
HEALTHY WAY OF LIFE I, LLC

TO

LTF CLUB OPERATIONS COMPANY, INC.

Tenant

SUBLEASE AGREEMENT

ROCHESTER HILLS, MI

DATED AS OF JUNE 10, 2015

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SUBLEASE AGREEMENT

Dated as of June 10, 2015

from

Healthy Way of Life I, LLC

to

LTF Club Operations Company, Inc.

of Property described in Exhibit A attached hereto.

ARTICLE 1. REFERENCE DATA; DEFINITIONS

- 1.1. LANDLORD: Healthy Way of Life I, LLC
- ADDRESS 2902 Corporate Place
OF LANDLORD: Chanhassen, Minnesota 55317
- TENANT: LTF Club Operations Company, Inc.
- ADDRESS 2902 Corporate Place
OF TENANT: Chanhassen, Minnesota 55317

1.2. Each reference in this Lease to any of the titles contained in Section 1.1 shall be construed to incorporate the data stated under that title.

1.3. The following terms shall have the meanings set forth in this Section:

“Affiliate”. A person or business entity, corporate or otherwise, that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the person or business to which it is being compared.

“Alteration”. Any construction, reconstruction, installation, expansion, replacement, repair, alteration, change, addition, improvement or demolition of or to any portion of the Improvements or Equipment, both interior and exterior, structural and non-structural, and ordinary and extraordinary.

“Appraisal”. An appraisal in accordance with Article 28.

“Assignment”. Any assignment or other transfer of this Lease or any interest therein, whether voluntarily or involuntarily, by operation of law or otherwise.

“Basic Rent”. The Basic Rent provided for in Article 3 of this Lease.

“Casualty”. Any loss of or damage to or destruction of or which affects the Property.

“Commencement Date”. June 10, 2015.

“Decorative Alterations”. Any and all non-structural Alterations or a series of related non-structural Alterations to any of the Property that are decorative in nature and consistent with Tenant’s normal business practice and the “look and feel” of other real properties owned or operated by Tenant.

“Environmental Laws”. All Legal Requirements pertaining to health, safety, protection of the environment, natural resources, conservation, wildlife, waste management or pollution.

“Equipment”. The fixtures, machinery, equipment and other property described in Exhibit B attached hereto, but specifically excluding Tenant’s Property.

“Event of Default”. As defined in Section 17.1.

“Excluded Transaction”. Any one or more of the following: (i) Landlord’s giving or granting of the First Mortgage; (ii) any sale pursuant to a private power of sale under or judicial foreclosure of the First Mortgage; (iii) any transfer of Landlord’s interest to First Mortgagee in lieu of foreclosure of the First Mortgage; or (iv) any Taking.

“Fair Market Value”. The cash price which would be obtained for the Property in an arm’s length transaction between a willing buyer and a willing seller under no compulsion to buy or sell.

“Fair Rental Value”. The annual Basic Rent which would be obtained for the Property in an arm’s length transaction between a willing landlord and a willing tenant under no compulsion to lease.

“First Mortgage”. Any first mortgage or deed of trust that Landlord has placed of record against the Property (together with the notes secured thereby and security instruments collateral thereto), and any increase, amendment, extension, refinancing or recasting thereof. A First Mortgage is deemed to continue in effect after foreclosure thereof and during any period of redemption therefrom.

“First Mortgagee”. The holder from time to time of the First Mortgage.

“First Offer Right”. As defined in Article 27.

“Governmental Authorities”. All federal, state, county, municipal and local governments, and all departments, commissions, boards, bureaus and officers thereof, having or claiming jurisdiction over the Property or Tenant’s use thereof.

“Hazardous Materials”. Any by-product, chemical, compound, contaminant, pollutant, product, substance, waste or other material (i) that is hazardous or toxic or (ii) the abatement, cleanup, discharge, disposal, emission, exposure to, generation, handling, manufacture, possession, presence, release, removal, remediation, storage, transportation, treatment or use of which is controlled, prohibited or regulated by any Environmental Laws, including asbestos, petroleum and petroleum products and polychlorinated biphenyls.

“Improvements”. The improvements from time to time constructed in the Premises, and all Alterations thereto, but excluding in any event the Tenant’s Property.

“Premises”. The premises, but not any Improvement thereto, depicted on Exhibit A.

“Lease”. This Sublease Agreement, including the following exhibits attached hereto and hereby made a part hereof:

Exhibit A – Depiction of Premises

Exhibit B - Equipment

Exhibit C - Permitted Exceptions

“Legal Requirements”. All laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, directions and requirements of all Governmental Authorities which now or at any time hereafter may be applicable to or required in connection with the Property or any part thereof, or any use or condition of the Property or any part thereof.

“Major Alteration”. Any Alteration that is not a Permitted Alteration.

“Notice”. As defined in Article 22.

“Permitted Alteration”. Any Alteration which does not or is not anticipated to (i) involve a substantial structural alteration, or (ii) lessen the Fair Market Value. Examples of “Permitted Alterations” include, without limitation: replacement of floor coverings or wall coverings; construction, renovation or reconfiguration of locker rooms, workout areas, office, retail or other spaces in the Improvements; upgrades of mechanical systems (e.g., electrical, plumbing or HVAC systems); and construction, modification or other installation of improvements customarily found in other properties owned or leased by Tenant or any Affiliate of Tenant.

“Permitted Exceptions”. The items listed on Exhibit B attached hereto.

“Permitted Transfer”. Any (i) Assignment to (a) any parent, subsidiary or Affiliate of Tenant; (b) any corporation resulting from the consolidation or merger of Tenant into or with any other entity; (c) or any person, firm, entity or corporation acquiring a majority of Tenant’s issued and outstanding capital stock or all or substantially all of Tenant’s assets or of the business conducted at the Property; (ii) sublease or license of all or any part of the Property that complies with Section 15.3; or (iii) any leasehold mortgage in accordance with Section 15.4.

“**Property**”. The Premises, Improvements and Equipment, collectively.

“**Restore or Restoration**”. The repair, restoration or rebuilding of the Property or any part thereof following any Taking, damage to or destruction of the Property by fire or other casualty or cause, to, as nearly as possible, its size, type and character immediately prior to such Taking, damage or destruction, in accordance with all applicable Legal Requirements, with such Alterations as Tenant determines, together with any temporary repairs and property protection pending completion of the work.

“**Taking**”. A taking of all or any part of the Property, or any interest therein or right accruing thereto, including, without limitation, any right of access, as the result of or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain. The Taking is deemed to occur on the date on which the condemning authority takes possession.

“**Taxes**”. All real estate taxes and special assessments levied against or imposed on the Property.

“**Tenant’s Property**”. As defined in Section 29.1.

“**Term**”. The term of this Lease as provided in Article 2, including without limitation extensions of the initial term pursuant to Section 2.2.

“**Unavoidable Delays**”. Acts of God, casualties, war, civil commotion, embargo, riots, strikes, unavailability of materials and any other events which are not within the reasonable control of the party in question to prevent, control or correct, but excluding unavailability of funds.

ARTICLE 2. DEMISE OF PROPERTY; TERM; EXTENSIONS OF TERM

2.1. Demise; Term. Landlord, for and in consideration of the rents hereinafter reserved and the covenants and agreements hereinafter contained on the part of Tenant to be paid, kept and performed, does hereby demise and lease to Tenant, and Tenant does hereby take and lease from Landlord, upon and subject to the terms and conditions of this Lease, the Property for an initial term of twenty-five (25) years, commencing on the Commencement Date and ending on the last day of the month in which the twenty-five (25th) anniversary of the Commencement Date occurs.

2.2. Extensions. Landlord hereby grants Tenant the right to extend the Term for five (5) successive periods of five years each (each, an “**Extended Term**”), each such period to commence immediately following the expiration of the preceding Term.

