

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as the "Lease") is made this 3rd day of NOVEMBER, [REDACTED] but effective as of November 1, 2015, by and between the State of Hawaii, by its [REDACTED], a Hawaii nonprofit corporation, whose principal place of business and mailing address is 250 South Hotel Street, Honolulu, Hawaii 96813 (hereinafter referred to as "Landlord"), and [REDACTED], a Hawaii limited liability company, whose mailing address is at [REDACTED] (hereinafter referred to as "Tenant").

WITNESSETH:

In consideration of the rents and covenants to be paid and performed by Tenant, Landlord does hereby lease to Tenant, and Tenant does hereby accept and rent from Landlord, upon the terms and conditions hereinafter set forth, the use of the Premises hereinafter described.

ARTICLE 1

BASIC PROVISIONS

Section 1.1 Tenant's Name: [REDACTED]. Any name selected by Tenant to do business under, other than stated here, shall be subject to the prior written approval of Landlord, which shall not be unreasonably withheld or delayed.

Section 1.2 Permitted Use: The Premises (as hereinafter defined) shall be used for a restaurant and grill including related uses such as catered events and retail and office space for the restaurant, and for no other purpose whatsoever without the prior express written consent of Landlord and the State of Hawaii acting through its Department of Accounting and General Services (the "**Department**"). The restaurant shall be operated in conjunction with the Hawaii State Art Museum. If Tenant uses the Premises or any portion of the Property (as hereinafter defined) outside of the Property's business hours which are currently 7:45 a.m. to 4:30 p.m., Monday through Friday, excluding State holidays, Tenant will, as a condition of Tenant's use during such outside hours, hire security and custodians as provided in paragraph 3 of Exhibit F. This requirement will not apply to events hosted by the Hawaii State Art Museum such as First Friday events or to Museum operating hours on Saturdays. Tenant will be responsible for and indemnify, defend and hold Landlord harmless from any cost or expense in connection with said paragraph 3 of Exhibit F. Tenant agrees to observe and abide by the terms of Exhibit F, insofar as Tenant is concerned.

Section 1.3 Exhibits. The exhibits listed in this Lease and attached hereto are hereby incorporated in and made part of this Lease.

Section 1.4 [REDACTED]




Section 1.6 Food-Service Tenants Addendum. Tenant shall comply with all terms and conditions of Exhibit G, the Food-Service Tenants Addendum.

ARTICLE 2

STATE FOUNDATION ON CULTURE AND THE ARTS

This Lease is subject to the approval of the State Foundation on Culture and the Arts (“SFCA”). Tenant shall conduct itself consistent with the standards and operations of the Hawaii State Art Museum. Landlord has received prior approval from the SFCA.

ARTICLE 3

AIR CONDITIONING

Section 3.1 Cost of Air Conditioning During Operating Hours. Tenant will be responsible for the cost of providing air conditioning to the Premises during Tenant's operating hours, as stated in Exhibit G of the Lease. The cost for air conditioning includes the pro rata cost of electricity to run the system necessary to cool the Premises. The cost is currently determined to be Six Dollars (\$6.00) per hour during the State's normal hours of operation of its air conditioning system of 6:45 a.m. to 4:30 p.m., Monday through Friday, excluding State holidays. Tenant will only be charged for Tenant's requested hours of use during such normal hours of operation. This cost may be amended from time to time to keep up with changes in the Department's cost of providing this service. Tenant will be given thirty (30) days' notice of any changes to this rate. Air conditioning service outside of the above indicated hours of operation of the State's air conditioning system will be charged to Tenant at the rate of Twenty-Five Dollars

(\$25.00) per hour. Air conditioning charges will be charged in .25 hour (15 minutes) increments. The cost of operating the air conditioning system for the Premises shall be paid directly to the Department.

Section 3.2 Use Outside of State Business Hours. If Tenant will be using the Premises, or any other portion of the Property, outside of State business hours (Monday through Friday, 7:45 a.m. to 4:30 p.m., excluding State holidays) Tenant will notify Landlord and the Department of such use by giving notice thereof at least two (2) business days prior to such use and shall be responsible to ensure that security and custodians are hired for the period when guests will be on Premises. The Department will specify the number of security officers and custodians needed for the event or additional operating hours. The Department will specify the specific security firm that is to be retained pursuant to this provision. The Department will notify Tenant if The Department custodians are available during the event or additional operating hours. If no Department custodians are available, the Department will specify the company which Tenant may use to provide custodial services. No other security or custodial firm will be allowed to perform such services. This section shall not apply to events hosted by the Hawaii State Art Museum such as First Friday events or to Museum operating hours on Saturdays.

ARTICLE 4

PREMISES; KITCHEN EQUIPMENT

All of that 2,656 square feet (kitchen - 842 square feet; office - 380 square feet; café seating area – 1,434 square feet) (the “**Premises**”) located on the first floor of the building known as the No. 1 Capitol District, 250 South Hotel Street, Honolulu, Hawaii 96813, identified by Tax Map Key No. (1) 2-1-017-001 (“**Property**”), as set forth in the map attached hereto as Exhibit A with access thereto, together with the nonexclusive right to use the Common Seating Areas, as provided herein, with a common use of restrooms and other common areas with other Tenants, occupants, visitors or employees of the Property. Tenant shall be required to allow adequate access for ingress and egress to building entrances, exits and the sculpture garden. Use of any area outside of the Premises, within the Property, including, without limitation, the Common Seating Areas, shall be subject to policies, rules, and charges of the SFCA and the Department for use of these areas. [REDACTED]

Tenant agrees to accept the Premises and the current kitchen equipment in the Premises listed in Exhibit A-1 in its "as is" condition, and "with all faults". Except as may be specifically provided herein to the contrary, Landlord has rented and Tenant hereby accepts the Premises, the common areas (including the Common Seating Areas), and the utility services available to and designated for the Premises in "as is" condition (including any latent conditions which Landlord is presently unaware of and except as otherwise set forth in this Lease); and Tenant agrees by taking possession of the Premises that the Premises are then in a tenantable and good condition.

To the best of Landlord's knowledge, the Premises are tenantable and the kitchen equipment is useable for its intended purpose and is in good and working condition. Tenant shall be responsible for maintaining and repairing such equipment and shall return the same to Landlord at the end of the term of this Lease, in as good or better condition than when accepted by Tenant, reasonable wear and tear excepted.

ARTICLE 5

TERM

Section 5.1 Term. The term of this Lease shall be for fifty-nine (59) months, commencing on [REDACTED] ("Commencement Date") and terminating on September 30, 2020 ("Termination Date"), unless sooner terminated as provided herein and subject to Tenant's option to extend as provided herein.

ARTICLE 6

RENT

Section 6.1 Basic Monthly Rent. For the period commencing on the Commencement Date to and including the Termination Date, Tenant shall pay to Landlord, in lawful United States currency, the Basic Monthly Rent ("**Basic Monthly Rent**") as follows:

[REDACTED] per month for the period commencing on [REDACTED] (the "**Rent Commencement Date**"), through the end of the term of this Lease.

Basic Monthly Rent shall be payable in advance by the first of each and every month to the office of Landlord or at such other address designated by Landlord, beginning on the Rent Commencement Date.

If the Commencement Date shall not commence on the first day of the month, then the monthly rent for the first fractional month shall be prorated and shall be payable, together with the first full month's monthly rent, on the execution hereof. The monthly rent for the last fractional month shall be payable with the rent for the last full month (payable on the first day of the last full month).

Section 6.2 Percentage Rent. Tenant will also pay, as Percentage Rent, a sum equal to the amount by which the sum of seven percent (7%) of Tenant's Gross Sales (as defined herein) during the preceding month exceeds the Basic Monthly Rent due for such month ("**Percentage Rent**") commencing on the first day of the second month following the month of the Rent Commencement Date. Tenant shall pay Percentage Rent due for the prior month to Landlord at the location according to Landlord's delivery instructions set forth in Section 6.2(b)

below. Tenant's monthly breakpoint for the payment of Percentage Rent with respect to Tenant's original Premises during the initial term of this Lease is therefore [REDACTED] ([REDACTED] divided by [REDACTED]%).

(a) The term "**Gross Sales**" means all receipts whatsoever of Tenant and anyone else from any business conducted by Tenant in, at, upon or from the Premises, including, but not limited to: (i) the entire price, whether wholly or partly for cash or on credit, or otherwise, of all beverages, food, liquor (to the extent permitted), goods, wares, or merchandise sold, leased, catered (for consumption on or off Premises), served, licensed or delivered, in, at, upon or from the Premises by Tenant, its agents, employees, permitted subtenants or concessionaires, or anyone else, or by means of any mechanical device. (No vending machines are allowed, which would compete with the Blind Vendor's vending machines on the first floor of the Building); (ii) all deposits received and not refunded; (iii) the entire price of all orders secured or received in the Premises by telephone, mail, house-to-house, or other canvassing by personnel operating from, reporting to, or under the supervision of any employee, agent or representative of Tenant located at or operating out of the Premises, or by other means, or which Tenant, in the normal and customary course of its operations, would credit or attribute to its business in the Premises; and (iv) the entire price of all sales originating at the Premises, even though bookkeeping and payment may be at another place. Each installment sale or other credit transaction shall be a sale for the full price in the month in which such transaction was entered into, irrespective of the time of payment or passage of title. There shall be no deduction for uncollected or uncollectible credit amounts. The following may be excluded, or deducted if previously included, from gross income in computing gross sales: (i) net cash or credit refunds, not in excess of the purchase price, in fact made upon sales from the Premises where some or all of the merchandise sold is returned to and accepted by Tenant, but only if the purchase price of such merchandise was included in gross sales for the current or a prior accounting period; (ii) returns to Tenant's suppliers; (iii) the amount of the Hawaii general excise tax on sales from the Premises where such tax is either added to or absorbed in the selling price and paid to the taxing authorities by Tenant (but not by any vendor of Tenant); (iv) employee sales; (v) tips; (vi) gift certificates (but which shall be included in Gross Sales when redeemed); and (vii) complimentary food and beverages.

(b) Tenant shall submit to Landlord, at Landlord's address set forth in the "Notices" section of this Lease or such other address that Landlord may designate in writing from time to time, a monthly Gross Sales report ("**Monthly Report**"), in a form attached hereto as Exhibit J and with content acceptable to Landlord, by the fifth (5th) day of the month following the month for which the Gross Sales are being reported. Tenant shall submit the Report each month regardless of whether Percentage Rent is due or not for the month, together with, unless expressly waived by Landlord, a copy of Tenant's monthly "Combined General Excise, Use and Income Tax Withheld Return" or such form as may otherwise be designated for similar purposes ("**General Excise Return**"), which Tenant is required to file each month and annually with the State of Hawaii Department of Taxation ("**Tax Office**"). Tenant consents to allow Landlord and Landlord's agent to verify the authenticity of the General Excise Return with the Tax Office at any time. If Percentage Rent is due, the dollar amount of such Percentage Rent

shown as due must be submitted to Landlord together with the Monthly Report. On or before the sixtieth (60th) day following the end of each calendar year during the term of this Lease, Tenant shall submit to Landlord a written statement signed by Tenant that shows in accurate detail satisfactory in form and scope to Landlord the amount of Gross Sales by month for the preceding calendar year (the "**Annual Report**"). If the Annual Report discloses that the Monthly Reports understated the actual Gross Sales for the year, Tenant shall immediately pay to Landlord the difference in rent paid and the rent that was due based on the Gross Sales amount stated in the Annual Report ("**Additional Rent**"). If the Annual Report discloses that the Monthly Reports overstated the actual Gross Sales for the year, subject to Landlord's right to audit Tenant as set forth in subsection (f) of this Section 6.2, Landlord shall give Tenant a credit against rent for the next rental period or Landlord shall reimburse such overpayment if the overpayment is for the last year of the Lease, after first deducting any amounts due to Landlord under the Lease.

