

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Re: ZALER POP HOLDINGS
OF WILKINSBURG, LLC

Bankruptcy No. 17-20390-TPA

**AMENDED DISCLOSURE STATEMENT TO
ACCOMPANY AMENDED PLAN DATED APRIL 16, 2018**

■ Chapter 11 Small Business (Check box only if debtor has elected to be considered a small business under 11 U.S.C. §1121(e))

Debtor furnishes this Amended Disclosure Statement ("Amended Disclosure Statement") to creditors in the above-captioned matter pursuant to Bankruptcy Code §1125 to assist them in evaluating debtor's proposed amended Chapter 11 plan, a copy of which is attached hereto. Creditors may vote for or against the Amended Plan of Reorganization ("Plan of Reorganization"). Creditors who wish to vote must complete their ballots and return them to the following address before the deadline noted in the order approving the disclosure statement and fixing time. The Court will schedule a hearing on the amended plan pursuant to 11 U.S.C. §1129.)

Address for return of ballots:

McCann, Garland, Ridall & Burke
c/o J. Michael Baggett, Esquire
11 Stanwix Street, Suite 1030
Pittsburgh, PA 15222

I. Background

1. Name of Debtor

Zaler Pop Holdings of Wilkinsburg, LLC

2. Type of Debtor (individual, partnership, corporation)

Limited Liability Company

3. Debtor's Business or Employment

Owns real estate located at 501 Penn Avenue, Pittsburgh, Pennsylvania

4. Date of Chapter 11 Petition

February 3, 2017

5. **Events that Caused the Filing**

Debtor operated a franchised Popeye's Chicken & Biscuits ("Popeye's") restaurant in the real estate located at 501 Penn Avenue, Pittsburgh, Pennsylvania (the "Property"). Debtor's principal, Ronald Johnson ("Johnson"), was also operating two Popeye's restaurants in Ohio and another in Wilkins Township, Pennsylvania. The Penn Avenue restaurant was being operated by a general manager who was submitting falsified reports to Johnson and to Popeye's. Johnson was of the belief and understanding that certain taxes and royalties were being paid when in fact they were not. Popeye's declared a default under the franchise agreement causing Debtor to close the restaurant. As a result of the store closing, Debtor was unable to pay the mortgage to its lender, Bridgeway Capital, LLC ("Bridgeway"), as well as back real estate taxes. Bridgeway filed a foreclosure action and Debtor filed the instant proceeding prior to the sheriff's sale of the Property.

6. **Anticipated Future of the Company & Source of this Information and Opinion**

Debtor leased the Property to Liam's of Wilkinsburg, LLC ("Liam's"). Liam's operated a restaurant on the Property. Liam's failed to pay rent and was evicted in December 2017. Debtor has now leased the Property to Cuddy ALR Realty, LLC ("Cuddy"), a copy of the Lease is attached (the Lease") as Exhibit "A."

7. **Summarize all Significant Features of the Plan Including When and How Each Class of Creditor Will Be Paid and What, If Any, Liens Will Be Retained By Secured Creditors or Granted to Any Creditor Under the Plan**

Cuddy has developed a business plan that will concentrate on a Southern style menu then integrate a liquor license morphing the Property into a sports bar restaurant. Currently, there is only one restaurant serving alcohol in the Wilkinsburg business district. Cuddy has agreed to pay rent in the amount of \$5,000.00 per month under the Lease.

Treatment of Claims

Administrative Claims shall consist of the claim of McCann, Garland, Ridall & Burke, as counsel for Debtor, for professional fees which are subject to approval by the Bankruptcy Court. Additionally, any unpaid fees owed to the United States Trustee will also be paid as an administrative claim. These claims will be paid on the Effective Date unless the parties agree otherwise.

Per Order of Court, Duquesne Light Company has an allowed administrative claim of \$5,207.47 and Peoples Natural Gas Company, LLC has an allowed administrative claim of \$2,257.69. Those claims will be paid on the Effective Date to the extent Debtor has available cash from rents received. In the event that the claims are not paid in full, they will be paid over a four (4) month period.

Pursuant to 11 USC §1129(a)(9)(C), unless otherwise agreed, tax claims entitled to priority are to be paid in periodic payments over a period ending no later than five years after the date that the petition was filed.

Debtor will receive \$5,000.00 per month in rent from Cuddy, \$4,000.00 of which will be allocated for payment to creditors under the Amended Plan. The remaining \$1,000.00 of monthly rent will be utilized to pay administrative claims, insurance obligations and retention for capital improvements. Attached as Exhibit "B" is an itemization and classification of the taxes as set forth in the respective proof of claims. The Debtor has categorized the unsecured priority taxes subject to §1129(a)(9)(C) as well as secured tax claims which would otherwise qualify as an unsecured priority claim where it not for the secured status. Accordingly, Debtor proposes to pay the priority tax and secured tax claims treated as priority on the same level, and then pay the secured tax claims in full over an extended period of time. Rents received by Debtor will not be sufficient to pay all priority tax claims and secured tax claims paid as priority claims in the period prescribed in Section 1129(a)(9)(C).

Debtor has objected to the claim of Bridgeway and has requested a payment history from Bridgeway in order to determine the actual amount of the Bridgeway claim. While Debtor believes the amount is less than the amount set forth in Bridgeway's proof of claim, Debtor will consider the claim to be \$170,000.00 for purposes of establishing the payments under this Amended Plan of Reorganization.

Debtor proposes to modify the terms of the Bridgeway mortgage and loan agreement and pay Bridgeway \$2,500.00 per month for 68 months which will pay the Bridgeway secured claim in full. Debtor proposes payments over 68 months because that is the amount of time necessary to pay the Bridgeway secured claim in full.

During the 68-month period, \$1,500.00 per month will be allocated for payment of the priority and secured tax claims treated as priority for a total of \$102,000.00.

Pursuant to Exhibit "C," Debtor has proposed to pay each tax claimant a pro rata share of its claim based upon its percentage share of the total priority/secured claims. The applicable percentage will then be applied to the total of \$102,000.00 paid over the 68 months thereby resulting in a monthly payment schedule.

Upon the expiration of the 68-month period as set forth in Exhibit "D," the unpaid portion of the priority/secured claims will be added to the remaining secured claims. The balance of those claims is approximately \$107,035.00. Accordingly, Debtor proposes to pay \$4,000.00 per month for 27 months in order to pay all priority and secured tax claims in full.

Debtor does not propose to pay interest on the tax claims and the above treatment requires the consent of the tax claimants. The unsecured tax claims will be treated as general unsecured claims and receive 25% of their claim to be paid after all priority and secured claims are paid.

Class 1 shall consist of the secured claim of Bridgeway Capital, LLC ("Bridgeway"). Bridgeway is the holder of the first mortgage on the Property. Debtor is making post-petition adequate protection payments to Bridgeway in the amount of \$1,750.00 per month and will continue to do so until the Amended Plan is confirmed, at which time the Debtor will begin making monthly payments of \$2,500.00 until the Bridgeway claim is paid in full.

Class 2 shall consist of the claim of the Pennsylvania Department of Revenue ("Revenue"). Revenue has filed an amended Proof of Claim listing a secured claim of

\$22,418.81, priority claim of \$17,656.99 and unsecured claim of \$12,291.74. The priority and secured tax claims will be paid in full over the term of the Amended Plan as set forth in Exhibits "C" and "D."

Class 3 shall consist of the claim of the IRS in the amount of \$15,593.51 of which \$7,444.26 is priority and \$8,149.25 general unsecured. The priority tax claim will be paid in full over the term of the Amended Plan as set forth in Exhibits "C" and "D."