2.3. Exercise. Provided that on or prior to the expiration date of the then-current Term this Lease shall not have been terminated pursuant to any provision hereof, then on such expiration date, the Term shall be deemed to have been automatically extended for an Extended Term, unless Tenant shall notify Landlord in writing at least twelve (12) months prior to the

commencement date of the applicable Extended Term that Tenant is terminating this Lease as of such date.

2.4. Effect of Extension. Upon Tenant's exercise of any extension option, this Lease and each and every covenant, agreement and provision hereof will remain in full force and effect during the Term as extended and with the same force and effect as if the Term were originally for such extended period, except (i) Basic Rent during the applicable Extended Term will be at the rate provided in Article 3, and (ii) the number of unexercised extension options available to Tenant will be reduced by one.

ARTICLE 3. RENT

3.1. Payment. Tenant covenants and agrees to pay to Landlord, without demand, setoff or abatement except as otherwise provided in this Lease, the Basic Rent payable as follows:

<u>Months</u>	<u>Monthly Rent</u>	<u>Annual Base Rent</u>
06/10/15 – 06/30/20	\$186,333.33	\$2,236,000.00
07/01/20 – 06/30/25	\$204,966.67	\$2,459,600.00
07/01/25 – 06/30/30	\$225,463.33	\$2,705,560.00
07/01/30 – 06/30/35	\$248,009.67	\$2,976,116.00

3.2. Payment Address. Tenant shall pay all Basic Rent to Landlord at the address of Landlord set forth in the Article 1, or to such other address as Landlord directs by Notice to Tenant.

3.3. Net Lease. Landlord and Tenant intend that Basic Rent shall be absolutely net to Landlord and that Tenant pay Basic Rent to Landlord without notice or demand and without abatement, deduction or setoff, except as otherwise provided in this Lease.

ARTICLE 4. TAXES

4.1. Payment. Except as provided in Section 4.2, Tenant shall pay, or cause to be paid, all Taxes before any fine, penalty, interest or cost is added thereto for the nonpayment thereof; provided, however, that:

4.1.1. If any Tax may, at the option of the taxpayer or party obligated, be paid in installments, Tenant may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Tax) in installments and, in such event, subject to the provisions of subsection 4.1.2 hereof, shall pay only the installments that become due during the Term as the same respectively become due in the ordinary course and before any fine, penalty, further interest or cost is added thereto; and

4.1.2. Any Tax or any installments thereof, due and payable in the first or last year of the Term shall be prorated between Landlord and Tenant on a daily basis.

4.2. Payment of Contested Taxes. Upon termination of any Contest brought by Tenant pursuant to Article 23 with respect to the amount or validity of any Tax, or if Tenant elects, at any time prior thereto, Tenant shall pay the amount of such Tax or part thereof as finally determined in such proceeding.

4.3. Tax Escrows. In the event that an Event of Default has occurred and is continuing hereunder, the First Mortgagee may require that the Taxes payable by Tenant pursuant to Section 4.1 be paid into a tax escrow account for the Property, and then Tenant shall pay such Taxes as and when required by the First Mortgage, rather than paying the Taxes directly to the taxing authority, as contemplated by Section 4.1. Tenant is entitled to any interest payable in connection with such tax escrow.

ARTICLE 5. REPAIRS AND MAINTENANCE

5.1. General. Throughout the Term, Tenant, at its sole cost and expense, shall take good care of the Property, all appurtenances of the Property, all alleyways and passageways and all sidewalks, curbs and vaults adjoining the Property, and shall at all times keep the same in a good order and condition, ordinary wear excepted, and make all necessary repairs thereto, interior and exterior, structural and non-structural, ordinary and extraordinary and foreseen and unforeseen.

5.2. Repairs. The term “**repairs**” shall include, but not be limited to, all necessary or appropriate replacements. The necessity for and adequacy of the repairs to the Property made or required to be made pursuant to Section 5.1 shall be measured by the requirements of facilities of similar construction and age, which are prudently managed and operated with due regard for both short-term and long-term considerations.

5.3. Standard of Performance; Payment. Tenant shall effect all repairs with all due diligence and in a workmanlike manner in compliance with all applicable Legal Requirements, and shall promptly and fully pay for such repairs.

ARTICLE 6. INSURANCE

6.1. Tenant’s Insurance. Tenant, at its expense, shall procure and maintain or cause to be procured and maintained during the Term:

6.1.1. Insurance with respect to the Property against loss or damage by fire, lightning, windstorm, tornado, hail and such other casualty as is customarily covered by extended coverage and “Special Causes of Loss” form coverage and such other risks as Landlord may from time to time reasonably require, which at the time is usual and commonly obtained in connection with properties similar in type of building size, use and location to the Property, in each case in the full replacement value of the Property. The term “**full replacement value**” means 100% of the actual replacement cost including the cost of all debris removal, exclusive, however, of costs of excavations, foundations and footings below the lowest floor. Whenever appropriate, while any Alterations are in the

course of being made, Tenant shall carry the aforesaid fire and extended coverage insurance in builder's risk form written on a completed value basis;

6.1.2. Commercial general public liability insurance against claims for bodily injury, death or property damage, occurring on, in or about the Property in a combined single limit of not less than Two Million Dollars (\$2,000,000);

6.1.3. If requested by Landlord at any time, boiler and pressure vessel and miscellaneous equipment insurance, including pressure pipes, air conditioning systems, electric motors, air tanks, compressors and pumps;

6.1.4. If the Property is at any time determined to be in a flood hazard area under applicable Legal Requirements, flood insurance (except that the amount of flood coverage need not exceed \$5,000,000); and

6.1.5. During the entire period of making any Alterations, (i) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above-mentioned comprehensive general public liability insurance policy, and (ii) adequate Worker's Compensation Insurance covering all persons employed on or in connection with such Alterations.

6.2. Policy Requirements. All insurance policies provided for in this Article 6 shall:

6.2.1. be valid and enforceable policies, in such forms and, where not expressly provided for above, in such amounts, as from time to time are reasonably satisfactory to Landlord and the First Mortgagee, if any, issued by financially sound and responsible insurance companies authorized to do business in the jurisdiction where the Property is located and reasonably satisfactory to Landlord and the First Mortgagee;

6.2.2. except for worker's compensation insurance, name Landlord, Tenant and, if required by the First Mortgagee, the First Mortgagee, as insureds as their respective interests appear;

6.2.3. provide that such policies shall not be changed or cancelled without at least thirty (30) days' prior written notice to Landlord and the First Mortgagee, if any; and

6.2.4. provide that, except in the case of public liability and worker's compensation insurance, all insurance proceeds are payable to and applied as set forth in Article 9, or if applicable, Article 10.

6.3. Evidence of Coverage. On or before the Commencement Date, and thereafter prior to the expiration dates of the expiring policies theretofore furnished pursuant to this Article 6, Tenant shall deliver to Landlord (and First Mortgagee if required under the First Mortgagee) an insurance company certificate of insurance evidencing such coverages, or if

required by First Mortgagee, copies of such policies, in a form reasonably satisfactory to Landlord.

6.4. Payment of Costs. Tenant shall pay all costs and expenses of collecting or recovering any insurance proceeds under such policies, including, but not limited to, any and all fees of attorneys, appraisers and adjusters engaged by Landlord or the First Mortgagee.

6.5. Blanket Policies. Any insurance that Tenant is required to obtain under this Article 6 may be carried under a “blanket” policy or policies or under an “umbrella” policy or policies covering other liabilities of Tenant, as applicable.

6.6. Tenant’s Property. Notwithstanding anything apparently to the contrary in this Article 6, all proceeds of any insurance carried by Tenant on Tenant’s Property or any other property of Tenant shall be payable directly to Tenant, and Tenant has the exclusive right to adjust and settle losses with respect thereto.

ARTICLE 7. UTILITIES

Tenant shall pay all charges for water, sewer, electricity, and all other utilities consumed at the Property during the Term.