(c) Tenant shall install a cash register or registers or computerized sales or point of sale recording system of a type acceptable to and approved by Landlord at the Premises, and all such cash registers or system shall be equipped with a cumulative totaling device which shall be sealed and a daily dated continuous tape or other recording system with a nonresettable cumulative total on which all Gross Sales shall be recorded and imprinted and which shall indicate any separate department by which such sales are made. Tenant shall retain or cause to be retained intact the daily dated continuous tapes from each such cash register for the period of time set forth in subsection (d) of this Section 6.2 during which period Landlord shall be entitled to inspect the same. A receipt from any such register showing the correct amount of purchase shall be offered to the purchaser at the time any cash sale is made.

(d) The acceptance by Landlord of any monies paid to it by Tenant as rent for the Premises, as supported by any Monthly Report or Annual Report, shall not be an admission of the accuracy of the Monthly Report or Annual Report, and Landlord shall be entitled at any time, within twenty-four (24) months after the receipt of any such rent, to require proof of the accuracy of such Monthly Report or Annual Report. For the purpose of enabling Landlord to check the accuracy of any Monthly Report or Annual Report, Tenant shall for the period of twenty-four (24) months after submission to Landlord of the Monthly Report or Annual Report keep safe and intact all of Tenant's records, books, accounts, cash register tapes, combined tax returns and other data which, as determined by Landlord, may in any way bear upon or are required to establish in detail Tenant's Gross Sales and any authorized deductions therefrom as shown by any Monthly Report or Annual Report, and shall, upon request of Landlord or its agents, deliver the same at any reasonable time during said twenty-four (24) month period.

(e) Landlord and its agents are hereby given the right to inspect Tenant's books at all reasonable times, upon sixty (60) days prior written notice, in order to ascertain the amount of Gross Sales as herein defined. Tenant agrees to keep proper and up to date books and registering devices at all times, showing Gross Sales both for cash and on credit; said books and records, including any sales reports that Tenant may be required to furnish to any governmental agency, shall at all reasonable times be open to the inspection of Landlord or its agents and shall be delivered to the same upon request

by Landlord or its agents, and Landlord or its agents shall have the right to make copies of all such records pertaining to Gross Sales as Landlord may desire.

(f) Landlord may, at any time, cause an audit of Tenant's Gross Sales to be made by an accountant to be selected by Landlord. Such accountant shall be permitted to inspect all books and records of Tenant, including purchase orders and other records necessary to determine the cost of goods sold and Tenant's financial statements. If such audit discloses that any Monthly Report or Annual Report made by Tenant understates the actual Gross Sales as shown in such audit, Tenant shall immediately pay the additional rent payable to Landlord, together with interest thereon at the rate of one percent (1%) per month from the date due to the date paid. If such audit discloses that any Monthly Report or Annual Report made by Tenant to Landlord understates the actual Gross Sales as shown by such audit by more than five percent (5%), Tenant shall immediately pay the cost of any such audit; otherwise the cost of such audit shall be paid by Landlord. Landlord reserves the right to terminate this Lease in the event the audit indicates the Gross Sales reported are understated by more than five percent (5%). The results of the audit shall remain confidential and shall not be disclosed by Landlord.

(g) It is understood that the Monthly Percentage Rent set forth in this Lease shall be deemed to be rent only, and that the relationship between Landlord and Tenant is that of Landlord and Tenant and not of joint venturers and is not a relationship in the nature of a partnership.

Section 6.3 Taxes on Rents; Conveyance Tax. Tenant shall pay to Landlord, as additional rent, together with any payment of monthly rent or other charges hereunder, a sum equal to the amount of any general excise or gross income tax imposed on Landlord on account of the receipt of any such rent or other charges, imposed by the State of Hawaii or any political subdivision thereof, and all other similar taxes imposed on Landlord on said rent or other charges in the nature of a gross receipts tax, sales tax, privilege tax or the like (but excluding Landlord's net income taxes) (such amounts payable by Tenant being "GET"). The amount of GET shall be an amount which, when added to the rent and other charges, shall yield to Landlord, after deduction of all such taxes payable by Landlord with respect to such rent and other charges, an amount equal to that which Landlord would have realized from such rent and other charges had no such GET been imposed. At present, the amount equals 4.712% of the rent and other charges, which amount may change in accordance with applicable laws. Any real property taxes and other governmental charges, if levied and applicable, will be payable by Tenant.

Tenant shall also pay any conveyance tax imposed by the State of Hawaii with respect to this Lease and execute a conveyance tax certificate and other documentation as may be necessary or proper in connection therewith.

Section 6.4 Interest and Late Payments. Any amounts owing by Tenant to Landlord under the terms of this Lease shall carry interest from the date the same become due until paid at the rate of one percent (1%) per month and said interest shall be considered as a part of the rent payable hereunder; provided, however, that nothing contained herein shall be

construed as authorizing Tenant to make payments of all sums required hereunder in other than a timely fashion.

Tenant acknowledges that late payment by Tenant to Landlord of rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing accounting charges and late charges that may be imposed on Landlord. Therefore, if any installment of rent due from Tenant is not received by Landlord when due, Tenant shall pay to Landlord an additional sum as set forth in Section 22.24 herein. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount, or prevent Landlord from exercising any of the rights and remedies available to Landlord.

ARTICLE 7

OPERATING EXPENSES

Section 7.1 Tenant to Pay for All Utility Charges. Tenant will pay for all water, sewage, telephone, electricity including air conditioning and all other utility charges incurred by reason of Tenant's use and enjoyment of the demised Premises (collectively, "**Premises Utility Charge**"), including, without limitation, all air conditioning charges during Operating Hours pursuant to Article 3. Tenant shall pay the Premises Utility Charge to Landlord or as directed by Landlord on an estimated basis as set forth in Section 7.2 below. Utility costs payable by Tenant are as follows:

- a. Electricity - The Premises has a separate sub-meter for electricity and lights within the Premises. Tenant shall be responsible for the cost of all electricity used within the Premises as indicated by the sub-meter.
- b. Water and Sewage – The Premises has a separate sub-meter for water usage within the Premises. Tenant shall be responsible for the cost of all water used (and related sewer charges) for the Premises, as indicated by the sub-meter.
- c. Air Conditioning - Tenant will be responsible for the cost of providing air conditioning as set forth in Article 3 above. Tenant shall pay the cost of after-hours air conditioning as set forth in Section 3.1 above within five (5) days of receipt of billing for such use by Landlord.
- d. Gas – Tenant to contract with the service provider directly to arrange service for the kitchen range, and water heater servicing the Premises.

Section 7.2 Tenant's Payment of Premises Utility Charge on Estimated Basis.

Tenant's Premises Utility Charge shall be paid as follows. Prior to the beginning of each calendar year during the term of this Lease or any extension of the term, Landlord shall provide Tenant with Landlord's estimate of the monthly Premises Utility Charge for that calendar year. Landlord's estimate will be subject to modification by Landlord from time to time and, at any time, in Landlord's discretion based on changed circumstances, conditions or actual experience. Tenant's Premises Utility Charge shall be paid monthly, on the same day as the Basic Monthly Rent is due hereunder (prorated for any partial month). If, at any time, Landlord increases its estimate of the Premises Utility Charge, Landlord shall notify Tenant of such revision and Tenant shall pay to Landlord, on the date on which the Basic Monthly Rent is due, the amount of Tenant's Premises Utility Charge, including any increase therein. After the end of each calendar year, Landlord shall determine the actual amount of the Premises Utility Charge for that calendar year and within 120 days thereafter shall provide Tenant with a written statement of Tenant's Premises Utility Charge for that calendar year.

Within ten (10) days thereafter, Tenant shall pay to Landlord the amount by which Tenant's actual Premises Utility Charge for the calendar year exceeds the amount of estimated Premises Utility Charge paid by Tenant during that calendar year. If the amount of estimated Premises Utility Charge paid by Tenant during that calendar year is greater than the amount of Tenant's actual Premises Utility Charge for that calendar year, Tenant will be credited with the difference and Landlord will apply the credit, without interest, against the next installment of Tenant's Premises Utility Charge and, if necessary, apply it against each succeeding installment of Tenant's Premises Utility Charge until either the credit is exhausted or the term of this Lease, or any extension thereof, expires or this Lease is otherwise terminated. If such credit exists upon the expiration of the term of this Lease or any extension thereof, Landlord shall apply such credit against any other unpaid obligations of Tenant hereunder and, provided Tenant is not in default hereunder, Landlord shall refund any remaining credit to Tenant within a reasonable time thereafter. Notwithstanding the foregoing, Tenant shall be responsible for the direct payment to the Department of the air conditioning charge for any after hours use of the Premises prior to such after hours use.

ARTICLE 8

INDEMNITY AND INSURANCE

Section 8.1 Indemnity. Tenant covenants to indemnify, defend, and hold harmless Landlord, the SFCA and the Department and their respective officers, directors, employees, agents, successors, assigns from and against any and all claims and demands of third persons including, but not limited to, those for death, for personal injuries, or for loss of or damage to property occurring in or arising, directly or indirectly, out of or in connection with the use and occupancy of the Premises, any breach of this Lease, the business conducted in the Premises, or, without limiting the foregoing, as a result of any acts, omissions or negligence of Tenant's respective tenants, agents, servants or employees in or about the Premises, or the Building, and from and against all costs, expenses and liabilities occurring in or in connection with any such claim or proceeding brought thereon except to the extent caused by the gross negligence of Landlord.

Section 8.2 Workers' Compensation and Liability Insurance. Tenant covenants to maintain in full force throughout the Term hereof, at its own cost and expense, policies of workers' compensation insurance as required by law and commercial general liability insurance insuring Tenant, Landlord, and the Department, and such other person or persons designated by Landlord, against liability for death, injury and damage sustained by persons or property in or about the Premises. Each such policy shall be subject to the prior approval of Landlord and the Department as to form and insurer.

The State of Hawaii shall be added as an additional insured with respect to operations performed on the Premises leased from, or on behalf of the State of Hawaii. It is agreed that any insurance maintained by the State of Hawaii shall apply in excess of and not contribute with insurance provided by this policy. The commercial general liability insurance or equivalent coverage for the Premises shall provide coverage of Two Million Dollars (\$2,000,000.00) combined single limit for bodily injury, death and property damage liability; provided, however, that said coverage shall be increased to Three Million Dollars (\$3,000,000.00) if Tenant serves alcoholic beverages at or from the Premises. Tenant shall include in the above mentioned policies the following coverage, if applicable: personal injury with employee and contractual exclusions removed; broad form property damage; host liquor liability; owners and contractors protective liability; premises medical; fire legal liability; contractual liability; boiler and machinery insurance; and products and/or completed operations liability. Tenant shall acquire plate glass insurance or, at its option, be responsible for any plate glass damage.

Tenant shall maintain automobile liability coverage written on occurrence form for all owned, non-owned, and hired automobiles. Coverage must include automobile contractual liability, uninsured and underinsured motorist, basic no-fault and personal injury protection as required by Hawaii law. Required limits of liability shall be no less than One Million Dollars (\$1,000,000.00) per accident; or bodily injury of One Million Dollars (\$1,000,000.00) per person and One Million Dollars (\$1,000,000.00) per accident, and property damage of One Million Dollars (\$1,000,000.00) per accident.

The State of Hawaii shall be added as an additional insured with respect to insurance for any operations performed on the Premises leased from, or on behalf of the State of Hawaii. It is agreed that any insurance maintained by the State of Hawaii shall apply in excess of and not contribute with insurance provided by this policy. Tenant shall immediately provide written notice to Landlord should any of the insurance policies evidenced on its certificate of insurance form be cancelled, limited in scope, or not renewed upon expiration.

