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Attorneys for Michael I. Goldberg, as Trustee of the LFM Plan Recovery Trust

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SANTA ROSA DIVISION

In re: LEFEVER MATTSON, Consolidated Debtor.	Case No. 24-10545 (HLB) (Substantively Consolidated) Chapter 11 **DECLARATION OF DARA L. SILVEIRA IN SUPPORT OF MOTION FOR (I) RECONSIDERATION OF THE ORDER REGARDING DISCOVERY DISPUTE [DKT. NO. 4559] AND (II) ENTRY OF AN ORDER SETTING A STATUS CONFERENCE ON THE SAIFI CLAIM** **Date:** October 8, 2026 **Time:** 10:00 a.m. (Pacific Time) **Place**: **In-Person or Zoom Appearances** United States Bankruptcy Court 450 Golden Gate Avenue 16th Floor, Courtroom 19 San Francisco, CA 94102 Re: Dkt. Nos. 3081, 4559

KELLER BENVENUTTI KIM LLP
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I, Dara L. Silveira, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and before this Court. I am a partner at Keller Benvenutti Kim LLP, counsel to Michael I. Goldberg, as Trustee (the "Trustee") of the LFM Plan Recovery Trust. I make this declaration in support of the *Motion for (I) Reconsideration of Order Regarding Discovery Dispute [Dkt. No. 4559] and (II) Entry of an Order Setting a Status Conference on the Saifi Claim* (the "Motion"),[1] filed concurrently herewith. The facts set forth herein are true of my own personal knowledge, and if called upon to testify thereto, I could and would competently do so under oath. I am authorized by the Trustee to make this Declaration.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the letter brief entitled *Dispute Regarding Claimant Siroos Saifi's Incomplete Document Production*, which I sent to the Court on August 24, 2026.

3. On September 11, 2026, I left a voicemail for counsel for Mr. Saifi regarding a path forward to an evidentiary hearing on the Objection. I have not received a response.

I declare under penalty of perjury that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct. Executed this fifteenth day of September, 2026, in San Francisco, California.

/s/ Dara L. Silveira
Dara L. Silveira

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Motion.

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Case: 24-10545 Doc# 4569 Filed: 09/15/26 Entered: 09/15/26 10:57:25 Page 2 of 2

Exhibit 1

KELLER BENVENUTTI KIM LLP
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August 24, 2026

VIA ELECTRONIC MAIL ONLY

The Honorable Hannah L. Blumenstiel
United States Bankruptcy Court for the Northern District of California
450 Golden Gate Avenue, Courtroom 19
San Francisco, California

Re: *In re LeFever Mattson, a California corporation* (Case No. 24-10545) (HLB): Dispute Regarding Claimant Siroos Saifi's Incomplete Document Production

Dear Judge Blumenstiel:

Michael Goldberg, solely in his capacity as Plan Recovery Trustee (the "Trustee") of the LFM Plan Recovery Trust (the "Trust") writes pursuant to the Court's procedures for discovery disputes regarding the failure of claimant Siroos Saifi to produce documents responsive to the *First Set of Requests for Production of Documents to Claimant Siroos Saifi* (the "RFPs"). A copy of the RFPs is attached hereto as **Exhibit A**. The Trustee requests that the Court enter an order pursuant to Rule 37 of the Federal Rules of Civil Procedure (the "Federal Rules") compelling Mr. Saifi to produce all documents responsive to the RFPs.[1] I have attempted to meet and confer with counsel for Mr. Saifi but have not received a response.

I. Background

A. The Saifi Claim Contested Matter

The LFM Debtors objected [Dkt. No. 3081] (the "Objection") to Proof of Claim No. 68 (the "Saifi Claim"), which was filed by Mr. Saifi on October 28, 2024. The filing of the Objection commenced a contested matter (the "Saifi Claim Contested Matter") under Rule 9014 of the Federal Rules of Bankruptcy Procedure. The Saifi Claim relates to Mr. Saifi's rental of a commercial property (the "Premises") at the Fulton Village Shopping Center (the "Shopping Center") from LFM Debtor Beach Pine, LP ("Beach Pine"). LFM Debtor Home Tax Service of America, Inc. dba LeFever Mattson Property Management ("LMPM") managed the Shopping Center, where Mr. Saifi intended to operate a bakery. He alleges that LMPM represented to him that the Premises had a gas connection. He then entered into a lease for the Premises, sections 2.3(a) and 2.5 of which represent that (1) Mr. Saifi accepts the Premises "AS IS" and (2) Mr. Saifi warrants that he had made "such investigation as [he] deems necessary" with respect to the "present and future suitability of the Premises for [his] intended use." The Saifi Claim argues that the alleged misrepresentation regarding the existence of a gas connection constitutes fraud.

On April 11, 2026, Judge Novack entered the *Order Continuing Hearing on Objection to Claim No. 68 Filed by Siroos Saifi* [Dkt. No. 4187], which, among other things, set the deadline for the close

[1] Pursuant to the Court's procedures, the Trustee separately will be filing a noticed motion for discovery sanctions.

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of discovery in the Saifi Claim Contested Matter as August 6, 2026. The Trustee served Mr. Saifi with the RFPs, interrogatories, and requests for admission on July 7, 2026. The Trustee also noticed Mr. Saifi's deposition (the "Deposition") for August 6, 2026. The Deposition was rescheduled several times, but, as laid out in the stipulations between the Trustee and Mr. Saifi, discovery in the Saifi Claim Contested Matter closed on August 6, 2026 except for with respect to the Deposition. *See* Dkt. Nos. 4512, 4528.

B. The RFPs

The text of the RFPs is below.

> Request No. 1
> All DOCUMENTS and COMMUNICATIONS between or among YOU, on the one hand, and any and all of HOME TAX, the LANDLORD, or any of their representatives, including, but not limited to, Louis Sergi or Dena Pratt, on the other.
>
> Request No. 2
> All statements (oral, written, or recorded) that YOU have obtained from any PERSON concerning the facts alleged in YOUR Claim (Proof of Claim No. 68), YOUR COMPLAINT, or YOUR responses to the First Set of Interrogatories to Claimant Siroos Saifi.

Mr. Saifi produced documents in response to the RFPs on August 7, 2026. This initial production (the "August 7 Production") is attached hereto as **Exhibit B**. The August 7 Production includes (1) the lease upon which the Saifi Claim is based; (2) two emails between Mr. Saifi and Louis Sergi, the leasing agent for the Premises; and (3) several text messages between Mr. Saifi and Mr. Sergi. On August 19, 2026, the day before the Deposition and thirteen days after discovery closed, Mr. Saifi produced additional text messages between himself and Mr. Sergi. A copy of that production (the "August 19 Production") is attached hereto as **Exhibit C**.

C. The Deposition

The Trustee attempted to conduct the Deposition on August 20, 2026. Shortly after the Deposition commenced, however, Mr. Saifi testified that he had many additional documents in his possession that were responsive to the RFPs. A copy of the transcript of the Deposition is attached hereto as **Exhibit D**. Namely, Mr. Saifi testified that he had text messages with Jim Martin, a contractor for LMPM. Exhibit D at 11:6–25. These text messages had not been included with either the August 7 Production or the August 19 Production. Mr. Saifi then testified that he had "maybe a thousand texts, 500 texts" from Mr. Sergi—far more than had been produced to the Trustee. *Id.* at 12:15–13:8. Finally, Mr. Saifi testified that the two emails between himself and Mr. Sergi that were included in both the August 7 Production and the August 19 Production were not the only emails he had with Mr. Sergi. *Id.* at 27:22–28:13.

With the understanding that there were many documents responsive to the RFPs in Mr. Saifi's possession that had not been produced to the Trustee, I concluded the Deposition but held it open pending a meet and confer with Mr. Saifi's counsel and production of the missing documents. *See generally* Exhibit D at 31. Shortly after the Deposition concluded., I emailed Mr. Saifi's counsel

requesting a meet and confer regarding the missing emails and asking for confirmation that Mr. Saifi would pay for the costs of the Deposition. That email is attached hereto as **Exhibit E**. I have not received a response.

II. Argument

The Federal Rules permit a party to "move for an order compelling disclosure or discovery." Fed. R. Civ. P. 37(a). Specifically, a party may move for such an order if "a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34." Fed. R. Civ. P. 37(a)(3)(iv). Mr. Saifi should be compelled to produce *all* documents responsive to the RFPs. The Trustee cannot continue with the Deposition unless and until he understands the full universe of documents on which Mr. Saifi intends to rely. The Trustee requests the Court's assistance in compelling Mr. Saifi to make such a production as expeditiously as possible; separately, he will be filing a noticed motion seeking sanctions for Mr. Saifi's failure to make such a production.

III. Conclusion

For the reasons set forth above, the Court should compel Mr. Saifi to produce documents responsive to the RFPs. I am available at the Court's convenience to provide any additional information.

With best regards,

Dara L. Silveira

EXHIBIT A

(RFPs)

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Attorneys for the LFM Plan Recovery Trust

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SANTA ROSA DIVISION

In re: LEFEVER MATTSON, a California corporation, Consolidated Debtor.	Case No. 24-10545 (CN) (Substantively Consolidated) Chapter 11 **FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO CLAIMANT SIROOS SAIFI**

KELLER BENVENUTTI KIM LLP
101 MONTGOMERY STREET, SUITE 1950
SAN FRANCISCO, CALIFORNIA 94104

To: Siroos Saifi
c/o Yasha Rahimzadeh, Esq.
Law Offices of Yasha Rahimzadeh
500 Capitol Mall, Suite 2350
Sacramento, California 95814

Pursuant to Rule 26 and 34 of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable in the above-captioned substantively consolidated[1] chapter 11 case (the "Chapter 11 Case") with respect to the *Consolidated Debtor's Objection to Claims of Siroos Saifi (Proof of Claim No. 68)* [Dkt. No. 3081] by Rule 7026 of the Federal Rules of Bankruptcy (the "Bankruptcy Rules"), Michael Goldberg, solely in his capacity as Plan Recovery Trustee (the "Trustee") of the LFM Plan Recovery Trust, hereby requests that YOU produce for inspection and copying within thirty days after service of these requests for production (each, a "Request," and, together, the "Requests") the DOCUMENTS and electronically stored information described below. Such production shall be made at the office of Keller Benvenutti Kim LLP, 101 Montgomery Street, Suite 1950, San Francisco, California 94104, or through electronic means as may be mutually agreed upon by the parties' counsel, or at such other place and time as may be mutually agreed upon.

Pursuant to Federal Rule 26(e) and Bankruptcy Rule 7026, if, after responding, YOU obtain or become aware of any additional DOCUMENTS or information responsive to these Requests, produce of such additional DOCUMENTS or information shall be made forthwith.

DEFINITIONS

For purposes of these Requests, the following definitions shall apply.

1. The term "COMPLAINT" refers to the Complaint that YOU filed on or about October 24, 2022, with the Sacramento County Superior Court (Case No. 34-2022-00328810),

[1] By order entered March 6, 2026, the Court entered the *Order Substantively Consolidating Consolidated Debtor and KSMP Investment Entities and Granting Related Relief* [Dkt. No. 3914] (the "Substantive Consolidation Order"), which substantively consolidated the estates of LeFever Mattson, a California corporation and its affiliated debtors (the "LFM Debtors"), KS Mattson Partners, LP ("KSMP" and, together with the LFM Debtors, the "Debtors") and three-KSMP affiliated entities (Perris Freeway Plaza, LP, Specialty Properties Partners, LP and Treehouse Investments, LP) (the "KSMP Investment Entities").

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against Beach Pine, LP, which also was attached as Exhibit A to *Siroos Saifi's Declaration in Support of Creditor Siroos Saifi's Opposition to Debtor's Objection to Claim (Proof of Claim No. 68)*, filed on February 21, 2026, in the Chapter 11 Case [Dkt. No. 3729].

2. The term "DOCUMENTS" means any designated documents or electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form consistent with the definition of "documents" or "electronically stored information" set forth in Federal Rule 34, as incorporated by Bankruptcy Rules 7034 and 9014 or meeting the definition of "writing," "recording," or "photograph" set forth in Rule 1001 of the Federal Rules of Evidence. Drafts and non-identical duplicates constitute separate DOCUMENTS. Attachments, exhibits, appendices, schedules, and enclosures to DOCUMENTS are considered part of the same DOCUMENT.

3. The term "ELECTRONICALLY STORED INFORMATION" shall be synonymous in meaning and equal in scope to the usage of the term in Federal Rule 34.

4. The term "HOME TAX" refers to LFM Debtor Home Tax Service of America, Inc. dba LeFever Mattson Property Management.

5. The term "LANDLORD" refers to LFM Debtor Beach Pine, LP, as provided under the LEASE.

6. The term "LEASE" refers to the Lease dated December 22, 2022, between Beach Pine, LP, on the one hand, and YOU and Daninaan LLC, on the other, with respect to the PREMISES.

7. The term "PERSONS" means any individual, partnership, firm, association, joint venture, corporation, estate, trust, receiver, any group or combination acting as a unit, or any other business, governmental, or legal entity.

8. The term "PREMISES" refers to that portion of Fulton Village Shopping Center known by the street address, 1359 Fulton Avenue, Sacramento, California, 95825.

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9. The terms "YOU," "YOUR," or "YOURS" as used herein mean claimant Siroos Saifi, as well as ALL current and former agents, employees, representatives, attorneys, business entities, subsidiaries, and others who may have acted, or may now be acting, for or on behalf of claimant Siroos Saifi.

INSTRUCTIONS

The preceding Definitions apply to each of these Instructions and for purposes of these Requests, the following Instructions shall apply.

1. Each Request extends to all DOCUMENTS and COMMUNICATIONS in YOUR possession, custody, or control, to the fullest extent allowable by the Federal Rules and the Bankruptcy Rules.

2. This set of Requests for production of DOCUMENTS specifically requires the production of all responsive DOCUMENTS.

3. In accordance with Federal Rule 34(a), as incorporated by Bankruptcy Rules 7034 and 9014, as applicable, the Requests shall be deemed to include any DOCUMENT now or at any time in YOUR possession, custody, or control, including, but not limited to, DOCUMENTS in the possession, custody, or control of any YOUR current or former affiliates, subsidiaries, parent corporations, predecessors, or successor entitles and all of their respective current or former directors, officers, employees, agents, attorneys, advisors, and representatives, or other PERSONS acting or purporting to act on its or their behalf. A DOCUMENT is deemed to be in YOUR possession, custody, or control if it is in YOUR physical custody, or if it is in the physical custody of any other PERSON or entity and YOU: (i) own such DOCUMENT in whole or in part; (ii) have a right, by contract, statute, or otherwise, to use, inspect, examine, or copy such DOCUMENT on any terms; (iii) have an understanding, express or implied, that YOU may use, inspect, examine, or copy such DOCUMENT when YOU sought to do so, or (iv) as a practical matter, have been able to use, inspect, examine or copy such DOCUMENT on any terms. If any requested DOCUMENT was, but no longer is, in YOUR control, state the disposition of each such DOCUMENT.

4. As the term "possession" pertains to e-mails, the term includes, but is not limited to, e-mails contained in YOUR electronic e-mail directories containing (i) "deleted" e-mails which have not been permanently and irretrievably deleted, including all subdirectories irrespective of the title of such subdirectories; (ii) "sent" e-mails, including all subdirectories irrespective of the title of such subdirectories; and (iii) "received" e-mails, including all subdirectories irrespective of the title of such subdirectories.

5. The use of present tense shall include past tenses, unless otherwise specifically indicated in the Request.

6. The terms "all" and "each" shall be construed to include the other.

7. The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.

8. The term "any" shall be construed to mean "any and all" where the effect of such construction is to broaden the scope of the Request.

9. The term "concerning" shall be construed to mean, without limitation, relating to, referring to, describing, evidencing, constituting, discussing, supporting, pertaining to, containing, analyzing, evaluating, studying, recording, showing, memorializing, reporting on, commenting on, mentioning, reviewed in conjunction with, setting forth, contradicting, refuting, considering, or recommending, in whole or in part.

10. In responding to each Request, YOU are to review and search all relevant files of appropriate entities and PERSONS.

11. All Requests shall be deemed to include requests for any and all transmittal sheets, cover letters, enclosures, or any other annexes or attachments to the DOCUMENTS.

12. YOU are to produce the original and all non-identical copies, including all drafts of each DOCUMENT requested. If YOU are not able to produce the original of any DOCUMENT, please produce the best available copy and all non-identical copies, including drafts. Any DOCUMENT that cannot be produced in full shall be produced to the fullest extent possible.

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13. In accordance with Federal Rule 34(b), as incorporated by Bankruptcy Rules 7034 and 9014, as applicable, DOCUMENTS shall be produced as they are kept in the ordinary course of business or shall be organized and labeled to correspond with the categories in each Request. The name of the file from which it was produced, the identity of the person from whose file it was produced, and the identity of the present custodian of that file each shall be set forth. All DOCUMENTS requested herein shall be produced electronically as tagged image file format ("TIFF") or portable document format ("PDF") files, except that all spreadsheets and accounting and financial data, including those created with Excel software, shall be produced in a fully functional native form (i.e., in a linked format).

14. If any responsive DOCUMENT is known to have existed and cannot now be located, or has been destroyed, discarded, or otherwise disposed, set forth a complete statement of the circumstances surrounding such loss, destruction, discarding, or other disposition, including:

a. A description of the DOCUMENT, including the date, a summary of its contents and the identity of its author and the PERSON(S) to whom it was sent or shown;

b. The last known custodian;

c. Whether the DOCUMENT is missing or lost or was destroyed, discarded, or otherwise disposed;

d. The date of loss, destruction, discarding, or other disposition;

e. The reason(s) for destruction, discarding, or other disposition;

f. The person(s) authorizing or carrying out such destruction, discarding, or other deposition; and

g. The efforts made to locate lost or misplaced documents.

15. In the event YOU seek to withhold any DOCUMENT, thing, or information on the basis that it is properly entitled to some privilege or other limitation of discovery, YOU shall produce as much of the DOCUMENT concerned as to which no claim of privilege or other limitation of discovery is made. With respect to DOCUMENTS or portions of DOCUMENTS for which a claim of privilege or other limitation of discovery is made, YOU are instructed to provide

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a numeral list of the DOCUMENT(S) and thing(s) for which a privilege or limitation is claimed that (1) identifies the nature of the privilege or limitation (including work product) asserted and, if the privilege or limitation is governed by state law, indicate the state of the privilege rule or other limitation invoked; and (2) provides the following information in the objection, unless divulgence of such information would cause disclosure of the allegedly privileged or otherwise protected information: (i) the type of DOCUMENT; (ii) the name and capacity of each author and recipient of the DOCUMENT; (iii) the general subject matter of the DOCUMENT in a manner sufficient to support the privilege or other protection claimed; (iv) the date of the DOCUMENT; (v) such other information as is sufficient to identify the DOCUMENT for a subpoena *duces tecum*, including, where appropriate, the author(s) of the DOCUMENT, the addressee(s) of the DOCUMENT, and any other recipient(s) shown in the DOCUMENT, and, where not apparent, the relationship of the author(s), addressee(s), and recipient(s) to each other; and (vi) the same information referenced in (i)-(v) above for each enclosure or attachment to each listed DOCUMENT if the enclosure or attachment is also withheld from production. Notwithstanding the assertion of any privilege or other protection, any requested DOCUMENT that contains responsive, non-privileged or protected information should be produced, but that portion of the DOCUMENT for which the privilege or other protection is asserted may be redacted, provided that the redacted portion is identified and described consistently according to the requirements listed herein.

16. Each Definition, Instruction, and Request herein shall be construed independently and not with reference to any other Definition, Instruction, or Request, for the purposes of limitation.

17. If any meaning of any term in any Request herein is unclear to YOU, without waiver of the right to seek a full and complete response to the Request, YOU shall assume a reasonable meaning, state what the assumed meaning is, and respond to the Request according to the assumed meaning.

18. In accordance with Federal Rule 34, as incorporated by Bankruptcy Rules 7034 and 9014, as applicable, objections to any part of these Requests shall be stated in full and with

specificity. In the event YOU object to a Request, YOU must produce the documents to which objection is not made.

19. The term "including" shall be construed to mean including but not limited to and shall not be construed to limit the scope of any Request.

20. Whenever necessary to bring within the scope of a Request DOCUMENTS or information that might otherwise be construed to be outside its scope:

a. The use of a verb in any tense shall be construed as the use of that verb in all other tenses;

b. The use of a word in its singular form shall be deemed to include within its use the plural form, and vice versa;

c. The use of a gendered or non-gendered form of a noun or pronoun shall include any and all other gendered or non-gendered forms; and

d. The use of the conjunctive or disjunctive, respectively, shall be construed as necessary to be inclusive rather than exclusive.

21. Each clause and word herein should be construed independently and not by reference to any other clause or word herein for purposes of limitation.

REQUESTS FOR PRODUCTION

Request No. 1

All DOCUMENTS and COMMUNICATIONS between or among YOU, on the one hand, and any and all of HOME TAX, the LANDLORD, or any of their representatives, including, but not limited to, Louis Sergi or Dena Pratt, on the other.

Request No. 2

All statements (oral, written, or recorded) that YOU have obtained from any PERSON concerning the facts alleged in YOUR Claim (Proof of Claim No. 68), YOUR COMPLAINT, or YOUR responses to the *First Set of Interrogatories to Claimant Siroos Saifi*.

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SAN FRANCISCO, CALIFORNIA 94104

Dated: July 7, 2026

KELLER BENVENUTTI KIM LLP

By: */s/ Dara L. Silveira*
Dara L. Silveira

Attorneys for the LFM Plan Recovery Trust

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SAN FRANCISCO, CALIFORNIA 94104

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2026, I served the foregoing **FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO CLAIMANT SIROOS SAIFI** upon all parties' counsel of record.

Dated: July 7, 2026

KELLER BENVENUTTI KIM LLP

By: */s/ Dara L. Silveira*
Dara L. Silveira

Attorneys for the LFM Plan Recovery Trust

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EXHIBIT B

(August 7 Production)

Dara Levinson Silveira
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101 Montgomery Street, Suite 1950
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LEASE

THE LANDLORD:
BACH PINE, LP

THE TENANT:
SIROOS SAIFI AND DANINAAN LLC

AGENT
LEFEVER MATTSON PROPERTY MANAGEMENT
6359 Auburn Boulevard, Suite B
Citrus Heights, CA 95621
Tel: 916.723.5111 Fax: 916.676.0011

1200 Creekside Dr. Apt
Folsom, CA 95630
Tel: 408-770-7097

1. Fundamental Provisions.

1.1 The Parties. As shown above as **"Landlord"** and **"Tenant"**

1.2 Lease Date. December 22, 2022

1.3 Premises. That certain portion of the ***Fulton Village*** shopping center, (Hereinafter called the "**Shopping Center**".) including all improvements therein or to be provided by Landlord under the terms of this Lease, commonly known by the street address of 1359 Fulton Avenue, Sacramento, California, 95825, and known hereinafter as the "Premises". The Premises is 2,450 square feet. The Shopping Center, which contains the Premises, is a retail center comprised of approximately 39,475 square feet.

In addition to Tenant's rights to use and occupy the Premises as hereinafter specified, Tenant shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.8 below) as hereinafter specified, but shall not have any rights to the roof, exterior walls or utility raceways of the Shopping Center. (Also see Paragraph 2.)

1.4 Term. The "term" of the lease shall be **63 months** (**"Original Term"**) commencing on the 1st day of February 2022 (**"Commencement Date"**:) and ending **April 30th, 2027.** (**"Expiration Date"**). (Also see Paragraph 3.)

1.5 Lease Commencement. The lease will commence on February 1, 2022.

1.6 Rent. Initial Rent $3,063.00 per month, all monthly payments are payable on the first day of each month and shall be paid to **LeFever Mattson Property Management** at 6359 Auburn Boulevard, Suite B, Citrus Heights, CA 95621. (See **4. Rent and 4.3 Rent Adjustments)**

1.7 Tenant's Share of Common Area Operating Expenses: 0% (Tenant's Share)

1.8 Security Deposit. $3,550.00 ("Security Deposit"). (Also see Paragraph 5.)

1.9 Permitted Use. A Persian bakery selling bread and other related bakery items. **("Permitted Use")** (Also see Paragraph 6.)

1.10 Insuring Party. Landlord is the **"Insuring Party."** (Also see Paragraph 8.)

1.11 Option To Renew The Lease. If Tenant is not in default under the terms of this lease, Tenant shall have an option to extend the terms of this lease for one (1) five (5) year period, upon the terms and conditions set forth in this lease. The rate for the option period shall be at current market rent at the time of exercising the option and no less than a 3% increase. Tenant shall exercise this option by delivering written notice to Landlord, no less than 180 days prior to the termination of the original term of this lease, of its election to extend the term thereof. Said notice shall be irrevocable. Failure by Tenant to provide said notice within the 180-day period specified herein, shall cause this option to automatically become null and void.

1.12 First Right of Refusal. Intentionally Omitted.

1.13 Addenda and Exhibits. N/A

2. Premises, Parking and Common Areas.

2.1 Letting. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of square footage set forth in this Lease is an approximation which Landlord and Tenant agree is reasonable and the rental based thereon is not subject to revision whether or not the actual square footage is more or less.

2.2 Alterations to Premises by Tenant: Tenant shall be provided, by property owner, "Beach Pine, LP, a tenant improvement allowance in the amount of $2.04 (Two Dollars and four cents) per square foot ($4,998.00 total) ("TI Allowance").

(a) Tenant, at tenants own expense, may make changes, additions and improvements to the Premises provided that any change, addition or improvement shall:

1. Be made only with prior written consent of Landlord (which consent, except in case of changes, additions or improvements to the Premises which are structural, visible from the exterior of the Premises or materially and adversely affect (in Landlord's sole discretion) the base mechanical, electrical, plumbing and /or HVAC systems of the Building, shall not be unreasonably withheld, delayed or conditioned).

2. Comply with all applicable governmental and insurance company rules, regulations and requirements.

3. Equal or exceed the current construction standard for the Building.

4. Be performed by a licensed contractor first approved by and in accordance with regulations set forth by Landlord. If requested prior to commencing work, contractor will deliver to Landlord evidence if insurance coverage's in amounts and form satisfactory to Landlord. All work performed shall be done in such a manner as not to disturb or disrupt the operations of the Building or of any other tenants situated in the Building. Following completion of any changes, additions or improvements, Tenant shall furnish Landlord with current "as-built" drawings and specifications for the Premises reflecting such changes, additions or improvements made to the Premises.

Any increase in real estate taxes or insurance premiums on the Building attributable to such change, addition or improvement shall be paid by Tenant as additional rent.

(b) Alterations by Tenant – ADA Compliance. Without limiting any other provisions of this Lease, Tenant shall with use of TI Allowance and/or at tenants own expense, (but subject to Landlord's prior written approval, which shall not be unreasonably withheld), make each and every alteration or addition to the Premises required to bring the Premises into compliance with the requirements imposed by the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and any regulations promulgated pursuant thereto effective from time to time during the term of this Lease, and any period of holding over by Tenant ("ADA Requirements"), if

1. The requirement for such alteration or addition arises as a result of:

a. Any alteration or addition by Tenant

b. Any violation by Tenant of any ADA Requirements

c. A special use of the Premises or any part thereof by Tenant or any assignee or subtenant to Tenant (including but not limited to use for a facility which

constitutes, or if open to the public generally would constitute, a "place public accommodation" under the ADA Requirements)

d. The special needs of the employee(s) of Tenant or any assignee or subtenant of Tenant

2. The ADA Requirements would otherwise make Tenant rather than Landlord primarily responsible for making such alteration or addition.

2.3 Condition. Landlord shall deliver the Premises to Tenant clean and free of debris on the Commencement Date and warrants to Tenant that the existing plumbing, electrical systems, fire sprinkler system, lighting, air conditioning and heating systems and loading doors, if any, in the Premises, other than those constructed by Tenant, shall be in good operating condition on the Commencement Date.. If a non-compliance with said warranty exists as of the Commencement Date, Landlord shall, except as otherwise provided in this Lease, promptly after receipt of written notice from Tenant setting forth with specificity the nature and extent of such non-compliance, rectify same at Landlord's expense. If Tenant does not give Landlord written notice of a non-compliance with this warranty within thirty (30) days after the commencement date, correction of that non-compliance shall be the obligation of Tenant at Tenant's sole cost and expense.

2.3 (a) Landlord Improvements / Modifications. Landlord agrees to modify the premises in the following manner: AS IS.

2.4 Compliance with Covenants, Restrictions and Building Code. Landlord warrants that any improvements (other than those constructed by Tenant or at Tenant's direction) on or in the Premises which have been constructed or installed by Landlord or with Landlord's consent or at Landlord's direction shall comply with all applicable covenants or restrictions of record and applicable building codes, regulations and ordinances in effect on the Commencement Date. Landlord further warrants to Tenant that Landlord has no knowledge of any claim having been made by any governmental agency that a violation or violations of applicable building codes, regulations, or ordinances exist with regard to the Premises as of the Commencement Date. Said warranties shall not apply to any Alterations or Utility Installations (defined in Paragraph 7.3(a)) made or to be made by Tenant. If the Premises do not comply with said warranties, Landlord shall, except as otherwise provided in this Lease, promptly after receipt of written notice from Tenant given within six (6) months following the Commencement Date and setting forth with specificity the nature and extent of such non-compliance, take such action, at Landlord's expense, as may be reasonable or appropriate to rectify the non-compliance. Landlord makes no warranty that the Permitted Use in Paragraph 1.8 is permitted for the Premises under Applicable Laws (as defined in Paragraph 2.4).

2.5 Acceptance of Premises. Tenant hereby acknowledges: (a) that it has been advised by the Broker(s) to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical and fire sprinkler systems, security, environmental aspects, seismic and earthquake requirements, and compliance with the Americans with Disabilities Act and applicable zoning, municipal, county, state and federal laws, ordinances and regulations and any covenants or restrictions of record (collectively, "Applicable Laws") and the present and future suitability of the Premises for Tenant's intended use; (b) that Tenant has made such investigation as it deems necessary with reference to such matters, is satisfied with reference thereto, and assumes all responsibility therefore as the same relate to Tenant's occupancy of the Premises and/or the terms of this Lease; and (c) that neither Landlord, nor any of Landlord's agents, has made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease.

2.6 Alterations by Landlord: Landlord may make any repairs, alterations or improvements which Landlord deems necessary or advisable for the preservation, safety or improvement of the Building or the Premises.

2.7 Parking. The Tenants and their employees shall not park their vehicles adjacent to any of the buildings within the Shopping Center, but shall park their vehicles only in those places provided along Fulton Ave or in middle section of the lot. Said parking spaces shall be used for parking by vehicles no larger than full-sized passenger automobiles or pick-up trucks, herein called **"Permitted Size Vehicles".** Vehicles other than Permitted Size Vehicles shall be parked and loaded or unloaded as directed by Landlord in the Rules and Regulations (as defined in Paragraph 40) issued by Landlord. (Also see Paragraph 2.9.)

2.7 (a) Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Landlord for such activities.

2.7 (b) If Tenant permits or allows any of the prohibited activities described in this Paragraph 2.7, then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord.

2.7 (c) Landlord shall at the Commencement Date of this Lease, provide the parking facilities required by Applicable Law.

2.8 Common Areas-Definition. The term **"Common Areas"** is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Shopping Center and interior utility raceways within the Premises that are provided and designated by the Landlord from time to time for the general nonexclusive use of Landlord, Tenant and other Tenants of the Shopping Center and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, parkways, driveways and landscaped areas.

2.9 (a) Common Areas-Tenant's Rights. Landlord hereby grants to Tenant, for the benefit of Tenant and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Landlord under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Shopping Center. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently in the Common Areas. Any such storage shall be permitted only by the prior written consent of Landlord or Landlord's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord. Landlord gives permission to the Tenant to use the patio with the following conditions: 1. Tenant has received permission from the City of Folsom and 2. Tenant is current in the lease.

2.9 (b) Common Areas-Rules and Regulations. Landlord or such other person(s) as Landlord may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable Rules and Regulations with respect thereto in accordance with Paragraph 40. Tenant agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Landlord shall not be responsible to Tenant for the non-compliance with said rules and regulations by other Tenants of the Shopping Center.

2.10 Common Areas-Changes. Landlord shall have the right, in Landlord's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Shopping Center to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Shopping Center, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Shopping Center as Landlord may, in the exercise of sound business judgment, deem to be appropriate.

2.11 "Like Tenant" Exclusion. N/A

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. If an Early Possession Date is specified in Paragraph 1.4 and if Tenant totally or partially occupies the Premises after the Early Possession Date but prior to the Commencement Date, the obligation to pay Rent shall be abated for the period of such early occupancy. All other terms of this Lease, however, (including but not limited to the obligations to carry the insurance required by Paragraph 8) shall be in effect during such period. Any such early possession shall not affect nor advance the Expiration Date of the Original Term.

3.3 Delay In Possession. If for any reason Landlord cannot deliver possession of the Premises to Tenant by the Early Possession Date, if one is specified in Paragraph 1.4, or if no Early Possession Date is specified, by the Commencement Date, Landlord shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease, or the obligations of Tenant hereunder, or extend the term hereof, but in such case, Tenant shall not, except as otherwise provided herein, be obligated to pay rent or perform any other obligation of Tenant under the terms of this Lease until Landlord delivers possession of the Premises to Tenant. If possession of the Premises is not delivered to Tenant within sixty (60) days after the Commencement Date, Tenant may, at its option, by notice in writing to Landlord within ten (10) days after the end of said sixty (60) day period, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder; provided further, however, that if such written notice of Tenant is not received by Landlord within said ten (10) day period, Tenant's right to cancel this Lease hereunder shall terminate and be of no further force or effect. Except as may be otherwise provided, and regardless of when the Original Term actually commences, if possession is not tendered to Tenant when required by this Lease and Tenant does not terminate this Lease, as aforesaid, the period free of the obligation to pay Rent, if any, that Tenant would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to the period during which the Tenant would have otherwise enjoyed under the terms hereof, but minus any days of delay caused by the acts, changes or omissions of Tenant.

4. Rent.

4.1 Rent. Tenant shall pay Rent according to the Schedule in [**1.5 Rent**] in lawful money of the United States, without offset or deduction, on or before the day on which it is due under the terms of this Lease.

Rent and all other charges for any period during the term hereof which is for less than one full month shall be prorated based upon the actual number of days of the month involved. Payment of Rent and other charges shall be made to Landlord at its address stated herein or to such other persons or at such other addresses as Landlord may from time to time designate in writing to Tenant.

4.2 Intentionally Omitted

Fulton Village, 1359 Fulton Avenue, Sacramento, CA 95825

Landlord: Beach Pine, LP

Tenant: Siroos Saifi and Daninaan LLC

4.3 Rent Adjustments:

Months 1 through 3 $0.00

Months 4 through 12 $3,063.00

Months 13 through 24 $3,154.00

Months 25 through 36 $3,249.00

Months 37 through 48 $3,346.00

Months 49 through 60 $3,447.00

Months 61 through 63 $3,550.00

5. Security Deposit. Tenant shall deposit with Landlord upon Tenant's execution hereof the Security Deposit set forth in Paragraph 1.7 as security for Tenant's faithful performance of Tenant's obligations under this Lease. If Tenant fails to pay Rent or other rent or charges due hereunder, or otherwise Defaults under this Lease (as defined in Paragraph 13.1), Landlord may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Landlord or to reimburse or compensate Landlord for any liability, cost, expense, loss or damage (including attorneys' fees) which Landlord may suffer or incur by reason thereof. If Landlord uses or applies all or any portion of said Security Deposit, Tenant shall within ten (10) days after written request therefore deposit monies with Landlord sufficient to restore said Security Deposit to the full amount required by this Lease. Any time the Rent increases during the term of this Lease, Tenant shall, upon written request from Landlord, deposit additional monies with Landlord as an addition to the Security Deposit so that the total amount of the Security Deposit shall at all times bear the same proportion to the then current Rent as the initial Security Deposit bears to the initial Rent set forth in Paragraph 1.5. Landlord shall not be required to keep all or any part of the Security Deposit separate from its general accounts. Landlord shall, at the expiration or earlier termination of the term hereof and after Tenant has vacated the Premises, return to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest herein), that portion of the Security Deposit not used or applied by Landlord. Unless otherwise expressly agreed in writing by Landlord, no part of the Security Deposit shall be considered to be held in trust, to bear interest or other increment for its use, or to be prepayment for any monies to be paid by Tenant under this Lease.