ARTICLE 8. ALTERATIONS

8.1. General. Tenant shall have the right from time to time during the Term to make, at its expense, Alterations in or of the Improvements, subject in all cases to the limitations set forth in this Article 8.

8.2. Consent Requirement. Tenant may perform Permitted Alterations from time to time and at any time, without the need to obtain Landlord’s or First Mortgagee’s consent. If Tenant desires to perform any Major Alterations, then in each case Tenant may not commence work on such Major Alteration without first obtaining Landlord’s prior written consent, which consent may not be unreasonably withheld, conditioned or delayed, and, if required by the terms of the First Mortgagee, the consent of the First Mortgagee.

8.3. Standard of Performance. Tenant must perform all Alterations in a good and workmanlike manner, expeditiously and in compliance with all Legal Requirements and insurance policies that Tenant is required to maintain pursuant to Section 6.1. Tenant shall promptly discharge or remove all liens filed against any of the Improvements arising out of any Alterations, and procure and pay for all required permits and licenses.

8.4. Supervision of Major Alterations. Tenant shall perform all Major Alterations under the supervision of an architect or engineer that Tenant has selected and Landlord has approved. Tenant shall make all Major Alterations in accordance with detailed plans and specifications and pursuant to a contract incorporating such plans and specifications, all of which must be approved by Landlord prior to commencement of such work. Landlord’s approval under this Section 8.4 may not be unreasonably withheld, and will be deemed given if Tenant does not

receive a response within thirty (30) days after Landlord's receipt of Tenant's written request. Additionally, if the First Mortgagee's consent is required by the First Mortgage, then Landlord will be deemed to be acting reasonably in withholding its consent to any proposed Major Alterations to which the First Mortgagee objects.

ARTICLE 9. DAMAGE TO OR DESTRUCTION OF THE IMPROVEMENTS

9.1. Notice; Restoration; Consent. In case of any Casualty, unless this Lease is amended pursuant to Section 9.4, Tenant shall with reasonable diligence (subject to Unavoidable Delays), commence and complete Restoration, together with any Alterations as permitted or approved in accordance with Article 8. In the event of any Casualty for which are reasonably estimated by Tenant to be equal to or in excess of \$500,000, Tenant shall give prompt Notice thereof to Landlord. So long as no Event of Default exists and is continuing under this Lease, Tenant is hereby authorized to adjust, collect and compromise all claims under any of the insurance policies required by Article 6 (except public liability insurance claims payable to a person other than Tenant, Landlord or First Mortgagee) and to execute and deliver on behalf of Landlord all necessary proofs of loss, receipts, vouchers and releases required by the insurers. Landlord may, in its reasonable discretion, approve any final adjustment, settlement or compromise of any such claim which is reasonably estimated by Landlord to result in proceeds in excess of \$500,000, and, with respect thereto, Landlord may prosecute or contest, or to require Tenant to prosecute or contest, any such claim, adjustment, settlement or compromise. If any final adjustment, settlement or compromise of any such claim is reasonably estimated by Landlord to result in proceeds of less than or equal to \$500,000 and so long as no Event of Default exists and continuing under this Lease, then such adjustment, settlement or compromise will not require the approval of Landlord. If an Event of Default exists, Tenant shall not be entitled to adjust, collect or compromise any such claim or to participate with Landlord in any adjustment, collection and compromise of the net insurance proceeds payable in connection with a Casualty and Tenant agrees to sign, upon the request of Landlord, all such proofs of loss, receipts, vouchers and releases. If Tenant is delayed in receiving any insurance proceeds as a result of Landlord's unreasonable failure or refusal to approve an insurance adjustment, such delay must be taken into account in determining whether Tenant has fulfilled its obligations under this Section 9.1. Each insurer is hereby authorized and directed to make payment under said policies, including return of unearned premiums, directly to Landlord or, if required by the First Mortgage, to First Mortgagee instead of to Landlord and Tenant jointly, and Tenant hereby appoints each of Landlord and First Mortgagee as Tenant's attorneys-in-fact to endorse any draft therefor. The rights of Landlord under this Section 9.1 shall be extended to First Mortgagee if and to the extent that any First Mortgage so provides.

9.2. Disbursement of Insurance Proceeds. To the extent Landlord receives any insurance proceeds on account of any Casualty, Landlord shall disburse the same (less the costs, fees and expenses incurred by the First Mortgagee, Landlord and Tenant in the collection thereof, which shall be paid out of such proceeds) to Tenant to pay for the cost of Restoration. Any net insurance proceeds up to and including \$500,000 shall be paid by Landlord to Tenant. With respect to any net insurance proceeds in excess of \$500,000, Landlord shall make such disbursements upon Tenant's written request accompanied by evidence satisfactory to Landlord and, if required by the First Mortgage, the First Mortgagee, that an amount equal to the amount

requested is then due and payable or has been paid and is properly a part of such cost, and that the net insurance proceeds not yet advanced will be sufficient for the completion of the Restoration, and upon such other conditions as may be set forth in the First Mortgage or as otherwise reasonably required by Landlord. If the First Mortgagee requires application of insurance proceeds for purposes other than Restoration, Landlord shall from time to time make available amounts which in the aggregate equal the amount so applied, to be applied to Restoration in accordance with the first two sentences of this Section 9.2. Upon (i) Landlord's receipt of satisfactory evidence that Restoration has been completed and the cost thereof paid in full, and that there are no mechanic's or similar liens for labor or materials supplied in connection therewith, or (ii) the expiration or earlier termination of this Lease, the balance, if any, of such insurance proceeds (and any amount so made available by Landlord) shall be paid to Landlord.

9.3. Lease Termination. Except as provided in Section 9.4, no Casualty will give Tenant the right to terminate this Lease or relieve Tenant from its liability to pay in full the Basic Rent and other sums that Tenant is obligated to pay to Landlord, or from any of its other obligations under this Lease, and Tenant hereby waives any rights now or hereafter conferred upon it to terminate this Lease, or to receive any suspension, diminution, abatement or reduction of the Basic Rent or other sums owing under this Lease on account of any Casualty. However, Basic Rent will abate to the extent of business interruption or rent loss proceeds that Landlord actually receives on account of the Casualty.

9.4. Amendment. If a Casualty occurs during the last two years of the Term, and (i) the cost of Restoration is reasonably estimated to exceed 40% of the replacement cost of the Improvements, or (ii) Restoration cannot be substantially completed until more than six (6) months following the occurrence of such Casualty (with the cost of Restoration and date of substantial completion being estimated in good faith by a reputable general contractor promptly selected by Tenant and approved by Landlord, which approval may not be unreasonably withheld or delayed) Tenant may cause this Lease to be amended to remove such portion of the Property from this Lease by giving Notice thereof to Landlord within forty-five (45) days after the date of such Casualty. Such amendment shall be effective on the date such Notice is given. In case of any such amendment, Tenant will not be obligated to repair or restore the portion of the Property that is removed from this Lease, and Landlord will be entitled to receive insurance proceeds attributable to the Improvements at such Property. The Basic Rent shall be reduced by a fair and equitable amount taking into account the proportion by which the Fair Rental Value of the Property has been reduced by the Casualty or, if applicable, Taking (if at all).