Class 4 shall consist of the Pennsylvania Department of Labor and Industry ("L&I") secured tax claim in the amount of \$35,835.95. The L&I claim would be treated as priority had liens not been filed. The claim will be paid in full through monthly payments over the term of the Amended Plan as set forth in Exhibits "C" and "D."

Class 5 shall consist of the secured claim of the Wilkinsburg School District. Claimant has filed a proof of claim in the amount of \$37,534.04 for unpaid real estate taxes for 2014 and 2015. Debtor has also included the 2016 taxes of \$19,824.06 to be treated as a priority/secured claim. These claims will be paid in full over the term of the Amended Plan as set forth in Exhibits "C" and "D."

Class 6 shall consist of the secured claim of the Borough of Wilkinsburg. Claimant has filed a proof of claim in the amount of \$16,249.93 for unpaid real estate taxes for 2014 and 2015. Debtor has also included the 2016 taxes of \$8,505.57 to be treated as priority secured claim. This claim will be paid in full over the term of the Amended Plan as set forth in Exhibits "C" and "D."

Class 7 shall consist of the secured claim of the County of Allegheny. Claimant has filed a proof of claim in the amount of \$9,085.83 for unpaid real estate taxes for 2014-2016. This claim will be paid in full over the term of the Amended Plan as set forth in Exhibits "C" and "D."

Class 8 shall consist of the Allowed General Unsecured claims of trade creditors which are comprised of the claims of Peoples Gas and Duquesne Light as well as the unsecured portion of the IRS and Revenue tax claims. Debtor projects that the Class 7 claimants will receive 25% of their claims subsequent to payment of the priority and secured claims. Upon the payment and satisfaction of the priority and secured claims, Debtor will make pro rata semi-annual monthly payments for a period of one (1) year on the Allowed General Unsecured Claims.

Class 9 shall consist of the membership interests of Johnson in the Debtor. Johnson shall retain his membership interest.

8. Are All Monthly Operating Statements Current and on File with the Clerk of Court?

Yes X No

If Not, Explain:

9. **Does the plan provide for releases of nondebtor parties? Specify which parties and terms of release.**

None.

10. **Identify all executory contracts that are to be assumed or assumed and assigned.**

a) Lease with Cuddy ALR Realty, LLC for the Property.

11. **Has a bar date been set?** Yes X No
(If not, a motion to set the bar date has been filed simultaneously with the filing of this disclosure statement.)

12. **Has an election under 11 U.S.C. §1121(e) has been filed with the Court to be treated as a small business?** Yes X No

13. **Specify property that will be transferred subject to 11 U.S.C. §1146(c).**

None

II. **Creditors**

A. Secured Claims

SECURED CLAIMS

Creditor	Total Amount Owed	Arrearages	Type of Collateral Priority of Lien (1, 2, 3)	Disputed (D) Liquidated (L) Unliquidated (U)	Will Liens Be Retained Under the Plan? (Y) or (N)
Bridgeway Capital, LLC	*\$170,000.00		1	D	Y
TOTAL	\$170,000.00				

*Estimated and subject to resolution of objection to claim.

B. Priority Claims

PRIORITY CLAIMS

Creditor	Total Amount Owed	Type of Collateral	(D) (L) (U) *
NONE			
TOTAL	\$		

* Disputed (D), Liquidated (L), or Unliquidated (U)

C. Unsecured Claims

1.	Amount Debtor Scheduled (Disputed and Undisputed)	\$
2.	Amount of Unscheduled Unsecured Claims ¹	\$
3.	Total Claims Scheduled or Filed	\$ 26,420.81
4.	Amount Debtor Disputes	\$
5.	Estimated Allowable Unsecured Claims	\$ 26,420.81

D. Other Classes of Creditors

1.	Amount Debtor Scheduled (Disputed and Undisputed)	\$ 246,427.00
2.	Amount of Unscheduled Claims ¹	\$
3.	Total Claims Scheduled or Filed	\$
4.	Amount Debtor Disputes*	\$ 386,015.48
5.	Estimated Allowable Claims	\$

*Unknown until Debtor receives documents from Bridgeway.

E. Other Classes of Interest Holders

1.	Amount Debtor Scheduled (Disputed and Undisputed)	\$
2.	Amount of Unscheduled Claims ¹	\$
3.	Total Claims Scheduled or Filed	\$
4.	Amount Debtor Disputes	\$
5.	Estimated Allowable Claims	\$

¹ Includes (a.) unsecured claims filed by unscheduled creditors; (b.) that portion of any unsecured claim filed by a scheduled creditor that exceeds the amount debtor scheduled; and (c.) any unsecured portion of any secured debt not previously scheduled.

III. Assets

ASSETS

Assets	Value	Basis for Value Priority of Lien	Name of Lien Holder (if any) (Fair Market Value/ Book Value)	Amount of Debtor's Equity (Value Minus Liens)
Real Estate - 501 Penn Ave Wilkinsburg, PA	\$445,000.00	Appraisal - 04/01/2015	Bridgeway Capital, LLC plus tax claims as listed	Unknown - contingent on tax claims resolutions
Restaurant equipment fixtures	\$ 10,000.00		Bridgeway Capital, LLC	Unknown - contingent on tax claims resolutions
	\$455,000.00 TOTAL			\$ TOTAL

1. Are any assets which appear on Schedule A or B of the bankruptcy petition not listed above? Yes

If so, identify asset and explain why asset is not in estate:

All personal home furnishings are owned by the entireties with non-debtor spouse.

2. Are any assets listed above claimed as exempt? If so attach a copy of Schedule C and any amendments.

IV. **SUMMARY OF PLAN**

1. Effective Date of Plan: **Date of Confirmation Order**
2. Will cramdown be sought? ____ Yes X No
If Yes, state bar date: _____
3. Treatment of Secured **Non-Tax** Claims

SECURED NON-TAX CLAIMS

Name of Creditor	Class	Amount Owed	Summary of Proposed Treatment
Bridgeway Capital, LLC	1	\$170,000.00	\$2,500.00 per month for 68 months.
		estimated	
TOTAL		\$170,000.00	

4. Treatment of Secured Tax Claims

SECURED TAX CLAIMS

Name of Creditor	Class	Amount Owed	Summary of Proposed Treatment
PA Department of Revenue	2	\$22,419.81	Paid in full during Plan
Commonwealth of PA UCTS	3	\$35,335.95	Paid in full during Plan
School District of Wilkinsburg	4	\$37,534.04	Paid in full during Plan
Borough of Wilkinsburg	5	\$16,249.93	Paid in full during Plan
Allegheny County	6	\$9,085.83	Paid in full during Plan
TOTAL		\$120,625.55	

5. Treatment of Administrative **Non-Tax** Claims²

ADMINISTRATIVE NON-TAX CLAIMS

Name of Creditor*	Amount Owed	Type of Debt**	Summary of Proposed Treatment and Date of First Payment
McCann Garland Ridall & Burke	\$25,000.00 (Est)	P	Paid on Effective Date unless otherwise agreed.
U.S. Trustees	Undetermined	Quarterly Fees	Paid on Effective Date unless otherwise agreed.
Duquesne Light	\$5,207.47	TD	Paid on Effective Date or within 4 months of Effective Date.
Peoples Natural Gas	\$2,257.69	TD	Paid on Effective Date or within 4 months of Effective Date.

