

2/17/2013

9-0-13

AN ORDINANCE

**Authorizing the City Manager to Negotiate and Execute
a Commercial Lease with an Option to Purchase
City-Owned Real Property Located at 623-627 1/2 Howard Street**

WHEREAS, the City of Evanston owns certain real property located at 623-627 1/2 Howard Street, Evanston, Illinois 60202, which is improved with a single story commercial building and more fully described on Exhibit 1 (the "Property"); and

WHEREAS, the City Council has determined that it is in the best interests of the City of Evanston to negotiate and execute a five (5)-year commercial lease agreement with an option to purchase the Property, with Peckish One, LLC, an Illinois limited liability company;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: Pursuant to Subsection 1-17-4-1 of the Evanston City Code of 1979, as amended (the "City Code"), the City Manager is hereby authorized and directed to negotiate and execute, and the City Clerk is hereby authorized and directed to attest, on behalf of the City of Evanston, the lease agreement for the Property, by and between the City of Evanston, as landlord, and Peckish One, LLC, as tenant. The lease and option agreement shall be in substantial conformity with the Lease attached hereto as Exhibit "2" and incorporated herein by reference.

SECTION 3: Should Peckish One, LLC seek to exercise the option to purchase, the City shall follow the procedure for conveyance by negotiation pursuant to Subsection 1-17-4-2-(B), as amended.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 7: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Ayes: 8

Nays: 0

Introduced: January 25, 2013

Adopted: March 18, 2013

Approved:

March 22, 2013

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene
Rodney Greene, City Clerk

Approved as to form:

W. Grant Farrar
W. Grant Farrar, Corporation Counsel

EXHIBIT 1

LEGAL DESCRIPTION

LOTS 7, 8 AND 9 IN BLOCK 1 IN NILES HOWARD TERMINAL ADDITION, BEING A SUBDIVISION OF THE SOUTH 6.25 FEET CHAINS (412 ½ FEET) OF THAT PART OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE RIGHT OF WAY OF THE CHICAGO AND NORTH WESTERN RAILROAD COMPANY, IN COOK COUNTY, ILLINOIS.

Common Address: 623-627 1/2 Howard Street, Evanston, Illinois 60202

PIN: 11-30-209-025-0000

9-O-13

EXHIBIT 2

COMMERCIAL LEASE AND OPTION AGREEMENT

COMMERCIAL LEASE AND OPTION AGREEMENT

This Lease and Option Agreement (the "**Agreement**"), made on this 18 day of March, 2013 (the "**Effective Date**"), by and between The City of Evanston, an Illinois home rule municipality ("**Landlord**"), whose main business office is located at 2100 Ridge Avenue, Evanston, Cook County, Illinois, and Peckish One LLC, an Illinois limited liability company ("**Tenant**"), of Evanston, Illinois. Landlord and Tenant may be referred to as a "Party" and collectively as the "Parties".

SECTION 1: **DESCRIPTION OF PROPERTY**

A. Property. Landlord is the fee simple owner of certain real property in the City of Evanston, State of Illinois, containing approximately 10,177.45 square feet (0.23 acres) of land as legally described in **Exhibit A** attached hereto and hereby incorporated herein and with the common address of 623-627 ½ Howard Street, Evanston, Illinois 60202 (the "**Property**"). Landlord does hereby demise and lease, all of the Property to Tenant, including the commercial building thereon as further defined herein (the "**Building**"), and as further improved by Landlord, for Tenant's exclusive use and control, pursuant to the terms and conditions of this Agreement. Unless specified otherwise, the term Property as used hereinafter shall include the Building. Landlord leases to Tenant the free-standing building to be renovated by Tenant on the Property in accordance with the terms of this Lease.

B. Rights to Use Property. Landlord hereby grants Tenant the exclusive right to use, control and manage at no additional cost to Tenant, all portions of the Property and permit others, in the sole reasonable discretion of Tenant, the right to use the Property throughout the Term hereof, provided that the use is in conformance with the terms of this Agreement, including the Permitted Use.

C. Right to Sublease. Tenant shall not have the right to sublet any part of the Property.

SECTION 2: **TERM**

Subject to the provisions of this Agreement, the "**Term**" shall commence on the Effective Date and expire 5 years (60 months) after the Effective Date. The Term shall not be renewed, except by written agreement of the Parties and by approval of the City Council.

SECTION 3: **RENT**

A. Rent. Commencing on the Effective Date of this Agreement, Tenant agrees to pay to Landlord monthly rental payments in accordance with the schedule attached as **Exhibit B** and continuing through the last day of the fifth (5th) year of the Term. Tenant shall remit payment on or before the first (1st) day of each calendar month during the Term. At Tenant's option, Tenant may elect to accelerate the rent payments and increase the rent amounts due under this Agreement but Tenant shall be under no obligation to do so.

B. Late Charges. Any payments for rent not paid within five (5) days of the due date shall incur a late payment of \$10.00 per day until paid in full.

C. Payments. Rent payments shall be mailed to:

City of Evanston
Attn: Dept. of Administrative Services
2100 Ridge Avenue, Room 4100
Evanston, IL 60201

SECTION 4: SECURITY DEPOSIT

Concurrently with the execution of this Agreement, Tenant shall deposit with Landlord the sum of Five Thousand Five Hundred and 00/100 Dollars (\$5,500.00). Said sum shall be held by Landlord as security for the performance of all terms, covenants and conditions of this Lease to be performed by Tenant. If Tenant materially defaults with respect to any provisions of this lease, Landlord may at its option apply all or any portion of such deposit to compensate Landlord for any loss or damage it may sustain. Landlord shall not be required to keep this security deposit separate from its general funds and Tenant shall not be entitled to any interest on such deposit. At the termination of this Agreement, Landlord shall refund the said security deposit to Tenant. ~~In the event Tenant has breached any of the terms, covenants and conditions of this Agreement or fails to leave the Property in substantially the same condition as when Tenant took possession, normal wear and tear excepted, Landlord shall be entitled to deduct from the security deposit the amount expended by Landlord for necessary and reasonable repairs~~ Tenant shall not use the security deposit as the last month's rental payment. The Landlord shall itemize the deductions from the Security Deposit, if any.

SECTION 5: OPTION TO PURCHASE PROPERTY:

A. General. Tenant initially is a Tenant of the Property which is owned by Landlord. As such, Tenant's monthly payments are rental payments. Tenant shall have an option to purchase the Property so long as the Tenant is occupying and leasing the Property and is otherwise in compliance with the terms of this Agreement at the end of the fourth year (48 months) (the "Option"). Tenant must submit written notification to Landlord that it intends to exercise the Option within sixty (60) days of expiration of the fourth year, thus notice must be sent on or before the beginning of the forty-sixth (46th) month of the Lease (the "Option Period"). If Tenant elects NOT to exercise the Option by the end of the Option Period, the following are applicable: (1) the Landlord is freely able to market, enter into a contract, and sell the Property to another purchaser; (2) Tenant shall remain a Tenant of the Property for the remainder of the term of the Agreement; and (3) Tenant shall not have the option to purchase the Property. Notwithstanding the foregoing, Tenant may elect to exercise this Option at any time prior to the expiration of the Option Period.

