

# **Lake Ashton**

## **Community Development District**

### **Special Meeting Agenda**

Seat 3: Mike Costello – C	
Seat 5: Borden Deane – VC	
Seat 1: Bob Ference – AS	
Seat 2: Robert Plummer – AS	
Seat 4: Harry Krumrie – AS	

**Thursday**  
**December 5, 2019**  
**11:30 a.m.**

**Lake Ashton Clubhouse Ballroom**  
**4141 Ashton Club Drive**  
**Lake Wales, FL 33859**

1. Roll Call and Pledge of Allegiance
2. Approval of Meeting Agenda
3. Public Comments on Specific Items on the Agenda (*speakers will fill out a card and submit it to the District Manager prior to beginning of the meeting*)
4. Discussion Regarding Nini's Lease Agreement
5. Adjournment

**AMENDED RESTAURANT MANAGEMENT CONTRACT  
AND  
LEASE AGREEMENT**

**BETWEEN**

**LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT,  
A FLORIDA COMMUNITY DEVELOPMENT DISTRICT,  
AS LANDLORD,**

**AND**

**NINI'S LAKE ALFRED CAFÉ, LLC,  
A FLORIDA LIMITED LIABILITY COMPANY,  
AS TENANT**

**LOCATION:**

**RESTAURANT SPACE WITHIN  
LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT CLUBHOUSE  
4141 ASHTON CLUB DRIVE  
LAKE WALES, FLORIDA 33859**

## **AMENDED MANAGEMENT CONTRACT AND LEASE AGREEMENT**

**THIS AMENDED MANAGEMENT CONTRACT AND LEASE AGREEMENT** (hereinafter the "Agreement") is made and effective as of this 12 day of June, 2018 (the "Effective Date"), between **LAKE ASHTON COMMUNITY DEVELOPMENT DISTRICT**, a Florida community development district and local unit of special-purpose government located in Polk County, Florida, hereinafter the "Landlord", and **NINI'S LAKE ALFRED CAFÉ, LLC**, a Florida limited liability company, hereinafter the "Tenant".

### **ARTICLE I. GENERAL AGREEMENT PROVISIONS**

The terms and conditions contained in this Article I set forth certain basic terms of the Agreement and the definition of certain terms used in the Agreement.

1.1 **Premises.** That certain restaurant space (commonly referred to as the "Restaurant") within the Lake Ashton Clubhouse (the entire clubhouse building and appurtenant areas are referred to herein collectively as the "Facility") located at 4141 Ashton Club Drive, Lake Wales, Florida 33859, containing approximately 3,987 gross square feet of interior floor area and the outdoor patio area adjacent to the interior area, depicted on Exhibit A attached hereto (the "Premises").

Tenant shall also have exclusive rights (except as limited herein) for management, oversight and provision of food and beverage service to Landlord's ballroom facility (the "Ballroom") and other areas of the Facility. Landlord shall be permitted to issue certain exceptions to the Tenant's exclusive rights to manage, serve and provide food and beverage service to the Ballroom and other areas of the Facility, based on the Landlord's sole and reasonable discretion, in order to accommodate specific resident events and activities. Except as provided herein, the terms of this Agreement apply to the Premises (inclusive of the adjacent patio area), the Ballroom and other areas of the Facility for the specified purpose of providing food and beverage service to these areas.

1.1.1 **Non-Exclusive Use of Outdoor Patio Area:** Tenant shall have non-exclusive use of the outdoor patio area, including the patio area adjacent to the interior area included within the definition and depiction of the Premises. Tenant shall cooperate with Landlord at all times to ensure shared access to the outdoor patio area and shall not restrict use or access to the outdoor Patio area.

1.2 **Commencement Date:** For the purposes of this Agreement the "Commencement Date" shall be the date the restaurant is open for business, which shall be on or before June 1, 2018.

1.3 **Term.** The term of this Agreement (the "Agreement Term"), unless sooner terminated as elsewhere provided in this Agreement, shall be for a period of three (3) years, beginning on the Commencement Date and terminating and expiring at 11:59 p.m. on the last day of the Agreement Term. Subject to Section 4.1 herein, Landlord and Tenant may, by mutual agreement and pursuant to a written instrument executed prior to the expiration of the initial Agreement Term, extend the Agreement Term.

1.4 **Advertising and Communications.** Tenant shall advertise the Restaurant and associated catering services on an as needed basis, as determined by Tenant, to market, advertise, and create public awareness of the Restaurant.

1.5 Permitted Use of the Premises. Tenant covenants and agrees that it shall, throughout the Agreement Term, continuously use and occupy the Premises solely and exclusively for the purpose of operating a restaurant facility providing food and beverages. For the purposes of this Agreement, the uses of the Premises as defined and described in this Section 1.5 shall be referred to as the "Permitted Use". Unless provided otherwise in the Rules and Regulations (hereinafter defined), at a minimum, the Premises will be open and providing meal service at least six (6) days a week serving Lunch (or Brunch) and Dinner, but may be closed, at the option of the Tenant, entirely on Christmas Day and New Year's Day. Landlord and Tenant agree and acknowledge that the operating requirements may be adjusted by mutual written agreement of the parties hereto to accommodate seasonal demands, special events and other operational considerations.

1.5.1 Sale of Merchandise. Tenant shall not sell any merchandise, including, but not limited to, clothing, memorabilia, electronic media (compact discs, tapes, etc.), and similar such items, without the prior consent of the District.

1.6 Initial Security Deposit. Tenant shall deposit with Landlord, as security for its obligations under this Lease, the total sum of Six Thousand and No/100 Dollars (\$6,000) via cashier's check, to be paid pursuant to the schedule set forth herein (the "Security Deposit"). Tenant shall pay the Security Deposit to Landlord in accordance with the following payment schedule: (i) Two Thousand and No/100 Dollars (\$2,000) on the Commencement Date, (ii) Two Thousand and No/100 Dollars (\$2,000) within thirty days of the Opening Date and (ii) Two Thousand and No/100 Dollars (\$2,000) within sixty (60) days of the Opening Date. The Security Deposit shall be held in an account (with interest, if any, paid to the Landlord) controlled by the District Manager until the expiration or sooner termination of this Lease, when it shall be released and disbursed in accordance with Article XX herein.

1.7 Improvements. Tenant will timely perform their respective responsibilities with regard to the improvement of the Premises as set forth herein and shall pay all costs associated with their respective duties (see Article XIV for additional information).

1.8 Utilities. Landlord shall pay for all utilities (water, electric, trash removal/recycling) provided to the Premises, except for propane gas, which is provided separately to the Premises; Tenant shall arrange and pay for any propane gas and propane gas related service in any amounts necessary for Tenant to conduct operations hereunder. Landlord shall also be responsible for the cost of all telephone services to the Premises, both local and long distance, except international calls which shall be the responsibility of the Tenant. Further provisions concerning utilities are contained in Article VII herein.

1.9 Taxes. At the time of the execution of this Agreement, the Premises are assessed and billed for ad valorem taxes and assessments separate and apart from the remainder of the Facility. Landlord shall be responsible for paying, before they become delinquent, ad valorem taxes and assessments, levied and assessed against the Premises during the Agreement Term by a governmental entity having jurisdiction over the Premises. Tenant shall be responsible for any other taxes or assessments.



1.10 Janitorial Services. Tenant shall maintain the Premises in a neat, clean and orderly fashion, in a similar quality to other first class golf club resorts in Central Florida. Tenant shall provide, at Tenant's sole expense, all janitorial services to all areas of the Premises, including any cleaning or other services required specifically to comply with applicable health code provisions. Further provisions concerning Tenant's obligations are contained in Article XVI herein.

1.10.1 In regard to further explanation of cleaning services, Tenant shall follow the cleaning schedule attached as Exhibit "E".

1.11 Addresses for Notices:

To Landlord: Lake Ashton Community Development District  
c/o Governmental Management Services  
135 W. Central Blvd.  
Orlando, Florida 32801  
Attn: District Manager

and: Latham, Shuker, Eden & Beaudine, LLP  
111 North Magnolia Avenue, Suite 1400  
Orlando, Florida 32801  
Attn: Jan Albanese Carpenter, Esq., District Counsel

To Tenant: Nini's Lake Alfred Café, LLC  
2146 Groveglen Lane North  
Lakeland, Florida 33813  
Attn: Sandra Joyner

1.12 Liquor License. Tenant shall be responsible for obtaining and maintaining in good standing, for the entirety of the Agreement Term (Tenant must, at a minimum, begin the process to obtain such licenses upon the commencement of the Agreement Term), any and all permits or licenses required by any governmental authority, including, but not limited to, the Florida Department of Business and Professional Regulation – Division of Alcoholic Beverages and Tobacco, to allow Tenant to dispense and sell alcoholic beverages (to include, at a minimum, beer, wine and liquor) on the Premises and in other areas within or adjacent to the Facility. Tenant shall be responsible for any and all costs and fees whatsoever associated with the procurement or maintenance of said permits or licenses. In accordance with Section 17.2 below, Tenant shall also acquire and maintain certain insurance coverage relating to the dispensation and sale of alcoholic beverages.

## ARTICLE II. EXHIBITS

Certain documents are attached hereto as exhibits (collectively, the "Exhibits"), and the Exhibits, together with all drawings and documents prepared pursuant thereto, are incorporated herein and by this reference made a part hereof. To the extent a conflict exists between the Exhibits and the terms of the Agreement, the terms and conditions of the Agreement shall prevail. The Exhibits consist of the following:

EXHIBIT A – Site Plan of the Premises

EXHIBIT B – Rules and Policies of the Landlord

EXHIBIT C – Landlord's Inventory

EXHIBIT D – Form of Income Statement

EXHIBIT E - Cleaning Schedule Addendum

### **ARTICLE III. PREMISES**

3.1 **Premises.** The Premises are described in Section 1.1 and depicted in Exhibit A (the Ballroom and other areas of the Facility are not included as part of the Premises, unless specifically provided herein).

3.2 **Use and Operation of Premises.**

(a) **Use of the Premises.** The Premises, the Ballroom and other areas of the Facility shall be used only as set forth in Section 1.5 and for such related ancillary uses as are common to a restaurant operation located within a first class golf club resort. Except for interruptions in operations due to events of force majeure and repairs or renovations to the Premises as otherwise set forth in this Agreement, the Premises will be open for business in accordance with Section 1.5 throughout the Agreement Term.

All initial menus, merchandise, and prices offered or used by Tenant within or from the Premises shall provide a: (i) a quality level consistent and compatible with the overall image of the Restaurant, and (ii) that prices charged are commercially reasonable. Tenant shall not use, permit or suffer the use of the Premises in any manner not in keeping with the character of the Facility.

Tenant shall also have exclusive rights (except as limited herein) for providing food and beverage service to Landlord's ballroom facility (the "Ballroom") and other areas of the Facility. Landlord shall be permitted to issue certain exceptions to the Tenant's exclusive rights to serve the Ballroom and other areas of the Facility, based on the Landlord's sole and reasonable discretion, in order to accommodate specific resident events and activities. Except as provided herein, the terms of this Agreement shall apply to the Premises (inclusive of the adjacent patio area), the Ballroom and other areas of the Facility for the specified purpose of providing food and beverage service to these areas.

(b) **Operating Standards.** Tenant shall occupy, operate and manage its business on the Premises in accordance with the professional standards for a first class establishment or business conducting the Permitted Use. At a minimum, but without limiting the foregoing, Tenant shall occupy, operate and manage the Premises at a standard at least equivalent to the standard of quality and performance of other clubhouse establishments and restaurants in Central Florida.

(c) Pest and Sanitation Control. Tenant shall retain a professional pest and sanitation control service, as selected by Landlord in its sole discretion, to perform inspections of the Premises not less frequently than once each thirty (30) days for the purpose of controlling infestation by insects, rodents and vermin, and shall promptly cause any corrective or extermination work recommended by such service to be performed. If Tenant fails to perform its obligations hereunder, Landlord may, at its option and after five (5) days' written notice to Tenant, cause such inspection to be performed and any necessary corrective or extermination work to be performed, and the cost of such inspection and corrective or extermination work shall be paid by Tenant.

(d) Equipment Cleaning. All fans and ductwork used for ventilating or expelling cooking odors and grease-contaminated air shall be cleaned by a qualified contractor as frequently as needed to protect against dangerous grease accumulation. Upon Landlord's request, Tenant shall provide proof to Landlord that such cleaning has occurred. If Tenant fails to maintain such exhaust system adequately (as determined in Landlord's sole, reasonable discretion), Landlord may perform such work at Tenant's expense (See attached "Exhibit E").

3.3 Compliance with Laws. Tenant shall at all times keep and maintain the Premises and all operations related thereto (including food and beverage service to the Ballroom and other areas of the Facility), in compliance in all material respects with all applicable laws, ordinances, statutes, rules, regulations, orders, directions and requirements of all federal, state, county and local governments and of all other governmental agencies or authorities having or claiming jurisdiction over the Premises or the business activities conducted thereon or therein and of all of their respective departments, bureaus, agencies or offices, and of any insurance underwriting board or insurance inspection bureau having or claiming such jurisdiction or any other body exercising similar functions and of all insurance companies from time to time selected by Tenant to issue policies of insurance covering the Premises and any business or business activity conducted thereon or therein. In the event Tenant is alleged to have violated any such rule or regulation and Tenant reasonably contests such allegation, Tenant may undertake such actions as it may reasonably elect to legally contest the same, provided Tenant shall first take such measures as may be necessary to fully protect Landlord from all loss, cost or liability arising from any potential adverse ruling in the proceeding in which the allegation is made.

Notwithstanding the generality of the foregoing, Tenant shall, at its sole expense, maintain the Premises in compliance in all respects with all applicable federal, state or local laws, ordinances, rules and regulations currently in existence or hereafter enacted or rendered governing accessibility for the disabled or handicapped, including, but not limited to, any applicable provisions of The Architectural Barriers Act of 1968, The Rehabilitation Act of 1973, The Fair Housing Act of 1988, The Americans With Disabilities Act, the accessibility code(s), if any, of the State of Florida, and all regulations and guidelines promulgated under any or all of the foregoing, as the same may be amended from time to time.

The Landlord is a local unit of special purpose government created in accordance with the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes. Tenant agrees to fully comply, at its sole expense, with all applicable requirements of the "Sunshine Law," the "Public Records Law," the Community Development Districts Law, and all other statutes and regulations applicable to Landlord.

3.4 Public Records. Any books, documents, records, correspondence or other information kept or obtained by the Landlord or furnished by the Landlord to Tenant in connection with the services contemplated herein and/or Landlord's facilities, and any related records are property of the Landlord. Tenant agrees and acknowledges that all such books, documents, records, correspondence or other information are public records, as defined in Chapter 119, Florida Statutes. Tenant acknowledges and agrees that books, documents, records, correspondence or other information of Tenant related to this Agreement and services contemplated herein may be considered public records, and shall promptly comply with all applicable laws, rules and regulations. Tenant agrees and acknowledges that any and all such books, documents, records, correspondence or other information may also be subject to inspection and copying by members of the public pursuant to Chapter 119, Florida Statutes.

3.5 Delivery of the Premises.

(a) Acceptance of the Premises. Landlord shall deliver to Tenant, and Tenant shall accept from Landlord, possession of the Premises on the Commencement Date. Tenant has inspected and examined the Premises and shall be conclusively deemed to have accepted the Premises, including all furnishings, fixtures and equipment and Landlord's Inventory (as defined in Section 13.2 and listed in Exhibit C), without limitation, in an "AS IS" condition.

(b) Ownership of Equipment. It is to be understood that all existing equipment and furnishings located on the Premises as of the Commencement Date (including, without limitation, all Landlord's Inventory as listed in Exhibit C), and all fixtures installed by or provided to the Tenant, either by Landlord, or by third parties at Landlord's request, are the sole properties of the Landlord. The Tenant shall have temporary charge of the existing equipment, furnishings and fixtures for the duration of the Agreement Term. All equipment, furnishings and fixtures shall be returned to the Landlord at the conclusion, or sooner termination, of the Agreement Term in good working condition and in substantially similar condition as existed at the commencement of this Agreement, reasonable wear and tear excepted, after which none of them may be kept by the Tenant without the express written permission of Landlord.

3.6 Certain Easements In Favor of Tenant. Tenant shall have non-exclusive access easements, for the benefit of itself and its employees, patrons, invitees and customers, during the Agreement Term over the designated Common Areas (as defined herein) and the parking areas. In addition, subject to Landlord's prior approval, Tenant shall have a non-exclusive right of access to shafts, ducts and other similar facilities within the Common Areas for the purpose of provision of utilities and maintenance. Tenant acknowledges that the Landlord is a special purpose government and the Facility is open to the public, including the Premises.

3.7 Certain Easements in Favor of Landlord. Landlord reserves to itself the use of the exterior walls and roof and a non-exclusive easement to install, maintain, inspect, use, repair and replace pipes, ducts, conduits, wires, facilities and structures as may be used for ventilation and the conveyance of utilities in and through the Premises, including air space above the ceiling and below the floor of the Premises for the common use and benefit of Landlord, Tenant or other tenants of the Facility; provided that any such installation, inspection, maintenance, use, repair and replacement shall be conducted so as to avoid unreasonable interference with Tenant's use of the Premises and without material reduction in the size or commercial value of the Premises.



**3.8 Hazardous Materials and Sewage.** Landlord covenants that there are no pre-existing violations of any regulations relating to the storage, release or other treatments of Hazardous Materials (as hereinafter defined) in the Facility, and the Tenant covenants that it shall not use, generate, manufacture, refine, treat, process, produce, store, deposit, handle, transport, release or dispose of Hazardous Materials in, on or about the Premises or the groundwater thereof, in material violation of any federal, state or municipal law, decision, statute, rule, ordinance or regulation currently in existence or hereafter enacted or rendered. Tenant shall give Landlord immediate written notice of any claim received by Tenant from any person, entity or governmental agency that a release or disposal of Hazardous Materials has occurred or is threatened to occur on or about the Premises or the groundwater thereof. As used herein, the term "Hazardous Materials" shall mean and be defined as any and all toxic or hazardous substances, chemicals, materials or pollutants, of any kind or nature, which are regulated, governed, restricted or prohibited by any federal, state or local law, decision, statute, rule or ordinance currently in existence or hereafter enacted or rendered, and shall include, without limitation, all oil, gasoline and petroleum based substances.

Tenant shall not discharge or permit to be discharged into any sanitary sewer system or stormwater system serving the Premises, the Ballroom, the Facility, or any parking lot, roadway, undeveloped area, green space, or the like, any Hazardous Materials or toxic or hazardous sewage or waste other than that which is normal domestic wastewater for the Permitted Use. Any Hazardous Materials, toxic or hazardous sewage or waste which is produced or generated in connection with the use or operation of the Premises (collectively "Waste") shall be handled and disposed of as required by and in compliance with all applicable local, state and federal laws, ordinances, rules and regulations, or shall be pre-treated to the level of domestic wastewater prior to discharge into any sanitary sewer system serving the Premises. All Waste which is produced in connection with the use or operation of the Premises shall be handled and disposed of as required by and in compliance with all applicable local, state and federal laws, ordinances, rules, and regulations.

