

Ordinance No. 122820

Council Bill No. 116346

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute a lease agreement with Mahuja International, LLC d/b/a Bainbridge Island Coffee Roasters for space in the 5th Avenue North Garage at Seattle Center, and ratifying and confirming certain acts.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Tom Roemer

Councilmember

Committee Action:

^(C)
pass as amended (sub attachment) TK, RC, JB 3-0

9-29-08 Passed 9-0

CF No. _____

Date Introduced:	9-15-08	
Date 1st Referred:	Parks & Seattle Center (PSC)	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: 9-0	
Date Presented to Mayor:	Date Approved: 10-8-08	
Date Returned to City Clerk:	Date Published: 2	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council.

Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

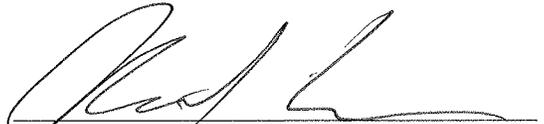
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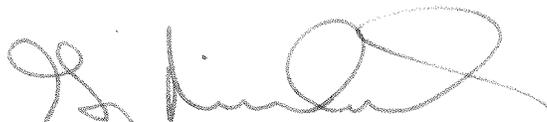
1 Section 2. Any act consistent with the authority and prior to the effective date of this
2 ordinance is hereby ratified and confirmed, specifically, Bainbridge Island Coffee's use and
3 occupancy under the lease prior to the effective date of this ordinance.

4 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after
5 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
6 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

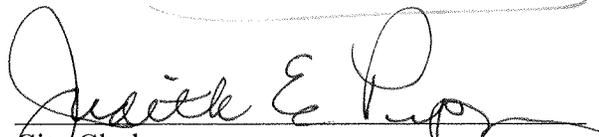
7 Passed by the City Council the 29th day of September, 2008, and
8 signed by me in open session in authentication of its passage this
9 29th day of September, 2008.

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14 President _____ of the City Council

15 Approved by me this 8 day of October, 2008.

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18 Gregory J. Nickels, Mayor

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20 Filed by me this 8th day of October, 2008.

21
22 
23 Josie E. Papp
24 City Clerk

25
26
27 (Seal)



Juanita Woelfle/JW
CEN BICR Lease ORD
August 18, 2008
Version #1

1 Attachment 1: Fifth Avenue North Garage Lease Agreement Between the City of Seattle and
2 Mahuja International, LLC d/b/a/ Bainbridge Island Coffee Roasters.
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ATTACHMENT 1

5TH AVENUE NORTH GARAGE LEASE AGREEMENT BETWEEN THE CITY OF SEATTLE AND MAHUJA INTERNATIONAL, LLC d/b/a BAINBRIDGE ISLAND COFFEE ROASTERS

THIS LEASE is entered into by THE CITY OF SEATTLE (the "City"), a municipal corporation of the State of Washington, acting by and through the Director of the Seattle Center Department (the "Director"), and MAHUJA INTERNATIONAL, LLC d/b/a BAINBRIDGE ISLAND COFFEE ROASTERS (the "Lessee"), a Washington limited liability company and WITNESSES THAT:

PART A: SPECIAL COVENANTS & CONDITIONS OF LEASE

A-1 TERM OF LEASE

a. Term: The term of this Lease shall commence August 15, 2008 (Commencement Date), and shall expire July 31, 2011, unless terminated earlier or extended pursuant to the provisions hereof (the "Term"). Notwithstanding the foregoing, all provisions of this Lease other than those relating to payment of Base Rent, Percentage Rent, Utility Reimbursement Charge and Common Area Charge, shall become effective upon the date that Lessee or any of its officers, employees, agents or contractors is first present on the Premises, whether for inspection, construction, installation or any other purpose.

b. Lease Subject to City Council Authorization. In the event that a Seattle City Council ordinance authorizing and approving this Lease has not been passed and become effective by September 30, 2008, this Lease shall automatically terminate and neither party shall have any obligations or liability to the other party; provided, however, that any liabilities or obligations that were incurred prior to the termination shall survive until fulfilled.

c. First Right to Lease. So long as Lessee is in compliance with all its obligations under this Lease, if the City desires to re-let the Premises for the same permitted use, Lessee shall have the first right to lease the Premises upon such terms and conditions as are agreeable to the parties. Any potential new lease shall be subject to approval by the Seattle City Council.



A-2 PREMISES DESCRIPTION AND GRANT

a. Legal Description of Premises: The Premises comprise a portion of the building at Seattle Center, commonly known as 5th Avenue North Garage ("Building"), and located on the following property:

Parcel A of City of Seattle lot boundary adjustment number 3008910 recorded in book ___ of surveys, page ___, records of King County Washington. The legal description is attached hereto along with a site plan and labeled "Part C and Part D". , Records of King County, Washington,

which portion is currently identified as 5th Avenue North Garage, 1st floor, space No. 3, (the "Premises") the floor plan for which is attached hereto, labeled "Part E".

b. Approximate Area of Premises as of Term Commencement: 190 Square Feet, to be re-measured upon completion of demising walls.

c. Grant: In consideration of the payment of rent and Lessee's performance of and compliance with all the covenants, conditions, and terms of this Lease, City hereby leases to Lessee, and Lessee hereby leases from City, the Premises herein described.

d. Common Areas. During the Term, Lessee and its licensees, invitees, and customers shall have the non-exclusive right to use the lobbies, patios, walkways, restrooms and other public and City owned areas of the Building (the "Common Areas"), subject to such rules, hours of operation and regulations as the Director may determine. Additionally, the Lessee may use a portion of the Building's plaza and lobby as a customer seating area, and may set-up tables and chairs during Lessee's hours of operation. During hours when the Premises are not open for business, Lessee shall store the tables and chairs in a location and manner acceptable to the Director. The right to use any portion of the Building's Common Areas for customer seating is permissive and is subject to the Director's approval of the location and any other conditions or rules the Director determines should apply to the use.

A-3 MONTHLY BASE RENT

a. Monthly Base Rent. Lessee shall pay Monthly Base Rent as specified in Part B-1 of this Lease. Monthly Base Rent shall be Three Hundred Dollars and xx/100 (\$ 300.00) subject to the annual CPI adjustment described in section A-3 b.

b. CPI increase: The Monthly Base Rent shall be increased effective each January 1st during the term hereof by the percentage increase (if any)



in the Consumer Price Index for All Urban Consumers ("CPI-U" / 1982-84 = 100) Seattle-Tacoma-Bremerton, WA Area as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor, that occurred during the immediately preceding calendar year; Provided, that in the event of a change in the index base of (1982-84 = 100) or other modification of such index, the City shall apply whatever conversion factors are necessary to establish an adjusted CPI-U that produces the percentage increase in the CPI-U for each such annual period that would have been produced had no change been made in such index by its publisher; and in the event such index is discontinued, the Director shall select and use for such rent adjustment purpose a similar index that reflects consumer price changes. In no event will the Monthly Base Rent be adjusted to an amount that is less than the amount due in the previous month.

A-4 ANNUAL PERCENTAGE RENT

In addition to all other amounts due from Lessee under the Lease, Lessee shall remit to the City as Annual Percentage Rent, seven and one half percent (7.5%) of that portion of the Lessee's annual "Gross Receipts" (as defined in Section B-2) that exceeds \$ 180,000.00 (the Breakpoint #1) and twelve percent (12%) of that portion of Lessee's annual Gross Receipts that exceeds \$200,000.00 (the Breakpoint #2). For any partial lease year (*i.e.*, (a) the period between the Commencement Date, or as applicable, the date the Lessee is obligated to be open for business pursuant to Section B-8(a), and December 31st of the same calendar year, and (b) the period between January 1st of the year in which this Lease expires or is terminated and the actual Lease expiration or termination date, if such date is other than December 31st), the Breakpoint that must be exceeded before any Annual Percentage Rent is due and payable shall be prorated by dividing the Breakpoint by 365 and multiplying the resulting quotient by the number of days in such partial lease year.

A-5 ADDITIONAL RENT

In addition to all other amounts due from Lessee under the Lease, Lessee shall pay to City:

- a. Utility Reimbursement Charges: Until such time as the City installs separate utility meters for the Premises, Lessee shall pay a flat Utility Reimbursement Charge of One Hundred Dollars and xx/100 (\$ 100.00) per month for electricity and water/sewer, due and payable at the same time as Monthly Base Rent. Once the Premises are separately metered, Lessee will pay to the City, or to the utility service provider if the Premises are directly metered, the actual amount of all utility charges for the Premises.
- b. Tenants' Association Dues: \$ 375.00 per calendar year.



c. Common Area Charge: Lessee shall remit to the City as a Common Area Charge the sum of One Hundred Dollars and xx/100 (\$100.00.) per month as and when specified in Section B-1(f), as an offset against the costs and expenses the City incurs, and is expected to incur, in connection with the 5th Avenue North Garage 1st floor southwest lobby common areas. Anything to the contrary in this lease notwithstanding, this charge may also operate as an offset against the costs and expenses the City incurs in connection with the removal of trash and recycling generated by Lessee and its invitees and patrons. Landlord and Tenant agree this charge is not subject to change or reconciliation against actual costs.

d. Other Additional Rent: Whether or not so designated, all other sums due from Lessee under this Lease shall constitute Additional Rent, payable when specified in this Lease, and if not so specified, within ten days of demand therefore.

A-6 AMOUNT OF PERFORMANCE GUARANTEE

The amount of the performance guarantee required under Section B-4 hereof shall be Three Thousand and Five Hundred and xx/100 Dollars (\$3,500.00).

A-7 USE OF PREMISES BY LESSEE

a. Permitted Uses. The Premises shall be used by Lessee for the operation of a retail store selling bulk coffee, coffee by the cup, espresso drinks and coffee beans; teas and spices; cold beverages, assorted gourmet foods items; books, magazines and newspapers. Lessee will use the Premises for no other purpose whatsoever without the prior, written approval of the Director.

b. Serving Products and Packaging. Lessee's serving products and packaging must comply with Section B-8, as determined in the Director's discretion. Additionally, Lessee shall not offer for sale any bottled water packaged in plastic, whether sized for individual portions, larger portions, or sold from a plastic water dispenser.

A-8 CATERING LICENSE

Lessee will be placed on a list of approved caterers for the Seattle Center and is hereby granted a license to provide catering services for Seattle Center events and clients for the duration of the Term. Lessee's license to provide catering services is granted conditioned upon Lessee's compliance with all obligations in this Lease and all obligations in the Catering Agreement, which shall be executed by Lessee and incorporated into this Lease as Part H. In consideration of this grant of catering license, Lessee's Gross



Receipts (defined in B-2) from catering operations shall be included in calculating Lessee's Percentage Rent under Section A-4.

A-9 LEASE SUBJECT TO CONDOMINIUM DECLARATION AND BY-LAWS

The Premises are located in a condominium unit, owned by the City, in the 516 Harrison Street Condominium. As a result, the terms of this Lease are in all respects subject to the provisions of the Condominium Declaration for 516 Harrison Street, a Condominium, and all applicable by-laws and rules and regulations of the 516 Harrison Street Owners Association. Any failure by Lessee to comply with this section will be a default under this Lease.

A-10 SIGNAGE

Lessee, at no cost to the City and subject to the Director's prior written approval as to location, sizes, other design elements, installation techniques and mechanical and electrical requirements, shall have the right to install or place signs, awnings, pylon signs, or other advertising material in or about the Premises or the Building and may remove them, provided that any damage from installation or removal is repaired to the Directors satisfaction. Said signs, awnings, and pylon signs and other advertising material shall be in compliance with all applicable laws, regulations and rules and in conformance with Seattle Center signage plan.

A-11 CONTENTS OF LEASE

This Lease consists of the following parts, which are attached hereto and, by this reference, incorporated herein:

PART A	Special Covenants & Conditions of Lease
PART B	General Covenants & Conditions of Lease
PART C	Legal Description
PART D	Site Plan
PART E	Premises Floor Plan
PART F	Seattle Center Approved Plans for Lessee's Additions, Alterations & Improvements
PART G	Personal Property
PART H	Rules and Regulations for Tenants
PART I	Menu (if necessary)
PART J	Catering Agreement

These parts constitute the complete and final expression of the intentions of the parties hereto. All prior and contemporaneous oral and written understandings



between the parties regarding the subject matter of this Lease have been incorporated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease by having their authorized representative(s) sign his/her/their name(s) in the spaces below:

LESSEE:

Mahuja International, LLC
DBA Bainbridge Island Coffee Roasters

By _____
Hugh Robertson
President

LESSOR:

THE CITY OF SEATTLE

By _____
Robert Nellams , Director
Seattle Center Department

BUSINESS ADDRESSES FOR NOTICES

LESSEE:

Hugh Robertson
Bainbridge Island Coffee Roasters
22289 Stottlemeyer Rd. NE,
Poulsbo, WA 98370

PHONE NO.: 206-347-0788

LESSOR:

Manager, Contracts & Concessions
Seattle Center Department
305 Harrison, Room 111

Seattle, WA 98109

PHONE NO.: 206-684-7114



ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss (Acknowledgement for Lessee)
COUNTY OF KING)

On this _____ day of _____, 20____, before me, the undersigned, Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert Nellams, to me known to be the Director, of Seattle Center, the entity that executed the foregoing Lease as Lessee and acknowledged to me that he/she signed the same as a free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he/she was authorized to execute said Lease for said entity.

GIVEN UNDER MY HAND AND SEAL the day and year first above written.

Signature

(Print or Type Name)
NOTARY PUBLIC in and for the State of _____,

residing at _____

My appointment expires: _____

STATE OF WASHINGTON)
) ss (Acknowledgement for Lessee)
COUNTY OF KING)

On this _____ day of _____, 20____, before me, the undersigned, Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Hugh Robertson, to me known to be the President, of Mahuja International, LLC DBA Bainbridge Island Coffee Roasters, the entity that executed the foregoing Lease as Lessee and acknowledged to me that he/she signed the same as a free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he/she was authorized to execute said Lease for said entity.

GIVEN UNDER MY HAND AND SEAL the day and year first above written.

Signature

(Print or Type Name)
NOTARY PUBLIC in and for the State of _____,

residing at _____

My appointment expires: _____



**5TH AVENUE NORTH GARAGE LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
MAHUJA INTERNATIONAL, LLC
d/b/a BAINBRIDGE ISLAND COFFEE ROASTERS**

PART B: GENERAL COVENANTS & CONDITIONS OF LEASE

B-1 TIME AND PLACE OF PAYMENT Due Date for Monthly Base Rent and Utility Reimbursement Charge: The Monthly Base Rent, as adjusted for annual CPI increases, specified in Section A-3 hereof, the monthly utility charge specified in Section A-5 hereof, and any leasehold taxes due pursuant to Section B-12.c hereof, are due and payable to the City, in advance, without setoff or deduction of any kind or nature or City invoice, on or before the first (1st) day of each month of the term hereof, unless such day is a weekend or City holiday, in which case such Monthly Base Rent and leasehold excise tax shall be due and payable on the next succeeding Seattle Center business day; *Provided*, that until the City notifies the Lessee of the amount of the annual CPI increase in the Monthly Base Rent the Lessee shall remit as a partial payment, the Monthly Base Rental amount specified in the City's most recent increase notice, and within seven (7) days after the date of the City's notice of the amount of each such annual increase and its invoice for the amount retroactively due, the Lessee shall remit such retroactive rent and taxes and thereafter remit on a monthly basis the newly adjusted Monthly Base Rent and taxes.

a. Due Date for Annual Percentage Rent: The Annual Percentage Rent for each calendar year of the term hereof, and any leasehold taxes due pursuant to Section B-12.c hereof, are due and payable, without setoff or deduction of any kind or nature or City invoice, on or before February 1st of the calendar year immediately following the year in which the Breakpoint is met or exceeded, unless such day is a weekend or City holiday, in which case such Annual Percentage Rent shall be due and payable on the next succeeding Seattle Center business day. Such rent shall be submitted with a remittance report in a form subject to the Director's approval.

b. Due Date for Tenant Association Dues: The Lessee's Tenant Association Dues for any year during the term hereof shall be due and payable in advance to the City, without setoff or deduction of any kind or nature or City invoice, on or before January 1st; *Provided*, that for the first year of the term hereof, such dues shall be due and payable upon execution of this Lease. In the event the Term of this Lease does not commence on January 1st and end on December 31st, such dues shall be prorated.



c. Due Date for Common Area Charge: The Lessee's Monthly Common Area Charge shall be due and payable to the City, in advance, without setoff or deduction of any kind or nature or City invoice, on or before the first (1st) day of each month of the term hereof, unless such day is a weekend or City holiday, in which case such charge shall be due and payable on the next succeeding Seattle Center business day.

d. Place of Payment: All payments shall be delivered to The City of Seattle, Seattle Center Accounting Office, 305 Harrison Street, Seattle, Washington, 98109, or to such other address as the Director may specify by notice to Lessee.

e. Delinquencies: All sums due and owing to the City shall be delinquent if not paid on or before the fifth (5th) day after the date due; in the event of any delinquency, the Lessee shall also owe to the City a service charge of Fifty Dollars (\$50.00), or such larger sum as is established by ordinance, for each month the delinquency continues, to cover the additional costs for such delinquency, plus interest on such delinquent sum at a rate of one and one-half percent (1½%), or such larger percent as is established by ordinance, per month from the date due to the date of payment. Returned Check, Non-Sufficient Funds: In the event any payment or check for payment is returned for non-sufficient funds, the Lessee shall owe as an administrative charge an additional \$20.00, or such larger sum as is established by ordinance.

B-2 BOOKS AND RECORDS; "GROSS RECEIPTS" DEFINED

a. Keeping of Records: The Lessee shall keep true, accurate, complete and auditable records of all of the Lessee's Gross Receipts, which records shall be separate from all of the other business records of the Lessee. Additionally, Lessee shall keep true, accurate, complete, and auditable records of all books of account and records customarily used in the operation of the Lessee's concession business, and as may from time to time be required by City. All records required to be kept under this paragraph and elsewhere shall be kept in accordance with generally accepted accounting practices and standards, and shall be kept for a period of six (6) years.

b. Payment Reports: Lessee shall submit monthly a "Daily Gross Receipts Report", a "Remittance Report" in an electronic form as approved by the City and all cash register tapes for each day of business during the previous month, as required by Seattle Center Accounting, to the address in Section B-1 above. Alternatively or in addition, the City may require electronic reporting from POS system linked to the city.

c. Identification of Lessee's Fiscal Year: No later than ten (10) days after the date this Lease becomes effective, the Lessee shall identify, in



a notice to the Director, the consecutive period of time that comprises the Lessee's "fiscal year," which period shall not be changed during the term of this Lease without the written consent of the Director, whose consent may be withdrawn or conditioned in the exercise of the Director's discretion notwithstanding the provisions of Section B-22 hereof.

d. Statement to Director Regarding Annual Gross Receipts: Not later than sixty (60) days after the end of any fiscal year of the Lessee during the term of this Lease, the Lessee shall deliver to the Director a written statement identifying the amount of the Lessee's Gross Receipts in such fiscal year, which statement shall be certified as to its accuracy by a certified public accountant in the following manner:

"I have examined the definition of 'Gross Receipts' in the Lease between The City of Seattle and the Lessee, all relevant financial statements and income tax returns of the Lessee, and the Lessee's system of recording Gross Receipts. In my opinion, the attached statement of Gross Receipts for the period identified herein, accurately reflects the Lessee's Gross Receipts for the aforementioned period."

e. Definition of Gross Receipts: As used in this Lease, the term "Gross Receipts" means and includes the total income of the Lessee and every other person or entity conducting business in, on or from the Premises and total income derived from Lessee's catering operations at a Seattle Center Facility (as defined in Part H), including but not limited to the proceeds from all retail and wholesale sales of food, beverages, merchandise, and services of any kind whatsoever, for cash, barter, exchange or credit, regardless of collections; sales from vending devices; mail or telephone orders received or filled on or from the Premises; all deposits not refunded to purchasers; orders taken although filled elsewhere; fees; commissions; catalog sales; and rental receipts. An installment or credit sale shall be deemed to have been made for the full price on the date of sale regardless of when payment is received. Subject only to the exclusions specified in the immediately following paragraph, the full amount received by the Lessee shall be included in its "Gross Receipts," regardless of whether (a) the Lessee was acting as a consignee, trustee or agent for a third party in connection with such sale or rental, or (b) the Lessee is entitled to retain the full amount received on such sale as the Lessee's own property.

The term "Gross Receipts" does not mean or include the amount of money refunded to and not merely credited to the account of customers who return or do not accept food, beverages, merchandise, or services sold or rented by Lessee; any exchange of merchandise between stores or the central warehouses of the Lessee where such exchange is made



solely for the convenient operation of the Lessee's business and not for the purpose of consummating a sale made in, on, or from the Premises; returns to shippers or manufacturers; any discount allowed by the Lessee to customers; the Washington State Sales Tax and any other tax imposed by any government agency directly on sales; and all admission taxes collected by the Lessee. (Business and occupation taxes are not taxes imposed directly on sales and shall not be deducted from the amount of "Gross Receipts" reported to the City.)

B-3 AUDIT

The Lessee shall permit the City, from time to time, as the City Auditor, Director, or either's functional successor deems necessary, to inspect and audit in King County, Washington, at any and all reasonable times, all books and records pertaining to the Lessee's Gross Receipts and business expenses any records customarily used in the operation of the Lessee's concession business, and any others as may have been required by Landlord, and shall supply the City with, or shall permit the City to make, a copy of any such books and records and any portion thereof, upon the request of the City Director of Finance, the Director, or either's functional successor or designee. The Director shall notify the Lessee of the amount of any over or underpayment found. Any overpayment shall be a credit against any rent or additional rent subsequently due or, at the Lessee's option, shall be refunded to the Lessee. In the event of an underpayment, the Lessee shall pay to the City, as additional rent, the amount of such underpayment plus the cost incurred by the City in auditing the Lessee's books and records. The Lessee shall ensure that the City's right to inspect, audit and copy the Premises user's books and records is a condition of any sublease or other arrangement under which any other person or entity is permitted to use or occupy the Premises.

B-4 PERFORMANCE GUARANTEE

The Lessee shall deliver in cash to the City, Seattle Center Accounting Office at the City address referenced in Subsection B-1.g hereof, within five (5) days after the Lessee's execution of this Lease, as a performance guarantee, the sum specified in Section A-6 hereof. This sum shall belong to City and shall constitute partial consideration for the execution of this Lease, subject only to repayment when required in this section, and may be commingled with other City funds and invested to generate additional earnings for the City's benefit as the City desires. The City may (but shall not be required to) use, apply or retain all or any part of this performance guarantee for the payment of any rent or additional rent or any sum alleged to be or actually in default, or for the payment of any amount that the City may expend by reason of any alleged or actual default by the Lessee, or to compensate the City for any other loss or damage that the City may have suffered by reason of any alleged or actual Lessee default. If any portion of said performance guarantee is so used or applied, the Lessee, within seven (7) calendar days after the date of notice thereof, shall



deliver to the City, the Seattle Center Accounting Office, additional cash in the amount sufficient to restore the performance guarantee to the amount set forth in Section A-6 hereof. If the Lessee fully and faithfully performs every provision of this Agreement to be performed by it, the performance guarantee or any balance thereof after any application of the same by the City hereunder shall be refunded to the Lessee within forty-five (45) days after the expiration or earlier termination of this Lease. The Lessee shall have no right to contest any withdrawal, use, retention or application by the City of any portion of such performance guarantee at the time of the City's taking such action; *Provided*, that nothing herein shall prejudice the Lessee's right to demand through arbitration or litigation the refund of such portion if, and only if, the Lessee has fully complied with and satisfied all of its obligations hereunder. The Lessee waives prior notice and any opportunity for a hearing on any withdrawal, use, application, or retention by the City of such performance guarantee or any portion thereof.

B-5 INDEMNIFICATION AND RELEASE

a. Lessee shall indemnify and hold the City harmless from any and all losses, claims, actions, damages, costs and expenses (including attorneys' fees) suffered by any person or entity by reason of, arising out of, or resulting from any act or omission of the Lessee or any of its agents, employees, contractors, or invitees in connection with use or occupancy or improvement of the Premises and Lessee seating located in Common Areas, including trademark, patent, and copyright infringement, and including any concurrent, negligent act or omission of the Lessee or any of its officers, employees, agents, or invitees, and of the City or any of its officers, employees, agents, or invitees. In the event any suit or action is brought against the City, the Lessee, upon notice of the commencement thereof, shall defend the same, at no cost and expense to the City, and promptly satisfy any final judgment adverse to the City or to the City and the Lessee jointly; *Provided*, that in the event the Director determines that one or more principles of governmental or public law are involved, the City retains the right to participate in such action. Nothing contained in this section shall be construed as requiring the Lessee to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City or any of its officers, employees, or agents. Notwithstanding any provision to the contrary herein, in the event any bodily injury or damage to property results from or arises out of any construction, alteration, repair, addition to, subtraction from improvement to, or maintenance of, any excavation, building, structure, project, development or improvement attached to real estate, including moving and demolition in connection therewith, that has been undertaken or performed by or on behalf of the Lessee, the indemnification provided pursuant to this subsection shall be limited to the extent of the negligence of the Lessee and those acting by or for the Lessee.



The indemnification provided in this subsection shall survive the expiration or earlier termination of this Agreement. The foregoing indemnity is specifically and expressly intended to, constitute a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide City with a full and complete indemnity. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. CITY AND LESSEE ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

b. Lessee hereby fully and completely waives and releases all claims against City for any losses or other damages sustained by Lessee or any person claiming through Lessee resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of Building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of Building facilities or services; any defect in or failure of Common Areas; broken glass; water leakage; the collapse of any Building component; or any act, omission or negligence of co-tenants, licensees or any other persons or occupants of the Building.

B-6 INSURANCE

a. Lessee-Furnished Insurance. The Lessee shall maintain insurance in force at all times during the Term of this Lease at no expense to the City. The term insurance shall be deemed to include insurance and/or self-insurance. Such insurance shall be maintained with coverages and limits as specified below.

(1) **LIABILITY INSURANCE.** Commercial General Liability (CGL) insurance, including premises/operations, products and completed operations, contractual, independent contractors, stop gap/employer's liability, advertising/personal injury and tenant/fire legal liability with limits of liability of not less than \$1,000,000 each occurrence combined single limit bodily injury and property damage, except:

- \$1,000,000 each offense as respects advertising/personal injury
- \$1,000,000 each accident/disease/employee as respects stop gap/employers liability
- \$ 500,000 each occurrence tenant/fire legal liability.

(2) **WORKERS COMPENSATION.** Worker's Compensation insurance in compliance with Title 51 Revised Code of Washington.



(3) **PROPERTY INSURANCE.** All risks property insurance, excluding earthquake and flood, on tenant improvements, business and personal property and inventory on a replacement cost basis. Such property insurance shall include business interruption coverage with sufficient limits of liability to provide for the ongoing payment of additional expenses and loss of revenues during any interruption of the Lessee's business because of a covered loss. The placement of all Lessee-owned property on the Premises shall be at Lessee's sole risk.

b. City-Furnished Insurance. The City shall maintain property insurance in force at all times during the Term of this Lease at no expense to the Lessee. The term insurance shall be deemed to include insurance and/or self-insurance. Such insurance shall consist of all risks property insurance, including earthquake and flood, on the building structure, including City-owned improvements, business and personal property and inventory, on a replacement cost basis. Such City-furnished property insurance shall exclude Lessee's tenant improvements, business and personal property and inventory.

c. Waiver of Subrogation. Neither Landlord nor Tenant shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure, or tangible personal property of the other occurring in or about the Premises or Building, even though such loss or damage might have been occasioned by the negligence of such party or any of its agents or employees, if such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required under terms of this Lease to be covered by insurance procured by the Tenant. Tenant shall cause each insurance policy obtained by it to contain such waiver of subrogation clause. Anything to the contrary notwithstanding, Landlord does not waive its right to recover any and all deductibles, self insured retentions, or other out of pocket losses or damages. Said losses or damages shall not be considered to be "covered by insurance."

d. General Terms and Conditions for Lessee-Furnished Insurance (Not Applicable to Workers Compensation):

(1) **CITY OF SEATTLE AS ADDITIONAL INSURED.** The CGL insurance shall include the City of Seattle as an additional insured for primary and non-contributory limits.

(2) **NO LIMITATION OF LIABILITY.** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. They shall not be construed to



limit the liability of the Lessee or any insurer for any claim that is required to be covered hereunder. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by the Lessee, whether those limits are primary, excess, contingent or otherwise.

(3) CLAIMS MADE FORM. If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this contract. Claims made coverage shall be maintained by the Lessee for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Vendor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Vendor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the City to assure financial responsibility for liability assumed under the contract.

(4) SELF-INSURED RETENTIONS. Any self-insured retention in excess of \$25,000 must be disclosed and is subject to approval by the City's Risk Management Division. Should the Lessee be self-insured, it shall state in writing that it will protect and defend the City as an additional insured within its self-insured layer as if a commercial general liability insurance policy were in force and advise to whom a tender of a claim should be directed.

(5) NOTICE OF CANCELLATION. Under RCW 48.18.290 (1) (a) and (b) ("Cancellation by insurer") applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than 45 days prior to cancellation, except 10 days as respects non-payment of premium. As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation, except 10 days as respects non-payment of premium.

(6) QUALIFICATION OF INSURERS. Insurers shall maintain A.M. Best's ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.



(7) **CHANGES IN INSURANCE REQUIREMENTS.** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to the Lessee. Should the Lessee, despite its best efforts, be unable to maintain any required insurance coverage or limit of liability due to deteriorating insurance market conditions, it may upon thirty (30) days prior written notice request a waiver of any insurance requirement, which request shall not be unreasonably denied.

e. Evidence of Insurance. The Lessee shall not enter upon any Seattle Center facility until it has filed, or caused to have been filed, with the City evidence of insurance as required by this Lease in the manner specified below:

- (1) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
- (2) An attached additional insured endorsement or blanket additional insured wording to the CGL insurance policy evidencing coverage on a primary and non-contributory basis.

