

# **-ATTENTION-**

**Town of North Stonington  
Residents and Voters**

**Due to the possibility of a large turnout for the Special Town Meeting scheduled for Monday, April 18, 2011, at the New Town Hall Conference Room, the meeting is being relocated to the North Stonington Elementary School Multi-Purpose Room, at 7:00 PM.**

**We apologize for any inconvenience, and thank you for your patience and understanding.**



Town of  
*North Stonington, Connecticut*

Warning is hereby given that a special town meeting of the electors and citizens qualified to vote in town meetings of the Town of North Stonington, Connecticut, will be held on the date indicated at the time and location noted below for the following purposes:

LOCATION: New Town Hall Conference Room

DATE: April 18, 2011

TIME: 7:00 p.m.

1. "Shall the First Selectman be authorized to enter into a proposed lease agreement, as presented with a petition to the Town Clerk's Office on March 28, 2011, and execute the proposed lease on behalf of the Town of North Stonington?"
2. To hear and act upon an additional appropriation for \$177,377, of FEMA funds for the design and engineering of the two Main Street Bridges to be placed in the Capital Non Recurring Account -Storm Damages.
3. To hear and act upon an additional appropriation request in the amount of \$20,000 to the Town Attorney line item B 8.0 to continue legal coverage for the General Government Board and Commissions for the remainder of FY 2010-11.
4. To hear and act upon a resolution granting authority to the First Selectman, Nicholas H. Mullane, II, to enter into and complete all contracts necessary with the State of Connecticut Department of Public Safety for the services of three (3) Resident State Troopers for the period of July 1, 2011 to June 30, 2013.

BOARD OF SELECTMEN

Nicholas H. Mullane, II

Shawn P. Murphy

L. William Briscoe

**Item 1**

# Petition Lease

**ATTENTION NORTH STONINGTON RESIDENTS**

This petition is in regards to a Commercial Lease Agreement proposed by Fotis Georgiadis for the lease of Property owned by the Town of North Stonington located at 386 Norwich Westerly Road, North Stonington, CT 06359. Considering the substantial investment that Mr. Georgiadis has made in the building located at the property, we believe that the terms being offered by Fotis Georgiadis are reasonable and should be accepted by the Town of North Stonington. The proposed lease is attached hereto as Exhibit A to this petition.

Therefore, We the undersigned, being voters of North Stonington do hereby petition the Town of North Stonington and the Board of Selectmen, according to Connecticut General Statute Sec. 7-1, to call for a Town Meeting, preferably on a Saturday, within thirty days of filing this petition, to discuss, and act on the following question:

1. Shall the First Selectman be authorized to enter into the proposed lease agreement, attached as Exhibit A hereto and which is incorporated herein by reference as if fully set forth, and execute the proposed lease on behalf of the Town of North Stonington?

Signature	Name	Address	Birthdate	
<i>Ralph M. Levere</i>	Ralph M. Levere	7 Rocky Hill Rd	0564143	✓
<i>Samantha Storey</i>	Samantha Storey	72 Wintechog Hill Rd	12-2-66	✓
<i>Elizabeth Witter</i>	ELIZABETH WITTER	36 RAVENWOOD RD.	3-14-47	✓
<i>Duane Witter</i>	Duane Witter	36 RAVENWOOD RD.	9-12-41	✓
<i>Ellen Spring</i>	Ellen Spring	231 Wyassap Rd.	11-21-50	✓
<i>Annie Spring</i>	Annie Spring	231 Wyassap Rd.	12-27-48	✓
<i>Peggy Pelland</i>	Peggy Pelland	1178 Wyassap Rd	6-11-56	✓
<i>Maise Zardies</i>	Maise Zardies	12 Meadow Wood	7/22/74	✓
<i>Keith Zardies</i>	Keith Zardies	12 Meadow Wood	10/23/65	✓
<i>Neeley Overmoyer</i>	Neeley Overmoyer	416 Cossaduck Hill	3/1/79	✓

I (name and address of circulator) Sara Woodward of 205 Wyassap Rd am the circulator of the foregoing petition. Each person whose name appears on this petition page signed the same in person in my presence and is known to me or has been satisfactorily identified to me. None of the signatures on this page were obtained earlier than six months prior to the date the page is filed. I HEREBY STATE UNDER THE PENALTIES OF FALSE STATEMENT THAT THE STATEMENTS ARE TRUE.

Date: 3/21/11 Signature of the Circulator *Sara Woodward*

Sara Woodward RECEIVED

2011 MAR 28 A 9:09

TOWN CLERKS OFFICE  
NORTH STONINGTON

**ATTENTION NORTH STONINGTON RESIDENTS**

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1. Shall the First Selectman be authorized to enter into the proposed lease agreement, attached as Exhibit A hereto and which is incorporated herein by reference as if fully set forth, and execute the proposed lease on behalf of the Town of North Stonington?

Signature	Name	Address	Birthdate
1.	Tonya Houck	26 Reulemann	12/8/70 ✓
2.	Timothy Houck	26 Reulemann	10/10/20 ✓
3.	Sara Woodward	205 Wyassup Rd	12/29/77 ✓
4.	Chris Lachowicz	24 Krebs woods	10/27/60 ✓
5.	PATRICIA HENSLER	34 Billings Rd	2-7-39 ✓
6.	Megan Brown	156 Providence New London Tpk	1/12/90 -
7.	JON KODAMA	214 Wyassup Rd.	7/19/50 ✓
8.	Diane Kodama	214 Wyassup Rd.	3/30/59 ✓
9.	Reuben Spitz	320 PROVDENCE	10/28/54 ✓
10.	Brett Mastromanni	410 Cosseduck Hk	1/28/75 ✓

I (name and address of circulator) Sara Woodward of 205, Wyassup Rd.

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Date: 3/28/11 Signature of the Circulator

Sara Woodward

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NORTH STONINGTON

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1. Shall the First Selectman be authorized to enter into the proposed lease agreement, attached as Exhibit A hereto and which is incorporated herein by reference as if fully set forth, and execute the proposed lease on behalf of the Town of North Stonington?

Signature	Name	Address	Birthdate	
1. <i>Kim H. Signor</i>	Kim H. Signor	421-B Wyassup Rd	9/28/68	✓
2. <i>Douglas Murray</i>	Douglas Murray	165 Wyassup Rd.	6/10/41	✓
3. <i>Stephanie Murray</i>	Stephanie Murray	165 Wyassup Rd.	6/7/39	✓
4. <i>Karen McGee</i>	Karen McGee	181 Babcock Rd	7/6/48	✓
5. <i>Gary Baron</i>	GARY BARON	181 BARCOCK RD.	5/4/52	✓
6. <i>Peter N. Nimitowski</i>	PETER NIMITOWSKI	354 GRINDSTONE	10/17/50	✓
7. <i>Sharon Dondrio</i>	Sharon Dondrio	354 Grindstone	7/19/57	✓
8. <i>Emily Nastrovanni</i>	Emily Nastrovanni	410 Cossaduck Hill Rd	3-1-77	✓
9. <i>Willson Williams</i>	Willson Williams	26 Wintechog Hill Rd	11-7-63	✓
10. <i>Joyce Williams</i>	Joyce Williams	26 Wintechog Hill Rd.	5-24-65	✓

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 Sara Woodward

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TOWN CLERKS OFFICE  
 NORTH STONINGTON CT

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1. Shall the First Selectman be authorized to enter into the proposed lease agreement, attached as Exhibit A hereto and which is incorporated herein by reference as if fully set forth, and execute the proposed lease on behalf of the Town of North Stonington?

Signature	Name	Address	Birthdate	
1. <i>Marianne Roberts</i>	MARIANNE ROBERTS	176 MYSTIC RD N. STON	9-17-1950	✓
2. <i>Joe Liferenzia</i>	JOE LIFERENZIA	485 NORWICH-WESTERLY RD	6/27/71	-
3. <i>Megan Board</i>	Megan Board	13 Johnson Rd	8/11/77	-
4. <i>John Olsen</i>	JOHN OLSEN	358 WYASSUP RD	17/10/58	✓
5. <i>Douglas T McCowan</i>	Douglas T McCowan	84 YAWBAXDALE RD	9-4-58	✓
6. <i>Salvatore E. Cherenzia</i>	Salvatore E. Cherenzia	74 Mystic Rd	5-25-76	✓
7. <i>Ashley D Austin</i>	Ashley D Austin	359 Norwich Westerly	3/21/79	✓
8. <i>Cheryl Pluette</i>	Cheryl Pluette	44s Wyassup Lake Rd	3/28/47	-
9. <i>Debra Shelton</i>	Debra Shelton	46 Wyassup Lake Rd.	7-14-56	✓
10. <i>Marilyn Mackay</i>	MARILYN MACKAY	92 WYASSUP LAKE RD	9-3-36	✓

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Date: 3/20/11 Signature of the Circulator Sara Woodward  
 Sara Woodward

**RECEIVED**  
 2011 MAR 28 A 9:10  
 TOWN CLERKS OFFICE  
 NORTH STONINGTON CT

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Signature	Name	Address	Birthdate
	Michael Stark	205 Wyassup Rd	10/9/67 ✓
	Linda Lee	97 Prou. Pl. L. Ypk	10-3-49 ✓
	Sandy Schroeder	PO BOX 336	2/12/54 ✓
	Ben Fairless	261 New London Ave	11/10/86 ✓
	Tim Pellano	178 WYASSUP RD	7/27/1963 ✓
	Jim Scarfuzzo	174 Wyassup Rd	7-10/15/59 ✓
	Michelle Brophy	174 Wyassup Rd	8/13/71 ✓
	Ann Marie Sweet	70C Burgess Ln	11/17/69 ✓
	Rebecca Jeffery	37 Old Colony Rd	2-27-81 ✓
	Donald McGowan	41 BABCOCK RD	7-14-54 ✓

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Sara Woodward

**RECEIVED**  
 2011 MAR 28 A 9:10  
 TOWN CLERKS OFFICE  
 NORTH STONINGTON CT

CONTINGENT COMMERCIAL LEASE AGREEMENT **RECEIVED**

ARTICLE 1 – THE PARTIES

2011 MAR 28 A 10:37

Section 1.1 **THE PARTIES:**

TOWN CLERKS OFFICE  
NORTH STONINGTON CT

- a) The Landlord (lessor) is: the **Town of North Stonington**, Connecticut (hereinafter referred to as the “Landlord”).
- b) The Tenant(s) is/are: **Fotis Georgiadis**, of 5700 Seaview Dr., Malibu, CA 90265 (hereinafter referred to as the “Tenant”).
- c) The Guarantor is: **Fotis Georgiadis**, of 5700 Seaview Dr., Malibu, CA 90265.

ARTICLE 2 – THE RENTAL PREMISES

Section 2.1 **THE RENTAL PREMISES:** The property being leased is: a portion of the property known as 386 Norwich Westerly Road, North Stonington, CT 06359 (hereinafter referred to as the “premises”), Assessor’s Map/Lot # 101-9642 and being more particularly described on **Schedule A** to this Lease Agreement.

ARTICLE 3 - RENT

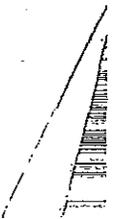
Section 3.1 (a) **BASIC MONTHLY RENT:**

- 1) For the period May 1, 2011 (“commencement date”) through June 30, 2021, the basic monthly rent shall be \$1,650.00 per month.
- 2) For the period July 1, 2021 through June 30, 2022, the basic monthly rent shall be \$1,900.00 per month.
- 3) For the period July 1, 2022 through June 30, 2023, the basic monthly rent shall be \$1,957.00 per month.
- 4) For the period July 1, 2023 through June 30, 2024, the basic monthly rent shall be \$2,016.00 per month.
- 5) For the period July 1, 2024 through June 30, 2025, the basic monthly rent shall be \$2,076.00 per month.

Section 3.1 (b) **BASIC MONTHLY RENT DURING RENEWAL TERMS:** In the event that Tenant exercises the option to renew the term of this lease (see Section 4.6 below) the basic monthly rent shall be as follows:

**FIRST RENEWAL TERM: 7/1/2025 – 6/30/2035**

- 1) For the period July 1, 2025 through June 30, 2026, the basic monthly rent shall be \$2,138.00 per month.



- 2) For the period July 1, 2026 through June 30, 2027, the basic monthly rent shall be \$2,202.00 per month.
- 3) For the period July 1, 2027 through June 30, 2028, the basic monthly rent shall be \$2,268.00 per month.
- 4) For the period July 1, 2028 through June 30, 2029, the basic monthly rent shall be \$2,336.00 per month.
- 5) For the period July 1, 2029 through June 30, 2030, the basic monthly rent shall be \$2,406.00 per month.
- 6) For the period July 1, 2030 through June 30, 2031, the basic monthly rent shall be \$2,478.00 per month.
- 7) For the period July 1, 2031 through June 30, 2032, the basic monthly rent shall be \$2,552.00 per month.
- 8) For the period July 1, 2032 through June 30, 2033, the basic monthly rent shall be \$2,629.00 per month.
- 9) For the period July 1, 2033 through June 30, 2034, the basic monthly rent shall be \$2,708.00 per month.
- 10) For the period July 1, 2034 through June 30, 2035, the basic monthly rent shall be \$2,789.00 per month.

**SECOND RENEWAL TERM: 7/1/2035 – 6/30/2045**

- 1) For the period July 1, 2035 through June 30, 2036, the basic monthly rent shall be \$2,873.00 per month.
- 2) For the period July 1, 2036 through June 30, 2037, the basic monthly rent shall be \$2,959.00 per month.
- 3) For the period July 1, 2037 through June 30, 2038, the basic monthly rent shall be \$3,048.00 per month.
- 4) For the period July 1, 2038 through June 30, 2039, the basic monthly rent shall be \$3,139.00 per month.
- 5) For the period July 1, 2039 through June 30, 2040, the basic monthly rent shall be \$3,233.00 per month.
- 6) For the period July 1, 2040 through June 30, 2041, the basic monthly rent shall be \$3,330.00 per month.

7) For the period July 1, 2041 through June 30, 2042, the basic monthly rent shall be \$3,430.00 per month.

8) For the period July 1, 2042 through June 30, 2043, the basic monthly rent shall be \$3,533.00 per month.

9) For the period July 1, 2043 through June 30, 2044, the basic monthly rent shall be \$3,639.00 per month.

10) For the period July 1, 2044 through June 30, 2045, the basic monthly rent shall be \$3,748.00 per month.

**THIRD RENEWAL TERM: 7/1/2045 – 6/30/2055**

1) For the period July 1, 2045 through June 30, 2046, the basic monthly rent shall be \$3,860.00 per month.

2) For the period July 1, 2046 through June 30, 2047, the basic monthly rent shall be \$3,976.00 per month.

3) For the period July 1, 2047 through June 30, 2048, the basic monthly rent shall be \$4,095.00 per month.

4) For the period July 1, 2048 through June 30, 2049, the basic monthly rent shall be \$4,218.00 per month.

5) For the period July 1, 2049 through June 30, 2050, the basic monthly rent shall be \$4,345.00 per month.

6) For the period July 1, 2050 through June 30, 2051, the basic monthly rent shall be \$4,475.00 per month.

7) For the period July 1, 2051 through June 30, 2052, the basic monthly rent shall be \$4,609.00 per month.

8) For the period July 1, 2052 through June 30, 2053, the basic monthly rent shall be \$4,747.00 per month.

9) For the period July 1, 2053 through June 30, 2054, the basic monthly rent shall be \$4,889.00 per month.

10) For the period July 1, 2054 through June 30, 2055, the basic monthly rent shall be \$5,036.00 per month.

The basic monthly rent is to be paid to the Landlord at the following address: Attention: First Selectman, Town of North Stonington, 40 Main St., North Stonington, CT 06359, or at such other address as the Landlord may from time to time by notice direct. The date that the rent is actually received shall be construed as the date the rent is paid, and the date of mailing shall not be construed as the date of the payment of the rent.

**Section 3.2 ADDITIONAL RENT:** In addition to the basic monthly rent, the tenant shall be responsible for the following, which shall be deemed rent:

- a) Any and all utility charges which are billed to and/or paid by the Landlord, including, but not limited to: water (hot and cold), sewer usage (if any), heating, lighting, air conditioning and ventilation and all taxes, assessments, surcharges and other government (whether local, State or Federal) levies therefore.
- b) The cost for all of Landlord's insurance policies relating to the premises, including liability.
- c) Local Real Estate taxes shall be the sole responsibility of the Landlord and the Tenant's contribution is included in the basic monthly rent charge.

**Section 3.3 RENT:** As used in this lease the term rent shall be defined to mean basic monthly rent plus any additional rent as set forth and provided for in Section 3.2 above. All rent is to be paid directly to the Landlord by the Tenant.

**Section 3.4 PAST DUE RENT:** Any and all rent (or other sums due under this lease) not paid on or before the fifth day (inclusive) after the due date shall incur interest at the rate of twelve percent (12%) per annum based on a 360 day year.

**Section 3.5 NOTIFICATION OF ADDITIONAL RENT DUE.** Landlord shall notify tenant as to the amount of additional rent which is payable on the commencement of the lease, which sum may be based on a good faith estimate by the Landlord. From time to time the Landlord by written notice to Tenant shall notify Tenant as to any changes as to the additional rent which is due and payable. The changed additional rent shall be due and payable with the next due payment of basic monthly rent. In the event that Landlord's estimated additional rent was less than the actual amount of additional rent due for any period under the lease, upon written notice from the Landlord, Tenant shall pay any arrearage with next due payment of basic monthly rent. In the event that Landlord's estimated additional rent was more than the actual amount of additional rent due for any period under the lease, upon written notice from the Landlord, Tenant shall be entitled to a credit against the next due payment(s) of additional rent until such overpayment is exhausted.

