

CITY OF CORAL GABLES, FLORIDA

RESOLUTION 2008-112

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A THREE (3) YEAR LEASE AGREEMENT, PLUS ONE THREE-YEAR (3) OPTION, WITH DULCE, LLC. FOR 950 SQUARE FEET OF RETAIL SPACE AT 286 MIRACLE MILE.

WHEREAS, the City owns the property at 286 Miracle Mile; and

WHEREAS, 286 Miracle Mile is zoned as commercial and permitted for retail use; and

WHEREAS, the City Administration and Dulce, LLC. have agreed on appropriate business terms and other conditions as presented in a draft lease to the City Commission July 15, 2008;

NOW THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

SECTION 2. That the City Commission does hereby authorize the City Manager to execute the attached three (3) year lease agreement, plus one three-year (3) option, with Dulce, LLC. in substantially the same form, and subject to final review and approval by the City Attorney.

SECTION 3. That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS FIFTEENTH DAY OF JULY, A.D., 2008.

(Moved: Kerdyk / Seconded: Cabrera)

(Yeas: Cabrera, Kerdyk, Withers, Anderson, Slesnick)

(Unanimous: 5-0 Vote)

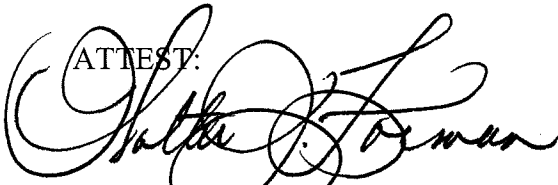
(Agenda Item: H-1)

APPROVED:



DONALD D. SLESNICK II
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY

LEASE

between

CITY OF CORAL GABLES

and

DULCE, LLC.

TABLE OF CONTENTS

<u>SECTION</u>		<u>PAGE</u>
I.	PREMISES	1
II.	TERM.....	1
III.	CONDITION OF PREMISES "AS IS"	1
IV.	BASE RENT.....	2
V.	SECURITY DEPOSIT	3
VI.	RENEWAL OPTION.....	3
VII.	TIME OF PAYMENT	4
VIII.	USE.....	4
IX.	QUIET ENJOYMENT	5
X.	INSURANCE	5
XI.	GOVERNMENTAL AND OTHER REQUIREMENTS	6
XII.	RELATIONSHIP OF PARTIES	6
XIII.	OPERATION, UTILITIES, MAINTENANCE AND REPAIR EXPENSES	7
XIV.	REAL PROPERTY TAXES	8
XV.	MECHANIC'S LIENS	8
XVI.	LOSS; DAMAGE.....	9
XVII.	ESTOPPEL STATEMENT	9
XVIII.	SUBORDINATION OF LEASE; ATTORNMENT; NON-DISTURBANCE	9
XIX.	ASSIGNMENT	10
XX.	INDEMNITY; HOLD HARMLESS OF LANDLORD	10
XXI.	CASUALTY	12
XXII.	CONDEMNATION.....	13
XXIII.	DEFAULT.....	13
XXIV.	LIEN FOR PAYMENT OF RENT	15
XXV.	WAIVER OF DEFAULT.....	15
XXVI.	RIGHT OF ENTRY.....	15
XXVII.	INSURANCE PREMIUMS.....	16
XXVIII.	NOTICE	16
XXIX.	SURRENDER; CONDITION OF PREMISES ON TERMINATION OF LEASE AND HOLDING OVER.....	16
XXX.	SIGNS	17
XXXI.	TRIAL BY JURY	17
XXXII.	INVALIDITY OF PROVISION.....	17
XXXIII.	TIME OF ESSENCE	17
XXXIV.	SUCCESSORS AND ASSIGNS	17
XXXV.	ATTORNEYS' FEES	18
XXXVI.	MISCELLANEOUS.....	18
XXXVII.	EFFECTIVE DATE	18
XXXVIII.	BROKERAGE	18
XXXIX.	FORCE MAJEURE	19
XL.	TENANT'S AUTHORITY TO EXECUTE LEASE	19
XLI.	RADON GAS	19
XLII.	ENTIRE AGREEMENT.....	19
XLIII.	DRAFTING OF LEASE.....	19
XLIV.	COUNTERPARTS.....	20
XLV.	GUARANTORS	20

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into as of this _____ day of _____, 2008, by and between the City of Coral Gables, a municipal corporation of the State of Florida, (the "Landlord"), whose address for purposes hereof is 405 Biltmore Way, Coral Gables, Florida 33134, and Dulce, LLC., a Florida limited liability company, (the "Tenant"), whose address for purposes hereof is _____.

WITNESSETH:

In consideration of the payments of rents and other charges provided for in this Lease, the covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby covenant and agree as follows:

I. **PREMISES:** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, upon the terms and conditions hereinafter set forth, those certain premises (the "Premises") consisting of approximately NINE HUNDRED AND FIFTY (950) gross square feet of floor space (the "Rentable Area") located at 286 Miracle Mile, Coral Gables, Florida 33134.

II. **TERM:** This Lease shall be for a term (the "Term" or "Lease Term") beginning on August 1, 2008 (the "Effective Date") and ending on July 31, 2011 (the "Termination Date"), unless sooner terminated as provided herein and subject to Tenant's option to renew as set forth herein.

There shall be no delay in the commencement of the Term of this Lease and there shall be no delay of the payment of "Rent(s)" (as hereinafter defined) where Tenant fails to occupy the Premises, nor shall same operate to extend the initial Term beyond the agreed expiration date hereof, except for a mutually agreed upon three month rent abatement in lieu of tenant improvement monies. All provisions of this Lease shall be in full force and effect upon the Effective Date.

This Lease does not grant any right to light or air over or about the Premises.

III. **CONDITION OF PREMISES "AS IS":** Tenant acknowledges and agrees that it has previously inspected the Premises and conducted its own due diligence with regard to the conditions of the Premises and is accepting the Premises in "as is" condition. Landlord makes no representations as to the "Permitted Use" (as hereinafter defined) or suitability of the Premises for the Permitted Use. Tenant further acknowledges and agrees that the taking of possession of the Premises by Tenant shall

be conclusive evidence against Tenant that the Premises were in satisfactory condition when possession was taken.

IV. BASE RENT: Throughout the Term of the Lease, Tenant agrees to pay Landlord a total "Base Rent" of Dollars equal to One Hundred Nineteen Thousand Three Hundred Seventeen and 80/100 Dollars (\$119,317.80) payable in monthly installments as follows:

LEASE YEAR	BASE RENT PER MONTH	BASE RENT PER SQUARE FOOT
August 1, 2008-July 31, 2009	\$3,500.00	\$44.21
August 1, 2009-July 31, 2010	\$3,605.00	\$45.54
August 1, 2010-July 31, 2011	\$3,713.15	\$46.90

Each payment to be made without any offset or deduction whatsoever, in lawful money of the United States of America, at Landlord's address above specified, attn. Finance Department – Collection Division, or elsewhere as designated from time to time by Landlord's written notice to Tenant. Monthly Base Rent shall be due and payable starting on November 1, 2008. Such date shall hereinafter be known as the "Rent Commencement Date".