Such evidence of insurance shall be sent to each of the following:

Seattle Center Director	The City of Seattle
Seattle Center Department	Risk Management Division
The City of Seattle	P.O. Box 94669
305 Harrison Street	Seattle, WA 98118-4669
Seattle, WA 98109	

or to such other addressees as the City may hereafter specify.

B-7 PREMISES IMPROVEMENTS, ADDITIONS, AND ALTERATIONS

a. Acceptance of Premises: Lessee accepts the Premises in their condition as of the commencement date of the term hereof. The City disclaims all representations, statements, and warranties, expressed or implied, with respect to the condition of the Premises or the use and occupancy authorized other than those contained in this Lease.

b. Prior Approval of Plans & Specifications Required: The Lessee shall submit to the Director, for approval, schematic designs, design development drawings, and final working drawings and specifications for the construction on the Premises of improvements, additions, and alterations to convert the Premises to the condition desired by the Lessee for the operation of its business. All such designs, drawings and



plans for work affecting, in any way, the structural, mechanical or electrical systems of the building of which the Premises forms a part or for work reasonably expected to cost in excess of Two Thousand Dollars (\$2,000) shall be prepared by a licensed architect or engineer, who shall have affixed to the same his/her signature and seal. No change shall be made to any electrical wiring or plumbing in the Premises or any utility service to or from the Premises as of the commencement date of this Lease and at any time subsequent thereto, other than a change made by a properly licensed electrician or plumber. No demolition, remodeling, or construction work shall begin on any improvement, addition, or alteration on the Premises or to any utility service connecting with the Premises or any portion thereof, or to any other City facility, until after the Director has approved the same and all other required authorizations have been secured for such work. If any improvement, addition or alteration to the Premises is begun, the portion of the Premises that is subjected to such change must be made accessible for disabled people as required by applicable law.

c. No Representation or Liability Created by Approval: The approval of any plans and specifications by the Director shall not constitute an opinion or representation by the City as to their completeness; design sufficiency; compliance with any law, ordinance, rule or regulation; or their adequacy for other than the Seattle Center's own purposes. No such approval shall create or form the basis of any liability on the part of the City or any of its officers, employees, or agents for any injury or damage resulting from any inadequacy or error therein or any failure to comply with any applicable law, ordinance, rule or regulation.

d. Work Inconsistent with Approved Plans & Specifications: No improvement, alteration, or addition shall be constructed, placed, or erected on the Premises except in accordance with the Seattle Center-approved plans and specifications attached hereto as "Part D." Immediately following the Lessee's receipt of notice by the City of any non-approved improvement, addition, or alteration in, on, or being made to the Premises, the Lessee shall either desist from the occupation, use, and operation of such improvement, addition, or alteration and remove it from the Premises or make it consistent with such approved plans and specifications.

e. Changes in City Facilities, Utilities or Services: In the event an improvement, addition, or alteration made or desired to be made by the Lessee requires or would require any change in any facility, utility or service provided by the City, the Lessee shall pay, as additional rent, any costs incurred by the City in making such change or otherwise in connection therewith.



f. Work at Lessee's Expense:

(1) All improvements, additions, and alterations made to the Premises to convert the same to the condition desired by Lessee for the operation of its business, shall be at the expense of the Lessee, and at no expense to the City unless otherwise specifically agreed upon in writing.

(2) In the event any activity or omission of the Lessee results in damage to City property or any other lessee's Premises or property, and the City undertakes emergency repair or cleanup activity, the Lessee shall be liable for the full cost of such City work.

g. Improvements, Additions & Alterations and Fixtures Become City Property: All improvements, additions, and alterations made to, and fixtures installed on, the Premises shall become the property of the City upon the expiration or termination of this Agreement except for those items specified by the Director by written notice to the Lessee. All improvements, additions, alterations and fixtures not identified in such Director's notice shall remain in, and be surrendered with the Premises as a part thereof without molestation, disturbance or injury.

h. No Liens or Encumbrances: The Lessee shall keep the Premises free and clear of any liens and encumbrances arising or growing out of its use and occupancy of the Premises. At the request of the Director, the Lessee shall deliver to the Director written proof of the payment of any item that could be the basis of such a lien, if not paid.

i. Construction Bond: Prior to commencing any alteration, addition or improvement work on the Premises, the Lessee shall file with the Director a good and sufficient corporate surety bond subject to approval by the City Attorney as to form and surety, conditioned upon the completion and installation of said addition, alteration or improvement as described in plans submitted to and approved by the Director and City and in accordance with the provisions of this Lease and all licenses, permits, ordinances, statutes, regulations and laws governing the making of said improvement, and further conditioned upon the payment of all persons supplying labor and material for the making of said addition, alteration and improvement, and upon the making of said addition, alteration, and improvement without cost and expense to the City; *Provided*, however, that the Director may waive or reduce this surety bond requirement if, in the opinion of the Director, such surety bond coverage either is unavailable or available only at a cost deemed by the Director to be unreasonable under the circumstances.



j. Construction Liability Insurance: The Lessee shall require its general contractor ("Contractor") to maintain during the full period of the course of construction of any physical addition, alteration or improvement to the Premises, at no cost to the City, the following insurance:

(1) **LIABILITY INSURANCE.** Commercial General Liability (CGL) insurance, including premises/operations, products and completed operations, contractual, independent contractors and stop gap/employer's liability with limits of liability of not less than \$1,000,000 each occurrence combined single limit bodily injury and property damage, except \$1,000,000 each accident/disease/employee as respects stop gap/employers liability

(2) **WORKERS COMPENSATION.** Worker's Compensation insurance in compliance with Title 51 Revised Code of Washington.

(3) **GENERAL TERMS AND CONDITIONS (NOT APPLICABLE TO WORKERS COMPENSATION):**

(a) **CITY OF SEATTLE AS ADDITIONAL INSURED.** The CGL insurance shall include the City of Seattle as an additional insured for primary and non-contributory limits.

(b) **NO LIMITATION OF LIABILITY.** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. They shall not be construed to limit the liability of the Contractor or any insurer for any claim that is required to be covered hereunder. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by the Contractor, whether those limits are primary, excess, contingent or otherwise.

(c) **CLAIMS MADE FORM.** If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this contract. Claims made coverage shall be maintained by the Contractor for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Vendor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Vendor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the



City to assure financial responsibility for liability assumed under the contract.

(d) SELF-INSURED RETENTIONS. Any self-insured retention in excess of \$25,000 must be disclosed and is subject to approval by the City's Risk Management Division. Should the Contractor be self-insured, it shall state in writing that it will protect and defend the City as an additional insured within its self-insured layer as if a commercial general liability insurance policy were in force and advise to whom a tender of a claim should be directed.

(e) NOTICE OF CANCELLATION. Under RCW 48.18.290 (1) (a) and (b) ("Cancellation by insurer") applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than 45 days prior to cancellation, except 10 days as respects non-payment of premium. As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation, except 10 days as respects non-payment of premium.

(f) QUALIFICATION OF INSURERS. Insurers shall maintain A.M. Best's ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.

(4) Evidence of Insurance. The Contractor shall not enter upon any Seattle Center facility until it has filed, or caused to have been filed, with the City evidence of insurance as required by this paragraph j. in the manner specified below:

(a) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;

(b) An attached additional insured endorsement or blanket additional insured wording to the CGL insurance policy evidencing coverage on a primary and non-contributory basis.



Such evidence of insurance shall be send to each of the following:

Seattle Center Director
Seattle Center Department
The City of Seattle
305 Harrison Street
Seattle, WA 98109

The City of Seattle
Risk Management Division
P.O. Box 94669
Seattle, WA 98118-4669

or to such other addressees as the City may hereafter specify.

k. Delivery of "As-Built" Drawings: Immediately after the completion of each improvement, addition, or alteration to the Premises, the Lessee shall deliver to the Director a complete set of reproducible 24" x 36" drawings reflecting the final "as-built" condition of said improvement, addition or alteration, together with either the original or a copy of all maintenance and operation manuals necessary for the repair and maintenance of any architectural, mechanical or electrical building system or piece of equipment installed on the Premises that is all or part of such improvement, addition or alteration.

l. Testing of Premises: The Lessee may make such tests, borings and other minor disturbances of the Premises as may be necessary to develop designs and plans for all required or desired improvements, additions and alterations to the Premises, including installations and modifications to accommodate changes in trade fixtures intended for use on the Premises. A report of the findings and results of each such test or boring shall be submitted to the Director within thirty (30) days after the date such findings and results are obtained.

B-8 COVENANTS REGARDING OPERATION OF LESSEE'S BUSINESS

a. Obligation to Open for Business: The Lessee shall open for business within sixty (60) days after the date the Premises are made available to the Lessee for the constructions of its initial improvements, additions, and alterations, or sixty (60) days after the City's approval of plans and issuance of building permit, whichever is later.

b. Business Hours: The Lessee shall not leave the Premises unoccupied or vacant, but shall open and maintain its operation therein ready for the transaction of business with the public on such days and during such minimum operating hours as may be designated by the Director, from time to time, with the exception of temporary closures for such period as may be necessary for repairs, redecorating, or circumstances beyond the Lessee's control.

c. First Class Operations: The Lessee shall carry on its business with diligence and efficiency, making the Lessee's best efforts to produce



the maximum amount of Gross Receipts as defined in Section B-2 hereof. To that end, Lessee shall:

- (i) In addition to, and not in lieu of, any other standards that may be set forth in this Lease, Lessee shall maintain the Premises in a first-class, well maintained condition at all times during the term. Unless shown to be unreasonable by clear, cogent and convincing evidence, the City shall be the final arbiter of what constitutes "first class, well maintained condition."
- (ii) Lessee agrees to upgrade and refurbish the Premises on or before the fifth (5th) anniversary of the Commencement Date in a manner acceptable to the City in order to maintain an attractive and enticing appearance to customers. Lessee shall submit to the City a schedule of refurbishment (in conformance with Section B-7) before starting any work, which shall include painting and repair attributable to ordinary wear and tear, and any replacement of furniture trade fixtures, and equipment.
- (iii) Lessee shall continuously review and analyze new trends or concepts in the food and beverage service industry and agrees to improve its operation by applying such new trends or concepts at the Premises, subject to the City's prior approval.

d. Personnel: The Lessee shall employ courteous, competent, and efficient help in such numbers, skills, and experience as to properly conduct its activities on the Premises. The Lessee shall have on the Premises, at all times it is open for business, a qualified representative authorized to represent the Lessee in dealings with the City, and shall keep the Director informed of the identity of such person.

e. Business Name: The Lessee shall not change the name by which it carries on its business without the written consent of the Director whose consent shall not be unreasonably withheld.

f. Fixtures, Furnishings, and Trade Equipment, Cash Registers: All fixtures, furnishings, and trade equipment installed on the Premises shall be of high quality, of a modern type, and either new or completely reconditioned. Temporary or portable concession facilities shall be of the same quality as those permanently installed. Tenant's cash registers shall have the capability to transmit electronic journal financial reports digitally to the City, and shall be non-resetting and with a cumulative total. Tenant's cash registers shall further be subject to the approval of the Director.

g. Personal Property Inventory: During the last two (2) weeks of June of each year during the term of this Lease, the Lessee shall



inventory all of its personal property on the Premises other than merchandise offered for sale or rent to the public, and furnish the Director with a copy of a written inventory report itemizing the same. The personal property inventory most recently filed by the Lessee is attached hereto as "Part E."

h. Deliveries: All deliveries shall be made to a delivery location or entrance designated by the Director and shall be completed prior to the time specified by the Director. Special arrangements may be made if approved by The Director.

i. No Nuisances or Objectionable Activity: The Lessee shall not permit any excessive or objectionable noise, odor, dust, vibration or similar substance or condition to remain on or be emitted from the Premises; shall not interfere with access from the Seattle Center or any part thereof, including the Premises, or with the traffic thereon; shall not create any nuisance in or adjacent to the Seattle Center; and shall not do anything on the Seattle Center that will create a danger to life or limb.

j. Restrictions on Use of Common Areas: Neither the Lessee nor any of its officers, employees, or invitees shall use the Common Areas of Seattle Center (those areas designated by the Director as being for the general and shared use by Seattle Center tenants and their employees and invitees, City employees, and Seattle Center visitors, and not within the exclusive control of any tenant or licensee; which areas include but are not limited to public walkways, hallways, corridors, elevators, escalators, stairways, lounges, general seating areas, and restrooms) to meet governmental requirements peculiar to the Lessee's operations on the Premises or otherwise (such as the location for any sign or signboard) without the express written approval of the Director. Whenever the Lessee, or any of its officers, employees, or invitees requires any equipment, separate area(s) or special facility to satisfy any such governmental requirement, such equipment, area(s), and facility shall be located within the Premises at the Lessee's sole expense.

k. Illumination of Premises: The Premises and all fixtures, furnishings, and trade equipment thereon shall be effectively illuminated, as determined by the Director, during all hours the Lessee is open for business.

l. Fire Extinguisher Within Premises: During the term of this Lease, the Lessee shall secure, maintain and install in the Premises, in a prominent location in the kitchen area, a 2A-10BC class fire extinguisher, or an alternate approved by the Fire Marshall. In addition, for kitchens using char-broilers, deep fat fryers, wood burning, wok cooking, or pan frying, a UL300 rated "Class K" extinguisher is also required to be maintained and installed in a prominent location in the kitchen area, or an



alternative approved by the Fire Marshall. Lessee shall instruct all of its employees regarding appropriate use of all fire extinguishers required to be on the Premises. Lessee shall recharge such fire extinguisher(s) not less than once a year and immediately following any use.

m. Food-Serving Material: The Lessee shall not serve or permit any other person or entity to serve on the Premises any food or beverage in any plastic or polystyrene foam food or beverage container or any other type of food or beverage serving container that is hereafter legally prohibited or prohibited by Seattle Center policy. Additionally, all serving products and packaging must be selected to minimize adverse environmental impact, with an emphasis on recycled, recyclable, and sustainable products.

n. Merchant & Tenants' Association: The Lessee shall join and thereafter maintain full membership in any association established for Merchant and Tenants of Seattle Center.

o. Objectionable Merchandise or Material: Notwithstanding any other provision of this Lease, the Lessee shall not display or offer for sale or rent, or allow to be displayed or offered for sale or rent, on the Premises, any merchandise or other material that is unsafe; that portrays the City or Seattle Center or any aspect thereof in an incorrect, misleading, or unfavorable manner; that depicts or suggests in words, symbols, illustrations, or other forms, any act of violence, or any lewd, immoral, or obscene activity; or that is inconsistent with the image of a first-class, family-oriented retail and entertainment development, or is otherwise inappropriate for a family-oriented recreation and entertainment facility such as Seattle Center; or that may create a substantial litter or other maintenance problem at Seattle Center; all of which shall be determined by the Director in the exercise of such official's sole discretion.

p. Core and Key Installation or Change: The Lessee shall obtain from the City, and pay in advance of delivery, the then current Seattle Center charge for, whatever number of lock cores, padlocks and keys are desired for all doors in and to the Premises. Upon the expiration or earlier termination of this Lease, the Lessee shall return to the City all of the keys it obtained for the doors and padlocks on and to the Premises.

q. Credit Cards: Lessee shall accept Visa and MasterCard and may accept additional credit cards in the operation of its business on the Premises. If a credit card company becomes a sponsor of Seattle Center, its programs or buildings, then that credit card shall also be accepted by Lessee.



B-9 UTILITY SERVICES AND PARKING

a. Extent of City Service; Lessee Responsibilities: The City shall provide sewer, water, and electricity service to the Premises, and Lessee shall be responsible for the associated costs as described in Part A-5. Lessee shall be responsible for any telephone or communications utility services to the Premises. Lessee shall furnish, install and maintain all power circuits and connections required for equipment and mechanical systems used in the Premises. Wattage requirements are subject to City approval. Lessee shall pay, before delinquency, all fees and charges for the installation, change, and relocation of any point or means of service by any utility or waste line or system. Lessee shall be responsible for extending, at its own cost and expense, any utility services from the distribution points determined by the Director.

b. Limitation on City Liability Regarding Utility Service: City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Lessee or to relieve Lessee from any of Lessee's obligations hereunder or to give Lessee a right of action against City for damages. Lessee acknowledges its understanding that there may be City-planned utility outages affecting the building and that such outages may interfere, from time to time, with Lessee's use of the Premises. City shall endeavor to provide Lessee with 48 hours prior notice of any City-planned electricity outage in the building but shall not be liable to Lessee for City's failure to provide such notice. City has no obligation to provide emergency or backup power to Lessee. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Lessee.

c. Special Services and Facilities Subject to Prior City Approval, and at Lessee's Cost: The Lessee, directly or through a third party, may install, secure, maintain and repair, at no expense to the City, any utility service related to the Lessee's operations and its use of the Premises that is not provided or maintained by the City. Any special utility or waste disposal facility, item of equipment, or service beyond that provided to the Premises by the City, must be installed only in accordance with plans and specifications approved by the Director and other appropriate City officials, in writing, in advance of such installation. The Lessee shall not install on the Premises any fixture, furnishing, or trade equipment that exceeds the capacity of any utility or waste facility for such location. The Lessee shall pay, before delinquency, all fees and charges for the



installation, change, and relocation of any point or means of service by any utility or waste line or system. The Lessee shall pay all bills, before delinquency, for such service, making arrangements with the utility service provider for the separate metering, where possible, of such service and the direct billing to the Lessee for the delivery of such service.

d. Cooperative Parking: As of the commencement date of this Lease, the Seattle Center has a "Cooperative Parking Status" under Title 23 of the Seattle Municipal Code. Accordingly, unless otherwise specifically provided herein, the City does not provide any parking that is specifically for or associated with the Premises (including but not limited to that required by or for the Lessee's staff, suppliers or customers), and whatever general, non-reserved parking the City makes available for Seattle Center tenants and their respective staffs, suppliers, and customers shall be shared on a first-come, first-served basis.

B-10 ADVERTISING & PUBLICITY

a. Prohibited Promotion & Other Material; Removal of Same: The Lessee shall not display, post, or distribute any sign, symbol, advertising of any nature, or any printed material (including but not limited to posters) on any part of the Seattle Center, including but not limited to the Premises, except after receiving written permission therefore from the Director; and may undertake such activity only in or on location(s) approved by the Director. On or before the expiration or termination date of this Lease, whichever is earlier, or in the case of unauthorized material, on or before the date specified in the Director's notice to remove the same, the Lessee shall remove, at no expense to the City, all such signs, symbols, advertising and printed material; and correct any unsightly condition, and repair any damage or injury to City property caused by such signs, symbols, advertising and printed material, and the removal thereof. In the event any such unauthorized material is not removed from City property by the date required herein, such material may be treated as Lessee property subject to removal and storage pursuant to Subsection B-19.c hereof.

b. Use of Photos & Similar Materials: Each party hereto may make photographs, video tapes, and motion pictures of the Premises and the activity, people, displays and exhibits thereon; *Provided*, that in the event such visual material is to be used for commercial advertising purposes, prior to making the same, the Lessee shall obtain the written approval of the Director for such use, which approval may be conditioned upon, among other things, the payment by the Lessee to the City of additional consideration; and prior to the use of any such photography,



video tape, or motion picture, a written release shall be obtained from every individual identifiable in the same.

B-11 MAINTENANCE, CLEANING & REPAIR

a. City Responsibilities: The City shall maintain, clean and repair the exterior and structural aspects of the Premises as well as the Seattle Center common areas, but not the interior or window areas of Premises except as may be indicated in Part A hereof. Such maintenance, cleaning and repairing shall be to the ordinary standard of work performed on other, major use facilities at Seattle Center, to keep the same in good condition, normal wear and tear and damage and destruction by fire or other extraordinary casualty excepted. In connection therewith, the City shall remove garbage and other refuse from locations designated by the Director for such purpose, and repair potable water, sewer, and storm water lines connecting with similar lines on the Premises. In undertaking such maintenance, the City shall make a good faith effort to not unreasonably interfere with the Lessee's business on the Premises. The Lessee waives all claims for damages, including for any loss of business, resulting from City maintenance, cleaning and repair work except to the extent of City gross negligence and the City's unreasonable interference with the Lessee's use of the Premises.

b. Lessee's Responsibilities: Lessee at its own cost and expense shall take good care of the Premises, including improvements, alterations, and additions thereto, and shall reimburse City for all damage done to the Building or Premises that results from any act or omission of Lessee or any of Lessee's officers, contractors, agents, invitees, licensees or employees, including, but not limited to, cracking or breaking of glass. If Lessee fails to take good care of the Premises, City, at its option, may do so, and in such event, upon receipt of written statements from City, Lessee shall promptly pay the entire cost thereof as an Additional Rent. City shall have the right to enter the Premises for such purposes. Lessee shall further keep its personal property and equipment at all times in good repair and in a neat, clean, and sanitary condition. In carrying out such responsibilities, the Lessee, among other things, shall:

- (1) Clean all glass in the windows, doors, display cases, and equipment on the Premises at least once a month, and replace any such glass immediately after it becomes cracked or broken;
- (2) Generally repaint all painted surfaces at least once every five (5) years, and spot-paint any surface area that has become chipped, spotted, faded, or otherwise unattractive immediately after such condition has been discovered;



- (3) Keep all drainage pipes free and open;
- (4) Have all plumbing and plumbing fixtures inspected at least once every quarter and repaired or replaced as necessary or advisable in the opinion of the Director; repair all damage resulting from any plumbing fixture, any equipment connected to plumbing, or pipe resulting from the Lessee's failure to keep such fixture or pipe in good operating condition; and in the event of any failure by the Lessee to satisfy this repair obligation within four (4) hours after receipt of notice from the Director of any such damage, the City reserves the right, but shall have no obligation, to undertake such repair, the cost of which shall be reimbursed by the Lessee (including but not limited to Seattle Center labor and project management) plus an administrative charge of \$250.00; Lessee shall further take whatever action may be required or advisable in the opinion of the Director to avoid further damage (e.g., replacing plumbing, sealing floors, etc.);
- (5) Maintain and periodically clean at least once every three (3) months, and for wood burning cooking facilities clean at least once every month, all exhaust system duct work on the Premises and its connection with the City's common duct system, to eliminate all risk of fire;
- (6) Clean all grease traps on the Premises on a regularly scheduled basis which shall be at least once every three (3) months or more frequently if determined necessary by the Director;
- (7) Remove, periodically, in a timely and careful manner, to all areas designated by the Director, all debris generated by or peculiar to the Lessee's operations on the Premises;
- (8) Replace, from time to time, worn or irreparably damaged trade equipment, furnishings and fixtures with other material satisfying the requirements of Subsection B-7.f hereof;
- (9) Prevent the presence of vermin, insects, and other pests on the Premises by, among other actions, contracting with an independent pest control company for the performance of pest control services in the Premises not less frequently than once every two (2) weeks; and by providing to the Director, within thirty (30) days after the commencement date of this Lease, written documentation that such service has been contracted for, and within 24 hours of the bi-weekly performance of such service, written documentation that such service has been performed on the Premises; and



- (10) At least once per month, remove all dust, grit and dirt from, and otherwise clean and perform necessary maintenance work on, any rolling grille located on the Premises.

In the event the Lessee fails to satisfy, in a timely manner after its receipt of notice from the Director of the need for such work, any of the obligations specified in this Section, the City reserves the right (but shall have no obligation) to undertake such work. In the event the City undertakes such work for the Lessee pursuant to this Section, the Lessee shall pay the City, as additional rent, reimbursement of the actual expenses incurred by the City in undertaking such work (including but not limited to Seattle Center labor and project management) plus an administrative charge of \$250.00.

B-12 COMPLIANCE WITH LAW

a. General Requirements: The Lessee, at no cost to the City, shall perform and comply with all applicable, current and future laws of the United States and the State of Washington; the Charter and Municipal Code of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. The Lessee shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.10, 20.42, and 20.45 of the Seattle Municipal Code (SMC), as they may be amended; and rules, regulations, orders, and directives of the associated administrative agencies and their officers. The Lessee shall use its best efforts to ensure that every person it admits to the Premises similarly performs and complies with the same. Whenever the Lessee or its authorized representative is informed of any violation of any such law, ordinance, rule, regulation, license, permit, or authorization committed by it or any person admitted to the Premises, the Lessee shall immediately desist from and/or prevent or correct such violation.

b. Licenses & Other Authorizations: The Lessee, at no cost to the City, shall secure and maintain in full force and effect during the term of this Lease, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

c. Taxes: In addition to all other payments and obligations required of Lessee under this Lease, Lessee shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Premises, including but not limited to taxes arising out of the activity or business conducted on the Premises; taxes levied on its property, equipment and improvements on the Premises; and taxes on the Lessee's interest in this Lease and any leasehold interest deemed to have been created thereby under RCW Ch. 82.29A; and in the event the



State of Washington makes any demand upon the City for payment of leasehold excise taxes resulting from the Lessee's occupancy of the Premises or withholds funds due to the City to enforce collections of leasehold excise taxes, the Lessee shall remit the taxes demanded together with any interest and penalties associated therewith or, at no expense to the City, contest such collection action and indemnify the City for all sums expended by, or withheld by the State of Washington from the City in connection with such taxation.

d. Recycling of Waste Materials: The City is striving to improve recycling at Seattle Center by increasing both the amount and categories of recycled items. As such, the Lessee shall comply with the requirements of this paragraph and in addition shall comply with all Seattle Center recycling rules, regulations, or programs, currently existing or as may be instituted or amended. The Lessee, at no cost to the City, shall collect, sort and separate into such categories as may be legally required, all solid waste products on the Premises, and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles reasonably approved by the City, which receptacles shall be dumped or removed from the Seattle Center at such minimum frequency as is specified by the Director. The Lessee shall compost meats, dairy, and all pre-consumer used paper products in addition to the current recycling program of cans, bottles, plastics and paper. The City reserves the right to refuse to collect or accept from the Lessee any waste product that is not sorted and separated as required by law, ordinance, rule or regulation, and to require the Lessee to arrange for the collection of the same at the Lessee's sole cost and expense using a contractor satisfactory to the City. The Lessee shall pay all costs, fines, penalties, and damages that may be imposed on City or the Lessee as a consequence of the Lessee's failure to comply with the provisions of this subsection.

e. Environmental Standards:

(1) Definitions: For the purpose of this subsection, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

(a) "Laws or Regulation" shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction of which the Lessee has knowledge), now or hereafter in effect including but not limited to the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Comprehensive



Environmental Response Compensation and Liability Act as amended by the Superfund Amendments and Re-authorization Act of 1986, the Resource Conservation and Recovery Act as amended by the Solid and Hazardous Waste Amendments of 1984, the Occupational Safety and Health Act, the Emergency Planning and Community Right-to-Know Act of 1986, and the Solid Waste Disposal Act.

(b) "Hazardous Substances" shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any federal, state, or local statute, ordinance, or regulation relating to environmental protection, contamination or cleanup.

(2) Restrictions on Lessee Activities: The Lessee shall not cause to occur upon the Premises or permit the Premises to be used to generate, produce, manufacture, refine, transport, treat, store, handle, dispose, transfer, or process Hazardous Substances except in compliance with all applicable Laws and Regulations. The Lessee shall provide the Director with the Lessee's USEPA Waste Generator Number (if any), and with a copy of every Material Safety Data Sheet (MSDS), Generator Annual Dangerous Waste Report, environmentally related regulatory permit or approval (including every revision or renewal thereof) and any correspondence the Lessee receives from, or provides to, any governmental unit or agency in connection with the Lessee's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

(3) Correction of Violations: If the Lessee violates any of the terms of this section concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, the Lessee shall promptly take such action as is necessary to mitigate and correct the violation. If the Lessee does not act in a prudent and prompt manner, the City reserves the right, but not the obligation, to act in place of the Lessee (for which purpose the Lessee hereby appoints the City as its agent), to come onto the Premises and to take such action as the City deems necessary to ensure compliance or to mitigate the violation. If the Director has a reasonable belief that the Lessee is in violation of any law or regulation, or that any action or inaction of the Lessee presents a threat of violation or a threat of damage to the Premises, the City reserves the right to enter onto the Premises and take such corrective or mitigating



action as the Director deems necessary. All costs and expenses incurred by the City in connection with any such action shall become immediately due and payable by the Lessee upon presentation of an invoice therefore.

(4) Testing: The Lessee shall provide the City with access to the Premises to conduct an annual environmental inspection in January of each year of the term hereof or at such other time(s) as may be mutually agreed upon. In addition, the Lessee shall permit the City access to the Premises at any time, upon reasonable notice, for the purpose of conducting environmental testing at the City's expense. The Lessee shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Director's written consent, which shall not be unreasonably withheld. The Lessee shall promptly inform the Director of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to the Lessee, and the Lessee shall provide a written copy of the same to the Director within thirty (30) days after the preparation of any such material.

(5) Removal of Hazardous Substances Prior to Vacation of Premises: Prior to vacation of the Premises, in addition to all other requirements under this Lease, the Lessee shall remove any Hazardous Substances placed on the Premises during the term of this Lease or the Lessee's possession of the Premises, and shall demonstrate such removal to the Director's reasonable satisfaction.

(6) Reimbursement of City Costs: In addition to any remedy provided above, the City shall be entitled to full reimbursement from the Lessee whenever the City incurs any cost resulting from the Lessee's violation of any of the terms of this Subsection B-12.f, including, but not limited to, the cost of clean-up or any other remedial activity, fines, penalties assessed directly against the City, injuries to third persons or other property, and loss of revenue resulting from an inability to re-lease or market the Premises due to its environmental condition as the result of the Lessee's violation of the terms of this Lease (even if such loss of revenue occurs after the expiration or earlier termination of this Lease).