ARTICLE 10. CONDEMNATION

10.1. Total Taking. In the event of a Taking of the whole or substantially all of any Property, this Lease will be deemed amended on the date of such Taking to release such Property from this Lease, and the Basic Rent and all other sums and charges required to be paid by Tenant hereunder with respect to such Property shall be apportioned and paid to the date of such Taking. So long as no Event of Default exists, Tenant is authorized to collect, settle and compromise the amount of any net award received (after deduction of reasonable fees and expenses of collection, including, but not limited to, reasonable attorneys' and experts' fees) and Landlord shall have the

right to join with Tenant therein. If an Event of Default exists, Landlord shall be authorized to collect, settle and compromise the amount of any net award and Tenant shall not be entitled to participate with Landlord in any condemnation proceeding or negotiations under threat thereof or to contest the Taking or the amount of the net award therefor. No agreement with any condemnor in settlement or under threat of any Taking shall be made by Tenant without the written consent of Landlord. Subject to the provisions of this Section 10.1, Tenant hereby irrevocably assigns to Landlord any award or payment to which Tenant is or may be entitled by reason of any Taking, whether the same shall be paid or payable for Tenant's leasehold interest under this Lease or otherwise; but nothing in this Lease shall impair Tenant's right to any award or payment on account of Tenant's Property, moving expenses or loss of business, if available, to the extent that and so long as (i) Tenant shall have the right to make, and does make, a separate claim therefor against the condemnor and (ii) such claim does not in any way reduce either the amount of the award otherwise payable to Landlord for the Taking of Landlord's fee interest in the Property or the amount of the award (if any) otherwise payable for the Taking of Tenant's leasehold interest hereunder. The rights of Landlord under this Section 10.1 shall also be extended to First Mortgagee if and to the extent that any First Mortgage so provides.

10.2. Partial Taking. In the event of a Taking of less than substantially all of the Property, this Lease shall continue in full force and effect with respect to such Property, and Tenant, as required under Article 8, shall proceed with reasonable diligence (subject to Unavoidable Delays) to commence and complete Restoration, except to the extent made impossible by any reduction in area caused by such Taking, in accordance with Article 8. So long as no Event of Default exists, any awards paid to or on behalf of Landlord as a result of such Taking which are up to and including \$500,000 shall be paid by Landlord to Tenant for Restoration. Any awards to or on behalf of Landlord as a result of such Taking which are in excess of \$500,000 shall (unless any reduction in area caused by such Taking resulting in the net award makes Restoration impossible) be made available by Landlord (or First Mortgagee if the terms of the First Mortgage so require) to Tenant for Restoration in accordance with the provisions of Article 8.

10.3. Determination of Total Taking. As used herein, a Taking of "**substantially all of the Property**" shall mean a Taking of such portion of the Property as renders it uneconomical or infeasible to operate the Property for the purpose for which the Property was operated prior to such Taking. Any dispute between the parties as to whether any particular Taking constitutes a Taking of all or substantially all, or a Taking of less than substantially all, of the Property shall be determined by arbitration in accordance with the rules of the American Arbitration Association as then in effect and any determination therein will be final and binding on Landlord and Tenant.

ARTICLE 11. DISCHARGE OF LIENS

Neither Landlord nor Tenant may create, liens or notices of claims of liens of mechanics or materialmen for work or materials contracted to be supplied to the Property, subject to contest by Tenant in accordance with Article 23.

ARTICLE 12. USE OF PROPERTY

12.1. Permitted Use. Tenant may use and occupy the Property for any purpose that does not violate any Legal Requirements.

12.2. Nuisance. Tenant may not suffer any act to be done or any condition to exist on the Property or any part thereof which, in law, constitutes a nuisance, public or private.

12.3. Environmental Activities. Tenant may not permit the disposal, generation, handling, manufacture, possession, release, remediation, storage, transportation, or treatment of any Hazardous Materials on, about or under the Property other than the use, storage and disposal of reasonable quantities of Hazardous Materials in the ordinary course of business at the Property and in compliance with all Environmental Laws. Tenant shall promptly, properly and completely remediate any Hazardous Materials on, about or under the Property in violation of this Section 12.3. Tenant shall notify Landlord immediately upon Tenant becoming aware of (i) any actual, suspected or threatened violation of Environmental Laws with respect to the Property, or (ii) any disposal, generation, handling, manufacture, possession, release, remediation, storage, transportation, or treatment of any Hazardous Materials on, about or under the Property. Tenant shall promptly deliver to Landlord copies of all documents delivered to or received by Tenant regarding the matters set forth in this Section 12.3, including notices of any legal proceedings or investigations concerning any Hazardous Materials on, about or under the Property, or concerning Landlord's or Tenant's status as a potentially responsible party. Tenant's notification to Landlord in accordance with this Section 12.3 will not excuse any default under this Lease or the violation of Environmental Laws that is the subject of the notice. From time to time at Landlord's or First Mortgagee's request, Tenant shall deliver to Landlord and First Mortgagee any information known and documents available to Tenant relating to the environmental condition of the Property.

ARTICLE 13. ENTRY ON PROPERTY BY LANDLORD

Upon reasonable prior Notice (except in the case of an emergency), Tenant shall permit Landlord and the First Mortgagee and their respective contractors, consultants, representatives and designees to enter the Property at all reasonable times for the purpose of (i) inspecting and testing the same, (ii) exercising their rights pursuant and subject to Article 21, or (iii) showing the same to prospective purchasers, mortgagees and (during the last six months of the Term) tenants.

ARTICLE 14. WAIVER AND INDEMNIFICATION

14.1. Waiver of Claims. Notwithstanding anything to the contrary in this Lease, Landlord and Tenant hereby release one another and their respective partners, officers and employees from any and all liability (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage coverable by the insurance described in Subsection 6.1.1, even if such loss or damage is caused by the fault or negligence of the other party, or anyone for whom such party is responsible.

14.2. Damage to Tenant's Property. Landlord is not responsible or liable to Tenant for any loss or damage to the Tenant's Property arising from (i) the acts or omissions of persons other than Landlord occupying premises adjacent to the Property, or transacting any business in the area of the Property, or (ii) burst, stopped or leaking water, gas or sewer pipes or any failure of, or defect in, any electric line, circuit or facility, or (iii) any condition of the Property.

14.3. Mutual Indemnity. Landlord and Tenant each hereby defends, indemnifies and holds the other harmless from and against all liabilities, obligations, claims, demands, costs, charges, judgments and expenses, including, but not limited to, reasonable attorneys' fees, imposed upon or incurred or paid by or asserted against such other party to the extent arising by reason of or in connection with any negligent or tortious act on the part of the indemnifying party or any of its agents, contractors, servants, employees, licensees or invitees and accruing or occurring during the Term.

14.4. Tenant's Indemnity as to Certain Acts. Without limitation of Tenant's obligations under Section 14.3, Tenant shall defend with counsel approved by Landlord (which approval may not be unreasonably withheld), indemnify and save Landlord harmless from and against all liabilities, obligations, damages, fines, penalties, claims, demands, costs, charges, judgments and expenses, including, but not limited to, reasonable architects' and attorneys' fees, imposed upon or incurred or paid by or asserted against Landlord, the Property or any interest therein by reason of or in connection with any of the following accruing or occurring during the Term:

14.4.1. Any Alterations and anything done in, on or about the Property or any part thereof in connection therewith;

14.4.2. The use, non-use, possession, occupation, condition, operation, maintenance or management of the Property;

14.4.3. Any negligent or tortious act on the part of Tenant or any of its agents, contractors, servants, employees, licensees or invitees;

14.4.4. Any accident, injury, death or damage to any person or property occurring in or on the Property during the Term; and

Nothing contained in this Section 14.4 requires Tenant to indemnify Landlord with respect to any tortious act or omission of Landlord or its officers, employees, agents or contractors, or to any extent prohibited by law.

14.5. Survival. The provisions of this Article 14 shall survive the expiration or sooner termination of this Lease and the purchase of the Property pursuant to the First Offer Right.

ARTICLE 15. ASSIGNMENT

15.1. Permitted Transfers; Consent Requirements. Tenant may, without the necessity of Landlord's consent, effect Permitted Transfers at any time and from time to time. Except for Permitted Transfers, Tenant may not effect any transfer of any portion of its interest in this Lease

or the Property without Landlord's prior written consent, which consent may not be unreasonably withheld. Landlord's consent to any transfer may not be construed to waive the consent requirement of this Section 15.1. in connection with any subsequent transfer.