## ARTICLE 4 – TERM / RENEWAL TERMS

Section 4.1 **LEASE TERM.** The lease starts on the date of: May 1, 2011 and ends on the date of: June 30, 2025.

Section 4.2 **REPLACEMENT LEASE.** This Lease Agreement is meant to replace the Lease agreement dated July 1, 2000 by and between Mystic Seaport Museum, Inc. (as lessor or landlord) and Ruthangs, Inc. (as lessee or tenant), said lease being hereinafter referred to as the “original lease”. The Landlord is the successor in interest to Mystic Seaport Museum, Inc. and the Tenant is the successor in interest to Ruthangs, Inc.

Section 4.3 **CONTINGENT NATURE OF LEASE.** The original lease was terminated by a summary process action entitled *Town of North Stonington vs. Fotis Georiadis*, entered and filed in the Superior Court for the State of Connecticut, Judicial District of New London, Geographical Area Court 10, and being assigned docket number 25969. The parties agree that the execution of this lease shall replace the terms and conditions of the Judgment entered in said action, as modified, and that in the event of any conflict between the terms of this Agreement and said Judgment (as the same may be modified from time to time) the terms and conditions of this Agreement shall control, unless expressly otherwise provided for herein. Furthermore the parties stipulate and agree that it is the intent of the parties that this lease agreement, instead of the original lease, shall spring into effect on May 1, 2011.

Section 4.4 **OBLIGATIONS OF TENANT PRIOR TO LEASE BECOMING EFFECTIVE.** All obligations of Tenant and the Guarantor under the terms and conditions of this Lease shall become effective and binding on Tenant and Guarantor on the signing of this Lease. All payments tendered by Tenant prior to this Lease becoming effective shall be deemed in the nature of payment of rent notwithstanding any label or description accompanying or on any instrument of payment.

Section 4.5 **MODIFICATION OF SUMMARY PROCESS JUDGMENT.** The parties shall execute a Motion to Modify (by Stipulation) the summary process judgment referred to in Section 4.3 above referred to above. Said Motion and Stipulation shall be in form and substance as attached hereto as **Schedule B**.

Section 4.6 **OPTION FOR RENEWAL TERMS.** Landlord hereby grants Tenant the option to renew this lease for three additional ten year terms (see Section 3.1(b)). To exercise any of said renewal options the Tenant must be in full compliance with its obligations under the terms of this lease and notify the Landlord in writing not less than six months prior to the end of the lease term or renewal term of its intention to exercise the renewal option (see Section 9.13 as to how any notice is to be issued). It is expressly the intention of the parties that no oral notice of exercise of the option for any lease renewal and/or oral acceptance of an oral renewal notice shall be effective. It is further expressly the intention of the parties that Tenant’s tender, and Landlord’s acceptance of rent, and/or basic monthly rent payments in the amounts provided for under any renewal term, after an oral notice of the exercise of any option to renew the lease shall not be construed so as to be effective to renew the lease. It is further expressly agreed and understood that in the event that Tenant fails to exercise its option to renew the lease in writing by the means provided for under the terms of this lease, Landlord may at any time, at Landlord’s

sole option and discretion, terminate tenant's right to occupy the premises and/or any leasehold interest of Tenant. The rent applicable during any year of any renewal term is set forth above.

All other terms and conditions of this lease shall remain in full force and effect during any renewal term, including, but not limited to those involving additional rent.

## **ARTICLE 5 - INDEMNITY AND INSURANCE**

### **Section 5.1 Indemnity.**

(a) Within the meaning of this Article 5, "Claims" means any claims, suits, proceedings, actions, causes of action, responsibility, liability, demands, judgments and executions.

(b) Tenant hereby indemnifies and agrees to save harmless Landlord, Landlord's officials, employees, officers, agents, and volunteers, from and against any and all Claims, which either:

(i) arise from or are in connection with the possession, use, occupation, management, repair, maintenance or control of the Premises, or any portion thereof;

(ii) arise from or are in connection with any act or omission of Tenant; or Tenant's Agents;

(iii) result from any Default, breach, violation or non-performance of this Lease or any provision of this Lease by Tenant; or

(iv) arise from injury to person or property or loss of life sustained in or about the Premises;

(v) arise from injury to person or property or loss of life sustained off the Premises by reason of any act or omission by the Tenant, and/or Tenant's employees and/or agents.

(c) Tenant shall, with counsel reasonably satisfactory to Landlord, defend any actions, suits and proceedings which may be brought against Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers, with respect to the foregoing or in which Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers may be impleaded. Tenant shall pay, satisfy and discharge any judgments, orders and decrees which may be recovered against Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers in connection with the foregoing and all costs incurred by Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers, including attorneys and expert witnesses fees.

### **Section 5.2 Liability Insurance.**

(a) Tenant shall provide, upon execution of this Lease, and shall keep in force during the Term of this Lease for the benefit of Landlord and Tenant, a comprehensive policy of liability insurance (written under commercial or comprehensive form including the following: Premises/Operation, Products/Completed Operations, Contractual, Independent Contractors, Broad Form Property Damage, and Personal Injury, including (Slander and/or Libel)); which shall also contain a contractual liability endorsement naming Landlord and any designee of Landlord as additional insured. The policy shall protect Landlord, Tenant, and Landlord's officials, employees, officers, agents, and volunteers, and any designee of Landlord against any liability occasioned by

any occurrence on or about the Premises or any appurtenance thereto, any liability arising from the commercial activities of the Tenant or arising from any of the items indicated in Section 5.1 against which Tenant is required to indemnify Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers. The policy is to be written:

(i) by an AM Best A- or better rated and solvent insurance company, licensed to do business in the State of Connecticut, and satisfactory to Landlord; and

(ii) in the amount of not less than \$5,000,000.00 with respect to any one person, in the amount of not less than \$10,000,000.00 with respect to any one accident, and in the sum of not less than \$5,000,000.00 with respect to property damages; or in the amount of \$10,000,000.00 combined single limit. Either limit structure shall be written on an Occurrence Form.

(iii) If it becomes customary for restaurant tenants serving alcoholic beverages to provide liability insurance policies to landlords with coverage limits higher than the foregoing limits, Tenant shall, on demand of Landlord, provide Landlord with an insurance policy whose limits are not less than the customary limits.

(b) Tenant's liability insurance shall be so written that Landlord will be notified of cancellation at least thirty (30) days prior to the effective date of such cancellation. Tenant shall execute such authorizations as Landlord may require to affect this purpose.

(c) Tenant's liability insurance coverage shall be primary insurance with respect to the Landlord, Landlord's officials, employees, officers, agents, and volunteers. Any insurance or self-insurance maintained by Landlord, Landlord's officials, employees, officers, agents, and volunteers shall be excess of the Tenant's liability insurance and shall not contribute to it.

### **Section 5.3 Tenant's Property Insurance.**

Tenant shall also carry during the Term of this Lease and any extensions hereof, all risk property insurance (herein 'Tenant's Property Insurance') covering fire and extended coverage, vandalism and malicious mischief, sprinkler leakage and all other perils included in a standard Special Causes of Loss or All Risk form. Coverage will be written with a Replacement Cost loss settlement provision for one hundred percent (100%) of the estimated replacement value of Tenant's property located on or within the Premises, with Tenant's customary deductibles. Tenant shall deliver to Landlord a certificate of such insurance which shall also contain a 30-day prior written notice of cancellation provision (Tenant shall execute such authorization as may be necessary to implement this notice provision). Landlord shall be named as an Insured with respect to such insurance, and both the Tenant and the Landlord shall be named as payees on any payment issued under any such policy of insurance. The proceeds from any payment issued under such policy of insurance shall be held in escrow by the Town to be used for the repair, restoration and rebuilding of the damaged building and/or property.

### **Section 5.4 Liquor Liability Insurance**

(a) **Dram Shop Insurance.** The Tenant shall at all times during the term of this lease maintain a policy of Connecticut Liquor Liability Insurance in an amount equal to the statutory limit set

forth in Connecticut General Statutes Section 30-102 (as the same may, from time to time, be amended):

(b) **Liquor Liability Insurance.** At all times during the term of this Lease Tenant shall maintain in full force and effect a liquor liability insurance policy (either as a separate policy or as a rider to its general liability insurance policy), with Landlord named as an additional insured, in the amount of not less than \$10,000,000.00 with respect to any one person, in the amount of not less than \$10,000,000.00 with respect to any one accident, and in the sum of not less than \$2,000,000.00 with respect to property damages; or a combined single limit of \$10,000,000.00. Said liquor liability insurance policy (or rider) shall not exclude: assault and batter coverage; Tenant employees; mental damages; and shall not have a cost deductible (including attorney fees) of greater than \$5,000.00.

(c) Coverage shall not exclude any Partners, or Corporate Officers who are active in the commercial activities of the Tenant.

#### **Section 5.5 Worker's Compensation Insurance**

(a) Tenant shall at all times during the term of this lease maintain worker's compensation insurance in accordance with the Worker's Compensation laws of the State of Connecticut.

(b) Tenant shall require any contractor or subcontractor performing work on the premises and/or on behalf of Tenant to have and maintain worker's compensation insurance in accordance with the Worker's Compensation laws of the State of Connecticut.

#### **Section 5.6 Automotive Liability Insurance.**

Tenant shall maintain automotive coverage for commercial or comprehensive automobile liability (vehicular) covering any motor vehicle owned or operated by Tenant, and including privately owned motor vehicles operated by Tenant and/or Tenant's agents and employees, and/or leased by Tenant or Tenant's agents and employees providing combined single limit coverage for bodily injury, death and property damage of not less than \$10,000,000.00. This coverage is to include Hired and Non-Owned coverage. The Landlord shall be listed as an additional Insured on such policy.

#### **Section 5.7 Umbrella Coverage.**

Tenant shall further maintain at all times during the term of this Lease "follow form" umbrella coverage over General Liability and Auto Liability of not less than \$10,000,000.00.

#### **Section 5.8. General Insurance Requirements.**

(a) At the signing of this lease Tenant shall provide Landlord with certificate(s) evidencing the insurance policies and coverage required of it under this Lease, and thereafter thirty (30) days prior to any policy expiration date certificate(s) evidencing the renewal of such insurance; and/or within ten days of Landlord's written request for such certificate(s) evidencing Tenant's compliance with this Article 5. All policies of insurance shall be on an occurrence form only (no claims made policies). All policies shall be written so as to require the insurer to notify Landlord:

- (i) thirty (30) days prior to any cancellation or non-renewal date;
- (ii) of the erosion of any aggregate limits;
- (iii) of the advance of any retroactive dates; and
- (iv) the Tenant shall execute any and all such authorizations as are necessary to implement said notice provisions.

## **ARTICLE 6 - USAGE**

Section 6.1 (a) **USAGE - OPERATION OF FAMILY RESTAURANT.** The Tenant shall operate a family style restaurant to be open for business on the premises. Provided the Tenant secures such zoning approval(s) and/or permits from the Town of North Stonington as the zoning regulations for the Town of North Stonington may require, and a permit from the Liquor Control Commission for the State of Connecticut, the Tenant may sell to Tenant's patrons beer and wine for consumption with the meals being served. The consumption of any alcoholic beverage on the premises that was not purchased on the premises shall not be allowed (no BYOB allowed).

Section 6.1(b) **USAGE – RESIDENTIAL.** Tenant may use the second floor of the building for single family residential usage or for office space, provided Tenant is in compliance with all applicable Federal, State, and municipal codes and regulations, including, but not limited to those related to: fire, building, and safety. As used herein single family residential usage shall mean that any individuals using the second floor for residential purposes shall be related by either: blood (children and parents), or marriage. The second floor shall not be used for residential purposes by unrelated individuals (it shall not be a dormitory or rooming house).

Section 6.2 **Waste / Rubbish Removal / Pest Control.** The Tenant shall keep the premises and grounds, whether interior or exterior, free from boxes, cartons, bottles, and rubbish, and/or other debris, and shall pay for the cost of all trash removal for the premises. The Tenant shall further keep the premises free and clear of all vermin (rats, mice, squirrels and the like), cockroaches, and/or other obnoxious insects. At all times during the term of this Lease the Tenant shall have, and thereafter maintain, in full force and effect an annual service contract with a pest control company, so as to comply with this obligation. The Tenant shall provide the Landlord with evidence that said service contract is in full force on the signing of this Lease, and on each yearly anniversary date of the contract date, and/or additionally within ten (10) business days of any request by notice from Landlord for evidence that the same remains in good standing and in full force and effect. The Tenant shall not suffer, permit nor commit any waste with respect to the premises.

Section 6.3 **PARKING.** Tenant shall not permit any of its patrons, employees, or agents to park on any area outside the paved parking lot on the premises.

## **ARTICLE 7 – PERMITS AND COMPLIANCE**

Section 7.1 **PERMITS/GOVERNMENTAL APPROVALS.** Tenant covenants and agrees to obtain and/or maintain at its sole cost and expense any and all permits and approvals necessary for its usage of the premises. Tenant agrees to fully and completely comply at its own sole cost and expense with all governmental rules, orders, codes, licenses, permits, regulations and ordinances, whether Federal, State or municipal, including, but not limited to those relating to fire, safety, health, building, and zoning, which may apply to its occupancy and usage of the Premises. Tenant shall maintain the Premises in a neat and clean condition. Tenant shall be responsible for removal from the Premises of all refuse it produces. For the purposes of this Lease, any notice issued to the Landlord by any governmental official (Federal, State, and/or municipal) with respect to the premises (with respect to any condition therein and/or activity thereon), directing that any action be taken with respect to such condition and/or usage, upon notice from Landlord to the Tenant, shall become the obligation of the Tenant to comply with. In the event that the Tenant fails to comply with any such obligation, the Landlord may terminate this lease (see Section 8.1(b) below).

#### **ARTICLE 8 - DEFAULT**

Section 8.1 **DEFAULT.** The Landlord shall have the right to terminate this Lease upon any one or more of the following events:

- (a) Failure of the Tenant to pay the rent on or before the fifteenth business day of the month;
- (b) Neglect or failure by the Tenant to perform or observe any of the covenants or undertakings herein on its part to be performed or observed (for which no prior notice of default has been issued by the Landlord) and failure to remedy such default within thirty (30) days after written notice thereof to it by the Landlord;
- (c) Any assignment made of the Tenant's and/or Guarantor's property for the benefit of creditors;
- (d) If a receiver, trustee or assignee for the Tenant and/or Guarantor shall be appointed;
- (e) If an order for relief shall be entered against the Tenant and/or Guarantor according to law;  
or
- (f) If any bankruptcy proceedings shall be commenced against the Tenant and/or Guarantor, and they are not dismissed within ninety (90) days.

Section 8.2 **DAMAGES.** In the event of the Tenant's (or Guarantor's) default as aforesaid, the Tenant also agrees: (1) to indemnify and save the Landlord harmless from and against all expenses which the Landlord may incur, including, without limitation, legal expenses, attorney's fees, brokerage fees and the cost of putting the leased premises in good order or preparing the same for rental; (2) that the Landlord may relet the leased premises or any part or parts thereof, either in the name of the Landlord or otherwise, for a term or terms which may, at the Landlord's option, be less than or exceed the period which would otherwise have constituted the balance of the term and of any extension thereof and may grant concessions or free rent; and (3) that the Tenant or its legal representatives shall pay the Landlord, as liquidated damages for the failure of

the Tenant to observe and perform the Tenant's covenants herein contained, any deficiency between the rent hereby reserved and the net amount, if any, of the rents collected on account of any Lease or leases of the leased premises for each month of the period which would otherwise have constituted the balance of term. The Landlord, at its option, may make such alterations, repairs or replacements and decorations on the leased premises that the Landlord, in its sole judgment, considers advisable and necessary for the purposes of reletting the leased premises. The making of such alterations or decorations shall not operate or be construed to release the Tenant from liability hereunder.

## ARTICLE 9 - MISCELLANEOUS

Section 9.1. **NO LIMITATION ON ACCEPTANCE OF RENT.** The acceptance by Landlord of any payment for a lesser amount of rent, interest, and/or late charge, or any other charge that may be due under the terms of this Lease, with an endorsement or statement thereon, or upon any letter accompanying such payment, that such lesser amount is payment in full shall be given no effect, and Tenant hereby acknowledges and agrees that Landlord may accept such payment without prejudice to any rights or remedies which Landlord may have against Tenant, and that such words of limitation shall have no impact and effect and shall be deemed null and void.

Section 9.2 **UTILITIES.** Tenant shall be solely responsible for all utilities used by it. Landlord shall not be responsible or liable for any interruption of utility services to the premises.

Section 9.3 **TENANT IMPROVEMENTS.** Tenant shall be entitled at its own sole expense, upon written consent of Landlord, to make reasonable alterations and improvements to the Premises consistent with his/her/its permitted usage of the Premises, provided Tenant has secured all necessary permits and approvals from the Town of North Stonington, and/or the State of Connecticut, and/or the United States of America. Provided all applicable and necessary permits and approvals have been obtained, the landlord shall not unreasonably withhold such consent.

Section 9.4 **EFFECT OF ENTERING INTO POSSESSION / AS IS / NO WARRANTIES.** By entering into possession, Tenant shall be deemed to have: (a) accepted the Premises, and (b) acknowledged that the same are in the condition called for hereunder. Landlord does not make any representations or warranties related to (1) the physical condition of the Premises, (2) the appropriateness or fitness of the Premises for Tenant's intended usage.

Section 9.5 **TENANT'S TRADE FIXTURES.** All trade fixtures which are secured to the premises (by bolt, nail, or otherwise) and apparatus similarly so secured, together with all leasehold improvements, and fixtures such as ventilation, heating, plumbing, cooling, electrical wiring in the Premises shall become the property of Landlord and may not be removed by the Tenant at the end of this Lease or any renewal term.