(7) Indemnification: In addition to all other indemnities provided in this Lease, and notwithstanding the expiration or earlier termination of this Lease, the Lessee agrees to and shall



defend, indemnify and hold the City free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence or discovery of any Hazardous Substance on the Premises resulting from a violation of the terms of this section, or the migration of any Hazardous Substance from the Premises to other property or into the surrounding environment that is the result of a violation of the terms of this section, whether (a) made, commenced or incurred during the term of this Lease, or (b) made, commenced or incurred after the expiration or termination of this Lease if arising out of an event occurring during the term of this Lease. The indemnification provided in this subsection shall survive the expiration or earlier termination of this Agreement.

B-13 CITY'S CONTROL OF BUILDINGS, GROUNDS & ACTIVITIES

Notwithstanding any other provision of this Lease, the City, without liability of any kind, may:

- a. Physical Appearance: Increase, reduce or change, in any manner and any extent whatsoever, the number, appearance, dimensions, and location of any and every Seattle Center walkway, landscaping element, parking, service area, and building (including the 5th Avenue North Garage and Center House Building as desired by the City;
- b. Traffic & Parking Regulation: Regulate all traffic within and adjacent to the Seattle Center; and restrict or prohibit the parking on City-owned or leased property of motor vehicles owned or operated by the Lessee or any of its officers, employees, agents, suppliers, and invitees;
- c. Admission Charges: Impose a reasonable charge for admission to the Seattle Center and any of the facilities therein, including parking facilities;
- d. Promotions & Events: Erect, display and remove promotional exhibits and materials and permit special events on the Seattle Center grounds and in or at any or every building and facility thereof including but not limited to the common areas of the 5th Avenue North Garage and Center House Building;



e. Rules & Regulations: Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any area of Seattle Center;

f. Hours of Operation: Determine the days and hours that the Seattle Center and the various business operations therein will be open to the public;

g. Other Businesses & Operations: Change the size, number, and type and identity of other businesses and operations being conducted or undertaken at Seattle Center; and authorize other lessees, licensees, and the sponsors of special events at Seattle Center, directly or indirectly, to offer for sale food and beverages, and for sale or rent any merchandise and service, including any that may be identical or similar to that offered by the Lessee;

h. Signage: Place "For Rent" or similar signs in the Premises for thirty (30) days prior to the expiration or termination date of this Lease, whichever is earlier.

i. Interference: Interfere with light, air or view, or the Lessee's operations or use and occupancy of the Premises, either in connection with or as a result of operations by or for City in the construction of any public work or its subsequent use and occupancy, or the repair and maintenance of any City facility or improvement. The City will make a good faith effort, however, to minimize such interference to the extent it is reasonably economical for the City to do so.

B-14 CITY ACCESS TO, & INSPECTION, REPAIR & IMPROVEMENT OF PREMISES & OTHER PROPERTY

a. Access to Premises: The Lessee shall provide the City and its contractors and consultants, their subcontractors, subconsultants and agents with access to the Premises at all reasonable times to inspect the same and to make any inspection, repair or improvement deemed necessary by the Director, but this right of access shall not impose on the City any obligation to make any repair, alteration, addition, or improvement except as specifically provided herein.

b. Permitted Interference With Lessee's Operations: In inspecting, and in making repairs, alterations, additions, and improvements, the City may erect barricades and scaffolding in and outside of the Premises, and may otherwise interfere with the conduct of the Lessee's business and operations where such action is reasonably required by the nature of the City's work; and such interference shall not be deemed to be a breach or default under this Lease.



c. Suspension of Lessee's Operations and Obligation to Pay Monthly Base Rent: In the event such inspection, repair, alteration, addition, or improvement work necessitates the temporary suspension of the Lessee's business or operations in, on, or from the Premises, the Director shall notify the Lessee of such necessity and the anticipated beginning and ending dates of such suspension. Monthly Base Rent due to City pursuant to Section A-3 hereof shall be prorated during each month in which the Lessee's business or operations are required by City to be suspended pursuant to this subsection, and the Lessee shall have no obligation to pay such prorated rent during the period that the Lessee's business or operations are suspended; such cancellation of the obligation to pay the prorated Monthly Base Rent shall constitute the totality of relief available, and the Lessee waives all claims for damages and for any injury to and interference with its operations or business and losses occasioned by any such suspension.

d. City's Retention & Use of Key to Premises: The Lessee shall provide the Director with a key with which to unlock all of the doors in, upon, and about the Premises, excluding the Lessee's vaults, safes, and files, for each of the aforesaid purposes. The City shall have the right to use any and all means that the Director deems proper to open said doors in an emergency, in order to obtain entry to the Premises, without liability to the Lessee except for any failure to exercise due care for the Lessee's property. Any entry to the Premises obtained by the City by any of said means, or otherwise, shall not be construed or deemed to be an eviction of the Lessee or a forcible or unlawful entry into, or a detainer of, the Premises or any portion thereof.

B-15 ASSIGNMENTS, SUBLEASES & OTHER INTEREST TRANSFERS

a. Director's Prior Written Consent Required for Assignment & Subleases: No purported assignment, sublease or other transfer of the Premises or any portion thereof or of any aspect of the Lessee's interest in this Lease shall be effective without the prior written consent of the Director whose consent may be conditioned or withheld at the sole discretion of the director. Every proposed sublease, assignment, or other interest-transferring agreement shall be submitted to the Director for review and approval or disapproval after execution by the proposed subtenant, assignee, or transferee, and not less than fourteen (14) calendar days prior to the commencement date of the proposed sublessee's, assignee's, or transferee's intended use of any portion of the Premises under such agreement or the assumption of any right or interest in any portion of the Premises or this Lease. No assignment or sublease of this Lease, with or without the Director's consent, shall release or relieve the Lessee of or from any of the obligations on the Lessee's part to be kept and performed under this Lease, and the Lessee shall remain jointly and severally liable for the performance of all



obligations of the Lessee hereunder regardless of any (i) agreement that modifies any of the rights or obligations of the parties to this Lease; (ii) stipulation that extends the time within which an obligation under this Lease is to be performed; (iii) waiver of the performance of any obligation under this Lease; or (iv) failure to enforce any obligation under this Lease. Every assignment and sublease shall be subject to all the terms and provisions of this Lease.

b. Lease Interests Not Transferable by Action of Law or Court: Neither this Lease, nor any right, privilege, or other interest conferred by this Lease shall pass to any trustee or receiver in bankruptcy or to any receiver or assignee for the benefit of creditors; nor shall this Lease or any rights, privilege, or interest be transferable by operation of law or proceeding of any court.

c. Change of Lessee's Organizational Structure or Ownership Constitutes Assignment: If the Lessee is a partnership, limited or general, a withdrawal of a general partner, or change, voluntary or involuntary, by operation of law or otherwise, of a general partner thereof, shall be deemed an assignment. If the Lessee is a corporation, the merger, consolidation, or liquidation of the Lessee or any change in the ownership of or power to vote thirty-three and one-third percent (33 1/3%) or more of its capital stock, as held as of the date of execution of this Lease, shall be deemed an assignment.

d. Lessee's Authorization to Use Premises Constitutes Assignment or Sublease: In the event the Lessee in any manner permits anyone to occupy all or any portion of the Premises for any purpose including but not limited to the conduct of any business or other activity, whether or not business-related, not within the intent of this Lease or any sublease, such permission shall be deemed an assignment or sublease, as deemed appropriate by the Director. Every sublease shall require the sublessee to submit to the Director and the Lessee not more than ten (10) days after the end of each month during the term of its sublease and the month after the expiration or earlier termination of such sublease, a written statement identifying the amount of gross receipts generated by such sublessee on and from the portion of the Premises used and occupied by such sublessee during the immediately preceding month. In the event of any assignment of this Lease, the Lessee shall cause to be delivered to the Director simultaneously with such assignment, an instrument, in writing, executed by the assignee, in which the assignee shall assume and agree to perform all of the terms and provisions of this Lease on the Lessee's part to be kept and performed that theretofore have not been fully performed.

B-16 EXCUSE & SUSPENSION OF OBLIGATIONS (FORCE MAJEURE)



Whenever a party's performance under this Lease, other than any monetary obligations, is prevented by an act of nature; war or war-like operations; civil commotion; riot; labor dispute including a strike, lockout, or walkout; sabotage; Federal or State regulation or control; or other condition beyond the reasonable control of such party, performance of such affected obligation, other than any monetary obligations, shall be suspended, but only for the duration of such condition. The existence of more than one (1) such condition on a given day shall result in only a one (1) day extension.

B-17 DAMAGE OR DESTRUCTION

a. Report of Damage or Destruction: The Lessee shall submit a written report to the Director, in care of the Contracts and Concessions Office, regarding the circumstances of any damage to the Premises or any of the Tenant's improvements thereto, within twenty-four (24) hours after its discovery.

b. Rent Obligation in Event of Damage or Destruction: In the event the Premises and the Tenant's improvements thereto are destroyed or damaged by fire or other casualty not occasioned by an act or omission of the Lessee or any of its officers, employees, contractors, agents, invitees, or guests, and such destruction or damage is so extensive as to render such Premises and improvements unusable (either because of the need to rebuild or to clean and refurbish the same) and the Lessee has given timely notice of such destruction or damage, the Lessee's obligation to pay Monthly Base Rent shall be abated until the date that such Premises and improvements are made usable or should have been made usable had the Lessee diligently prosecuted such repair, rebuilding, and restoration work. The unusability of the Premises and the Tenant's improvements thereto and the duration of any such rent abatement shall be reasonably determined by the Director and confirmed by one or more notices to the Tenant. In the event only a portion of the Premises or the Tenant's improvements thereto is damaged or destroyed by fire or other casualty not occasioned by an act or omission of the Lessee or any of its officers, employees, contractors, agents, invitees, or guests but the remainder of such Premises and improvements remains usable, as reasonably determined by the Director, and the Lessee has given timely notice of such destruction or damage as provided by Subsection B-17.a hereof, the Lessee shall pay a reduced amount of rent that is proportionate to the extent of the Premises that remains usable for the purposes identified in Section A-7 hereof, which reduced rent amount shall be reasonably determined by the Director and identified by notice to the Lessee, and paid by the Lessee through the date reasonably specified by the Director in such notice or the later date specified in any subsequent notice.



c. Rebuilding, Repair & Restoration: In the event that insurance proceeds payable to the City will provide sufficient funds to enable the City to rebuild, repair and restore the Premises after their damage or destruction, and neither the Lessee nor the City elects to terminate this Lease pursuant to Subsection B-17.d hereof, the City shall diligently prosecute such rebuilding, repair, and restoration. The Lessee shall replace or repair in a timely manner and at no cost or expense to the City, all damaged or destroyed personal property that, prior to such damage or destruction, had been located on the Premises, and all improvements that the Lessee made to the Premises, unless otherwise permitted by the Director. Upon the rebuilding, repair and reconstruction of the Premises, the Lessee shall immediately re-occupy the whole of the Premises. The rent abatement or reduction provided pursuant to Subsection B-17.b hereof shall be discontinued and the full rent and additional rent specified in or pursuant to Sections A-3, A-4, and A-5 hereof shall again be due and payable from and after the date specified in the notice given by the Director pursuant to Subsection B-17.b. The City shall not be liable to the Lessee for damages, compensation or any other sum for inconvenience, loss of business, or disruption arising from any repair to or restoration of any portion of the Premises or the Building in which the Premises are located.

d. Termination Rights in Event of Damage or Destruction:

(1) By Lessee: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) or more of the Premises is damaged or destroyed by fire or other casualty not occasioned by an act or omission of the Lessee, the Lessee may terminate this Lease by providing notice thereof to the Director.

(2) By City: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) of the 5th Avenue North Garage Building on which the Premises are located is destroyed or is so damaged by fire or other casualty as to be untenable or unusable, or if the City desires to discontinue the Lessee's operations because of substantial destruction of the 5th Avenue North Garage Building or other part of Seattle Center, regardless of whether the Premises are destroyed, damaged, or otherwise, the City may terminate this Lease by providing prior written notice thereof to the Lessee.

(3) Notice of Termination: Any notice of termination pursuant to this section shall be provided within sixty (60) days after the occurrence of the damage or destruction and shall specify the effective date of such termination.



B-18 DEFAULT & BREACH

A. General. If Lessee violates or breaches or fails to keep or perform any covenant, term or condition of this Lease, or if Lessee or any guarantor of Lessee's obligations under this Lease ("Guarantor") files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Lessee's or Guarantor's assets or if Lessee or Guarantor makes an assignment for the benefit of creditors, or if Lessee or Guarantor is adjudicated insolvent, or if Lessee abandons or vacates the Premises, Lessee shall be deemed in default hereunder (a "Default"). If a Default continues for or is not remedied within three (3) days (or, if no default in the rent is involved, within ten (10) days) after written notice thereof has been given by City to Lessee specifying the Default, then City shall have the following nonexclusive rights and remedies, at its option:

B. Remedies: The City may thereafter terminate this Lease without any further proceedings, re-enter the Premises, lease and license others to use said Premises during any portion of the period of use remaining under this Lease had it not been terminated, and receive rent, additional rent and license fees therefore; *Provided*, that notwithstanding such termination and re-entry, the Lessee's liability for the rent and additional rent to be paid to the City hereunder shall not be extinguished, and the Lessee shall pay to the City the difference between said rent and additional rent and the sum the City receives for the use of the Premises by one or more other users during the period beginning on the date the Lessee's rights under this Agreement are terminated and ending on the scheduled expiration date of this Lease. Such payment shall be made monthly, within fifteen (15) days after the date of the City's invoice to the Lessee. Such termination and payments shall not relieve the Lessee from liability to the City for any damages caused by the Lessee's default and breach and expenses incurred in the leasing or relicensure of the Premises.

C. Criteria for Substitute Tenant: The City's obligation to mitigate damages after a default by the Lessee under this Lease that results in the City's regaining possession of all or part of the Premises shall be satisfied in full if the City undertakes to lease the Premises to another tenant (a "Substitute Tenant") in accordance with the following criteria:

- (1) The City shall have no obligation to solicit or entertain negotiations with any other prospective tenants for the Premises until the City obtains full and complete possession of the Premises including, without limitation, the final and unappealable legal right to re-let the Premises free of any claim of the Lessee.



(2) The City shall not be obligated to offer the Premises to any prospective tenant when other Premises in the 5th Avenue North Garage and Center House will be available within the next three months.

(3) The City shall not be obligated to lease the Premises to a Substitute Tenant for a rental less than the current fair market rental then prevailing for similar in comparable shopping centers in the same market area as the 5th Avenue North Garage and Center House.

(4) The City shall not be obligated to enter into a new lease under terms and conditions that are unacceptable to the City under the City's then current leasing policies for comparable space in the 5th Avenue North Garage and Center House.

(5) The City shall not be obligated to enter into a lease with any proposed Substitute Tenant that does not have in the Director's reasonable opinion, sufficient financial resource or operating experience to operate the Premises in a first-class manner

(6) The City shall not be required to expend any amount of money to alter, remodel, or otherwise make the Premises suitable for use by a Substitute Tenant unless:

(a) The Lessee pays any such sum to the City in advance of the City's execution of a lease with such Substitute Tenant (which payment shall not be in lieu of any damages or other sums to which the City may be entitled to as a result of the Lessee's default under this Lease); or

(b) The City, in the Director's sole discretion, determines that any such expenditure is financially justified in connection with entering into any lease with such Substitute Tenant.

(7) The City shall not be obligated to enter into a lease with any Substitute Tenant whose use would:

(a) Disrupt the tenant mix or balance of the 5th Avenue North Garage and Center House building;

(b) Violate any restriction, covenant, or requirements contained in the lease of another tenant of the 5th Avenue North Garage and Center House building;

(c) Adversely affect the reputation of the Seattle Center, 5th Avenue North Garage or Center House building;



(d) Be incompatible with the operation of the 5th Avenue North Garage and Center House building as a community gathering place for performances, events and exhibits for entertainment or educational purposes and as a first-class food court.

D. Default by City: The City shall not be in default of any obligation to perform under this Lease unless the City fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after written notice by the Lessee to the Director specifying the particular obligation that the City has failed to perform; *Provided*, however, that if the nature of the City's obligation is such that more than thirty (30) days are required for performance, then the City shall not be in default if the City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

B-19 SURRENDER OF PREMISES; HOLDING OVER

a. Surrender & Delivery: Upon the expiration or termination date of this Lease, whichever is earlier, the Lessee shall surrender the Premises and promptly deliver to the Director all keys the Lessee, and any of its officers, agents, and employees have to the Premises or any other part of the Seattle Center.

b. Removal of Lessee's Property: Prior to the expiration date of this Lease, or in the event this Lease is terminated, within fifteen (15) days after the termination date, whichever is earlier, the Lessee shall remove, at its sole expense, all moveable trade equipment and personal property from the Premises, as well as those improvements, alterations and additions and fixtures installed on the Premises that are specified in the Director's notice provided pursuant to Subsection B-7.g hereof. In performing such removal work, the Lessee shall take due care to not unreasonably injure or damage the Premises, and shall make such repairs to the Premises as shall be necessary to restore the same to their condition as existing immediately prior to their installation, ordinary wear and tear and improvements, additions, and alterations, approved by the City excepted.

c. Storage, Sale or Disposal of Lessee's Property: If upon expiration or fifteen (15) days after termination of this Lease Lessee has not removed its personal property and moveable trade equipment, City may, but need not, remove any or all of the above and hold it for the Lessee, or place the same in storage, all at the expense and risk of the Lessee. Lessee shall reimburse City for any expense incurred by City in connection with such removal and storage. City shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, the proceeds of



such sale to be applied first, to the cost of sale; second, to the payment of the charges for storage; and third, to the payment of any other amounts which may then be due from Lessee to City; the balance, if any, shall be paid to the Lessee.

d. Hold-over Use & Occupancy of Premises: In the event the Lessee, with the Director's consent, holds over after the date the term expires or is terminated, whichever is earlier, the resulting use and occupancy shall be on a monthly basis, during which time the Lessee shall be bound by all of the provisions of this Lease other than the amount of the Monthly Base Rent specified in Section A-3, which amount shall be the greater of the amount charged for the month immediately preceding the expiration or termination date, whichever is earlier, or the fair market value for the Premises. If, however, the Lessee holds over, without Director's consent, after the expiration or termination date of this Lease, whichever is earlier, whether by failing to remove its personal property or any addition, alteration or improvement specified by the Director, or otherwise, the Lessee shall pay to the City, as liquidated damages, twice the amount of the most recently applicable periodic and percentage rents specified in Sections A-3 and A-4 and A-5, hereof, and shall be bound by all of the other provisions of this Lease.

e. No Claim for Removal: In no event shall the Lessee make any claim or demand upon the City nor shall the City be liable for any inconvenience, annoyance, disturbance, or loss of business or any other damage suffered by the Lessee arising out of removal operations under Subsections B-19.b and B-19.c hereof.

f. Inspection Upon Surrender of Premises: Immediately following the vacating of the Premises and the surrender of the same to the City, a representative of the Lessee shall inspect the Premises with the Director to determine the condition of the Premises and whether or not the Lessee is then eligible for the return of the Performance Guarantee provided pursuant to Section B-4 hereof, and if not then eligible, what actions must be taken by the Lessee to establish eligibility for the future return of such deposit. The results of such inspection shall be summarized by the Director on a Premises inspection report, a copy of which shall be provided to the Lessee.

B-20 NOTICES

All notices from either party to the other shall be in writing and delivered or mailed, postage prepaid, to the intended recipient at the address specified on the signature page of Part A, hereof, or to such other address as may be specified, from time to time, by either party, by notice to the other party.



B-21 NO RELATIONSHIP ESTABLISHED

The City shall in no event be construed to be a partner, associate, or joint venturer of the Lessee, or any party associated with the Lessee. The Lessee is not an agent of City for any purpose whatsoever. The Lessee shall not create any obligation or responsibility on behalf of the City or bind the City in any manner.

B-22 DEFINITION AND AUTHORITY OF "DIRECTOR"

The term "Director," as used throughout this Lease in regard to permission, warrant, consent, approval, rights, interpretation, and discretionary matters, shall mean the Director of the City's Seattle Center Department or such official's functional successor or designee; *Provided*, that the action of the Director pursuant to or in implementation of this Lease does not constitute any official action by any other City Department or official that may be required by law, ordinance, rule or regulation before the Lessee may rightfully commence, suspend, enlarge, or terminate any particular undertaking or may obtain or exercise any particular right or privilege under this Lease. Any approval, consent or permission required of the Director by this Lease may be granted, conditioned or withheld by the Director in the exercise of such official's sole discretion.

B-23 AMENDMENTS

No modification or amendment of the terms hereof shall be effective unless in writing and signed by authorized representative of each of the parties hereto. The parties hereto expressly reserve the right to modify this Lease from time to time, by mutual agreement.

B-24 NO WAIVER

Nothing other than a written document signed personally by the Director and specifically declaring a City intent to waive a particular breach or default by the Lessee shall constitute a waiver of such breach or default. No such document shall waive the Lessee's failure to fully comply with any term or condition of this Lease not specifically referenced therein, irrespective of any knowledge any City officer or employee may have of such breach, default, or noncompliance. No waiver by either party shall be construed to be, or operate as, a waiver of any subsequent default in full performance of any provision of this Lease. The payment or acceptance of rent, additional rent, or other compensation, whether after a default or from a sublessee or assignee, shall not be deemed to constitute consent to or acceptance of such default or acceptance of



defective or incomplete performance in the future or any such subtenancy or assignment.

B-25 REMEDIES CUMULATIVE

Rights under this Lease are cumulative; failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. Each party shall also have any other remedy given by the law. The use of one remedy shall not be taken to exclude or waive the right to use another.

B-26 JOINT & SEVERAL LIABILITY

In the event the Lessee is composed of more than one person, entity, or corporation, each of the persons, entities, and corporations composing the Lessee shall be jointly and severally liable under this Lease.

B-27 USE OF LANGUAGE

Terms used in the neuter gender include the masculine and feminine; and terms used in the singular or plural include the other, as the context may require.

B-28 CAPTIONS

The titles of sections are for convenience only and do not define or limit the contents.

B-29 INVALIDITY OF PARTICULAR PROVISIONS

Should any term, provision, condition, or other portion of this Lease or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this Lease or the application of such term or provision to person or circumstances other than those to which it is held invalid or unenforceable shall not be affected hereby and shall continue in full force and effect.

B-30 GOVERNING LAW & VENUE

This Lease shall be interpreted and construed using Washington Law. The venue for any action under this Lease shall be in the Superior Court of the State of Washington for King County.

B-31 BINDING EFFECT

The provision, covenants, and conditions contained in this Lease apply to bind the parties, their legal heirs, representatives, successors, and assigns.



B-32 NO BROKER

The Lessee represents and warrants that there is no claim for any brokerage commission or finder's fee in with connection the execution of this Lease.

B-33 ACKNOWLEDGMENT OF NEGOTIATED LEASE

The parties to this Lease acknowledge that it is a negotiated lease, that they have had the opportunity to have this Lease reviewed by their respective legal counsel, and that the terms and conditions of this Lease are not to be construed against the party drafting the provision.



ATTACHMENT 1 (Parts C – K)

**5TH AVENUE NORTH GARAGE
LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
MAHUJA INTERNATIONAL, LLC
d/b/a BAINBRIDGE ISLAND COFFEE
ROASTERS**

PART C

**LOT BOUNDARY ADJUSTMENT NO. 3008913 – GARAGE
LEGAL DESCRIPTION
PCE#SENE-0001**

THAT PORTION OF BLOCK 62, D.T. DENNY'S HOME ADDITION TO THE CITY OF SEATTLE, RECORDED IN VOLUME 3 OF PLATS, PAGE 115, RECORDS OF KING COUNTY, WASHINGTON, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 25 NORTH, RANGE 4 EAST, W.M.;

EXCEPT THOSE PORTIONS AS PROVIDED UNDER CITY OF SEATTLE ORDINANCE NUMBER 100337;

TOGETHER WITH THE VACATED ALLEY IN SAID BLOCK AND THAT PORTION OF VACATED TAYLOR AVENUE NORTH AS VACATED UNDER ORDINANCE NUMBERS 54308 AND 90487 OF THE CITY OF SEATTLE.

DESCRIBED AS FOLLOWS:

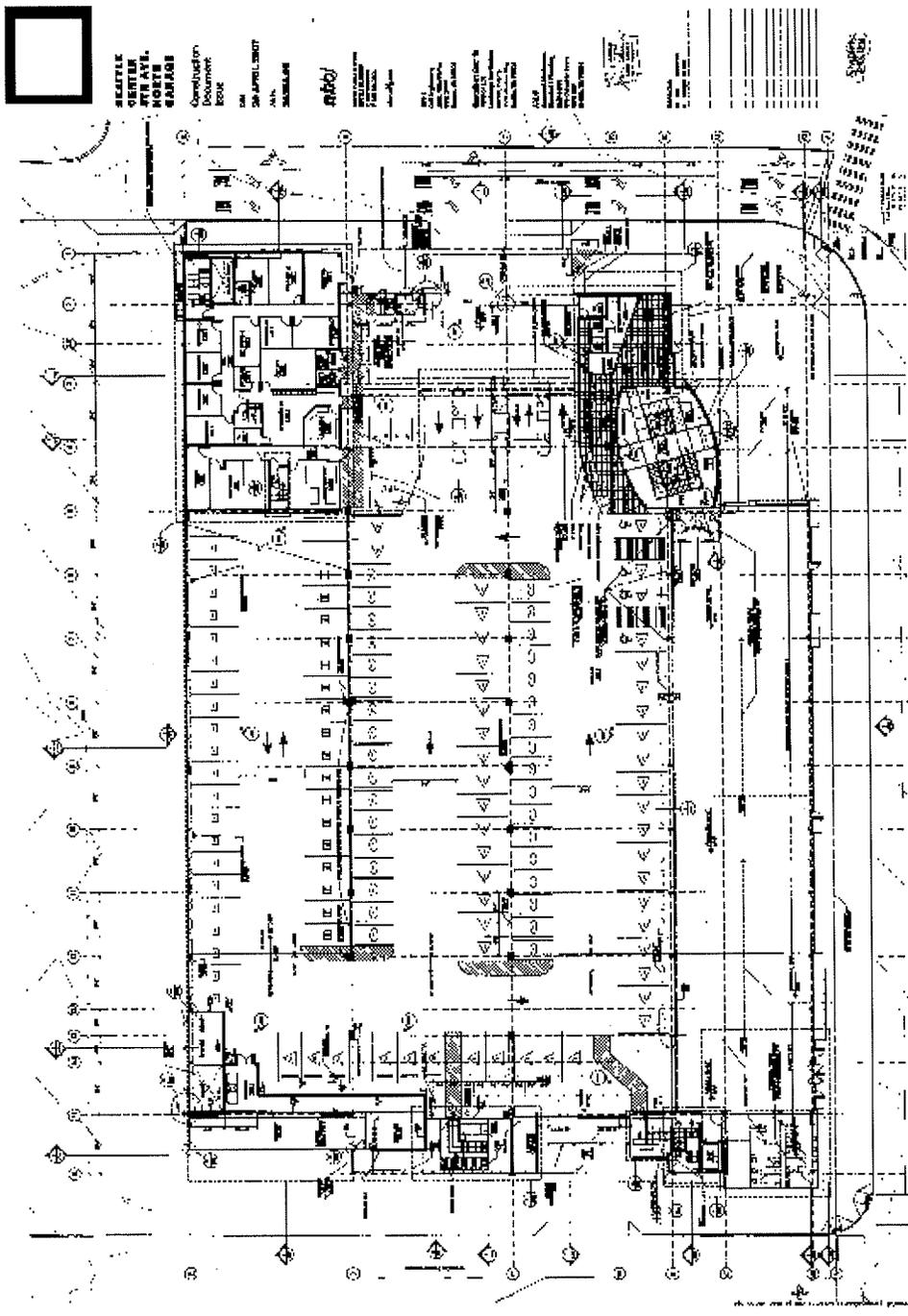
COMMENCING AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF 5TH AVENUE NORTH AND THE SOUTH RIGHT OF WAY OF MERCER STREET;
THENCE SOUTH 01°27'59" WEST, 441.64 FEET ALONG THE EAST RIGHT OF WAY OF 5TH AVENUE NORTH TO A POINT ON THE CENTERLINE OF VACATED REPUBLICAN STREET;
THENCE CONTINUING ALONG THE EAST RIGHT OF WAY OF 5TH AVENUE NORTH SOUTH 01°26'06" WEST, 43.49 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 01°26'06" WEST, 329.49 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 20.00 FEET;
THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE PASSING THROUGH A CENTRAL ANGLE OF 89°59'28" A DISTANCE OF 31.41 FEET TO A POINT ON THE NORTH RIGHT OF WAY OF HARRISON STREET;
THENCE SOUTH 88°33'22" EAST, 222.00 FEET ALONG THE NORTH RIGHT OF WAY OF HARRISON STREET;
THENCE NORTH 01°26'06" EAST, 349.52 FEET;
THENCE NORTH 88°33'54" WEST, 242.00 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS PARCEL A OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NUMBER 3008913 RECORDED IN BOOK _____ OF SURVEYS, PAGE _____, RECORDS OF KING COUNTY, WASHINGTON.

TOGETHER WITH AND SUBJECT TO EASEMENTS OF RECORD.