15.2. Assignment. If Tenant assigns all its rights and interest under this Lease in a Permitted Transfer or a transfer approved by Landlord pursuant to Section 15.1, the assignee under such Assignment shall expressly assume all the obligations of Tenant hereunder which arise on or after the date of such Assignment, by a written instrument delivered to Landlord at the time of such Assignment and the transferor Tenant shall be released from any and all liabilities and obligations of Tenant under this Lease arising on or after the date of such Assignment. No Assignment may impose any additional obligations on Landlord under this Lease.

15.3. Subleases; Conditional Assignment of Sublease Rents

15.3.1. Tenant may, in its discretion, enter into, amend, terminate or modify from time to time subleases or licenses with respect to the Property or any portion thereof on terms acceptable to Tenant in its sole discretion. All such subleases and licenses are subject and subordinate to this Lease.

15.3.2. As security for performance of its obligations under this Lease, Tenant hereby grants, conveys and assigns to Landlord all right, title and interest of Tenant in and to all subleases and licenses now in existence or hereafter entered into for any or all of the Property, any and all extensions, modifications and renewals thereof and all rents, issues and profits therefrom. Landlord hereby grants to Tenant a conditional, revocable license to collect and enjoy all rents and other sums of money payable under any sublease or license of any of the Property. Landlord has the absolute right at any time while an Event of Default exists upon Notice to Tenant and its subtenants and licensees to revoke said license and to collect such rents and sums of money and to retain the same.

15.4. Leasehold Mortgages.

15.4.1. Tenant may mortgage its leasehold estate in the Property under one or more leasehold mortgage(s) upon the conditions that all rights acquired under such leasehold mortgage(s) are subject and subordinate to each and all of the covenants, conditions and restrictions set forth in this Lease, and to all rights and interests of Landlord in and to the Property and this Lease, none of which covenants, conditions, restrictions, rights or interests is or may be waived by Landlord by reason of the right given to Tenant in this Section 15.4 to mortgage Tenant's leasehold estate created under this Lease.

15.4.2. In the event of any act or omission by Tenant which would give Landlord the right to damages from Tenant or the right to terminate this Lease pursuant to Article 17, Landlord may not sue for such damages nor exercise any such right to terminate until (i) it has given Notice of the act or omission to Tenant and to the leasehold mortgagee, if the name and address of such leasehold mortgagee has been

furnished to Landlord, and (ii) the leasehold mortgagee has had an opportunity to cure the same for a period commencing on the date it first receives Landlord's Notice and expiring 30 days after the expiration of the cure period afforded to Tenant under this Lease. In order to exercise this cure right, the leasehold mortgagee, its agents or employees, may enter upon the Property and take whatever action that is necessary to remedy the act or omission. Landlord shall accept a cure performed within such period by any leasehold mortgagee as though the cure had been done or performed within a timely fashion by Tenant.

ARTICLE 16. ESTOPPEL CERTIFICATES

From time to time, and upon not less than ten (10) days' prior Notice, each of Landlord and Tenant shall execute, acknowledge and deliver, without charge, to the other or its designee, a statement in writing, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, identifying the same by the date thereof and specifying the nature thereof), the dates to which the Basic Rent and other sums and charges payable under this Lease have been paid, the amount of the Basic Rent, that to the responding party's actual knowledge there are no claims against the other under this Lease (or if there are any such claims, specifying the same), that to the responding party's actual knowledge the requesting party is not in default and there exists no circumstance which with the giving of Notice or lapse of time, or both, would constitute a default (or if such party is aware of any such default or circumstance specifying the same), and such other matters as Landlord, Tenant or the First Mortgagee may reasonably request.

ARTICLE 17. EVENTS OF DEFAULT; TERMINATION

17.1. Events of Default. If any one or more of the following events (each, an "**Event of Default**") happens, then and in any such event, Landlord may give Notice to Tenant specifying such Event of Default and stating that this Lease and the Term will expire and terminate on the date specified in such Notice, and on such date, unless such specified Event of Default has been cured, this Lease will terminate and Tenant will remain liable as hereinafter provided:

17.1.1. Tenant defaults in the payment of any Basic Rent and does not cure such default within ten (10) days after Notice thereof from Landlord; or

17.1.2. Tenant fails duly to observe or perform any of the other terms, conditions, covenants or agreements required to be observed or performed by it under this Lease and such failure continues for thirty (30) calendar days following Landlord's Notice of such failure, or, in the case of a default which cannot with due diligence be cured within such period of thirty (30) days, Tenant fails to proceed with due diligence within such thirty (30) day period to commence to cure the same and thereafter to prosecute the curing of such default with due diligence, or fails to complete such cure within one hundred eighty (180) days after such Notice from Landlord.

17.2. Repossession. If this Lease has been terminated pursuant to Section 17.1, Landlord may enter upon and repossess the Property (said repossession being referred to as

“**Repossession**”) by summary proceedings or ejectment, and may remove Tenant and all other persons therefrom.

17.3. Reletting. From time to time after the Repossession, Landlord may relet the Property for the account of Tenant (unless Landlord has elected to collect liquidated damages pursuant to Section 17.5 below) in the name of Landlord or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such terms and for such uses as Landlord in its reasonable business judgment determines, and may collect and receive the rent therefor. Landlord has no responsibility or liability for any failure to collect any rent due upon any such reletting. Landlord shall act reasonably to mitigate its damages.

17.4. No Release of Tenant. No termination of this Lease pursuant to 17.1 or Repossession of the Property pursuant to Section 17.2 or otherwise will relieve Tenant of its obligation to pay Basic Rent or any of its other obligations under this Lease, all of which survive any such termination or Repossession.

17.5. Damages. In the event of any termination or Repossession, whether or not the Property has been relet, Tenant shall pay to Landlord the Basic Rent and other sums and charges to be paid by Tenant up to the time of such termination or Repossession, and thereafter Tenant, until the end of what would have been the Term in the absence of such termination or Repossession, shall pay to Landlord, as and for liquidated and agreed current damages for Tenant’s default, the equivalent of the amount of the Basic Rent and such other sums and charges which would be payable under this Lease by Tenant if this Lease were still in effect, less the net proceeds if any, of any reletting effected pursuant to Section 17.3, after deducting all of Landlord’s expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, attorneys’ fees, and reasonable expenses of preparation for such reletting. Tenant shall pay such current damages to Landlord monthly on the days on which the Basic Rent would have been payable under this Lease if this Lease were still in effect, and Landlord may recover the same from Tenant on each such day. At any time after such termination or Repossession, whether or not Landlord has collected any current damages as aforesaid, Landlord may recover from Tenant, and Tenant shall pay to Landlord on demand, as and for liquidated and agreed final damages for Tenant’s default, an amount equal to the then present value of the excess of the Basic Rent reserved under this Lease from the day of such termination or Repossession for what would be the then unexpired Term if the same had remained in effect, over the then net Fair Rental Value of the Property, discounted at a rate equal to 1% plus the discount rate at the time of liquidation of the Federal Reserve Bank for the district in which the Property is located.

17.6. No Waiver. Landlord’s failure to insist upon the strict performance of any term of this Lease, or to exercise any right or remedy consequent upon a breach of this Lease, or acceptance of full or partial rent during the continuance of any such breach, may not be construed to constitute a waiver of any such breach or of any such term.

17.7. Tenant’s Additional Rights. Tenant may exercise and continue to exercise all of its rights under this Lease upon the occurrence and during the continuance of any default or

Event of Default up to the point of termination of this Lease and actual Repossession, including, but not limited to, the First Offer Right.