#### **ARTICLE IV. TERM**

**4.1 Effective Date; Duration of Agreement Term.** This Agreement and the obligations of the parties hereunder shall become effective upon the complete execution of this Agreement by all parties (the "Effective Date"). The Agreement Term shall be as defined and established in Section 1.3 above. At least ninety (90) days prior to the expiration of the Agreement Term, Tenant shall provide written notice to Landlord as to whether Tenant intends to (i) surrender the Premises upon the expiration of the Agreement Term, or (ii) enter into negotiations with the Landlord regarding the extension or renewal of the Agreement. Landlord's receipt of notice that the Tenant desires to negotiate an extension or renewal of the Agreement shall not bind the Landlord in any way, nor shall it preclude Landlord from seeking or negotiating agreements with other potential tenants for the lease of the Premises.

**4.2 Surrender of Premises.** On or before the last day of the Agreement Term or upon the sooner termination thereof, Tenant shall peaceably and quietly surrender and deliver the Premises to Landlord, in good order, condition and repair, reasonable wear and tear excepted, and free and clear of all liens and encumbrances. Upon such event and unless otherwise provided for in this Agreement, Tenant may at its expense remove proprietary personal property from the Premises and shall repair any damage to the Premises caused by such removal.

4.3 Holding Over. If Tenant or any other person or party shall remain in possession of the Premises or any part thereof following the expiration of the Agreement Term or earlier termination of this Agreement without an agreement in writing between Landlord and Tenant with respect thereto, the person or party remaining in possession shall be deemed to be a tenant at sufferance, and during any such holdover, the Rent (as defined herein) payable under this Agreement by such tenant at sufferance shall be Two Thousand Dollars and 00/100 (\$2,000.00) per month in effect immediately prior to the expiration of the Agreement Term or earlier termination of this Agreement. In no event, however, shall such holding over be deemed or construed to be or constitute a renewal or extension of this Agreement.

4.4 Early Termination. Notwithstanding anything to the contrary contained in this Agreement, either party hereto may, without cause but only upon ninety (90) days' prior written notice to the other party, terminate this Agreement at any time during the Agreement Term.

## **ARTICLE V. RENT**

5.1 Base Rent. Rent shall be as follows, First Year of rental Tenant shall pay zero dollars and no cents (\$0.00) per month as Base Rent to Landlord; Second year of rental, June 1, 2019 through May 31, 2020 (the "Rent Commencement Date") tenant shall pay One thousand dollars and no cents (\$1,000.00) and; Third year of the rental, June 1, 2020 through May 2021, Tenant shall pay one thousand dollars and no cents (\$1,000.00) until the expiration of the Agreement.

5.2 Additional Rent; Definition of "Rent". If Landlord shall make any expenditure for which Tenant is responsible or liable under this Agreement, or if Tenant shall become obligated to Landlord under this Agreement for any sum other than as herein provided, the amount thereof shall be deemed to constitute additional rent ("Additional Rent") and shall be due and payable by Tenant to Landlord within thirty (30) days of Landlord's demand thereof, or at such other time as may be expressly provided in this Agreement for the payment of the same.

For the purposes of this Agreement, the term "Rent" shall mean and be defined as all Base Rent and Additional Rent due from Tenant to Landlord hereunder.

5.3 Ballroom Rental Incentive. During the second (2<sup>nd</sup>) and third (3<sup>rd</sup>) year of rental Tenant may receive a \$200.00 reduction in monthly rent, up to \$1000.00 per month for each complete room rental of the Lake Ashton ballroom that is solely attributable to the Tenant(s) Marketing. This shall not include weddings, performances or existing events and in no case, shall Landlord reduce the monthly rent to less than \$0.00 (zero).

5.4 Late Payments. If Tenant fails to make any payment of Rent or any other sums or amounts to be paid by Tenant hereunder on or before the date such payment is due and payable, Tenant shall pay to Landlord an administrative late charge of five percent (5%) of the amount of such payment. In addition, such past due payment shall bear interest at the rate of eighteen percent (18%) per annum from the date such payment became due to the date of payment thereof by Tenant. Such late charge and interest shall constitute Additional Rent and shall be due and payable with the next installment of Rent due hereunder. Tenant shall, in addition to a late fee and interest, pay an administrative fee to the Landlord of One Hundred Dollars and 00/100 (\$100.00) for the handling of any check that is not honored due to insufficient funds in the account on which the instrument is drawn.



5.5 No Abatement of Rent. Except as may be expressly provided for in this Agreement, no abatement, diminution or reduction (a) of Rent, charges or other compensation, or (b) of Tenant's other obligations hereunder, shall be allowed to Tenant or any person claiming under Tenant, under any circumstances or for any reason whatsoever.

5.6 Payment of Rent. Base Rent shall be paid to Landlord on the first day of each month starting on the Rent Commencement Date. All Rent and other sums shall be paid to Landlord without demand and without deduction, set-off, claim or counterclaim of any nature whatsoever which Tenant may have or allege to have against Landlord, and all such payments shall, upon receipt by Landlord, be and remain the sole and absolute property of Landlord. If Landlord shall at any time accept any Rent or other sums or amounts after the same shall become due and payable, such acceptance shall not excuse a delay upon subsequent occasions, or constitute or be construed as a waiver of any of Landlord's rights hereunder.

5.7 Sales Tax. In addition to the Rent and any other sums or amounts required to be paid by Tenant to Landlord pursuant to the provisions of this Agreement, Tenant shall also pay to Landlord, simultaneously with such payment of Rent or other sums or amounts, the amount of any applicable sales, use or excise tax on any such Rent or other sums or amounts so paid by Tenant to Landlord, whether the same be levied, imposed or assessed by the State of Florida or any other federal, state, county or municipal governmental entity or agency. Any such sales, use or excise taxes shall be paid by Tenant to Landlord at the same time that each of the amounts with respect to which such taxes are payable are paid by Tenant to Landlord.

## **ARTICLE VI. TENANT'S FINANCIAL AND SALES INFORMATION**

6.1 Quarterly Income Statements. Tenant shall provide to Landlord quarterly, defined as the months of January, February and March ("Q1"), April, May and June ("Q2"), July, August, and September ("Q3") and October, November, and December ("Q4"), Tenant's unaudited income and expenditure statements, in the form attached hereto as Exhibit D (the "Income Statement"), pertaining to the Tenant's operations for both restaurant and banquet/catering sales during the immediately preceding three (3) months. Tenant shall provide the quarterly Income Statement by the 25th day of the month following for the preceding quarter (Q1 income statements on or before April 25th, Q2 on or before July 25th, Q3 on or before October 25th, and Q4 on or before January 25th). Tenant's failure to submit the required unaudited Income Statements shall constitute a default under the Agreement. Tenant shall also provide to Landlord, from time to time, such other information regarding the operations, business affairs and financial condition of Tenant as Landlord may reasonably request. As required by Section 3.4, Tenant agrees and acknowledges that all such books, documents, records, correspondence or other information related to the business conducted herein are public records, as defined in Chapter 119, Florida Statute. The financial reporting obligations under this section shall be limited to financial information regarding the Restaurant at Lake Ashton and expenses relating to this Agreement. Unless required otherwise by law, Tenant shall not be required to report financial information on other businesses under the same corporate entity unrelated to the Restaurant or this Agreement.

6.2 Point of Sale System and Reports. Tenant agrees to use, to the fullest extent practicable, a point of sale system ("POS System") for all sales and transactions conducted in Tenant's normal course of business. Tenant shall cooperate and coordinate with Landlord to either use Landlord's existing POS

System or an alternative POS system (subject to approval of the POS system by Landlord). Tenant shall generate any such reports from the POS System from time to time as Landlord requires or as required by law. Tenant shall not enter into cash sales or other transactions that are not entered into the POS system, unless Tenant obtains prior written approval from Landlord for an exception thereto.

## **ARTICLE VII. UTILITIES**

The allocation of the costs of utilities servicing the Premises shall be as set forth in Section 1.9 above. Landlord shall not be liable, in damages or otherwise, for any discontinuance, failure or interruption of service to the Premises or the Common Areas of utilities or of any air-conditioning system. No such discontinuance, failure or interruption shall be deemed a constructive eviction of Tenant or entitle Tenant to terminate this Agreement. No such discontinuance, failure or interruption shall entitle Tenant to withhold any payment due under this Agreement.

## **ARTICLE VIII. COMMON AREAS AND PARKING AREAS**

**8.1 Definition of "Common Areas".** The term "Common Areas" refers to all improved and unimproved areas within or adjacent to the Facility that are now or hereafter made available for the general use, convenience and benefit of Landlord, Tenant, and their respective customers, patrons, employees and invitees, and the general public, as applicable. Common Areas shall include, but not be limited to, floors, plazas, piers, decks, ceilings, roofs, skylights, windows, driveways, open or enclosed malls, fountains and other water elements, service areas, loading docks, vertical circulation facilities, restrooms, stairways, sidewalks, curbs, landscaped areas, and similar appurtenances located within or adjacent to the Facility, but shall specifically exclude any of Landlord's amenity facilities such as the swimming pool, ballroom, movie theater, activity rooms, sports/fitness facilities, etc.

**8.2 Use of Common Areas.** Subject to the provisions of this Agreement, Tenant and its employees, customers, patrons and invitees are authorized to use the Common Areas on a non-exclusive basis for the purposes intended by Landlord. Tenant and its employees shall have the right to use the Common Areas for access to the Premises at all times and Tenant's customers shall have such right during all hours that Tenant is open for business. Landlord shall, in a manner consistent with other facilities within Central Florida, keep, or cause to be kept, the Common Areas in a neat, clean and orderly condition, properly lighted and landscaped, and repair and maintain (or replace, if necessary) all equipment and facilities thereof.

**8.3 Control of Common Areas.** Landlord shall at all times have the right of determining the nature and extent of the Common Areas and parking areas, and of making such changes thereto from time to time which in its reasonable opinion are deemed to be desirable, including the location and relocation of driveways, entrances, exits, automobile parking spaces, the direction and flow of traffic, designation of prohibited areas, landscaped areas, utilities and all other facilities thereof, and the modification of the Common Areas for the purpose of expanding and/or remodeling the Facility. Except as otherwise specifically provided in this Agreement, Landlord shall at all times have the sole and exclusive control of the Common Areas and parking areas, including the right to lease space within the Common Areas to tenants for the sale of merchandise and/or services and the right to permit advertising displays, educational displays and entertainment in the Common Areas. Landlord shall also have the right at any time to exclude and restrain any person from use thereof, excepting, however, bona fide customers, patrons and service suppliers of Tenant and other tenants of the Facility who make use of said areas in accordance with the

rules and regulations established by Landlord from time to time with respect thereto in accordance with Section 8.4. The rights of Tenant with respect to the Common Areas and parking areas shall at all times be subject to the rights of Landlord and the public, as applicable. Tenant shall keep all of the Common Areas free and clear of any obstructions created or permitted by Tenant or resulting from Tenant's operation, and Tenant shall permit the parking areas to be used only for normal parking and ingress and egress by the customers, patrons and service suppliers to and from the buildings of the Facility.

**8.4 Rules and Regulations.** Tenant acknowledges that Landlord is a special purpose government, subject to applicable federal, state and local laws and regulations. Landlord may, from time to time, promulgate, amend and require the observance by Tenant and the public rules, policies and regulations uniformly imposed and enforced in a non-discriminatory manner for the proper and efficient operation and maintenance of the Common Areas and parking areas or any portion thereof. Such rules and regulations shall be part of the Rules and Regulations described and defined in Section 28.14 below, and may be amended and/or added by the Landlord from time to time.

**8.5 Parking.** Landlord shall furnish space for parking by Tenant and its customers and employees on a non-exclusive basis in common with customers and employees of other users and of Landlord. Landlord may, in the exercise of its reasonable discretion, change the configuration, location and size of the parking areas, but except for emergency situations or temporary interruptions, any such changes will provide parking areas substantially equivalent to those which existed prior to such change. At all times Landlord shall have the right, on a nondiscriminatory basis, to designate, or change the designation of, the particular parking area to be used by any or all Facility tenants, their employees and customers and to designate discrete areas for employee parking. If Tenant or its employees fail to park their cars in the designated areas, Landlord may charge Tenant an amount established from time to time by Landlord per car per day for each day or partial day that any car is parked in any area other than designated parking areas, together with any towing charges incurred by Landlord in removing vehicles from unauthorized locations. All amounts due under this Section shall be payable within ten (10) days after Landlord's demand.

## **ARTICLE IX. MARKETING AND ADVERTISING**

**9.1 Tenant Advertising.** Beginning on the Commencement Date and continuing for the balance of the Agreement Term, Tenant shall undertake advertising activities to advertise, market and promote Tenant's business conducted at the Premises, subject to provisions of Section 1.5.

**9.2 Signage.** All signs to be placed on the exterior of the Premises (in any part of the Facility or grounds, within or outside the boundaries of the Lake Ashton community), other than those wholly within the Premises, shall be approved in advance by Landlord. Landlord will consider signage (including billboards) after a preliminary design is submitted in keeping with District standards.

**9.3 No Use of Name.** Tenant will not use or issue any promotional advertising, or other material using Landlord's name without first obtaining Landlord's prior written approval thereof. This provision shall not prevent Tenant from using the name "Nini's Lake Ashton Café", "Nini's Lake Ashton" or a substantially similar variation thereof as the name of the restaurant.



## **ARTICLE X. POSSESSION AND OPERATION OF PREMISES**

**Duties and Prohibited Conduct.** Tenant shall not use, or knowingly permit any invitee or other person to use, the Premises for the sale or display of, or for any activity involving, pornography, nudity, violence, drug paraphernalia, or any goods and/or services and/or conduct which, in the sole discretion of Landlord, are inconsistent with the image of a community or senior-oriented club establishment, or for a massage parlor, adult bookstore or second-hand store or for the conduct of an auction, distress, fire, bankruptcy or going-out-of business sale. Tenant shall not cause or permit waste to occur in the Premises, or overload any floor, or abuse the plumbing in the Premises. Tenant shall keep the Premises and every part thereof in a clean and wholesome condition, free from any objectionable noise, music volumes, lights, odors or nuisances, which may be detected from outside the Premises (unless approved by Landlord in writing in advance), shall comply with all requirements of all governmental authorities, and shall conduct its activities in a manner which is environmentally sound. Unless otherwise permitted by the Agreement or approved by the Landlord in writing: (i) Tenant shall keep no live animals of any kind in the Premises; (ii) Tenant shall not, without prior written approval from Landlord, display or sell merchandise, or place carts, portable signs, devices or any other objects, outside the defined exterior walls or roof and permanent doorways of the Premises; (iii) Tenant shall not erect or install any aerial antenna or "dish" (provided other facilities are available at a reasonable cost to Tenant for the reception of programming transmitted via satellite); (iv) Tenant shall not solicit or distribute material in any manner in any of the Common Areas of the Facility; and (v) Tenant shall not sell merchandise from vending machines or allow any coin- or token-operated vending, video, pinball or gaming machines in the Premises.

## **ARTICLE XI. TENANT'S CONDUCT OF BUSINESS.**

**11.1 Operating Covenants.** Tenant covenants and agrees that it will, throughout the Agreement Term and without interruption (except for approved renovations with scheduled "down time"), from and after its initial opening of the Premises for business: (i) operate and conduct within the Premises the business which it is permitted to operate and conduct under the provisions hereof, except while the Premises are untenable by reason of fire or other casualty; and (ii) maintain within the Premises an adequate stock of merchandise together with sufficient personnel and Personal Property (defined in Section 13.1) to service and supply the usual and ordinary requirements of its customers.

Tenant acknowledges that the Facility is intended to provide only first class service and food service for the patrons of the Facility and that Tenant will operate and conduct all aspects of its operations in accordance with this standard. Prior to the commencement of the Agreement Term, Tenant shall provide the names and contact information of the manager, assistant manager(s) and any other key employees(s) hired by Tenant (or its agents) for its business operations.

Tenant shall pay all bills and costs related to its operation of the Premises as and when they come due, or shall arrange for such payment to avoid the disruption or cancellation of any utility or other services required to be paid by Tenant under this Agreement or the continuous operation of the Premises. Tenant's failure to pay or its inability to pay its vendors, shall constitute a default under this Agreement.

Tenant shall insure that the Premises are locked and safeguarded after regular business hours, and shall maintain proper and appropriate staffing to safeguard the Premises throughout regular business hours.

11.2 Operating Days and Hours. At a minimum, the Tenant shall operate the restaurant 8am to 8pm, 6 days per week; tenant shall be responsible to serve on Sunday's breakfast and brunch; the remaining five days will need to consist of Breakfast, Lunch and Dinner. Tenant may elect to extend restaurant hours and days beyond the aforementioned minimum. Exceptions to this agreement would be for Holidays and Emergencies only. Any other change(s) that would deviate from the minimum days and hours of operation must be brought to the attention of Landlord and voted upon at a Lake Ashton Community Development District board meeting.

11.3 Personnel Dress Code. The Tenant shall ensure that employees working on the Premises shall wear uniforms or professional attire at all times that conform to safe work practices and the proper professional work environment for a similarly quality restaurant in Central Florida. Clothing that expresses or implies obscene language or graphics, degrading or demeaning connotations, as reasonably determined by the Landlord, shall be strictly prohibited.

11.4 Patron Dress Code. The Tenant shall ensure that patrons of the Restaurant shall wear appropriate attire at all times. Patrons shall wear shirts at all times and shall wear footwear that conforms to appropriate attire. Tenant may establish a more stringent patron dress code suitable for the Premises if Tenant deems such necessary or prudent.

11.5 Personnel Background Checks and Conduct. Tenant shall obtain, or cause to be obtained, at its own cost for each individual Tenant employs on the Premises at any time, a criminal background check performed by an appropriate federal or state agency, or by a professional and licensed private investigator or investigation company, and shall make, based on the results of such background checks, employment suitability determinations for each employee that are reasonable and customary within Tenant's industry for a high quality clubhouse restaurant. Tenant shall maintain a copy of said background check on file so long as the subject individual remains in Tenant's employ, and Tenant shall make all background checks available for Landlord's review upon request. The Tenant shall enforce strict discipline and good order among its employees on the Premises.

11.6 Change of Trade Name. Tenant may elect to change the trade name associated with the operation of the restaurant business on the Premises, but Landlord's prior written approval of any such change or use of an alternate trade name shall be required before Tenant institutes such change or use.

## **ARTICLE XII. TENANT'S EQUIPMENT MAINTENANCE OBLIGATION**

12.1 Equipment Maintenance Obligations. Tenant shall operate and maintain, in a commercially reasonable manner, any and all of Landlord's kitchen and/or bar equipment including, but not limited to, kitchen and cooking appliances, cooking and food service equipment, ice machines, coolers, freezers, steamers and hood systems (the "Major Equipment"). In addition, Tenant shall, within thirty (30) days of the beginning of the Agreement Term and at Tenant's sole expense, enter into preventative maintenance contracts providing for periodic inspection and preventative/corrective maintenance or repair of the Major Equipment (with copies of such contracts being provided to Landlord), which contracts Tenant shall keep in force during the entirety of the Agreement Term. Said preventative maintenance contracts shall provide for inspection, cleaning, and service of ice machines no less than once every six months, and for inspection and service of all other Major Equipment no less than once every twelve months. Tenant shall be responsible for all costs and expenses associated with the maintenance and repair of the Major Equipment unless it is determined, in Landlord's reasonable discretion, that repairs to a certain piece or pieces of

Major Equipment are not feasible or that such piece or pieces of Major Equipment are beyond reasonable repair. If Landlord makes such a determination, and a piece or pieces of Major Equipment need to be replaced, the Landlord shall do so at its expense. Tenant shall also, within thirty (30) days of the beginning of the Agreement Term and at Tenant's sole expense, enter into a service contract with a professional and licensed service provider for the periodic and regular removal of all used cooking oil from, and the cleaning of all grease traps located on, the Premises.