Section 8.3 Property Insurance. Prior to the date Tenant occupies the Premises and throughout the Term, Tenant agrees to maintain in full force one or more policies covering the Premises, in ISO special causes of loss form on all improvements, fixtures, heating, ventilating, air conditioning, cooking equipment, whether installed by Tenant or Landlord, and electrical equipment, such insurance to be in an amount equal to at least one hundred percent (100%) of the replacement value thereof. The insurance policies maintained by Tenant covering such other improvements, fixtures, heating, ventilating, air conditioning and electrical equipment shall provide that insurance loss proceeds thereon shall be payable to the Department; however, all proceeds of such insurance including for Tenant's installed improvements, fixtures and equipment shall be held in trust to be used for the repair or replacement of the improvements,

fixtures, and equipment so insured and, in the event of an insurance claim, Tenant shall execute documents, approved by Landlord, evidencing the trust and the uses to which any such insurance recovery is to be put. In any event, the risk of loss for such other improvements, fixtures, heating, ventilating, air conditioning and electrical equipment shall be borne by Tenant. Tenant shall immediately provide or cause to be provided written notice to Landlord and the Department should any insurance policy be cancelled, limited in scope of coverage, non-renewed or amended, insofar as it relates to the Premises and operations performed on the Premises.

Section 8.4 Policies. A duplicate original of all policies procured by Tenant in compliance with its obligations under this Article 8 shall be delivered to Landlord at least thirty (30) days prior to the time such insurance is first required to be carried by Tenant, and thereafter at least thirty (30) days prior to the expiration of any such policy. In the event of Tenant's failure, in whole or in part, at any time during the Term thereof, to obtain insurance required to be carried by Tenant under the provisions hereof or to provide such evidence hereof in timely fashion, Landlord shall have the right, but not the obligation, to procure such insurance and Tenant shall pay to Landlord the costs and expenses thereof.

Section 8.5 Risk; Department Services and Repairs. Tenant agrees to use and occupy the Premises and to use all other portions of the Property which it is permitted to be used by the terms of this Lease at its own risk, and hereby for itself and all persons claiming under, by or through Tenant, releases Landlord and the Department, and their respective agents, servants, contractors and employees, from all claims and demands of every kind resulting from any accident, damage or injury occurring therein except to the extent caused by the gross negligence of Landlord. Landlord shall have no responsibility or liability for any loss of, or damage or injury to, fixtures, improvements, or other personal property of Tenant, or any of them from any source whatsoever except to the extent caused by the gross negligence of Landlord. Tenant agrees to name Landlord, and such other person or persons designated by Landlord, as an additional insured in any insurance policy obtained by Tenant in connection with the Premises or the Building and to furnish Landlord with a duplicate original or certificate of such policy in accordance with this Article 8 hereof.

Tenant hereby acknowledges and agrees that the only services, amenities, and rights to which Tenant is entitled under this Lease are those to which Landlord is entitled under the Master Sublease with respect to the Premises (subject to all provisions, restrictions and conditions imposed in the Master Sublease.) Landlord will in no event be liable to Tenant for the Department's failure to provide any such services, amenities, or rights nor will any such failure be construed as a breach hereof by Landlord or an eviction of Tenant, or entitle Tenant to an abatement of any of the rent due under this Lease.

Section 8.6 Waiver of Subrogation. Tenant hereby waives any rights it may have against Landlord, the Department, and the State of Hawaii and their respective officers, employees and agents, or any other Tenant of the Property of which the Premises are a part on account of any loss or damage occasioned to Tenant, its property, or the property of which the Premises are apart, arising from any risk generally covered by fire and extended coverage insurance; and Tenant, on behalf of its insurance company insuring the property of either Landlord, the SFCA, and the State of Hawaii, or Tenant against any such loss, waives any right

of subrogation that it may have against Landlord or Tenant or any other Tenant of the property of which the Premises are a part, as the case may be.

Section 8.7 Reevaluation of Insurance Requirements. Landlord shall have the right to reevaluate the insurance requirements provided for in this Article 8 from time to time and in the event Landlord determines, in its reasonable discretion, that the insurance coverage required hereunder is inadequate based on the insurance requirements for other commercial buildings or similar business operations of Tenant in the State of Hawaii, Landlord shall have the right to require Tenant to comply with any new insurance requirements that Landlord may reasonably impose. Landlord shall give Tenant at least ninety (90) days prior notice of such new insurance requirements and Tenant shall comply with such new requirements on or before the expiration of said ninety (90) days.

Section 8.8 Non-Contribution. It is agreed that any insurance maintained by Landlord shall apply in excess of and not contribute with insurance provided by Tenant.

ARTICLE 9

FIRE AND OTHER CASUALTIES

Section 9.1 Right to Terminate. In the event the Premises or the Property should be damaged or destroyed, Landlord may, at its sole option, either terminate this Lease or elect to repair the Premises. If Landlord elects to terminate this Lease, then the Term hereof shall end at the end of the calendar month in which such election is made, or at such later time as Landlord may designate. If Landlord does not elect to terminate this Lease, then Landlord or the Department shall perform such repairs and rebuilding as set forth herein and Tenant shall perform such repairs and rebuilding as set forth herein, and the Term shall continue without interruption and this Lease shall remain in full force and effect.

Section 9.2 Landlord's Repairs. Landlord's obligations to repair shall be done in such manner that upon completion thereof, that portion of the Premises repaired or rebuilt shall contain substantially the same amount of gross leaseable area as immediately prior to the damage or destruction, subject, however, to the then current zoning and other applicable law and the terms of the Lease governing such repair or rebuilding.

Section 9.3 Tenant's Repairs. Tenant shall, at its own cost and expense, repair and restore the entire Premises to the extent not repaired by Landlord. Tenant agrees to commence the performance of its work when notified by Landlord that the work to be performed by Landlord has proceeded to the point where the work to be performed by Tenant can, in accordance with good construction practices, then be commenced.

Section 9.4 Insurance Proceeds. All insurance proceeds payable with respect to the Premises, excluding the proceeds payable to Tenant pursuant to Article 8 hereof, shall belong to and shall be payable to Landlord. If Landlord does not elect to terminate this Lease as provided in Article 8 hereof, Landlord shall, subject to the prior rights of the holder of any mortgage which is a lien against the Premises or the Property, disburse and apply any insurance

recovery as follows: first, to be applied against all costs associated with Landlord's repairs, including, without limitation, all costs of adjusting losses; second, to be applied against any outstanding amount owed by Tenant to Landlord; third, to be paid to Tenant to the extent of the cost of Tenant's restoration of the Premises pursuant to this Article 9 hereof, not including furniture, furnishings and movable trade fixtures and not including repairs covered by insurance maintained by Tenant; and fourth, the balance of any insurance recovery shall belong to and be the exclusive property of Landlord. Landlord may retain an independent insurance adjuster for the purpose of apportioning the balance of Landlord's insurance recovery among affected Tenants in the event that premises other than the Premises are damaged or destroyed as a result of the insured casualty. The findings of the adjuster shall be binding and conclusive upon all affected Tenants. The aforesaid payment to Tenant shall be made if and when (i) Tenant shall be current in its payment of the Basic Monthly Rent required hereunder; or (ii) Tenant shall have executed such certificates as shall be required by Landlord and/or any mortgagee or Lessor or Lessee. Tenant hereby expressly grants to Landlord an offset and deduction against the amount of such payment for all costs, payments and expenses Tenant is obligated to pay to Landlord pursuant to this Lease or otherwise due and owing to Landlord, at the time such payment shall be due.

Section 9.5 Rent Abatement. During any period in which the Premises are substantially damaged by reason of any fire or other insured casualty preventing the operation of Tenant's business therein, the Basic Monthly Rent shall abate but not Operating Expenses. In the event of partial damage to the Premises, the abatement of Basic Monthly Rent shall be in the same percentage as the gross leaseable area of the Premises that is damaged or destroyed is of the gross leaseable area of the Premises. Any such abatement shall continue for the period commencing with the date of casualty preventing operation of Tenant's business in the Premises and ending with the completion of such repair work as Landlord is required to perform under the provisions of this Article 9.

ARTICLE 10

REPAIRS AND ALTERATIONS

Section 10.1 No Obligation to Make Repairs. Landlord shall not be obligated to make repairs, replacements or improvements of any kind to the Premises or to any movable trade fixtures, equipment, furnishings, facilities, personal property or fixtures of any kind contained therein. There shall not be any allowance to Tenant or diminution or abatement of rent, or any liability on the part of Landlord, by reason of inconvenience, annoyance or injury to Tenant's business arising out of the actions of the Department in making any repairs, replacements or performance of maintenance work to the common areas or the Property.

Section 10.2 Tenant's Repairs. Tenant shall make, at Tenant's sole cost, all repairs and do all work necessary to conduct business from the Premises at the inception of the term of this Lease. Throughout the term of the Lease, Tenant shall also be responsible to repair, maintain and replace as necessary, all improvements, equipment, appliances, furnishings and

fixtures which were included in the Premises leased to Tenant. Tenant's additional responsibility to repair, maintain or replace, is addressed in Exhibit G.

Tenant shall have the right to construct additional interior improvements with Landlord's prior written approval, which shall be granted or denied within ten (10) business days of Tenant's request. All improvements shall be at the sole cost of Tenant. Tenant shall keep in working order and replace as necessary all kitchen equipment and appliances to include, but not limited to ovens, stoves, walk-in refrigerator, and hot water heater. Kitchen equipment and appliances for which Tenant shall have responsibility to maintain and repair include the grease interceptor for the Premises. Refer to Exhibit G (I) Grease Interceptors, for Tenant's responsibility for grease interceptor maintenance.

Section 10.3 Alterations. Tenant may not make any alterations or improvements to the Premises without Landlord's and the Department's prior written consent. Tenant shall submit, for Landlord's and the Department's approval, all plans, blueprints and specifications for proposed alterations or improvements. Landlord and/or the Department may charge Tenant a reasonable out-of-pocket fee for review and approval of all plans and specifications, limited to reasonable fees charge by an architect or engineer employed by Landlord for such review. All plans and specifications shall conform to all Public Accommodations Laws and all other applicable governmental laws. Tenant will, before commencing construction of any alterations approved by Landlord costing more than Ten Thousand and 00/100 Dollars (\$10,000.00), deposit with Landlord a fully executed copy of the contract therefor and a copy of the contractor's (or Tenant's if it is acting as its own contractor) performance and payment bonds, naming Landlord and Tenant as obligees in an amount equal to the total estimated cost thereof, and in form and with surety satisfactory to Landlord, guaranteeing completion of construction free and clean of all mechanics' or materialmen's liens.

Section 10.4 Landlord's Right to Construct Changes and Additions. Tenant acknowledges and agrees that the Department has the right at any time to make alterations or additions to the Property and Tenant accepts the inconvenience of such alterations or additions as long as the Department makes reasonable efforts to minimize any disruptions to Tenant's business that might result from such alterations or additions.

Section 10.5 Landlord's Right to Perform. If Tenant shall fail to make any of the repairs required by the provisions of Article 9 or Article 10 and hereof; or to commence the performance of any of its obligations thereunder within ten (10) days after notice by Landlord, Landlord shall have the right, but not the obligation, to make any such repairs, replacements or perform maintenance work or any other work required of Tenant pursuant to Article 9 or Article 10, as the case might be, and charge the actual cost thereof to Tenant.

