

Board of Selectmen Meeting Notice AGENDA



Date
January 9, 2023

Time
7:00 PM

Location
Bourne Veterans' Community Building
239 Main St., Buzzards Bay
Or virtually (see information below)

The Zoom chat will not be monitored. Participants who wish to speak must raise the hand icon until the Chair asks them to unmute. Note this meeting is being recorded for live broadcast and televised replay by BourneTV. If anyone is audio or visual recording, please acknowledge it at this time.

Zoom Meeting ID: 869 5775 5505

Password: 529740

All items within the meeting agenda are subject to deliberation and vote(s) by the Board of Selectmen.

7:00 PM Call Public Session to Order in Open Session

1. Public Comment on Non-Agenda Items - Public comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.
2. Appointments and Licenses
 - a. Public Hearing: Application for a new "All Alcoholic Beverages Package Store License" by Sea State Foods LLC d/b/a Cataumet Fish - proposed to be located at 1360 Route 28A, Cataumet, MA 02534
3. Selectmen's Business
4. Town Administrator's Report
5. Minutes:
6. Correspondence
7. Committee Reports
8. Other Business
9. Upcoming meetings: January 10 – joint meeting with the Finance Committee – budget presentation
January 24 – BOSC
10. Adjourn

RECEIVED
2023 JAN -5 PM 3:12
TOWN CLERK BOURNE

December 19, 2022

BOURNE BD OF SELECTMEN
RCVD 2022 DEC 20 PM 2:25

Via Email and Fed Ex Overnight

Peter J. Meier, Chair
Selectmen's Office
Town of Bourne
24 Perry Avenue
Buzzards Bay, MA 02532-3441
c/o Liz Hartsgrove, Asst. Town Administrator
ehartsgrove@townofbourne.com

Re: Application for New All Alcoholic Beverage License & Request for Public Hearing
Proposed Licensee: Sea State Foods LLC
Business Name: Cataumet Fish
License Type: M.G.L.c. 138 Sec. 15 All Alcoholic Beverages License
Address: 1360 Route 28A, Bourne, MA 02532

Dear Chairman Meier and Members of the Board of Selectmen:

I write on behalf of Sea State Foods LLC d/b/a Cataumet Fish regarding the above-referenced application for a New Sec. 15 All Alcoholic Beverage License to be exercised at 1360 Route 28A, Bourne, MA 02532. Enclosed please find the relevant application, supporting materials, and a narrative in support.

We kindly request this application be placed on the agenda at the currently scheduled Board of Selectman public hearing on Tuesday, January 3, 2023. Please be in touch with information relative to the timing of publication of the legal advertisement for this application, so that we may timely notify abutters pursuant to the requirements under M.G.L.c. 138.

Application & Supporting Documentation

Enclosed please find the requisite applications and information in support of the application, including the following:

1. Monetary Transmittal Form
2. ABCC Payment Confirmation (\$200.00)
3. Application for a New Sec. 15 Retail All Alcohol Package Store License
4. Applicant's Statement
5. Entity Vote

{01227516.DOCX/1}

6. CORI Request Forms
 - a. Patrick A. Ross
 - b. Jenny L. Ross
7. Floor Plan
8. Proof of Citizenship for Manager of Record (Patrick A. Ross)
 - a. Birth Certificate
 - b. Social Security Card
9. Certificate of Organization: Sea State Foods LLC
10. Certified Abutter List (Board of Assessors Office)
11. Commercial Lease Agreement
12. Quitclaim Deed & Property Information

Please note that a check for local filing fees will be delivered in-hand to your office before close of business today.

Background on Proposal

Cataumet Fish Market has been in operation for over forty years, providing high quality fish and seafood to customers throughout Cataumet and neighboring communities. This longstanding business was recently acquired by local oyster farmers Patrick and Jenny Ross, who closed its doors for about two months earlier this year for renovations and reopened just before Memorial Day.

The company seeks a new M.G.L.c. Sec 15. (off-premises) all alcoholic beverage license to provide an array of beer, wine, and spirits to: (a) customers seeking specialty offerings to compliment seafood purchases; and (b) residents of the community and Cataumet seeking local convenience items. Specifically, the business seeks the new license for the following reasons:

1. **To offer customers a complete specialty market experience.** The owners anticipate that the market's customers will come not only for seafood, but also as a destination for specialty food and beverage products. The market's selection will include carefully chosen staples at accessible price points and will also include a selection of local specialty beer, wine, and sprits, featuring quality wines from both domestic and international producers, with an emphasis on small producers creating wines of the highest quality. The market will also have a small selection of high-quality sake, since customers often come to the market for sushi-grade seafood. The entire selection will be chosen to pair with seafood, and other coastal flavors.
2. **To offer the Cataumet village community a place to purchase wine, beer, and sprits closer to home.** The market is located in a village where there currently is no Section 15 liquor license. Cataumet residents often travel into Falmouth to purchase alcoholic beverages. The proposed concept will be a benefit to both the village of Cataumet and the town of Bourne. Residents of Cataumet will have the option to purchase beer, wine, and sprits closer to home, and residents of other areas of Bourne will have an option to shop a selection of wine, beer, and sprits that is not available at

other area retailers. In short, this proposal creates a valuable offering that does not currently exist in town and supports small businesses in the area.

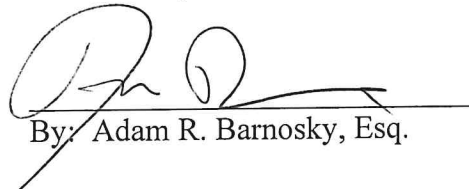
3. **To provide customers with educated and informed purchases.** The market will work closely with experienced distributors to curate a selection that reflects a diverse and unique assortment not found elsewhere in Bourne. Additionally, the market intends to hire staff with training and experience in wine and alcoholic beverages. The owners intend to continue their education over the years to stay current on market trends and continually source new and exciting products. Listening to customers is a key part of the business and the ownership will tailor its selection to customers requests.
4. **To keep the business buoyed in the off-season.** Small businesses on Cape Cod face unique challenges given the seasonal nature to our income. Adding alcoholic beverage sales would diversify the market's offerings and provide some added financial stability in the off-season. The market's loyal local customers would like the market to be open as much as possible in the late fall and winter months, and the additional income from liquor sales would allow the business to stay open year-round, and not lose the off-season business it would otherwise lose to fish markets in Falmouth.

Thank you for your attention to this application. We look forward to an opportunity to present before the Board. If you have any questions or if further information is required, please do not hesitate to be in touch.

Very truly yours,

SEA STATE FOODS LLC

By Its Attorneys:
RUBERTO, ISRAEL & WEINER, P.C.



By: Adam R. Barnosky, Esq.

Enclosures

cc: Bethany A. Grazio, Esq.
Liz Hartsgrrove, Assistant Town Administrator

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM

APPLICATION FOR A NEW LICENSE

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

N/A

ENTITY/ LICENSEE NAME

Sea State Foods LLC

ADDRESS

1360 Route 28A

CITY/TOWN

Bourne

STATE

MA

ZIP CODE

02532

For the following transactions (Check all that apply):

- | | | | |
|--|---|---|---|
| <input checked="" type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | <input type="checkbox"/> Other | <input type="text"/> | <input type="checkbox"/> Change of DBA |

THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL:

Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150-2358

Payment Confirmation

YOUR PAYMENT HAS PROCESSED AND THIS IS YOUR RECEIPT

Your account has been billed for the following transaction. You will receive a receipt via email and via text message.



Transaction Processed Successfully.

INVOICE #: ef5b23f4-b612-4727-9c2c-a1b463e61edb

Description	Applicant, License or Registration Number	Amount
FILING FEES-RETAIL	Sea State Foods LLC	\$200.00
		\$200.00

Total Convenience Fee: \$4.70

Date Paid: 12/14/2022 7:50:51 PM EDT

Total Amount Paid: \$204.70

Payment On Behalf Of

License Number or Business Name:

Sea State Foods LLC

Fee Type:

FILING FEES-RETAIL

Billing Information

First Name:

Patrick

Last Name:

Ross

Address:

6 Benedict Road

City:

Buzzards Bay

State:

MA

Zip Code:

02532

Email Address:

pat@seastatefoods.com

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR A NEW LICENSE

Municipality

1. LICENSE CLASSIFICATION INFORMATION

ON/OFF-PREMISES

TYPE

CATEGORY

CLASS

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

Sea State Foods LLC currently operates Cataumet Fish, a seafood market at 1360 Route 28A in Bourne, MA. The company seeks a Sec 15. (off-premises) license to provide an array of beer, wine, and spirits to: (a) market customers seeking specialty offerings to compliment seafood purchases; and (b) residents of the community and Cataumet seeking local convenience items.

Is this license application pursuant to special legislation?

☐ Yes ☒ No

Chapter

Acts of

2. BUSINESS ENTITY INFORMATION

The entity that will be issued the license and have operational control of the premises.

Entity Name

FEIN

DBA

Manager of Record

Street Address

Phone

Email

Alternative Phone

Website

3. DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Premise located on first floor consisting of approx. 2,715 sq/ft including retail area, storage, and preparation area.

Total Square Footage:

Number of Entrances:

Seating Capacity:

Number of Floors

Number of Exits:

Occupancy Number:

4. APPLICATION CONTACT

The application contact is the person whom the licensing authorities should contact regarding this application.

Name:

Phone:

Title:

Email:

APPLICATION FOR A NEW LICENSE

5. CORPORATE STRUCTURE

Entity Legal Structure	LLC	Date of Incorporation	07/09/2020
State of Incorporation	Massachusetts	Is the Corporation publicly traded? <input type="radio"/> Yes <input checked="" type="radio"/> No	

6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises (Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Patrick Ross	6 Benedict Road, Buzzards Bay, MA 02532		

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Manager	50	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Jenny Ross	6 Benedict Road, Buzzards Bay, MA 02532		

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Manager	50	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Additional pages attached? ☐ Yes ☒ No

CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

APPLICATION FOR A NEW LICENSE

6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

7. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises.

- If the applicant entity owns the premises, a deed is required.
- If leasing or renting the premises, a signed copy of the lease is required.
- If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.
- If the real estate and business are owned by the same individuals listed in question 6, either individually or through separate business entities, a signed copy of a lease between the two entities is required.

Please indicate by what means the applicant will occupy the premises

Lease

Landlord Name Patrick A. Ross and Jenny L. Ross

Landlord Phone

Landlord Email pat@seastatefoods.com

Landlord Address

Lease Beginning Date 4/1/2022

Rent per Month \$3,500

Lease Ending Date 12/31/2032

Rent per Year \$42,000

Will the Landlord receive revenue based on percentage of alcohol sales?

☐ Yes ☒ No

APPLICATION FOR A NEW LICENSE

8. FINANCIAL DISCLOSURE

A. Purchase Price for Real Estate	n/a
B. Purchase Price for Business Assets	n/a
C. Other * (Please specify below)	\$25,000
D. Total Cost	\$25,000

*Other Cost(s): (i.e. Costs associated with License Transaction including but not limited to: Property price, Business Assets, Renovations costs, Construction costs, Initial Start-up costs, Inventory costs, or specify other costs):"

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
Sea State Foods LLC	\$25,000
Total:	\$25,000

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
N/A			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No

FINANCIAL INFORMATION

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

An estimated amount of \$25,000 for start up costs, shelving, refrigeration, and initial inventory. Funds will come from Sea State Foods LLC.

9. PLEDGE INFORMATION

Please provide signed pledge documentation.

Are you seeking approval for a pledge? ☐ Yes ☒ No

Please indicate what you are seeking to pledge (check all that apply) ☐ License ☐ Stock ☐ Inventory

To whom is the pledge being made?

10. MANAGER APPLICATION

A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name Date of Birth SSN

Residential Address

Email Phone

Please indicate how many hours per week you intend to be on the licensed premises

B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?* ☒ Yes ☐ No *Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime? ☐ Yes ☒ No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition

C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
April 2022	---	Owner	Cataumet Fish	N/A
July 2009	Jan. 2022	Government Affairs Manager	Tufts Health Plan	Adam Martignetti
Jan. 2005	June 2009	Govt Affairs Consultant	Brown Rudnick LLC	William Farrell

D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? ☐ Yes ☒ No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature   Date

11. MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement?

☐ Yes ☒ No

If yes, please fill out section 11.

Please provide a narrative overview of the Management Agreement. Attach additional pages, if necessary.

IMPORTANT NOTE: A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*

11A. MANAGEMENT ENTITY

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in the management Entity (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name	Address	Phone		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?

☐ Yes ☐ No

If yes, attach an affidavit providing the details of any and all convictions.

11B. EXISTING MANAGEMENT AGREEMENTS AND INTEREST IN AN ALCOHOLIC BEVERAGES

LICENSE

Does any individual or entity identified in question 11A, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages; and or have an active management agreement with any other licensees?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

11C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 11A, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

11D. PREVIOUSLY HELD MANAGEMENT AGREEMENT

Has any individual or entity identified in question 11A, and applicable attachments, ever held a management agreement with any other Massachusetts licensee?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Licensee Name	License Type	Municipality	Date(s) of Agreement

11E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Has any of the disclosed licenses listed in questions in section 11B, 11C, 11D ever been suspended, revoked or cancelled?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

11F. TERMS OF AGREEMENT

a. Does the agreement provide for termination by the licensee?

Yes ☐ No ☐

b. Will the licensee retain control of the business finances?

Yes ☐ No ☐

c. Does the management entity handle the payroll for the business?

Yes ☐ No ☐

d. Management Term Begin Date

e. Management Term End Date

f. How will the management company be compensated by the licensee? (check all that apply)

☐ \$ per month/year (indicate amount)

☐ % of alcohol sales (indicate percentage)

☐ % of overall sales (indicate percentage)

☐ other (please explain)

ABCC Licensee Officer/LLC Manager

Signature:

Title:

Date:

Management Agreement Entity Officer/LLC Manager

Signature:

Title:

Date:

ADDITIONAL INFORMATION

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

Sea State Foods LLC is pursuing a retail liquor license for the following reasons:

To offer our customers a complete specialty market experience -

We would like our customers to come to us not only for responsibly seafood, but also as a destination for specialty food and beverage products. We have had a very positive reaction to our retail product selection from our customers - evidenced in our Google reviews, through our social Instagram and Facebook channels, and direct customer feedback - and offering a select assortment of wines, beer, and spirits would be the next step to grow the retail side of our business, continue to introduce our customers to new items, and to add value to their experience in our store.

To offer our Cataumet village community a place to purchase wine, beer, and spirits closer to home -

We are located in a village where there currently is no Section 15 liquor license. Cataumet residents often travel into Falmouth to purchase beer, wine, and spirits and keeping those purchases in Bourne would be a benefit to the community.

To keep our business buoyed in the off-season -

Small businesses on Cape Cod face unique challenges given the seasonal nature to our income. Adding wine, beer, and spirit sales would diversify our offerings and provide some added financial stability in the off-season. Our loyal local customers have let us know they would like us to be open as much as possible in the late fall and winter months, and the additional income from liquor sales would allow us to stay open year- round, and not lose the off-season business we would otherwise lose to fish markets in Falmouth.

APPLICANT'S STATEMENT

I, **Patrick Ross** the: ☐ sole proprietor; ☐ partner; ☐ corporate principal; ☒ LLC/LLP manager
Authorized Signatory

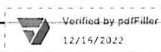
of **Sea State Foods LLC**
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date:

12/16/2022

Title:

Manager

ENTITY VOTE

The Board of Directors or LLC Managers of

Sea State Foods LLC

Entity Name

duly voted to apply to the Licensing Authority of

Bourne

City/Town

and the

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

12/12/2022

Date of Meeting

For the following transactions (Check all that apply):

- | | | | |
|--|---|---|---|
| <input checked="" type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | <input type="checkbox"/> Other | | <input type="checkbox"/> Change of DBA |

"VOTED: To authorize

Patrick Ross

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint

Patrick Ross

Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,



Corporate Officer /LLC Manager Signature

Jenny Ross

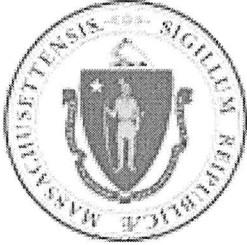
(Print Name)

For Corporations ONLY

A true copy attest,

Corporation Clerk's Signature

(Print Name)



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$100.00

Secretary of the Commonwealth, Corporations Division
 One Ashburton Place, 17th floor
 Boston, MA 02108-1512
 Telephone: (617) 727-9640

Certificate of Amendment

(General Laws, Chapter)

Identification Number: 001446710

The date of filing of the original certificate of organization: 7/9/2020

1.a. Exact name of the limited liability company: SEA STATE FOODS LLC

1.b. The exact name of the limited liability company as amended, is: SEA STATE FOODS, LLC

2a. Location of its principal office:

No. and Street: 6 BENEDICT ROAD
 City or Town: BOURNE State: MA Zip: 02532 Country: USA

3. As amended, the general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:
SEAFOOD AQUACULTURE AND DISTRIBUTION

4. The latest date of dissolution, if specified:

5. Name and address of the Resident Agent:

Name: PATRICK ROSS
 No. and Street: 6 BENEDICT ROAD
 City or Town: BOURNE State: MA Zip: 02532 Country: USA

6. The name and business address of each manager, if any:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
MANAGER	JENNY ROSS	6 BENEDICT ROAD BOURNE, MA 02532 USA
MANAGER	PATRICK ROSS	6 BENEDICT ROAD BOURNE, MA 02532 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record

any recordable instrument purporting to affect an interest in real property:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code

9. Additional matters:

10. State the amendments to the certificate:

ADDITIONAL MANAGER

11. The amendment certificate shall be effective when filed unless a later effective date is specified:

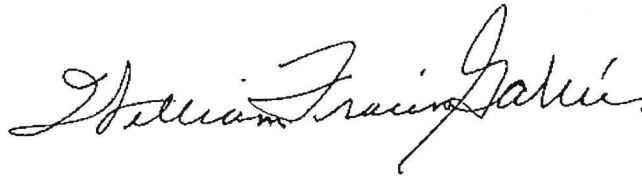
SIGNED UNDER THE PENALTIES OF PERJURY, this 17 Day of October, 2022,
PATRICK ROSS , Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

October 17, 2022 07:57 AM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large, stylized initial "W".