Section 9.6 **REPAIRS AND MAINTENANCE OF BUILDING AND GROUNDS.** Tenant shall be fully responsible for maintaining the exterior and interior of the building located on the Premises. Tenant's obligation for maintaining the interior of the Premises shall include, but not be limited to: maintaining all mechanical systems (heating, ventilation, electrical, plumbing, cooling, septic(whether interior or exterior), and fire control systems) in good condition and repair. Tenant shall be responsible for causing the septic system for the premises to be pumped

out as needed and for pumping out the septic system five days before the termination of the lease term, or any renewal term, or earlier termination of the lease, or earlier surrender of possession of the premises to the Landlord. Tenant shall be responsible for ice/snow removal and litter removal from the parking area and all access walks, steps, ramps, and entrance areas.

**Section 9.7 COST OF LANDLORD'S REMEDIES.** Any and all reasonable costs and expenses (including, but not limited to, attorney fees (whether or not litigation is commenced), other professional fees, and court costs) incurred by Landlord in enforcing any of its rights or remedies under this Lease shall be repaid to Landlord by Tenant, and if not repaid, shall be awardable by a court of competent jurisdiction.

**Section 9.8 PEACEFUL AND QUIET USE AND POSSESSION.** Provided Tenant fulfills and performs all of the covenants of this Lease which Tenant is required to fulfill and perform, Landlord covenants that Tenant shall have peaceful and quiet use and possession of the Premises without hindrance on the part of Landlord.

**Section 9.9 ATTORNMENT.** If any person shall succeed to all or part of Landlord's interest in the Premises, by whatever legal means, and if so requested or required by such successor in interest, Tenant shall attorn to such successor in interest and shall execute such agreement in confirmation of such attornment as such successor in interest shall reasonably request, provided such successor in interest enters into an agreement not to disturb Tenant's possession and occupancy of the Premises, subject to the terms and conditions of this Lease.

**Section 9.10 SENDING OF NOTICES.** Any notice, request, demand, approval or consent given or required to be given under this Lease shall be in writing, and sent by overnight commercial carrier, with a copy faxed and emailed on the date of posting, and shall be deemed given on the date of posting.

a) If intended for the Landlord:

it shall be delivered by overnight commercial carrier to: First Selectman, Town of North Stonington, 40 Main St., North Stonington, CT 06359

b) If intended for Tenant,

it shall be delivered by overnight commercial carrier to:

c) The Landlord and Tenant may change their/its address, fax number(s), and email addresses for notice purposes on written notice to the Tenant as set forth above.

**Section 9.11 INSPECTION AND ACCESS BY LANDLORD.** Landlord (and/or Landlord's agents and servants) shall have the right to enter the premises in times of emergency to make repairs and inspect as to whether repairs are necessary, upon oral request. Landlord also shall have such access to the Premises as is reasonably necessary for Landlord to comply with his obligations under this Lease. Landlord may have reasonable access on reasonable notice to show the property to prospective purchasers, mortgagees, or prospective tenants, on reasonable notice and provided that such access shall not unreasonably interfere with Tenant's business.

Section 9.12 **ENTIRE AGREEMENT / NO MODIFICATION.** This Lease is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the parties having been incorporated herein. No course of prior dealings between the parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Lease. Acceptance of, or acquiescence in a course of performance rendered under this Agreement shall not be relevant or admissible to determine the meaning of any of the terms of this Lease. No representations, understandings or agreements have been made or relied upon in the making of this Lease other than those specifically set forth herein. This Lease can be modified only by a writing signed by both parties with the same formalities as attended the signing of this Lease.

Section 9.13 **SEVERABILITY.** If any term or provision, or any portion thereof, of this Lease, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law. Should a court of competent jurisdiction find any provision or part of a provision unenforceable as written the court may reform such provision or part of a provision to render it enforceable consistent with the general intent of the remaining portion of such provision and/or this Lease.

Section 9.14 **APPLICABLE LAW.** This Lease and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of Connecticut.

Section 9.15 **WAIVER OF JURY TRIAL.** Landlord and Tenant hereby mutually waive any and all rights which either may have to request a jury trial in any proceeding at law or in equity in any court of competent jurisdiction which arises from this Lease, their respective relationship as Landlord and Tenant.

Section 9.16 **LIMITATION ON RIGHT OF RECOVERY AGAINST LANDLORD.** Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to his interest in the Landlord's building and the land on which it is built and any judgment rendered against Landlord shall be satisfied solely out of the proceeds of sale of his interest in Landlord's building and the underlying land. No personal judgment shall lie against Landlord upon extinguishment of his rights in Landlord's building and the underlying land and any judgment shall not give rise to any right of execution or levy against Landlord's assets. The provisions hereof shall inure to Landlord's successors and assigns including any mortgagee.

Section 9.17 **NEUTRAL CONSTRUCTION OF LEASE.** This Lease shall be construed neutrally with respect to any ambiguities herein contained. Any rule of construction requiring the Lease to be construed against the drafter, against the Landlord, or against or in favor of (for the benefit of) any party shall not be applied.

Section 9.18 **ASSIGNMENT OR SUBLETTING.** Tenant may assign, sell, mortgage, pledge or in any manner transfer this Lease or its interest therein (collectively "Assignment") or sublet the Leased Premises or any part thereof or permit occupancy by anyone through or under

it (collectively "Sublease") by notifying the Landlord and requesting prior written consent in each instance, which consent shall not be unreasonably withheld.

a) The acceptance by Landlord of the payment of rent following any Assignment or Sublease allowed by this Article shall be deemed to be a consent by Landlord thereto and shall be deemed to be a waiver of any right or remedy of Landlord hereunder.

b) Notwithstanding any approved assignment or subletting, any guarantors of this Lease, shall continue to remain fully liable and responsible to Landlord for all obligations imposed by the terms and conditions of this Lease should Tenant's assignee (or sublessee) fail to comply fully with all such obligations.

**Section 9.19 WAIVER OF RIGHTS RELATIVE TO PRE-JUDGMENT REMEDY.**

THE TENANT DOES HEREBY ACKNOWLEDGE THAT THIS LEASE AGREEMENT IS A COMMERCIAL TRANSACTION AS CONCERNS CHAPTER 903a OF THE CONNECTICUT GENERAL STATUTES AS AMENDED, AND DOES HEREBY WAIVE ANY RIGHTS THAT IT MAY HAVE RELATIVE TO THE LANDLORD'S OBTAINING ANY PRE-JUDGMENT REMEDIES AGAINST IT PURSUANT TO THE PROVISIONS OF CHAPTER 903a. HOWEVER, LANDLORD AGREES THAT IT SHALL NOT EXERCISE ANY RIGHTS TO REMOVE TENANT'S PROPERTY UNDER THIS PROVISION UNLESS IT SHALL HAVE COMPLIED WITH THE REQUIREMENTS OF NOTICE AND HEARING OF SAID STATUTES.

**Section 9.20 GRAMMATICAL USAGE.** The use of any pronoun in connection with this Lease shall include the singular and plural and masculine, feminine and neuter, as the context may require. Whenever used the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. Spelling errors, upper and lower case errors, if any, shall be corrected by construction.

**Section 9.21 EXECUTION OF LEASE IN DUPLICATE.** This Lease shall be executed in duplicate. Each party shall retain one executed copy. Each executed duplicate copy shall constitute an original without the need to produce the other.

**Section 9.22 LEASE NOT EFFECTIVE UNTIL SIGNED.** Until and unless this Lease is executed by all parties it shall not be binding upon either party.

**Section 9.23 CONDEMNATION AWARDS.** All compensation awarded for any taking of the Premises or any interest therein shall belong to and be the property of the Landlord, Tenant hereby assigning to Landlord all rights with respect thereto; provided, however, nothing contained herein shall prevent Tenant from applying for reimbursement from the condemning authority (if permitted by law) for moving expenses, or the expense of removal of Tenant's trade fixtures, or loss of Tenant's business good will, but if and only if such action will not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by Landlord or the owner of the fee simple estate of Landlord's building.

**Section 9.24 COMPLIANCE WITH DEP ORDERS / HAZARDOUS WASTE.** The Tenant shall promptly comply with any notice or order of the Department of Environmental Protection

or similar governmental authority with regard to any spillage of hazardous waste on the leased premises (including common areas, whether interior or exterior), Building or the Land which relates to activities of Tenant on the leased premises (including common areas, whether interior or exterior) during the term of this lease. Upon receipt of any such order or notice Tenant shall immediately provide Landlord with a full copy thereof.

**Section 9.25 SIGNAGE.** Tenant may attach signage to the building or grounds provided Landlord has given express written consent (Tenant to be fully responsible for obtaining any and all necessary permits for any allowed signage, and for all costs of constructing and maintaining any such signage), which consent shall not be unreasonably withheld.

**Section 9.26 HOLDING OVER.** In the event that Tenant holds over in possession after the expiration of the term of this lease (without properly exercising the right of renewal as provided for in Section 4.6 above), or any renewal term thereof, the basic monthly rent shall be equal to twice the last applicable basic monthly rent, and the tenancy shall be deemed on a month to month basis. All other terms, conditions and obligations of the Tenant under this Lease shall remain in force and effect during such holdover period.

**Section 9.27 NO PARTNERSHIP.** The execution of this Lease does not create a partnership, joint venture, or other similar enterprise between the Tenant and the Landlord. It is expressly stipulated and agreed that the Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business or otherwise, or joint venturer or a member of a joint enterprise with Tenant.

**Section 9.28. CAPTIONS AND SECTION NUMBERS.** The headings which have been used throughout this Lease have been inserted for convenience of reference only and do not constitute matter to be construed in interpreting this Lease.

In Witness Whereof the Parties have set their hands and seals below.

The Tenant

BY \_\_\_\_\_  
Fotis Georgiadis

Date: \_\_\_\_\_

The Landlord

Date: \_\_\_\_\_

BY \_\_\_\_\_

Its First Selectman

**SCHEDULE A**  
(Description of Premises)

**SCHEDULE B**

(Modification of Summary Process Judgment / Stipulation)

NO. CV10-09-25969

RETURN DATE: 12/15/2009

TOWN OF NORTH STONINGTON

SUPERIOR COURT

VS.

G.A. 10

FOTIS GEORGIADIS

\_\_\_\_\_, 2011

**MOTION TO MODIFY JUDGMENT**

The parties in the above entitled action respectfully move that the judgment entered by the court in the above entitled matter on January 7, 2010, which was modified by Motion to Modify Judgment filed June 24, 2010 ("June Stipulation"), and granted by the court on July 15, 2010, which was further modified by Motion to Modify Judgment dated December 21, 2010 ("December Stipulation"), and granted by the court on January 4, 2011, and which was further modified by Motion to Modify Judgment dated January 31, 2011 ("January Stipulation"), and granted by the court on February 3, 2011 (collectively the "judgment"), be further modified in accordance with the terms of the Stipulation of the parties as set forth below.

**STIPULATION**

By agreement of the parties, the judgment as previously entered and modified may be modified as follows:

1. **CONTINGENT LEASE AGREEMENT.** The parties agree that the defendant shall comply with all terms and obligations of the "Tenant" as set forth in the attached "Commercial Lease Agreement" ("commercial lease").

2. **USAGE.** The defendant shall occupy and use the subject premises in conformance with the usage permitted under the commercial lease.

3. **USE AND OCCUPANCY.** Effective April 1, 2011, use and occupancy shall be \$1,650.00 per month, plus such additional charges as may be set forth under the terms of the commercial lease. Use and occupancy shall continue to be due and payable on the first day of each month.

4. **NOTICES.** Any notice required under the terms of Judgment shall be in writing and sent to counsel as of record appears for the parties, and delivered by commercial overnight carrier. Any such notice so issued and delivered shall be deemed given and received one day after the posting of such notice with a commercial overnight carrier.

7. **CONFLICT.** All other terms and conditions of the judgment not in conflict with this modification shall remain in full force and effect.

8. **CANVASS.** The parties waive canvass by the court.

The Plaintiff

The Defendant

BY \_\_\_\_\_  
It's Attorney  
Gregory A. Benoit Date: \_\_\_\_\_  
Benoit Law Offices  
143 Boston Post Rd.  
Waterford, CT 06385

BY \_\_\_\_\_  
Morris R. Borea  
Date: \_\_\_\_\_

**ORDER**

The above Motion having duly come before the court, it is hereby ORDERED:

That the judgment entered in favor of the plaintiff shall be further modified in accordance with the terms and conditions of the Stipulation of the parties as set forth above.

Dated at New London, Connecticut, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

BY THE COURT

\_\_\_\_\_

# Town Lease



*Town of*  
*North Stonington, Connecticut*

Date: April 7, 2011

To: Norma Holliday, Town Clerk

From: Board of Selectmen

Re: Adjournment of Questions from the April 18, 2011, Special Town Meeting to a Referendum on May 2, 2011.

Dear Mrs. Holliday:

Please be advised that the Board of Selectmen at their April 7, 2011, meeting agreed to send question 1, on the call for a Special Town Meeting of April 18, 2011, to a referendum vote. The questions will be adjourned to a referendum to be held on May 2, 2011.

You may refer to the attached copy of the resolution for the details of the scheduled vote. Thank you for your anticipated cooperation in this matter.

Robin D. Roohr  
Selectmen's Secretary

/rdr



*Town of*  
*North Stonington, Connecticut*

## RESOLUTION

RESOLVED, that the Board of Selectmen submit to the voters at a referendum to be held Monday, May 2, 2011, between the hours of 12:00 noon and 8:00 p.m., in the manner provided by Section 7-7 of the General Statutes of Connecticut, the resolution below, to be placed upon the voting machines under the following headings:

“Shall the First Selectman be authorized to enter into a proposed lease agreement, as presented with a petition to the Town Clerk’s Office on March 28, 2011, and execute the proposed lease on behalf of the Town of North Stonington?”

YES

NO

## CONTINGENT COMMERCIAL LEASE AGREEMENT

### ARTICLE 1 – THE PARTIES

#### Section 1.1 THE PARTIES:

- a) The Landlord (lessor) is: the **Town of North Stonington**, Connecticut (hereinafter referred to as the “Landlord”).
- b) The Tenant(s) is/are: **Fotis Georgiadis**, of 5700 Seaview Dr., Malibu, CA 90265 (hereinafter referred to as the “Tenant”).
- c) The Guarantor is: **Fotis Georgiadis**, of 5700 Seaview Dr., Malibu, CA 90265.

### ARTICLE 2 – THE RENTAL PREMISES

Section 2.1 **THE RENTAL PREMISES:** The property being leased is: a portion of the property known as 386 Norwich Westerly Road, North Stonington, CT 06359 (hereinafter referred to as the “premises”), and being more particularly described on **Schedule A**, attached hereto.

### ARTICLE 3 - RENT

#### Section 3.1 (a) **BASIC MONTHLY RENT:**

- 1) For the period January 1, 2012 (“commencement date”) through June 30, 2016, the basic monthly rent shall be \$1,650.00 per month.
- 2) For the period July 1, 2016 through June 30, 2017, the basic monthly rent shall be \$1,900.00 per month.
- 3) For the period July 1, 2017 through June 30, 2018, the basic monthly rent shall be \$1,957.00 per month.
- 4) For the period July 1, 2018 through June 30, 2019, the basic monthly rent shall be \$2,016.00 per month.
- 5) For the period July 1, 2019 through June 30, 2020, the basic monthly rent shall be \$2,076.00 per month.

Section 3.1 (b) **BASIC MONTHLY RENT DURING RENEWAL TERMS:** In the event that Tenant exercises the option to renew the term of this lease (see Section 4.6 below) the basic monthly rent shall be as follows:

#### **FIRST RENEWAL TERM: 7/1/2020 – 6/30/2030**

- 1) For the period July 1, 2020 through June 30, 2021, the basic monthly rent shall be \$2,138.00 per month.

- 2) For the period July 1, 2021 through June 30, 2022, the basic monthly rent shall be \$2,202.00 per month.
- 3) For the period July 1, 2022 through June 30, 2023, the basic monthly rent shall be \$2,268.00 per month.
- 4) For the period July 1, 2023 through June 30, 2024, the basic monthly rent shall be \$2,336.00 per month.
- 5) For the period July 1, 2024 through June 30, 2025, the basic monthly rent shall be \$2,406.00 per month.
- 6) For the period July 1, 2025 through June 30, 2026, the basic monthly rent shall be \$2,478.00 per month.
- 7) For the period July 1, 2026 through June 30, 2027, the basic monthly rent shall be \$2,552.00 per month.
- 8) For the period July 1, 2027 through June 30, 2028, the basic monthly rent shall be \$2,629.00 per month.
- 9) For the period July 1, 2028 through June 30, 2029, the basic monthly rent shall be \$2,708.00 per month.
- 10) For the period July 1, 2029 through June 30, 2030, the basic monthly rent shall be \$2,789.00 per month.

**SECOND RENEWAL TERM: 7/1/2030 – 6/30/2040**

- 1) For the period July 1, 2030 through June 30, 2031, the basic monthly rent shall be \$2,873.00 per month.
- 2) For the period July 1, 2031 through June 30, 2032, the basic monthly rent shall be \$2,959.00 per month.
- 3) For the period July 1, 2032 through June 30, 2033, the basic monthly rent shall be \$3,048.00 per month.
- 4) For the period July 1, 2033 through June 30, 2034, the basic monthly rent shall be \$3,139.00 per month.
- 5) For the period July 1, 2034 through June 30, 2035, the basic monthly rent shall be \$3,233.00 per month.
- 6) For the period July 1, 2035 through June 30, 2036, the basic monthly rent shall be \$3,330.00 per month.

7) For the period July 1, 2036 through June 30, 2037, the basic monthly rent shall be \$3,430.00 per month.