The Base Rent, as set forth above, plus sales tax and any and all applicable tax, is payable in advance on the first day of each month during the Term, the first such installment being due on the Rent Commencement Date (and subsequent installments on the first day of each month thereafter throughout the Term). Notwithstanding the foregoing, if the Rent Commencement Date commences on any day of a month other than the first day, Tenant shall pay Landlord "Rent" (as hereinafter defined) for such commencement month upon the Rent Commencement Date on a pro rata basis (such proration to be based on the actual number of days in the month that the Rent Commencement Date begins). Rent for any partial month of occupancy at the end of the Term will be prorated based on the actual number of days in such partial month. The term "Rent" as used in this Lease shall mean Base Rent, plus sales tax, and any and all applicable tax. All other charges and costs due by Tenant to Landlord under this Lease shall be referred to as "Additional Rent". The term "Lease Year" as used in this Lease shall mean a twelve (12) consecutive month period. Each Lease Year shall commence on August 1st and end on July 31st of each year up until the Termination Date, unless sooner terminated as provided herein. As set forth above, the yearly increases to the Base Rent shall occur on August 1st of each year throughout the Term of the Lease.

Tenant shall be required to pay Landlord five percent (5%) interest on any Rent due that remains unpaid for ten (10) days after its due date. Said interest will be computed from the due date.

Tenant and Landlord both acknowledge that the Premises are subject to and are qualified for Business Improvement District (BID) assessments. Tenant agrees to be solely responsible for its proportionate share of BID assessments based on the square footage of the Premises. Tenant shall be responsible to pay all amounts due hereunder to Landlord within thirty (30) days after receipt of an invoice therefor. In the event that Tenant fails to make the appropriate payment for BID assessments when due, Tenant shall be responsible for any penalties imposed on the Landlord as a result of Tenant's delinquency in the payment of said assessments.

V. SECURITY DEPOSIT: Simultaneously with the execution of this Lease, Tenant shall deposit with Landlord a security deposit in the amount of Seven Thousand and No/100 Dollars (\$7,000.00) (the "Security Deposit") to be held by Landlord as security for Tenant's performance under this Lease, and not as a measure of Landlord's damages for default, or as an advance payment of Rent, with the exception of the final month where the tenant may utilize a portion the security deposit to pay that month's rent. The final month being either all of July 2011 or July 2014 depending on whether options noted in this lease (under Section VI) are exercised. Unless otherwise required by law, Tenant shall not be entitled to interest on such Security Deposit and Landlord may commingle such Security Deposit with any other funds of Landlord. Upon Tenant's default, Landlord, without prejudice to any other remedy, may apply any applicable portion of the Security Deposit to: (a) an arrearage of Rent or Additional Rent, and/or (b) any other expense incurred by Landlord or any employee, agent, representative, trustee, officer or director of Landlord due to such default. Tenant shall pay to Landlord, on demand, the amount so applied pursuant to the immediately preceding sentence hereof in order to restore the Security Deposit to its original amount. If Tenant is not then in default, then, within a reasonable time following termination of this Lease and return of the Premises by Tenant to Landlord in accordance with this Lease, Landlord will return any remaining balance of the Security Deposit to Tenant. If Landlord transfers Landlord's interests in the Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit.

VI. RENEWAL OPTION: Provided Tenant is not in default under the terms of this Lease at the time of exercise of this option and provided the Tenant has not been in default more than two (2) times during any preceding twelve (12) month period, Tenant shall have the option, exercisable at any time not less than (90) days prior to the expiration of the initial Lease Term, to renew this Lease for a period of three (3) years beginning on the 1st day following the last day of the initial Lease Term and ending on the last day of the third anniversary thereof (the "Option Period"), provided (i) Tenant remains in occupancy of the Premises and (ii) no uncured event of default exists under the Lease. The total Base Rent payable during the Renewal Period shall be equal to One Hundred Forty One Thousand Eight Hundred Fifty-Five and 42/100 Dollars and No/100 Dollars (\$141,855.42), payable in monthly installments as follows:

LEASE YEAR	BASE RENT PER MONTH	BASE RENT PER SQUARE FOOT
August 1, 2011-July 31, 2012	\$3,824.54	\$48.31
August 1, 2012-July 31, 2013	\$3,939.28	\$49.76
August 1, 2013-July 31, 2014	\$4,057.46	\$51.25

VII. TIME OF PAYMENT: Tenant agrees that Tenant shall promptly pay said Rents at the times and place stated above and further shall promptly pay any other charges that accrue under this Lease.

VIII. USE: The Tenant will use and occupy the Premises for the following use or purpose and for no other use or purpose than as described in Exhibit 1 prepared and provided by tenant: retail/merchant store. This exhibit defines the use that is permitted on site and is hereinafter considered the "Permitted Use".

Tenant shall be required to operate and be open for business to the public year round, six (6) days a week (excluding holidays), and shall be open, at a minimum, between the hours of 10 A.M. and 6 P.M. [FOR RETAIL PURPOSES: 11 A.M. AND 7 P.M.], with the minimum of 8 hours a day. In the event that the Tenant uses the Premises for purposes not expressly permitted herein, the Landlord may, in addition to all other remedies available to it, terminate this Lease or restrain said improper use by injunction. Without the prior written consent of the Landlord, which may not be unreasonably withheld, and subject to the Tenant's requirements to operate and open for business as set forth in this paragraph, the Premises shall never be closed for business more than fifteen (15) continuous days and thirty (30) days (in the aggregate) in any Lease Year except for planned renovations or situations that would be considered "Force Majeure".

Tenant shall not commit any nuisance; nor permit the emission of any objectionable noise or odor, nor burn any trash or refuse within the Premises; nor bring on, deposit or allow to be brought on or deposited on the Premises any hazardous or noxious materials or substances, as the same may be defined by federal, state or local laws, codes, ordinances, rules, or regulations; nor make any use of the Premises or any part thereof or equipment therein which is improper, offensive, a nuisance or contrary to law.