B. Purchase Price. The purchase price of this Property will be \$675,000.00 (the "Purchase Price"). The Purchase Price is based on the City's original purchase price of the Property of Four Hundred Seventy Five Thousand Dollars (\$475,000.00) and the TIF Grant funds used to improve the Property Two Hundred Thousand Dollars (\$200,000.00).

(1) Appraisals: If the Tenant elects to exercise the Option, Tenant and Landlord shall be entitled to obtain independent appraisals of the Property. If the Tenant and the Landlord cannot agree on which appraisal to use to establish the Purchase Price, the average of the two (2) appraisals shall be used as the Purchase Price. However, if the Purchase Price as determined through the appraisal process is less than Six Hundred Seventy Five Thousand Dollars (\$675,000), the Tenant may purchase the Property for that lesser price. If the Purchase Price as determined through the appraisal process is greater than Six Hundred Seventy Five Thousand Dollars (\$675,000), the Tenant shall still pay Six Hundred Seventy Five Thousand Dollars (\$675,000) to purchase the property and not more.

(2) Performance Incentive: Landlord shall provide Tenant with an incentive to finish the construction of the improvements, issue timely payments for rent, real estate taxes and City of Evanston water bills. Landlord shall agree to reduce the

Purchase Price by Fifty Thousand Dollars (\$50,000), only if the Tenant accomplishes the following on the date of exercising the Option:

- a. Finishes construction of the Improvements by December 1, 2013 and a Final Certificate of Occupancy is issued;
- b. Tenant issues Rent payments to Landlord on time for every month for the Term;
- c. Tenant has paid real estate tax invoices prior to the due date for every installment, as indicated in Section 13; and
- d. Tenant is current on its water bill to the City of Evanston each and every month during the Term.

(3) Performance Incentive and Appraisal Figure:

- a. After the Appraisal process outlined in Section 5(B)(1) above, if the Purchase Price is less than \$625,000 (Six Hundred Twenty-Five Thousand Dollars), Tenant cannot receive an additional discount based on the Performance Incentive described.
- b. However, if the appraisal figure arrived at between the Parties is between \$625,000 and \$675,000 AND Tenant qualifies for the Performance Incentive, the Purchase Price can be additionally reduced to \$625,000, but this is the floor for the Performance Incentive. For example, if the appraisal process yields a purchase price of \$640,000 and the Tenant has met the measures outlined to qualify for the Performance Incentive, the Purchase Price may be reduced an additional Fifteen Thousand (\$15,000).

C. Authority to Purchase: The Tenant may notify Landlord that it has the resources to purchase the Property and that the Tenant is exercising the Option prior to the expiration of the Option Period. A closing (the "**Closing**") or transfer of ownership will occur upon the Parties executing a purchase and sale contract ("**Property Purchase Agreement**") and the subsequent payment of the Purchase Price at a Closing.

D. Rental Credit Application. Landlord will give credit towards the Purchase Price for all rental payments made under this Agreement during the lease of the Property subject to this Agreement (the "**Rental Credit**"). The Tenant may notify Landlord that it will be exercising the Option to Purchase, that it wishes to use the Rental Credit and has the resources to supplement those credits to purchase the Property. At Closing, Landlord shall transfer title upon receipt by the Landlord of the Tenant paying the difference between the Rental Credit and the Purchase Price.

E. Delinquencies. Should the Tenant have incurred delinquencies in paying rent with Landlord, the Tenant shall payoff those delinquencies upon any offer to exercise its Option.

F. Tenant Breach. Should the Tenant materially breach this Agreement for any reason other than nonpayment, at the discretion of Landlord, the Tenant's Option may be denied. Landlord shall not unreasonably withhold its agreement to the exercise of the Option.

G. No Obligation to Purchase. Tenant is under no obligation to purchase the Property and has the right to continue under the terms of this Agreement as Tenant/renter for the balance of the Term. However, if the Tenant fails to exercise the option at the conclusion of the Option Period, the Option to Purchase shall expire.

H. Sale to Third Parties. If Landlord sells the Property to a third party which has no legal affiliation to the Tenant, as a condition of sale, the new Purchaser agrees to be bound by the terms of this Agreement and shall have no right to evict Tenant, to vary the terms of this Agreement or to terminate this Lease under any terms other than those contained herein.

I. Tenant Declines to Purchase. If at the end of the five (5) year term of this Lease, the Tenant has exercised its right to Purchase the Property at the agreed Purchase Price, the Parties may agree to enter into a new lease which shall be at current market rents then in effect.

SECTION 6: USE OF PROPERTY

A. Permitted Use. Tenant will use the Property to operate a restaurant and brewery and to transact other related business and uses incidental thereto. No part of the Property will be used for any other purpose without the prior written consent of Landlord (the "**Permitted Use**"). Tenant shall apply and obtain the proper licenses to operate a brewery and restaurant within the City of Evanston, to enable Tenant to sell and offer for sale from the Property in accordance with all applicable laws, alcoholic beverages, liquor, spirits, beer and wine for on-site and off-Property consumption (herein "**Alcoholic Beverage License**"). Tenant shall also apply for and obtain the proper restaurant license from the corporate authorities ("**Business License**"). The use of the Property will be in conformance with the restrictions set forth in the Alcoholic Beverage License and the Business License. In the conduct of its business on the Property, Tenant will observe and comply with all laws, ordinances and regulations of public authorities. Tenant acknowledges that the Property is owned by the City of Evanston and therefore no smoking will be permitted at the Property. Tenant will not permit any unlawful or immoral practice to be committed or carried on in the Property by Tenant or any other person. Tenant will not use or allow the use of the Property for any purpose whatsoever that will injure the reputation of the Property or of the Building of which they are a part.

B. Business Hours. Tenant will operate the Property and be open for business at the discretion of the Tenant. When Tenant is open for business, Tenant will provide adequate personnel to service its customers. However, if Tenant is unable to comply with this provision due to shortage of materials, act of God, and destruction of the Property by fire or other reason beyond Tenant's control (financial inability of Tenant accepted), Tenant will not be deemed to be in default.

C. Storage of Merchandise. Tenant agrees to store on the Property only goods, wares and merchandise Tenant intends to offer for retail sale from the Property or to use in connection with the service offered by Tenant in the regular course of the Tenant's business.

D. Storage of Inflammable Materials. Tenant agrees that it will not permit to be kept at the Property any gasoline, distillate or other petroleum product, or other substance of an explosive or inflammable nature as may endanger any part of the Property without the written consent of the Landlord. Landlord understands and agrees that Tenant will utilize materials in the kitchen of the restaurant and in the brewery that include flammable materials

E. Use Impairing Structural Strength. The Tenant will not permit the Property to be used in any manner that will impair the structural strength of the building, or permit the installment of any machinery or apparatus the weight or vibration of which may tend to impair the building's foundations or structural strength.