8) For the period July 1, 2037 through June 30, 2038, the basic monthly rent shall be \$3,533.00 per month.

9) For the period July 1, 2038 through June 30, 2039, the basic monthly rent shall be \$3,639.00 per month.

10) For the period July 1, 2039 through June 30, 2040, the basic monthly rent shall be \$3,748.00 per month.

**THIRD RENEWAL TERM: 7/1/2040 – 6/30/2050**

1) For the period July 1, 2040 through June 30, 2041, the basic monthly rent shall be \$3,860.00 per month.

2) For the period July 1, 2041 through June 30, 2042, the basic monthly rent shall be \$3,976.00 per month.

3) For the period July 1, 2042 through June 30, 2043, the basic monthly rent shall be \$4,095.00 per month.

4) For the period July 1, 2043 through June 30, 2044, the basic monthly rent shall be \$4,218.00 per month.

5) For the period July 1, 2044 through June 30, 2045, the basic monthly rent shall be \$4,345.00 per month.

6) For the period July 1, 2045 through June 30, 2046, the basic monthly rent shall be \$4,475.00 per month.

7) For the period July 1, 2046 through June 30, 2047, the basic monthly rent shall be \$4,609.00 per month.

8) For the period July 1, 2047 through June 30, 2048, the basic monthly rent shall be \$4,747.00 per month.

9) For the period July 1, 2048 through June 30, 2049, the basic monthly rent shall be \$4,889.00 per month.

10) For the period July 1, 2049 through June 30, 2050, the basic monthly rent shall be \$5,036.00 per month.

The basic monthly rent is to be paid to the Landlord at the following address: Attention: First Selectman, Town of North Stonington, 40 Main St., North Stonington, CT 06359, or at such other address as the Landlord may from time to time by notice direct. The date that the rent is actually received shall be construed as the date the rent is paid, and the date of mailing shall not be construed as the date of the payment of the rent.

Section 3.2 **ADDITIONAL RENT:** In addition to the basic monthly rent, the tenant shall be responsible for the following, all of which shall be deemed rent:

a) Any and all utility charges which are billed to and/or paid by the Landlord, including, but not limited to: water (hot and cold), sewer usage (if any), heating, lighting, air conditioning and ventilation and all taxes, assessments, surcharges and other government (whether local, State or Federal) levies therefore.

b) The cost for all of Landlord's insurance policies relating to the premises, including liability.

c) All taxes, charges, costs and expenses which tenant is required to pay under this lease, together with all interest and penalties that may accrue thereon in the event of tenant's failure to pay and/or timely pay such amounts, and all damages, costs, and expenses which Landlord may incur by reason of any default of Tenant or failure on tenant's part to comply with the terms of this Lease, including reasonable attorney fees, shall be deemed to be additional rent, and in the event of nonpayment by the Tenant, Landlord shall have all the rights and remedies with respect thereto as Landlord has for the nonpayment of rent.

Section 3.3 **RENT:** As used in this lease the term rent shall be defined to mean basic monthly rent plus any additional rent as set forth and provided for in Section 3.2 above. All rent is to be paid directly to the Landlord by the Tenant.

Section 3.4 **PAST DUE RENT:** Any and all rent (or other sums due under this lease) not paid on or before the fifth day (inclusive) after the due date shall incur interest at the rate of twelve percent (12%) per annum based on a 360 day year.

Section 3.5 **NOTIFICATION OF ADDITIONAL RENT DUE.** Landlord shall notify tenant as to the amount of additional rent which is payable on the commencement of the lease, which sum may be based on a good faith estimate by the Landlord. From time to time the Landlord by written notice to Tenant shall notify Tenant as to any changes as to the additional rent which is due and payable. The changed additional rent shall be due and payable with the next due payment of basic monthly rent. In the event that Landlord's estimated additional rent was less than the actual amount of additional rent due for any period under the lease, upon written notice from the Landlord, Tenant shall pay any arrearage with next due payment of basic monthly rent. In the event that Landlord's estimated additional rent was more than the actual amount of additional rent due for any period under the lease, upon written notice from the Landlord, Tenant

shall be entitled to a credit against the next due payment(s) of additional rent until such overpayment is exhausted.

#### **ARTICLE 4 – TERM / RENEWAL TERMS**

Section 4.1 **LEASE TERM.** The lease starts on the date of: **January 1, 2012** and ends on the date of: **June 30, 2020**.

Section 4.2 **REPLACEMENT LEASE.** This Lease Agreement is meant to replace the Lease agreement dated July 1, 2000 by and between Mystic Seaport Museum, Inc. (as lessor or landlord) and Ruthangs, Inc. (as lessee or tenant), said lease being hereinafter referred to as the “original lease”. The Landlord is the successor in interest to Mystic Seaport Museum, Inc. and the Tenant is the successor in interest to Ruthangs, Inc.

Section 4.3 **CONTINGENT NATURE OF LEASE.** The original lease was terminated by a summary process action entitled *Town of North Stonington vs. Fotis Georiadis*, entered and filed in the Superior Court for the State of Connecticut, Judicial District of New London, Geographical Area Court 10, and being assigned docket number 25969. The parties agree that the execution of this lease shall not undermine or replace the terms and conditions of the Judgment entered in said action, as modified, and that in the event of any conflict between the terms of this Agreement and said Judgment (as the same may be modified from time to time) the terms and conditions of said Judgment shall control, unless expressly otherwise provided for herein. Furthermore the parties stipulate and agree that in the event that the defendant, or any successor or assign of defendant, violates the terms of said Judgment, that an execution for possession may issue from the court, notwithstanding the execution of this contingent lease agreement. It is the intent of the parties that if the defendant fully complies with all terms and conditions of the Judgment in the above referred to summary process action, that then, and in that event, this lease agreement, instead of the original lease, shall spring into effect on January 1, 2012. If the said defendant fails to comply with the terms and conditions of said summary process judgment then, and in that event, this Lease Agreement shall be of no force and effect.

Section 4.4 **OBLIGATIONS OF TENANT PRIOR TO LEASE BECOMING EFFECTIVE.** All obligations of Tenant and the Guarantor under the terms and conditions of this Lease shall become effective and binding on Tenant and Guarantor on the signing of this Lease. All payments tendered by Tenant prior to this Lease becoming effective shall be deemed in the nature of payment for use and occupancy of the premises and not as payment(s) of rent notwithstanding any label or description accompanying or on any instrument of payment.

Section 4.5 **MODIFICATION OF SUMMARY PROCESS JUDGMENT.** The parties shall execute a Motion to Modify (by Stipulation) the summary process judgment referred to in Section 4.3 above referred to above. Said Motion and Stipulation shall be in form and substance as attached hereto as **Schedule B**.

Section 4.6 **OPTION FOR RENEWAL TERMS.** Landlord hereby grants Tenant the option to renew this lease for three additional ten year terms (see Section 3.1(b)). To exercise any of said renewal options the Tenant must be in full compliance with its obligations under the terms of this lease and notify the Landlord in writing not less than six months prior to the end of the lease term or renewal term of its intention to exercise the renewal option (see Section 9.13 as to how

any notice is to be issued). It is expressly the intention of the parties that no oral notice of exercise of the option for any lease renewal and/or oral acceptance of an oral renewal notice shall be effective. It is further expressly the intention of the parties that Tenant's tender, and Landlord's acceptance of rent, and/or basic monthly rent payments in the amounts provided for under any renewal term, after an oral notice of the exercise of any option to renew the lease shall not be construed so as to be effective to renew the lease. It is further expressly agreed and understood that in the event that Tenant fails to exercise its option to renew the lease in writing by the means provided for under the terms of this lease, Landlord may at any time, at Landlord's sole option and discretion, terminate tenant's right to occupy the premises and/or any leasehold interest of Tenant. The rent applicable during any year of any renewal term is set forth under

All other terms and conditions of this lease shall remain in full force and effect during any renewal term, including, but not limited to those involving additional rent.

## **ARTICLE 5 - INDEMNITY AND INSURANCE**

### **Section 5.1 Indemnity.**

(a) Within the meaning of this Article 5, "Claims" means any claims, suits, proceedings, actions, causes of action, responsibility, liability, demands, judgments and executions.

(b) Tenant hereby indemnifies and agrees to save harmless Landlord, Landlord's officials, employees, officers, agents, and volunteers, from and against any and all Claims, which either:

(i) arise from or are in connection with the possession, use, occupation, management, repair, maintenance or control of the Premises, or any portion thereof;

(ii) arise from or are in connection with any act or omission of Tenant; or Tenant's Agents;

(iii) result from any Default, breach, violation or non-performance of this Lease or any provision of this Lease by Tenant; or

(iv) arise from injury to person or property or loss of life sustained in or about the Premises;

(v) arise from injury to person or property or loss of life sustained off the Premises by reason of any act or omission by the Tenant, and/or Tenant's employees and/or agents.

(c) Tenant shall, with counsel reasonably satisfactory to Landlord, defend any actions, suits and proceedings which may be brought against Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers, with respect to the foregoing or in which Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers may be impleaded. Tenant shall pay, satisfy and discharge any judgments, orders and decrees which may be recovered against Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers in connection with the foregoing and all costs incurred by Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers, including attorneys and expert witnesses fees.

### **Section 5.2 Liability Insurance.**

(a) Tenant shall provide, upon execution of this Lease, and shall keep in force during the Term of this Lease for the benefit of Landlord and Tenant, a comprehensive policy of liability insurance (written under commercial or comprehensive form including the following: Premises/Operation, Products/Completed Operations, Contractual, Independent Contractors, Broad Form Property Damage, and Personal Injury, including (Slander and/or Libel)), which shall also contain a contractual liability endorsement naming Landlord and any designee of Landlord as additional insured. The policy shall protect Landlord, Tenant, and Landlord's officials, employees, officers, agents, and volunteers, and any designee of Landlord against any liability occasioned by any occurrence on or about the Premises or any appurtenance thereto, any liability arising from the commercial activities of the Tenant or arising from any of the items indicated in Section 5.1 against which Tenant is required to indemnify Landlord, and/or Landlord's officials, employees, officers, agents, and volunteers. The policy is to be written:

(i) by an AM Best A- or better rated and solvent insurance company, licensed to do business in the State of Connecticut, and satisfactory to Landlord; and

(ii) in the amount of not less than \$5,000,000.00 with respect to any one person, in the amount of not less than \$10,000,000.00 with respect to any one accident, and in the sum of not less than \$5,000,000.00 with respect to property damages; or in the amount of \$10,000,000.00 combined single limit. Either limit structure shall be written on an Occurrence Form.

(iii) If it becomes customary for restaurant tenants serving alcoholic beverages to provide liability insurance policies to landlords with coverage limits higher than the foregoing limits, Tenant shall, on demand of Landlord, provide Landlord with an insurance policy whose limits are not less than the customary limits.

(b) Tenant's liability insurance shall be so written that Landlord will be notified of cancellation at least thirty (30) days prior to the effective date of such cancellation. Tenant shall execute such authorizations as Landlord may require to affect this purpose.

(c) Tenant's liability insurance coverage shall be primary insurance with respect to the Landlord, Landlord's officials, employees, officers, agents, and volunteers. Any insurance or self-insurance maintained by Landlord, Landlord's officials, employees, officers, agents, and volunteers shall be excess of the Tenant's liability insurance and shall not contribute to it.

### **Section 5.3 Tenant's Property Insurance.**

Tenant shall also carry during the Term of this Lease and any extensions hereof, all risk property insurance (herein 'Tenant's Property Insurance') covering fire and extended coverage, vandalism and malicious mischief, sprinkler leakage and all other perils included in a standard Special Causes of Loss or All Risk form. Coverage will be written with a Replacement Cost loss settlement provision for one hundred percent (100%) of the estimated replacement value of Tenant's property located on or within the Premises, with Tenant's customary deductibles. Tenant shall deliver to Landlord a certificate of such insurance which shall also contain a 30-day prior written notice of cancellation provision (Tenant shall execute such authorization as may be necessary to implement this notice provision). Landlord shall be named as an Insured with respect to such insurance, and both the Tenant and the Landlord shall be named as a payees on any payment issued under any such policy of insurance. The proceeds from any payment issued

under such policy of insurance shall be held in escrow by the Town to be used for the repair, restoration and rebuilding of the damaged building and/or property.

#### **Section 5.4 Liquor Liability Insurance**

(a) **Dram Shop Insurance.** The Tenant shall at all times during the term of this lease maintain a policy of Connecticut Liquor Liability Insurance in an amount equal to the statutory limit set forth in Connecticut General Statutes Section 30-102 (as the same may, from time to time, be amended).

(b) **Liquor Liability Insurance.** At all times during the term of this Lease Tenant shall maintain in full force and effect a liquor liability insurance policy (either as a separate policy or as a rider to its general liability insurance policy), with Landlord named as an additional insured, in the amount of not less than \$10,000,000.00 with respect to any one person, in the amount of not less than \$10,000,000.00 with respect to any one accident, and in the sum of not less than \$2,000,000.00 with respect to property damages; or a combined single limit of \$10,000,000.00. Said liquor liability insurance policy (or rider) shall not exclude: assault and batter coverage; Tenant employees; mental damages; and shall not have a cost deductible (including attorney fees) of greater than \$5,000.00.

(c) Coverage shall not exclude any Partners, or Corporate Officers who are active in the commercial activities of the Tenant.

#### **Section 5.5 Worker's Compensation Insurance**

(a) Tenant shall at all times during the term of this lease maintain worker's compensation insurance in accordance with the Worker's Compensation laws of the State of Connecticut.

(b) Tenant shall require any contractor or subcontractor performing work on the premises and/or on behalf of Tenant to have and maintain worker's compensation insurance in accordance with the Worker's Compensation laws of the State of Connecticut.

#### **Section 5.6 Automotive Liability Insurance.**

Tenant shall maintain automotive coverage for commercial or comprehensive automobile liability (vehicular) covering any motor vehicle owned or operated by Tenant, and including privately owned motor vehicles operated by Tenant and/or Tenant's agents and employees, and/or leased by Tenant or Tenant's agents and employees providing combined single limit coverage for bodily injury, death and property damage of not less than \$10,000,000.00. This coverage is to include Hired and Non-Owned coverage. The Landlord shall be listed as an additional Insured on such policy.

#### **Section 5.7 Umbrella Coverage.**

Tenant shall further maintain at all times during the term of this Lease "follow form" umbrella coverage over General Liability and Auto Liability of not less than \$10,000,000.00.

#### **Section 5.8. General Insurance Requirements.**

(a) At the signing of this lease Tenant shall provide Landlord with certificate(s) evidencing the insurance policies and coverage required of it under this Lease, and thereafter thirty (30) days prior to any policy expiration date certificate(s) evidencing the renewal of such insurance; and/or within ten days of Landlord's written request for such certificate(s) evidencing Tenant's compliance with this Article 5. All policies of insurance shall be on an occurrence form only (no claims made policies). All policies shall be written so as to require the insurer to notify Landlord:

(i) thirty (30) days prior to any cancellation or non-renewal date;

(ii) of the erosion of any aggregate limits;

(iii) of the advance of any retroactive dates; and

(iv) the Tenant shall execute any and all such authorizations as are necessary to implement said notice provisions.

## ARTICLE 6 - USAGE

Section 6.1 (a) **USAGE - OPERATION OF FAMILY RESTAURANT.** The Tenant shall operate a family style restaurant to be open for business on the premises on Saturdays and Sundays at least four other days during the week. The restaurant shall be open between the hours of 7:00 o'clock a.m. and 9:00 o'clock p.m., on weekends and have a menu for (and serve) breakfast, lunch and dinner. During non-weekend days the restaurant shall be open between the hours of 11:00 o'clock a.m. and 9:00 o'clock p.m. and have a menu for (and serve) lunch and dinner. The Tenant shall be free to operate the restaurant for longer hours and for more than six days a week should it so desire. Provided the Tenant secures such zoning approval(s) and/or permits from the Town of North Stonington as the zoning regulations for the Town of North Stonington may require, and a permit from the Liquor Control Commission for the State of Connecticut, the Tenant may only sell to Tenant's patrons beer and wine for consumption with the meals being served. The consumption of any alcoholic beverage on the premises that was not purchased on the premises shall not be allowed (no BYOB allowed).

Section 6.1(b) **USAGE - RESIDENTIAL.** Tenant may use the second floor of the building for single family residential usage or for office space, provided Tenant is in compliance with all applicable Federal, State, and municipal codes and regulations, including, but not limited to those related to: fire, building, and safety. As used herein single family residential usage shall mean that any individuals using the second floor for residential purposes shall be related by either: blood (children and parents), or marriage. The second floor shall not be used for residential purposes by unrelated individuals (it shall not be a dormitory or rooming house).

Section 6.2 **Waste / Rubbish Removal / Pest Control.** The Tenant shall keep the premises and grounds, whether interior or exterior, free from boxes, cartons, bottles, and rubbish, and/or other debris, and shall pay for the cost of all trash removal for the premises. The Tenant shall further keep the premises free and clear of all vermin (rats, mice, squirrels and the like), cockroaches, and/or other obnoxious insects. At all times during the term of this Lease the Tenant shall have, and thereafter maintain, in full force and effect an annual service contract with

a pest control company, so as to comply with this obligation. The Tenant shall provide the Landlord with evidence that said service contract is in full force on the signing of this Lease, and on each yearly anniversary date of the contract date, and/or additionally within ten (10) business days of any request by notice from Landlord for evidence that the same remains in good standing and in full force and effect. The Tenant shall not suffer, permit nor commit any waste with respect to the premises.

Section 6.3 **PARKING.** Tenant shall not permit any of its patrons, employees, or agents to park on any area outside the paved parking lot on the premises.