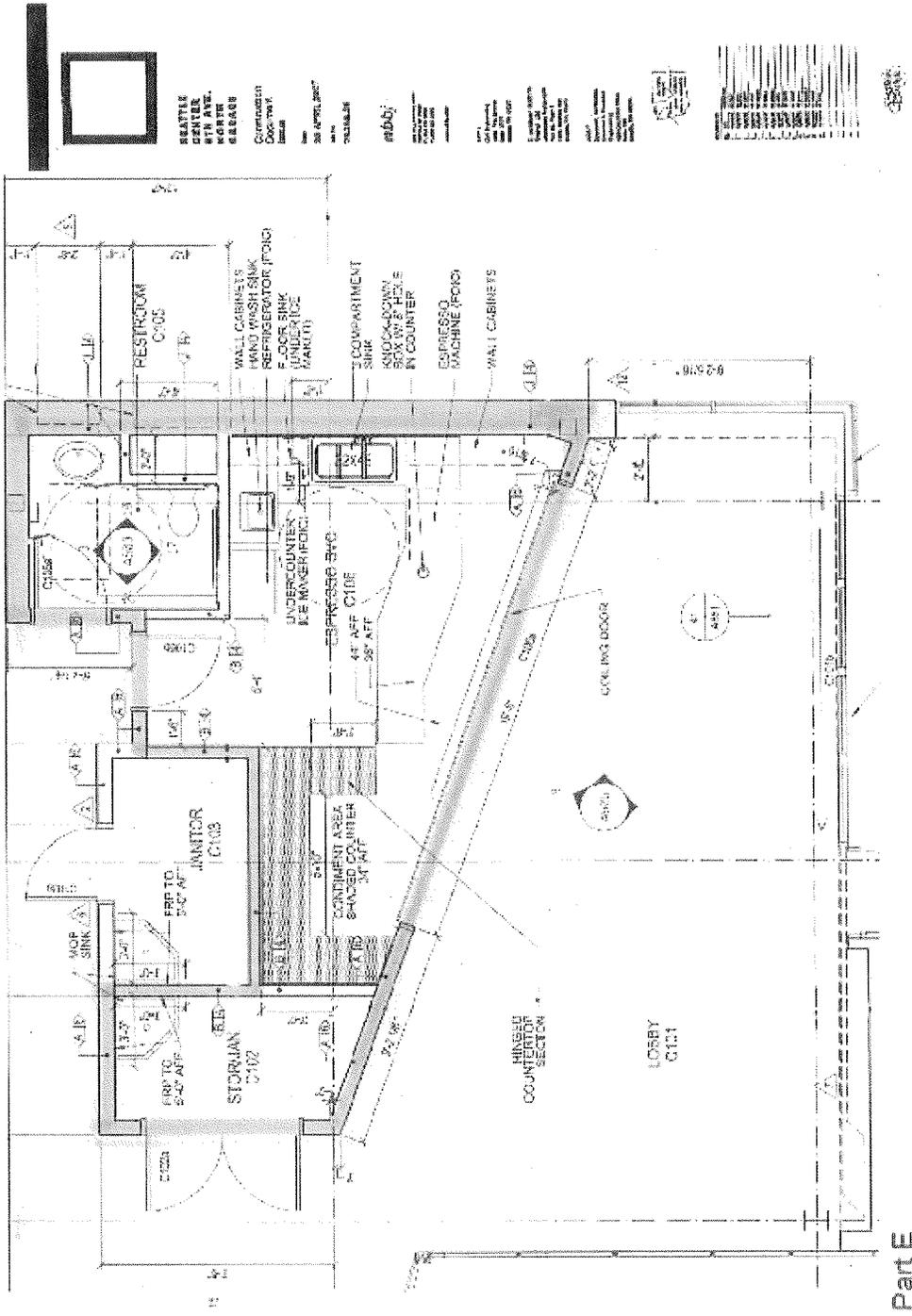
Peterson Consulting Engineers
4010 Lake Washington Blvd NE, Suite 300
Kirkland, Washington 98033
425.827.5874





Site Plan





SEATTLE
 CENTER
 4TH AVE.
 NORTH
 SEASIDE

Contractor
 Date: 04/15/08

30 APRIL 2008

DATE

4403

Espresso Bar Premises

Lobby Common Area

Part E



PART F: SEATTLE CENTER APPROVED PLANS FOR LESSEE'S ADDITIONS, ALTERATIONS & IMPROVEMENTS

- Installation of track lighting above counter - specific's to be submitted
- Installation of Wall shelving on East wall - specific's to be submitted
- Installation of new glass front and top bakery cabinet in front counter, removal of existing panel and counter top. - specific's to be submitted
- Installation of Menu signage - specific's to be submitted
- Installation of signs on West upper window and South upper window - approved

PART G: LESSEE'S PERSONAL PROPERTY

- Synesso 2 group espresso machine with filtration system,
- 2 Mazzer coffee grinders Mini and Jolly
- Bunn Bulk Coffee Grinder
- waffle makers
- refrigerator in service area
- refrigerator in storage
- metro shelving in storage
- HP POS system with touch screen, mag card reader, cash drawer
- 6 Bamboo top Bistro tables
- 16 aluminum bistro chairs
- 2 illuminated medallion signs
- various small wares, merchandising and condiment accessories
- 36 each of plates; demitasse, cappucino and latte glass cups; demitasse spoons
- various consumable inventory items



PART H
BYLAWS OF
516 HARRISON STREET OWNERS ASSOCIATION

Article I
Offices

1.1 Principal Office. The principal office of the 516 Harrison Street Owner's Association (the "Corporation") shall be located at its principal place of business or such other place as the Board of Directors may designate. The Corporation may have such other offices, either within or outside of the State of Washington, as the Board of Directors may designate or as the business of the Corporation may require.

1.2 Registered Office and Agent. The Corporation's initial registered office and registered agent shall be as set forth in the Articles of Incorporation. The registered agent and the address of the registered office may be changed by the Board of Directors.

Article II
Membership

2.1 Classes of Members. The Corporation shall have one class of members.

2.2 Qualifications for Membership. Each owner of a unit in 516 Harrison Street, a Condominium created by that certain Declaration for 516 Harrison Street, a Condominium (the "Declaration"), recorded under King County Recording No. _____, shall be a member of the Corporation.

2.3 Annual Meeting. The annual meeting of the members of the Corporation shall be held the first Friday of _____ of each year at 1:00 p.m., Pacific Time, for the purpose of electing directors and transacting such other business as may properly come before the meeting. If the day fixed for the annual meeting is a legal holiday at the place of the meeting, the meeting shall be held on the next succeeding business day. If the annual meeting is not held on the date designated therefor, the Board of Directors shall cause the meeting to be held as soon thereafter as may be convenient.

2.4 Special Meetings. The President, either member of the Board of Directors, or any member may call special meetings to vote for any matter that the members are authorized to vote upon.

2.5 Meetings by Telephone. Members of the Corporation may participate in a meeting of members by means of a conference telephone or similar communication equipment; provided, all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.



2.6 Action by Members Without a Meeting. Any action that could be taken at a meeting of the members may be taken without a meeting if a written consent setting forth the action so taken is signed by all members entitled to vote with respect to the subject matter thereof. Such written consents may be signed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document. Any such written consent shall be inserted in the minute book as if it were the minutes of a meeting of the members.

2.7 Place of Meetings. All meetings of members shall be held at the principal office of the Corporation or at such other place within the City of Seattle designated by the Board of Directors or by a waiver of notice signed by all members entitled to vote at the meeting.

2.8 Notice of Meetings. The President, the Secretary or the Board of Directors shall cause to be delivered to each member entitled to notice of or to vote at the meeting, either personally or by mail, not less than ten (10) nor more than fifty (50) days before the meeting, written notice stating the place, date and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. At any time, upon the written request of a member calling for a special meeting pursuant to Section 2.4 of the Bylaws, it shall be the duty of the Secretary to give notice of the special meeting of the Corporation to be held at a date, time and place as the Secretary may fix, such date not to be less than ten (10) nor more than thirty-five (35) days after receipt of such written request, (given due consideration of the time constraints for receipt of the notice stated above). If the Secretary shall neglect or refuse to issue such notice, the person or persons making the request may do so and may fix the date, time and place for such meeting. If such notice is mailed, it shall be deemed delivered when deposited in the official government mail, properly addressed to the member at his or her address as it appears on the records of the Corporation, with prepaid postage on the notice.

2.9 Waiver of Notice.

2.9.1 Waiver In Writing. Whenever any notice is required to be given to any member under the provisions of these Bylaws, the Articles of Incorporation or applicable Washington law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed to be the equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or meeting of the members need be specified in the waiver of notice of such meeting.

2.9.2 Waiver By Attendance. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened.



2.10 Quorum. One hundred percent (100%) of the members of the Corporation, represented in person or by proxy, shall constitute a quorum at a meeting of the members. If less than a quorum of the members entitled to vote is represented at a meeting, a majority of the members so represented may adjourn the meeting and establish a date and time for the meeting to reconvene without further notice.

2.11 Manner of Acting. The vote of a majority of the votes entitled to be cast by the members represented in person or by proxy at a meeting at which a quorum is present shall be necessary for the adoption of any matter which these bylaws permit the members to act upon, unless a greater proportion is required by applicable Washington law, the Articles of Incorporation, the Declaration, or these Bylaws.

2.12 Proxies. A member may vote by proxy executed in writing by the member or by his or her attorney-in-fact. Such proxy shall be filed with the Secretary of the Corporation before or at the time of the meeting. A proxy shall become invalid eleven (11) months after the date of its execution unless otherwise provided in the proxy. A proxy with respect to a specific meeting shall entitle the holder thereof to vote at any reconvened meeting following adjournment of such meeting but shall not be valid after the final adjournment of such meeting.

2.13 Participation of City in Owners Association. Notwithstanding any provision of these Bylaws to the contrary, for so long as that certain Ground Lease (Garage) between IRIS Holdings, LLC as landlord and the City of Seattle ("City") as tenant, dated _____ (the "Ground Lease") is in effect, one-half of all votes in the Association shall be allocated to the owner of the Parking Facility Unit (as defined in the Declaration), the votes allocated to the owner of the Parking Facility Unit shall be cast by the tenant under the Ground Lease on all matters affecting the Condominium (including the election of directors), and all matters to be voted upon by such members shall be approved by the votes of a majority of such members.

Article III **Board of Directors**

3.1 General Powers. The affairs of the Corporation shall be managed by a Board of Directors. The Board of Directors shall have the authority to act on behalf of the Corporation in all matters, except as expressly limited by the Declaration, the Articles or these Bylaws.

3.2 Number. The Board of Directors shall consist of two (2) directors. The allowable number of directors may be changed by amendment to these Bylaws, provided that no decrease in the number shall have the effect of shortening the term of any incumbent director.

3.3 Qualifications. Directors need not be members of the Corporation. Directors may have such other qualifications as the Board of Directors may prescribe by amendment to these Bylaws.



3.4 Election of Directors.

3.4.1 Initial Directors. The initial directors named in the Articles of Incorporation shall serve until the first annual meeting of members.

3.4.2 Successor Directors. Successor directors shall be elected each year at the annual meeting of members of the Corporation. The election of directors may also be conducted by mail in such a manner as determined by the Board of Directors.

3.5 Term of Office. Unless a director dies, resigns or is removed, he or she shall hold office until the next annual meeting of the Corporation or until his or her successor is elected and assumes the office, whichever is later.

3.6 Vacancies. A vacancy in a director position resulting from the resignation, death or other withdrawal of a director may be filled by an appointee of the member that appointed the resigned, deceased or withdrawn director. A director who fills a vacancy shall serve for the unexpired term of his or her predecessor director.

3.8 Resignation. Any director may resign at any time by delivering written notice to the President or the Secretary of the Corporation at the principal office or registered office of the Corporation, or by giving written notice at any meeting of the Board of Directors. Any such resignation shall take effect at the time specified in the notice, or if the time is not specified, upon delivery of the notice. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

3.9 Removal. The entire Board of Directors may be removed from office, with or without cause, by the unanimous vote of the members then entitled to vote on the election of directors represented in person or by proxy at a meeting of the members called expressly for that purpose at which a quorum is present.

3.10 Compensation and Expenses. Directors shall not receive compensation for their service as directors. Directors may receive reimbursement for expenditures incurred on behalf of the Corporation.

3.11 Participation of City on the Board. Notwithstanding any provision of these Bylaws to the contrary, for so long as the Ground Lease is in effect, the Board shall be comprised of an even number of directors, the City shall have the right, as tenant under the Ground Lease, to elect one-half of such Board directors, each Board director shall have one (1) vote, and a majority of Board directors must vote to approve any action of the Board, including without limitation, any action with respect to the exterior appearance of the Condominium, permanent exterior signage in or about the Condominium, the repair of any damage to the Condominium caused by fire or other casualty, and the termination of the Condominium.



Article IV.
Meetings of Directors

4.1 Annual Meeting The annual meeting of the Board of Directors shall be held the first Friday day of _____ of each year immediately following the annual meeting of members of the Corporation, for the purpose of electing officers and transacting such business as may properly come before the meeting. If the day fixed for the annual meeting is a legal holiday at the place of the meeting, the meeting shall be held on the next succeeding business day. If the annual meeting is not held on the date designated therefor, the Board of Directors shall cause the meeting to be held as soon thereafter as may be convenient. Notice of the annual meeting of the Board of Directors shall be made as set forth in Section 4.7.

4.2 Regular Meetings. Regular meetings of the Board of Directors, or any committee designated and appointed by the Board of Directors, may be specified as to the date, time and place for the holding of such regular meetings by the adoption of a resolution of the Board of Directors, or, in the case of a committee, by a resolution of the committee. Notice of such meetings for either the Board of Directors or committees is not necessary other than said resolutions. If such a resolution has not been adopted, then notices of regular meetings shall be given as set forth in Section 4.7 as for notices of special meetings.

4.3 Special Meetings. Special meetings of the Board of Directors or any committee designated and appointed by the Board of Directors may be called by or at the written request of the President or any director, or, in the case of a committee meeting, by the chairman of the committee. The person or persons authorized to call special meetings may fix any place within the City of Seattle as the place for holding any special Board of Directors or committee meeting. Notice of special meetings of the Board of Directors or committees shall be made as set forth in Section 4.7, and shall specify the purpose(s) of the special meeting.

4.4 Meetings by Telephone. Members of the Board of Directors or any committee designated by the Board of Directors may participate in a meeting of such Board of Directors or committee by means of a conference telephone or similar communication equipment; provided, all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

4.5 Action by Board Without a Meeting. Any action which could be taken at a meeting of the Board of Directors may be taken without a meeting if a written consent setting forth the action so taken is signed by each of the directors. Such written consents may be signed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document. Any such written consent shall be inserted in the minute book as if it were the minutes of a Board of Directors meeting.



4.6 Place of Meetings. All meetings shall be held at the principal office of the Corporation or at such other place within the City of Seattle designated by the Board of Directors, by any persons entitled to call a meeting or by a waiver of notice signed by all of the directors.

4.7 Notice of Meetings. Notice of annual and special meetings of the Board of Directors or of a committee shall be given to a director or committee member in writing or by personal communication with the director or committee member not less than five (5) calendar days before the meeting. Notices in writing may be hand delivered or sent by U.S. mail or facsimile transmission to the director or the committee member at his or her address shown on the records of the Corporation. Neither the business to be transacted at, nor the purpose of, the annual meeting nor any regular meeting need be specified in the notice of such meeting, unless specifically required by the Articles of Incorporation or these Bylaws. If a notice is delivered by mail, the notice shall be deemed effected when deposited in the official government mail properly addressed with postage prepaid. If notice is given by facsimile transmission, the notice shall be deemed effective upon receipt of the facsimile transmission confirmation showing the facsimile transmission was received at the director's facsimile number shown on the records of the Corporation.

4.8 Waiver of Notice.

4.8.1 Written Waiver of Notice. Whenever any notice is required to be given to any director under the provisions of these Bylaws, the Articles of Incorporation or applicable Washington law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the waiver of notice of such meeting.

4.8.2 Waiver of Notice by Attendance. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

4.9 Quorum. One hundred percent (100%) of directors in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum is not present at a meeting, a majority of the directors present may adjourn the meeting and set a date and time for the meeting to reconvene without further notice.

4.10 Manner of Acting/Deadlock. All actions of the Board of Directors shall require the unanimous approval of the Board of Directors. Any deadlock, whether by deadlock in voting or the inability to have a quorum at a meeting on a matter requiring action by the Board of Directors shall be resolved as provided in Section 15.2 of the Declaration.



4.11 Presumption of Assent. A director of the Corporation present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless the director's dissent or abstention is entered in the minutes of the meeting or the director files a written dissent or abstention to such action with the person acting as secretary of the meeting before the adjournment of the meeting or forwards such dissent or abstention by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

Article V **Committees**

5.1 Appointment. The Board of Directors, by resolution of the Board, may designate and appoint one or more standing or temporary advisory committees. The Board of Directors shall have the power to fill vacancies in, to change the size or membership of, and to discharge any committee.

5.2 General Powers and Limitations. Each committee shall be advisory to the Board only and shall not exercise the authority of the Board of Directors in the management of the Corporation.

5.3 Resignation. Any member of any committee may resign at any time by delivering written notice thereof to the President or Secretary of the Corporation or the chairperson of such committee, or by giving written notice at any meeting of such committee. Any such resignation shall take effect at the time specified in the notice, or if the time is not specified, upon delivery of the notice. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

5.4 Removal of Committee Members. The Board of Directors, by resolution adopted by the unanimous approval of the directors, may remove from office any member of any committee elected or appointed by the Board of Directors.

Article VI **Officers**

6.1 Officers. The officers of the Corporation shall be a President, a Vice President, a Secretary and a Treasurer, each of whom shall be elected by the Board of Directors. Other officers and assistant officers may be elected or appointed by the Board of Directors, such officers and assistant officers to hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as may be provided by resolution of the Board of Directors. Any officer may be assigned by the Board of Directors any additional title that the Board of Directors deems appropriate. Any two or more offices may be held by the same person, except that no one person shall be both President and Secretary.



6.2 Election and Term of Office. The officers of the Corporation shall be elected each year by the Board of Directors at the annual meeting of the Board of Directors. Unless an officer dies, resigns, or is removed from office, he or she shall hold office until the next annual meeting of the Board of Directors or until the officer's successor is elected and assumes the office, whichever is later.

6.3 Vacancies. A vacancy in any office created by the death, resignation, removal, disqualification, creation of a new office or any other cause may be filled by the Board of Directors for the unexpired portion of the term or for a new term established by the Board of Directors.

6.4 Resignation. Any officer may resign at any time by delivering written notice to the President or the Secretary of the Corporation or by giving oral or written notice at any meeting of the Board of Directors. Any such resignation shall take effect at the time specified in the notice, or if the time is not specified, upon delivery of the notice and, unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

6.5 Removal. Any officer or agent elected or appointed by the Board of Directors may be removed from office by the Board of Directors whenever in its judgment the best interests of the Corporation would be served thereby. Such removal shall be without prejudice to the contract rights, if any, of the person so removed.

6.6 President. The President shall be the chief executive officer of the Corporation, and, subject to the control of the Board of Directors, shall supervise and control all of the assets, business and affairs of the Corporation. The President shall preside over meetings of the members and of the Board of Directors. Upon authorization by the Board of the Directors, the President may sign deeds, mortgages, bonds, contracts or other instruments, except when the signing and execution thereof have been expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or are required by law to be otherwise signed or executed by some other officer or in some other manner. In general, the President shall perform all duties incident to the office of President and such other duties as are assigned to him or her by the Board of Directors.

6.7 Vice President. In the event of the death of the President or his or her inability to act, the Vice President shall perform the duties of the President, except as may be limited by resolution of the Board of Directors, with all the powers of, and subject to, all of the restrictions upon the President. The Vice President shall have, to the extent authorized by the President or the Board of Directors, the same powers as the President to sign deeds, mortgage, bonds, contracts or other instruments. The Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or the Board of Directors.

6.8 Secretary. The Secretary shall be responsible for ensuring that minutes are recorded and maintained of meetings of the members and of the Board of Directors, and



to the extent minutes are recorded of meetings of committees of the Board of Directors, that such minutes are maintained; see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; be custodian of the corporate records of the Corporation or appoint such person or entity as is appropriate to act as such custodian; ensure that records are kept of the address of each member and director and of the name and address of each officer; sign with the President, or other officer authorized by the President or the Board of Directors, deeds, mortgages, bonds, contracts, or other instruments; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or the Board of Directors.

6.9 Treasurer. The Treasurer shall have charge of and be responsible for all funds and securities of the Corporation; ensure that monies due and payable to the Corporation from any source whatsoever are properly received and that receipts are given for said monies; ensure that all such monies are deposited in the name of the Corporation in banks, trust companies or other depositories selected in accordance with the provisions of these Bylaws; and in general perform all of the duties incident to the office of Treasurer and such other duties as may be assigned to him or her by the President or the Board of Directors. If requested by the Board of Directors, at the Corporation's expense, the Treasurer shall give a bond for the faithful discharge of his or her duties in such amount and with such surety or sureties as the Board of Directors may determine.

6.10 Salaries. The officers shall serve without salary unless they are employees of the Corporation. Officers may receive reimbursement for expenditures incurred on behalf of the Corporation upon approval of the Board of Directors.

Article VII **Employees**

The Board of Directors may establish such positions of employment as it deems desirable and shall fix the salaries for such positions.

Article VIII **Administrative Provisions**

8.1 Books and Records. The Corporation shall keep at its principal or registered office copies of its current Articles of Incorporation and Bylaws; correct and adequate records of accounts and finances; minutes of the proceedings of its members, if any, and the Board of Directors, and any minutes which may be maintained by committees of the Board of Directors; records of the name and address and class, if applicable, of each member, if any, and of the name and address of each director and officer; and such other records as may be necessary or advisable. All books and records of the Corporation shall be open at any reasonable time to inspection by any member, to a representative of more than five percent of the membership, or any director.



8.2 Accounting Year. The accounting year of the Corporation shall be the twelve months ending December 31st of each year.

8.3 Rules of Procedure. The rules of procedure at meetings and of the Board of Directors and committees of the Board of Directors shall be the rules contained in Roberts' Rules of Order on Parliamentary Procedure, newly revised, so far as applicable and when not inconsistent with these Bylaws, the Articles of Incorporation or any resolution of the Board of Directors.

Article IX
Amendments

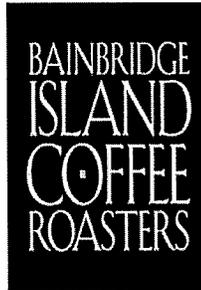
These Bylaws may be altered, amended or repealed only as provided in the Declaration.

THE FOREGOING BYLAWS were adopted by the Board of Directors on July __, 2008.

Secretary



PART I - MENU



ESPRESSO		8	12	16	20
ristretto	2.00				
macchiato	2.20				
cappuccino		2.50	2.85	3.15	3.40
latte		2.50	2.85	3.15	3.40
mocha latte		2.85	3.15	3.40	3.75
americano		1.80	2.10	2.45	2.80
SOCO	<i>single origin coffee</i>				
french press		2.25	2.55	2.85	3.15
melitta drip		2.25	2.55	2.85	3.15
vac pot		2.75	3.00	3.35	
EXTRAS					
espresso		.85	flavors	.50	
soy/breve/rice		.35	iced	.25	
chai		2.50	2.85	3.15	3.40
cuppa jeux		1.00	1.25	1.50	1.75



PART J

CATERING AGREEMENT

CONTRACTUAL DEFINITIONS FOR CATERING AT SEATTLE CENTER

- A. Client means an individual, organization, corporation or other legal entity with which the City has executed a Facility Use Agreement for use of one or more Seattle Center Facility for an Event.
- B. Catering Services means providing food and beverages intended for consumption in any Seattle Center Facility during an Event, and providing services and equipment necessary and related to the service of such food and beverages.
- C. Concession Services means the sale of food and beverages to Event attendees intended for consumption in any Department Facility.
- D. Event means the purpose for which the Client and the Department enter into a Facility Use Agreement, such as a meeting, show, competition, performance, festival, etc., and includes all related activities, including but not limited to move-in/move-out, rehearsal, practice, and other activities described in the Facility Use Agreement.
- E. Event Service Order ("ESO") means the written operations instructions issued by the Department for Department use in providing Event service to the Client.
- F. Facility Use Agreement means a written agreement between the Department and a Client that provides for the Client's use of a Seattle Center Facility for an Event.
- G. Fair Market Value means the retail value of any food, beverage, service or equipment provided by the Caterer to its customers.
- H. Facility, also referred to as Department Facility herein, means a room, building or outdoor space at Seattle Center that is available for rental by the public. As used in this Agreement, the term Facility does not include McCaw Hall or KeyArena.

DEPARTMENT GRANT OF CATERING LICENSE

Subject to the terms and conditions specified herein, the Department grants to the Caterer the right to provide Catering Services to Department Clients at Events in any Department Facility, excluding Events at KeyArena and McCaw Hall. Following execution of this Agreement by both parties, the Caterer's name shall be added to the official Department list of pre-approved caterers. Any Client using any Department Facility other than the KeyArena or McCaw Hall shall be required to use a caterer from the Department's list of pre-approved caterers for any Catering for its Event, with the



exception of concert promoters for backstage and VIP Catering, filming crews, and Seattle Center, under specific limited circumstances.

This Agreement relates only to the relationship between the Caterer and the Department and does not serve as any portion of the contract between the Client and the Caterer for Catering or Concession Services.

The inclusion of the Caterer's name on the Department's official list of pre-approved caterers does not constitute a promise or guarantee by the Department that Clients will actually use the Caterer's services.

PERFORMANCE REQUIREMENTS FOR CATERING AND CONCESSIONS

- A. Pre-Planning Event Logistics: The Caterer shall contact the Seattle Center Event Service Representative (ESR), by telephone at least 5 business days prior to each Event for which contracted catering activity will take place. The Caterer shall discuss with the ESR all logistics for catering or concessions for the Event, including access for delivery vehicles, room set-up, power requirements, etc.
- B. Deliver Food and/or Beverage to the Facility: The Caterer must personally deliver the catered food and/or beverage to the Event site, ensuring that temperature controls required by the Health Department are met and can be maintained for the duration of the Event.
- C. Alcohol: The Caterer may serve alcohol in Seattle Center Facilities only if they have a license from the Washington State Liquor Control Board that permits them to supply and service alcohol and only if they have approved evidence of liquor liability insurance on file with Seattle Center. As a factor of providing for the safety of patrons to Seattle Center and limiting Seattle Center liability, the servers of alcohol must have received the state required training for serving alcohol, must ID all patrons purchasing and/or consuming alcohol and must stay in the Facility for as long as there is alcohol being served in the Facility. The Caterer shall implement and maintain a continuing alcohol awareness educational program for all employees serving alcohol to the public. This training shall include age identification, diplomatic ways to refuse service, and legal responsibilities of the employee and Caterer regarding the service of alcoholic beverages. Liquor may not be served in the last half hour of an Event. Caterer will clear tables of all alcohol during the last half hour of the Event. Caterer is responsible for confirming with the ESR the end time of each Event.
- D. Equipment: Seattle Center's equipment inventory applicable to Catered Events is limited to tables, chairs and white tablecloths, all of which must be requested by the Client in advance. All other equipment required by the caterer for the Event is the responsibility of the Caterer.



- E. Trash and Food Waste: The Caterer shall clean up all trash and food waste from each Event and deposit it receptacles provided by Seattle Center. The Caterer must sort all recyclable products and deposit them into separate recycling receptacles provided by Seattle Center. Caterer shall clean up any spills resulting from their services. In the event any Facility used for Catering or Concession Services is not left clean, with trash and food waste removed, or recyclable materials are not properly sorted, the Caterer shall be charged a penalty fee of \$100.00.
- F. Caterer's Staff: The Caterer shall employ competent, courteous and efficient staff in numbers to adequately serve Clients. Whenever the Director notifies the Caterer that an identified employee has consistently failed in cleanliness, efficiency or courtesy toward the public, the Caterer shall cease to use that employee for Events at the Seattle Center.
- G. Quality Control: All foods and beverages served shall be of first quality, wholesome and pure and shall conform in all respects to federal, state, and municipal laws, ordinances and regulations. No tobacco product shall be provided to any Client.
- H. No Use of Prohibited Food-Serving Material: The Caterer shall not serve or permit any other person or entity to serve in any Department Facility any food or beverage in any polystyrene foam food or beverage container or other food or beverage serving material that is hereafter legally prohibited.
- I. Prohibited Promotion & Other Material; Removal of Same: The Caterer shall not display, post, or distribute any sign, symbol, advertising of any nature, or any printed material, including but not limited to posters, at any Department Facility except after receiving written permission from the Director. Caterer may undertake such activity only at location(s) approved by the Director and subject to any conditions of the Director's permission.

INDEMNIFICATION

The Caterer shall defend, indemnify and hold harmless the City and its officers, agents, employees, Clients, Licensees and Lessees, from and against any and all claims, actions, suits, proceedings, costs, expenses (including reasonable attorneys' fees), damages and liabilities claimed or suffered by any person or entity arising out of or relating to any act or omission of the Caterer or any of its agents, contractors or employees, or in connection with the Caterer's performance under this Agreement; PROVIDED that nothing herein shall be construed as requiring the Caterer to indemnify the City against liability for bodily injury or damage to property caused by or resulting from the sole negligence of the City, its officers, agents, employees, Clients, Licensees and Lessees. The obligations to defend and indemnify set forth in this section shall survive the expiration or earlier termination of this Agreement.



In the event that the Caterer and the City are held to be jointly liable in any final judgment in any suit arising out of their acts or omissions under this Agreement, the costs and expenses arising therefrom shall be prorated between the parties according to the respective extent of their liability.

The Caterer waives, with respect to the City only, its immunity under RCW Title 51, Industrial Insurance.

NO SUBCONTRACTING, ASSIGNMENT, OR SALE

This Agreement is personal to the Caterer and may not be assigned, nor may the Caterer subcontract any Catering or Concession Services provided at any Facility Event without the Director's written consent. Such consent may be granted, withheld or conditioned in the Director's sole discretion.

RE-APPLICATION

If the Caterer's contract is terminated by either party, there will be a required waiting period of one full calendar year before the Caterer may reapply to the Seattle Center Approved Catering Program during the next available open enrollment period.