Tenant shall obtain, maintain and renew, at its sole cost and expense, any and all permits and licenses in a timely manner as required by any public or quasi-public authority or agency and as a condition to the continued Permitted Use and operation of the Premises as described above. Tenant, at its own expense, shall abate or shall cause its agents, servants and employees to abate any nuisance pertaining to the Permitted Use of the Premises and strictly comply with and enforce any and all existing

and hereafter enacted laws, fire codes, statutes, municipal ordinances, rules and regulations of public authorities having jurisdiction with respect to the maintenance of the Premises, requirements of applicable governmental and/or quasi-governmental authorities, requirements and/or recommendations of insurance underwriters, with respect to the Property or the Permitted Use and occupancy thereof, including, but not limited to, any order to Landlord or Tenant arising from any violation thereof by: (a) Tenant's Permitted Use of the Property; (b) the manner of conduct of Tenant's business or the installation or the operation of its property in any portion of the Premises; (c) any cause or condition created by Tenant; or (d) the breach of any of Tenant's obligations under this Lease. Tenant shall supply Landlord with a copy of any notices which it receives from any public authority or agency concerning any or all of the Premises within fifteen (15) days of receipt thereof by the Tenant. In addition, Tenant shall pay for any and all permits and licenses required, from time to time, in connection with Tenant's Permitted Use and operation of the Premises.

Tenant shall not cause or permit any "Hazardous Substances" or "Hazardous Materials" (as such term[s] is [are] defined by applicable federal, state and local laws) to be used, stored, generated or disposed of on or in the Premises by Tenant, its agents, employees, contractors, invitees, guests, or patrons.

IX. QUIET ENJOYMENT: Upon payment by Tenant of the Rent and Additional Rent herein provided, and upon the observance and performance of all terms and provisions, on Tenant's part to be observed and performed, Tenant shall, subject to all of the terms and provisions of this Lease, peaceably and quietly hold and enjoy the Premises for the Term hereby demised.

X. INSURANCE: Tenant shall maintain at its expense throughout the Term of this Lease the following insurance coverage:

- I. Liability insurance for bodily injury, personal injury and property damage including contractual liability and fire legal liability to protect both Landlord and Tenant against damages, costs, and attorney's fees arising out of accidents of any kind occurring on or about the Premises with combined single limit of liability of not less than \$1,000,000.00 per occurrence / \$2,000,000.00 annual aggregate. This policy will name the City as an additional insured as follows:

City of Coral Gables
Risk Management Division
2801 Salzedo Street, Second Floor
Coral Gables, Florida 33134

In addition, the policy shall be endorsed to read "This coverage is primary over any other insurance or self-insurance available to the City of Coral

Gables as respects any claims arising out of or in relation to this lease agreement."

2. Property Insurance for "all risks of physical loss or damage" in sufficient amount to cover the Premises and reimburse all of the Tenant's improvements and betterments to the Premises, as well as all of the Tenant's fixtures, equipment, personal property and inventory; and
3. Statutory Workers' Compensation including a specific waiver of subrogation in favor of the Landlord (City) and any and all insurance required by law.
4. Business Interruption Insurance.
5. Plate Glass Insurance

All insurance shall be written by a company or companies qualified to do business in Florida and acceptable to Landlord with a minimum rating of XX or better. A certificate or duplicate policies showing such insurance in force, including all the required endorsements, shall be delivered to Landlord prior to commencement of the Lease Term, and such insurance and updated certificates or renewed policies shall be maintained with Landlord throughout the Term of this Lease. Each such policy shall name the Landlord and/or its appointee as an additional insured and shall be non-cancelable or modifiable without thirty (30) days prior notice to Landlord. Tenant shall deliver to Landlord a copy of each such insurance policy, certified as true and correct by the issuing agent. Tenant agrees to update its insurance as required by Landlord.

XI. GOVERNMENTAL AND OTHER REQUIREMENTS: Tenant shall faithfully observe in the use of the Premises all municipal and county ordinances, resolutions and codes and all state and federal statutes, rules and regulations now in force or which may hereafter be in force.

XII. RELATIONSHIP OF PARTIES: Nothing herein contained to the contrary shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between Landlord and Tenant, it being expressly understood and agreed that neither the computation of Rent or Additional Rent nor any other provisions contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relations between Landlord and Tenant other than the relationship of landlord and tenant. Notwithstanding the fact that the City of Coral Gables (the "City") is the landlord under this Lease and that there exists a landlord/tenant relationship between Landlord and Tenant, Tenant acknowledges that this Lease does not grant Tenant any rights or create any exceptions to its obligation to comply with and meet the requirements of all the City's ordinances, resolutions and codes, and that the landlord/tenant relationship shall have no effect upon the jurisdiction

and governing rights of the City over the Premises and Tenant shall be required to fulfill and comply with all applicable laws, rules and regulations, ordinances and resolutions of the City as though no such landlord/tenant relationship existed, including, without limitation, all requirements of the City's Building and Zoning Department or other pertinent City agencies.

XIII. OPERATION, UTILITIES, MAINTENANCE AND REPAIR EXPENSES: Tenant shall be solely responsible for the installation, operation and maintenance expenses of the Premises, including, without limitation, the cost of all HVAC, heating, electricity, water, sewer, garbage, gas and waste removal, other utility expenses, janitorial service, pest control and insurance. In addition, Tenant will be responsible for the ongoing maintenance of the HVAC system which has been delivered in good working order and is not in need of any deferred maintenance upon delivery date. In addition to maintaining the HVAC system in good repair at Tenant's expense, Tenant shall at all times keep in effect a contract with a qualified air conditioning maintenance firm for a regular program of preventive maintenance at least equivalent to what would be provided by the contractor installing same under the contractor's certified maintenance plan. Tenant shall furnish to Landlord a copy of every such maintenance contract and every renewal, amendment, or replacement of such contract within ten (10) days from the date the same is entered into.

Tenant shall be responsible for and shall pay before delinquency all other municipal, county or state taxes assessed during the Term of this Lease against any occupancy interest or personal property of any kind, owned by or placed in, upon or about the Premises by the Tenant.

Tenant, at its sole cost and expense, during the entire Lease Term, shall be responsible for the repair, maintenance and replacement of the interior of the Premises, including, without limitation, all walls, plumbing, electricity, fixtures and all other appliances and equipment of every kind and nature and any mechanical systems servicing the Premises. The Tenant warrants any improvements or alterations made to the Premises shall be free from defects in materials and workmanship for a period of one (1) year from final acceptance by the Landlord. Upon demand by the Landlord, the Tenant shall cause to be corrected all such defects which are discovered within the warranty period or periods as set forth above, failing which the Landlord shall make such repairs and/or replacements of defective work and/or materials and the Tenant shall be liable to the Landlord for all costs arising therefrom. The Tenant also warrants that it shall be solely responsible for the repair of any damages to said improvements and/or alterations caused by Tenant, its employees, representatives and/or agents.

Notwithstanding the foregoing, Landlord agrees to make any and all repairs required to the exterior walls, the foundation and structural portions of the Premises. Landlord shall have thirty (30) days after receipt of written notice from Tenant to perform such repairs of the items described in the foregoing sentence, or such additional time as

may be reasonably required for the nature of the repair, and Landlord shall coordinate with Tenant in advance of such repairs so as to limit interruption of tenants business.