ARTICLE 18. SURRENDER OF THE PROPERTY

18.1. If Tenant does not exercise and fulfill the requirements of the First Offer Right, upon the expiration or sooner termination of this Lease, Tenant shall quit and surrender the Property, in the condition required to be maintained in accordance with this Lease, to Landlord without any payment therefor by Landlord without delay, free and clear of all lettings and occupancies. Tenant shall be entitled to remove on or before the expiration or sooner termination of this Lease, Tenant's Property and shall leave in place all Alterations. To the extent any Tenant's Property remains on the Property after the expiration or termination of this Lease, such property will be deemed abandoned. In such event, Landlord may either retain it as its property, or dispose of it at Tenant's expense or without accountability, as Landlord sees fit. If Landlord stores any such property, Tenant shall reimburse Landlord for all expenses incurred in connection therewith. This Article 18 shall survive the expiration or sooner termination of this Lease

ARTICLE 19. NO MERGER OF TITLE

There shall be no merger of Tenant's interest in this Lease nor of the leasehold estate created by this Lease with the fee estate in the Property or any part thereof by reason of the fact that the same person acquires or owns or holds, directly or indirectly, (i) Tenant's interest in this Lease or the leasehold estate created by this Lease or any interest therein, and (ii) the fee estate in the Property or any part thereof or any interest therein. No such merger may occur unless and until all persons, if any, then having a voluntarily-created interest in the ownership interests described in (i) and (ii) above, join in and record a written instrument effecting such merger.

ARTICLE 20. QUIET ENJOYMENT

Landlord covenants that Tenant, upon paying the Basic Rent and all other sums and charges provided for in this Lease, and observing and keeping all covenants, agreements and conditions of this Lease on its part to be observed and kept, shall quietly have and enjoy the Property during the Term without disturbance by anyone claiming by, through or under Landlord subject, however, to the exceptions, reservations, and conditions of this Lease.

ARTICLE 21. PERFORMANCE FOR TENANT

If Tenant fails to make any payment or perform any act on its part to be made or performed under this Lease, then Landlord, after first giving Tenant Notice as provided in Section 17.1, and without waiving or releasing Tenant from any of its obligations under this Lease, may (but is not obligated to) make such payment or perform such act, and enter upon the Property for any such purpose, and take all such action thereon as is necessary therefor. Tenant shall reimburse Landlord, on demand and as additional rent under this Lease, (i) all costs and reasonable out-of-pocket expenses that Landlord incurred in connection with the performance of any such act, (ii) interest thereon at a rate equal to the lesser of (a) 10% per annum, and (b) the

maximum rate permitted by law, from the respective dates of Landlord's making of each such payment or incurring of each such cost and expense, and (iii) reasonable attorneys' fees in connection therewith. This Article 21 survives the expiration or sooner termination of this Lease.

ARTICLE 22. NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given under this Lease (individually, a "**Notice**", and collectively, "**Notices**") must be in writing and be delivered personally, or sent by nationally recognized overnight delivery service, or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the party to receive such Notice at its address specified in Article 1. Either party may, by Notice, change its address for all subsequent Notices, except that neither party may require Notices to it to be sent to more than two addresses. Default Notices given to Tenant are deemed given only upon Tenant's actual receipt. All other mailed Notices are deemed given when mailed. So long as a First Mortgagee exists, both parties shall provide First Mortgagee with copies of any Notices delivered to the other with respect to requests for consent or approval, or alleging default under this Lease.

ARTICLE 23. CONTESTS

23.1. Prosecution. After Notice to Landlord, Tenant may, at its expense, contest by appropriate proceedings conducted in good faith and with due diligence (all such proceedings together with appeals therefrom being referred to as "**Contests**") the amount, validity or application, in whole or in part, of any Tax, mechanics' lien, encumbrance, charge or any other adverse claim for which Tenant is responsible under this Lease (hereinafter collectively "**Claims**") provided that the following conditions are satisfied:

23.1.1. In the case of an unpaid Claim, such Contest operates to suspend the collection of the same from Landlord and Tenant;

23.1.2. Such Contest does not result in a default under and is conducted in accordance with all applicable provisions of the First Mortgage;

23.1.3. Tenant furnishes such security, if any, that is required in the proceedings or requested by the First Mortgagee; and

23.1.4. Neither the Property nor any part thereof nor any interest therein is, in Landlord's reasonable opinion, in imminent danger of being forfeited or lost.

23.2. Discharge of Tenant's Obligations. During the period Tenant carries forward any Contest, Tenant will be relieved from its obligations to pay the Claims, or to clear the liens with respect to which such Contest is conducted. If and to the extent Tenant does not prevail in any Contest, Tenant shall immediately pay and discharge the Claim in question to such extent.

23.3. Cooperation. Tenant may bring any Contests in its own name or, if reasonably necessary, in the name of Landlord or Tenant and Landlord, as appropriate. Each party shall cooperate with the other in Contests, short of the payment of money, except where this Lease otherwise requires payment. Each party shall endorse such pleadings, checks and other documents as is appropriate to carry out the purposes of this Section 23.3.

ARTICLE 24. NO WARRANTIES/“AS IS”

TENANT ACKNOWLEDGES THAT THE PROPERTY WAS CONSTRUCTED AND SELECTED BY TENANT, AND LANDLORD LEASES AND WILL LEASE AND TENANT TAKES AND WILL TAKE THE PROPERTY “AS IS”. TENANT ACKNOWLEDGES THAT LANDLORD HAS NOT MADE AND WILL NOT MAKE, NOR WILL LANDLORD BE DEEMED TO HAVE MADE, ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE PROPERTY, INCLUDING ANY WARRANTY OR REPRESENTATION AS TO ITS FITNESS FOR USE OR PURPOSE, DESIGN OR CONDITION FOR ANY PARTICULAR USE OR PURPOSE, AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, LATENT OR PATENT, OR AS TO VALUE, LOCATION, USE, CONDITION, QUALITY, DESCRIPTION, OR DURABILITY OF OPERATION. THIS ARTICLE 24 HAS BEEN NEGOTIATED, AND IS INTENDED TO BE A COMPLETE PRECLUSION AND NEGATION OF ANY WARRANTIES BY LANDLORD, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE PROPERTY, ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE.

ARTICLE 25. TENANT’S RIGHT TO CURE LANDLORD’S DEFAULT UNDER FIRST MORTGAGE

If Landlord defaults in the payment of any monies required to be paid under any First Mortgage, or fails to perform any other obligation thereunder (provided that the performance of the same is not the obligation of Tenant under this Lease), then, upon twenty (20) days’ prior Notice to Landlord (except in the case of emergency, in which case no Notice is required) Tenant may, but is not obligated to, make such payment directly to the First Mortgagee or perform such obligation, and in any such event Tenant may credit the amount of such payment and the cost of such performance against the installments of Basic Rent next coming due under this Lease.

ARTICLE 26. SUBORDINATION AND NON-DISTURBANCE

Upon Landlord’s written request, Tenant shall subordinate its interest in this Lease to any First Mortgage if, and only if, the First Mortgagee simultaneously enters into a binding agreement (a “**Non-Disturbance Agreement**”) with Tenant providing that so long no Event of Default exists, Tenant will not be disturbed in its possession of the Property or its rights under this Lease terminated or impaired by the First Mortgagee, and that this Lease continues in full force and effect following any foreclosure thereof or any deed given in lieu thereof. If the First Mortgagee succeeds to the interest of Landlord under this Lease, Tenant will automatically become the tenant of and be deemed to have attorned to such successor in interest as “Landlord” under this Lease without change in the terms of this Lease, but such successor in interest will not

be bound by any amendment or modification of this Lease made after Tenant enters into the Non-Disturbance Agreement without the written consent of such First Mortgagee. Upon written request by such successor in interest, Tenant and such successor shall execute and deliver an instrument or instruments whereby Tenant confirms the attornment provided for in this Article 26, and in which such successor acknowledges its obligations and responsibilities to Tenant under this Lease and, with respect thereto, recognizes this Lease and the tenancy of Tenant.