## **ARTICLE 7 – PERMITS AND COMPLIANCE**

Section 7.1 **PERMITS/GOVERNMENTAL APPROVALS.** Tenant covenants and agrees to obtain and/or maintain at its sole cost and expense any and all permits and approvals necessary for its usage of the premises. Tenant agrees to fully and completely comply at its own sole cost and expense with all governmental rules, orders, codes, licenses, permits, regulations and ordinances, whether Federal, State or municipal, including, but not limited to those relating to fire, safety, health, building, and zoning, which may apply to its occupancy and usage of the Premises. Tenant shall maintain the Premises in a neat and clean condition. Tenant shall be responsible for removal from the Premises of all refuse it produces. For the purposes of this Lease, any notice issued to the Landlord by any governmental official (Federal, State, and/or municipal) with respect to the premises (with respect to any condition therein and/or activity thereon), directing that any action be taken with respect to such condition and/or usage, upon notice from Landlord to the Tenant, shall become the obligation of the Tenant to comply with. In the event that the Tenant fails to comply with any such obligation, the Landlord may terminate this lease (see Section 8.1(b) below).

Section 7.2 **POTENTIAL RENT ABATEMENT.** A portion of the septic system that services the subject premises is located outside the premises in potential violation of the terms of the applicable trust which is applicable to Landlord's title to the property. The Landlord agrees to use its good faith efforts to try to resolve any claim which may arise that such usage is improper, and if necessary, at its own cost and expense, commence a Cy Press action to reform the applicable trust so that such usage is permitted. In the event that such efforts are not successful, it shall be the Tenant's sole responsibility to relocate the septic system at its sole cost and expense to the premises leased hereunder. In the event that the septic system which services the premises is required to be relocated by reason of a valid governmental (Federal, State, and/or municipal) order or decree, and in the further event that as a result of being required to relocate said septic system (which shall be at Tenant's sole cost and expense) Tenant must temporarily close its restaurant business, then, and in those events, Tenant's obligation to pay the basic monthly rent shall abate for the lesser of: a) six months; or b) until such time as Tenant's restaurant business reopens.

## **ARTICLE 8 - DEFAULT**

Section 8.1 **DEFAULT.** The Landlord shall have the right to terminate this Lease upon any one or more of the following events:

- (a) Failure of the Tenant to pay the rent on or before the fifth business day of the month;
- (b) Neglect or failure by the Tenant to perform or observe any of the covenants or undertakings herein on its part to be performed or observed (for which no prior notice of default has been issued by the Landlord) and failure to remedy such default within thirty (30) days after written notice thereof to it by the Landlord, it being agreed and understood that no notice of default with respect to the failure to pay rent shall be required, and that there is no right to cure a nonpayment of rent default;
- (c) Neglect or failure by the Tenant to perform or observe any of the covenants or undertakings herein on its part to be performed or observed for which Tenant has previously been cited by landlord under subsection (b) of this section (simply put, the Tenant shall not be entitled to cure a repeat default);
- (d) Any assignment made of the Tenant's and/or Guarantor's property for the benefit of creditors;
- (e) If a receiver, trustee or assignee for the Tenant and/or Guarantor shall be appointed;
- (f) If an order for relief shall be entered against the Tenant and/or Guarantor according to law; or
- (g) If any bankruptcy proceedings shall be commenced against the Tenant and/or Guarantor, and they are not dismissed within ninety (90) days.
- (h) Any misrepresentation by the Tenant and/or Guarantor with respect to any matter relating to this lease, the Tenant, the Guarantor, and/or any proposed assignment, subletting, ownership and/or membership interest of any assignee, proposed assignee, subtenant, proposed subtenant.

**Section 8.2 DAMAGES.** In the event of the Tenant's (or Guarantor's) default as aforesaid, the Tenant also agrees: (1) to indemnify and save the Landlord harmless from and against all expenses which the Landlord may incur, including, without limitation, legal expenses, attorney's fees, brokerage fees and the cost of putting the leased premises in good order or preparing the same for rental; (2) that the Landlord may relet the leased premises or any part or parts thereof, either in the name of the Landlord or otherwise, for a term or terms which may, at the Landlord's option, be less than or exceed the period which would otherwise have constituted the balance of the term and of any extension thereof and may grant concessions or free rent; and (3) that the Tenant or its legal representatives shall pay the Landlord, as liquidated damages for the failure of the Tenant to observe and perform the Tenant's covenants herein contained, any deficiency between the rent hereby reserved and the net amount, if any, of the rents collected on account of any Lease or leases of the leased premises for each month of the period which would otherwise have constituted the balance of term. The failure or refusal of the Landlord to relet the leased premises or any part or parts thereof shall not release or affect the Tenant's liability for damages. The Landlord, at its option, may make such alterations, repairs or replacements and decorations on the leased premises that the Landlord, in its sole judgment, considers advisable and necessary for the purposes of reletting the leased premises. The making of such alterations or decorations shall not operate or be construed to release the Tenant from liability hereunder. The Landlord

shall, in no event, be liable for failure to relet the leased premises or, if the leased premises are relet, for failure to collect the rent thereof under reletting.

## ARTICLE 9 - MISCELLANEOUS

Section 9.1. **NO LIMITATION ON ACCEPTANCE OF RENT.** The acceptance by Landlord of any payment for a lesser amount of rent, interest, and/or late charge, or any other charge that may be due under the terms of this Lease, with an endorsement or statement thereon, or upon any letter accompanying such payment, that such lesser amount is payment in full shall be given no effect, and Tenant hereby acknowledges and agrees that Landlord may accept such payment without prejudice to any rights or remedies which Landlord may have against Tenant, and that such words of limitation shall have no impact and effect and shall be deemed null and void.

Section 9.2 **UTILITIES.** Tenant shall be solely responsible for all utilities used by it. Landlord shall not be responsible or liable for any interruption of utility services to the premises.

Section 9.3 **TENANT IMPROVEMENTS.** Tenant shall be entitled at its own sole expense, upon written consent of Landlord, to make reasonable alterations and improvements to the Premises consistent with his/her/its permitted usage of the Premises, provided Tenant has secured all necessary permits and approvals from the Town of North Stonington, and/or the State of Connecticut, and/or the United States of America. Provided all applicable and necessary permits and approvals have been obtained, the landlord shall not unreasonably withhold such consent.

Section 9.4 **EFFECT OF ENTERING INTO POSSESSION / AS IS / NO WARRANTIES.** By entering into possession, Tenant shall be deemed to have: (a) accepted the Premises, and (b) acknowledged that the same are in the condition called for hereunder. Landlord does not make any representations or warranties related to (1) the physical condition of the Premises, (2) the appropriateness or fitness of the Premises for Tenant's intended usage.

Section 9.5 **TENANT'S TRADE FIXTURES.** All trade fixtures which are secured to the premises (by bolt, nail, or otherwise) and apparatus similarly so secured, together with all leasehold improvements, and fixtures such as ventilation, heating, plumbing, cooling, electrical wiring in the Premises shall become the property of Landlord and may not be removed by the Tenant at the end of this Lease or any renewal term.

Section 9.6 **REPAIRS AND MAINTENANCE OF BUILDING AND GROUNDS.** Tenant shall be fully responsible for maintaining the exterior and interior of the building located on the Premises. Tenant's obligation for maintaining the interior of the Premises shall include, but not be limited to: maintaining all mechanical systems (heating, ventilation, electrical, plumbing, cooling, septic(whether interior or exterior), and fire control systems) in good condition and repair. Tenant shall be responsible for causing the septic system for the premises to be pumped out as needed and for pumping out the septic system five days before the termination of the lease term, or any renewal term, or earlier termination of the lease, or earlier surrender of possession of the premises to the Landlord. Tenant shall be responsible for ice/snow removal and litter removal from the parking area and all access walks, steps, ramps, and entrance areas.

**Section 9.7 LANDLORD NOT RESPONSIBLE FOR BUSINESS INTERRUPTION.** Landlord shall not be responsible for or liable for any interruption of Tenant's business occasioned by any damage to either the interior or exterior of the building in which the Premises are located or in the Premises.

**Section 9.8 WAIVER OF RIGHT OF RECOVERY.** Landlord shall not be liable to Tenant or to any insurance company (by way of subrogation or otherwise) insuring the Tenant for any loss or damage to any building, structure or other tangible property or liability for personal injury, wrongful death, or losses under workers compensation laws and benefits, to the extent such loss or damage is covered by insurance, event though such loss or damage might have been occasioned by the negligence of Landlord, its agents or employees.

**Section 9.9 COST OF LANDLORD'S REMEDIES.** Any and all reasonable costs and expenses (including, but not limited to, attorney fees (whether or not litigation is commenced), other professional fees, and court costs) incurred by Landlord in enforcing any of its rights or remedies under this Lease shall be repaid to Landlord by Tenant, and if not repaid, shall be awardable by a court of competent jurisdiction.

**Section 9.10 PEACEFUL AND QUIET USE AND POSSESSION.** Provided Tenant fulfills and performs all of the covenants of this Lease which Tenant is required to fulfill and perform, Landlord covenants that Tenant shall have peaceful and quiet use and possession of the Premises without hindrance on the part of Landlord.

**Section 9.11 SUBORDINATION.** This Lease shall be subordinate to all current or future mortgages that Landlord may place on the property on which the premises are located.

**Section 9.12 ATTORNMENT.** If any person shall succeed to all or part of Landlord's interest in the Premises, by whatever legal means, and if so requested or required by such successor in interest, Tenant shall attorn to such successor in interest and shall execute such agreement in confirmation of such attornment as such successor in interest shall reasonably request, provided such successor in interest enters into an agreement not to disturb Tenant's possession and occupancy of the Premises, subject to the terms and conditions of this Lease.

**Section 9.13 SENDING OF NOTICES.** Any notice, request, demand, approval or consent given or required to be given under this Lease shall be in writing, and sent by overnight commercial carrier, with a copy faxed and emailed on the date of posting, and shall be deemed given on the date of posting.

a) If intended for the Landlord:

it shall be delivered by overnight commercial carrier to: First Selectman, Town of North Stonington, 40 Main St., North Stonington, CT 06359

b) If intended for Tenant,

it shall be delivered by overnight commercial carrier to:

c) The Landlord and Tenant may change their/its address, fax number(s), and email addresses for notice purposes on written notice to the Tenant as set forth above.

**Section 9.14 INSPECTION AND ACCESS BY LANDLORD.** Landlord (and/or Landlord's agents and servants) shall have the right to enter the premises in times of emergency to make repairs and inspect as to whether repairs are necessary, upon oral request. Landlord also shall have such access to the Premises as is reasonably necessary for Landlord to comply with his obligations under this Lease. Landlord may have reasonable access on reasonable notice to show the property to prospective purchasers, mortgagees, or prospective tenants, on reasonable notice and provided that such access shall not unreasonably interfere with Tenant's business.

**Section 9.15 ENTIRE AGREEMENT / NO MODIFICATION.** This Lease is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the parties having been incorporated herein. No course of prior dealings between the parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Lease. Acceptance of, or acquiescence in a course of performance rendered under this Agreement shall not be relevant or admissible to determine the meaning of any of the terms of this Lease. No representations, understandings or agreements have been made or relied upon in the making of this Lease other than those specifically set forth herein. This Lease can be modified only by a writing signed by both parties with the same formalities as attended the signing of this Lease.

**Section 9.16 SEVERABILITY.** If any term or provision, or any portion thereof, of this Lease, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law. Should a court of competent jurisdiction find any provision or part of a provision unenforceable as written the court may reform such provision or part of a provision to render it enforceable consistent with the general intent of the remaining portion of such provision and/or this Lease.

**Section 9.17 APPLICABLE LAW.** This Lease and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of Connecticut.

**Section 9.18 WAIVER OF JURY TRIAL.** Landlord and Tenant hereby mutually waive any and all rights which either may have to request a jury trial in any proceeding at law or in equity in any court of competent jurisdiction which arises from this Lease, their respective relationship as Landlord and Tenant, and or the leasing, renting, and occupancy of the Premises.

**Section 9.19 LIMITATION ON RIGHT OF RECOVERY AGAINST LANDLORD.** Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to his interest in the Landlord's building and the land on which it is built and any judgment rendered against Landlord shall be satisfied solely out of the proceeds of sale of his interest in Landlord's building and the underlying land. No personal judgment shall lie against Landlord upon extinguishment of his rights in Landlord's building and the underlying land and any judgment

shall not give rise to any right of execution or levy against Landlord's assets. The provisions hereof shall inure to Landlord's successors and assigns including any mortgagee.

**Section 9.20 NEUTRAL CONSTRUCTION OF LEASE.** This Lease shall be construed neutrally with respect to any ambiguities herein contained. Any rule of construction requiring the Lease to be construed against the drafter, against the Landlord, or against or in favor of (for the benefit of) any party shall not be applied.

**Section 9.21 NO ASSIGNMENT OR SUBLETTING.** Tenant shall not assign, sell, mortgage, pledge or in any manner transfer this Lease or its interest therein (collectively "Assignment") or sublet the Leased Premises or any part thereof or permit occupancy by anyone through or under it (collectively "Sublease") except for the Permitted Use as provided in this Lease, without the Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld.

a) In determining reasonableness, the Landlord may take into consideration all relevant facts surrounding the proposed Sublease or Assignment which are customarily considered by commercial landlords in deciding whether or not to lease to prospective tenants, including, without limitation: i) the nature of the business and the proposed usage of the Leased Premises by the proposed Assignee or Subtenant in relation to the Permitted Use; ii) the financial condition (as evidenced by an audited financial statement certified by a certified public accounting firm, together with personal and business federal tax returns for the last three prior years) and operating performance of the proposed Assignee or Subtenant and their guarantors, if any; iii) the extent to which the proposed Assignee or Subtenant provide the Landlord with assurance of future performance; iv) if an entity, documents evidencing: 1) the lawful existence; 2) a certified copy of the operating agreement, by-laws, or other such governing document; 3) an executed resolution authorizing the execution of an acceptance of the assignment or sublease and agreement to be bound by the terms and conditions of this lease; and 4) a list of the owners (names and addresses) and/or members of the proposed assignee together with their respective ownership/membership interest in the proposed assignee.

b) Any transfer of this Lease by merger, reorganization, consolidation, liquidation, bankruptcy or by operation of law shall constitute an assignment for the purposes hereof. Any grant of authority to another person or another entity under which that other person or entity operates the business located on the premises via an operating agreement or other such contractual arrangement shall also, for purposes of this lease, constitute an assignment.

c) Any transfer or change in the ownership and/or membership of the tenant, an assignee, or a subtenant, shall constitute an assignment.

d) Any Assignment or Sublease that is not in compliance with this Article shall be void and, at the option of Landlord, shall constitute an Event of Default under this Lease.

e) The acceptance by Landlord of the payment of rent following any Assignment or Sublease prohibited by this Article shall not be deemed to be a consent by Landlord thereto nor shall the same be deemed to be a waiver of any right or remedy of Landlord hereunder.

f) Notwithstanding any approved assignment or subletting, Tenant, and any guarantors of this Lease, shall continue to remain fully liable and responsible to Landlord for all obligations

imposed on it under the terms and conditions of this Lease should Tenant's assignee (or sublessee) fail to comply fully with all such obligations. The acceptance by Landlord of any payment from any assignee or sublessee shall not be deemed to be a consent by Landlord to such assignment or subletting nor shall the same be deemed to be a waiver of any right or remedy of Landlord under this Lease.

g) Through and including 12/31/2011, it shall be an express condition of any assignment or subleasing that any assignee in writing acknowledges that he/she/they or it, as the case may be, is bound by the terms of the Summary Process Judgment (see Section 4.3 above), and expressly waives any right to file a claim of exemption from execution.

h) Any wording or implication herein to the contrary notwithstanding, any assignment or subletting shall not operate to release or waive the obligations of Tenant or any Guarantor under this Lease.

i) In the event that the Landlord consents to any proposed assignment and/or sublease, it shall be the obligation of assignee or sublessee (as applicable) and the Guarantor to annually certify by notice to the Landlord on or before each December 1<sup>st</sup> the owners (names and addresses) and/or members of the proposed assignee together with their respective ownership/membership interest in the proposed assignee. It shall further be the obligation of such assignee or sublessee and the Guarantor to notify the Landlord of any change in the ownership and/or membership of such assignee or subtenant within not less than ten days of any such change in ownership and/or membership. Such notice shall include the full name and address of such new owner and/or member, together with the ownership or membership interest of any new owner or member.

#### **Section 9.22 WAIVER OF RIGHTS RELATIVE TO PRE-JUDGMENT REMEDY.**

THE TENANT DOES HEREBY ACKNOWLEDGE THAT THIS LEASE AGREEMENT IS A COMMERCIAL TRANSACTION AS CONCERNS CHAPTER 903a OF THE CONNECTICUT GENERAL STATUTES AS AMENDED, AND DOES HEREBY WAIVE ANY RIGHTS THAT IT MAY HAVE RELATIVE TO THE LANDLORD'S OBTAINING ANY PRE-JUDGMENT REMEDIES AGAINST IT PURSUANT TO THE PROVISIONS OF CHAPTER 903a. HOWEVER, LANDLORD AGREES THAT IT SHALL NOT EXERCISE ANY RIGHTS TO REMOVE TENANT'S PROPERTY UNDER THIS PROVISION UNLESS IT SHALL HAVE COMPLIED WITH THE REQUIREMENTS OF NOTICE AND HEARING OF SAID STATUTES.

**Section 9.23 SECURITY.** On the signing of this Lease Tenant shall execute the Security Agreement attached hereto as Exhibit A. Landlord shall have a security interest as provided for under the terms of said Security Agreement. Tenant shall be responsible for the cost of filing the UCC-1 re said Security Agreement in the office of the Connecticut Secretary of State and on the North Stonington Land Records.

