. Payment

Tenant will pay Landlord the monthly rent stated in the Basic Lease Information page in equal consecutive monthly installments on or before the first day of each month during the term of this Lease. The monthly rent will be paid in advance at the address specified for Landlord in the basic Lease information, or such other place as Landlord designates, without prior demand and without any abatement, deduction or setoff. If the commencement date occurs on a day other than the first day of a calendar month, or if the expiration date occurs on a day other than the last day of a calendar month, then the monthly rent for such fractional month will be prorated on a daily basis.

B. Additional Charges

Tenant will pay to Landlord without deduction or offset all amounts which this Lease requires Tenant to pay (the "additional charges"), at the place where the monthly rent is payable. Landlord will have the same remedies for a default in the payment of additional charges as it has for default in the payment of monthly rent.

C. Late Payment

If Tenant fails to pay any rent or additional charges on the date they are due and payable, such unpaid amount will be subject to a late payment charge equal to two percent (2%) of such unpaid amounts. This late payment charge is intended to compensate Landlord for its additional administrative costs resulting from Tenant's failure, and has been agreed upon by Landlord and

Tenant, after negotiation, as a reasonable estimate of the additional administrative cost which will be incurred by Landlord as a result of Tenant's failure. The actual cost in each instance is extremely difficult, if not impossible, to determine. This late payment charge will constitute liquidated damages and will be paid to Landlord together with such unpaid amounts. The payment of this late payment charge will not constitute a waiver by Landlord of any default by Tenant under this Lease.

D. Periodic Adjustment

Rent to be adjusted in accordance with Exhibit "B" attached.

5. TAXES

A. Obligation for Payment

Tenant will pay all taxes (collectively the "tax"), including without limitation real estate and personal property taxes and assessments assessed, levied, confirmed, or imposed during the term of this Lease (other than net income taxes) whether or not now customary or within the contemplation of Landlord and Tenant:

- (i) upon, measured by, or reasonably attributable to the cost or value of Tenant's equipment, furniture, fixtures, and other personal property located in the Premises or by the cost or value of any Leasehold improvements made in or to the Premises by or for Tenant regardless of whether title to such improvements is in Tenant or Landlord;
- (ii) upon or measured by the monthly rent, including without limitation any gross receipts tax or excise tax levied by the federal government or any other governmental body with respect to the receipt of monthly rent;
- (iii) upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use, or occupancy by Tenant of the Premises or any portion of the Premises;
- (iv) upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises;
- (v) upon the Premises and all personal property, furniture, fixtures, and equipment, and all replacements, improvements, or additions to them, whether owned by Landlord or Tenant; and
- (vi) impositions based in whole or in part on monthly rent, whether made in addition to or in substitution for any other tax.

B. Taxes Payable in Installments

Unless Landlord has exercised its rights under paragraph 5 F, and if, by law, any tax may at the option of the taxpayer be paid in installments (whether or not interest accrues on the unpaid balance of such tax), Tenant may exercise the option to pay the tax (and any accrued interest on the unpaid balance of such tax) in installments and in such event Tenant will pay such installments as become due during the term of this Lease as the same respectively become due and before any fine, penalty, further interest or cost may be added to them.

C. Taxes for Period other than Term

Any tax, including taxes which have been converted into installment payments, relating to a fiscal period of the taxing authority, a part of which period is included within the term and a part of which is included in a period of time prior to the commencement or after the end of the term,

will, whether or not such tax or installments are assessed, levied, confirmed, imposed upon or in respect of, or become a lien upon the Premises, or become payable, during the term, be adjusted between Landlord and Tenant as of the commencement or end of the term, so that Tenant will pay that portion of such tax or installment which that part of such fiscal period included in the term bears to such fiscal period, and Landlord will pay the remainder.

D. Other Impositions

Tenant will not be obligated to pay local, state, or federal net income taxes assessed against Landlord; local, state, or federal capital levy of Landlord; or sales, excise, franchise, gift, estate, succession, inheritance, or transfer taxes of Landlord.

E. Right to Contest Taxes

Tenant will have the right to contest the amount or validity, in whole or in part, of any tax by appropriate proceedings diligently conducted in good faith, only after paying such tax or posting such security as Landlord may reasonably require in order to protect the Premises against loss or forfeiture. Upon the termination of any such proceedings, Tenant will pay the amount of such tax or part of such tax as finally determined, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties, or other related liabilities. Landlord will not be required to join in any such contest or proceedings unless the provisions of any law, or regulations then in effect will require that such proceedings be brought by or in the name of Landlord. In that event Landlord will join in such proceedings or permit them to be brought in its name; however, Landlord will not be subjected to any liability for the payment of any costs or expenses in connection with any such contest or proceedings, and Tenant will indemnify Landlord against and save Landlord harmless from any such costs and expenses.

F. Estimated Payments

If Landlord elects to do so, then, in each December during the term or as soon after December as practicable, Landlord will give Tenant written notice of its estimate of real property tax amounts payable under paragraph 5 A for the ensuing calendar year. On or before the first day of each month during the ensuing calendar year, Tenant will pay to Landlord one-twelfth (1/12) of such estimated amounts; however, if such notice is not given in December, Tenant will continue to pay on the basis of the prior year's estimate until the month after such notice is given. If at any time or times it appears to Landlord that the real property tax amounts payable under paragraph 5 A for the current calendar year will vary from its estimate by more than ten percent (10%), Landlord will, by written notice to Tenant, revise its estimate for such year, and subsequent payments by Tenant for such year will be based upon such revised estimate.

G. Final Settlement

Within ninety (90) days after the close of each calendar year or as soon after such ninety-day period as practicable, Landlord will deliver to Tenant a statement of amounts payable under paragraph 5 A for such calendar year prepared by certified public accountants designated by Landlord, or prepared by Landlord and certified by one of its officers, and such certified statement will be final and binding upon Landlord and Tenant. If such statement shows an amount owing by Tenant that is less than the estimated payments previously made by Tenant for such calendar year, the statement will be accompanied by a refund of the excess by Landlord to Tenant. If such statement shows an amount owing by Tenant that is more than the estimated payments previously made by Tenant for such calendar year, Tenant will pay the deficiency to Landlord within thirty (30) days after the delivery of such statement.

6. UTILITIES

A. Tenant's Obligation

Tenant will pay the appropriate suppliers for all sewer, water, gas, electricity, light, heat, telephone, power, storm water management and other utilities and communications services used by Tenant on the Premises during the term, whether or not such services are billed directly to Tenant. Tenant will also procure, or cause to be procured, without cost to Landlord, any and all necessary permits, licenses, or other authorizations required for the lawful and proper installation and maintenance upon the Premises of wires, pipes, conduits, tubes, and other equipment and appliances for use in supplying any such service to and upon the Premises. Landlord, upon request of Tenant, and at the sole expense and liability of Tenant, will join with Tenant in any application required for obtaining or continuing any such services.