Tenant, at Tenant's own expense, will keep and maintain the Premises continuously in a neat and attractive manner, in good repair and in tenantable condition during the Term.

Without the prior written consent of the Landlord, which shall not be unreasonably withheld, the Tenant shall make no alterations, additions or improvements of a structural nature in or to the Premises. Except only office furniture and trade fixtures which shall be readily removable without injury to the Premises, all additions, fixtures, carpets, and improvements shall be and remain a part of the Premises at the expiration of this Lease.

XIV. REAL PROPERTY TAXES. Tenant shall be solely responsible for its portion of the real property taxes that are subject to ad valorem taxation. With no exception, Tenant shall be responsible to pay all amounts due hereunder to Landlord within thirty (30) days after receipt of an invoice thereof. In the event that Tenant fails to make the appropriate payment for real estate taxes or tax assessments when due, Tenant shall be responsible for any penalties imposed on the Landlord as a result of Tenant's delinquency in the payment of said taxes and/or assessment. Without limiting the foregoing, the Tenant shall have the right to contest, at its sole expense, from time to time, any taxes or tax assessments levied against the Premises by legal proceedings; provided, however, that such protest is made in accordance with applicable law and that all such taxes or assessments are paid as and when due upon the Tenant's receipt of an invoice thereof as set forth above and further provided that the Landlord is held harmless by the Tenant in connection with such tax contest. If Tenant prevails in contesting the taxes or tax assessments levied against the Premises, Tenant shall be entitled to a refund of any taxes or tax assessments previously paid by Tenant.

XV. MECHANIC'S LIENS: Tenant shall keep the Premises and all parts thereof at all times free of mechanic's liens and any other lien for labor, services, supplies, equipment or material purchased or procured, directly or indirectly, by or for Tenant. Tenant further agrees that Tenant will promptly pay and satisfy all liens of contractors, subcontractors, mechanics, laborers, materialmen, and other items of like character, and will indemnify Landlord against all expenses, costs and charges, including bond premiums for release of liens and attorneys' fees and costs reasonably incurred in and about the defense of any suit in discharging the Premises or any part thereof from any liens, judgments, or encumbrances caused or suffered by Tenant. In the event any such lien shall be made or filed, Tenant shall bond against or discharge the same within ten (10) days after the same has been made or filed. It is understood and agreed between the parties hereto that the expenses, costs and charges above referred to shall be considered as Additional Rent due and shall be included in any lien for Rent.

The Tenant herein shall not have any authority to create any liens for labor or material on the Landlord's interest in the Premises and all persons contracting with the Tenant for the construction or removal of any facilities or other improvements on or about the Leased Premises, and all materialmen, contractors, mechanics, and laborers are hereby charged with notice that they must look only to the Tenant and to the Tenant's interests in the Premises to secure the payment of any bill for work done or material furnished at the request or instruction of Tenant.

XVI. LOSS; DAMAGE: Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness, humidity or by any other cause or nature whatsoever, unless due to the gross negligence of Landlord, its agents, or employees; nor shall Landlord or its agents be liable for any such damage caused by other tenants or persons or caused by construction of any private, public or quasi-public work; nor shall Landlord be liable for any latent defect in the Premises. Tenant shall give immediate notice to Landlord in case of fire or accidents in the Premises or of defects therein or in any fixtures or equipment. Landlord shall not be responsible or liable for the theft, loss or damage to person or property in, on or about the Premises.

XVII. ESTOPPEL STATEMENT: Tenant agrees that from time to time, upon not less than ten (10) days prior request by Landlord, Tenant will deliver to Landlord a statement in writing certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease as modified is in full force and effect and stating the modifications); (b) the dates to which the rent and other charges have been paid; (c) that Landlord is not in default under any provisions of this Lease, or, if in default, the nature thereof in detail; and (d) other matters reasonably requested by Landlord.

XVIII. SUBORDINATION OF LEASE; ATTORNMEN; NON-DISTURBANCE: This Lease is subject and subordinate to any and all mortgages now or hereafter encumbering the Premises, and to any renewals, extensions and/or modifications thereof, and in the event Landlord's interest in the Premises is transferred by reason of foreclosure or other proceeding for enforcement of any such mortgage, Tenant agrees to attorn to and recognize the rights of the transferee of Landlord's interest in the Premises as if such transferee were the Landlord under this Lease. This provision shall be self-operative without the execution of any further instruments. Notwithstanding the foregoing, however, Tenant hereby agrees to execute any instrument(s) which Landlord may deem desirable to further evidence such attornment the subordination of this Lease to any and all such mortgages. At the option of the holder of any such mortgage, upon written notice to Tenant, Tenant will simultaneously give to such holder a copy of any and all notices to Landlord and such holder shall have the right (but not the obligation) to cure or remedy any default of Landlord during the period that is permitted to Landlord hereunder plus an additional thirty (30) days, and

Tenant will accept such curative or remedial action (if any) taken by Landlord's mortgagee with the same effect as if such action had been taken by Landlord. Tenant further agrees to execute any reasonable modification(s) of this Lease requested by any mortgagee.

XIX. ASSIGNMENT: Without the written consent of Landlord, which may not be unreasonably withheld provided the prospective tenant reflects a similar, high quality, use and represents the appropriate financial strength, Tenant shall not, directly or indirectly, assign, transfer, mortgage, pledge or otherwise encumber or dispose of this Lease or sublet the Premises or any part thereof or permit the Premises to be occupied by other persons. In approving an assignment, the Landlord may at its sole option apply a new rent schedule that reflects then market rates for the street wherein the Premises is located. In the case of a subletting, Landlord's consent may be predicated, among other things, upon Landlord becoming entitled to collect and retain all rentals payable under the sublease. If this Lease be assigned, or if the Premises or any part thereof be sublet or occupied by anybody other than Tenant, the Landlord may, after default by the Tenant, collect or accept Rent from the assignee, undertenant, or occupant and apply the net amount collected or accepted to the Rent herein reserved, but no such collection or acceptance shall be deemed a waiver of this covenant or the acceptance of the assignee, subtenant, or occupant as Tenant, nor shall it be construed as or implied to be, a release of the Tenant from the further observance and performance by the Tenant of the terms, provisions, covenants and conditions herein contained.

Change in the ownership (legal or equitable) of and/or power to vote or control 50% or less of the stock or other capital or ownership interest of Tenant, whether such change in ownership is by sale, assignment, or operation of law shall not be deemed an assignment of the Lease; provided, however, that (i) the operation of the Premises remains the same; (ii) the transferee assumes all obligations under this Lease, and (iii) the Landlord receives prior written notice of the transfer with proof of transfer of ownership. In addition, the Tenant shall be permitted to assign its interest in the Lease in the following limited instances: (i) by gift to a family member or (ii) inheritance.