Lease Agreement

PART K: RULES AND REGULATIONS FOR 5th AVENUE NORTH TENANTS

1. The common areas, entrances to 5th Avenue North Garage (Garage), passages, elevators, vestibules, stairways, corridors or halls shall not be obstructed or used for any purpose other than ingress and egress. Access to any area(s) not for the use of the general public shall, in all cases, be in the control of the City. Nothing contained herein shall be construed to prevent such access by persons with whom Lessees normally deal in the ordinary course of business unless such persons are engaged in illegal activities. Lessee shall not enter mechanical rooms, air handler rooms, telephone switchgear rooms, electrical closets, or janitorial closets without prior written consent of the Director. All public areas including the corner plaza and lobby entry shall be under the sole and absolute control of the City, who shall have the exclusive right to regulate and control these areas.
2. On days in which the Garage is closed for the day and when the Garage is closed for the evening, access to the Garage, or to the halls, corridors, elevators or stairways in the Garage, or to the Seattle Center, may be refused unless the person seeking access is known to the person or employee of Seattle Center in charge and has a pass or is properly identified. The City shall furnish such passes to persons for whom any Lessee requests the same in writing. Each Lessee shall be responsible for all persons for whom he requests passes and shall be liable to the City for all acts of such persons. The City shall in no case be liable for damages for an error with regard to the admission to or exclusion from the Garage during the continuance of the same by closing the doors or otherwise, for the safety or Lessee and protection of property in the Garage. The City reserves the right to exclude or expel from the Garage any person, who in the judgment of the City is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Garage.
3. Currently, the Garage hours are 7 AM until midnight. No dates of closure have been established.
4. No awning or other projections shall be attached to the outside walls of the Garage and no window shades, blinds, or drapes or other window coverings shall be hung in the Premises without the prior written consent of the Director.
5. Canvassing, soliciting and peddling by Lessees or outsiders is prohibited in the Garage, and each Lessee shall cooperate to prevent same.



6. The Lessee's Premises shall not be used for anything other than specifically defined in the lease. The lessee's Premises shall not be used for lodging or sleeping or for any immoral or illegal purposes.
7. No firearms or explosives are allowed in the Garage.
8. Under no circumstances shall Lessee:
 - a) Make or permit to be made any unseemly or disturbing noises, sounds or vibrations, or otherwise disturb or interfere with the occupants of the Garage or those having business with them whether by the use of any musical instrument, radio, cassette deck or compact disc player, unusual noise, or in any other way.
 - b) Use toilets, wash basin and other plumbing fixtures for any purpose other than those for which they were constructed, and no seeping, rubbish rags or other substances shall be thrown therein. All damage resulting from any misuse of such fixtures shall be borne by the Lessee who, or whose employees, agents, visitors, or licensees, shall have caused the same.
 - c) Leave windows, doors or roll doors open and/or unlocked. Lessee shall see that all windows, doors or roll doors in the premises are closed and securely locked before leaving the Garage each day.
 - d) Bring or keep in the Premises any inflammable, combustible or explosive fluid, chemical, or substance nor do or permit anything to be done in the Premises, or bring or keep anything therein which shall in any way increase the rate of fire insurance on the Garage or on the property kept therein, or obstruct or interfere with the rights of other Lessees, or in any way injure or annoy them or conflict with the regulations and recommendations of the Fire Department or the fire ordinances and laws, or with any insurance policy upon the Garage or any part thereof, or with any rules and ordinances established by the Board of Health or other governmental authority.
 - e) Leave water or plumbing fixtures on. Lessee shall insure that all valves and water systems are entirely shut off before Lessee or Lessee's employees leave Garage. Lessee shall observe strict care and caution to insure that electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage. Lessee shall make good all injuries sustained by other lessees or occupants of the Garage, or sustained by the City as a result of lessee's default or carelessness.
 - f) Overload the floor or the elevators or in any way violate the integrity of the Garage.



9. Food Quality Control. All food sold or offered for sale on or from the Premises shall be first quality, wholesome and pure and shall conform in all respects to federal, state, and municipal laws, ordinances and regulations. The Lessee shall ensure that;
- a) Meat, poultry and aquatic food must have been inspected by the United state Department of Agriculture ("USDA") or the Seattle-King County Department of Public Health or the functional successor of either such entity before its use on the Premises.
 - b) No food having a shelf-life indicated by code is used after the end of the code period unless properly preserved prior to that period's ending and that all code tables are provided, upon request, to any employee of the Seattle-King County Department of Public Health or its successor.
 - c) All food is stored in properly working refrigeration units, heat units, and dry storage units, as appropriate.
 - d) If any food containing any sulfite is used or offered for sale in or from the Premises, a written notice of the fact of such sulfite use or presence in such food is displayed at the point of sale for such food, in a prominent location easily seen by a potential food purchaser.
10. Lessee's Menu. Initial food and beverage menu and/or products list indicating size, portion and price structure, shall be submitted to the Director for approval. The Lessee shall not make or allow to be made any misrepresentation as to the kind, quality, weight, or price of food sold or offered for sale from the premises. The Lessee shall ensure that no food is sold or offered for sale at a price different from that displayed or advertised on the food menu approved by the Director. Changes to the foregoing, whether in size, portion, price or otherwise, may not be made without the prior, written approval of the Director whose approval shall not be unreasonably withheld.
11. "Food" means any nutritive material in solid or liquid form, without limitation, that is sold, given without charge, included as an ingredient in any other edible item offered for sale, or dispenses or distributed by the Lessee in any manner or from the Premises to any person or entity unless the Director authorizes the lessee to offer for sale at a particular event either or both of such otherwise excluded types of nutritive material.
12. Recycling of Waste Materials. The Lessee at no cost of the City, shall collect, sort and separate into such categories as may be legally required, all solid waste products on the premises, and recycle all such products that are locally accepted for recycling and participate in programs that



support reuse, such as composting. Each separately sorted category of waste products shall be placed in separate receptacles reasonably approved by the City, which receptacles reasonably approved by the City, which receptacles shall be dumped or removed from the Seattle Center at such minimum frequency as is specified by the Director. The City reserves the right to refuse to collect or accept from the Lessee any waste product that is not sorted and separated as required by law, ordinance, rule or regulation, and to require the Lessee to arrange for the collection of the same at the Lessee sole cost and expense using a contractor satisfactory to the City. The Lessee shall pay all costs, fines, penalties and damages that may be imposed on the City or the Lessee as a consequence of the lessee's failure to comply with the provisions of this subsection.



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Center	Juanita Woelfle, 684-7114 Tom Israel, 684-4298	Amy Williams, 233-2651

Legislation Title:

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute a lease agreement with Mahuja International, LLC d/b/a Bainbridge Island Coffee Roasters for space in the 5th Avenue North Garage at Seattle Center, and ratifying and confirming certain acts.

• **Summary of the Legislation:**

This legislation authorizes the Seattle Center Director to execute a lease agreement with the Bainbridge Island Coffee Roasters (BICR) to operate and maintain an espresso bar in the 5th Avenue North Garage. The espresso bar is located in the southwest lobby area of the garage and includes approximately 190 square feet.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Description:

The 5th Avenue North Garage at Seattle Center includes 1,020 parking spaces, a retail space, a lobby with seating area and adjacent plaza, and the Seattle Center Transportation Offices. Seattle Center chose to include an espresso bar in the retail space for visitors to both Seattle Center and the future Bill and Melinda Gates Foundation Visitors Center. The footprint of the espresso bar is small, 190 sq. ft., but is intended to keep the corner location of the garage and the adjacent plaza active.

History:

In early 2008, Seattle Center issued a Request for Proposals for an espresso bar business to be located at the 5th Avenue North Garage. Over 50 packets were sent to potential business operators and to those responding to newspaper ads. Three submitted proposals.

BICR's proposal ranked the highest for a variety of reasons. BICR offers high quality products; it utilizes sustainable practices such as purchasing "fair trade" coffee beans; it employs waste-reduction practices that incorporate recycling as well as pre- and post-consumer composting of items including serving products; and it is a community based program supporting local, national and international non-profit organizations. They also have a strong focus on customer service and will be able to accommodate larger event days at Seattle Center.



Funding Arrangement:

This legislation authorizes the approval of a lease agreement with BICR for a term of up to three years. The lease also provides the Director with an option to extend the lease to BICR if the renewal terms are acceptable to both the City and BICR, subject to Council approval.

The agreement requires BICR to pay Seattle Center a monthly base rent and utility reimbursement charges. BICR also pays annual dues to the tenant association. The annual base rent is \$4,800, which includes \$3,600 for rental of the retail space and \$1,200 for common area charges. Lease payments will increase annually by the CPI. BICR will also pay \$1,200 annually as utility reimbursement until water and electric meters are installed and utilities can be billed directly to BICR. The Seattle Center tenants association fees are \$375 per calendar year and go directly to the tenants association. BICR will be responsible for maintaining the premises and will assist in keeping the lobby area presentable to all patrons.

The agreement also provides for additional rent payments to the City if BICR's gross annual receipts exceed identified breakpoints. BICR will pay the City 7.5% of gross receipts exceeding \$180,000 (Breakpoint 1) and 12% of gross receipts exceeding \$200,000 (Breakpoint 2).

- Please check one of the following:

This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. (Please complete all relevant sections that follow.)

Appropriations: This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
N/A				
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

Anticipated Revenue/Reimbursement: Resulting From This Legislation: This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that



were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
11410	Seattle Center	Base Rent	\$1,350	\$3,600
11410	Seattle Center	Common Area charge	\$ 450	\$1,200
TOTAL			\$1,800	\$4,800

Notes:

Assumes the lease commencement date is August 15, 2008.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2008 Positions	2008 FTE	2009 Positions*	2009 FTE*
NA							
TOTAL							

* 2009 positions and FTE are total 2009 position changes resulting from this legislation, not incremental changes. Therefore, under 2009, please be sure to include any continuing positions from 2008.

Notes:

NA

- **Do positions sunset in the future?** (If yes, identify sunset date): NA

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name & #	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
NA				
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.



Notes:

- **What is the financial cost of not implementing the legislation?** *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)*

If this legislation is not implemented, the City would have a vacant space in the 5th North Garage and would lose the opportunity to have an active presence at this highly visible corner location (5th Avenue N and Harrison St.). From a public safety perspective, the corner would not be as safe without the presence and oversight of a business open during normal business hours. There would also be a small revenue loss of \$4,800 annually.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

Other alternatives could include different retail uses, such as a gift shop, newsstand, or small eatery

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

No.

- **Other Issues** *(including long-term implications of the legislation):*

NA

Please list attachments to the fiscal note below:



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 2, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that authorizes the Seattle Center Director to execute a three-year lease with Bainbridge Island Coffee Roasters (BICR) to operate and maintain an espresso bar in the new 5th Avenue North Garage at Seattle Center. The new 1,020 stall garage includes approximately 190 square feet of retail space located in the southwest lobby of the garage.

Seattle Center included a retail space in the garage to activate this corner of 5th Avenue North and Harrison Street. The Center chose BICR because they offer high quality products, sustainable practices for purchasing "fair trade" (and better) coffee beans, waste-reduction practices that incorporate recycling as well as pre- and post-consumer composting of items including serving products, and a community based program supporting local, national, and international non-profit organizations. They also have a strong focus on customer service and will be able to accommodate larger events at Seattle Center. BICR will pay an annual base rent of \$4,800, which includes \$3,600 for rental of the retail space and \$1,200 for common area charges and utility costs. The City will receive additional revenue if BICR exceeds specified breakpoints for gross sales.

Bainbridge Island Coffee Roasters will provide an attractive and high quality amenity at the 5th Avenue North Garage for the benefit of visitors to Seattle Center. Thank you for your consideration of this legislation. Should you have questions, please contact Juanita Woelfle at 684-7114 or Tom Israel at 684-7153.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a large, stylized flourish that extends across the signature block.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



ATTACHMENT 1 (Parts A – B)

**5TH AVENUE NORTH GARAGE
LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
MAHUJA INTERNATIONAL, LLC
d/b/a BAINBRIDGE ISLAND COFFEE
ROASTERS**

THIS LEASE is entered into by THE CITY OF SEATTLE (the "City"), a municipal corporation of the State of Washington, acting by and through the Director of the Seattle Center Department (the "Director"), and MAHUJA INTERNATIONAL, LLC d/b/a BAINBRIDGE ISLAND COFFEE ROASTERS (the "Lessee"), a Washington limited liability company and WITNESSES THAT:

PART A: SPECIAL COVENANTS & CONDITIONS OF LEASE

A-1 TERM OF LEASE

- a. Term: The term of this Lease shall commence August 1,, 2008 (Commencement Date), and shall expire July 31, 2011, unless terminated earlier or extended pursuant to the provisions hereof (the "Term"). Notwithstanding the foregoing, all provisions of this Lease other than those relating to payment of Base Rent, Percentage Rent, Utility Reimbursement Charge and Common Area Charge, shall become effective upon the date that Lessee or any of its officers, employees, agents or contractors is first present on the Premises, whether for inspection, construction, installation or any other purpose.
- b. Lease Subject to City Council Authorization. In the event that a Seattle City Council ordinance authorizing and approving this Lease has not been passed and become effective by September 30, 2008, this Lease shall automatically terminate and neither party shall have any obligations or liability to the other party; provided, however, that any liabilities or obligations that were incurred prior to the termination shall survive until fulfilled.
- c. First Right to Lease. So long as Lessee is in compliance with all its obligations under this Lease, if the City desires to re-let the Premises for the same permitted use, Lessee shall have the first right to lease the Premises upon such terms and conditions as are agreeable to the parties. Any potential new lease shall be subject to approval by the Seattle City Council.



A-2 PREMISES DESCRIPTION AND GRANT

a. Legal Description of Premises: The Premises comprise a portion of the building at Seattle Center, commonly known as 5th Avenue North Garage ("Building"), and located on the following property:

Parcel A of City of Seattle lot boundary adjustment number 3008910 recorded in book ___ of surveys, page ___, records of King County Washington. The legal description is attached hereto along with a site plan and labeled "Part C and Part D". , Records of King County, Washington,

which portion is currently identified as 5th Avenue North Garage, 1st floor, space No. 3, (the "Premises") the floor plan for which is attached hereto, labeled "Part E".

b. Approximate Area of Premises as of Term Commencement: 190 Square Feet, to be re-measured upon completion of demising walls.

c. Grant: In consideration of the payment of rent and Lessee's performance of and compliance with all the covenants, conditions, and terms of this Lease, City hereby leases to Lessee, and Lessee hereby leases from City, the Premises herein described.

d. Common Areas. During the Term, Lessee and its licensees, invitees, and customers shall have the non-exclusive right to use the lobbies, patios, walkways, restrooms and other public and City owned areas of the Building (the "Common Areas"), subject to such rules, hours of operation and regulations as the Director may determine. Additionally, the Lessee may use a portion of the Building's plaza and lobby as a customer seating area, and may set-up tables and chairs during Lessee's hours of operation. During hours when the Premises are not open for business, Lessee shall store the tables and chairs in a location and manner acceptable to the Director. The right to use any portion of the Building's Common Areas for customer seating is permissive and is subject to the Director's approval of the location and any other conditions or rules the Director determines should apply to the use.

A-3 MONTHLY BASE RENT

a. Monthly Base Rent. Lessee shall pay Monthly Base Rent as specified in Part B-1 of this Lease. Monthly Base Rent shall be Three Hundred Dollars and xx/100 (\$ 300.00) subject to the annual CPI adjustment described in section A-3 b.

b. CPI increase: The Monthly Base Rent shall be increased effective each January 1st during the term hereof by the percentage increase (if any)



in the Consumer Price Index for All Urban Consumers ("CPI-U" / 1982-84 = 100) Seattle-Tacoma-Bremerton, WA Area as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor, that occurred during the immediately preceding calendar year; Provided, that in the event of a change in the index base of (1982-84 = 100) or other modification of such index, the City shall apply whatever conversion factors are necessary to establish an adjusted CPI-U that produces the percentage increase in the CPI-U for each such annual period that would have been produced had no change been made in such index by its publisher; and in the event such index is discontinued, the Director shall select and use for such rent adjustment purpose a similar index that reflects consumer price changes. In no event will the Monthly Base Rent be adjusted to an amount that is less than the amount due in the previous month.

A-4 ANNUAL PERCENTAGE RENT

In addition to all other amounts due from Lessee under the Lease, Lessee shall remit to the City as Annual Percentage Rent, seven and one half percent (7.5%) of that portion of the Lessee's annual "Gross Receipts" (as defined in Section B-2) that exceeds \$ 180,000.00 (the Breakpoint #1) and twelve percent (12%) of that portion of Lessee's annual Gross Receipts that exceeds \$200,000.00 (the Breakpoint #2). For any partial lease year (*i.e.*, (a) the period between the Commencement Date, or as applicable, the date the Lessee is obligated to be open for business pursuant to Section B-8(a), and December 31st of the same calendar year, and (b) the period between January 1st of the year in which this Lease expires or is terminated and the actual Lease expiration or termination date, if such date is other than December 31st), the Breakpoint that must be exceeded before any Annual Percentage Rent is due and payable shall be prorated by dividing the Breakpoint by 365 and multiplying the resulting quotient by the number of days in such partial lease year.

A-5 ADDITIONAL RENT

In addition to all other amounts due from Lessee under the Lease, Lessee shall pay to City:

a. **Utility Reimbursement Charges:** Until such time as the City installs separate utility meters for the Premises, Lessee shall pay a flat Utility Reimbursement Charge of One Hundred Dollars and xx/100 (\$ 100.00) per month for electricity and water/sewer, due and payable at the same time as Monthly Base Rent. Once the Premises are separately metered, Lessee will pay to the City, or to the utility service provider if the Premises are directly metered, the actual amount of all utility charges for the Premises.

d. Tenants' Association Dues: \$ 375.00 per calendar year.



e. Common Area Charge: Lessee shall remit to the City as a Common Area Charge the sum of One Hundred Dollars and xx/100 (\$100.00.) per month as and when specified in Section B-1(f), as an offset against the costs and expenses the City incurs, and is expected to incur, in connection with the 5th Avenue North Garage 1st floor southwest lobby common areas. Anything to the contrary in this lease notwithstanding, this charge may also operate as an offset against the costs and expenses the City incurs in connection with the removal of trash and recycling generated by Lessee and its invitees and patrons. Landlord and Tenant agree this charge is not subject to change or reconciliation against actual costs.

f. Other Additional Rent: Whether or not so designated, all other sums due from Lessee under this Lease shall constitute Additional Rent, payable when specified in this Lease, and if not so specified, within ten days of demand therefore.

A-6 AMOUNT OF PERFORMANCE GUARANTEE

The amount of the performance guarantee required under Section B-4 hereof shall be Three Thousand and Five Hundred and xx/100 Dollars (\$3,500.00).

A-7 USE OF PREMISES BY LESSEE

a. Permitted Uses. The Premises shall be used by Lessee for the operation of a retail store selling bulk coffee, coffee by the cup, espresso drinks and coffee beans; teas and spices; cold beverages, assorted gourmet foods items; books, magazines and newspapers. Lessee will use the Premises for no other purpose whatsoever without the prior, written approval of the Director.

b. Serving Products and Packaging. Lessee's serving products and packaging must comply with Section B-8, as determined in the Director's discretion. Additionally, Lessee shall not offer for sale any bottled water packaged in plastic, whether sized for individual portions, larger portions, or sold from a plastic water dispenser.

A-8 CATERING LICENSE

Lessee will be placed on a list of approved caterers for the Seattle Center and is hereby granted a license to provide catering services for Seattle Center events and clients for the duration of the Term. Lessee's license to provide catering services is granted conditioned upon Lessee's compliance with all obligations in this Lease and all obligations in the Catering Agreement, which shall be executed by Lessee and incorporated into this Lease as Part H. In consideration of this grant of catering license, Lessee's Gross Receipts (defined in B-2) from catering operations shall be included in calculating Lessee's Percentage Rent under Section A-4.



A-9 LEASE SUBJECT TO CONDOMINIUM DECLARATION AND BY-LAWS

The Premises are located in a condominium unit, owned by the City, in the 516 Harrison Street Condominium. As a result, the terms of this Lease are in all respects subject to the provisions of the Condominium Declaration for 516 Harrison Street, a Condominium, and all applicable by-laws and rules and regulations of the 516 Harrison Street Owners Association. Any failure by Lessee to comply with this section will be a default under this Lease.

A-10 SIGNAGE

Lessee, at no cost to the City and subject to the Director's prior written approval as to location, sizes, other design elements, installation techniques and mechanical and electrical requirements, shall have the right to install or place signs, awnings, pylon signs, or other advertising material in or about the Premises or the Building and may remove them, provided that any damage from installation or removal is repaired to the Directors satisfaction. Said signs, awnings, and pylon signs and other advertising material shall be in compliance with all applicable laws, regulations and rules and in conformance with Seattle Center signage plan.

A-11 CONTENTS OF LEASE

This Lease consists of the following parts, which are attached hereto and, by this reference, incorporated herein:

PART A	Special Covenants & Conditions of Lease
PART B	General Covenants & Conditions of Lease
PART C	Legal Description
PART D	Site Plan
PART E	Premises Floor Plan
PART F	Seattle Center Approved Plans for Lessee's Additions, Alterations & Improvements
PART G	Personal Property
PART H	Rules and Regulations for Tenants
PART I	Menu (if necessary)
PART J	Catering Agreement

These parts constitute the complete and final expression of the intentions of the parties hereto. All prior and contemporaneous oral and written understandings



between the parties regarding the subject matter of this Lease have been incorporated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease by having their authorized representative(s) sign his/her/their name(s) in the spaces below:

LESSEE:

Mahuja International, LLC
DBA Bainbridge Island Coffee Roasters

By _____
Hugh Robertson
President

LESSOR:

THE CITY OF SEATTLE

By _____
Robert Nellams , Director
Seattle Center Department

BUSINESS ADDRESSES FOR NOTICES

LESSEE:

Hugh Robertson
Bainbridge Island Coffee Roasters
22289 Stottlemeyer Rd. NE,
Poulsbo, WA 98370

PHONE NO.: 206-347-0788

LESSOR:

Manager, Contracts & Concessions
Seattle Center Department
305 Harrison, Room 111

Seattle, WA 98109

PHONE NO.: 206-684-7114



ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss (Acknowledgement for Lessee)
COUNTY OF KING)

On this _____ day of _____, 20____, before me, the undersigned, Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert Nellams, to me known to be the Director, of Seattle Center, the entity that executed the foregoing Lease as Lessee and acknowledged to me that he/she signed the same as a free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he/she was authorized to execute said Lease for said entity.

GIVEN UNDER MY HAND AND SEAL the day and year first above written.

Signature

(Print or Type Name)
NOTARY PUBLIC in and for the State of _____,
residing at _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss (Acknowledgement for Lessee)
COUNTY OF KING)

On this _____ day of _____, 20____, before me, the undersigned, Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Hugh Robertson, to me known to be the President, of Mahuja International, LLC DBA Bainbridge Island Coffee Roasters, the entity that executed the foregoing Lease as Lessee and acknowledged to me that he/she signed the same as a free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he/she was authorized to execute said Lease for said entity.

GIVEN UNDER MY HAND AND SEAL the day and year first above written.

Signature

(Print or Type Name)
NOTARY PUBLIC in and for the State of _____,
residing at _____
My appointment expires: _____



**5TH AVENUE NORTH GARAGE LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
MAHUJA INTERNATIONAL, LLC
d/b/a BAINBRIDGE ISLAND COFFEE ROASTERS**

PART B: GENERAL COVENANTS & CONDITIONS OF LEASE

B-1 TIME AND PLACE OF PAYMENT Due Date for Monthly Base Rent and Utility Reimbursement Charge: The Monthly Base Rent, as adjusted for annual CPI increases, specified in Section A-3 hereof, the monthly utility charge specified in Section A-5 hereof, and any leasehold taxes due pursuant to Section B-12.c hereof, are due and payable to the City, in advance, without setoff or deduction of any kind or nature or City invoice, on or before the first (1st) day of each month of the term hereof, unless such day is a weekend or City holiday, in which case such Monthly Base Rent and leasehold excise tax shall be due and payable on the next succeeding Seattle Center business day; *Provided*, that until the City notifies the Lessee of the amount of the annual CPI increase in the Monthly Base Rent the Lessee shall remit as a partial payment, the Monthly Base Rental amount specified in the City's most recent increase notice, and within seven (7) days after the date of the City's notice of the amount of each such annual increase and its invoice for the amount retroactively due, the Lessee shall remit such retroactive rent and taxes and thereafter remit on a monthly basis the newly adjusted Monthly Base Rent and taxes.

a. Due Date for Annual Percentage Rent: The Annual Percentage Rent for each calendar year of the term hereof, and any leasehold taxes due pursuant to Section B-12.c hereof, are due and payable, without setoff or deduction of any kind or nature or City invoice, on or before February 1st of the calendar year immediately following the year in which the Breakpoint is met or exceeded, unless such day is a weekend or City holiday, in which case such Annual Percentage Rent shall be due and payable on the next succeeding Seattle Center business day. Such rent shall be submitted with a remittance report in a form subject to the Director's approval.

b. Due Date for Tenant Association Dues: The Lessee's Tenant Association Dues for any year during the term hereof shall be due and payable in advance to the City, without setoff or deduction of any kind or nature or City invoice, on or before January 1st; *Provided*, that for the first year of the term hereof, such dues shall be due and payable upon execution of this Lease. In the event the Term of this Lease does not commence on January 1st and end on December 31st, such dues shall be prorated.



c. Due Date for Common Area Charge: The Lessee's Monthly Common Area Charge shall be due and payable to the City, in advance, without setoff or deduction of any kind or nature or City invoice, on or before the first (1st) day of each month of the term hereof, unless such day is a weekend or City holiday, in which case such charge shall be due and payable on the next succeeding Seattle Center business day.

g. Place of Payment: All payments shall be delivered to The City of Seattle, Seattle Center Accounting Office, 305 Harrison Street, Seattle, Washington, 98109, or to such other address as the Director may specify by notice to Lessee.

h. Delinquencies: All sums due and owing to the City shall be delinquent if not paid on or before the fifth (5th) day after the date due; in the event of any delinquency, the Lessee shall also owe to the City a service charge of Fifty Dollars (\$50.00), or such larger sum as is established by ordinance, for each month the delinquency continues, to cover the additional costs for such delinquency, plus interest on such delinquent sum at a rate of one and one-half percent (1½%), or such larger percent as is established by ordinance, per month from the date due to the date of payment. Returned Check, Non-Sufficient Funds: In the event any payment or check for payment is returned for non-sufficient funds, the Lessee shall owe as an administrative charge an additional \$20.00, or such larger sum as is established by ordinance.

B-2 BOOKS AND RECORDS; "GROSS RECEIPTS" DEFINED

a. Keeping of Records: The Lessee shall keep true, accurate, complete and auditable records of all of the Lessee's Gross Receipts, which records shall be separate from all of the other business records of the Lessee. Additionally, Lessee shall keep true, accurate, complete, and auditable records of all books of account and records customarily used in the operation of the Lessee's concession business, and as may from time to time be required by City. All records required to be kept under this paragraph and elsewhere shall be kept in accordance with generally accepted accounting practices and standards, and shall be kept for a period of six (6) years.

b. Payment Reports: Lessee shall submit monthly a "Daily Gross Receipts Report", a "Remittance Report" in an electronic form as approved by the City and all cash register tapes for each day of business during the previous month, as required by Seattle Center Accounting, to the address in Section B-1 above. Alternatively or in addition, the City may require electronic reporting from POS system linked to the city.

c. Identification of Lessee's Fiscal Year: No later than ten (10) days after the date this Lease becomes effective, the Lessee shall identify, in

a notice to the Director, the consecutive period of time that comprises the Lessee's "fiscal year," which period shall not be changed during the term of this Lease without the written consent of the Director, whose consent may be withdrawn or conditioned in the exercise of the Director's discretion notwithstanding the provisions of Section B-22 hereof.

d Statement to Director Regarding Annual Gross Receipts: Not later than sixty (60) days after the end of any fiscal year of the Lessee during the term of this Lease, the Lessee shall deliver to the Director a written statement identifying the amount of the Lessee's Gross Receipts in such fiscal year, which statement shall be certified as to its accuracy by a certified public accountant in the following manner:

"I have examined the definition of 'Gross Receipts' in the Lease between The City of Seattle and the Lessee, all relevant financial statements and income tax returns of the Lessee, and the Lessee's system of recording Gross Receipts. In my opinion, the attached statement of Gross Receipts for the period identified herein, accurately reflects the Lessee's Gross Receipts for the aforementioned period."

e Definition of Gross Receipts: As used in this Lease, the term "Gross Receipts" means and includes the total income of the Lessee and every other person or entity conducting business in, on or from the Premises and total income derived from Lessee's catering operations at a Seattle Center Facility (as defined in Part H), including but not limited to the proceeds from all retail and wholesale sales of food, beverages, merchandise, and services of any kind whatsoever, for cash, barter, exchange or credit, regardless of collections; sales from vending devices; mail or telephone orders received or filled on or from the Premises; all deposits not refunded to purchasers; orders taken although filled elsewhere; fees; commissions; catalog sales; and rental receipts. An installment or credit sale shall be deemed to have been made for the full price on the date of sale regardless of when payment is received. Subject only to the exclusions specified in the immediately following paragraph, the full amount received by the Lessee shall be included in its "Gross Receipts," regardless of whether (a) the Lessee was acting as a consignee, trustee or agent for a third party in connection with such sale or rental, or (b) the Lessee is entitled to retain the full amount received on such sale as the Lessee's own property.

The term "Gross Receipts" does not mean or include the amount of money refunded to and not merely credited to the account of customers who return or do not accept food, beverages, merchandise, or services sold or rented by Lessee; any exchange of merchandise between stores or the central warehouses of the Lessee where such exchange is made

solely for the convenient operation of the Lessee's business and not for the purpose of consummating a sale made in, on, or from the Premises; returns to shippers or manufacturers; any discount allowed by the Lessee to customers; the Washington State Sales Tax and any other tax imposed by any government agency directly on sales; and all admission taxes collected by the Lessee. (Business and occupation taxes are not taxes imposed directly on sales and shall not be deducted from the amount of "Gross Receipts" reported to the City.)