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

COMMERCIAL LEASE AGREEMENT

BETWEEN

**PATRICK A. ROSS AND JENNY L. ROSS
(LANDLORD)**

AND

**SEA STATE FOODS LLC
(TENANT)**

**1360 RT-28A
CATAUMET, MASSACHUSETTS 02534
(LEASED PREMISES)**

EFFECTIVE DATE: APRIL 1, 2022

COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (“**Lease**”) dated as of the 1st day of April, 2022 (“**Effective Date**”) by and between Patrick A. Ross and Jenny L. Ross, husband and wife, and individuals residing at 6 Benedict Road, Buzzards Bay, Massachusetts 02532 (hereinafter referred to as “**Landlord**”) and Sea State Foods, LLC, a Massachusetts limited liability company with a corporate office located at 6 Benedict Road, Buzzards Bay, Massachusetts 02532 (hereinafter referred to as “**Tenant**”).

1. SUMMARY OF BASIC LEASE TERMS

Landlord	Patrick A. Ross and Jenny L. Ross 6 Benedict Road Buzzards Bay, Massachusetts 02532
Tenant	Sea State Foods LLC 6 Benedict Road Buzzards Bay, Massachusetts 02532
Property Description	The land with the buildings and improvements thereon, leased by the Landlord, commonly known as and numbered 1360 RT-28A, Cataumet, Massachusetts, 02534 (the “ Building ”) being the same premises described in a Deed recorded with the Barnstable County Registry of Deeds in Book 34976, Page 19.
Premises	Approximately +/- 2,715 rentable square feet, known and numbered as 1360 RT-28A, Cataumet, Massachusetts, 02534, as more particularly shown on <u>Exhibit A</u> attached hereto. The parties stipulate and agree that this square footage is conclusive for all purposes of this Lease.
Tenant’s Permitted Use	<p>The Premises shall be used during the Lease Term for the operation of a retail fish and seafood market and, at Tenant’s option, for the sale of other customary retail goods, including the sale of alcoholic beverages for off-premises consumption, and related ancillary uses, or, with the prior written consent from Landlord in its sole discretion, such other uses as may be permitted under applicable zoning.</p> <p>Except as set forth above, the Premises shall be used for no other purpose whatsoever.</p>

Lease Term (or Term)	Ten (10) Years from the Rent Commencement Date, subject to the extensions detailed in Section 4(b). The last day of the Lease Term is referred to as the Termination Date.
Lease Commencement Date	April 1, 2022.
Delivery Date	The date Landlord delivers possession of the Premises to Tenant on the Lease Commencement Date.
Rent Commencement Date:	January 1, 2023
Base Rent	\$3,500 per month (\$42,000 annually), subject to annual 2.5% increases on the anniversary date of the Rent Commencement Date.
Additional Rent	See Section 8.
Security Deposit	None.
Extension Option	Two (2) options at Five (5) Years Each
Tenant's Proportionate Share	100%

2. **BASIC LEASE PROVISION.** For and in consideration of the covenants and agreements hereinafter set forth to be kept and performed by both parties hereto, Landlord hereby leases and demises the Premises to Tenant for the Lease Term on the provisions and conditions hereinafter set forth, including the Exhibits attached hereto and made a part hereof.

3. **PREMISES.** Landlord hereby leases and demises to Tenant and Tenant hereby rents from Landlord the Premises. Tenant's use and occupancy of the Premises shall include the use in common with others of the common areas but reserving and excepting to Landlord the right to install, maintain, use, repair and replace pipes, duct work, conduits, utility lines and wires where necessary or desirable through the hung ceiling spaces, column space, partitions, beneath the floor slab, or leading through or upon the Premises, and serving other parts of the Building.

For purpose of this Lease, the terms "Tenant's Leased Area", "Tenant's rented space", the "square footage of the Premises" or phrases of similar import shall mean the area of the Premises.

4. **TERM AND OPTIONS; LIQUOR LICENSE.**

(a) Lease Term; Termination Right. Unless this Lease is terminated earlier or extended as provided herein, the term of this Lease shall be Ten (10) Years from the Rent Commencement Date.

(b) Extension Term(s). Provided that there is not an ongoing Event of Default at the time of exercise, Tenant shall have two options (each, an “**Extension Option**”) to extend the Lease Term, the first Extension Option, for a period of five (5) years, and the second Extension Option, for a period of five (5) years (each, the “**Extension Term**”), upon the same terms and conditions except the Base Rent shall be determined by fair market rate as mutually determined by the Parties. Tenant shall exercise its right and option for each Extension Term by serving written notice upon the Landlord of its election to exercise said option no later than six (6) months prior to the expiration of the initial Term of this Lease (the “**Extension Notice**”). In the event the Tenant should not exercise its option for extension of the Lease as provided above, or is ineligible for extension of the Lease due a default of a material obligation of this Lease at the time of exercise, then, in either event, the Tenant shall have no further right to any Extension Term.

(c) Liquor License. The Tenant shall have the right and option apply for and utilize a M.G.L.c. 138 Sec 15 all alcoholic beverages off-premises license (the “**Liquor License**”) at any point during the term hereof, subject to the further terms detailed in Section 35.

5. **DELIVERY OF PREMISES, AS-IS**. Landlord shall deliver possession of the Premises to Tenant on the Delivery Date in broom-clean condition, with any restaurant equipment currently in the Premises, subject to Landlord’s legal right to the same. Tenant is leasing the Premises in its “AS IS” condition, without any warranties, express or implied, with regard to the condition of the Premises, and the Landlord shall not make, is not hereby making and has not made any covenants, guaranties, representations or warranties, express, implied or by law, oral or written, of any kind or character, as to the nature, condition, construction, workmanship, state of repair, development, function, valuation, profitability, income, operations, expenses, tax consequences, title, availability of access, ingress or egress, handicap accessibility, compliance with laws, rules, regulations and ordinances, habitability, merchantability, or fitness, suitability or feasibility for any purpose of the Premises or of the Building; all of the foregoing being hereby expressly disclaimed by the Landlord and waived by the Tenant.

6. **BASE RENT; PAYMENT OF RENT.**

(a) Tenant agrees to pay to Landlord during the Term hereof on the first day of each month during the Term, commencing on the Rent Commencement Date, at Landlord’s rent payment address described in Section 1 above, Base Rent as set forth in Section 1, without offset or deduction of any kind or for any reason. Tenant acknowledges and agrees that Tenant’s covenant to pay Base Rent and Additional Rent is independent of any other covenant herein contained. Tenant hereby acknowledges and agrees that it has been represented by counsel of its choice and has participated fully in the negotiation of this Lease, that Tenant understands that the remedies available to Tenant in the event of a default by Landlord may be more limited than those that would otherwise be available to Tenant under the common law in the absence of certain provisions of this Lease, and that the so-called “dependent covenants” rule as developed under the common law (including, without limitation, the statement of such rule as set forth in the Restatement (Second) of Property, Section 7.1) shall not apply to this Lease or to the relationship of landlord and tenant created hereunder.

(b) All payments of Base Rent, Additional Rent and other amounts payable by Tenant under this Lease shall be paid by check, wire transfer or ACH credit transfer payable to Landlord or to such other payee or in such other manner as directed from time to time by written notice to Tenant from Landlord and will be deposited without waiving or prejudicing any rights of Landlord under this Lease. All checks will be accepted and endorsed by or on behalf of Landlord without waiving or prejudicing any claims that Landlord may have against Tenant and without waiving or prejudicing any of the Landlord's rights to terminate this Lease, to take possession of the Premises and/or to exercise any other rights and remedies available to Landlord by reason of any default(s) by Tenant under this Lease. Any such checks shall be mailed and addressed to Landlord at the address set forth in Section 1 hereof or such other payee and/or rent payment address as directed from time to time by written notice to Tenant from Landlord.

7. **ADDITIONAL RENT FOR LATE PAYMENTS.** If a payment of Base Rent or any other amount due under this Lease is not made within seven (7) days after the due date thereof, in addition to any other rights and remedies Landlord may have hereunder, Landlord may charge as Additional Rent, an amount equal to twelve percent (12%) of the amount due, making the total amount due including the Additional Rent, one hundred twelve percent (112%) of the amount that would otherwise be due. Said Additional Rent for late payments shall constitute liquidated damages as a result of Landlord's inability to make timely use of such amounts due hereunder. Any amounts not paid when due hereunder shall bear interest at the Lease Interest Rate (as defined below) from and after the due date for such payment.

8. **ADDITIONAL RENT.** Commencing on the Rent Commencement Date, in addition to all other amounts owing under this Lease, Tenant shall pay to Landlord, as Additional Rent, the Premises pro-rata share of Taxes and Operating Expenses, as provided herein. For purposes of the Term, Tenant's pro rata share shall be one-hundred percent (100%) (the "**Tenant's Proportionate Share**"). Except to the extent otherwise expressly provided herein, the Tenant and the Landlord understand and agree that this Lease is a fully net lease and that the Base Rent payable hereunder is fully net to Landlord. The total rent payable under this Lease shall be deemed to include the aggregate of (i) the Base Rent, (ii) Tenant's Tax Expense Allocable to the Premises, (iii) Tenant's Operating Expenses Allocable to the Premises, and (iv) all other rent, charges, fees, interest and costs allocable to Tenant pursuant to the terms of this Lease.

(a) **Real Estate Taxes.** Commencing on the Effective Date, during the Term, the Tenant shall pay to the Landlord, as Additional Rent, Tenant's Tax Expense Allocable to the Premises (as such term is hereinafter defined), in accordance with this Section 8(a). The capitalized terms used in this Section 8(a) are defined as follows:

(i) "**Tax Year**" means the 12 month period beginning July 1 each year or if the appropriate governmental tax fiscal period shall begin on any date other than July 1, such other date.

(ii) "**Tenant's Tax Expense Allocable to the Premises**" means, for any Tax Year, the Real Estate Taxes for the Tax Year, multiplied by Tenant's Proportionate Share.

(iii) **“Real Estate Taxes”** means all taxes and special assessments payable by Landlord of every kind and nature assessed by any governmental authority on the Building and reasonable expenses of any proceedings for abatement of such taxes including appeals thereof, less the amount of any abatement or refund received with respect to any period during the Term (or less a prorated portion thereof, if only a portion of the period is within the Term). The amount of special taxes or special assessments to be included shall be limited to the amount of the installment (plus any interest thereon) of such special tax or special assessment (which shall be payable over the longest period permitted by law) required to be paid during the Tax Year in respect of which such taxes are being determined. There shall be excluded from such taxes all income, estate, succession, inheritance, excess profit, franchise and transfer taxes; provided, however, that if at any time during the Term the present system of ad valorem taxation of real property shall be changed so that in lieu of the whole or any part of the ad valorem tax on real property, there shall be assessed on the Landlord a capital levy or other tax on the gross rents received with respect to the Building, or a federal, state, county, municipal, or other local income, franchise, excise or similar tax, assessment, levy or charge (distinct from any now in effect) based, in whole or in part, upon any such gross rents, then any and all of such taxes, assessments, levies or charges, to the extent so based, shall be deemed to be included within the term “Real Estate Taxes.”

Payments by the Tenant on account of the Tenant’s Tax Expense Allocable to the Premises shall be made monthly at the time and in the fashion provided for the payment of Base Rent and shall be equal to one-twelfth (1/12) of the Tenant’s Tax Expense Allocable to the Premises for the current Tax Year as reasonably estimated by the Landlord. Not later than ninety (90) days of the end of each Tax Year, Landlord shall provide Tenant with a statement of the actual Tenant’s Tax Expense Allocable to the Premises (the “Landlord’s Annual Tax Statement”). If the amount of Tenant’s Tax Expense Allocable to the Premises for such period exceeds the total of payments made by Tenant, Tenant shall pay the difference to Landlord within thirty (30) days of receives the Landlord’s Annual Tax Statement. If the total amount of payments made by Tenant for such period is greater than Tenant’s Proportionate Share of actual Taxes for such Tax Year, Tenant shall be entitled to a credit against Tenant’s rental obligations hereunder in the amount of such difference or, if the Term has expired and Tenant has no outstanding monetary obligations to Landlord, Landlord shall promptly pay such amount to Tenant.

(b) **Operating Expenses.** Commencing on the Effective Date, during the Term, the Tenant shall pay to the Landlord, as Additional Rent, the Tenant’s Operating Expenses Allocable to the Premises, as hereinafter defined, in accordance with this Section 8(b). The capitalized terms used in this Section 8(b) are defined as follows:

(i) **“Fiscal Year”** means the 12 month period beginning January 1 each year and ending 12 months thereafter. Landlord reserves the right to change the Fiscal Year.

(ii) **“Tenant’s Operating Expenses Allocable to the Premises”** means, for any calendar year, the Operating Expenses for the Building for such calendar year, multiplied by Tenant’s Proportionate Share.

(iii) **“Operating Expenses”** means the Landlord’s cost of operating, cleaning, maintaining and repairing the Building, which shall include: the cost of providing or causing to be

provided the services to be provided hereunder; premiums for insurance with respect to the Building which shall include any and all insurance that Landlord shall deem to be reasonable, including, but not limited to, all risk, general liability, excess liability, rent loss, business interruption, boiler and equipment, and flood and earthquake; the amount deductible from any insurance claim of the Landlord; compensation and all fringe benefits, worker's compensation insurance premiums and payroll taxes paid to, for or with respect to all persons directly engaged in operating, managing, supervising, maintaining or cleaning the Building, and such expenses shall be fairly allocated in the event any such person works on other sites as well as on the Premises; landscaping and maintenance; steam, water, sewer, gas, oil and electricity, fire and life-safety and other utility charges for common areas, excluding such utility charges either separately metered or separately chargeable to tenants or Tenant (or which are used exclusively by a certain tenant whether or not charged) whether for additional or special services or otherwise; costs of building and cleaning supplies; rental costs for equipment used in operating, cleaning, maintaining or repairing the Building; security personnel, services and equipment; cost of maintenance, repairs and replacements, including, without limitation, capital expenditures for repairs, replacements and improvements; payments under service contracts with independent contractors for services provided in connection with the operation, cleaning, maintenance, and repair of the Building, but only to the extent that such expenses would otherwise be properly included in Operating Expenses hereunder; reasonable management fees; and all other reasonable expenses paid in connection with operation, cleaning, maintenance and repair of the Building.

Payments by the Tenant on account of the Tenant's Operating Expenses Allocable to the Premises shall be made monthly at the time and in the fashion herein provided for the payment of Base Rent. The amount so to be paid to the Landlord shall be an amount from time to time reasonably estimated by the Landlord to be sufficient to aggregate a sum equal to the Tenant's Operating Expenses Allocable to the Premises for each Fiscal Year. The initial monthly payments on account of Tenant's Tax Operating Expenses Allocable to the Premises shall be \$100.00 per month. Not later than forty-five (45) days of the end of each Fiscal Year, Landlord shall provide Tenant with a statement of the actual Tenant's Operating Expenses Allocable to the Premises (the "Landlord's Annual Operating Expenses Statement"). If the amount of Tenant's Operating Expenses Allocable to the Premises for such period exceeds the total of payments made by Tenant, Tenant shall pay the difference to Landlord within thirty (30) days receives the Landlord's Annual Operating Expenses Statement. If the total amount of payments made by Tenant for such period is greater than Tenant's Proportionate Share of actual Operating Expenses for such Fiscal Year, Tenant shall be entitled to a credit against Tenant's rental obligations hereunder in the amount of such difference or, if the Term has expired and Tenant has no outstanding monetary obligations to Landlord, Landlord shall promptly pay such amount to Tenant. Tenant may, within thirty (30) days after receiving the Landlord's Annual Operating Expenses Statement, give Landlord written notice that Tenant intends to review Landlord's records of Operating Expenses for said Fiscal Year, and Landlord shall make all pertinent records available for inspection that are reasonably necessary for Tenant to conduct its review at the office of the Landlord. Tenant shall be solely responsible for all costs it may incur in undertaking such audit

(c) Tenant shall during the Term pay or cause to be paid not later than before delinquency, all public charges, property taxes and assessments on the furniture, fixtures, equipment and other personal property of, or being used by, Tenant at any time situated on or

installed in the Premises. If any such taxes on Tenant's personal property are levied against Landlord and if Landlord pays the same, which Landlord shall have the right to do regardless of the validity of such levy, or if the assessed value of Landlord's property is increased by the inclusion therein of a value placed upon such personal property of Tenant and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof, Tenant shall repay to Landlord upon demand the taxes so levied against Landlord, or the portion of such taxes resulting from such increase in assessment, as the case may be.

