

**MASTER LEASE**  
(Annapolis Market House)

THIS MASTER LEASE (this "Lease") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2011 by and between THE CITY OF ANNAPOLIS, an incorporated municipality of the State of Maryland, (the "Landlord"), having an address at 160 Duke of Gloucester Street, Annapolis, MD 21401 Attn: City Manager, and GONE TO MARKET LLC, a Maryland limited liability company (the "Tenant"), having an address at 6 Meadow Road, Baltimore, MD 21212.

RECITALS

WHEREAS, Landlord is the fee simple owner of the Premises, hereinafter defined;  
and

WHEREAS, the Market House on the Premises is a cherished, highly visible, historic public asset and centerpiece of downtown Annapolis, which has served residents, visitors, workers, and business owners; and

WHEREAS, the public purpose of the historic Market House is to be an authentic, public market, community gathering place at the City Dock, and economic engine for the entire City, located in the historic downtown district; and

WHEREAS, in accordance with Chapter 7.28 (Markets) of the Annapolis, Maryland City Code, the Market House is to be used for operation of a public purpose retail food market facility which offers fresh products and services of high quality, including local and regional vendors, and which preserves and promotes the authentic character of this historic facility; and

WHEREAS, Tenant desires to lease and operate the Premises as a public market in furtherance of the public purpose of the Market House; and

WHEREAS, the parties desire to enter into this Lease which defines their respective rights, duties, and liabilities relating to the Premises.

NOW, THEREFORE, WITNESSETH in consideration of the foregoing premises and the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Key Lease Terms and Definitions. For purposes of this Lease, Landlord and Tenant hereby agree that the following terms shall have the indicated meanings:

(a) Key Business Terms

**Annual Rent:** Fifty percent (50%) of Net Profits per year during the Original Term, and any Extension Term.

**Building:** the building on the Premises known as the City Market House, Annapolis, Maryland;

**Commencement Date:** February 1, 2011

**Delivery Date:** the last to occur of (a) the date that Landlord has finished the Initial Landlord Alterations and notifies Tenant that Tenant may take full possession of the Premises and (b) the date that Tenant, or its Subtenants, have secured the necessary permits to build out space for not less than 70% of the area of the Building (provided that this item (b) will not apply if Tenant, or its Subtenants, have failed to exercise good faith and due diligence in seeking such permits).

**Opening Date:**

- (i) if the Delivery Date is on or before August 1, 2011, the first to occur of (i) sixty (60) days after the Delivery Date or (ii) the date on which Tenant opens for business to the public on the Premises or
- (ii) if the Delivery Date is after August 1, 2011, the first to occur of March 1, 2012 or (ii) the date on which Tenant opens for business to the public on the Premises.

**Extension Term:** (i) one period of three (3) years, (ii) one period of five (5) years and (iii) two (2) periods ten (10) years commencing upon the expiration of the Original Term as provided in Section 6.

**Initial Landlord Alterations:** The initial improvements to the Building to be performed by Landlord consisting of upgrades to the HVAC systems, electrical, plumbing systems, remodeling and modification of the exterior doors and windows, relocation of interior utilities, and installation of built-in refrigeration all as described in Exhibit B attached hereto.

**Original Term:** the period commencing on the Opening Date and ending two (2) years after the Opening Date.

**Performance Standards:** the standards to be adhered to by Tenant in its use and operation of the Building as described in Section 12 hereof.

**Premises:** all that tract or parcel of land owned by Landlord described in Exhibit A with all improvements, including the Building, located thereon.

**Schedule of Deliveries:** as set forth on Exhibit C, those tasks and deadlines to which the parties have agreed in order to complete the initial improvements to the Premises, as may be modified by the parties from time to time in writing.

**Target Opening Date:** July 1, 2011, subject to modification as the parties agree to modifications to the Schedule of Deliveries.

**Tenant's Preferred Return:** the annual amount equal to the lesser of (a) of two percent (2%) of Enterprise Revenue or (b) Gross Margin.

**Term:** the Original Term and any Extension Term as to which Tenant exercises an option, subject to termination in accordance with the terms of this Lease.

**Termination Fee:** The amount calculated as determined on Exhibit D attached hereto payable by Landlord to Tenant if Landlord exercises its Termination for Public Interest right.

**Termination for Public Interest:** The Landlord's right to terminate this Lease as described in Section 32 hereof.

(b) Other Defined Terms.

**Enterprise Revenue:** As determined on an annual basis, all revenue taken in by all Subtenants at the Premises and all special event and other revenue received by Tenant from parties other than Subtenants using or otherwise occupying space on the Premises, to be reported to Landlord pursuant to Section 5.

**Event of Default:** an event set forth in Section 29.

**Gross Margin:** As determined on calendar year basis, all Gross Revenue less Operating Expenses and any unrecovered Tenant's Operating Deficit Contribution.

**Gross Revenue:** As determined on calendar year basis, all rents and other revenue received by Tenant from Subtenants, licensees and any other person leasing, using or otherwise occupying space on the Premises.

**Operating Expenses:** As determined on a calendar year basis and subject to approval by Landlord as provided in Section 5 hereof, all actual and reasonable costs expended by Tenant in the operation and maintenance of the Premises and Tenant's business thereon (but excluding all such costs and expenses as are the Landlord's responsibility as provided in Section 9) including:

(i) maintaining, repairing, lighting, signing, cleaning, removing trash from, interior painting, controlling of rodents in, policing and securing, the Premises;

(ii) purchasing and maintaining in full force insurance to the extent required of Tenant hereunder;

(iii) operating, maintaining, repairing and replacing machinery, furniture, accessories and equipment used in the operation and maintenance of the Premises, and the personal property taxes and other charges incurred in connection with such machinery, furniture, accessories and equipment (unless otherwise amortized as provided herein);

(iv) providing electricity, internet connectivity, utility costs to provide heating, ventilation and air conditioning to the Building, and operating, maintaining (except to the extent it is the obligation of the Landlord hereunder) and repairing any equipment used in connection therewith;

(v) personal property taxes on the personal property and equipment of Tenant and Subtenants;

(vi) marketing and promotional expenses,

(vii) reasonable legal fees incurred in connection with the operation of the market, including leasing to Subtenants and enforcement of Subleases;

(viii) reasonable accounting fees incurred in connection with the operation of the Premises (but not associated with the internal business matters of Tenant)

(ix) security,

(x) debris removal, interior lighting, and exterior signage;

(xi) landscaping, removal of snow, ice and water from the area of the Premises as outlined on Exhibit A and any areas where Subtenants maintain outdoor seating or are permitted by license to operate other outdoor activities as provided herein;

(xii) each year over the first ten (10) years of the Term of this Lease, one-tenth (1/10th) of the Tenant's initial capital infusion as to the following costs (which Tenant estimates to be approximately \$100,000) but only to the extent funded by capital contributions from members or investors of Tenant: (A) the actual cost of the initial improvements made by the Tenant under Section 25 pursuant to plans and specifications approved by Landlord and as documented with evidence reasonably satisfactory to Landlord to substantiate Tenant's actual costs and (B) arms-length out-of-pocket tenant improvement allowances, concessions or incentives (excluding free rent) for the initial buildout and or tenancing of Subtenant space to initial Subtenants not affiliated with Tenant as set forth in Subleases approved by Landlord as provided herein and (for the purpose of clarification, the parties confirm that the purpose if the category of Operating Expenses described in this clause and the following clause is intended only to provide for recovery of Tenant capital investment and that if tenant improvements or operating deficits are funded by a third party loan to the Tenant, then only the debt service on such loan may be considered an Operating Expense, but not the expense funded by such loan so that there shall not be any double counting);

(xiii) each year over the period as permitted under then current Internal Revenue Service guidelines for an capital expense depreciation, an amount equal to the annual capital expense depreciation of the following costs but only to the extent to the extent funded by capital contributions from members or investors of Tenant: (A) improvements made by the Tenant for Subtenants after the initial buildout under Section 25 pursuant to a budget approved by Landlord and (B) arms-length out-of-pocket tenant concessions or incentives (excluding free rent) given

to Subtenants that replace any of the first Subtenants to occupy the Premises and that are not affiliated with Tenant as set forth in Subleases approved by Landlord as provided herein; and

(xiv) other expenses necessary to operate and promote the business on the Premises, including debt service to repay loans from third parties that are incurred to cover the actual cost of improvements to the Premises or operating deficits and that are included in the operating budget reviewed and approved by both parties as provided in Section 5(b) hereof.

For the purpose of calculating Net Profits, Operating Expenses shall not include, however, (i) HVAC, roof, structural maintenance and other expenses which are the Landlord's responsibility pursuant to Section 9 hereof, (ii) Tenant's non-operational administrative expenses for legal fees and accounting fees, (iii) the salaries, benefits and other compensation paid to any employee of the Tenant above the level of property manager or in house leasing marketing and tenant coordination and (iv) any home office overhead.

**Net Profits:** As determined on a calendar year basis, Gross Margin less the Tenant's Preferred Return. An example of the manner in which the calculation is made is attached hereto as Exhibit F.

**Notice of Default:** a notice served by Landlord upon Tenant upon the occurrence of a default by Tenant in accordance with Section 29.

**Notice of Termination:** a notice that may be served by Landlord upon Tenant or by Tenant upon Landlord upon the occurrence of an Event of Default, or upon Termination for Public Interest or Tenant's Right to Terminate.

**Notices:** all notices, requests, demands, or other communications that may be or are required or permitted to be served or given under this Lease.

**Plans and Specifications:** the plans and specifications for the Initial Landlord Alterations to the Building which plans and specifications shall be prepared pursuant to the scope of work attached hereto as Exhibit B, as the same may be amended from time to time as agreed by Landlord and Tenant.

**Sublease:** any agreement, whether characterized as a sublease, license, occupancy agreement or otherwise, by which any third party occupying space in the Building claims by, through or under Tenant.

**Subtenant:** the party to a Sublease that is granted by Tenant the right to occupy any portion of the Premises for the operating of its business or activities as provided herein or for any short-term party or event.