XX. INDEMNITY; HOLD HARMLESS OF LANDLORD: In consideration of the Premises being leased to Tenant for the above Rent, Tenant agrees that Tenant, at all times, will indemnify and hold harmless Landlord from all claims, demands, fines, suits, actions, proceedings, order, decrees and judgments of any kind or nature by, or in favor of, anyone whomsoever, and against and from any and all costs, damages and expenses, losses, liabilities, including, without limitations, attorney's fees and court costs (and at trial and all other levels) resulting from, or in connection with, loss of life, bodily or personal injury or property damage arising, directly or indirectly, out of, or from, or on account of, any accident or other occurrence in, upon, at or from the Premises, or occasioned in whole or in part through the use and occupancy of the Premises or any improvements therein or appurtenances thereto, or by any act or omission of Tenant, or its employees, agents, contractors, invitees, guests

or patrons, in, upon, at or from the Premises or its appurtenances. Landlord shall not be liable to Tenant for any damages, losses or injuries to the employees, agents, contractors, invitees, guests or patrons of Tenant or property of Tenant which may be caused by the acts, neglect, omissions or faults of any persons or entities, except when such injury, loss or damage results from the gross negligence of Landlord, its agents or employees. All personal property placed or moved into the Premises shall be at the risk of Tenant or the owner thereof, and Landlord shall not be liable to Tenant for any damage to said personal property. Tenant agrees to waive any rights of subrogation against Landlord for any injury or damage to persons or property.

In case Landlord shall be made a party to any litigation commenced against Tenant, then Tenant shall protect and hold Landlord harmless and shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by Landlord in connection with such litigation and any appeal thereof.

The indemnification and hold harmless provision shall include, but not be limited to, all of the following:

- a. Damages awarded to any person or party.
- b. Attorney's fees and costs incurred in defending such claims. The City of Coral Gables may use the attorney or law firm of its choice in which event Tenant will pay such firm the fees it charges the City, provided such fees are reasonable in light of the prevailing market rate for similar legal services. Such fees shall be deemed reasonable if they are no greater than the fees that Landlord pays other counsel for representation in similar cases. If the City Attorney's Office provides the defense, Tenant will reimburse the City at the prevailing market rate for similar legal services.
- c. Attorney's fees and cost of any party that a court orders the City of Coral Gables to pay.
- d. Lost time that results from the City of Coral Gables or its officials or employees responding to discovery or testifying by deposition or in court. In this regard, for any time the City of Coral Gables spends in responding to document requests or public records requests relating to such claims whether from Tenant or any other party, Tenant will reimburse Landlord \$50.00 for each employee work hour spent reviewing or responding to such requests. For any time spent testifying in court or in depositions, or preparing for such testimony, Tenant will reimburse Landlord on a per hour basis as follows:
 - For the Mayor or City Commissioner: \$300.00 per hour
 - For the City Manager: \$250.00 per hour
 - For an Assistant City Manager or Department Director: \$250.00 per hour

- | | |
|---|-------------------------|
| - For an Assistant Department Director: | \$100.00 per hour |
| - For City Attorney: | Prevailing market rates |
| - For other employees: | \$ 50.00 per hour |

In addition, Tenant recognizes that Landlord will expect that its City Attorney's Office will monitor such claims; review pleadings, orders, memorandums and motions; oversee such discovery; and independently or jointly prepare such witnesses and attend such depositions for which Tenant will reimburse Landlord at prevailing market rates. For any documents so produced Tenant shall reimburse Landlord \$.25 per page.

- e. The expenses incurred by Landlord in complying with any administrative or court order that may arise from such claims.
- f. Miscellaneous expenses relating to such claims including expenses of hotels and transportation in trips relating to such claims; and
- g. Any other direct or indirect expense that Landlord would not have occurred but for a claim that arises out of this use agreement.

XXI. CASUALTY:

A. If any improvements on the Premises shall be destroyed or damaged in whole or in part during the Lease Term as a result of fire or other casualty not covered under the hazard insurance maintained by Landlord, or as a result of the gross negligence or willful misconduct of Tenant or any person occupying the Premises under Tenant, then Landlord shall have the option of not rebuilding the Premises and canceling the terms of this Lease. In the event that Landlord does not elect to terminate the Lease, then Landlord shall repair, rebuild, restore, or reconstruct the structure of the Premises, but only to the extent of the insurance proceeds available therefor. Tenant shall at its own expense promptly repair, restore, or reconstruct the Premises, including, without limitation all interior walls, ceilings, and flooring. Tenant shall have the right to use for such purposes the proceeds of any hazard insurance policy(ies) maintained by Tenant for the Premises, however, Tenant shall be responsible for any amounts not covered by Tenant's insurance coverage. If Tenant fails, within thirty (30) days following written notice from Landlord, to commence such repair, restoration or reconstruction or fails thereafter diligently to prosecute the same to completion, then upon written notice to Tenant, Landlord shall have the right (but not the obligation) to assume full and exclusive control of Tenant's insurance proceeds and cause such repair, restoration or reconstruction to be done; provided, however that Tenant shall have such additional reasonable time as is necessary in order to coordinate its reconstruction efforts with any reconstruction being or to be done by Landlord. Tenant hereby expressly authorizes Landlord to enter the Premises for such purposes and Tenant agrees that such entry by Landlord shall have no other legal consequences. If the damage or destruction resulted from the gross negligence or willful misconduct of Tenant or any person occupying the

Premises under Tenant, then all costs and expenses incurred in accomplishing repairs, restoration or reconstruction in excess of the insurance proceeds available therefor (if any) shall be paid by Tenant, and if Landlord shall advance any sums for such excess costs and expenses, then Tenant shall repay and reimburse Landlord therefor promptly upon demand and said sums shall be considered as Additional Rent due and shall be included in any lien for Rent. Except in the event of the gross negligence or willful misconduct of Tenant or any person occupying the Premises under Tenant, the Rent under this Lease shall abate in the same proportion that the square footage of the Premises so damaged or destroyed and under restoration bears to the total square footage of the Premises during any such period of repair, restoration or reconstruction to the Premises, undertaken by Landlord, and Tenant shall have no right to cancel or terminate this Lease as a result of such damage or destruction except as specifically provided in this Article XXI. Nevertheless, to the extent that any of the above-described property damage is covered by valid, collectible insurance, the Landlord hereby waives any subrogation rights against the Tenant, and the Tenant likewise agrees to waive any subrogation rights against the Landlord.