6. Treatment of Administrative Tax Claims

ADMINISTRATIVE TAX CLAIMS

Name of Creditor*	Amount Owed	Type of Debt**	Summary of Proposed Treatment and Date of First Payment
Wilkinsburg School District		TX-2017	Debtor made payments to Bridgeway for post-petition real estate taxes.
Wilkinsburg Borough		TX-2017	Debtor made payments to Bridgeway for post-petition real estate taxes.
Allegheny County		TX-2017	Debtor made payments to Bridgeway for post-petition real estate taxes.

* Identify and Use Separate Line for Each Professional and Estimated Amount of Payment

* Type of Debt (P=Professional, TD=Trade, TX=Taxes)

² Include all §503(b) administrative claims.

7. Treatment of Priority Non-Tax

PRIORITY NON-TAX CLAIMS

[illegible]

8. Treatment of Priority Tax Claims³

PRIORITY TAX CLAIMS

Name of Creditor	Class	Amount Owed	Date of Assessment	Summary of Proposed Treatment
PA Department of Revenue	2	\$47,656.45		Pain in full per Exhibits "C" and "D"
Internal Revenue Service	3	\$7,444.26		Paid in full per Exhibits "C" and "D"
Wilkinsburg School District		\$19,824.82		Paid in full per Exhibits "C" and "D"
Wilkinsburg Borough		\$8,505.57		Paid in full per Exhibits "C" and "D"

³ Include dates when any §507(a)(7) taxes were assessed.

PAWB FORM 13 (03/12)

Page 13

9. Treatment of General Unsecured Non-Tax Claims

GENERAL UNSECURED NON-TAX CLAIMS

Creditor	Class	Total Amount Owed	Percent of Dividend
Peoples Gas	8	\$1,506.61	25%
Duquesne Light	8	\$2,740.95	25%
TOTAL		\$4,247.56	

10. Treatment of General Unsecured Tax Claims

GENERAL UNSECURED TAX CLAIMS

Creditor	Class	Total Amount Owed	Percent of Dividend
Pennsylvania Department of Revenue	2	\$12,291.74	25%
Internal Revenue Service	8	\$8,149.25	25%
TOTAL		\$ 20,440.98	

11. **Will periodic payments be made to unsecured creditors?**

Yes X No First payment to begin 94th month after Effective Date.

If so:

Amount of each payment (aggregate to all unsecured claimants)

One-half (1/2) of the total Allowed General Unsecured Claims

Estimated date of first payment:	July 2026
Time period between payments:	1 month
Estimated date of last payment:	September 2026
Contingencies, if any:	

State source of funds for planned payments, including funds necessary for capital replacement, repairs, or improvements: Rental income from operation of real estate.

Other significant features of the plan:

Include any other information necessary to explain this plan:

V. **Comparison of Plan with Chapter 7 Liquidation**

If debtor's proposed plan is not confirmed, the potential alternatives would include proposal of a different plan, dismissal of the case or conversion of the case to Chapter 7. If this case is converted to Chapter 7, a trustee will be appointed to liquidate the debtor's non-exempt assets. In this event, all secured claims and priority claims, including all expenses of administration, must be paid in full before any distribution is made to unsecured claimants. Upon a liquidation there would be nothing to distribute to creditors.

Total value of Chapter 7 estate (See Section III)	\$	
1. Less secured claims (See Section IV-2)	\$	
2. Less administrative expenses (See Section IV-3 and include approximate Chapter 7 expenses)	\$	
3. Less other priority claims (See Section IV-4)	\$	
Total Amount Available for Distribution to Unsecured Creditors	\$	0.00
Divided by total allowable unsecured claims of (See Section II C)	\$	
Percentage of Dividend to Unsecured Creditors:		0

Will the creditors fare better under the plan than they would in a Chapter 7 liquidation?

Yes X No

Explain:

Debtor proposes to pay all secured and priority creditors in full through monthly payments. Debtor believes that if it continues to operate but is ultimately unable to make the Plan payments, an orderly of arms length sale of the real estate will achieve a more favorable result than a Chapter 7 liquidation or sheriff's sale of the real estate. In the event of a liquidation or sheriff's sale, certain of the secured and priority creditors are not likely to see their claims paid in full as proposed under the Plan. Unsecured creditors would receive nothing in the event of liquidation.

VI. Feasibility

A. Based upon rental income.

Estimated amount to be paid on Effective Date of Plan, including administrative expenses.

\$ Unknown – dependent upon when Cuddy begins operations and pays rent.

Show how this amount was calculated.

\$	Administrative Class
\$	Taxes
\$	Unsecured Creditors
\$ <u> </u>	UST Fees
\$ <u>Unknown</u>	TOTAL

What assumptions are made to justify the increase in cash available for the funding of the plan?

Debtor believes that he has the ability to increase the profitability of the Property with a varied menu and restructuring of tenant's business and marketing per consultant recommendations.

Will funds be available in the full amount for administrative expenses on the effective date of the plan? From what source? If not available, why not and when will payments be made?

No. Debtor will pay administrative professional fees over a period of time as agreed between the parties unless cash is available from rental income through operation of business. Amount of available cash depends upon date Cuddy begins operating.

Cash on hand \$0.00 (Current). Attach current bank statement.

Debtor will accumulate funds from earnings to pay taxes.

If this amount is less than the amount necessary at confirmation, how will debtor make up the shortfall?

N/A

VII. Management Salaries

MANAGEMENT SALARIES

Position/Name of Person Holding Position	Salary at Time of Filing	Proposed Salary (Post-Confirmation)
Ronald Johnson	Amount of earnings is	Same
	predicated upon rental	
	income.	

VIII. Identify the Effect on Plan Payments and Specify Each of the Following:

1. What, if any, litigation is pending? **None.**
2. What, if any, litigation is proposed or contemplated? **Debtor believes that payroll company may have withheld certain amounts for employee wages and unemployment benefits but amounts were not remitted. Debtor is investigating.**

IX. Additional Information and Comments

Debtor has made post-petition payments to Bridgeway in the total amount of \$32,340.00. At a hearing before the Court, Bridgeway complained that its equity was being reduced by Debtor's failure to pay post-petition real estate taxes. The Court directed that the adequate protection payments be increased from \$2,700.00 per month to \$4,700.00 per month. At a second hearing, the Court determined that Bridgeway was adequately protected through the equity in the Property and reduced adequate protection payments to \$1,750.00 per month. Approximately \$820.00 per month was to be allocated to payment of post-petition real estate taxes. Debtor is advised that Bridgeway has not paid 2017 real estate taxes.

IX. Certification

The undersigned hereby certifies that the information herein is true and correct to the best of my knowledge and belief formed after reasonable inquiry.

If Debtor is a corporation, attach a copy of corporate resolution authorizing the filing of this Disclosure Statement and Plan.

If Debtor is a general partnership, attach a copy of the consent agreement of all general partners to the filing of the bankruptcy.

/s/ Ronald Johnson
Signature of Debtor
or Authorized Representative

April 16, 2018
Date

/s/ J. Michael Baggett
Debtor's Counsel

April 16, 2018
Date

EXHIBIT "A"

LEASE

1. **PARTIES.** This Lease made as of this ____ day of _____, 20__, by and between ZALER POP HOLDINGS OF WILKINSBURG, LLC, of Allegheny County, Pennsylvania, (the "LANDLORD"),

AND

CUDDY ALR REALTY, LLC, a Pennsylvania limited liability company, (the "TENANT").

2. **PREMISES.** LANDLORD hereby leases to TENANT and TENANT hereby lets from LANDLORD the premises located at 501 Penn Avenue, Pittsburgh, Pennsylvania 15222 (the "Premises").