**Tenant's Operating Deficit Contributions:** the cumulative amount from year to year by which Gross Revenue is exceeded by Operating Expenses and actually paid by Tenant to cover Operating Expenses, less any of such amount that has been applied in the determination of Net Profits in any prior calendar year.

When used herein, the singular shall apply to the plural, the plural the singular, and the use of any gender shall apply to all genders.

2. Demise Of Premises. Landlord leases to Tenant and Tenant hereby leases from Landlord the Premises, including the Building, for the Term, Rent, and upon the terms, covenants, and conditions set forth herein.

3. Target Opening.

(a) As set forth in this Lease, Landlord has the responsibility to complete the Initial Landlord Alterations after which Tenant shall complete the build out for new Subtenants conducting business on the Premises. The parties agree to cooperate in good faith and due diligence with each other to coordinate the different work for which they are responsible so as to complete all such improvements as promptly as practical in accordance with the Schedule of Deliveries. If all work required to open the Building for business to the public is not completed by July 1, 2012, and unless an extension to the Target Opening is mutually agreed by both parties, then the party not responsible for the delay, by notice to the other, may terminate this Lease and be relieved of all further obligation hereunder. Tenant will in a timely fashion prepare subtenant plans and will file for necessary permits, and the Landlord agrees to process all permits and applications in a timely manner, as time of the essence in all matters regarding the reconfiguration project.

(b) Notwithstanding anything herein to the contrary, if the Delivery Date is after August 1, 2011 and Tenant does not commit in a manner satisfactory to Landlord to proceed with opening for business on or before October 1, 2011, then Landlord may take such actions as Landlord deems appropriate to provide for temporary use of the Premises as a market so that business may be conducted thereon for the benefit of the public until the Tenant is required to take delivery as provided herein so long as Landlord's activities do not interfere with Tenant taking delivery on January 1, 2012 in order to commence its work to be open for business or with any work being performed by Tenant or any Subtenant. The parties agree to cooperate in good faith to arrange for such temporary use of the Premises during the period that Tenant is not required to take delivery.

4. Rent. Tenant shall pay the Annual Rent to Landlord not later than January 31 each year with respect to the Net Profits of the preceding calendar year. If the Term shall end on a day other than December 31, Tenant shall pay the Annual Rent within thirty (30) days following such termination date.

5. Budget and Reporting.

(a) Tenant shall maintain books and records of all Enterprise Revenue, Gross Revenue and Operating Expenses with respect to the Premises on cash basis, and the Tenant shall use FASB and GAAP standards, which shall be available for review and inspection by the Landlord as herein provided.

(b) Not later than January 31 of each year, Tenant shall deliver to Landlord, for its review and approval, a budget for the operation of the Premises for the current calendar year. Such budget shall include, in such detail and in such form as Landlord shall reasonably request, consistently applied from year to year, line items as to sources of funds and projected Operating Expenses (including marketing and promotions, and Tenant's Operating Deficit Contributions), Enterprise Revenue, all on a month-to-month basis. Landlord and Tenant shall review any projected need for capital expenditures to be included in the budget, including any items that may require contribution by Landlord in respect of its maintenance obligations under Section 9 hereof. It shall be a default under this Lease, subject to notice and cure as provided under Section 29 hereof, if Tenant shall fail to deliver the draft budget to Landlord before January 31 each year or fail to provide Landlord with supplemental information as Landlord may reasonably request in order to evaluate and approve such budget. The parties agree to work together in good faith to agree on such budget as approved by the City Manager or his or her designee, in final form not later than March 1 of the year for which such budget applies.

(c) Not later than thirty (30) days after each calendar quarter during the Term, Tenant shall deliver to Landlord a statement prepared by the chief executive officer or managing member of Tenant reporting on all Enterprise Revenue, Gross Revenue and Operating Expenses for the previous quarter and comparison with the budget previously provided by Tenant and approved by Landlord. Not later than March 31 each year, and after ninety (90) days after the termination of this Lease or any renewal thereof, Tenant shall deliver to Landlord financial statements of the Tenant for the preceding calendar year, certified by an independent certified public accountant, including a statement of all Gross Revenue and Operating Expenses for such calendar year, together with a statement of the current status of Tenant's Operating Deficit Contributions. Tenant's financial accounting shall be on a cash basis, and the Tenant shall use FASB and GAAP standards.

(d) After not less than five (5) business days' notice, Landlord and its representatives may examine copies, and review such books and records of Enterprise Revenue, Gross Revenue and Operating Expenses between the hours of 9:00 a.m. and 5:00 p.m. Monday to Friday, inclusive at the Tenant's address as set forth in the first paragraph of this Lease, as such address may be changed from time to time upon not fewer than thirty (30) days' prior notice from Tenant to Landlord. If Landlord's audit of Tenant's records discloses an Annual Rent liability in excess of the greater of (i) \$2,000 or (ii) two percent (2%) of the Annual Rent previously paid for the period audited, then Tenant shall promptly pay Landlord such excess and the cost of the audit on demand.

(e) As part of the consideration for this Lease and as additional rent and subject to all of the provisions hereof, Tenant covenants and agrees, commencing on the Opening Date and at all times during the Term, at Tenant's own cost and expense, to pay, as the same become due and payable and before any fine, penalty, interest, or other charge that may be added thereto for the nonpayment thereof, all fees, taxes except any real estate taxes and other governmental impositions, except that any such amounts properly allocable to periods before or after the Term shall not be payable by Tenant.

6. Extension. Tenant shall have four (4) options to extend this Lease. The first Extension Term shall be for three (3) years. The second Extension Term shall be for five (5) years. The third and fourth Extension Terms shall be for ten (10) years each. As conditions to the exercise by Tenant of each Extension Option, (a) Tenant shall give Landlord Notice of its exercise of an Extension Option no later than six (6) months prior to the end of the then current Term, and (b) Tenant shall not then, nor as of the first day of the commencement of the applicable Extension Term, be in default hereunder beyond the expiration of any applicable notice and cure period. In the event that Tenant exercises its option as to the Extension Term, all provisions of this Lease shall apply during the Extension Term.

7. Operating Expense Obligations. Except as otherwise provided herein, after the Delivery Date Landlord shall not have any obligation to pay any costs or expenses relating to the Building or the Premises. After the Delivery Date in addition to the Annual Rent, Tenant agrees to pay all costs pertaining to operation and maintenance of the Premises and the Building during the Term, except that:

(a) If Landlord has completed its Initial Landlord Alterations before August 1, 2011 but Tenant, or its Subtenants, have not secured the necessary permits to build out space for at least 70% of the area of the Building, then notwithstanding that the conditions for the Delivery Date shall not have formally achieved, Landlord and Tenant shall each share equally in all costs or expenses relating to the operation and maintenance of the Premises until the Tenant, or its Subtenants, have secured the necessary permits to build out space for at least 70% of the area of the Building;

(b) Tenant shall have no obligation to pay real estate taxes meaning (i) all ad valorem taxes for any part of the term of this Lease; (ii) any taxes which shall be levied in lieu of any such ad valorem taxes, including any taxes which may be levied on any rent derived from the Premises or any use or other similar tax related to the use of the premise; (iii) any special assessments for benefits on or to the Premises and all improvements thereon or related thereto; and (iv) any other tax, assessment or imposition applicable to the premises or any portion thereof.

(c) Other than insurance on tenant improvements constructed by Tenant and/or Subtenants, Tenant shall have no obligation to pay any premiums to insure the Building against damage due to fire or other casualty;

(d) Costs of water service for Subtenants that are separately metered shall be paid by such Subtenants directly and shall not be considered part of Operating Expenses, and

(e) Landlord shall be obligated to pay structural and HVAC maintenance and repair as provided in Section 9.

8. Tenant's Maintenance Obligations. Except for those maintenance obligations of the Landlord set forth below, Tenant shall be responsible to provide for the daily care, maintenance and cleanliness of the Premises, the adjacent public rights-of-way and the plaza at

the western end of the Premises (including the removal of snow on the sidewalk areas adjacent to the Premises), as well as the maintenance and repair of the interior of the Premises, and the Landlord shall have no duty or obligation regarding same, unless such repair or maintenance is the result of negligence on the part of the Landlord. Tenant shall notify the Landlord of any known defects as soon as practicable.

9. Landlord's Maintenance Obligations. Landlord shall, at its sole cost and expense, be solely responsible for the maintenance, repair and replacement of all of the structural components of the Premises, including without limitation, the roof, foundation, installations existing below and within the foundation, exterior walls, interior load bearing walls, all entrances, windows and doors to the Premises. Additionally, Landlord shall, at its sole cost and expense, maintain, repair and replace the HVAC system serving the Premises (but not including any interior fans or venting required by the use by any Subtenant) and all main water, sewer and electrical mains bringing service to the Premises; provided that Tenant gives prompt notice to Landlord as to the need for any such repairs, it being agreed and understood that Landlord has no duty to inspect but that it shall be the responsibility of Tenant to keep Landlord apprised of the Building's condition and the need for any such capital repairs and/or replacements. Such HVAC maintenance obligation of the Landlord shall include the obligation to pay the cost of an annual HVAC maintenance and service contract. Landlord shall be solely responsible for the repair, maintenance and replacement of any sidewalk and/or plaza areas adjacent to the Premises, as well as the maintenance and replacement of any landscaping located thereon, and the Tenant shall have no duty or obligation regarding same, unless such repair or maintenance is the result of negligence on the part of the Tenant. Landlord shall notify the Tenant of any known defects as soon as practicable.

10. Management. Tenant shall employ on a part-time basis a trusted and experienced on-site management representative(s) to ensure the safe and timely opening and closing of the Building each day. Such person(s) shall be generally available during operating hours to attend to the management and incidental cleaning and minor maintenance needs of the Building and the tenants therein.

11. Heat Generation. Tenant acknowledges the Landlord's concern that Tenant's use of the Building not create excess heat that overwhelms the capacity of the HVAC system. Not later than February 15, 2011, Tenant shall provide to Landlord an estimate of Subtenant heat load. With that information and taking into account other sources of heat load, Landlord will specify HVAC capacity to be installed by Landlord, and it will be Tenant's responsibility to maintain heat generation below the capacity of the HVAC equipment. In the event heat generation by any Subtenants exceeds HVAC capacity of the systems to be installed by Landlord as part of the Initial Landlord Alterations, it will be the responsibility of Tenant to remedy the situation, which could include, but not limited to reducing heat generation or expanding HVAC capacity.