XXII. CONDEMNATION: In the event that the Premises or any material part thereof is taken for any public or quasi-public use by condemnation or by right of eminent domain, or purchase in avoidance or settlement of a condemnation or eminent domain proceeding, Landlord and Tenant agree that this Lease shall be cancelled, and Rent shall abate as of the date of taking. Any and all condemnation awards shall be the property of the Landlord. Notwithstanding the foregoing, Landlord and Tenant acknowledge and agree that in the event of a condemnation or eminent domain action, Tenant shall be precluded from pursuing a real estate claim; however, Tenant shall have the right to pursue a business damage claim.

XXIII. DEFAULT: If any one or more of the following events (herein sometimes called "events of default") shall happen:

- A. if default shall be made in the payment of any Rent, Additional Rent, or other charges herein reserved upon the date the same become due and payable; or
- B. if default shall be made by Tenant in the performance of, or compliance with, any of the covenants, agreements, or terms or conditions contained in this Lease or default be made by Tenant in compliance or non-compliance with any and all municipal or county ordinances, resolutions or codes and all state and federal statutes, rules and regulations now in force or which may hereafter be in force, and such default shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant; provided, however, that if Tenant is unable to cure such default within such ten (10) day period and such default results solely from the failure to obtain a building permit after diligent effort and such need for a building permit is not the result of any actions of Tenant, then, and in that

event, Tenant shall have such additional reasonable time as is necessary;
or

C. if within ninety (90) days after commencement of any proceeding against or by the Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other debtor's relief statute or law, such proceeding shall not have been dismissed, or stayed on appeal, or if, within ninety (90) days after the appointment, without the consent or acquiescence of Lessee, of any trustee, receiver or liquidator of Lessee or of all or any substantial part of Lessee's properties or of the Premises, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within ninety (90) days after the expiration of any such stay such appointment shall not have been vacated; or

D. if the Premises shall be seized under any levy, execution, attachment or other process of court and the same shall not be promptly vacated or stayed on appeal or otherwise, in Landlord's sole and absolute discretion, or if the Tenant's interest in the Premises is sold by judicial sale and the sale is not promptly vacated or stayed on appeal or otherwise; or

E. if Tenant:

1. fails to take possession and open for business within one hundred and eighty (180) days after the Lease Commencement Date, or

2. should vacate, abandon, or desert the Premises, at Landlord's sole and absolute discretion, or

3. ceases the continual operation of Tenant's business therein for fifteen (15) continuous days and thirty (30) days (in the aggregate) in any one year during the Lease Term, unless prevented from operating said business as a result of the occurrence of a natural disaster or of any other occurrence beyond Tenant's control, noting that Sundays and holidays are excluded from this provision,

then in any such event Landlord may at any time thereafter terminate this Lease and retake possession, declare the balance of the entire Rent for the entire rental term of this lease to be immediately due and payable (in which event Lessor may then proceed to collect all of the unpaid Rent called for by this Lease by distress or otherwise), or pursue any other remedy afforded by law or equity, provided that such default and all other defaults at the time existing have not been fully cured, and all expenses and costs incurred by the Landlord, including reasonable attorneys' fees and court costs, at trial

and all appellate levels, in connection with enforcing this Lease, shall not have been fully paid. Any such termination shall apply to any extension or renewal of the term herein demised, and to any right or option on the part of the Tenant that may be contained in this Lease or any other agreement. Nothing herein contained shall be construed as precluding the Landlord from having such remedy as may be and become necessary in order to preserve the Landlord's right or the interest of the Landlord in the Premises and in this Lease, even before the expiration of the grace or notice periods provided for in this Lease, if under particular circumstances then existing the allowance of such grace or the giving of such notice will prejudice or will endanger the rights and estate of the Landlord in this Lease or in the Premises. All rights and remedies granted in this Lease to Landlord or available at law or equity shall be cumulative and not mutually exclusive.

XXIV. LIEN FOR PAYMENT OF RENT: Tenant hereby pledges and assigns to Landlord a lien for the security for the payment of any and all Rent, Additional Rent, and other sums or amounts provided for herein, all of the permanent improvements, furniture, fixtures, equipment, goods and chattels of Tenant which shall or may be brought or put on or into the Premises, and Tenant agrees that said lien may be enforced by distress, foreclosure or otherwise, at the election of the Landlord.

XXV. WAIVER OF DEFAULT: Failure of Landlord to declare any default immediately upon occurrence thereof, or delay in taking any action in connection therewith, shall not waive such default, but Landlord shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, in law and/or in equity.

No waiver of any term, provision, condition or covenant of this Lease by Landlord shall be deemed to imply or constitute a further waiver by Landlord of any other term, provision, condition or covenant of this Lease and no acceptance of Rent, Additional Rent, or other payment shall be deemed a waiver of any default hereunder.

XXVI. RIGHT OF ENTRY: Landlord, or any of its agents, shall have the right to enter the Premises during all reasonable hours and after twenty-four (24) hours notice to Tenant (except in the event of an emergency, to be determined in Landlord's sole discretion, in which event no notice shall be required) to examine the same or to make such repairs, additions or alterations as may be deemed necessary for the safety, comfort, or preservation thereof or to otherwise exhibit the Premises to third parties, including, without limitation, mortgagees, insurance examiners and building inspectors. Said right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions which do not conform to this Lease. Landlord and Tenant agree that to the extent there is any restriction on Landlord's right of entry to the Premises, the restriction applies solely to Landlord in its capacity as a landlord and does not apply to Landlord in its capacity as a municipality with jurisdiction over the Premises and the property where it is located.

XXVII. INSURANCE PREMIUMS: If Landlord's insurance premiums for any separate insurance carried by Landlord exceed the standard premium rates for similar property because the nature of Tenant's operation results in extra hazardous exposure, then Tenant shall reimburse Landlord, immediately upon receipt of appropriate invoices from Landlord, for such increase in premiums. It is understood and agreed between the parties hereto that any such increase in premiums shall be considered as Additional Rent due and shall be included in any lien for Rent.

XXVIII. NOTICE: Any notice to be given Landlord as provided for in this Lease shall be in writing and shall be sent to Landlord by United States certified mail, postage prepaid, return receipt requested, addressed to Landlord at Landlord's office at the address set forth on page 1 hereof, or hand delivered or sent by a nationally recognized overnight courier to Landlord at such office. Any notice to be given Tenant under the terms of this Lease shall be in writing and shall be sent by United States certified mail, postage prepaid, return receipt requested, or hand delivered or sent by a nationally recognized overnight courier to the Tenant at the Premises (except that prior to commencement of the Term, notices to the Tenant shall be sent to the address set forth on page 1 hereof). Either party, from time to time, by such notice, may specify another address to which subsequent notice shall be sent. Any notice given by mail shall be deemed given three (3) days following the date of mailing. The Tenant agrees to provide and keep current, at all times during the Lease Term, telephone numbers, including, but not limited to, home, cellular, and business telephone numbers, home address, and alternate emergency contact person in the event of an emergency in or related to the Premises