F. Garbage Disposal. The Tenant will not incinerate any garbage or debris in or about the Property, and will cause all containers, rubbish, garbage and debris stored in the Property to be hauled away for disposal before accumulation of any substantial quantity.

G. Parking. The Landlord shall not provide any parking spaces to the Tenant. The Tenant is responsible for coordinating and providing adequate parking for the Permitted Use under the City Code.

SECTION 7: IMPROVEMENTS.

A. Improvement Allowance. Landlord shall provide Tenant with an improvement allowance to fund "vanilla box" improvements for the Building in the principal amount of Two Hundred Thousand Dollars (\$200,000.00) which will be paid through the Howard-Ridge Tax Increment Financing District funds ("**Tenant Improvement Allowance**"). The administration of the Tenant Improvement Allowance will be governed by a separate TIF Grant Agreement between the Parties. As detailed in the TIF Grant Agreement, the terms of which are incorporated herein by reference, the Tenant Improvement Allowance funds will be distributed within a timely manner upon presentation by the General Contractor's or Subcontractor's invoices as approved by the Tenant. Payments shall be made directly to the General Contractor or the Subcontractors as the case may be.

B. Construction of Improvements. Tenant accepts the Property in an "as-is" condition and represents, covenants and agrees, at its sole cost and expense, that it shall construct, reconstruct and develop in accordance with the terms of this Agreement, the Site Plan of **Exhibit C** (herein "**Tenant's Work**"). Tenant's Work shall include, but not limited to:

- (1) Tenant shall renovate and develop the Building and Property free from any and all Hazardous Substances;
- (2) Tenant shall complete the construction in substantial compliance with the design as depicted on the Site Plan; and
- (3) All work necessary to bring the Property into compliance with applicable federal, state and local building codes and regulations.

C. Delivery Date. The Parties contemplate that the permit and construction process will take 6-7 months. Tenant shall use due diligence and commercially reasonable efforts to ensure that the construction is complete no later than December 1, 2013 ("**Tenant's Work Completion Date**"). If Tenant's Work Completion Date does not occur on or before December 1, 2013 (subject to delays due to Force Majeure), then such failure to deliver shall not be a default hereunder, however the Tenant shall deliver a punch list of items to be completed and a timeline for completion to Landlord within five (5) business days of Tenant's Work Completion Date. Tenant acknowledges that Landlord will not extend the period of free rent beyond what is provided in this Agreement due to any delay in Tenant's Work. Notwithstanding anything to the contrary contained herein, should Tenant fail to complete Tenant's Work within 3 months of Tenant's Work Completion Date, Landlord shall have the option to complete Tenant's Work and seek reimbursement for said expense from Tenant.

D. Plans and Specifications. All architectural plans, diagrams, specifications and other data relating to Tenant's Work shall be produced by Tenant at its sole cost and expense. Tenant's Plans shall be reviewed by Landlord prior to submission for construction permit. Landlord shall have the opportunity to provide comments and suggested revisions and Tenant cannot unreasonably withhold its consent to said revisions. If Landlord shall reject Tenant's Plans as aforesaid then Tenant shall thereafter have the right to either incorporate such changes in part or in whole, or reject the changes with reasons stipulated. Neither party's approval of the other party's plans shall create responsibility or liability on the part of such approving party for the completeness, design sufficiency, or compliance with all laws, rules and regulations of governmental agencies or authorities of such plans.

E. Property Inspection. Notwithstanding any other provision of this Agreement, Tenant shall have the right to inspect the Property for a period of seven (7) days following the execution of this Agreement. If, as a result of the inspection, Tenant is advised and determines that the cost of bringing the Property up to required building Code standards exceeds Two Hundred Thousand and 00/100 Dollars (\$200,000.00), then Tenant shall have the right to terminate this Agreement by written notice to the Landlord within fourteen (14) days of the execution of this Agreement. Landlord shall have the right to conduct a field survey of the Property and

inspection of the Property during the time of construction of the Tenant's Work upon 2 business days' written notice.

F. Insurance during the Construction of Improvements. Within ten (10) days after the execution of this Agreement, Tenant shall procure and maintain (or shall cause the Tenant's DBO Contractor to procure and maintain, naming Tenant and any other Persons required to be so named hereunder as additional insured) during the completion of Tenant's Work, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Tenant Work, its agents, subcontractors, representatives and employees. Insurance, together with endorsements as required by this section shall be of the type, in the amounts and subject to all provisions in this section. Tenant acknowledges and agrees that if it fails to comply with all requirements of this Section, the Landlord may void the Agreement.

Tenant must give to the City Certificates of Insurance identifying the Landlord to be an Additional Insured for all Work done pursuant to this Agreement before the Landlord's staff recommends award of the contract to City Council. Any limitations or modifications on the Certificate(s) of Insurance issued to the Landlord in compliance with this Section that conflict with the provisions of this section shall have no force and effect.

After award of the contract to the Tenant's General Contractor, Tenant shall give Landlord a certified copy(ies) of the insurance policy(ies) and all riders to such policy(ies) evidencing the amounts set forth in this section, and copies of the Additional Insured endorsement to such policy(ies) which name Landlord as an Additional Insured for all Tenant's Work done pursuant to this Agreement before Contractor does any Work pursuant to this Agreement. Tenant's certificate of insurance shall contain a provision that the coverage afforded under the policy(s) will not be canceled or reduced without sixty (60) days prior written notice (hand delivered or registered mail) to Landlord. Tenant shall promptly forward new certificate(s) of insurance evidencing the coverage(s) required herein upon annual renewal of the subject policies. The policies and the Additional Insured endorsement must be delivered to the Landlord within two (2) weeks of the request. All insurance policies shall be written with insurance companies licensed or authorized to do business in the State of Illinois and having a rating of not less than A-XIII or better as published within the prior twelve months, or if none, the most recent edition of Best's Key Rating Guide, Property-Casualty Edition. Any deductibles or self-insured retentions must be declared to and approved by City.

Commercial general liability coverage at least as broad as Insurance Services Office Commercial General Liability occurrence coverage ("occurrence" form CG0001, Ed. 11/88) with a general aggregate amount of not less than \$1,000,000, \$1,000,000 Products and Completed Operations Aggregate, and \$1,000,000 for each occurrence. Deductibles shall be commensurate with industry practice. Tenant understands that the acceptance of Certificates of Insurance, policies, and any other documents by the Landlord in no way releases the Contractor and its subcontractors from the requirements set forth herein.