6. Use.

6.1 Permitted Use.

(a) Tenant shall use and occupy the Premises only for the Permitted Use set forth in Paragraph 1.8, or any other legal use which is reasonably comparable thereto, and for no other purpose. Tenant shall not use or permit the use of the Premises in a manner that is unlawful, creates waste or a nuisance, or that disturbs owners and/or occupants of, or causes damage to the Premises or neighboring premises or properties.

(b) Landlord hereby agrees to not unreasonably withhold or delay its consent to any written request by Tenant, Tenant's assignees or subtenants, and by prospective assignees and subtenants of Tenant, its assignees and subtenants, for a modification of said Permitted Use, so long as the same will not impair the structural integrity of the improvements on the Premises or in the Building or the mechanical or electrical systems therein, does not conflict with uses by other Tenants, is not significantly more burdensome to the Premises or the Building and the improvements thereon, and is otherwise permissible pursuant to this Paragraph 6. If Landlord elects to withhold such consent,

Landlord shall within five (5) business days after such request give a written notification of same, which notice shall include an explanation of Landlord's reasonable objections to the change in use.

6.2 Hazardous Substances.

(a) Reportable Uses Require Consent. The term **"Hazardous Substance"** as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substance shall include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products or by-products thereof. Tenant shall not engage in any activity in or about the Premises which constitutes a Reportable Use (as hereinafter defined) of Hazardous Substances without the express prior written consent of Landlord and compliance in a timely manner (at Tenant's sole cost and expense) with all Applicable Requirements (as defined in Paragraph 6.3). **"Reportable Use"** shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and (iii) the presence in, on or about the Premises of a Hazardous Substance with respect to which any Applicable Laws require that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Tenant may, without Landlord's prior consent, but upon notice to Landlord and in compliance with all Applicable Requirements, use any ordinary and customary materials reasonably required to be used by Tenant in the normal course of the Permitted Use, so long as such use is not a Reportable Use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage or expose Landlord to any liability therefor. In addition, Landlord may (but without any obligation to do so) condition its consent to any Reportable Use of any Hazardous Substance by Tenant upon Tenant's giving Landlord such additional assurances as Landlord, in its reasonable discretion, deems necessary to protect itself, the public, the Premises and the environment against damage, contamination or injury and/or liability therefor, including but not limited to the installation (and, at Landlord's option, removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasements) and/or the deposit of an additional Security Deposit under Paragraph 5 hereof.

(b) Duty to Inform Landlord. If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises or the Building, other than as previously consented to by Landlord, Tenant shall immediately give Landlord written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action, or proceeding given to, or received from, any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to, such Hazardous Substance including but not limited to all such documents as may be involved in any Reportable Use involving the Premises. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under or about the Premises (including, without limitation, through the plumbing or sanitary sewer system).

(c) Indemnification. Tenant shall indemnity, protect, defend and hold Landlord, its agents, employees, lenders and ground Landlord, if any, and the Premises, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto

the Premises by or for Tenant or by anyone under Tenant's control. Tenant's obligations under this Paragraph 6.2(c) shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Tenant, and the cost of investigation (including consultants' and attorneys' fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved, and shall survive the expiration or earlier termination of this Lease. No termination, cancellation or release agreement entered into by Landlord and Tenant shall release Tenant from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Landlord in writing at the time of such agreement.

6.3 Tenant's Compliance with Requirements. Tenant shall, at Tenant's sole cost and expense, fully, diligently and in a timely manner, comply with all **"Applicable Requirements,"** which term is used in this Lease to mean all laws, rules, regulations, ordinances, directives, covenants, easements and restrictions of record, permits, the requirements of any applicable fire insurance underwriter or rating bureau, relating in any manner to the Premises (including but not limited to matters pertaining to (i) industrial hygiene, (ii) environmental conditions on, in, under or about the Premises, including soil and groundwater conditions, and (iii) the use, generation, manufacture, production, installation, maintenance, removal, transportation, storage, spill, or release of any Hazardous Substance), now in effect or which may hereafter come into effect. Tenant shall, within five (5) days after receipt of Landlord's written request, provide Landlord with copies of all documents and information, including but not limited to permits, registrations, manifests, applications, reports and certificates, evidencing Tenant's compliance with any Applicable Requirements specified by Landlord, and shall immediately upon receipt, notify Landlord in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving failure by Tenant or the Premises to comply with any Applicable Requirements.

6.4 Inspection; Compliance with Law. Landlord, Landlord's agents, employees, contractors and designated representatives, and the holders of any mortgages, deeds of trust or ground leases on the Premises (**"Lenders"**) shall have the right to enter the Premises at any time in the case of an emergency, and otherwise at reasonable times, with 24 hour notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Tenant with this Lease and all Applicable Requirements (as defined in Paragraph 6.3), and Landlord shall be entitled to employ experts and/or consultants in connection therewith to advise Landlord with respect to Tenant's activities, including but not limited to Tenant's installation, operation, use, monitoring, maintenance, or removal of any Hazardous Substance on or from the Premises. The costs and expenses of any such inspections shall be paid by the party requesting same, unless a Default or Breach of this Lease by Tenant or a violation of Applicable Requirements or a contamination, caused or materially contributed to by Tenant, is found to exist or to be imminent, or unless the inspection is requested or ordered by a governmental authority as the result of any such existing or imminent violation or contamination. In such case, Tenant shall upon request reimburse Landlord or Landlord's Lender, as the case may be, for the costs and expenses of such inspections.

7. Maintenance, Repairs, Utility Installations, Trade Fixtures and Alterations.

7.1 Tenant's Obligations.

(a) Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance with Covenants, Restrictions and Building Code), 7.2 (Landlord's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Tenant shall, at Tenant's sole cost and expense and at all times, keep the Premises and every part thereof in good order, condition and repair (whether or not such portion of the Premises requiring repair, or the means of repairing the same, are reasonably or readily accessible to Tenant, and whether or not the need for such repairs occurs as a result of Tenant's use, any prior use, the elements or the age of such portion of the Premises), including, without limiting the

generality of the foregoing, all equipment or facilities specifically serving the Premises, such as plumbing, heating, air conditioning, ventilating, electrical, lighting facilities, boilers, fired or unfired pressure vessels, fire hose connections if within the Premises, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights, but excluding any items which are the responsibility of Landlord pursuant to Paragraph 7.2 below. Tenant, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices. Tenant's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) Tenant shall, at Tenant's sole cost and expense, procure and maintain a contract, with copies to Landlord, in customary form and substance for and with a contractor specializing and experienced in the inspection, maintenance and service of the heating, air conditioning and ventilation system for the Premises. However, Landlord reserves the right, upon notice to Tenant, to procure and maintain the contract for the heating, air conditioning and ventilating systems, and if Landlord so elects, Tenant shall reimburse Landlord, upon demand, for the cost thereof.

(c) If Tenant fails to perform Tenant's obligations under this Paragraph 7. 1, Landlord may enter upon the Premises after ten (10) days' prior written notice to Tenant (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Tenant's behalf, and put the Premises in good order, condition and repair, in accordance with Paragraph 13.2 below.

7.2 Landlord's Obligations. Subject to the provisions of Paragraphs 2.3 (Condition), 2.4 (Compliance with Covenants, Restrictions and Building Code), 1.6 (Common Area Operating Expenses), 6 (Use), 7.1 (Tenant's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Landlord, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler and/or standpipe and hose (if located in the Common Areas) or other automatic fire extinguishing system including fire alarm and/or smoke detection systems and equipment, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Landlord shall not be obligated to paint the interior surfaces of exterior walls nor shall Landlord be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Landlord will not be responsible for maintenance or replacement of any equipment affixed to the premises.

7.3 Utility Installations, Trade Fixtures, Alterations.

(a) Definitions; Consent Required. The term **"Utility Installations"** is used in this Lease to refer to all air lines, power panels, electrical distribution, security, fire protection systems, communications systems, lighting fixtures, heating, ventilating and air conditioning equipment, plumbing, and fencing in, on or about the Premises. The term **"Trade Fixtures"** shall mean Tenant's machinery and equipment which can be removed without doing material damage to the Premises. The term **"Alterations"** shall mean any modification of the improvements on the Premises which are provided by Landlord under the terms of this Lease, other than Utility installations or Trade Fixtures. **"Tenant-Owned Alterations"** and/or **"Utility Installations"** are defined as Alterations and/or Utility installations made by Tenant that are not yet owned by Landlord pursuant to Paragraph 7.4(a). Tenant shall not make nor cause to be made any Alterations or Utility Installations in, on, under or about the Premises without Landlord's prior written consent. Tenant may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without Landlord's consent but upon notice to Landlord so long as they are not visible from the outside of the Premises, do not involve puncturing, relocating or removing the roof or any existing walls, or changing or interfering with the fire sprinkler or fire detection systems and the cumulative cost thereof during the term of this Lease as extended does not exceed $2,500.00.

(b) Consent. Any Alterations or Utility Installations that Tenant shall desire to make and which require the consent of the Landlord shall be presented to Landlord in written form with detailed plans. All consents given by Landlord, whether by virtue of Paragraph 7.3(a) or by subsequent specific consent, shall be deemed conditioned upon: (i) Tenant's acquiring all applicable permits required by governmental authorities; (ii) the furnishing of copies of such permits together with a copy of the plans and specifications for the Alteration or Utility Installation to Landlord prior to commencement of the work thereon; and (iii) the compliance by Tenant with all conditions of said permits in a prompt and expeditious manner. Any Alterations or Utility Installations by Tenant during the term of this Lease shall be done in a good and workmanlike manner, with good and sufficient materials, and be in compliance with all Applicable Requirements. Tenant shall promptly upon completion thereof furnish Landlord with as-built plans and specifications therefor. Landlord may, (but without obligation to do so) condition its consent to any requested Alteration or Utility Installation that costs $2,500.00 or more upon Tenant's providing Landlord with a lien and completion bond in an amount equal to one and one-half times the estimated cost of such Alteration or Utility Installation.

(c) Lien Protection. Tenant shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use on the Premises, which claims are or may be secured by any mechanic's or material men's lien against the Premises or any interest therein. Tenant shall give Landlord not less than ten (10) days' notice prior to the commencement of any work in, on, or about the Premises, and Landlord shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Tenant shall, in good faith, contest the validity of any such lien, claim or demand, then Tenant shall, at its sole expense, defend and protect itself, Landlord and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Landlord or the Premises. It Landlord shall require, Tenant shall furnish to Landlord a surety bond satisfactory to Landlord in an amount equal to one and one-half times the amount of such contested lien claim or demand, indemnifying Landlord against liability for the same, as required by law for the holding of the Premises free from the effect of such lien or claim. In addition, Landlord may require Tenant to pay Landlord's attorneys' fees and costs in participating in such action if Landlord shall decide it is to its best interest to do so.

7.4 Ownership, Removal, Surrender, and Restoration.

(a) Ownership. Subject to Landlord's right to require their removal and to cause Tenant to become the owner thereof as hereinafter provided in this Paragraph 7.4, all Alterations and Utility Installations made to the Premises by Tenant shall be the property of and owned by Tenant, but considered a part of the Premises. Landlord may, at any time and at its option, elect in writing to Tenant to be the owner of all or any specified part of the Tenant-Owned Alterations and Utility Installations. Unless otherwise instructed per Subparagraph 7.4(b) hereof, all Tenant-Owned Alterations and Utility Installations shall, at the expiration or earlier termination of this Lease, become the property of Landlord and remain upon the Premises and be surrendered with the Premises by Tenant.

(b) Removal. Unless otherwise agreed in writing, Landlord may require that any or all Tenant-Owned Alterations or Utility Installations be removed by the expiration or earlier termination of this Lease, notwithstanding that their installation may have been consented to by Landlord. Landlord may require the removal at any time of all or any part of any Alterations or Utility Installations made without the required consent of Landlord.

(c) Surrender/Restoration. Tenant shall surrender the Premises by the end of the last day of the Lease term or any earlier termination date, clean and free of debris and in good operating order, condition and state of repair, ordinary wear and tear excepted. Ordinary wear and tear shall not

include any damage or deterioration that would have been prevented by good maintenance practice or by Tenant performing all of its obligations under this Lease. Except as otherwise agreed or specified herein, the Premises, as surrendered, shall include the Alterations and Utility Installations. The obligation of Tenant shall include the repair of any damage occasioned by the installation, maintenance or removal of Tenant's Trade Fixtures, furnishings, equipment, and Tenant-Owned Alterations and Utility Installations, as well as the remove! of any storage tank installed by or for Tenant, and the removal replacement, or remediation of any soil, material or ground water contaminated by Tenant, all as may then be required by Applicable Requirements and/or good practice. Tenant's Trade Fixtures shall remain the property of Tenant and shall be removed by Tenant subject to its obligation to repair and restore the Premises per this Lease.

8. Insurance; Indemnity.

8.1 Payment of Premium Increases:

(a) NA

(b) The Landlord shall pay any Insurance Cost Increase, at no cost to the Tenant.

8.2 Liability Insurance.

(a) Carried by Tenant. Tenant shall obtain and keep in force during the term of this Lease a Commercial General Liability policy of insurance protecting Tenant, Landlord and any Lenders) whose names have been provided to Tenant in writing (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an "Additional Insured-Managers or Landlords of Premises" endorsement and contain the "Amendment of the Pollution Exclusion" endorsement for damage caused by heat, smoke or fumes from a hostile tire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an **"Insured contract"** for the performance of Tenant's indemnity obligations under this Lease. The limits of said insurance required by this Lease or as carried by Tenant shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.

(b) Carried by Landlord. Landlord shall also maintain liability insurance described in Paragraph 8.2(a) above, in addition to and not in lieu of, the insurance required to be maintained by Tenant. Tenant shall not be named as an additional insured therein.

8.3 Property-Insurance-Building, Improvements and Rental Value.

(a) Building and Improvements. Landlord shall obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and to any Lender(s), insuring against loss or damage to the Premises. Such insurance shall be for full replacement cost, as the same shall exist from time to time, or the amount required by any Lender(s), but in no event more than the commercially reasonable and available insurable value thereof if, by reason of the unique nature or age of the improvements involved, such latter amount is less than full replacement cost. Tenant-Owned Alterations and Utility Installations, Trade Fixtures and Tenant's personal property shall be insured by Tenant pursuant to Paragraph 8.4. If the coverage is available and commercially appropriate, Landlord's policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender or included in the Base Premium), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the

enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of the Building required to be demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered loss, but not including plate glass insurance. Said policy or policies shall also contain an agreed valuation provision in lieu of any co-insurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located.

(b) Rental Value. Landlord shall also obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and any Lender(s), insuring the loss of the full rental and other charges payable by all Tenants of the Building to Landlord for one year (including all Real Property Taxes, insurance costs, all Common Area Operating Expenses and any scheduled rental increases). Said insurance may provide that in the event the Lease is terminated by reason of an insured loss, the period of indemnity for such coverage shall be extended beyond the date of the completion of repairs or replacement of the Premises, to provide for one full year's loss of rental revenues from the date of any such loss. Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected rental income, Real Property Taxes, insurance premium costs and other expenses, if any, otherwise payable, for the next 12-month period. Common Area Operating Expenses shall include any deductible amount in the event of such loss.

(c) Adjacent Premises. Tenant shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Shopping Center if said increase is caused by Tenant's acts, omissions, use or occupancy of the Premises.

(d) Tenant's Improvements. Since Landlord is the insuring Party, Landlord shall not be required to insure Tenant-Owned Alterations and Utility Installations unless the item in question has become the property of Landlord under the terms of this Lease.

8.4 Tenant's Property Insurance. Subject to the requirements of Paragraph 8.5, Tenant at its cost shall either by separate policy or, at Landlord's option, by endorsement to a policy already carried, maintain insurance coverage on all of Tenant's personal property, Trade Fixtures and Tenant-Owned Alterations and Utility Installations in, on, or about the Premises similar in coverage to that carried by Landlord as the Insuring Party under Paragraph 8.3(a). Such insurance shall be full replacement cost coverage with a deductible not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Tenant for the replacement of personal property and the restoration of Trade Fixtures and Tenant-Owned Alterations and Utility Installations. Upon request from Landlord, Tenant shall provide Landlord with written evidence that such insurance is in force.

8.5 Insurance Policies. Insurance required hereunder shall be in companies duly licensed to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, v, or such other rating as may be required by a Lender, as set forth in the most current issue of "Best's Insurance Guide." Tenant shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Paragraph 8. Tenant shall cause to be delivered to Landlord from the Early Possession Date or the Commencement Date, certified copies of, or certificates evidencing the existence and amounts of, the insurance required under Paragraph 8.2(a) and 8.4. No such policy shall be cancelable or subject to modification except after thirty (30) days' prior written notice to Landlord. Tenant shall at least thirty (30) days prior to the expiration of such policies, furnish Landlord with evidence of renewals or "insurance binders" evidencing renewal thereof, or Landlord may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Tenant and Landlord each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for loss or damage to their property arising out of or incident to the perils required to be insured against under Paragraph 8. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto. Landlord and Tenant agree to have their respective insurance companies issuing property damage insurance waive any right to subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Landlord's negligence and/or breach of express warranties, Tenant shall indemnity, protect, defend and hold harmless the Premises, Landlord and its agents, Landlord's master or ground Landlord, partners and Lenders, from and against any and all claims, loss of rents and/or damages, costs, liens, judgments, penalties, loss of permits, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the occupancy of the Premises by Tenant, the conduct of Tenant's business, any act, omission or neglect of Tenant, its agents, contractors, employees or invitees, and out of any Default or Breach by Tenant in the performance in a timely manner of any obligation on Tenant's part to be performed under this Lease. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not (in the case of claims made against Landlord) litigated and/or reduced to judgment. In case any action or proceeding be brought against Landlord by reason of any of the foregoing matters, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such claim in order to be so indemnified.

9. Damage or Destruction.

9.1 Definitions.

(a) "Premises Partial Damage" shall mean damage or destruction to the Premises, other than Tenant-Owned Alterations and Utility Installations, the repair cost of which damage or destruction is less than fifty percent (50%) of the then Replacement Cost (as defined in Paragraph 9.1 (d)) of the Premises (excluding Tenant-Owned Alterations and Utility Installations and Trade Fixtures) immediately prior to such damage or destruction.

(b) "Premises Total Destruction" shall mean damage or destruction to the Premises, other than Tenant-Owned Alterations and Utility Installations, the repair cost of which damage or destruction is fifty percent (50%) or more of the then Replacement Cost of the Premises (excluding Tenant-Owned Alterations and Utility Installations and Trade Fixtures) immediately prior to such damage or destruction. In addition, damage or destruction to the Building, other than Tenant Owned Alterations and Utility Installations and Trade Fixtures of any Tenants of the Building, the cost of which damage or destruction is fifty percent (50%) or more of the then Replacement Cost (excluding Tenant-Owned Alterations and Utility Installations and Trade Fixtures of any Tenants of the Building) of the Building shall, at the option of Landlord, be deemed to be Premises Total Destruction.

(c) "Insured Loss" shall mean damage or destruction to the Premises, other than Tenant-Owned Alterations and Utility Installations and Trade Fixtures. which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a) irrespective of any deductible amounts or coverage limits involved.

(d) "Replacement Cost" shall mean the cost to repair or rebuild the improvements owned by Landlord at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of applicable building codes, ordinances or laws, and without deduction for depreciation.

(e) "Hazardous Substance Condition" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises.

9.2 Premises Partial Damage-Insured Loss. If Premises Partial Damage that is an Insured Loss occurs, then Landlord shall, at Landlord's expense, repair such damage (but not Tenant's Trade Fixtures or Tenant-Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect. In the event, however, that there is a shortage of insurance proceeds and such shortage is due to the fact that, by reason of the unique nature of the improvements in the Premises, full replacement cost insurance coverage was not commercially reasonable and available, Landlord shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Tenant provides Landlord with the funds to cover same, or adequate assurance thereof, within ten (10) days following receipt of written notice of such shortage and request therefor. If Landlord receives said funds or adequate assurance thereof within said ten (10) day period, Landlord shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If Landlord does not receive such funds or assurance within said period, Landlord may nevertheless elect by written notice to Tenant within ten (10) days thereafter to make such restoration and repair as is commercially reasonable with Landlord paying any shortage in proceeds, in which case this Lease shall remain in full force and effect. If Landlord does not receive such funds or assurance within such ten (10) day period, and if Landlord does not so elect to restore and repair, then this Lease shall terminate sixty (60) days following the occurrence of the damage or destruction. Unless otherwise agreed, Tenant shall in no event have any right to reimbursement from Landlord for any funds contributed by Tenant to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3 rather than Paragraph 9.2, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage-Uninsured Loss. If Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Tenant (in which event Tenant shall make the repairs at Tenant's expense and this Lease shall continue in full force and effect), Landlord may at Landlord's option, either (i) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within thirty (30) days after receipt by Landlord of knowledge of the occurrence of such damage of Landlord's desire to terminate this Lease as of the date sixty (60) days following the date of such notice. In the event Landlord elects to give such notice of Landlord's intention to terminate this Lease, Tenant shall have the right within ten (10) days after the receipt of such notice to give written notice to Landlord of Tenant's commitment to pay for the repair of such damage totally at Tenant's expense and without reimbursement from Landlord. Tenant shall provide Landlord with the required funds or satisfactory assurance thereof within thirty (30) days following such commitment from Tenant. In such event this Lease shall continue in full force and effect, and Landlord shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Tenant does not give such notice and provide the funds or assurance thereof within the times specified above, this Lease shall terminate as of the date specified in Landlord's notice of termination.

9.4 Total Destruction. Notwithstanding any other provision hereof, if Premises Total Destruction occurs (including any destruction required by any authorized public authority), this Lease shall terminate sixty (60) days following the date of such Premises Total Destruction, whether or not the damage or destruction is an Insured Loss or was caused by a negligent or willful act of Tenant. In the event, however, that the damage or destruction was caused by Tenant, Landlord shall have the right to recover Landlord's damages from Tenant except as released and waived in Paragraph 9.7.

9.5 Damage Near End of Term. If at any time during the last six (6) months of the term of this Lease there is damage for which the cost to repair exceeds one month's Rent, whether or not an Insured Loss, Landlord may, at Landlord's option, terminate this Lease effective sixty (60) days following the date of occurrence of such damage by giving written notice to Tenant of Landlord's election to do so within thirty (30) days after the date

of occurrence of such damage. Provided, however, if Tenant at that time has an exercisable option to extend this Lease or to purchase the Premises, then Tenant may preserve this Lease by (a) exercising such option, and (b) providing Landlord with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is ten (10) days after Tenant's receipt of Landlord's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. It Tenant duly exercises such option during such period and provides Landlord with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Landlord shall, at Landlord's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Tenant fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate as of the date set forth in the first sentence of this Paragraph 9.5.

9.6 Abatement of Rent; Tenant's Remedies.

(a) In the event of (i) Premises Partial Damage or (ii) Hazardous Substance Condition for which Tenant is not legally responsible, the Rent, Common Area Operating Expenses and other charges, if any, payable by Tenant hereunder for the period during which such damage or condition, its repair, remediation or restoration continues, shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired, but not in excess of proceeds from insurance required to be carried under Paragraph 8.3(b). Except for abatement of Rent, Common Area Operating Expenses and other charges, if any, as aforesaid, all other obligations of Tenant hereunder shall be performed by Tenant, and Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair, remediation or restoration.

(b) If Landlord shall be obligated to repair or restore the Premises under the provisions of this Paragraph 9 and shall not commence, in a substantial and meaningful way, the repair or restoration of the Premises within ninety (90) days after such obligation shall accrue, Tenant may, at any time prior to the commencement of such repair or restoration, give written notice to Landlord and to any Lenders of which Tenant has actual notice of Tenant's election to terminate this Lease on a date not less than sixty (60) days following the giving of such notice. If Tenant gives such notice to Landlord and such Lenders and such repair or restoration is not commenced within thirty (30) days after receipt of such notice, this Lease shall terminate as of the date specified in said notice. If Landlord or a Lender commences the repair or restoration of the Premises within thirty (30) days after the receipt of such notice, this Lease shall continue in full force and effect. **"Commence"** as used in this Paragraph 9.6 shall mean either the unconditional authorization of the preparation of the required plans. or the beginning of the actual work on the Premises, whichever occurs first.

9.7 Hazardous Substance Conditions: If a Hazardous Substance Condition occurs, unless Tenant is legally responsible therefor (in which case Tenant shall make the investigation and remediation thereof required by Applicable Requirements Find this Lease shall continue in full force and effect, but subject to Landlord's rights under Paragraph 6.2(c) and Paragraph 13), Landlord may at Landlord's option either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to investigate and remediate such condition exceeds twelve (12) times the then monthly Rent or $100.000 whichever is greater, give written notice to Tenant within thirty (30) days after receipt by Landlord of knowledge of the occurrence of such Hazardous Substance Condition of Landlord's desire to terminate this Lease as of the date sixty (60) days following the date of such notice. In the event Landlord elects to give such notice of Landlord's intention to terminate this Lease, Tenant shall have the right within ten (i 0) days after the receipt of such notice to give written notice to Landlord of Tenant's commitment to pay for the excess costs of (a) investigation and remediation of such Hazardous Substance Condition to the extent required by Applicable Requirements, over (b) an amount equal to twelve (12) times the then monthly Rent or $100,000, whichever is greater Tenant shall ' provide Landlord with the funds required of Tenant or satisfactory assurance thereof within thirty (30) days following said commitment by Tenant. In such event this Lease shall continue in full force and effect, and

Landlord shall proceed to make such investigation and remediation as soon as reasonably possible after the required funds are available. If Tenant does not give such notice and provide the required funds or assurance thereof within the time period specified above, this Lease shall terminate as of the date specified in Landlord's notice of termination.

9.8 Termination -Advance Payments. Upon termination of this Lease pursuant to this Paragraph 9, Landlord shall return to Tenant any advance payment made by Tenant to Landlord and so much of Tenant's Security Deposit as has not been, or is not then required to be, used by Landlord under the terms of this Lease.

9.9 N/A

10. Real Property Taxes.

10.1 Payment of Taxes. Landlord shall pay all real estate taxes and assessments against the Building and facilities appurtenant to the Building during the Term hereof.

10.2 N/A

10.3 N/A

10.4 N/A

10.5 Tenant's Property Taxes. Tenant shall pay prior to delinquency all taxes assessed against and levied upon Tenant-Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Tenant contained in the Premises or stored within the Shopping Center. When possible, Tenant shall cause its Tenant-Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Landlord It any of Tenant's said property shall be assessed with Landlord's real property, Tenant shall pay Landlord the taxes attributable to Tenant's property within ten (10) days after receipt of a written statement setting forth the taxes applicable to Tenant's property.

11. Utilities. Tenant shall pay directly for all utilities and services supplied to the Premises, including but not limited to electricity, telephone, security, gas and cleaning of the Premises, together with any taxes thereon. If any such utilities or services are not separately metered to the Premises or separately billed to the Premises, Tenant shall pay to Landlord a reasonable proportion to be determined by Landlord of all such charges jointly metered or billed with other premises in the Building, in the manner and within the time periods set forth in Paragraph 4.2(d).

12. Assignment and Subletting.

12.1 Landlord's Consent Required.

(a) Tenant shall not voluntarily or by operation of law assign, transfer, mortgage or otherwise transfer or encumber (collectively, "assign") or sublet all or any part of Tenant's interest in this Lease or in the Premises without Landlord's prior written consent given under and subject to the terms of Paragraph 36.

(b) A change in the control of Tenant shall constitute an assignment requiring Landlord's consent. The transfer, on a cumulative basis, of twenty-five percent (25%) or more of the voting control of Tenant shall constitute a change in control for this purpose.

(c) The involvement of Tenant or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, refinancing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or. Tenant's assets occurs, which results or will result in a reduction of the Net Worth of Tenant, as hereinafter defined, by an amount equal to or greater than twenty-five percent (25%) of such Net Worth of Tenant as it was represented to Landlord at the time of full execution and delivery of this Lease or at the time of the most recent assignment to which Landlord has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, at whichever time said Net Worth of Tenant was or is greater, shall be considered an assignment

of this Lease by Tenant to which Landlord may reasonably withhold its consent. **"Net Worth of Tenant"** for purposes of this Lease shall be the net worth of Tenant (excluding any Guarantors) established under generally accepted accounting principles consistently applied.

(d) An assignment or subletting of Tenant's interest in this Lease without Landlord's specific prior written consent shall, at Landlord's option, be a Default curable after notice per Paragraph 13.1, or a non-curable Breach without the necessity of any notice and grace period. If Landlord elects to treat such unconsented to assignment or subletting as a non-curable Breach, Landlord shall have the right to either: (i) terminate this Lease, or (ii) upon thirty (30) days' written notice **("Landlord's Notice")**, increase the monthly Rent for the Premises to the greater of the then fair market rental value of the Premises, as reasonably determined by Landlord, or one hundred ten percent (110%) of the Rent then in effect, Pending determination of the new fair market rental value, if disputed by Tenant, Tenant shall pay the amount set forth in Landlord's Notice, with any overpayment credited against the next installments) of Rent coming due, and any underpayment for the period retroactively to the effective date of the adjustment being due and payable immediately upon the determination thereof. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Tenant shall be subject to similar adjustment to the then fair market value as reasonably determined by Landlord (without the Lease being considered an encumbrance or any deduction for depreciation or obsolescence, and considering the Premises at its highest and best use and in good condition) or one hundred ten percent (110%) of the price previously in effect, (ii) any index-oriented rental or price adjustment formulas contained in this Lease shall be adjusted to require that the base index be determined with reference to the index applicable to the time of such adjustment, and (iii) any fixed rental adjustments scheduled during the remainder of the Lease term shall be increased in the same ratio as the new rental bears to the Rent in effect immediately prior to the adjustment specified in Landlord's Notice.

(e) Tenant's remedy for any breach of this Paragraph 12.1 by Landlord shall be limited to compensatory damages and/or injunctive relief.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Landlord's consent, any assignment or subletting shall not (i) be effective without the express written assumption by such assignee or subtenant of the obligations of Tenant under this Lease, (ii) release Tenant of any obligations hereunder, nor (iii) alter the primary liability of Tenant for the payment of Rent and other sums due Landlord hereunder or for the performance of any other obligations to be performed by Tenant under this Lease.

(b) Landlord may accept any rent or performance of Tenant's obligations from any person other than Tenant pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of any rent for performance shall constitute a waiver or estoppel of Landlord's right to exercise its remedies for the Default or Breach by Tenant of any of the terms, covenants or conditions of this Lease.

(c) The consent of Landlord to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting by Tenant or to any subsequent or successive assignment or subletting by the assignee or subTenant. However, Landlord may consent to subsequent subletting's and assignments of the sublease or any amendments or modifications thereto without notifying Tenant or anyone else liable under this Lease or the sublease and without obtaining their consent, and such action shall not relieve such persons from liability under this Lease or the sublease.

(d) In the event of any Default or Breach of Tenant's obligation under this Lease, Landlord may proceed directly against Tenant, any Guarantors or anyone else responsible for the performance of the Tenant's obligations under this Lease, including any subTenant, without first exhausting Landlord's remedies against any other person or entity responsible therefor to Landlord, or any security held by Landlord.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Landlord's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or subTenant, including but not limited to the intended use and/or required modification of the Premises, if any, together with a non-refundable deposit of $1,000 or ten percent (10%) of the monthly Rent applicable to the portion of the Premises which is the subject of the proposed assignment or sublease, whichever is greater, as reasonable consideration for Landlord's considering and processing the request for consent. Tenant agrees to provide Landlord with such other or additional information and/or documentation as may be reasonably requested by Landlord.

(f) Any assignee of, or subTenant under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed, for the benefit of Landlord, to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Tenant during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Landlord has specifically consented in writing.

(g) The occurrence of a transaction described in Paragraph 12.2(c) shall give Landlord the right (but not the obligation) to require that the Security Deposit be increased by an amount equal to six (6) times the then monthly Rent, and Landlord may make the actual receipt by Landlord of the Security Deposit increase a condition to Landlord's consent to such transaction.

(h) Landlord, as a condition to giving its consent to any assignment or subletting, may require that the amount and adjustment schedule of the rent payable under this Lease be adjusted to what is then the market value and/or adjustment schedule for property similar to the Premises as then constituted, as determined by Landlord.

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Tenant of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Tenant hereby assigns and transfers to Landlord all of Tenant's interest in all rentals and income arising from any sublease of all or a portion of the Premises heretofore or hereafter made by Tenant, and Landlord may collect such rent and income and apply same toward Tenant's obligations under this Lease; provided, however, that until a Breach (as defined in Paragraph 13.1) shall occur in the performance of Tenant's obligations under this Lease, Tenant may, except as otherwise provided in this Lease, receive, collect and enjoy the rents accruing under such sublease. Landlord shall not, by reason of the foregoing provision or any other assignment of such sublease to Landlord, nor by reason of the collection of the rents from a subTenant, be deemed liable to the subTenant for any failure of Tenant to perform and comply with any of Tenant's obligations to such subTenant under such Sublease. Tenant hereby irrevocably authorizes and directs any such subTenant, upon receipt of a written notice from Landlord stating that a Breach exists in the performance of Tenant's obligations under this Lease, to pay to Landlord the rents and other charges due and to become due under the sublease. SubTenant shall rely upon any such statement and request from Landlord and shall pay such rents and other charges to Landlord without any obligation or right to inquire as to whether such Breach exists and notwithstanding any notice from or claim from Tenant to the contrary. Tenant shall have no right or claim against such subTenant, or, until the Breach has been cured, against Landlord, for any such rents and other charges so paid by said subTenant to Landlord.

(b) In the event of a Breach by Tenant in the performance of its obligations under this Lease, Landlord, at its option and without any obligation to do so, may require any subTenant to attorn to Landlord, in which event Landlord shall undertake the obligations of the subLandlord under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Landlord shall not be liable for any prepaid rents or security deposit paid by such subTenant to such subLandlord or for any other prior defaults or breaches of such subLandlord under such sublease.

(c) Any matter or thing requiring the consent of the subLandlord under a sublease shall also require the consent of Landlord herein.

(d) No subTenant under a sublease approved by Landlord shall further assign or sublet all or any part of the Premises without Landlords prior written consent.

(e) Landlord shall deliver a copy of any notice of Default or Breach by Tenant to the subTenant, who shall have the right to cure the Default of Tenant within the grace period, if any, specified in such notice. The subTenant shall have a right of reimbursement and offset from and against Tenant for any such Defaults cured by the subTenant.

13. Default; Breach; Remedies.

13.1 Default; Breach. Landlord and Tenant agree that if an attorney is consulted by Landlord or Tenant in connection with a Landlord or Tenant Default or Breach (as hereinafter defined), $350.00 is a reasonable maximum sum per such occurrence for legal services and costs in the preparation and service of a notice of Default, and that Landlord or Tenant may include the cost of such services and costs in said notice as rent due and payable to cure said default, if Tenant Default, or withhold such cost from rent due and payable, if Landlord Default. A **"Default"** by Tenant is defined as a failure by Tenant to observe, comply with or perform any of the terms, covenants, conditions or rules applicable to Tenant under this Lease. A **"Breach"** by Tenant is defined as the occurrence of any one or more of the following Defaults, and, where a grace period for cure after notice is specified herein, the failure by Tenant to cure such Default prior to the expiration of the applicable grace period, and shall entitle Landlord to pursue the remedies set forth in Paragraphs 13.2 and/or 13.3:

(a) The vacating of the Premises without the intention to reoccupy same, or the abandonment of the Premises.