ARTICLE 27. FIRST OFFER RIGHT

27.1. Grant. Landlord may not (except pursuant to an Excluded Transaction) (i) sell, transfer, assign or otherwise dispose of any partial interest in the Property or any part thereof to an unrelated third-party, (ii) sell, transfer, assign or otherwise dispose of any interest in the Property an unrelated third-party or encumber or pledge the Property or any portion thereof in a manner not permitted under the First Mortgage, or (iii) sell, transfer, assign or otherwise dispose of its interest in the Property until, in each case, at least forty-five (45) days after it has given Tenant Notice (the “**First Offer Notice**”) of its intention to dispose of the Property. The First Offer Notice must describe in reasonable detail the selling price (including, if the proposed consideration is property other than cash, the Fair Market Value of such property, in Landlord’s opinion, as of the date of the First Offer Notice), and the other terms of the proposed disposition. Tenant shall have and is hereby granted the first right and option (the “**First Offer Right**”) to purchase the Property in the manner, at the price and on the terms provided in the First Offer Notice.

27.2. Exercise. To exercise the First Offer Right, Tenant must give Notice thereof to Landlord within forty-five (45) after its receipt of the First Offer Notice.

27.3. Purchase Price. The purchase price for the Property will be the price stated in the First Offer Notice as the price at which Landlord proposes to dispose of the Property. If (i) any part of the proposed consideration is property other than cash, or (ii) the Property is being disposed of together with other property, then the purchase price for the Property will be its Fair Market Value as of the date of the First Offer Notice, determined by Appraisal.

27.4. Title. Contemporaneously with giving the First Offer Notice, Landlord shall provide Tenant with a title insurance commitment for the Property with a then-current effective date. If such commitment reflects any matter affecting title to the Property in addition to the Permitted Exceptions (other than this Lease and any encumbrances created by Tenant on or after the date of this Lease), then Tenant may give Landlord Notice of such matter. If Tenant gives Landlord such Notice, Landlord shall use reasonable efforts to cause such matter to be removed and corrected of record within thirty (30) days after receipt of Tenant’s Notice. If Landlord fails to do so within said thirty (30) days, Tenant may at its option (i) attempt to cause such encumbrances to be removed, (ii) proceed to close without waiving any rights to damages, or (iii) terminate the agreement formed by exercise of the First Offer Right (and extend the Term for the next Extended Term) by giving Notice thereof to Landlord, without such termination releasing Landlord from liability for damages hereunder. If Tenant elects alternative (i) above, closing will be postponed until the encumbrances in question are removed and, if Tenant is

unable within a further period of sixty (60) days to cause such encumbrances to be removed, Tenant may then elect either alternative (ii) or (iii) above. The Term will be extended to the extent necessary to accommodate both Landlord's and Tenant's cure periods and the Appraisal process, as applicable. Postponement of the closing, if any, will not alter the purchase price. Landlord shall pay, at closing, all of Tenant's costs and expenses incurred in causing or attempting to cause such encumbrances to be removed, including reasonable attorneys' fees. Unless Tenant assumes the First Mortgage, Landlord shall discharge the First Mortgage and all documents and agreements associated therewith at the closing, regardless of whether Tenant objects to the First Mortgage pursuant to this Section 27.4.

27.5. Closing. Subject to postponement pursuant to Section 27.4, Landlord shall convey the Property to Tenant on the first business day occurring thirty (30) days after the date Tenant exercises the First Offer Right. Landlord shall convey the Property by a deed in the usual, proper limited warranty form for recording and registration, subject only to Permitted Exceptions and the other matters permitted pursuant to Section 27.4, accompanied by all documents necessary to allow the deed to be recorded. Landlord shall pay any state deed tax or revenue stamps or other transfer tax, and any prepayment penalty or provision payable under the First Mortgage if the First Mortgage is satisfied in connection with the closing. Tenant shall pay any assumption fee payable under the First Mortgage if Tenant assumes the First Mortgage. Tenant shall pay the purchase price by wire transfer or other readily available funds. This Lease remains in full force and effect during the executory period between Tenant's exercise of the First Offer Right and the closing on the conveyance of the Property or the earlier termination of the agreement formed by Tenant's exercise of the First Offer Right, as contemplated by Section 27.4.

27.6. Effect of Failure to Exercise. If Tenant fails to timely exercise the First Offer Right, Landlord may sell the Property free from the First Offer Right but subject to this Lease on the same terms provided in the First Offer Notice for a period of one hundred eighty (180) days following the expiration of Tenant's forty-five (45) day exercise period. If Landlord does not close on the transfer of the Property within such one hundred eighty (180) day period on the same terms as those provided in the First Offer Notice, then the First Offer Right will revive, and Landlord will be obligated to re-offer the Property to Tenant in accordance with Section 27.1. If Landlord requests, Tenant shall, within five days after such request, deliver to Landlord an instrument confirming the waiver or Tenant's First Offer Right by passage of time, but no such instrument is necessary to make such waiver effective.

27.7. Attornment. If Tenant does not timely exercise its First Offer Right and the Property is transferred to a third party, Tenant shall attorn to such third party as "Landlord" so long as such third party and Landlord notify Tenant in writing of such transfer.

27.8. Purchase Price Adjustments. If any payment of Basic Rent or any other sums payable by Tenant under this Lease is outstanding on the closing date of a sale to Tenant, then Landlord may add the amount of such additional obligations to the purchase price. Any prepaid obligations paid to Landlord shall be prorated as of the closing date, and the prorated unapplied balance shall be deducted from the proceeds paid to Landlord.

27.9. Continuing Nature. The First Offer Right is a continuing right of first offer, and applies as often as any then holder of any part of Landlord's interest in the Property (including, but not limited to, any holder who has acquired its interest in a disposition to which the First Offer Right applied but was not exercised) makes or proposes to make a disposition of any part of the Property during the Term.

27.10. Transfers of Interests in the Landlord Entity. The First Offer Right applies to any sale, transfer, assignment or other disposition of any membership or other interest in Landlord which results or would result in a change of Control of Landlord, it being agreed that prior to effecting any such transaction, Landlord must first offer to sell the Property to Tenant in accordance with this Article 27, as if the contemplated transaction were a disposition of the Property, rather than a disposition of interests in the Landlord entity.

ARTICLE 28. APPRAISAL

28.1. General. Whenever Fair Market Value or Fair Rental Value is to be determined by Appraisal, the parties shall proceed in accordance with this Article 28:

28.2. Negotiation. Landlord and Tenant shall make good faith efforts to reach agreement as to the Fair Market Value or Fair Rental Value, as the case may be, within the 30 days following the date of the event which gave rise to the need for such determination. Landlord and Tenant shall cause their authorized representatives to meet at least once during that period. If they reach agreement as to the Fair Market Value or Fair Rental Value, as the case may be, they shall put the same in writing and such determination will be binding on both parties for the purposes for which determined.

28.3. Appraisal. If Landlord and Tenant do not reach agreement as to the Fair Market Value or Fair Rental Value, as the case may be, within the time permitted in Section 28.2, each party shall choose a person with at least 10 years of experience as a real estate appraiser appraising similar properties in the Minneapolis/St. Paul metropolitan area, and who is a member in good standing of the American Institute of Real Estate Appraisers (or successor organization or, if no such organization exists, then persons of similar professional qualifications). Each party shall then give the other Notice of the name and address of such person within thirty (30) days after the period for reaching agreement in Section 28.2 has expired. Within fifteen (15) days thereafter, those two persons shall select a third appraiser who has the minimum qualifications set forth above for the first two appraisers. If either party does not designate an appraiser within the prescribed thirty (30) day period, or if the two appraisers do not select a third appraiser within the prescribed fifteen (15) day period, the second or third appraiser, or both, as the case may be, shall be appointed by the president of the chapter of the American Institute of Real Estate Appraiser in the county where the Premises is located (or successor organization, or, if no such organization exists, any judge of a court of general jurisdiction in the county where the Land is located). The three persons (the "**Experts**") shall, after initially consulting each other, make a determination of the Fair Market Value or Fair Rental Value, as the case may be, as expeditiously as possible thereafter, and in any event within thirty (30) days after the selection of the third Expert. The Experts shall make their determination as follows:

28.3.1. Each Expert shall independently determine the Fair Market Value or Fair Rental Value, as the case may be, and then all three shall meet and simultaneously disclose their respective determinations.