### **ARTICLE XIII. PERSONAL PROPERTY**

13.1 Tenant's Personal Property. All of Tenant's trade fixtures, furniture, furnishings, signs and other personal property not permanently affixed to the Premises (collectively, the "Personal Property") must be of a quality consistent with the Facility when installed in or attached to the Premises, and any such Personal Property shall remain the property of Tenant. Provided Tenant has not failed to timely cure an Event of Default, Tenant shall have the right to remove any or all of its Personal Property which it may have stored or installed in the Premises; provided if the Agreement is still in effect Tenant shall immediately replace the same with similar Personal Property of comparable or better quality. At Landlord's option, Landlord may require Tenant to remove any and all Personal Property from the Premises upon the expiration of the Agreement. Tenant shall, at its expense, immediately repair any damage occasioned to the Premises by reason of the removal of any Personal Property.

13.2 Landlord's Personal Property. Landlord currently owns and keeps on the Premises various items of personal property, a list of which is attached hereto as Exhibit C ("Landlord's Inventory"). By executing this Agreement, Tenant specifically acknowledges that Exhibit C is a complete and accurate list of Landlord's personal property located or kept on the Premises. Landlord's Inventory is and shall at all times remain property of the Landlord. Landlord's Inventory list shall be updated at the conclusion or earlier termination of the Agreement Term hereunder, and Tenant shall be responsible, subject to Article XII herein, for the replacement/repair cost of any missing, damaged or otherwise unfit items.

### **ARTICLE XIV. ALTERATIONS AND IMPROVEMENTS**

14.1 Tenant's Alterations. At Tenant's own expense, and after receiving prior written approval from Landlord (which may be granted or withheld in Landlord's sole discretion), Tenant may, from time to time, make such permanent and nonstructural alterations, replacements, additions, changes and/or improvements (collectively, the "Alterations") to the Premises as Tenant may find desirable or convenient for its purposes, provided that the value of the Premises is not thereby diminished. Tenant shall reimburse Landlord for all out-of-pocket costs and expenses (including any architect and/or engineer fees) Landlord incurs in approving or disapproving Tenant's plans for Alterations.

14.2 Tenant's Construction Requirements. All Alterations, after receiving Landlord's approval as required above, shall be made under the supervision of a competent Florida-licensed and insured contractor, architect, or Florida-registered professional engineer, as applicable, and Landlord may require that such Alterations must be made in accordance with signed and sealed plans and specifications prepared and constructed in conformity with all applicable laws, codes and regulations and industry standard structural, mechanical, electrical, design and quality standards, requirements and/or criteria. Such plans and specifications, if required by Landlord, shall be submitted to Landlord for its approval prior to commencement of the work, in accordance with such procedures as Landlord shall reasonably specify. Upon the expiration or earlier termination of this Agreement, such Alterations (unless they comprise



Personal Property) shall not be removed by Tenant but shall become a part of the Premises. In performing the work of any such Alterations, Tenant shall have the work performed in such manner as not to obstruct access to the Premises of any other tenant in the Facility.

## **ARTICLE XV. CONTRACTORS' OR MECHANICS' LIENS**

15.1 Liens Generally. Tenant shall not create or cause to be imposed, claimed or filed upon the Premises, or any portion thereof, or upon the interest of Landlord therein, any lien, charge or encumbrance whatsoever. If, because of any act or omission of Tenant, any such lien, charge or encumbrance shall be imposed, claimed or filed, Tenant shall, at its sole cost and expense, within twenty (20) days following written notice from Landlord, cause the same to be fully paid and satisfied or otherwise discharged of record (by bonding or otherwise) and Tenant shall indemnify and save and hold Landlord harmless from and against any and all costs, liabilities, suits, penalties, claims and demands whatsoever, and from and against any and all attorneys' fees, at both trial and all appellate levels, resulting or on account thereof and there from. In the event that Tenant shall fail to comply with the foregoing provisions of this Section 15.1, Landlord shall have the option of paying, satisfying or otherwise discharging (by bonding or otherwise) such lien, charge or encumbrance and Tenant agrees to reimburse Landlord, upon demand and as Additional Rent, for all sums so paid and for all costs and expenses reasonably incurred by Landlord in connection therewith, together with interest thereon, until paid.

15.2 Mechanics Liens. Landlord's interest in the Premises shall not be subjected to liens of any nature by reason of Tenant's construction, alteration, renovation, repair, restoration, replacement or reconstruction of any improvements or equipment on or in the Premises, or by reason of any other act or omission of Tenant (or of any person claiming by, through or under Tenant) including, but not limited to, mechanics' and materialmen's liens. All persons dealing with Tenant are hereby placed on notice that such persons shall not look to Landlord or to Landlord's credit or assets (including Landlord's interest in the Premises) for payment or satisfaction of any obligations incurred in connection with the construction, alteration, renovation, repair, restoration, replacement or reconstruction thereof by or on behalf of Tenant. Tenant has no power, right or authority to subject Landlord's interest in the Premises to any mechanic's or materialmen's lien or claim of lien. If a lien, a claim of lien or an order for the payment of money shall be imposed against the Premises on account of work performed, or alleged to have been performed, for or on behalf of Tenant, Tenant shall, within thirty (30) days after written notice of the imposition of such lien, claim or order, cause the Premises to be released therefrom by the payment of the obligation secured thereby or by furnishing a bond or by any other method prescribed or permitted by law. If a lien is released, Tenant shall thereupon furnish Landlord with a written instrument of release in form for recording or filing in the appropriate office of land records of Polk County, Florida, and otherwise sufficient to establish the release as a matter of record.

15.3 Contest of Liens. Tenant may, at its option, contest the validity of any lien or claim of lien if Tenant shall have first posted an appropriate and sufficient bond in favor of the claimant or paid the appropriate sum into court, if permitted by law, and thereby obtained the release of the Premises from such lien. If judgment is obtained by the claimant under any lien, Tenant shall pay the same immediately after such judgment shall have become final and the time for appeal therefrom has expired without appeal having been taken. Tenant shall, at its own expense, defend the interests of Tenant and Landlord in any and all such suits (with Tenant selecting counsel for the handling of such defense, subject to Landlord's reasonable approval); provided, however, that Landlord may, at its election, engage at its own expense its own counsel and assert its own defenses, in which event Tenant shall cooperate with Landlord and make

available to Landlord all information and data which Landlord deems necessary or desirable for such defense.

**15.4 Notices of Commencement of Construction.** Prior to commencement by Tenant of any work on the Premises which shall have been previously permitted by Landlord as provided in this Agreement, Tenant shall record or file a notice of the commencement of such work (the "Notice of Commencement") in the public records of the Polk County, Florida, identifying Tenant as the party for whom such work is being performed, stating such other matters as may be required by law and requiring the service of copies of all notices, liens or claims of lien upon Landlord. Any such Notice of Commencement shall clearly reflect that the interest of Tenant in the Premises is that of a leasehold estate and shall also clearly reflect that the interest of Landlord as the fee simple owner of the Premises shall not be subject to mechanics or materialmen's liens on account of the work which is the subject of such Notice of Commencement. A copy of any such Notice of Commencement shall be furnished to and approved by Landlord and its attorneys prior to the recording or filing thereof, as aforesaid.

## **ARTICLE XVI. REPAIRS AND MAINTENANCE**

**16.1 Tenant's Obligations.** In addition to Tenant's equipment maintenance obligations contained in Article XII, Tenant shall at all times repair, maintain in good and tenantable condition and replace, as necessary, the Premises and every part thereof, including all equipment, appliances and Landlord's Inventory. All replacements made by Tenant in accordance with this Section 16.1 shall be of like size, kind and quality to the items replaced as they existed when originally installed. Tenant shall also keep, or cause to be kept, the Premises in a neat, clean and orderly condition through the provision of janitorial services as required by Section 1.11. Any non-compliance with Tenant's obligations hereunder, determined at Landlord's sole and reasonable discretion, shall be remedied at Tenant's sole expense.

**16.2 Landlord's Obligations.** Subject to Sections 8.3 and 16.1, Landlord shall repair, maintain in good and tenantable condition and replace, as necessary, the roof, exterior walls and structural parts of the Premises (including the structural floors) and all meters (unless installed by Tenant), pipes, conduits, equipment (including air conditioning), components and facilities that supply the Premises with utilities installed by Landlord (except as the appropriate utility company has assumed these duties); provided that Landlord shall not be required, and Tenant shall be required, to make repairs necessitated by reason of: the gross negligence or willful misconduct of Tenant and its employees and agents; or improvements to the Premises made by Tenant's contractors and service providers who are separately insured. Landlord shall have no obligation to repair, replace or maintain the Premises or the mechanical equipment exclusively serving the Premises at any time, except as this Agreement expressly provides.

**16.3 Right to Enter.** Tenant shall permit Landlord or its authorized representatives, upon reasonable notice (except in the case of an emergency or threatened emergency or a default or threatened default under this Agreement in which case no notice shall be required), to enter the Premises at any time to inspect the same, perform periodic inspections to insure compliance under 16.1, to perform its duties under Section 16.2, and to perform any work therein that Landlord may reasonably deem necessary. No exercise by Landlord of any rights reserved in this Section 16.3 shall entitle Tenant to any compensation, damages or abatement of rent from Landlord for any injury or inconvenience occasioned thereby. Landlord will endeavor in good faith to exercise the foregoing right to enter when the business operated from the Premises is closed to the public.

16.4 Landlord's Liability. Landlord shall be liable for failure to keep the Premises in repair, provided Landlord is obligated to make such repairs under the terms hereof and further provided that notice of the need for repairs has been given to Landlord, a reasonable time has elapsed and Landlord has failed to make such repairs. Landlord shall also be liable for its gross negligence or willful misconduct in performing any repairs that Landlord undertakes hereunder. Landlord shall not be liable to Tenant, its employees, agents, business invitees, licensees, customers, clients, family members or guests for any damage, injury, loss, compensation or claim, including, but not limited to, claims for the interruption of or loss to Tenants business, based on, arising out of or resulting from any cause whatsoever, including, but not limited to: (a) repairs to any portion of the Premises; (b) interruption in Tenants use of the Premises; (c) any accident or damage resulting from the use or operation (by Landlord, Tenant or any other person or persons) of any equipment within the Premises, including without limitation, heating, cooling, electrical or plumbing equipment or apparatus; (d) the termination of this Agreement by reason of the condemnation or destruction of the Premises in accordance with the provisions of this Agreement; (e) any fire, robbery, theft, mysterious disappearance or other casualty; (f) the actions of any other person or persons; and (g) any leakage or seepage in or from any part or portion of the Premises, whether from water, rain or other precipitation that may leak into, or flow from, any part of the Premises, or from drains, pipes or plumbing fixtures in the Improvements. Any goods, property or personal effects stored or placed by the Tenant or its employees in or about the Premises shall be at the sole risk of the Tenant.

16.5 Personal Property. All personal property placed or moved into the Premises above described shall be at risk of the Tenant or owner thereof and Landlord shall not be liable for any damage to said personal property or to the Tenant arising from but not limited to the bursting or leaking of water pipes, or from any act of negligence of any co-tenant or occupants of the building or of any other person whomsoever.

## **ARTICLE XVII. INDEMNITY; INSURANCE**

17.1 Indemnity. Except to the extent that the acts, omissions and other conduct of Landlord contribute to its loss or damage, as hereinafter described, Tenant shall defend, insure, indemnify and save and hold Landlord harmless from and against any and all liabilities, obligations, losses, damages, injunctions, suits, actions, fines, penalties, claims, demands, costs and expenses of every kind or nature, including reasonable attorneys' fees and court costs, incurred by Landlord, arising directly or indirectly from or out of: (i) any accident, injury or damage which shall happen at, in or upon the Premises, however occurring; (ii) any matter or thing arising out of the condition, occupation, maintenance, alteration, repair, use or operation by any person of the Premises, or any part thereof, or the operation of the business contemplated by this Agreement to be conducted thereon, thereat, therein, or therefrom; (iii) any failure of Tenant to comply with any laws, ordinances, requirements, orders, directions, rules or regulations of any governmental authority; (iv) any contamination of the Premises, or the groundwater's thereof, arising on or after the date Tenant takes possession of the Premises and occasioned by the use, transportation, storage, spillage or discharge thereon, therein or therefrom of any toxic or hazardous chemicals, compounds, materials or substances, whether by Tenant or by any agent or invitee of Tenant; (v) any discharge of toxic or hazardous sewage or waste materials from the Premises into any septic facility or sanitary sewer system serving the Premises arising on or after the date Tenant takes possession of the Premises, whether by Tenant or by any agent of Tenant; or (vi) any other act or omission of Tenant, its employees, agents, invitees, customers, licensees or contractors. Tenant's obligations under this Section 17.1 arising prior to the termination of this Agreement shall survive any such termination.



Nothing herein shall cause or be construed as a waiver of the Landlord's sovereign immunity or limitations on liability beyond any limited waiver granted pursuant to Section 768.28, *Florida Statutes*, or other law, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which could otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

**17.2 Tenant's Insurance Obligation.** Tenant will throughout the Agreement Term (and any other period when Tenant is in possession of the Premises) carry and maintain, at its sole cost and expense, the following types of insurance, which shall provide coverage on an occurrence basis, with respect to the Premises in the amounts specified and in the form hereinafter provided for:

(a) Commercial General Liability Insurance. Commercial general liability insurance covering claims arising from bodily injury and property damage with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate and insuring against legal liability of the insured with respect to the Premises or arising out of the maintenance, use or occupancy thereof. The liability policy also shall cover, but not be limited to, the contractual liabilities of the Tenant arising from this Agreement.

(b) Excess Liability Insurance. Tenant shall also carry and maintain umbrella liability insurance with a limit of not less than \$2,000,000.00 per occurrence.

(c) Workers' Compensation and Employers' Liability Insurance. Workers' Compensation Insurance covering all employees of Tenant, as required by the laws of the State of Florida, and Employers' Liability coverage subject to a limit of no less than \$100,000.00 each employee, \$100,000.00 each accident, and \$500,000.00 policy limit.

(d) Liquor Liability/Dram Shop Insurance. Tenant shall provide liquor liability insurance in amounts of not less than those described in subsection 17.2(a) above relating to liability insurance, covering the full amount of potential liability from time to time provided or imposed upon the sellers of alcoholic beverages under the laws of the State of Florida and fully protecting both Tenant and Landlord in connection with any such sales, service or consumption of alcoholic beverages.

(e) Other Insurance. In addition, Tenant shall, at Landlord's request, provide, keep and maintain in full force and effect such other insurance for such risks and in such amounts as may from time to time be commonly insured against in the case of business operations similar to those contemplated by this Agreement to be conducted by Tenant on the Premises.

(f) Form of Policies. All policies of insurance provided for herein shall be issued by insurance companies qualified to do business in the State of Florida and with a rating of at least "A-7" in Best's Key Rating Guide, or as otherwise acceptable to the Landlord. All such policies (except to the extent inconsistent with the type of policy) shall contain cross-liability endorsements and shall name Landlord, and such additional individuals or entities as Landlord shall from time to time reasonably designate, as "Additional Insureds." Executed copies of such policies of insurance or certificates thereof shall be delivered to prior to the commencement of this Agreement and, thereafter, executed copies of renewal policies or certificates thereof shall be delivered to Landlord within thirty (30) days prior to the expiration of the term of each such policy. If the Tenant fails to

take out or to keep in force any insurance referred to in this Article XVII, then the Landlord has the right, without assuming any obligation in connection therewith, to procure such insurance at the sole cost of the Tenant, and all outlays by the Landlord shall be paid by the Tenant to the Landlord without prejudice to any other rights or remedies of the Landlord under this Agreement. The Tenant shall not keep or use in the Premises any article which may be prohibited by any fire or casualty insurance policy in force from time to time covering the Premises.

Notwithstanding the foregoing, Tenant may cause any of the policies which it maintains to carry such deductibles as are commercially reasonable, but in no event shall such deductibles exceed \$15,000 per incident, without Landlord's prior written consent. Tenant shall be responsible for paying any additional premiums charged by its insurer(s) for all coverage.

## **ARTICLE XVIII. RECONSTRUCTION**

**18.1 Insured Casualty.** If the Premises are damaged by fire or other perils covered by Landlord's insurance:

(a) **Repair of Damage.** As soon as is reasonably possible, but not later than one hundred eighty (180) days after the date of such damage, Landlord shall commence repair, reconstruction and restoration (collectively, "Reconstruction") of that portion of the Premises and prosecute the same diligently to completion, in which event this Agreement shall continue in full force and effect; or

(b) **Damage Near End of Term.** In the event of partial or total destruction of the Premises during the last one (1) year of the Agreement Term, Landlord and Tenant shall each have the option to terminate this Agreement on notice to the other of exercise thereof within thirty (30) days after such destruction.

In either event described in this Section 18.1, should the subject repairs have a material adverse impact upon the ability of Tenant to conduct its regular on-going business operations at the Premises and the repairs cannot be completed or are not reasonably capable of being completed within eighteen (18) months following the casualty or are not, in fact, completed within such eighteen (18) month period, Tenant may at its option elect to terminate the remaining Term of this Agreement on the basis set forth in Section 18.5.

**18.2 Uninsured Casualty.** If the Premises are damaged by any casualty not covered by the insurance or self-insurance that Landlord is required to maintain, Landlord shall have the election, and shall, within one hundred eighty (180) days following the date of such damage, give Tenant notice of Landlord's election to either: (i) to commence Reconstruction of that portion of the Premises and prosecute the same diligently to completion, in which event this Agreement shall continue in full force and effect, or (ii) not to perform such Reconstruction of such portion of the Premises, in which event this Agreement shall cease and terminate not later than sixty (60) days after Landlord's notice of its election to terminate.

**18.3 Release of Liability.** Upon any termination of this Agreement under any of the provisions of this Article XVIII, the parties shall be released thereby without further obligation to the other party coincident with the surrender of possession of the Premises to Landlord, except for obligations which have

theretofore accrued and are then unpaid. In the event of termination, Landlord and Tenant shall share in the proceeds from Tenant's insurance (including deductibles) maintained pursuant to Section 17 as their respective interests may appear.

18.4 Abatement of Rent. In the event of Reconstruction of the Premises as herein provided, Tenant shall continue the operation of its business on the Premises during any such period to the extent reasonably practicable from the standpoint of prudent business management, and the obligation of Tenant to pay Percentage Rent, Taxes, Overhead Charges and Additional Rent shall remain in full force and effect. Tenant shall not be entitled to any compensation or damages from Landlord for loss of use of the whole or any part of the Premises, Improvements, Personal Property, the building of which the Premises are a part, or any inconvenience or annoyance occasioned by such damage, Reconstruction or replacement

18.5 Major Destruction. Notwithstanding of any of the foregoing provisions of this Article XVIII, if the Facility is damaged to an extent of at least thirty-three and one-third percent (33-1/3%) of the Premises' full replacement cost as of the date of destruction, Landlord shall have the right to terminate this Agreement by giving notice of such termination to Tenant within ninety (90) days after such destruction.

#### **ARTICLE XIX. MORTGAGES AND SUB-LEASING**

##### **19.1 Prohibitions.**

(a) Mortgages. Tenant shall not enter into any Mortgage of its leasehold interest in the Premises without the prior written consent of Landlord, which consent may be withheld by Landlord in its sole discretion.

(b) Sub-leasing. Tenant shall not sublease the Premises, in whole or in part, without the prior written consent of Landlord, which consent may be withheld by Landlord in its sole discretion.