3. **TERM.**

(a) The term of this lease shall be Five (5) Years commencing on the date as set forth above (Commencement Date") and shall terminate at midnight, on the date Five (5) years after the Commencement Date unless sooner terminated as herein provided.

(b) **Renewal Term(s).** Provided TENANT is not in default (beyond any applicable cure or grace periods) at the time of exercise of such option(s), LANDLORD hereby grants to TENANT the right to extend this Lease for four (4) periods of five (5) years each (the "Renewal Term(s)"). The Renewal Term(s) shall commence on the day next following the last day of the expiring lease or Renewal term. TENANT shall notify LANDLORD in writing of its election to extend this Lease for any such renewal term, three (3) months prior to expiration of the then current lease term (the "3-Month Notice"). Notice thereof shall be deemed sufficient if given in the manner hereinafter provided. The Renewal Term(s) shall be upon the same terms, covenants and conditions of this Lease, except that the base rent payable during the Renewal Term(s) shall be increased. In the event that TENANT fails to given notice of its exercise of any renewal option(s) hereunder prior to the expiration of the 3-Month Notice period, TENANT'S option to renew shall nevertheless remain in full force and effect for a period of twenty (20) days after TENANT'S receipt of written notice from LANDLORD, to be delivered subsequent to the expiration of the 3-Month Notice period, advising TENANT that notice of renewal has not been received by LANDLORD.

4. **BASE RENT.**

(a) TENANT shall be required to pay LANDLORD the sum of Five Thousand Dollars (\$5,000.00) per month. Base Rent is due and payable to the LANDLORD on the first day of each consecutive month for the term of this Lease;

(b) Renewal Term Base Rent. The Base Rent for each Renewal term shall be as follows:

Years 6-10	\$5,500.00 per month
Years 11-15	\$5,750.00 per month
Years 16-20	\$6,000.00 per month
Years 21-25	\$6,250.00 per month

(i) Charges Resulting From Default by TENANT. Base Rent shall include any and all sums which may become due by reason of the failure of TENANT to comply with any one or more of the covenants of this Lease and any and all reasonably incurred damages, costs and expenses which LANDLORD may suffer or incur by reason of any default of TENANT or failure on its part to comply with any one or more of the covenants of this Lease, or any damages to the Premises caused by any act or neglect of TENANT;

(ii) Late Rental Charge. In the event any installment of Base Rent shall become overdue for a period in excess of ten (10) days, a "late charge" in the amount of five percent (5%) per month of such overdue installment may be charged to TENANT by LANDLORD for the purpose of defraying the expenses incident to handling such delinquent payments, which "late charge" shall be payable monthly on the same day of the month as installments of Rent, until such overdue installment is paid. This charge shall be in addition to, and not in lieu of, any other remedy LANDLORD may have and is in addition to any reasonable fees and charges of any agents or attorneys which LANDLORD is entitled to employ on any default hereunder, whether authorized herein or by law;

(iii) Taxes. All taxes becoming a lien or charge against the land and Premises to the extent that the same are assessed on the basis of the value of any personal property, machinery or equipment installed by TENANT are the responsibility of the TENANT. TENANT shall be responsible for the payment of all real estate taxes associated with the Premises;

(iv) Insurance Charges. Any increase in property and liability insurance premiums upon the Premises, due to an increase in the rate of premium insurance in excess of the rate on the Premises at the time of making this Lease, if said increase is caused by any act of the TENANT or by the nature of the TENANT'S business are the responsibility of the TENANT;

(v) Water Charges. There is a metered water connection to the Premises, all charges for water consumed upon the Premises are the responsibility of the TENANT; and

(vi) Electricity and Gas. TENANT shall be responsible for the payment of electricity and gas associated with the operation of its business at the Premises. TENANT shall establish accounts in its name with the respective providers of electricity and gas.

TENANT hereby covenants and agrees to pay the rent hereby reserved as and when due, and also all sums of money, charges or other amounts required to be paid by TENANT to LANDLORD or to another person under this Lease which shall be deemed to be "rent" or "additional rent" for purposes hereof in addition to the annual rent provided herein. Nonpayment of additional rent when due shall constitute a default under this Lease to the same extent, and shall entitle LANDLORD to the same remedies, as nonpayment of annual rent. The covenant of TENANT to pay rent is independent of any other term, covenant or condition of this Lease. All payments of rent shall be due and payable to LANDLORD at its offices or such other address as LANDLORD shall specify by written notice to TENANT.

5. USE OF PREMISES. TENANT shall use and occupy the Premises for the sole purpose of the operation of a restaurant and bar with other activities associated with TENANT'S business and for no other purpose or business without the prior written consent of LANDLORD. Unless otherwise agreed by LANDLORD in writing, TENANT'S use and occupancy of the Premises shall be conducted in TENANT'S name. TENANT shall not commit or allow to be committed any waste upon the Premises, or any public or private nuisance. TENANT shall comply with all applicable laws, ordinances, rules and regulations of governmental authorities relating to the use or occupancy of the Premises. TENANT shall obtain, keep in force and comply with any governmental license or permit for the proper and lawful conduct of its business. TENANT shall not place any weight on the floors, walls or ceilings of the Premises which in LANDLORD'S sole judgment may cause damage to the Premises or create an unsafe condition.

6. ALTERATIONS. TENANT shall make no alterations, additions, improvements, or installations to the Premises without the prior written consent of LANDLORD, which consent shall not be unreasonably withheld or delayed. All such alterations and additions, improvements and installations which attach to the Premises shall become a part of the Premises when made and shall remain upon and be surrendered with the Premises at the end of the term, provided, however, if LANDLORD so states in its consent, then prior to the termination of this Lease by lapse of time or otherwise, or within 30 days thereafter, LANDLORD so directs by written notice to TENANT, TENANT shall promptly remove the alterations, additions, improvements or installations which were placed in the Premises by TENANT and which are designated in said consent. TENANT shall repair any damage occasioned by such removal and in default thereof, LANDLORD may effect said removals and repairs at TENANT'S expense. TENANT shall obtain all approvals, permits and consents required by law in connection with such alterations, additions, improvements and installations and removals thereof prior to the commencement of any such work.

7. MECHANIC'S LIEN. Prior to TENANT performing any construction or other work on or about the Premises for which a lien could be filed against the Premises, TENANT shall enter into a written "no lien" agreement with the contractor who is to perform such work, and such written agreement shall be filed and recorded, in accordance with the Mechanics' Lien Law of Pennsylvania, prior to the commencement of such work. Notwithstanding the foregoing, if any mechanics' or other lien shall be filed against the Premises or the Building or labor or material furnished or to be furnished at the request of the TENANT, then TENANT shall at its expense cause such lien to be discharged of record by payment, bond or otherwise, within 30 days after the filing thereof. If TENANT shall fail to cause such lien to be discharged of record within such period, LANDLORD may cause such lien to be discharged by payment, bond or otherwise, without investigation as to the validity thereof or as to any offsets or defenses thereto, and TENANT shall, upon demand, reimburse LANDLORD for all amounts paid and costs incurred including attorneys' fees, in having such lien discharged of record.

8. CONDITION OF PREMISES. TENANT acknowledges and agrees that, except as expressly may be set forth in this Lease, there have been no representations or warranties made by or on behalf of LANDLORD with respect to the Premises or with respect to the suitability of either for the conduct of TENANT'S business. LANDLORD represents that it has no knowledge that the Premises fails to comply with applicable laws or ordinances. LANDLORD also represents and warrants to TENANT that all building operating systems (HVAC) and utility services and related equipment are in good working order and repair.