28.3.2. If neither the highest nor the lowest determination differs from the middle determination by more than 10% of the middle determination, then the Fair Market Value or Fair Rental Value, as the case may be, is the average of all three determinations.

28.3.3. If Section 28.3.2 does not apply, then the Fair Market Value or Fair Rental Value, as the case may be, is the average of the two determinations that are closest by dollar value, or if the highest and lowest determinations are equidistant from the middle determination, then Fair Market Value or Fair Rental Value, as the case may be, is the middle determination.

28.3.4. The Experts shall promptly notify Landlord and Tenant of each of their separate determinations and the resulting Fair Market Value or Fair Rental Value, as the case may be.

28.4. Binding Effect. Any court having jurisdiction may enter judgment upon any appraisal decision rendered in accordance with the procedure described in Section 28.3. The determination of the Fair Rental Value pursuant to this Appraisal procedure is final, binding and conclusive upon Landlord and Tenant.

ARTICLE 29. TENANT'S PROPERTY

29.1. Definition. The following property (collectively, "**Tenant's Property**"), whether or not located in or on the Property or Improvements, does not constitute a portion of the Property and shall at all times during and after the Term be the property of Tenant:

29.1.1. All items of personal property, equipment and fixtures in the Property, and whether or however attached to the Building, at any time that are necessary, incidental or convenient to the business from time to time conducted at the Property, including, without limitation, exercise equipment, kitchen equipment and furnishings, work stations, portable or movable partitions, receptionist desks, millwork, credenzas, computer installations (including computers, computer hardware, raised flooring, freestanding supplemental air conditioning or cooling systems therefor), communications systems and equipment, financial services equipment (such as ATM's), safes, safe doors, bulletin boards, book shelves and file cabinets, **but excluding** central HVAC and other building systems (other than telecommunications equipment, which shall be deemed the personal property of Tenant), walls (other than demountable walls or partitions), doors, trim, floor and wall coverings, ceiling lights and tile, window shades and the like;

29.1.2. All furniture, inventory, machinery, racking, shelving, and other personal property;

29.1.3. Any personal property, equipment or fixtures which is either not owned by Landlord or Tenant or is on consignment to Tenant, including any personal property owned by Tenant, subtenants, employees or invitees;

29.1.4. All signs and other forms of business identification; and

29.1.5. Any other items of personal property whatsoever.

29.2. Removal; Repair; Financing. Tenant may, in its sole and absolute discretion from time to time to install, alter, remove and/or replace such Tenant's Property as it deems to be useful or desirable in connection with its business in the Property. Tenant shall repair any damage that occurs to the Property in connection with the removal and/or replacement of any of the Tenant's Property, whether such removal occurs during or at the end of the Term. Additionally, Tenant may enter into such agreements and assignments with respect to any of Tenant's Property as Tenant in its sole discretion deems advisable, including financing and similar arrangements.

29.3. Landlord's Waivers. Landlord shall execute such landlord consents and other agreements as Tenant reasonably requests in connection with any such agreements and arrangements, including, without limitation, a waiver of Landlord's statutory lien rights, if any, and a consent with respect to the rights of Tenant's senior secured lender, subordinate senior lender, purchase money equipment lender or an equipment lessor regarding the security interests in, and the timeline and removal, of any of Tenant's Property, or any inventory, equipment or other collateral in which such person has a secured interest. Landlord hereby waives each and every right which Landlord now has or may hereafter have under Legal Requirements or by the terms of any agreement in effect at any time during the Term by Landlord or First Mortgagee to levy or distraint upon any of the Tenant's Property for rent or to claim or assert title to any of the Tenant's Property.

ARTICLE 30. MISCELLANEOUS

30.1. Consents. In any case under this Lease which requires that a consent or approval may not be unreasonably withheld, the party from whom such consent or approval is requested shall act upon it promptly and without unreasonable delay.

30.2. Severability. If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each provision of the Lease shall be valid and enforceable to the fullest extent permitted by law.

30.3. Modification. This Lease may be amended, changed, waived, discharged or terminated only by an instrument in writing signed by the then owners of the Landlord and Tenant interests in this Lease.

30.4. Binding Effect. This Lease is binding upon and inures to the benefit of and is enforceable by the respective successors and assigns of the parties.

30.5. Captions. The headings of this Lease are for purposes of reference only and do not limit or define the meaning of any of this Lease.

30.6. Counterparts. This Lease may be executed in any number of counterparts, each of which is an original, but all of which shall constitute one instrument.

30.7. Governing Law. This Lease is governed by and must be construed in accordance with the laws of the state in which the Land is located.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

LANDLORD

HEALTHY WAY OF LIFE I, LLC

By: 
Name: James Spolar
Its: Secretary

TENANT

LTF CLUB OPERATIONS COMPANY, INC.

By: 
Name: Steve Kerzman
Its: Assistant Treasurer

EXHIBIT A

Legal Description of Property

Land situated in the City of Rochester Hills, County of Oakland and State of Michigan, described as to-wit:

A parcel of land located in the Southeast 1/4 of Section 15, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as: Commencing at the Southeast corner of said Section 15; thence West 1003.63 feet along the South line of said Section 15 to the point of beginning; thence West 394.19 feet; thence North 01 degrees 35 minutes 20 seconds East, 626.88 feet; thence North 01 degrees 52 minutes 23 seconds East, 450.74 feet; thence North 01 degrees 46 minutes 04 seconds East, 433.27 feet; thence North 89 degrees 54 minutes 25 seconds East, 802.08 feet; thence South 00 degrees 11 minutes 08 seconds East, 271.13 feet; thence South 89 degrees 56 minutes 16 seconds East, 489.72 feet to a point on the Westerly right of way line of Rochester Road (M-59, 120 feet wide); thence South along the said Westerly right of way line, 70.00 feet; thence North 89 degrees 56 minutes 16 seconds West, 534.00 feet; thence South 431.28 feet; thence West 170.23 feet; thence South 115.13 feet; thence South 00 degrees 08 minutes 54 seconds West, 254.68 feet; thence West 223.34 feet; thence South 02 degrees 20 minutes 00 seconds West, 369.31 feet to the point of beginning.

Together with a non-exclusive easement for underground electrical service line as created, limited and defined in the Reciprocal Easement Agreement recorded in Liber 33095, Page 162.

Address: 200 West Avon Road

Tax Parcel: 70-15-15-476-039

EXHIBIT B

Equipment

All fixtures, machinery, apparatus, equipment, fittings and appliances of every kind and nature whatsoever now or hereafter affixed or attached to or installed in any of the Property (except as hereafter provided), including all electrical, anti-pollution, heating, lighting (including hanging fluorescent lighting), incinerating, power, air cooling, air conditioning, humidification, sprinkling, plumbing, lifting, cleaning, fire prevention, fire extinguishing and ventilating systems, devices and machinery and all engines, pipes, pumps, tanks (including exchange tanks and fuel storage tanks), motors, conduits, ducts, steam circulation coils, blowers, steam lines, compressors, oil burners, boilers, doors, windows, loading platforms, lavatory facilities, stairwells, fencing (including cyclone fencing), passenger and freight elevators, overhead cranes and garage units, together with all additions thereto, substitutions therefor and replacements thereof required or permitted by this Lease, but excluding Tenant's Property

EXHIBIT C

Permitted Exceptions