Tenant shall pay all taxes assessed against this Lease or the rentals payable hereunder and all personal property taxes; provided, however, that Tenant shall not be required to pay any municipal, state, or federal income taxes assessed against Landlord.

9. **SECURITY DEPOSIT.** There shall be no security deposit required.

10. **NO JOINT VENTURE.** It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture or agency relationship between Landlord and Tenant or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party. Neither the method of computation of any rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord and Tenant and Tenant shall take or suffer no action which might lead a third person to believe otherwise.

11. **LANDLORD'S LIABILITY.** Landlord shall be under no personal liability with respect to any of the provisions of the Lease and if Landlord is in default with respect to its obligations under this Lease, Tenant shall look solely to the interest of the Landlord in the Building for the satisfaction of Tenant's remedies. It is expressly understood and agreed that Landlord's liability under the terms of this Lease shall in no event exceed the loss of its interest in the Building.

12. **PERMITTED USE.**

Tenant shall be entitled to use the Premises only for Tenant's Permitted Use set forth in the Summary of Basic Lease Terms and for no other use. The approval of the Landlord must be obtained before the Tenant shall have the right to change the Permitted Use, which Landlord may not unreasonably withhold so long as the proposed alternate use is of a quality and nature consistent with Tenant's Permitted Use

13. **TENANT'S ALTERATIONS/REMOVAL OBLIGATIONS.**

(a) Landlord's Approval/Tenant's Alterations. Tenant shall not perform, with respect to the Premises, any structural construction, alteration, improvement, installation of equipment or signage, material repair or replacement, or addition to or removal from (collectively, "**Alterations**") until Tenant has received Landlord's prior written approval of such Alterations, which may be withheld by Landlord in its sole discretion. The above notwithstanding, Tenant shall be permitted to perform non-structural, aesthetic changes to the Premises with the advance written

approval of Landlord and such approval shall not be unreasonably withheld, conditioned or delayed. The Tenant acknowledges the Premises is being leased in its AS-IS condition and, notwithstanding any term in this Lease to the contrary, any and all of Tenant's Alterations, with the exception of removable trade fixtures, equipment, and furniture, shall not be removed without the express written consent of Landlord, which may be withheld in Landlord's sole discretion, and shall become part of the Premises and the property of the Landlord upon the expiration or earlier termination of the Lease. Tenant may use any restaurant equipment located in the Premises at the Commencement Date, however such use shall be subject to Landlord's legal right to same and Landlord shall not be in default and Tenant shall have no recourse in the event any equipment located at the Premises is removed for any reason beyond Landlord's reasonable control. In the event Landlord has no legal right to use said restaurant equipment and it is removed from the Premises, Tenant is under no obligation to replace said restaurant equipment. Whenever Tenant seeks to obtain Landlord's approval of any Alteration, Tenant shall, at least twenty (20) days prior to commencing such Alterations, submit to Landlord permit-ready, detailed drawings and specifications ("**Construction Documents**") prepared and stamped by an architect or engineer registered in the Commonwealth of Massachusetts and reasonably approved by Landlord. Landlord's approval of Construction Documents shall signify only Landlord's consent to the Alterations shown thereon and shall not result in any responsibility of Landlord concerning compliance of the Alterations with laws, regulations, or codes, all of which shall be the sole responsibility of Tenant.

(b) Commencement of Construction/Permitting. After Landlord has approved the Construction Documents and prior to commencement of construction, Tenant shall submit the Construction Documents to the appropriate governmental agencies for plan checking and the issuance of a building permit, to the extent required. Tenant shall provide Landlord with a copy of any permit application prior to submission. Once any applicable permit or authorization is received, Tenant shall deliver the following items to Landlord: (i) the names, addresses and copies of contracts for all tenant contractors performing the Alterations ("**Tenant's Contractor**"), subject to Landlord's reasonable review and approval; (ii) copies of all necessary governmental permits, licenses and approvals; (iii) certificates of insurance for Tenant's Contractor, in such form and substance and with such coverages as may be reasonably approved by Landlord, and naming Landlord as an additional insured; (iv) all other documents and information as Landlord may reasonably request in connection with the construction of any Alterations.

(c) Removal Obligations. In the event Tenant undertakes any renovations with Landlord's written consent, any and all Alterations (except for removable trade fixtures equipment, and furniture) which may be made or installed by the Tenant within the Premises or which are located in the Premises upon the Termination Date or earlier expiration of this Lease, whether or not attached to the floors, walls or ceilings, shall remain upon the Premises, and at the termination of this Lease shall be surrendered with the Premises as a part thereof without disturbance, molestation or injury and become the property of Landlord, unless: (i) no less than thirty (30) days prior to the Termination Date the Landlord shall notify Tenant that Tenant shall remove such Alterations (including trade fixtures, furniture and equipment, which includes all kitchen equipment) as Landlord shall specify; or (ii) Landlord shall have notified Tenant of Tenant's obligation to remove any such Alteration upon Landlord's approval of such Alteration, in either case the Tenant shall remove the same and vacate the Premises in the same condition as they were

in on the Lease Commencement Date, in broom-clean condition, with all remaining equipment and fixtures in the same condition as of the Lease Commencement Date (“**Tenant’s Removal Obligation**”), reasonable wear and tear excepted. For the avoidance of doubt, Tenant shall be under no obligation to remove restaurant equipment which was located on the Premises on the Lease Commencement Date. Further, the Tenant covenants and agrees, at its own cost and expense, to repair any and all damage to the Premises resulting from or caused by such removal, and at the end of the term to yield up the Premises to Landlord in at least the same condition as existed on the Lease Commencement Date, reasonable wear and tear excepted.

14. **ACCEPTANCE OF PREMISES; REPAIRS AND MAINTENANCE.** After the Premises have been delivered by Landlord to Tenant, the Tenant shall have no legal or equitable remedy based upon a claim that Landlord failed to deliver possession in accordance with the terms of this Lease, or based on a claim that the size, location, lay-out, dimensions or construction of the Premises, Building, or service areas, sidewalks, or other common areas were not completed or furnished in accordance with the terms of this Lease. The foregoing provisions shall be self-operative and no other instrument or certificate shall be required by the Landlord or any mortgagee unless the Landlord or mortgagee shall deem the same appropriate, in which event in confirmation of the foregoing, Tenant shall promptly execute in writing a certificate containing the foregoing. From and after the time Tenant obtains possession of the Premises, Landlord shall have no obligation to make any repairs, improvements or alterations whatsoever to the interior of the Premises, except to the extent necessitated by the gross negligence or misconduct of Landlord, or Landlord’s employees, agents, contractors, invitees, or anyone under the control of Landlord. Landlord shall maintain and repair during the Lease Term, the exterior of the Building (including the structural components and exterior walls, but not glass, plate glass, or doors), and the Building’s common areas, except to the extent that the damage thereto is caused by negligence or misconduct of Tenant, its employees, agents, contractors, invitees, customers or anyone under its control, in which event Tenant shall be responsible therefore. Tenant shall be responsible for maintenance, repair and replacement of the Building’s roof above the Premises, subject to any coverage provided by the current roof warranty held by Landlord until the expiration thereof. Tenant shall, at its own expense, service, keep, maintain and replace (if necessary, even if the useful life of the replacement item extends beyond the expiration of the Lease Term) the interior of the Premises, including all plumbing, wiring, piping, fixtures, doors, equipment and appurtenances (including without limitation, the elevator, sprinklers, fire and life-safety equipment, if any, in or about or serving the Premises and all systems which service the Premises including without limitation the HVAC and specifically including the maintenance, repair and replacement, if necessary, all grease ductwork) in same repair as existed on the Lease Commencement Date, reasonable wear and tear excepted, during the entire Term of this Lease and shall replace all glass in windows or doors damaged or broken during the Lease Term, except to the extent caused by gross negligence or misconduct of Landlord. Tenant shall maintain a preventive maintenance contract providing for: (i) the regular inspection and maintenance of the HVAC system servicing the Premises by a heating and air conditioning contractor, no less frequently than semi-annually; and (ii) the regular inspection and maintenance of sprinklers, fire and life-safety equipment, no less frequently than annually (unless more frequent inspections are required by code), and such contracts and such contractor to be reasonably approved by Landlord, and copies of such maintenance contracts to be provided to Landlord upon request, but not more frequently than annually. Landlord shall have the right, upon written notice to Tenant, to undertake

the responsibility for maintenance of the HVAC, fire, sprinkler, and life safety systems at Tenant's expense. The plumbing facilities serving the Premises shall be maintained by Tenant and shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. The expense of any breakage, stoppage, leaking or damage resulting from any violation of these provisions shall be borne by Tenant. Tenant agrees to make such repairs promptly as they shall be needed and at its own expense, failing which, Landlord may, but shall not be obligated to, make same and charge the cost thereof to Tenant. Tenant shall be responsible for its own snow removal at the Premises, outside and adjacent to all entrances and exits to the Premises and in compliance with applicable municipal ordinances. Tenant shall use best efforts to coordinate snow removal with any other tenant(s) in the Building. In the event Tenant fails to comply with the snow removal requirements contained herein, Landlord may, but shall not be obligated to, pay for such snow removal and charge the Tenant all costs, plus twelve percent (12%) interest, to the extent said snow removal was outside and adjacent to the entrances and exits to the Premises.

15. CONDUCT OF BUSINESS; COMPLIANCE WITH LEGAL REQUIREMENTS AND NUISANCE.

(a) Tenant shall conduct its business in the Premises in a reputable manner, in keeping with good commercial practices as established in Tenant's trade and, subject to Section 12 (c) of this Lease, in compliance with all reasonable rules and regulations established by Landlord from time to time. Tenant shall not cause or permit the Premises to be used in any way which shall constitute a violation of any law, ordinance, restrictive covenant, governmental regulation or order, which shall interfere with the rights of tenants of the Building, or which shall constitute a nuisance or waste. Tenant shall obtain and pay for all permits and safety certificates required by any local, state or federal authority for the operation of the Permitted Use, including a certificate of occupancy, and shall promptly take all actions necessary to comply with all applicable statutes, ordinances, rules, regulations, orders, covenants and requirements (collectively, "**Legal Requirements**") regulating the use by Tenant of the Premises, including the Occupational Safety and Health Act and the Americans With Disabilities Act. Tenant shall not perform any act or carry on or permit any practice which may injure the Premises or any other part of the Building, or cause offensive odor(s) or loud noise or constitute a nuisance or menace to any other tenant or tenants or other persons in the Building. Tenant, within ten (10) days after receipt, shall provide Landlord with copies of any notices it receives regarding a violation or alleged violation of any Legal Requirement and/or licenses or permits, and shall promptly cure any such violation or alleged violation. Tenant shall not make any use of the Premises which would make void or voidable any policy of fire or extended coverage insurance covering any of the Building or any improvements thereto, and if by reason of any such use by Tenant of the Premises or the keeping by Tenant of an item or material in the Premises, the hazard insurance premiums on policies maintained by Landlord shall be increased over normal rates for the Building, the amount of the increase in the premium shall be paid to Landlord by the Tenant on demand. Tenant shall not display or store or allow to be displayed or stored any items or possessions outside of the Building, or in common areas or in any location other than within the Premises without obtaining Landlord's written consent.

(b) Tenant, at all times during the Term, shall maintain at Tenant's expense, ventilation and grease control systems (grease traps), sufficient in scope and design to provide grease and odor management in a manner reasonably appropriate for a first-class food establishment and consistent with the applicable building code. Without limiting any other remedies reserved to Landlord in this Lease, if Landlord, in its commercially reasonable judgment, determines that Tenant has not installed or is not properly maintaining its ventilation and grease control system and/or grease ductwork (or that regardless of installation or maintenance) such that odors from the Premises are unacceptable for a first-class food establishment or are causing a nuisance to other tenants or abutters and neighbors of the Building, Landlord may, upon notice to Tenant, (a) require Tenant to promptly take all actions reasonably necessary to reduce such odors to a reasonably acceptable level; or (b) after ten (10) business days opportunity to cure, or such longer time as may be reasonably required to effectuate such cure if such cure cannot be accomplished within ten (10) business days, take whatever steps are reasonably necessary to reduce such odors to a reasonably acceptable level, with the cost thereof plus twelve (12%) percent markup to be paid by Tenant within five (5) days of receipt of an invoice from Landlord.

(c) Tenant shall store all trash and garbage within designated trash storage areas, and shall arrange for the daily pick up of trash and garbage at Tenant's expense. Tenant shall not permit rubbish, refuse or garbage to accumulate or any fire or health hazard to exist in or about the Premises. Tenant, at Tenant's sole cost and expense, shall employ a reputable pest extermination contractor, reasonably approved by Landlord, to service the Premises on a monthly basis. Notwithstanding the foregoing, if Landlord has contracted with a pest control service to treat the common areas of the Building, Tenant agrees to employ the same pest control service in order to satisfy its obligations hereunder. Tenant shall provide Landlord, upon Tenant's receipt of Landlord's written request for same, a certified copy of any and all pest extermination contracts Tenant enters into for the Premises, and, upon Landlord's request. Tenant shall also provide Landlord monthly statements indicating the extermination services that were provided in the Premises. Tenant agrees to have all grease control systems cleaned by a reputable service provider no less often than quarterly or more often as may be required by Landlord's insurance carrier, and to provide Landlord with receipts evidencing such completed service upon request by Landlord.

16. **ASSIGNMENT OR SUB-LETTING.** Tenant covenants not to assign, mortgage or encumber this Lease nor sublet or suffer or permit the Premises or any part thereof to be used by others: (a) without prior written consent of Landlord, such consent may be withheld in the Landlord's sole discretion. The foregoing notwithstanding, in determining whether or not to consent to said assignment, the Landlord reserves the right to review the financial condition of the proposed assignee or Tenant and its conduct of business and in the event the Landlord finds either not reasonably acceptable in Landlord's discretion, then in such event the Landlord has the right to refuse the allowance of the assignment or sublease. Any transfer, sale or other disposition of the controlling stock or membership interests of the Tenant or the sale by Tenant of all or substantially all of its assets shall be deemed an assignment of this Lease. Landlord hereby consents to transfer of this Lease to any corporation wholly owning Tenant or wholly owned by Tenant provided that Tenant shall remain jointly and severally liable with any such parent corporation, subsidiary or subsidiaries for the performance of Tenant's obligations and covenants hereunder. It shall not be considered a sublease or assignment of this Lease if Tenant engages outside vendors for the preparation of food or the provision of food services at the Premises provided Tenant: (a) is

operating at the Premises for its Permitted Use; and (b) maintains on-site managerial control of any functions where outside vendors are utilized. Nor shall it be considered a sublease or assignment of this Lease if the Premises is used for private meetings on a recurring basis.

It shall be a condition of any assignment, other transfer, or subletting permitted under this Lease that the assignee, transferee, or sublessee agree directly with the Landlord to be bound by all Tenant obligations hereunder, including, without limitation, the obligation to pay such portion of the Base Rent and other amounts provided for under this Lease as may be required under the sublease (with Tenant paying the difference to the Landlord) and the covenant against further assignment or other transfer or subletting. Notwithstanding anything in this Lease to the contrary, in the event Tenant assigns or sublets the Premises at a rental amount greater than the amount contracted under this Lease, then the Landlord shall be entitled to collect as the Base Rent for the Premises, fifty percent (50%) of such greater amount agreed to by the assignee or sublessee.

Tenant shall reimburse Landlord, upon demand therefore, for Landlord's reasonable administrative costs and all out-of-pocket expenses (including, without limitation, reasonable attorneys' fees) incurred in connection with processing any proposed assignment or sublease or any assignment or sublease permitted under this Section (regardless of whether Landlord gives its consent thereto).

If this Lease be assigned or if the Premises or any part thereof be sublet or occupied by anyone other than Tenant or as prescribed above with or without the express written consent of Landlord, Landlord may collect rent from the assignee, sub-tenant, or occupant and apply the net amount collected to all rent herein reserved, but no assignment, subletting, occupancy or collection shall be deemed a waiver of the covenants contained in this clause or the acceptance of the assignee, sub-tenant or occupant as Tenant or a release of the performance of the covenants on Tenant's part herein contained.

If Tenant proposes to sublet or assign the Premises to any party for a non-restaurant use, Landlord shall have the option, but not the obligation, to terminate this Lease with respect to the Premises which Tenant has or proposes to sublet, assign or otherwise transfer to a Tenant, assignee or transferee. Such termination shall be effective as to all such space upon the commencement date of the proposed sublet, assignment or transfer, and said termination shall continue for the balance of the Term. If Landlord elects to terminate this Lease as provided above, Landlord shall so notify Tenant within thirty (30) days after Landlord's receipt of the Tenant's request for consent to the proposed sublet, assignment or transfer. Notwithstanding the foregoing, if Landlord elects to terminate this Lease, Tenant may withdraw its request to sublet or assign the Premises by written notice to Landlord within five (5) days of Tenant's receipt of Landlord's election notice hereunder, in which case the Lease shall not terminate.