TENANT HAS INSPECTED THE PREMISES AND ACCEPTS THEM IN RELIANCE UPON LANDLORD'S REPRESENTATIONS AND WARRANTIES ABOVE AS NEAT, CLEAN AND UNDAMAGED IN ALL RESPECTS EXCEPT AS TO LATENT DEFECTS OR SEASONAL MECHANICAL SYSTEMS NOT YET PUT INTO OPERATION. IF TENANT FINDS ANY DISCREPANCIES, HE MUST WITHIN THIRTY (30) DAYS AFTER THE COMMENCEMENT OF THIS LEASE NOTIFY LANDLORD IN WRITING BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF SAME. FAILING TO SO NOTIFY LANDLORD, TENANT AGREES THAT THE PREMISES WERE TURNED OVER TO HIM BY LANDLORD, NEAT, CLEAN AND UNDAMAGED.

The LANDLORD acknowledges and represents that it has sufficient title to the Premises that is being leased to the TENANT.

9. ASSIGNMENT AND SUBLETTING. TENANT shall not, either voluntarily or by operation of law, assign, transfer, mortgage or otherwise encumber this Lease or sublet the Premises or permit any part thereof to be used or occupied by anyone other than TENANT, without the prior written consent of LANDLORD in each instance, which consent shall not be unreasonably withheld or delayed. If TENANT is a corporation, then any transfer of this Lease from TENANT by merger, consolidation or liquidation, or any change in ownership or power to vote a majority of its outstanding voting stock or any change, direct or indirect, in the control of TENANT shall constitute an assignment for purposes of

this Lease and shall require the prior written consent of LANDLORD in each instance. LANDLORD'S consent shall not be required if this Lease is assigned or transferred or the Premises are sublet (in whole or in part) to an entity which controls, in under common control with or is controlled by TENANT or the principals of TENANT. No assignment or subletting by TENANT shall relieve it of any of its obligations under this Lease.

10. ACCESS TO PREMISES. LANDLORD'S employees and agents shall have the right to enter the Premises at all reasonable times upon reasonable notice to TENANT (agreed to be TENANT'S normal business hours unless an emergency exists) for the purposes of examining or inspecting the same, and making such alterations, repairs, improvements or additions to the Premises as LANDLORD may deem necessary or desirable. If representatives of TENANT are not present to open and permit entry into the Premises at any time when such entry by LANDLORD is requested, LANDLORD shall not enter the Premises and shall schedule a time when TENANT or it's representatives are present. In the event of an emergency LANDLORD may enter by means of a master key or forcibly without liability to TENANT and without such entry constituting an eviction of TENANT or termination of this Lease.

11. REPAIRS.

(a) LANDLORD, at its sole cost and expense, shall repair, replace and maintain the structural elements (exterior incl. Room, walls, parking lot) and building plumbing, air conditioning, heating and ventilating and electrical systems. TENANT, at its sole cost and expense will maintain the interior of the building, floors, windows and plate glass, parking areas, maintain building grounds and common areas and floors in a condition equal to other buildings in the area of the Premises. In the event any such repair is caused by, or arises from, any act, omission or negligence of TENANT or its employees, agents, invitees, licensees, subtenants, or contractors, TENANT'S liability hereunder for such repair will be limited, to all out of pocket expenses of LANDLORD incurred in making such repair, including, but not limited to the LANDLORD'S casualty deductible.

Except as LANDLORD is obligated for repairs as provided above, TENANT shall make, at its sole cost and expense, all repairs and replacements necessary to keep the Premises and the fixtures therein in neat and orderly condition. The plans for all such repairs shall be approved by LANDLORD before such repairs are commenced, shall be in quality and class equal to the existing condition and shall be done by workmen or contractors approved by LANDLORD. If TENANT refuses or neglects to make such repairs, or fails to diligently prosecute the same to completion, after written notice from LANDLORD of the need therefore, LANDLORD may make such repairs at the expense of TENANT and such expense shall be collectible as additional rent.

LANDLORD shall not be liable by reason of any injury to or interference with TENANT'S business arising from the making of any reasonably required repairs, alterations, additions or improvements

in or to the Premises, or to any appurtenances or equipment therein. LANDLORD agrees to give TENANT prior notice of all such activities, except for an emergency, and to use reasonable efforts to minimize any business injury or interference. There shall be no abatement of rent because of such repairs, alterations, replacements, additions or improvements except as provided in Paragraph 14 hereof.

(b) Hazardous Waste. TENANT shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials in violation of applicable laws or regulations. TENANT shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or by the standards prevailing in the industry for the storage and use of the quantities of such substances or materials used by TENANT in the Premises, nor allow to be brought into the Premises any such materials or substances except to use in the ordinary course of TENANT'S business, and then only after written notice is given to LANDLORD of the identity of such substances or materials, except for everyday office, cleaning and like supplies. Without limitation, hazardous substances and materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., any applicable state or local laws and the regulations adopted under these acts. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials, then the reasonable costs thereof shall be reimbursed by TENANT to LANDLORD upon demand as additional charges if such requirement applies to the Premises. In addition, TENANT shall execute affidavits, representations and the like from time to time at LANDLORD'S request concerning TENANT'S best knowledge and belief regarding the presence of hazardous substances or materials on the premises. LANDLORD has no actual knowledge that any hazardous substances or material or asbestos containing materials are or have been in the Premises.

In all events, TENANT shall indemnify LANDLORD in the manner elsewhere provided in this Lease from any release of hazardous materials on the Premises occurring while TENANT is in possession, or elsewhere if caused by TENANT or persons acting under TENANT. The within covenants shall survive the expiration or earlier termination of the lease term.

12. SURRENDER OF PREMISES. At the end of the term of this Lease or any Renewal Term, TENANT shall surrender the Premises to LANDLORD, together with, subject to Paragraph 6 hereof, all alterations, additions and improvements thereto, in broom clean condition and in good order and repair except for ordinary wear and tear and damage for which TENANT is not obligated to make repairs under this Lease. Subject to Paragraph 6 hereof and if TENANT is not then in default under any of the terms hereof, TENANT shall have the right at the end of the term hereof to remove any equipment, furniture, trade fixtures or other personal property placed in the Premises by TENANT, provided such removal may be affected without damage to the Premises, and provided that TENANT promptly repairs any damage to the Premises caused by such removal. TENANT shall repair all damage to the Premises caused by such removal and restore the Premises to the condition in which they were prior to the installation of the items so removed, with an allowance for reasonable wear and tear. TENANT shall surrender the Premises to LANDLORD at the end of the term hereof, without notice of

any kind. TENANT HEREBY WAIVES NOTICE TO VACATE THE PREMISES (INCLUDING, WITHOUT LIMITATIONS, ANY NOTICE PROVIDED FOR UNDER THE PENNSYLVANIA LANDLORD AND TENANT ACT OF 1951, AS AMENDED 68 PA.C.S.A. 250.101 ET. SEQ.) AND AGREES THAT LANDLORD SHALL BE ENTITLED TO THE BENEFIT OF ALL PROVISIONS OF LAW RESPECTING THE SUMMARY RECOVERY OF POSSESSION OF THE PREMISES FROM A TENANT HOLDING OVER TO THE SAME EXTENT AS IF STATUTORY NOTICE HAD BEEN GIVEN. If TENANT shall fail to remove any of its equipment, furniture, trade fixtures or other personal property within thirty (30) days after the expiration or termination of this Lease, LANDLORD may treat said property as abandoned and remove and store the same at the expense of the TENANT, or sell the same on behalf of TENANT at public or private sale in such a manner as is commercially reasonable with any proceeds thereof to be first applied to the costs and expenses including attorneys' fees of the storage and sale and the payment of any amounts owed hereunder by the TENANT.