#### **ARTICLE XX. SECURITY DEPOSIT**

20.1 On or before the Effective Date, Tenant shall deposit with Landlord the sum specified in Section 1.6 as the Security Deposit hereunder. The Security Deposit shall be held by Landlord without liability for interest as security for the full and faithful performance by Tenant of all its obligations under this Agreement. The Security Deposit shall not be mortgaged, assigned, transferred or encumbered by Tenant without Landlord's prior written consent.

20.2 If any of the Rent herein reserved or any other sum payable by Tenant to Landlord shall be overdue or paid by Landlord on behalf of Tenant, or if Tenant shall fail to perform any of its other obligations under this Agreement, then Landlord may, at its option and without prejudice to any other remedy which Landlord may have on account thereof, appropriate and apply said entire Security Deposit to the sums then due or past due from Tenant. Should Tenant comply with all of said obligations and promptly pay all the rents when due and all other sums payable by Tenant to Landlord, said Security Deposit shall be refunded in full to Tenant no later than ninety (90) days after Tenant has surrendered possession of the Premises to Landlord at the expiration or earlier termination of Agreement Term. If Landlord claims deductions against the Security Deposit, Landlord shall return any remaining portion to Tenant within such ninety (90) day period. In the event of bankruptcy or other debtor-creditor proceedings against Tenant, the



Security Deposit shall be deemed to be applied first to the payment of Rent and other charges due Landlord for the earliest periods prior to the filing of such proceedings.

## **ARTICLE XXI. DEFAULTS BY TENANT; REMEDIES**

21.1 Default. Each of the following events shall be an Event of Default hereunder by Tenant and shall constitute a breach of this Agreement:

(a) If Tenant shall fail to pay, when due, any Rent or portion thereof, or any other sum or amount due to Landlord from Tenant hereunder, and such failure shall continue for a period of five (5) days after the date on which Landlord provides written notice to Tenant thereof.

(b) If Tenant shall violate or fail to comply with or perform any other term, provision, covenant, agreement or condition to be performed or observed by Tenant under this Agreement, and such violation or failure shall continue for a period of fifteen (15) days after written notice thereof from Landlord or, if such non-monetary default cannot reasonably be accomplished within fifteen (15) days, Tenant shall have a reasonable period of time to cure such default, provided the cure is commenced within said fifteen (15) day period and is thereafter aggressively pursued to completion by Tenant.

(c) If Tenant ceases the actual and continuous operation of the business contemplated by this Agreement to be conducted by Tenant upon the Premises (unless such cessation in operation is permitted pursuant to the terms of this Agreement). Any permitted cessation of business operations for a period exceeding five (5) days, without prior written approval of Landlord, shall constitute an Event of Default

(d) If, at any time during the Agreement Term, Tenant files in any court, pursuant to any statute of either the United States or of any State, a petition in bankruptcy or insolvency, or for reorganization or arrangement, or for the appointment of a receiver or trustee of all or any portion of Tenant's property, including, without limitation, its leasehold interest in the Premises, or if Tenant makes an assignment for the benefit of its creditors or petitions for or enters into an arrangement with its creditors, or if, at any time during the Agreement Term, there is filed against Tenant in any courts pursuant to any statute of the United States or of any State, a petition in bankruptcy or insolvency, or for reorganization, or for the appointment of a receiver or trustee of all or a portion of Tenant's property, including, without limitation, its leasehold interest in the Premises, and any such proceeding against Tenant is not dismissed within sixty (60) days following the commencement thereof.

(e) If Tenant's leasehold interest in the Premises or property therein is seized under any levy, execution, attachment or other process of court where the same shall not be vacated or stayed on appeal or otherwise within thirty (30) days thereafter, or if Tenant's leasehold interest in the Premises is sold by judicial sale and such sale is not vacated, set aside or stayed on appeal or otherwise within thirty (30) days thereafter.

21.2 Remedies on Default. If any Event of Default hereinabove specified shall occur, Landlord, at any time thereafter, shall have and may exercise any of the following rights and remedies:

(a) Landlord may, pursuant to written notice thereof to Tenant, terminate this Agreement and, peaceably or pursuant to appropriate legal proceedings, re-enter, retake and resume possession of the Premises for Landlord's own account and, for Tenant's breach of and default under this Agreement, recover immediately from Tenant any and all Rent and other sums and damages due or in existence at the time of such termination, including, without limitation: (i) all Rent and other sums, charges, payments, costs and expenses agreed and/or required to be paid by Tenant to Landlord hereunder, (ii) all costs and expenses of Landlord in connection with the recovery of possession of the Premises, including reasonable attorneys' fees and court costs, and (iii) all costs and expenses of Landlord in connection with any re-letting or attempted re-letting of the Premises or any part or parts thereof, including, without limitation, brokerage fees, attorneys' fees and the cost of any alterations or repairs which may be reasonably required to so relet the Premises, or any part or parts thereof.

(b) Landlord may, pursuant to any prior notice required by law and without terminating this Agreement, peaceably or pursuant to appropriate legal proceedings, re-enter, retake and resume possession of the Premises for the account of Tenant, make such alterations of and repairs to the Premises as may be reasonably necessary in order to re-let the same or any part or parts thereof and re-let or attempt to re-let the Premises or any part or parts thereof for such term or terms (which may be for a term or terms extending beyond the Agreement Term), at such rents and upon such other terms and provisions as Landlord, in its sole but reasonable discretion, may deem advisable. If Landlord re-lets or attempts to re-let the Premises, Landlord shall be the sole judge as to the terms and provisions of any new lease or sublease and of whether or not a particular proposed new tenant or sub-tenant is acceptable to Landlord. Upon any such re-letting, all rents received by the Landlord from such re-letting shall be applied (a) first, to the payment of all costs and expenses of recovering possession of the Premises, (b) second, to the payment of any costs and expenses of such re-letting, including brokerage fees, attorneys' fees and the cost of any alterations and repairs reasonably required for such re-letting, (c) third, to the payment of any indebtedness, other than Rent, due hereunder from Tenant to the Landlord, (d) fourth, to the payment of all Rent and other sums due and unpaid hereunder, and (e) fifth, the residue, if any, shall be held by the Landlord and applied in payment of future Rents and other sums as the same may become due and payable hereunder. If the rents received from such re-letting during any period shall be less than that required to be paid during that period by the Tenant hereunder, Tenant shall promptly pay any such deficiency to the Landlord and failing the prompt payment thereof by Tenant to Landlord, Landlord shall immediately be entitled to institute legal proceedings for the recovery and collection of the same. Such deficiency shall be calculated and paid at the time each payment of Rent and other sum shall otherwise become due under this Agreement, or, at the option of Landlord, at the end of the Agreement Term. In addition, Landlord shall be immediately entitled to sue for and otherwise recover from Tenant any other damages occasioned by or resulting from any abandonment of the Premises or other breach of or default under this Agreement other than a default in the payment of Rent. No such re-entry, retaking or resumption of possession of the Premises by the Landlord for the account of Tenant shall be construed as an election on the part of Landlord to terminate this Agreement unless a written notice of such intention shall be given to the Tenant or unless the termination of this Agreement be decreed by a court of competent jurisdiction. Notwithstanding any such re-entry and re-letting or attempted re-letting of the Premises or any part or parts thereof for the account of Tenant without termination, Landlord may at any time thereafter, upon written notice to Tenant, elect to terminate this

Agreement or pursue any other remedy available to Landlord for Tenant's previous breach of or default under this Agreement.

(c) Landlord may, without re-entering, retaking or resuming possession of the Premises, sue for all Rent and all other sums, charges, payments, costs and expenses due from Tenant to Landlord hereunder either: (i) as they become due under this Agreement, taking into account that Tenant's right and option to pay the Rent hereunder in any particular year is conditioned upon the absence of a default on Tenant's part in the performance of its obligations under this Agreement, or (ii) at Landlord's option, accelerate the maturity and due date of the whole or any part of the Rent for the entire then-remaining unexpired balance of the Agreement Term, as well as all other sums, charges, payments, costs and expenses required to be paid by Tenant to Landlord hereunder, including without limitation damages for breach or default of Tenant's obligations hereunder in existence at the time of such acceleration, such that all sums due and payable under this Agreement shall, following such acceleration, be treated as being and, in fact, be due and payable in advance as of the date of such acceleration, as such aggregate sum then reduced to its net present value and which sum shall be offset by the net rents which can then be reasonably anticipated to accrue to Landlord during the balance of the Agreement Term by the exercise of commercially reasonable efforts by Landlord to re-lease the Premises following such termination. Landlord may then proceed to recover and collect all such net sums so sued for from Tenant by distress, levy, and execution or otherwise. Regardless of which of the foregoing alternative remedies is chosen by Landlord under this subparagraph (c), Landlord shall not be required to re-let the Premises nor exercise any other right granted to Landlord pursuant to this Agreement, nor shall Landlord be under any obligation to minimize or mitigate Landlord's damages or Tenant's loss as a result of Tenant's breach of or default under this Agreement. In addition to the remedies hereinabove specified and enumerated, Landlord shall have and may exercise the right to invoke any other remedies allowed at law or in equity as if the remedies of re-entry, unlawful detainer proceedings and other remedies were not herein provided. Accordingly, the mention in this Agreement of any particular remedy shall not preclude Landlord from having or exercising any other remedy at law or in equity. Nothing herein contained shall be construed as precluding the Landlord from having or exercising such lawful remedies as may be and become necessary in order to preserve the Landlord's right or the interest of the Landlord in the Premises and in this Agreement, even before the expiration of any notice periods provided for in this Agreement, if under the particular circumstances then existing the allowance of such notice periods will prejudice or will endanger the rights and estate of the Landlord in this Agreement and in the Premises.

**21.3 Landlord May Cure Tenant Defaults.** If there is an Event of Default by Tenant in the performance of any term, provision, covenant or condition on its part to be performed hereunder, Landlord may, after notice to Tenant and a reasonable time to perform after such notice (or without notice if, in Landlord's reasonable opinion, an emergency exists) perform the same for the account and at the expense of Tenant. If, at any time and by reason of such default, Landlord is compelled to pay, or elects to pay, any sum of money or do any act which will require the payment of any sum of money, or is compelled to incur any expense in the enforcement of its rights hereunder or otherwise, such sum, or sums, together with interest thereon at the highest rate allowed under the laws of the State of Florida, shall be deemed Additional Rent hereunder and shall be repaid to Landlord by Tenant promptly when billed therefore, and Landlord shall have all the same rights and remedies in respect thereof as Landlord has in respect of the rents herein reserved.



21.4 Landlord's Lien. Landlord shall have at all times during the Agreement Term a valid lien for all Rent and other sums of money becoming due hereunder from Tenant, upon all goods, wares, merchandise, inventory, furniture, fixtures, equipment, vehicles and other Personal Property and effects of Tenant situated in or upon the Premises, and such property shall not be removed therefrom without the approval and consent of Landlord until all arrearages in Rent all other sums then due to Landlord hereunder shall first have been paid and discharged in full. Upon the occurrence of any Event of Default by Tenant, Landlord may, in addition to any other remedies provided herein or by law, enter upon the Premises and take possession of any and all goods, wares, merchandise, inventory, furniture, fixtures, equipment, vehicles and other Personal Property and effects of Tenant situated in or upon the Premises without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property appraised, at which Landlord or its assigns may purchase any of the same and apply the proceeds thereof, less any and all expenses connected with the taking of possession and sale, as a credit against any sums due by Tenant, and Tenant agrees to pay any deficiency forthwith. Alternatively, the lien hereby granted may be foreclosed in the manner and form provided by law for foreclosure of security interests or in any other manner and form provided by law. The statutory lien for Rent, if any, is not hereby waived and the express contractual lien herein granted is in addition thereto and supplementary thereto. Tenant agrees to execute and deliver to Landlord from time to time during the Agreement Term such financing statements as may be required by Landlord in order to perfect the Landlord's lien provided herein or by law. Notwithstanding the foregoing, except to the extent expressly granted in Section 21.5, Landlord's lien for Rent shall not extend to intangibles, memorabilia or proprietary properties utilized in the business operated by Tenant from the Premises and shall be subordinate to any purchase money security interest granted by Tenant in the personal property utilized by Tenant in the operation of the business in the Premises.

21.5 Rights Cumulative. The rights and remedies provided and available to Landlord in this Agreement are distinct, separate and cumulative remedies, and no one of them, whether or not exercised by Landlord, shall be deemed to be in exclusion of any other.

## **ARTICLE XXII. DEFAULTS BY LANDLORD; REMEDIES**

If Landlord neglects or fails to perform or observe any of the terms, covenants or conditions contained in this Agreement on its part to be performed or observed within thirty (30) days after Landlord's receipt of written notice from Tenant of default or, when more than thirty (30) days shall be required to cure the default, if Landlord shall fail to commence such cure within said thirty (30) day period or thereafter fail to proceed diligently to cure such default, then Landlord shall be liable to Tenant for any and all damages sustained by Tenant as a result of Landlord's breach.

## **ARTICLE XXIII. EMINENT DOMAIN**

23.1 Complete Taking. If the whole of the Premises shall be taken or condemned for any public or quasi-public use or purpose, by right of eminent domain or by purchase in lieu thereof, or if a substantial portion of the Premises shall be so taken or condemned that the portion or portions remaining is or are not sufficient and suitable, in the mutual reasonable judgment of Landlord and Tenant, for the continued operation of the business contemplated by this Agreement to be conducted thereon, therein or therefrom so as to effectively render the Premises un-tenantable, then this Agreement and the term hereby granted shall

cease and terminate as of the date on which the condemning authority takes possession and all Rent shall be paid by Tenant to Landlord up to that date or refunded by Landlord to Tenant if Rent has previously been paid by Tenant beyond that date.

**23.2 Partial Taking.** If a portion of the Premises is taken, and the portion or portions remaining can, in the mutual reasonable judgment of Landlord and Tenant, be adapted and used for the conduct of Tenant's business operation, such that the Premises are not effectively rendered un-tenantable, then the Landlord and the Tenant shall promptly restore their respective remaining portions thereof to a condition comparable to their condition at the time of such taking or condemnation, less the portion or portions lost by the taking, and this Agreement shall continue in full force and effect except that the Rent payable hereunder shall, if necessary, be equitably adjusted to take into account the portion or portions of the Premises lost by the taking.

#### **ARTICLE XXIV. SALE OR MORTGAGE BY LANDLORD**

Tenant agrees that Landlord may at any time, sell or convey Landlord's interest in and to the Facility, or any part thereof, and Tenant consents to Landlord's assignment (or other conveyance) of its interest in this Agreement to a new property owner or other interest holder. From and after a sale or other conveyance of Landlord's interest in and to the Facility, or any part thereof, Landlord shall be released from all liability to Tenant and Tenant's successors and assigns arising from this Agreement, including liability for any act, occurrence or omission of the successor Landlord occurring after such sale.

#### **ARTICLE XXV. ATTORNMEN**

Tenant shall and hereby agrees to attorn, and be bound under all of the terms, provisions, covenants and conditions of this Agreement, to any successor of the interest of Landlord under this Agreement for the balance of the Agreement Term remaining at the time of the succession of such interest to such successor. In particular, in the event that any proceedings are brought for the foreclosure of any mortgage or security interest encumbering or collateral assignment of Landlord's interest in the Premises, or any portion thereof, Tenant shall attorn to the purchaser at any such foreclosure sale and recognize such purchaser as Landlord under this Agreement, subject, however, to all of the terms and conditions of this Agreement. Tenant agrees that neither the purchaser at any such foreclosure sale nor the foreclosing mortgagee or holder of such security interest or collateral assignment shall have any liability for any act or omission of Landlord, be subject to any offsets or defenses which Tenant may have as claim against Landlord, or be bound by any advance Rents which may have been paid by Tenant to Landlord for more than the current period in which such Rents come due.

#### **ARTICLE XXVI. QUIET ENJOYMENT**

Landlord agrees that Tenant, upon paying the rent and performing the terms, covenants and conditions of this Agreement, may quietly have, hold and enjoy the Premises from and after Landlord's delivery of the Premises to Tenant in accordance with Section 3.5 until the end of the Agreement Term, subject to the other provisions of this Agreement.

#### **ARTICLE XXVII. NOTICES AND CONSENTS**

All notices, consents, approvals, requests, demands, releases, waivers, certifications, and other communications permitted or required to be given under, or referred to in, this Agreement shall be in writing and shall be and deemed duly served or given: (i) when actually delivered, if delivered by overnight or other courier or delivery service which confirms delivery in writing or (ii) within five (5) business days after deposit in the U.S. Mail, if sent by certified mail, postage prepaid, return receipt requested. Such notices shall be addressed to all persons entitled to receive notice for such party pursuant to Section 1.12. Landlord and Tenant may, from time to time by written notice to the other, designate another place for receipt of future notices.

## **ARTICLE XXVIII. MISCELLANEOUS**

**28.1 Waiver or Consent Limitation.** No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon Landlord or Tenant unless in writing and executed by Landlord or Tenant, as the case may be. Neither the failure of Landlord or Tenant to insist upon a strict performance of any of the terms, provisions, covenants, agreements and conditions hereof, nor the acceptance of any Rent by Landlord with knowledge of a breach of this Agreement by Tenant in the performance of its obligations hereunder, shall be deemed a waiver of any rights or remedies that Landlord or Tenant may have or a waiver of any subsequent breach or default in any of such terms, provisions, covenants, agreements and conditions.

**28.2 Force Majeure.** The occurrence of any of the following events shall excuse such obligations of Landlord or Tenant as are thereby rendered impossible or reasonably impracticable for so long as such event continues: lockouts; labor disputes; acts of God; inability to obtain labor, materials or reasonable substitutes therefor; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental action; civil commotion; fire or other casualty; and other causes beyond the reasonable control of the party obligated to perform. Notwithstanding the foregoing, the occurrence of such events shall not excuse Tenant's obligations to pay Rent (except as provided in Section 18.4) or excuse such obligations as this Agreement may otherwise impose on the party to obey, remedy or avoid such event.

**28.3 Landlord Calculations, Determinations and Requirements.** Whenever this Agreement contemplates that Landlord will make particular determinations, calculations, specifications, requirements, estimates or the like with respect to amounts payable by Tenant, Landlord shall make such determinations, including the amount, allocation, proration and composition of charges and expenses, in a reasonable and equitable manner and acting in good faith.

**28.4 Failure to Give Consent.** If Landlord or Tenant improperly fails to give any consent or approval referred to in this Agreement, the other party hereto shall be entitled to specific performance in equity and shall have such other remedies as are reserved to it under this Agreement, but in no event shall Landlord or Tenant be responsible in monetary damages for such failure to give consent.

**28.5 Reasonableness.** Except where expressly provided to the contrary in this Agreement, whenever this Agreement provides that a consent, approval, decision or judgment of either party is required, such consent, approval, decision or judgment will not be unreasonably withheld or delayed. There are certain provisions of this Agreement, however, in which either Landlord or Tenant may withhold its consent "in its sole discretion." These specific provisions, which may be viewed as allowing such party in



such instance to deviate from a standard or reasonableness which is imposed on Landlord and Tenant in connection with other provisions of this Agreement, have been negotiated and bargained for and represent a material part of the consideration to be received by each party. The parties, bearing in mind the rights, duties and obligations of the parties to honor the implied covenants of good faith and fair dealing, have specifically negotiated for and agreed that it is the intent of the parties that Landlord or Tenant, where expressly provided, may exercise their respective consent authority pursuant to a subjective standard of sole discretion.