(b) Except as expressly otherwise provided in this Lease, the failure by Tenant to make any payment of Rent, Tenant's Share of Common Area Operating Expenses, or any other monetary payment required to be made by Tenant hereunder as and when due, the failure by Tenant to provide Landlord with reasonable evidence of insurance or surety bond required under this Lease, or the failure of Tenant to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three (3) days following written notice thereof by or on behalf of Landlord to Tenant.

(c) Except as expressly otherwise provided in this Lease, the failure by Tenant to provide Landlord with reasonable written evidence (in duly executed original form, if applicable) of (i) compliance with Applicable Requirements per Paragraph 6.3, (ii) the inspection, maintenance and service contracts required under Paragraph 7.1 (b), (iii) the rescission of an unauthorized assignment or subletting per Paragraph 12. 1, (iv) a Tenancy Statement per Paragraphs 16 or 37, (v) the subordination or non-subordination of this Lease per Paragraph 30, (vi) the guaranty of the performance of Tenant's obligations under this Lease if required under Paragraphs 1.11 and 37, (vii) the execution of any document requested under Paragraph 42 (easements), or (viii) any other documentation or information which Landlord may reasonably require of Tenant under the terms of this lease, where any such failure continues for a period of ten (10) days following written notice by or on behalf of Landlord to Tenant.

(d) A Default by Tenant as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof that are to be observed, complied with or performed by Tenant, other than those described in Subparagraphs 13.1 (a), (b) or (c), above, where such Default continues for a period of thirty (30) days after written notice thereof by or on behalf of Landlord to Tenant; provided, however, that if the nature of Tenant's Default is such that more than thirty (30) days are reasonably required for its cure, then it shall not be deemed to be a Breach of this Lease by Tenant if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) the making by Tenant of any general arrangement or assignment for the benefit of creditors; (ii) Tenant's becoming a "debtor" as defined in 11 U.S. Code Section 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days; provided, however, in the event that any provision of this Subparagraph 13.1 (e) is contrary to any applicable law, such provision shall be of no force or effect, and shall not affect the validity of the remaining provisions.

(f) The discovery by Landlord that any financial statement of Tenant or of any Guarantor, given to Landlord by Tenant or any Guarantor, was materially false.

(g) It the performance of Tenant's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory breach basis, and Tenant's failure, within sixty (60) days following written notice by or on behalf of Landlord to Tenant of any such event, to provide Landlord with written alternative assurances of security, which, when coupled with the then existing resources of Tenant, equals or exceeds the combined financial resources of Tenant and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Tenant fails to perform any affirmative duty or obligation of Tenant under this Lease, within ten (10) days after written notice to Tenant (or in case of an emergency, without notice), Landlord may at its option (but without obligation to do so), perform such duty or obligation on Tenant's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Landlord shall be due and payable by Tenant to Landlord upon invoice therefor. If any check given to Landlord by Tenant shall not be honored by the bank upon which it is drawn, Landlord, at its own option, may require all future payments to be made under this Lease by Tenant to be made only by cashier's check. In the event of a Breach of this Lease by Tenant (as defined in Paragraph 13.1), with or without further notice or demand, and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such Breach, Landlord may:

(a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant: (i) the worth at the time of the award of the unpaid rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Tenant proves could be reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by the Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of relating including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Landlord in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco or the Federal Reserve Bank District in which the Premises are located at the time of award plus one percent

(1%). Efforts by Landlord to mitigate damages caused by Tenant's Default or Breach of this Lease shall not waive Landlord's right to recover damages under this Paragraph 13.2. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Landlord shall have the right to recover in such proceeding the unpaid rent and darnages as are recoverable therein, or Landlord may reserve the right to recover all or any part thereof in a separate suit for such rent and/or damages. If a notice and grace period required under Subparagraph 13.1 (b), (c) or (d) was not previously given, a notice to pay rent or quit, or to perform or quit, as the case may be, given to Tenant under any statute authorizing the forfeiture of leases for unlawful detainer shall also constitute the applicable notice for grace period purposes required by Subparagraph 13.1(b),(c) or (d). In such case, the applicable grace period under the unlawful detainer statue shall run concurrently after the one such statutory notice, and the failure of Tenant to cure the Default within the greater of the two (2) such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Landlord to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Tenant's right to possession in effect (in California under California Civil Code Section 1951.4) after Tenant's Breach and recover the rent as it becomes due, provided Tenant has the right to sublet or assign, subject only to reasonable limitations. Landlord and Tenant agree that the limitations on assignment and subletting in this Lease are reasonable. Acts of maintenance or preservation, efforts to relet the Premises, or the appointment of a receiver to protect the Landlord's interest under this Lease, shall not constitute a termination of the Tenant's right to possession.

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state wherein the Premises are located.

(d) The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Tenant's occupancy of the Premises.

13.3 Inducement Recapture in Event of Breach. Any agreement by Landlord for free or abated rent or other charges applicable to the Premises, or for the giving or paying by Landlord to or for Tenant of any cash or other bonus, inducement or consideration for Tenant's entering into this Lease, all of which concessions are hereinafter referred to as **"Inducement Provisions"** shall be deemed conditioned upon Tenant's full and faithful performance of all of the terms, covenants and conditions of this Lease to be performed or observed by Tenant during the term hereof as the same may be extended. Upon the occurrence of a Breach (as defined in Paragraph 13.1) of this Lease by Tenant, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Landlord under such an Inducement Provision shall be immediately due and payable by Tenant to Landlord, and recoverable by Landlord, as additional rent due under this Lease, notwithstanding any subsequent cure of said Breach by Tenant. The acceptance by Landlord of rent or the cure of the Breach which initiated the operation of this Paragraph 13.3 shall not be deemed a waiver by Landlord of the provisions of this Paragraph 13.3 unless specifically so stated in writing by Landlord at the time of such acceptance.

13.4 Late Charges. Tenant hereby acknowledges that late payment by Tenant to Landlord of rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by the terms of any ground lease, mortgage or deed of trust covering the Premises. Accordingly, if any installment of rent or other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's Default or Breach with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of Rent, then notwithstanding Paragraph 4.1 or any other provision of this Lease to the contrary, rent shall, at Landlord's option, become due and payable quarterly in advance.

13.5 Breach by Landlord. Landlord shall not be deemed in breach of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord. For purposes of this Paragraph 13.5, a reasonable time shall in no event be less than thirty (30) days after receipt by Landlord, and by any Lender(s) whose name and address shall have been furnished to Tenant in writing for such purpose, of written notice specifying wherein such obligation of Landlord has not been performed; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days after such notice are reasonably required for its performance, then Landlord shall not be in breach of this Lease if performance is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (all of which are herein called "condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than ten percent (10%) of the floor area of the Premises, or more than twenty-five percent (25%) of the portion of the Common Areas designated for Tenant's parking, is taken by condemnation, Tenant may, at Tenant's option, to be exercised in writing within ten (10) days after Landlord shall have given Tenant written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Rent shall be reduced in the same proportion as the rentable floor area of the Premises taken bears to the total rentable floor area of the Premises. No reduction of Rent shall occur if the condemnation does not apply to any portion of the Premises. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord, whether such award shall be made as compensation for diminution of value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any compensation, separately awarded to Tenant for Tenant's relocation expenses and/or loss of Tenant's Trade Fixtures. In the event that this Lease is not terminated by reason of such condemnation, Landlord shall to the extent of its net severance damages received, over and above Tenant's Share of the legal and other expenses incurred by Landlord in the condemnation matter, repair any damage to the Premises caused by such condemnation authority. Tenant shall be responsible for the payment of any amount in excess of such net severance damages required to complete such repair.

15. Intentionally Omitted

16. Tenancy Statement. Each Party (as **"Responding Party"**) shall within ten (10) days after written notice from the other Party (the **"Requesting Party")** execute, acknowledge and deliver to the Requesting Party a statement in writing in a form similar to the then most current **"Tenancy Statement"** form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

17. Landlord's Liability. The term **"Landlord"** as used herein shall mean the owner or owners at the time in question of the fee title to the Premises. In the event of a transfer of Landlord's title or interest in the Premises or in this Lease, Landlord shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Landlord at the time of such transfer or assignment. Except as provided in Paragraph 15.3, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Landlord shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Landlord. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Landlord shall be binding only upon the Landlord as hereinabove defined.

18. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. Interest on Past-Due Obligations. Any monetary payment due Landlord hereunder, other than late charges, not received by Landlord within ten (10) days following the date on which it was due, shall bear interest from the date due at the prime rate charged by the largest state chartered bank in the state in which the Premises are located plus one percent (1%) per annum, but not exceeding the maximum rate allowed by law, in addition to the potential late charge provided for in Paragraph 13.4.

20. Time of Essence. Time is of the essence with -respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

21. Rent Defined. All monetary obligations of Tenant to Landlord under the terms of this Lease are deemed to be rent.

22. No Prior or other Agreements. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Landlord and Tenant each represents and warrants, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the nature, quality and character of the Premises.

23. Notices.

23.1 Notice Requirements. All notices required or permitted by this Lease shall be in writing and may be delivered in person (by hand or by messenger or courier service) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission during normal business hours, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notice purposes. Either Party may by written notice to the other specify a different address for notice purposes, except that upon Tenant's taking possession of the Premises, the Premises shall constitute Tenant's address for the purpose of mailing or delivering notices to Tenant. A copy of all notices required or permitted to be given to Landlord hereunder shall be concurrently transmitted to such party or parties at such addresses as Landlord may from time to time hereafter designate by written notice to Tenant.

23.2 Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given forty-eight (48) hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the United States Postal Service or courier. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed served or delivered upon telephone or facsimile confirmation of receipt of the transmission thereof, provided a copy is also delivered via delivery or mail. If notice is received on a Saturday or a Sunday or a legal holiday, it shall be deemed received on the next business day.

24. Waivers. No waiver by Landlord of the Default or Breach of any term, covenant or condition hereof by Tenant, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Tenant of the same or any other term, covenant or condition hereof. Landlord's consent to, or approval of, any such act shall not be deemed to render unnecessary the obtaining of Landlord's consent to, or approval of, any subsequent or similar act by Tenant, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. Regardless of Landlord's knowledge of a Default or Breach at the time of accepting rent, the acceptance of rent by Landlord shall not be a waiver of any Default or Breach by Tenant of any provision hereof. Any payment given Landlord by Tenant may be accepted by Landlord on account of moneys or damages due Landlord, notwithstanding any qualifying statements or conditions made by Tenant in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Landlord at or before the time of deposit of such payment.

25. Recording. Either Landlord or Tenant shall, upon request of the other, execute, acknowledge and deliver to the other a short form memorandum of this Lease for recording purposes. The Party requesting recordation shall be responsible for payment of any fees or taxes applicable thereto.

26. No Right To Holdover. Tenant has no right to retain possession of the Premises or any part thereof beyond the expiration or earlier termination of this Lease. In the event that Tenant holds over in violation of this Paragraph 26 then the Rent payable from and after the time of the expiration or earlier termination of this Lease shall be increased to two hundred (200%) of the Rent applicable during the month immediately preceding such expiration or earlier termination. Nothing contained herein shall be construed as a consent by Landlord to any holding over by Tenant.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions. All provisions of this Lease to be observed or performed by Tenant are both covenants and conditions.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, **"Security Device"**), now or hereafter placed by Landlord upon the real property of which the Premises are a part, to any and all advances made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof. Tenant agrees that the Lenders holding any such Security Device shall have no duty, liability or obligation to perform any of the obligations of Landlord under this Lease, but that in the event of Landlord's default with respect to any such obligation, Tenant will give any Lender whose name and address have been furnished Tenant in writing for such purpose notice of Landlord's default pursuant to Paragraph 13.5. If any Lender shall elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device and shall give written notice thereof to Tenant, this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. Subject to the non-disturbance provisions of Paragraph 30.3, Tenant agrees to attorn to a Lender or any other party who acquires ownership of the Premises by reason of a foreclosure of a Security Device, and that in the event of such foreclosure, such new owner shall not: (i) be liable for any act or omission of any prior Landlord or with respect to events occurring prior to acquisition of ownership, (ii) be subject to any offsets or defenses which Tenant might have against any prior Landlord, or (iii) be bound by prepayment of more than one month's rent.

30.3 Non-Disturbance. With respect to Security Devices entered into by Landlord after the execution of this lease, Tenant's subordination of this Lease shall be subject to receiving assurance (a "non-disturbance agreement") from the Lender that Tenant's possession and this Lease, including any options to extend the term hereof- will not be disturbed so long as Tenant is not in Breach hereof and attorns to the record owner of the Premises.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that upon written request from Landlord or a Lender in connection with a sale, financing or refinancing of Premises, Tenant and Landlord shall execute such further writings as may be reasonably required to separately document any such subordination or non-subordination, attornment and/or non-disturbance agreement as is provided for herein.

31. Attorneys' Fees. If any Party brings an action or proceeding to enforce the terms hereof or declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term **"Prevailing Party"** shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fee award shall not

be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. Landlord shall be entitled to attorneys' fees, costs and expenses incurred in preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach.

32. Landlord's Access; Showing Premises; Repairs. Landlord and Landlord's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times with 24-hour notice for the purpose of showing the same to prospective purchasers, lenders, or Tenants, and making such alterations, repairs, improvements or additions to the Premises or to the Building, as Landlord may reasonably deem necessary. Landlord may at any time place on or about the Premises or Building any ordinary "For Sale" signs and Landlord may at any time during the last one hundred eighty (180) days of the term hereof place on or about the Premises any ordinary "For Lease" signs. All such activities of Landlord shall be without abatement of rent or liability to Tenant.

33. Auctions. Tenant shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction upon the Premises without first having obtained Landlord's prior written consent. Notwithstanding anything to the contrary in this Lease, Landlord shall not be obligated to exercise any standard of reasonableness in determining whether to grant such consent.

34. Signs. At Tenants sole expense tenant shall have the right to install signage above space. Tenant shall not place any sign upon the exterior of the Premises or the Building, except that Tenant may, with Landlord's prior written consent, install (but not on the roof) such signs as are reasonably required to advertise Tenant's own business so long as such signs are in a location designated by Landlord and comply with Applicable Requirements and the signage criteria established for the Shopping Center by Landlord. The installation of any sign on the Premises by or for Tenant shall be subject to the provisions of Paragraph 7 (Maintenance,. Repairs, Utility Installations, Trade Fixtures and Alterations). Unless otherwise expressly agreed herein, Landlord reserves all rights to the use of the roof of the Building, and the right to install advertising signs on the Building, including the roof, which do not unreasonably interfere with the conduct of Tenant's business; Landlord shall be entitled to all revenues from such advertising signs.

35. Termination; Merger. Unless specifically stated otherwise in writing by Landlord, the voluntary or other surrender of this Lease by Tenant, the mutual termination or cancellation hereof, or a termination hereof by Landlord for Breach by Tenant, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, Landlord shall, in the event of any such surrender, termination or cancellation, have the option to continue any one or all of any existing subtenancies. Landlord's failure within ten (10) days following any such event to make a written election to the contrary by written notice to the holder of any such lesser interest, shall constitute Landlord's election to have such event constitute the termination of such interest.

36. Consents.

(a) Except for Paragraph 33 hereof (Auctions) or as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Landlord's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Tenant for any Landlord consent pertaining to this Lease or the Premises, including but not limited to consents to an assignment a subletting or the presence or use of a Hazardous Substance, shall be paid by Tenant to Landlord upon receipt of an invoice and supporting documentation therefor. In addition to the deposit described in Paragraph 12.2(e), Landlord may, as a condition to considering any such request by Tenant, require that Tenant deposit with Landlord an amount of money (in addition to the Security Deposit held under Paragraph 5) reasonably calculated by Landlord to represent the cost Landlord will incur in considering and responding to Tenant's request. Any unused portion of said deposit shall be refunded to Tenant without interest. Landlord's consent to any act, assignment of this Lease or subletting of the Premises by Tenant shall not constitute an acknowledgment that no Default or Breach by Tenant of this Lease exists, nor shall such consent be deemed a

waiver of any than existing Default or Breach, except as may be otherwise specifically stated in writing by Landlord at the time of such consent.

(b) All conditions to Landlord's consent authorized by this Lease are acknowledged by Tenant as being reasonable. The failure to specify herein any particular condition to Landlord's consent shall not preclude the impositions by Landlord at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given.

37. Guarantor.

37.1 Form of Guaranty. It there are to be any Guarantors of this Lease per Paragraph 1.11, the form of the guaranty to be executed by each such Guarantor shall be in the form most recently published by the American Industrial Real Estate association, and each such Guarantor shall have the same obligations as Tenant under this lease, including but not limited to the obligation to provide the Tenancy Statement and information required in Paragraph 16.

37.2 Additional Obligations of Guarantor. It shall constitute a Default of the Tenant under this Lease if any such Guarantor fails or refuses, upon reasonable request by Landlord to give: (a) evidence of the due execution of the guaranty called for by this Lease, including the authority of the Guarantor (and of the party signing on Guarantor's behalf) to obligate such Guarantor on said guaranty, and resolution of its board of directors authorizing the making of such guaranty, together with a certificate of incumbency showing the signatures of the persons authorized to sign on its behalf, (b) current financial statements of Guarantor as may from time to time be requested by Landlord, (c) a Tenancy Statement, or (d) written confirmation that the guaranty is still in effect,

38. Quiet Possession. Upon payment by Tenant of the rent for the Premises and the performance of all of the covenants, conditions and provisions on Tenant's part to be observed and performed under this Lease, Tenant shall have quiet possession of the Premises for the entire term hereof subject to all of the provisions of this Lease.

39. Options.

39.1 Definition. As used in this Lease, the word **"Option"** has the following meaning: (a) the right to extend the term of this Lease or to renew this Lease or to extend or renew any lease that Tenant has on other property of Landlord; (b) the right of first refusal to lease the Premises or the right of first offer to lease the Premises or the right of first refusal to lease other property of Landlord or the right of first offer to lease other property of Landlord; (c) the right to purchase the Premises, or the right of first refusal to purchase the Premises, or the right of first offer to purchase the Premises, or the right to purchase other property of Landlord, or the right of first refusal to purchase other property of Landlord, or the right of first offer to purchase other property of Landlord.

39.2 Options Personal to Original Tenant. N/A

39.3 Multiple Options. In the event that Tenant has any multiple Options to extend or renew this Lease, a later option cannot be exercised unless the prior Options to extend or renew this Lease have been validly exercised.

39.4 Effect of Default on Options.

(a) Tenant shall have no right to exercise an Option, notwithstanding any provision in the grant of Option to the contrary: (i) during the period commencing with the giving of any notice of Default under Paragraph 13.1 and continuing until the noticed Default is cured, or (ii) during the period of time any monetary obligation due Landlord from Tenant is unpaid (without regard to whether notice thereof is given Tenant), or (iii) during the time Tenant is in Breach of this Lease, or (iv) in the event that Landlord has given to Tenant three (3) or more notices of separate Defaults under Paragraph 13.1 during the twelve (12) month period immediately preceding the exercise of the Option, whether or not the Defaults are cured.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise an Option because of the provisions of Paragraph 39.4(a)

(c) All rights of Tenant under the provisions of an Option shall terminate and be of no further force or effect, notwithstanding Tenant's due and timely exercise of the Option, if, after such exercise and during the term of this Lease, (i) Tenant fails to pay to Landlord a monetary obligation of Tenant for a period of thirty (30) days after such obligation becomes due (without any necessity of Landlord to give notice thereof to Tenant), or (ii) Landlord gives to Tenant three (3) or more notices of separate Defaults under Paragraph 13.1 during any twelve (12) month period, whether or not the Defaults are cured, or (iii) if Tenant commits a Breach of this Lease.

40. Rules and Regulations. Tenant agrees that it will abide by, and keep and observe all reasonable rules and regulations ("Rules and Regulations") which Landlord may make from time to time for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Shopping Center and their invitees.

41. Security Measures. Tenant hereby acknowledges that the rental payable to Landlord hereunder does not include the cost of guard service or other security measures, and that Landlord shall have no obligation whatsoever to provide same. Tenant assumes all responsibility for the protection of the Premises, Tenant, its agents and invitees and their property from the acts of third parties.

42. Reservations. Landlord reserves the right, from time to time, to grant, without the consent or joinder of Tenant, such easements, rights of way, utility raceways, and dedications that Landlord deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights of way, utility raceways, dedications, maps and restrictions do not reasonably interfere with the use of the Premises by Tenant. Tenant agrees to sign any documents reasonably requested by Landlord to effectuate any such easement rights, dedication, map or restrictions.

43. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

44. Authority. If either Party hereto is a corporation, trust, or general or limited partnership, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. If Tenant is a corporation, trust or partnership, Tenant shall, within thirty (30) days after request by Landlord, deliver to Landlord evidence satisfactory to Landlord of such authority.

45. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. Offer. Preparation of this Lease by either Landlord or Tenant or Landlord's agent or Tenant's agent and submission of same to Tenant or Landlord shall not be deemed an offer to lease. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. Amendments. This Lease may be modified only in writing, signed by the parties in interest at the time of the modification. The Parties shall amend this Lease from time to time to reflect any adjustments that are made to the Rent or other rent payable under this Lease. As long as they do not materially change Tenant's obligations hereunder, Tenant agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by an institutional insurance company or pension plan Lender in connection with the obtaining of normal financing or refinancing of the property of which the Premises are a part.

48. Multiple Parties. Except as otherwise expressly provided herein, if more than one person or entity is named herein as either Landlord or Tenant, the obligations of such multiple parties shall be the joint and several responsibilities of all persons or entities named herein as such Landlord or Tenant.

49. Additional Terms and Conditions: N/A

DocuSign Envelope ID: 30810921-773F-45A3-A07B-AE584647F5FE

Fulton Village, 1359 Fulton Avenue, Sacramento, CA 95825

Landlord: Beach Pine, LP

Tenant: Siroos Saifi and Daninaan LLC

Landlord and Tenant have carefully read and reviewed this lease and each term and provision contained therein, and by the execution of this lease show their informed and voluntary consent thereto. The parties hereby agree that, at the time this lease is executed, the terms of this lease are commercially reasonable and effectuate the intent and purpose of the Landlord and Tenant with respect to the premises.

If this lease has been filled in, it has been prepared for your attorney's review and approval. Further, experts should be consulted to evaluate the condition of the property for the possible presence of asbestos, underground storage tanks or hazardous substances. No representation or recommendation is made by the Landlord, or their contractors, agents, or employees as to the legal sufficiency, legal effect, or tax consequences of this lease or the transaction to which it relates; the parties shall relay solely upon the advice of their own counsel as to the legal and tax consequences of this lease.

The parties here to have executed this. Lease at the place and on the dates specified above their respective signatures.

Executed at: 6359 Auburn Blvd, Suite B
Citrus Heights, California, 95621

Date: 12/22/2021

By Agent for Landlord: Louis Sergi

Name Printed: Louis Sergi

Title: Property Manager

For: BEACH PINE, LP

Address: 6359 Auburn Blvd, Suite B
Citrus Heights, Ca 95621

Telephone: (916) 723-5111 - FAX (916) 676-0011

Executed at: 1359 Fulton Avenue
Sacramento, California 95825

Date: December 22, 2021

By Tenant:

Name: Siroos Saifi

Title: CEO

Address: 1200 Creekside Drive unit #1524
Folsom Ca. 95630

Telephone: (408)770-7097 FAX

Executed at: 1359 Fulton Avenue
Sacramento, California 95825

Date: December 22, 2021

By Tenant:

Name: Daninaan LLC

Title: CEO

Address: 1200 Creekside Drive Unit 1524
Folsom Ca 95630

Telephone (408)770-7097 FAX

Initials of Landlord/Agent: LS Initials of Tenant: Initials of Tenant: SS

DocuSign Envelope ID: 30810921-773F-45A3-A07B-AE584647F5FE

Fulton Village, 1359 Fulton Avenue Sacramento, CA 95825

Landlord: Beach Pine, LP

Tenant: Siroos Saifi and Daninaan LLC

Lease Abstract:

Landlord: Beach Pine, LP

Agent: LeFever Mattson Property Management

Tenant: Siroos Saifi and Daninaan LLC

Premises: 1359 Fulton Avenue, Sacramento, CA 95825

Square Feet: 2,450

Term: 63 Months

Commencement Date: February 1, 2022

Base Rent (Monthly): $3,063.00

Rent Schedule:

Months 1 through 3 **$0.00**

Months 4 through 12 ~~**$3,06.00**~~ $3,063.00 LS

Months 13 through 24 **$3,154.00**

Months 25 through 36 **$3,249.00**

Months 37 through 48 **$3,346.00**

Months 49 through 60 **$3,447.00**

Months 61 through 63 **$3,550.00**

Common Area Operating Expense Charges (Monthly): Included in the rent.

Security Deposit: $3,550

Additional Terms and Conditions: **Tenant will pay deposit and first month's rent upon execution of the lease.**

Initials of Landlord/Agent: . LS . . .Initials of Tenant: . . . . . Initials of Tenant: . . . SS . .. . .

Louis Sergi · Senior Real Estate Leasing / Tenant Relations Manager

917.648.4911
6359 Auburn Blvd. Suite B, Citrus Heights, CA 95621
Lsergi@lefevermattson.com | www.LeFeverMattson.com
<http://www.lefevermattson.com/>

On 7/31/21, 10:23 PM, "Siroos Saifi" <siroossaifi@icloud.com> wrote:

Hi Louis

This is Siroos Saifi. It was my pleasure talking to you the other day. As we spoke, I am interested in your property at 1359 Fulton Ave., Sacramento, CA 95825.

I'm planning to open and operate a bakery shop and if I do have enough space to sell few different kabob, shawarma and gyro. The bakery is mostly targeting Mediterranean and Persian community. I'm planning to install two bread making machines. One fully

automatic and one half automatic. I'm not interested to run a cafe.
If you need more information, please do not hesitate to contact me.
My Cell # 408-770-7097 Best regards Siroos Saifi
Sent from my iPhone

On Aug 2, 2021, at 11:42 AM, Louis Sergi <lsergi@lefevermattson.com> wrote:

Meet right out front of the unit at 8:30am.

My property manager Dena will be showing the unit. I have her contact below if you need to reach out.

Dena - (916) 792-4362

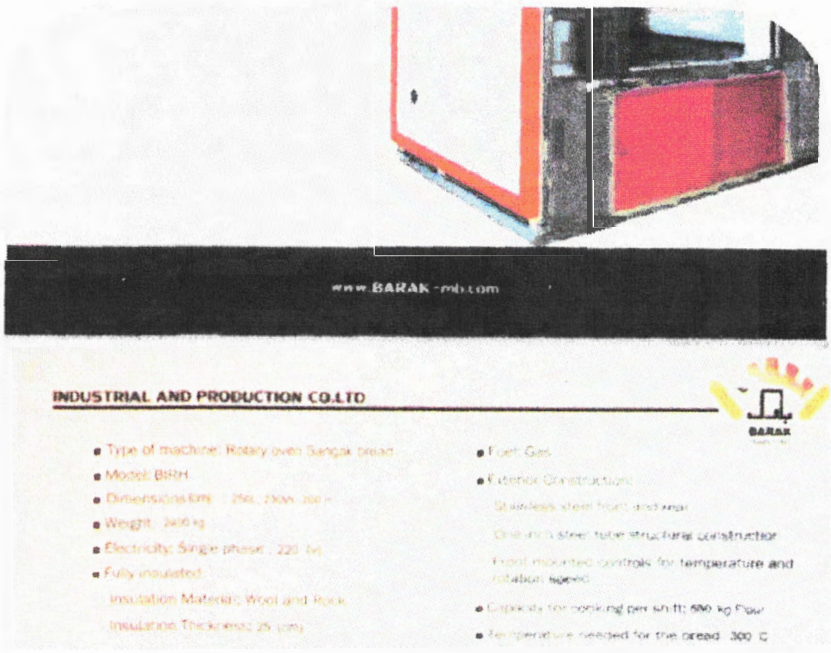
11:11 5GE

LS

Ok sour d

Louis >

Sep 15, 2021 at 6:19 PM




INDUSTRIAL AND PRODUCTION CO.LTD
BAKAR

FILED
Superior Court Of California,
Sacramento
10/24/2022
Mathera
By _____, Deputy
Case Number:
34-2022-00328810

YASHA RAHIMZADEH, ESQ. (SB #230487)
LAW OFFICES OF YASHA RAHIMZADEH
980 9th Street, 16th Floor
Sacramento, California 95814
Telephone: (916) 337-8066
Facsimile: (916) 446-7104
Email: yrlaw@attorneynorcal.com

Attorneys for Plaintiff,
SIROOS SAIFI and DANINAAN LLC

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

SIROOS SAIFI, an individual, and DANINAAN LLC., a California limited liability corporation,

Plaintiffs,

v.

BEACH PINE, LP, an California limited partnership, LEFEVER MATTSON, a California corporation, dba LEFEVER MATTSON PROPERTY MANAGEMENT, and DOES 1 through 50, inclusive,

Defendants.

Unlimited Civil

Case No.:

COMPLAINT FOR DAMAGES FOR:

1. **Breach of Contract;**
2. **Fraud;**
3. **Negligent Misrepresentation;**
4. **Intentional Infliction of Emotional Distress; and**
5. **Negligent Infliction of Emotional Distress.**

BY FAX

I.

JURISDICTION & PARTIES

Plaintiffs SIROOS SAIFI and DANINAAN LLC (hereinafter "Plaintiffs") allege as follows:

1. Plaintiff SIROOS SAIFI is an individual residing and conducting business in the County of Sacramento, State of California.

2. Plaintiff DANINAAN LLC is a limited liability corporation conducting business in the State of California and county of Sacramento.

3. Defendant BEACH PINE, LP is a limited partnership conducting business in the State of California and County of Sacramento.

4. LEFEVER MATTSON is a corporation conducting business in the State of California and county of Sacramento as LEFEVER MATTSON PROPERTY MANAGEMENT.

5. The causes of action which are the subject of this suit occurred and accrued in the County of Sacramento.

6. The true names and capacities, whether individual, corporate, associate, or otherwise of Defendants named herein as DOES 1 through 50, inclusive (collectively referred to as "DOES"), are unknown to Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the Defendants designated herein as a DOE is in some manner, means, or degree responsible for the matters and wrongs alleged in this Complaint. Plaintiff will ask leave of this court to amend this Complaint to show the true names and capacities of such Defendants when the same have been ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is indebted to Plaintiff as hereinafter alleged and that Plaintiff's rights against such fictitiously named Defendants arise from such indebtedness.

7. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, stand in the relations of master/servant, principal/agent, employer/employee, and/or co-conspirators to each of the other Defendants. Plaintiff is further informed and believes and thereon alleges that in doing the acts herein alleged, Defendants, and each of them, acted within the scope of their authority, agency, and employment, or their acts were with the prior authority or were subsequently ratified by their principals, or their acts were in furtherance of a conspiracy or in the case of corporate principals, by their managing agents, directors, and officers.

8. Plaintiff is formed, and believe, and allege that the Defendants, and each of them, entered into a partnership, employment, joint venture, or principal/agent relationship

to carry out the following acts. Defendants, and each of them, acted:

a. On their own behalf and on behalf of their employers, agents, partners, employers, principals, or joint venturers;

b. Within the course and scope of their employment, agency, joint venture, or partnership; and

c. With their employers, principals, joint venturers, partners, employees, or agents' authorization, direction, ratification, and adoption of their acts.

II.

GENERAL ALLEGATIONS

9. Plaintiff refers to Paragraphs 1 through 8 and incorporates them herein by reference.

10. On or about December 22, 2021, Plaintiffs and Defendants entered into a commercial lease agreement (hereinafter "Lease") for the Plaintiffs' use of the property located at 1359 Fulton Avenue, Sacramento, California 95825 ("Subject Property"). A true copy of such Lease is attached herewith as Exhibit "A".

11. During negotiations, between Plaintiffs and Defendants, prior to execution of the Lease, Defendants represented to Plaintiffs that the Subject Property had access to gas as a utility which Plaintiffs required to operate their bakery business at the Subject Property.

12. After executing the Lease, Plaintiffs discovered that the Subject Property did not in fact have access to gas as a utility.

13. Plaintiffs are informed and believe that Defendants entered into the Lease although they knew or should have known that the Subject Property did not have access to gas as a utility.

14. Pursuant to agreements, between the parties after execution of the Lease, Defendants represented that gas as a utility would be installed into the Subject Property for Plaintiffs' use.

15. To date, Defendants have failed to install gas as a utility into the Subject

Property.

16. As a result of Defendants' failure to install gas as a utility into the Subject Property, Plaintiffs' business has sufferred losses in an amount to be proven at trial but in no event less than the jurisdictional minimum in this case.

III.

FIRST CAUSE OF ACTION

(Breach of Contract)

17. Plaintiff incorporates herein each and every allegation contained in paragraphs 1 through 16 as though fully set forth herein.

18. Pursuant to agreements, between the parties after execution of the Lease, Defendants represented that gas as a utility would be installed into the Subject Property for Plaintiffs' use.

19. To date, Defendants have failed to install gas as a utility into the Subject Property.

20. As a result of Defendants' failure to install gas as a utility into the Subject Property, Plaintiffs' business has sufferred losses in an amount to be proven at trial but within the jurisdictional limits of this Court.

21. Plaintiffs have made a good faith to mitigate its damages but to date has been unable to do so.

22. Plaintiff have performed all the acts, services and conditions required on its part to be performed pursuant to the Lease and the agreements entered into after execution of the Lease or their performance has been excused.

23. Despite Plaintiffs' performance, Defendants breached the agreements entered into by the parties after execution of the Lease .

24. Although demand therefore has been made, Defendants have refused to perform under the terms of the agreements entered into by the parties after execution of the Lease .

25. Pursuant to Section 31 of the Lease, In an action or proceeding arising out

of the Lease, the prevailing party is entitled to attorneys fees and costs from the non-prevailing party.

26. As a result of the foregoing breaches as specified above, Plaintiffs have been damaged in the amount to be proven at trial but in no event less than the jurisdictional minimum in this case.

IV.

SECOND CAUSE OF ACTION

(Fraud)

27. Plaintiff incorporates herein each and every allegation contained in paragraphs 1 through 26 as though fully set forth herein.

28. Plaintiffs are informed and believe that Defendants entered into the Lease although they knew that the Subject Property did not have access to gas as a utility.

29. Had Defendants disclosed to Plaintiffs that the Subject Property did not have access to gas as a utility, Plaintiffs would not have entered into the Lease.

30. As a direct and proximate result of Defendants' actions, Plaintiffs have incurred damages in an amount subject to proof at trial but in no event less than the jurisdictional minimum in this case.

31. Defendants' actions were wilful, malicious, an oppressive within the meaning of California Civil Code 3294, justifying an award of punitive damages in amount according to proof at trial, in addition to any and all other damages and relief hereby sought.

V.

THIRD CAUSE OF ACTION

(Negligent Misrepresentation)

32. Plaintiff incorporates herein each and every allegation contained in paragraphs 1 through 31 as though fully set forth herein.

33. Plaintiffs are informed and believe that Defendants entered into the Lease although they should have known that the Subject Property did not have access to gas as a utility.

34. Had Defendants disclosed to Plaintiffs that the Subject Property did not have access to gas as a utility, Plaintiffs would not have entered into the Lease.

35. As a direct and proximate result of Defendants' actions, Plaintiffs have incurred damages in an amount subject to proof at trial but in no event less than the jurisdictional minimum in this case.

VI.

FOURTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

36. Plaintiff hereby incorporates by reference all of the allegations set forth in paragraphs 1-35, as though fully set forth herein.

37. Plaintiffs are informed and believe that Defendants entered into the Lease although they knew that the Subject Property did not have access to gas as a utility.

38. Defendants' actions were intentional or reckless in that they were designed to willfully cause Plaintiff SIROOS SAIFI emotional distress.