12. Performance Standards. Tenant agrees to be bound by the following standards (collectively the “Performance Standards”) in the operation of the Premises and shall include these standards in all Subleases to Subtenants.

(a) Tenant shall operate the Market House solely as a public purpose retail food market facility which offers fresh products and services of high quality by local and regional vendors, priced to appeal to a range of customers, and which preserves and promotes the authentic historic character of the Building.

(b) Retail sales shall specialize in a fresh food market promoting local and regional vendors, including (by example) a seafood market and oyster bar, market lunch counter and items commonly found in public markets and in accordance with the standards and guidelines as set forth in Section 7.28 (Markets) of the Annapolis, Maryland Code of Ordinances, as may be amended from time to time, and for no other purpose.

(c) Tenant shall permit no national retailers, chain retailers, public companies, or public company franchisees to operate on the Premises (“chain” being a regional or national retailer operating ten or more stores or other facilities in multiple jurisdictions under a common brand or trade name), unless approved by Landlord.

(d) Tenant shall permit not more than five percent (5%) of goods for sale (measured by floor area inside the Building devoted to sales) to include any Tourist Merchandise. As used herein, “Tourist Merchandise” means merchandise intended primarily for purchase by visiting tourists not for consumption in the immediate area, such as t-shirts, caps, sweatshirts and other merchandise bearing names and symbols such as Annapolis, Maryland or Chesapeake Bay.

(e) Tenant shall require Subtenants that are food retailers to carry a significant preference for locally or regionally grown or raised foods. In applying this standard, the parties recognize that a retailer may need to present a mix of goods at a range of prices to appeal to a broad array of customers and therefore may carry some goods that are not locally or regionally grown or raised (e.g., citrus fruit that comes from a warmer climate).

(f) Tenant shall require Subtenants that are craft retailers to carry a significant preference for locally or regionally fabricated items. In applying this standard, the parties recognize that a retailer may need to present a mix of items at a range of prices to appeal to a broad array of customers and therefore may carry some goods that are not locally or regionally grown or made.

13. Performance Breach

(a) If Landlord determines that Tenant is not operating the Premises in accordance with the Performance Standards as set forth herein, then before declaring Tenant in default of this Lease by reason thereof, Landlord shall give Tenant a notice advising of the areas in which such standards are not being met (each a “Performance Breach”). Within fifteen (15) days after receipt of such notice, Tenant shall either

- (i) rectify the Performance Breach to Landlord's reasonable satisfaction and deliver to Landlord a written notice setting forth the remedial actions that Tenant has taken, which may include taking diligent commercially reasonable efforts to enforce the provisions of any Sublease as to a Subtenant whose activities are the cause of the Performance Breach; or
- (ii) notify Landlord that Tenant disagrees with Landlord's assertion of a Performance Breach with an explanation of why Tenant so disagrees.

(b) If Tenant fails to timely respond to Landlord's notice of a Performance Breach, Tenant shall be deemed to have committed an Event of Default of this Lease and Landlord shall be entitled to pursue all remedies as set forth in Section 34 (Landlord's Remedies) hereof.

(c) If Tenant timely responds to Landlord's notice of a Performance Breach but Landlord is dissatisfied with either

- (i) Tenant's efforts at rectifying the Performance Breach (it being agreed that Tenant taking in good faith diligent commercially reasonable efforts to enforce the provisions of any Sublease as to a Subtenant whose activities are the cause of the Performance Breach shall be deemed satisfactory so long as Tenant has initiated the enforcement action within fifteen (15) days of Landlord's initial notice and Tenant continues to diligently pursue such enforcement action); or
- (ii) Tenant's explanation as to why Tenant disagrees with Landlord's assertion of a Performance Breach,

then prior to pursuing any action against Tenant as set forth in Section 34 hereof Landlord shall refer the matter to JAMS, Inc. ("JAMS") for mediation, and if the matter is not resolved through mediation, then it shall be submitted to JAMS, or its successor, for final and binding arbitration pursuant to the arbitration clauses set forth below.

(d) Landlord may commence mediation by providing to JAMS and the Tenant a written request for mediation, setting forth the subject of the dispute and the relief requested.

(e) The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

(f) If the parties are unable to reach agreement regarding the Performance Breach through mediation, then either party may initiate arbitration with respect to the matters submitted to mediation by filing a written demand for arbitration at any time following the initial mediation session or 45 days after the date of filing the written request for mediation, whichever occurs first. The mediation may continue after the commencement of arbitration if the parties so desire. Unless otherwise agreed by the parties, the mediator shall be disqualified from serving as arbitrator in the case. At the option of the first to commence an arbitration, the arbitration shall be administered either by JAMS pursuant to its Streamlined Arbitration Rules and Procedures.

(g) The sole question to be resolved in arbitration is whether the Performance Breach asserted by Landlord is in fact in breach of the Performance Standards set forth in this Lease. The arbitrator shall be instructed to use common sense interpretation of the intent of the parties to this Lease, recognizing the difficulty in prescribing and proscribing in advance all categories of uses that may fall within the Performance Standards, and, in addition to the specific examples cited above, the arbitrator shall be guided by, among other items, evidence that that parties may introduce as to common practice in other so-called public markets that are intended to promote foods and produce of local and regional origin.

(h) If the findings of the arbitration support Landlord's assertion of a Performance Breach, then Tenant shall be deemed in default of this Lease and Landlord may pursue its remedies under Section 34 hereof. If the findings of the arbitration do not support Landlord's assertion of a Performance Breach, then Tenant may continue with the activities as to which Landlord first asserted a Performance Breach. The arbitrator will, in the Award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party. The result of the arbitration shall be final and binding upon both parties.

(i) The provisions of this clause may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered.

#### 14. Additional Tenant Covenants

(a) Tenant shall not commit waste on the Premises and shall not use or permit the Premises to be used for any unlawful purpose or in violation of any certificate of occupancy, or for any purpose that may constitute a nuisance, public or private, nor suffer any dangerous article to be brought on the Premises unless safeguarded as required by law. Tenant agrees to reasonably, promptly, and effectively comply with all applicable statutes, regulations, rules, ordinances, orders, and requirements of all governmental authorities including, but not limited to the Americans with Disabilities Act of 1990.

(b) The mix of Subtenant categories shall be subject to the approval of the Landlord who shall be guided by Exhibit G.

(c) Tenant shall enforce the covenants and obligations under each Sublease relating to use and restrictions on use. If Tenant includes provisions in its Subleases restricting the use of the Subtenant's premises requiring the Subtenant to comply with the Performance Standards, the time to cure a default under this clause (c) shall be extended for so long as Tenant is diligently pursuing its remedies against the Subtenant which is not in compliance with the Performance Standards.

(d) Tenant shall perform all its covenants and obligations as sublessor under each of the Subleases.

(e) Tenant shall use commercially reasonable efforts to promptly replace any Subtenant whose Sublease has expired or otherwise terminated.

(f) Tenant shall abide by the lease-up standard as provided in Section 17 hereof.

(g) Tenant shall keep the Premises and the Subtenants open for business and in operation during all operating hours as required hereunder.

(h) The Premises shall at all times be professionally managed in a manner consistent with the highest quality for an urban public market.

(i) Tenant shall cause the Building to be kept clean, free of trash and debris, in accordance the cleaning specifications set forth in Exhibit E attached hereto.

15. Prohibited Uses. Tenant acknowledges that Tenant's promise to use the Building in accordance with the requirements of Section 12 hereof is a material part of the consideration in Landlord's agreement to enter into this Lease. Tenant shall not use, nor permit any of its Subtenants to use, any part of the Building for uses that are considered by the Landlord to be unacceptable and inconsistent with the Landlord's objectives for a public market with a concentration on fresh foods and beverages and consistent with the guidelines set forth in Section 7.28 (Markets) of the Annapolis, Maryland Code of Ordinances.

16. Assignment And Subletting.

(a) Tenant may not assign, sell or transfer this lease or any part hereof without the prior written consent of the Landlord which consent will not be unreasonably withheld provided that such assignment is to a "Qualified Assignee." A "Qualified Assignee" is an entity or whose parent or principals meet the following criteria: (i) experienced commercial real estate owners or operators, (ii) expertise to operate the Premises for the uses and in accordance with the Performance Standards and other requirements set forth in this Lease, (iii) financial capability to operate the Premises and (iv) a sound reputation in the business community. Tenant shall submit to Landlord information reasonably sufficient to permit Landlord to determine whether the proposed assignee meets the criteria for a Qualified Assignee.

(b) It shall be deemed an "assignment" requiring the Landlord's consent if the Existing Principals (hereinafter defined) no longer own more than fifty percent (50%) of the

membership interests in the Tenant. "Existing Principals" means W. Lehr Jackson, J. Andrew Scallan, Terence McDonald or Kathleen Witte, their estates or trusts for the benefit of their immediate family members.

(c) It shall be deemed an "assignment" requiring the Landlord's consent if fewer than two (2) of the Existing Principals are actively involved in the management of the Tenant and the remaining Existing Principals within ninety (90) days thereafter fail to substitute a qualified individual having at least ten (10) years experience in and managing public markets or comparable facilities to serve as the managing member of the Tenant in the event that the remaining Existing Principal(s) lack such management experience.