**28.6 Relationship of the Parties.** Nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture, principal-agent, or employer-employee relationship between Landlord or any other person or entity (including Tenant) or as causing Landlord to be responsible in any way for the debts or obligations of such other person or entity.

**28.7 Severability; Construction of Provisions.** If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two (2) constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

**28.8 Warranties.** Tenant is a limited liability company and the person or persons executing this Agreement on behalf of Tenant hereby covenant and warrant as of the Effective Date that: (i) such limited liability company is duly established in and qualified to do business in the State of Florida; (ii) such limited liability company has paid all applicable franchise and other taxes; (iii) such entity will file or pay when due all future forms, reports, fees and other documents necessary to comply with applicable laws; (iv) the signing party to this agreement is authorized to sign for the entity.

Landlord warrants that fee simple title to the real property on which the Facility is located is vested in Landlord as of the date hereof and is not subject to any lien or other encumbrance which would adversely affect the ability of Tenant to utilize the Premises in a manner consistent with this Agreement.

**28.9 Entire Agreement.** This Agreement supersedes and cancels any and all previous negotiations, representations, brochures, displays, projections, estimates, agreements and understandings, if any, made by or between Landlord and Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret, construe, supplement or contradict this Agreement. Phrases such as "including" and "for example" shall in no circumstances be construed as phrases of limitation but shall be treated as merely providing examples of the more general language which more general language shall be broadly and fairly construed.

**28.10 Time of Essence.** Time is of the essence in the performance of all covenants and conditions in this Agreement for which time is a factor.

**28.11 Access.** Landlord and Landlord's agents shall have the right, upon reasonable notice to Tenant (except in the case of an emergency or threatened emergency or a threatened default under this Agreement, when no notice shall be required), to enter the Premises at reasonable times for the purpose of inspecting the same, showing the same to prospective purchasers, lenders, or tenants provided that

Landlord shall attempt to minimize interference with Tenant's business. Tenant shall have access to the Premises twenty four (24) hours per day, seven days per week.

28.12 Attorneys Fees. If either party brings an action to recover any sum due hereunder, or for any breach hereunder, and obtains a judgment or decree in its favor, the court may award to such prevailing party its reasonable costs and reasonable attorneys' fees, specifically including reasonable attorneys' fees incurred in connection with any appeals (whether or not taxable as such by law). Landlord shall also be entitled to recover its reasonable attorneys' fees and costs incurred in any bankruptcy action filed by or against Tenant, including, without limitation, those incurred in seeking relief from the automatic stay, in dealing with the assumption or rejection of this Agreement, in any adversary proceeding, and in the preparation and filing of any proof of claim.

28.13 Brokers. Landlord and Tenant hereby represent and warrant to each other that they have not engaged, employed or utilized the services of any business or real estate brokers, salesmen, agents or finders in the initiation, negotiation or consummation of the business and real estate transaction reflected in this Agreement. On the basis of such representation and warranty, each party shall and hereby agrees to indemnify and save and hold the other party harmless from and against the payment of any commissions or fees to or claims for commissions or fees by any real estate or business broker, salesman, agent or finder resulting from or arising out of any actions taken or agreements made by them with respect to the business and real estate transaction reflected in this Agreement.

28.14 Rules and Regulations. Landlord shall, at its discretion, implement and modify from time to time during the Agreement Term rules and regulations governing the conduct of persons while at the Premises and the Facility (the "Rules and Regulations"), with which Rules and Regulations Tenant will comply. Included within the Rules and Regulations may be, without limitation, provisions relating to employee and visitor parking and access to the Premises, employee grooming, behavior and wardrobe standards and minimum and maximum hours of operation. Attached as Exhibit B are the current Rules and Policies of the Landlord. In the event of a conflict between the Rules and Regulations and this Agreement, the provisions of the Rules and Policies shall prevail.

28.15 Applicable Law. This Agreement shall be interpreted and enforced under the laws of the State of Florida. Any litigation arising under this Agreement shall be venued in the Circuit Court of Polk County, Florida. THE PARTIES WAIVE TRIAL BY JURY AND AGREE TO SUBMIT TO THE PERSONAL JURISDICTION AND VENUE OF A COURT IN POLK COUNTY, FLORIDA.

28.16 Fire Extinguishers. Tenant shall, at all times and at its own cost, maintain the code-required fire extinguisher(s) on the Premises and shall maintain an annual service contract on extinguishers during the Agreement Term (including renewal options).

28.17 No Modification. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the parties against which such enforcement is or may be sought. This instrument contains the entire agreement made between the parties and may not be modified orally or in any manner other than by an agreement in writing signed by all parties hereto or their respective successors in interest.

28.18 Employees; Independent contractor Status. All matters pertaining to the employment, supervision, compensation, promotion and discharge of any employees of Tenant or entities retained by Tenant are the sole responsibility of Tenant. Tenant shall fully comply with all applicable acts and regulations having to do with workman's compensation, social security, unemployment insurance, hours of labor, wages, working conditions and other employer-employee related subjects. In performing any services hereunder, Tenant shall be a tenant only and not an employee of the Landlord. It is further acknowledged that nothing herein shall be deemed to create or establish a partnership or joint venture between the Landlord and Tenant. Tenant has no authority to enter into any contracts or agreements, whether oral or written, on behalf of the Landlord.

28.19 Radon Gas. Pursuant to Florida Statutes Sections 404.056(8), Tenant is hereby notified of the following: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the County public health unit.

28.20 Affidavit of Arms Length Transaction and Absence of Relationship Between Parties. The Parties to this Agreement agree and affirm this is an arms length transaction. Neither Party to this Agreement is a family member, business associate, or shares a business interest (other than the Agreement described hereunder) with the other Party. The Parties further agree and acknowledge that Tenant does not have any role or relationship with or through the Landlord which would limit the ability of Landlord to exercise its rights under the Agreement.

*[Signature page to follow]*



**SIGNATURE PAGE TO AMENDED RESTAURANT MANAGEMENT CONTRACT  
AND LEASE AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have executed this Lease this 12 day of June, 2018.

**LANDLORD:**

**LAKE ASHTON COMMUNITY  
DEVELOPMENT DISTRICT,**  
a Florida community development district

**ATTEST:**

By: Brenda VanSickk  
Print: Brenda VanSickk  
Secretary/Asst. Secretary

By: Carol Pontious  
Print: Carol Pontious  
Chairman/Vice-Chairman

**WITNESSES:**

X [Signature]  
Print: Christine Wells  
X Shelia R. Moreland  
Print: SHELIA R. MORELAND

**TENANT:**

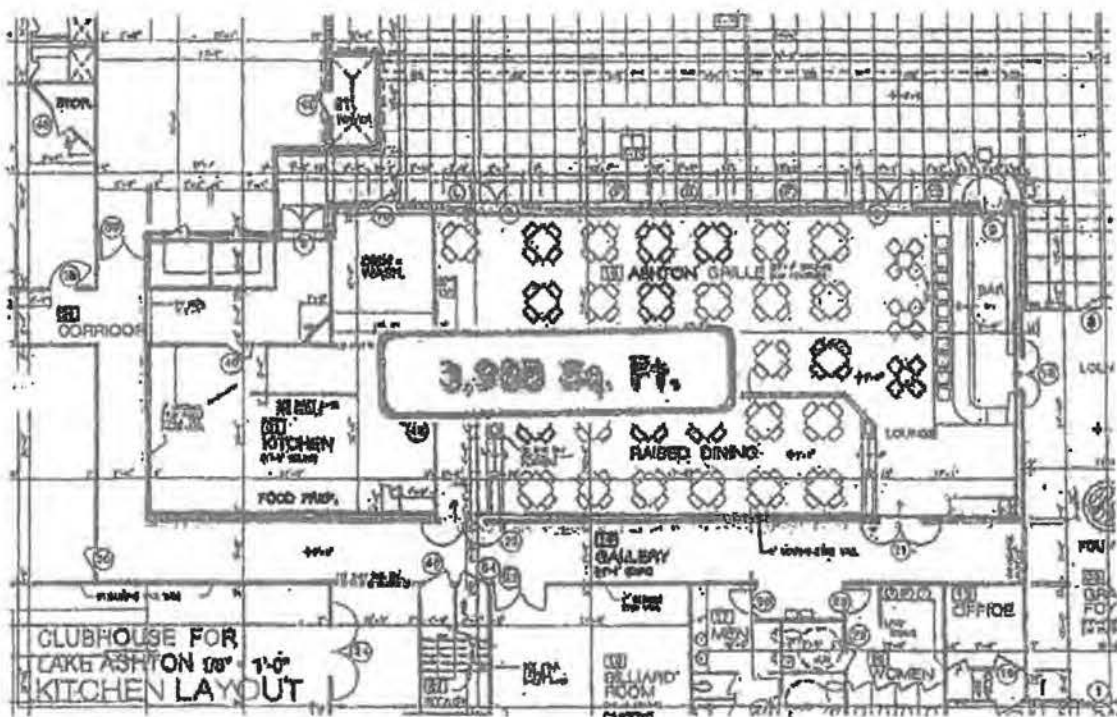
**NINI'S LAKE ALFRED CAFÉ, LLC,** a Florida  
limited liability company

By: [Signature]  
Print: Sandra Joyner  
Title: Owner

**EXHIBIT A**

**SITE PLAN OF THE PREMISES**

*("Premises", inclusive of Patio area)*





**EXHIBIT B**

**RULES AND POLICIES OF THE LANDLORD**

*[See attached]*

**LAKE ASHTON COMMUNITY  
DEVELOPMENT DISTRICT**

**AMENITY FACILITIES POLICIES**

**November 10, 2017**

**Lake Ashton Clubhouse Office  
4141 Ashton Club Drive  
Lake Wales, Florida 33859**

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## **DEFINITIONS**

**"Amenity Facilities"** – shall mean the properties and areas owned by the District and intended for recreational use and shall include, but not specifically be limited to, the Lake Ashton Clubhouse, together with its appurtenant facilities and areas.

**"Amenity Facilities Policies" or "Policies"** – shall mean these Amenity Facilities Policies of Lake Ashton Community Development District, as amended from time to time.

**"Amenity Manager"** – shall mean the management company, including its employees, staff and agents, contracted by the District to manage all Amenity Facilities within the District, which facilities include, but are not limited to, the Clubhouse and its peripheral facilities and amenities.

**"Board of Supervisors" or "Board"** – shall mean the Lake Ashton Community Development District's Board of Supervisors.

**"District"** – shall mean the Lake Ashton Community Development District.

**"District Manager"** – shall mean the professional management company with which the District has contracted to provide management services to the District.

**"Guest"** – shall mean any individual that is invited to use the Amenity Facilities by a Resident, Non-Resident Member or Renter and possesses a valid guest pass issued by the Amenity Manager.

**"Inappropriate Content"** -- shall mean content that is fraudulent, harassing embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or contains sexual comments, obscenities, nudity, pornography, abusive or degrading language, antisocial behavior, or inappropriate comments concerning race, color, religion, sex, national origin, marital status, or disability, violates any District Policies or rules, has the potential to cause the District public harm or disrepute; or is otherwise unlawful and is inappropriate and may not be sent by e-mail or other form of electronic communication or displayed on District computers or stored in the District's systems.

**"Media"** – shall mean certain publications and media produced by the District and solely intended to provide community information, including but not limited to the Lake Ashton Times.

**"Non-Resident"** – shall mean any person or persons that do not own property within the District.

**"Non-Resident Annual User Fee"** – shall mean the fee established by the District for any person that is not a Resident and wishes to become a Non-Resident Member. The amount of the Annual User Fee is set forth herein, and that amount is subject to change based on Board action.

**"Non-Resident Member"** – shall mean any individual not owning property in the District who is paying the Non-Resident Annual User Fee to the District for use of all Amenity Facilities.

**"Patron" or "Patrons"** – shall mean Residents, House Guests, Non-Resident Members, and Renters/Leaseholders who are eighteen (18) years of age and older.

**"Policies"** – shall mean the Amenity Facilities Policies of Lake Ashton Community Development District, as amended from time to time, along with all other policies and rules of the District.

**"Political Issue"** – shall mean any candidate, political party, issue, referendum, or amendment that is subject to a vote of electors, whether local, state or federal.

**"Political Group"** – shall mean any group, club, or organization that supports, endorses, or opposes a Political Issue, as defined herein.

**"Renter"** – shall mean any tenant residing in a Resident's home pursuant to a valid rental or lease agreement.

**"Rental Facilities"** – shall mean the Amenity Facilities available to the public and/or to Lake Ashton organizations for rent or reservation, in accordance with the Policies of the District and the laws of the State of Florida, including but not limited to the Ballroom (including adjacent Reflection Garden), Cardroom, Cinema, Conference Room, and the Gazebo.

**"Resident"** – shall mean any person or family owning property within the Lake Ashton Community Development District.

#### **IDENTIFICATION CARDS**

1. ID cards (or similar access devices) may be issued to all members of each Resident's household and/or Non-Resident Members. There may be a charge to replace lost or stolen cards or for additional cards.
2. Guest Passes are issued to guests prior to using the Amenity Facilities.
3. All Renters may be required to purchase their own ID cards (or similar access devices).
4. Guests will be required to sign a waiver of liability before using the District amenities.
5. Patrons and Guests shall be required to present ID cards or Guest Passes upon request by staff at any Amenity Facility.

6. The Board of Supervisors (as an entity), the Operations Manager, the Amenity Manager and its staff shall have full authority to enforce these policies. However, the Amenity Manager shall have the authority to waive strict application of any of these Policies when prudent, necessary or in the best interest of the District and its Residents. Such a temporary waiver of any policy by the Amenity Manager shall not constitute a continuous, ongoing waiver of said policy, and the Amenity Manager reserves the right to enforce all of these policies at any time he or she sees fit.
7. All lost or stolen ID cards should be reported immediately to the Amenity Manager's office. A fee will be assessed for any replacement cards.

### **NON-RESIDENT ANNUAL USER FEE**

The Annual User Fee for any person not owning real property within the District is \$2,400.00 per year, and this fee shall include privileges for up to two people total. This payment must be paid in full at the time of completion of the Non-Resident Club Member application and the corresponding agreement. This fee will cover membership to all Amenity Facilities for one (1) full year from the date of receipt of payment by the District. Each subsequent annual membership fee shall be paid in full on the anniversary date of application for membership. Such fee may be increased, not more than once per year, by action of the Board of Supervisors, to reflect increased costs of operation of the amenity facilities. This membership is not available for commercial purposes.

### **GUEST POLICIES**

1. All Guests, regardless of age, must register with the office of the Amenity Manager prior to using the Amenity Facilities. In the event the Guest is under eighteen (18) years of age, the Resident, Non-Resident Member or Renter inviting the Guest must be present upon registration, unless other arrangements have been made with the Amenity Manager's office. All Guests under eighteen (18) years of age must also be accompanied at all times while using the Amenity Facilities by a parent or adult Patron over eighteen (18) years of age unless previously authorized by the Amenity Manager. Guests over the age of eighteen (18) must register and may use the Amenity Facilities unaccompanied by Patron.
2. All Guests over the age of eighteen (18) must sign a waiver of liability upon registration at the Amenity Manager's office.
3. Patrons who have registered a Guest are responsible for any and all actions taken by such Guest. Violation by a Guest of any of these Policies as set forth by the District could result in loss of that Patron's privileges and membership.

### **RENTER'S PRIVILEGES**



1. Residents who rent or lease out their residential unit(s) in the District shall have the right to designate the Renter of their residential unit(s) as the beneficial users of the Resident's membership privileges for purposes of Amenity Facilities use.
2. In order for the Renter to be entitled to use the Amenity Facilities, the Renter may be required to acquire a membership with respect to the residence which is being rented or leased as well as purchase an ID card. A Renter who is designated as the beneficial user of the Resident's membership shall be entitled to the same rights and privileges to use the Amenity Facilities as the Resident.
3. During the period when a Renter is designated as the beneficial user of the membership, the Resident shall not be entitled to use the Amenity Facilities with respect to that membership.
4. Residents shall be responsible for all charges incurred by their Renters which remain unpaid after the customary billing and collection procedure established by the District. Resident owners are responsible for the deportment of their respective Renter.
5. Renters shall be subject to such other rules and regulations as the Board may adopt from time to time.
6. Renters may be required to present their ID cards in order to gain access to the Amenity Facilities.

#### **GENERAL FACILITY PROVISIONS**

1. The Board reserves the right to amend, modify, or delete, in part or in their entirety, these Policies when necessary, at a duly-noticed Board meeting, and will notify the Patrons of any changes. However, in order to change or modify rates or fees beyond the increases specifically allowed for by the District's rules and regulations, the Board must hold a duly-noticed public hearing on said rates and fees.
2. All Residents, Non-Resident Members and Renters shall be required to present their ID cards or Guest Passes or other Valid Identification in order to gain access to the Amenity Facilities.
3. All hours of operation, including holiday schedules, of the Amenity Facilities will be established and published by the District and Amenity Manager.
4. Dogs and all other pets (with the exception of service dogs) are not permitted at the Amenity Facilities. In the event a special event is held, as previously approved by the Amenity Manager, and dogs are permitted at the Amenity Facilities as part of the special event, they must be leashed. Patrons are responsible for picking up after all pets and

disposing of any waste in a designated pet waste receptacle or an outdoor dumpster as a courtesy to residents.

5. Vehicles must be parked in designated areas. Vehicles and golf carts should not be parked on grass lawns, in any way which blocks the normal flow of traffic or in any way that limits the ability of emergency service workers to respond to situations. The Amenity Manager reserves the right to waive this parking restriction in the event overflow parking is needed for a large event.
6. Fireworks of any kind are not permitted anywhere at or on the Amenity Facilities or adjacent areas, with two exceptions: (1) sparklers may be used outdoors only subject to prior approval of the Amenity Manager, and (2) the Board may approve the use of fireworks over a body of water.
7. Only District employees or employees of the Amenity Manager are allowed in the service areas of the Amenity Facilities.
8. Smoking, including smoking electronic cigarettes, is not permitted at any of the Lake Ashton Amenity Facilities except within smoking areas designated by the Amenity Manager. The main entrance to the Clubhouse is not a designated smoking area.
9. Disregard for rules or policies may result in expulsion from the Amenity Facilities and/or loss of Amenity Facilities privileges in accordance with the procedures set forth herein.
10. Pool and spa rules that are posted in the appropriate area must be observed.
11. Conflicts between amenity users should be referred to staff or security. Under no circumstances should verbal or physical confrontation occur between amenity users.
12. Patrons and their Guests shall treat all staff members with courtesy and respect.
13. Off-road motorbikes/vehicles, excluding golf carts, are prohibited on all property owned, maintained and operated by the District or on any of the Amenity Facilities.
14. Drones and all forms of unmanned aerial vehicles are not permitted in, on or over the Amenity Facilities or District property at any time without the written authorization of the District, except as permitted by law or regulation of an applicable government entity.
15. The District will not offer childcare services to Patrons or Guests at any of the Amenity Facilities.
16. Skateboarding is not allowed on the Amenity Facilities property at any time.