ARTICLE 11

FEDERAL TAX COVENANTS

Tenant acknowledges and agrees that it has received and read the Master Lease, including, in particular, Section 8.12 thereof; and the related 2009 Tax Certificate of the State of

Hawaii dated November 5, 2009, and understands that the exemption from gross income of the interest on the obligations (the "**Obligations**") of the State of Hawaii identified by the Master Lease is subject to Landlord's continuing compliance with the applicable covenants of the Master Lease and the Tax Certificate, which covenants extend to the Premises and Tenant's tenancy and use thereof. Accordingly, Tenant covenants and agrees that it shall not use or permit the use of the Premises or any other portion of the Project (as defined by the Master Lease) within its control by any person in any manner or to such extent as would result in the inclusion of interest received under the Master Lease in the gross income of the owners of the Obligations for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "**Code**"), and that Tenant shall take no action or omit to take any action the consequence of which action or omission would result in the inclusion of such interest in gross income of the owners of the Obligations for federal income tax purposes under the Code. Tenant further agrees to cooperate in good faith with Landlord upon the reasonable request of Landlord in furtherance of Tenant's foregoing covenants and Landlord's corresponding covenants under the Master Lease and the Tax Certificate.

ARTICLE 12

COMMON AREAS

Section 12.1 Designation.

(a) Tenant acknowledges and agrees that the Department shall make available within the Property such common areas (as herein defined) as the Department shall, from time to time, deem to be appropriate. Tenant shall have the nonexclusive right during the Term to use (for their intended purposes) the common areas for itself, its employees, agents, customers, invitees and Tenants. The Department shall have the right, at any time from time to time, to change the designation, size, location, or nature of the common areas, or any part thereof, including, without limitation, the right to make other improvements of any type whatsoever. "Common areas" shall mean all entrances and exits to the Property, stairways and other areas and improvements provided by Landlord for the common use of all Tenants and occupants of the Property and their employees, agents, customers, invitees and Tenants.

(b) Without limiting any of the Department's rights concerning common areas, Tenant understands and agrees that the Department may establish, alter or remove the location and/or amount of any improvements and access ways in the common areas, which shall be undertaken in such a manner as to minimize interruption to Tenant's business, Tenant agrees that Tenant has not entered into this Lease in reliance thereon or in reliance on the nature, kind, location, amount or types of common areas.

Section 12.2 Rules and Regulations

(a) All common areas shall be within the exclusive control and management of the Department or its designee, and the Department or its designee shall have the right at any time from time to time, to establish, modify, amend and enforce rules and regulations with respect to

the common areas and the use thereof. Tenant agrees to abide by and conform with such rules and regulations upon notice thereof.

(b) The Department or its designee shall have the right to close temporarily all or any portion of the common areas while making additional improvements or repairs or alterations to the Property; to transfer, in whole or in part, any of Landlord's rights or obligations under this Lease to any other Tenant or subtenant, or to such other party or designee as Landlord may from time to time determine; and to do and perform such other acts with respect to the common areas as the Department or its designee, through the use of good business judgment, shall conclusively determine to be appropriate for the Property, which shall be undertaken in such a manner as to minimize interruption to Tenant's business.

Section 12.3 Right to Use Common Areas. It is understood that Tenant and Tenant's employees and customers shall have the right in common with other Tenants of the Property and their employees, customers and the general public to use, in accordance with any rules, first floor restrooms, sidewalks, stairways, driveways, and entrances and exits in connection with the business to be conducted and at any time park its truck or other delivery vehicles temporarily in the loading zone, provided that Tenant shall not inconvenience employees, customers and the general public in the use of such common areas or facilities. Tenant shall not use the common areas exclusively at any time for the sale or display of any merchandise or for any other business, occupation or undertaking.

Section 12.4 Control of Parking Lot(s) and Common Areas by Landlord. Tenant will have the use of one (1) parking stall. Tenant shall pay to the Department's Automotive Management Division the monthly fee of [REDACTED] and 00/100 Dollars (\$ [REDACTED].00) for such parking stall in accordance with the Department's Automotive Management Division parking policy, which may be amended from time to time. In addition, the Department shall provide Tenant a non-exclusive loading zone. All driveways, entrances and exits thereto and other facilities furnished by the Department in or near the Property, the truck way or ways, pedestrian sidewalks and ramps, landscaping areas, stairways, comfort stations and other areas and improvements provided by the Department for the general use, in common, of all Tenants and guests in the Property, their officers, agents, employees and customers, shall at all times be subject to the exclusive control and management of the Department, and the Department shall have the right to charge fees for parking. The Department shall have the right, from time to time, to change the area, level, location and arrangement of all facilities hereinabove referred to and may restrict parking for Tenant, its officers, agents and employees to employee parking as designated by the Department; and do and perform such other acts in and to said areas and improvements as, in the use of good business judgment, the Department shall determine to be advisable with a view to the improvement of the convenience and use thereof by guests, Tenants, their officers, agents, employees, and customers.

Section 12.5 Exclusion of Trespassers. The Department may at any time and from time to time during the Term hereof, as permitted by law, exclude and restrain any person from the use or occupancy of common areas, excepting, however bona fide customers, patrons and service suppliers of Tenant and other Tenants and guests of Landlord who make use of the said areas in accordance with the rules and regulations established by Landlord or the Department from time to time with respect thereto. Landlord or the Department shall have the

right to remove from said areas, or to restrain the use of any of said areas by any person not authorized by Landlord, by the Department or by Tenant or by other Tenants to use said areas.

Section 12.6 Landlord's Rules and Regulations. The Department's current rules and regulations concerning the use of common areas and Tenant's occupation of the Premises is attached hereto as Exhibit F. These rules and regulations are subject to change by the Department upon reasonable notice to Tenant. Tenant agrees to abide by and conform to all such rules and regulations upon notice thereof.

ARTICLE 13

ENVIRONMENTAL COMPLIANCE

Section 13.1 Tenant's Covenants. During the term of Tenant's lease, Tenant shall not cause or permit the escape, disposal or release of any hazardous materials in or upon the Premises. Tenant shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage, and use of such materials, nor allow to be brought into the Premises any such materials except to use in the ordinary course of Tenant's business. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Tenant, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional charges if such requirement applies to the Premises. In addition, Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of hazardous materials on the Premises placed or released by Tenant.

Section 13.2 Definitions. For the purpose of this Lease, "hazardous materials" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

Section 13.3 Use of the Project. Tenant will not acquire, construct, install, use, operate or maintain the Premises or any portion or item thereof in violation of any applicable law or in a manner contrary to that contemplated by this Lease.

Section 13.4 Environmental Compliance. The Applicable Law for Environmental Compliance includes, without limitation, CERCLA, RCRA, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Clean Air Act, 42 U.S.C. 7401 et seq. and the provisions of all state or local law regulating Hazardous Substances, and the regulations thereunder, whether currently in existence or hereafter enacted, that govern (i) the existence, clean up and/or remedy of contamination on property; (ii) the protection of the environment from spilled, deposited or otherwise emplaced contamination, (iii) the control of hazardous wastes; or

(iv) the use, generation, transport, treatment, removal or recovery of Hazardous Substances, including building materials.

Section 13.5 Disposal and Clean Up. Tenant shall dispose of all hazardous substances in strict accordance with all regulatory guidelines. In addition, no hazardous substances shall be disposed of in the Property's garbage containers or any trash containers in the Property's common areas. Special containers for storage and disposal of hazardous substances are to be used for disposal and shall be provided by Tenant at its sole expense and such containers shall not be placed in any public or common areas of the Property for pick up. A company licensed and registered in the pick-up of and disposal of hazardous substances is to be used and the containers must be picked up by the hazardous substance disposal company from within Tenant's Premises or areas within the Property as designated by Landlord. Tenant will be solely responsible for spills or leaks of hazardous substances created by Tenant or due to Tenant's negligence.

No hazardous substances (liquid, semi-solid particulate, or solid particulate small enough to dispose of down a drainpipe) are to be disposed of by Tenant through any drainpipes and/or sink within the Property.

In the event of any spill or leakage of any hazardous substances by Tenant, Tenant shall be solely and exclusively responsible and liable for any resulting clean up, disposal, damages, costs, expenses, fines, liabilities, claims, and/or demands, and shall indemnify, defend, and hold Landlord harmless against the same.

ARTICLE 14

ASSIGNMENT AND SUBLETTING

Section 14.1 Consent Required. Tenant shall not have the right at any time to mortgage or assign this Lease by operation of law or otherwise, or sublet the Premises or any part thereof, or grant any concession or license, or transfer operating or management control of the Premises or any part thereof, without the prior written consent of Landlord, which consent shall be within the reasonable discretion of Landlord.

Landlord reserves and shall have the right to sell, lease, assign, and/or mortgage this Lease and/or the Property, and in the event of any such sale, lease or assignment, Landlord shall be and hereby is entirely released and discharged from any and all further liability and obligations of Landlord hereunder, except any that may have theretofore accrued.

Section 14.2 Change of Control. If Tenant is a limited liability company, corporation, general or limited partnership, and if at any time during the Term the person or persons who, on the date hereof, owns or own directly or indirectly a majority of the financial, voting or decision-making interests of the limited liability company or its manager limited liability company, or persons holding majority financial or voting or decision making interests in such entities ceases or cease to own a majority of such interests by sale or any manner of transfer, or otherwise, including a transfer by gift or inheritance or by the creation of new stock

or interests, whether such transfer occurs at one time or at intervals so that, in the aggregate, such a transfer shall have occurred, or if Tenant is dissolved, or if this Lease is transferred by merger, consolidation, liquidation, assignment for the benefit of creditors or by operation of law or otherwise, then in any such event Tenant shall so notify Landlord and Landlord shall have the right, at its option, to terminate this Lease by notice to Tenant given within thirty (30) days thereafter.

Section 14.3 Nonwaiver of Right to Consent. Any consent by Landlord to any act of assignment or subletting shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of Tenant, or the legal representatives or assigns of Tenant, to obtain from Landlord consent to any other or subsequent assignment or subletting, or as modifying or limiting the rights of Landlord under the foregoing covenant by Tenant not to assign or sublet without such consent. If this Lease is assigned, Landlord may and is hereby empowered to collect rent from the assignee; if the demised Premises or any part thereof be sublet or occupied by any person other than Tenant, Landlord, in the event of Tenant's default, may, and is hereby empowered to, collect rent from the occupant; in either of such event, Landlord may apply the net amount received by it to the rent herein reserved, and no such collection shall be deemed a waiver of the covenant herein against the assignment and subletting, or the acceptance of the occupant as Tenant, or a release of Tenant from the further performance of the covenants herein contained on the part of Tenant.

ARTICLE 15

TENANT'S ADDITIONAL AGREEMENTS

Section 15.1 Affirmative Covenants. Tenant agrees at all times during the Term hereof, at its own cost and expense, to:

- (a) Keep the Premises in a neat and clean condition, and not suffer, permit or commit any waste or nuisance;
- (b) Keep all loading and trash areas allocated for the use of Tenant clean and free from rubbish and dirt; store all trash and garbage in containers located on the Property; and contract for and pay for disposal of its own trash and wet garbage services provided that Landlord provides adequate space for such containers. The method by which Tenant shall store and dispose of trash, garbage, and recyclables shall conform at all times to Landlord's requirements and the requirements of any applicable governing body;
- (c) Promptly comply with all present and future laws and ordinances and all rules and regulations of duly constituted governmental authority and the insurance rating organization having jurisdiction over the Premises, affecting the Premises, the Property, and the cleanliness, safety, use and occupation thereof; and will not do, suffer or permit any act or omission to occur in or about the Premises which will increase the insurance rate with respect to the Premises above the average rate applicable to use of the Premises. For the purpose of this Section, any

finding or schedule of the insurance rating organization or similar body having jurisdiction shall be deemed to be conclusive;

(d) Pay before delinquency any and all taxes, assessments and public charges payable during the Term levied, assessed or imposed upon Tenant or Tenant's business or the operation thereof, foreseen or unforeseen, or upon Tenant's fixtures, furniture, appliances or personal property installed or located in the Premises, or which constitute a lien upon any of the foregoing; and

(e) Obey, observe, and compel its officers, employees, contractors, Tenant's, invitees, and all others doing business with it, to observe and obey any and all provisions, rules and regulations established by Landlord at any time and from time to time during the Term applicable to the government of the conduct and operations of Tenant and for the promotion of the safety, health, preservation of property and maintenance of good order within the Property, so long as the provisions, rules and regulations are not discriminatory with respect to Tenant; but Landlord shall, except in case of emergency, give Tenant at least ten (10) days' notice of the establishment of such provisions, rules and regulations.