Tenant's insurance and any insurance provided in compliance with these specifications shall be primary with respect to any insurance or self-insurance programs covering the Landlord, its City Council and any officer, agent or employee of the Landlord. Tenant expressly agrees to waive its rights, benefits and entitlements under the "Other Insurance" clause of its commercial general liability insurance policy as respects the Landlord. In the event Tenant fails to purchase or procure insurance as required above, the parties expressly agree that Tenant shall be in default under this Agreement, and that the Landlord may recover all losses, attorney's fees and costs expended in pursuing a remedy, or reimbursement, at law or in equity, against Tenant. All liability coverage shall name the Landlord, its City Council and every officer, agent and employee of the Landlord as an additional insured.

Where available, the insurer shall agree to waive all rights of subrogation against the

Landlord, its City Council and every officer, agent and employee of Landlord. In the event any insurance required to be maintained herein becomes unavailable or is not available on commercially reasonable terms, the Tenant shall maintain or shall cause to be maintained the best that is available on commercially reasonable terms as agreed with Landlord (or in the event of disagreement, as determined under the dispute resolution procedures of this Agreement).

G. Improvements following conclusion of Term or Breach of Lease: If the Tenant does not exercise the Option and the Term expires, without a new lease agreement, or if the Lease is terminated pursuant to Section 20, the Tenant waives all rights and claims of interest in the property; however, any Improvements paid for and installed by the Tenant shall remain the property of the Tenant and Tenant shall have the right to remove such improvements at the termination of the Lease regardless of the reason for the termination, unless permanently affixed to the Property and would cause damage to remove.

SECTION 8: SIGNS:

Tenant will have the exclusive right to maintain on the exterior and interior of the Property, at its own expense, all signs necessary to conduct the business of Tenant. Tenant acknowledges that there are limitations and an application process outlined in the City of Evanston's Municipal Code for the sign size, type, and number and Tenant agrees to be bound by such ordinances.

SECTION 9: DEFECTS; DEFECTIVE CONDITION; WIND; ACTS OF THIRD PERSONS:

Except as provided by Illinois law, Landlord as the owner of the Property, and shall be liable for any injury done or occasioned by wind or by or from any defect of plumbing, electric wiring or of insulation thereof, gas pipes, water pipes or steam pipes, or from broken stairs, porches, railings or walks, or from the backing up of any sewer pipe or down-spout or from the bursting, leaking or running of any tank, tub, washstand, water closet or waste pipe, drain, or any other pipe or tank in, upon or about the Property or the building of which they are a part nor from the escape of steam or hot water from any radiator, caused by conditions prior to the execution of this Agreement, and for any such damage or injury occasioned by water, snow or ice being upon or coming through the roof, skylight, trap door, stairs, walks or any other place upon or near the Property, or otherwise, and for any such damage or injury done or occasioned by the falling of any fixture, plaster, or stucco, and for any damage or injury arising from any act, omission or negligence of co-tenants or of other persons, occupants of the same building or of adjoining or contiguous buildings or of owners of adjacent or contiguous property, or of Landlord's agents or Landlord.

SECTION 10: CASUALTY DAMAGE; REPAIRS; ABATEMENT OF RENT

A. Use of Partially Damaged Property: On damage or destruction to the Property, Tenant will continue to use it for the operation of its business to the extent practicable.

B. Right to Terminate: Either Party will have the right to terminate this Agreement if, the Property is damaged to an extent exceeding fifty percent of the reconstruction cost of the Property as a whole. Notice of termination of this Agreement in writing delivered to the other Party within ten (10) days of the damage.

C. Repairs in the event of Casualty: If the Property is damaged or destroyed before or after the start of the Agreement by any cause beyond Tenant's control, then Landlord will immediately, on receipt of insurance proceeds paid in connection with casualty damage, but no later than (60) sixty days after damage has occurred, allow Tenant to construct the repairs up to the amount of the insurance proceeds. Repairs will include any improvements made by Tenant with Landlord's consent, on the same plan and design as existed immediately before the

damage occurred, subject to those delays reasonably attributable to governmental restrictions or failure to obtain materials, labor or other causes, whether similar or dissimilar, beyond the control of Landlord. Materials used in repair will be as nearly like original materials as reasonably procured in regular channels of supply. Wherever cause beyond the power of the party affected causes delay, the period of delay will be added to the period in this lease for completion of the work, reconstruction or replacement.

D. Reduction of Rent during Repairs: If Tenant continues to conduct business during the making of repairs; the fixed minimum monthly rental will be equitably reduced in the proportion that the unusable part of the Property bears to the whole. The determination of the unusable space shall be determined by the Landlord and Tenant. No rent will be payable while the Building is wholly unoccupied pending the repair of casualty damage.

SECTION 11: REPAIRS AND MAINTENANCE

A. Condition of Property. Tenant shall keep the Property and appurtenances thereto in a clean condition, and in good repair, all according to the statutes and ordinances in such cases made and provided, and the directions of public officers thereunto duly authorized, all at Tenant's own expense, reasonable wear and tear excepted. Tenant shall make all necessary repairs and renewals upon Property and replace broken globes, glass and fixtures with material of the same size and quality as that broken and shall insure all glass in windows and doors of the Property at his own expense. Tenant shall not cause or permit any waste, misuse or neglect of the water, or of the water, gas or electric fixtures.

B. Responsible Party for Maintenance and Repairs. Tenant acknowledges that it is responsible for any and all maintenance and repairs, both exterior and interior maintenance and repair responsibilities for the Property, with no right of reimbursement from the Landlord. Tenant agrees to perform all necessary maintenance and repair responsibilities in a workmanlike manner and address any and all issues as quickly as possible. Tenant shall guarantee to:

- (1) Perform regular inspections and maintenance to HVAC unit;
- (2) Perform regular inspections and maintenance to furnace unit;
- (3) Keep the exterior walkways and pavement free from snow and ice. Tenant will furnish snow removal equipment and salt;
- (4) All refuse from Property to be placed in appropriate containers for the refuse haulers; and
- (5) Maintain all of the Property in a clean, neat and orderly condition.

SECTION 12: UTILITIES

Tenant agrees to pay before delinquency all charges for gas, water, heat, electricity, power and other similar charges incurred by Tenant during its occupancy of the Property.

SECTION 13: TAXES

Tenant will pay before delinquency all taxes levied on Tenant's fixtures, equipment and personal property on the demised Property, whether or not affixed to the real property ("**Fixture and Equipment Taxes**"). Tenant will also pay all real property taxes before delinquency and provide proof of payment to the Landlord for each installment during the term of this Lease (the "**Real Estate Taxes**"). The amount of the Real Estate Taxes owed will fluctuate based on Cook County assessments. Tenant shall submit proof of payment within five (5) business days of submission of payment and prior to the due date on the respective tax bill. The Landlord will prorate the real estate taxes for 2013 to the date of the Agreement and will pay the first installment of the 2013 taxes, payable in 2014 and invoice Tenant for its portion of the first

installment, Tenant will not be responsible for taxes prior to the date of the Agreement. Subsequent installments will be paid directly by Tenant to the Cook County Treasurer and Tenant will arrange for the Cook County Treasurer to issue bills directly to the Tenant.

