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10/27/10 10:00

**GAMBLE BUILDING LEASE AGREEMENT
CITY OF SAVANNAH / GALAXY CAFE,
INC.**

THIS LEASE RENEWAL AGREEMENT is made and entered in on this 10th day of April 2008, by and between the **MAYOR and ALDERMEN OF THE CITY OF SAVANNAH, GEORGIA**: a municipal corporation created and existing under the laws of the State of Georgia, hereinafter referred to as "LANDLORD", and **GALAXY CAFE, INC.**, hereinafter referred to as "TENANT".

WITNESSETH:

1. PREMISE:

The LANDLORD, for and in consideration of the rents reserved to be paid and the covenants to be performed, has leased and by these presents do lease unto TENANT certain premises in the City of Savannah, County of Chatham, State of Georgia, being a portion of the building and improvements thereon known as Rear Wharf Lot 9, consisting of an area of 4800 square feet on the first floor level in a brick office structure. The leased premises is the area, outlined on the floor plan attached hereto and incorporated herein by reference as Exhibit "A":

2. TERM:

(a) **INITIAL TERM.** To have and to hold the same premises from the 1st day of January, 2011, the "Commencement Date", through the 31st day of December 2020, said later date being referred to as the "Expiration Date".

(b) **EXTENSION OF TERM:** Provided that the TENANT is not in default under any of the terms of this lease, TENANT shall have the right to extend this lease for one (1) additional five (5) year term, upon such conditions as may be mutually agreed upon by the parties at the time of extension. TENANT shall notify LANDLORD of its intention to seek an additional lease term in writing not later than six (6) months prior to the Expiration Date.

3. RENTAL

(a) **RENT:** TENANT agrees to pay the LANDLORD a monthly Base Rent of \$8,000.00 per month, with a 3% monthly increase, every other year during the Lease Term, as set forth below.

Base Rent:

• January 1, 2011 to December 31, 2011	\$8,000.00 per month
• January 1, 2012 to December 31, 2012	\$8,000.00 per month
• January 1, 2013 to December 31, 2013	\$8,240.00 per month
• January 1, 2014 to December 31, 2014	\$8,240.00 per month
• January 1, 2015 to December 31, 2015	\$8,487.20 per month
• January 1, 2016 to December 31, 2016	\$8,487.20 per month
• January 1, 2017 to December 31, 2017	\$8,741.82 per month
• January 1, 2018 to December 31, 2018	\$8,741.82 per month
• January 1, 2019 to December 31, 2019	\$9,004.07 per month
• January 1, 2020 to December 31, 2020	\$9,004.07 per month

Additional Rent

Additionally Tenant agrees to pay as **Additional Rent** four percent (4%) of gross revenues (excluding sales tax) over \$1,000,000 for the proceeding year, to be paid on or before January 31st of each year, beginning on January 31, 2012.

(b) Within thirty (30) days after each anniversary of this lease, the LANDLORD and the TENANT shall reconcile such rental installments with the annual rental amount due.

(c) **DUE DATE:** Said monthly installments are due and payable on the first (1st) day of each calendar month and no later than the fifth (5th) day of the month.

(d) **LATE PAYMENT PENALTY:** If payment is not made by the fifth (5th) day of the month for rent which is due, TENANT shall add to the amount due and shall pay a penalty in the amount of five percent (5%) of the amount due; provided, however, that the Revenue Director may waive such penalty for good and sufficient reason.

(e) **RENT PAYMENTS:** All rents and other payments due to be paid by TENANT to LANDLORD shall be delivered to:

City of Savannah
Revenue Department

P.O. Box 1228
Savannah, GA 31402-1228

or at such changed address as may be made by proper notice pursuant to Section 15.

(f) REPORTS REQUIRED; EXAMINATION OF FINANCIAL RECORDS: TENANT shall furnish the following reports and records to LANDLORD during the term of this lease:

(i) TENANT shall furnish to LANDLORD copies of the monthly state sales tax reports prepared by TENANT, to be tendered each month with the rent payment then due under the terms of Paragraph 3(a).