Section 15.2 Negative Covenants. Tenant agrees that it will not at any time during the Term hereof, without first obtaining Landlord's written consent:

(a) Conduct or permit on the Premises or in any part of the Property (i) any fire, bankruptcy, auction or "going out of business" sale, or (ii) the utilization of any unethical or illegal method of business operation;

(b) Operate on the Premises or in any part of the Property any coin or token operated vending machine or similar device for the sale of any goods, wares, merchandise, food beverages or services, including, but not limited to, pay telephones within the area of the Premises, pay lockers; pay toilets, scales, and amusement devices; (Note: Proceeds may be subject to State law, requiring vending income to be part of Ho'opono Rehab Center for the Blind).

(c) Use, or permit to be used, any part of the common areas, or other premises outside the Premises for the sale or display of any merchandise or for any other business, occupation or undertaking without Landlord's consent. It is understood that Tenant may request areas outside of the Premises which are part of the Facilities Rental Program (administered by the SFCA) for catering purposes;

(d) Use any loudspeakers, phonographs or other devices of similar nature in such manner as to be heard outside of the Premises except with the prior written consent of the Department;

(e) Permit the emission of any smoke, noise, odor or objectionable light from the Premises, other than normal restaurant noise and odors; and

(f) Permit deliveries to the Premises, except through delivery areas and during the times established by Landlord.

Section 15.3 Signs. The design, size and location of Tenant's sign(s) shall conform to Landlord's standard sign criteria as set forth in Exhibit E, as the criteria may from time to time be changed by Landlord in Landlord's sole discretion. Tenant shall not install any sign(s) in locations other than as permitted by Exhibit E and specifically no sign(s) shall be installed on the ceiling nor any sign, symbol, advertisement, neon or other light, shade, or any other object or thing visible to public view outside of the Premises, without first obtaining Landlord's approval as to whether the same shall be so installed or placed and, if so, as to the location, number, type and appearance of each thereof, all sign(s) shall be at Tenant's sole cost and expense.

Section 15.4 Preservation of Image. Tenant acknowledges that it is Landlord's intent that the Property be operated in a manner that is consistent with the highest standards of Landlord and the Hawaii State Art Museum. Toward that end, Tenant agrees it will not sell, distribute, display, or offer for sale any item that, in Landlord's good faith judgment is inconsistent with the quality of operation of the Museum and the Property or may tend to injure or detract from the character or image of the Museum and the Property. Furthermore, Tenant shall not use any content, images, or other copyrighted works whose intellectual property belongs to the Friends of the Hawaii State Art Museum or the Hawaii State Foundation on Culture and the Arts in the production of Tenant's promotional materials or business without advance written permission.

ARTICLE 16

UTILITIES

Section 16.1 Utilities. Landlord and Tenant acknowledge and agree that check meters currently exist for the measurement of utilities consumed at the Premises. Any additional meters necessary to record the amount of electricity, gas, water and air conditioning furnished to the demised Premises shall be installed by Tenant at its sole expense. Landlord may, at its sole option, either (a) require a uniform system of rubbish collection to be followed by all Tenants in the Property, in which case Tenant shall comply with all requirements set by Landlord including the color, size and placement of trash collection bins; or (b) arrange for trash collection services to be rendered by an independent contractor for said services.

If there is any curtailment of utility servers, Landlord shall not be responsible for any damages or loss to Tenant.

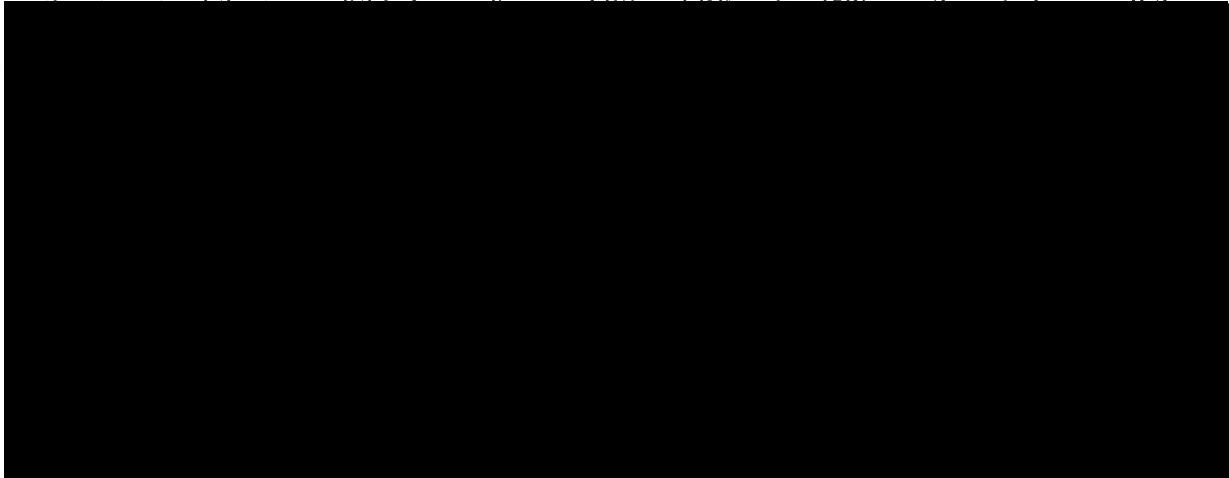
Section 16.2 Compliance. Tenant agrees to comply with the terms for utility use as set forth in Exhibit D.

Section 16.3 Additional Utility Services. Tenant shall have the right, subject to the prior written consent of Landlord and the Department, to install additional utility services required for Tenant's business operations. Tenant acknowledges that the consent of Landlord and the Department shall be in their sole discretion after taking into account the requirements of the Premises.

ARTICLE 17

TENANT'S OPTION TO EXTEND

Section 17.1 Option to Extend. [REDACTED]



Section 17.2 Basic Monthly Rent During Extension Period. If Tenant exercises the option to extend the term of this Lease as hereinabove provided, the Basic Monthly Rent for the original Premises demised hereunder for the fifty-nine (59) month extension period shall be [REDACTED]

Section 17.3 Percentage Rent During Extension Period. If Tenant exercises Tenant's option to extend the term of this Lease, Tenant will also pay during the extended term, as Percentage Rent, a sum equal to the amount by which the sum of seven percent (7%) of Tenant's Gross Sales (as defined herein) during the preceding month exceeds the Basic Monthly Rent due for such month. Tenant shall pay Percentage Rent due for the prior month to Landlord at the location according to Landlord's delivery instructions set forth in Section 6.2(b) above.

ARTICLE 18

DEFAULTS AND REMEDIES

Section 18.1 Right to Terminate. Tenant agrees and it is hereby made a condition of this Lease that (a) if Tenant shall fail or omit to pay any rent or any other amount payable hereunder for five (5) days after rent or such other amount is due, or (b) if Tenant shall fail in the performance and observance of any of the other agreements, conditions and terms herein contained on its part to be performed or observed, and if such failure shall continue for thirty (30) days after service of written notice on Tenant by Landlord, or in case the failure is of such nature that it cannot be cured within said period of thirty (30) days, then, if Tenant shall fail within said period of thirty (30) days to commence the cure of such failure and thereafter to complete such cure with all reasonable dispatch, or (c) if Tenant shall become bankrupt or

insolvent or if an involuntary petition in bankruptcy or for reorganization or arrangement under any federal or state law now or hereafter in force is filed against Tenant which is not withdrawn within thirty (30) days, or if such a petition is filed voluntarily by Tenant, or (d) if Tenant shall make a general assignment for the benefit of creditors, or (e) if a permanent or temporary trustee or receiver shall be appointed for Tenant or Tenant's property and shall not be discharged within thirty (30) days from the date of appointment, or (f) if this Lease or Tenant's estate or any of Tenant's interest herein (except as herein expressly permitted) is transferred or passes to or devolves, by operation of law or otherwise, to anyone other than Tenant herein named, or (g) in the event of any such attempted transfer or devolution, or (h) in the event of the abandonment of the Premises by Tenant, then, and in any such events of default, Landlord, at its option, may declare the Term of this Lease immediately ended and the Lease immediately terminated and no other, further, or additional notice other than that required in subsection (b) herein shall be required, and at Landlord's option Landlord may exercise any of the following remedies in Article 18 hereof, singly or in combination, and any other remedies provided at law or in equity.

Section 18.2 Termination of Lease: Damages. Landlord may terminate this Lease and the then unexpired term hereof shall cease and expire and become absolutely void on the date specified in any notice or declaration pursuant to Article 18 herein, and thereupon, upon the expiration of the time limit in any notice or declaration, this Lease and the term herein granted, as well as all of the right, title and interest of Tenant hereunder, shall wholly cease and expire and become void in the same manner and with the same effect (except as to Tenant's liability for damages) as if the date in such notice were the date herein originally specified for the expiration of the Term herein demised; and Tenant shall then immediately quit and surrender to Landlord the Premises, including any and all improvements therein, and Landlord may enter into and repossess the Premises by summary proceedings, detainer, ejectment or otherwise remove all occupants thereof and, at Landlord's option, any property therein without being liable or subject to indictment, prosecution or damage therefor.

Whether or not Landlord terminates this Lease for any breach, in addition to any other remedies it may have, it may recover from Tenant all damages it may incur by reason of such breach, including the cost of recovering the Premises, the worth at the time of any termination by which the unpaid rent for the balance of the Term exceeds the amount of rental losses for the same period that Tenant proves Landlord could reasonably avoid (the burden of proof on the issue of Landlord's avoidance of rental loss being solely on Tenant), any damages or liability incurred by Landlord caused or resulting from such breach and reasonable attorneys' fees and costs incurred in enforcing Landlord's rights and remedies arising from such breach, including pre litigation fees and costs.

Section 18.3 Reentry. Tenant further agrees that if any rent or any other amount payable by Tenant hereunder shall remain unpaid for five (5) days or more after rent or such other amount is due, then Landlord or any person acting under Landlord may enter the Premises, with or without termination and without further demand and remove all persons and property from the Premises, using as much force as necessary, and such property may be removed and stored in a public warehouse or elsewhere at the cost, and for the account, of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

Section 18.4 Right to Re-let: Damages for Breach. Should Landlord elect to reenter the Premises as provided in this Lease, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, without terminating this Lease, Landlord may elect to re-let the Premises or any part thereof for such term or terms (which may be for a term extending the Term of this Lease) at such rent and upon such other terms and conditions as Landlord in its sole discretion may deem advisable. If rent received from such reletting is less than that stated herein, Tenant shall pay any such deficiency to Landlord. Alternatively, Landlord may elect to simply recover from Tenant all rent hereunder as and when it accrues and becomes due and payable. No such reentry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Any such written notice may be given at the time of reentry or at any time after Landlord reenters and may apply retroactively to the date of reentry at the option of Landlord. To the extent any statute, ordinance or other law shall provide that this Lease shall terminate, be canceled or annulled by reason of Landlord taking possession of the Premises as provided in this Lease or pursuant to legal proceedings, e.g. pursuant to a writ of possession, Tenant hereby waives any and all defenses arising from such law to Landlord's claim that the Lease is still in effect and binding upon Tenant, including but not limited to any such defenses arising from Section 666-13 of the Hawaii Revised Statutes.