**Section 9.24 GRAMMATICAL USAGE.** The use of any pronoun in connection with this Lease shall include the singular and plural and masculine, feminine and neuter, as the context may require. Whenever used the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. Spelling errors, upper and lower case errors, if any, shall be corrected by construction.

Section 9.25 **EXECUTION OF LEASE IN DUPLICATE.** This Lease shall be executed in duplicate. Each party shall retain one executed copy. Each executed duplicate copy shall constitute an original without the need to produce the other.

Section 9.26 **LEASE NOT EFFECTIVE UNTIL SIGNED.** Until and unless this Lease is executed by all parties it shall not be binding upon either party.

Section 9.27 **CONDEMNATION AWARDS.** All compensation awarded for any taking of the Premises or any interest therein shall belong to and be the property of the Landlord, Tenant hereby assigning to Landlord all rights with respect thereto; provided, however, nothing contained herein shall prevent Tenant from applying for reimbursement from the condemning authority (if permitted by law) for moving expenses, or the expense of removal of Tenant's trade fixtures, or loss of Tenant's business good will, but if and only if such action will not reduce the amount of the award or other compensation otherwise recoverable from the condemning authority by Landlord or the owner of the fee simple estate of Landlord's building.

Section 9.28 **DAMAGE OR DESTRUCTION.** The risk of damage or loss by reason of any calamity shall be on the Tenant. The Tenant's obligations under this Lease shall not abate or terminate by reason of any damage, loss or calamity suffered to the premises. Tenant shall promptly repair, restore and/or rebuild the improvements on the premises to the condition they were in prior to such damage, loss or calamity suffered, to the extent that insurance proceeds are available for such purposes, or would have been available if Tenant was in full compliance with its obligations with respect to insurance coverage under this Lease.

Section 9.29 **COMPLIANCE WITH DEP ORDERS / HAZARDOUS WASTE.** The Tenant shall promptly comply with any notice or order of the Department of Environmental Protection or similar governmental authority with regard to any spillage of hazardous waste on the leased premises (including common areas, whether interior or exterior), Building or the Land which relates to activities of Tenant on the leased premises (including common areas, whether interior or exterior) during the term of this lease. Upon receipt of any such order or notice Tenant shall immediately provide Landlord with a full copy thereof. Tenant shall save, hold harmless and indemnify Landlord with respect to compliance with any governmental order concerning hazardous waste. This obligation shall survive the termination of this Lease. Tenant will not store, use, or dispose of any hazardous, toxic, corrosive, explosive, reactive or radioactive matter in, on, or about the Premises. Tenant will comply with all applicable environmental laws and permitting requirements impacting the operations on the Leased Premises. Tenant shall indemnify and hold harmless the Landlord from any claims or actions, including, without limitation, costs, reasonable attorneys' fees and costs of remediation, arising out of Tenant's use, storage or disposal of toxic or hazardous materials on or in the Premises.

Section 9.30 **SIGNAGE.** Tenant attach signage to the building or grounds provided Landlord has given express written consent (Tenant to be fully responsible for obtaining any and all necessary permits for any allowed signage, and for all costs of constructing and maintaining any such signage), which consent shall not be unreasonably withheld.

Section 9.31 **HOLDING OVER.** In the event that Tenant holds over in possession after the expiration of the term of this lease (without properly exercising the right of renewal as provided for in Section 4.6 above), or any renewal term thereof, the basic monthly rent shall be equal to

twice the last applicable basic monthly rent, and the tenancy shall be deemed on a month to month basis. All other terms, conditions and obligations of the Tenant under this Lease shall remain in force and effect during such holdover period.

Section 9.32 **NO PARTNERSHIP.** The execution of this Lease does not create a partnership, joint venture, or other similar enterprise between the Tenant and the Landlord. It is expressly stipulated and agreed that the Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business or otherwise, or joint venturer or a member of a joint enterprise with Tenant.

Section 9.33. **CAPTIONS AND SECTION NUMBERS.** The headings which have been used throughout this Lease have been inserted for convenience of reference only and do not constitute matter to be construed in interpreting this Lease.

Section 9.34 **MECHANICS' LIENS.** If any mechanic's or materialman's lien is filed against the Premises as a result of any additions, alterations, repairs, installations or improvements made by Tenant, or any other work or act of Tenant, Tenant shall discharge or bond off the lien within thirty (30) days from the filing of the lien. If Tenant shall fail to discharge the lien, Landlord may bond or pay the lien or claim for the account of Tenant without inquiring into the validity of the lien or claim. Tenant shall reimburse Landlord any costs incurred by Landlord to bond or pay the lien or claim upon demand.

Section 9.35 **ADDITIONAL REMEDIES, WAIVERS.** With respect to the rights and remedies of and waivers by Landlord:

(a) The rights and remedies of Landlord set forth in this Lease shall be in addition to any other right and remedy now and/or hereafter provided by law. All rights and remedies shall be cumulative and not exclusive of each other. Landlord may exercise its rights and remedies at any time, in any order, to any extent, and as often as Landlord deems advisable without regard to whether the exercise of one right or remedy precedes, concurs with or succeeds the exercise of another.

(b) A single or partial exercise of a right or remedy shall not preclude:

(i) a further exercise of that right or remedy; or

(ii) the exercise of another right or remedy, from time to time.

(c) No delay or omission by Landlord in exercising a right or remedy shall exhaust or impair its exercise or constitute a waiver of, or acquiescence to, a Default.

(d) No waiver of a Default shall extend to or affect any other Default or impair any right or remedy with respect to any other Default.

(e) No action or inaction by Landlord shall constitute a waiver of a Default.

(f) No waiver of a Default shall be effective unless it is in writing.

In Witness Whereof the Parties have set their hands and seals below.

The Tenant

BY \_\_\_\_\_  
Fotis Georgiadis

Date: \_\_\_\_\_

The Landlord

Date: \_\_\_\_\_

BY \_\_\_\_\_

Its First Selectman

**GUARANTY**

The undersigned guarantor personally guaranties the full and complete performance of all terms and conditions of the above Lease by the above named Tenant (and any assignee of Tenant, or sublessee of Tenant), and agrees to hold and save harmless the Landlord (including any assignee or successor of Landlord) from any default in performance by the said Tenant in performing any unperformed obligations, terms and conditions of the Lease. The undersigned Guarantor hereby agrees that his liability under this Guaranty is not conditioned on receiving a notice of any default by the Tenant under the Terms of the above lease and hereby waives any such Notice. The Guarantor further covenants and represents that any Notice given to Tenant shall be construed as also given and received by him as a Guarantor. This Guaranty shall continue in full force and effect during the term of this Lease, and any renewal term. Furthermore, the obligations of the Guarantor shall extent and continue with respect to any obligations of Tenant which under the Lease survive the Lease.

By the Guarantor, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011, at \_\_\_\_\_, Connecticut.

Signed and Sealed in the presence of:

\_\_\_\_\_  
  
\_\_\_\_\_

BY \_\_\_\_\_  
Fotis Georgiadis

/Docs:/Leases:/DraftDewDrop

**SCHEDULE A**  
(Description of Premises)

**SCHEDULE B**

(Modification of Summary Process Judgment / Stipulation)

NO. CV10-09-25969

RETURN DATE: 12/15/2009

TOWN OF NORTH STONINGTON

SUPERIOR COURT

VS.

G.A. 10

FOTIS GEORGIADIS

\_\_\_\_\_, 2011

**MOTION TO MODIFY JUDGMENT**

The parties in the above entitled action respectfully move that the judgment entered by the court in the above entitled matter on January 7, 2010, which was modified by Motion to Modify Judgment filed June 24, 2010 (“June Stipulation”), and granted by the court on July 15, 2010, which was further modified by Motion to Modify Judgment dated December 21, 2010

("December Stipulation"), and granted by the court on January 4, 2011, and which was further modified by Motion to Modify Judgment dated January 31, 2011 ("January Stipulation"), and granted by the court on February 3, 2011 (collectively the "judgment"), be further modified in accordance with the terms of the Stipulation of the parties as set forth below.

STIPULATION

By agreement of the parties, the judgment as previously entered and modified may be modified as follows:

1. **CONTINGENT LEASE AGREEMENT.** The parties agree that the defendant shall immediately comply with all terms and obligations of the "Tenant" as set forth in the attached "Contingent Commercial Lease Agreement" ("contingent lease"). It is the intention of the parties that a violation by the defendant of any term or condition of the contingent lease shall be a violation of this Stipulation. It is further the intention of the parties that the judgment entered in the above entitled action shall remain in full force and effect through and including December 31, 2011 notwithstanding the execution of the contingent lease.

2. **USAGE.** The defendant shall occupy and use the subject premises in conformance with the usage permitted under the contingent lease.

3. **BUILDING, SAFETY, CODE COMPLIANCE.** The defendant shall cause the premises to be in full compliance with all building codes, fire codes, safety codes, health codes, and any other applicable Federal, State, and/or municipal statute, ordinance, code, regulation, and/or order(s) on or before June 1, 2011.

4. **ATTORNEY FEES.** The defendant shall pay the Plaintiff the amount of \$7,500.00 for Attorney fees, which sum shall be paid to the Plaintiff on or before April 30, 2011.

5. **USE AND OCCUPANCY.** Effective April 1, 2011, use and occupancy shall be \$1,650.00 per month, plus such additional charges as may be set forth under the terms of the contingent lease. Use and occupancy shall continue to be due and payable on the first day of each month.

6. **NOTICES.** Any notice required under the terms of Judgment shall be in writing and sent to counsel as of record appears for the parties, and delivered by commercial overnight carrier. Any such notice so issued and delivered shall be deemed given and received one day after the posting of such notice with a commercial overnight carrier.

7. **CONFLICT.** All other terms and conditions of the judgment not in conflict with this modification shall remain in full force and effect.

8. **CANVASS.** The parties waive canvass by the court.

The Plaintiff

The Defendant

BY \_\_\_\_\_  
It's Attorney

BY \_\_\_\_\_  
Morris R. Borea

Gregory A. Benoit Date: \_\_\_\_\_  
Benoit Law Offices  
143 Boston Post Rd.  
Waterford, CT 06385

Date: \_\_\_\_\_

### ORDER

The above Motion having duly come before the court, it is hereby ORDERED:

That the judgment entered in favor of the plaintiff shall be further modified in accordance with the terms and conditions of the Stipulation of the parties as set forth above.

Dated at New London, Connecticut, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

BY THE COURT

\_\_\_\_\_

EXHIBIT A

### SECURITY AGREEMENT

Agreement dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between FOTIS GEORGIADIS (herein referred to as "Debtor") and the Town of North Stonington, Connecticut (herein referred to as the "Town").

Whereas, Debtor wishes to lease certain real property known as 386 Norwich Westerly Road, North Stonington, Connecticut from the Town, and

Whereas, the Town has agreed to do so on certain conditions, including, without limitation the granting of certain security interests and rights and the making of certain representations and covenants by Debtor.

WITNESSETH

NOW, THEREFORE, Debtor and the Town agree as follows:

1. Grant of Security Interest.

a) Debtor hereby grants to the Town a security interest in all fixtures, machinery, equipment, trade fixtures, inventory, accounts, contract rights and accounts receivable of Debtor now or hereafter in existence and all proceeds thereof and all returned or repossessed goods arising from or relating to any of said accounts or rights; all intangibles of Debtor, now owned or hereafter acquired, all as relates to the premises known as 386 Norwich Westerly Road, North Stonington, Connecticut. A copy of the UCC-1 Financing Statement to be filed in connection herewith is attached hereto and incorporated herein as Exhibit "1". This grant is made to secure the payment and performance of any and all existing obligations of Debtor to the Town including a Contingent Commercial Lease Agreement of even date herewith re said premises (hereinafter referred to as the "Lease"). As used in this Agreement, "Liabilities" or "Obligations" mean any and all obligations and liabilities of Debtor to the Town of every kind and description, direct or indirect, primary or secondary, absolute or contingent due or to become due, now existing or hereafter arising, regardless of how they arise or by what agreement or instrument they may be evidenced of whether evidenced by any agreement or instrument, including, without limitation, all costs incurred by the Town to obtain, preserve and enforce this security interest, collect and enforce liabilities, and maintain and preserve collateral and including, but not limited to, reasonable attorneys fees and legal expenses.

b) To the extent applicable, the Uniform Commercial Code of Connecticut shall govern security interest provided for herein. In connection therewith, the Debtor shall take such steps and execute and deliver such financing statements, assignments and other papers as the Town may from time to time request.

2) Promises to Pay.

The Debtor promises to pay to the Town:

a) All liabilities of Debtor to the Town in accordance with their terms.

b) Any and all taxes, charges and expenses of every kind or description paid or incurred by the Town under or with respect to any Liabilities or any Collateral therefore or the collection of or realization of the same including costs of collection, attorneys fees, expenses of litigation and otherwise.

3) Debtor's Representations, Warranties and Covenants:

In order to induce the Town to enter into the Lease, Debtor hereby represents, warrants and covenants to the Town that:

a) Except pursuant to this Agreement, no financing statement has been filed with respect to the Collateral, Debtor is the absolute and undisputed owner of the Collateral. The Collateral is not,

and will not be permitted to be in any respect encumbered other than by this security interest (and the same will be true of collateral acquired hereafter when acquired).

b) Debtor shall pay punctually all Obligations when due as required by the Lease.

c) Debtor shall preserve the Collateral in good condition and order and not permit it to be abused or misused.

#### 4. Certain Rights of the Town.

The Town shall, in addition to any other rights he may have by law or under this Agreement, have the following rights:

a) At his option, after a default under the Lease, the Town may: i) take, and require Debtor to give to it, possession or control of any of the Collateral and proceeds thereof, and apply the same to payment of any of the Obligations; ii) endorse as Debtor's agent any instruments, documents, chattel paper in the Collateral; iii) notify account debtors and obligors of Debtor to pay directly to Beach, or to verify information supplied by Debtor; discharge any lien or encumbrance on Collateral and exercise any other rights which an owner of the Collateral may exercise; and iv) take any of the foregoing actions, or any action Debtor is required to take by this Agreement, without notice to Debtor, and add the costs of the same to the Obligations, but the Town is under no duty to take any such action.

#### 5. Events of Default.

As used herein an "event of default" shall mean any one or more of the following: a) failure to pay when due the rent (basic monthly rent, and/or additional rent) due under the Lease; b) failure to pay for or maintain any insurance policy required under the lease; c) the making of any misrepresentation to the Town for the purpose of inducing the Town to enter into the Lease; d) loss, theft, damage, destruction, unauthorized sale or encumbrance to or of any of the Collateral, or the making or issuance of any levy, seizure, attachment or injunction upon or against any of the Collateral; e) calling of a meeting of creditors, appointment of a committee of creditors or liquidating agents, or offering a composition or extension to creditors by, for or of Debtor; f) dissolution or other termination of existence, merger or consolidation with another, or involvement in bankruptcy or insolvency or like proceedings of Debtor.

#### 6. Power to Sell or Collect Collateral.

Upon the occurrence of any event of default, all Obligations shall, at the Town's sole option become immediately due and payable, anything in the Lease or in this Agreement or in any other agreement to the contrary notwithstanding, without notice to Debtor, the Town shall have, in addition to any other rights and remedies which the Town may have under the law, the following rights and remedies, all of which may be exercised with or without further notice to Debtor: i) to notify any and all obligors on accounts receivable that the same have been assigned to the Town and that all payments thereon are to be made directly to the Town, ii) to settle, compromise or release on terms acceptable to the Town, in whole or in part, any amounts owing on accounts receivable and to enforce payment and prosecute any action or proceeding with respect to any and all accounts receivable, iii) to extend the time of payment, make allowances and adjustments

and to issue credits in the Town's name or in the name of Debtor, iv) to foreclose the liens and security interests created under this Agreement or under any other agreement relating to any of the Collateral by any available judicial procedure or without judicial process, to enter any premises where any of the Collateral may be located for the purpose of taking possession or removing the same, v) to sell, assign, lease or otherwise dispose of the collateral or any part thereof, either at public or private sale or at any broker's board, in lots or in bulk, for cash, on credit or otherwise, with or without representations or warranties and upon such terms as shall be acceptable to the Town, all at the Town's sole option and as Town, in its sole discretion, may deem advisable and the Town may bid or become purchaser at any such sale if public, free from any right of redemption which is hereby expressly waived by Debtor, and the Town shall the right, at its option, to apply or be credited with the amount of all or any part of the Liabilities owing to the Town against the purchase price bid by the Town at any such sale. The net cash proceeds resulting from the collection, liquidation, sale, lease or other disposition of Collateral shall be applied first to the expenses (including attorneys fees) of retaking, holding, storing, processing and preparing for sale, selling, collecting, liquidating and the like, and then to the satisfaction of all Liabilities. Debtor shall be liable to the Town and shall pay to the Town on demand any deficiency which may remain after such sale, disposition, collection or liquidation of Collateral, and the Town, in turns agrees to remit to Debtor any surplus remaining after all Liabilities have paid in full. The Town shall have the right to remove the Collateral (and any and all documents relating to the Collateral) to such location as it, in its sole discretion deems advisable.

#### 7. Waivers.

a) The Town shall not be deemed to have waived any of its right upon or under Liabilities or Collateral unless such waiver be in writing signed by the Town. No delay or omission on the part of the Town in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. The Town may revoke any permission or waiver previously given or granted to Debtor. All rights and remedies of the Town shall be cumulative and may be exercised singularly or concurrently.

b) The Town shall not under any circumstances or in any event whatsoever, have any liability for any error or omission or delay of any kind occurring in the liquidation of any Collateral. Debtor shall indemnify and hold harmless the Town against any claim, loss or damage arising out of said liquidation of any Collateral.

c) DEBTOR ACKNOWLEDGES THAT THE TRANSACTION OF WHICH THIS AGREEMENT IS A PART IS A COMMERCIAL TRANSACTION, AND HEREBY WAIVES ITS RIGHT TO NOTICE WITH RESPECT TO ANY PREJUDGMENT REMEDY WHICH BEACH OR HIS SUCCESSORS, ASSIGNS, ADMINISTRATORS, OR EXECUTORS MAY DESIRE TO USE.