B-3 AUDIT

The Lessee shall permit the City, from time to time, as the City Auditor, Director, or either's functional successor deems necessary, to inspect and audit in King County, Washington, at any and all reasonable times, all books and records pertaining to the Lessee's Gross Receipts and business expenses any records customarily used in the operation of the Lessee's concession business, and any others as may have been required by Landlord, and shall supply the City with, or shall permit the City to make, a copy of any such books and records and any portion thereof, upon the request of the City Director of Finance, the Director, or either's functional successor or designee. The Director shall notify the Lessee of the amount of any over or underpayment found. Any overpayment shall be a credit against any rent or additional rent subsequently due or, at the Lessee's option, shall be refunded to the Lessee. In the event of an underpayment, the Lessee shall pay to the City, as additional rent, the amount of such underpayment plus the cost incurred by the City in auditing the Lessee's books and records. The Lessee shall ensure that the City's right to inspect, audit and copy the Premises user's books and records is a condition of any sublease or other arrangement under which any other person or entity is permitted to use or occupy the Premises.

B-4 PERFORMANCE GUARANTEE

The Lessee shall deliver in cash to the City, Seattle Center Accounting Office at the City address referenced in Subsection B-1.g hereof, within five (5) days after the Lessee's execution of this Lease, as a performance guarantee, the sum specified in Section A-6 hereof. This sum shall belong to City and shall constitute partial consideration for the execution of this Lease, subject only to repayment when required in this section, and may be commingled with other City funds and invested to generate additional earnings for the City's benefit as the City desires. The City may (but shall not be required to) use, apply or retain all or any part of this performance guarantee for the payment of any rent or additional rent or any sum alleged to be or actually in default, or for the payment of any amount that the City may expend by reason of any alleged or actual default by the Lessee, or to compensate the City for any other loss or damage that the City may have suffered by reason of any alleged or actual Lessee default. If any portion of said performance guarantee is so used or applied, the Lessee, within seven (7) calendar days after the date of notice thereof, shall



deliver to the City, the Seattle Center Accounting Office, additional cash in the amount sufficient to restore the performance guarantee to the amount set forth in Section A-6 hereof. If the Lessee fully and faithfully performs every provision of this Agreement to be performed by it, the performance guarantee or any balance thereof after any application of the same by the City hereunder shall be refunded to the Lessee within forty-five (45) days after the expiration or earlier termination of this Lease. The Lessee shall have no right to contest any withdrawal, use, retention or application by the City of any portion of such performance guarantee at the time of the City's taking such action; *Provided*, that nothing herein shall prejudice the Lessee's right to demand through arbitration or litigation the refund of such portion if, and only if, the Lessee has fully complied with and satisfied all of its obligations hereunder. The Lessee waives prior notice and any opportunity for a hearing on any withdrawal, use, application, or retention by the City of such performance guarantee or any portion thereof.

B-5 INDEMNIFICATION AND RELEASE

a. Lessee shall indemnify and hold the City harmless from any and all losses, claims, actions, damages, costs and expenses (including attorneys' fees) suffered by any person or entity by reason of, arising out of, or resulting from any act or omission of the Lessee or any of its agents, employees, contractors, or invitees in connection with use or occupancy or improvement of the Premises and Lessee seating located in Common Areas, including trademark, patent, and copyright infringement, and including any concurrent, negligent act or omission of the Lessee or any of its officers, employees, agents, or invitees, and of the City or any of its officers, employees, agents, or invitees. In the event any suit or action is brought against the City, the Lessee, upon notice of the commencement thereof, shall defend the same, at no cost and expense to the City, and promptly satisfy any final judgment adverse to the City or to the City and the Lessee jointly; *Provided*, that in the event the Director determines that one or more principles of governmental or public law are involved, the City retains the right to participate in such action. Nothing contained in this section shall be construed as requiring the Lessee to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City or any of its officers, employees, or agents. Notwithstanding any provision to the contrary herein, in the event any bodily injury or damage to property results from or arises out of any construction, alteration, repair, addition to, subtraction from improvement to, or maintenance of, any excavation, building, structure, project, development or improvement attached to real estate, including moving and demolition in connection therewith, that has been undertaken or performed by or on behalf of the Lessee, the indemnification provided pursuant to this subsection shall be limited to the extent of the negligence of the Lessee and those acting by or for the Lessee.



The indemnification provided in this subsection shall survive the expiration or earlier termination of this Agreement. The foregoing indemnity is specifically and expressly intended to, constitute a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide City with a full and complete indemnity. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. CITY AND LESSEE ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

b. Lessee hereby fully and completely waives and releases all claims against City for any losses or other damages sustained by Lessee or any person claiming through Lessee resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of Building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of Building facilities or services; any defect in or failure of Common Areas; broken glass; water leakage; the collapse of any Building component; or any act, omission or negligence of co-tenants, licensees or any other persons or occupants of the Building.

B-6 INSURANCE

a. Lessee-Furnished Insurance. The Lessee shall maintain insurance in force at all times during the Term of this Lease at no expense to the City. The term insurance shall be deemed to include insurance and/or self-insurance. Such insurance shall be maintained with coverages and limits as specified below.

(1) **LIABILITY INSURANCE**. Commercial General Liability (CGL) insurance, including premises/operations, products and completed operations, contractual, independent contractors, stop gap/employer's liability, advertising/personal injury and tenant/fire legal liability with limits of liability of not less than \$1,000,000 each occurrence combined single limit bodily injury and property damage, except:

- \$1,000,000 each offense as respects advertising/personal injury
- \$1,000,000 each accident/disease/employee as respects stop gap/employers liability
- \$ 500,000 each occurrence tenant/fire legal liability.

(2) **WORKERS COMPENSATION**. Worker's Compensation insurance in compliance with Title 51 Revised Code of Washington.

(3) **PROPERTY INSURANCE.** All risks property insurance, excluding earthquake and flood, on tenant improvements, business and personal property and inventory on a replacement cost basis. Such property insurance shall include business interruption coverage with sufficient limits of liability to provide for the ongoing payment of additional expenses and loss of revenues during any interruption of the Lessee's business because of a covered loss. The placement of all Lessee-owned property on the Premises shall be at Lessee's sole risk.

b. City-Furnished Insurance. The City shall maintain property insurance in force at all times during the Term of this Lease at no expense to the Lessee. The term insurance shall be deemed to include insurance and/or self-insurance. Such insurance shall consist of all risks property insurance, including earthquake and flood, on the building structure, including City-owned improvements, business and personal property and inventory, on a replacement cost basis. Such City-furnished property insurance shall exclude Lessee's tenant improvements, business and personal property and inventory.

c. Waiver of Subrogation. Neither Landlord nor Tenant shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure, or tangible personal property of the other occurring in or about the Premises or Building, even though such loss or damage might have been occasioned by the negligence of such party or any of its agents or employees, if such loss or damage is covered by insurance benefiting the party suffering such loss or damage or was required under terms of this Lease to be covered by insurance procured by the Tenant. Tenant shall cause each insurance policy obtained by it to contain such waiver of subrogation clause. Anything to the contrary notwithstanding, Landlord does not waive its right to recover any and all deductibles, self insured retentions, or other out of pocket losses or damages. Said losses or damages shall not be considered to be "covered by insurance."

d. General Terms and Conditions for Lessee-Furnished Insurance (Not Applicable to Workers Compensation):

(1) **CITY OF SEATTLE AS ADDITIONAL INSURED.** The CGL insurance shall include the City of Seattle as an additional insured for primary and non-contributory limits.

(2) **NO LIMITATION OF LIABILITY.** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. They shall not be construed to

limit the liability of the Lessee or any insurer for any claim that is required to be covered hereunder. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by the Lessee, whether those limits are primary, excess, contingent or otherwise.

(3) CLAIMS MADE FORM. If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this contract. Claims made coverage shall be maintained by the Lessee for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Vendor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Vendor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the City to assure financial responsibility for liability assumed under the contract.

(4) SELF-INSURED RETENTIONS. Any self-insured retention in excess of \$25,000 must be disclosed and is subject to approval by the City's Risk Management Division. Should the Lessee be self-insured, it shall state in writing that it will protect and defend the City as an additional insured within its self-insured layer as if a commercial general liability insurance policy were in force and advise to whom a tender of a claim should be directed.

(5) NOTICE OF CANCELLATION. Under RCW 48.18.290 (1) (a) and (b) ("Cancellation by insurer") applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than 45 days prior to cancellation, except 10 days as respects non-payment of premium. As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation, except 10 days as respects non-payment of premium.

(6) QUALIFICATION OF INSURERS. Insurers shall maintain A.M. Best's ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.



(7) **CHANGES IN INSURANCE REQUIREMENTS.** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to the Lessee. Should the Lessee, despite its best efforts, be unable to maintain any required insurance coverage or limit of liability due to deteriorating insurance market conditions, it may upon thirty (30) days prior written notice request a waiver of any insurance requirement, which request shall not be unreasonably denied.

e. Evidence of Insurance. The Lessee shall not enter upon any Seattle Center facility until it has filed, or caused to have been filed, with the City evidence of insurance as required by this Lease in the manner specified below:

- (1) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
- (2) An attached additional insured endorsement or blanket additional insured wording to the CGL insurance policy evidencing coverage on a primary and non-contributory basis.

Such evidence of insurance shall be sent to each of the following:

Seattle Center Director
Seattle Center Department
The City of Seattle
305 Harrison Street
Seattle, WA 98109

The City of Seattle
Risk Management Division
P.O. Box 94669
Seattle, WA 98118-4669

or to such other addressees as the City may hereafter specify.

B-7 PREMISES IMPROVEMENTS, ADDITIONS, AND

a. Acceptance of Premises: Lessee accepts the Premises in their condition as of the commencement date of the term hereof. The City disclaims all representations, statements, and warranties, expressed or implied, with respect to the condition of the Premises or the use and occupancy authorized other than those contained in this Lease.

b. Prior Approval of Plans & Specifications Required: The Lessee shall submit to the Director, for approval, schematic designs, design development drawings, and final working drawings and specifications for the construction on the Premises of improvements, additions, and alterations to convert the Premises to the condition desired by the Lessee for the operation of its business. All such designs, drawings and



plans for work affecting, in any way, the structural, mechanical or electrical systems of the building of which the Premises forms a part or for work reasonably expected to cost in excess of Two Thousand Dollars (\$2,000) shall be prepared by a licensed architect or engineer, who shall have affixed to the same his/her signature and seal. No change shall be made to any electrical wiring or plumbing in the Premises or any utility service to or from the Premises as of the commencement date of this Lease and at any time subsequent thereto, other than a change made by a properly licensed electrician or plumber. No demolition, remodeling, or construction work shall begin on any improvement, addition, or alteration on the Premises or to any utility service connecting with the Premises or any portion thereof, or to any other City facility, until after the Director has approved the same and all other required authorizations have been secured for such work. If any improvement, addition or alteration to the Premises is begun, the portion of the Premises that is subjected to such change must be made accessible for disabled people as required by applicable law.

c. No Representation or Liability Created by Approval: The approval of any plans and specifications by the Director shall not constitute an opinion or representation by the City as to their completeness; design sufficiency; compliance with any law, ordinance, rule or regulation; or their adequacy for other than the Seattle Center's own purposes. No such approval shall create or form the basis of any liability on the part of the City or any of its officers, employees, or agents for any injury or damage resulting from any inadequacy or error therein or any failure to comply with any applicable law, ordinance, rule or regulation.

d. Work Inconsistent with Approved Plans & Specifications: No improvement, alteration, or addition shall be constructed, placed, or erected on the Premises except in accordance with the Seattle Center-approved plans and specifications attached hereto as "Part D." Immediately following the Lessee's receipt of notice by the City of any non-approved improvement, addition, or alteration in, on, or being made to the Premises, the Lessee shall either desist from the occupation, use, and operation of such improvement, addition, or alteration and remove it from the Premises or make it consistent with such approved plans and specifications.

e. Changes in City Facilities, Utilities or Services: In the event an improvement, addition, or alteration made or desired to be made by the Lessee requires or would require any change in any facility, utility or service provided by the City, the Lessee shall pay, as additional rent, any costs incurred by the City in making such change or otherwise in connection therewith.

f. Work at Lessee's Expense:

(1) All improvements, additions, and alterations made to the Premises to convert the same to the condition desired by Lessee for the operation of its business, shall be at the expense of the Lessee, and at no expense to the City unless otherwise specifically agreed upon in writing.

(2) In the event any activity or omission of the Lessee results in damage to City property or any other lessee's Premises or property, and the City undertakes emergency repair or cleanup activity, the Lessee shall be liable for the full cost of such City work.

g Improvements, Additions & Alterations and Fixtures Become City Property: All improvements, additions, and alterations made to, and fixtures installed on, the Premises shall become the property of the City upon the expiration or termination of this Agreement except for those items specified by the Director by written notice to the Lessee. All improvements, additions, alterations and fixtures not identified in such Director's notice shall remain in, and be surrendered with the Premises as a part thereof without molestation, disturbance or injury.

h No Liens or Encumbrances: The Lessee shall keep the Premises free and clear of any liens and encumbrances arising or growing out of its use and occupancy of the Premises. At the request of the Director, the Lessee shall deliver to the Director written proof of the payment of any item that could be the basis of such a lien, if not paid.

i Construction Bond: Prior to commencing any alteration, addition or improvement work on the Premises, the Lessee shall file with the Director a good and sufficient corporate surety bond subject to approval by the City Attorney as to form and surety, conditioned upon the completion and installation of said addition, alteration or improvement as described in plans submitted to and approved by the Director and City and in accordance with the provisions of this Lease and all licenses, permits, ordinances, statutes, regulations and laws governing the making of said improvement, and further conditioned upon the payment of all persons supplying labor and material for the making of said addition, alteration and improvement, and upon the making of said addition, alteration, and improvement without cost and expense to the City; *Provided*, however, that the Director may waive or reduce this surety bond requirement if, in the opinion of the Director, such surety bond coverage either is unavailable or available only at a cost deemed by the Director to be unreasonable under the circumstances.



j Construction Liability Insurance: The Lessee shall require its general contractor ("Contractor") to maintain during the full period of the course of construction of any physical addition, alteration or improvement to the Premises, at no cost to the City, the following insurance:

(1) **LIABILITY INSURANCE.** Commercial General Liability (CGL) insurance, including premises/operations, products and completed operations, contractual, independent contractors and stop gap/employer's liability with limits of liability of not less than \$1,000,000 each occurrence combined single limit bodily injury and property damage, except \$1,000,000 each accident/disease/employee as respects stop gap/employers liability

(2) **WORKERS COMPENSATION.** Worker's Compensation insurance in compliance with Title 51 Revised Code of Washington.

(3) **GENERAL TERMS AND CONDITIONS (NOT APPLICABLE TO WORKERS COMPENSATION):**

(a) **CITY OF SEATTLE AS ADDITIONAL INSURED.** The CGL insurance shall include the City of Seattle as an additional insured for primary and non-contributory limits.

(b) **NO LIMITATION OF LIABILITY.** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. They shall not be construed to limit the liability of the Contractor or any insurer for any claim that is required to be covered hereunder. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by the Contractor, whether those limits are primary, excess, contingent or otherwise.

(c) **CLAIMS MADE FORM.** If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this contract. Claims made coverage shall be maintained by the Contractor for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Vendor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Vendor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the



City to assure financial responsibility for liability assumed under the contract.

(d) SELF-INSURED RETENTIONS. Any self-insured retention in excess of \$25,000 must be disclosed and is subject to approval by the City's Risk Management Division. Should the Contractor be self-insured, it shall state in writing that it will protect and defend the City as an additional insured within its self-insured layer as if a commercial general liability insurance policy were in force and advise to whom a tender of a claim should be directed.

(e) NOTICE OF CANCELLATION. Under RCW 48.18.290 (1) (a) and (b) ("Cancellation by insurer") applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than 45 days prior to cancellation, except 10 days as respects non-payment of premium. As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation, except 10 days as respects non-payment of premium.

(f) QUALIFICATION OF INSURERS. Insurers shall maintain A.M. Best's ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.

(4) Evidence of Insurance. The Contractor shall not enter upon any Seattle Center facility until it has filed, or caused to have been filed, with the City evidence of insurance as required by this paragraph j. in the manner specified below:

(a) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;

(b) An attached additional insured endorsement or blanket additional insured wording to the CGL insurance policy evidencing coverage on a primary and non-contributory basis.

Such evidence of insurance shall be send to each of the following:

Seattle Center Director	The City of Seattle
Seattle Center Department	Risk Management Division
The City of Seattle	P.O. Box 94669
305 Harrison Street	Seattle, WA 98118-4669
Seattle, WA 98109	

or to such other addressees as the City may hereafter specify.

k Delivery of "As-Built" Drawings: Immediately after the completion of each improvement, addition, or alteration to the Premises, the Lessee shall deliver to the Director a complete set of reproducible 24" x 36" drawings reflecting the final "as-built" condition of said improvement, addition or alteration, together with either the original or a copy of all maintenance and operation manuals necessary for the repair and maintenance of any architectural, mechanical or electrical building system or piece of equipment installed on the Premises that is all or part of such improvement, addition or alteration.

l Testing of Premises: The Lessee may make such tests, borings and other minor disturbances of the Premises as may be necessary to develop designs and plans for all required or desired improvements, additions and alterations to the Premises, including installations and modifications to accommodate changes in trade fixtures intended for use on the Premises. A report of the findings and results of each such test or boring shall be submitted to the Director within thirty (30) days after the date such findings and results are obtained.

B-8 COVENANTS REGARDING OPERATION OF LESSEE'S BUSINESS

a. Obligation to Open for Business: The Lessee shall open for business within sixty (60) days after the date the Premises are made available to the Lessee for the constructions of its initial improvements, additions, and alterations, or sixty (60) days after the City's approval of plans and issuance of building permit, whichever is later.

b. Business Hours: The Lessee shall not leave the Premises unoccupied or vacant, but shall open and maintain its operation therein ready for the transaction of business with the public on such days and during such minimum operating hours as may be designated by the Director, from time to time, with the exception of temporary closures for such period as may be necessary for repairs, redecorating, or circumstances beyond the Lessee's control.

c. First Class Operations: The Lessee shall carry on its business with diligence and efficiency, making the Lessee's best efforts to produce

the maximum amount of Gross Receipts as defined in Section B-2 hereof. To that end, Lessee shall:

- (i) In addition to, and not in lieu of, any other standards that may be set forth in this Lease, Lessee shall maintain the Premises in a first-class, well maintained condition at all times during the term. Unless shown to be unreasonable by clear, cogent and convincing evidence, the City shall be the final arbiter of what constitutes "first class, well maintained condition."
- (ii) Lessee agrees to upgrade and refurbish the Premises on or before the fifth (5th) anniversary of the Commencement Date in a manner acceptable to the City in order to maintain an attractive and enticing appearance to customers. Lessee shall submit to the City a schedule of refurbishment (in conformance with Section B-7) before starting any work, which shall include painting and repair attributable to ordinary wear and tear, and any replacement of furniture trade fixtures, and equipment.
- (iii) Lessee shall continuously review and analyze new trends or concepts in the food and beverage service industry and agrees to improve its operation by applying such new trends or concepts at the Premises, subject to the City's prior approval.

d Personnel: The Lessee shall employ courteous, competent, and efficient help in such numbers, skills, and experience as to properly conduct its activities on the Premises. The Lessee shall have on the Premises, at all times it is open for business, a qualified representative authorized to represent the Lessee in dealings with the City, and shall keep the Director informed of the identity of such person.

e Business Name: The Lessee shall not change the name by which it carries on its business without the written consent of the Director whose consent shall not be unreasonably withheld.

f Fixtures, Furnishings, and Trade Equipment, Cash Registers: All fixtures, furnishings, and trade equipment installed on the Premises shall be of high quality, of a modern type, and either new or completely reconditioned. Temporary or portable concession facilities shall be of the same quality as those permanently installed. Tenant's cash registers shall have the capability to transmit electronic journal financial reports digitally to the City, and shall be non-resetting and with a cumulative total. Tenant's cash registers shall further be subject to the approval of the Director.

g Personal Property Inventory: During the last two (2) weeks of June of each year during the term of this Lease, the Lessee shall

inventory all of its personal property on the Premises other than merchandise offered for sale or rent to the public, and furnish the Director with a copy of a written inventory report itemizing the same. The personal property inventory most recently filed by the Lessee is attached hereto as "Part E."

h Deliveries: All deliveries shall be made to a delivery location or entrance designated by the Director and shall be completed prior to the time specified by the Director. Special arrangements may be made if approved by The Director.

i No Nuisances or Objectionable Activity: The Lessee shall not permit any excessive or objectionable noise, odor, dust, vibration or similar substance or condition to remain on or be emitted from the Premises; shall not interfere with access from the Seattle Center or any part thereof, including the Premises, or with the traffic thereon; shall not create any nuisance in or adjacent to the Seattle Center; and shall not do anything on the Seattle Center that will create a danger to life or limb.

j. Restrictions on Use of Common Areas: Neither the Lessee nor any of its officers, employees, or invitees shall use the Common Areas of Seattle Center (those areas designated by the Director as being for the general and shared use by Seattle Center tenants and their employees and invitees, City employees, and Seattle Center visitors, and not within the exclusive control of any tenant or licensee, which areas include but are not limited to public walkways, hallways, corridors, elevators, escalators, stairways, lounges, general seating areas, and restrooms) to meet governmental requirements peculiar to the Lessee's operations on the Premises or otherwise (such as the location for any sign or signboard) without the express written approval of the Director. Whenever the Lessee, or any of its officers, employees, or invitees requires any equipment, separate area(s) or special facility to satisfy any such governmental requirement, such equipment, area(s), and facility shall be located within the Premises at the Lessee's sole expense.

k Illumination of Premises: The Premises and all fixtures, furnishings, and trade equipment thereon shall be effectively illuminated, as determined by the Director, during all hours the Lessee is open for business.

l. Fire Extinguisher Within Premises: During the term of this Lease, the Lessee shall secure, maintain and install in the Premises, in a prominent location in the kitchen area, a 2A-10BC class fire extinguisher, or an alternate approved by the Fire Marshall. In addition, for kitchens using char-broilers, deep fat fryers, wood burning, wok cooking, or pan frying, a UL300 rated "Class K" extinguisher is also required to be maintained and installed in a prominent location in the kitchen area, or an

alternative approved by the Fire Marshall. Lessee shall instruct all of its employees regarding appropriate use of all fire extinguishers required to be on the Premises. Lessee shall recharge such fire extinguisher(s) not less than once a year and immediately following any use.

m. Food-Serving Material: The Lessee shall not serve or permit any other person or entity to serve on the Premises any food or beverage in any plastic or polystyrene foam food or beverage container or any other type of food or beverage serving container that is hereafter legally prohibited or prohibited by Seattle Center policy. Additionally, all serving products and packaging and packaging must be selected to minimize adverse environmental impact, with an emphasis on recycled, recyclable, and sustainable products.

n. Tenants' Association: The Lessee shall join and thereafter maintain full membership in any association established for Tenants of Center House.

o. Objectionable Merchandise or Material: Notwithstanding any other provision of this Lease, the Lessee shall not display or offer for sale or rent, or allow to be displayed or offered for sale or rent, on the Premises, any merchandise or other material that is unsafe; that portrays the City or Seattle Center or any aspect thereof in an incorrect, misleading, or unfavorable manner; that depicts or suggests in words, symbols, illustrations, or other forms, any act of violence, or any lewd, immoral, or obscene activity; or that is inconsistent with the image of a first-class, family-oriented retail and entertainment development, or is otherwise inappropriate for a family-oriented recreation and entertainment facility such as Seattle Center; or that may create a substantial litter or other maintenance problem at Seattle Center; all of which shall be determined by the Director in the exercise of such official's sole discretion.

p. Core and Key Installation or Change: The Lessee shall obtain from the City, and pay in advance of delivery, the then current Seattle Center charge for, whatever number of lock cores, padlocks and keys are desired for all doors in and to the Premises. Upon the expiration or earlier termination of this Lease, the Lessee shall return to the City all of the keys it obtained for the doors and padlocks on and to the Premises.

q. Credit Cards: Lessee shall accept Visa and MasterCard and may accept additional credit cards in the operation of its business on the Premises. If a credit card company becomes a sponsor of Seattle Center, its programs or buildings, then that credit card shall also be accepted by Lessee.

B-9 UTILITY SERVICES AND PARKING

a. Extent of City Service; Lessee Responsibilities: The City shall provide sewer, water, and electricity service to the Premises, and Lessee shall be responsible for the associated costs as described in Part A-5. Lessee shall be responsible for any telephone or communications utility services to the Premises. Lessee shall furnish, install and maintain all power circuits and connections required for equipment and mechanical systems used in the Premises. Wattage requirements are subject to City approval. Lessee shall pay, before delinquency, all fees and charges for the installation, change, and relocation of any point or means of service by any utility or waste line or system. Lessee shall be responsible for extending, at its own cost and expense, any utility services from the distribution points determined by the Director.

b. Limitation on City Liability Regarding Utility Service: City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Lessee or to relieve Lessee from any of Lessee's obligations hereunder or to give Lessee a right of action against City for damages. Lessee acknowledges its understanding that there may be City-planned utility outages affecting the building and that such outages may interfere, from time to time, with Lessee's use of the Premises. City shall endeavor to provide Lessee with 48 hours prior notice of any City-planned electricity outage in the building but shall not be liable to Lessee for City's failure to provide such notice. City has no obligation to provide emergency or backup power to Lessee. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Lessee.

c. Special Services and Facilities Subject to Prior City Approval, and at Lessee's Cost: The Lessee, directly or through a third party, may install, secure, maintain and repair, at no expense to the City, any utility service related to the Lessee's operations and its use of the Premises that is not provided or maintained by the City. Any special utility or waste disposal facility, item of equipment, or service beyond that provided to the Premises by the City, must be installed only in accordance with plans and specifications approved by the Director and other appropriate City officials, in writing, in advance of such installation. The Lessee shall not install on the Premises any fixture, furnishing, or trade equipment that exceeds the capacity of any utility or waste facility for such location. The Lessee shall pay, before delinquency, all fees and charges for the



installation, change, and relocation of any point or means of service by any utility or waste line or system. The Lessee shall pay all bills, before delinquency, for such service, making arrangements with the utility service provider for the separate metering, where possible, of such service and the direct billing to the Lessee for the delivery of such service.

d. Cooperative Parking: As of the commencement date of this Lease, the Seattle Center has a "Cooperative Parking Status" under Title 23 of the Seattle Municipal Code. Accordingly, unless otherwise specifically provided herein, the City does not provide any parking that is specifically for or associated with the Premises (including but not limited to that required by or for the Lessee's staff, suppliers or customers), and whatever general, non-reserved parking the City makes available for Seattle Center tenants and their respective staffs, suppliers, and customers shall be shared on a first-come, first-served basis.

B-10 ADVERTISING & PUBLICITY

a. Prohibited Promotion & Other Material; Removal of Same: The Lessee shall not display, post, or distribute any sign, symbol, advertising of any nature, or any printed material (including but not limited to posters) on any part of the Seattle Center, including but not limited to the Premises, except after receiving written permission therefore from the Director; and may undertake such activity only in or on location(s) approved by the Director. On or before the expiration or termination date of this Lease, whichever is earlier, or in the case of unauthorized material, on or before the date specified in the Director's notice to remove the same, the Lessee shall remove, at no expense to the City, all such signs, symbols, advertising and printed material; and correct any unsightly condition, and repair any damage or injury to City property caused by such signs, symbols, advertising and printed material, and the removal thereof. In the event any such unauthorized material is not removed from City property by the date required herein, such material may be treated as Lessee property subject to removal and storage pursuant to Subsection B-19.c hereof.

b. Use of Photos & Similar Materials: Each party hereto may make photographs, video tapes, and motion pictures of the Premises and the activity, people, displays and exhibits thereon; *Provided*, that in the event such visual material is to be used for commercial advertising purposes, prior to making the same, the Lessee shall obtain the written approval of the Director for such use, which approval may be conditioned upon, among other things, the payment by the Lessee to the City of additional consideration; and prior to the use of any such photography,

video tape, or motion picture, a written release shall be obtained from every individual identifiable in the same.