13. INDEMNIFICATION AND INSURANCE. (a) TENANT shall indemnify, protect and save harmless LANDLORD and each and every partner, employee and agent of LANDLORD, and the respective heirs, personal representatives and assigns, against and from all third party liabilities, obligations, damages, penalties, claims, costs and expenses of every nature, including reasonable architect's and attorneys' fees, which may be imposed on or incurred by or asserted against them or any of them by reason of, or arising by virtue of, the acts or omissions of TENANT and those claiming through or under TENANT as a result of any occurrence during the term of this Lease, including, but not limited to the following: (a) any work or thing done in, on or about the Premises by or on behalf of TENANT or any part thereof; (b) any use, non-use, possession, occupation, condition, operation, maintenance or management of the Premises; (c) any gross negligence on the part of TENANT or any of its agents, contractors, subcontractors, servants, employees, subtenants, licensees or invitees; (d) any accident, death, injury or damage to any personal property or any theft of property occurring in or on the Premises; or (e) any failure by TENANT to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease on its part to be performed or complied with. In the event any action or proceeding is brought against LANDLORD by reason of any such claim, TENANT, upon written notice from LANDLORD, shall at TENANT'S sole cost and expense resist and defend such action or proceeding by counsel approved in writing by LANDLORD, which approval shall not be unreasonably withheld.

Above indemnifications will apply except to the extent such claims, liabilities, damages, costs and expenses are caused by or arise by virtue of the acts or omissions on the part of the LANDLORD or any of his employees, agents, or contractors or the result of any defects or conditions of the Premises.

(b) TENANT shall keep in force public liability insurance with respect to the Promises, including contractual indemnity insurance with respect to the covenants and agreements contained in

subparagraph (a) above, with insurance companies and in form acceptable to LANDLORD to afford protection of not less than \$1,000,000 with respect to personal injury or death, and \$300,000 property damage, and naming LANDLORD as an additional insured and providing 30 days notice of cancellation and/or non-renewal. Certificates evidencing such insurance shall be delivered to LANDLORD.

14. FIRE OR OTHER CASUALTY. (a) Subject to the other terms of this Lease, if the Premises are damaged by fire or other casualty, TENANT shall give immediate notice thereof to LANDLORD, and LANDLORD shall apply all available net casualty insurance proceeds (expressly excluding rent and business interruption insurance proceeds and as reduced by any expenses incurred in obtaining a settlement with the insurance company) received by it with respect to the damage to the Premises as a result of such casualty to the extent reasonably necessary to cause the repair of the Premises, provided, however, that LANDLORD shall have no further obligation to make any repairs or replacements. If LANDLORD cannot restore the Premises to at least their pre-casualty condition with such proceeds within ninety (90) days after the loss, at the end of the ninety (90) day period TENANT may terminate this Lease. Unless such casualty shall have been caused by TENANT or its agents, employees, contractors, subcontractors, licensees or invitees, the rent provided in Section 4 hereof shall be abated proportionately during such period of repair. In the event of such casualty, TENANT shall repair and replace its own furniture, furnishings, fixtures and equipment and all alterations, improvements and additions made by or installed for TENANT. In the event the damage to the Premises shall be substantial, as defined below, LANDLORD may elect not to apply insurance proceeds toward repair, and in such event LANDLORD shall notify TENANT in writing of LANDLORD'S election within thirty (30) days from the date of such damage, and this Lease shall terminate as of the date of such notice with the same effect as if such date were the date herein fixed as the expiration date of this Lease. Upon termination of this Lease under the conditions hereinbefore provided, TENANT'S liability for rent shall be prorated to the day following TENANT'S vacation of the Premises.

"Substantial" damage shall mean the loss of use of more than 33% of the Premises.

(b) No damages, compensation or claim shall be payable by LANDLORD for inconvenience, loss of business or annoyance arising from any fire or other casualty, regardless of causation or fault or from any repair or restoration of any portion of the Premises. Subject to the other terms of this Lease, LANDLORD shall use its best efforts to effect such repairs promptly and in such a manner as not unreasonably to interfere with TENANT'S occupancy.

15. SUBORDINATION AND ATTORNMENT. TENANT accepts this Lease subject and subordinate to any mortgage or mortgages (including, without limitation, the notes or other obligations secured thereby and any and all renewals, modifications, consolidations, replacements or existence of any such mortgages or notes or other obligations secured thereby) now in existence or hereinafter made from time to time, affecting the Premises. TENANT also accepts this Lease subject and subordinate to

all instruments in the chain of title of LANDLORD to the Premises, including any and all renewals, modifications, consolidations, replacements or extensions of such instruments. TENANT shall execute, acknowledge and deliver to the holder of any such mortgage or to any of the parties to such instruments, at any time upon demand by such holder or by any such party, any releases, certificates or other documents that may be reasonably required by such holder or by any such party, for the purpose of evidencing the subordination of this Lease to such mortgages or instruments or to any renewals, modifications, consolidations, replacements or extensions thereof. In the event of a sale under any mortgage (or any note or other obligation secured thereby) to which this Lease is subordinate, or a taking of possession of the Premises by the mortgagee or other person acting for or through the mortgagee under any mortgage to which this Lease is subordinate, then and upon the happening of any such events, TENANT shall attorn to and recognize as LANDLORD hereunder the party who, but for this Lease, would be entitled to possession of the Premises. Within thirty (30) days after the date hereof, LANDLORD agrees to use reasonable efforts to request its mortgagee to enter into a mutually agreeable subordination, recognition and non-disturbance agreement with TENANT.

16. CONDEMNATION. In the event that all the Premises shall be condemned for public use, then and in that event, upon the vesting of title to the same for such public use, this Lease shall terminate, anything herein contained to the contrary notwithstanding. In the event of such termination of this Lease, all rent paid in advance shall be apportioned as of the date of such termination. In the event a portion of the Premises, or in the event access thereto shall be impaired by any such taking, LANDLORD may elect to terminate this Lease upon the date of vesting of title as aforesaid. All compensation awarded or paid upon a condemnation of the Premises, or any part thereof shall belong to and be the property of LANDLORD except that TENANT shall have the right to prove and collect the value of the trade fixtures and fire suppression system installed by it, any which may be recovered by TENANT along with its moving expenses. Notwithstanding the foregoing TENANT shall have the right to make a claim for the value of any unexpired term of this Lease.

17. ESTOPPEL CERTIFICATES. TENANT shall, at any time and from time to time, within ten (10) days following written request from LANDLORD to the extent accurate and complete, execute, acknowledge and deliver to LANDLORD a written statement certifying that this Lease is in full force and effect and unmodified (or, if modified, stating the nature of such modification), certifying the date to which the rent reserved hereunder has been paid, and certifying that there are not, to TENANT'S knowledge any uncured defaults on the part of LANDLORD hereunder, or specifying such defaults if any are claimed. Any such statement may be relied upon by any prospective purchaser or mortgagee of all or any part of the Premises. TENANT'S failure to deliver such statement within said 10 day period shall be conclusive upon TENANT that this Lease is in full force and effect and unmodified, and that there are no uncured defaults in the obligations of LANDLORD hereunder.

18. DEFAULT. The occurrence of any of the following shall constitute a material default and breach of this Lease by TENANT.