#### 8. Miscellaneous.

This Agreement shall become effective upon execution by the parties hereto. No modification or amendment hereof shall be effective unless the same shall be in writing and signed by the parties hereto. Definitions in the Uniform Commercial Code of Connecticut shall apply to the words

and phrases herein. The rights and privileges of Beach shall inure to his successors, assigns, Administrators and/or Executors. This Agreement has been made in the State of Connecticut and shall be construed in accordance with the laws of Connecticut.

IN WITNESS WHEREOF, the parties have hereunto signed this Agreement as of the date and year first above written.

Signed, Sealed and Delivered in the presence of:

DEBTOR

\_\_\_\_\_

By \_\_\_\_\_  
Fotis Georgiadis

CREDITOR

\_\_\_\_\_

BY \_\_\_\_\_  
It's First Selectman

\_\_\_\_\_

\_\_\_\_\_

STATE OF CONNECTICUT, COUNTY OF \_\_\_\_\_) ss

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared Fotis Georgiadis, who acknowledged he subscribed the foregoing for the purposes therein contained, as his free act and deed and the free act and deed, before me, the undersigned officer.

\_\_\_\_\_

Title of Officer:

STATE OF CONNECTICUT, COUNTY OF NEW LONDON) ss

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared Nicholas H. Mullane, II, duly authorized and empowered First Selectman for the Town of North Stonington, Connecticut, signer and sealer of the foregoing instrument, and acknowledged that he subscribed the same of his and its own free act and deed before me,

\_\_\_\_\_

Title of Officer:

Exhibit "1"  
(attach copy of UCC-1 Financing Statement)

**SCHEDULE A**  
to UCC-1 Financing Statement

Debtor: Fotis Georgiadis  
5700 Seaview Dr., Malibu, CA 90265

Secured Party: Town of North Stonington, Connecticut  
40 Main St., North Stonington, CT 0635

All Chattel Paper, Goods, Fixtures, Securities, Documents, Documents of Title, General Intangibles, Equipment, Motor Vehicles, Records now owned or acquired at any time hereafter

by Debtor, wherever located or situated, and the products and proceeds (including condemnation proceeds) of the foregoing, all accessions and additions thereto and all substitutions and replacements therefore.

The terms used herein shall have the meanings set forth below. All other terms used herein are used as defined in the Uniform Commercial Code.

“Fixtures and Equipment” means all awnings and canopies, blinds, carpet (permanently installed over unfinished flooring), central air conditioners, elevator equipment, fire extinguishing apparatus, fire sprinkler systems, walk-in freezers, furnaces, light fixtures, outdoor antennas and aerials attached to the building, permanently installed cupboards, bookcases, paneling and wallpaper, pumps and machinery for operating pumps, ventilating equipment, permanently installed wall mirrors, build-in dishwashers, built-in microwave ovens, ovens (gas or electric), garbage disposal units, hot water heaters, including solar water heaters, kitchen cabinets, plumbing fixtures, radiators, ranges, refrigerators, with Debtor’s interest in, and right to, any and all manuals, computer programs, data bases and other materials relating to the use, operation or structure of any of the foregoing, attached or unattached to the real estate known as 386 Norwich Westerly Road, North Stonington, Connecticut, more particularly described on Schedule B attached hereto and made a part hereof by reference.

“General Intangibles: means all rights with respect to trademarks, service marks, trade names, trade styles, patents, copyrights, mask works, trade secrets information, other proprietary rights and rights to prevent others from doing acts that constitute unfair competition with the Debtor or misappropriation of its property, including without limitation any sums (net of expenses) that the Debtor may receive arising out of any claim for infringement of its rights in any of the foregoing, and all rights of the Debtor under contracts to enjoy performance by others or to be entitled to enjoy rights granted by others, including without limitation any licenses; all tax refunds; all rights, title and interest of the Debtor in and to all documents, books, records and other information (on whatever medium recorded, and including without limitation computer programs, tapes, disks, punch cards, data processing software and related property and rights) maintained by the Debtor that reflect the conduct of the Debtor’s business, such as financial records, marketing and sales records, research and development records, and design, engineering and manufacturing records; all rights under service bureau service contracts, all computer data and concepts and ideas on which said data is based; all developmental ideas and concepts, papers, plans, schematics, drawing, blueprints, sketches and documents; all data bases; all customer lists; and other property constituting “general intangibles” as such is defined in the Uniform Commercial Code.

“Uniform Commercial Code” means the Uniform Commercial Code as in effect in the State of Connecticut.

**SCHEDULE B**  
(legal description of 386 Norwich Westerly Road, North Stonington, Connecticut)

# Lease Comparison

**COMPARISON:  
TOWN DRAFTED LEASE VS. GEORGIADIS PETITION LEASE**

(All Article and Section references are to the Town's lease proposal.)

GENERAL COMMENT: Commercial leases, like any commercial contract, are a product of negotiations. The final product, when both sides are represented by competent counsel, reflects the interests of both sides and their respective bargaining strengths and weaknesses. A commercial lease is a business transaction; it is not a popularity contest. When a Town enters into a business agreement the reason must be that the agreement is in the best interest of the Town – not that it is in the best interest of a particular citizen or taxpayer. The instant Petition stands this basic proposition on its head and essentially asks that the Town approve a lease because it is in the interest of Mr. Georgiadis to do so. My advice to the Town as its special counsel re this matter is that the Petition should not be approved. The Town's Attorney, Frank Eppinger, is of the same opinion. The Board of Selectmen who are fully familiar with this matter, and whose job it is to act in the best interest of the Town, also recommend that the Petition should not be approved.

**Overview:** When the Town bought the property it was subject to a long term leasehold interest in favor of Ruthangs, Inc. – of which Mr. Georgiadis is the successor in interest (assigned to him in March of 2007). The lease was for an initial ten (10) year term starting 7/1/2000 and ending 6/30/2010 – however, it contains the option for four ten (10) year renewal terms – effectively tying up (encumbering) the property through June 30, 2050.

The Town has been extremely respectful of this long-term leasehold interest held by Mr. Georgiadis – even though he was in default of his most basic obligation under the terms of that lease – See Paragraph 15: *Permitted Uses ...maintaining a restaurant in the nature of the Dew Drop Inn, for the purpose of serving breakfast, lunch and dinner to the general public. No alcohol will be served on the premises. No other uses will be permitted without the prior written permission of the Lessor.*” Despite this clear obligation, Mr. Georgiadis continued to flaunt his obligation to operate such a restaurant – notwithstanding numerous written appeals to him and his Attorney by the Town to do so. Even after the issuance of a legal notice of default Mr. Georgiadis continued to ignore his obligation to operate a restaurant. It was only after the Town commenced a lawsuit to terminate Mr. Georgiadis' leasehold interest that he finally commenced steps to honor his obligations under the lease – and then only on pain that if he did not do so – his leasehold interest would be terminated and the Town would then own the property outright – meaning, unencumbered by a lease running through 6/30/2050.

So while Mr. Georgiadis can correctly state that he has invested considerable money into the new building – the simple fact is that he, and he alone, made a business decision that

his long-term leasehold interest justified the monies he put into the building – knowing that if he did not, he would no longer have any interest in the property.

**Important Points:**

> The Town's position is that no new lease is to be executed unless Mr. Georgiadis waives any and all claims he has or may have against the Town. The reason for this is that the building he built has numerous code violations – through counsel he has intimated that he may seek to hold the Town liable for the cost of correcting those violations – apparently on the theory that it was the Town's job to do so (as opposed to his architect). He has also intimated that he may seek to hold the Town liable if the septic system, which he caused to be designed and then built and located where it is, must be relocated (part of the system is located outside of the leased area). If the electors were to approve the Petition lease the Town would not be in a position to require such a release of claims.

> The Town's lease proposal did not attempt to shorten the term of Mr. Georgiadis' leasehold interest. However, the Petition lease seeks to increase his leasehold interest by five years – and change the term of the lease so that it will be in effect until 6/30/2055. It is not in the interest of an owner of real estate to encumber its property any longer than it has to.

> Under the Petition lease, all told through 6/30/2050, the Town would receive \$186,072 less in rental income than Mr. Georgiadis, through counsel, agreed to pay.

> The Petition lease does not require the restaurant to be open any set number of days, or set hours. The Petition lease does require the restaurant to serve lunch and dinner – or breakfast on the weekends. As a result, the Restaurant could be open once a week or less and the Town would be hard pressed to do anything about it.

> Under the Petition lease – the Tenant must be given written notice of any lease default and has 30 days after such notice to cure the default. Non-payment of rent is not excluded from this notice of default requirement and right to cure provision – whereas it is in the Town's lease (it is customary that there is no notice requirement for a default in the obligation to pay rent).

> The way the Petition lease is drafted the Tenant could make the same lease default over and over again so long as after each notice of default it temporarily cured the default. Under the Town's lease if there is a repeat default of the same nature, no notice of default is required and there is no right to cure the default.

> The Petition Lease does not require Mr. Georgiadis to pay \$7,500 toward Town attorney fees – whereas this was agreed to Mr. Georgiadis through counsel.

> The Petition Lease would terminate the summary process judgment on 5/1/2011 – under the Town’s lease this would only happen on 1/1/2012 if Mr. Georgiadis complied with his obligations under the judgment and the terms of the Town’s contingent lease.

> The Petition Lease is not personally guaranteed. The Town’s lease requires Mr. Georgiadis to personally guaranty the tenant’s performance of its obligations – making it far more likely that those obligations will be performed.

#### Article 1- The Parties.

Same language both leases. However, although the Petition lease references Fotis Georgiadis as a Guarantor of the Tenant’s performance – the actual guaranty has been deleted from the lease.

This is important, as the Tenant can assign the lease with the written consent of the Town – which consent the Town cannot unreasonably withhold.

It is common practice for a landlord to require that a lease be guaranteed by an individual. This enhances the likelihood that the Tenant will honor its obligations under the lease. In this case the Town anticipates that Mr. Georgiadis will request, and the Town will approve, the assignment of the lease to a limited liability company owned and operated by Mr. Georgiadis.

#### Article 2 – The Rental Premises

The Town’s lease references the rental premises on Schedule A. That Schedule will be the legal description for the premises. The cover letter forwarding Town’s lease to Mr. Georgiadis’ counsel advised him that this would be provided by separate cover.

The Petition lease references an Assessor’s Map and Lot #, as well as Schedule A. However, the Petition lease’s Schedule A is blank.

**2. Comment:** This is significant. The electors are being asked to approve a lease in which there is no specific description of the leased premises. A reference to an assessor’s map and lot number is not a substitute for a legal description. It is very important that the leased premises be defined precisely in the final lease agreement. **Because this is a petition, the lease as presented is either approved in total or rejected in total. If approved, it is approved with all of its flaws and with no opportunity to correct them.** The failure to do so can only create problems for the Town. In the event that Tenant usage encroaches on adjacent Town property – there is the risk that the terms of the Trust governing the Town’s deed to the property could be violated – which might trigger a reversion.

#### Article 3 – Rent.

The Town's lease proposal did not attempt to shorten the term of Mr. Georgiadis' leasehold interest. However, the Petition lease seeks to increase his leasehold interest by five years – and change the term of the lease so that it will be in effect until 6/30/2055. It is not in the interest of an owner of real estate to encumber its property any longer than it has to.

### Sec. 3.1 – Basic Monthly Rent

The rent set forth in the Town's lease was the result of negotiations between the Town's counsel, Attorney Benoit, and Mr. Georgiadis' counsel, Attorney Borea.

Under the Petition lease, all told through 6/30/2050, the Town would receive \$186,072 less in rental income than Mr. Georgiadis, through counsel, agreed to pay.

Monthly/Town Lease Rent/Use & Occupancy	Monthly/Petition Lease Rent	DIFFERENCE:
Through 6/30/2016: \$1,650 per month	Through 6/30/2021: \$1,650.00	
7/1/2016 – 6/30/2017 \$1,900/month	\$1,650/month	\$250/month
7/1/2017 – 6/30/2018 \$1,957/month	\$1,650/month	\$307/month
7/1/2018 – 6/30/2019 \$2,016/month	\$1,650/month	\$366/month
7/1/2019 – 6/30/2020 \$2,076/month	\$1,650/month	\$426/month
7/1/2020 – 6/30/2021 \$2,138/month	\$1,650/month	\$488/month

Under the Petition lease the Town, through 6/30/2021, would receive \$22,044 less in rental payments from restaurant Tenant.

The difference between what Mr. Georgiadis through counsel agreed to pay, and what he is attempting to have the Town by Petition approve, only escalates at an exponential rate through 6/30/2050 (**an additional \$164,028 in reduced rental income**):

Town	Petition	Difference
7/1/2021 – 6/30/2022 \$2,202/month	\$1,900/month	\$302/month
7/1/2022 – 6/30/2023 \$2,268/month	\$1,957/month	\$311/month
7/1/2023 – 6/30/2024 \$2,336/month	\$2,016/month	\$320/month
7/1/2024 – 6/30/2025 \$2,406/month	\$2,076/month	\$330/month
7/1/2025 – 6/30/2026 \$2,478/month	\$2,138/month	\$340/month
7/1/2026 – 6/30/2027 \$2,552/month	\$2,202/month	\$350/month
7/1/2027 – 6/30/2028 \$2,629/month	\$2,268/month	\$361/month
7/1/2028 – 6/30/2029 \$2,708/month	\$2,336/month	\$372/month
7/1/2029 – 6/30/2030 \$2,789/month	\$2,406/month	\$383/month
7/1/2030 – 6/30/2031 \$2,873/month	\$2,478/month	\$395/month
7/1/2031 – 6/30/2032 \$2,959/month	\$2,552/month	\$407/month
7/1/2032 – 6/30/2033 \$3,048/month	\$2,629/month	\$419/month
7/1/2033 – 6/30/2034 \$3,139/month	\$2,708/month	\$431/month
7/1/2034 – 6/30/2035 \$3,233/month	\$2,789/month	\$444/month
7/1/2035 – 6/30/2036 \$3,330/month	\$2,873/month	\$457/month
7/1/2036 – 6/30/2037 \$3,430/month	\$2,959/month	\$471/month

7/1/2037 – 6/30/2038	\$3,533/month	\$3,048/month	\$485/month
7/1/2038 – 6/30/2039	\$3,639/month	\$3,139/month	\$500/month
7/1/2039 – 6/30/2040	\$3,748/month	\$3,233/month	\$515/month
7/1/2040 – 6/30/2041	\$3,860/month	\$3,330/month	\$530/month
7/1/2041 – 6/30/2042	\$3,976/month	\$3,430/month	\$546/month
7/1/2042 – 6/30/2043	\$4,095/month	\$3,533/month	\$562/month
7/1/2043 – 6/30/2044	\$4,218/month	\$3,639/month	\$579/month
7/1/2044 – 6/30/2045	\$4,345/month	\$3,748/month	\$597/month
7/1/2045 – 6/30/2046	\$4,475/month	\$3,860/month	\$615/month
7/1/2046 – 6/30/2047	\$4,609/month	\$3,976/month	\$633/month
7/1/2047 – 6/30/2048	\$4,747/month	\$4,095/month	\$652/month
7/1/2048 – 6/30/2049	\$4,889/month	\$4,218/month	\$671/month
7/1/2049 – 6/30/2050	\$5,036/month	\$4,345/month	\$691/month

### Section 3.2 Additional rent

- (a) no change
- (b) no change

(c) Under the Town’s lease any item which the Tenant is required to pay is considered “additional rent”. Additionally, any expenses, including attorney fees, which the Town incurs as a result of the Tenant’s failure to comply with its obligations – is deemed additional rent due and payable to the Town.

The Petition lease effectively eliminates this provision – and instead states that local real estate taxes are not its responsibility.

Comment: This is true – and the Town would be happy, on request to make this even more clear. Attorney Benoit has told Mr. Georgiadis’ counsel that he would not be responsible for real estate taxes. He will, however, be responsible for personal property taxes on his business inventory and equipment. The language with respect to taxes can be modified in the Town lease to make this distinction crystal clear.

By defining the cost of enforcing Tenant obligations as additional rent the Town is best protected against the possibility of a Tenant defaulting on its obligations.

- 3.3 no change
- 3.4 no change
- 3.5 no change

### Article 4 – Term / Renewal Terms

4.1 The Town’s lease defines the rental term as 1/1/2012 – 6/30/2020. The Petition lease expands it to: 5/1/2011 to 6/30/2025.

See discussion under Article 3 – concerning the importance of not further encumbering the property.

The first dated change in the Petition lease is the start of the lease. The Town's lease starts on 1/1/2012 – for good reason. The Town has a judgment for possession of the leased property that runs through 12/31/2011. If Mr. Georgiadis honors his obligation under the terms of that Judgment – the original lease, which runs potentially to 6/30/2050, is reinstated. As noted in the overview, it was only when Mr. Georgiadis faced a loss of his lease – that he began to honor his obligations under it. Having expended significant time and money to force Mr. Georgiadis to honor his obligations to operate a restaurant, it is in the interest of the Town to allow the full “probation” period run its course before resuming a landlord/tenant relationship as opposed to a successful plaintiff/unsuccessful defendant relationship. Simply put, the Town wants to see a positive operating track record of reasonable length from Mr. Georgiadis.