(d) In subletting to Subtenants individual vendor spaces to within the Premises for use by merchants and vendors, Tenant shall abide by the following criteria and standards:

- (i) Every Subtenant shall be obligated to operate its business on the Premises in accordance with the provisions of Section 12 hereof.
- (ii) No Subtenant may materially change the use of its subleased premises without the Landlord's consent unless the new use fits within the Subtenant categories detailed in Exhibit G.
- (iii) No Subtenant may occupy more than twenty percent (20%) of the Building without the express written consent of the Landlord, which consent the Landlord shall not unreasonably withhold (provided that Landlord acknowledges that an approved Subtenant may, under some circumstances, occupy more than twenty percent (20%) of the Building if operating separate and distinct uses as permitted hereunder when each of such separate and distinct uses occupies less than twenty percent (20%) of the Building).
- (iv) All Subtenants shall acknowledge Landlord's right of Termination for Public Interest, and the agreed process for exercising the right of Termination for Public Interest, provided that the Landlord shall agree to a non-disturbance agreement with any Subtenant that meets the following criteria (i) experience in operating other similar locations, (ii) a Sublease term of three (3) years or more, (iii) has financial capacity to operate its subleased premises, and (iv) sells the types of goods, products or merchandise permitted by this Lease. Any such non-disturbance agreement shall provide in substance that such Sublease may continue as a direct lease with the Landlord after a termination of this Lease so long as such Subtenant is not in default of its Sublease beyond the expiration of any applicable notice and cure period and shall agree to attorn to Landlord as its direct landlord.
- (v) Each Sublease shall be on a form that has been approved by the City Attorney of the City of Annapolis, which shall, among other matters, require each Subtenant to

report its gross revenue on a quarterly basis to Tenant, which will report such revenue to Landlord.

- (vi) Tenant shall provide Landlord with a fully executed copy of a Sublease.
- (vii) No such Sublease shall be amended in any material manner without Landlord's consent, not to be unreasonably withheld. (The parties agree that a material change includes, without limitation, a change in use deviating from use categories per Exhibit G).

17. Lease Up Standard. Tenant acknowledges the importance to Landlord that the Building remains fully leased by merchants and vendors as permitted under this Lease. Tenant shall use its commercially reasonable efforts to keep the Building fully leased and occupied. It shall be an Event of Default hereunder if, after the Opening Date for a period of more than six (6) months, more than thirty percent (30%) of the leasable area of the Building is vacant. Such six (6) month period may be extended by not more than sixty (60) days if at the end of such six (6) month period, the vacant space is under lease and the Subtenant thereof is actively and in good faith constructing the applicable tenant improvements.

18. Hours of Operation. After the Opening Date, Tenant shall maintain operating hours from 8 a.m. until 6 p.m., excluding Sundays and legal holidays. The parties shall cooperate in good faith to adjust the hours of operation as may be necessary or desirable to accommodate market demand, seasonality and special events that draw large numbers of people downtown.

19. Outdoor Activities. Landlord shall permit Tenant to use the area of the Premises immediately adjacent to the Building as outlined in Exhibit A for outdoor seating for dining and a farmers market where Tenant may place tables, chairs, umbrellas and stalls, all subject to approval by the Annapolis Historic Preservation Commission and appropriate City of Annapolis authorities, and subject further to the following additional conditions and restrictions:

(a) Use of the sidewalk space surrounding the Building and the plaza area on the south side of the Building shall be on a non-exclusive basis for customer seating and other related special events pursuant to the City of Annapolis sidewalk ordinances and other uses as the City may determine to complement the Building or other public spaces in the surrounding area. Exclusive customer seating may be established for full-service dining tables, subject to review and approval by Landlord, approval not be unreasonably withheld.

(b) Use of the south side of Market Space Street and the curb lane and a portion of the adjacent plaza area shall be used on some or all of Friday, Saturday and Sunday mornings, for a combination farmer's market and local arts/crafts market, subject to market demand. Such use will be coordinated with other City special events as the Landlord may determine from time to time. The Landlord shall have the option to reserve six (6) weekends per year for the use of the some or all of the plaza and parking spaces for other City functions, provided the Landlord gives Tenant at least 60 days notice of its intended use of the space.

20. Signage. Tenant shall have the right to display tasteful signage subject to approval by the Historic Preservation Commission and appropriate City of Annapolis authorities.

21. Beer Wine License. Tenant may apply for (or may cause one of the Subtenants to apply for) a beer-wine license for consumption on the Premises and designated exterior areas. Tenant may subcontract the operation of serving beer and wine to a single Subtenant occupying a portion of the Building to the extent permitted by the City of Annapolis Charter and Code and the Alcohol and Beverage Control regulations. If Tenant (or its designated Subtenant) has exercised good faith due diligent efforts but is unable to obtain a suitable beer-wine license on or before the Opening Date, then Tenant, by notice delivered to Landlord not later than ten (10) days following the Opening Date shall have the right to terminate this Lease and thereby be fully relieved from all obligations hereunder.

22. Landlord Cooperation. Landlord agrees to cooperate with Tenant to facilitate and expedite the issuance of Tenant's application for a beer and wine license and all other governmental permits and approvals required for the opening of business on the Premises.

23. Right to Enter. Landlord and shall have access to the Premises and the Building at any and all reasonable times for the purpose of inspecting the Premises, or for the purpose of carrying out the Landlord's rights described herein.

24. Landlord Alterations. Landlord, at its sole cost and expense, shall use commercially reasonable efforts to complete the Initial Landlord Alterations in accordance with the Schedule of Deliveries timetable attached hereto as Exhibit C.

25. Tenant Buildout

(a) The Tenant shall not make any alteration, improvement or addition expected to cost more than Ten Thousand Dollars (\$10,000) (collectively, "Alterations") to the Building without first (a) presenting to the Landlord plans and specifications therefor and obtaining the Landlord's written consent thereto (which shall not, in the case of (i) non-structural interior Alterations, or (ii) Alterations which would not affect any electrical, mechanical, plumbing or other Building systems, be unreasonably withheld or delayed so long as such Alterations will not violate applicable law or the provisions of this Lease, or impair the value of the Premises or the Building) and (b) obtaining any and all governmental permits or approvals for such Alterations, which are required by applicable law; provided, that, (i) all work is performed in a good and workmanlike manner in compliance with all applicable codes, rules, regulations and ordinances, and (ii) the Tenant shall restore the Premises to its condition immediately before such Alterations were made, by not later than the date on which the Tenant vacates the Premises or the end of the Term, whichever is earlier. The Tenant, at its own expense, shall repair promptly any damage to the Building caused by bringing therein any property for its use, or by the installation or removal of such property, regardless of fault or by whom such damage is caused, unless caused by negligence of Landlord, its agents, employees and/or contractors.

(b) Landlord will cooperate with Tenant in seeking any necessary governmental permits or approvals with respect to such Alterations and agrees to process all requested approvals in an expeditious manner.

(c) Tenant shall have no authority, express or implied to create or place or permit to be created or placed any lien or encumbrance, of any kind or nature whatsoever, upon or in any manner to bind the interest of Landlord in the Premises. Tenant covenants and agrees to pay promptly all sums legally due and payable by Tenant on account of any labor performed, or on account of any material supplied, on or to the Premises as to which any lien is or legally can be asserted against Tenant's leasehold interest in the Premises or the Building.

(d) Any maintenance and repair work, alterations, replacements, and additions in connection with the Building shall be of first-class quality.

(e) Prior to commencing any work, Tenant shall provide to Landlord such evidence as Landlord shall reasonably require to substantiate Tenant's source of funds to undertake and complete such work.

26. Hazardous Materials. Tenant warrants and agrees that Tenant shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees. If Tenant breaches the obligations stated in the preceding sentence, then Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises, the Building and the Premises generally, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Building or the Premises generally, damages from any adverse impact on marketing of space in the Building, and sums paid in settlement of claims, reasonable attorneys' fees, reasonable consultant fees and reasonable expert fees) which arise during or after the Term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority because of Hazardous Material present in the soil or ground water or under the Premises or the Premises generally. As used herein (i) "Environmental Laws" means the Clean Air Act, the Resource Conservation Recovery Act of 1976, the Hazardous Material Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Consumer Product Safety Act, the Clean Water Act, the Federal Water Pollution Control Act, the National Environmental Policy Act, Md. Nat. Res. Code Ann., Title 8, and Md. Env. Code Ann., Title 7, as each of the foregoing shall be amended from time to time, and any similar or successor laws, federal, state or local, or any rules or regulations promulgated thereunder; and (ii) "Hazardous Materials" means and includes asbestos; "oil, petroleum products and their by-products," "hazardous substances;" "hazardous wastes" or "toxic substances," as those terms are used in Environmental Laws; or any substances or materials listed as hazardous or toxic in the United States Department of Transportation, or by the Environmental Protection Agency or any successor agency under any Environmental Laws but

excluding cleaning fluids and immaterial quantities of substances customarily and prudently used in the normal course of business on, building and construction materials at, or landscaping, cleaning or maintenance of the Premises or the Building in accordance with any applicable law. Notwithstanding anything contained herein to the contrary, Landlord represents that to the best of its knowledge, as of the commencement date of this Lease, Landlord has not been notified by any federal, state, or local agency having jurisdiction that the Premises are in violation of any federal, state, or local prohibition against the presence of PCB's or other Hazardous Materials.

27. Insurance.

(a) Tenant shall, at its own cost and expense, carry (or cause to be carried by Subtenants) with companies acceptable to Landlord the following insurance in respect of the Premises and the Building:

- (i) Commercial general liability insurance written on an occurrence basis with respect to the Premises and the business operated by Tenant and any Subtenants, concessionaires, or licensees of Tenant in the Premises with minimum combined single limits of Three Million Dollars (\$3,000,000) per occurrence and in the aggregate. Such liability insurance shall, in addition, extend, through contractual liability insurance, to any liability of Tenant arising out of the indemnities provided in this Lease. Such liability insurance shall also include broad form endorsement coverage, including bodily injury and personal injury coverage. If the nature of Tenant's operation is such as to place any or all of its employees under the coverage of applicable workers' compensation or similar statutes, Tenant shall also keep in force, at its own expense, workers' compensation or similar insurance affording statutory coverage and containing statutory limits; and if the nature of Tenant's operation is such as to involve the use of automobiles or other motor vehicles, Tenant shall also keep in force, at its own expense, automobile liability insurance with limits no less than One Million Dollars (\$1,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate.
- (ii) With respect to the tenant improvements, equipment and fixtures, insurance against loss or damage by fire and other risks covered by fire insurance, with extended coverage endorsements, in an amount not less than one hundred percent (100%) of their full insurable replacement value.