17. **UTILITIES.** Commencing as of the Lease Commencement Date, Tenant shall be responsible for paying all charges when due for utilities furnished to the Premises, including but not limited to water, gas, electricity, sewer, garbage removal and other utility services. If any charges are not separately metered, Landlord may pay such amounts and invoice Tenant as Additional Rent, which amount shall be paid by Tenant within ten (10) days of invoice. If Tenant fails to pay any utilities, Landlord may pay and recover from Tenant an amount equal to one

hundred twelve percent (112%) of the amount so paid. Landlord shall not be responsible or liable in any way whatsoever for the quality, impairment, interruption, or stoppage of utilities, or for interference with or stoppage of any service with or without notice to Tenant, unless caused by the negligence or misconduct of Landlord, or Landlord's employees, agents, contractors, invitees, or anyone under the control of Landlord. In the event that Tenant's Construction Documents or Initial Construction Documents for any work at the Premises calls for, or if Tenant introduces into the Premises, personnel or equipment (including without limitation lighting fixtures), which overloads the capacity of the heating, ventilation or air-conditioning system serving the Premises, or in any other way interferes with the system's ability to perform adequately its proper functions, supplementary systems may, if and as needed, at Landlord's option, be provided by Landlord, at Tenant's expense.

18. **SIGNS.** Tenant shall not place or suffer to be placed or maintained on any exterior door, roof, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain or hang any sign, decoration, lettering or advertising matter on the glass of any window or door of the Premises or use any signs within the Premises without first obtaining Landlord's written approval and consent. Any sign approved hereunder by Landlord shall be in (i) conformity with any sign criteria prepared by Landlord, and (ii) full compliance with all applicable laws, rules, regulations, municipal requirements, neighborhood association rules and any other requirements applicable to signs at the Building. Tenant further agrees to maintain any such sign, awning, canopy, decoration, lettering, or advertising as may be approved in good condition and repair at all times and to remove the same at the end of the Term or Extension Term(s) (as applicable) if requested by Landlord to do so. Upon removal thereof, Tenant agrees to repair any damage to the Premises caused by such installation or removal.

19. **INDEMNITY AGAINST LIENS.** Tenant agrees that it will make prompt payment when due of all costs and expenses incurred in carrying out its agreements herein and of all costs and expenses of any repairs, construction or installations which are the responsibility of Tenant hereunder. Tenant agrees to indemnify and save Landlord harmless from and against any and all liabilities incurred by Tenant or claimed or charged against the Premises, and Tenant shall promptly pay or otherwise discharge any and all claims, expenses and liens, including any mechanics', materialmen's, and laborers' liens, arising therefrom, asserted or claimed against the Premises or any part thereof or the Building and arising out of any work done by (or materials supplied to) or on behalf of Tenant. In the event that any such lien has been filed or recorded against either the Premises or the Building, Tenant shall cause such lien to be released, bonded over or otherwise removed within thirty (30) days after the date of such filing or recording. In no event shall Landlord or any of Landlord's property be liable for or chargeable with any expense or lien for work, labor or materials used in the Premises or in any improvement or change thereof made at the request of, or upon the order of, or to discharge the obligation of Tenant.

20. **DESTRUCTION OF PREMISES.**

(a) The term "substantial damage", as used herein, shall refer to damage which is of such a character that in the Landlord's reasonable opinion the same cannot, in ordinary course, be

expected to be repaired within one hundred eighty (180) calendar days from the time that such repair work would commence. Any damage which is not "substantial damage" is "partial damage."

(b) If during the Lease Term or an Extension Term there shall be partial damage to the Building by fire or other casualty and if such damage shall materially interfere with the Tenant's use of the Premises as contemplated by this Lease, the Landlord shall promptly proceed to restore the Building (but specifically excluding any fixtures, which shall be separately insured by Tenant) to substantially the condition in which it was immediately prior to the occurrence of such damage.

(c) If during the Lease Term there shall be substantial damage to the Building by fire or other casualty and if such damage shall materially interfere with the Tenant's use of the Premises as contemplated by this Lease, the Landlord shall promptly restore the Building to the extent reasonably necessary to enable the Tenant's use of the Premises, unless either party, within forty five (45) days after the occurrence of such damage, shall give written notice to the other party of its election to terminate this Lease. If either party shall give such notice, then this Lease shall terminate as of the date of such notice with the same force and effect as if such date were the date originally established as the expiration date hereof.

(d) If during the Lease Term the Building shall be damaged by fire or other casualty and if such damage shall materially interfere with the Tenant's use of the Premises as contemplated by this Lease, a just proportion of the Base Rent and other charges payable by the Tenant hereunder shall abate proportionately for the period in which, by reason of such damage, there is such interference with the Tenant's use of the Premises.

(e) In no event shall the Landlord have any obligation to make any repairs or perform any restoration work under this Section if prevented from doing so by reason of any cause beyond its reasonable control, including without limitation, the requirements of any applicable laws, rules or regulations. All such repairs shall be made by the Landlord at its expense, but the Landlord shall not be obligated to expend for such repairs any amount in excess of the net insurance proceeds actually received by the Landlord by reason of such damage.

(f) Unless this Lease is terminated as provided above, if the Premises shall be damaged or destroyed by fire or other casualty, then the Tenant shall: (i) repair and restore all portions of the Premises not required to be restored by the Landlord pursuant hereto to substantially the condition which such portions of the Premises were in at the time of such casualty; (ii) equip the Premises with trade fixtures and all personal property necessary or proper for the operation of the Tenant's business; and (iii) open for business in the Premises as soon thereafter as possible. Notwithstanding the foregoing, if the Premises shall be damaged by fire or casualty in such a manner that the Premises cannot, in the ordinary course, reasonably be expected to be repaired within sixty (60) days from the commencement of repair work and such damage occurs within the last twelve (12) months of the Term (as the same may have been extended prior to such fire or casualty), either party shall have the right, by giving notice to the other not later than sixty (60) days after such damage, to terminate this Lease, whereupon this Lease shall terminate as of the date of such notice.

21. **CONDEMNATION.** If title to all of the Premises is taken for any public or quasi-public use by eminent domain or by private purchase in lieu thereof, or if title to so much of the Premises is so taken that a reasonable amount of reconstruction thereof will not result in the Premises being a practical improvement and reasonably suitable for use for the purpose for which the Premises are leased, then, in either event, this Lease shall terminate on the date that title vests in the condemning authority. This Lease shall not, however, terminate under this provision unless more than ten percent (10%) of the floor area of the Premises is so taken.

If this Lease is terminated under the provisions of this Section, all rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no claim for the value of the leasehold estate or for the value of the unexpired Term of the Lease, or for any other matter whether it is of a direct or consequential nature.

If there is partial taking of the Premises or the Building and this Lease is not thereby terminated under the provisions of this Section, then this Lease shall remain in full force and effect, and the Landlord shall, within a reasonable time thereafter, repair and restore the remaining portion of the Premises to the extent necessary to render the same reasonably suitable for the purposes for which the Premises were leased, and shall repair or reconstruct the remaining portion of the Building to the extent necessary to make the same a complete architectural unit; provided that such work shall not exceed the scope of the work required to be done by Landlord in originally constructing the Building and the cost thereof shall not exceed the proceeds of the condemnation award paid to Landlord.

All compensation awarded or paid upon a total or partial taking of the Premises of the Building shall belong to and be the property of the Landlord without any participation by Tenant. Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, damage to, and cost of removal of trade fixtures, furniture and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

After any partial taking of the Premises which does not result in a termination of this Lease, Base Rent, and all other charges for the remainder of the Term shall be reduced to reflect the reduction in floor area of the Premises so taken.

22. **INDEMNITY; LIABILITY INSURANCE.**

(a) To the maximum extent this agreement may be made effective according to law, the Tenant agrees to indemnify and save harmless the Landlord, and their members, managers, shareholders, partners, subsidiaries, officers, directors, agents, employees, legal representatives, successors and assigns and any holder of each mortgage on all or any portion of the Building from and against all claims of whatever nature arising from or claimed to have arisen from (i) any act, omission or negligence of the Tenant, or the Tenant's contractors, licensees, invitees, agents, servants, or employees, or (ii) any accident, injury, or damage whatsoever caused to any person, or to the property of any person, or from any violation of applicable law including, without limitation, any law, regulation, or ordinance concerning trash, hazardous materials, or other pollutant, occurring from and after the date that possession of the Premises is delivered to the

Tenant and until the end of the term hereof in or about the Tenant's Premises unless the same is caused by the negligence or misconduct of the Landlord, or Landlord's employees, agents, contractors, invitees, or anyone under the control of Landlord, or (iii) any accident, injury or damage occurring outside of the Premises but within the Building, where such accident, damage or injury results or is claimed to have resulted from an act or omission on the part of the Tenant or the Tenant's agents, employees, licensees, invitees, servants, or contractors, or (iv) the failure of Tenant to perform and discharge its covenants and obligations under this Lease. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses (including reasonable attorneys' fees) and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

(b) To the maximum extent this agreement may be made effective according to law, the Landlord agrees to indemnify and save harmless the Tenant, and its members, managers, shareholders, partners, subsidiaries, officers, directors, agents, employees, legal representatives, successors and assigns from and against all claims of whatever nature arising from or claimed to have arisen from (i) any intentional or willful actor the gross negligence of the Landlord, its agents, employees or contractors. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses (including reasonable attorneys' fees) and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

(c) In addition to the insurance required to be maintained by the Tenant pursuant to other provisions of the Lease, the Tenant agrees to maintain in full force during the Term hereof and thereafter so long as Tenant is in occupancy of any portion of the Premises a policy of commercial general liability insurance (or the then successor equivalent from time to time), written on an occurrence basis with a broad form comprehensive liability endorsement without any so-called employee exclusion or the like and which policy includes employees as insureds; or otherwise in the broadest and most comprehensive form then generally available from time to time, under which the Landlord (and such other persons as are in privity of estate with the Landlord as may be set out in notice from time to time) are named as additional insureds and the Tenant is named primary insured, and under which the insurer agrees to indemnify and hold the Landlord and those in privity of estate with the Landlord harmless from and against all cost, expense and/or liability arising out of or based upon any and all claims, accidents, injuries, and damages mentioned in this Section. Each such policy shall be written by a reputable and financially sound, duly licensed and admitted insurance company and non-cancellable and non-amendable with respect to the Landlord and the Landlord's said designees without thirty (30) days prior written notice to the Landlord and Landlord's said designees, and a duplicate original or certificate thereof shall be delivered to the Landlord upon the execution of this Lease and upon each renewal of said policies. The minimum limits of liability of such insurance shall be \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate, with no less than a \$3,000,000.00 umbrella on an occurrence form, or such higher limits as the Landlord may from time to time reasonably request.

(d) The Tenant agrees to use and occupy the Premises and to use such other portions of the Building as it is herein given the right to use at its own risk; and that the Landlord shall have no responsibility or liability for any loss of or damage to the Tenant's leasehold improvements or to fixtures or other personal property of the Tenant or those claiming by, through or under the Tenant, unless the same is caused by the negligence or misconduct of Landlord or Landlord's

employees, agents, contractors, invitees, or anyone under the control of Landlord. Landlord shall not be liable to Tenant for any compensation or reduction of rent by reason of inconvenience or annoyance or for loss of business arising from the necessity of Landlord or its agents entering the Premises or any portion of the Building in order to comply with Landlord's maintenance and repair obligations under this Lease, subject to Section 23 below. The provisions of this Section shall apply during the whole of the term hereof, and in view of the permission given to the Tenant to install fixtures and do certain work prior to the Lease Commencement Date, shall also apply at all times prior to the Lease Commencement Date.

(e) The Tenant agrees that the Landlord shall not be responsible or liable to the Tenant, or to those claiming by, through or under the Tenant, for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to or connecting with the Premises or the Building, or otherwise, or for any loss or damage resulting to the Tenant or those claiming by, through or under the Tenant, or its or their property, from the bursting, stopping or leaking of water, gas, sprinkler, sewer or steam pipes unless the same is caused by the negligence or misconduct of Landlord or Landlord's employees, agents, contractors, invitees, or anyone under the control of Landlord.

23. INSPECTION AND ACCESS TO PREMISES. Landlord expressly reserves the following rights: (a) to enter the Premises at reasonable times (and at any time in the event of an emergency) after reasonable notice to Tenant of at least twenty-four (24) hours, except in the event of an emergency when no notice shall be required, to examine or to make such repairs, additions or alterations as it may deem necessary for the safety, improvement or preservation thereof, or of the Building, or to gain access to any utility rooms for inspection, repair or meter readings, but Landlord assumes no obligation to make repairs to said Premises or the Building other than expressly stated in this Lease; (b) to enter the Premises and display a notice or sign "for rent" at any time within six (6) months prior to the expiration of this Lease, and to maintain the same as placed; and (c) during or after the time Tenant should abandon or vacate the Premises or otherwise default hereunder, to enter and decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy. The exercise of any reserved right by Landlord shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises and shall never render Landlord liable in any manner to Tenant or to any other person. Tenant shall permit Landlord and its designees to erect, use, maintain and repair conduits, plumbing, vents, wires and equipment into and through the Premises. All such access, work and installations provided for in this Section 23 shall be done so as not to unnecessarily interfere with Tenant's use of the Premises.

24. REMOVAL OF FIXTURES. Subject to the provision of Section 13 of this Lease, upon termination or expiration of this Lease and subject to the terms of this Lease, upon the written notice from Landlord, Tenant agrees to promptly remove so much of its personal property, trade fixtures and signs not permanently affixed to the Premises as directed by Landlord and upon Tenant's failure to do so, the said fixtures, signs and property shall be deemed abandoned by Tenant and shall become the property of the Landlord. The Landlord shall not be liable for trespass, conversion or negligence by reason of its acts or acts of anyone claiming under it or by reason of the negligence of any person with respect to the acquisition and/or disposition of such property.

Tenant agrees that it will repair any damage done to the Premises by the installation and/or removal of its trade fixtures and signs and upon failure of Tenant to do so promptly at the end of the Term, Tenant agrees to pay Landlord any cost or expense incurred by Landlord in making such repairs.

Notwithstanding any provisions hereof, Tenant must return the Premises to Landlord substantially similar to the condition of the Premises as it existed as of the Lease Commencement Date, reasonable wear and tear excepted, including all fixtures and equipment, with the exception of the restaurant equipment which was present in the Premises on the Lease Commencement Date which Tenant is not required to replace if removed by Landlord or prior tenant.

25. **RIGHT TO CURE TENANT'S DEFAULT.** If Tenant defaults under this Lease Landlord may, at its option (but without any obligation), immediately or at any time thereafter, without waiving any claim for breach of agreement, and after ten (10) business days' prior written notice to Tenant, cure such default for the account of Tenant. If the Landlord shall institute an action or summary proceeding against the Tenant based upon such default, or if the Landlord shall cure default or defaults for the account of Tenant, then the Tenant will pay all costs and expenses reasonably incurred by Landlord in curing such default including reasonable attorney's fees and costs, which sum, together with interest on the amount incurred by Landlord at twelve percent (12%) per annum (the "**Lease Interest Rate**"), but not to exceed the legal rate permitted by the law of Massachusetts, shall be due and payable on demand to Landlord and shall be deemed to be Additional Rent. Landlord shall not be responsible to Tenant for any loss or damage resulting in any manner of its undertaking any acts in accordance with this provision of this Lease.

26. **WAIVERS.** The failure of the Landlord to insist in any one or more instances upon a strict performance of any of the covenants or agreements in this Lease or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant, agreement, or option, but the same shall continue and remain in full force and effect. The receipt by the Landlord of Base Rent or other amounts due hereunder, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach and no waiver by the Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Landlord.

27. **MORTGAGEE RIGHTS; SUBORDINATION AND ATTORNMENT; ESTOPPEL STATEMENT.**

(a) Notice To Mortgagee: Opportunity to Cure. After receiving notice from any person, firm or other entity that it (referred to herein as a "**Mortgagee**") holds a mortgage or other security now or hereafter encumbering the Building and receiving an address to which notice to Mortgagee may be made, no notice from the Tenant to the Landlord shall be effective unless and until a copy of the same is given to such Mortgagee, and the curing of any of the Landlord's defaults by such Mortgagee shall be treated as performance by the Landlord. Accordingly, no act or failure to act on the part of the Landlord which would entitle the Tenant under the terms of this Lease, or applicable law, to be relieved of the Tenant's obligations hereunder or to terminate this Lease, shall result in a release or termination of such obligations or a termination of this Lease unless the Tenant shall have first given written notice of the Landlord's act or failure to act to such Mortgagee

specifying the act or failure to act on the part of the Landlord which could or would give basis to the Tenant's rights. Within ten (10) days after demand by any such Mortgagee, Tenant shall execute, acknowledge and deliver an agreement in favor of and in the form customarily used by such Mortgagee, and reasonably acceptable to Tenant, evidencing the foregoing agreements by Tenant under this Section.