(a) The vacation or abandonment of the Premises by TENANT while any Rent or Additional Rent remains unpaid;

(b) A failure by TENANT to pay within five (5) days, when due, any installment of rent hereunder or any such other sum herein required to be paid by TENANT. Upon failure to pay rent by TENANT, LANDLORD shall provide TENANT with written notice of TENANT'S default in which event TENANT shall have 15 days from the receipt of said notice to cure any monetary default.

(c) A failure by TENANT to observe and perform any non-monetary terms or conditions of this Lease to be observed or performed by TENANT, where such failure continues for 30 days after written notice thereof from LANDLORD to TENANT; except that if such failure by TENANT to observe or perform cannot be reasonably remedied within such 30 day period in which event LANDLORD and TENANT shall agree on a reasonable time frame in which to cure the default;

(d) The making by TENANT of any assignment for the benefit of creditors; the adjudication that TENANT is bankrupt, insolvent, or unable to pay its debts; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against TENANT, the same is dismissed within 60 days after filing thereof; the appointment of a trustee or receiver to take possession of substantially all of TENANT'S assets located in the Premises or of the Premises or of the TENANT'S interest in this Lease (unless possession is restored to TENANT within 30 days after such appointment); or the attachment, execution or levy against, or other judicial seizure of, substantially all of TENANT'S assets located in the Premises or of TENANT'S interest in this Lease (unless the same is discharged within 30 days after issuance thereof. In the event of a failure by LANDLORD to perform any of its material obligations under this Lease, TENANT shall have no right to declare a default hereunder unless and until LANDLORD'S failure shall have continued for at least thirty (30) days after written notice thereof from TENANT to LANDLORD, provided however, that if the nature of LANDLORD'S default is such that more than thirty (30) days are required for its cure, then LANDLORD shall not be deemed to be in default so long as LANDLORD commences such cure within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

19. REMEDIES. Upon the occurrence of any default set forth above and failure of TENANT to cure said default in a timely manner, LANDLORD may elect one or more of the following remedies as provided by law:

(a) LANDLORD may perform for the account of TENANT any such default of TENANT and immediately recover as additional rent and expenditures made and the amount of any

obligations incurred in connection therewith, plus the lesser of the prevailing prime interest rate per annum or the highest rate per annum permitted by law from the date of any such expenditure;

(b) LANDLORD may accelerate all rent and additional rent due for the balance of the term of this Lease and declare the same to be immediately due and payable; in determining the amount of any future payments due LANDLORD due to increases in Real Estate Taxes and Operating Expenses, LANDLORD may make such determination based upon the amount of Real Estate Taxes and Operating Expenses paid by TENANT for the calendar year immediately prior to such default;

(c) LANDLORD subject to the provisions set forth in Section 18, at its option, may serve notice upon TENANT that this Lease and the then unexpired term hereof shall cease and expire and become absolutely void on the date specified in such notice, to be not less than 15 days after the date of such notice without any right on the part of the TENANT to save the forfeiture by payment of any sum due or by the performance of any term or condition broken; and, thereupon and at the expiration of the time limit in such notice, this Lease and the term hereof, as well as the right, title and interest of the TENANT hereunder, shall wholly cease and expire and become void in the same manner and with the same force and effect (except as to TENANT'S liability) as if the date fixed in such notice were the date herein granted for expiration of the term of this Lease. Thereupon, TENANT shall immediately quit and surrender to LANDLORD the Premises, and LANDLORD may enter into and repossess the Premises by summary proceedings, detainer, ejectment or otherwise and remove all occupants thereof and, at LANDLORD'S option, any property thereon without being liable to indictment, prosecution or damages therefore.

No such expiration or termination of this Lease shall relieve TENANT of its liability and obligations under this Lease, whether or not the Premises shall be relet;

(d) LANDLORD may, at any time after the occurrence of any event of default, re-enter and repossess the Premises and any part thereof and attempt in its own name, as agent for TENANT if this Lease not be determined or in its own behalf if this Lease be terminated, to relet all or any part of such Premises for and upon such terms and to such persons and for such period or periods as LANDLORD, in its sole discretion, shall determine, including the term beyond the termination of this Lease. For the purpose of such reletting, LANDLORD may, at its expense, decorate or make repairs, changes, alterations or additions in or to the Premises to the extent deemed by LANDLORD desirable or convenient. Any sums collected by LANDLORD from any new TENANT obtained on account of the TENANT shall be credited against the balance of the rent due hereunder as aforesaid. No provision of this Lease shall be deemed a waiver or modification of LANDLORD'S duty under applicable law to mitigate damages.

(e) LANDLORD shall have the right to injunction, in the event of a breach or threatened breach by TENANT of any of the terms and conditions hereof, to restrain the same and the right to invoke any remedy allowed by law or in equity, whether or not other remedies, indemnity or reimbursements are herein provided.

(f) Remedies Cumulative. No reference to any specific right or remedy shall preclude LANDLORD from exercising any other right, or from having any other remedy or from maintaining any action to which it may otherwise be entitled by law or in equity. No failure by LANDLORD to insist upon the strict performance of any agreement, term, covenant or condition hereof, or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach, agreement, term, covenant or condition. No waiver by LANDLORD of any breach by TENANT under this Lease or of any breach by any other tenant under any other lease of any portion of the Premises shall affect or alter this Lease in any way whatsoever.

20. WAIVER. The failure or delay on the part of the LANDLORD to enforce or exercise at any time any of the terms and conditions of the Lease shall in no way be construed to be a waiver thereof, nor in any way to affect the validity of this Lease or any part hereof, or the right of the party to thereafter enforce each and every such term or condition. No waiver of any breach of this Lease by LANDLORD shall be held to be a waiver of any other or subsequent breach. The receipt by LANDLORD of rent at a time when the rent is in default under this Lease shall not be construed as a waiver of such default. The receipt by LANDLORD of a lesser amount than the rent due shall not be construed to be other than a payment on account of the rent then due, nor shall any statement of TENANT'S check or any letter accompanying TENANT'S check be deemed an accord and satisfaction, and LANDLORD may accept such payment without prejudice to LANDLORD'S right to recover the balance of the rent due or to pursue any other remedies provided in this Lease. No act or thing done by LANDLORD or LANDLORD'S agents or employees during the term of this Lease shall be deemed an acceptance of surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by LANDLORD.

21. QUIET ENJOYMENT. If and so long as TENANT pays the rent reserved hereunder and observes and performs all the terms and conditions on TENANT'S part to be observed and performed hereunder, TENANT shall and may peaceably and quietly have, hold and enjoy the Premises for the entire term and any Renewal Term hereof, subject to all the terms and conditions of this Lease.

22. TERMINATION BY TENANT. TENANT acknowledges that it has been informed that LANDLORD, as of the date of commencement, is operating as a Debtor-in-Possession pursuant to Chapter 11 of the Bankruptcy Code. In the event that LANDLORD'S Amended Plan of Reorganization is not approved by the Court, or the Premises are exposed at a bankruptcy related sale or Sheriff's Sale,

TENANT may at its option unilaterally terminate this Lease upon thirty days (30) written notice to LANDLORD without further liability to either party. Notwithstanding the foregoing, TENANT shall be responsible for all obligations under this LEASE for the period of time it continues to occupy the Premises after providing LANDLORD with notice of its intention to terminate the Lease in accordance with the provisions of this Paragraph 22.