B. Warranty

Landlord warrants to Tenant that electricity, water, sanitary and drainage sewers, telephone, and natural gas will be available at the outside wall of the building throughout the term of this Lease. If any such utility service becomes unavailable or is interrupted for more than twenty (20) consecutive days (without default by Tenant), Tenant may terminate this Lease by notice to Landlord given within sixty (60) days after such services become unavailable, or within ten (10) days after the ninetieth (90th) day of interruption, as the case may be. The notice will specify a termination date no more than thirty (30) days after the date of such notice. This Lease will end on the termination date, and rent and other charges will be appropriately prorated between Landlord and Tenant as of the termination date.

C. Landlord's Elections

If Landlord elects to do so, water, sewer and storm water management accounts may remain in its name. Landlord will pay water, sewer and storm water management charges and within five (5) days of receipt of billing for water and sewer charges, cause copies to be transmitted to Tenant who shall reimburse Landlord for all amounts paid by Landlord. Payment to Landlord for water and sewer charges are due and payable as additional charges on or before the first (1st) day of the next month succeeding transmission of the billings.

7. INSURANCE

A. "All-Risk" Coverage

Tenant will, at its sole expense, obtain and keep in force from the commencement date or occupancy date whichever first occurs during the term of this Lease, "all-risk" coverage insurance naming Landlord and Tenant as their interests may appear; Landlord to be named as a loss payee as its interests may appear. Insurance will apply to all buildings, betterments and improvements and contents now or after this date located on the Premises. The insurance will be carried on a replacement value basis and the amount of such insurance will be designated by Landlord no more frequently than once every twelve (12) months, will be set forth on an "agreed amount endorsement" to the policy of such insurance and will not be less than the agreed value of such buildings and improvements. Landlord and Tenant agree that the value of the existing building on the Premises is Five Hundred Thousand Dollars (\$500,000.00).

B. General Liability

Tenant will, at its sole expense, obtain and keep in force during the term of this Lease general liability insurance with a combined single limit of not less than one million dollars (\$1,000,000) for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of Landlord and Tenant including, without limitation, coverage for contractual liability, broad form property damage; with respect to the Premises or arising out of the maintenance, use, or occupancy of the Premises. Such insurance will insure the performance by Tenant of the indemnity agreement as to liability for injury to or death of persons and damage to property set forth in paragraph 18. Such insurance will be noncontributing with any insurance which may be carried by Landlord and will contain a provision that Landlord, although named as an additional insured, will nevertheless be entitled to recover under the policy for any loss, injury, or damage to Landlord, its agents, officers, and employees, or the property of such persons. The limits and coverage of all such insurance will be adjusted by agreement of Landlord and Tenant during every third Lease year during the term of this Lease in conformity with the then prevailing custom of insuring liability in the City of Cleveland.

C. Workers' Compensation

Tenant will, at its sole expense, obtain and keep in force during the term of this Lease statutory Workers' Compensation coverage in compliance with all applicable state workers' compensation laws to cover all employees furnishing labor on the Premises and under the control of the Tenant. Employers' Liability coverage in the amount of \$1,000,000 per accident / \$1,000,000 per employee for disease will also be included, either under the Workers' Compensation policy or under the Commercial General Liability policy (Stop Gap) referenced under B. above. In Ohio, a copy of a certificate of premium payment from the Industrial commission and Bureau of WC, or a copy of the Certificate of Employer's Right to Pay Compensation Directly will satisfy this requirement.

D. Other Matters

Prior to execution of this Lease, Tenant shall obtain the required insurance in a form satisfactory to the Landlord and furnish evidence of such insurance in the form of a certificate (Acord or similar form). The Certificate of Insurance shall:

- Name the Landlord as an additional insured for coverages required under B. above, for claims arising out of the performance of this Lease
- Contain a waiver of subrogation in favor of the Landlord.
- Specific reference to the subject Lease
- Specific reference to all deductibles & Self Insured Retentions (SIR)
- Shall be primary and non-contributing to any insurance possessed or procured by Landlord and any self-insurance program maintained by Landlord.

All insurance required in this paragraph and all renewals of it, will be issued by companies authorized to transact business in the State of Ohio, and rated at least A-X by The A. M. Best Company. The builder's "all-risk" coverage insurance will be payable to Landlord, Tenant, and any lender as their interests may appear. The "all-risk" coverage insurance, and the general liability insurance will be carried in the joint names of Tenant, Landlord, and such other parties having an interest in the Premises as Landlord and Tenant may designate. All insurance policies will be subject to approval by Landlord and any lender as to form and substance; will expressly provide that such policies will not be canceled or altered without fifteen (15) days' prior written notice to Landlord and any lender, in the case of "all-risk" coverage insurance, and to Landlord, in the case of general liability insurance; will, to the extent obtainable, provide that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the

insurance company to pay the amount of any loss sustained; and will, to the extent obtainable, contain a waiver by the insurer of its rights of subrogation against Landlord. Upon issuance, each insurance policy or a duplicate or certificate of such policy will be delivered to Landlord and any lender whom Landlord and Tenant may designate. Tenant may satisfy its obligation under this paragraph by appropriate endorsements of its blanket insurance policies.

8. USES

A. Lawful Use Only

Tenant may use the Premises for any lawful purpose. Tenant will not use or occupy, or permit any portion of the Premises to be used or occupied,

- (i) in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement, or
- (ii) for any disreputable business or purpose, or
- (iii) in any manner or for any business or purpose that would increase the risks of fire or other hazards, beyond that ordinarily associated with the proposed use as a restaurant, or that would in any way violate, suspend, void, or increase the rate of fire or liability or any other insurance of any kind at any time carried by Landlord upon all or any part of the building in which the Premises are located.

Tenant will comply with all laws, ordinances, orders, rules, regulations, and other governmental requirements relating to the use, condition, or occupancy of the Premises, and all rules, orders, regulations, and requirements of the board of fire underwriters or insurance service office, or any other similar body, having jurisdiction over the building in which the Premises are located. Any increase in the cost of any insurance carried by Landlord attributable to Tenant's activities, property, or improvements in the Premises or Tenant's failure to perform and observe its obligations and covenants under this Lease will be payable by Tenant to Landlord, from time to time, on demand. A schedule or "make-up" of rates for the Premises or building of which the Premises are a part issued by the body making its fire insurance rates will be, as between Landlord and Tenant, conclusive evidence of the facts stated in it and of the items and charges in the fire insurance rates then applicable. The final judgment of any court, or the admission of Tenant, that Tenant has violated any law or requirement of governmental or insurance authorities affecting the Premises or building of which the Premises are a part will be conclusive evidence of such violation as between Landlord and Tenant.