SECTION 14: INSURANCE

A. Insurance Company. It is agreed that any policies of insurance to be maintained by the respective parties will be obtained from solvent insurance companies.

B. Liability Coverage. Notwithstanding the requirements set forth in Section 8F, Tenant agrees that it will, at its expense, maintain a policy of insurance, written by responsible insurance carriers, approved by Landlord that will insure Landlord against liability for injury to or death of persons or damage to property occurring about the demised Property. The liability under insurance will be at least \$1 million for any one person injured or killed or any one occurrence, \$2 million general aggregate coverage for any one accident, and \$ 100,000.00 property damage.

C. Worker's Compensation: Tenant agrees to maintain employees' Worker's Compensation insurance required under Illinois law, and any other insurance necessary to protect Landlord against liability to person or property.

D. Fire Insurance on Equipment and Inventory. The Tenant agrees to maintain on all equipment in the Property, a policy of fire insurance in companies approved by the Landlord of at least 80 % of the insurable replacement value. Landlord shall not unreasonably withhold its approval. Tenant also will maintain adequate inventory insurance, the proceeds of which will, as long as this Agreement is in effect, be used for the replacement of the insured property. The policy will name Landlord as additional beneficiary to protect Landlord's interest as Landlord.

E. Fire Insurance on Property. Landlord agrees to maintain during this Agreement, a policy fire insurance of at least 80 % of the insurable value of the Property. If permitted without additional charge, Landlord will cause to be endorsed on its fire insurance, and any extended coverage policy or policies, the waiver of right of subrogation.

F. Tenant's Waiver of Casualty Insurance Proceeds. If the Property is damaged by fire or other casualty insured against, Tenant agrees to claim no interest in any insurance settlement arising out of any loss where premiums are paid by Landlord, or where Landlord is named as sole beneficiary, and that it will sign all documents required by Landlord or the insurance company necessary in connection with the settlement of any loss. If such damage occurs and the premiums are paid by Tenant, any insurance settlement shall be paid to Tenant.

G. Control of Insurance Proceeds to avoid Capital Gain. If the Property, including any improvements, were to be damaged in any manner, and the receipt of any insurance proceeds or other reimbursement for such damage would result in the realization of taxable gain for federal or state purposes, then the party to whom the gain would be taxed will have the right to take all action respecting proceeds or reimbursements necessary to enable party to comply with any regulations of the appropriate taxing authorities, so that the gain will not be recognized for tax purposes. Nothing here will be construed to entitle Landlord to delay any repairs to any part of the improvements in the event of damage.

SECTION 15: SURRENDER OF PROPERTY – HOLDING OVER

Subject to the Option to Purchase language, Tenant will, at the termination of this Lease, leave the Property in as good condition as it is at the time of entry by Tenant, except for reasonable use and wear, acts of God, or damage by casualty beyond the control of Tenant. On vacating, Tenant will leave the Property clear of all rubbish and debris. If Tenant retains possession of the Property or any part thereof after the termination of the term by lapse of time or otherwise, then Landlord may at its option within thirty (30) days after termination of the term

serve written notice upon Tenant that such holding over constitutes the creation of a month to month tenancy, upon the terms of this Agreement. Tenant shall also pay to Landlord all damages sustained by Landlord resulting from retention of possession by Tenant. The provisions of this paragraph shall not constitute a waiver by Landlord of any right of re-entry as hereinafter set forth; nor shall receipt of any rent or any other act in apparent affirmation of tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the covenants herein.

SECTION 16: LIENS

A. Liens and Encumbrances. The Tenant will hold the Landlord harmless from all ~~claims, liens, and claims of lien, demands, charges, encumbrances or litigation arising out of~~ any work or activity of Tenant on the Property. Tenant will, within sixty (60) days after filing of any lien, fully pay and satisfy the lien and reimburse Landlord for all resulting loss and expense, including a reasonable attorney's fees; provided, however, in the event that Tenant contests any lien so filed in good faith and pursues an active defense of said lien, Tenant shall not be in default of this paragraph. However, in the event of any final judgment against Tenant regarding such lien, Tenant agrees to pay such judgment and satisfy such lien within 60 days of the entry of any such judgment.

B. Discharge of Liens: If Tenant fails to fully discharge any claim, lien, claim of lien, demand, charge, encumbrance, or litigation, or should proceedings be instituted for the foreclosure of any lien or encumbrance, and if judgment is rendered against Tenant either by a court of competent jurisdiction or by arbitration and Tenant still persists in non-payment of the same within the 60 day set forth above, Landlord will have the right at any time after expiration of the 60-day period, to pay the lien or encumbrance. All amounts so paid will be repaid by the Tenant on demand, together with interest at the rate of 10 % per year from the date of payment and shall be considered additional rent owed to Landlord by Tenant.

SECTION 17: INDEMNIFICATION

A. Tenant's negligence or willful misconduct

In the event of the Tenant's negligence or willful misconduct, Tenant shall defend, indemnify and hold harmless City and its officers, elected and appointed officials, agents, and employees from any and all liability, losses, or damages as a result of claims, demands, suits, actions, or proceedings of any kind or nature, including without limitation costs, and fees, including attorney's fees, judgments or settlements, resulting from or arising out of any negligent or willful act or omission on the part of the Tenant or Tenant's subcontractors, employees, agents or subcontractors during the performance of this Agreement. Such indemnification shall not be limited by reason of the enumeration of any insurance coverage herein provided. This provision shall survive completion, expiration, or termination of this Agreement. Nothing contained herein shall be construed as prohibiting Landlord, or its officers, agents, or employees, from defending through the selection and use of their own agents, attorneys, and experts, any claims, actions or suits brought against them. Tenant shall be liable for the costs, fees, and expenses incurred in the defense of any such claims, actions, or suits. Nothing herein shall be construed as a limitation or waiver of defenses available to Landlord and employees and agents, including without limitation the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 *et seq.*

In the event of Tenant's negligence or willful misconduct, at the Landlord's option, Tenant must defend all suits and must pay all costs and expenses incidental to them, but the Landlord has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Tenant of any of its obligations under this Agreement. Any settlement of any claim or suit related to this Agreement by must be made only with the prior written consent of

the City Corporation Counsel, if the settlement requires any action on the part of the Landlord. To the greatest extent permissible by law, Tenant waives any limits to the amount of its obligations to indemnify, defend, or contribute to any sums due under any losses, including any claim by any employee of Tenant that may be subject to the Illinois Workers Compensation Act, The Landlord, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code or any other statute. Tenant is responsible for any losses and costs to repair or remedy work performed under this Agreement resulting from or arising out of any act or omission, neglect, or misconduct in the performance of Tenant's Work. Acceptance of the work by the Landlord will not relieve Tenant of the responsibility for subsequent correction of any such error, omissions and/or negligent acts or of its liability for loss or damage resulting therefrom. All provisions of this section shall survive completion, expiration, or termination of this Agreement.