39. As a direct and proximate cause of Defendants' intentional or reckless conduct, Plaintiff SIROOS SAIFI suffered and continues to suffer severe emotional distress, and was forced to incur attorney's fees and court fees.

VII.

FIFTH CAUSE OF ACTION

(Negligent Infliction of Emotional Distress)

40. Plaintiff hereby incorporates by reference all of the allegations set forth in paragraphs 39, as though fully set forth herein.

41. Plaintiffs are informed and believe that Defendants entered into the Lease although they should have known that the Subject Property did not have access to gas as a utility.

42. Defendants' actions were negligent in that they failed to exercise the property duty of care imposed upon reasonable persons.

43. As a direct and proximate cause of Defendants' negligent conduct, Plaintiff

SIROOS SAIFI has suffered and continues to suffer severe emotional distress, and was forced to incur attorney's fees and court fees.

WHEREFORE, Plaintiffs prays for judgment against Defendants, and each of them, as follows:

1. For damages in an amount to be proven at trial;
2. For interest at the legal rate;
3. For costs of suit herein incurred;
4. For reasonable attorney's fees; and
5. For such other and further relief as the court may deem proper.

Dated: 10/21/24

LAW OFFICES OF YASHA RAHIMZADEH

By: _____
YASHA RAHIMZADEH
Attorney for Plaintiffs
SIROOS SAIFI and DANINAAN LLC

EXHIBIT C

(August 19 Production)

Dara Levinson Silveira
Direct: 415.364.6790
Cell: 415.735.5713
Email: dsilveira@kbkllp.com
101 Montgomery Street, Suite 1950
San Francisco, CA 94104

DocuSign Envelope ID: 30810921-773F-45A3-A07B-AE584647F5FE

LEASE

THE LANDLORD:
BACH PINE, LP

AGENT
LEFEVER MATTSON PROPERTY MANAGEMENT
6359 Auburn Boulevard, Suite B
Citrus Heights, CA 95621
Tel: 916.723.5111 Fax: 916.676.0011

THE TENANT:
SIROOS SAIFI AND DANINAAN LLC

1200 Creekside Dr. Apt
Folsom, CA 95630
Tel: 408-770-7097

1. Fundamental Provisions.

1.1 The Parties. As shown above as **"Landlord"** and **"Tenant"**

1.2 Lease Date. December 22, 2022

1.3 Premises. That certain portion of the ***Fulton Village*** shopping center, (Hereinafter called the **"Shopping Center".**) including all improvements therein or to be provided by Landlord under the terms of this Lease, commonly known by the street address of 1359 Fulton Avenue, Sacramento, California, 95825, and known hereinafter as the "Premises". The Premises is 2,450 square feet. The Shopping Center, which contains the Premises, is a retail center comprised of approximately 39,475 square feet.

In addition to Tenant's rights to use and occupy the Premises as hereinafter specified, Tenant shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.8 below) as hereinafter specified, but shall not have any rights to the roof, exterior walls or utility raceways of the Shopping Center. (Also see Paragraph 2.)

1.4 Term. The "term" of the lease shall be **63 months** **("Original Term")** commencing on the 1st day of February 2022 **("Commencement Date":)** and ending **April 30th, 2027. ("Expiration Date").** (Also see Paragraph 3.)

1.5 Lease Commencement. The lease will commence on February 1, 2022.

1.6 Rent. Initial Rent $3,063.00 per month, all monthly payments are payable on the first day of each month and shall be paid to **LeFever Mattson Property Management** at 6359 Auburn Boulevard, Suite B, Citrus Heights, CA 95621. **(See 4. Rent and 4.3 Rent Adjustments)**

1.7 Tenant's Share of Common Area Operating Expenses: 0% (Tenant's Share)

1.8 Security Deposit. $3,550.00 ("Security Deposit"). (Also see Paragraph 5.)

1.9 Permitted Use. A Persian bakery selling bread and other related bakery items. **("Permitted Use")** (Also see Paragraph 6.)

1.10 Insuring Party. Landlord is the **"Insuring Party."** (Also see Paragraph 8.)

1.11 Option To Renew The Lease. If Tenant is not in default under the terms of this lease, Tenant shall have an option to extend the terms of this lease for one (1) five (5) year period, upon the terms and conditions set forth in this lease. The rate for the option period shall be at current market rent at the time of exercising the option and no less than a 3% increase. Tenant shall exercise this option by delivering written notice to Landlord, no less than 180 days prior to the termination of the original term of this lease, of its election to extend the term thereof. Said notice shall be irrevocable. Failure by Tenant to provide said notice within the 180-day period specified herein, shall cause this option to automatically become null and void.

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1.12 First Right of Refusal. Intentionally Omitted.

1.13 Addenda and Exhibits. N/A

2. Premises, Parking and Common Areas.

2.1 Letting. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of square footage set forth in this Lease is an approximation which Landlord and Tenant agree is reasonable and the rental based thereon is not subject to revision whether or not the actual square footage is more or less.

2.2 Alterations to Premises by Tenant: Tenant shall be provided, by property owner, "Beach Pine, LP, a tenant improvement allowance in the amount of $2.04 (Two Dollars and four cents) per square foot ($4,998.00 total) ("TI Allowance").

(a) Tenant, at tenants own expense, may make changes, additions and improvements to the Premises provided that any change, addition or improvement shall:

1. Be made only with prior written consent of Landlord (which consent, except in case of changes, additions or improvements to the Premises which are structural, visible from the exterior of the Premises or materially and adversely affect (in Landlord's sole discretion) the base mechanical, electrical, plumbing and /or HVAC systems of the Building, shall not be unreasonably withheld, delayed or conditioned).

2. Comply with all applicable governmental and insurance company rules, regulations and requirements.

3. Equal or exceed the current construction standard for the Building.

4. Be performed by a licensed contractor first approved by and in accordance with regulations set forth by Landlord. If requested prior to commencing work, contractor will deliver to Landlord evidence if insurance coverage's in amounts and form satisfactory to Landlord. All work performed shall be done in such a manner as not to disturb or disrupt the operations of the Building or of any other tenants situated in the Building. Following completion of any changes, additions or improvements, Tenant shall furnish Landlord with current "as-built" drawings and specifications for the Premises reflecting such changes, additions or improvements made to the Premises.

Any increase in real estate taxes or insurance premiums on the Building attributable to such change, addition or improvement shall be paid by Tenant as additional rent.

(b) **Alterations by Tenant** – ADA Compliance. Without limiting any other provisions of this Lease, Tenant shall with use of TI Allowance and/or at tenants own expense, (but subject to Landlord's prior written approval, which shall not be unreasonably withheld), make each and every alteration or addition to the Premises required to bring the Premises into compliance with the requirements imposed by the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and any regulations promulgated pursuant thereto effective from time to time during the term of this Lease, and any period of holding over by Tenant ("ADA Requirements"), if

1. The requirement for such alteration or addition arises as a result of:

a. Any alteration or addition by Tenant

b. Any violation by Tenant of any ADA Requirements

c. A special use of the Premises or any part thereof by Tenant or any assignee or subtenant to Tenant (including but not limited to use for a facility which

constitutes, or if open to the public generally would constitute, a "place public accommodation" under the ADA Requirements)

d. The special needs of the employee(s) of Tenant or any assignee or subtenant of Tenant

2. The ADA Requirements would otherwise make Tenant rather than Landlord primarily responsible for making such alteration or addition.

2.3 Condition. Landlord shall deliver the Premises to Tenant clean and free of debris on the Commencement Date and warrants to Tenant that the existing plumbing, electrical systems, fire sprinkler system, lighting, air conditioning and heating systems and loading doors, if any, in the Premises, other than those constructed by Tenant, shall be in good operating condition on the Commencement Date.. If a non-compliance with said warranty exists as of the Commencement Date, Landlord shall, except as otherwise provided in this Lease, promptly after receipt of written notice from Tenant setting forth with specificity the nature and extent of such non-compliance, rectify same at Landlord's expense. If Tenant does not give Landlord written notice of a non-compliance with this warranty within thirty (30) days after the commencement date, correction of that non-compliance shall be the obligation of Tenant at Tenant's sole cost and expense.

2.3 (a) Landlord Improvements / Modifications. Landlord agrees to modify the premises in the following manner: AS IS.

2.4 Compliance with Covenants, Restrictions and Building Code. Landlord warrants that any improvements (other than those constructed by Tenant or at Tenant's direction) on or in the Premises which have been constructed or installed by Landlord or with Landlord's consent or at Landlord's direction shall comply with all applicable covenants or restrictions of record and applicable building codes, regulations and ordinances in effect on the Commencement Date. Landlord further warrants to Tenant that Landlord has no knowledge of any claim having been made by any governmental agency that a violation or violations of applicable building codes, regulations, or ordinances exist with regard to the Premises as of the Commencement Date. Said warranties shall not apply to any Alterations or Utility Installations (defined in Paragraph 7.3(a)) made or to be made by Tenant. If the Premises do not comply with said warranties, Landlord shall, except as otherwise provided in this Lease, promptly after receipt of written notice from Tenant given within six (6) months following the Commencement Date and setting forth with specificity the nature and extent of such non-compliance, take such action, at Landlord's expense, as may be reasonable or appropriate to rectify the non-compliance. Landlord makes no warranty that the Permitted Use in Paragraph 1.8 is permitted for the Premises under Applicable Laws (as defined in Paragraph 2.4).

2.5 Acceptance of Premises. Tenant hereby acknowledges: (a) that it has been advised by the Broker(s) to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical and fire sprinkler systems, security, environmental aspects, seismic and earthquake requirements, and compliance with the Americans with Disabilities Act and applicable zoning, municipal, county, state and federal laws, ordinances and regulations and any covenants or restrictions of record (collectively, "Applicable Laws") and the present and future suitability of the Premises for Tenant's intended use; (b) that Tenant has made such investigation as it deems necessary with reference to such matters, is satisfied with reference thereto, and assumes all responsibility therefore as the same relate to Tenant's occupancy of the Premises and/or the terms of this Lease; and (c) that neither Landlord, nor any of Landlord's agents, has made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease.

2.6 Alterations by Landlord: Landlord may make any repairs, alterations or improvements which Landlord deems necessary or advisable for the preservation, safety or improvement of the Building or the Premises.

2.7 Parking. The Tenants and their employees shall not park their vehicles adjacent to any of the buildings within the Shopping Center, but shall park their vehicles only in those places provided along Fulton Ave or in middle section of the lot. Said parking spaces shall be used for parking by vehicles no larger than full-sized passenger automobiles or pick-up trucks, herein called **"Permitted Size Vehicles"**. Vehicles other than Permitted Size Vehicles shall be parked and loaded or unloaded as directed by Landlord in the Rules and Regulations (as defined in Paragraph 40) issued by Landlord. (Also see Paragraph 2.9.)

2.7 (a) Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Landlord for such activities.

2.7 (b) If Tenant permits or allows any of the prohibited activities described in this Paragraph 2.7, then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord.

2.7 (c) Landlord shall at the Commencement Date of this Lease, provide the parking facilities required by Applicable Law.

2.8 Common Areas-Definition. The term **"Common Areas"** is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Shopping Center and interior utility raceways within the Premises that are provided and designated by the Landlord from time to time for the general nonexclusive use of Landlord, Tenant and other Tenants of the Shopping Center and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, parkways, driveways and landscaped areas.

2.9 (a) Common Areas-Tenant's Rights. Landlord hereby grants to Tenant, for the benefit of Tenant and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Landlord under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Shopping Center. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently in the Common Areas. Any such storage shall be permitted only by the prior written consent of Landlord or Landlord's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord. Landlord gives permission to the Tenant to use the patio with the following conditions: 1. Tenant has received permission from the City of Folsom and 2. Tenant is current in the lease.

2.9 (b) Common Areas-Rules and Regulations. Landlord or such other person(s) as Landlord may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable Rules and Regulations with respect thereto in accordance with Paragraph 40. Tenant agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Landlord shall not be responsible to Tenant for the non-compliance with said rules and regulations by other Tenants of the Shopping Center.

2.10 Common Areas-Changes. Landlord shall have the right, in Landlord's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Shopping Center to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Shopping Center, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Shopping Center as Landlord may, in the exercise of sound business judgment, deem to be appropriate.

2.11 "Like Tenant" Exclusion. N/A

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. If an Early Possession Date is specified in Paragraph 1.4 and if Tenant totally or partially occupies the Premises after the Early Possession Date but prior to the Commencement Date, the obligation to pay Rent shall be abated for the period of such early occupancy. All other terms of this Lease, however, (including but not limited to the obligations to carry the insurance required by Paragraph 8) shall be in effect during such period. Any such early possession shall not affect nor advance the Expiration Date of the Original Term.

3.3 Delay In Possession. If for any reason Landlord cannot deliver possession of the Premises to Tenant by the Early Possession Date, if one is specified in Paragraph 1.4, or if no Early Possession Date is specified, by the Commencement Date, Landlord shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease, or the obligations of Tenant hereunder, or extend the term hereof, but in such case, Tenant shall not, except as otherwise provided herein, be obligated to pay rent or perform any other obligation of Tenant under the terms of this Lease until Landlord delivers possession of the Premises to Tenant. If possession of the Premises is not delivered to Tenant within sixty (60) days after the Commencement Date, Tenant may, at its option, by notice in writing to Landlord within ten (10) days after the end of said sixty (60) day period, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder; provided further, however, that if such written notice of Tenant is not received by Landlord within said ten (10) day period, Tenant's right to cancel this Lease hereunder shall terminate and be of no further force or effect. Except as may be otherwise provided, and regardless of when the Original Term actually commences, if possession is not tendered to Tenant when required by this Lease and Tenant does not terminate this Lease, as aforesaid, the period free of the obligation to pay Rent, if any, that Tenant would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to the period during which the Tenant would have otherwise enjoyed under the terms hereof, but minus any days of delay caused by the acts, changes or omissions of Tenant.

4. Rent.

4.1 Rent. Tenant shall pay Rent according to the Schedule in **[1.5 Rent]** in lawful money of the United States, without offset or deduction, on or before the day on which it is due under the terms of this Lease.

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Rent and all other charges for any period during the term hereof which is for less than one full month shall be prorated based upon the actual number of days of the month involved. Payment of Rent and other charges shall be made to Landlord at its address stated herein or to such other persons or at such other addresses as Landlord may from time to time designate in writing to Tenant.

4.2 Intentionally Omitted

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4.3 Rent Adjustments:

Months 1 through 3 $0.00

Months 4 through 12 $3,063.00

Months 13 through 24 $3,154.00

Months 25 through 36 $3,249.00

Months 37 through 48 $3,346.00

Months 49 through 60 $3,447.00

Months 61 through 63 $3,550.00

5. Security Deposit. Tenant shall deposit with Landlord upon Tenant's execution hereof the Security Deposit set forth in Paragraph 1.7 as security for Tenant's faithful performance of Tenant's obligations under this Lease. If Tenant fails to pay Rent or other rent or charges due hereunder, or otherwise Defaults under this Lease (as defined in Paragraph 13.1), Landlord may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Landlord or to reimburse or compensate Landlord for any liability, cost, expense, loss or damage (including attorneys' fees) which Landlord may suffer or incur by reason thereof. If Landlord uses or applies all or any portion of said Security Deposit, Tenant shall within ten (10) days after written request therefore deposit monies with Landlord sufficient to restore said Security Deposit to the full amount required by this Lease. Any time the Rent increases during the term of this Lease, Tenant shall, upon written request from Landlord, deposit additional monies with Landlord as an addition to the Security Deposit so that the total amount of the Security Deposit shall at all times bear the same proportion to the then current Rent as the initial Security Deposit bears to the initial Rent set forth in Paragraph 1.5. Landlord shall not be required to keep all or any part of the Security Deposit separate from its general accounts. Landlord shall, at the expiration or earlier termination of the term hereof and after Tenant has vacated the Premises, return to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest herein), that portion of the Security Deposit not used or applied by Landlord. Unless otherwise expressly agreed in writing by Landlord, no part of the Security Deposit shall be considered to be held in trust, to bear interest or other increment for its use, or to be prepayment for any monies to be paid by Tenant under this Lease.

6. Use.

6.1 Permitted Use.

(a) Tenant shall use and occupy the Premises only for the Permitted Use set forth in Paragraph 1.8, or any other legal use which is reasonably comparable thereto, and for no other purpose. Tenant shall not use or permit the use of the Premises in a manner that is unlawful, creates waste or a nuisance, or that disturbs owners and/or occupants of, or causes damage to the Premises or neighboring premises or properties.

(b) Landlord hereby agrees to not unreasonably withhold or delay its consent to any written request by Tenant, Tenant's assignees or subtenants, and by prospective assignees and subtenants of Tenant, its assignees and subtenants, for a modification of said Permitted Use, so long as the same will not impair the structural integrity of the improvements on the Premises or in the Building or the mechanical or electrical systems therein, does not conflict with uses by other Tenants, is not significantly more burdensome to the Premises or the Building and the improvements thereon, and is otherwise permissible pursuant to this Paragraph 6. If Landlord elects to withhold such consent,

Landlord shall within five (5) business days after such request give a written notification of same, which notice shall include an explanation of Landlord's reasonable objections to the change in use.

6.2 Hazardous Substances.

(a) Reportable Uses Require Consent. The term **"Hazardous Substance"** as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substance shall include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products or by-products thereof. Tenant shall not engage in any activity in or about the Premises which constitutes a Reportable Use (as hereinafter defined) of Hazardous Substances without the express prior written consent of Landlord and compliance in a timely manner (at Tenant's sole cost and expense) with all Applicable Requirements (as defined in Paragraph 6.3). **"Reportable Use"** shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and (iii) the presence in, on or about the Premises of a Hazardous Substance with respect to which any Applicable Laws require that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Tenant may, without Landlord's prior consent, but upon notice to Landlord and in compliance with all Applicable Requirements, use any ordinary and customary materials reasonably required to be used by Tenant in the normal course of the Permitted Use, so long as such use is not a Reportable Use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage or expose Landlord to any liability therefor. In addition, Landlord may (but without any obligation to do so) condition its consent to any Reportable Use of any Hazardous Substance by Tenant upon Tenant's giving Landlord such additional assurances as Landlord, in its reasonable discretion, deems necessary to protect itself, the public, the Premises and the environment against damage, contamination or injury and/or liability therefor, including but not limited to the installation (and, at Landlord's option, removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasements) and/or the deposit of an additional Security Deposit under Paragraph 5 hereof.

(b) Duty to Inform Landlord. If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises or the Building, other than as previously consented to by Landlord, Tenant shall immediately give Landlord written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action, or proceeding given to, or received from, any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to, such Hazardous Substance including but not limited to all such documents as may be involved in any Reportable Use involving the Premises. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under or about the Premises (including, without limitation, through the plumbing or sanitary sewer system).

(c) Indemnification. Tenant shall indemnity, protect, defend and hold Landlord, its agents, employees, lenders and ground Landlord, if any, and the Premises, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto

the Premises by or for Tenant or by anyone under Tenant's control. Tenant's obligations under this Paragraph 6.2(c) shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Tenant, and the cost of investigation (including consultants' and attorneys' fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved, and shall survive the expiration or earlier termination of this Lease. No termination, cancellation or release agreement entered into by Landlord and Tenant shall release Tenant from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Landlord in writing at the time of such agreement.

6.3 Tenant's Compliance with Requirements. Tenant shall, at Tenant's sole cost and expense, fully, diligently and in a timely manner, comply with all "**Applicable Requirements**," which term is used in this Lease to mean all laws, rules, regulations, ordinances, directives, covenants, easements and restrictions of record, permits, the requirements of any applicable fire insurance underwriter or rating bureau, relating in any manner to the Premises (including but not limited to matters pertaining to (i) industrial hygiene, (ii) environmental conditions on, in, under or about the Premises, including soil and groundwater conditions, and (iii) the use, generation, manufacture, production, installation, maintenance, removal, transportation, storage, spill, or release of any Hazardous Substance), now in effect or which may hereafter come into effect. Tenant shall, within five (5) days after receipt of Landlord's written request, provide Landlord with copies of all documents and information, including but not limited to permits, registrations, manifests, applications, reports and certificates, evidencing Tenant's compliance with any Applicable Requirements specified by Landlord, and shall immediately upon receipt, notify Landlord in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving failure by Tenant or the Premises to comply with any Applicable Requirements.

6.4 Inspection; Compliance with Law. Landlord, Landlord's agents, employees, contractors and designated representatives, and the holders of any mortgages, deeds of trust or ground leases on the Premises ("**Lenders**") shall have the right to enter the Premises at any time in the case of an emergency, and otherwise at reasonable times, with 24 hour notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Tenant with this Lease and all Applicable Requirements (as defined in Paragraph 6.3), and Landlord shall be entitled to employ experts and/or consultants in connection therewith to advise Landlord with respect to Tenant's activities, including but not limited to Tenant's installation, operation, use, monitoring, maintenance, or removal of any Hazardous Substance on or from the Premises. The costs and expenses of any such inspections shall be paid by the party requesting same, unless a Default or Breach of this Lease by Tenant or a violation of Applicable Requirements or a contamination, caused or materially contributed to by Tenant, is found to exist or to be imminent, or unless the inspection is requested or ordered by a governmental authority as the result of any such existing or imminent violation or contamination. In such case, Tenant shall upon request reimburse Landlord or Landlord's Lender, as the case may be, for the costs and expenses of such inspections.

7. Maintenance, Repairs, Utility Installations, Trade Fixtures and Alterations.

7.1 Tenant's Obligations.

(a) Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance with Covenants, Restrictions and Building Code), 7.2 (Landlord's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Tenant shall, at Tenant's sole cost and expense and at all times, keep the Premises and every part thereof in good order, condition and repair (whether or not such portion of the Premises requiring repair, or the means of repairing the same, are reasonably or readily accessible to Tenant, and whether or not the need for such repairs occurs as a result of Tenant's use, any prior use, the elements or the age of such portion of the Premises), including, without limiting the

generality of the foregoing, all equipment or facilities specifically serving the Premises, such as plumbing, heating, air conditioning, ventilating, electrical, lighting facilities, boilers, fired or unfired pressure vessels, fire hose connections if within the Premises, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights, but excluding any items which are the responsibility of Landlord pursuant to Paragraph 7.2 below. Tenant, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices. Tenant's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) Tenant shall, at Tenant's sole cost and expense, procure and maintain a contract, with copies to Landlord, in customary form and substance for and with a contractor specializing and experienced in the inspection, maintenance and service of the heating, air conditioning and ventilation system for the Premises. However, Landlord reserves the right, upon notice to Tenant, to procure and maintain the contract for the heating, air conditioning and ventilating systems, and if Landlord so elects, Tenant shall reimburse Landlord, upon demand, for the cost thereof.

(c) If Tenant fails to perform Tenant's obligations under this Paragraph 7.1, Landlord may enter upon the Premises after ten (10) days' prior written notice to Tenant (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Tenant's behalf, and put the Premises in good order, condition and repair, in accordance with Paragraph 13.2 below.

7.2 Landlord's Obligations. Subject to the provisions of Paragraphs 2.3 (Condition), 2.4 (Compliance with Covenants, Restrictions and Building Code), 1.6 (Common Area Operating Expenses), 6 (Use), 7.1 (Tenant's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Landlord, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler and/or standpipe and hose (if located in the Common Areas) or other automatic fire extinguishing system including fire alarm and/or smoke detection systems and equipment, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Landlord shall not be obligated to paint the interior surfaces of exterior walls nor shall Landlord be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Landlord will not be responsible for maintenance or replacement of any equipment affixed to the premises.

7.3 Utility Installations, Trade Fixtures, Alterations.

(a) Definitions; Consent Required. The term **"Utility Installations"** is used in this Lease to refer to all air lines, power panels, electrical distribution, security, fire protection systems, communications systems, lighting fixtures, heating, ventilating and air conditioning equipment, plumbing, and fencing in, on or about the Premises. The term **"Trade Fixtures"** shall mean Tenant's machinery and equipment which can be removed without doing material damage to the Premises. The term **"Alterations"** shall mean any modification of the improvements on the Premises which are provided by Landlord under the terms of this Lease, other than Utility installations or Trade Fixtures. **"Tenant-Owned Alterations"** and/or **"Utility Installations"** are defined as Alterations and/or Utility installations made by Tenant that are not yet owned by Landlord pursuant to Paragraph 7.4(a). Tenant shall not make nor cause to be made any Alterations or Utility Installations in, on, under or about the Premises without Landlord's prior written consent. Tenant may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without Landlord's consent but upon notice to Landlord so long as they are not visible from the outside of the Premises, do not involve puncturing, relocating or removing the roof or any existing walls, or changing or interfering with the fire sprinkler or fire detection systems and the cumulative cost thereof during the term of this Lease as extended does not exceed $2,500.00.

(b) Consent. Any Alterations or Utility Installations that Tenant shall desire to make and which require the consent of the Landlord shall be presented to Landlord in written form with detailed plans. All consents given by Landlord, whether by virtue of Paragraph 7.3(a) or by subsequent specific consent, shall be deemed conditioned upon: (i) Tenant's acquiring all applicable permits required by governmental authorities; (ii) the furnishing of copies of such permits together with a copy of the plans and specifications for the Alteration or Utility Installation to Landlord prior to commencement of the work thereon; and (iii) the compliance by Tenant with all conditions of said permits in a prompt and expeditious manner. Any Alterations or Utility Installations by Tenant during the term of this Lease shall be done in a good and workmanlike manner, with good and sufficient materials, and be in compliance with all Applicable Requirements. Tenant shall promptly upon completion thereof furnish Landlord with as-built plans and specifications therefor. Landlord may, (but without obligation to do so) condition its consent to any requested Alteration or Utility Installation that costs $2,500.00 or more upon Tenant's providing Landlord with a lien and completion bond in an amount equal to one and one-half times the estimated cost of such Alteration or Utility Installation.

(c) Lien Protection. Tenant shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use on the Premises, which claims are or may be secured by any mechanic's or material men's lien against the Premises or any interest therein. Tenant shall give Landlord not less than ten (10) days' notice prior to the commencement of any work in, on, or about the Premises, and Landlord shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Tenant shall, in good faith, contest the validity of any such lien, claim or demand, then Tenant shall, at its sole expense, defend and protect itself, Landlord and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Landlord or the Premises. If Landlord shall require, Tenant shall furnish to Landlord a surety bond satisfactory to Landlord in an amount equal to one and one-half times the amount of such contested lien claim or demand, indemnifying Landlord against liability for the same, as required by law for the holding of the Premises free from the effect of such lien or claim. In addition, Landlord may require Tenant to pay Landlord's attorneys' fees and costs in participating in such action if Landlord shall decide it is to its best interest to do so.

7.4 Ownership, Removal, Surrender, and Restoration.

(a) Ownership. Subject to Landlord's right to require their removal and to cause Tenant to become the owner thereof as hereinafter provided in this Paragraph 7.4, all Alterations and Utility Installations made to the Premises by Tenant shall be the property of and owned by Tenant, but considered a part of the Premises. Landlord may, at any time and at its option, elect in writing to Tenant to be the owner of all or any specified part of the Tenant-Owned Alterations and Utility Installations. Unless otherwise instructed per Subparagraph 7.4(b) hereof, all Tenant-Owned Alterations and Utility Installations shall, at the expiration or earlier termination of this Lease, become the property of Landlord and remain upon the Premises and be surrendered with the Premises by Tenant.

(b) Removal. Unless otherwise agreed in writing, Landlord may require that any or all Tenant-Owned Alterations or Utility Installations be removed by the expiration or earlier termination of this Lease, notwithstanding that their installation may have been consented to by Landlord. Landlord may require the removal at any time of all or any part of any Alterations or Utility Installations made without the required consent of Landlord.

(c) Surrender/Restoration. Tenant shall surrender the Premises by the end of the last day of the Lease term or any earlier termination date, clean and free of debris and in good operating order, condition and state of repair, ordinary wear and tear excepted. Ordinary wear and tear shall not

include any damage or deterioration that would have been prevented by good maintenance practice or by Tenant performing all of its obligations under this Lease. Except as otherwise agreed or specified herein, the Premises, as surrendered, shall include the Alterations and Utility Installations. The obligation of Tenant shall include the repair of any damage occasioned by the installation, maintenance or removal of Tenant's Trade Fixtures, furnishings, equipment, and Tenant-Owned Alterations and Utility Installations, as well as the removal of any storage tank installed by or for Tenant, and the removal replacement, or remediation of any soil, material or ground water contaminated by Tenant, all as may then be required by Applicable Requirements and/or good practice. Tenant's Trade Fixtures shall remain the property of Tenant and shall be removed by Tenant subject to its obligation to repair and restore the Premises per this Lease.

8. Insurance; Indemnity.

8.1 Payment of Premium Increases:

(a) NA

(b) The Landlord shall pay any Insurance Cost Increase, at no cost to the Tenant.

8.2 Liability Insurance.

(a) Carried by Tenant. Tenant shall obtain and keep in force during the term of this Lease a Commercial General Liability policy of insurance protecting Tenant, Landlord and any Lenders) whose names have been provided to Tenant in writing (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an "Additional Insured-Managers or Landlords of Premises" endorsement and contain the "Amendment of the Pollution Exclusion" endorsement for damage caused by heat, smoke or fumes from a hostile tire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an **"Insured contract"** for the performance of Tenant's indemnity obligations under this Lease. The limits of said insurance required by this Lease or as carried by Tenant shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.

(b) Carried by Landlord. Landlord shall also maintain liability insurance described in Paragraph 8.2(a) above, in addition to and not in lieu of, the insurance required to be maintained by Tenant. Tenant shall not be named as an additional insured therein.

8.3 Property-Insurance-Building, Improvements and Rental Value.

(a) Building and Improvements. Landlord shall obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and to any Lender(s), insuring against loss or damage to the Premises. Such insurance shall be for full replacement cost, as the same shall exist from time to time, or the amount required by any Lender(s), but in no event more than the commercially reasonable and available insurable value thereof if, by reason of the unique nature or age of the improvements involved, such latter amount is less than full replacement cost. Tenant-Owned Alterations and Utility Installations, Trade Fixtures and Tenant's personal property shall be insured by Tenant pursuant to Paragraph 8.4. If the coverage is available and commercially appropriate, Landlord's policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender or included in the Base Premium), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the

enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of the Building required to be demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered loss, but not including plate glass insurance. Said policy or policies shall also contain an agreed valuation provision in lieu of any co-insurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located.

(b) Rental Value. Landlord shall also obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and any Lender(s), insuring the loss of the full rental and other charges payable by all Tenants of the Building to Landlord for one year (including all Real Property Taxes, insurance costs, all Common Area Operating Expenses and any scheduled rental increases). Said insurance may provide that in the event the Lease is terminated by reason of an insured loss, the period of indemnity for such coverage shall be extended beyond the date of the completion of repairs or replacement of the Premises, to provide for one full year's loss of rental revenues from the date of any such loss. Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected rental income, Real Property Taxes, insurance premium costs and other expenses, if any, otherwise payable, for the next 12-month period. Common Area Operating Expenses shall include any deductible amount in the event of such loss.

(c) Adjacent Premises. Tenant shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Shopping Center if said increase is caused by Tenant's acts, omissions, use or occupancy of the Premises.

(d) Tenant's Improvements. Since Landlord is the insuring Party, Landlord shall not be required to insure Tenant-Owned Alterations and Utility Installations unless the item in question has become the property of Landlord under the terms of this Lease.

8.4 Tenant's Property Insurance. Subject to the requirements of Paragraph 8.5, Tenant at its cost shall either by separate policy or, at Landlord's option, by endorsement to a policy already carried, maintain insurance coverage on all of Tenant's personal property, Trade Fixtures and Tenant-Owned Alterations and Utility Installations in, on, or about the Premises similar in coverage to that carried by Landlord as the Insuring Party under Paragraph 8.3(a). Such insurance shall be full replacement cost coverage with a deductible not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Tenant for the replacement of personal property and the restoration of Trade Fixtures and Tenant-Owned Alterations and Utility Installations. Upon request from Landlord, Tenant shall provide Landlord with written evidence that such insurance is in force.

8.5 Insurance Policies. Insurance required hereunder shall be in companies duly licensed to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, or such other rating as may be required by a Lender, as set forth in the most current issue of "Best's Insurance Guide." Tenant shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Paragraph 8. Tenant shall cause to be delivered to Landlord from the Early Possession Date or the Commencement Date, certified copies of, or certificates evidencing the existence and amounts of, the insurance required under Paragraph 8.2(a) and 8.4. No such policy shall be cancelable or subject to modification except after thirty (30) days' prior written notice to Landlord. Tenant shall at least thirty (30) days prior to the expiration of such policies, furnish Landlord with evidence of renewals or "insurance binders" evidencing renewal thereof, or Landlord may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Tenant and Landlord each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for loss or damage to their property arising out of or incident to the perils required to be insured against under Paragraph 8. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto. Landlord and Tenant agree to have their respective insurance companies issuing property damage insurance waive any right to subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Landlord's negligence and/or breach of express warranties, Tenant shall indemnity, protect, defend and hold harmless the Premises, Landlord and its agents, Landlord's master or ground Landlord, partners and Lenders, from and against any and all claims, loss of rents and/or damages, costs, liens, judgments, penalties, loss of permits, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the occupancy of the Premises by Tenant, the conduct of Tenant's business, any act, omission or neglect of Tenant, its agents, contractors, employees or invitees, and out of any Default or Breach by Tenant in the performance in a timely manner of any obligation on Tenant's part to be performed under this Lease. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not (in the case of claims made against Landlord) litigated and/or reduced to judgment. In case any action or proceeding be brought against Landlord by reason of any of the foregoing matters, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such claim in order to be so indemnified.

9. Damage or Destruction.

9.1 Definitions.

(a) "Premises Partial Damage" shall mean damage or destruction to the Premises, other than Tenant-Owned Alterations and Utility Installations, the repair cost of which damage or destruction is less than fifty percent (50%) of the then Replacement Cost (as defined in Paragraph 9.1 (d)) of the Premises (excluding Tenant-Owned Alterations and Utility Installations and Trade Fixtures) immediately prior to such damage or destruction.

(b) "Premises Total Destruction" shall mean damage or destruction to the Premises, other than Tenant-Owned Alterations and Utility Installations, the repair cost of which damage or destruction is fifty percent (50%) or more of the then Replacement Cost of the Premises (excluding Tenant-Owned Alterations and Utility Installations and Trade Fixtures) immediately prior to such damage or destruction. In addition, damage or destruction to the Building, other than Tenant Owned Alterations and Utility Installations and Trade Fixtures of any Tenants of the Building, the cost of which damage or destruction is fifty percent (50%) or more of the then Replacement Cost (excluding Tenant-Owned Alterations and Utility Installations and Trade Fixtures of any Tenants of the Building) of the Building shall, at the option of Landlord, be deemed to be Premises Total Destruction.

(c) "Insured Loss" shall mean damage or destruction to the Premises, other than Tenant-Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a) irrespective of any deductible amounts or coverage limits involved.

(d) "Replacement Cost" shall mean the cost to repair or rebuild the improvements owned by Landlord at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of applicable building codes, ordinances or laws, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises.