B-11 MAINTENANCE, CLEANING & REPAIR

a. City Responsibilities: The City shall maintain, clean and repair the exterior and structural aspects of the Premises as well as the Seattle Center common areas, but not the interior or window areas of Premises except as may be indicated in Part A hereof. Such maintenance, cleaning and repairing shall be to the ordinary standard of work performed on other, major use facilities at Seattle Center, to keep the same in good condition, normal wear and tear and damage and destruction by fire or other extraordinary casualty excepted. In connection therewith, the City shall remove garbage and other refuse from locations designated by the Director for such purpose, and repair potable water, sewer, and storm water lines connecting with similar lines on the Premises. In undertaking such maintenance, the City shall make a good faith effort to not unreasonably interfere with the Lessee's business on the Premises. The Lessee waives all claims for damages, including for any loss of business, resulting from City maintenance, cleaning and repair work except to the extent of City gross negligence and the City's unreasonable interference with the Lessee's use of the Premises.

b. Lessee's Responsibilities: Lessee at its own cost and expense shall take good care of the Premises, including improvements, alterations, and additions thereto, and shall reimburse City for all damage done to the Building or Premises that results from any act or omission of Lessee or any of Lessee's officers, contractors, agents, invitees, licensees or employees, including, but not limited to, cracking or breaking of glass. If Lessee fails to take good care of the Premises, City, at its option, may do so, and in such event, upon receipt of written statements from City, Lessee shall promptly pay the entire cost thereof as an Additional Rent. City shall have the right to enter the Premises for such purposes. Lessee shall further keep its personal property and equipment at all times in good repair and in a neat, clean, and sanitary condition. In carrying out such responsibilities, the Lessee, among other things, shall:

(1) Clean all glass in the windows, doors, display cases, and equipment on the Premises at least once a month, and replace any such glass immediately after it becomes cracked or broken;

(2) Generally repaint all painted surfaces at least once every five (5) years, and spot-paint any surface area that has become chipped, spotted, faded, or otherwise unattractive immediately after such condition has been discovered;



- (3) Keep all drainage pipes free and open;
- (4) Have all plumbing and plumbing fixtures inspected at least once every quarter and repaired or replaced as necessary or advisable in the opinion of the Director; repair all damage resulting from any plumbing fixture, any equipment connected to plumbing, or pipe resulting from the Lessee's failure to keep such fixture or pipe in good operating condition; and in the event of any failure by the Lessee to satisfy this repair obligation within four (4) hours after receipt of notice from the Director of any such damage, the City reserves the right, but shall have no obligation, to undertake such repair, the cost of which shall be reimbursed by the Lessee (including but not limited to Seattle Center labor and project management) plus an administrative charge of \$250.00; Lessee shall further take whatever action may be required or advisable in the opinion of the Director to avoid further damage (e.g., replacing plumbing, sealing floors, etc.);
- (5) Maintain and periodically clean at least once every three (3) months, and for wood burning cooking facilities clean at least once every month, all exhaust system duct work on the Premises and its connection with the City's common duct system, to eliminate all risk of fire;
- (6) Clean all grease traps on the Premises on a regularly scheduled basis which shall be at least once every three (3) months or more frequently if determined necessary by the Director;
- (7) Remove, periodically, in a timely and careful manner, to all areas designated by the Director, all debris generated by or peculiar to the Lessee's operations on the Premises;
- (8) Replace, from time to time, worn or irreparably damaged trade equipment, furnishings and fixtures with other material satisfying the requirements of Subsection B-7.f hereof;
- (9) Prevent the presence of vermin, insects, and other pests on the Premises by, among other actions, contracting with an independent pest control company for the performance of pest control services in the Premises not less frequently than once every two (2) weeks; and by providing to the Director, within thirty (30) days after the commencement date of this Lease, written documentation that such service has been contracted for, and within 24 hours of the bi-weekly performance of such service, written documentation that such service has been performed on the Premises; and



- (10) At least once per month, remove all dust, grit and dirt from, and otherwise clean and perform necessary maintenance work on, any rolling grille located on the Premises.

In the event the Lessee fails to satisfy, in a timely manner after its receipt of notice from the Director of the need for such work, any of the obligations specified in this Section, the City reserves the right (but shall have no obligation) to undertake such work. In the event the City undertakes such work for the Lessee pursuant to this Section, the Lessee shall pay the City, as additional rent, reimbursement of the actual expenses incurred by the City in undertaking such work (including but not limited to Seattle Center labor and project management) plus an administrative charge of \$250.00.

B-12 COMPLIANCE WITH LAW

a. General Requirements: The Lessee, at no cost to the City, shall perform and comply with all applicable, current and future laws of the United States and the State of Washington; the Charter and Municipal Code of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. The Lessee shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.10, 20.42, and 20.45 of the Seattle Municipal Code (SMC), as they may be amended; and rules, regulations, orders, and directives of the associated administrative agencies and their officers. The Lessee shall use its best efforts to ensure that every person it admits to the Premises similarly performs and complies with the same. Whenever the Lessee or its authorized representative is informed of any violation of any such law, ordinance, rule, regulation, license, permit, or authorization committed by it or any person admitted to the Premises, the Lessee shall immediately desist from and/or prevent or correct such violation.

b. Licenses & Other Authorizations: The Lessee, at no cost to the City, shall secure and maintain in full force and effect during the term of this Lease, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

c. Taxes: In addition to all other payments and obligations required of Lessee under this Lease, Lessee shall pay, before delinquency, all taxes, levies, and assessments arising from its activities on or occupancy of the Premises, including but not limited to taxes arising out of the activity or business conducted on the Premises; taxes levied on its property, equipment and improvements on the Premises; and taxes on the Lessee's interest in this Lease and any leasehold interest deemed to have been created thereby under RCW Ch. 82.29A; and in the event the

State of Washington makes any demand upon the City for payment of leasehold excise taxes resulting from the Lessee's occupancy of the Premises or withholds funds due to the City to enforce collections of leasehold excise taxes, the Lessee shall remit the taxes demanded together with any interest and penalties associated therewith or, at no expense to the City, contest such collection action and indemnify the City for all sums expended by, or withheld by the State of Washington from the City in connection with such taxation.

e. Recycling of Waste Materials: The City is striving to improve recycling at Seattle Center by increasing both the amount and categories of recycled items. As such, the Lessee shall comply with the requirements of this paragraph and in addition shall comply with all Seattle Center recycling rules, regulations, or programs, currently existing or as may be instituted or amended. The Lessee, at no cost to the City, shall collect, sort and separate into such categories as may be legally required, all solid waste products on the Premises, and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles reasonably approved by the City, which receptacles shall be dumped or removed from the Seattle Center at such minimum frequency as is specified by the Director. The Lessee shall compost meats, dairy, and all pre-consumer used paper products in addition to the current recycling program of cans, bottles, plastics and paper. The City reserves the right to refuse to collect or accept from the Lessee any waste product that is not sorted and separated as required by law, ordinance, rule or regulation, and to require the Lessee to arrange for the collection of the same at the Lessee's sole cost and expense using a contractor satisfactory to the City. The Lessee shall pay all costs, fines, penalties, and damages that may be imposed on City or the Lessee as a consequence of the Lessee's failure to comply with the provisions of this subsection.

f. Environmental Standards:

(1) Definitions: For the purpose of this subsection, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

(a) "Laws or Regulation" shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction of which the Lessee has knowledge), now or hereafter in effect including but not limited to the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Comprehensive

Environmental Response Compensation and Liability Act as amended by the Superfund Amendments and Re-authorization Act of 1986, the Resource Conservation and Recovery Act as amended by the Solid and Hazardous Waste Amendments of 1984, the Occupational Safety and Health Act, the Emergency Planning and Community Right-to-Know Act of 1986, and the Solid Waste Disposal Act.

(b) "Hazardous Substances" shall mean any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any federal, state, or local statute, ordinance, or regulation relating to environmental protection, contamination or cleanup.

(2) Restrictions on Lessee Activities: The Lessee shall not cause to occur upon the Premises or permit the Premises to be used to generate, produce, manufacture, refine, transport, treat, store, handle, dispose, transfer, or process Hazardous Substances except in compliance with all applicable Laws and Regulations. The Lessee shall provide the Director with the Lessee's USEPA Waste Generator Number (if any), and with a copy of every Material Safety Data Sheet (MSDS), Generator Annual Dangerous Waste Report, environmentally related regulatory permit or approval (including every revision or renewal thereof) and any correspondence the Lessee receives from, or provides to, any governmental unit or agency in connection with the Lessee's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

(3) Correction of Violations: If the Lessee violates any of the terms of this section concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, the Lessee shall promptly take such action as is necessary to mitigate and correct the violation. If the Lessee does not act in a prudent and prompt manner, the City reserves the right, but not the obligation, to act in place of the Lessee (for which purpose the Lessee hereby appoints the City as its agent), to come onto the Premises and to take such action as the City deems necessary to ensure compliance or to mitigate the violation. If the Director has a reasonable belief that the Lessee is in violation of any law or regulation, or that any action or inaction of the Lessee presents a threat of violation or a threat of damage to the Premises, the City reserves the right to enter onto the Premises and take such corrective or mitigating

action as the Director deems necessary. All costs and expenses incurred by the City in connection with any such action shall become immediately due and payable by the Lessee upon presentation of an invoice therefore.

(4) Testing: The Lessee shall provide the City with access to the Premises to conduct an annual environmental inspection in January of each year of the term hereof or at such other time(s) as may be mutually agreed upon. In addition, the Lessee shall permit the City access to the Premises at any time, upon reasonable notice, for the purpose of conducting environmental testing at the City's expense. The Lessee shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Director's written consent, which shall not be unreasonably withheld. The Lessee shall promptly inform the Director of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to the Lessee, and the Lessee shall provide a written copy of the same to the Director within thirty (30) days after the preparation of any such material.

(5) Removal of Hazardous Substances Prior to Vacation of Premises: Prior to vacation of the Premises, in addition to all other requirements under this Lease, the Lessee shall remove any Hazardous Substances placed on the Premises during the term of this Lease or the Lessee's possession of the Premises, and shall demonstrate such removal to the Director's reasonable satisfaction.

(6) Reimbursement of City Costs: In addition to any remedy provided above, the City shall be entitled to full reimbursement from the Lessee whenever the City incurs any cost resulting from the Lessee's violation of any of the terms of this Subsection B-12.f, including, but not limited to, the cost of clean-up or any other remedial activity, fines, penalties assessed directly against the City, injuries to third persons or other property, and loss of revenue resulting from an inability to re-lease or market the Premises due to its environmental condition as the result of the Lessee's violation of the terms of this Lease (even if such loss of revenue occurs after the expiration or earlier termination of this Lease).

(7) Indemnification: In addition to all other indemnities provided in this Lease, and notwithstanding the expiration or earlier termination of this Lease, the Lessee agrees to and shall

defend, indemnify and hold the City free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence or discovery of any Hazardous Substance on the Premises resulting from a violation of the terms of this section, or the migration of any Hazardous Substance from the Premises to other property or into the surrounding environment that is the result of a violation of the terms of this section, whether (a) made, commenced or incurred during the term of this Lease, or (b) made, commenced or incurred after the expiration or termination of this Lease if arising out of an event occurring during the term of this Lease. The indemnification provided in this subsection shall survive the expiration or earlier termination of this Agreement.

B-13 CITY'S CONTROL OF BUILDINGS, GROUNDS & ACTIVITIES

Notwithstanding any other provision of this Lease, the City, without liability of any kind, may:

- a. Physical Appearance: Increase, reduce or change, in any manner and any extent whatsoever, the number, appearance, dimensions, and location of any and every Seattle Center walkway, landscaping element, parking, service area, and building (including the Center House Building as desired by the City;
- b. Traffic & Parking Regulation: Regulate all traffic within and adjacent to the Seattle Center; and restrict or prohibit the parking on City-owned or leased property of motor vehicles owned or operated by the Lessee or any of its officers, employees, agents, suppliers, and invitees;
- c. Admission Charges: Impose a reasonable charge for admission to the Seattle Center and any of the facilities therein, including parking facilities;
- d. Promotions & Events: Erect, display and remove promotional exhibits and materials and permit special events on the Seattle Center grounds and in or at any or every building and facility thereof including but not limited to the common areas of the Center House Building;
- e. Rules & Regulations: Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any area of Seattle Center;



f. Hours of Operation: Determine the days and hours that the Seattle Center and the various business operations therein will be open to the public;

g. Other Businesses & Operations: Change the size, number, and type and identity of other businesses and operations being conducted or undertaken at Seattle Center; and authorize other lessees, licensees, and the sponsors of special events at Seattle Center, directly or indirectly, to offer for sale food and beverages, and for sale or rent any merchandise and service, including any that may be identical or similar to that offered by the Lessee;

h. Signage: Place "For Rent" or similar signs in the Premises for thirty (30) days prior to the expiration or termination date of this Lease, whichever is earlier.

i. Interference: Interfere with light, air or view, or the Lessee's operations or use and occupancy of the Premises, either in connection with or as a result of operations by or for City in the construction of any public work or its subsequent use and occupancy, or the repair and maintenance of any City facility or improvement. The City will make a good faith effort, however, to minimize such interference to the extent it is reasonably economical for the City to do so.

B-14 CITY ACCESS TO, & INSPECTION, REPAIR & IMPROVEMENT OF PREMISES & OTHER PROPERTY

a. Access to Premises: The Lessee shall provide the City and its contractors and consultants, their subcontractors, subconsultants and agents with access to the Premises at all reasonable times to inspect the same and to make any inspection, repair or improvement deemed necessary by the Director, but this right of access shall not impose on the City any obligation to make any repair, alteration, addition, or improvement except as specifically provided herein.

b. Permitted Interference With Lessee's Operations: In inspecting, and in making repairs, alterations, additions, and improvements, the City may erect barricades and scaffolding in and outside of the Premises, and may otherwise interfere with the conduct of the Lessee's business and operations where such action is reasonably required by the nature of the City's work; and such interference shall not be deemed to be a breach or default under this Lease.

c. Suspension of Lessee's Operations and Obligation to Pay Monthly Base Rent: In the event such inspection, repair, alteration, addition, or improvement work necessitates the temporary suspension of the Lessee's business or operations in, on, or from the Premises, the

Director shall notify the Lessee of such necessity and the anticipated beginning and ending dates of such suspension. Monthly Base Rent due to City pursuant to Section A-3 hereof shall be prorated during each month in which the Lessee's business or operations are required by City to be suspended pursuant to this subsection, and the Lessee shall have no obligation to pay such prorated rent during the period that the Lessee's business or operations are suspended; such cancellation of the obligation to pay the prorated Monthly Base Rent shall constitute the totality of relief available, and the Lessee waives all claims for damages and for any injury to and interference with its operations or business and losses occasioned by any such suspension.

d. City's Retention & Use of Key to Premises: The Lessee shall provide the Director with a key with which to unlock all of the doors in, upon, and about the Premises, excluding the Lessee's vaults, safes, and files, for each of the aforesaid purposes. The City shall have the right to use any and all means that the Director deems proper to open said doors in an emergency, in order to obtain entry to the Premises, without liability to the Lessee except for any failure to exercise due care for the Lessee's property. Any entry to the Premises obtained by the City by any of said means, or otherwise, shall not be construed or deemed to be an eviction of the Lessee or a forcible or unlawful entry into, or a detainer of, the Premises or any portion thereof.

B-15 ASSIGNMENTS, SUBLEASES & OTHER INTEREST TRANSFERS

a. Director's Prior Written Consent Required for Assignment & Subleases: No purported assignment, sublease or other transfer of the Premises or any portion thereof or of any aspect of the Lessee's interest in this Lease shall be effective without the prior written consent of the Director whose consent may be conditioned or withheld at the sole discretion of the director. Every proposed sublease, assignment, or other interest-transferring agreement shall be submitted to the Director for review and approval or disapproval after execution by the proposed subtenant, assignee, or transferee, and not less than fourteen (14) calendar days prior to the commencement date of the proposed sublessee's, assignee's, or transferee's intended use of any portion of the Premises under such agreement or the assumption of any right or interest in any portion of the Premises or this Lease. No assignment or sublease of this Lease, with or without the Director's consent, shall release or relieve the Lessee of or from any of the obligations on the Lessee's part to be kept and performed under this Lease, and the Lessee shall remain jointly and severally liable for the performance of all obligations of the Lessee hereunder regardless of any (i) agreement that modifies any of the rights or obligations of the parties to this Lease; (ii) stipulation that extends the time within which an obligation under this Lease is to be performed; (iii) waiver of the performance of any obligation

under this Lease; or (iv) failure to enforce any obligation under this Lease. Every assignment and sublease shall be subject to all the terms and provisions of this Lease.

b. Lease Interests Not Transferable by Action of Law or Court: Neither this Lease, nor any right, privilege, or other interest conferred by this Lease shall pass to any trustee or receiver in bankruptcy or to any receiver or assignee for the benefit of creditors; nor shall this Lease or any rights, privilege, or interest be transferable by operation of law or proceeding of any court.

c. Change of Lessee's Organizational Structure or Ownership Constitutes Assignment: If the Lessee is a partnership, limited or general, a withdrawal of a general partner, or change, voluntary or involuntary, by operation of law or otherwise, of a general partner thereof, shall be deemed an assignment. If the Lessee is a corporation, the merger, consolidation, or liquidation of the Lessee or any change in the ownership of or power to vote thirty-three and one-third percent (33 1/3%) or more of its capital stock, as held as of the date of execution of this Lease, shall be deemed an assignment.

d. Lessee's Authorization to Use Premises Constitutes Assignment or Sublease: In the event the Lessee in any manner permits anyone to occupy all or any portion of the Premises for any purpose including but not limited to the conduct of any business or other activity, whether or not business-related, not within the intent of this Lease or any sublease, such permission shall be deemed an assignment or sublease, as deemed appropriate by the Director. Every sublease shall require the sublessee to submit to the Director and the Lessee not more than ten (10) days after the end of each month during the term of its sublease and the month after the expiration or earlier termination of such sublease, a written statement identifying the amount of gross receipts generated by such sublessee on and from the portion of the Premises used and occupied by such sublessee during the immediately preceding month. In the event of any assignment of this Lease, the Lessee shall cause to be delivered to the Director simultaneously with such assignment, an instrument, in writing, executed by the assignee, in which the assignee shall assume and agree to perform all of the terms and provisions of this Lease on the Lessee's part to be kept and performed that theretofore have not been fully performed.

B-16 EXCUSE & SUSPENSION OF OBLIGATIONS (FORCE MAJEURE)

Whenever a party's performance under this Lease, other than any monetary obligations, is prevented by an act of nature; war or war-like operations; civil commotion; riot; labor dispute including a strike, lockout, or walkout; sabotage; Federal or State regulation or control; or other



condition beyond the reasonable control of such party, performance of such affected obligation, other than any monetary obligations, shall be suspended, but only for the duration of such condition. The existence of more than one (1) such condition on a given day shall result in only a one (1) day extension.

B-17 DAMAGE OR DESTRUCTION

a. Report of Damage or Destruction: The Lessee shall submit a written report to the Director, in care of the Contracts and Concessions Office, regarding the circumstances of any damage to the Premises or any of the Tenant's improvements thereto, within twenty-four (24) hours after its discovery.

b. Rent Obligation in Event of Damage or Destruction: In the event the Premises and the Tenant's improvements thereto are destroyed or damaged by fire or other casualty not occasioned by an act or omission of the Lessee or any of its officers, employees, contractors, agents, invitees, or guests, and such destruction or damage is so extensive as to render such Premises and improvements unusable (either because of the need to rebuild or to clean and refurbish the same) and the Lessee has given timely notice of such destruction or damage, the Lessee's obligation to pay Monthly Base Rent shall be abated until the date that such Premises and improvements are made usable or should have been made usable had the Lessee diligently prosecuted such repair, rebuilding, and restoration work. The unusability of the Premises and the Tenant's improvements thereto and the duration of any such rent abatement shall be reasonably determined by the Director and confirmed by one or more notices to the Tenant. In the event only a portion of the Premises or the Tenant's improvements thereto is damaged or destroyed by fire or other casualty not occasioned by an act or omission of the Lessee or any of its officers, employees, contractors, agents, invitees, or guests but the remainder of such Premises and improvements remains usable, as reasonably determined by the Director, and the Lessee has given timely notice of such destruction or damage as provided by Subsection B-17.a hereof, the Lessee shall pay a reduced amount of rent that is proportionate to the extent of the Premises that remains usable for the purposes identified in Section A-7 hereof, which reduced rent amount shall be reasonably determined by the Director and identified by notice to the Lessee, and paid by the Lessee through the date reasonably specified by the Director in such notice or the later date specified in any subsequent notice.

c. Rebuilding, Repair & Restoration: In the event that insurance proceeds payable to the City will provide sufficient funds to enable the City to rebuild, repair and restore the Premises after their damage or destruction, and neither the Lessee nor the City elects to terminate this

Lease pursuant to Subsection B-17.d hereof, the City shall diligently prosecute such rebuilding, repair, and restoration. The Lessee shall replace or repair in a timely manner and at no cost or expense to the City, all damaged or destroyed personal property that, prior to such damage or destruction, had been located on the Premises, and all improvements that the Lessee made to the Premises, unless otherwise permitted by the Director. Upon the rebuilding, repair and reconstruction of the Premises, the Lessee shall immediately re-occupy the whole of the Premises. The rent abatement or reduction provided pursuant to Subsection B-17.b hereof shall be discontinued and the full rent and additional rent specified in or pursuant to Sections A-3, A-4, and A-5 hereof shall again be due and payable from and after the date specified in the notice given by the Director pursuant to Subsection B-17.b. The City shall not be liable to the Lessee for damages, compensation or any other sum for inconvenience, loss of business, or disruption arising from any repair to or restoration of any portion of the Premises or the Building in which the Premises are located.

d. Termination Rights in Event of Damage or Destruction:

(1) By Lessee: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) or more of the Premises is damaged or destroyed by fire or other casualty not occasioned by an act or omission of the Lessee, the Lessee may terminate this Lease by providing notice thereof to the Director.

(2) By City: Notwithstanding any other provision in this Lease to the contrary, in the event that fifty percent (50%) of the Center House Building on which the Premises are located is destroyed or is so damaged by fire or other casualty as to be untenantable or unusable, or if the City desires to discontinue the Lessee's operations because of substantial destruction of the Center House Building or other part of Seattle Center, regardless of whether the Premises are destroyed, damaged, or otherwise, the City may terminate this Lease by providing prior written notice thereof to the Lessee.

(3) Notice of Termination: Any notice of termination pursuant to this section shall be provided within sixty (60) days after the occurrence of the damage or destruction and shall specify the effective date of such termination.

B-18 DEFAULT & BREACH

A. General. If Lessee violates or breaches or fails to keep or perform any covenant, term or condition of this Lease, or if Lessee or any

guarantor of Lessee's obligations under this Lease ("Guarantor") files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Lessee's or Guarantor's assets or if Lessee or Guarantor makes an assignment for the benefit of creditors, or if Lessee or Guarantor is adjudicated insolvent, or if Lessee abandons or vacates the Premises, Lessee shall be deemed in default hereunder (a "Default"). If a Default continues for or is not remedied within three (3) days (or, if no default in the rent is involved, within ten (10) days) after written notice thereof has been given by City to Lessee specifying the Default, then City shall have the following nonexclusive rights and remedies, at its option:

B. Remedies: The City may thereafter terminate this Lease without any further proceedings, re-enter the Premises, lease and license others to use said Premises during any portion of the period of use remaining under this Lease had it not been terminated, and receive rent, additional rent and license fees therefore; *Provided*, that notwithstanding such termination and re-entry, the Lessee's liability for the rent and additional rent to be paid to the City hereunder shall not be extinguished, and the Lessee shall pay to the City the difference between said rent and additional rent and the sum the City receives for the use of the Premises by one or more other users during the period beginning on the date the Lessee's rights under this Agreement are terminated and ending on the scheduled expiration date of this Lease. Such payment shall be made monthly, within fifteen (15) days after the date of the City's invoice to the Lessee. Such termination and payments shall not relieve the Lessee from liability to the City for any damages caused by the Lessee's default and breach and expenses incurred in the leasing or relicensure of the Premises.

C. Criteria for Substitute Tenant: The City's obligation to mitigate damages after a default by the Lessee under this Lease that results in the City's regaining possession of all or part of the Premises shall be satisfied in full if the City undertakes to lease the Premises to another tenant (a "Substitute Tenant") in accordance with the following criteria:

- (1) The City shall have no obligation to solicit or entertain negotiations with any other prospective tenants for the Premises until the City obtains full and complete possession of the Premises including, without limitation, the final and unappealable legal right to re-let the Premises free of any claim of the Lessee.
- (2) The City shall not be obligated to offer the Premises to any prospective tenant when other Premises in the Center House suitable for that prospective tenant's use are currently available, or will be available within the next three months.

(3) The City shall not be obligated to lease the Premises to a Substitute Tenant for a rental less than the current fair market rental then prevailing for similar in comparable shopping centers in the same market area as the Center House.

(4) The City shall not be obligated to enter into a new lease under terms and conditions that are unacceptable to the City under the City's then current leasing policies for comparable space in the Center House.

(5) The City shall not be obligated to enter into a lease with any proposed Substitute Tenant that does not have in the Director's reasonable opinion, sufficient financial resource or operating experience to operate the Premises in a first-class manner

(6) The City shall not be required to expend any amount of money to alter, remodel, or otherwise make the Premises suitable for use by a Substitute Tenant unless:

(a) The Lessee pays any such sum to the City in advance of the City's execution of a lease with such Substitute Tenant (which payment shall not be in lieu of any damages or other sums to which the City may be entitled to as a result of the Lessee's default under this Lease); or

(b) The City, in the Director's sole discretion, determines that any such expenditure is financially justified in connection with entering into any lease with such Substitute Tenant.

(7) The City shall not be obligated to enter into a lease with any Substitute Tenant whose use would:

(a) Disrupt the tenant mix or balance of the Center House building;

(b) Violate any restriction, covenant, or requirements contained in the lease of another tenant of the Center House building;

(c) Adversely affect the reputation of the Seattle Center or Center House building;

(d) Be incompatible with the operation of the Center House building as a community gathering place for performances, events and exhibits for entertainment or educational purposes and as a first-class food court.



D. Default by City: The City shall not be in default of any obligation to perform under this Lease unless the City fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after written notice by the Lessee to the Director specifying the particular obligation that the City has failed to perform; *Provided*, however, that if the nature of the City's obligation is such that more than thirty (30) days are required for performance, then the City shall not be in default if the City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

B-19 SURRENDER OF PREMISES; HOLDING OVER

a. Surrender & Delivery: Upon the expiration or termination date of this Lease, whichever is earlier, the Lessee shall surrender the Premises and promptly deliver to the Director all keys the Lessee, and any of its officers, agents, and employees have to the Premises or any other part of the Seattle Center.

b. Removal of Lessee's Property: Prior to the expiration date of this Lease, or in the event this Lease is terminated, within fifteen (15) days after the termination date, whichever is earlier, the Lessee shall remove, at its sole expense, all moveable trade equipment and personal property from the Premises, as well as those improvements, alterations and additions and fixtures installed on the Premises that are specified in the Director's notice provided pursuant to Subsection B-7.g hereof. In performing such removal work, the Lessee shall take due care to not unreasonably injure or damage the Premises, and shall make such repairs to the Premises as shall be necessary to restore the same to their condition as existing immediately prior to their installation, ordinary wear and tear and improvements, additions, and alterations, approved by the City excepted.

c. Storage, Sale or Disposal of Lessee's Property: If upon expiration or fifteen (15) days after termination of this Lease Lessee has not removed its personal property and moveable trade equipment, City may, but need not, remove any or all of the above and hold it for the Lessee, or place the same in storage, all at the expense and risk of the Lessee. Lessee shall reimburse City for any expense incurred by City in connection with such removal and storage. City shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first, to the cost of sale; second, to the payment of the charges for storage; and third, to the payment of any other amounts which may then be due from Lessee to City; the balance, if any, shall be paid to the Lessee.



d Hold-over Use & Occupancy of Premises: In the event the Lessee, with the Director's consent, holds over after the date the term expires or is terminated, whichever is earlier, the resulting use and occupancy shall be on a monthly basis, during which time the Lessee shall be bound by all of the provisions of this Lease other than the amount of the Monthly Base Rent specified in Section A-3, which amount shall be the greater of the amount charged for the month immediately preceding the expiration or termination date, whichever is earlier, or the fair market value for the Premises. If, however, the Lessee holds over, without Director's consent, after the expiration or termination date of this Lease, whichever is earlier, whether by failing to remove its personal property or any addition, alteration or improvement specified by the Director, or otherwise, the Lessee shall pay to the City, as liquidated damages, twice the amount of the most recently applicable periodic and percentage rents specified in Sections A-3 and A-4 and A-5, hereof, and shall be bound by all of the other provisions of this Lease.

e No Claim for Removal: In no event shall the Lessee make any claim or demand upon the City nor shall the City be liable for any inconvenience, annoyance, disturbance, or loss of business or any other damage suffered by the Lessee arising out of removal operations under Subsections B-19.b and B-19.c hereof.

f Inspection Upon Surrender of Premises: Immediately following the vacating of the Premises and the surrender of the same to the City, a representative of the Lessee shall inspect the Premises with the Director to determine the condition of the Premises and whether or not the Lessee is then eligible for the return of the Performance Guarantee provided pursuant to Section B-4 hereof, and if not then eligible, what actions must be taken by the Lessee to establish eligibility for the future return of such deposit. The results of such inspection shall be summarized by the Director on a Premises inspection report, a copy of which shall be provided to the Lessee.

B-20 NOTICES

All notices from either party to the other shall be in writing and delivered or mailed, postage prepaid, to the intended recipient at the address specified on the signature page of Part A, hereof, or to such other address as may be specified, from time to time, by either party, by notice to the other party.

B-21 NO RELATIONSHIP ESTABLISHED

The City shall in no event be construed to be a partner, associate, or joint venturer of the Lessee, or any party associated with the Lessee. The Lessee is not an agent of City for any purpose whatsoever. The Lessee

shall not create any obligation or responsibility on behalf of the City or bind the City in any manner.

B-22 DEFINITION AND AUTHORITY OF "DIRECTOR"

The term "Director," as used throughout this Lease in regard to permission, warrant, consent, approval, rights, interpretation, and discretionary matters, shall mean the Director of the City's Seattle Center Department or such official's functional successor or designee; *Provided*, that the action of the Director pursuant to or in implementation of this Lease does not constitute any official action by any other City Department or official that may be required by law, ordinance, rule or regulation before the Lessee may rightfully commence, suspend, enlarge, or terminate any particular undertaking or may obtain or exercise any particular right or privilege under this Lease. Any approval, consent or permission required of the Director by this Lease may be granted, conditioned or withheld by the Director in the exercise of such official's sole discretion.

B-23 AMENDMENTS

No modification or amendment of the terms hereof shall be effective unless in writing and signed by authorized representative of each of the parties hereto. The parties hereto expressly reserve the right to modify this Lease from time to time, by mutual agreement.

B-24 NO WAIVER

Nothing other than a written document signed personally by the Director and specifically declaring a City intent to waive a particular breach or default by the Lessee shall constitute a waiver of such breach or default. No such document shall waive the Lessee's failure to fully comply with any term or condition of this Lease not specifically referenced therein, irrespective of any knowledge any City officer or employee may have of such breach, default, or noncompliance. No waiver by either party shall be construed to be, or operate as, a waiver of any subsequent default in full performance of any provision of this Lease. The payment or acceptance of rent, additional rent, or other compensation, whether after a default or from a sublessee or assignee, shall not be deemed to constitute consent to or acceptance of such default or acceptance of defective or incomplete performance in the future or any such subtenancy or assignment.