B. Landlord's negligence or willful misconduct

In the event of the Landlord's negligence or willful misconduct, Landlord shall defend, indemnify and hold harmless Tenant and its officers, agents, and employees from any and all liability, losses, or damages as a result of claims, demands, suits, actions, or proceedings of any kind or nature, including without limitation costs, and fees, including attorney's fees, judgments or settlements, resulting from or arising out of any negligent or willful act or omission on the part of the Landlord during the performance of this Agreement. Such indemnification shall not be limited by reason of the enumeration of any insurance coverage herein provided. This provision shall survive completion, expiration, or termination of this Agreement. Nothing contained herein shall be construed as prohibiting Tenant, or its officers, agents, or employees, from defending through the selection and use of their own agents, attorneys, and experts, any claims, actions or suits brought against them. Landlord shall be liable for the costs, fees, and expenses incurred in the defense of any such claims, actions, or suits.

At the Tenant's option, Landlord must defend all suits and must pay all costs and expenses incidental to them, but the Tenant has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Landlord of any of its obligations under this Agreement. Any settlement of any claim or suit related to this Agreement by must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the Landlord. All provisions of this section shall survive completion, expiration, or termination of this Agreement.

SECTION 18: LANDLORD'S RIGHT OF INSPECTION

Tenant shall allow Landlord or any person authorized by Landlord upon two (2) days written notice to Tenant, as part of authority under the City of Evanston Municipal Code reasonable access to the Property during regular business hours for the purpose of examining or exhibiting the same. If the Tenant does not exercise the Option and/or will be vacating the Property at or prior to the end of the Term, Tenant will also allow Landlord to have placed upon the Property at all times notices of "For Sale" and "For Rent", and Tenant will not interfere with the same.

SECTION 19: ENVIRONMENTAL CONDITIONS

A. Tenant's obligations.

From the date of the execution of this Agreement, for acts creating environmental violations caused by the Tenant during the operation of the business by the Tenant, Tenant shall indemnify, defend and hold the harmless Landlord from any personal injury, property damage or liability arising in connection conditions in violation of environmental laws. "Environmental Laws" shall mean and include all federal, state and local statutes, ordinances,

regulations and rules relating to environmental quality, health, safety contamination and clean-up, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq. and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act ("ERA"), 7 U.S.C. Section 136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 et seq.; the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300fe seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to Know Act, and Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act ("TSCA"), 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and any environmental protection, beam superlien or environmental clean-up statutes of the State of Illinois, with implementing regulations and guidelines, as amended from time to time. Environmental Laws shall also include all state, regional, county, municipal and over local laws, regulations and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate hazardous materials.

B. Landlord's Obligations.

For environmental issues arising from the ownership of the Property prior to the date of the execution of this Agreement, the Landlord shall indemnify, defend and hold the harmless Tenant from any personal injury, property damage or liability arising in connection conditions in violation of environmental laws. "Environmental Laws" shall mean and include all federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety contamination and clean-up, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq. and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act ("ERA"), 7 U.S.C. Section 136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 et seq.; the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300fe seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to Know Act, and Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act ("TSCA"), 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and any environmental protection, beam superlien or environmental clean-up statutes of the State of Illinois, with implementing regulations and guidelines, as amended from time to time. Environmental Laws shall also include all state, regional, county, municipal and over local laws, regulations and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate hazardous materials.

SECTION 20: DEFAULT AND REMEDIES

A. Events of Default: Any one of the following events shall be deemed to be an "Event of Default" hereunder by Tenant subject to Tenant's right to cure:

- (1) Tenant fails to pay its Rent within five (5) days at the time and place when and where due;
- (2) Tenant shall fail to maintain the insurance coverage as set forth herein, and does not cure, or commence the good faith cure of any such failure, within thirty (30) days after written notice to Tenant of such failure;
- (3) Tenant shall fail to comply with any term, provision, condition or covenant of this Lease, other than the payment of rent, and shall not cure, or commence the good faith cure of any such failure, within thirty (30) days after written notice to the Tenant of such failure;
- (4) Tenant shall make a general assignment the benefit of creditors, or shall ~~admit in writing its inability to pay its debts as they become due or shall file a~~ petition in bankruptcy; or
- (5) Any default by Tenant under the terms of the TIF Grant Agreement and the default are not cured within thirty (30) days after written notice to Tenant such failure.

B. Occurrence of an Event: Upon the occurrence of any Event of Default which Tenant fails to cure, Landlord shall have the option to pursue any one or more of the following remedies subject to the laws of the State of Illinois and the Tenants right to cure detailed above:

- (1) Landlord may terminate this Lease in which event Tenant shall immediately surrender the Property to Landlord, but if Tenant fails to do so, Tenant hereby grants to Landlord full and free license to enter into and upon the Property or any part thereof, to take possession to the extent permitted by law, and to expel and to remove Tenant or any other person who may be occupying the Property or any part thereof. Landlord may use such reasonable force in and about expelling and removing Tenant and other persons as may reasonably be necessary after requesting them to vacate the Property, and Landlord may repossess itself of the Property as of its former estate, but such entry on the Property shall not constitute a trespass or forcible entry or detainer, nor shall it cause a forfeiture of rents due by virtue thereof, nor a waiver of any covenant, agreement or promise in this Agreement contained to be performed by Tenant.
- (2) Landlord may recover from Tenant upon written demand all of Landlord's costs, charges and expenses, including the fees and costs of counsel, agents and others retained by Landlord which have been incurred by Landlord in enforcing Tenant's obligations hereunder, subject to Landlord prevailing on its claims.
- (3) Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedy herein provided or available to Landlord at law or in equity, or constitute a forfeiture or waiver of any Rent due hereunder or of any damages suffered by Landlord. If in Landlord's judgment any default by Tenant will jeopardize the Property or the rights of Landlord, Landlord may, with notice, elect to cure Tenant's default and Tenant will reimburse Landlord, with interest, on 10-days' notice by Landlord to Tenant.

C. Repossession or Re-letting: No repossession, operation or re-letting of the Property or of fixtures and equipment will be construed as an election by Landlord to terminate this Agreement unless a written notice is given by the Landlord to the Tenant. The Landlord may terminate this Agreement in writing if the Tenant remains in default. The acceptance of rent, whether in a single instance or repeatedly, after it falls due, or after knowledge of any breach hereof by Tenant, or the giving or making of any notice or demand, whether according to any statutory provision or not, or any act or series of acts except written waiver, shall not be

construed as a waiver of Landlord's rights to act without notice or demand or of any other right hereby given Landlord, or as an election not to proceed under the provisions of this Agreement.

D. Tenant's Obligation to pay Deficiencies. If rentals received by the Landlord from re-letting the Property under the provisions of this section are insufficient to pay all expenses and amounts due, Tenant will pay any deficiencies to the Landlord on demand and be declared in default for failure to pay.