(b) Assignment of Rents. With reference to any assignment by the Landlord of the Landlord's interest in this Lease, or the rents payable thereunder, conditional in nature or otherwise, which assignment is made to any person, firm or other entity that it (referred to herein as a "**Mortgagee**") holds a mortgage or other security now or hereafter encumbering the Building, the Tenant agrees:

(i) that the execution thereof by the Landlord, and the acceptance thereof by such Mortgagee shall never be treated as an assumption by such Mortgagee of any of the obligations of the Landlord hereunder, unless such Mortgagee shall, by notice sent to the Tenant, specifically make such election; and

(ii) that, except as aforesaid, such Mortgagee shall be treated as having assumed the Landlord's obligations hereunder only upon foreclosure of such Mortgagee's mortgage and the taking of possession of the Premises.

(c) Rights of Mortgagee.

Tenant agrees that this Lease shall be subordinate to any mortgages, or other security, either of record or of which Tenant is given written notice, now or hereafter encumbering the Premises and/or the Building, and to all advances made or hereafter to be made upon the security thereof, provided that any such mortgagee shall execute in recordable form a Subordination, Nondisturbance and Attornment Agreement ("**SNDA**") with Tenant providing that so long as Tenant performs its obligations under the Lease and attorns to such mortgagee or a purchaser of the mortgaged premises, Tenant's possession, occupancy and quiet enjoyment of the Premises under the Lease shall not be disturbed. Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver a document or instrument reasonably acceptable to Tenant that may be required by a lender to effectuate any subordination, provided that Tenant is provided with an SNDA in acceptable form, in compliance with the terms of this Section 27. If Tenant without reasonable cause fails to execute and deliver any such document or instrument, Landlord will have the right to take such action as Landlord may be permitted otherwise to exercise under this Lease including the right to terminate this Lease.

If any Mortgagee holding a mortgage executed and recorded prior to the date of this Lease shall so elect, this Lease, and the rights of the Tenant hereunder, shall be superior in right to the rights of such Mortgagee, with the same force and effect as if this Lease had been executed and delivered, and recorded, or a statutory notice hereof recorded, prior to the execution, delivery and recording of any such mortgage. The election of any such Mortgagee as to this subparagraph shall become effective upon either notice from such Mortgagee to the Tenant, in the same fashion as notices from the Landlord to the Tenant are to be given hereunder, or by the recording in the

appropriate registry or recorder's office of an instrument, in which such Mortgagee subordinates its rights under such mortgage to this Lease.

If required under Landlord's loan documents with its Mortgagee, and upon written notice of the same to Tenant, no assignment of this Lease and no agreement to make or accept any surrender, termination or cancellation of this Lease and no agreement to modify so as to reduce the rent, change the Term, or otherwise materially change the rights of the Landlord under this Lease, or to relieve the Tenant of any obligations or liability under this Lease, shall be valid unless consented to in writing by the Mortgagees of record, if any.

Tenant agrees on request of the Landlord to execute and deliver from time to time any agreement, including any current or future mortgagee's SNDA reasonably acceptable to Tenant, which may reasonably be deemed necessary to implement the provisions of this Section, or as may be required by Landlord's Mortgagee. This shall be self-operative and no further instrument of subordination shall be required by any mortgagee. The Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver any document or instrument reasonably acceptable to Tenant and in compliance with the provisions of this Section 27 that may be required by a lender to effectuate any subordination. If Tenant without reasonable cause fails to execute and deliver any such document or instrument within ten (10) days of Landlord's request, Landlord will have the right to take such action as Landlord may be permitted to exercise under this Lease.

(d) Estoppel. Within ten (10) business days after receipt of written request therefore by Landlord, Tenant agrees to execute and deliver in recordable form an estoppel certificate requested by Landlord's lender and/or any Mortgagee and/or any purchaser or to the Landlord. At a minimum, such estoppel certificate shall certify (if such be the case) that this Lease is unmodified and in full force and effect (and if there has been any modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those that maybe alleged, and such other matters as the Landlord, Landlord's lender, mortgagee or purchaser may reasonably require.

28. **FINANCIAL INFORMATION.** On or before April 15 of each year, Tenant shall provide full and complete current financial statements including Tenant's gross sales at the Premises certified by Tenant and such other reasonable information about Tenant's financial status. Upon an event of default Tenant shall deliver such financial information regarding Tenant's operations as Landlord may request upon demand.

29. **INSURANCE.** Landlord shall at all times during the Lease Term carry fire and extended coverage insurance, and insurance against such other risks, in such amounts as the Landlord from time to time may reasonably deem appropriate or necessary, on the Building and on such other property within the Building as the Landlord may reasonably deem appropriate, including the appurtenances thereto and Landlord's equipment and other improvements constructed by Landlord. The parties hereto release each other to the extent that they are able to do so by contract for any loss or damage to the Premises or to the Building caused by fire or the elements or any other cause covered by the extended coverage insurance carried by the Landlord, whether or not such loss or damage shall result from negligence of a party. The Tenant also agrees that it shall

continuously keep its fixtures, merchandise, equipment and other personal property from time to time located in, on or about the Premises, and all leasehold improvements to the Premises constructed or installed by the Tenant insured under a policy or policies naming the Landlord (and such other persons as are in privity of estate with the Landlord as may be set out in notice from time to time) as an additional insured on a primary basis and the Tenant as primary insured, written by reputable and financially sound, duly licensed insurance companies against loss or damage by fire with the usual all risk of physical loss endorsement (or the then successor equivalent) in amounts equal to the full replacement cost thereof. Upon the delivery of the Premises to Tenant, and at any other time upon the request of the Landlord, the Tenant shall furnish to the Landlord evidence of such continuous insurance coverage satisfactory to the Landlord which policies shall be non-cancellable and non-amenable with respect to the Landlord and the Landlord's said designees without thirty (30) days prior written notice to the Landlord. It is understood and agreed that the Tenant assumes all risk of damage to its own property arising from any cause whatsoever, including, without limitation, loss by theft or otherwise. Tenant shall also arrange for its own internal security, at its expense, as it may deem necessary or desirable.

Insofar as, and to the extent that, the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in Massachusetts (even though extra premium may result therefrom), the Landlord and the Tenant mutually agree that, with respect to any hazard which is carried by insurance then being carried by them (or required under the terms of this Lease to be carried by them), respectively, the one carrying (or required hereunder to carry) such insurance and suffering such loss releases the other of and from any and all claims with respect to such loss; and they mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. In the event that extra premium is payable by either party as a result of this provision, the other party shall reimburse the party paying such premium the amount of such extra premium. If, at the request of one party, this release and non-subrogation provision is waived, then the obligation of reimbursement shall cease for such period of time as such waiver shall be effective. If the release of either party provided above shall contravene any law with respect to exculpatory agreements, the liability of the party for whose benefit such release was intended shall remain but shall be secondary to that of the other party's insurer.

30. SURRENDER OF PREMISES; HOLDING OVER. Subject to Tenant's Removal Obligation set forth in Section 13 and the other relevant provisions of this Lease, upon the expiration of the Term hereof, Tenant shall surrender the Premises to Landlord in broom clean condition and in as good order and condition as at the commencement of the Lease Term (except for ordinary wear and tear and damage by fire or other insured casualties) together with all additions, alterations and improvements which may have been made in or to the Premises.

Any holding over by the Tenant after the expiration of the term with the written consent of Landlord shall be on a month-to-month basis, terminable by either party on thirty (30) days notice, and shall be at the same rental and other charges specified herein (prorated on a monthly basis) and shall otherwise be on the terms and conditions set forth herein, so far as applicable.

Any holding over without the written consent of the Landlord shall be treated as a tenancy at sufferance at one hundred fifty percent (150%) of the rental and other charges specified herein (prorated on a daily basis) for the first ninety (90) days of such hold over, increasing to two hundred percent (200%) of the rental and other charges specified herein thereafter, and shall otherwise be on the terms and conditions set forth herein, so far as applicable. Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any succeeding occupant of the Premises for such delay.

31. **UNAVOIDABLE DELAYS.** If Landlord or Tenant shall, as a result of any Unavoidable Delays, fail to perform any obligations on their part to be performed under this Lease (other than the payment of Base Rent or other monetary obligations of Tenant), then such failure shall be excused and not be a breach of this Lease by Landlord or Tenant (as applicable), but only to the extent occasioned by such event. The payment of Base Rent or other monetary obligations of Tenant due under this Lease shall not be excused on account of Unavoidable Delay or under any other circumstances.

“**Unavoidable Delays**” are defined as organized labor disputes, inability to obtain labor or materials, or reasonable substitutes therefore or acts of God, unanticipated governmental restrictions (other than zoning and land-use controls in effect on the Lease Commencement Date), enemy or hostile governmental action, civil commotion, fire or other casualty or other conditions similar or dissimilar to those enumerated in this Section beyond the reasonable control of Landlord or Tenant. Under no circumstance shall any circumstance that includes or results in the failure to pay money be considered an Unavoidable Delay.

32. **DEFAULT AND REMEDIES.**

(a) Any one or more of the following events shall constitute an “**Event of Default**” under this Lease:

(i) Failure on the part of the Tenant to pay the Base Rent, Additional Rent or other monetary obligations for which provision is made herein on or before the date on which the same become due and payable, after written notice from Landlord to Tenant thereof and ten (10) day opportunity to cure; however, Tenant shall not be entitled to such notice and opportunity to cure more often than twice in any twelve (12) month period and if such notice is given then for the balance of such twelve (12) month period it shall be an Event of Default if Tenant fails to make any such payment when due, immediately upon notice of such failure from Landlord to Tenant;

(ii) the Tenant shall fail to cause to be released, discharged or bonded over any mechanics’ or materialmen’s liens filed against the Premises or the Building within thirty (30) days after the date on which the same shall have been filed;

(iii) Failure on the part of the Tenant to perform or observe any other term, condition or covenant contained in this Lease if the Tenant shall not cure such failure within thirty (30) days after notice from the Landlord to the Tenant thereof, provided that the foregoing shall not apply to obligations under this Lease which by their nature require immediate performance and provided further that in the case of obligations under this Lease which are susceptible to cure,

but cannot be cured within thirty (30) days through the exercise of due diligence, so long as the Tenant commences such cure within thirty (30) days and the Tenant diligently and continuously pursues such cure to completion, such breach shall not be deemed to create an Event of Default;

(iv) except if due to an Unavoidable Delay, or for closures due to Federal, State, Local, or Jewish holidays, if Tenant fails to continuously operate for a period of seven (7) consecutive days without Landlord's prior written consent;

(v) except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if the Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of the Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of the Tenant's property by a court of competent jurisdiction, and such proceeding is not dismissed within sixty (60) days after it is begun or if a petition shall be filed for the reorganization of the Tenant under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts;

(vi) any other event expressly identified as an "Event of Default" in this Lease, including but not limited to those Events of Default arising out of or relating to the sale of liquor.

(b) If this Lease shall have been terminated as provided in this Section, or if any execution or attachment shall be issued against Tenant or any of Tenant's property whereupon the Premises shall be taken or occupied by someone other than Tenant, then Landlord may, without notice, re-enter the Premises, either by force or other action to disable Tenant's access (i.e. self-help, breaking and changing locks, forced entry, etc.), summary proceedings, ejectment or otherwise, and remove and dispossess Tenant and all other persons and any and all property from the same, as if this Lease had not been made, and Tenant hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end.

(c) In the event of any termination, Landlord may choose to terminate Tenant's right to possession of the Premises only, in which case Tenant shall continue to pay the Base Rent, Additional Rent and other sums payable hereunder up to the time of such termination, and thereafter Tenant, until the end of what would have been the Term of this Lease in the absence of such termination, and whether or not the Premises shall have been re-let, shall be liable to Landlord for, and shall pay to Landlord, as current damages, the Base Rent, Additional Rent and other sums which would be payable hereunder if such termination had not occurred, less the net proceeds, if any, of any re-letting of the Premises, after deducting all expenses in connection with such re-letting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, advertising, expenses of employees, alteration costs and expenses of preparation for such re-letting. Tenant shall pay such current damages to Landlord monthly on the days which the Basic Rent would have been payable hereunder if this Lease had not been terminated. Landlord's acceptance of any payments from Tenant following Landlord's termination of Tenant's right to possession shall not under any circumstances be deemed to create any new tenancy or right to occupy the Premises in favor of Tenant.

(d) Upon such termination or at any time after such termination, whether or not Landlord shall have collected any current damages, Landlord may demand, as liquidated final damages and in lieu of all such current damages beyond the date of such demand, and Tenant shall pay to Landlord an amount equal to the excess, if any, of the Basic Rent, Additional Rent and other sums as hereinbefore provided which would be payable hereunder from the date of such demand (assuming that, for the purposes of this paragraph, annual payments by Tenant on account of Taxes and Operating Expenses would be the same as the payments required for the immediately preceding Operating or Tax Year) for what remained, over the Term of this Lease if the same remained in effect, over the then fair net rental value of the Premises for the same period.

(e) In case of any Default by Tenant, re-entry, expiration and dispossession by summary proceedings or otherwise:

(i) Landlord may terminate this Lease and take possession of the Premises, thereafter using the same exclusively as its own for its own purposes, in which case Tenant shall remain liable for and shall pay to Landlord all other damages and costs provided for herein, including rent accruing prior to termination of the Lease. In the event of a termination pursuant to the terms herein, Tenant agrees that it relinquishes to Landlord its right, title, and interest to any all alterations, improvements, equipment and personal property within the Premises.

(ii) Landlord may retake possession of the Premises for the account of the Tenant, holding the Tenant for general damages, including the difference between rent and other charges stipulated to be paid and what, in good faith, Landlord is able to recover from a reletting, in which case Tenant shall be liable for and shall pay to Landlord immediately the balance of rent due for the remainder of the Term, together with all other damages and charges provided for herein; or

(iii) Landlord may bring an action against the Tenant for the balance of rent due for the remainder of the Term together with all other damages and charges provided for herein, in which case remaining rent for the remainder of the Term shall become immediately due and payable. Landlord may make such additions, alterations or improvements as Landlord in its reasonable discretion deems necessary for rendering the Premises suitable for reletting and Tenant shall be liable for and shall pay Landlord upon demand the reasonable costs of such additions, alterations or improvements together with any broker's fees incurred by Landlord in relating the Premises; or

(iv) Pursue any other action and/or remedy available by law

(v) Landlord may re-let the Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms which may at Landlord's option be equal to or less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease and may grant concessions or free rent to the extent that Landlord considers advisable and necessary to re-let the same; and

(vi) Landlord may make such reasonable alterations, repairs and decorations in the Premises as Landlord in its sole judgment considers advisable and necessary for the purpose

of re-letting the Premises; and the making of such alterations, repairs and decorations shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Landlord shall in no event be liable in any way whatsoever for failure to re-let the Premises, or, in the event that the Premises are re-let, for failure to collect the rent under such re-letting. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed, or in the event of Landlord obtaining possession of the Premises, by reason of the violation by Tenant of any of the covenants and conditions of this Lease.

(f) The specified remedies to which Landlord may resort hereunder are not intended to be exclusive of any remedies or means of redress to which Landlord may at any time be entitled lawfully, and Landlord may invoke any remedy (including the remedy of specific performance) allowed at law or in equity as if specific remedies were not herein provided for. Without limiting the foregoing, Landlord may bring an independent action to enforce the terms of this Lease Agreement without terminating this Lease Agreement or forfeiting any rights of Landlord hereunder.

(g) All reasonable costs and expenses incurred by or on behalf of Landlord (including, without limitation, attorneys' fees and expenses) in enforcing its rights hereunder or occasioned by any Default of Tenant shall be paid by Tenant. If Tenant shall request the Landlord's consent or joinder in any instrument pertaining to this Lease, Tenant agrees to promptly reimburse the Landlord for any reasonable expenses (including attorney's fees) incurred by the Landlord in processing such request, whether or not the Landlord complies therewith.

(h) Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to or less than the amount of the loss or damages referred to above.

(i) Tenant covenants and agrees, notwithstanding any termination of this Lease as aforesaid or any entry or reentry by Landlord, whether by summary proceedings, termination or otherwise, whether or not specifically provided for herein, that Tenant shall pay and be liable for any amounts owing from Tenant to Landlord at the time of termination, all of Landlord's expenses, including reasonable legal fees, incurred in recovering possession of the Premises and in proving and collecting the sums due from Tenant hereunder, all expenses incurred in reletting the Premises (including, without limitation, remodeling costs, brokerage fees, attorney fees and the like), and further that Tenant shall pay and be liable for, on the days originally fixed herein for the payment thereof, amounts equal to the several installments of Base Rent and other charges reserved, as they would become due under the terms of this Lease if this Lease had not been terminated or if Landlord had not entered or re-entered, as aforesaid, and whether the Premises be relet or remain vacant, in whole or in part, or for a period less than the remainder of the Term, or for the whole thereof. As an alternative, at the election of Landlord, Tenant will upon such termination pay to Landlord, as damages from and after such election, such a sum as at the time of such election represents the amount of the excess, if any, of the then value of the total Base Rent and other benefits that would have accrued to Landlord under this Lease for the remainder of the Lease Term if the lease terms had been fully complied with by Tenant over and above the then cash rental value

(in advance) of the Premises for what would be the then unexpired Lease Term if the same remained in effect and without any right of offset due to any reletting of the Premises. As a further alternative damages option, at Landlord's option, Landlord may recover, as liquidated damages in addition to any amounts owing as of the election by Landlord of this liquidated damages option, an amount equal to the total of Base Rent and amounts payable by Tenant with respect to the thirty-six (36) full calendar months preceding termination, and without any right of offset due to any reletting of the Premises. If Landlord elects to mitigate damages, Landlord will not be required to give priority to the Premises in renting, or to rent on terms or to any person not otherwise reasonably acceptable to Landlord.