Section 18.5 Waiver of Notice. If Landlord shall commence to recover possession by legal process either at the end of the Term or the sooner termination of this Lease, or for nonpayment of rent or otherwise, Tenant expressly waives all right to legal notice by statute or common law and agrees that in either or any such case the number of days' notice as herein provided shall be sufficient. Without limiting the foregoing, Tenant hereby waives any and all demands, notices of action or proceedings which may be required by law to be given or taken prior to any entry or reentry by Landlord by summary proceedings, ejectment or otherwise, except as hereinbefore expressly provided with respect to said number of days' notice; provided, however, that this shall not be construed as a waiver by Tenant of any notices to which this Lease expressly provides that Tenant is entitled.

Section 18.6 Legal Expenses. In case legal action shall be required for recovery of possession of the Premises, for the recovery of rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant herein contained on the part of Tenant to be kept or performed, and a breach shall be established, Tenant shall pay to Landlord all expenses incurred therefor, including reasonable attorneys' fees.

Section 18.7 Waiver of Counterclaims. To facilitate the resolution of questions of possession, if Landlord commences any proceedings for summary possession for nonpayment of rent or for any other cause, Tenant will not interpose any counterclaim of whatever nature or description in any such proceedings. Tenant shall have the right to assert such claims in any separate action(s) brought by Tenant.

Section 18.8 Waiver of Rights of Redemption. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant's eviction or dispossession for any cause, or in the event of Landlord obtaining possession

of the Premises by reason of the violation by Tenant of any of the covenants or conditions of this Lease, or otherwise.

Section 18.9 Default Prior to Possession. In the event Tenant breaches or threatens to breach this Lease prior to possession, in addition to any other rights accruing to Landlord by operation of law and/or equity, by or under any legal proceedings or by the provisions of this Lease, Landlord may cancel this Lease by giving Tenant five (5) days' written notice of its intent to do so whereupon all security deposits will be retained by Landlord as liquidated damages and Landlord, at its option, may proceed to re-let the Premises with no liability or obligation to Tenant whatsoever. This shall be self-operative and no further instrument of cancellation shall be required of Tenant and Landlord.

Section 18.10 Cumulative Remedies/Election of Forum. It is further agreed the rights and remedies given to Landlord in this Lease are distinct, separate and cumulative remedies, and that no one of them, whether or not exercised by Landlord, shall be deemed to be in exclusion of any of the others. Landlord shall have the right to enforce its remedies hereunder in any court or courts of competent jurisdiction it may elect, including but not limited to concurrently enforcing any claim for possession of the Premises in district court and any claim for rent and other damages in circuit court.

Section 18.11 Acceptance of Rent. No receipt of monies by Landlord from Tenant after termination of this Lease, or after the giving of any notice of termination of this Lease, shall reinstate, continue or extend the Term of this Lease or affect any notice theretofore given to Tenant, or operate as a waiver of the right of Landlord to enforce the payment of rent and any other sum or sums of money and other charges herein reserved and agreed to be paid by Tenant then due or thereafter falling due, or operate as a waiver of the right of Landlord to recover possession of the Premises by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate Tenant's tenancy or the commencement of suit or summary proceedings, or after final order or judgment for the possession of the Premises, Landlord may demand, receive and collect any monies due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, except as herein otherwise specifically provided, all such monies collected being deemed payments on account of the use and occupation of the Premises, or at the election of Landlord, on account of Tenant's liability hereunder.

Section 18.12 Landlord's Right to Cure. In the event of any breach of this Lease by Tenant, Landlord may but shall not be obligated to, at any time after thirty (30) days written notice, except in emergency situations for which no notice shall be required, cure such breach for the account and at the expense of Tenant. If Landlord at any time so elects or is compelled by any other person to cure such breach or is compelled to incur any other expense arising out of such breach by Tenant, including, without limitation, reasonable attorneys' fees and disbursements in instituting, prosecuting or defending any suits, actions or proceedings to enforce Landlord's rights under this or any other section of this Lease or otherwise, the sum or sums so paid by Landlord, with all interest, costs and damages, shall be paid by Tenant to Landlord within five (5) days following written demand. Such expenses may be recovered in the same action or proceeding forming the basis of default.

Section 18.13 Additional Rent. Landlord shall have the same rights and remedies upon Tenant's failure to pay any amounts due hereunder as are available to Landlord upon Tenant's failure to pay rent hereunder.

ARTICLE 19

SURRENDER OF PREMISES AND EQUIPMENT

Section 19.1 Surrender. Tenant shall, on the last day of the Term, quit and surrender the Premises, broom clean, in good order, condition and repair, normal wear and tear excepted, together with all alterations, additions, improvements, furnishings, French doors, equipment and fixtures which may have been made in, on or to the Premises, except movable trade fixtures installed at the sole expense of Tenant. Landlord and Tenant shall approve an Inventory and Condition list prior to the Commencement Date to identify the equipment, appliances, furnishings, fixtures, improvements and condition that Tenant will accept the Premises under, except that those deficiencies identified under Section 10.2 (Tenant's Repairs) shall be repaired and cleaned by Tenant before surrendering the Premises. Tenant shall surrender all keys for the Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, in the Premises. If Landlord shall, during the period of thirty (30) days prior to the end of the Term, notify Tenant that Landlord desires to have Tenant remove from the Premises any or all alterations, additions, improvements, equipment and fixtures installed by Tenant therein, then Tenant shall do so at Tenant's sole cost and expense, and Tenant shall repair any damages to the Premises caused by such removal and restore the Premises to original condition.

Tenant shall surrender the Premises and the equipment listed in Exhibit A-1 in as good or better condition as when accepted by Tenant, reasonable wear and tear excepted, and Tenant shall comply with and complete the Move-Out Checklist attached hereto as Exhibit I.

If the Premises are not surrendered at the end of the Term, then Tenant shall indemnify Landlord against loss or liability resulting from the delay in Tenant not surrendering the Premises, including, without limitation, any claims founded on such delay made by any succeeding occupant of the Premises or any part thereof; and Tenant shall be liable to Landlord for legal fees, costs and expenses incurred by Landlord in obtaining possession of the Premises.

Section 19.2 Surrender/Termination Based Upon Demolition. Landlord reserves the right to terminate this Lease without any liability on the part of Landlord to Tenant, and Tenant agrees to surrender the Premises, if for any reason Landlord elects to demolish the Premises or the entire building known as the No. 1 Capitol District or if by reason of a published change in applicable federal income tax law, the continued tenancy of Tenant would, in the opinion of nationally recognized bond counsel, result in the inclusion of the interest on the Obligations in the gross income of the owners of the Obligations for federal income tax purposes. Landlord agrees, however, that the building shall not be demolished sooner than six (6)

months after proper written notification to Tenant. The Term of this Lease shall be deemed terminated upon the expiration of the period specified in such notice.

ARTICLE 20

[RESERVED]

ARTICLE 21

SECURITY DEPOSIT

Tenant, contemporaneously with the execution of this Lease, shall deposit with Landlord the sum of [REDACTED] (\$ [REDACTED]) in the form of a cash security deposit (“**Deposit**”). Said Deposit shall be held by Landlord, without liability for interest, as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease by said Tenant to be kept and performed during the term hereof. Said Deposit may be commingled with other funds of Landlord.

In the event of the failure of Tenant to keep and perform any of the terms, covenants and conditions of this Lease to be kept and performed by Tenant, then at the option of Landlord, Landlord may appropriate and apply said entire Deposit, or so much thereof as may be necessary, to compensate Landlord for all loss or damage sustained or suffered by Landlord due to such breach on the part of Tenant. Should the entire Deposit, or any portion thereof, be so appropriated or so applied by Landlord for the payment of overdue rent or other sum due and payable by Tenant hereunder, then Tenant shall, upon the written demand of Landlord, forthwith remit to Landlord a sufficient amount in cash to restore said security to the original sum deposited, and Tenant's failure to do so within five (5) days after receipt of such demand shall constitute a breach of this Lease. Should Tenant comply with all of said terms, covenants and conditions and promptly pay all of the rent herein provided for as it falls due, and all other sums payable by Tenant hereunder, said Deposit shall be returned in full to Tenant at the end of the term of this Lease, or upon the earlier termination of this Lease.

ARTICLE 22

GENERAL PROVISIONS

Section 22.1 Quiet Enjoyment. Tenant, on paying the rent and observing, performing and keeping all of the provisions of this Lease on its part to be observed, performed and kept, shall lawfully, peaceably and quietly have, hold and enjoy the Premises during the Term without hindrance by any person(s) lawfully claiming under Landlord, subject to the other

terms and provisions of this Lease. Tenant shall provide written notice to the Department with a copy to Landlord regarding any need for structural repairs concerning the Premises.

Section 22.2 No Partner. Landlord shall not be deemed, in any way or for any purpose, to have become, by the execution of this Lease or any action taken hereunder, a partner of Tenant in its business or a joint venturer or a member of any joint enterprise with Tenant.

Section 22.3 Lawful Money. All payments required to be made by Tenant to Landlord under this Lease shall be paid in lawful money of the United States and shall be paid and delivered to Landlord at Landlord' office, or at such other place as Landlord may direct from time to time by notice to Tenant; provided that Landlord, in its sole and absolute discretion, may require Tenant to make payments exclusively by cash, certified check, cashier's check, wire transfer, and/or money order.

Section 22.4 Hold Over. If Tenant shall, with Landlord's permission, hold over after the end of the Term, such holding over shall be construed as a tenancy from month to month, subject to all of the provisions, conditions and obligations of this Lease.

Section 22.5 Entry. Landlord and its designees shall have the right to enter the Premises during reasonable business hours, and at all times in emergencies, (i) for any purpose connected with Landlord's rights or obligations under this Lease, and (ii) for all other lawful purposes.

Section 22.6 Binding on Successors. The terms and provisions of this Lease shall be binding upon and inure to the benefit of Landlord, its successors and assigns, and the person identified as Tenant, its representatives and successors. Nothing in this Section 22.6 shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of Tenant in violation of any of the other provisions of this Lease, but notwithstanding anything to the contrary herein, any person occupying the Premises or any portion thereof as a result of any such assignment or transfer in violation of the provisions of Article 14 shall be bound by all the obligations of Tenant hereunder but shall not be entitled to any of the benefits of Tenant hereunder. Assignment of this Lease by Tenant shall not relieve Tenant of its obligations hereunder.

Section 22.7 Estoppel Statements.

Tenant agrees that at any time or from time to time, upon ten (10) days' prior request by Landlord, it will execute, acknowledge and deliver to Landlord a statement in writing in recordable form stating (1) that this Lease is in full force and effect and has not been assigned or modified (except by such writings as shall be stated); (2) the Commencement and Termination Date thereof, (3) that all conditions to be performed by Landlord under this Lease have been performed; (4) that there are no expenses or offsets against Landlord, or stating those claimed by Tenant; (5) the date to which rent and other charges have been paid in advance, if any; and (6) such other matters requested by Landlord in Tenant's opinion are accurate. It is intended that any such statement may be relied upon by any prospective purchaser of the fee or any Leasehold, or the mortgagee, beneficiary or conveyee of any security or interest, or any assignee thereof, under any mortgage, deed of trust or conveyance for security purposes now or hereafter

made with respect to the fee or any Leasehold or other interest in the Premises.

Section 22.8 Brokers. Tenant warrants that Tenant has not had any dealings with any Realtor, brokers or agents in connection with the negotiation of this Lease and agrees to hold Landlord harmless from any cost, expense or liability for any compensation, commission or charges claimed by any other Realtors, brokers or agents with respect to this Lease or the negotiation thereof

Section 22.9 Notices. All notices, statements, demands, requests, consents, approvals, authorizations, offers or agreements hereunder by either party to the other shall be deemed to be given to the other party for the purposes of this Lease only if it is in writing and delivered in person or by telegram or sent by United States Postal Service, and addressed to Tenant at the Premises, whether or not Tenant has departed from, abandoned or vacated the Premises, and to Landlord at the address noted herein, Honolulu, Hawaii or at such other place as Landlord shall designate in writing, as the case may be. If so served or sent, any such matter shall be deemed given for all purposes hereunder on the date of delivery or three (3) days after depositing the same in a post office box regularly maintained by the United States Post Office Department within the State of Hawaii.