B-25 REMEDIES CUMULATIVE

Rights under this Lease are cumulative; failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. Each party shall also have any other remedy given by the law. The use of one remedy shall not be taken to exclude or waive the right to use another.

B-26 JOINT & SEVERAL LIABILITY

In the event the Lessee is composed of more than one person, entity, or corporation, each of the persons, entities, and corporations composing the Lessee shall be jointly and severally liable under this Lease.

B-27 USE OF LANGUAGE

Terms used in the neuter gender include the masculine and feminine; and terms used in the singular or plural include the other, as the context may require.

B-28 CAPTIONS

The titles of sections are for convenience only and do not define or limit the contents.

B-29 INVALIDITY OF PARTICULAR PROVISIONS

Should any term, provision, condition, or other portion of this Lease or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this Lease or the application of such term or provision to person or circumstances other than those to which it is held invalid or unenforceable shall not be affected hereby and shall continue in full force and effect.

B-30 GOVERNING LAW & VENUE

This Lease shall be interpreted and construed using Washington Law. The venue for any action under this Lease shall be in the Superior Court of the State of Washington for King County.

B-31 BINDING EFFECT

The provision, covenants, and conditions contained in this Lease apply to bind the parties, their legal heirs, representatives, successors, and assigns.

B-32 NO BROKER

The Lessee represents and warrants that there is no claim for any brokerage commission or finder's fee in with connection the execution of this Lease.



B-33 ACKNOWLEDGMENT OF NEGOTIATED LEASE

The parties to this Lease acknowledge that it is a negotiated lease, that they have had the opportunity to have this Lease reviewed by their respective legal counsel, and that the terms and conditions of this Lease are not to be construed against the party drafting the provision.



ATTACHMENT 1 (Parts C – K)

**5TH AVENUE NORTH GARAGE
LEASE AGREEMENT
BETWEEN THE CITY OF SEATTLE AND
MAHUJA INTERNATIONAL, LLC
d/b/a BAINBRIDGE ISLAND COFFEE
ROASTERS**

PART C

**LOT BOUNDARY ADJUSTMENT NO. 3008913 – GARAGE
LEGAL DESCRIPTION
PCE#SENE-0001**

THAT PORTION OF BLOCK 62, D.T. DENNY'S HOME ADDITION TO THE CITY OF SEATTLE, RECORDED IN VOLUME 3 OF PLATS, PAGE 115, RECORDS OF KING COUNTY, WASHINGTON, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 25 NORTH, RANGE 4 EAST, W.M.;

EXCEPT THOSE PORTIONS AS PROVIDED UNDER CITY OF SEATTLE ORDINANCE NUMBER 100337;

TOGETHER WITH THE VACATED ALLEY IN SAID BLOCK AND THAT PORTION OF VACATED TAYLOR AVENUE NORTH AS VACATED UNDER ORDINANCE NUMBERS 54308 AND 90487 OF THE CITY OF SEATTLE.

DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF 5TH AVENUE NORTH AND THE SOUTH RIGHT OF WAY OF MERCER STREET;
THENCE SOUTH 01°27'59" WEST, 441.64 FEET ALONG THE EAST RIGHT OF WAY OF 5TH AVENUE NORTH TO A POINT ON THE CENTERLINE OF VACATED REPUBLICAN STREET;
THENCE CONTINUING ALONG THE EAST RIGHT OF WAY OF 5TH AVENUE NORTH SOUTH 01°26'06" WEST, 43.49 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 01°26'06" WEST, 329.49 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 20.00 FEET;
THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE PASSING THROUGH A CENTRAL ANGLE OF 89°59'28" A DISTANCE OF 31.41 FEET TO A POINT ON THE NORTH RIGHT OF WAY OF HARRISON STREET;
THENCE SOUTH 88°33'22" EAST, 222.00 FEET ALONG THE NORTH RIGHT OF WAY OF HARRISON STREET;
THENCE NORTH 01°26'06" EAST, 349.52 FEET;
THENCE NORTH 88°33'54" WEST, 242.00 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS PARCEL A OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NUMBER 3008913 RECORDED IN BOOK _____ OF SURVEYS, PAGE _____, RECORDS OF KING COUNTY, WASHINGTON.

TOGETHER WITH AND SUBJECT TO EASEMENTS OF RECORD.

Peterson Consulting Engineers
4010 Lake Washington Blvd NE, Suite 300
Kirkland, Washington 98033
425.827.5874





SEATTLE
CENTRA
1741 AVI.
NORTH
GARAGE

Construction
Community
1992

DATE: 20 APRIL 2007

BY: [Signature]

TITLE: [Signature]

PROJECT: [Signature]

SCALE: [Signature]

NO. [Signature]

DATE: [Signature]

BY: [Signature]

TITLE: [Signature]

PROJECT: [Signature]

SCALE: [Signature]

NO. [Signature]

DATE: [Signature]

BY: [Signature]

TITLE: [Signature]

PROJECT: [Signature]

SCALE: [Signature]

NO. [Signature]

DATE: [Signature]

BY: [Signature]

TITLE: [Signature]

PROJECT: [Signature]

SCALE: [Signature]

NO. [Signature]

DATE: [Signature]

BY: [Signature]

TITLE: [Signature]

PROJECT: [Signature]

SCALE: [Signature]

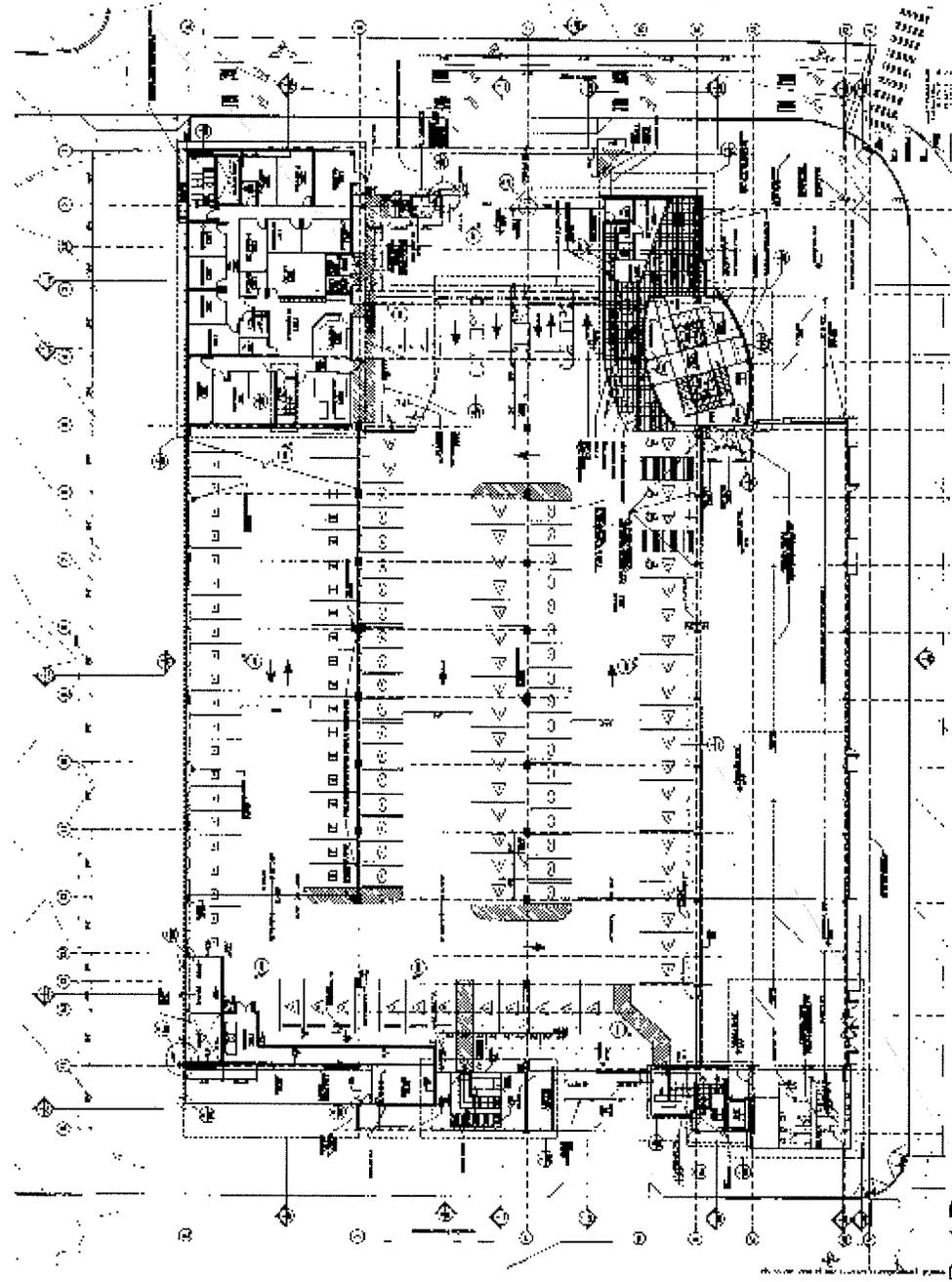
NO. [Signature]

DATE: [Signature]

BY: [Signature]

TITLE: [Signature]

PROJECT: [Signature]



Site Plan



**PART F: SEATTLE CENTER APPROVED PLANS FOR LESSEE'S
ADDDIONS, ALTERATIONS & IMPROVEMENTS**

- Installation of track lighting above counter - specific's to be submitted
- Installation of Wall shelving on East wall - specific's to be submitted
- Installation of new glass front and top bakery cabinet in front counter,
removal of existing panel and counter top. - specific's to be
submitted
- Installation of Menu signage - specific's to be submitted
- Installation of signs on West upper window and South upper window -
approved

PART G: LESSEE'S PERSONAL PROPERTY

- Synesso 2 group espresso machine with filtration system,
- 2 Mazzer coffee grinders Mini and Jolly
- Bunn Bulk Coffee Grinder
- waffle makers
- refrigerator in service area
- refrigerator in storage
- metro shelving in storage
- HP POS system with touch screen, mag card reader, cash drawer
- 6 Bamboo top Bistro tables
- 16 aluminum bistro chairs
- 2 illuminated medallion signs
- various small wares, merchandising and condiment accessories
- 36 each of plates; demitasse, cappucino and latte glass cups;
demitasse spoons
- various consumable inventory items



PART H
BYLAWS OF
516 HARRISON STREET OWNERS ASSOCIATION

Article I
Offices

1.1 Principal Office. The principal office of the 516 Harrison Street Owner's Association (the "Corporation") shall be located at its principal place of business or such other place as the Board of Directors may designate. The Corporation may have such other offices, either within or outside of the State of Washington, as the Board of Directors may designate or as the business of the Corporation may require.

1.2 Registered Office and Agent. The Corporation's initial registered office and registered agent shall be as set forth in the Articles of Incorporation. The registered agent and the address of the registered office may be changed by the Board of Directors.

Article II
Membership

2.1 Classes of Members. The Corporation shall have one class of members.

2.2 Qualifications for Membership. Each owner of a unit in 516 Harrison Street, a Condominium created by that certain Declaration for 516 Harrison Street, a Condominium (the "Declaration"), recorded under King County Recording No. _____, shall be a member of the Corporation.

2.3 Annual Meeting. The annual meeting of the members of the Corporation shall be held the first Friday of _____ of each year at 1:00 p.m., Pacific Time, for the purpose of electing directors and transacting such other business as may properly come before the meeting. If the day fixed for the annual meeting is a legal holiday at the place of the meeting, the meeting shall be held on the next succeeding business day. If the annual meeting is not held on the date designated therefor, the Board of Directors shall cause the meeting to be held as soon thereafter as may be convenient.

2.4 Special Meetings. The President, either member of the Board of Directors, or any member may call special meetings to vote for any matter that the members are authorized to vote upon.

2.5 Meetings by Telephone. Members of the Corporation may participate in a meeting of members by means of a conference telephone or similar communication equipment; provided, all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.



2.6 Action by Members Without a Meeting. Any action that could be taken at a meeting of the members may be taken without a meeting if a written consent setting forth the action so taken is signed by all members entitled to vote with respect to the subject matter thereof. Such written consents may be signed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document. Any such written consent shall be inserted in the minute book as if it were the minutes of a meeting of the members.

2.7 Place of Meetings. All meetings of members shall be held at the principal office of the Corporation or at such other place within the City of Seattle designated by the Board of Directors or by a waiver of notice signed by all members entitled to vote at the meeting.

2.8 Notice of Meetings. The President, the Secretary or the Board of Directors shall cause to be delivered to each member entitled to notice of or to vote at the meeting, either personally or by mail, not less than ten (10) nor more than fifty (50) days before the meeting, written notice stating the place, date and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. At any time, upon the written request of a member calling for a special meeting pursuant to Section 2.4 of the Bylaws, it shall be the duty of the Secretary to give notice of the special meeting of the Corporation to be held at a date, time and place as the Secretary may fix, such date not to be less than ten (10) nor more than thirty-five (35) days after receipt of such written request, (given due consideration of the time constraints for receipt of the notice stated above). If the Secretary shall neglect or refuse to issue such notice, the person or persons making the request may do so and may fix the date, time and place for such meeting. If such notice is mailed, it shall be deemed delivered when deposited in the official government mail, properly addressed to the member at his or her address as it appears on the records of the Corporation, with prepaid postage on the notice.

2.9 Waiver of Notice.

2.9.1 Waiver In Writing. Whenever any notice is required to be given to any member under the provisions of these Bylaws, the Articles of Incorporation or applicable Washington law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed to be the equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or meeting of the members need be specified in the waiver of notice of such meeting.

2.9.2 Waiver By Attendance. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened.



2.10 Quorum. One hundred percent (100%) of the members of the Corporation, represented in person or by proxy, shall constitute a quorum at a meeting of the members. If less than a quorum of the members entitled to vote is represented at a meeting, a majority of the members so represented may adjourn the meeting and establish a date and time for the meeting to reconvene without further notice.

2.11 Manner of Acting. The vote of a majority of the votes entitled to be cast by the members represented in person or by proxy at a meeting at which a quorum is present shall be necessary for the adoption of any matter which these bylaws permit the members to act upon, unless a greater proportion is required by applicable Washington law, the Articles of Incorporation, the Declaration, or these Bylaws.

2.12 Proxies. A member may vote by proxy executed in writing by the member or by his or her attorney-in-fact. Such proxy shall be filed with the Secretary of the Corporation before or at the time of the meeting. A proxy shall become invalid eleven (11) months after the date of its execution unless otherwise provided in the proxy. A proxy with respect to a specific meeting shall entitle the holder thereof to vote at any reconvened meeting following adjournment of such meeting but shall not be valid after the final adjournment of such meeting.

2.13 Participation of City in Owners Association. Notwithstanding any provision of these Bylaws to the contrary, for so long as that certain Ground Lease (Garage) between IRIS Holdings, LLC as landlord and the City of Seattle ("City") as tenant, dated _____ (the "Ground Lease") is in effect, one-half of all votes in the Association shall be allocated to the owner of the Parking Facility Unit (as defined in the Declaration), the votes allocated to the owner of the Parking Facility Unit shall be cast by the tenant under the Ground Lease on all matters affecting the Condominium (including the election of directors), and all matters to be voted upon by such members shall be approved by the votes of a majority of such members.

Article III **Board of Directors**

3.1 General Powers. The affairs of the Corporation shall be managed by a Board of Directors. The Board of Directors shall have the authority to act on behalf of the Corporation in all matters, except as expressly limited by the Declaration, the Articles or these Bylaws.

3.2 Number. The Board of Directors shall consist of two (2) directors. The allowable number of directors may be changed by amendment to these Bylaws, provided that no decrease in the number shall have the effect of shortening the term of any incumbent director.

3.3 Qualifications. Directors need not be members of the Corporation. Directors may have such other qualifications as the Board of Directors may prescribe by amendment to these Bylaws.



3.4 Election of Directors.

3.4.1 Initial Directors. The initial directors named in the Articles of Incorporation shall serve until the first annual meeting of members.

3.4.2 Successor Directors. Successor directors shall be elected each year at the annual meeting of members of the Corporation. The election of directors may also be conducted by mail in such a manner as determined by the Board of Directors.

3.5 Term of Office. Unless a director dies, resigns or is removed, he or she shall hold office until the next annual meeting of the Corporation or until his or her successor is elected and assumes the office, whichever is later.

3.6 Vacancies. A vacancy in a director position resulting from the resignation, death or other withdrawal of a director may be filled by an appointee of the member that appointed the resigned, deceased or withdrawn director. A director who fills a vacancy shall serve for the unexpired term of his or her predecessor director.

3.8 Resignation. Any director may resign at any time by delivering written notice to the President or the Secretary of the Corporation at the principal office or registered office of the Corporation, or by giving written notice at any meeting of the Board of Directors. Any such resignation shall take effect at the time specified in the notice, or if the time is not specified, upon delivery of the notice. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

3.9 Removal. The entire Board of Directors may be removed from office, with or without cause, by the unanimous vote of the members then entitled to vote on the election of directors represented in person or by proxy at a meeting of the members called expressly for that purpose at which a quorum is present.

3.10 Compensation and Expenses. Directors shall not receive compensation for their service as directors. Directors may receive reimbursement for expenditures incurred on behalf of the Corporation.

3.11 Participation of City on the Board. Notwithstanding any provision of these Bylaws to the contrary, for so long as the Ground Lease is in effect, the Board shall be comprised of an even number of directors, the City shall have the right, as tenant under the Ground Lease, to elect one-half of such Board directors, each Board director shall have one (1) vote, and a majority of Board directors must vote to approve any action of the Board, including without limitation, any action with respect to the exterior appearance of the Condominium, permanent exterior signage in or about the Condominium, the repair of any damage to the Condominium caused by fire or other casualty, and the termination of the Condominium.



Article IV.
Meetings of Directors

4.1 Annual Meeting The annual meeting of the Board of Directors shall be held the first Friday day of _____ of each year immediately following the annual meeting of members of the Corporation, for the purpose of electing officers and transacting such business as may properly come before the meeting. If the day fixed for the annual meeting is a legal holiday at the place of the meeting, the meeting shall be held on the next succeeding business day. If the annual meeting is not held on the date designated therefor, the Board of Directors shall cause the meeting to be held as soon thereafter as may be convenient. Notice of the annual meeting of the Board of Directors shall be made as set forth in Section 4.7.

4.2 Regular Meetings. Regular meetings of the Board of Directors, or any committee designated and appointed by the Board of Directors, may be specified as to the date, time and place for the holding of such regular meetings by the adoption of a resolution of the Board of Directors, or, in the case of a committee, by a resolution of the committee. Notice of such meetings for either the Board of Directors or committees is not necessary other than said resolutions. If such a resolution has not been adopted, then notices of regular meetings shall be given as set forth in Section 4.7 as for notices of special meetings.

4.3 Special Meetings. Special meetings of the Board of Directors or any committee designated and appointed by the Board of Directors may be called by or at the written request of the President or any director, or, in the case of a committee meeting, by the chairman of the committee. The person or persons authorized to call special meetings may fix any place within the City of Seattle as the place for holding any special Board of Directors or committee meeting. Notice of special meetings of the Board of Directors or committees shall be made as set forth in Section 4.7, and shall specify the purpose(s) of the special meeting.

4.4 Meetings by Telephone. Members of the Board of Directors or any committee designated by the Board of Directors may participate in a meeting of such Board of Directors or committee by means of a conference telephone or similar communication equipment; provided, all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

4.5 Action by Board Without a Meeting. Any action which could be taken at a meeting of the Board of Directors may be taken without a meeting if a written consent setting forth the action so taken is signed by each of the directors. Such written consents may be signed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document. Any such written consent shall be inserted in the minute book as if it were the minutes of a Board of Directors meeting.



4.6 Place of Meetings. All meetings shall be held at the principal office of the Corporation or at such other place within the City of Seattle designated by the Board of Directors, by any persons entitled to call a meeting or by a waiver of notice signed by all of the directors.

4.7 Notice of Meetings. Notice of annual and special meetings of the Board of Directors or of a committee shall be given to a director or committee member in writing or by personal communication with the director or committee member not less than five (5) calendar days before the meeting. Notices in writing may be hand delivered or sent by U.S. mail or facsimile transmission to the director or the committee member at his or her address shown on the records of the Corporation. Neither the business to be transacted at, nor the purpose of, the annual meeting nor any regular meeting need be specified in the notice of such meeting, unless specifically required by the Articles of Incorporation or these Bylaws. If a notice is delivered by mail, the notice shall be deemed effected when deposited in the official government mail properly addressed with postage prepaid. If notice is given by facsimile transmission, the notice shall be deemed effective upon receipt of the facsimile transmission confirmation showing the facsimile transmission was received at the director's facsimile number shown on the records of the Corporation.

4.8 Waiver of Notice.

4.8.1 Written Waiver of Notice. Whenever any notice is required to be given to any director under the provisions of these Bylaws, the Articles of Incorporation or applicable Washington law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the waiver of notice of such meeting.

4.8.2 Waiver of Notice by Attendance. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

4.9 Quorum. One hundred percent (100%) of directors in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum is not present at a meeting, a majority of the directors present may adjourn the meeting and set a date and time for the meeting to reconvene without further notice.

4.10 Manner of Acting/Deadlock. All actions of the Board of Directors shall require the unanimous approval of the Board of Directors. Any deadlock, whether by deadlock in voting or the inability to have a quorum at a meeting on a matter requiring action by the Board of Directors shall be resolved as provided in Section 15.2 of the Declaration.



4.11 Presumption of Assent. A director of the Corporation present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless the director's dissent or abstention is entered in the minutes of the meeting or the director files a written dissent or abstention to such action with the person acting as secretary of the meeting before the adjournment of the meeting or forwards such dissent or abstention by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

Article V **Committees**

5.1 Appointment. The Board of Directors, by resolution of the Board, may designate and appoint one or more standing or temporary advisory committees. The Board of Directors shall have the power to fill vacancies in, to change the size or membership of, and to discharge any committee.

5.2 General Powers and Limitations. Each committee shall be advisory to the Board only and shall not exercise the authority of the Board of Directors in the management of the Corporation.

5.3 Resignation. Any member of any committee may resign at any time by delivering written notice thereof to the President or Secretary of the Corporation or the chairperson of such committee, or by giving written notice at any meeting of such committee. Any such resignation shall take effect at the time specified in the notice, or if the time is not specified, upon delivery of the notice. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

5.4 Removal of Committee Members. The Board of Directors, by resolution adopted by the unanimous approval of the directors, may remove from office any member of any committee elected or appointed by the Board of Directors.

Article VI **Officers**

6.1 Officers. The officers of the Corporation shall be a President, a Vice President, a Secretary and a Treasurer, each of whom shall be elected by the Board of Directors. Other officers and assistant officers may be elected or appointed by the Board of Directors, such officers and assistant officers to hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as may be provided by resolution of the Board of Directors. Any officer may be assigned by the Board of Directors any additional title that the Board of Directors deems appropriate. Any two or more offices may be held by the same person, except that no one person shall be both President and Secretary.



6.2 Election and Term of Office. The officers of the Corporation shall be elected each year by the Board of Directors at the annual meeting of the Board of Directors. Unless an officer dies, resigns, or is removed from office, he or she shall hold office until the next annual meeting of the Board of Directors or until the officer's successor is elected and assumes the office, whichever is later.

6.3 Vacancies. A vacancy in any office created by the death, resignation, removal, disqualification, creation of a new office or any other cause may be filled by the Board of Directors for the unexpired portion of the term or for a new term established by the Board of Directors.

6.4 Resignation. Any officer may resign at any time by delivering written notice to the President or the Secretary of the Corporation or by giving oral or written notice at any meeting of the Board of Directors. Any such resignation shall take effect at the time specified in the notice, or if the time is not specified, upon delivery of the notice and, unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

6.5 Removal. Any officer or agent elected or appointed by the Board of Directors may be removed from office by the Board of Directors whenever in its judgment the best interests of the Corporation would be served thereby. Such removal shall be without prejudice to the contract rights, if any, of the person so removed.

6.6 President. The President shall be the chief executive officer of the Corporation, and, subject to the control of the Board of Directors, shall supervise and control all of the assets, business and affairs of the Corporation. The President shall preside over meetings of the members and of the Board of Directors. Upon authorization by the Board of the Directors, the President may sign deeds, mortgages, bonds, contracts or other instruments, except when the signing and execution thereof have been expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or are required by law to be otherwise signed or executed by some other officer or in some other manner. In general, the President shall perform all duties incident to the office of President and such other duties as are assigned to him or her by the Board of Directors.

6.7 Vice President. In the event of the death of the President or his or her inability to act, the Vice President shall perform the duties of the President, except as may be limited by resolution of the Board of Directors, with all the powers of, and subject to, all of the restrictions upon the President. The Vice President shall have, to the extent authorized by the President or the Board of Directors, the same powers as the President to sign deeds, mortgage, bonds, contracts or other instruments. The Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or the Board of Directors.

6.8 Secretary. The Secretary shall be responsible for ensuring that minutes are recorded and maintained of meetings of the members and of the Board of Directors, and

to the extent minutes are recorded of meetings of committees of the Board of Directors, that such minutes are maintained; see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; be custodian of the corporate records of the Corporation or appoint such person or entity as is appropriate to act as such custodian; ensure that records are kept of the address of each member and director and of the name and address of each officer; sign with the President, or other officer authorized by the President or the Board of Directors, deeds, mortgages, bonds, contracts, or other instruments; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or the Board of Directors.

6.9 Treasurer. The Treasurer shall have charge of and be responsible for all funds and securities of the Corporation; ensure that monies due and payable to the Corporation from any source whatsoever are properly received and that receipts are given for said monies; ensure that all such monies are deposited in the name of the Corporation in banks, trust companies or other depositories selected in accordance with the provisions of these Bylaws; and in general perform all of the duties incident to the office of Treasurer and such other duties as may be assigned to him or her by the President or the Board of Directors. If requested by the Board of Directors, at the Corporation's expense, the Treasurer shall give a bond for the faithful discharge of his or her duties in such amount and with such surety or sureties as the Board of Directors may determine.

6.10 Salaries. The officers shall serve without salary unless they are employees of the Corporation. Officers may receive reimbursement for expenditures incurred on behalf of the Corporation upon approval of the Board of Directors.

Article VII **Employees**

The Board of Directors may establish such positions of employment as it deems desirable and shall fix the salaries for such positions.

Article VIII **Administrative Provisions**

8.1 Books and Records. The Corporation shall keep at its principal or registered office copies of its current Articles of Incorporation and Bylaws; correct and adequate records of accounts and finances; minutes of the proceedings of its members, if any, and the Board of Directors, and any minutes which may be maintained by committees of the Board of Directors; records of the name and address and class, if applicable, of each member, if any, and of the name and address of each director and officer; and such other records as may be necessary or advisable. All books and records of the Corporation shall be open at any reasonable time to inspection by any member, to a representative of more than five percent of the membership, or any director.



8.2 Accounting Year. The accounting year of the Corporation shall be the twelve months ending December 31st of each year.

8.3 Rules of Procedure. The rules of procedure at meetings and of the Board of Directors and committees of the Board of Directors shall be the rules contained in Roberts' Rules of Order on Parliamentary Procedure, newly revised, so far as applicable and when not inconsistent with these Bylaws, the Articles of Incorporation or any resolution of the Board of Directors.

Article IX
Amendments

These Bylaws may be altered, amended or repealed only as provided in the Declaration.

THE FOREGOING BYLAWS were adopted by the Board of Directors on July __, 2008.

Secretary



STATE OF WASHINGTON – KING COUNTY

--SS.

230158
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

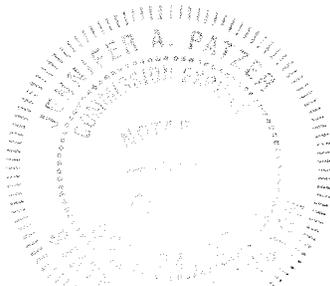
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122813-15,17,19-20,22

was published on

10/14/08

The amount of the fee charged for the foregoing publication is the sum of \$ 98.35, which amount has been paid in full.



Affidavit of Publication

M. J.

Subscribed and sworn to before me on
10/14/08 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on September 29, 2008, and published here by title only, will be mailed, at no cost, on request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122822

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 122820

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute a lease agreement with Mahuja International, LLC d/b/a Bainbridge Island Coffee Roasters for space in the 5th Avenue North Garage at Seattle Center, and ratifying and confirming certain acts.

ORDINANCE NO. 122819

AN ORDINANCE relating to City employment; authorizing the Mayor to sign and/or execute a collective bargaining agreement by and between the International Brotherhood of Teamsters, Local 117 Admissions unit to be effective through December 31, 2010; and providing payment therefor.

ORDINANCE NO. 122817

AN ORDINANCE relating to the Surplus Allen School/Phinney Neighborhood Center; authorizing the Mayor to enter into a contract with the Phinney Neighborhood Association; and removing a budget proviso that restricted an appropriation in the 2008 Adopted Budget contingent upon execution of such contract.

ORDINANCE NO. 122815

AN ORDINANCE relating to the High Point Neighborhood Center; lifting a budget proviso and authorizing the Seattle Department of Parks and Recreation to purchase and accept a Restrictive Covenant and Public Access Rights to programs, services and community space at the Neighborhood House's future High Point Neighborhood Center.

ORDINANCE NO. 122814

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent to enter into a Lease Agreement with Building 11 LLC for the purpose of renovating Building 11 and offering multiple uses and recreational opportunities in Building 11 at Magnuson Park; and exempting the use of a portion of the Building from the provisions and requirements of Ordinance 118477.

ORDINANCE NO. 122813

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent to enter into a Concession Agreement with Arena Sports Magnuson Park LLC to renovate and provide indoor participant sports programs in Building 27 at Warren G. Magnuson Park.

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily
Journal of Commerce, October 14, 2008.

10/14(230158)