B. Right to Contest

Tenant will have the right to contest by appropriate proceedings diligently conducted in good faith in the name of Tenant, or, with the prior consent of the Landlord, in the name of Landlord, or both, without cost or expense to Landlord, the validity or application of any law, ordinance, order, rule, regulation or legal requirement of any nature. If compliance with any such law, ordinance, order, rule, regulation, or requirement may legally be delayed pending the prosecution of any proceeding without incurring any lien, charge, or liability of any kind against the Premises, or Tenant's interest in the Premises, and without subjecting Tenant or Landlord to any liability, civil or criminal, for failure so to comply, Tenant may delay compliance until the final determination of such proceeding. Even if such lien, charge, or liability may be incurred by reason of any such delay, Tenant may so contest and delay, so long as

- (i) such contest or delay does not subject Landlord to criminal liability, and

- (ii) Tenant furnishes to Landlord security, reasonably satisfactory to Landlord, against any loss or injury by reason of any contest or delay.

Landlord will not be required to join any proceedings referred to in this paragraph unless the provision of any applicable law, rule, or regulation at the time in effect requires that such proceedings be brought by or in the name of Landlord, or both. In that event Landlord will join the proceedings or permit them to be brought in its name if Tenant pays all related expenses.

C. Assignment and Subleasing

Tenant shall not assign this Lease or sublease the Premises without the prior written consent of Landlord.

9. REPAIRS AND MAINTENANCE

Tenant will, at its sole cost and expense, maintain and keep the Premises in good repair, including without limitation the heating, ventilating, air conditioning, mechanical, electrical, plumbing systems, roofing, walls, landscaping, sidewalks and the fixtures and appurtenances to the Premises as and when needed to preserve them in good working order and condition, and regardless of whether the repairs are ordinary or extraordinary, foreseeable or unforeseeable, capital or noncapital, or the fault or not the fault of Tenant, its agents, employees, invitees, visitors, and contractors. All such repairs will be in quality and class equal to the original work or installations. If Tenant fails to maintain and make such repairs Landlord may make them at the expense of Tenant and such expense will be collectible as additional charges and will be paid by Tenant within fifteen (15) days after delivery of a statement for such expenses. Notwithstanding the obligations assumed by Tenant under this paragraph, the Landlord will retain at its sole cost and expense the obligation of replacing the foundation, roof, furnace, boiler, central air conditioning compressor and evaporator, and structural exterior walls when Landlord finds that the need for such replacements are not the result of Tenant's failure to properly maintain and repair or must be replaced because of a casualty.

10. ALTERATIONS

Tenant will not make any alterations, additions, or improvements to the Premises without the Landlord's prior written consent; however, Landlord's prior written consent will not be necessary for any alteration, addition, or improvement which

- A. costs less than \$5,000 including labor and materials;
- B. involves interior remodeling or changes which do not structurally change or modify the Premises;
- C. is made with due diligence, in a good and workmanlike manner and in compliance with all laws as that term is defined in paragraph 9,
- D. is promptly and fully paid for by Tenant, and

Any such alteration or improvement which costs more than \$5,000 shall be made under the supervision of an architect or engineer reasonably satisfactory to Landlord and in accordance with plans and specifications and cost estimates approved by Landlord.

Landlord may designate a supervising architect to assure compliance with the provisions of this paragraph, and if it does, Landlord will pay the supervising architect's charges. Subject to Tenant's rights in paragraph 13, all alterations, additions, fixtures, and improvements, whether temporary or permanent in character, made in or upon the Premises by Tenant, will immediately become Landlord's property and, at the end of the term of this Lease will remain on the Premises

without compensation to Tenant. By notice given to Tenant no less than ninety (90) days prior to the end of this Lease, Landlord may require that any alterations, additions, fixtures and improvements made in or upon the Premises be removed by Tenant. In that event, Tenant will remove such alterations, additions, fixtures and improvements at Tenant's sole cost and will restore the Premises to the condition in which they were before such alterations, additions and improvements were made, reasonable wear and tear excepted.

11. MECHANIC'S LIENS

Tenant will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, and for all materials furnished for or in connection with such work. Tenant will indemnify Landlord against and hold Landlord harmless from all liabilities, liens, claims, and demands on account of such work. If any such lien is filed against the Premises, Tenant will cause such lien to be discharged of record within ten (10) days after the filing of such lien. If Tenant desires to contest such a lien, it will furnish Landlord, within such ten (10) day period, proof of a court approved security amount deposited with the court pending final judgment of any such contest. If a final non-appealable judgment establishing the validity or existence of a lien for any amount is entered, Tenant will satisfy it at once. If Tenant fails to pay any charge for which such a lien has been filed, and does not give Landlord such security, Landlord may, at its option, pay such charge and related costs and interest, and the amount so paid, together with reasonable attorneys' fees incurred in connection with it, will be immediately due from Tenant to Landlord as additional charges. Nothing contained in this Lease is the consent or agreement of Landlord to subject Landlord's interest in the Premises to liability under any lien law. If either Landlord or Tenant receives notice that a lien has been or is about to be filed against the Premises, or that any action affecting title to the Premises has been commenced on account of work done by or for Tenant or labor or materials furnished to or for Tenant, it will immediately give the other written notice of such notice. At least fifteen (15) days prior to the commencement of any work (including without limitation any maintenance, repairs, alterations, additions, improvements, or installations which cost in excess of \$5,000.00) in or to the Premises, by or for Tenant, Tenant will give Landlord written notice of the proposed work and the names and addresses of the persons supplying labor and materials for the proposed work. Landlord will have the right to post notices of nonresponsibility or similar notices on the Premises in order to protect the Premises against any such liens.