9.2 Premises Partial Damage-Insured Loss. If Premises Partial Damage that is an Insured Loss occurs, then Landlord shall, at Landlord's expense, repair such damage (but not Tenant's Trade Fixtures or Tenant-Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect. In the event, however, that there is a shortage of insurance proceeds and such shortage is due to the fact that, by reason of the unique nature of the improvements in the Premises, full replacement cost insurance coverage was not commercially reasonable and available, Landlord shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Tenant provides Landlord with the funds to cover same, or adequate assurance thereof, within ten (10) days following receipt of written notice of such shortage and request therefor. If Landlord receives said funds or adequate assurance thereof within said ten (10) day period, Landlord shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If Landlord does not receive such funds or assurance within said period, Landlord may nevertheless elect by written notice to Tenant within ten (10) days thereafter to make such restoration and repair as is commercially reasonable with Landlord paying any shortage in proceeds, in which case this Lease shall remain in full force and effect. If Landlord does not receive such funds or assurance within such ten (10) day period, and if Landlord does not so elect to restore and repair, then this Lease shall terminate sixty (60) days following the occurrence of the damage or destruction. Unless otherwise agreed, Tenant shall in no event have any right to reimbursement from Landlord for any funds contributed by Tenant to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3 rather than Paragraph 9.2, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage-Uninsured Loss. If Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Tenant (in which event Tenant shall make the repairs at Tenant's expense and this Lease shall continue in full force and effect), Landlord may at Landlord's option, either (i) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within thirty (30) days after receipt by Landlord of knowledge of the occurrence of such damage of Landlord's desire to terminate this Lease as of the date sixty (60) days following the date of such notice. In the event Landlord elects to give such notice of Landlord's intention to terminate this Lease, Tenant shall have the right within ten (10) days after the receipt of such notice to give written notice to Landlord of Tenant's commitment to pay for the repair of such damage totally at Tenant's expense and without reimbursement from Landlord. Tenant shall provide Landlord with the required funds or satisfactory assurance thereof within thirty (30) days following such commitment from Tenant. In such event this Lease shall continue in full force and effect, and Landlord shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Tenant does not give such notice and provide the funds or assurance thereof within the times specified above, this Lease shall terminate as of the date specified in Landlord's notice of termination.

9.4 Total Destruction. Notwithstanding any other provision hereof, if Premises Total Destruction occurs (including any destruction required by any authorized public authority), this Lease shall terminate sixty (60) days following the date of such Premises Total Destruction, whether or not the damage or destruction is an Insured Loss or was caused by a negligent or willful act of Tenant. In the event, however, that the damage or destruction was caused by Tenant, Landlord shall have the right to recover Landlord's damages from Tenant except as released and waived in Paragraph 9.7.

9.5 Damage Near End of Term. If at any time during the last six (6) months of the term of this Lease there is damage for which the cost to repair exceeds one month's Rent, whether or not an Insured Loss, Landlord may, at Landlord's option, terminate this Lease effective sixty (60) days following the date of occurrence of such damage by giving written notice to Tenant of Landlord's election to do so within thirty (30) days after the date

of occurrence of such damage. Provided, however, if Tenant at that time has an exercisable option to extend this Lease or to purchase the Premises, then Tenant may preserve this Lease by (a) exercising such option, and (b) providing Landlord with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is ten (10) days after Tenant's receipt of Landlord's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. It Tenant duly exercises such option during such period and provides Landlord with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Landlord shall, at Landlord's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Tenant fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate as of the date set forth in the first sentence of this Paragraph 9.5.

9.6 Abatement of Rent; Tenant's Remedies.

(a) In the event of (i) Premises Partial Damage or (ii) Hazardous Substance Condition for which Tenant is not legally responsible, the Rent, Common Area Operating Expenses and other charges, if any, payable by Tenant hereunder for the period during which such damage or condition, its repair, remediation or restoration continues, shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired, but not in excess of proceeds from insurance required to be carried under Paragraph 8.3(b). Except for abatement of Rent, Common Area Operating Expenses and other charges, if any, as aforesaid, all other obligations of Tenant hereunder shall be performed by Tenant, and Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair, remediation or restoration.

(b) If Landlord shall be obligated to repair or restore the Premises under the provisions of this Paragraph 9 and shall not commence, in a substantial and meaningful way, the repair or restoration of the Premises within ninety (90) days after such obligation shall accrue, Tenant may, at any time prior to the commencement of such repair or restoration, give written notice to Landlord and to any Lenders of which Tenant has actual notice of Tenant's election to terminate this Lease on a date not less than sixty (60) days following the giving of such notice. If Tenant gives such notice to Landlord and such Lenders and such repair or restoration is not commenced within thirty (30) days after receipt of such notice, this Lease shall terminate as of the date specified in said notice. If Landlord or a Lender commences the repair or restoration of the Premises within thirty (30) days after the receipt of such notice, this Lease shall continue in full force and effect. "**Commence**" as used in this Paragraph 9.6 shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever occurs first.

9.7 Hazardous Substance Conditions: If a Hazardous Substance Condition occurs, unless Tenant is legally responsible therefor (in which case Tenant shall make the investigation and remediation thereof required by Applicable Requirements Find this Lease shall continue in full force and effect, but subject to Landlord's rights under Paragraph 6.2(c) and Paragraph 13), Landlord may at Landlord's option either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to investigate and remediate such condition exceeds twelve (12) times the then monthly Rent or $100.000 whichever is greater, give written notice to Tenant within thirty (30) days after receipt by Landlord of knowledge of the occurrence of such Hazardous Substance Condition of Landlord's desire to terminate this Lease as of the date sixty (60) days following the date of such notice. In the event Landlord elects to give such notice of Landlord's intention to terminate this Lease, Tenant shall have the right within ten (i 0) days after the receipt of such notice to give written notice to Landlord of Tenant's commitment to pay for the excess costs of (a) investigation and remediation of such Hazardous Substance Condition to the extent required by Applicable Requirements, over (b) an amount equal to twelve (12) times the then monthly Rent or $100,000, whichever is greater Tenant shall provide Landlord with the funds required of Tenant or satisfactory assurance thereof within thirty (30) days following said commitment by Tenant. In such event this Lease shall continue in full force and effect, and

Landlord shall proceed to make such investigation and remediation as soon as reasonably possible after the required funds are available. If Tenant does not give such notice and provide the required funds or assurance thereof within the time period specified above, this Lease shall terminate as of the date specified in Landlord's notice of termination.

9.8 Termination -Advance Payments. Upon termination of this Lease pursuant to this Paragraph 9, Landlord shall return to Tenant any advance payment made by Tenant to Landlord and so much of Tenant's Security Deposit as has not been, or is not then required to be, used by Landlord under the terms of this Lease.

9.9 N/A

10. Real Property Taxes.

10.1 Payment of Taxes. Landlord shall pay all real estate taxes and assessments against the Building and facilities appurtenant to the Building during the Term hereof.

10.2 N/A

10.3 N/A

10.4 N/A

10.5 Tenant's Property Taxes. Tenant shall pay prior to delinquency all taxes assessed against and levied upon Tenant-Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Tenant contained in the Premises or stored within the Shopping Center. When possible, Tenant shall cause its Tenant-Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Landlord If any of Tenant's said property shall be assessed with Landlord's real property, Tenant shall pay Landlord the taxes attributable to Tenant's property within ten (10) days after receipt of a written statement setting forth the taxes applicable to Tenant's property.

11. Utilities. Tenant shall pay directly for all utilities and services supplied to the Premises, including but not limited to electricity, telephone, security, gas and cleaning of the Premises, together with any taxes thereon. If any such utilities or services are not separately metered to the Premises or separately billed to the Premises, Tenant shall pay to Landlord a reasonable proportion to be determined by Landlord of all such charges jointly metered or billed with other premises in the Building, in the manner and within the time periods set forth in Paragraph 4.2(d).

12. Assignment and Subletting.

12.1 Landlord's Consent Required.

(a) Tenant shall not voluntarily or by operation of law assign, transfer, mortgage or otherwise transfer or encumber (collectively, "assign") or sublet all or any part of Tenant's interest in this Lease or in the Premises without Landlord's prior written consent given under and subject to the terms of Paragraph 36.

(b) A change in the control of Tenant shall constitute an assignment requiring Landlord's consent. The transfer, on a cumulative basis, of twenty-five percent (25%) or more of the voting control of Tenant shall constitute a change in control for this purpose.

(c) The involvement of Tenant or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, refinancing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or. Tenant's assets occurs, which results or will result in a reduction of the Net Worth of Tenant, as hereinafter defined, by an amount equal to or greater than twenty-five percent (25%) of such Net Worth of Tenant as it was represented to Landlord at the time of full execution and delivery of this Lease or at the time of the most recent assignment to which Landlord has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, at whichever time said Net Worth of Tenant was or is greater, shall be considered an assignment

of this Lease by Tenant to which Landlord may reasonably withhold its consent. **"Net Worth of Tenant"** for purposes of this Lease shall be the net worth of Tenant (excluding any Guarantors) established under generally accepted accounting principles consistently applied.

(d) An assignment or subletting of Tenant's interest in this Lease without Landlord's specific prior written consent shall, at Landlord's option, be a Default curable after notice per Paragraph 13.1, or a non-curable Breach without the necessity of any notice and grace period. If Landlord elects to treat such unconsented to assignment or subletting as a non-curable Breach, Landlord shall have the right to either: (i) terminate this Lease, or (ii) upon thirty (30) days' written notice (**"Landlord's Notice"**), increase the monthly Rent for the Premises to the greater of the then fair market rental value of the Premises, as reasonably determined by Landlord, or one hundred ten percent (110%) of the Rent then in effect, Pending determination of the new fair market rental value, if disputed by Tenant, Tenant shall pay the amount set forth in Landlord's Notice, with any overpayment credited against the next installments) of Rent coming due, and any underpayment for the period retroactively to the effective date of the adjustment being due and payable immediately upon the determination thereof. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Tenant shall be subject to similar adjustment to the then fair market value as reasonably determined by Landlord (without the Lease being considered an encumbrance or any deduction for depreciation or obsolescence, and considering the Premises at its highest and best use and in good condition) or one hundred ten percent (110%) of the price previously in effect, (ii) any index-oriented rental or price adjustment formulas contained in this Lease shall be adjusted to require that the base index be determined with reference to the index applicable to the time of such adjustment, and (iii) any fixed rental adjustments scheduled during the remainder of the Lease term shall be increased in the same ratio as the new rental bears to the Rent in effect immediately prior to the adjustment specified in Landlord's Notice.

(e) Tenant's remedy for any breach of this Paragraph 12.1 by Landlord shall be limited to compensatory damages and/or injunctive relief.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Landlord's consent, any assignment or subletting shall not (i) be effective without the express written assumption by such assignee or subtenant of the obligations of Tenant under this Lease, (ii) release Tenant of any obligations hereunder, nor (iii) alter the primary liability of Tenant for the payment of Rent and other sums due Landlord hereunder or for the performance of any other obligations to be performed by Tenant under this Lease.

(b) Landlord may accept any rent or performance of Tenant's obligations from any person other than Tenant pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of any rent for performance shall constitute a waiver or estoppel of Landlord's right to exercise its remedies for the Default or Breach by Tenant of any of the terms, covenants or conditions of this Lease.

(c) The consent of Landlord to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting by Tenant or to any subsequent or successive assignment or subletting by the assignee or subTenant. However, Landlord may consent to subsequent subletting's and assignments of the sublease or any amendments or modifications thereto without notifying Tenant or anyone else liable under this Lease or the sublease and without obtaining their consent, and such action shall not relieve such persons from liability under this Lease or the sublease.

(d) In the event of any Default or Breach of Tenant's obligation under this Lease, Landlord may proceed directly against Tenant, any Guarantors or anyone else responsible for the performance of the Tenant's obligations under this Lease, including any subTenant, without first exhausting Landlord's remedies against any other person or entity responsible therefor to Landlord, or any security held by Landlord.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Landlord's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or subTenant, including but not limited to the intended use and/or required modification of the Premises, if any, together with a non-refundable deposit of $1,000 or ten percent (10%) of the monthly Rent applicable to the portion of the Premises which is the subject of the proposed assignment or sublease, whichever is greater, as reasonable consideration for Landlord's considering and processing the request for consent. Tenant agrees to provide Landlord with such other or additional information and/or documentation as may be reasonably requested by Landlord.

(f) Any assignee of, or subTenant under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed, for the benefit of Landlord, to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Tenant during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Landlord has specifically consented in writing.

(g) The occurrence of a transaction described in Paragraph 12.2(c) shall give Landlord the right (but not the obligation) to require that the Security Deposit be increased by an amount equal to six (6) times the then monthly Rent, and Landlord may make the actual receipt by Landlord of the Security Deposit increase a condition to Landlord's consent to such transaction.

(h) Landlord, as a condition to giving its consent to any assignment or subletting, may require that the amount and adjustment schedule of the rent payable under this Lease be adjusted to what is then the market value and/or adjustment schedule for property similar to the Premises as then constituted, as determined by Landlord.

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Tenant of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Tenant hereby assigns and transfers to Landlord all of Tenant's interest in all rentals and income arising from any sublease of all or a portion of the Premises heretofore or hereafter made by Tenant, and Landlord may collect such rent and income and apply same toward Tenant's obligations under this Lease; provided, however, that until a Breach (as defined in Paragraph 13.1) shall occur in the performance of Tenant's obligations under this Lease, Tenant may, except as otherwise provided in this Lease, receive, collect and enjoy the rents accruing under such sublease. Landlord shall not, by reason of the foregoing provision or any other assignment of such sublease to Landlord, nor by reason of the collection of the rents from a subTenant, be deemed liable to the subTenant for any failure of Tenant to perform and comply with any of Tenant's obligations to such subTenant under such Sublease. Tenant hereby irrevocably authorizes and directs any such subTenant, upon receipt of a written notice from Landlord stating that a Breach exists in the performance of Tenant's obligations under this Lease, to pay to Landlord the rents and other charges due and to become due under the sublease. SubTenant shall rely upon any such statement and request from Landlord and shall pay such rents and other charges to Landlord without any obligation or right to inquire as to whether such Breach exists and notwithstanding any notice from or claim from Tenant to the contrary. Tenant shall have no right or claim against such subTenant, or, until the Breach has been cured, against Landlord, for any such rents and other charges so paid by said subTenant to Landlord.

(b) In the event of a Breach by Tenant in the performance of its obligations under this Lease, Landlord, at its option and without any obligation to do so, may require any subTenant to attorn to Landlord, in which event Landlord shall undertake the obligations of the subLandlord under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Landlord shall not be liable for any prepaid rents or security deposit paid by such subTenant to such subLandlord or for any other prior defaults or breaches of such subLandlord under such sublease.

(c) Any matter or thing requiring the consent of the subLandlord under a sublease shall also require the consent of Landlord herein.

(d) No subTenant under a sublease approved by Landlord shall further assign or sublet all or any part of the Premises without Landlords prior written consent.

(e) Landlord shall deliver a copy of any notice of Default or Breach by Tenant to the subTenant, who shall have the right to cure the Default of Tenant within the grace period, if any, specified in such notice. The subTenant shall have a right of reimbursement and offset from and against Tenant for any such Defaults cured by the subTenant.

13. Default; Breach; Remedies.

13.1 Default; Breach. Landlord and Tenant agree that if an attorney is consulted by Landlord or Tenant in connection with a Landlord or Tenant Default or Breach (as hereinafter defined), $350.00 is a reasonable *maximum* sum per *such occurrence* for legal services and costs in the preparation and service of a notice of Default, and that Landlord or Tenant may include the cost of such services and costs in said notice as rent due and payable to cure said default, if Tenant Default, or withhold such cost from rent due and payable, if Landlord Default. A **"Default"** by Tenant is defined as a failure by Tenant to observe, comply with or perform any of the terms, covenants, conditions or rules applicable to Tenant under this Lease. A **"Breach"** by Tenant is defined as the occurrence of any one or more of the following Defaults, and, where a grace period for cure after notice is specified herein, the failure by Tenant to cure such Default prior to the expiration of the applicable grace period, and shall entitle Landlord to pursue the remedies set forth in Paragraphs 13.2 and/or 13.3:

(a) The vacating of the Premises without the intention to reoccupy same, or the abandonment of the Premises.

(b) Except as expressly otherwise provided in this Lease, the failure by Tenant to make any payment of Rent, Tenant's Share of Common Area Operating Expenses, or any other monetary payment required to be made by Tenant hereunder as and when due, the failure by Tenant to provide Landlord with reasonable evidence of insurance or surety bond required under this Lease, or the failure of Tenant to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three (3) days following written notice thereof by or on behalf of Landlord to Tenant.

(c) Except as expressly otherwise provided in this Lease, the failure by Tenant to provide Landlord with reasonable written evidence (in duly executed original form, if applicable) of (i) compliance with Applicable Requirements per Paragraph 6.3, (ii) the inspection, maintenance and service contracts required under Paragraph 7.1 (b), (iii) the rescission of an unauthorized assignment or subletting per Paragraph 12. 1, (iv) a Tenancy Statement per Paragraphs 16 or 37, (v) the subordination or non-subordination of this Lease per Paragraph 30, (vi) the guaranty of the performance of Tenant's obligations under this Lease if required under Paragraphs 1.11 and 37, (vii) the execution of any document requested under Paragraph 42 (easements), or (viii) any other documentation or information which Landlord may reasonably require of Tenant under the terms of this lease, where any such failure continues for a period of ten (10) days following written notice by or on behalf of Landlord to Tenant.

(d) A Default by Tenant as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof that are to be observed, complied with or performed by Tenant, other than those described in Subparagraphs 13.1 (a), (b) or (c), above, where such Default continues for a period of thirty (30) days after written notice thereof by or on behalf of Landlord to Tenant; provided, however, that if the nature of Tenant's Default is such that more than thirty (30) days are reasonably required for its cure, then it shall not be deemed to be a Breach of this Lease by Tenant if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) the making by Tenant of any general arrangement or assignment for the benefit of creditors; (ii) Tenant's becoming a "debtor" as defined in 11 U.S. Code Section 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days; provided, however, in the event that any provision of this Subparagraph 13.1 (e) is contrary to any applicable law, such provision shall be of no force or effect, and shall not affect the validity of the remaining provisions.

(f) The discovery by Landlord that any financial statement of Tenant or of any Guarantor, given to Landlord by Tenant or any Guarantor, was materially false.

(g) If the performance of Tenant's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory breach basis, and Tenant's failure, within sixty (60) days following written notice by or on behalf of Landlord to Tenant of any such event, to provide Landlord with written alternative assurances of security, which, when coupled with the then existing resources of Tenant, equals or exceeds the combined financial resources of Tenant and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Tenant fails to perform any affirmative duty or obligation of Tenant under this Lease, within ten (10) days after written notice to Tenant (or in case of an emergency, without notice), Landlord may at its option (but without obligation to do so), perform such duty or obligation on Tenant's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Landlord shall be due and payable by Tenant to Landlord upon invoice therefor. If any check given to Landlord by Tenant shall not be honored by the bank upon which it is drawn, Landlord, at its own option, may require all future payments to be made under this Lease by Tenant to be made only by cashier's check. In the event of a Breach of this Lease by Tenant (as defined in Paragraph 13.1), with or without further notice or demand, and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such Breach, Landlord may:

(a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant: (i) the worth at the time of the award of the unpaid rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Tenant proves could be reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by the Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of relating including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Landlord in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco or the Federal Reserve Bank District in which the Premises are located at the time of award plus one percent

(1%). Efforts by Landlord to mitigate damages caused by Tenant's Default or Breach of this Lease shall not waive Landlord's right to recover damages under this Paragraph 13.2. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Landlord shall have the right to recover in such proceeding the unpaid rent and damages as are recoverable therein, or Landlord may reserve the right to recover all or any part thereof in a separate suit for such rent and/or damages. If a notice and grace period required under Subparagraph 13.1 (b), (c) or (d) was not previously given, a notice to pay rent or quit, or to perform or quit, as the case may be, given to Tenant under any statute authorizing the forfeiture of leases for unlawful detainer shall also constitute the applicable notice for grace period purposes required by Subparagraph 13.1(b),(c) or (d). In such case, the applicable grace period under the unlawful detainer statue shall run concurrently after the one such statutory notice, and the failure of Tenant to cure the Default within the greater of the two (2) such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Landlord to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Tenant's right to possession in effect (in California under California Civil Code Section 1951.4) after Tenant's Breach and recover the rent as it becomes due, provided Tenant has the right to sublet or assign, subject only to reasonable limitations. Landlord and Tenant agree that the limitations on assignment and subletting in this Lease are reasonable. Acts of maintenance or preservation, efforts to relet the Premises, or the appointment of a receiver to protect the Landlord's interest under this Lease, shall not constitute a termination of the Tenant's right to possession.

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state wherein the Premises are located.

(d) The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Tenant's occupancy of the Premises.

13.3 Inducement Recapture in Event of Breach. Any agreement by Landlord for free or abated rent or other charges applicable to the Premises, or for the giving or paying by Landlord to or for Tenant of any cash or other bonus, inducement or consideration for Tenant's entering into this Lease, all of which concessions are hereinafter referred to as **"Inducement Provisions"** shall be deemed conditioned upon Tenant's full and faithful performance of all of the terms, covenants and conditions of this Lease to be performed or observed by Tenant during the term hereof as the same may be extended. Upon the occurrence of a Breach (as defined in Paragraph 13.1) of this Lease by Tenant, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Landlord under such an Inducement Provision shall be immediately due and payable by Tenant to Landlord, and recoverable by Landlord, as additional rent due under this Lease, notwithstanding any subsequent cure of said Breach by Tenant. The acceptance by Landlord of rent or the cure of the Breach which initiated the operation of this Paragraph 13.3 shall not be deemed a waiver by Landlord of the provisions of this Paragraph 13.3 unless specifically so stated in writing by Landlord at the time of such acceptance.

13.4 Late Charges. Tenant hereby acknowledges that late payment by Tenant to Landlord of rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by the terms of any ground lease, mortgage or deed of trust covering the Premises. Accordingly, if any installment of rent or other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's Default or Breach with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of Rent, then notwithstanding Paragraph 4.1 or any other provision of this Lease to the contrary, rent shall, at Landlord's option, become due and payable quarterly in advance.

13.5 Breach by Landlord. Landlord shall not be deemed in breach of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord. For purposes of this Paragraph 13.5, a reasonable time shall in no event be less than thirty (30) days after receipt by Landlord, and by any Lender(s) whose name and address shall have been furnished to Tenant in writing for such purpose, of written notice specifying wherein such obligation of Landlord has not been performed; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days after such notice are reasonably required for its performance, then Landlord shall not be in breach of this Lease if performance is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (all of which are herein called "condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than ten percent (10%) of the floor area of the Premises, or more than twenty-five percent (25%) of the portion of the Common Areas designated for Tenant's parking, is taken by condemnation, Tenant may, at Tenant's option, to be exercised in writing within ten (10) days after Landlord shall have given Tenant written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Rent shall be reduced in the same proportion as the rentable floor area of the Premises taken bears to the total rentable floor area of the Premises. No reduction of Rent shall occur if the condemnation does not apply to any portion of the Premises. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord, whether such award shall be made as compensation for diminution of value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any compensation, separately awarded to Tenant for Tenant's relocation expenses and/or loss of Tenant's Trade Fixtures. In the event that this Lease is not terminated by reason of such condemnation, Landlord shall to the extent of its net severance damages received, over and above Tenant's Share of the legal and other expenses incurred by Landlord in the condemnation matter, repair any damage to the Premises caused by such condemnation authority. Tenant shall be responsible for the payment of any amount in excess of such net severance damages required to complete such repair.

15. Intentionally Omitted

16. Tenancy Statement. Each Party (as **"Responding Party"**) shall within ten (10) days after written notice from the other Party (the **"Requesting Party"**) execute, acknowledge and deliver to the Requesting Party a statement in writing in a form similar to the then most current **"Tenancy Statement"** form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

17. Landlord's Liability. The term **"Landlord"** as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, In the event of a transfer of Landlord's title or interest in the Premises or in this Lease, Landlord shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Landlord at the time of such transfer or assignment. Except as provided in Paragraph 15.3, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Landlord shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Landlord. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Landlord shall be binding only upon the Landlord as hereinabove defined.

18. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

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19. Interest on Past-Due Obligations. Any monetary payment due Landlord hereunder, other than late charges, not received by Landlord within ten (10) days following the date on which it was due, shall bear interest from the date due at the prime rate charged by the largest state chartered bank in the state in which the Premises are located plus one percent (1%) per annum, but not exceeding the maximum rate allowed by law, in addition to the potential late charge provided for in Paragraph 13.4.

20. Time of Essence. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

21. Rent Defined. All monetary obligations of Tenant to Landlord under the terms of this Lease are deemed to be rent.

22. No Prior or other Agreements. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Landlord and Tenant each represents and warrants, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the nature, quality and character of the Premises.

23. Notices.

23.1 Notice Requirements. All notices required or permitted by this Lease shall be in writing and may be delivered in person (by hand or by messenger or courier service) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission during normal business hours, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notice purposes. Either Party may by written notice to the other specify a different address for notice purposes, except that upon Tenant's taking possession of the Premises, the Premises shall constitute Tenant's address for the purpose of mailing or delivering notices to Tenant. A copy of all notices required or permitted to be given to Landlord hereunder shall be concurrently transmitted to such party or parties at such addresses as Landlord may from time to time hereafter designate by written notice to Tenant.

23.2 Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given forty-eight (48) hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the United States Postal Service or courier. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed served or delivered upon telephone or facsimile confirmation of receipt of the transmission thereof, provided a copy is also delivered via delivery or mail. If notice is received on a Saturday or a Sunday or a legal holiday, it shall be deemed received on the next business day.

24. Waivers. No waiver by Landlord of the Default or Breach of any term, covenant or condition hereof by Tenant, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Tenant of the same or any other term, covenant or condition hereof. Landlord's consent to, or approval of, any such act shall not be deemed to render unnecessary the obtaining of Landlord's consent to, or approval of, any subsequent or similar act by Tenant, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. Regardless of Landlord's knowledge of a Default or Breach at the time of accepting rent, the acceptance of rent by Landlord shall not be a waiver of any Default or Breach by Tenant of any provision hereof. Any payment given Landlord by Tenant may be accepted by Landlord on account of moneys or damages due Landlord, notwithstanding any qualifying statements or conditions made by Tenant in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Landlord at or before the time of deposit of such payment.

25. Recording. Either Landlord or Tenant shall, upon request of the other, execute, acknowledge and deliver to the other a short form memorandum of this Lease for recording purposes. The Party requesting recordation shall be responsible for payment of any fees or taxes applicable thereto.

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26. No Right To Holdover. Tenant has no right to retain possession of the Premises or any part thereof beyond the expiration or earlier termination of this Lease. In the event that Tenant holds over in violation of this Paragraph 26 then the Rent payable from and after the time of the expiration or earlier termination of this Lease shall be increased to two hundred (200%) of the Rent applicable during the month immediately preceding such expiration or earlier termination. Nothing contained herein shall be construed as a consent by Landlord to any holding over by Tenant.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions. All provisions of this Lease to be observed or performed by Tenant are both covenants and conditions.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, **"Security Device"**), now or hereafter placed by Landlord upon the real property of which the Premises are a part, to any and all advances made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof. Tenant agrees that the Lenders holding any such Security Device shall have no duty, liability or obligation to perform any of the obligations of Landlord under this Lease, but that in the event of Landlord's default with respect to any such obligation, Tenant will give any Lender whose name and address have been furnished Tenant in writing for such purpose notice of Landlord's default pursuant to Paragraph 13.5. If any Lender shall elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device and shall give written notice thereof to Tenant, this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. Subject to the non-disturbance provisions of Paragraph 30.3, Tenant agrees to attorn to a Lender or any other party who acquires ownership of the Premises by reason of a foreclosure of a Security Device, and that in the event of such foreclosure, such new owner shall not: (i) be liable for any act or omission of any prior Landlord or with respect to events occurring prior to acquisition of ownership, (ii) be subject to any offsets or defenses which Tenant might have against any prior Landlord, or (iii) be bound by prepayment of more than one month's rent.

30.3 Non-Disturbance. With respect to Security Devices entered into by Landlord after the execution of this lease, Tenant's subordination of this Lease shall be subject to receiving assurance (a "non-disturbance agreement") from the Lender that Tenant's possession and this Lease, including any options to extend the term hereof- will not be disturbed so long as Tenant is not in Breach hereof and attorns to the record owner of the Premises.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that upon written request from Landlord or a Lender in connection with a sale, financing or refinancing of Premises, Tenant and Landlord shall execute such further writings as may be reasonably required to separately document any such subordination or non-subordination, attornment and/or non-disturbance agreement as is provided for herein.

31. Attorneys' Fees. If any Party brings an action or proceeding to enforce the terms hereof or declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term **"Prevailing Party"** shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fee award shall not

be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. Landlord shall be entitled to attorneys' fees, costs and expenses incurred in preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach.

32. Landlord's Access; Showing Premises; Repairs. Landlord and Landlord's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times with 24-hour notice for the purpose of showing the same to prospective purchasers, lenders, or Tenants, and making such alterations, repairs, improvements or additions to the Premises or to the Building, as Landlord may reasonably deem necessary. Landlord may at any time place on or about the Premises or Building any ordinary "For Sale" signs and Landlord may at any time during the last one hundred eighty (180) days of the term hereof place on or about the Premises any ordinary "For Lease" signs. All such activities of Landlord shall be without abatement of rent or liability to Tenant.

33. Auctions. Tenant shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction upon the Premises without first having obtained Landlord's prior written consent. Notwithstanding anything to the contrary in this Lease, Landlord shall not be obligated to exercise any standard of reasonableness in determining whether to grant such consent.

34. Signs. At Tenants sole expense tenant shall have the right to install signage above space. Tenant shall not place any sign upon the exterior of the Premises or the Building, except that Tenant may, with Landlord's prior written consent, install (but not on the roof) such signs as are reasonably required to advertise Tenant's own business so long as such signs are in a location designated by Landlord and comply with Applicable Requirements and the signage criteria established for the Shopping Center by Landlord. The installation of any sign on the Premises by or for Tenant shall be subject to the provisions of Paragraph 7 (Maintenance,. Repairs, Utility Installations, Trade Fixtures and Alterations). Unless otherwise expressly agreed herein, Landlord reserves all rights to the use of the roof of the Building, and the right to install advertising signs on the Building, including the roof, which do not unreasonably interfere with the conduct of Tenant's business; Landlord shall be entitled to all revenues from such advertising signs.

35. Termination; Merger. Unless specifically stated otherwise in writing by Landlord, the voluntary or other surrender of this Lease by Tenant, the mutual termination or cancellation hereof, or a termination hereof by Landlord for Breach by Tenant, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, Landlord shall, in the event of any such surrender, termination or cancellation, have the option to continue any one or all of any existing subtenancies. Landlord's failure within ten (10) days following any such event to make a written election to the contrary by written notice to the holder of any such lesser interest, shall constitute Landlord's election to have such event constitute the termination of such interest.

36. Consents.

(a) Except for Paragraph 33 hereof (Auctions) or as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Landlord's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Tenant for any Landlord consent pertaining to this Lease or the Premises, including but not limited to consents to an assignment a subletting or the presence or use of a Hazardous Substance, shall be paid by Tenant to Landlord upon receipt of an invoice and supporting documentation therefor. In addition to the deposit described in Paragraph 12.2(e), Landlord may, as a condition to considering any such request by Tenant, require that Tenant deposit with Landlord an amount of money (in addition to the Security Deposit held under Paragraph 5) reasonably calculated by Landlord to represent the cost Landlord will incur in considering and responding to Tenant's request. Any unused portion of said deposit shall be refunded to Tenant without interest. Landlord's consent to any act, assignment of this Lease or subletting of the Premises by Tenant shall not constitute an acknowledgment that no Default or Breach by Tenant of this Lease exists, nor shall such consent be deemed a

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waiver of any than existing Default or Breach, except as may be otherwise specifically stated in writing by Landlord at the time of such consent.

(b) All conditions to Landlord's consent authorized by this Lease are acknowledged by Tenant as being reasonable. The failure to specify herein any particular condition to Landlord's consent shall not preclude the impositions by Landlord at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given.

37. Guarantor.

37.1 Form of Guaranty. If there are to be any Guarantors of this Lease per Paragraph 1.11, the form of the guaranty to be executed by each such Guarantor shall be in the form most recently published by the American Industrial Real Estate association, and each such Guarantor shall have the same obligations as Tenant under this lease, including but not limited to the obligation to provide the Tenancy Statement and information required in Paragraph 16.

37.2 Additional Obligations of Guarantor. It shall constitute a Default of the Tenant under this Lease if any such Guarantor fails or refuses, upon reasonable request by Landlord to give: (a) evidence of the due execution of the guaranty called for by this Lease, including the authority of the Guarantor (and of the party signing on Guarantor's behalf) to obligate such Guarantor on said guaranty, and resolution of its board of directors authorizing the making of such guaranty, together with a certificate of incumbency showing the signatures of the persons authorized to sign on its behalf, (b) current financial statements of Guarantor as may from time to time be requested by Landlord, (c) a Tenancy Statement, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Upon payment by Tenant of the rent for the Premises and the performance of all of the covenants, conditions and provisions on Tenant's part to be observed and performed under this Lease, Tenant shall have quiet possession of the Premises for the entire term hereof subject to all of the provisions of this Lease.

39. Options.

39.1 Definition. As used in this Lease, the word **"Option"** has the following meaning: (a) the right to extend the term of this Lease or to renew this Lease or to extend or renew any lease that Tenant has on other property of Landlord; (b) the right of first refusal to lease the Premises or the right of first offer to lease the Premises or the right of first refusal to lease other property of Landlord or the right of first offer to lease other property of Landlord; (c) the right to purchase the Premises, or the right of first refusal to purchase the Premises, or the right of first offer to purchase the Premises, or the right to purchase other property of Landlord, or the right of first refusal to purchase other property of Landlord, or the right of first offer to purchase other property of Landlord.

39.2 Options Personal to Original Tenant. N/A

39.3 Multiple Options. In the event that Tenant has any multiple Options to extend or renew this Lease, a later option cannot be exercised unless the prior Options to extend or renew this Lease have been validly exercised.

39.4 Effect of Default on Options.

(a) Tenant shall have no right to exercise an Option, notwithstanding any provision in the grant of Option to the contrary: (i) during the period commencing with the giving of any notice of Default under Paragraph 13.1 and continuing until the noticed Default is cured, or (ii) during the period of time any monetary obligation due Landlord from Tenant is unpaid (without regard to whether notice thereof is given Tenant), or (iii) during the time Tenant is in Breach of this Lease, or (iv) in the event that Landlord has given to Tenant three (3) or more notices of separate Defaults under Paragraph 13.1 during the twelve (12) month period immediately preceding the exercise of the Option, whether or not the Defaults are cured.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) All rights of Tenant under the provisions of an Option shall terminate and be of no further force or effect, notwithstanding Tenant's due and timely exercise of the Option, if, after such exercise and during the term of this Lease, (i) Tenant fails to pay to Landlord a monetary obligation of Tenant for a period of thirty (30) days after such obligation becomes due (without any necessity of Landlord to give notice thereof to Tenant), or (ii) Landlord gives to Tenant three (3) or more notices of separate Defaults under Paragraph 13.1 during any twelve (12) month period, whether or not the Defaults are cured, or (iii) if Tenant commits a Breach of this Lease.

40. Rules and Regulations. Tenant agrees that it will abide by, and keep and observe all reasonable rules and regulations ("Rules and Regulations") which Landlord may make from time to time for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Shopping Center and their invitees.

41. Security Measures. Tenant hereby acknowledges that the rental payable to Landlord hereunder does not include the cost of guard service or other security measures, and that Landlord shall have no obligation whatsoever to provide same. Tenant assumes all responsibility for the protection of the Premises, Tenant, its agents and invitees and their property from the acts of third parties.

42. Reservations. Landlord reserves the right, from time to time, to grant, without the consent or joinder of Tenant, such easements, rights of way, utility raceways, and dedications that Landlord deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights of way, utility raceways, dedications, maps and restrictions do not reasonably interfere with the use of the Premises by Tenant. Tenant agrees to sign any documents reasonably requested by Landlord to effectuate any such easement rights, dedication, map or restrictions.

43. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

44. Authority. If either Party hereto is a corporation, trust, or general or limited partnership, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. If Tenant is a corporation, trust or partnership, Tenant shall, within thirty (30) days after request by Landlord, deliver to Landlord evidence satisfactory to Landlord of such authority.

45. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. Offer. Preparation of this Lease by either Landlord or Tenant or Landlord's agent or Tenant's agent and submission of same to Tenant or Landlord shall not be deemed an offer to lease. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. Amendments. This Lease may be modified only in writing, signed by the parties in interest at the time of the modification. The Parties shall amend this Lease from time to time to reflect any adjustments that are made to the Rent or other rent payable under this Lease. As long as they do not materially change Tenant's obligations hereunder, Tenant agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by an institutional insurance company or pension plan Lender in connection with the obtaining of normal financing or refinancing of the property of which the Premises are a part.

48. Multiple Parties. Except as otherwise expressly provided herein, if more than one person or entity is named herein as either Landlord or Tenant, the obligations of such multiple parties shall be the joint and several responsibilities of all persons or entities named herein as such Landlord or Tenant.

49. Additional Terms and Conditions: N/A

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Fulton Village, 1359 Fulton Avenue, Sacramento, CA 95825

Landlord: Beach Pine, LP

Tenant: Siroos Saifi and Daninaan LLC

Landlord and Tenant have carefully read and reviewed this lease and each term and provision contained therein, and by the execution of this lease show their informed and voluntary consent thereto. The parties hereby agree that, at the time this lease is executed, the terms of this lease are commercially reasonable and effectuate the intent and purpose of the Landlord and Tenant with respect to the premises.

If this lease has been filled in, it has been prepared for your attorney's review and approval. Further, experts should be consulted to evaluate the condition of the property for the possible presence of asbestos, underground storage tanks or hazardous substances. No representation or recommendation is made by the Landlord, or their contractors, agents, or employees as to the legal sufficiency, legal effect, or tax consequences of this lease or the transaction to which it relates; the parties shall relay solely upon the advice of their own counsel as to the legal and tax consequences of this lease.

The parties here to have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: 6359 Auburn Blvd, Suite B
Citrus Heights, California, 95621

Date: 12/22/2021

By Agent for Landlord: Louis Sergi

Name Printed: Louis Sergi

Title: Property Manager

For: BEACH PINE, LP

Address: 6359 Auburn Blvd, Suite B
Citrus Heights, Ca 95621

Telephone: (916) 723-5111 - FAX (916) 676-0011

Executed at: 1359 Fulton Avenue
Sacramento, California 95825

Date: December 22, 2021

By Tenant:

Name: Siroos Saifi

Title: CEO

Address: 1200 Creekside Drive unit #1524
Folsom Ca. 95630

Telephone: (408)770-7097 FAX

Executed at: 1359 Fulton Avenue
Sacramento, California 95825

Date: December 22, 2021

By Tenant:

Name: Daninaan LLC

Title: CEO

Address: 1200 Creekside Drive Unit 1524
Folsom Ca 95630

Telephone (408)770-7097 FAX

Initials of Landlord/Agent: LS Initials of Tenant: Initials of Tenant: SS

DocuSign Envelope ID: 30810921-773F-45A3-A07B-AE5846475F5FE

Fulton Village, 1359 Fulton Avenue Sacramento, CA 95825

Landlord: Beach Pine, LP

Tenant: Siroos Saifi and Daninaan LLC

Lease Abstract:

Landlord: Beach Pine, LP

Agent: LeFever Mattson Property Management

Tenant: Siroos Saifi and Daninaan LLC

Premises: 1359 Fulton Avenue, Sacramento, CA 95825

Square Feet: 2,450

Term: 63 Months

Commencement Date: February 1, 2022

Base Rent (Monthly): $3,063.00

Rent Schedule:

Months 1 through 3 $0.00

Months 4 through 12 ~~$3,06.00~~ $3,063.00 LS

Months 13 through 24 $3,154.00

Months 25 through 36 $3,249.00

Months 37 through 48 $3,346.00

Months 49 through 60 $3,447.00

Months 61 through 63 $3,550.00

Common Area Operating Expense Charges (Monthly): Included in the rent.

Security Deposit: $3,550

Additional Terms and Conditions: **Tenant will pay deposit and first month's rent upon execution of the lease.**

Louis Sergi · Senior Real Estate Leasing / Tenant Relations Manager

917.648.4911
6359 Auburn Blvd. Suite B, Citrus Heights, CA 95621
Lsergi@lefevermattson.com | www.LeFeverMattson.com
<http://www.lefevermattson.com/>

On 7/31/21, 10:23 PM, "Siroos Saifi" <siroossaifi@icloud.com> wrote:

Hi Louis

This is Siroos Saifi. It was my pleasure talking to you the other day. As we spoke, I am interested in your property at 1359 Fulton Ave., Sacramento, CA 95825.

I'm planning to open and operate a bakery shop and if I do have enough space to sell few different kabob, shawarma and gyro. The bakery is mostly targeting Mediterranean and Persian community. I'm planning to install two bread making machines. One fully

automatic and one half automatic. I'm not interested to run a cafe.
If you need more information, please do not hesitate to contact me.
My Cell # 408-770-7097 Best regards Siroos Saifi
Sent from my iPhone

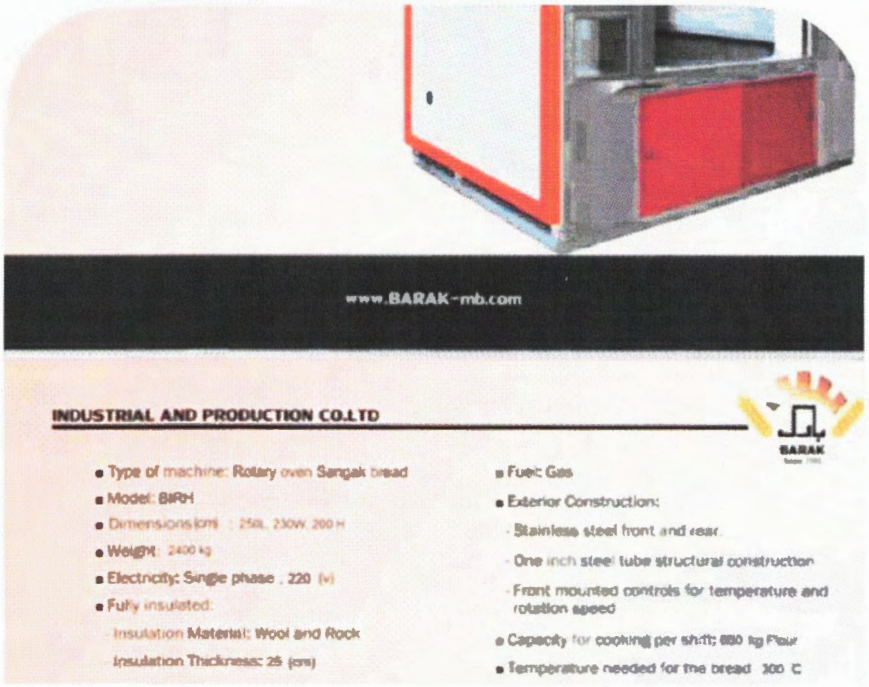
11:11 5GE

LS

Louis

Ok sour d

Sep 15, 2021 at 6:19 PM




Electrical Motors Specifications
Type
Voltage
Phase
Hz
Amperage
Power (hp)
Drive Motor
220
Single
50 - 60
35
0.5
Burner Motor
220
Single
50 - 60
25
0.14
Gas Supply Specification
Natural
1 ½ - 2
Min
Max
Min
Max
15
40
75
267
14
INDUSTRIAL AND PRODUCTION CO.LTD
BARAK

FILED
Superior Court Of California,
Sacramento
10/24/2022
tlathera
By ..... , Deputy
Case Number:
34-2022-00328810

YASHA RAHIMZADEH, ESQ. (SB #230487)
LAW OFFICES OF YASHA RAHIMZADEH
980 9th Street, 16th Floor
Sacramento, California 95814
Telephone: (916) 337-8066
Facsimile: (916) 446-7104
Email: yrlaw@attorneynorcal.com

Attorneys for Plaintiff,
SIROOS SAIFI and DANINAAN LLC

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

SIROOS SAIFI, an individual, and DANINAAN LLC., a California limited liability corporation,

Plaintiffs,

v.

BEACH PINE, LP, an California limited partnership, LEFEVER MATTSON, a California corporation, dba LEFEVER MATTSON PROPERTY MANAGEMENT, and DOES 1 through 50, inclusive,

Defendants.

Unlimited Civil

Case No.:

COMPLAINT FOR DAMAGES FOR:

1. **Breach of Contract;**
2. **Fraud;**
3. **Negligent Misrepresentation;**
4. **Intentional Infliction of Emotional Distress; and**
5. **Negligent Infliction of Emotional Distress.**

BY FAX

I.

JURISDICTION & PARTIES

Plaintiffs SIROOS SAIFI and DANINAAN LLC (hereinafter "Plaintiffs") allege as follows:

1. Plaintiff SIROOS SAIFI is an individual residing and conducting business in the County of Sacramento, State of California.

2. Plaintiff DANINAAN LLC is a limited liability corporation conducting business in the State of California and county of Sacramento.

3. Defendant BEACH PINE, LP is a limited partnership conducting business in the State of California and County of Sacramento.

4. LEFEVER MATTSON is a corporation conducting business in the State of California and county of Sacramento as LEFEVER MATTSON PROPERTY MANAGEMENT.

5. The causes of action which are the subject of this suit occurred and accrued in the County of Sacramento.

6. The true names and capacities, whether individual, corporate, associate, or otherwise of Defendants named herein as DOES 1 through 50, inclusive (collectively referred to as "DOES"), are unknown to Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the Defendants designated herein as a DOE is in some manner, means, or degree responsible for the matters and wrongs alleged in this Complaint. Plaintiff will ask leave of this court to amend this Complaint to show the true names and capacities of such Defendants when the same have been ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is indebted to Plaintiff as hereinafter alleged and that Plaintiff's rights against such fictitiously named Defendants arise from such indebtedness.

7. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, stand in the relations of master/servant, principal/agent, employer/employee, and/or co-conspirators to each of the other Defendants. Plaintiff is further informed and believes and thereon alleges that in doing the acts herein alleged, Defendants, and each of them, acted within the scope of their authority, agency, and employment, or their acts were with the prior authority or were subsequently ratified by their principals, or their acts were in furtherance of a conspiracy or in the case of corporate principals, by their managing agents, directors, and officers.

8. Plaintiff is formed, and believe, and allege that the Defendants, and each of them, entered into a partnership, employment, joint venture, or principal/agent relationship

to carry out the following acts. Defendants, and each of them, acted:

a. On their own behalf and on behalf of their employers, agents, partners, employers, principals, or joint venturers;

b. Within the course and scope of their employment, agency, joint venture, or partnership; and

c. With their employers, principals, joint venturers, partners, employees, or agents' authorization, direction, ratification, and adoption of their acts.

II.

GENERAL ALLEGATIONS

9. Plaintiff refers to Paragraphs 1 through 8 and incorporates them herein by reference.

10. On or about December 22, 2021, Plaintiffs and Defendants entered into a commercial lease agreement (hereinafter "Lease") for the Plaintiffs' use of the property located at 1359 Fulton Avenue, Sacramento, California 95825 ("Subject Property"). A true copy of such Lease is attached herewith as Exhibit "A".

11. During negotiations, between Plaintiffs and Defendants, prior to execution of the Lease, Defendants represented to Plaintiffs that the Subject Property had access to gas as a utility which Plaintiffs required to operate their bakery business at the Subject Property.

12. After executing the Lease, Plaintiffs discovered that the Subject Property did not in fact have access to gas as a utility.

13. Plaintiffs are informed and believe that Defendants entered into the Lease although they knew or should have known that the Subject Property did not have access to gas as a utility.

14. Pursuant to agreements, between the parties after execution of the Lease, Defendants represented that gas as a utility would be installed into the Subject Property for Plaintiffs' use.

15. To date, Defendants have failed to install gas as a utility into the Subject

Property.

16. As a result of Defendants' failure to install gas as a utility into the Subject Property, Plaintiffs' business has sufferred losses in an amount to be proven at trial but in no event less than the jurisdictional minimum in this case.

III.

FIRST CAUSE OF ACTION

(Breach of Contract)

17. Plaintiff incorporates herein each and every allegation contained in paragraphs 1 through 16 as though fully set forth herein.

18. Pursuant to agreements, between the parties after execution of the Lease, Defendants represented that gas as a utility would be installed into the Subject Property for Plaintiffs' use.

19. To date, Defendants have failed to install gas as a utility into the Subject Property.

20. As a result of Defendants' failure to install gas as a utility into the Subject Property, Plaintiffs' business has sufferred losses in an amount to be proven at trial but within the jurisdictional limits of this Court.

21. Plaintiffs have made a good faith to mitigate its damages but to date has been unable to do so.

22. Plaintiff have performed all the acts, services and conditions required on its part to be performed pursuant to the Lease and the agreements entered into after execution of the Lease or their performance has been excused.

23. Despite Plaintiffs' performance, Defendants breached the agreements entered into by the parties after execution of the Lease .

24. Although demand therefore has been made, Defendants have refused to perform under the terms of the agreements entered into by the parties after execution of the Lease .

25. Pursuant to Section 31 of the Lease, in an action or proceeding arising out

of the Lease, the prevailing party is entitled to attorneys fees and costs from the non-prevailing party.

26. As a result of the foregoing breaches as specified above, Plaintiffs have been damaged in the amount to be proven at trial but in no event less than the jurisdictional minimum in this case.

IV.

SECOND CAUSE OF ACTION

(Fraud)

27. Plaintiff incorporates herein each and every allegation contained in paragraphs 1 through 26 as though fully set forth herein.

28. Plaintiffs are informed and believe that Defendants entered into the Lease although they knew that the Subject Property did not have access to gas as a utility.

29. Had Defendants disclosed to Plaintiffs that the Subject Property did not have access to gas as a utility, Plaintiffs would not have entered into the Lease.

30. As a direct and proximate result of Defendants' actions, Plaintiffs have incurred damages in an amount subject to proof at trial but in no event less than the jurisdictional minimum in this case.

31. Defendants' actions were wilful, malicious, an oppressive within the meaning of California Civil Code 3294, justifying an award of punitive damages in amount according to proof at trial, in addition to any and all other damages and relief hereby sought.

V.

THIRD CAUSE OF ACTION

(Negligent Misrepresentation)

32. Plaintiff incorporates herein each and every allegation contained in paragraphs 1 through 31 as though fully set forth herein.

33. Plaintiffs are informed and believe that Defendants entered into the Lease although they should have known that the Subject Property did not have access to gas as a utility.

34. Had Defendants disclosed to Plaintiffs that the Subject Property did not have access to gas as a utility, Plaintiffs would not have entered into the Lease.

35. As a direct and proximate result of Defendants' actions, Plaintiffs have incurred damages in an amount subject to proof at trial but in no event less than the jurisdictional minimum in this case.

VI.

FOURTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

36. Plaintiff hereby incorporates by reference all of the allegations set forth in paragraphs 1-35, as though fully set forth herein.

37. Plaintiffs are informed and believe that Defendants entered into the Lease although they knew that the Subject Property did not have access to gas as a utility.

38. Defendants' actions were intentional or reckless in that they were designed to willfully cause Plaintiff SIROOS SAIFI emotional distress.

39. As a direct and proximate cause of Defendants' intentional or reckless conduct, Plaintiff SIROOS SAIFI suffered and continues to suffer severe emotional distress, and was forced to incur attorney's fees and court fees.

VII.

FIFTH CAUSE OF ACTION

(Negligent Infliction of Emotional Distress)

40. Plaintiff hereby incorporates by reference all of the allegations set forth in paragraphs 39, as though fully set forth herein.

41. Plaintiffs are informed and believe that Defendants entered into the Lease although they should have known that the Subject Property did not have access to gas as a utility.

42. Defendants' actions were negligent in that they failed to exercise the property duty of care imposed upon reasonable persons.

43. As a direct and proximate cause of Defendants' negligent conduct, Plaintiff

SIROOS SAIFI has suffered and continues to suffer severe emotional distress, and was forced to incur attorney's fees and court fees.

WHEREFORE, Plaintiffs prays for judgment against Defendants, and each of them, as follows:

1. For damages in an amount to be proven at trial;
2. For interest at the legal rate;
3. For costs of suit herein incurred;
4. For reasonable attorney's fees; and
5. For such other and further relief as the court may deem proper.

Dated: 10/21/22

LAW OFFICES OF YASHA RAHIMZADEH

By: _____
YASHA RAHIMZADEH
Attorney for Plaintiffs
SIROOS SAIFI and DANINAAN LLC

12:14

LS

Louis

Ok sounds good

🙏

Sep 15, 2021 at 6:19 PM



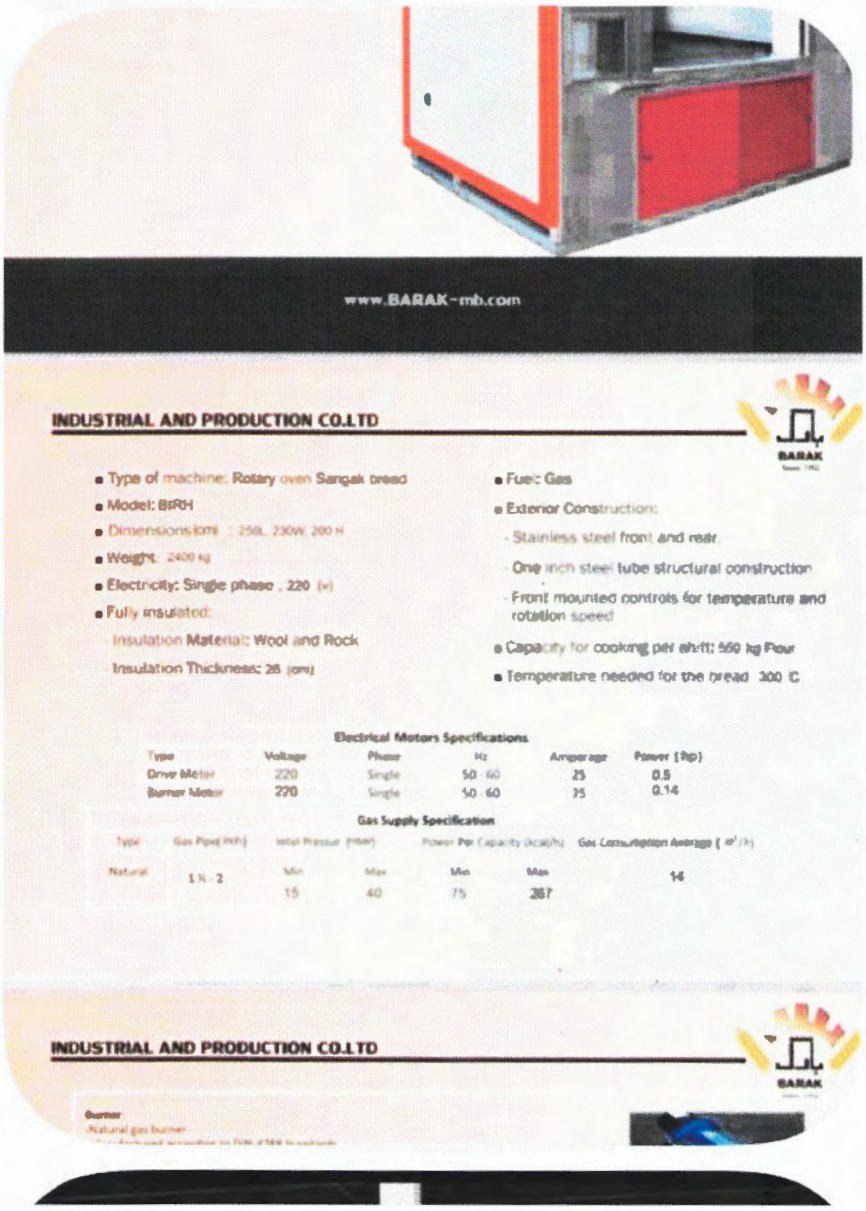

Weight: 2400 kg
Electricity: Single phase , 220 (v)
Fully insulated:
Insulation Material: Wool and Rock
Insulation Thickness: 25 (cm)
One inch steel tube structural construction
Front mounted controls for temperature and rotation speed
Capacity for cooking per shift: 550 kg Flour
Temperature needed for the bread 300 °C
Electrical Motors Specifications
Type
Voltage
Phase
Hz
Amperage
Power (Hp)
Drive Motor
220
Single
50 - 60
25
0.5
Burner Motor
220
Single
50 - 60
21
0.14
Gas Supply Specification
Natural
1 ½ - 2
Min
Max
14
15
40
75
287
INDUSTRIAL AND PRODUCTION CO.LTD
SANAK
Burner
-Natural gas burner
iMessage

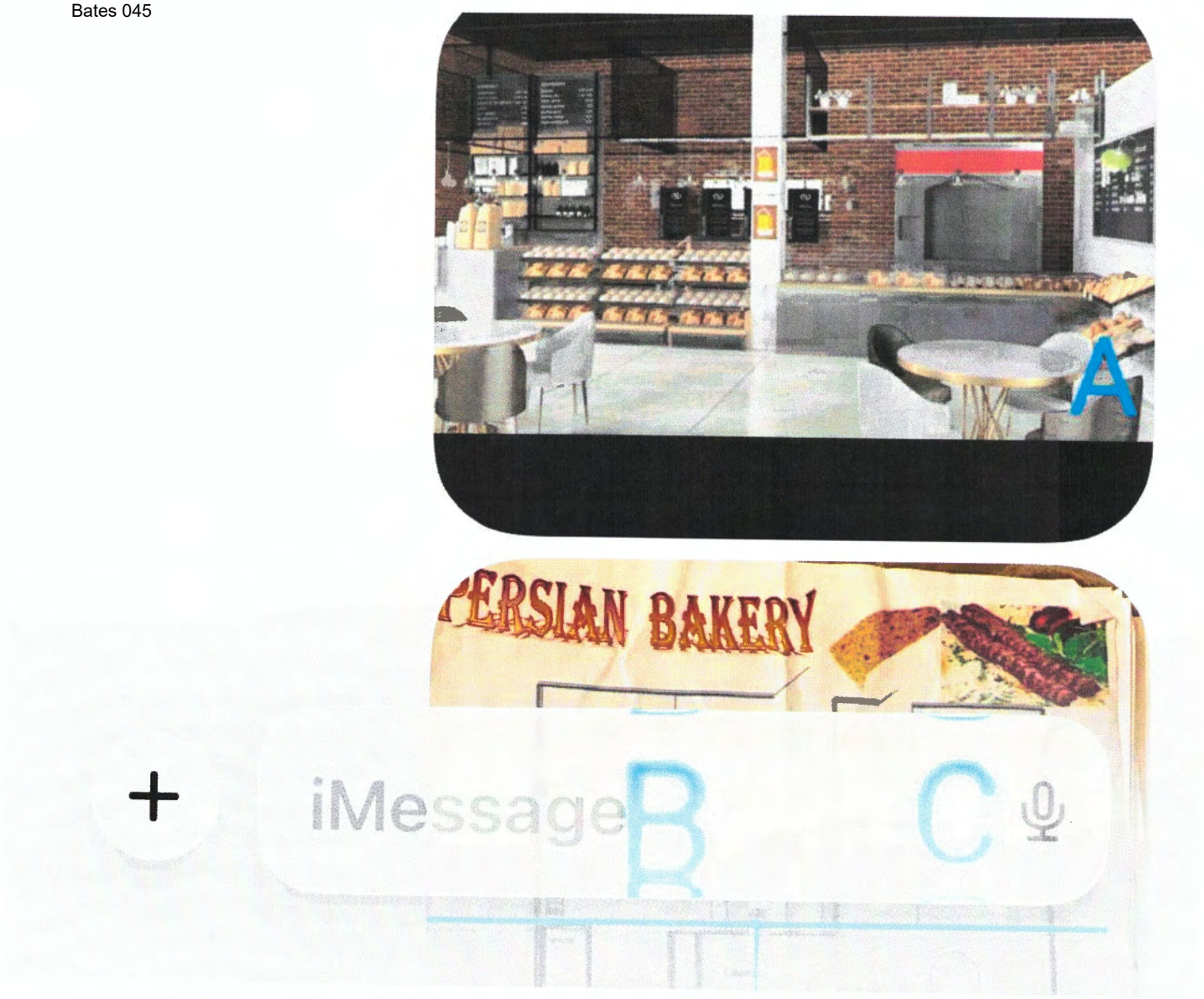
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LS

Louis

Sep 15, 2021 at 6:19 PM




A
ERSIAN BAKERY
iMessage
B
C



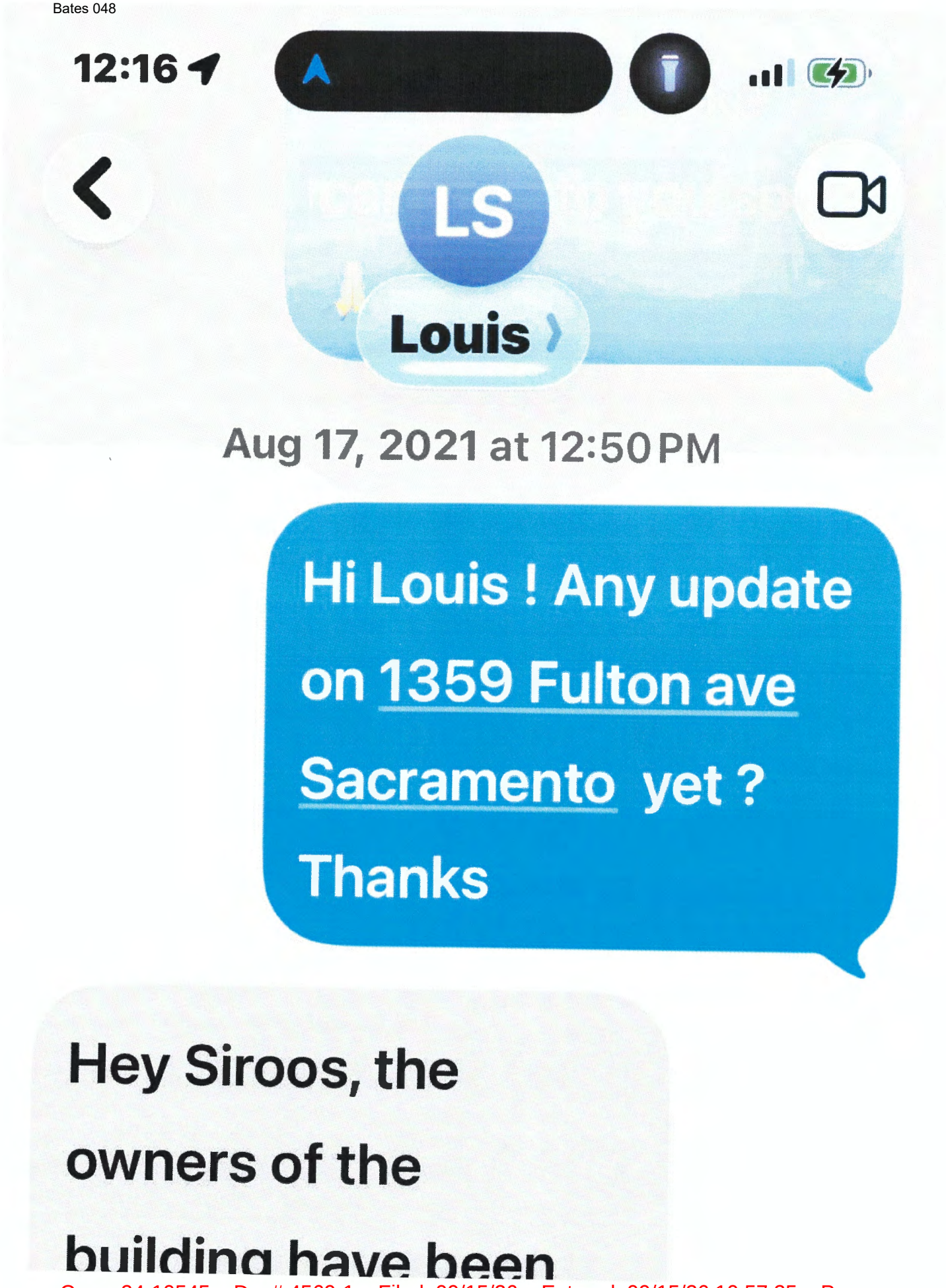
Aug 11, 2021 at 6:22 PM

Hi Louis ! I just want to see if you receive my e-mail I sent you ? Thanks

Yes, I did. Thank you for checking. I have

not a chance to review, but I will tomorrow and get back to you

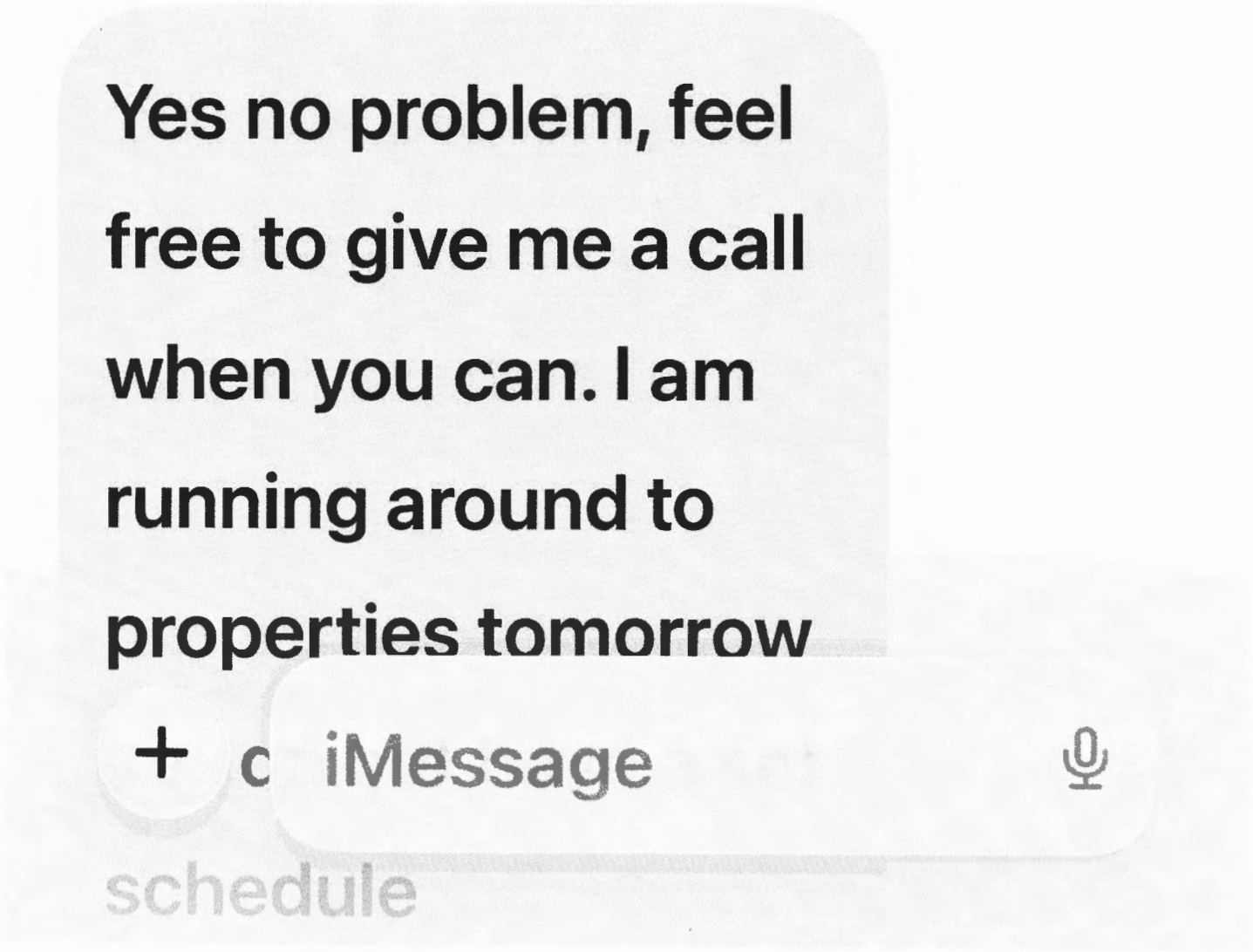


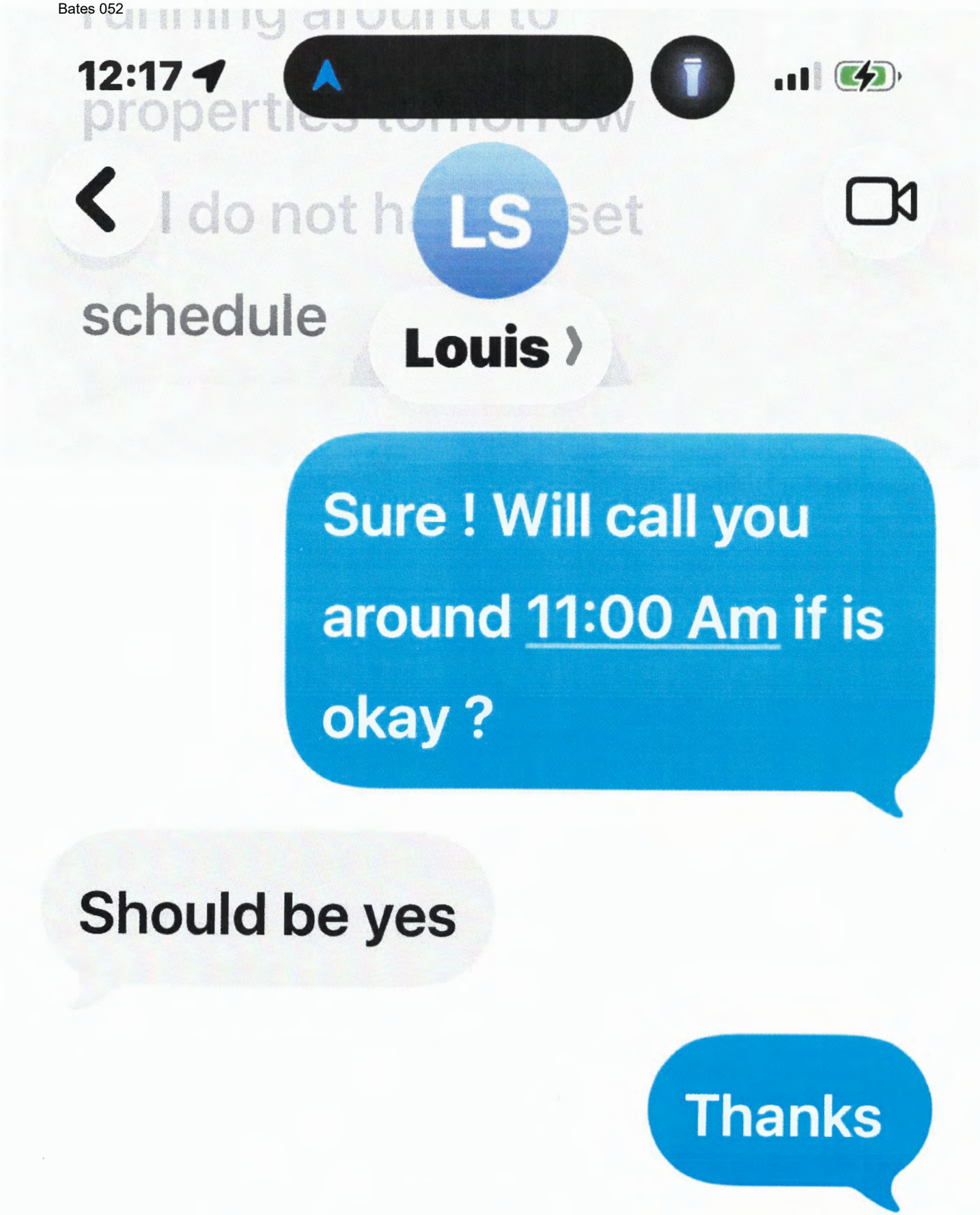

12:16
LS
Louis
Aug 17, 2021 at 12:50 PM
Hi Louis ! Any update on 1359 Fulton ave Sacramento yet ?
Thanks
Hey Siroos, the owners of the building have been