To Landlord at:

[REDACTED]
250 S. Hotel Street
Honolulu, HI 96813

To Tenant at:

[REDACTED]

Section 22.10 Joint and Several. If at any time the term "Tenant" shall include more than one person, the obligations of all such persons hereunder shall be joint and several.

Section 22.11 Covenant and Condition. Each term and provision of this Lease to be performed by Landlord or Tenant shall be construed to be both a covenant and a condition.

Section 22.12 Waiver. The failure of Landlord to insist in any one or more cases upon the performance of any of the provisions, covenants, agreements or conditions of this Lease or to exercise any option herein contained shall not be construed as a waiver or a relinquishment for the future of any such provision, covenant, agreement, condition or option. Receipt by Landlord of rent or of any other payment or the acceptance by Landlord of performance of anything required by this Lease to be performed with the knowledge of the breach of a covenant shall not be deemed a waiver of such breach. No waiver of any provision, covenant, agreement or condition of this Lease shall be deemed to have been made unless expressed in writing and signed by the party against whom such waiver is charged.

Section 22.13 No Oral Modifications. This Lease may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any change, modification or discharge is sought.

Section 22.14 Any payment required to be made by Tenant or Landlord under the provisions of this Lease not made by Tenant or Landlord when and as due shall thereupon be deemed to be due and payable by Tenant to Landlord or by Landlord to Tenant on demand with simple interest thereon from the date when the particular amount became due to the date of payment thereof to Landlord at the annual rate of three percent (3%) above Bank of Hawaii's base rate or ten percent (10%), whichever is lesser.

Section 22.15 Additional Construction. Nothing contained in this Lease shall be deemed to prevent the addition by Landlord in the Property of one or more improvements therein for office, retail or other commercial use and granting common use and access or similar rights of any kind, type or nature, on or over the common areas.

Section 22.16 Force Majeure. The provisions of this Section 22.16 shall be applicable if there shall occur, during the Term of this Lease, or prior to the commencement thereof, any (i) strike(s), lockout(s) or labor dispute(s); (ii) the inability to obtain labor or materials, or reasonable substitutes therefor; (iii) acts of God, adverse weather conditions, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, fire or other casualty, terrorism, eminent domain or other conditions similar to those enumerated in this item (iii) beyond the reasonable control of the party obligated to perform; or (iv) delays due to the act or omission of the other party. If Landlord or Tenant shall, as the result of any of the above described events, fail punctually to perform any obligation on its part to be performed under this Lease, then such failure shall be excused and not be a breach of this Lease by the party in question, but only to the extent occasioned by such event. If any right or option of either party to take any action under or with respect to this Lease is conditioned upon the same being exercised within any prescribed period of time and such action is delayed as a result of any of the above described events, then such named date shall be deemed to be extended or delayed, as the case may be, for a period equal to the period of the delay occasioned by any above described event. Notwithstanding anything to the contrary herein, however, (a) the provisions of this Section 22.16 shall not be applicable to Tenant's obligations to pay rent or any other sums, monies, costs, charges or expenses required to be paid by Tenant hereunder, and (b) the Commencement Date shall be as set forth in Article 5 hereof. Any claim for extension of time by reason of the foregoing, including the reasons for such an extension, shall be made in writing to Landlord not more than ten (10) days after the initial occurrence of the delay; otherwise such claim shall be waived. Under no circumstances whatsoever shall the period for Tenant's performance of an obligation or for Tenant's exercise of a right or option provided for in this Lease be extended or delayed by operation of this Section 22.16 for more than six (6) months.

Section 22.17 Number, Gender, and Captions. As used in this Lease and when required by the context, each number, singular or plural, shall include all numbers, and each gender shall include all genders. The captions and headings throughout this Lease are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of, or the scope or intent of, this Lease, nor in any way affect this Lease. The term "person" as used herein means person, firm, association or corporation, as the case may be

Section 22.18 Time is of the Essence. TIME IS AND SHALL BE OF THE ESSENCE of each term and provision of this Lease.

Section 22.19 No Prior Agreements. There are no oral agreements between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties hereto with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease.

Section 22.20 Invalid Provisions. If any term or provision of this Lease, or any portion of a term or provision hereof, or the application thereof to any person or circumstance, shall be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision or portion thereof to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease and each portion thereof shall be valid and be enforced to the fullest extent permitted by law.

Section 22.21 Right to Enjoin. In the event of any breach of Tenant or Landlord of any of the covenants, agreements, terms or conditions contained in this Lease, any party, in addition to any and all other rights, shall be entitled to enjoin such breach.

Section 22.22 Submission of Lease. The submission by Landlord to Tenant of this Lease in draft form shall be deemed submitted solely for Tenants consideration and not for acceptance and execution. Such submission shall have no binding force and effect, shall not constitute an option for the leasing of the Premises, and shall not confer any rights or impose any obligations upon either party. The submission by Landlord of this Lease for execution by Tenant and the actual execution and delivery thereof by Tenant to Landlord shall similarly have no binding force or effect unless and until Landlord shall have executed this Lease and it has been approved by the Department.

Section 22.23 Payments Not to be Withheld. Tenant shall not delay or withhold any payment to be made by Tenant under this Lease because of any dispute as to the amount or computation thereof, and Landlord shall refund any overpayment found to be owing to Tenant upon the resolution of any said dispute.

Section 22.24 Late Charge. Notwithstanding anything to the contrary herein contained, in order to cover the extra expense involved in handling delinquent payments, Tenant, at Landlord's option, shall pay a "late charge" of five percent (5%) or Fifty Dollars (\$50), whichever is greater, of the amount delinquent when any payment of rent hereunder is received by Landlord more than five (5) days after the due date thereof. It is understood and agreed that this charge is for additional expense incurred by Landlord and shall not be considered a penalty or interest.

Section 22.25 Attorneys' Fees. In the event of a breach by either party to this Lease, the non-breaching party shall be entitled to reasonable attorneys' fees and costs incurred in connection with the enforcement of this Lease. In the event the breaching party is found to be Landlord, Landlord agree to be solely responsible for payment of reasonable attorneys' fees and costs as provided for in this section.

Section 22.26 Intentionally Omitted

Section 22.27 Counterparts. This instrument may be executed in several counterparts. This instrument may also be executed by each party and transmitted to the other party by fax or other electronic transmission, in which case the fax or other electronic copies shall be fully binding and effective for all purposes (subject to the execution of the instrument by all parties). Fax or other electronic signatures on this instrument will be treated the same as original signatures.

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Exhibit C

AIR CONDITIONING AND TENANT'S WORK

The following provisions generally describe the work by Landlord and Tenant to the Premises and the obligations of the parties in connection with such construction.

1. AIR CONDITIONING.

Tenant acknowledges that:

a) The Premises will be served by the air conditioning system that the Department provides for the Building during the Property's normal business hours. Tenant agrees that Landlord shall not be responsible for the sufficiency of said air conditioning and fully accepts the risk of such air conditioning being inadequate for Tenant's purposes. In addition, Tenant agrees that neither the Department nor the Landlord shall be responsible for any interruptions of air conditioning or utility services due to mechanical failure, acts of God or for any other reason.

b) Tenant will be responsible to relocate/add air conditioning diffusers should Tenant further partition the space and will be subject to Landlord's written approval prior to commencement of any modifications to the existing systems.

c) Special air conditioning requirements, such as, 24 hour computer environment control will require Landlord's approval.

2. TENANT'S WORK.

(a) General. Tenant's work shall be any and all other improvements to the Premises desired by Tenant which are not made by Landlord.

(b) Compliance with Other Requirements. Tenant agrees that it will, on request from Landlord, comply with any and all requirements of Landlord with respect to the work performed or materials furnished by Tenant, or its agent, contractors and subcontractors, in the Premises or the Property.

(c) Landlord may require Tenant at its cost to restore the Premises to its original condition at the end of the Term of the Lease, normal wear and tear excepted.

3. LANDLORD'S DESIGN CRITERIA. Landlord's design criteria, subject to change by Landlord upon reasonable prior written notice to Tenant, is as follows:

(a) ARCHITECTURAL

(i) Ceilings: Required and designed to meet a 1-hour fire rating.

(ii) Walls and partitions: Metal studs with 5/8" Type 'X' gypsum board taped and sanded accordingly.

(iii) Flooring: Carpet, wood, hardtile, etc. as approved by Landlord.

(iv) Painting, staining and wall covering: All surfaces which are not shop or factory finished shall receive at least one coat of primer and one coat of finish paint or stain.

(v) Structural Changes: No structural alterations and/or additions will be permitted to the Landlord's structure without Landlord's and the Department's approval.

(vi) Decorative work: Any work including but not limited to ornamental moldings, screens, fixtures, hangings, floor coverings, etc. shall be submitted via schedules and sketches in sufficient enough detail to adequately describe its intention for decorative work to the Landlord for approval.

(b) MECHANICAL

Plumbing: Plumbing will be allowed in a case by case basis. Any finished areas shall be restored to equal or better condition pursuant to the installation thereof.

(c) ELECTRICAL

(i) The source of additional/altered electrical power and lighting will be confined to the Premises.

(ii) Tenant shall be responsible for any burglar alarm system.

(iii) All Electrical modifications as noted above are subject to the prior written consent of the Landlord and the Department.

Exhibit D

UTILITIES

Landlord and Tenant agree with respect to utilities as follows:

1. Electricity, Gas and Telephone:

(a) Tenant covenants and agrees that at all times its use of electric current shall never exceed the capacity of the feeders to the Premises or the wiring installations therein, and Tenant shall make no alterations or additions to its electrical installations without first obtaining written consent from Landlord in each instance, which consent shall not be unreasonably withheld.

(b) Tenant agrees to make its own arrangement with the Gas Company, or other carrier for gas service to the Premises, and with Hawaiian Telephone Company or other carrier for the hookup and supply of telephone service to the Premises, including any cabling and conduit expense and installation costs.

2. General:

(a) Landlord shall not be liable to Tenant for damages or otherwise if any air conditioning, electricity, telephone or other utility service is interrupted, impaired or terminated because of failures, repairs, installations or improvements nor shall any such interruption, impairment or termination relieve Tenant from the performance of any of its obligations under this Lease.

Tenant shall allow the Department access to the Premises to facilitate work required by the Department. Tenant shall remove all valuables from, and secure, the work area and provide a responsible employee to control the work area.

Exhibit E

SIGN REGULATIONS AND REQUIREMENTS

Signs, Awnings, Canopies and Illuminations:

All Tenant's signage will be subject to approval of Landlord and the Department. Tenant will be responsible for all costs incurred in fabrication and installation of signage for their leased Premises.

Subject to City and County Codes, Tenant will be permitted to place placards on the corners of Beretania and Richards Streets, at the ewa-makai gate of the lawn and at the loading zone on Richards Street. The design of such placards shall be subject to the approval of Landlord.

Tenant will not place or suffer to be placed or maintained on any exterior door, wall or window of the Premises, the Property or the Building, any sign, awning, canopy, shade, or advertising matter or other thing of any kind, or advertising matter on the glass of any window or door of the Premises without first obtaining Landlord's and the Department's written approval and consent in their sole discretion. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering and advertising matter or other thing as may be approved in good condition and repair at all times. Tenant will not illuminate the exterior of the demised Premises, except with the written approval of Landlord and shall illuminate the interior of the Premises only with electrical fixtures approved in writing by Landlord.

Signage within the Tenant's Premises is the sole responsibility of the Tenant.