13. SURRENDER OF PREMISES

At the end of this Lease, Tenant will surrender the Premises in good order and condition, ordinary wear and tear excepted. If Tenant is not then in default, Tenant may remove from the Premises any trade fixtures, equipment, and movable furniture placed in the Premises by Tenant, whether or not such trade fixtures or equipment are fastened to the building. Tenant will not remove any trade fixtures or equipment without Landlord's prior written consent if such trade fixtures or equipment are used in the operation of the building or if the removal of such fixtures or equipment will impair the structure of the building. Whether or not Tenant is then in default, Tenant will remove such alterations, additions, improvements, trade fixtures, equipment, and furniture as Landlord has requested in accordance with paragraph 11. Tenant will fully repair any damage occasioned by the removal of any trade fixtures, equipment, furniture, alterations, additions, and improvements. All trade fixtures, equipment, furniture, alterations, additions, and improvements not so removed will conclusively be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant or to any other person and without obligation to account for them. The Tenant will pay Landlord all expenses incurred in connection with Landlord's disposition of such property, including without limitation the cost of repairing any damage to the building or Premises caused by removal of such property. Tenant's obligation to observe and perform this covenant will survive the end of this Lease.

14. DAMAGE TO PREMISES

In the event that the building or improvements now located on the Leased Premises shall be so damaged or injured from any cause whatever during the term of this Lease so as to render untenable all or any substantial part of the leased Premises, and if in the judgment of the Landlord and Tenant the Premises cannot within ninety (90) days be restored to their condition prior to such damage or injury, then the Tenant shall have the right to terminate this Lease as of the date of the damage or injury by giving notice in writing to the Landlord within thirty (30) days after such damage or injury. A condition for the exercise of the right to termination by the Tenant, shall be the enforceable assignment to the Landlord of Tenant's interests in all insurance proceeds payable as a result of said damage or injury, exclusive of insurance proceeds relating to damage or injury to property removable by Tenant under the provisions of paragraph 13 and business interruption coverage proceeds. Rent and additional charges due hereunder shall be prorated and paid as of the date of said damage or injury. If the period of time agreed upon by the parties shall be in excess of ninety (90) days, and the Tenant shall not have elected, as aforesaid, to terminate this Lease, then this Lease may not be terminated on account of such damage or injury, and the parties shall pursuant to paragraph 10 repair, reconstruct, or restore the leased Premises to a condition equivalent to that of their former condition. The parties shall share pro rata in the proceeds of insurance in proportion to their respective actual costs of the work.

15. CONDEMNATION

A. Total Taking

If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "taking"), all of the Premises are taken, or if so much of the Premises are taken that the Premises (even if the restorations described in subparagraph B were to be made) cannot be used by Tenant for the purposes for which they were used immediately before the taking, this Lease will end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority (in either case the "ending date"). If the Lease ends according to this subparagraph A, prepaid rent will be appropriately prorated to the ending date. The award in a taking subject to this subparagraph A will be allocated according to subparagraph D.

B. Partial Taking

If, after a taking, so much of the Premises remains that the Premises can be used for substantially the same purposes for which they were used immediately before the taking,

- (i) this Lease will end on the ending date as to the part of the Premises which is taken,
- (ii) prepaid rent will be appropriately allocated to the part of the Premises which is taken and prorated to the ending date,
- (iii) beginning on the day after the ending date, rent for so much of the Premises as remains will be reduced in the proportion of the area of the Premises remaining after the taking to the area of the Premises before the taking,
- (iv) at its cost, Landlord will restore so much of the Premises as remains to a sound architectural unit substantially suitable for the purposes for which it was used immediately before the taking, using good workmanship and new first class materials. Landlord's duty to so restore shall not extend to non-structural or interior walls or interior surfaces, nor to trade fixtures or equipment installed

or used by Tenant. All other costs for restoration shall be the obligation of Tenant.

- (v) upon the completion of restoration according to clause (iv), Landlord will pay Tenant the lesser of the net award made to Landlord on account of the taking (after deducting from the total award attorneys', appraisers' and other costs incurred in connection with obtaining the award, and amounts paid to the holders of mortgages affecting the Premises), or Tenant's actual out-of-pocket cost of restoring the Premises, and
- (vi) Landlord will keep the balance of the net award.

C. Tenant's Award

In connection with any taking subject to subparagraph A or B, Tenant may prosecute its own claim by separate proceedings against the condemning authority for damages legally due to it (such as the loss of fixtures which Tenant was entitled to remove, and moving expenses) only so long as Tenant's award does not diminish or otherwise adversely affect Landlord's award.

D. Allocation of an Award for a Total Taking

If this Lease ends according to subparagraph A, the condemnation award will be paid in the order in this subparagraph to the extent it is sufficient:

- (i) First, Landlord will be reimbursed for its attorneys' fees, appraisal fees, and other costs incurred in prosecuting the claim for the award.
- (ii) Second, Landlord will be paid compensation for lost rent and the reversion.
- (iii) Third, Tenant will be paid its adjusted book value as of the date of the taking of its improvements (excluding trade fixtures) made to the Premises. In computing its adjusted book value, improvements will be conclusively presumed to have been depreciated or amortized for federal income tax purposes over their useful lives with a reasonable salvage value.
- (iv) Fourth, the balance will be divided equally between Landlord and Tenant.

16. SUBORDINATION AND ATTORNMENT

A. This Lease and Tenant's rights under this Lease are subject and subordinate to any conveyances made by Landlord as a part of any public/private joint venture, any ground Lease or underlying Lease, first mortgage, first deed of trust or other first lien encumbrance or indenture, together with any renewals, extensions, modifications, consolidations, and replacements of them, which now or at any subsequent time affect the Premises or any interest of Landlord in the Premises or Landlord's interest in this Lease and the estate created by this Lease (except to the extent that any such instrument expressly provides that this Lease is superior to it). This provision will be self-operative and no further instrument of subordination will be required in order to effect it. Nevertheless, Tenant will execute, acknowledge and deliver to Landlord, at any time and from time to time, upon demand by Landlord, such documents as may be requested by Landlord, any ground landlord or underlying lessor or any mortgagee, or any holder of a deed of trust or other instrument described in this paragraph, to confirm or effect any such subordination. If Tenant fails or refuses to execute, acknowledge, and deliver any such document within twenty (20) days after written demand, Landlord, its successors and assigns will be entitled to execute, acknowledge, and deliver any such document on behalf of Tenant as Tenant's attorney-in-fact. Tenant constitutes and irrevocably appoints Landlord, its successors and assigns, as Tenant's attorney-in-fact to execute, acknowledge, and deliver on behalf of Tenant any documents described in this paragraph.

B. If any person succeeds to Landlord's interest in the Premises, Tenant will pay to it all rents subsequently payable under this Lease. Tenant will, upon request of any one so succeeding to the interest of Landlord, automatically become the Tenant of, and attorn to, such successor in interest without change in this Lease. Such successor in interest will not be bound by:

- (i) any payment of rent for more than one month in advance, or
- (ii) any amendment or modification of this Lease: (a) not disclosed, including the disclosure required by the Estoppel Certificate addressed in subparagraph 24 D; or, (b) made after Tenant is given written notice that the successor has succeeded to Landlord's interests in the Premises, or
- (iii) any claim against Landlord arising prior to the date on which such successor succeeded to Landlord's interest, or
- (iv) any claim or offset of rent against the Landlord.