4.2 No change.

4.3 Contingent Nature of Lease. The Town's lease makes clear that the lease will not replace the summary process judgment – which judgment will remain in full force and effect through 12/31/2011. It expressly provides that an execution for possession may issue if Mr. Georgiadis violates the terms of that judgment – notwithstanding the execution of the contingent lease, and that this lease will only become effective if Mr. Georgiadis does comply with the terms of that judgment.

The Petition lease deletes this language. Simply put – Mr. Georgiadis wants the judgment to disappear on May 1, 2011, and the lease to become effective on that date. Doing so will dramatically reduce the Town's ability to make sure Mr. Georgiadis honors his obligations to the Town.

4.4 The Town's lease provides that all payments until the lease becomes effective are payments for use and occupancy. The terms of the summary process judgment, which was agreed to by Mr. Georgiadis, also provides this.

The Petition lease provides that any such payments will be deemed the payment of rent.

Comment: “Rent” is a legal term which means there is a lease. When there is a lease in effect after a summary process judgment, that judgment becomes unenforceable. Paying use and occupancy does not have the same result.

Conclusion: The change in language is not in the Town's interest – and exposes the Town to potentially losing the benefit of its court judgment simply because it fails to note on the memo portion of a payment the word “rent”.

4.5 Modification of Summary Process Judgment. – Schedule B.

Through counsel, Mr. Georgiadis agreed to pay \$7,500 in additional monies towards the attorney fees the Town has incurred in this matter. The Petition lease deletes this requirement.

Additionally the Petition modification would make the lease effective on 5/1/2011 – versus the previously agreed to 1/1/2012 date. The Petition Schedule B continues to reference the lease as the commercial lease – as opposed to its true nature of being a contingent commercial lease.

The Petition Schedule B moves from a paragraph 4 to a paragraph 7.

#### 4.6 Options for Renewal Terms.

>As previously noted, the Petition lease seeks to extend the lease to 6/30/2055 – and changes the options dates accordingly.

Article 5 – Indemnity and Insurance (no change – continues typo in 5.4 (b) batter instead of battery).

#### Article 6 – Usage

6.1 (a) The Town’s lease details the minimum hours and days that the Tenant must be open for business, what meals it must serve and on what days. It also indicates that no alcohol may be served prior to 11:00 a.m.

The Petition lease does not contain any minimum hours or days that the restaurant must be open, nor does it indicate the minimum meals it must serve. The no alcohol before 11:00 a.m. provision has been deleted.

COMMENT: Absent required days and hours of operation – the tenant could be open only on an occasional basis – and there would be nothing the Town could do about it.

6.1 (b) The Town’s lease limited 2<sup>nd</sup> floor usage to single family residential.

The Petition lease also includes usage for office space.

6.2 no change

6.3 no change

#### Article 7 – Permits and Compliance

7.1 no change

7.2 Town’s lease

This provision addresses what will happen in the unlikely event that the encroachment of the restaurant’s septic system outside the leased area must be abated. The Town indicates that it is willing to use good faith efforts to prevent this from being required – and that it will, if necessary, at its own cost and expense bring suit. At the same time, if after all of its good faith efforts, including litigation – it is unsuccessful, the Town’s lease

requires the Tenant to relocate the septic system and the Tenant's expense. If the septic system must be relocated, and as a result the Tenant must stop doing business while it is being relocated, the rent would be abated up to a maximum of six months.

The Petition lease deletes this provision.

## Article 8 Default

8 (b) The Town lease provides that if the Tenant fails to pay the rent – no notice of default is required – nor is there any opportunity to cure such a default. This is a very standard provision.

Under the Petition lease – the Tenant must be given written notice of any lease default and has 30 days after such notice to cure the default. Non-payment of rent is not excluded from this notice and right to cure provision.

8.1 (c). Under the terms of the Town lease, if the Tenant was in noncompliance (nonpayment of rent excluded), the Town could give the Tenant written notice that it was in default, and the tenant would have 30 days to cure the default. Subsection (c) provided that if the Tenant had been previously cited for a default, cured it – and then defaulted again – that would be an event of default without any notice requirement or right to cure. Reason: To prevent the Tenant from essentially being able to be in default continuously. The Tenant gets one warning – it doesn't need to be told over and over again that it is violating the same provision of the lease.

7. The Petition lease deleted this provision. As a result, the Tenant could make the same lease default over and over again so long as after each notice of default it temporarily cured the default.

Deleted our 8.1(h) – which made it an event of default for the tenant or guarantor to make any misrepresentation with respect to any matter relating to the lease – the tenant, the Guarantor or any proposed assignment of the lease – simply put – this clause in the Town's lease prohibited the tenant from being able to lie to the Town with impunity.

8.2 no change

## Article 9 – Miscellaneous

9.1 – 6 No changes

9.7 LANDLORD NOT RESPONSIBLE FOR BUSINESS INTERRUPTION. This section of the Town's lease provided that the Town would not be liable to the tenant for any interruption of the Tenant's business caused by any damage to either the interior or exterior of the building.

The Petition lease deleted this provision.

9.8 WAIVER OF RIGHT OF RECOVERY. This section of the Town's lease provided that the Town would not be liable to the Tenant - or any of the Tenant's insurance companies.

The Petition lease deleted this provision.

9.9 no change

9.10 no change

9.11 Subordination. Section 9.11 from Town lease has been deleted in the Petition lease. This provision provided that the lease would be subordinate to any mortgages that the Town might place on the property.

Comment: This is a fairly standard provision. Normally, a Tenant will simply request non-disturbance language which provides that in the event the lender takes title, so long as the Tenant is in compliance with its lease obligations, its possession will not be disturbed. In fact, the Town's lease already effectively provides for this via its Attornment clause (9.12).

9.12 no change

9.13 no change

**8. COMMENT: The Petition lease fails to provide any notice address for the Tenant. The vote is up or down re the Petition lease – it is either approved in total or rejected in total – there is no in-between – there is no modification or amendment possible when it is put before the electors.** This creates technical problems – particularly with respect to any Tenant defaults for which the Town might wish to issue a notice to the Tenant. This is just one example of why contracts are left for negotiation and finalization to the executive branch.

9.14 -9.20 no changes

Section 9.21 No Assignment or Subletting. – (9.18 of the Petition lease has been extensively revised by the Petition lease.) This clause controlled any potential assignment of the Tenant's leasehold interest.

The Petition lease provides that the tenant can ask to assign the lease to anyone or thing – and that consent cannot be unreasonably withheld.

The Town's lease proposal permits assignment and provides explicit criteria that the Town will take into consideration in making a determination as to the reasonableness of any proposed assignment or sale of the leasehold interest. The Town's lease also has extensive protections which would prevent a tenant from getting around this provision by simply selling the ownership of a company tenant, or by entering into an "operating

agreement” with some other party. The Town’s lease expressly provided that acceptance of rent from a proposed assignee would not constitute consent to the assignment – The Petition lease proposal reverses this. Furthermore, under the Town’s lease – if the Tenant assigned its leasehold interest without Town consent – that would be an event of default – the Petition lease has also removed that provision. The Town’s lease also provided that if a company were the tenant, it would be required to annually certify who owned it – and to notify the Town within 10 days of any change in its ownership. Any false reporting would be an event of default under the Town’s lease (see discussion above under Section 8.1(h)).

The Petition lease also deletes the provision which provided that notwithstanding any approved assignment of lease, the lease guarantor would continue to be liable for the full performance of all tenant obligations (including those of the assignee).

9.23 Security. The Town’s lease provided the Town with a security interest in the Tenant’s business equipment and related items. The Petition lease removed these provisions from the lease – leaving the Town an unsecured landlord.

9.24 – 9.27 no change

Section 9.28 of the Town’s lease has been deleted in the Petition lease. This provision provided that the risk of loss was on the Tenant. Simply put, no rent abatement if there is a fire. Furthermore, it required the Tenant to repair any damage to the building.

Section 9.29 (Fotis’s 9.24) has been diluted by Petition lease. The Town’s lease required the Tenant to hold and save harmless the Town from any hazardous waste. The Petition lease language simply requires the Tenant to comply with any governmental notice re hazardous waste spills.

Comment: The language in the Town’s lease is fairly standard. As the owner of the property DEP will issue orders to the Town (just another reason why the Town is requiring Mr. Georgiadis to guaranty the lease)

9.30 – 9.33 no changes.

9.34 Mechanics’ Liens.

The Petition lease does not contain a Section 9.34 which would obligate the tenant to remove any mechanic liens against the property.

9.35 Additional Remedies, Waivers.

The Petition lease deleted the Town’s Section 9.35 relating to standard additional landlord remedies – which also specifically provided that non-exercise of any right is not a waiver of that right by the Town.

**10. Guaranty** – As mentioned previously, the Petition lease does not have any personal guaranty – even though Section 1.1 (c) names him as a guarantor.

Item 2



Town of  
*North Stonington, Connecticut*

Date: March 14, 2011

To: Board of Finance

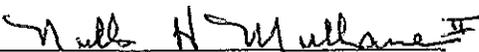
From: Board of Selectmen

Re: Additional Appropriation FEMA Funds

The Board of Selectmen voted unanimously at their March 8, 2011, meeting to request an additional appropriation of \$177,337, to CNR Storm Damage line item.

The funds will be used to complete the design, engineering, and bid specifications for the repair to the Village Green Bridge and the replacement of the Town Hall Bridge.

A detailed estimate and schedule is attached. FEMA will reimburse the Town at a 75% rate for this work. Thank you for your attention to this item.

  
Nicholas H. Mullane, II, First Selectman

*Approved 6-0-0 4/6/11  
Mullane*



**PROJECTED DESIGN ENGINEERING EXPENSES & TOWN COST**  
**NORTH STONINGTON BRIDGE RE-CONSTRUCTION PROGRAM**  
**OLD TOWN HALL BRIDGE & WEST VILLAGE GREEN BRIDGE**

<u>ACTIVITY/PHASE</u>	<b>PROJECTED DESIGN ENGINEERING EXPENSES</b>			
	<b>TOTAL <sup>(1)</sup></b>	<b>FEDERAL (75%)</b>	<b>TOWN (25%) (BY TASK)</b>	<b>TOWN (25%) (CUM.)</b>
1 SURVEY	\$ - <sup>(5)</sup>	\$ -	\$ -	
1 BORINGS, TEST PITS & MISC. FIELD WORK	\$ 21,150	\$ 15,870	\$ 5,280	\$ 5,280
2 PRELIMINARY ENGINEERING	\$ 49,042	\$ 36,790	\$ 12,252	\$ 17,532
PUBLIC INFORMATION MEETING				
FEES - PRELIMINARY ENGR. (TASKS 1-2)	\$ 70,192	\$ 52,660	\$ 17,532	\$ 22,812
3 INITIATE SEMI-FINAL DESIGN				
3 COMPLETE SEMI-FINAL DESIGN - 70%	\$ 75,000	\$ 56,250	\$ 18,750	\$ 36,282
OLD TOWN HALL BRIDGE				
WEST VILLAGE GREEN BRIDGE				
4 APPLY - REGULATORY APPROVALS	\$ 30,194	\$ 22,650	\$ 7,544	\$ 43,826
OLD TOWN HALL BRIDGE				
WEST VILLAGE GREEN BRIDGE				
REQUEST - QUOTE FOR PRECAST				
4 RECEIVE - REGULATORY APPROVALS				
5 FINAL DESIGN - 100%	\$ 49,076	\$ 36,810	\$ 12,266	\$ 56,092
6 BIDDING PHASE (CONSTRUCTION)	\$ 6,945	\$ 5,210	\$ 1,735	\$ 57,827
6 ADVERTISE				
6 OPEN BIDS				
6 EVALUATE & AWARD CONTRACT				
EXTRA WORK BUDGET - 10% OF TASKS 3	\$ 16,122	\$ 12,100	\$ 4,022	\$ 61,849
FEES - FINAL DESIGN PHASE (TASKS 2-6)	\$ 177,337	\$ 133,020	\$ 44,317	
FEES - ALL DESIGN PHASES (TASKS 1-6)	\$ 247,529	\$ 185,680		\$ 61,849

<sup>(1)</sup> Excluding Town/Federal/State Administrative Costs  
<sup>(5)</sup> Survey effort & costs handled directly by the Town



DRAFT

**PROJECTED SCHEDULE**  
**NORTH STONINGTON BRIDGE RE-CONSTRUCTION PROGRAM**  
**OLD TOWN HALL BRIDGE & WEST VILLAGE GREEN BRIDGE**

<u>ACTIVITY/PHASE</u>	<u>PROJECTED SCHEDULE</u>	
	<u>TASK DAYS</u>	<u>DUE DATE</u>
1 SURVEY		
1 BORINGS, TEST PITS & MISC. FIELD WORK		95%
2 PRELIMINARY ENGINEERING		100%
PUBLIC INFORMATION MEETING		MARCH 14, 2011
3 INITIATE SEMI-FINAL DESIGN		APRIL 04, 2011
3 COMPLETE SEMI-FINAL DESIGN - 70%		
OLD TOWN HALL BRIDGE	15 DAYS	APRIL 19, 2011
WEST VILLAGE GREEN BRIDGE	15 DAYS	APRIL 19, 2011
4 APPLY - REGULATORY APPROVALS		
OLD TOWN HALL BRIDGE	15 DAYS	APRIL 19, 2011
WEST VILLAGE GREEN BRIDGE	15 DAYS	APRIL 19, 2011
REQUEST - QUOTE FOR PRECAST		
4 RECEIVE - REGULATORY APPROVALS	21 DAYS (2) (3)	MAY 16, 2011
5 FINAL DESIGN PHASE COMPLETE	10 DAYS	MAY 26, 2011
TEMPORARY EASEMENTS - SIGNED		JUNE 2, 2011
6 BIDDING PHASE (CONSTRUCTION)		
6                                    ADVERTISE	7 DAYS	JUNE 2, 2011
6                                    OPEN BIDS	15 DAYS	JUNE 17, 2011
6 EVALUATE & AWARD CONTRACT	7 DAYS	JUNE 24, 2011
CONSTRUCTION	165 DAYS(4)	
NOTICE TO PROCEED		JULY 01, 2011
INITIATE OLD TOWN HALL BRIDGE		JULY 15, 2011
50% OLD TOWN HALL BRIDGE	60 DAYS(4)	SEPT. 15, 2011
100% OLD TOWN HALL BRIDGE	60 DAYS(4)	NOV. 15, 2011
CONSTRUCTION ADMIN. (15%)		
INITIATE WEST VILLAGE GREEN BRIDGE		
100% WEST VILLAGE GREEN BRIDGE	45 DAYS(4)	JULY 15, 2012
CONSTRUCTION ADMIN. (15%)		

<sup>(1)</sup>Time for permit reviews & approvals is typically extremely long - 21 days assumes DEP review on emergency basis

<sup>(2)</sup>Assumes Army Corps Category I permit (not Category II or Individual)

<sup>(4)</sup>120 Days (4 Months) IN 2011 for Old Town Hall Bridge & 45 days in 2012 for West Village Green Bridge

# Item 3



Town of  
*North Stonington, Connecticut*

Date: March 9, 2011

To: Board of Finance

From: Board of Selectmen

Re: Transfer and Additional Appropriation for Town's Attorney BB 8.0

The Board of Selectmen at their meeting of March 8, 2011 voted to request a transfer from BB 19.00, Town Insurance, in the amount of \$10,000 to ~~BB 8.0~~, Town's Attorney. <sup>20</sup> *md* *md*

The Board also agreed to request an additional appropriation in the amount of \$20,000 to BB 8.0 as well. Thank you for your attention to these items.

*Nicholas H. Mullane II*  
Nicholas H. Mullane, II  
First Selectman

*Approved 6-0-0*  
*md*  
*3-16-11*

**Item 4**



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC SAFETY  
BUREAU OF MANAGEMENT SUPPORT



Ann M. Williams  
Chief Fiscal Administrative Officer

March 17, 2011

Mr. Nicholas Mullane, II  
First Selectman, Town of North Stonington  
40 Main Street  
North Stonington, CT 06359

Dear Mr. Mullane, II:

Attached is the contract renewal between the Town and the Connecticut Department of Public Safety, Division of State Police for Resident Trooper services. This contract is for the continuation of services for the period July 1, 2011 to June 30, 2013. Please sign, date and have the Town Seal affixed to the last page of this contract.

To satisfy the legal requirements of the Attorney General's Office, we request that a Town Resolution be passed empowering you to sign the contract on behalf of the Town. The Town Clerk must then certify this resolution on behalf of the Town. A sample certification letter is enclosed. Please note that the Town Clerk must date the Certification Letter on or after the date the contract is signed by you. Please send us an original and three copies of the Certification Letter, each affixed with the Town Seal.

All signed paperwork should be returned to me no later than May 16, 2011, at the Department of Public Safety, Bureau of Management Support, 1111 Country Club Road, Middletown, CT 06457. The Town's copy of the signed contract will be returned to you after execution and approval of all involved State agencies.

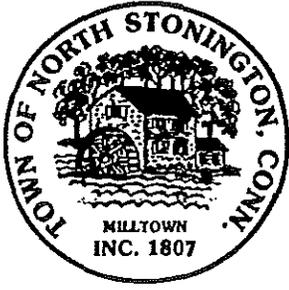
If you have any questions or should you need assistance, please contact my office at (860) 685-8022.

Sincerely,

A handwritten signature in cursive script that reads "Ann M. Williams".

Ann M. Williams  
Chief Fiscal Administrative Officer

AMW:nd  
Enclosures



*Town of*  
*North Stonington, Connecticut*

RESOLVED: That Nicholas H. Mullane, II, First Selectman of the Town of North Stonington be and herewith is authorized to execute a contract on behalf of the Town of North Stonington with the Connecticut Department of Public Safety, Division of State Police for the services of three (3) Resident State Trooper(s) for the period of July 1, 2011 through June 30, 2013.