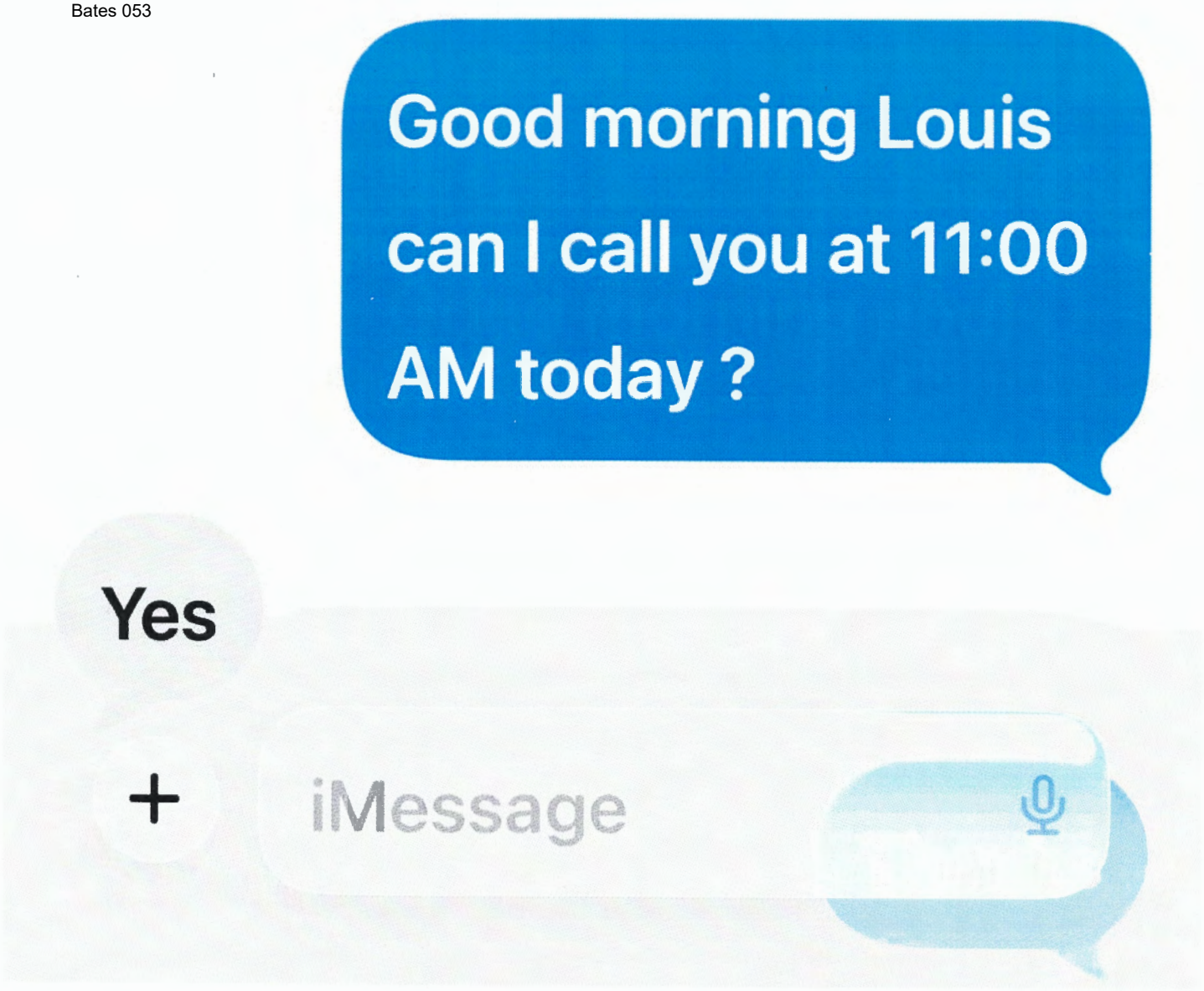
traveling. I followed up yesterday from my initial email to them and will do so again today. Hopefully I can catch up with them today



Thanks for the e-mail .can I call you tomorrow and discuss further with you ? If yes let me know what time . I really appreciate it stay safe 🙏


Yes no problem, feel free to give me a call when you can. I am running around to properties tomorrow
+
iMessage
schedule


12:17
LS
Louis
schedule
Sure ! Will call you around 11:00 Am if is okay ?
Should be yes
Thanks
Aug 25, 2021 at 10:33 AM

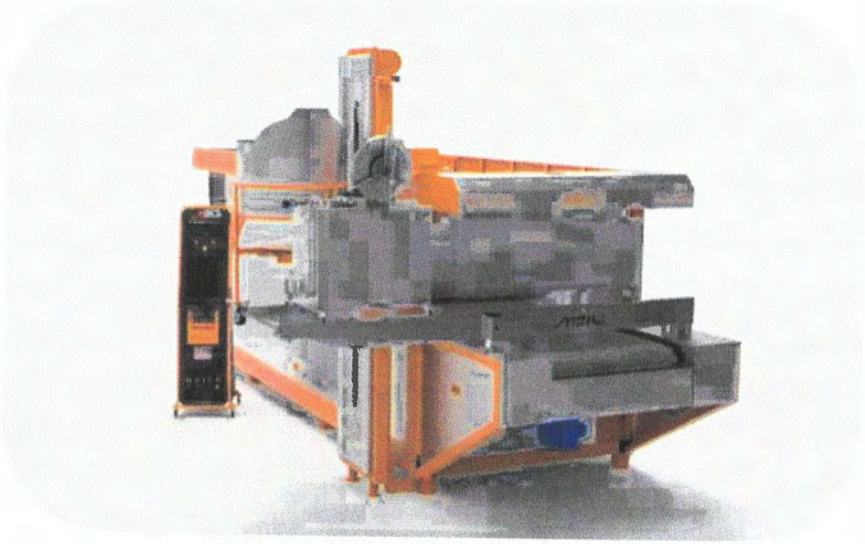

Good morning Louis can I call you at 11:00 AM today ?
Yes
+
iMessage

12:17

LS

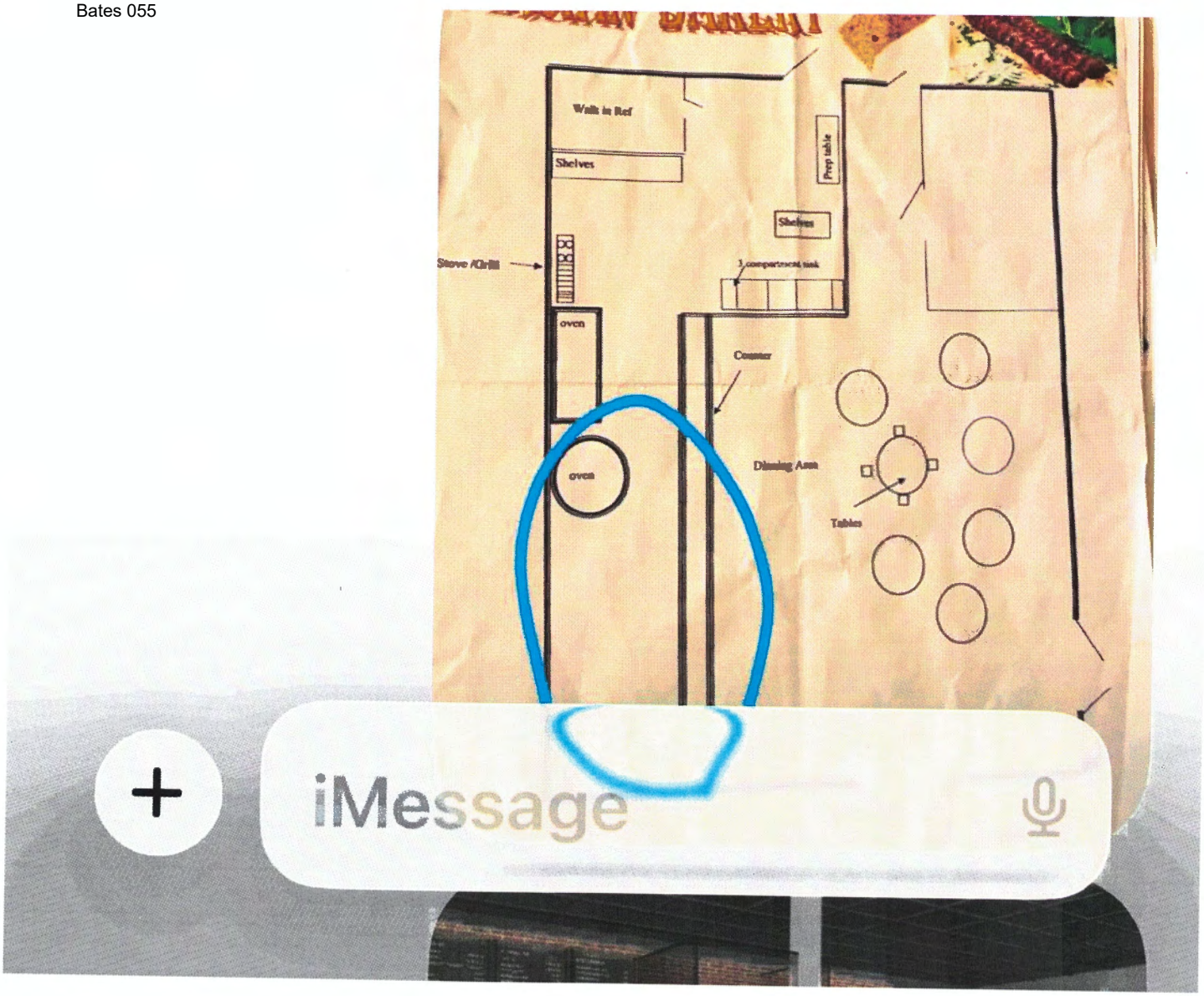
Louis

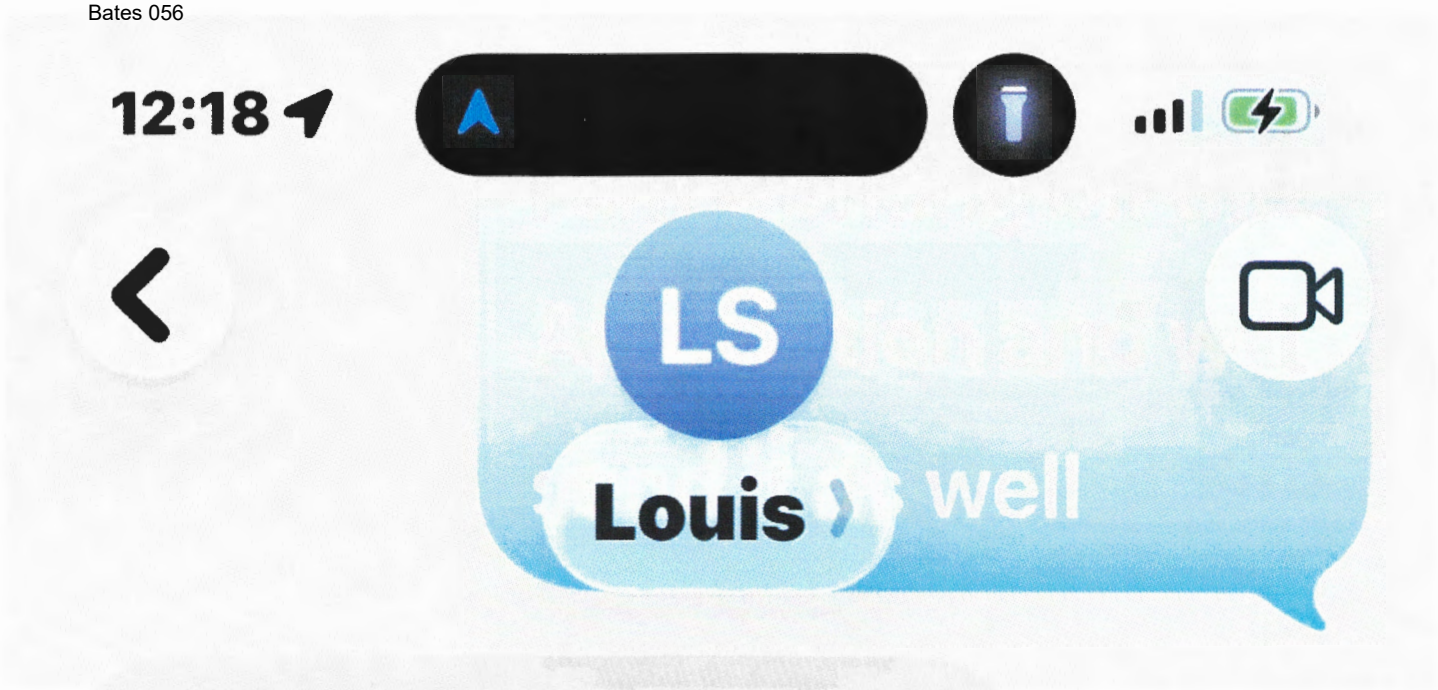
Sep 14, 2021 at 11:38 AM







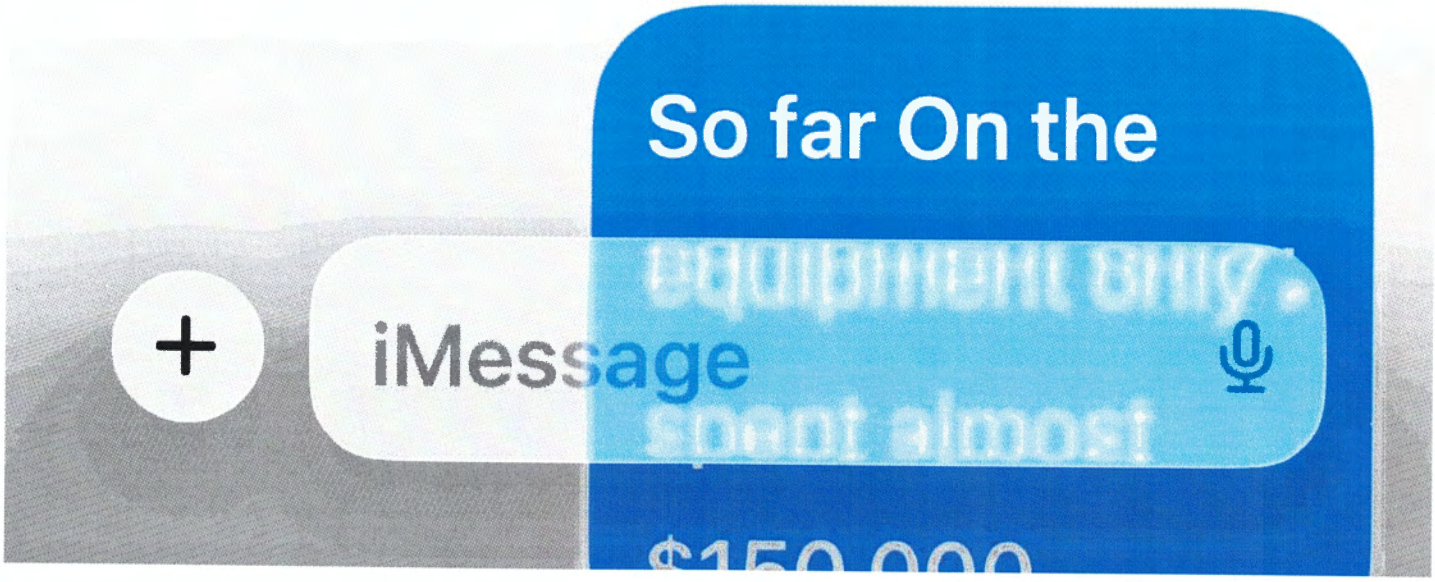

Walk in Ref
Shelves
Prep table
Shelves
Stove /Grill
3 compartment sink
oven
Counter
oven
Dining Area
Tables
iMessage

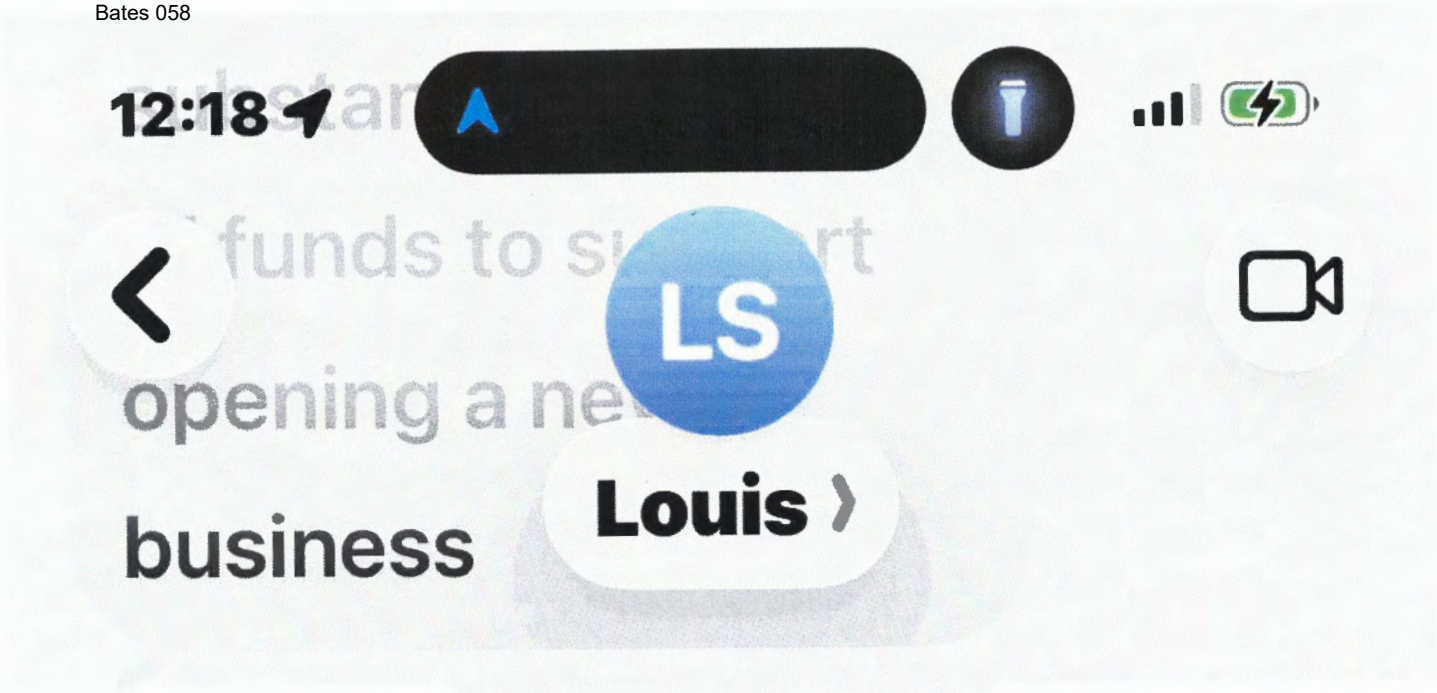


Ok great, thank you. Please make sure you show financials as well as the application

They want to see that you have a substantial amount

of funds to support opening a new business



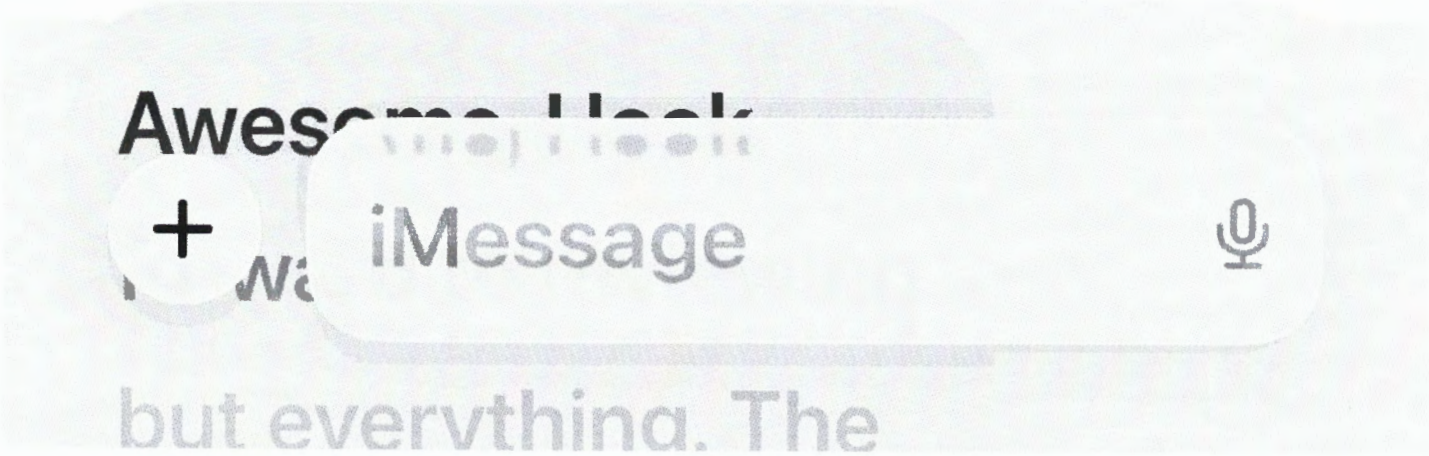


So far On the equipment only I spent almost $150,000

And no crdit card back there I had to pay chase

Chash*

And I do have 100k in my account



BARAK
Since 1982

INDUSTRIAL AND PRODUCTION CO.LTD



www.BARAK-mb.com

INDUSTRIAL AND PRODUCTION CO.LTD

BARAK
Since 1982

- Type of machine: Rotary oven Sangak bread
- Model: BIRH
- Dimensions (cm) : 250L, 230W, 200 H
- Weight: 2400 kg
- Electricity: Single phase , 220 (v)
- Fully insulated:
  - Insulation Material: Wool and Rock
  - Insulation Thickness: 25 (cm)
- Fuel: Gas
- Exterior Construction:
  - Stainless steel front and rear.
  - One inch steel tube structural construction
  - Front mounted controls for temperature and rotation speed
- Capacity for cooking per shift: 550 kg Flour
- Temperature needed for the bread 300 C

Electrical Motors Specifications

Type	Voltage	Phase	Hz	Amperage	Power (hp)
Drive Motor	220	Single	50 - 60	25	0.5
Burner Motor	220	Single	50 - 60	25	0.14

Gas Supply Specification

Natural	1 ¼ - 2	Min 15	Max 40	Min 75	Max 267	14

INDUSTRIAL AND PRODUCTION CO.LTD

BARAK

Burner

-Natural gas burner
-Manufactured according to DIN-4788 Standards
-If the airflow is low a pressure control switch well shut of the burner
-Combination gas Control valve, regulator, and safety pilot
-Gas flow is automatically controlled (Limit Controls) and well adjusted during the oven's operation



Burner Specification

Type	Gas Usage (m^3/hr)	Power(w)	RPM	Voltage (v)	Pipe (mm)	Gas Pressure Before Burner (mbar)	
JGN80/2	7.9 -28.1	250	2800	220	1 ¼ - 2	Min 15	Max:40

Healthy and Safety:

-The oven should be grounded before switching on.
-The oven shouldn't be operated more than its limits, explained in the Manual.
-Pay close attention to the health and safety instructions on the oven.
-In case of fire, smoke or any erro[redacted]ly switches off

EXHIBIT D

(Deposition Transcript)

Dara Levinson Silveira
Direct: 415.364.6790
Cell: 415.735.5713
Email: dsilveira@kbkllp.com

101 Montgomery Street, Suite 1950
San Francisco, CA 94104

Deposition Transcript

Case Number: 24-10545(CN)
Date: August 20, 2026

In the matter of:

In re: LEFEVER MATTSON

SIROOS SAIFI

CERTIFIED COPY

Reported by:
GOLDY GOLD



Steno
Agency, Inc.

315 West 9th Street
Suite 807
Los Angeles, CA 90015
concierge@steno.com
(888) 707-8366
NV: Firm #108F

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SANTA ROSA DIVISION

IN RE:

LEFEVER MATTSON, A CALIFORNIA CORPORATION

CASE NO. 24-10545(CN)

CONSOLIDATED DEBTOR.

REMOTE VIDEOTAPED STENOGRAPHIC DEPOSITION OF

SIROOS SAIFI

SACRAMENTO, CALIFORNIA

THURSDAY, AUGUST 20, 2026

9:00 A.M. PACIFIC TIME

REPORTED BY: GOLDY GOLD, RPR

CA CSR NO. 14803

JOB NO. 3045548

Case: 24-10545 Doc# 4569-1 Filed: 09/15/26 Entered: 09/15/26 10:57:25 Page 123 of 139

REMOTE VIDEOTAPED STENOGRAPHIC DEPOSITION OF SIROOS SAIFI, CREDITOR, TAKEN BY THE ATTORNEY FOR MICHAEL I. GOLDBERG, AS TRUSTEE OF THE LFM PLAN RECOVERY TRUST, BEGINNING AT 9:00 A.M. PACIFIC TIME AND ENDING AT 10:05 A.M. PACIFIC TIME, ON THURSDAY, AUGUST 20, 2026, BEFORE GOLDY GOLD, A REGISTERED PROFESSIONAL REPORTER AND A CALIFORNIA CERTIFIED SHORTHAND REPORTER, NO. 14803.

A P P E A R A N C E S:
ALL PARTIES APPEARING VIA ZOOM:

ON BEHALF OF THE PLAINTIFF TRUSTEE:
KELLER BENVENUTTI KIM LLP
101 MONTGOMERY STREET, SUITE 1950
SAN FRANCISCO, CALIFORNIA 94104
TELEPHONE: 415.496.6723
EMAIL: DSILVEIRA@KBKLLP.COM
BY: DARA L. SILVEIRA, ESQUIRE

ON BEHALF OF THE DEFENDANT CREDITOR:
LAW OFFICES OF YASHA RAHIMZADEH
500 CAPITOL MALL, SUITE 2350
SACRAMENTO, CALIFORNIA 95814
TELEPHONE: 916-337-8066
EMAIL: yrlaw@attorneynorcal.com
BY: YASHA RAHIMZADEH, ESQUIRE

ALSO PRESENT:
VALERIE CABREJOS, LEGAL VIDEOGRAPHER

I N D E X
DEPOSITION OF SIROOS SAIFI
AUGUST 20, 2026

EXAMINATION BY	PAGE
MS. SILVEIRA	6

E X H I B I T S

EXHIBITS	DESCRIPTION	PAGE
EXHIBIT 1	LEASE	17
EXHIBIT 2	EMAIL CHAIN	25
EXHIBIT 3	TEXT MESSAGES THREAD	28
EXHIBIT 4	TEXT MESSAGES THREAD	29

P R O C E E D I N G S
- - OOO - -
REMOTE DEPOSITION OF SIROOS SAIFI
THURSDAY, AUGUST 20, 2026; 9:02 A.M. PACIFIC TIME
- - OOO - -

VIDEOGRAPHER: GOOD MORNING. WE ARE ON THE RECORD AT 9:02 A.M. PACIFIC TIME, AUGUST 20, 2026, TO BEGIN THE DEPOSITION OF SIROOS SAIFI IN THE MATTER OF IN RE TO LEFEVER MATTSON.

THE VENUE OF THIS CASE IS UNITED STATES BANKRUPTCY COURT, NORTHERN DISTRICT OF CALIFORNIA, SANTA ROSA DIVISION. THE CASE NO. IS 24-10545.

THIS DEPOSITION IS TAKING PLACE VIA ZOOM. THE LEGAL VIDEOGRAPHER IS VALERIE CABREJOS, HERE ON BEHALF OF STENO, WHOSE BUSINESS ADDRESS IS 315 WEST 9TH STREET, SUITE 807, LOS ANGELES CALIFORNIA.

WOULD COUNSEL PLEASE IDENTIFY YOURSELVES AND STATE WHOM YOU REPRESENT.

MS. SILVEIRA: GOOD MORNING. I AM DARA SILVEIRA OF KELLER BENVENUTTI KIM, ON BEHALF OF MICHAEL GOLDBERG AS TRUSTEE OF THE LFM PLAN RECOVERY TRUST.

MR. RAHIMZADEH: GOOD MORNING. YASHA RAHIMZADEH REPRESENTING CREDITOR SIROOS SAIFI.

VIDEOGRAPHER: THANK YOU, COUNSEL. WILL

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THE COURT REPORTER PLEASE IDENTIFY YOURSELF, STATE YOUR CERTIFICATION NUMBER AND SWEAR IN THE WITNESS.

STENOGRAPHIC REPORTER: GOOD MORNING. MY NAME IS GOLDY GOLD. I AM A CALIFORNIA-LICENSED STENOGRAPHER, NO. 14803.

I WILL NOW SWEAR IN THE WITNESS.

MR. SAIFI, PLEASE RAISE YOUR RIGHT HAND.

DO YOU SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE TESTIMONY YOU'RE ABOUT TO GIVE IN THIS CAUSE WILL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH?

THE WITNESS: I DO.

WHEREUPON,

SIROOS SAIFI,

AFTER HAVING BEEN DULY SWORN REMOTELY BY THE CERTIFIED STENOGRAPHER UNDER PENALTY OF PERJURY, THE WITNESS WAS EXAMINED AND TESTIFIED REMOTELY HEREIN AS FOLLOWS:

STENOGRAPHIC REPORTER: THANK YOU. YOU MAY PROCEED, COUNSEL.

NOT TO HAVE

EXAMINATION BY COUNSEL FOR TRUSTEE

BY MS. SILVEIRA:

Q. GOOD MORNING, MR. SAIFI.

A. GOOD MORNING.

Q. AS I JUST SAID, I'M DARA SILVEIRA. I

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REPRESENT MICHAEL GOLDBERG WHO'S THE TRUSTEE OF THE LFM PLAN RECOVERY TRUST.

HAVE YOU EVER BEEN DEPOSED BEFORE?

A. YES.

Q. HOW MANY TIMES?

A. ONE TIME.

Q. WHEN WAS THAT?

A. I DON'T REMEMBER THE DATES.

Q. WAS IT IN THE PAST TWO YEARS?

A. YES, MORE THAN THAT.

Q. IT WAS MORE THAN TWO YEARS AGO?

A. I BELIEVE SO, YES.

Q. WAS IT MORE THAN FIVE YEARS AGO?

A. NO.

Q. SO AND WHAT WAS YOUR DEPOSITION REGARDING THAT, THE PREVIOUS ONE?

A. IT WAS MR. YASHA -- I DON'T REMEMBER WHAT WAS IT -- YASHA RAHIMZADEH WAS MY ATTORNEY. I FORGOT WHAT THIS IS. ACTUALLY, I DON'T REMEMBER. IT WAS FOR THE GAS STATION BUSINESS.

Q. WERE YOU A PLAINTIFF IN A LAWSUIT?

A. YES.

Q. AND SO THAT'S THE ONE PREVIOUS TIME YOU'VE BEEN DEPOSED; IS THAT RIGHT?

A. YES, THAT'S CORRECT.

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Q. ALL RIGHT. SO YOU'VE DONE THIS BEFORE, BUT LET ME QUICKLY RUN THROUGH A FEW FORMALITIES.

DO YOU UNDERSTAND THAT YOU'RE HERE TESTIFYING UNDER OATH JUST AS IF YOU WERE IN A COURTROOM?

A. I DO.

Q. IF AT ANY POINT YOU NEED ME TO CLARIFY OR READ BACK A QUESTION, PLEASE ASK ME TO DO THAT. BUT IF YOU ANSWER MY QUESTION, I'M GOING TO ASSUME THAT YOU UNDERSTOOD IT. IS THAT OKAY?

A. SURE. YES.

Q. AND MS. GOLD IS THE COURT REPORTER HERE. SHE'S TAKING DOWN EVERYTHING WE SAY, SO IT'S IMPORTANT THAT WE NOT TALK OVER EACH OTHER. SO EVEN IF YOU KIND OF UNDERSTAND WHERE I'M GOING WITH THE QUESTION, PLEASE WAIT UNTIL I FINISH, AND I'LL TRY TO LET YOU COMPLETE YOUR ANSWER SO THAT THERE'S NO CROSSTALK. DO YOU UNDERSTAND?

A. SURE.

Q. AND IT'S ALSO IMPORTANT TO GIVE AUDIBLE RESPONSES, SO NO HEAD NODS, NO UH-HUHS, NO SHAKES OF THE HEAD OR ANYTHING LIKE THAT AS MS. GOLD WOULD BE ABLE TO CAPTURE THAT. DO YOU UNDERSTAND?

A. YES.

Q. AND I DON'T THINK WE'RE GOING TO BE HERE

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FOR VERY LONG TODAY, BUT PLEASE LET ME KNOW IF YOU NEED **A BREAK, AND ALL THAT I'LL ASK IS IF I'VE JUST ASKED A QUESTION YOU PROVIDE THE ANSWER BEFORE WE GO OFF THE RECORD. IS THAT OKAY?**

A. THAT'S FINE.

Q. IS THERE ANYTHING THAT WOULD PREVENT YOU FROM GIVING TRUTHFUL AND ACCURATE TESTIMONY TODAY?

A. NO.

Q. IS THERE ANYONE IN THE ROOM WITH YOU NOW?

A. NO.

Q. IF THAT CHANGES OVER THE COURSE OF THE DEPOSITION, WOULD YOU LET ME KNOW?

A. SURE.

Q. AND OTHER THAN THE ZOOM THAT WE'RE ON RIGHT NOW, DO YOU HAVE EMAIL OR ANY OTHER ELECTRONIC MESSAGING OPEN ON YOUR IPAD AT THIS TIME?

A. NO.

Q. OKAY. I'M GOING TO ASK THAT THOSE STAY OFF. IS THAT OKAY?

A. SURE.

Q. DO YOU HAVE YOUR PHONE IN THE ROOM WITH YOU?

A. YES.

Q. I'M GOING TO ASK THAT YOU AVOID LOOKING AT IT OTHER THAN IF WE TAKE A BREAK. CAN YOU DO THAT?

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A. SURE.
Q. AND WOULD YOU LET ME KNOW IF YOU RECEIVE ANY MESSAGES THAT RELATE TO THE DEPOSITION?
A. NO.
Q. WOULD YOU LET ME KNOW IF YOU DO?
A. OH, SURE.
Q. WHAT DID YOU DO TO PREPARE FOR TODAY'S DEPOSITION?
A. NOTHING. JUST WRITE A COUPLE OF DATES ON THIS, AND THAT'S ALL.
(REPORTER CLARIFICATION.)
A. JUST A COUPLE OF DATES. I WROTE A COUPLE OF DATES ON A PAPER. THAT'S IT.
Q. DID YOU TALK TO MR. RAHIMZADEH?
A. WHEN? TODAY?
Q. ABOUT THE DEPOSITION?
A. YES.
Q. WHEN?
A. THAT WAS -- LAST TIME WE SUPPOSED TO HAVE A MEETING ON ZOOM. LAST TIME WAS A COUPLE OF -- ABOUT TWO WEEKS AGO. IT WAS ABOUT THE DEPOSITION.
Q. OTHER THAN TALKING TO MR. RAHIMZADEH, DID YOU TALK TO ANYONE ELSE ABOUT THE DEPOSITION?
A. NO.
Q. WERE YOU PROVIDED WITH ANY DOCUMENTS IN

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CONNECTION WITH THE DEPOSITION?
A. NO.
Q. DID YOU INDEPENDENTLY REVIEW ANY DOCUMENTS TO PREPARE FOR THE DEPOSITION?
A. JUST THIS MORNING, YES.
Q. AND WHAT DID YOU LOOK AT?
A. I LOOKED AT SOME TEXT FROM MR. JIM MARTEN.
Q. AND HAVE YOU PROVIDED YOUR COUNSEL WITH THOSE TEXTS?
A. YES.
Q. I DON'T HAVE THEM. THESE ARE TEXTS FROM JIM MARTEN? WHO'S JIM MARTEN?
A. LANDLORD CONTRACTOR. THE LEFEVER MATTSON CONTRACTOR.
Q. AND WHAT'S THE DATE OF THESE TEXTS?
A. THE DATES -- I FORGOT TO WRITE THE DATES ON THEM. BUT I DO HAVE IT ON MY PHONE. I CAN LOOK AT MY PHONE AND TELL YOU EXACT DATE.
Q. OKAY. SO I -- THE ONLY TEXT MESSAGES I'VE SEEN ARE -- I'LL INTRODUCE THEM IN A LITTLE BIT THE TEXT WITH MR. LOUIS SERGI. SO I'M GOING TO WANT TO SEE THE TEXT WITH MR. MARTEN. I HAVEN'T SEEN THEM YET. SO WHEN WE TAKE A BREAK, I CAN TALK TO YOUR COUNSEL TO SORT OUT HOW WE CAN GET THOSE TO MEET MOST EFFICIENTLY SO THAT WE CAN TALK ABOUT THEM.

