

GROUND/SPACE LEASE AGREEMENT

This LEASE AGREEMENT is made and entered into this _____ day of _____, 20____, by and between _____ (the Lessor), and _____ (the Lessee).

WITNESS THAT:

1. The Lessor, in consideration of the covenants and conditions hereinafter made and to be performed, and subject to the terms and conditions set forth below, does hereby lease for the term hereafter stated, the land/space located at: _____

2. Initial Term. The initial term of this Agreement shall be for a period of _____ () years which shall begin on the __ day of _____, 20__, conditioned upon the Lessee obtaining all governmental approvals required for the planned use of the Premises, and shall continue until the __ day of _____, 20__, unless terminated sooner according to the following provisions, or extended into a subsequent lease period.

3. Rent. During this lease term, the Lessee shall pay the Lessor as rental for the Premises, an annual rental rate of _____ Dollars (\$ _____), which shall be payable in twelve equal monthly installments of \$_____ each. All Rent shall be due on or before the **fifth** day of each month during the lease term.

- If the term of this lease commences or ends on other than the first or last day of a calendar month, the rent for the partial month shall be prorated on the basis of the monthly rental and shall be payable with the first full month of rent.

4. Payments. All rent payments shall be in lawful money of the United State of America and shall be paid by Lessor by mailing it to the “address for notice” set forth herein, or at such other place as the Lessor may designate in writing.

5. Land and Improvements. Unless otherwise specified in this Agreement, the Lessor shall make all repairs, both structural and nonstructural, that are required to keep the Premises and all improvements thereon in good and usable condition and state of repair.

- a) Use and Operation. The Premises may be used only for installation, operation and maintenance of retail, consumer operated, automated ice production, storage and dispensing machinery, and for no other purpose.
- b) Lessee’s Covenant of Care. Lessee, during the lease Term, shall conform and comply with all federal, state, and local laws governing the use thereof. Lessee shall not permit or allow the Premises to be damaged or depreciated in value by any act of negligence of its employees, customers, or invitees. Lessee shall keep the Premises in a clean, neat, well maintained, and orderly condition.

c) Compliance with Laws. Lessee shall procure, at its sole expense, any permits and licenses required for the conduct of the authorized use of the Premises and shall otherwise comply with all applicable laws, ordinances and governmental regulations.

6. Lessee's Utilities. Lessee shall pay promptly when due, and before vacating the Premises, all charges made by Lessee for gas, electricity, water, telephone, or any other utility used on or for serving the Premises for all periods in which the Lessee was using the Premises. Should the Lessee desire to make any changes or additions to existing utilities on or in the Premises which are lawfully required or reasonably necessary, Lessee shall pay for all charges assessed in connection with the changes or additions. Utilities for the Premises become Lessee's obligation as of the first day of the Lease term.

7. Lessee's Fixtures. Lessee may install on the Premises such trade fixtures and equipment as Lessee deems desirable and all of said items shall remain Lessee's property whether or not affixed to the Premises. Lessee may remove its trade fixtures and equipment from the Premises at any time, but shall repair at its own cost and expense, any damage caused by such removal. If Lessee fails to remove such trade fixtures, Lessor may deem the trade fixtures part of the Premises, or may remove and dispose of such fixtures at Lessee's expense.

8. Lessee's Indemnification. Lessee agrees to indemnify and hold Lessor harmless of and from all liability, damage, expense, causes of action, suits claims or judgements resulting from injury to person or property on the Premises that arise out of any intentional act, failure to act, recklessness or negligence of Lessee, Lessee's agents, employees or invitees, or guests.

9. Termination. At the end of the term of this Agreement, or upon its termination at any earlier date by mutual agreement, the Lessee shall surrender and deliver up possession of the Premises in good and usable condition, ordinary wear and tear and damage by fire and other casualty excepted.

10. Holding Over. In the event that the Lessee shall be permitted by Lessor to "Hold Over" after the expiration or termination of this Lease, said Holding Over shall be construed as tenancy from calendar month to calendar month at a monthly rental rate equal to the last monthly rent paid under this agreement. A month-to-month tenancy arising by Lessee's Holding Over may be terminated by written notice from either party to the other party with (30) days advance written notice.

11. Default by Lessee. The occurrence of any of the following shall be considered an event of Default by the Lessee:

- a) Failure to pay rent as provided in this Agreement
- b) Failure to perform any other covenant or agreement contained herein which, after delivery to the Lessee of written notice of said default, has not been cured or corrected by Lessee.

12. Default by Lessor. In the event of any default by Lessor of any covenant or agreement contained herein, the Lessee shall give written notice of the default and shall allow Lessor (30) days to cure or correct such default.