(j) In case of any Event of Default of Tenant, reentry, entry, expiration and dispossession by summary proceedings or otherwise, Landlord may (i) relet the Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms that may at Landlord's option be equal to or less than or exceed the period that would otherwise have constituted the balance of the Lease Term and may grant concessions or free rent to the extent that Landlord considers advisable or necessary to relet the Premises, and (ii) make such alterations, repairs and decorations in the Premises as Landlord, in its sole judgment, considers advisable or necessary for the purpose of reletting the Premises; and no action by Landlord in accordance with the foregoing shall operate or be construed to release Tenant from liability hereunder as aforesaid. It is specifically understood and agreed that Landlord shall be entitled to take into account in connection with any reletting of the Premises all relevant factors that would be taken into account by a sophisticated developer in securing a replacement Tenant for the Premises, such as, but not limited to, the first class quality of the Building and the financial responsibility of any such replacement Tenant. Landlord shall in no event be liable in any way whatsoever for failure to relet the Premises, or, in the event that the Premises are relet, for failure to collect the rent under such reletting, and Tenant hereby waives, to the extent permitted by applicable law, any obligation Landlord may have to mitigate Tenant's damages.

(k) In the event of a breach by Tenant of any of the agreements, terms, covenants, or conditions hereof, Landlord shall have the right of injunction to restrain the same and the right to invoke any remedy allowed by law or in equity, as if specific remedies, indemnity, or reimbursement were not herein provided.

(l) The rights and remedies given to Landlord in this Lease are distinct, separate, and cumulative, and no one of them, whether or not exercised by Landlord, shall be deemed to be in exclusion of any of the others herein or by law or in equity provided. No termination of this Lease, nor any taking or recovering of possession of the Premises shall deprive Landlord of any of its remedies or action against Tenant, nor shall the bringing of any action against Tenant be construed as a waiver of right to bring any other action against Tenant.

(m) The failure of Landlord to insist upon a strict performance of any of the agreements, terms, covenants, and conditions hereof shall not be deemed a waiver of any rights or remedies that Landlord may have and shall not be deemed a waiver of any subsequent breach or default in any of such agreements, terms, covenants, and conditions.

(n) In the event that Landlord shall bring suit for the possession of the Premises, for the recovery of any sum due hereunder, or because of the breach of any covenant, term or provision of this Lease, or for any other relief against Tenant, declaratory or otherwise, Tenant agrees to pay Landlord all costs, expenses, and reasonable attorneys' fees that Landlord may have incurred in connection therewith (including on appeal).

(o) It is hereby expressly understood and agreed by and between the parties hereto, the Tenant herein shall not be entitled to any abatement or reduction of any Tenant Payment due Landlord in any eviction action or proceeding instituted by Landlord for non-payment of any Tenant Payment or in any eviction action or proceeding by reason of any breach of Tenant of any covenant contained in this Lease on its part to be performed.

(p) Waiver of Additional Notice. Except as set forth above, no notice shall be required for Landlord to terminate this Lease or to recover possession of the Premises upon the default of Tenant, and Tenant hereby waives any and all other notices which may be required by Commonwealth of Massachusetts Statute or applicable laws.

(q) Landlord's Self-Help. In the event Tenant fails to perform any of its obligations under this Lease in a manner reasonably satisfactory to Landlord, or in the event Tenant fails to pay for anything which, under the terms of this Lease, Tenant is required to pay for, Landlord shall have the right, but not the obligation, upon giving Tenant at least ten (10) business days prior written notice of its election to do so (in the event of any emergency no prior notice shall be required) to perform such obligation on behalf of and for the account of Tenant and to take all such action to perform such obligations, or to pay for Tenant's obligations. In such event, Landlord's costs and expenses incurred in connection with performing or paying for any obligation of Tenant shall be paid by Tenant as an Additional Rent forthwith upon written demand by Landlord, with interest from the date Landlord incurs such expenses at twelve percent (12%) per annum. The payment by Landlord of any obligation of Tenant shall not constitute a release or waiver of Tenant therefrom.

(r) Special Provisions Regarding Bankruptcy. In the event of an assignment by operation of law under the Federal Bankruptcy Code, or any state bankruptcy or insolvency laws, or if Landlord elects not to terminate this Lease as hereinabove provided, the assignee at the request of Landlord as a condition to such assignment shall provide Landlord with adequate assurance of future performance of all of the terms, conditions and covenants of the Lease, which shall include, but shall not be limited to, assumption of all of the terms, covenants and conditions of this Lease by the assignee and the making by the assignee of the following express covenants to Landlord.

- i. That the assignee has sufficient capital to pay all Tenant Payments and other charges due under this Lease for the entire Term;
- ii. That assumption of this Lease by the assignee will not cause Landlord to be in violation or breach of any provision in any other lease, financing agreement or operating agreement relating to the Building; and

- iii. That such assignment and assumption by the assignee will not cause any change in the business conducted within the Premises which would violate any provisions of this Lease.

33. **ENVIRONMENTAL.** Tenant shall not, nor shall Tenant permit its employees, invitees, agents, independent contractors, contractors, assignees or Tenants to, keep, maintain, store or dispose of (into the sewage or waste disposal system or otherwise) or engage in any activity which might produce or generate any substance which is or may hereafter be classified as a hazardous material, waste or substance (collectively "**Hazardous Materials**"), under federal, state or local laws, rules and regulations, including, without limitation, 42 U.S.C. Section 6901 et seq., 42 U.S.C. Section 9601 et seq., 42 U.S.C. Section 2601 et seq., 49 U.S.C. Section 1802 et seq. and Massachusetts General Laws, Chapter 21E and the rules and regulations promulgated under any of the foregoing, as such laws, rules and regulations may be amended from time to time (collectively "**Hazardous Materials Laws**") and Tenant shall indemnify Landlord from and against any loss, cost, damage or expense (including without limitation reasonable attorneys' fees) resulting from such breach of the foregoing. Tenant shall immediately notify Landlord of any incident in, on or about the Premises or the Building that would require the filing of a notice under any Hazardous Materials Laws. Tenant shall comply and shall cause its employees, invitees, agents, independent contractors, contractors, assignees and subtenants to comply with each of the foregoing, and Landlord shall have the right to make such inspections (including testing) as Landlord shall elect from time to time to determine that Tenant is complying with the foregoing.

34. **BROKERAGE.** Each party warrants and represents that it has dealt with no broker in connection with the consummation of this Lease.

35. **SALE OF LIQUOR**

(a) the Tenant agrees to indemnify and hold harmless the Landlord, the Landlord's lender(s) (if any), and any other parties reasonably designated by Landlord from and against any and all claims and any and all loss, cost, damage or expense relating to the sale of liquor and all alcoholic beverages in and from the Premises, including, without limitation, any such claim arising from any act, omission or negligence of the Tenant, or the Tenant's contractors, licensees, agents, employees or invitees, or from any accident, injury, or damage whatsoever caused to any person or to the property of any person occurring from and after the date that possession of the Premises is delivered to the Tenant until the end of the term of this lease, whether such claim arises or accident, injury or damages occurs within the Premises, within the Building but outside the Premises, or outside the Building. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities (including, without limitation, legal fees, court costs and other reasonable disbursements) incurred or made in connection with any such claim or proceeding brought thereon, and the defense thereof, and shall survive the termination of this Lease. It is understood that without this indemnification of the Landlord by the Tenant, the Landlord would not enter into this Lease and would not permit the sale of liquor or alcoholic beverages in or from the Premises, and the Tenant covenants that the Tenant's liability insurance referred to in this Lease shall cover, indemnify and hold harmless the Landlord from all such matters and items mentioned in this indemnity.

Without limiting the generality of other provisions of this Lease regarding insurance coverage to be maintained by the Tenant, for such period of time as the Tenant shall sell liquor or other alcoholic beverages, the Tenant agrees to maintain with a responsible and qualified insurance company approved by the Landlord, a policy covering “liquor law” liability and with minimum combined limits of One Million and 00/100 (\$1,000,000.00) Dollars plus minimum limits of coverage of at least Two Million and 00/100 (\$2,000,000.00) Dollars under an umbrella policy covering excess “liquor law” liability, the broadest available so-called liquor law liability insurance (sometimes also known as “dram shop” insurance) policy or policies, which shall insure the Tenant and the Landlord (disclosed or undisclosed), and all those claiming by, through or under the Landlord, adequately in the Landlord’s good-faith judgment, against any and all claims, demands or actions for personal and bodily injury to, or death of, one person or multiple persons in one or more accidents, and for damage to property, as well as for damages due to loss of means of support, loss of consortium, and the like, including, without limitation, any claims mentioned in the immediately preceding indemnity paragraph; so that at all times the Landlord will be fully protected against any claims that may arise by reason of or in connection with the sale of liquor and alcoholic beverages in and from the Premises. Certificates of such insurance shall at all times be deposited with the Landlord showing current insurance in force and all such policies shall name the Landlord and its reasonable designees as additional insureds and shall provide that such policies shall not be cancelled or the coverage reduced below what is required hereunder without at least thirty (30) days prior written notice to the Landlord, and such certificate shall evidence the same.

(b) Suspension, Denial or Revocation. If the Liquor License is suspended for in excess of thirty (30) days within a calendar year or revoked for any reason, including non-compliance with any governmental conditions, requirements, rules, regulations, ordinances or laws, the same shall constitute a material default in the Tenant’s obligations hereunder, and the Tenant shall promptly (i) deliver to the Landlord written notice of such suspension, denial or revocation, and (ii) commence the applicable appeal proceedings and proceed with all due diligence to reinstate the Liquor License. As long as the Tenant has so commenced the applicable appeal proceedings, if any, and is proceeding therewith as aforesaid, such suspension or revocation shall not ripen into an Event of Default, and the Landlord shall not have the right to terminate this Lease on account thereof, unless and until the suspension or revocation sanction has been fully adjudicated against the Tenant, then the same shall so ripen into an Event of Default. At the time that the Tenant makes any filing with or receives a notice or any other communication regarding a hearing or in connection with any purported such non-compliance from any governmental licensing board, agency, commission or like authority with respect to the Liquor License, the Tenant promptly shall deliver a copy of such filing, notice or other communication to the Landlord.

36. LANDLORD’S DEFAULT.

If Landlord shall default in the performance of any of Landlord’s obligations hereunder and shall have failed to perform such obligations within thirty (30) days after notice by Tenant to Landlord specifying wherein Landlord has failed to perform any such obligation Tenant may, without waiving any claim for damages for breach of agreement, at any time thereafter, cure such default for the account of Landlord and any amount paid or any contractual liability reasonably incurred

by Tenant in so doing shall be charged by Tenant to Landlord and Landlord agrees to reimburse Tenant therefor forthwith on demand.

37. MISCELLANEOUS.

(a) All covenants herein are conditions and time is of the essence with respect to the performance of every provision of this Lease and the strict performance of each shall be a condition precedent to Tenant's rights to remain in possession of the Premises or to have this Lease continue in effect.

(b) Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provisions shall remain in full force and effect. Notwithstanding the legal domicile of Tenant, this Lease shall be deemed to be made, executed and delivered and shall be interpreted under the laws of the Commonwealth of Massachusetts. If either part institutes legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be the county in which the Building is located, or the United States District Court having jurisdiction over such county. The Tenant hereby waives trial by jury in any action, proceeding or counterclaim brought by either party against the other or any matter whatsoever arising out of or in any way resulting from this Lease, the relationship of Landlord and Tenant created hereby, Tenant's use or occupancy of the Premises, and/or any claim for injury or damage. In addition, Tenant hereby agrees that service of process may be made on Tenant in person or by certified mail delivered to the Premises. In the event Landlord commences any action or proceeding for non-payment of Base Rent, Additional Rent or any other amount due under this Lease, Tenant shall not interpose any counterclaim of any nature or description in any action or proceeding. The foregoing shall not be construed as a waiver of Tenant's right to assert such claim in a separate action or proceeding instituted by Tenant.

(c) Except as otherwise provided in this Lease, all of the covenants, conditions, and provisions of the Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, executors, administrators, successors, employees, agents, and permitted subtenants and assigns.

(d) The section captions contained in this Lease are for convenience only and do not in any way limit or amplify any term or provision hereof.

(e) This Lease shall create the relationship of lessor and lessee between Landlord and Tenant; no estate shall pass out of Landlord and this Lease shall not be subject to levy and/or sale and shall not be assignable by Tenant except as provided herein.

(f) This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no prior agreement or understanding with regard to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing, signed by the parties hereto or their respective successors in interest.

(g) Any notice, demand, request or other document or instrument which may be or are required to be given under this Lease shall be given only in writing and shall be deemed delivered if sent by Federal Express or other nationally recognized overnight courier addressed (i) if to Landlord, to Landlord's mailing address first written above; (ii) if to Tenant, at the Tenant's mailing address first written with copy to with copy to Ruberto, Israel, and Weiner, P.C., 255 State Street, 7th Floor, Boston, MA 02109, Attention: Adam R. Barnosky, Esquire. Either party may designate such other address as shall also be given by such written notice. Other modes of delivery may also be utilized, provided such other delivery service can provide a proof of delivery.

(h) Tenant shall not have the right to record this Lease, but shall have the right to record a Notice of Lease in the usual format.

(i) Landlord and Tenant agree not to disclose the terms, covenants, conditions or other facts with respect to this Lease, including the Base Rent and Additional Rent, to any person, corporation, partnership, association, newspaper, periodical or other entity, except to Landlord's or Tenant's employees, accountants, attorneys, or other advisors (who shall also be required to keep the terms of this Lease confidential) or as required by law. This non-disclosure and confidentiality agreement will be binding upon both parties without limitation as to time, and a breach of this paragraph will constitute a material breach under this Lease. In addition, Tenant's employees, contractors, etc. shall keep any of the terms and conditions of this Lease, including any billing statements and/or any backup supporting those statements, confidential.

(j) Tenant certifies that it is qualified to do business in Massachusetts as provided by the law of Massachusetts, and each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the Tenant, and that this Lease is binding upon the Tenant in accordance with its terms.

(k) All of the covenants, obligations and conditions herein shall be deemed to be covenants that will run with the leasehold demised and shall be binding on the Tenant and any successors, permitted assignees, sublessees, or subtenants.

(l) This Lease may be executed in one or more counterparts, all of which when taken together shall constitute but one agreement. The parties hereto agree and acknowledge that delivery of a signature by facsimile transmission or by e-mail in portable document format (.PDF) shall constitute execution by such signatory and shall be binding upon such party in the same manner as though an originally signed copy had been delivered.

[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE TO FOLLOW}



This Commercial Lease Agreement shall take effect as a sealed instrument as of the date first set forth above.