Upon request by such successor in interest and without cost to Landlord or such successor in interest, Tenant will execute, acknowledge, and deliver an instrument or instruments confirming the attornment. The instrument of attornment will also provide that such successor in interest will not disturb Tenant in its use of the Premises in accordance with this Lease. If Tenant fails or refuses to execute, acknowledge, and deliver any such instrument within twenty (20) days after written demand, such successor in interest will be entitled to execute, acknowledge, and deliver any such document for and on behalf of Tenant as Tenant's attorney-in-fact. Tenant constitutes and irrevocably appoints such successor in interest as Tenant's attorney-in-fact to execute, acknowledge and deliver on behalf of Tenant any document described in this paragraph.

17. LANDLORD'S RIGHT OF ACCESS

Landlord, its agents, employees, and contractors may enter the Premises at any time in response to an emergency, and at reasonable hours to peaceably:

- A. inspect the Premises,
- B. exhibit the Premises to prospective purchasers, lenders, or Tenants,
- C. determine whether Tenant is complying with its obligations in this Lease,
- D. supply any service which this Lease requires Landlord to provide,
- E. post notices of nonresponsibility or similar notices, or
- F. make repairs which this Lease requires Landlord to make, or make repairs to any adjoining space or utility services, or make repairs, alterations, or improvements to any other portion of the Landlord's adjacent Premises; however, all such work will be done as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible.

Except for claims based on Landlord's willful misconduct, Tenant waives any claim of injury or inconvenience to Tenant's business, interference with Tenant's business, loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by such entry. Landlord will at all times have a key with which to unlock all of the doors in the Premises (excluding Tenants vaults, safes and similar areas designated in writing by Tenant in advance). Landlord will have the right to use any means which Landlord may deem proper to open doors in the Premises and to the Premises in an emergency in order to enter the Premises. No entry to the Premises by Landlord by any means not amounting to gross negligence will be regarded as a forcible or unlawful entry into the Premises or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises, or any part of the Premises, nor will any such entry entitle Tenant to damages or any abatement of rent or other charges which this Lease requires Tenant to pay.

18. INDEMNIFICATION

To the fullest extent permitted by law and to the extent of Tenant's fault, the Tenant shall, at its sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the Landlord and its agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses and expenses, including but not limited to attorney's fees and worker's compensation benefits, for Tenant's proportionate share and the proportionate share of any entity employed or contracted by Tenant, arising out of or resulting from the performance of this Lease, including:

- A. the use or occupancy of the Premises by Tenant or any person claiming under Tenant;
- B. any activity, work, or thing done, or permitted or suffered by Tenant in or about the Premises;
- C. any acts, omissions, or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, invitees, or visitors of Tenant or any such person;
- D. any breach, violation, or nonperformance by Tenant or any person claiming under Tenant or the employees, agents, contractors, invitees, or visitors of Tenant or any such person of any term, covenant, or provision of this Lease or any law, ordinance, or governmental requirement of any kind; or
- E. (except for loss of use of all or any portion of the Premises or Tenant's property located within the Premises which is proximately caused by or results proximately from the negligence of Landlord), any injury or damage to the person, property, or business of Tenant, its employees, agents, contractors, invitees, visitors, or any other person entering upon the Premises under the express or implied invitation of Tenant,

providing that any such claim, action, judgment, cost, penalty, liability, damage, loss or expense is caused in whole or in part by the fault of the Tenant or any person or entity directly or indirectly employed by it. Such obligation shall not be construed to negate, abridge, or otherwise diminish any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

In the event of negligence or intentional acts or omissions by more than one entity, responsibility for such negligence or intentional acts or omissions will be allocated in accordance with the proportionate share of such entity(ies)' negligence or intentional acts or omissions. Nothing herein shall be construed as making Tenant liable for any claims, actions, judgments, costs, penalties, liabilities, damages or losses and expenses caused by the sole negligence and/or misconduct of Landlord.

If any action or proceeding is brought against Landlord, its employees, or agents by reason of any such claim, Tenant, upon notice from Landlord, will defend the claim at Tenant's expense with counsel reasonably satisfactory to Landlord.

To the extent that any portion of this provision is found to be in violation of any applicable law, said portion(s) of this provision are stricken but all remaining portions of this provision shall remain in full force and effect.

19. WAIVER AND RELEASE

Tenant waives and releases all claims against Landlord, its employees, and agents with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this Lease. In addition, Tenant agrees that Landlord, its agents, and employees, will not be liable for any loss, injury, death, or damage (including consequential damages) to persons, property, or Tenant's

business occasioned by theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling objects, steam, water, rain or snow, leak or flow of water (including water from the transit system), rain or snow from the Premises or into the Premises or from the roof, street, subsurface or from any other place, or by dampness or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the Premises, or from construction, repair, or alteration of the Premises or from any acts or omissions of any other Tenant, occupant, or visitor of the Premises, or from any cause beyond Landlord's control.

20. QUIET ENJOYMENT

So long as the Tenant pays the rent, and performs all of its obligations in this Lease, the Tenant's possession of the Premises will not be disturbed by Landlord, or anyone claiming by, through or under the Landlord.

21. DEFAULT

A. Events of Default

The following occurrences are "events of default":

- (i) Tenant defaults in the due and punctual payment of rent, and such default continues for five (5) days after notice from Landlord; however, Tenant will not be entitled to more than one (1) notice for default in payment of rent during any twelve-month period, and if, within twelve (12) months after any such notice, any rent is not paid when due, an event of default will have occurred without further notice;
- (ii) Tenant vacates or abandons the Premises;
- (iii) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged within fifteen (15) days after its levy;
- (iv) Tenant files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or is dissolved, or makes an assignment for the benefit of creditors;
- (v) Involuntary proceedings under any such bankruptcy laws or insolvency act or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for all or substantially all of Tenant's property, and such proceeding is not dismissed or such receivership or trusteeship is not vacated within sixty (60) days after such institution or appointment;
- (vi) Tenant fails to take possession of the Premises on the commencement date of the term; or
- (vii) Tenant breaches any of the other agreements, terms, covenants, or conditions which this Lease requires Tenant to perform, and such breach continues for a period of thirty (30) days after notice by Landlord to Tenant.