(b) With respect to all insurance required to be maintained hereunder by Tenant or any Subtenant:

- (i) Each such policy shall be from an insurance company licensed to do business in the state where the Premises is located and which has a rating of A- or better and a financial size rating of VIII or larger from Best's Key Rating Guide, Property Casualty Reports (or comparable insurance rating service);

- (ii) Each such policy shall include Landlord, as additional insured as its interests appear;
- (iii) Tenant shall, at Landlord's request, send to Landlord copies of the required insurance policies, certificates of insurance, or receipts at Landlord's request, or other evidence satisfactory to Landlord showing the payments of all premiums and other charges due thereon;
- (iv) The provisions of any insurance policy shall be modified to the extent required by any mortgagee holding a lien on the Landlord's interest in the Premises; and
- (v) Tenant shall, at Tenant's sole cost and expense, observe and comply with all policies of insurance in force with respect to the Premises and the Building.

(c) Each insurance policy shall, to the extent obtainable, contain an agreement by the insurer that such policy shall not be cancelled for any cause without at least thirty (30) days' prior written notice from the insurer to Landlord and to any mortgagee holding a lien on the Landlord's interest in the Premises.

(d) If Tenant shall fail to maintain any such insurance required hereunder, Landlord may, at Landlord's election, after five (5) days' written notice to Tenant, procure the same, and the premium cost shall be additional rent, immediately due and payable, it being hereby expressly covenanted and agreed that payment by Landlord of any such premium shall not be deemed to waive or release the obligation of Tenant to make payment thereof or any of Landlord's other rights hereunder.

(e) Landlord agrees, at its sole cost and expense, to carry insurance against loss or damage by fire, flood, wind damage or other casualty, with extended coverage endorsements, in an amount not less than one hundred percent (100%) of their full insurable replacement value of the Building, (exclusive of cost of excavation, foundation, and footings below the ground floor, and less physical depreciation and excluding any tenant improvements, furniture, fixtures, equipment and personal property installed by Landlord or by any Subtenant. Insurance proceeds recovered by reason of destruction of the Building on the Premises shall be paid to Landlord to be used to repair and restore the Building so damaged with the same type of material and quality of construction as when the Building were originally constructed. Any excess shall be paid to Landlord. Notwithstanding the foregoing, Landlord may, at its option, may self-insure with respect to any damage to the Building.

(f) If all or any part of the Building is damaged by fire, flood, wind damage or other casualty, Tenant shall give prompt notice thereof to Landlord. Landlord, upon receiving such notice, shall proceed as quickly as is commercially possible and with reasonable diligence, subject to Force Majeure, to repair, or cause to be repaired, such damage, but not damage to any improvements made by Tenant or any Subtenant, in a manner reasonably designed to minimize interference with Tenant's occupancy (but with no obligation to employ labor at overtime or other

premium pay rates). Notwithstanding the foregoing or anything to the contrary in this Lease, Landlord shall have no obligation to restore if the casualty event takes place when there are fewer than two (2) years until the end of the final Term.

(g) Landlord will make reasonable efforts to provide and install preventative flood precautions. In the event of flood damage, Landlord will undertake reasonable efforts to clean up and repair the Building to the extent damaged by such flood. Landlord agrees that such repairs will be expedited on an emergency basis so the business on the Premises may reopen.

28. Condemnation.

(a) In the event the entire area of the Premises shall be acquired by authority of any governmental authority in the legal and valid exercise of its power of eminent domain. (a "Taking") or if there is a Taking of such a substantial portion of the Premises (but less than all) such that it shall no longer be reasonably economical or practical because of such Taking for Tenant to continue its then existing business on the Premises, this Lease shall terminate as of the date of such Taking. The Tenant shall have no right to partake in any part of the condemnation award.

(b) If there shall be a Taking of any portion of the Premises less than the whole, and if Section 28(b) does not apply, then the portion of the Premises not so taken shall be restored to good condition, and Landlord shall be responsible for restoration of the Building to the extent of available proceeds.

29. Events Of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) If default shall be made in the due and punctual payment of any Annual Rent or any other amounts payable by Tenant under this Lease when and as the same shall become due and payable and the same is not cured within fifteen (15) days from the date of Notice of Default from Landlord to Tenant; or

(b) If default shall be made by Tenant in the performance of, or in compliance with, any of the other terms, covenants, or conditions contained in this Lease (other than the Performance Standards) and the same is not cured within thirty (30) days from the date of Notice of Default from Landlord to Tenant; or

(c) If default shall be made by Tenant in the performance of the Performance Standards resulting in a Performance Breach as described in Section 13 and such default is not cured as provided in Section 13; or

(d) Tenant files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy or insolvency law or act or for the appointment of a receiver or trustee of all or a portion of Tenant's property; or

(e) Involuntary proceedings are instituted against Tenant under any bankruptcy or insolvency law or act and are not vacated or withdrawn within thirty (30) days after the date of filing thereof; or

(f) Tenant abandons the Premises.

30. Curing of Default. With respect to any default (other than the payment of money) of such nature that it cannot, by due diligence, be cured within the period of time specified in Section 29, and as to which a Notice of Default is required to be sent, if Tenant shall commence the curing of such default within the period specified in Section 29, then Tenant shall be entitled to as long a period to cure such default as may be required by Tenant in the exercise of due diligence in endeavoring to cure such default, provided that such period is no longer than ninety (90) days from the date of such Notice of Default, provided as to a Performance Breach as set forth in Section 13, Tenant's cure rights shall be as set forth in Section 13.

31. Notice of Termination for Default. In the event that:

(a) a default occurs, and

(b) Landlord serves upon Tenant a Notice of Default (unless a Notice of Default is not required to be sent), and

(c) within the pertinent time period described in Section 29, Tenant fails to cure the specified default,

then Landlord may serve upon Tenant, pursuant to the notice provisions hereof, a Notice of Termination, which shall provide that, unless the Event of Default specified in the Notice of Default (unless a Notice of Default is not required to be sent) and again specified in the Notice of Termination is cured within five (5) days of the date of the Notice of Termination, then, upon the expiration of such five (5) days, the rights of Tenant under this Lease shall automatically expire and terminate. Upon the occurrence of all of the foregoing events, including the expiration of such five (5) day period, without Tenant's having cured the specified Event of Default, then, upon such expiration of such five (5) day period, Landlord shall have the remedies set forth in Section 34.

32. Termination For Public Interest.

(a) Landlord has conveyed to Tenant the importance of the Market House as a cherished, highly visible, public asset, viewed by residents, visitors, business owners as the centerpiece of Annapolis. As such, it is critically important that the Landlord have additional measures, above and beyond the remedies in the event of a default by Tenant under this Lease. It is vitally important that the Landlord has at its disposal additional provisions to protect the authentic character of the Market House, including the right to Terminate for Public Interest if it becomes necessary, in the Landlord's sole and absolute subjective determination to reclaim the use of the Market House from the Tenant, or its assigns.

(b) Likewise, the Tenant has conveyed to the Landlord the importance to the Tenant to protect its investment of time and resources to creating and sustaining a viable Market House operation. Landlord acknowledges that it is vitally important to the Tenant that a Termination for Public Interest would not be for (a) an arbitrary or capricious reason or (b) for monetary gain. Prior to the Landlord exercising its right Termination for Public Interest, the Landlord will notify the Tenant of the Landlord's intent to terminate, including any specific concerns. Within ninety (90) days, Landlord and Tenant will make commercially reasonable efforts to mutually agree to a suitable remedy and mutually agree to a time period during which Tenant shall cure the situation. Failing to reach agreement on a solution or period of time to cure the situation, Landlord may exercise Termination for Public Interest as set forth herein.

(c) Landlord agrees that it will not exercise its right of Termination for Public Interest at any time prior to sixty (60) months following the Opening Date and in any event will not do so without the approval by resolution adopted by the Annapolis City Council. Upon the proper exercise of right of Termination for Public Interest, Landlord shall deliver a notice of termination to Tenant. Once delivered, the Termination for Public Interest shall be irrevocable without Tenant's consent and shall become effective sixty (60) days after delivery to Tenant of the notice thereof or such later date as specified in such notice. Landlord shall pay one-half of the Termination Fee simultaneously with the delivery of the termination notice and the balance upon Tenant's assignment to Landlord, in form reasonably satisfactory to Landlord, of all subleases and service contracts, and delivery to Landlord of all books and records with respect to the operation and maintenance of the Building. Upon the effective date of such termination, Tenant and Landlord shall be released and relieved of all obligations to each other under this Lease.

33. Tenant's Termination Right. Landlord acknowledges the economic challenges to Tenant to operate the Premises in accordance with the Performance Standards and other requirements under this Lease and that irreconcilable differences may arise between Landlord and Tenant as to the operation of the Premises. It is critically important to Tenant that Tenant, as well as Landlord, have the right to terminate this Lease at the Tenant's sole and absolute discretion if the business on the Premises is not economically feasible or if irreconcilable differences arise between Landlord and Tenant. Accordingly, Tenant may, at anytime after sixty (60) months following the Opening Date, elect to terminate this Lease, which termination shall not be effective until the last to occur of:

- (a) the effective date specified in a notice delivered by Tenant to Landlord which shall not be sooner than sixty (60) days after delivery of such notice;
- (b) Tenant's assignment to Landlord, in form reasonably satisfactory to Landlord, of all subleases and service contracts relating to the business on the Premises, and Tenant's delivery to Landlord of all other records relating to the operation of the business on the Premises sufficient for Landlord to assume an orderly transition of the operation of the market activities on the Premises and
- (c) Tenant's payment to Landlord of the termination payment specified below.