13. Subordination and Estoppel. The Lessee agrees that its rights under this Agreement are and shall always be subordinate to the lien of any mortgage or trust deed now, or hereafter placed from time to time, upon the Premises by Lessor, subject, however, to the lender's recognition of all the rights of the Lessee provided under the terms of this Agreement, and provided that the lender will execute and deliver to Lessee, a non-disturbance agreement reasonably satisfactory in form and substance to Lessee. The parties acknowledge and agree that the form of Lessor subordination instrument shall not modify or alter in any way the terms of this Agreement.

14. Sale of Lessor's Property. Sale of property shall not lead to any change in the status of the lease with Lessee, and new owner shall be subject to the existing lease. If sale of Lessor's property does require Lessee to vacate property, Lessor shall give Lessee at least sixty (60) days notice and Lessee shall have ample time to vacate property, but not less than 30 days. If Lessee is required to vacate property during the first year of this Lease under this Section, Lessor will reimburse Lessee Fifty percent (50%) of relocation expense - not to exceed Fifteen Hundred Dollars (\$1,500.00).

15. Sale of Lessee's Property. If Lessee sells said machine during the term of this Lease, Lessor shall continue this Lease with new owner of said machine until lease term naturally expires. The new owner shall execute a new lease with the Lessor for the remaining Term of Lease and Lessor shall release Lessee from this Lease. All lease terms shall remain the same with new owner.

16. Early Termination by Lessee. Lessee may terminate this Lease Agreement prior to expiration for whatsoever reason by paying to Lessor an Early Termination Fee. The Early Termination Fee shall be one (1) months rent (\$_____).

17. Attorney's Fees. If either party initiates litigation against the other relating to this Agreement, the prevailing party shall be entitled to recover from the other party, all court and litigation costs and expenses and reasonable attorney's fees incurred from the litigation.

18. Remedies Cumulative. No remedy herein conferred upon or reserved to Lessor or Lessee shall exclude any other remedy herein or provided by law, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

19. Severability. If any provision herein should be held unenforceable or void, then such provision shall be deemed severed from the remaining provisions and shall in no way affect the validity of the remaining provisions of this Agreement.

20. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the state in which the Premises are situated.

21. Rights of Successors. All of the rights and obligations of the parties under this Agreement shall bind and inure to the benefit of their respective heirs, personal representatives, successors and assigns.

22. Notice. All notices, demands, requests or other communications required or permitted under this Agreement shall be in writing and, unless otherwise specified in a written notice by either party respectively, shall be sent to the parties at the following respective addresses:

If to Lessor: _____

If to Lessee: _____

23. Manner of Delivery. Each such notice, demand, request or other communication shall be deemed to have been properly given for all purposes if:

- i) Mailed by registered or certified mail of the United States Postal Service return receipt requested or postage prepaid, or
- ii) Delivered to a nationally recognized overnight courier service for next business day deliver, addressed to its addressee at such party's address as set forth above.

24. Receipt. Each notice, demand or request shall be deemed to have been received by its addressee upon the earlier of:

- i) The actual receipt or refusal date by the addressee, or
- ii) Three (3) days after deposit at any main or branch United States Post Office if sent in accordance with clause (i) above, and one day after deposit thereof with the courier if sent pursuant to clause (ii) above.

25. Document Execution. This Agreement and all schedules and exhibits hereto contain the entire agreement between the parties concerning the matters set forth herein and shall supersede all previous oral and written and all contemporaneous oral negotiations, commitments and understandings. In executing this Agreement, neither party has relied upon any statement, promise, or representation not herein expressed. This Agreement, once executed and delivered,

shall not be modified, changed or altered in any respect except by a writing executed and delivered in the same manner as required for this Agreement.

26. Representations by Lessee. Lessee warrants and represents that:

- i) Lessee is a limited liability company duly organized, validly existing and in good standing under the laws of the state of _____ and is qualified to do business therein,
- ii) Lessee has all requisite power and authority to execute, deliver and perform this agreement,
- iii) The execution, delivery and performance by Lessee of this Agreement has been duly authorized by all necessary corporate action, and does not contravene Lessee's operating agreement or cause Lessee to be in conflict with or in default or breach of any terms or agreements or other instruments of which it has knowledge, and
- iv) The Agreement constitutes the legal, valid and binding obligations of the Lessee enforceable against it in accordance with its terms.

IN WITNESS WHEREOF, we have hereunto signed this lease effective the day and year first above written.

SIGNATURES FOLLOW ON THE IMMEDIATELY SUCCEEDING PAGES