23. FORCE MAJEURE. In the event that LANDLORD shall be delayed or hindered in, or prevented from, the performance of any work, service, act, covenant or agreement under this Lease to be performed by LANDLORD and such delay or hindrance is due to strikes, lookouts, acts of God, enemy acts, civil commotion, then performance of such work, service, act, covenant or agreement shall be excused for the period of such delay and the period for the performance of such work, service, act, agreement or covenant shall be extended for a period equivalent to the period of such delay. In no event shall such delay by LANDLORD constitute a termination of this Lease. In no event shall LANDLORD be liable in any manner whatsoever for a failure to perform this Lease if such failure is caused in whole or in part by any of the foregoing matters. This Paragraph shall not affect TENANT'S rights under Paragraph 9 above.

24. SUCCESSORS. The respective rights and obligations provided in this Lease shall bind and shall inure to the benefit of the parties hereto, and their successors and assigns, subject to Paragraph 9 hereof.

25. GOVERNING LAW. This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

26. SEVERABILITY. If any term, covenant or condition of this Lease which shall prove to be invalid, void or illegal it shall in no way affect, impair or invalidate any other term, covenant or condition hereof and the remaining terms, covenants and conditions hereof shall nevertheless remain in full force and effect.

27. HOLDING OVER. In the event that the Premises are not surrendered at the end of the Term, TENANT shall:

(i) Indemnify LANDLORD against loss, liability and expense resulting from TENANT'S delay in surrendering the Premises; and

(ii) Pay to LANDLORD one and one-half times the Rent that had been payable hereunder during the last year of the Term, together with all other sums payable hereunder then applicable for each month or portion thereof that such delay exists.

The provisions of this Section shall not operate as a waiver by LANDLORD of any remedies

herein provided or to extend the Term.

At the option of LANDLORD, expressed in a written notice to TENANT and not otherwise, such holding over shall constitute a renewal of this Lease for a period of one (1) year, at the aforesaid increased rent.

28. LANDLORD'S LIABILITY. Any covenants and agreements herein made on the part of LANDLORD are made and intended not as personal covenants, but are made and intended for the purpose of binding only LANDLORD'S interest in the Premises, as the same may from time to time be encumbered. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against, LANDLORD or partners in LANDLORD or their respective heirs, legal representatives, successors, and assigns on account of the Lease or on account of any covenant or agreement of LANDLORD herein.

29. TRANSFER OF LANDLORD'S INTEREST. In the event of any transfer or mortgage of LANDLORD'S interest in the Premises, other than a transfer for security purposes only, LANDLORD shall be automatically relieved of any and all obligations and liabilities on the part of LANDLORD accruing from and after the date of such transfer and TENANT agrees to attorn to the transferee provided TENANT is notified of the address of such transferee.

30. CAPTIONS. The titles of paragraphs of this Lease are for convenience of reference only, and are not to be construed as defining, limiting or modifying the scope or intent of any of the terms and conditions of this Lease.

31. NOTICES. All notices under this Lease shall be telefaxed or in writing and, if mailed, sent by registered or certified mail postage prepaid to LANDLORD at 501 Penn Avenue, Pittsburgh, PA 15221 and to TENANT at _____, or such other addresses as may from time to time be designated by either party in writing. Notices mailed as aforesaid shall be deemed given on the date of such mailing unless otherwise set forth herein. Any consent of the LANDLORD to any action of the TENANT contemplated hereby shall be given prior to the action so taken in writing in the same manner as any notices required hereunder.

32. RECORDING. TENANT agrees to execute a memorandum of this Lease at the request of LANDLORD and consents to the public recording or such memorandum in accordance with applicable law.

33. EXECUTION. This Lease shall become effective when it has been executed by a duly authorized officer or representative of each of the parties and delivered to the other party.

34. CORPORATE TENANT. If TENANT is a corporation or limited liability company, the persons executing this lease on behalf of TENANT hereby covenant, represent and warrant that TENANT is a duly incorporated or duly qualified (if foreign) corporation and is authorized to do business in the State (a copy of evidence thereof to be supplied to Landlord upon request); and that the person or persons executing this Lease on behalf of TENANT is an officer or are officers of such TENANT, and that he or they as such officers are duly authorized to execute, acknowledge and deliver this Lease to LANDLORD (a copy of a resolution to that effect to be supplied to LANDLORD upon request).

35. ENTIRE AGREEMENT. This Lease contains all covenants and agreements between LANDLORD and TENANT relating in any manner to the rent, use and occupancy of the Premises and TENANT'S use of the Premises and other matters set forth in this Lease. No prior agreement or understanding pertaining to the same shall be valid or of any force or effect and the terms, covenants and conditions of this Lease shall not be altered, modified or added to except in writing signed by LANDLORD and TENANT.

IN WITNESS WHEREOF, this Lease has been executed by the parties hereto the day and year first above written.

TENANT:

ATTEST:

CUDDY ALR REALTY, LLC

By: _____

Member

LANDLORD:

ZALER POP HOLDINGS OF
WILKINSBURG, LLC

By: _____

Member

EXHIBIT "B"

TAXES PER PROOF OF CLAIM

Creditor	Priority	Secured (Paid as Priority)	Secured	General Unsecured
Pennsylvania Department of Revenue	\$47,661.45	\$22,418.81		\$12,291.74
Internal Revenue Service	\$7,444.26			\$8,149.25
Wilkinsburg School	\$19,824.82		\$40,913.76	
Wilkinsburg Borough	\$8,505.57		\$17,843.59	
Allegheny County		\$2,250.00	\$4,835.83	
Pennsylvania Department of Labor		\$35,335.95		
TOTAL	\$83,436.10	\$60,004.76	\$65,593.18	\$20,440.99

The above does not include the 2017 real estate taxes.

EXHIBIT "C"

Creditor	Total to be paid as priority/secured	% of Claim to Total Amount of Priority and Secured Priority Claims	Total Paid in the first 68 months	Monthly Payment	Unpaid Balance
Pennsylvania Department of Revenue	\$70,080.00	48%	\$48,960.00	\$720.00	\$21,120.00
Internal Revenue Service	\$7,444.00	5%	\$5,100.00	\$75.00	\$2,344.00
Wilkinsburg School	\$19,825.00	14%	\$14,280.00	\$210.00	*\$46,460.00
Wilkinsburg Borough	\$8,505.00	6%	\$6,120.00	\$90.00	*\$20,229.00
Allegheny County	\$2,250.00	2%	\$2,040.00	\$30.00	\$7,045.00
Pennsylvania Department of Labor	\$35,336.00	25%	\$25,500.00	\$375.00	\$9,836.00
TOTAL	\$143,440.00	100%	\$102,000.00	\$1,500.00	\$107,034.00

Total amount paid in first 68 months = \$102,000.00 (\$1,500/month x 68 months)

*Includes non-priority secured claim.

EXHIBIT "D"

Creditor	Balance priority/secured plus secured not treated as priority	% of Total Claims to be Paid	Total Paid	Monthly Payments
Pennsylvania Department of Revenue	\$21,120.00	20%	\$21,600.00	\$800.00
Internal Revenue Service	\$2,344.00	2.5%	\$2,700.00	\$100.00
Wilkinsburg School	\$46,460.00	43%	\$46,440.00	\$1,720.00
Wilkinsburg Borough	\$20,229.00	19%	\$20,520.00	\$760.00
Allegheny County	\$7,045.00	6.5%	\$7,020.00	\$262.00
Pennsylvania Department of Labor	\$9,836.00	9%	\$9,720.00	\$360.00
TOTAL	\$107,035.00	100%	\$108,000.00	\$4,002.00