B. Landlord's Remedies

If any one or more events of default set forth in paragraph 21 A occurs, then Landlord may, at its election, either:

- (i) Give Tenant written notice of its intention to terminate this Lease on the date of such notice or on any later date specified in such notice, and, on the date specified in such notice, Tenant's right to possession of the Premises will cease and the Lease will be terminated (except as to Tenant's liability set forth in this subparagraph (i)) as if the expiration of the term fixed in such notice were the end of the term of this Lease. If this Lease is terminated pursuant to the provisions of this subparagraph (i), Tenant will remain liable to Landlord for damages in an amount equal to the rent and other sums which would have been owing by Tenant under this Lease for the balance of the term if this Lease had not been terminated, less the net proceeds, if any, of any re-letting of the Premises by Landlord subsequent to such termination, after deducting all Landlord's expense in connection with such re-letting, including without limitation, the expenses set forth in subparagraph B (ii). Landlord will be entitled to collect such damages from Tenant monthly on the days on which the rent and other amounts would have been payable under this Lease if this Lease had not been terminated and Landlord will be entitled to receive such damages from Tenant on each such day. Alternatively, at the option of Landlord, if this Lease is terminated, Landlord will be entitled to recover from Tenant:
- (a) the worth at the time of award of the unpaid rent which had been earned at the time of termination;
 - (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amounts of such rent loss that Tenant proves could reasonably have been avoided;
 - (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term of this Lease after the time of award exceeds the amount of such rent loss that Tenant proves could reasonably be avoided; and
 - (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result from such failure.
- The "worth at the time of award" of the amount referred to in clauses (a) and (b) is computed by allowing interest at the highest rate permitted by law. The worth at the time of award of the amount referred to in clause (c) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of Cleveland, Ohio, at the time of award. For the purpose of determining unpaid rental under clause (c), the monthly rent reserved in this Lease will be deemed to be the sum of the rent and additional charges due under paragraph 4 and the amounts last payable by Tenant pursuant to paragraph 4 for the calendar year in which the award is made; or
- (ii) On 10 days' notice, re-enter and take possession of the Premises or any part of the Premises; and repossess the Premises as of the Landlord's former estate; and expel the Tenant from the Premises and those claiming through or under Tenant; and, remove the effects of both or either, without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or preceding breach of covenants or conditions. If Landlord elects to re-enter, as provided in this subparagraph B (ii) or if Landlord takes possession of the Premises pursuant to legal proceedings or

pursuant to any notice provided by law, Landlord may, from time to time, without terminating this Lease, re-let the Premises or any part of the Premises in Landlord's or Tenant's name but for the account of Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this Lease) and on such terms and conditions (which may include concessions of free rent, and the alteration and repair of the Premises) as Landlord, in its uncontrolled discretion, may determine. Landlord may collect and receive the rents for the Premises. Landlord will not be responsible or liable for any failure to re-let the Premises, or any part of the Premises, or for any failure to collect any rent due upon such re-letting. No such re-entry or taking possession of the Premises by Landlord will be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. No notice from Landlord under this Lease or under a forcible entry and detainer statute or similar law will constitute an election by Landlord to terminate this Lease unless such notice specifically says so. Landlord reserves the right following any such re-entry or re-letting, or both, to exercise its right to terminate this Lease by giving Tenant such written notice, and in that event the Lease will terminate as specified in such notice.

If Landlord elects to take possession of the Premises according to this subparagraph B (ii) without terminating the Lease, Tenant will pay Landlord

- (a) the rent and other sums which would be payable under this Lease if such repossession had not occurred, less
- (b) the net proceeds, if any, of any re-letting of the Premises after deducting all of Landlord's expenses incurred in connection with such re-letting, including without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, expenses of employees, alteration, remodeling, repair costs, and expenses of preparation for such re-letting.

If, in connection with any re-letting, the new Lease term extends beyond the existing term or the Premises covered by such re-letting include areas which are not part of the Premises, a fair apportionment of the rent received from such re-letting and the expenses incurred in connection with such re-letting will be made in determining the net proceeds received from such re-letting. In addition, in determining the net proceeds from such re-letting, any rent concessions will be apportioned over the term of the new Lease. Tenant will pay such amounts to Landlord monthly on the days on which the rent and all other amounts owing under this Lease would have been payable if possession had not been retaken and Landlord will be entitled to receive the rent and other amounts from Tenant on each such day; or

- (iii) Pay when due amounts payable under this Lease or perform any of Tenant's other obligations under the Lease within the time permitted for its performance, upon such notice or without notice, as may be reasonable under the circumstances and without waiving any of its rights under this Lease. All amounts so paid by Landlord and all cost and expenses incurred by Landlord in connection with the performance of any such obligations (together with interest at the prime rate from the date of Landlord's payment of such amount or incurring of each such cost or expense until the date of full repayment by

Tenant) will be payable by Tenant to Landlord on demand. In the proof of any damages which Landlord may claim against Tenant arising out of Tenant's failure to maintain insurance, Landlord will not be limited to the amount of the unpaid insurance premium but rather Landlord will also be entitled to recover as damages for such breach, the amount of any uninsured loss (to the extent of any deficiency in the insurance required by the provisions of this Lease), damages, costs and expenses of suit, including attorney's fees, arising out of damage to, or destruction of, the Premises occurring during any period for which Tenant has failed to provide such insurance.

C. Remedies Cumulative

Suit or suits for the recovery of the rents and other amounts and damages set forth in this paragraph may be brought by Landlord, from time to time, at Landlord's election, and nothing in this Lease will be deemed to require Landlord to await the date on which the term of this Lease expires. Each right and remedy in this Lease will be cumulative and will be in addition to every other right or remedy in this Lease or existing at law or in equity or by statute or otherwise, including, without limitation, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of any such rights or remedies will not preclude the simultaneous or later exercise by Landlord of any other such rights or remedies. All such rights and remedies are cumulative and nonexclusive.

22. LANDLORD'S LIEN

(Not Used)

23. AFFIRMATIVE ACTION REQUIREMENTS

A. Executive Order 11246

During the performance of this Lease, the Tenant agrees as follows:

- (i) The Tenant will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Tenant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Tenant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- (ii) The Tenant will, in all solicitations or advertisements for employees placed by or on behalf of the Tenant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (iii) The Tenant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the Tenant's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places

- available to employees and applicants for employment.
- (iv) The Tenant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - (v) The Tenant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by Landlord and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - (vi) In the event of the Tenant's noncompliance with the nondiscrimination clauses of this Lease or with any of such rules, regulations, or orders, this Lease may be canceled, terminated or suspended in whole or in part and the Tenant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - (vii) The Tenant will include the provisions of paragraphs (i) through (vii) in every sublease or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provision will be binding upon each subcontractor or vendor. The Tenant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Tenant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Tenant may request the United States to enter into such litigation to protect the interests of the United States.