Landlord: PATRICK A. ROSS AND JENNY L. ROSS

By:  
Patrick A. Ross

By:  
Jenny L. Ross

Tenant: SEA STATE FOODS, LLC

By:  
Name: Patrick A. Ross
Title: Manager

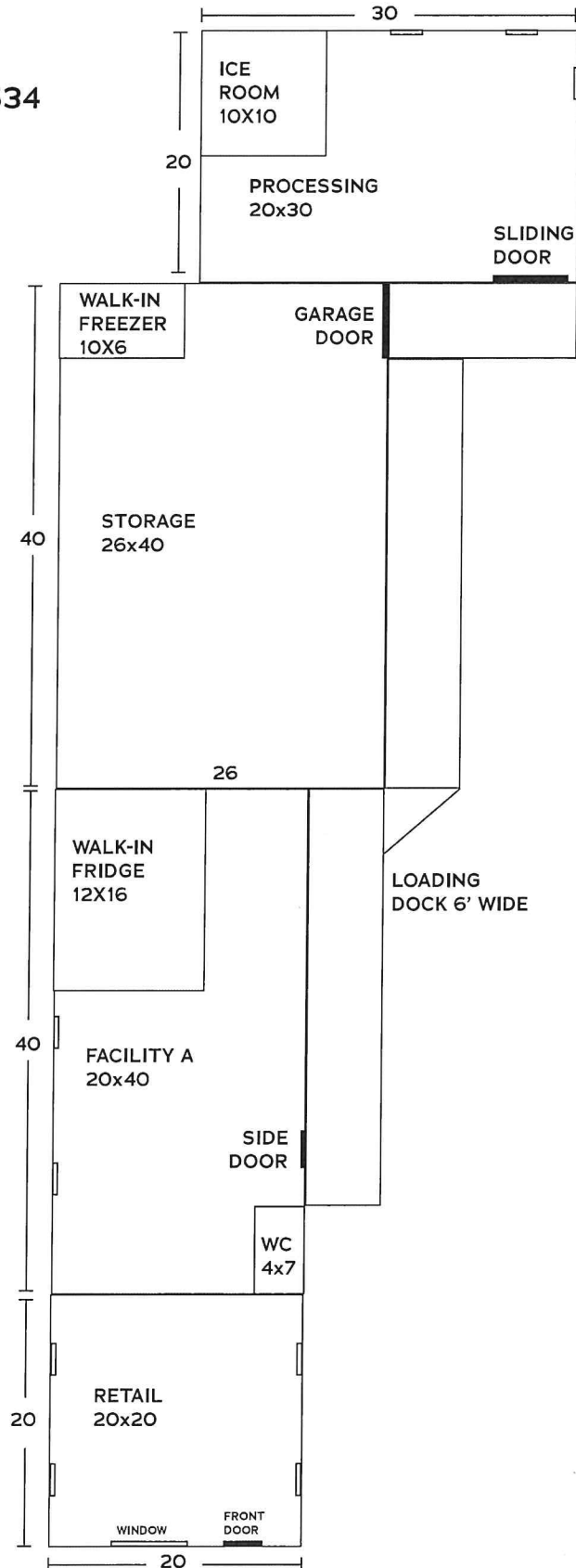
[Signature Page for Commercial Lease Agreement for the property located at 1360 RT-28A, Cataumet, Massachusetts, 02534]

EXHIBIT A

LEASED PREMISES

CATAUMET FISH
1360 RT 28-A
CATAUMET MA 02534

FLOOR PLAN
DEC 2022



FRONT OF BUILDING
ROUTE 28A

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 03-15-2022 @ 02:19pm
Ctl#: 682 Doc#: 13632
Fee: \$2,223.00 Cons: \$650,000.00

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 03-15-2022 @ 02:19pm
Ctl#: 682 Doc#: 13632
Fee: \$1,989.00 Cons: \$650,000.00

QUITCLAIM DEED

I, **PETER G. FISHER**, of Bourne, Massachusetts,

for consideration paid in full of Six Hundred Fifty Thousand (\$650,000.00) Dollars paid,

grant to **PATRICK A. ROSS and JENNY L. ROSS**, husband and wife as tenants by the entirety, of 6 Benedict Road, Buzzards Bay, MA 02532,

with Quitclaim Covenants,

The land with the buildings thereon situated in Bourne, Barnstable County, Massachusetts, bounded and described as follows:

Beginning at the southwesterly corner of the premises hereby conveyed in the northwesterly sideline of Lot 28A at the southwesterly corner of land sometimes described as Lot A, being land now of formerly of Levon F. Charlson; thence

North 14° 21' 39" West by said land now of formerly of Levon F. Charlson and land now or formerly of Eleanor Rose Sheridan as shown on a plan hereinafter mentioned Two Hundred Twenty and 49/100 (220.49) feet; thence

North 08° 16' 46" West by land now of formerly of Eleanor G. Muise and John E. Sheridan, One Hundred Thirty-Nine and 43/100 (139.43) feet to an iron pipe at the southwesterly corner of land formerly of Henry T. Handy and now or formerly of Arthur M. Handy as shown on said plan; thence

North 80° 43' 31" East by a fence and said last named land Sixty-Five (65) feet to a concrete bound with drill hole at the northwesterly corner of Lot #2 as shown on said plan; thence

South 15° 59' 18" Est by said Lot #2 Three Hundred Six and 13/100 (306.13) feet to a concrete bound with drill hole in the northwesterly sideline of said Route 28A as shown on said plan; thence

Property Address: 1360 Route 28A, Bourne, MA 02532

South 47° 25' 50" West by said Route 28A, One Hundred and 10/100 (100.10) feet to the point of beginning.

Containing 27,002 sq. ft. more or less and being shown as LOT 3 on a plan entitled "Plan of Land of Levon F. Charlson in Cataumet, Bourne, Mass. Scale 1"=40' Date: Oct. 9, 1979 Holmes and McGrath, Inc. Civil Engineers and Land Surveyors 301 Main Street, Falmouth, MA 02540" duly recorded with Barnstable County Registry of Deeds in Plan Book 337 Page 87.

Said Premises is conveyed subject to and together with the benefit of all rights, restrictions, reservations, easements, appurtenances and rights of way of record, insofar as the same are still in force and applicable.

Grantor certifies that there are no persons entitled to claim homestead rights in the premises herein conveyed pursuant to M.G.L. Chapter 188 or otherwise as the premises is commercial and not residential property.

For title, see deed recorded at the Barnstable County Registry of Deeds in Book 3264 Page 246.

Executed as a sealed instrument this 8TH day of March, 2022.

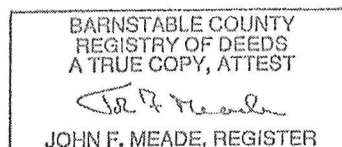

PETER G. FISHER

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this 8th day of March, 2022, before me, the undersigned notary public, personally appeared, PETER G. FISHER, proved to me through satisfactory evidence of identification, which was MA DRIVERS LICENSE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.


Notary Public, Denise E. McGovern
My Commission Expires: 9/19/2025



JOHN F. MEADE, REGISTER
BARNSTABLE COUNTY REGISTRY OF DEEDS
RECEIVED & RECORDED ELECTRONICALLY

ABL
REGISTERED LAND SURVEYORS
P.O. Box 70702

Quinsigamond Village Station
WORCESTER, MA 01607
508-752-8050 (PHONE)
508-752-8004 (FAX)

A Division of H. S. & T. Group, Inc.

REGISTRY BARNSTABLE

MORTGAGE INSPECTION PLAN
NAME PATRICK ROSS
LENDER MARTHA'S VINEYARD BANK
LOCATION 1360 ROUTE 28A
BOURNE, MA

SCALE 1" = 60' DATE 03/01/22

DEED BOOK/PAGE 3264/246

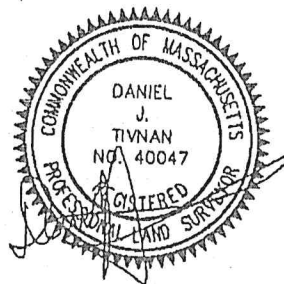
PLAN BOOK/PLAN 337/87

WE CERTIFY THAT THE BUILDING(S) ARE NOT WITHIN THE
SPECIAL FLOOD HAZARD AREA. SEE FEMA MAP:

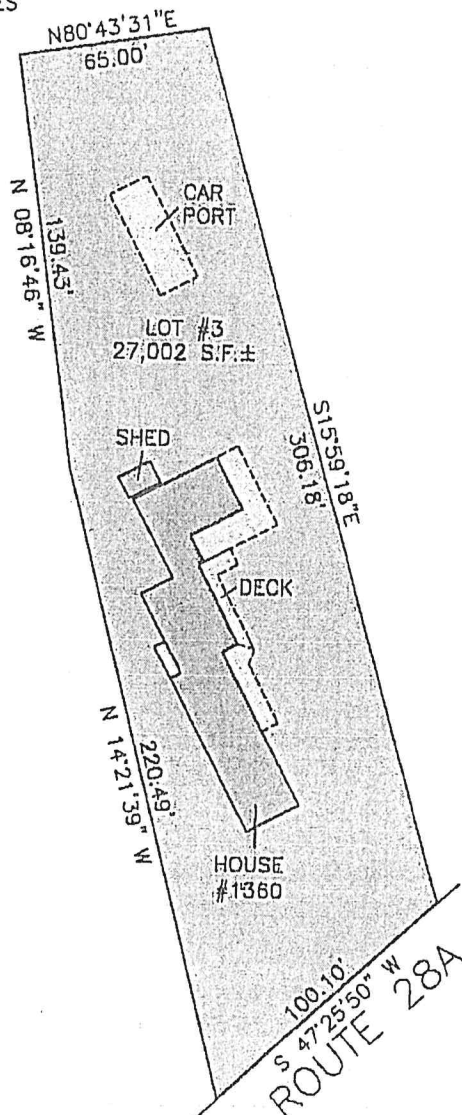
502J DTD 07/16/2014

FLOOD HAZARD ZONE HAS BEEN DETERMINED BY SCALE AND
IS NOT NECESSARILY ACCURATE. UNTIL DEFINITIVE PLANS ARE
ISSUED BY FEMA AND/OR A VERTICAL CONTROL SURVEY IS
PERFORMED, PRECISE ELEVATIONS CANNOT BE DETERMINED.

BASED UPON DOCUMENTATION PROVIDED, REQUIRED MEASURE-
MENTS WERE MADE OF THE FRONTAGE AND BUILDING(S) SHOWN
ON THIS MORTGAGE INSPECTION PLAN. IN OUR JUDGEMENT ALL
VISIBLE EASEMENTS ARE SHOWN AND THERE ARE NO VIOLATIONS
OF ZONING REQUIREMENTS REGARDING STRUCTURES TO PROPERTY
LINES (UNLESS OTHERWISE NOTED IN DRAWING BELOW).
NOTE: NOT DEFINED ARE ABOVEGROUND POOLS, DRIVEWAYS,
OR SHEDS WITH NO FOUNDATIONS. THIS IS A MORTGAGE
INSPECTION PLAN; NOT AN INSTRUMENT SURVEY. DO NOT USE TO
ERECT FENCES, OTHER BOUNDARY STRUCTURES, OR TO PLANT
SHRUBS. LOCATION OF THE STRUCTURE(S) SHOWN HEREON IS EITHER
IN COMPLIANCE WITH LOCAL ZONING FOR PROPERTY LINE OFFSET
REQUIREMENTS, OR IS EXEMPT FROM VIOLATION ENFORCEMENT
ACTION UNDER MASS. G.L. TITLE VII, CHAP. 40A, SEC. 7, UNLESS
OTHERWISE NOTED. THIS CERTIFICATION IS NON-TRANSFERABLE.
THE ABOVE CERTIFICATIONS ARE MADE WITH THE PROVISION THAT
THE INFORMATION PROVIDED IS ACCURATE AND THAT THE MEASURE-
MENTS USED ARE ACCURATELY LOCATED IN RELATION TO THE
PROPERTY LINES.



CERTIFY TO:
FREDERICK C. GROSSER & ASSOCIATES



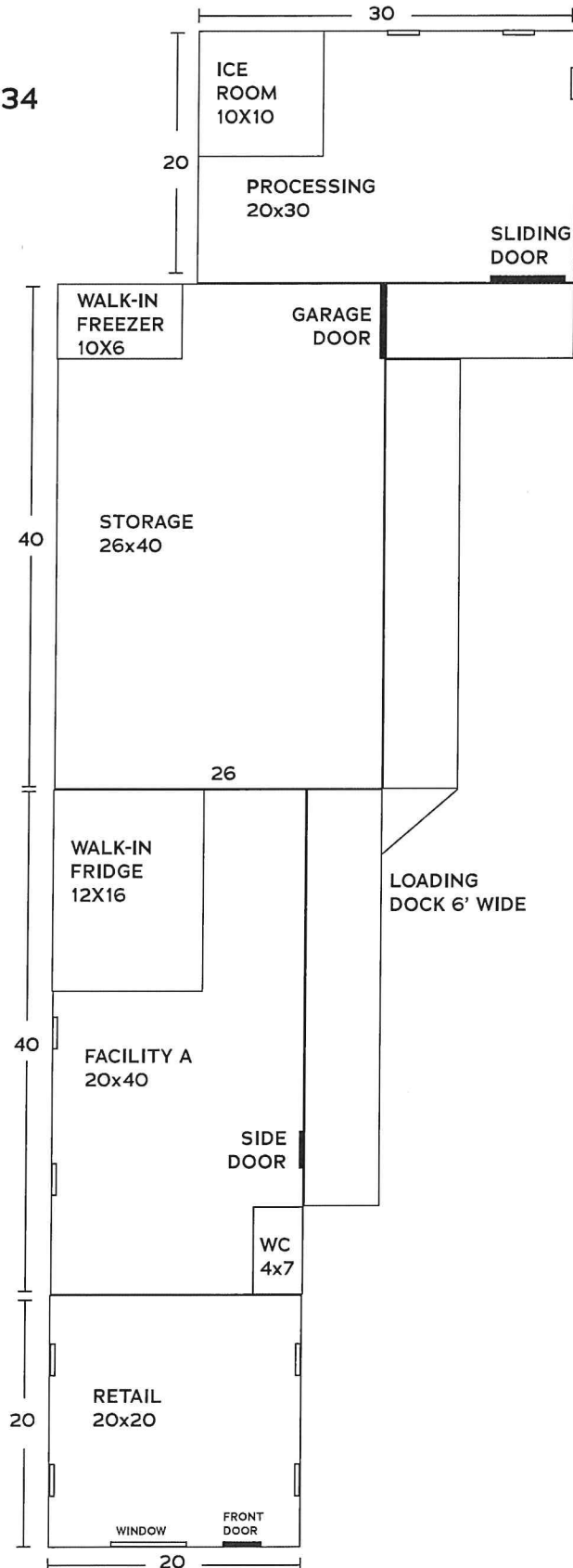
REQUESTING OFFICE: FREDERICK C. GROSSER & ASSOCIATES
REQUESTED BY:

DRAWN BY:JC
CHECKED BY:

ABL # 02-165-22

CATAUMET FISH
1360 RT 28-A
CATAUMET MA 02534

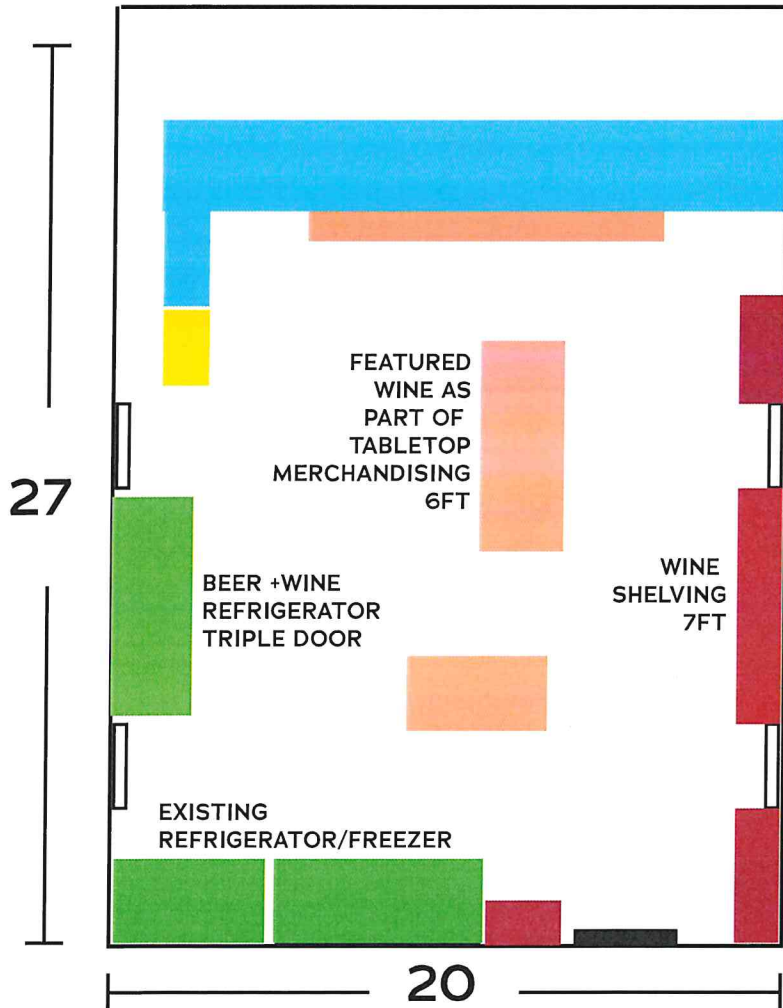
FLOOR PLAN
DEC 2022



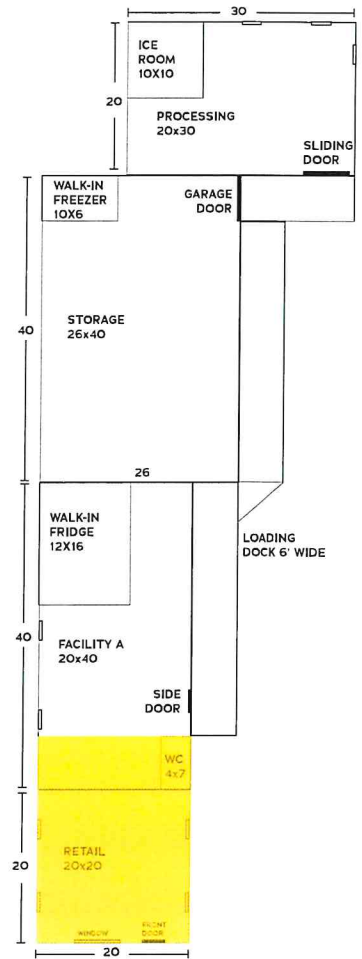
FRONT OF BUILDING
ROUTE 28A

CATAUMET FISH
1360 RT 28-A
CATAUMET MA 02534

RETAIL SPACE DETAIL
RENOVATION PLAN
DEC 2022



FRONT OF BUILDING
ROUTE 28A



FRONT OF BUILDING
ROUTE 28A

KEY

- REFRIGERATION/FREEZERS
- WALL SHELVING, FOOD ITEMS
- TABLE SHELVING
- SEAFOOD ICE CASE
- POINT OF SALE



TOWN OF BOURNE

Board of Assessors

24 Perry Avenue

Buzzards Bay, MA 02532

(508) 759-0600 Ext. 1510 ♦ Fax (508) 759-8026



Michael Leitzel, Chairperson
Ellen Doyle Sullivan, Clerk
Donna Barakauskas, Member

Rui Pereira, MAA
Director of Assessing

December 15, 2022

Patrick Ross
6 Benedict Road
Bourne, Ma. 02532

Reference: Abutters List for Map 51.0 Parcel 41
Subject Property: 1360 Route 28A

Pursuant to the provisions of Massachusetts General Laws Chapter 138, Section 15A, as amended, this is to certify that the enclosed list of names and addresses constitutes all of the abutters of the premise, including schools, churches and hospitals within 500 feet of the subject property on the most recent tax list of the Town of Bourne. The purpose of the abutters list is for an application of a Liquor License from the Board of Selectmen.