During such period prior to the effective date of Tenant's termination, Tenant will meet with and cooperate with Landlord to determine if the economic conditions or irreconcilable differences can be reconciled and, if not, to cooperate in an orderly delivery to the Landlord of all subleases, service contracts and records of the business operation of the Premises. If Tenant exercises its termination right under this paragraph, neither Tenant nor any Subtenant which has been granted a non-disturbance agreement or which Landlord has otherwise directed may remain as a direct tenant of Landlord shall remove from the Premises any furniture, fixtures or equipment without the express written permission of the Landlord and Tenant shall pay to Landlord a termination payment equal to 100% of the Operating Expenses for the three (3) months immediately preceding the effective date of such termination. Upon the effective date of such termination, Tenant and Landlord shall be released and relieved of all obligations to each other under this Lease. If requested by Landlord, Tenant shall, at no cost to Landlord, continue to perform such management functions as to the Premises as the Landlord may reasonably require for a period not to exceed ninety (90) days after the effective date of such termination in order to facilitate an orderly transition of management.

#### 34. Landlord's Remedies

(a) Upon the expiration of the period of time set forth in a Notice of Termination, without the specified Events of Default having been cured, Tenant shall then immediately quit and surrender the Premises and each and every part thereof to Landlord, and Landlord may enter upon the Premises, by force, summary proceedings, or otherwise. In any of such events, Landlord shall be entitled to the benefit of all provisions of the ordinances and Public Local Laws of the city or county where the Premises is located and of the Public General Laws of the State of Maryland dealing with the speedy recovery of lands and tenements held over by tenants or proceedings in forcible entry and detainer. Upon any entry or re-entry by Landlord, with or without legal process, Landlord shall also have the right (but not the obligation) to relet all or any part of the Premises, from time to time. No re-entry by Landlord with or without a declaration of termination shall be deemed to be an acceptance or a surrender of this Lease or as a release of the Tenant's liability for damages under the provisions of this Section.

(b) Tenant further agrees (i) notwithstanding re-entry by Landlord with or without termination pursuant to the provisions above, or (ii) if this Lease is otherwise annulled or terminated by reason of an Event of Default, or (iii) if Landlord retakes possession with or without process of law and/or re-enters with or without a declaration of termination, or (iv) if Landlord, following any of the foregoing events, elects to let or relet the Premises (whether once or more than once during the remainder of the Term, and upon such conditions as are satisfactory to Landlord), that Tenant shall, nevertheless, in each instance, remain liable for the performance of any covenant of this Lease then in default and for all Annual Rent that may be due or sustained before the date of the occurrence of any of the events described in items (i), (ii), or (iii) above, together with the cost of seizure and repossession of the Premises and reasonable attorney's fees incurred by Landlord as a result of the breach of this Lease. In any of such events, Tenant agrees that it will remain liable to Landlord for liquidated damages to be calculated and paid as set forth in the following Sub-section.

(c) Suit or suits for the recovery of such deficiency or damages or for a sum equal to any installment or installments of Annual Rent may be brought by Landlord from time to time, at Landlord's election. Nothing herein contained shall be deemed to require Landlord to await the date when this Lease or the Term would have normally expired had there been no such Event of Default by Tenant or no such cancellation or termination by Landlord, nor shall Landlord be barred by any claim involving a statute of limitations or other defense should Landlord delay in filing suit.

(d) No entry or re-entry by Landlord, whether had or taken under summary proceedings or otherwise, nor any letting or reletting shall absolve or discharge Tenant from liability hereunder. Tenant's liability hereunder, even if there be no letting or reletting, shall survive the issuance of any dispossess warrant, order of court terminating this Lease, or any other termination based upon an Event of Default. The words "enter", "re-enter", and "re-entry" as used in this Section and elsewhere in this Lease are not restricted to their technical legal meanings.

(e) No payment received by Landlord from Tenant after re-entry or the cancellation or termination of this Lease in any lawful manner shall reinstate, continue, or extend the Term of this Lease or affect any notice theretofore given to Tenant by Landlord or operate as a waiver of the right of Landlord to recover possession of the Premises by proper suit, action, proceedings, or other remedy.

(f) Nothing in this Section shall limit or prejudice the right of Landlord to prove and to obtain, as liquidated damages by reason of a termination arising out of the provisions of this Section, an amount equal to the maximum allowed by any statute or rule of law in effect as of the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount of liquidated damages computed under this Section.

35. Tenant's Indemnification. Except when caused by the negligence or willful misconduct of Landlord, Tenant shall indemnify and save Landlord harmless against and from, and shall reimburse Landlord for, all liabilities, obligations, damages, fines, penalties, claims, demands, costs, charges, judgments, and expenses, including but not limited to reasonable attorney's fees, which may be imposed upon or incurred or paid by or asserted against Landlord or Landlord's fee or reversionary or other interest in the Premises by reason of or in connection with any of the following:

- (a) Tenant's use and occupancy of the Premises;
- (b) the conduct of Tenant's business or any work or activity or other things allowed or permitted by Tenant to be done in or on the Premises;
- (c) any breach or default in the performance of any of Tenant's obligations under this Lease;

- (d) any misrepresentation or breach of warranty by Tenant under this Lease; and/or
- (e) any other acts or omissions of Tenant, its agents, employees, invitees or contractors.

In case any action or proceeding is brought against Landlord by reason of any claims described in this Section, Tenant, if Landlord gives Tenant prompt notice thereof, shall, at Tenant's expense, resist or defend such action or proceeding.

36. Landlord's Indemnification. Except when caused by the negligence or willful misconduct of Tenant, Landlord shall indemnify and save Tenant harmless against and from, and shall reimburse Tenant for, all liabilities, obligations, damages, fines, penalties, claims, demands, costs, charges, judgments, and expenses, including but not limited to reasonable attorney's fees, which may be imposed upon or incurred or paid by or asserted against Tenant or Tenant's interest in the Premises by reason of or in connection with any the failure of Landlord, its agents or employees, to perform any covenant hereunder, or for any accident, injury or damage to persons or property occurring in or near the Premises or its appurtenances caused by or resulting in any way, from Landlord's negligence.

37. Landlord's Warranties

(a) Landlord warrants that Landlord is seized in fee simple of the Premises, that Landlord's title thereto is good of record and in fact, and that Landlord's title is marketable and free of all liens, encumbrances, or restrictions of any kind, except for (i) easements for public utilities (ii) a recorded equitable servitude in the Landlord's title deed requiring the subject property to be used as a public market and (iii) an existing lease with BankAnnapolis, which Landlord shall assign to Tenant prior to the Opening Date.

(b) Landlord warrants that if and so long as Tenant shall not be in default hereunder, Tenant shall quietly hold, occupy, and enjoy the Premises and all rights relating thereto during the Term, without hindrance, ejection, or molestation by Landlord or any party claiming by, through, or under Landlord.

38. Landlord's Right To Perform. If Tenant commits a default in the making of any payment or in the doing of any act herein required to be made or done by Tenant and which is capable of being made or done by Landlord, then Landlord may, but shall not be required to, make such payment or do such act; provided, however, that except in the case of an emergency, for which no notice is required, Landlord shall not make any payment or perform any such act without giving Tenant five (5) days' prior written notice of its intention to do so. The amount of the expense thereof, if made or done by Landlord, shall be charged to Tenant as additional rent, payable on demand shall accrue from the date paid or performed by Landlord; but the making of such payment or the doing of such act by Landlord shall not operate to cure such default or to estop Landlord from the pursuit of any remedy to which Landlord may be entitled because of any breach on the part of Tenant of any term, covenant, or condition herein, nor shall the acceptance of Annual Rent herein by Landlord either from Tenant or any subtenant, whether or

not such delay or acceptance be with knowledge on the part of Landlord of such breach, prejudice Landlord's privilege to invoke such remedy, which privilege shall continue until such breach is cured.

39. Estoppel Certificates Tenant and Landlord each agrees at any time and from time to time, but in no event more than one time per year, upon not less than 'thirty (30) days' prior written notice by the other (and as to Tenant to cause any subtenant under this Lease), to execute, acknowledge, and deliver, without charge, to the other, or to any person designated by the requesting party, a statement in writing certifying: (i) that this Lease (or sublease, as the case may be) is in full force and effect and has not been modified, assigned, subleased, supplemented, or amended except by such writings as shall be stated; (ii) that the party making such statement has not received any notice of default or notice of termination (or, if such notice has been received, that the default has been cured or termination has been revoked, if such be the case); (iii) that, to the knowledge of the party making such statement, no default exists hereunder (or if any such default does exist, specifying the same and stating that the same has been cured, if such be the case); (iv) that the party making such statement has no claims, defenses, set-offs, or recoupments against the other party hereunder; and (v) the dates to which the rent has paid.

40. Notices. All Notices shall be in writing and shall be sent by nationally recognized next-business-day courier service at the respective address number set forth in the introductory section of this Lease. Either party may, by notice given as aforesaid, change its address for all subsequent notices. Notices shall be deemed given on the next business day following the day when transmitted in accordance herewith.

41. Designated Representative. The Tenant shall direct all communications with Landlord in connection with this Lease to the City Manager, or his or her designee.

42. Recording. Neither party shall record this Lease without the express written consent of the other.

43. Waiver Of Jury Trial; Venue. Landlord and Tenant waive trial by jury in any action or proceeding brought by either of the parties hereto against the other or on any counterclaim in respect thereof on any matters whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises and/or any claim of injury or damage under this Lease. The parties agree that the sole and exclusive forum for the determination of any action relating to this Lease shall be either in an appropriate district or circuit court of in Anne Arundel County or, if the requirements for federal jurisdiction are met, in the U.S. District Court for the District of Maryland, Southern Division.

44. No Partnership. Landlord shall not be construed or held to be a partner or associate of Tenant in the conduct of Tenant's business, it being expressly understood and agreed that the relationship between the parties hereto is and shall at all times remain, during the Term, that of landlord and tenant.

45. No Waiver. No failure by Landlord or Tenant to insist upon the performance of any term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a default or Event of Default hereunder, and no acceptance of full or partial payment of Annual Rent or Additional Rent during the continuance of any such default or Event of Default shall constitute a waiver of any such default or Event of Default or of such term, covenant, or condition. No waiver of any default or Event of Default shall affect or alter this Lease, but each and every term, covenant, and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent default or Event of Default hereunder.

46. Applicable Law; Construction Of Language Of Lease. This Lease is made pursuant to, and shall be construed and enforced in accordance with the laws in force in the State of Maryland.