E. Future rent: If this Agreement is terminated by Landlord due to any default by Tenant, Landlord will be entitled to recover from Tenant, at termination, the excess, if any, of the rent reserved in this Agreement for the balance of the term over the reasonable rental value of the Property for the same period. The "reasonable rental value" will be the amount of rental Landlord can obtain as rent for the balance of the term.

SECTION 21: REMEDIES NOT EXCLUSIVE

The obligation of Tenant to pay the rent reserved hereby during the balance of the term hereof, or during any extension hereof, shall not be deemed to be waived, released or terminated, by the service of any five-day notice, other notice to collect, demand for possession, or notice that the tenancy hereby created will be terminated on the date therein named, the institution of any action of forcible detainer or ejection or any judgment for possession that may be rendered in such action, or any other act or acts resulting in the termination of Tenant's right to possession of the Property. The Landlord may collect and receive any rent due from Tenant and payment or receipt thereof shall not waive or affect any such notice, demand, suit or judgment, or in any manner whatsoever waive, affect, change, modify or alter any rights or remedies which Landlord may have by virtue hereof.

SECTION 22: EXPENSES OF ENFORCEMENT

Tenant, if Landlord is the prevailing party, shall pay upon demand all Landlord's costs, charges and expenses, including reasonable attorney's fees, agents fees and fees of others retained by Landlord, incurred in enforcing any of the obligations of Tenant under this Agreement, or in any litigation, negotiation or transaction in which Landlord shall, without Landlord's fault become involved through or on account of any action or omission of Tenant regarding this Agreement.

Landlord, if Tenant is the prevailing party, shall pay upon demand all Tenant's costs, charges and expenses, including reasonable attorney's fees, agents fees and fees of others retained by Tenant, incurred in enforcing any of the obligations of Landlord under this Agreement, or in any litigation, negotiation or transaction in which Tenant shall, without Tenant's fault become involved through or on account of any action or omission of Landlord regarding this Agreement.

SECTION 23: EMINENT DOMAIN

A. Property Taken. If the Property is taken for a public or quasi-public use, this lease will terminate as of the date of the physical taking, and the Parties will be released from all further liability.

B. Abatement of Rent. If the Property is subject to Eminent Domain, all obligations of the Tenant to pay rent for the remainder of the Term terminate as of the date of the physical taking and the Tenant shall not be liable for any balance of the rent due under the terms of this Lease. Tenant shall have sixty (60) following such taking to remove any improvements or equipment that it has purchased and installed or located on the Property including any fixtures.

C. Right to Condemnation Award. Any award made in any condemnation proceeding for the taking of any part of the Property will be the sole property of Landlord.

SECTION 24: GOVERNMENTAL INTERFERENCE WITH POSSESSION

Tenant will not be released by any order of abatement or judgment preventing use of the Property on the ground that the Property or the business operated there constitutes a legally recognized nuisance.

SECTION 25: PEACEFUL ENJOYMENT

Landlord covenants and warrants that, subject to any trust deeds or mortgages of record, it is the owner of the Property, and that Tenant, on payment of rents and performance of the conditions, covenants, and agreements to be performed by it, may enjoy the Property without interruption or disturbance.

SECTION 26: AMENDMENTS TO BE IN WRITING

This Agreement may be modified or amended only in writing signed by Landlord and Tenant. It may not be amended or modified by oral agreements between the Parties unless they are in writing duly executed by Landlord and Tenant.

SECTION 27: PARTIES BOUND

Every provision of this Agreement will bind the parties and their legal representatives. The term "legal representatives" is used in its broadest meaning and includes, in addition to executors and administrators, every person, partnership, corporation or association succeeding to any interest in this Agreement. Every covenant, agreement and condition of this Agreement will be binding on Tenant's assignees, subtenants, concessionaires and/or licensees, heirs, administrators and executors.

SECTION 28: NOTICES

All notices or demands to be made pursuant to this Agreement shall be made at the addresses shown below by mailing a copy by registered or certified mail to the following addresses for the parties:

LANDLORD: City of Evanston
 Attn: Legal Department
 2100 Ridge Avenue, Room 4400
 Evanston, IL 60201

TENANT: Debbie and Jamie Evans
 1028 Ashland Ave
 Evanston, IL 60202

Service will be deemed complete at the time of the leaving of notice or within 5 days after mailing. If Tenant is avoiding the service of any notice and is not present at the Property for a period of more than 14 consecutive days, notices may be served by posting such notice upon the Property. Notice shall then be deemed effective 5 days after such posting.

SECTION 29: MISCELLANEOUS

Provisions typed on this Agreement and all riders attached to this Agreement and signed by Landlord and Tenant is hereby made a part of this Agreement. Tenant shall keep and observe such reasonable rules and regulations now or hereafter required by Landlord, which may be necessary for the proper and orderly care of the building of which the Property

are a part. All covenants, promises, representations and agreements herein contained shall be binding upon, apply and inure to the benefit of Landlord and Tenant and their respective heirs, legal representatives, successors and assigns. The rights and remedies hereby created are cumulative and the use of one remedy shall not be taken to excuse or waive the right to the use of another. This Agreement and any written and signed Amendments and/or Riders hereto shall constitute the entire agreement between the parties, and any oral representations made by one party to the other are considered merged herein. In all cases where Landlord's consent is required, Landlord's consent shall not be unreasonably withheld. This Agreement may be executed in multiple copies, each of which shall constitute an original.

SECTION 30: VENUE AND JURISDICTION

The Parties agree that any dispute under this Agreement that the Parties cannot resolve to mediation before a recognized mediator or mediation company. If the Parties are unable to satisfactorily resolve their dispute pursuant to mediation within 60 days of notice of the dispute, then the Parties agree the this Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois and that venue for any disputes shall be in the Circuit Court of Cook County, Illinois.

[Signatures on following page]

IN WITNESS WHEREOF, both of said Landlord and Tenant have caused this Agreement to be executed as of the date and year first above written by a duly authorized officer or manager of each of the respective parties.

Landlord: THE CITY OF EVANSTON,
an Illinois home rule municipal corporation

By: Wally Bobkiewicz

Its: City Manager, Wally Bobkiewicz

Tenant: PECKISH ONE LLC,
an Illinois limited liability company

By: Debbie Mussell Evans

Its: Manager, Debbie Mussell Evans

By: Jamie Evans

Its: Manager, Jamie Evans

Approved as to form:

W. Grant Farrar
W. Grant Farrar
Corporation Counsel

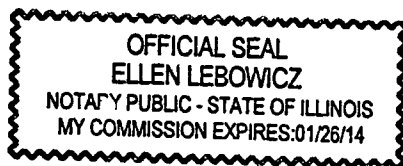
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The Undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Wally Bobkiewicz, City Manager of the City of Evanston, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act, and as the free and voluntary act of the City of Evanston, all for the uses and purposes set forth therein.

Given under my hand and notarial seal on March 19, 2013.