Tenant shall, upon demand of the Landlord, immediately remove any sign, advertisement, decoration, lettering or notice which Tenant has placed or permitted to be placed in, upon or about the Premises or the Property and which Landlord or the Department reasonably deem objectionable or offensive, and if Tenant fails or refuses to do so, Landlord or the Department may enter upon the Premises and remove the same at Tenant's cost and expense.

Temporary signs (hand written) may not be kept in place for more than ten (10) days (i.e. permanent signs may not be hand written).

Exhibit F

LANDLORD'S RULES AND REGULATIONS

1. Maintenance. The Department maintains the common areas of the Property. As Tenant, you are responsible for the maintenance and repairs within your Premises, including electrical and plumbing, if applicable. Should there be any problems requiring the attention of the Property's maintenance department, please contact the Property Manager at 586-0538. A charge for services provided will be made by the Department whenever it is determined the problem was a Tenant responsibility.

2. Air Conditioning. Hours of operation of the air conditioning system will be from 6:45 a.m. until 4:30 p.m., Monday through Friday, excluding State holidays. Tenant may request that air conditioning service be available for use outside of these hours with at least 24 hours advance notice. Tenant will be responsible for the cost of operating the air conditioning system in the Premises during the Tenant's hours of operation that are within the hours of operation of the air conditioning system, currently at a charge of Six Dollars per hour (\$6.00/hr.). The cost for operating the air conditioning system for Tenant's use of the Premises outside of the hours of operation for the air conditioning system stated above, will be Twenty-Five Dollars per hour (\$25.00/hr.). Air conditioning charges will be charged in .25 hour (15 minutes) increments. However, Tenant will not be charged for use of air conditioning during after-hours events hosted by the Hawaii State Art Museum such as First Friday events or during Museum operating hours on Saturdays

3. Security and After Hours Use. Security of the common areas is currently provided by the State Security Office. Should there be a security problem in the common areas, Tenant should call the State Security Office at 586-1352. A security officer will be dispatched to investigate. Should there be a security problem (theft, fighting, etc.) in your Premises, the Honolulu Police Department (911) should be summoned. The security department does not have jurisdiction within your Premises. Therefore, the Department will not be responsible for security problems occurring within the Tenant's Premises.

If Tenant will be using the Premises, or any other portion of the Property, outside of its operating hours indicated in Exhibit G, security and custodians must be hired for the period Tenant will be on Premises outside of its stated operating hours. If Tenant uses the Premises outside of its stated operating hours for Tenant's purposes or for after hours catering events, Tenant will bear the cost of the required security and custodians. In that case, the Department will determine the number of security officers and custodians needed for the event or additional operating hours. The Department will specify the specific security firm that is to be retained pursuant to this provision. The Department will provide notice if the Department custodians are available during the event or additional operating hours. If no Department custodians are available, the Department will specify the company which the Tenant may use to provide custodial services. No other security firm will be allowed to perform such services. Tenant will be charged with the cost of such security contracted for during Tenant's business hours on Sundays and State holidays; the current rate for said security is \$15 per hour or \$112.50 (7.5 x

\$15) per day based on 7.5 business hours. Tenant will provide Landlord with written notice of any changes to Tenant's business hours.

4. Restrooms. Restrooms are provided for Tenants' convenience within the common areas of the Property. The Tenant's cooperation in keeping these facilities clean will be appreciated.
5. Deliveries. Arrangements should be made directly with on-site attendant or Building Manager (Phone: 586-0538) to determine the most appropriate area for active loading and unloading of Tenant-related items.
6. Fire. Tenant is responsible for developing an internal office plan for emergency evacuation in case of fire. This should be posted in a conspicuous place for both your clients/customers and employees. Should you become aware of a fire, call 911 then the State Security Office at 586-1352.
7. Trash Disposal. Do not leave outside your door or in the corridors at any time. Trash containers are provided in the loading zone. Please dispose of your trash in the appropriate container and keep the area clean.
8. Use of Common Areas. All repairs or problems having to do with the common areas of the Property are to be handled by the Department's maintenance department. If you are aware of any problems in the common areas, please call the Building Manager at 586-0538. You are not permitted to solicit business, distribute handbills or promotional and advertising matter within the common areas.
9. Conduct. Tenant's employees are expected to conduct him or herself in a professional manner and not cause any commotion or disturbances in the Premises or common areas of the Property.
10. No Pets. Pets of any kind are not permitted on or within the premises or anywhere in the common areas at any time or for any reason. The only exception is in the event that the pet is certified as a handicap assisted companion (e.g. Seeing Eye Dog).
11. Smoking. Smoking is prohibited by law anywhere in the Property.
12. Bicycles. Bicycles are not permitted in the common areas of the Property, stairwells or within the premises.

NOTE: These regulations are provided as a guide and supplement to your Lease and are subject to modification by Landlord. In case of conflict, the Lease shall apply (in the area of conflict). Should you have any questions, or require assistance, please feel free to contact the Building Manager at 586-0538.

Exhibit G

FOOD-SERVICE TENANTS ADDENDUM

In consideration for the permission to Tenant to prepare and serve food and/or beverages, Tenant shall, in addition to performing the obligations of Tenant set forth above, comply with all of the following:

- (a) Tenant shall use the Premises for operation of a restaurant serving Museum guests and patrons at least each day that the Museum is open to the public unless mutually agreed to between Landlord and Tenant. Tenant operating hours are limited to the hours set forth herein under section (f).
- (b) Tenant shall have twenty-four (24) hour access to the Premises seven (7) days a week.
- (c) Tenant may utilize outdoor areas or elsewhere in the building for catered functions subject to the policies, rules, and charges of the State Foundation on Culture and the Arts. Tenant's application for the use of these areas outside of the Premises will be given the same priority as other members of the general public.
- (d) Third parties holding special events in the building or grounds shall have the right to select their own catering company. Catering companies other than Tenant shall not have the use of the Premises without the approval of Tenant.
- (e) Landlord reserves the right to engage a third-party caterer for Landlord's catered events.
- (f) Tenant shall serve lunch each day. Customer service hours shall be Monday through Saturday, 10:30 a.m. to 2:30 p.m. (but excluding holidays when the Museum is closed). Tenant may also schedule after-hours events. Any change to Tenant's operating hours, as stated above, will be discussed by the parties and mutually agreed upon.
- (g) Tenant shall recruit, train and supervise sufficient staff to operate the restaurant so as to assure a pleasant dining experience with appropriate service consistent with the Hawaii State Art Museum. Tenant's waiters, waitresses and staff at all times shall conduct themselves in a pleasant, courteous and cooperative manner.
- (h) Management personnel and each of them or substitute management personnel comparable experience and ability shall spend a substantial amount of time at the Premises, operating the restaurant.
- (i) Tenant's menu and price range shall be comparable to the menu attached hereto as Exhibit G-1.
- (j) Tenant will not be permitted to serve alcohol from the Premises at any time, except when approved by the State Comptroller in its sole discretion and only with a valid liquor license.

(k) Maintenance of Plumbing. In addition to and without limiting Tenants obligation to maintain the Premises as set forth in this Lease, Tenant shall keep, at its sole cost and expense, all plumbing lines for sewage and waste which exclusively service the Premises, whether located within or outside the Premises, free from all deposits of grease, sludge and other substances which may cause blockage, and Tenant shall use diligent efforts to prevent grease and other deposits from the Premises from being deposited in any of the plumbing lines for sewage and waste whether located in the Premises, in the common areas, or the Property. In connection with the foregoing, Tenant shall contract with a professional service acceptable to Landlord to eliminate grease and other deposits from plumbing lines for sewage and waste which exclusively service the Premises, unless Tenant shall show, to the reasonable satisfaction, of Landlord, that Tenant's in-house maintenance program is as or more effective than available professional services. Tenant shall clean the duct above the vent hood in the kitchen.

(l) Grease Interceptor. Tenant agrees, at its sole cost, to repair and maintain any and all grease interceptors used or required in connection with Tenant's business in the Premises in accordance with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations. Tenant shall contract for such maintenance throughout the term of the Lease and provide the Department with a copy of such contract. Should Landlord agree that Tenant's grease interceptors(s) may be located in the common areas and facilities of the Property, then Tenant shall obtain Landlord's prior written approval as to the location and installation of said grease interceptor(s) and any work, repairs or maintenance on said grease trap(s), and the cost of repairing any and all damage to the common areas and facilities and responsibility for any injuries to persons attributable to Tenant or any persons doing work on behalf of Tenant shall be borne solely by Tenant.

(m) Removal of Grease Deposits. Tenant shall be solely responsible, at Tenant's sole cost and expense, for cleaning any grease deposits in, on or around the Premises (including any such deposits on the roof of the Premises) resulting from the operation of Tenant's business therein. If Tenant refuses or neglects, within ten (10) days after written notice from Landlord, to clean any such grease deposit, Landlord may, but shall not be obligated to, perform such clean up on Tenant's behalf without liability to Tenant for any loss or damage which may accrue to Tenant's stock or other property or to Tenant's business by reason thereof. Upon presentation of a bill therefor, Tenant shall immediately reimburse Landlord for the full amount of the cost of such cleaning, plus a markup of ten percent (10%) on said cost to cover Landlord's overhead.

(n) Maintenance Around Kitchen Doors. Tenant shall use mats of a type and size reasonably approved by Landlord on the inside of doors between Tenant's kitchen or food/beverage preparation areas and Tenant's service areas and between Tenant's kitchen or food/beverage preparation areas and the common areas of the Property, to prevent the tracking of wet garbage, trash, grease and debris into the service and common areas. Tenant shall arrange for cleaning of the mats, not less than once each week, by a professional cleaning service reasonably approved by Landlord, unless Tenant establishes to Landlord's satisfaction that it performs such cleaning in-house to the same or higher standards than would be available from a professional cleaning service.

(o) Rangehood System. Tenant agrees to maintain in proper working condition an automatic rangehood extinguishing system on the Premises and an annual service contract for

such rangehood system at all times during the term of this Lease. Tenant shall provide the Department with a copy of the contract.

(p) Alarm System. In the event that Landlord has installed, or decides to install, a central alarm system by which security, fire and other emergency personnel may be kept apprised of alarms within all Tenant spaces in the Property, Tenant acknowledges and agrees that the cost of said system shall be reimbursed to Landlord on a pro rata basis.

(q) Door Locks. Once the Premises is turned over to Tenant, Landlord will only retain one set of keys to the Premises as a master set. Tenant shall be responsible for its keys and opening and securing its doors. Tenant shall also be responsible to repair and maintain the locks on all doors to the Premises.

Exhibit J

FRIENDS OF HAWAII STATE ART MUSEUM
250 South Hotel Street
Honolulu, Hawaii 96813
Phone/Fax 808-536-2644

MONTHLY GROSS SALES REPORT

FOR: _____
for the month of _____ 20

1. Gross sales	\$
2. Other revenues	\$
3. Total gross sales (total 1, 2) Total no. of transactions	\$
4. State general excise tax (.04712)	\$
5. Other. Specify	\$
6. Other. Specify	\$
7. Total deductions (total 4, 5, 6)	\$
8. Adjusted gross sales (line 3 minus line 7)	\$
9. Percentage rate ■%	%
10. Rent due at percentage rate (line 8 x line 9)	\$
11. Less monthly minimum rent excluding GET	\$
12. Percentage rent due (line 10 minus line 11)	\$
13. Tax 4.712% on line 12	\$
14. Total due (line 12 + line 13)	\$

Please attach a copy of your end of month cash register tape. **Monthly gross sales reports and percentage rent are due no later than the 5th day of the following month.**

I certify that to the best of my knowledge and belief that this is a true and correct statement of gross receipts for the month shown above in accordance with the terms of the Lease.

BY _____ DATE
AUTHORIZED SIGNATURE