17. Performances at any Amenity Facility, including those by outside entertainers, must be approved in advance by the Amenity Manager.
18. All food and beverages consumed at the Clubhouse facilities must be provided by the Lake Ashton Clubhouse restaurant per the District's contract/lease with the restaurant management company. However, the Amenity Manager may make an exception to this requirement. When such a community event is held, the Patrons will be allowed to bring in outside food and beverage, but no outside vendors or caterers shall be allowed to serve food or beverages at any Amenity Facility without the prior approval of the Amenity Manager.
19. Except as specifically prohibited herein, alcoholic beverages may be sold, served and consumed on the Amenity Facility premises in accordance with state and local laws. Alcoholic beverages may only be sold to adults twenty-one (21) years of age or older, and shall not be sold for off-premises consumption. All alcoholic beverages consumed or possessed on the Amenity Facilities premises must be purchased at the Amenity Facilities. However, the Amenity Manager may make an exception to this requirement in advance for community events such as pot luck dinners, bingo events and private functions held by Patrons who have reserved an Amenity Facility. When such a community event is held, the Patrons will be allowed to bring in beer or wine for personal use. No outside vendors or caterers shall be allowed to serve alcoholic beverages at any Amenity Facility without the prior approval of the Amenity Manager. The Amenity Manager reserves the right to refuse service to any Patron or Guest when that person appears to be intoxicated.
20. Commercial advertisements shall not be posted or circulated in the Amenity Facilities. Petitions, posters or promotional material shall not be originated, solicited, circulated or posted on Amenity Facilities property unless approved in writing by the Amenity Manager.
21. The Amenity Facilities shall not be used for commercial purposes without written permission from the Amenity Manager and the District Manager. The term "commercial purposes" shall mean those activities which involve, in any way, the provision of goods or services for compensation.
22. Amenity users should not leave any guests that they are accompanying who have adverse or debilitating health conditions unattended in any of the Amenity Facilities or District property.
23. Firearms or any other weapons are prohibited in the Amenity Facilities during any governmental meetings or functions, including those of the District, and as otherwise prohibited in the Amenity Facilities in accordance with Florida law.
24. The Amenity Manager reserves the right to authorize all programs and activities, including the number of participants, equipment and supplies usage, facility reservations, etc., at all Amenity Facilities, except usage and rental fees that have been established by

the Board. The Amenity Manager also has the right to authorize management-sponsored events and programs to better serve the Patrons, and to reserve any Amenity Facility for said events (if the schedule permits) and to collect revenue for those services provided. This includes, but is not limited to, various athletic events, cultural programs and social events, etc. Should the District be entitled to any of these revenues based on its established rental or usage fees, the Amenity Manager will be required to compensate the District accordingly.

25. Loitering (the offense of standing idly or prowling in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity) is not permitted at any Amenity Facility.
26. All Patrons shall abide by and comply with any and all federal, state and local laws and ordinances while present at or utilizing the Amenity Facilities, and shall ensure that any minor for whom they are responsible also complies with the same.
27. There shall be no overnight parking in the Amenity Facility parking lot.

#### **LOSS OR DESTRUCTION OF PROPERTY OR INSTANCES OF PERSONAL INJURY**

1. Each Patron and each Guest assumes sole responsibility for his or her property. The District and its contractors shall not be responsible for the loss or damage to any private property used or stored on or in any of the Amenity Facilities.
2. Patrons shall be liable for any property damage and/or personal injury at the Amenity Facilities, or at any activity or function operated, organized, arranged or sponsored by the District or its contractors, which is caused by the Patron or the Patron's Guest or family member(s). The District reserves the right to pursue any and all legal and equitable measures necessary to remedy any losses it suffers due to property damage or personal injury caused by a Patron or the Patron's Guest or family member(s).
3. Any Patron, Guest or other person who, in any manner, makes use of or accepts the use of any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the District or its contractors, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the District, either on or off the Amenity Facilities' premises, shall do so at his or her own risk, and shall hold the Amenity Facilities' owners, the District, the Board of Supervisors, District employees, District representatives, District contractors and District agents, harmless from any and all loss, cost, claim, injury, damage or liability sustained or incurred by him or her, resulting therefrom and/or from any act of omission of the District, or their respective operators, supervisors, employees, representatives, contractors or agents. Any Patron shall have, owe, and perform the same obligation to the District and their respective operators, supervisors, employees, representatives, contractors, and



agents hereunder with respect to any loss, cost, claim, injury, damage or liability sustained or incurred by any Guest or family member of such Patron.

4. Should any party bound by these Policies bring suit against the District, the Board of Supervisors or staff, agents or employees of the District, or any Amenity Facility operator or its officers, employees, representatives, contractors or agents in connection with any event operated, organized, arranged or sponsored by the District or any other claim or matter in connection with any event operated, organized, arranged or sponsored by the District, and fail to obtain judgment therein against the District or the Amenity Facilities' operators, officers, employees, representatives, contractors or agents, said party bringing suit shall be liable to the prevailing party (i.e. the District, etc.) for all costs and expenses incurred by it in the defense of such suit, including court costs and attorney's fees through all appellate proceedings.

#### **GENERAL LAKE ASHTON AMENITY FACILITY USAGE POLICY**

All Patrons and Guests using the Amenity Facilities are expected to conduct themselves in a responsible, courteous and safe manner, in compliance with all policies and rules of the District governing the Amenity Facilities. Violation of the District's Policies and/or misuse or destruction of Amenity Facility equipment may result in the suspension or termination of District Amenity Facility privileges with respect to the offending Patron or Guest.

**Hours:** The District Amenity Facilities are available for use by Patrons during normal operating hours to be established and posted by the District and Amenity Manager.

**Emergencies:** After contacting 911 (if required), all emergencies and injuries must be reported to the gate attendant service (phone number 863-324-7290) or Operations Manager or Amenity Manager (phone number 863-324-5457) and to the office of the District Manager (phone number 407-841-5524). If immediate attention to the facilities is required and the Amenity Manager is not present, please contact one of the gate attendants employed by the District.

**District Equipment:** Any Patron or Guest utilizing District equipment is responsible for said equipment. Should the equipment be returned to the District damaged, missing pieces or in worse condition than when it was when usage began, that Patron or Guest will be responsible to the District for any cost associated with repair or replacement of the equipment.

**Alcoholic Beverage Policy:** Except for specific exclusions identified herein, all alcoholic beverages consumed at the Clubhouse must be furnished by the Clubhouse restaurant. Alcoholic beverages may be sold, served, and consumed on the premises in accordance with state and local laws.

**Please note that the Amenity Facilities are unattended facilities. Persons using the Amenity Facilities do so at their own risk. Amenity Manager's staff members are not present**

*to provide personal training, exercise consultation or athletic instruction, unless otherwise noted, to Patrons or Guests. Persons interested in using the Amenity Facilities are encouraged to consult with a physician prior to commencing a fitness program.*

### **GENERAL SWIMMING POOL RULES**

#### ***NO LIFEGUARD ON DUTY – SWIM AT YOUR OWN RISK***

1. All Residents, Non-Resident Members and Renters may be required to present their photo ID cards or Guest Passes while in the swimming pool area. All Patrons and Guests must also present their photo ID cards or Guest Passes when requested by staff. At any given time, a Resident may allow up to four (4) Guests to the swimming pool (unless a greater number of guests has been approved by the Amenity Manager).
2. Swimming is permitted only during designated hours as posted at the pool, and such hours are subject to change at the discretion of Amenity Manager. Pool availability may be limited or rotated in order to facilitate maintenance of the facility. Depending upon usage, the pool may be closed for various periods of time to facilitate maintenance and to maintain health code regulations.
3. Any person swimming during non-posted swimming hours may be suspended from using the facility.
4. Guests under eighteen (18) years of age must be accompanied at all times by a parent or adult Patron during usage of the pool facility. Patrons and Guests swim at their own risk and must adhere to swimming pool rules at all times.
5. Proper swim attire must be worn in the pool.
6. Children under three (3) years of age, and those who are not reliably toilet trained, must wear rubber lined swim diapers, as well as a swimsuit over the swim diaper, to reduce the health risks associated with human waste in the swimming pool/deck area.
7. For the comfort of others, the changing of diapers or clothes is not allowed poolside.
8. Showers are required before entering the pool. Swimming pool hours will be posted. Pool availability may be limited or rotated in order to facilitate maintenance of the facility. Depending upon usage, the pool may be closed for various periods of time to facilitate maintenance and to maintain health code regulations.
9. No one shall pollute the pool. Anyone who pollutes the pool is liable for any costs incurred in treating and reopening the pool.
10. Loud, profane, or abusive language is absolutely prohibited; no physical or verbal abuse will be tolerated.

11. Diving is prohibited; no diving, jumping, pushing, running, throwing any item or other horseplay is allowed in the pool or on the pool deck area.
12. Pets (except service dogs), bicycles, skateboards, roller blades, scooters and golf carts are not permitted on the pool deck area.
13. Radios, tape players, CD players, MP3 players and televisions are not permitted unless they are personal units equipped with headphones or for scheduled activities such as aqua fitness classes.
14. Play equipment, such as floats, rafts, snorkels, flotation devices and other recreational items must meet with staff approval. Radio controlled water craft are not allowed at any time in the pool area. The facility reserves the right to discontinue usage of such play equipment during times of peak or scheduled activity at the pool, or if the equipment causes a safety concern.
15. Pool entrances must be kept clear at all times.
16. No swinging on ladders, fences, or railings is allowed.
17. Pool furniture is not to be removed from the pool area.
18. Alcohol is always prohibited except when served by the restaurant. Alcohol not purchased at the Amenity Facilities is prohibited poolside. Glass containers are always prohibited. Notwithstanding the foregoing, the wet pool deck (the four foot wide unobstructed pool deck area around the outside of the pool water perimeter) must remain clear of all food and beverages at all times, regardless of where the food or beverage was purchased, whether an exception was granted or any other factor.
19. No chewing gum is permitted in the pool or on the pool deck area.
20. Illegal drugs, tobacco products and electronic cigarettes are not permitted in the pool/spa area.
21. The Amenity Manager reserves the right to authorize all programs and activities (including the number of participants, equipment and supplies usage, etc.) conducted at the pool, including swim lessons and aquatic/recreational programs.
22. The District is not responsible for lost or stolen items.
23. Chemicals used in the pool/spa may affect certain hair or fabric colors. The District is not responsible for these effects.

24. The Clubhouse pool, spa and deck area may not be rented at any time; however, access may be limited at certain times for various District functions, as approved by the Board.

### **SPA RULES**

#### ***NO LIFEGUARD ON DUTY – BATHE AT YOUR OWN RISK***

1. All previous safety issues under pool rules apply.
2. No one less than thirteen (13) years of age allowed in spa.
3. Maximum capacity: Seven (7) people.
4. No food or drinks are allowed to be consumed while in the pool/spa.
5. No smoking of any kind, including electronic cigarettes.

### **SWIMMING POOL: THUNDERSTORM POLICY**

The Amenity Manager will control whether swimming is permitted in inclement weather, and the pool facility may be closed or opened at their discretion.

### **FITNESS CENTER POLICIES**

***Eligible Users:*** Patrons and Guests eighteen (18) years of age and older are permitted to use the District Fitness Center during designated operating hours. No Guests under the age of eighteen (18) are allowed in the District Fitness Center at any time.

***Food and Beverage:*** Food is not permitted within the District Fitness Center. Beverages, however, are permitted in the District fitness Center if contained in non-breakable containers with screw top or sealed lids. Alcoholic beverages are not permitted. Smoking, including smoking electronic cigarettes, is not permitted in the District Fitness Center.

1. Appropriate attire and footwear (covering the entire foot) must be worn at all times in the District Fitness Center. Appropriate attire includes t-shirts, tank tops, shorts, and/or athletic wear (no swimsuits).
2. Each individual is responsible for wiping off fitness equipment after use using antiseptic wipes provided by the District.



3. Use of personal trainers is permitted in the District Fitness Center per approval of the Amenity Manager.
4. Hand chalk is not permitted to be used in the District Fitness Center.
5. Radios, tape players, MP3 players and CD players are not permitted unless they are personal units equipped with headphones.
6. No bags, gear, or jackets are permitted on the floor of the District Fitness Center or on the fitness equipment.
7. Weights or other fitness equipment may not be removed from the District Fitness Center.
8. Please limit use of cardiovascular equipment to thirty (30) minutes and step aside between multiple sets on weight equipment if other persons are waiting.
9. Please be respectful of others. Allow other Patrons and Guests to also use equipment, especially the cardiovascular equipment.
10. Please replace weights to their proper location after use.
11. Free weights are not to be dropped and should be placed only on the floor or on equipment made specifically for storage of the weights.
12. Any fitness program operated, established and run by the Amenity Manager may have priority over other users of the District Fitness Center.

#### **GENERAL FACILITY RESERVATION POLICY**

1. Staff will take reservations in advance for the Amenity Facilities (please note that special reservation procedures apply to the Clubhouse Ballroom; see below for more information). Reservations are on a first come, first served basis and can be made either in person at the Clubhouse by filling out a reservation form, via telephone by calling 863-324-5457 or via e-mail.
2. Staff will not accept voice messages left with the Clubhouse Office as a reservation. You must speak to a staff member either on the phone, in person or by e-mail to confirm your reservation.
3. Reservations are available for up to 3 hour increments for all facilities listed in the reservation policy. Longer time increments may be approved by the Amenity Manager.
4. Please call the Clubhouse Office if you cannot make your scheduled reservation so we can re-assign the reservation time slot.

5. Late arrivals or no shows: we will hold your reservation for 15 minutes past your scheduled start time before re-assigning the reservation time slot.
6. There are no personal "standing" weekly reservations allowed for the facilities listed in the reservation policy.
7. These policies are subject to change at any time pursuant to action by the Board of Supervisors at a duly noticed District Board Meeting.

### **TENNIS FACILITY POLICIES**

**When not subject to a reservation, the Tennis Courts are available on a first come, first served basis. It is recommended that Patrons desiring to use the tennis courts check with the staff to verify availability. Use of a tennis court is limited to one and a half (1.5) hours when others are waiting, unless the court is used pursuant to a reservation discussed above. If no one is waiting, play may continue.**

As a courtesy to other patrons, we ask that all players please recognize and abide by these rules and guidelines. Remember, not only is tennis a lifetime sport, it is also a game of sportsmanship, proper etiquette and fair play.

1. Proper tennis etiquette shall be adhered to at all times. The use of profanity or disruptive behavior is prohibited.
2. Proper tennis shoes and attire, as determined by the Amenity Manager, are required at all times while on the courts. Shirts must be worn at all times.
3. Tennis courts are for Patrons and Guests only. Patrons may invite Guests for play, but shall accompany their Guests and register them properly. The limit is three (3) Guests to a single court.
4. No jumping over nets.
5. Players must clean up after play. This includes "dead" balls, Styrofoam cups, plastic bottles, etc. The goal is to show common courtesy by leaving the court ready for play for Patrons who follow you.
6. Court hazards or damages, such as popped line nails, need to be reported to the Amenity Manager for repair.
7. Persons using the tennis facility must supply their own equipment (rackets, balls, etc.).
8. The tennis facility is for the play of tennis and racquet sports such as pickleball. Pets, roller blades, bikes, skates, skateboards and scooters are prohibited at the tennis facility.

9. No permanent boundary markers or lines may be placed on the tennis courts, other than the existing tennis lines.
10. Beverages are permitted at the tennis facility if they are contained in non-breakable containers with screw top or sealed lids. No food or glass containers are permitted on the tennis courts.
11. No chairs, other than those provided by the District, are permitted on the Tennis Court.
12. Lights at the tennis facility must be turned off after use.
13. Guests under the age of eighteen (18) are not allowed to use the tennis facility unless accompanied by an adult Patron.
14. The Tennis Court may be reserved by the District for District-sponsored events or functions.
15. If you find it necessary to "bump" other players when it is your turn to play:
  - a) Never attempt to enter someone else's court before your reservation time.
  - b) Never enter the court or distract players while others are in the middle of a point or game.
  - c) Wait outside the entrance gate and politely inform the players that you have a reservation time.
  - d) Allow players to finish out one more point, and then begin the player changeover for the court.
  - e) If you are bumped from a court and wish to continue play, please notify the Clubhouse office staff and they will do their best to get you on the next available court.

#### **BASKETBALL COURT POLICIES**

1. Basketball equipment, if available, may be obtained from the Shuffleboard storage closet.
2. Proper basketball etiquette shall be adhered to at all times. The use of profanity or disruptive behavior is prohibited.
3. Proper basketball or athletic shoes and attire are required at all times while on the courts. Shirts must be worn.
4. The basketball facility is for the play of basketball only. Pets, roller blades, bikes, skates, skateboards and scooters are prohibited from use at the facility.
5. Beverages are permitted at the Basketball Court if they are contained in non-breakable containers with screw top or sealed lids.

6. Guests under the age of eighteen (18) are not allowed to use the Basketball Court unless accompanied by an adult Patron.
7. Please clean up court after use.
8. The Basketball Court may be reserved by the District for District-sponsored events or functions.

#### **HORSESHOES POLICIES**

1. Horseshoe equipment, if available, may be obtained from the Shuffleboard storage closet.
2. Appropriate dress is required on the court.
3. No tossing of horseshoes while someone is in a pit or in the throwing lane. Horseshoes tumble when thrown and participants need to safely clear the pit.
4. Guests under the age of eighteen (18) years of age may play provided they are supervised by an adult Patron and are physically capable of tossing a shoe to the pit. Supervising adults are responsible for children's safety.
5. The horseshoe pits may be reserved by the District for District-sponsored events or functions.

#### **SHUFFLEBOARD POLICIES**

1. Shuffleboard equipment, if available, may be obtained from the Shuffleboard storage closet.
2. Appropriate dress is required on the court.
3. Pucks or sticks are not to be thrown.
4. No person or person(s) should walk on or across the Shuffleboard Court.
5. Guests under eighteen (18) years of age may play if supervised by an adult Patron who understands the rules and regulations of the game.
6. The Shuffleboard Court may be reserved by the District for District-sponsored events or functions.



### **BOCCE POLICIES**

1. Bocce equipment, if available, may be checked-out from the Shuffleboard storage closet.
2. Appropriate dress is required on the court.
3. Bocce balls should not be tossed or thrown outside of the court.
4. Players on the opposite end of the playing or thrower's end should stand outside of the court walls. Sitting on the walls is permissible provided one's legs are on the outside of the walls. Please report any loose boards, protruding nails, etc., to the staff.
5. Children under eighteen (18) years of age must be supervised by an adult Patron who understands the rules of the game.
6. The bocce courts may be reserved by the District for District-sponsored events or functions.

### **BOWLING POLICIES**

1. The bowling machines are all self-scoring. If you are unsure how to operate the machines or need assistance, please contact the Amenity Manager or staff for instructions.
2. Reservations for the bowling alley(s) can be made through the Amenity Manager's office.
3. Proper attire must be worn. Bowling shoes are the only acceptable footwear on the lanes.
4. No one is allowed past the foul line or on a bowling lane at any time. If it becomes necessary to traverse the lanes, all walking shall be done in the gutter(s).
5. Proper bowling etiquette shall be adhered to at all times. The use of profanity or disruptive behavior is prohibited.
6. No food or drink is allowed in the approach area.
7. If at any time the equipment fails to operate properly or your ball does not return, please contact the Amenity Manager or staff for assistance.
8. No one is allowed behind the pin setting machines without Amenities Manager's permission.
9. Return all balls and shoes to racks when you have finished bowling.

10. Guests under eighteen (18) years of age may play if supervised by an adult Patron who understands the rules and regulations of the game.
11. The bowling lanes may be reserved by the District for District-sponsored events or functions.