47. No Broker. The parties hereto covenant and agree with each other that no person is entitled to a brokerage commission, finder's fee, or other similar form of compensation in connection with the execution of this Lease. Each party agrees to hold harmless, indemnify and defend the other for any action or claim by a person alleging entitlement to such a fee and claiming through that party.

48. Accord And Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than any payment of Annual Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Annual Rent due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided in this Lease, at law, or in equity.

49. Holding Over. Should Tenant hold over in possession of any part of the Premises or the Building after the expiration of this Lease, Tenant shall be deemed to be occupying the Premises from month to month, subject to such occupancy's being terminated by either party upon at least thirty (30) days' written notice, as though this Lease had continued. Such occupancy shall be subject to all of the terms, covenants, and conditions of this Lease insofar as the same may be applicable to a month-to-month tenancy except that the Annual Rent shall be calculated as the Annual Rent payable for the preceding year, payable in monthly installments in effect at the expiration of this Lease. In addition, Tenant shall pay as Additional Rent to Landlord for all damages sustained by reason of Tenant's retention of possession. Nothing in this Section excludes Landlord's rights of re-entry or any other right hereunder.

50. Captions. Any captions appearing in this Lease are inserted only as a matter of convenience and do not define, limit, construe, or describe the scope or intent of the Sections of this Lease nor in any way affect this Lease.

51. Calculation Of Time. In computing any period of time prescribed or allowed by any provision of this Lease, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be

included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Unless otherwise provided herein, all notice and other periods expire as of 5:00 p.m. (local time in Maryland) on the last day of the notice or other periods.

52. Severability; Reduction Of Charges. If the application of any term or provision of this Lease whether in whole or in part is held invalid or unenforceable in general or in any instance, the remainder of this Lease shall not be affected by such holding and shall be fully valid and enforceable. In the event that any late charge, interest rate, or other payment provided herein exceeds the maximum applicable charge legally allowed, such late charge, interest rate, or other payment shall be reduced to the maximum legal charge, rate, or amount.

53. Authority.

(a) The person executing this Lease on behalf of the Tenant represents and warrants that (a) the Tenant is duly organized and validly existing and (b) this Lease (i) has been authorized by all necessary parties, (ii) is validly executed by an authorized officer or agent of the Tenant and (iii) is binding upon and enforceable against the Tenant in accordance with its terms.

(b) Pursuant to the ordinance referenced on the signature page of this Lease, the execution hereof has been duly authorized by Landlord.

54. Financials and Tenant's Credit.

(a) Tenant acknowledges that the financial capability of Tenant to perform its obligations hereunder is material to Landlord and that Landlord would not enter into this Lease but for its belief, based on its review of Tenant's financial statements, that Tenant is capable of performing such financial obligations. Tenant hereby represents, warrants and certifies to Landlord that its financial statements or other evidence of the creditworthiness of its principals previously furnished to Landlord were at the time given true and correct in all material respects and that there have been no material subsequent changes thereto as of the date of this Lease.

(b) Tenant shall establish with a bank or escrow agent a restricted account satisfactory to Landlord as follows: (i) prior to the March 1, 2011 an amount of not less than \$100,000 from which funds may be drawn solely for the purposes of investment in tenant improvements and (ii) after the Opening Date and until such time as the operation of the business at the Premises has operated for twelve consecutive months without an operating loss, \$50,000 to cover operating loss deficits.

55. Effectiveness. Landlord has delivered a copy of this Lease to Tenant for Tenant's review only, and the delivery hereof does not constitute an offer to Tenant or an option. This Lease shall not be effective until an original of this Lease executed by both Landlord and Tenant is delivered to and accepted by Landlord, and this Lease has been approved by all applicable officials of the City of Annapolis as required.

56. No Presumption. Landlord and Tenant understand, agree and acknowledge that (i) this Lease has been freely negotiated by both parties; and (ii) in any controversy, dispute or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conditions, there shall be not inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Lease or any portion thereof.

57. Additional Rent. All sums due and owing by Tenant to Landlord herein shall be construed as "rent."

58. Force Majeure. Except as expressly provided for herein and provided the excused party gives prompt written notice of the event and takes steps within its power or control and diligently pursues the curing of the event which is the grounds for delay, neither party shall be in default hereunder and the other party shall not be excused from performing any of its obligations hereunder if the performing party is prevented from performing any of its obligations hereunder to the extent prevented by any fire, flood, earthquake, hurricane or other acts of God or other causes beyond the reasonable control of either party; provided such party gives prompt written notice of the event and, to the extent within its power or control, takes immediate steps and diligently pursues the curing of the event which is the grounds for delay. The foregoing, however, shall in no event excuse the late payment of Rent otherwise extend any cure periods set forth herein for monetary default.

59. Counterparts. This Lease may be executed in multiple counterparts or in duplicate, and when so executed by all parties shall constitute one agreement.

60. Total Agreement. This Lease contains the entire agreement between the parties as to the subject matter hereof and cannot be changed or modified except by a written instrument subsequently executed by the parties hereto.

61. Time Of The Essence. Time is of the essence in all provisions of this Lease to be performed by or on behalf of Tenant.

62. Exhibits. The following exhibits are attached to this Lease are incorporated herein.

- A. Description of Premises (including plat showing areas of ice/snow removal responsibilities)
- B. Initial Landlord Alterations
- C. Schedule of Deliveries
- D. Calculation of Termination Fee
- E. Cleaning Specifications
- F. Example of Calculation of Net Profits
- G. Subtenant Categories

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed, under seal, as of the date and year first above written.

THE CITY OF ANNAPOLIS

By \_\_\_\_\_  
Title: Mayor of Annapolis

Date: \_\_\_\_\_

Attested by: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

AS TO FORM AND LEGAL SUFFICIENCY

By \_\_\_\_\_  
Title: City Attorney, City of Annapolis

Date: \_\_\_\_\_

Authorized by Ordinance No. \_\_\_\_\_

GONE TO MARKET LLC

By \_\_\_\_\_  
Title: W. Lehr Jackson, Managing Member

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2010, before me, the undersigned Notary Public, personally appeared Joshua J. Cohen, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Mayor of The City of Annapolis, an incorporated municipality of the State of Maryland and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
(Signature of notary)

My commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2010, before me, the undersigned Notary Public, personally appeared W. Lehr Jackson, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Managing Member of GONE TO MARKET LLC, a Maryland limited liability company and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
(Signature of notary)

My commission expires: \_\_\_\_\_

EXHIBIT A  
DESCRIPTION OF THE PREMISES

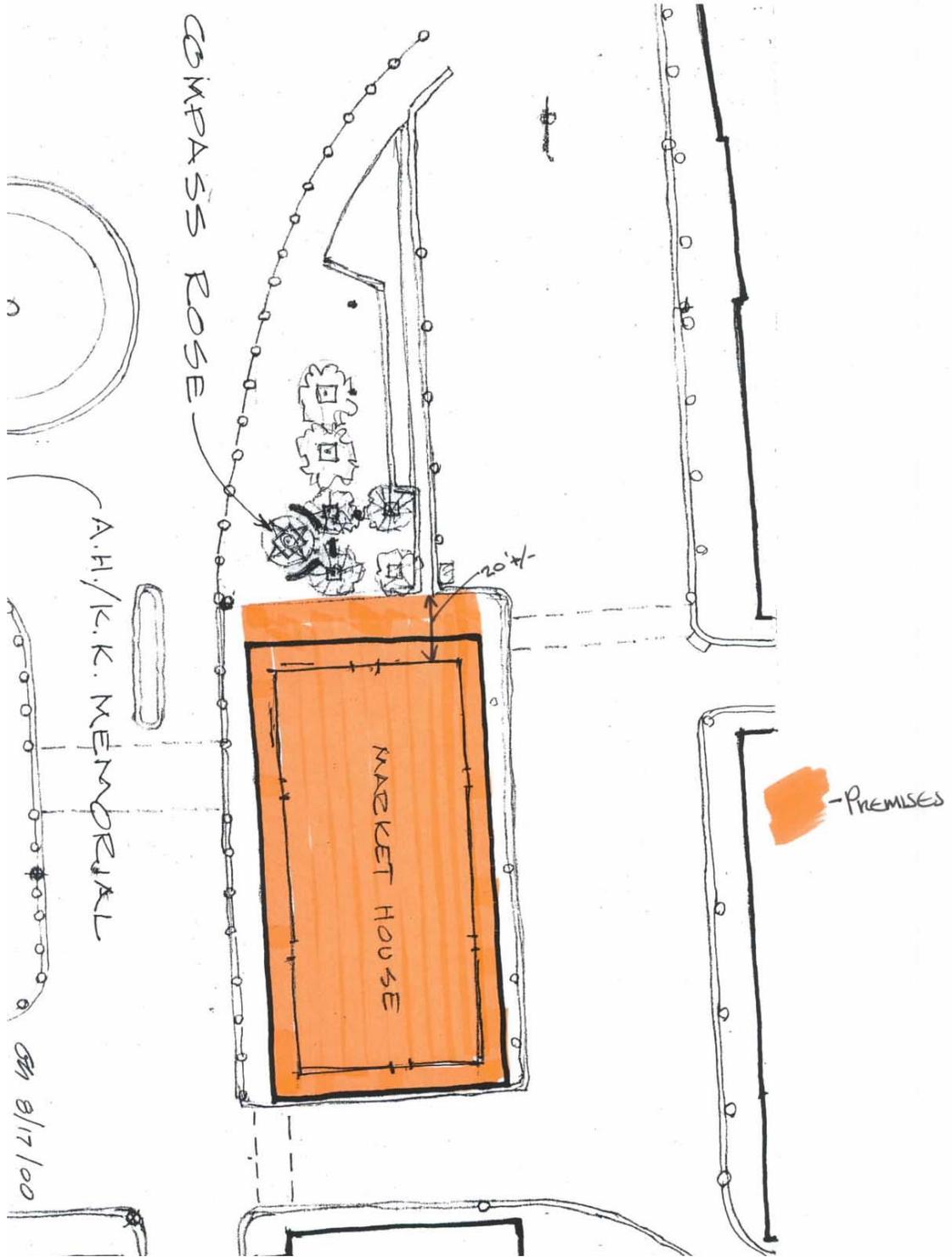




EXHIBIT B

SCOPE OF WORK  
FOR INITIAL LANDLORD ALTERATIONS

:

- Details on HVAC upgrades
- Electrical work
- Interior remodeling
- Window and door modifications
- Relocation of interior utilities (electric, water, waste water)
- Security and fire protection systems

The parties agree that the foregoing list shall be supplemented as plans and specification are finalized by the applicable agencies of the City of Annapolis.