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A. SURE.
Q. OTHER THAN THE TEXT FROM MR. MARTEN, DID YOU REVIEW ANYTHING IN PREPARATION FOR THE DEPOSITION?
A. AND MR. LOUIS, YES, I DID THAT. MR. LOUIS SERGI. YES, MR. LOUIS SERGI.
Q. IS THE LAST NAME YOU'RE SAYING SERGI, S-E-R-G-I?
A. I BELIEVE SO. YES. HE WAS A LANDLORD AGENT.
(REPORTER CLARIFICATION.)
MS. SILVEIRA: IT'S SPELLED L-O-U-I-S HIS FIRST NAME.
THE WITNESS: LOUIS.
BY MS. SILVEIRA:
Q. AND WHAT DID YOU REVIEW FROM MR. SERGI?
A. I REVIEW -- I TOLD HIM I NEED THE GAS. I SENT HIM ALL THE VIDEO, EVERYTHING, SO I HAVE MAYBE A THOUSAND TEXTS, 500 TEXTS. FROM THE DAY I MET HIM -- I DIDN'T MET HIM. WITH A PHONE CALL. UNTIL LAST TIME I TEXTED HIM.
Q. SO YOU SAID YOU HAVE MAYBE 500 TEXTS FROM HIM?
A. YES, CLOSE TO THAT, YES. I DIDN'T COUNT THEM, BUT LOTS OF TEXTS.
Q. OKAY. SO I DON'T HAVE 500 TEXTS FROM --

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A. DON'T GET ME ON THAT. YOU KNOW, I DIDN'T COUNT THEM. I JUST SAID --
Q. NO, NO, I'M NOT GOING TO HOLD YOU TO 500. I JUST WANT TO MAKE SURE THAT EVERYTHING YOU'VE REVIEWED I'VE BEEN ABLE TO REVIEW. AND YOUR COUNSEL SENT ME SOME ADDITIONAL TEXTS YESTERDAY, BUT I WANT TO MAKE SURE THAT WE'RE TALKING ABOUT THE SAME UNIVERSE OF DOCUMENTS. SO LET'S TABLE THAT FOR THE MOMENT.
A. SURE.
Q. SO OTHER THAN THE TEXT FROM MR. MARTEN AND THE TEXT FROM MR. SERGI, DID YOU REVIEW ANYTHING ELSE BEFORE THE DEPOSITION?
A. NO.
Q. WHAT IS YOUR CURRENT OCCUPATION?
A. SELF-EMPLOYED.
Q. I'M SORRY. CAN YOU REPEAT THAT?
A. SELF-EMPLOYED.
Q. AND WHAT DO YOU DO?
A. I DRIVE FOR A YELLOW CAB.
Q. AND HOW LONG HAVE YOU DONE THAT?
A. FOUR YEARS.
Q. AND WHAT DID YOU DO BEFORE YOU DROVE FOR YELLOW CAB?
A. I HAD THE GAS STATION.
Q. DO YOU MEAN YOU OWNED AND OPERATED A GAS

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STATION?
A. THAT'S CORRECT.
Q. AND FOR HOW LONG DID YOU DO THAT?
A. SINCE 1982.
Q. AND WHERE WAS THE GAS STATION?
A. ALL OVER. FOLSOM. THE LAST ONE WAS IN FOLSOM, CALIFORNIA.
Q. SO WAS THERE MORE THAN ONE?
A. AT THE TIME, NO, IT WASN'T MORE THAN ONE.
Q. BUT YOU SAID THE LAST ONE WAS IN FOLSOM?
A. THAT'S CORRECT.
Q. WAS THERE ONE PRIOR TO THAT?
A. YES.
Q. AND WHERE WAS THAT?
A. THAT WAS IN MORAGA, CALIFORNIA.
Q. AND DID YOU OWN GAS STATIONS IN FOLSOM AND MORAGA AT THE SAME TIME?
A. NO.
Q. UNDERSTOOD. SO IT'S MORAGA THEN FOLSOM?
A. YES.
Q. COULD YOU DESCRIBE ANY PRIOR EXPERIENCE YOU HAVE LEASING A COMMERCIAL PROPERTY?
A. THAT WAS MY FIRST TIME LEASING THAT -- THIS KIND OF A PROPERTY. ALWAYS I HAD THE GAS STATION EXPERIENCE, GAS STATION BUSINESS.

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Q. AND WHEN YOU SAY THIS WAS YOUR FIRST TIME, DO YOU MEAN THE LEASE AND THE ISSUES THAT WE'RE HERE TALKING ABOUT TODAY?
A. YES.
Q. WHEN DID YOU BEGIN SEARCHING FOR A PROPERTY TO OPERATE A BAKERY?
A. I DON'T REMEMBER THE DATES. I HAVE TO LOOK AT THE TEXT. I DON'T REMEMBER THE DATES.
Q. AND WHICH TEXT WOULD YOU NEED TO LOOK AT?
A. THE TEXT WHEN I STARTED TALKING TO MR. LOUIS.
Q. HOW DID YOU MEET MR. SERGI?
A. I NEVER MEET THE GUY.
Q. HOW DID YOU COME TO TEXT HIM IN THE FIRST PLACE?
A. I SAW THE PROPERTY. ONE OF MY FRIENDS TOLD ME, AND I GOT HIS PHONE NUMBER FROM THE ADVERTISEMENT, AND STILL I KEPT, AND THERE WAS A PHONE NUMBER, AN EMAIL ADDRESS, EVERYTHING ON THAT POSTING.
Q. SO THE FIRST -- THE FIRST THING YOU SAW WAS AN ADVERTISEMENT FOR THE PROPERTY; IS THAT WHAT YOU SAID?
A. THAT'S CORRECT, ON THE WINDOW. YES, ON A SHOP WINDOW.
Q. AND YOU SAW THE ADVERTISEMENT ON THE

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WINDOW --
A. OF THE PROPERTY, 11359 FULTON AVENUE.
Q. AND WHAT DID THAT ADVERTISEMENT SAY?
A. HIS NAME, CONTACT FORMATION, AND HE SAID "LEFEVER MATTSON."
Q. HOW DID IT DESCRIBE THE PROPERTY THAT WAS FOR RENT?
A. IT WASN'T DESCRIBING. IT JUST SAID CONTACT. YOU SEE HOW THE COMMERCIAL PROPERTY GOES FOR A LEASE, THEY PUT THE SIGN WITH THE AGENT NUMBER, AND YOU HAVE TO CONTACT THEM.
Q. SO YOU SAW A SIGN ON THE WINDOW OF 1359 FULTON AVENUE IN SACRAMENTO?
A. THAT'S CORRECT.
Q. AND THE ONLY INFORMATION ON THAT SIGN WAS THE CONTACT INFORMATION FOR MR. SERGI?
A. THAT'S CORRECT.
Q. AND DID I HEAR YOU CORRECTLY THAT YOU SAID YOU SPOKE TO A FRIEND ABOUT IT?
A. HE TOLD ME ABOUT THE PLACE. HE'S A NEXT DOOR NEIGHBOR, AND HE USED TO RENT FROM THESE GUYS.
Q. AND WHAT WAS YOUR FRIEND'S NAME?
A. HIS NAME WAS HASI, H-A-S-I.
Q. LAST NAME?
A. I DON'T KNOW HIS LAST NAME.

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Q. SO HASI TOLD YOU THAT THERE WAS A PROPERTY THAT HAD AN ADVERTISEMENT IN THE WINDOW, AND HE WAS THE NEXT DOOR NEIGHBOR TO THE PROPERTY?
A. THAT'S CORRECT.
MS. SILVEIRA: I AM GOING TO PRESENT AN EXHIBIT.
[EXHIBIT 1, LEASE, WAS MARKED FOR IDENTIFICATION.]
BY MS. SILVEIRA:
Q. ARE YOU ABLE TO SEE A DOCUMENT ON THE SCREEN?
A. YES.
Q. SO THIS IS A DOCUMENT THAT I HAVE MARKED AS EXHIBIT 1, AND THIS DOCUMENT WAS PRODUCED TO THE TRUSTEE AS BATES 0001. DO YOU SEE THAT JUST RIGHT THERE?
A. YES.
Q. AND ARE YOU ABLE TO READ THIS? IS IT LARGE ENOUGH FOR YOU?
A. YES.
Q. DO YOU RECOGNIZE THIS DOCUMENT?
A. I CAN SEE MY NAME. I DON'T RECOGNIZE THIS RIGHT NOW, BUT I SEE MY NAME AND MY COMPANY NAME.
Q. PLEASE BEAR WITH ME. I'M TRYING TO MAKE THIS A LITTLE BIT EASIER TO SEE.
IS THAT A BETTER VIEW? DO YOU RECOGNIZE

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THE DOCUMENT NOW?
A. YES.
Q. WHAT IS IT?
A. THAT'S A LEASE IT SAYS. I CANNOT READ THE FINE LINES, BUT IT SAYS LEASE AND MY NAME, AND TENANT NAME.
Q. HAVE YOU SEEN THIS LEASE BEFORE?
A. YES.
Q. IF DURING THIS DEPOSITION I REFER TO THE LEASE, DO YOU UNDERSTAND THAT I'M REF -- REFERRING TO THIS DOCUMENT, WHICH IS EXHIBIT 1?
A. YES.
Q. NOW, WE'RE STILL ON PAGE BATES 001.
DO YOU SEE TOWARDS THE TOP, RIGHT HERE WHERE IT SAYS, "THE TENANT: SIROOS SAIFI AND DANINAAN LLC?"
A. DANINAAN, YES.
Q. DANINAAN. WHAT IS DANINAAN LLC?
A. CAN YOU ZOOM IT IN, PLEASE.
Q. YES.
A. I WANT TO SEE. YEAH. DANNY IS MY SON'S NAME, AND NAAN MEANS BREAD. DANINAAN.
Q. AND IS DANINAAN LLC AN ENTITY THAT YOU CONTROL?
A. THAT'S CORRECT.

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Q. WHAT DOES IT DO?
A. I OPENED IT PURPOSELY JUST FOR RUNNING MY BAKERY.
Q. WHEN WAS IT FORMED?
A. I BELIEVE MR. RAHIMZADEH DID THIS FOR ME. IT WAS BACK IN 2021, I BELIEVE.
Q. IS DANINAAN STILL IN EXISTENCE TODAY?
A. YES.
Q. WHAT DOES IT DO?
A. THANKS TO LEFEVER MATTSON NOTHING FOR NOW, FOR THE LAST SIX YEARS.
Q. DO YOU SEE HERE ON PAGE BATES 001 WHERE IT SAYS, "1200 CREEKSIDE DRIVE, FOLSOM, CALIFORNIA"?
A. THAT'S RIGHT.
Q. IS THAT YOUR ADDRESS?
A. YES.
Q. IS IT YOUR HOME ADDRESS?
A. MY APARTMENT, YES.
Q. I'M GOING TO TURN TO -- SO DO YOU SEE HERE AT THE TOP WHERE IT SAYS BATES 029?
A. THAT'S RIGHT.
Q. I'M GOING TO SCROLL DOWN HERE.
IS THIS YOUR SIGNATURE IN THE MIDDLE OF THE PAGE HERE?
A. YES.

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Q. AND IT'S DATED DECEMBER 22, 2021?
A. THAT'S RIGHT.
Q. AND I'M SCROLLING DOWN FURTHER. IS THIS YOUR SIGNATURE FOR DANINAAN LLC?
A. YES.
Q. AND YOU WERE THE CEO OF DANINAAN LLC?
A. THAT'S CORRECT.
Q. DO YOU REMAIN THE CEO OF DANINAAN LLC?
A. YES.
Q. DOES DANINAAN LLC HAVE ANY OTHER OFFICERS OR DIRECTORS?
A. NO.
Q. DOES IT HAVE ANY EMPLOYEES?
A. NO.
Q. ALL RIGHT. WE ARE BACK ON PAGE BATES 001, AND I'M GOING TO SCROLL DOWN A LITTLE BIT HERE. AND DO YOU SEE SECTION 1.3 WHERE IT SAYS, "PREMISES"?
A. YES.
Q. AND IT REFERS TO A CERTAIN PORTION OF THE FULTON VILLAGE SHOPPING CENTER AT 1359 FULTON AVENUE IN SACRAMENTO?
A. THAT'S CORRECT.
Q. AND IT SAYS THAT THE -- RIGHT HERE IT SAYS THAT THE PREMISES IS 2,450 SQUARE FEET, AND BELOW THAT IT DESCRIBES THE SHOPPING CENTER AS A WHOLE AS BEING

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39,475 SQUARE FEET. DO YOU SEE THAT?
A. YES.
Q. SO DURING THE DEPOSITION, IF I REFER TO THE PREMISES, WILL YOU UNDERSTAND THAT I MEAN THE PREMISES AS IT'S DEFINED HERE IN SECTION 1.3 OF THE LEASE?
A. PREMISES, I MEAN, MY ADDRESS, YES. I DON'T KNOW WHAT -- ABOUT THE REST OF THE SHOPPING CENTER.
Q. AND THAT'S EXACTLY THE DISTINCTION I'M DRAWING, IS THAT PREMISES AS DEFINED HERE IN SECTION 1.3 OF THE LEASE IS THE PORTION OF THE FULTON VILLAGE SHOPPING CENTER THAT THE LEASE COVERS?
A. YES.
Q. SO WHEN I SAY "PREMISES," I MEAN, THAT PORTION THAT'S DEFINED HERE IN SECTION 1.3?
A. YES.
Q. SO I'LL USE THAT -- I'LL USE THE TERM PREMISES GOING FORWARD.
A. AND WHEN YOU SAID PREMISES, YOU MEAN 2,450 SQUARE FEET.
Q. THAT'S CORRECT, THE 2,450 SQUARE FOOT PORTION OF THE SHOPPING CENTER.
A. OKAY.
Q. OTHER THAN THE ADVERTISEMENT YOU SAW IN THE WINDOW OF THE SHOPPING CENTER, DID YOU SEE ANY OTHER MARKETING MATERIALS, PROPERTY LISTINGS, BROCHURES,

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ANYTHING FOR THE PREMISES?
A. NO.
Q. DID YOU LOOK AT ANY OTHER PROPERTIES BEFORE LOOKING AT THE PREMISES?
A. I DON'T REMEMBER.
Q. SO YOU -- JUST TO MAKE SURE I UNDERSTAND, YOU DON'T REMEMBER IF YOU LOOKED AT ANY OTHER LOCATIONS AT WHICH TO OPEN THE BAKERY OTHER THAN THE PREMISES; IS THAT CORRECT?
A. THAT'S CORRECT. THAT'S CORRECT.
Q. IS THERE ANYTHING YOU COULD LOOK AT TO REFRESH YOUR RECOLLECTION OF THAT?
A. NO.
Q. WHAT MADE YOU DECIDE TO LEASE THE PREMISES?
A. THE LOCATION, THE SIZE. IT HAD EVERYTHING I NEEDED. THEY SHOWED ME THE GAS METER. THEY TOLD ME NATURAL GAS, AND WAS NEXT TO MY FRIEND'S SHOP, HASI. THAT'S WHY I CHOOSE TO RENT THAT PLACE.
Q. AND WE'LL COME BACK TO THE GAS METER IN A MOMENT. BUT WHAT KIND OF SHOP DOES HASI RUN?
A. HE GOT -- YOU KNOW, PIZZA PLACE.
Q. WHAT'S THE PIZZA PLACE CALLED?
A. I DON'T REMEMBER. I CAN GET IT, BUT I DON'T REMEMBER RIGHT NOW.
Q. DID YOU REVIEW THE LEASE BEFORE YOU SIGNED

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IT?
A. YES.
Q. DID YOU CONSULT AN ATTORNEY ABOUT THE LEASE?
A. YES.
Q. WAS THAT ATTORNEY MR. RAHIMZADEH?
A. THAT'S CORRECT.
Q. DID YOU REQUEST ANY CHANGES TO THE LEASE BEFORE YOU SIGNED IT?
A. I DON'T REMEMBER, BUT I BELIEVE I DID. BUT I DON'T REMEMBER WHAT WAS IT.
Q. IS THERE SOMETHING YOU COULD CONSULT TO REFRESH YOUR RECOLLECTION ABOUT THAT?
A. PROBABLY.
Q. I'M SORRY?
A. PROBABLY, YES.
Q. WHAT WOULD YOU LOOK AT TO REFRESH YOUR RECOLLECTION AS TO WHETHER YOU REQUESTED ANY CHANGES TO THE LEASE?
A. I HAVE TO CHECK MY LEASE MYSELF. YOU KNOW, I GOT TO SEE IF THERE'S ANY NOTES ON IT OR -- BECAUSE I HAVE A COPY.
Q. YOU HAVE A COPY OF THE LEASE THAT HAS YOUR NOTES ON IT?
A. PROBABLY, YES. I SAID IF I DID SOME

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CHANGES, I MUST WRITE IT ON MY OWN LEASE BEFORE I SIGNED IT.
Q. IS THERE A VERSION OF THE LEASE OTHER THAN THE ONE YOU GAVE TO YOUR ATTORNEY?
A. YEAH, I HAVE A COPY FOR MYSELF, YES.
Q. SURE. AND WHAT I'M GETTING AT IS THE DOCUMENT WE'RE LOOKING AT RIGHT NOW, EXHIBIT 1, THE LEASE, THIS IS A FULLY SIGNED COPY, AND I'M WONDERING IF YOU HAVE ANOTHER COPY THAT INCLUDES ANY CHANGES OR ANYTHING OR THIS IS THE ONLY FULLY SIGNED COPY THERE IS?
A. AND I SAID, MA'AM, I HAVE TO LOOK AT MY DOCUMENTS. I DON'T HAVE IT IN FRONT OF ME. I HAVE TO LOOK IF I DID ANY CHANGES. I WAS ALWAYS MAKING NOTES.
Q. DID YOU TALK TO MR. SERGI ABOUT ANY CHANGES TO THE LEASE?
A. PROBABLY I DID. I DON'T REMEMBER. PROBABLY. IN ANY LEASE NEGOTIATION, YOU KNOW, THAT'S THE NAME OF THE GAME, YOU KNOW, TO TRY TO NEGOTIATE.
Q. DID YOU TALK TO ANYONE ELSE ABOUT THE TERMS OF THE LEASE?
A. MY ATTORNEY, MAYBE MY FRIEND, YES, PROBABLY.
Q. WHICH FRIEND?
A. I DON'T REMEMBER.
MS. SILVEIRA: I AM GOING TO INTRODUCE

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ANOTHER EXHIBIT, AND WE'LL COME BACK TO EXHIBIT 1. THIS IS EXHIBIT 2 THAT I AM PUTTING UP RIGHT NOW.
[EXHIBIT 2, EMAIL CHAIN, WAS MARKED FOR IDENTIFICATION.]
BY MS. SILVEIRA:
Q. MR. SAIFI, CAN YOU SEE THE DOCUMENT THAT'S ON THE SCREEN? IT'S BEEN MARKED AS EXHIBIT 2. IN THE UPPER LEFT-HAND CORNER IT SAYS BATES 031. DO YOU SEE THAT?
A. YES.
Q. AND LET'S GO THROUGH AND SEE THERE ARE THREE PAGES TO THIS EXHIBIT. DO YOU SEE -- YOU KNOW, IT LOOKS -- AND WE CAN TALK THROUGH THIS TOGETHER. IT LOOKS LIKE THERE ARE TWO EMAILS IN THIS DOCUMENT.
IF WE WERE LOOKING HERE ON PAGE BATES 031, DO YOU SEE IN THE MIDDLE OF THE PAGE WHERE IT SAYS ON 7/31/2021, 10:23 P.M., SIROOS SAIFI WROTE, AND THEN DO YOU SEE THE MESSAGE THAT STARTS "HI LOUIS"?
A. CAN YOU PLEASE --
Q. YES. IS THAT BETTER?
A. YES.
Q. AND I'M GOING TO SCROLL DOWN TO PAGE BATES 032. IS THIS THE SECOND HALF OF THAT MESSAGE?
A. YES, I BELIEVE SO.
Q. AND THEN I'M GOING TO GO TO PAGE BATES 033.

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DO YOU SEE AT THE TOP WHERE IT SAYS ON AUGUST 2, 2021, 11:42 A.M., LOUIS SERGI WROTE, AND THEN THERE'S A MESSAGE BELOW?

A. YES. YES.

Q. SO WHO IS LOUIS SERGI?

A. THE AGENT, THE LANDLORD AGENT, LAFEVER MATTSON AGENT, THAT'S WHOM I DEALT WITH.

Q. AND WE'RE GOING TO GO BACK UP TO PAGE BATES PAGE 031. IS THIS EMAIL FROM JULY 31, 2021, THE ONLY EMAIL YOU SENT TO MR. SERGI?

A. NOT THE ONLY ONE.

Q. DID YOU GIVE YOUR ATTORNEY OTHER EMAILS TO MR. SERGI?

A. DID I GIVE MY ATTORNEY WHAT?

Q. THIS IS THE ONLY EMAIL THAT I HAVE FROM YOU TO MR. SERGI.

A. OKAY.

Q. AND YOU SAID THAT THERE ARE ADDITIONAL EMAILS?

A. THAT'S CORRECT.

Q. SO I'M TRYING TO TRACK DOWN WHAT THOSE EMAILS MIGHT BE.

A. CAN I LOOK AT MY PHONE?

MS. SILVEIRA: LET'S GO OFF THE RECORD AND TALK THROUGH THIS BRIEFLY, BUT, YES, YOU WILL BE

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ABLE TO LOOK AT YOUR PHONE.

THE WITNESS: OKAY.

VIDEOGRAPHER: NO OBJECTIONS TO GOING OFF THE RECORD?

MR. RAHIMZADEH: NO.

VIDEOGRAPHER: PLEASE STAND BY. WE ARE NOW OFF OF THE RECORD. THE TIME IS 9:36 A.M. PACIFIC TIME.

(BRIEF RECESS.)

VIDEOGRAPHER: WE ARE NOW ON THE RECORD. THE TIME IS 9:56 A.M. PACIFIC TIME.

BY MS. SILVEIRA:

Q. MR. SAIFI, A FEW MORE QUESTIONS BEFORE WE CONCLUDE FOR TODAY, AND WE'LL HOLD THE DEPOSITION OPEN.

FIRST, I UNDERSTAND THAT YOU HAVE TEXTS FROM JIM MARTEN THAT YOU WILL BE PRODUCING; IS THAT RIGHT?

A. THAT'S CORRECT.

Q. BUT THEY HAVE NOT BEEN PRODUCED TO DATE; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND I UNDERSTAND THAT EXHIBIT 2, WHICH I'M PUTTING BACK ON THE SCREEN RIGHT NOW, THIS IS THREE PAGES BATES-NUMBERED 031 THROUGH 033, WHICH IS AN EMAIL FROM YOU ON JULY 31, 2021, TO MR. SERGI, AND THEN AN

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EMAIL ON PAGE BATES 033, WHICH IS AN AUGUST 2, 22021 EMAIL FROM MR. SERGI TO YOU.

I UNDERSTAND THAT THESE ARE NOT THE ONLY TWO EMAIL COMMUNICATIONS BETWEEN YOU AND MR. SERGI; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND I UNDERSTAND THAT YOU HAVE ADDITIONAL EMAILS THAT YOU WILL BE PRODUCING; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND DO YOU HAVE A SENSE OF HOW MANY EMAILS WITH MR. SERGI YOU HAVE THAT HAVEN'T BEEN PRODUCED TO THE TRUSTEE?

A. ABOUT NINE.

Q. AND DO YOU HAVE A SENSE OF HOW MANY TEXTS YOU HAVE WITH MR. MARTEN, A ROUGH ESTIMATE?

A. I DON'T REMEMBER. MAYBE 10 OR 12. I DON'T REMEMBER.

MS. SILVEIRA: AND I'D LIKE TO INTRODUCE EXHIBIT 3. THIS IS THE WRONG EXHIBIT 3. ONE MOMENT.

[EXHIBIT 3, TEXT MESSAGES THREAD, WAS MARKED FOR IDENTIFICATION.]

MS. SILVEIRA: AND FOR THE RECORD I MISTAKENLY INTRODUCED SOMETHING THAT WAS MARKED AS EXHIBIT 3. IT IS A SUBSET OF WHAT I'VE NOW MARKED

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AS EXHIBIT 4.

[EXHIBIT 4, TEXT MESSAGES THREAD, WAS MARKED FOR IDENTIFICATION.]

BY MS. SILVEIRA:

Q. CAN YOU SEE EXHIBIT 4, MR. SAIFI?

A. YES.

Q. AND DO YOU SEE THAT THIS IS AN 18-PAGE EXHIBIT. THE FIRST BATES NUMBER IS BATES 042, AND THE LAST PAGE IS BATES NUMBER 059. DO YOU SEE THAT?

A. YES.

Q. IS THIS EXHIBIT 4 A SERIES OF TEXT MESSAGES BETWEEN YOU AND MR. SERGI?

A. THAT'S CORRECT.

Q. WOULD YOU LIKE ME TO GO THROUGH EACH PAGE?

A. IF YOU'D LIKE TO.

Q. THE REASON I ASK IS --

MY QUESTION IS: IS THIS DOCUMENT, WHICH WAS PRODUCED TO THE TRUSTEE ON WEDNESDAY, YESTERDAY, IS THIS THE ENTIRE UNIVERSE OF YOUR TEXT MESSAGES WITH MR. SERGI OR ARE THERE ADDITIONAL TEXTS?

A. CAN I GO TO THE END? I WANT TO SEE THE END. YOU KNOW, MY BAD. I DIDN'T SEND EVERYTHING TO MR. RAHIMZADEH. I JUST SENT A COUPLE OF THEM OR SOME OF THEM.

WHAT'S THE DATE ON THE LAST PAGE?

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Q. THE DATE IS NOT LEGIBLE.
A. CAN YOU GO UP AND SEE WHAT'S THE DATE?
Q. IT LOOKS LIKE THE LAST DATE THAT IS VISIBLE IS SEPTEMBER 14, 2021.
A. YES, I CAN SEE THAT.
Q. AND THAT'S PAGE BATES 054.
A. YES.
Q. SO IS IT YOUR UNDERSTANDING THAT THIS IS NOT THE COMPLETE UNIVERSE OF TEXT MESSAGES WITH MR. SERGI?
A. AGAIN, I HAVE TO CHECK. I'M NOT SURE.
MS. SILVEIRA: AND THAT'S IT WITH EXHIBIT 4.
BY MS. SILVEIRA:
Q. AND, MR. SAIFI, DID YOU TESTIFY THAT YOU MIGHT HAVE A COPY OF THE LEASE THAT YOU MARKED UP AND WERE SENT TO MR. SERGI?
A. I DO HAVE A COPY FOR MYSELF, YES.
Q. IS IT A COPY THAT HAS CHANGES THAT YOU COMMUNICATED TO MR. SERGI?
A. AGAIN, I SAID IF THERE WAS ANY CHANGES I MADE A NOTE OF IT. YOU KNOW, I'M NOT SURE. I HAVE TO CHECK.
Q. AND IF YOU FIND SOMETHING THAT HAS NOTES, WOULD YOU GIVE IT TO YOUR ATTORNEY TO PRODUCE TO THE

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TRUSTEE?
A. SURE. SURE.
MS. SILVEIRA: THAT'S MY LAST QUESTION FOR RIGHT NOW, MR. SAIFI.
IN LIGHT OF THE FACT THAT MR. SAIFI HAS TESTIFIED THAT HE HAS DOCUMENTS RESPONSIVE TO THE TRUSTEE'S REQUESTS FOR PRODUCTION THAT HAVEN'T BEEN PRODUCED, WE'RE GOING TO CONCLUDE FOR TODAY. WE'LL HOLD THE DEPOSITION OPEN, AND I WILL MEET AND CONFER WITH MR. RAHIMZADEH REGARDING THE PRODUCTION OF THESE DOCUMENTS AND A TIME FOR THE CONTINUED DEPOSITION.
THE TRUSTEE IS GOING TO RESERVE ALL RIGHTS WITH RESPECT TO SEEK DISCOVERY SANCTIONS FOR THE FAILURE TO FULLY RESPOND TO THE RFPS.
I HAVE NO FURTHER QUESTIONS AT THIS TIME, BUT WE WILL HOLD THE DEPOSITION OPEN AND CONTINUE AT A LATER DATE.
MR. RAHIMZADEH: OKAY. THANK YOU.
VIDEOGRAPHER: MS. SILVEIRA, YOU WILL RECEIVE A STANDARD VIDEO EDIT AS PART OF THE VIDEOGRAPHER'S SERVICE. WOULD YOU LIKE TO PURCHASE ANY ADDITIONAL VIDEO PRODUCTS SUCH AS SYNCED VIDEO FOR THIS PRO PROCEEDING OR ANY TRANSCRIPTS.
MS. SILVEIRA: JUST THE TRANSCRIPT PLEASE.

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VIDEOGRAPHER: OKAY. SO JUST TO CONFIRM, YOU DO NOT WANT THE STANDARD VIDEO EDIT FOR TODAY?
MS. SILVEIRA: YES, I WOULD LIKE BOTH THE WRITTEN TRANSCRIPT AND THE VIDEO.
VIDEOGRAPHER: OKAY. PERFECT.
MS. SILVEIRA: I THINK I ANSWERED THAT WRONG THE FIRST TIME. THANK YOU.
VIDEOGRAPHER: IT'S OKAY. AND THEN MR. RAHIMZADEH, WOULD YOU LIKE TO PURCHASE ANY VIDEO PRODUCTS FOR THIS PROCEEDING?
MR. RAHIMZADEH: NOT AT THIS TIME, BUT THANK YOU.
STENOGRAPHIC REPORTER: MR. RAHIMZADEH, WOULD YOU LIKE A COPY OF THE TRANSCRIPT?
MR. RAHIMZADEH: NOT AT THIS TIME.
VIDEOGRAPHER: WITH THAT BEING SAID, THIS CONCLUDES THE DEPOSITION OF SIROOS SAIFI IN REFERENCE TO LEFEVER MATTSON.
WE ARE NOW OFF THE RECORD. THE TIME IS 10:05 A.M. PACIFIC TIME.
(DEPOSITION CONCLUDED 10:05 A.M. PACIFIC TIME.)

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REPORTER CERTIFICATE

I, GOLDY GOLD, DO HEREBY CERTIFY:
THAT I AM A DULY QUALIFIED REGISTERED PROFESSIONAL REPORTER, AND A LICENSED CALIFORNIA CERTIFIED SHORTHAND REPORTER, NO. 14803, WHICH IS IN FULL FORCE AND EFFECT AND THAT I AM AUTHORIZED TO ADMINISTER OATHS AND AFFIRMATIONS;
THAT THE FOREGOING DEPOSITION TESTIMONY OF THE HEREIN NAMED WITNESS WAS TAKEN BEFORE ME AT THE TIME AND PLACE HEREIN SET FORTH;
THAT PRIOR TO BEING EXAMINED, THE WITNESS NAMED IN THE FOREGOING DEPOSITION, WAS DULY SWORN OR AFFIRMED BY ME, TO TESTIFY THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH;
THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS MADE AT THE TIME OF THE EXAMINATION WERE RECORDED STENOGRAPHICALLY BY ME, AND WERE THEREAFTER TRANSCRIBED UNDER MY DIRECTION AND SUPERVISION;
THAT THE FOREGOING PAGES CONTAIN A FULL, TRUE AND ACCURATE RECORD OF THE PROCEEDINGS AND TESTIMONY TO THE BEST OF MY SKILL AND ABILITY;
I FURTHER CERTIFY THAT I AM NOT A RELATIVE OR EMPLOYEE OR ATTORNEY OR COUNSEL OF ANY OF THE PARTIES, NOR AM I A RELATIVE OR EMPLOYEE OF SUCH ATTORNEY OR

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COUNSEL, NOR AM I FINANCIALLY INTERESTED IN THE OUTCOME OF THIS ACTION.

IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS 23RD DAY OF AUGUST, 2026.

Goldy Gold

GOLDY GOLD, RPR, CA CSR NO. 14803

DECLARATION

OUR ASSIGNMENT NO. 3045548
CASE NAME: IN RE: LAFEVER MATTSON, A CALIFORNIA CORPORATION

DECLARATION UNDER PENALTY OF PERJURY

I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE READ THE ENTIRE TRANSCRIPT OF MY DEPOSITION TAKEN IN THE CAPTIONED MATTER OR THE SAME HAS BEEN READ TO ME, AND THE SAME IS TRUE AND ACCURATE, SAME AND EXCEPT FOR CHANGES AND/OR CORRECTIONS, IF ANY, AS INDICATED BY ME ON THE DEPOSITION ERRATA SHEET HEREOF, WITH THE UNDERSTANDING THAT I OFFER THESE CHANGES AS IF STILL UNDER OATH.

_____
SIROOS SAIFI

SUBSCRIBED AND SWORN TO ON THE _____ DAY OF _____, 2026 BEFORE ME,

_____
NOTARY PUBLIC,
IN AND FOR THE STATE OF _____

DEPOSITION ERRATA SHEET

PAGE NO.____LINE NO.___CHANGE TO:_____
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REASON FOR CHANGE:_____
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PAGE NO.____LINE NO.___CHANGE TO:_____
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SIGNATURE:_____DATE:_____
SIROOS SAIFI

DEPOSITION ERRATA SHEET

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EXHIBIT E

(August 20, 2026 Email)

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Dara Silveira

From: Dara Silveira
Sent: Thursday, August 20, 2026 10:58 AM
To: Rahimzadeh, Yasha
Subject: In re LeFever Mattson (Case No. 24-10545): Deposition of Siroos Saifi
Attachments: Exhibit 2.pdf; Exhibit 4 - Texts.pdf

Yasha,

As you know, I was forced to suspend Mr. Saifi's deposition because Mr. Saifi testified that:

1. He has text messages with Jim Martin that have not been produced to the Trustee.
2. He has additional emails with Louis Sergi beyond what was produced as Bates 031-33 (see attached Exhibit 2).
3. He has additional text messages with Mr. Sergi beyond what was produced as Bates 042-059. (Note that you produced these text messages to me yesterday, though, per the terms of our stipulations [Dkt. Nos. 4512, 4528], discovery closed on August 6, 2026 except with respect to Mr. Saifi's deposition.)
4. He might have a copy of the Lease with proposed changes, that he may or may not have communicated to Mr. Sergi.

Please let me know what time you are available to meet and confer regarding the above. As I said on the record, the Trustee reserves all rights to seek discovery sanctions. Please also confirm that Mr. Saifi will pay for the costs of today's deposition, including the fees incurred in preparation and the court reporter and videographer costs, the total of which I can provide to you on Monday.

Best regards,
Dara

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IMPORTANT NOTICE: *WE HAVE MOVED! PLEASE NOTE OUR NEW PHYSICAL ADDRESS.*
Online banking fraud is on the rise. Never trust wiring instructions sent via email. Please confirm all wiring instructions by phone directly with our office before transferring funds. This e-mail and any attachment may contain communications or information that is privileged and confidential. If you have received this e-mail in error, please notify the sender and destroy it immediately.

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