B. EE0-1 Report

Tenant agrees that if the total rent and additional charges due annually under this Lease equals or exceeds \$50,000 and the total workforce at the Premises equals or exceeds fifty (50) persons, then Tenant will annually file with the Landlord a completed EEO- I Report (O.M.B. Standard Form 100). Such reports are due March 31 for each year of the term.

C. Affirmative Action Plan

If the annual rents and additional charges and employment at the Premises meet or exceed said thresholds, then within the first thirty (30) days of the term, Tenant shall submit an Affirmative Action Plan meeting the following requisites:

- (i) An equal employment policy statement for the employment of minorities and women together with a description of the manner and to whom the policy statement is circulated internally (within your company) and externally (all sources used for recruitment), and the title of the person responsible for the implementation of these policies;
- (ii) Goals and Timetables for hiring minorities and women for the next year, or duration of this Lease, whichever is greater, including:
 - (a) total employees expected to be employed in each job category (use job categories shown in EE0-1 Report);
 - (b) total of each group of employees (Blacks, Hispanics, women, etc.) in

- each job category;
- (c) labor market availability group information - availability of minorities and women. Use this information to establish the goals required in item "(e)" (contact State employment office to get this information);
- (d) number of expected job opportunities. If not expected, goals required in item "(e)" must still be established to allow for unexpected hiring.
- (e) Goals (number of minorities and women to be hired and percentage of total workforce). If goals are not reached within the period specified, Tenant must describe its reasons for not meeting the goals and demonstrate its good faith efforts used to meet the goals; and
- (iii) A statement describing the development and execution of the program, including the method to be used for recruiting job applicants and the method used for evaluating the program. Recruiting efforts should be directed towards schools, colleges, universities, newspapers, radio, state employment offices, churches, social and employment agencies and other sources appropriate for Tenant's needs, i.e., labor unions.

24. MISCELLANEOUS PROVISIONS

A. No Offer Intended

The submission of this Lease to Tenant is not an offer to Lease the Premises, or an agreement by Landlord to reserve the Premises for Tenant. Landlord will not be bound to Tenant until Tenant has duly executed and delivered duplicate original Leases to Landlord and Landlord has duly executed and delivered one of those duplicate original Leases to Tenant.

B. Brokers

Landlord and Tenant warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises or this Lease other than as stated in the bid and bidding documents used to solicit offers for this Lease. Tenant agrees to indemnify Landlord against any loss, liability, and expense (including attorneys' fees and court costs) arising out of claims for fees or commissions from anyone including those identified in said documents with whom Tenant has dealt with regard to the Premises or this Lease. Tenant agrees to pay the commission or fee owing to the broker or finder identified in the bid or bidding documents.

C. No Merger

The surrender of this Lease by Tenant or the cancellation of this Lease by agreement of Tenant and Landlord or the termination of this Lease on account of Tenant's default will not work a merger, and will, at Landlord's option, terminate any subleases or operate as an assignment to Landlord of any subleases. Landlord's option under this paragraph will be exercised by notice to Tenant and all known subtenants in the Premises.

D. Estoppel Certificates

Within no more than ten (10) days after written request by Landlord, Tenant will execute, acknowledge, and deliver to Landlord a certificate stating

- (i) that this Lease is unmodified and in full force and effect, or, if the Lease is modified, the way in which it is modified accompanied by a copy of the modification agreement,

- (ii) the date to which rental and other sums payable under this Lease have been paid,
- (iii) that no notice has been received by Tenant of any default which has not been cured, or, if such a default has not been cured, what Tenant intends to do in order to effect the cure, and when it will do so,
- (iv) that Tenant has accepted and occupied the Premises,
- (v) that Tenant has no claim or offset against Landlord, or, if it does, stating the circumstances which gave rise to the claim or offset,
- (vi) that Tenant is not aware of any prior assignment of this Lease by Landlord, or, if it is, stating the date of the assignment and assignee (if known to Tenant), and
- (vii) such other matters as may be reasonably requested by Landlord.

Any such certificate may be relied upon by any prospective purchaser of the Premises and any prospective mortgagee or beneficiary under any deed of trust or mortgage encumbering the Premises. If Landlord submits a completed certificate to Tenant, and if Tenant fails to object to its contents within five (5) days after its receipt of the completed certificate, the matters stated in the certificate will conclusively be deemed to be correct. Furthermore, Tenant irrevocably appoints Landlord as Tenant's attorney-in-fact to execute and deliver on Tenant's behalf any completed certificate to which Tenant does not object within five (5) days after its receipt.

E. No Waiver

No waiver of any condition or agreement in this Lease by either Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the term of this Lease will be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender will be valid unless in writing signed by Landlord. The delivery of Tenant's keys to any employee or agent of Landlord will not constitute a termination of this Lease unless Landlord has entered into a written agreement to that effect. No payment by Tenant, nor receipt from Landlord, of a lesser amount than the rent or other charges stipulated in this Lease will be deemed to be anything other than a payment on account of the earliest stipulated rent. No endorsement or statement on any check, or any letter accompanying any check or payment as rent, will be deemed an accord and satisfaction. Landlord will accept such check for payment without prejudice to Landlord's right to recover the balance of such rent or to pursue any other remedy available to Landlord. If this Lease is assigned, or if the Premises or any part of the Premises are sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the rent reserved in this Lease. No such collection will be deemed a waiver of the covenant in this Lease against assignment and subletting, or the acceptance of the assignee, subtenant, or occupant as Tenant, or a release of Tenant from the complete performance by Tenant of its covenants in this Lease.

F. Joint and Several Liability

If Tenant is composed of more than one signatory to this Lease, each signatory will be jointly and severally liable with each other signatory for payment and performance according to this Lease.

G. Authority

If Tenant signs this Lease as a corporation, each of the persons executing this Lease on behalf of Tenant warrants to Landlord that Tenant is a duly authorized and existing corporation,

that Tenant is qualified to do business in the state of Ohio, that Tenant has full right and authority to enter into this Lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon Landlord's request, Tenant will provide evidence satisfactory to Landlord confirming these representations.

H. Captions, Exhibits, Gender, and Number

The captions and table of contents are inserted in this Lease only for convenience of reference and do not define, limit, or describe the scope or intent of any provisions of this Lease. The exhibits to this Lease are incorporated into the Lease. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine, and neuter adjectives include one another.