XXIX. SURRENDER; CONDITION OF PREMISES ON TERMINATION OF LEASE AND HOLDING OVER: Tenant agrees to surrender to Landlord, at the end of the Term of this Lease and/or upon any cancellation or early termination of this Lease, the Premises in as good condition as the Premises were at the beginning of the Term of this Lease, ordinary wear and tear, and damage by fire, or other casualty not caused by Tenant's negligence excepted. Tenant agrees that if Tenant does not surrender the Premises to Landlord at the end of the Term of this Lease, then Tenant will pay to Landlord, to the extent permitted by law, double the amount of the Rent paid by Tenant for the last full month of the Lease Term for each month or portion thereof that Tenant holds over, plus all damages that Landlord may suffer on account of Tenant's failure to so surrender to Landlord possession of the Premises, and will indemnify and save Landlord harmless from and against all claims made by any succeeding tenant of the Premises against Landlord on account of delay of Landlord in delivering possession of the Premises to the succeeding tenant so far as such delay is occasioned by failure of Tenant to so surrender the Premises in accordance herewith or otherwise.

No receipt of money by Landlord from Tenant after termination of this Lease or the service of any notice of commencement of any suit or final judgment for possession shall reinstate, continue or extend the Term of this Lease, affect any such notice,

demand, suit or judgment, or waive any of Landlord's rights and remedies set forth in this Lease.

No act or thing done by Landlord or its agents during the Term hereby granted shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it be made in writing and signed by a duly authorized officer or agent of Landlord.

XXX. SIGNS: Tenant shall have the right to install signs on the exterior of the Premises, subject to the Landlord's prior written consent; provided, however, that such signs comply with all requirements of municipal and county governmental requirements.

XXXI. TRIAL BY JURY: It is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, and Tenant's use or occupancy of the Premises. Tenant further agrees that the provisions for payment of Rent or Additional Rent herein are independent covenants of Tenant and Tenant shall not interpose any noncompulsory counterclaim or counterclaims in a summary proceeding or in any action based upon non-payment of Rent, Additional Rent, or any other payment required of Tenant hereunder.

The parties agree that in any lawsuit brought in its name or defended in its name, Landlord must retain all final control and authority of the lawsuit. Therefore, in any lawsuit envisioned in this Lease in which Landlord is a party, Landlord shall retain full control of the lawsuit, including full authority to determine what legal actions or positions may be asserted to the courts in the name of Landlord and the full authority to settle or compromise any claim.

XXXII. INVALIDITY OF PROVISION: If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision, 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 shall be valid and be enforceable to the fullest extent permitted by law. This Lease shall be construed in accordance with the laws of the State of Florida.

XXXIII. TIME OF ESSENCE: It is understood and agreed between the parties hereto that time is of the essence of all the terms and provisions of this Lease.

XXXIV. SUCCESSORS AND ASSIGNS: All terms and provisions of this Lease to be observed and performed by Tenant shall be applicable to and binding upon Tenant's respective heirs, personal representatives, successors and assigns, subject,

however, to the restrictions as to assignment and subletting by Tenant as provided herein. All expressed covenants of this Lease shall be deemed to be covenants running with the land.

XXXV. ATTORNEYS' FEES: If either party defaults in the performance of any of the terms or provisions of this Lease and by reason thereof the other party employs the services of an attorney to enforce performance of the covenants, or to perform any service based upon defaults, then in any of said events the prevailing party shall be entitled to receive from the other party reasonable attorneys fees and all expenses and costs incurred by the prevailing party pertaining thereto (including costs and fees relating to any appeal) and in enforcement of any remedy.

XXXVI. MISCELLANEOUS: The terms Landlord and Tenant as herein contained shall include singular and/or plural, masculine, feminine and/or neuter, heirs, successors, personal representatives and/or assigns wherever the context so requires or admits. The terms and provisions of this Lease are expressed in the total language of this Lease and the Article or article headings are solely for the convenience of the reader and are not intended to be all-inclusive and shall not be deemed to limit or expand any of the provisions of this Lease. Any formally executed addendum or rider to or modification of this Lease shall be expressly deemed incorporated by reference herein unless a contrary intention is clearly stated therein. Anything herein to the contrary notwithstanding, Landlord shall not be or be deemed to be in default hereunder unless it has failed to cure its default within a reasonable time following its receipt of notice thereof. All exhibits attached to this Lease, if any, are hereby incorporated in and made a part hereof. Neither this Lease nor any memorandum or short form thereof shall be recorded in the Public Records of Miami-Dade County, Florida, as it will be recorded in the City of Coral Gables Clerk's Office at 405 Biltmore Way, Coral Gables, FL 33134.

XXXVII. EFFECTIVE DATE: Submission of this instrument for examination does not constitute an offer, right of first refusal, reservation of or option for the Premises. This instrument becomes effective as a Lease upon execution and delivery by both Landlord and Tenant.

XXXVIII. BROKERAGE: Landlord acknowledges that Tenant is represented by a real estate agent in connection with this transaction. Landlord agrees to pay real estate agent a fee of four percent 4% commission after Lease Commencement Date and before Rent Commencement Date based on the rents received on the first three years of the lease (and including the value of the three month rent abatement received). Except for Tenant's real estate agent, who will be compensated as set forth herein, Tenant hereby represents to Landlord that Tenant has not incurred any liability for commissions or similar compensation to third parties in connection with this Lease and Tenant hereby agrees to indemnify, hold harmless and defend Landlord from and against any and all expense and other liability arising from any claims for commissions or other compensation, including costs and reasonable attorney's fees, claimed by any broker claiming the same by, through or under Tenant.

XXXII. FORCE MAJEURE: The term "force majeure" as used in this Lease shall mean "Acts of God", labor disputes (whether lawful or not), material or labor shortages, restrictions by any governmental or utility authority, civil riots or floods.

XL. TENANT'S AUTHORITY TO EXECUTE LEASE: Tenant, if Tenant is a corporation, hereby represents and warrants to Landlord that the Lease has been duly authorized, executed and delivered by and on behalf of Tenant and constitutes a legal, valid and binding agreement of Tenant enforceable in accordance with its terms. Simultaneously with the execution of the Lease, Tenant shall deliver to Landlord a certified resolution of the Board of Directors of Tenant authorizing the execution and delivery of the Lease by Tenant and the performance of Tenant's obligations hereunder

Tenant, if Tenant is a partnership, hereby represents and warrants to Landlord that the Lease has been duly authorized by all of the general or managing partners of such partnership, and further represents and warrants to Landlord that the Lease has been duly executed and delivered and constitutes a legal, valid and binding agreement of Tenant enforceable in accordance with its terms. Tenant agrees that each and every present and future partner in Tenant shall be and remain at all times jointly and severally liable hereunder and that neither the death, resignation or withdrawal of any partner, and whether subsequent modification or waiver of any of the terms and provisions of the Lease, shall release any partner from liability hereunder until and unless Landlord shall have consented in writing to such release.