Abutting properties are: Map 51.0 Parcels 37, 39, 39.01, Map 54.0 Parcel 89

Your payment of \$10.00 has been received by the Assessor's Office.

Please be advised that this abutters list is only good for 30 days from the date on this letter. Expired abutters list can be recertified for an additional filing fee.

See enclosed Data Base Inquiry Forms for abutters mailing addresses.

Board of Assessors

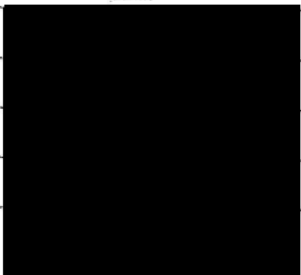

List Enclosed

Ellen Doyle Sullivan
Donna Barakauskas
Michael Leitzel

Extract: 1-Abutters List
Database: LIVE
Filter:
Sort:

Report #24: Owner Listing Report
Fiscal Year 2023

Bourne MA

Key	Parcel ID	Owner	Location	LC/CI	Bk-Pg(Cert) /D
10747	51.0-37-0		1315 COUNTY RD	N	31265/343
				1010	5/1/1518
10750	51.0-39-0		1337 COUNTY RD	N	10078/106
				3260	2/28/1996
10751	51.0-39-1		1335 COUNTY RD	N	34013/160
				0130	4/14/2021
10756	51.0-42-0		1358 ROUTE 28A	N	22747/87
				3160	3/13/2008
11272	54.0-89-0		1357 ROUTE 28A	N	20589/27
				9500	12/20/2005
Total Records		5			

Received Cash

REQUEST FOR CERTIFIED ABUTTERS LIST

REQUESTED BY:

NAME Patrick Ross

ADDRESS [REDACTED]

CITY Bourne ZIP 02532

PHONE [REDACTED]
pat@seastatefoods.com

PURPOSE OF CERTIFIED ABUTTERS LIST:

SUBJECT PROPERTY:

LOCATION 1360 Route 28A 02534

MAP/PARCEL 51.0 - 41

Check appropriate purpose:

Planning Board

- ☐ Special Permit
- ☐ Sub-division
- ☐ Waiver of SP/SPR
- ☐ Site Plan Review

Zoning Board of Appeals

- ☐ Variance
- ☐ Special Permit

☐ Cape Cod Commission

☐ Board of Selectmen:

- ☐ Special Permit
- ☒ Liquor License

☐ Board of Health

☐ Conservation Commission

- ☐ RDA
- ☐ NOI

ABUTTERS:

TL
12/13/22

Assessors Office Use Only

MAP/PARCEL

MAP/PARCEL

MAP/PARCEL

RECEIVED

BOURNE ASSESSORS
BOURNE

51.0/37 10947

51.0/39 10950

51.0/37.01 10951

51.0/42 10956

54.0/29 11292



TOWN OF BOURNE

Town Administrator

24 Perry Avenue
Buzzards Bay, MA 02532
Phone 508-759-0600 x1503 – Fax 508-759-0420



Marlene V. McCollem, Town Administrator
Email: mmccollem@townofbourne.com

November 22, 2022

Mr. Patrick Ross
1360 Route 28A
Cataumet, MA 02534

Dear Mr. Ross:

The legal notice on the application for a year round Retail Package Goods Store License for the sale of all kinds of alcoholic beverages will appear in the Friday, December 23, 2022 edition of the Bourne Enterprise.

In accordance with Massachusetts General Laws and regulations promulgated by the Board of Selectmen, you are required within three (3) days after publication to notify your abutters by certified mail, return receipt requested, of the date, time, place and reason for said hearing, and, if a school, which gives not less than the minimum instruction an training to children of compulsory school age or a church is located within a radius of five hundred feet from said premises, to such school or church. The notice sent to such school or church shall indicate the necessity of a written objection to prevent the issuance of such license in accordance with the provisions of section 16C of Chapter 138 of the Massachusetts General Laws. A list of abutters may be obtained at the Assessor's Office, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m.

Please submit your certified mail return receipts to the Board of Selectmen's Office prior to the hearing.

Should you have any questions relative to this hearing, please contact my office.

Respectfully,
Marlene V. McCollem
Town Administrator

Email: pat@seastatefoods.com

**NOTICE
TOWN OF BOURNE
LIQUOR LICENSE HEARING**

Notice is hereby given in accordance with Massachusetts General Laws, Chapter 138, Section 15 that an application has been received from Sea State Foods LLC d/b/a Cataumet Fish, Patrick Ross, Manager, 1360 Route 28A, Cataumet, MA 02534 for a year round Retail Package Goods Store License for the sale of all kinds of alcoholic beverages. Description of premise: Premise located on first floor consisting of approx. 2,715 sq/ft including retail area, storage, and preparation area.

A public hearing will be held in the Bourne Veteran's Memorial Community Center, 239 Main Street, Buzzards Bay, MA 02532 on Monday, January 9, 2023 at 7:05 p.m.

Board of Selectmen,
Peter J. Meier
Jared P. MacDonald
Melissa Ferretti
Judith MacLeod Froman
Mary Jane Mastrangelo

December 23, 2022

-----Original Message-----

From: Alison Ross [<mailto:alisongoodross@gmail.com>]

Sent: Thursday, January 5, 2023 5:48 PM

To: Peter Meier <PMeier@townofbourne.com>; Marlene McCollem <mmccollem@townofbourne.com>

Subject: Cataumet Fish liquor license

Hi,

We wanted to say we would like Cataumet Fish to be approved for the liquor license they are requesting. We go to the fish market often and it would be so great to be able to buy beer or wine to go with our fish dinner. Cataumet Fish is so convenient for us. Pat Ross (no relation to us) has really upgraded the fish market with a lot of other offerings including gift items. We hope for a lot of people sake that you approve his request.

Thank you,

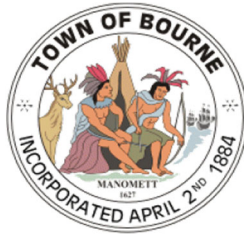
Alison & Doug Ross

94 Cobblestone Lane

North Falmouth

This email has been scanned for spam and viruses by Proofpoint Essentials. Visit the following link to report this email as spam:

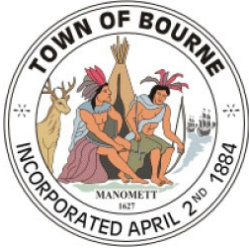
https://gdsprotect.cloud-protect.net/index01.php?mod_id&mod_option=gitem&mail_id72958894-EnfVWmivven6&r_address=ccollem%40townofbourne.com&report=



Selectmen's Correspondence

January 9, 2023

- A. Decision letter re Market Basket's liquor licensing application from E. Hartsgrove.
- B. Response letter from Market Basket to Selectmen's decision to deny at 1/3/23 meeting.



TOWN OF BOURNE
Assistant Town Administrator
24 Perry Avenue - Room 101
Buzzards Bay, MA 02532
www.townofbourne.com
508.759.0600, Ext. 1355



Elizabeth Hartsgrove, Assistant Town Administrator
ehartsgrove@townofbourne.com

January 5, 2023

MB Spirits, LLC
Attn: Jon D. Aieta, Esq.
2 Factory Outlet Way
Bourne, MA 02532

SUBJECT: NEW G.L. C.138 §15 QUOTA LICENSE HEARING DECISION

Dear Atty. Aieta:

On December 5, 2022, the Town of Bourne Board of Selectmen as the Town's Licensing Authority under General Laws chapter 138 opened, after due notice, a public hearing on an application from MB Spirits, LLC ("Applicant") located at 2 Factory Outlet Way, Suite 2B for a new, annual all alcohol retail package store license under G.L. c.138 §15 (the "Application"). The Board continued the hearing to January 3, 2023 and on that date voted to deny the Application.

This correspondence provides notice to the Applicant and to the Alcoholic Beverages Control Commission ("ABCC") of that decision pursuant to G.L. c.138, §23.

The Licensing Authority made the following findings during deliberations, based upon careful consideration of all testimony and information received and entered into the record of the hearing:

FINDINGS:

- 1. The Applicant has provided a complete Application to the Town for the proposed license.***
- 2. The Applicant requests a §15 license for use at the Premises, which is located in the village of South Sagamore Beach next to the mid-Cape Highway, at 2 Factory Outlet Way.***
- 3. South Sagamore Beach is a small area of the Town bounded to the north by the Cape Cod Canal to the east by the Town of Sandwich, and otherwise by federal land.***
- 4. There are 2 other §15 annual, all-alcohol retail package store licensees in close proximity to the Premises, doing business as "One Stop Convenience Store" and "Ye Olde Spirit Shoppe." (See Locations Map, Attachment A).***
- 5. A substantial amount of the testimony received during the public hearing was community opposition to the Application and residents' opinions that there is no public need for a new §15 licensee at that particular location.***
- 6. Testimony and information received during the public hearing did not establish that there is a public need for another §15 license in this particular location, where two existing §15***

licensees already exist in close proximity to the Premises, and which already serve the needs of residents in and around South Sagamore Beach.

After deliberations, the Licensing Authority voted the following motion:

MOTION: To move to deny the application of MB Spirits, LLC for a new, annual all-alcohol retail package store license under G.L.c.138, §15 for the reasons stated by the Selectmen during this hearing and, further, to authorize and direct Town staff and Town Counsel to prepare correspondence memorializing the same for transmission to the applicant and to the Alcoholic Beverage Control Commission.

Motion by: Mary Jane Mastrangelo; Seconded by: Judith Froman

Vote: Yea – 4; Nay – 0; Abstain – 1 (MacDonald)

The applicant has the right to appeal this decision of the Licensing Authority to the Commonwealth of Massachusetts Alcoholic Beverages Control Commission within five (5) days of receipt of this decision.

Should you have any questions please contact this office.

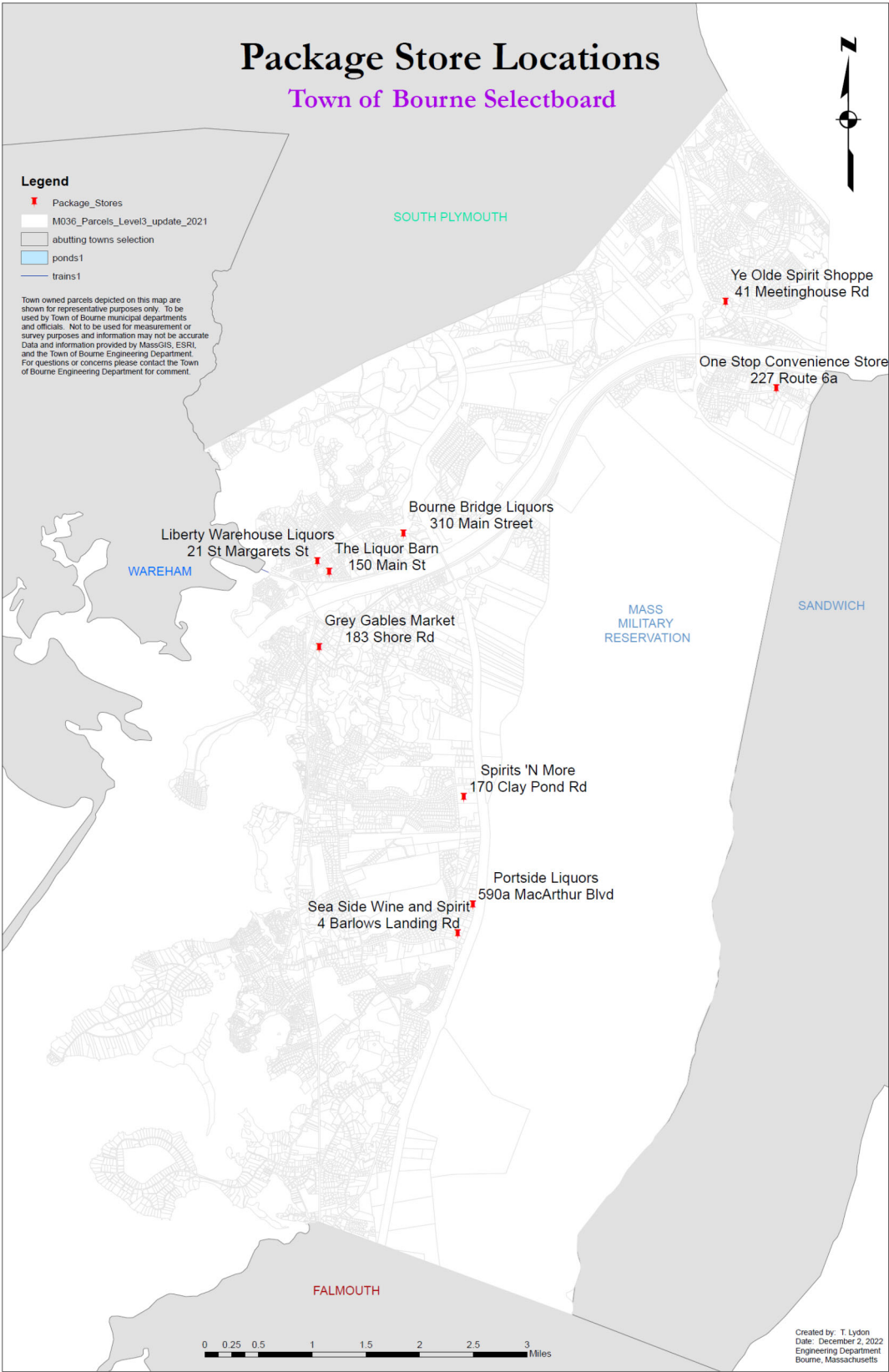
Respectfully,



Liz Hartsgrrove
Assistant Town Administrator

Cc: Alcoholic Beverage Control Commission
Board of Selectmen
Town Counsel

ATTACHMENT A





EXECUTIVE OFFICES
875 EAST STREET
TEWKSBURY, MASSACHUSETTS 01876-1495
978-851-8000

To The Town of Bourne Selectmen,

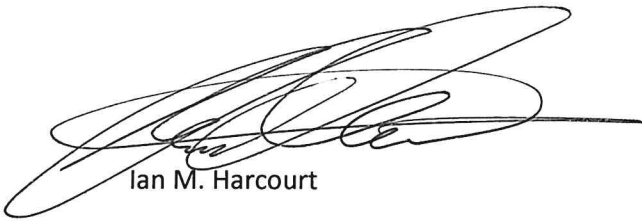
To start off, I would like to thank you for taking the time hear the agenda of a liquor license for an MB Spirits at 2 Factory Outlet Way. There are three major point against allowing Market Basket to obtain a liquor license. The need. Is there a need/want for this new full liquor store in the village of Sagamore? Over saturation of the area. If we have nine liquor stores in Bourne, why should we allow a tenth? Fairness. Should everyone be able to apply for this license?

As far as need goes for the town of Bourne on paper it seems that the nine liquor licenses are sufficient. This is not the case. Especially during the visiting seasons (early March to the end of October) travelers are constantly asking "do we sell liquor, beer and wine?" "Why don't you have it, it's in your flyer?" We are in the people business at Market Basket so my staff tries to direct the customers to a neighborhood liquor store. In most cases they say to us "That's too far out of the way. Thank you, we will just buy it further in on the Cape." This hurts this town. Bourne loses out on tax revenue and one potential small business support. Based on the 3,000 some odd customers we have a day and the amount of questions we get, there is a definite want!

Over Saturation of the area with liquor licenses is a non-issue. I understand this town has nine licenses, but the amount of traffic that travels through this town on Friday nights (all year round) and all days of the week during the busy summer months is astronomical. A point that was brought up last night during the Board of Selectman's meeting was we have Dunkin Donuts and Gas stations on every corner in this town. This is because of the traffic and influx of visitors Bourne sees. Liquor stores should acquire the same benefit.

Finally, the issue of fairness. Should everyone or anyone for that matter have the ability to apply for this license? Absolutely! Everyone does have this right. We just applied for it first. We have a lot of experience running "MB Spirit" type liquor stores in this state. We have the three that are currently open in Waltham, Danvers and Hanover. Also two that are set to open this year in Shrewsbury and Chelsea. All of our New Hampshire and Maine stores sell Beer and Wine. All of the store we operate have flawless records concerning the sale of alcoholic beverages. Not to mention, that none of these MB Spirits store have put any of their competition out of business. "If you're a true warrior, competition doesn't scare you. It makes you better." – Andrew Whitworth.

In conclusion, I feel that you should reconsider decision to deny the liquor license for MB Spirits at 2 Factory Outlet way. If you would like to discuss this further please feel free to contact me at (978)-551-5782. Thank you very much for your time.

A handwritten signature in black ink, appearing to read "Ian M. Harcourt", with a long horizontal line extending to the right.

Ian M. Harcourt

Store Director

Market Basket Bourne