### **CINEMA POLICIES**

1. Maximum seating capacity in the Cinema is 55.
2. Please contact the Amenity Manager or staff for assistance with equipment.
3. Movie selections are made by the Amenity Manager's office based on new releases. Suggestions from residents are also considered.
4. Scheduled movies and show times are posted and subject to change.
5. Closed captioning is available for certain movies at certain show times. Please check with the Amenity Manager or staff for the schedule.
6. Please be courteous and arrive on time. Movies are not to begin prior to the scheduled show time.
7. Reservations for the Cinema can be made through the Amenity Manager's office.
8. The Cinema may be reserved by the District for District-sponsored meetings, classes, events or functions.
9. Guests under eighteen (18) years of age must be accompanied by an adult.
10. Please ensure that the Cinema is clean and free from trash and debris following any function. Any Resident or Non-Resident Member who reserves and holds a function in the Cinema and fails to clean up and return it to the condition in which it was obtained may be charged a clean-up fee by the Amenity Manager.
11. Please report any loose seats, lighting issues or other facility needs to the Amenity Manager or staff.

### **CRAFT ROOM POLICIES**

1. Reservations for the Craft Room can be made through the Amenity Manager's office.
2. If at any time the equipment in the Craft Room fails to operate properly, please contact the Amenity Manager or staff for assistance.
3. Please be courteous of others' projects and do not touch.

4. Guests under eighteen (18) years of age may utilize the Craft Room if supervised by an adult Patron.
5. The craft room may be reserved by the District for District-sponsored events or functions.

### **CARD ROOM AND GAME ROOM POLICIES**

1. Reservations for the Card/ Game Room can be made through the Amenity Manager's office.
2. Many different card and billiard games are held at regularly scheduled times. Please contact the Activities Office or [www.ashtonliving.net](http://www.ashtonliving.net) for a list of scheduled activities. When group activities are scheduled, please be courteous of others. Random play is acceptable when the rooms are not scheduled for group activities.
3. The Card/ Game room may be reserved by the District for District-sponsored events or functions.

### **FISHING POLICY**

Patrons may fish from any District owned lake/retention pond within the Lake Ashton Community Development District. Please check with the Amenity Manager for rules and regulations pertaining to fishing and for proper access points to these bodies of water. The District has a "catch and release" policy for all fish caught in these waters. No watercrafts of any kind are allowed in these bodies of water except for small remote controlled boats intended for recreational purposes. Swimming is also prohibited in any of the waters.

### **PAVILION POLICIES**

1. The Pavilion is furnished with tables, chairs, fans, electricity, and grills. If you are unsure how to operate the grills or need assistance with any equipment, please contact the amenity Manager or staff for instructions.
2. Reservations for the Pavilion can be made through the Amenity Manager's office.
3. If at any time the equipment at the Pavilion fails to operate properly, please contact the Amenity Manager or staff for assistance.
4. Guests under eighteen (18) years of age may not utilize the grills at the pavilion.
5. Please ensure that the Pavilion and surrounding area is clean and free from trash and debris following any function. Any Resident or Non-Resident Member who reserves and holds a function at the pavilion and fails to clean up and return it to the condition in which it was obtained may be charged a clean-up fee by the Amenity Manager.

6. The pavilion may be reserved by the District for District-sponsored events or functions.

### **LAKE ASHTON RESTAURANT POLICIES**

The Lake Ashton Clubhouse restaurant is available for use during posted hours of operation. Proper attire must be worn at all times when in the restaurant or when seated on its patio; shoes and shirts are required to receive service. All Patrons and Guests are also required to adhere to any posted policy regarding the restaurant that has been approved by the Board of Supervisors.

### **CLUBHOUSE BALLROOM: RENTAL POLICIES**

Residents and Non-Resident Members, as well as members of the general public upon payment of applicable fees, may reserve the Lake Ashton Ballroom through the Amenity Manager's office for various meetings, classes, events, etc. for a maximum of five (5) hours per event. The five (5) hour limitation can only be exceeded upon specific authorization from the Amenity Manager. Reservation of the Lake Ashton Ballroom is on a first come, first serve basis and is subject to approval by the Amenity Manager. Refer to the Rules of the Lake Ashton Community Development District, Chapter III - "Rental Fees For Use of Certain Lake Ashton Facilities" (the "Rules - Chapter III"), for a complete schedule of rental fees and deposits. A setup/cleanup fee may also be required for certain functions. Please contact the Amenity Manager to make the proper arrangements regarding availability and various other service fees.

Unless previously approved by the Amenity Manager as provided herein under the "General Facility Provisions", all food and beverages, including alcohol, consumed in the Lake Ashton Ballroom must be purchased through the Lake Ashton Clubhouse restaurant (with the exception of cakes needed for special events, such as weddings, birthdays, etc.). Alcoholic beverage sales and service are regulated by the State of Florida. Therefore, it is District policy that no alcohol of any kind is to be brought into, or taken away from, the facility without the District's approval.

Below are the policies and guidelines set forth and agreed upon by the Board and Amenity Manager regarding events in the Lake Ashton Ballroom:

#### **Policies**

1. Applicants for rental of the Lake Ashton Ballroom may be a Resident, Non-Resident Member or a member of the general public, but members of the general public wishing to rent the Lake Ashton Ballroom or another facility may be subject to additional rental charges. Refer to the Rules - Chapter III for more information.
2. Applicants may rent the Lake Ashton Ballroom and other designated rental rooms only, as certain amenities may not be reserved for private use.
3. Facilities will be reserved on a first-come, first-served basis.



4. Applicant may reserve the Lake Ashton Ballroom for up to five (5) hours only; unless they request and receive prior approval from the Amenity Manager.
5. All applicants will be required to fill out and sign the District Facility Use Application Agreement at the Clubhouse office.
6. Residents, Non-Resident Members and members of the general public are responsible for ensuring that their Guests adhere to the policies set forth herein.
7. The volume of live or recorded music must not violate applicable City of Lake Wales noise ordinances.
8. No open burning or campfires are allowed at the facility.
9. Alcoholic beverage service, if approved, shall only be obtained through a service licensed to serve alcoholic beverages. Such service will be required to provide to the Amenity Manager a certificate of insurance, naming the District as an additional insured party. The Amenity Manager may make an exception to this requirement in advance for community events such as pot luck dinners, bingo events and private functions held by Patrons who have reserved the Ballroom. When such a community event is held, the Patrons will be allowed to bring in beer or wine for personal use.
10. Patrons are not allowed to bring or use grills or smokers at the Clubhouse. Upon approval by the Amenity Manager, Patrons may hire an insured caterer to provide this service and the location of any grill or smoker will be at the discretion of the Amenity Manager. Such catering service will be required to provide to the Amenity Manager a certificate of insurance, naming the District as an additional insured party.
11. Any Resident or Resident activity which qualifies for and is granted a fee waiver under the Rules of the Lake Ashton Community Development District, Chapter III, may request that the Amenity Manager grant permission to bring outside catering or outside food and beverage to the Lake Ashton Ballroom for an event compliant with Chapter III. The Amenity Manager shall have the sole discretion to grant or deny such a request and may require the signature and submission of a certificate of insurance, a liability waiver or other administrative documentation as deemed appropriate by the District.

#### **Schedule of Fees and Deposits**

1. Refer to the Rules of the Lake Ashton Community Development District, Chapter III - "Rental Fees For Use of Certain Lake Ashton Facilities" (the "Rules - Chapter III"), for a complete schedule of rental fees and deposits.
2. A non-refundable service fee may be charged for functions held having more than 25 people in attendance in order to cover the costs associated with setup, breakdown and cleanup of the Lake Ashton Ballroom. A final guarantee (number) of guests is to be conveyed to the Amenity Facilities' events planner no later than five (5) days before the date of the scheduled event. In absence of a final guarantee, the number indicated on the

original agreement will be considered correct. A check shall be made out to the District and submitted to the Clubhouse Office.

3. If required by the Rules – Chapter III, a security deposit(s) or security fees shall be submitted to the Clubhouse Office in the form of a separate check (which shall be made payable to the “Lake Ashton Community Development District”).
4. A staff charge and/or other special charge(s) or fee(s), if applicable based upon the reasonable discretion of the Amenity Manager, will be added to the base fee in order to cover any additional costs (i.e., kitchen use, staff availability, etc.).

### **Indemnification**

Each organization, group or individual reserving the use of an Amenity Facility (or any part thereof) agrees to indemnify and hold harmless the District, the owners of the Amenity Facility and the owner’s officers, agents and employees from any and all liability, claims, actions, suits or demands by any person, corporation or other entity, for injuries, death, property damage of any nature, arising out of, or in connection with, the use of the District lands, premises and/or Amenity Facilities, including litigation or any appellate proceeding with respect thereto. Nothing herein shall constitute or be construed as a waiver of the District’s sovereign immunity granted pursuant to Section 768.38, Florida Statutes.

### **CLUBS AND OTHER ORGANIZATIONS**

Any club, group or organization wanting to utilize the Amenity Facilities, activities display space, Channel 96/732, Coffee Meetings, Ashtonliving.net, or the LA Times newsletter to promote club or organization activities must meet the following criteria:

- Clubs must be comprised of a minimum of at least five active members; all members must be Lake Ashton residents.
- No club may be formed, and no activities held within the Amenities Facilities, for commercial or profit-making purposes.
- The purpose of each club must be to provide lifestyle enhancing opportunities to Lake Ashton residents and not to effectuate sales of products or services. No one household can profit from the club. Clubs may generate funds through dues and proceeds from club organized events. If a club chooses to generate funds, a check and balance system must be in place as well as a club checking account.
- Club membership and club activities must be available to all residents. Criteria for club membership should be governed by the individual club’s by-laws.
- Rules applying to the formation and admissibility of clubs may be modified at the discretion of the Lake Ashton Community Development District Board of Supervisors.
- Violations of these policies by any club may result in the loss of that club’s privileges within the Amenity Facilities.

## **MEDIA POLICY**

District Media (as defined herein) is provided for the dissemination of factual community information by the District to District residents. The District reserves full editorial rights to select, exclude, modify, add or delete material or portions of material submitted for inclusion in District Media. Any individual, group, club or organization that submits Inappropriate Content (as defined herein) for inclusion in District Media shall be in violation this Policy

## **COMPUTER AND INTERNET POLICY**

The District reserves the right to revoke the computer and/or internet privileges of any user at any time.

### **Computer and Internet Monitoring**

Computers that are property of the District and any contents thereof, including email, are subject to monitoring and access by the District at any time with or without consent or prior knowledge of the user. The District, as its discretion reserves the right to monitor any use of network resources, to monitor computer and internet usage, including, but not limited to: sites visited, searches conducted, information uploaded or downloaded and to access, retrieve and delete any data stored in, created, received, or sent over the network or using network resources for any reason.

### **Inappropriate Content and Use**

It is strictly prohibited to use a District computer to seek, send or store Inappropriate Content (as defined herein). Internet browsing on websites with Inappropriate Content is prohibited. Users of District computers and internet are not permitted to store, download or transmit copyrighted materials on District computers or through District internet unless written permission of the District has been granted. Examples of copyrighted materials include, but are not limited to: commercial music, video, graphics, or other intellectual property. The District will not provide for defense for violators of copyright or intellectual property rights. All doubt regarding whether material is copyrighted, proprietary, or otherwise inappropriate for duplication should be resolved in favor of not duplicating such information.

## **POLITICAL GROUPS**

### **Use of Rental Facilities and Political Groups**

1. Rental Facilities shall be available to the public and /or to Lake Ashton clubs and individuals, including Political Groups, for rent or reservation in accordance with the Policies of the District and the laws of the state of Florida.
2. All activities must, at all times comply with the Chapter 106, *Florida Statutes*, and all applicable laws and regulations.

3. The Rental Facilities may not be used for political rallies, parades, protests or other campaign or events involving Political Issues intended or designed to incite disruptive or dangerous behavior.
4. Notwithstanding any of the foregoing, the District reserves the right to deny access to the Rental Facilities to any party, including Political Groups, if such party does not comply with the Policies of the District and the laws of the state of Florida or presents a danger to health, safety, or welfare of the residents of the District.

#### **District Media and Political Groups**

1. It is the intent of the District to maintain District Media as a non-public forum for the dissemination of factual community information by the District to District residents.
2. Lake Ashton clubs, groups or organizations that meet the criteria for a club under the Policies, including Lake Ashton clubs which constitute Political Groups, may submit material for consideration by staff of the District for inclusion in District Media.
3. All information included in District Media shall be limited to factual information, shall not advocate passage or defeat of a candidate, party, measure or other Political Issue, and shall not support, endorse or oppose a candidate for nomination or election to a public office or office of political party or public officer.
4. The provisions hereunder regarding District Media shall not be interpreted to prohibit any publications, postings, mailings or information produced, endorsed or circulated by the Supervisor of Elections, local, state, federal or other government of competent jurisdiction over the District or to such publications, postings, mailings or information permitted under local, state or federal law.
5. The District may accept paid political advertising that complies with Chapter 106, *Florida Statutes*, and all applicable local, state and federal laws. The advertising rates for such paid political advertising shall be the same as those rates charged to other members of the public for paid advertising. It is the sole responsibility of the party submitting the paid political advertising to ensure the advertisements compliance with all laws, including, but not limited to, those laws requiring mandatory language and / or a disclaimer within the paid political advertising.
6. Notwithstanding any of the foregoing, the District reserves full editorial rights to select, exclude, modify, add or delete material submitted for inclusion in District Media, including the right to edit material relating to Political Issues, and the District additionally reserves the right to include a disclaimer in District Media noting that the Lake Ashton Community Development District does not endorse or support a particular candidate, party, measure or issue.



## **SUSPENSION AND TERMINATION OF PRIVILEGES**

### **Relating to the Health, Safety and Welfare of the Patrons and Damage to Amenity Facilities:**

Notwithstanding anything contained herein, the Amenity Manager may, at any time, restrict or suspend any Patron's or Guest's privileges to use any or all of the Amenity Facilities when such action is necessary to protect the health, safety and welfare of other Patrons and their Guests, or to protect the Amenity Facilities from damage.

Such restriction or suspension shall be for a maximum period of thirty (30) days or until the date of the next Board of Supervisors meeting, whichever occurs first. Such infraction and suspension shall be documented by the Amenity Manager. The Operations Manager, District Manager and Board of Supervisors shall be notified to review this action at the next Board of Supervisors meeting.

### **Relating to District's Amenity Facilities Policies:**

A Patron's or Guest's privileges at any or all Amenity Facilities may be subject to various lengths of suspension or termination for up to one (1) calendar year by the Board of Supervisors, and a Patron or Guest may also be required to pay restitution for any property damage, if a he or she:

1. Fails to abide by the District's Amenity Facilities Policies established and approved by the Board of Supervisors.
2. Submits false information on the application for a photo ID card or Guest pass.
3. Permits unauthorized use of a photo ID card or Guest pass.
4. Exhibits unsatisfactory behavior, deportment or appearance.
5. Treats the personnel or employees of the Amenity Manager in an unreasonable or abusive manner.
6. Engages in conduct that is improper or likely to endanger the welfare, safety or reputation of the District or Amenity Manager's staff.
7. Damages or destroys District property.

### **District Suspension and Termination Process:**

In response to any violation of the rules, regulations, policies and procedures specified herein, including, but not limited to, those set forth in the preceding paragraph, the District shall follow the process outlined below with regard to suspension or termination of a Patron's or Guest's privileges:

- A. First Offense – Verbal warning by staff of policy violations; the warning shall be summarized in a brief written report by staff and kept on file in the Clubhouse Office.
- B. Second Offense – Written warning by staff of continued policy violations sent by certified mail to the Patron/Guest and kept on file in the Clubhouse Office. In addition, the Patron/Guest will be suspended from the Amenity Facilities for the remainder of the day on which the written warning is issued.
- C. Third Offense – Automatic suspension of all Amenity Facilities privileges for one (1) week; a written report will be created, a certified letter will be sent to the Patron/Guest and a copy of such letter kept on file in the Clubhouse Office.
- D. Fourth Offense – Automatic suspension from all Amenity Facilities for up to thirty (30) days or until the date of the next Board of Supervisors Meeting whichever occurs first. At this time a complete record of all previous documented offenses will be presented to the Board for recommendation of suspension beyond thirty (30) days or possible termination of the Patron's/Guests privileges for up to one (1) calendar year from the Board's approval of termination of privileges.

**EXHIBIT C**

**LANDLORD'S INVENTORY**

*[See attached]*

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
1	POS System - 40' Cat 5 Kitchen Cable	
1	POS System - HP IPAQ 111 Handheld	
2	Cash Drawers	
2	Vivonet Terminals with router	JN1700351
		JN1700349
3	Vivonet Receipt Printer	X2NN027392
		X2NN027556
		X2NN027533
2	Vivonet Cash Drawers	GF1702184
		GF1702182
2	Colander - Aluminum - Round with Handle	
1	Deep Fryer - Imperial	11278510
11	Espresso Cups	
17	Espresso Saucers	
21	Flatware holders - round plastic	
109	Salad Plates - Clear with leaf-like pattern	
24	Teapots - Large	



### Restaurant Inventory

<b>Qty</b>	<b>DESCRIPTION</b>	<b>SERIAL #</b>
38	Votive Candle Holders	
1	Ice Maker - Manitowoc Q270	20162649
1	AM/FM Receiver - Sony 2-Channel	
2	Bar Adaptor - Stainless Steel 12"	
12	Bar Stools - Ladderback - Model Number SL3301	
1	Beer Caddy Tapster - True	
1	Blender - Bar Maid/Glass Pro Model # BLE-110	B110013872
1	Bottle Opener	
47	Brandy Snifter (Misc Sizes)	
1	CD changer - 5 disc - Sony	
1	Cocktail Shaker - Shaker Only	
2	Cocktail Shaker, 3 piece set - stainless steel (Shaker, Strainer top, and jigger cap)	
18	Decanter Carafe - Libbey Model # 735	
306	Flute Glasses - Libbey Glass Model No. 3796	
41	Flute Glasses - Libbey Glass - 6 ounce	
196	Gibraltar Beverage Glass - 10 ounce - Libbey Model # 15237	
16	Hi Ball glasses - Footed	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
18	Hiball glasses - Libbey 15236 9 ounce	
16	Hurricane glasses - Libbey Item # 4019964	
29	Inverness Glasses - Libbey Model # 15481	
69	Irish Coffee Mugs	
49	Liquor Pourer	
22	Margarita glasses - Libbey - Model # 3429	
32	Martini glasses - Libbey Glass Model No. 8485	
37	Mixing Glass - Libbey Glass Model # 1639HT	
3	Overflow Tube - Browne USA Foodservice Model # 40100200	
2	Peerless Wall Mount for 40 Inch LED HDTVs	
3	Pilsner - 11.5 ounce	
3	Pitcher - Glass	
12	Pitcher - Ice Insert - Polar Ice Item # 4000-11	
2	RCA 40 inch LED HDTVs - Item Number - BB1931370463210	
1	Reach-In Cooler - True	1-3250751
1	Reach-In Freezer - True	1-3156370
28	Rocks Glasses - Libbey 15241 - 7 ounce	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
6	Scoop - 12 ounce Winco Model # AS-12	
2	Scoop - 85 ounce Winco Model # AS-85 (Patio Ice Machine)	
13	Shooter glasses - Anchor Hocking Model No. 5280VU	
35	Sports mugs - 25 oz - Libbey Glass Item J-8A	
1	Strainer	
1	Tuner - Bogen	
2	Volume Controls	
559	Water Glasses - Cardinal Model # 04757	
340	Wine Glasses - Banquet - Teardrop - Libbey Glass Model No. 3965	
4	Beverage Dispenser - American Metalcraft Model # REVLJUICESQ12	
1	Heated Banquet Cabinet - Metro	
1	Refrigerator - GE	
1	Rolling Table - Advance Tabco	
130	Salt and Pepper Shakers - Glass	
23	Tea/Coffee Pot - Central Food - Item # TP-9-EW	
1	Ice Machine - Hoshizaki - (model no. KM-901MAH)	62AO229TJ004
6	Acoustic Panels - 4x2x2 DMD 422	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
9	Acoustic Panels - 4x4x2 - Color Orange Custom	
12	Acoustic Panels - 8x4x2	
3	Booster Seats	
13	Chaffers (9 large + 4 small round)	
6	Chaffer Inserts (Round)	
1	Coffee Decanter - 64 Ounce - Black Handle - Plastic with Stainless Steel Base	
1	Coffee Decanter - Orange Handle - Stainless Steel Base	
1	Flatware Cylinder Holder - 14-3/4"x11-3/4"x8" - 6 holes	
3	High Chairs	
1	Ice Machine (Dispenser) - Cornelius D45	
3	Menu Covers (black leather)	
197	Menu Covers (Black with Gold Corners) Menu Solutions Model # SE300DBK	
150	Metal Chairs with Florida Brown Colored Cushions	
16	Mirrored Tiles	
12	Oil and Vinegar Bottle	
6	Oil and Vinegar Bottle Rack	
30	Sugar Packet Holder - Gessner - Model # 1925WH	



### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
27	Table - Square Wooden	
1	Table - Rectangle Wooden (6')	
1	Table - Round Wooden	
4	Table - 36"x36"	
2	Table - 42" Round	
2	Table - 60" Round	
23	Tray Jacks	
135	Tumbler - Plastic - Thunder Group Model # PLPCTB116CL	
8	Wire Food Shelves	
2	Knife 7" Santoku	
50	Crème Brule Ovals - 6.5 ounce - Hall China Model # 853	
93	Crème Brule Rounds	
11	Crocks	
1	Blender - Immersion - Waring - Item # WSB50	040072002137
63	Bowl - Fruit - 4.5 oz - Oneida	
1	Can Good Rack - Large	
1	Cart - Black - 3 Shelf	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
1	Carving Station Light Adaptor	
12	Coffee Cup - 8 ounce white - Tuxton - AMU-080	
57	Coffee Cups - 7 ounce white	
289	Coffee Saucers	
2	Colander - Aluminum - Cone	
2	Colander - Aluminum - Round	
1	Compartment Sink (3) - Aero	
1	Convection Oven	2592215
1	Cooler - TurboAir (2) Door	
29	Creamer Jugs - 3.5 oz Tuxton China Model No. BWR-035	
2	Cutting Board 15x20x1/2	
2	Cutting Board 18x24x1/2 - WHITE	
2	Cutting Board Rack - Fits 6	
1	Deck Pizza Oven - Item # ED02136SINGLE	10126
1	Deep Fryer - ANETS	G13HC044582
1	Deep Fryer - Atosa	4008215091000C4040
6	Deep Fryer Nets	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
40	Dish Rack - 16 compartment Extender Items # 3850-62	
10	Dish Rack - 16 compartment Item # 3850-60	
2	Dish Rack Dolly with Handle - Item # 3850-20	
1	Dough Cutter	
1	Dough Scraper	
30	Food Covers	
1	Food Processor - Model # WFP11SW	
11	Food Serving Basket	
3	Food Storage Container - Camwear - 22 Quart	
655	Forks - Winco Model # 0021-05	
15	Gravy servers	
1	Hand Truck	
2	Hotel Pans - 1/3 - 4"	
15	Hotel Pans - 1/3 - 6"	
47	Hotel Pans - 1/6 - 4"	
15	Hotel Pans - 1/9 - 2"	
15	Hotel Pans - 1/9 - 4"	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
10	Hotel Pans - Full - 2"	
6	Hotel Pans - Full - 4"	
3	Hotel Pans - Full - 6"	
4	Hotel Pans - Half - 2"	
13	Hotel Pans - Half - 4"	
5	Hotel Pans - Half - 6"	
2	Hotel Pans - Half Long - 4"	
1	Hotel Pans - Half Long - 6"	
1	Hotel Pans - Perforated - Full - 4"	
17	Hotel Pans - Perforated - Full - 2"	
1	Hotel Pans - Perforated - Half - 4"	
42	Hotel Pans - 1/6 - 6"	
2	Ice Tote	
1	Knife - 10" Chef	
1	Knife - 12" Slicer	
1	Knife Sharpener (electric)	
601	Knives	



### Restaurant Inventory

<b>Qty</b>	<b>DESCRIPTION</b>	<b>SERIAL #</b>
19	Ladles	
194	Large Banquet Plates	
1	Mandoline Slicer	
2	Measuring Cup - Stainless Steel - 4 quart	
1	Measuring Cup Set (1/4, 1/3, 1/2 and 1)	
1	Measuring Spoon Set (1/4, 1/2, 1 t, 1T)	
2	Meat forks	
1	Meat Slicer	17HL7128-344
31	Mixing Bowl (9 - small, 13 - medium, 9 - large)	
22	Oval Platters - 11-1/8" x 8-5/8" - Tuxton China Model # AMU-021	
58	Oval Platters - 13" x 10-1/8" - Tuxton China Model # AMU-023	
115	Pasta Bowls - Large - Tuxton China Model # AMU-064	
8	Pasta Bowls - Medium	
15	Pasta Bowls - Small	
2	Peeler	
1	Pepper Mill	
1	Plano Whip - 12" Stainless Steel	

### Restaurant Inventory

<b>Qty</b>	<b>DESCRIPTION</b>	<b>SERIAL #</b>
6	Pie servers	
12	Pitcher - Metal	
14	Pitcher - plastic	
19	Pizza Plates (aluminum)	
1	Plastic Salad Bowls - Large	
185	Plate - 10-5/8" - Tuxton China Model # AMU-007	
47	Plate - 12" - International Tableware Model # TN-21	
195	Plate - 5.5"	
144	Plate - 6-1/4" - Tuxton China Model # AMU-002	
212	Plate - 8"	
533	Plate - 8-1/8" - Tuxton China Model # AMU-004	
10	Plate - Rectangle Celery Plate - 10-1/2"	
26	Plate - Rectangle Flatbread Plate - 14-1/2"	
84	Plate - 10"	
15	Plate - 11"	
2	Plate Caddy	
196	Plates - Dinner - 12" Euro White - Item #ALR47	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
2	Portion Scales	
2	Prep Tables - Advance Tabco	
1	Punch bowl - Seashell	
1	Punch Bowls	
33	Ramekins - Stainless Steel - Winco Model # SCP-25	
1	Range (Imperial Brand - 6 eye)	9412714
15	Rareblts 12 oz Item # WRO-12-EW	
1	Reach-In Freezer - True	1-4186668
1	Refrigerated table - 2-door - Atosa	MSF8302150826C4022
2	Rubber Spatula	
1	Salamander (36 inch - Imperial Brand) (includes mounting channels - \$185)	
1	Refrigerated table - Atosa 3 Door	MSF8304150807C4008
1	Sani Safe Table (Dish Washing Area) (item # AST-3072)	
1	Serving Tray - 11" diameter	
1	Serving Tray - 14" diameter	
5	Serving Tray - 14" - Non Skid Winco Model # TFG - 14K	
3	Serving Tray - 16" diameter silver swirls	

### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
3	Serving Tray - 18" x24-3/4 Oval (Bon Chef)	
20	Serving Tray - Large Oval	
9	Sheet Pans - Full - Perforated	
73	Sheet Pans - Full	
15	Sheet Pans - Half	
13	Sherbet bowls - plastic	
219	Soup Cup (Tuxton Bouillon Cup - Item #ALB-0752)	
2	Speed Racks	
10	Spoon - Serving - 13" Solid	
3	Spoon - Serving - 11" Slotted	
190	Spoons - Dining	
15	Spoons - Soup	
1	Strainer - Stainless Steel Double Mesh	
25	Tongs (10 - small, 9 - medium, 3 - large, 3 - extra large)	
15	Tongs - small banquet	
4	Turner - Solid	
1	Walk-In Cooler - Arctic	53537



### Restaurant Inventory

Qty	DESCRIPTION	SERIAL #
1	Walk-In Freezer - Arctic	54623
1	Warming Drawer - Roundup - Item # WD-20-9400100	15087123
1	Wire Mesh Skimmers	
3	Wire Whips	
1	Refrigerator - True (3) Door	1-3389531
1	Freezer - True 2 door	1-45988049
1	Spar -Mixer	20406
3	Utility Carts	
1	Grill on Wheels (stays on Patio) with cover - MagiCater LP 360	305EC018842

4/13/18 Updated

**EXHIBIT D**

**FORM OF INCOME STATEMENT**

*[See attached]*

## Income Statement

### Nini's Cafe Quarter

## Revenue

Restaurant Food Sales  
Restaurant Wine Sales  
Restaurant Beer Sales  
Restaurant Liquor Sales  
Catering Food Sales  
Catering Wine Sales  
Catering Beer Sales  
Catering Liquor Sales  
Gift Card Sales  
Gross Sales

[illegible]

## Cost of Goods Sold

Food Costs	
Wine Cost	
Beer Cost	
Liquor Cost	
<b>Cost of Goods Sold</b>	
<b>Gross Profit (Loss)</b>	


## Expenses

Advertising and Promotion  
Computer and Internet Expense  
Music and Entertainment  
Pest Control  
Equipment Repairs and Maintenance  
Utilities  
Dues and Subscriptions  
Insurance  
Legal and Professional Fees  
Licenses and Fees  
Miscellaneous  
Office Expense  
Payroll Processing  
Payroll Taxes  
Payroll Wages  
Uniforms  
Rent  
Kitchen Repairs and Maintenance  
Supplies  
Telephone  
Linens  
**Total Expenses**

[illegible]

**EXHIBIT E**

**CLEANING SCHEDULE ADDENDUM**

*[See attached]*



**DEEP CLEANING**

Deep Cleaning is restoring the carpet's appearance by extracting soil and substances that can damage your carpet. The Mohawk Group recommends hot water extraction as the most effective method to give restorative deep cleaning results. Soil is abrasive and will cause premature wear of the fibers if it is not properly removed and hot water extraction is the only method that can remove the soil and residue from deep down in the fibers.

**HOT WATER EXTRACTION CLEANING METHOD**

Hot Water extraction, performed with truck-mount, portable, or self-contained equipment, uses the high-pressure force of water injected into the carpet followed by powerful vacuum suction to remove suspended soil. The process happens almost instantaneously and does not allow cleaning agents to have adequate dwell time. Therefore, the only cleaning agent you should use in the machine's tank is an acidic rinse agent to help return the pH to neutral, or a de-foamier to cut down on the accumulation of detergent foam in the machine. Instead, use your cleaning agent as a pre-spray, agitate, and then rinse with your extractor using plain water.

**HOT WATER EXTRACTION PROCESS**

1. Vacuum thoroughly to remove as much dry soil as possible
2. Pre-spray with cleaning agent
3. Agitate with a counter rotating brush or carpet rake to work the pre-spray throughout the carpet pile and suspend the soil
4. Rinse with plain water

**NOTE:** During extraction, it is essential to extract as much moisture as possible with dry passes (3 to 4 dry passes per each wet pass). Enhance the drying time by using air movers allowing three to four hours drying time after the last extraction before traffic is allowed on the carpet.



### INTERIM CLEANING METHODS

Interim cleaning is a cost effective way to keep your carpet attractive and odor free between hot water/wet extractions. Mohawk recommends two different methods of interim cleaning. The absorbent compound cleaning method, and the low moisture encapsulation cleaning method. Both methods use various chemicals to dissolve and absorb water and oil based soils, holding them until they are removed by vacuuming (dry extraction).

#### ABSORBENT COMPOUND CLEANING METHOD

This cleaning method uses an absorbent compound moistened with water and other cleaning agents. The compound absorbs the soil and spots as they are brushed into the carpet, and then removed by vacuuming.

#### ABSORBENT COMPOUND PROCESS

1. Vacuum thoroughly to remove as much dry soil as possible.  
(Pile lifter will help remove embedded soil)
2. Apply the absorbent cleaning compound to the carpet.  
This may include the use of a pre-spray, depending on the type and severity of soiling.
3. Agitate with a counter-rotating brush machine, working the absorbent compound throughout the carpet to suspend and absorb the soil.
4. Vacuum thoroughly to remove the soil and dirty compound.

#### LOW MOISTURE ENCAPSULATION CLEANING METHOD

Low moisture encapsulation uses special chemistry formulated to encapsulate the soil and dry it into a crystalline form, which is then removed by vacuuming.

#### LOW MOISTURE ENCAPSULATION PROCESS

1. Vacuum thoroughly to remove as much dry soil as possible. (Pile lifter will help remove embedded soil)
2. Apply the encapsulation pre-spray to the carpet.
3. Agitate the area with a counter-rotating brush machine.
4. Vacuum thoroughly once the carpet is dry.

### ANNUAL INTERIM & DEEP CLEANING FREQUENCIES

The table below is provided as a general reference for how often the three different types of traffic areas (Heavy, Medium & Light) should be cleaned during normal situations.

WEEK	CLEANING TYPE	WEEK	CLEANING TYPE
01	Interim	27	Interim
02	Interim	28	Interim
03	Interim	29	Interim
04	Interim	30	Interim
05		31	
06	Interim	32	Interim
07	Interim	33	Deep
08	Deep	34	Deep
09		35	
10	Interim	36	Interim
11	Interim	37	Interim
12	Interim	38	Interim
13		39	
14	Interim	40	Interim
15	Deep	41	Interim
16	Deep	42	Deep
17	Interim	43	Deep
18		44	
19	Interim	45	Interim
20	Interim	46	Interim
21	Interim	47	Interim
22		48	
23	Interim	49	Interim
24	Interim	50	Deep
25	Deep	51	Deep
26		52	

### TRAFFIC CONDITION

Heavy Commercial Traffic
Medium Commercial Traffic
Light Commercial Traffic



When performing wet maintenance, always use proper signage and prohibit traffic until the floor is completely dry.

## I. Preventative Care

### 1. Floor Traffic

#### *Glue Down Installations*

Foot traffic is allowed 24 hours after installation when using M95.0 Resilient Flooring Adhesive. Restrict heavy traffic, rolling loads, or furniture placement for 72 hours after installation.

When using Mohawk MS160 Spray Adhesive, foot traffic may begin one hour after installation. Restrict heavy traffic, rolling loads, or furniture placement for 24 hours after installation with MS160 Spray Adhesive.

Additional time may be necessary if the installation is over a non-porous substrate. In this condition, allow at least five days following the installation before conducting wet cleaning procedures or initial maintenance.

#### *Floating Installations*

For floating installations, foot traffic may begin immediately after installation is complete.

2. Use 1/4" or thicker plywood to protect the surface when moving heavy objects across the new floor.
3. Use walk-off mats that are as wide as the doorway and long enough for soil load and weather conditions.
4. Use mats with a non-staining backing.
5. Floor protectors should be used on all furniture legs.
6. The surface area of the floor protectors should be no less than 1" in diameter.
7. Lightly damp mop the floor as needed.
8. For glue down installations, wait 48 hours before wet cleaning and scrubbing new floors. With floating installations, cleaning may begin immediately.

## II. Initial Maintenance

1. Sweep, dust mop or vacuum the floor thoroughly to remove all loose dust, dirt, grit and debris. Note: Vacuum beater bar must be disengaged.
2. Remove any dried adhesive residue with a clean, white cloth dampened with mineral spirits, carefully following the use warnings on the container.
3. Damp mop the floor with a pH-neutral cleaner.
4. If necessary, scrub the floor using a rotary machine or auto scrubber with cleaner and the appropriate scrubbing brush (aggressiveness equivalent to a 3M red pad).
5. Never use brown or black pads (too aggressive and can damage the product).
6. Thoroughly rinse the entire floor with fresh, clean water. Remove rinse water and allow the floor to dry completely.





7. Remove the cleaning solution with a wet-dry vacuum or auto scrubber until the floor is dry.
8. Repeat the rinse process if necessary to remove any haze that may be visible.

### III. Daily / Regular Maintenance

1. Sweep, dust mop or vacuum the floor thoroughly to remove all loose dust, dirt, grit and debris. Note: Vacuum beater bar must be disengaged.
2. Damp mop the floor with a pH-neutral cleaner.
3. If necessary, scrub the floor using a rotary machine or auto scrubber with a soft to medium scrubbing brush (aggressiveness equivalent to a 3M red pad).
4. Thoroughly rinse the entire floor with fresh, clean water. Remove rinse water and allow the floor to dry completely.

### IVa. Periodic Maintenance – No-Polish Method

1. When needed, machine scrub the floor with a properly diluted, pH-neutral cleaner and the appropriate scrubbing brush (aggressiveness equivalent to 3M red pad).
2. Thoroughly rinse the entire floor with fresh, clean water. Remove rinse water and allow the floor to dry completely.

*\*Caution: Resilient flooring, like other types of smooth floors, can become slippery when wet. Allow time for the floor to dry after cleaning. Immediately wipe up wet areas from spills or wet feet. Place mats at outside entrances to prevent water, snow or ice from being tracked onto the floor. Improper polishes or finishes can cause the floor to become slippery.*

### IVb. Periodic Maintenance – Polish Method

*NOTE: Polishing is not required but is an optional and acceptable form of maintenance. The flooring must be thoroughly cleaned prior to beginning any polishing.*

1. After properly cleaning the flooring as prescribed in the prior sections, scrub the floor using a rotary machine or auto scrubber with a brush (aggressiveness equivalent to 3M red pad).
2. Thoroughly rinse the entire floor with fresh, clean water. Remove rinse water and allow the floor to dry completely.
3. Apply 3 to 5 coats of high-quality commercial floor polish. In areas where the flooring will be exposed to heavy traffic and/or staining agents.
4. Regular and Periodic Maintenance should be performed as needed, and additional coats of floor polish should be applied. Additional coats should only be applied after scrubbing as described above in Periodic Maintenance.



#### **IVc. Periodic Maintenance – Spray Buff Maintenance**

1. Follow the procedures listed prior to thoroughly cleaning the floor.
2. Spray buff using a rotary machine (175 to 600 rpm) with the appropriate pad and spray buff solution.
3. Regular and Periodic Maintenance should be performed as described above.

*NOTE: For both Polishing method and Spray Buff method, it may become necessary to remove polish build-up by stripping the floor. The use of high-quality maintenance products and adherence to a well-planned maintenance program will greatly reduce the need for stripping. Should stripping become necessary, follow the procedures outlined below.*

#### **V. Restorative Maintenance – Stripping & Polishing**

*NOTE: The use of aggressive strippers such as mop-on/mop-off, no-scrub and no-rinse strippers are not recommended on tile floors less than 2 years old because they may affect the adhesive bond.*

1. Mix stripping solution to the appropriate dilution. Block off areas to be stripped. Apply solution as recommended by the stripper manufacturer.
2. Machine scrub the floor (300 rpm or less) with a scrubbing brush (aggressiveness equivalent to 3M blue pad) to break up the polish film. Do not allow stripping solution to dry on the floor.
3. Remove dirty stripping solution with a wet vacuum or mop. TIP: Drizzling fresh, clean rinse water onto the dirty stripping solution will assist with a more thorough removal. Thoroughly rinse the entire floor with fresh, clean water. Remove rinse water and allow the floor to dry completely.
4. Based on the selected maintenance option above, do one of the following:
5. If maintaining with the Polish Option, apply 3 to 5 coats of high-quality commercial floor polish
6. If maintaining with the Spray Buff Option, spray buff using a rotary machine (175 to 600 rpm) with the appropriate pad and spray buff solution.