XLI. RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

XLII. ENTIRE AGREEMENT: This Lease contains the entire agreement between the parties hereto and all previous negotiations leading thereto, and it may be modified only by an agreement in writing signed and sealed by Landlord and Tenant. No surrender of the Premises, or of the remainder of the Term of this Lease, shall be valid unless accepted by Landlord in writing. Tenant acknowledges and agrees that Tenant has not relied upon any statement, representation, prior written or prior or contemporaneous oral promises, agreements or warranties except such as are expressed herein.

XLIII. DRAFTING OF LEASE: The drafting and negotiation of this Lease have been participated in by each of the parties, and for all purposes, therefore, this Lease shall be deemed to have been drafted jointly by each of the parties and therefore shall not be more strictly construed against one or the other party.

XLIV. COUNTERPARTS: This Lease may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute but one and the same instrument.

XLV. GUARANTORS. The entity, entities, or persons personally guarantying this Lease, if any, shall execute a Guaranty in the form and content described in Exhibit "A" attached hereto and made a part hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered this Lease at Miami-Dade County, Florida, as of the day and year first above written.

Approved as to form:

LANDLORD:

**CITY OF CORAL GABLES, a
municipal corporation of the State of
Florida**

By: _____
Elizabeth Hernandez, Esq.
City Attorney

By: _____
David L. Brown
City Manager

ATTEST/WITNESS:

By: _____
Name: _____

By: _____
Name: _____

TENANT:

**DULCE, LLC.,
a Florida limited liability company**

By: _____
Name: _____
Its: _____

ATTEST/WITNESS:

By: _____
Name: _____

By: _____
Name: _____

EXHIBIT "A"

GUARANTY

In consideration of the making of that certain Lease Agreement (as same may be amended from time to time, the "Lease") dated _____, 20____ and executed by and between City of Coral Gables, a municipal corporation of the State of Florida, ("Landlord"), and _____, a _____ ("Tenant") for the premises located at _____ (the "Premises"), and for the purpose of inducing Landlord to enter into and make the Lease, the undersigned "Guarantor(s)" hereby unconditionally guarantees the full and prompt payment of Rent (as defined in the Lease) and all other sums required to be paid by Tenant under the Lease (including, without limitation, Additional Rent) (individually, a "Guaranteed Payment", and collectively, the "Guaranteed Payments") and the full and faithful performance of all terms, conditions, covenants, obligations and agreements contained in the Lease on the Tenant's part to be performed (individually, a "Guaranteed Obligation", and collectively, the "Guaranteed Obligations" and the undersigned further promises to pay all of Landlord's costs and expenses (including reasonable attorneys' fees) incurred in endeavoring to collect the Guaranteed Payments or to enforce the Guaranteed Obligations or incurred in enforcing this Guaranty, as well as all damages which Landlord may suffer in consequence of any default or breach under the Lease or this Guaranty.

1. Landlord may at any time and from time to time, without notice to or consent by the undersigned, take any or all of the following actions without affecting or impairing the liability and obligations of the undersigned on this Guaranty;

(a) grant an extension or extensions of time for payment of any Guaranteed Payment or time for performance of any Guaranteed Obligation;

(b) grant an indulgence or indulgences in the payment of any Guaranteed Payment or in the performance of any Guaranteed Obligation;

(c) modify or amend the Lease or any term thereof or any obligation of Tenant arising thereunder;

(d) consent to any assignment or assignments, sublease or subleases and successive assignments or subleases by Tenant or by Tenant's successors or assigns;

(e) consent to an extension or extensions of the term of the Lease;

(f) accept other guarantees or guarantors; and/or

(g) release any person primarily or secondarily liable hereunder or under the Lease or under any other guaranty of the Lease.

The liability of the undersigned under this Guaranty shall not be affected or impaired by any failure or delay by Landlord in enforcing any Guaranteed Payment or Guaranteed Obligation or this Guaranty or any security therefore or in exercising any right or power in respect thereto, or by any compromise, waiver, settlement, change, subordination, modification or disposition of any Guaranteed Payment or Guaranteed Obligation or of any security therefore. In order to hold the undersigned liable hereunder, there shall be no obligation on the part of Landlord, at any time, to resort to Tenant or to any other guaranty or to any security or other rights and remedies for payment or performance, and Landlord shall have the right to enforce this Guaranty irrespective of whether or not other proceedings or actions are pending or being taken seeking resort to or realization upon or from any of the foregoing.

2. The undersigned waives all diligence in collection or in protection of any security, presentment, protest, demand, notice of dishonor or default, notice of acceleration or intent to accelerate, notice of acceptance of this Guaranty, notice of any extensions granted or other action taken in reliance hereon and all demands and notices of any kind in connection with this Guaranty or any Guaranteed Payment or Guaranteed Obligation.

3. The undersigned hereby acknowledges full and complete notice and knowledge of all the terms, conditions, covenants, obligations and agreements of the Lease.

4. The payment by the undersigned of any amount pursuant to this Guaranty shall not in any way entitle the undersigned to any right, title or interest (whether by subrogation or otherwise) of Tenant under the Lease or to any security being held for any Guaranteed Payment or Guaranteed Obligation.

5. This Guaranty shall be continuing, absolute and unconditional and shall remain in full force and effect until all Guaranteed Payments are made, all Guaranteed Obligations are performed and all obligations of the undersigned under this Guaranty are fulfilled.

6. This Guaranty shall also bind the heirs, personal representatives, successors and assigns of the undersigned and shall inure to the benefit of Landlord and Landlord's successors and assigns.

7. The Guaranty shall be governed by and construed according to the laws of the State of Florida and shall be performed in Miami-Dade County, Florida. The venue for the resolution (including any judicial proceedings) of any disputes arising under or relating to this Guaranty shall be Miami-Dade County, Florida.

8. If this Guaranty is executed by more than one person, all singular nouns and verbs herein relating to the undersigned shall include the plural number, the obligations of the several guarantors shall be joint and several and Landlord may enforce this Guaranty against any one or more guarantors without joinder of any other guarantor (hereunder or otherwise).

9. Landlord and the undersigned intend and believe that each provision of this Guaranty comports with all applicable law. However, if any provision of this Guaranty is found by a court to be invalid for any reason, the remainder of this Guaranty shall continue in full force and effect and the invalid provision shall be construed as if it were not contained herein.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Guaranty this _____ day of _____, 20____.

ATTEST/WITNESS:

GUARANTORS:

Name: _____
Title: _____

By: _____
Name: _____

Name: _____
Title: _____

Name: _____
Title: _____

By: _____
Name: _____

Name: _____
Title: _____

This document was created with Win2PDF available at <http://www.daneprairie.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.