EXHIBIT C

SCHEDULE OF DELIVERIES

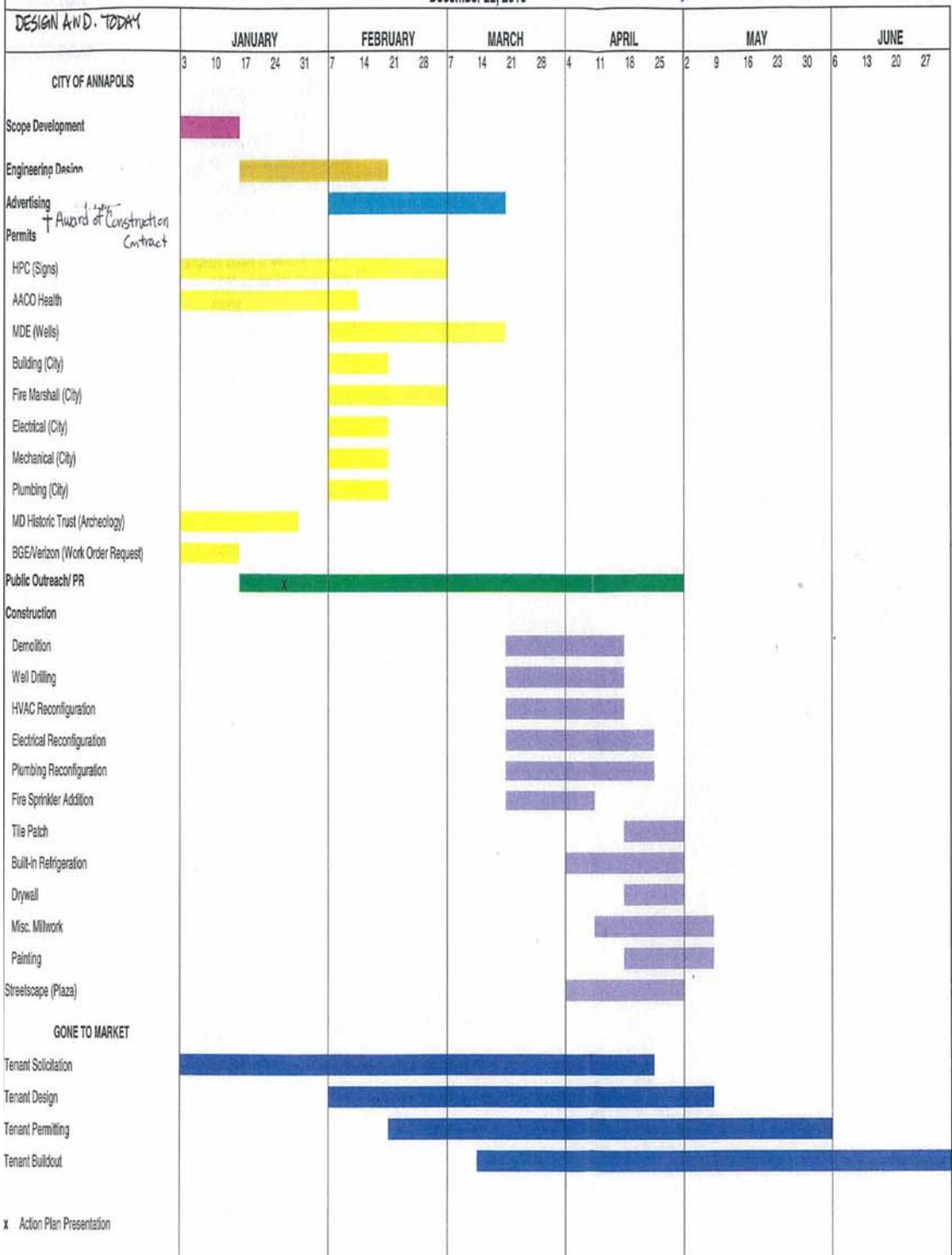
(See chart attached next page)

COA ON SCHEDULE AS OF 1/14/11

MARKET HOUSE

DRAFT SCHEDULE

December 22, 2010



## EXHIBIT D

### CALCULATION OF TERMINATION FEE

Within ten (10) days after Landlord gives Tenant notice of its intent to exercise its right of Termination for Public Interest, the parties shall appoint an appraiser who shall be mutually agreeable to both Landlord and Tenant, shall be a Member, Appraisal Institute, have at least ten (10) years' experience in evaluating of commercial properties in the Annapolis, Maryland market with experience in leasehold valuation.

If the parties are unable to agree on an appraiser within such ten (10) day period, then each party, within five (5) days after the expiration of such ten (10) day period, shall appoint an appraiser (with the same qualifications) and the two (2) appraisers (or the one appraiser if either Landlord or Tenant fails timely to appoint an appraiser) shall together appoint a third appraiser with the same qualifications. The appraiser or appraisers so appointed then shall determine, within sixty (60) days after the appointment of such appraiser or appraisers, the Termination Fee.

Among the factors to be considered by the appraiser(s) in determining the Termination Fee shall be those factors set out below. The figure arrived at by the appraiser (or the average of the figures arrived at by the three appraisers, if applicable) shall be used as the Termination Fee. If the three appraiser method is chosen, then if any appraiser's determination of the Termination Fee is either (x) less than ninety percent (90%) of the average figure or (y) more than one hundred ten percent (110%) of such average, then the Termination Fee will be either (1) the average of the remaining two (2) appraisal figures falling within such a range of percentages, (2) the remaining appraisal that is within such range of percentages or (3) if none of the figures are within such range, the average of the three (3) appraisals. Landlord and Tenant shall each bear the cost of its appraiser and shall share equally the cost of the third appraiser.

In determining the Termination Fee, the appraisers shall be guided by the income approach without regard to the Landlord's right of Termination for Public Interest. In addition to the appraisers' determination of value, the Termination Fee shall include the value of the Tenant's unamortized tenant improvements and any unrecovered Tenant's Operating Deficit Contribution.

The valuation shall be conducted in accordance with the provisions of this Section and, to the extent not inconsistent herewith, in accordance with the then prevailing rules and guidelines of the Appraisal Institute or its successor institution. The final determination of such appraisers shall be in writing and shall be binding and conclusive on the parties, each of whom shall receive counterpart copies thereof. In rendering such decision the appraisers shall not add to, subtract from, or otherwise modify the provisions of this Lease. In determining the Termination Fee, the appraisers shall consider all the items set forth in this paragraph. Instructions to such effect shall be given to the appraisers.

The cost of real estate taxes or any other tax, penalty or charge imposed by any governmental or appropriate authority shall not be included in the appraised value.

## EXHIBIT E

### CLEANING SPECIFICATIONS

On a regular basis, Tenant shall (or shall cause its Subtenants) to:

- Empty all trash receptacles
- Remove and deposit all waste collected by vendor into the designated trash dumpster.
- Clean all tabletops, countertops etc. (horizontal surfaces).
- Clean all glass tables and surfaces to remove all fingerprints and smudges.
- Dust, sweep and mop all tile floor surfaces.
- Wash and sanitize all restrooms. Restock. Clean mirrors. Spot clean walls. Restock all supplies.
- Vacuum all carpet.
- Clean all glass door surfaces and frames, mullions, and hardware.
- Clean and polish all wall mounted water fountains.
- Keep all service closets in neat orderly conditions.
- Clean and disinfect restroom walls.
- Clean and polish main entrance door thresholds.
- Dust all ceiling and wall air diffusers.
- Machine scrub restroom floors (paying particular attention to floor grout).

EXHIBIT F

EXAMPLE CALCULATION OF NET PROFITS

<b>Enterprise Revenue</b>	\$4,900,000	
<b>Subtenant Rents (Rent assumed to be 8% of gross sales)</b>		\$392,000
<b>Pass Through Income (expense reimbursements from subtenants)</b>		\$12,000
<b>TOTAL GROSS REVENUE</b>		\$404,000
<b>Less Operating Expenses</b>		\$185,000
<b>Less unrecovered Tenant's Operating Deficit Contribution</b>		\$30,000
<b>Gross Margin</b>		\$189,000
<b>LESS Tenant Preferred Return (2% of Enterprise Revenue if available)-- -as asset management fee for admin and office overhead</b>		\$98,000
<b>NET PROFIT</b>		\$91,000
<b>Split Tenant 50%</b>		\$45,500
<b>Rent to City 50%</b>		\$45,500

**NOTES**

1. This is an example only of the method used to calculate cashflow with an assumed percentage rent of 8%
2. Tenant's Preferred Return is the lesser of 2% of Enterprise Revenue or Gross Margin. If Gross Margin is 0 or less in any year, then in that year Tenant's Preferred Return is neither paid nor accrued.

## EXHIBIT G

### SUBTENANT CATEGORIES

Restaurants, Cafes, Oyster Bar, Lunch Counter  
Fish and Seafood  
Specialty Foods  
Beef  
Pork  
Poultry  
Sausage and other Meats  
Cheese and Dairy  
Deli Foods  
Fresh and Organic Produce  
Salads and Pasta  
Ethnic Food and Groceries  
Dry Goods  
Spices, Seasonings and Condiments  
Coffee and Tea  
Beer and Wine  
Ready to Eat and Take Out  
Breads and Baked Goods  
Cakes, Pastries and Desserts  
Flowers, Bedding Plants and Orchids  
Gifts and Souvenirs  
Ice Cream, Yogurt, Smoothies and Gelato  
Candy and Confections  
Cook and Table Ware  
Olive Oils  
Mushrooms  
Personal Health Items