Ellen Lebowicz
Notary Public

My Commission Expires:



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The Undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Debbie and Jamie Evans of Peckish One LLC, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, appeared before me this day in person and acknowledged that they signed and delivered such instrument as their own free and voluntary act, and as the free and voluntary act of Peckish One LLC, all for the uses and purposes set forth therein.

Given under my hand and notarial seal on March 19, 2013.

Ellen Lebowicz
Notary Public

My Commission Expires:

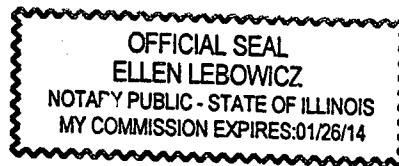


EXHIBIT A

LEGAL DESCRIPTION

LOTS 7, 8 AND 9 IN BLOCK 1 IN NILES HOWARD TERMINAL ADDITION, BEING A SUBDIVISION OF THE SOUTH 6.25 FEET CHAINS (412 ½ FEET) OF THAT PART OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE RIGHT OF WAY OF THE CHICAGO AND NORTH WESTERN RAILROAD COMPANY, IN COOK COUNTY, ILLINOIS.

----- Common Address: 623-627 1/2 Howard Street, Evanston, Illinois 60202 -----

PIN: 11-30-209-025-0000

EXHIBIT B

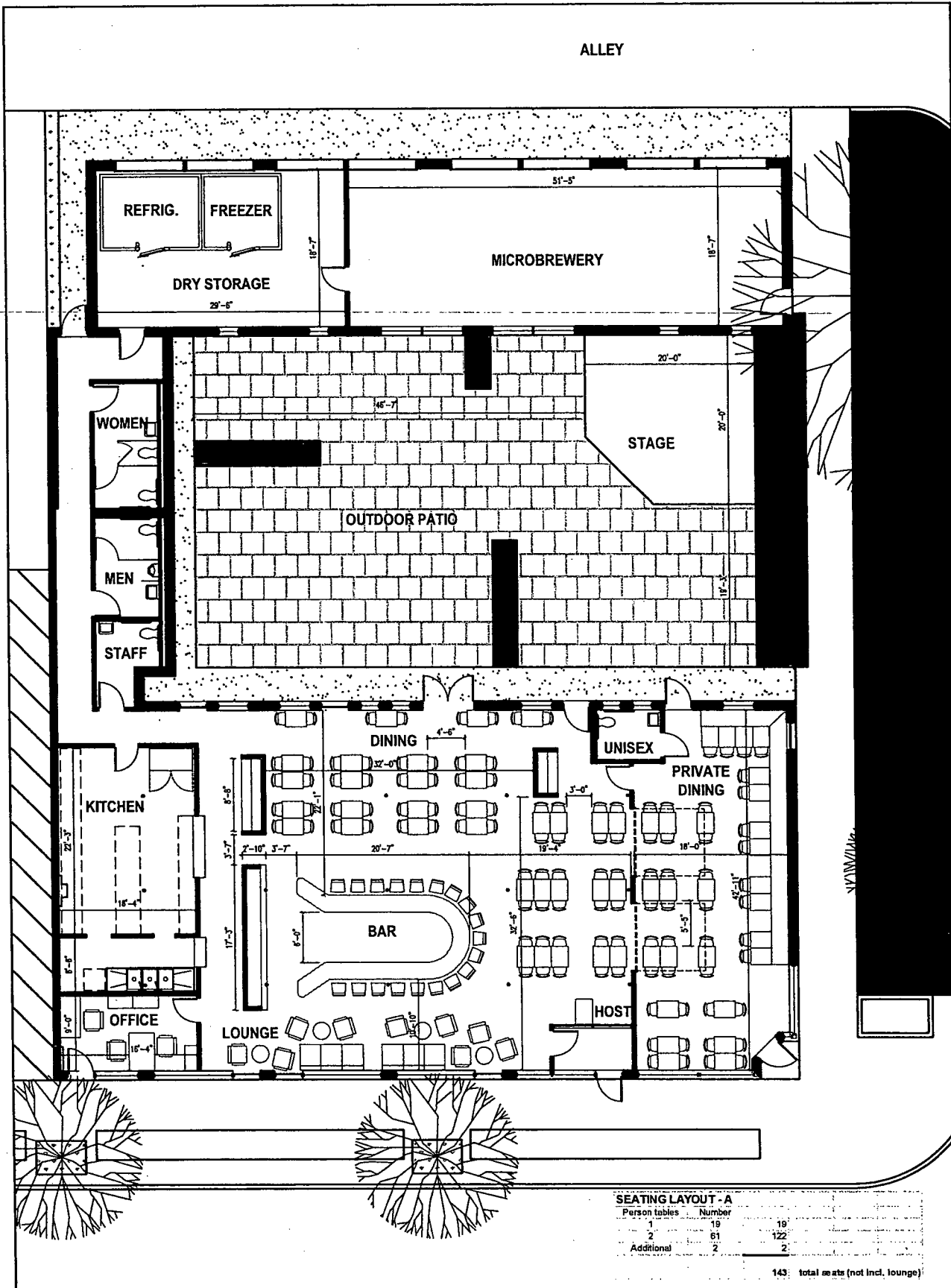
RENT PAYMENT SCHEDULE
5 Year Term (60 months)

Month	Rent Payment		
1	\$0	31	\$6,500
2	\$0	32	\$6,500
3	\$0	33	\$6,500
4	\$0	34	\$6,500
5	\$0	35	\$6,500
6	\$0	36	\$6,500
7	\$0	37	\$6,500
8	\$0	38	\$6,500
9	\$0	39	\$6,500
10	\$0	40	\$6,500
11	\$0	41	\$6,500
12	\$0	42	\$6,500
13	\$0	43	\$7,500
14	\$0	44	\$7,500
15	\$0	45	\$7,500
16	\$0	46	\$7,500
17	\$0	47	\$7,500
18	\$0	48	\$7,500
19	\$5,500	49	\$7,500
20	\$5,500	50	\$7,500
21	\$5,500	51	\$7,500
22	\$5,500	52	\$7,500
23	\$5,500	53	\$7,500
24	\$5,500	54	\$7,500
25	\$5,500	55	\$8,500
26	\$5,500	56	\$8,500
27	\$5,500	57	\$8,500
28	\$5,500	58	\$8,500
29	\$5,500	59	\$8,500
30	\$5,500	60	\$8,500

**Effective Date of Lease: _____, 2013 and the first month of the Rent Payment Schedule commences upon execution of this agreement.*

EXHIBIT C

SITE PLAN



SEATING LAYOUT - A

Person tables	Number	
1	19	19
2	61	122
Additional	2	2

143: total seats (not incl. lounge)

SD-04
Seating A

First Floor & Site Plan

RENOVATION FOR:
RESTAURANT & BREWERY
623 E. HOWARD ST. EVANSTON, IL 60201

Fahs Evrison Studio Architects
1206 South Blvd.
Evanston, Illinois 60202
847.722.0944