I. (Not used)

J. Entire Agreement

This Lease contains the entire agreement between Landlord and Tenant with respect to its subject matter and may be amended only by subsequent written agreement between them. Except for those which are set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this Lease.

K. Severability

If any provision(s) of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as a part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

L. Governing Law and Venue

This Lease will be governed by the law of the State of Ohio and will be construed and interpreted according to that law. Venue on any action arising out of this Lease will be proper only in the Cuyahoga County, State of Ohio, Court of Common Pleas or in the case of Forcible Entry and Detainer actions, the Municipal Court having territorial jurisdiction.

M. Binding Effect

This Lease will inure to the benefit of, and will be binding the successors and permitted assigns of Landlord and Tenant.

IN WITNESS WHEREOF, the parties have signed this agreement the date and place first written.

Witness:

TENANT

Witness:

GREATER CLEVELAND REGIONAL TRANSIT
AUTHORITY

BY: _____
Joseph A. Calabrese, CEO
General Manager/Secretary-Treasurer

Approved as to legal form and correctness

Sheryl King Benford, General Counsel
Deputy General Manager for Legal Affairs

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public, in and for said County and State, came the Greater Cleveland Regional Transit Authority, a body politic, by Joseph A. Calabrese, its CEO, General Manager/ Secretary-Treasurer, who acknowledged that he did execute the foregoing instrument, on behalf of said Authority; that the same is his free act and deed as such officer; and the free act and deed of the Authority.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio this ____ day of _____, 20 ____.

NOTARY PUBLIC

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

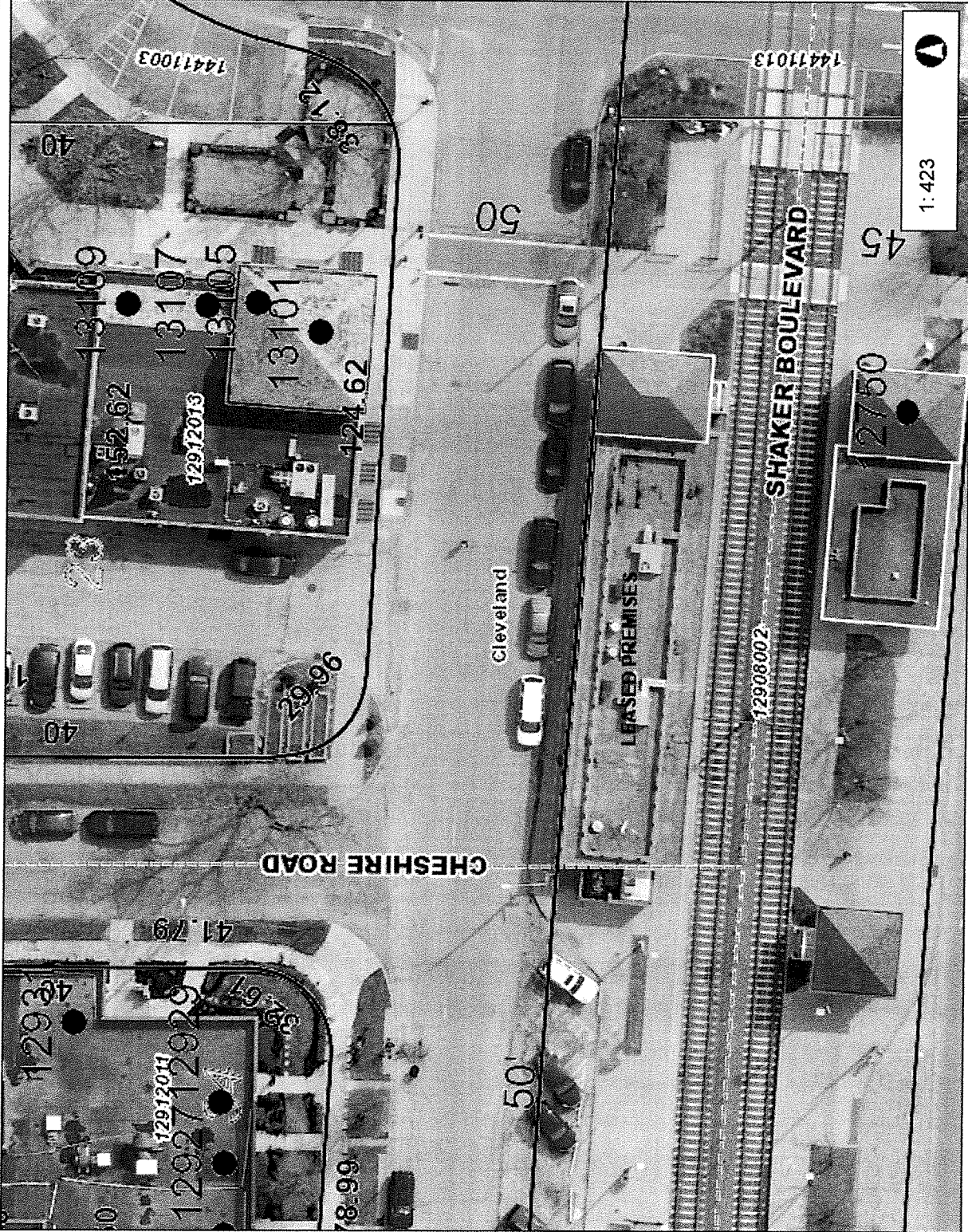
BEFORE ME, a Notary Public, in and for said County and State, came _____
_____, by its _____, who acknowledged
that he/she did execute the foregoing instrument, on behalf of said corporation or other corporate
entity; that the same is his/her free act and deed, individually and as such officer; and the free act
and deed of the corporation or other corporate entity.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland,
Ohio this _____ day of _____, 20_____.

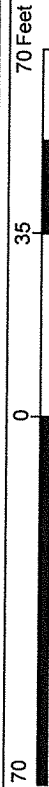
NOTARY PUBLIC



EXHIBIT A -LEASED PREMISES

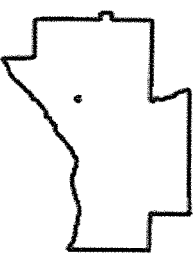


1:423



Projection:
WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



Date Created: 4/11/2017

Legend

- Address Points
- 📍 Cuyahoga County Facility
- ▭ Point Parcels
- Right Of Way
- - - Platted Centerlines
- Parcels
- Municipalities

EXHIBIT "B"

RENTAL PAYMENT ESCALATION

Lease Years	Monthly Rent	Utility Charge	Annual Rent	Annual Total
1 – 10	\$2,400	\$30 per month	\$28,800	\$29,160
11-20	\$2,600	\$50 per month	\$31,200	\$31,800