(ii) LANDLORD shall have the right to examine TENANT'S books and financial records, including federal income tax returns, at reasonable times during business hours upon three (3) days written notice to TENANT.

4. TAXES:

The TENANT shall pay all taxes, assessments, impositions and other charges made upon the leased premises, which are assessed by any Governmental body or authority during the term of this lease. TENANT shall pay personal property taxes assessed upon its property located in or about the premises.

5. ACCEPTANCE AND USE:

TENANT takes, and accepts from LANDLORD, the demised premises, in their present condition and as suited for the use intended by TENANT. The TENANT shall use the demised premises as a full service restaurant facility. In no event shall TENANT use the premises for any illegal purpose, in violation of any law, or in any manner which constitutes a private or public nuisance. TENANT has examined the demised premises and has been afforded every right to inspect same. TENANT accepts the demised premises in their present condition.

6. REPAIRS AND MAINTENANCE BY TENANT:

The obligation is placed upon the TENANT to keep the premises in good condition and repair. LANDLORD shall not be responsible for any repairs whatsoever, except as hereinafter described. TENANT agrees to make all repairs to demised premises in any portion of the improvements which may be in damage or disrepair, except for all water and sewer lines, within the leased premises, for which responsibility for repair and maintenance shall

rest with the **LANDLORD**, unless the repair or maintenance has been necessitated by the negligence of the **TENANT**. **TENANT** shall undertake to repair and replace the same upon notice of the **LANDLORD** and shall commence repair and replace the same within ten (10) days of notice of the **LANDLORD** for such necessity for the same. **TENANT** shall be responsible for complying with all applicable statutes and ordinances pertaining to health, fire, safety and other regulations. Without limiting the generality of the foregoing, **TENANT** covenants and agrees to keep and maintain in good order, condition and repair throughout the term of this lease the demised premises and every part thereof, including, without limitation, fixtures and equipment therein; the exterior and interior portion of all doors, windows and glass; plumbing and similar facilities in the demised premises, heating, air-conditioning, and electrical equipment; walls, floors and ceilings; including compliance with applicable building codes relative to fire extinguishers. Any and all such repairs, alterations, replacements and modifications shall be at **TENANT'S** sole expense and shall be made using materials and labor of kind and quality equal to the original work. **TENANT** will surrender the demised premises at the expiration or early termination of this lease in as good as condition as received, or in such better condition as the demised premises may be put during the term, excepting only ordinary wear and tear or fire and other casualty resulting in destruction or loss of the premises. **TENANT** shall not be responsible for repair and/or maintenance of foundation walls as they relate to the support of the building.

IT IS EXPRESSLY UNDERSTOOD THAT:

(i) If **TENANT** does not repair the demised premises as required hereunder and to the reasonable satisfaction of **LANDLORD**, or

(ii) **LANDLORD** in the exercise of their sole discretion, determines the emergency repairs for which **TENANT** is responsible and necessary, or

(iii) Repairs or replacement to the improvements to the demised premises are made necessary by any act or omission or negligence of **TENANT**, its agents, employees, contractors, customers, invitees, licensees or visitors, then in any of such events, **LANDLORD** after ten (10) days written notice to **TENANT**, may make such repairs without liability to **TENANT** for any loss or damage that may accrue to **TENANT** and **TENANT** shall pay unto **LANDLORD**, upon demand as additional rent, the reasonable cost of such repairs.

(iv) **TENANT** shall not be responsible for repairs caused by the acts of the **LANDLORD'S** employees, agents or others on the premises at **LANDLORD'S** direction. Said repairs shall be the responsibility of **LANDLORD**.

7. ASSIGNMENT AND SUBLETTING

TENANT cannot sublet with the LANDLORD'S written consent first obtained. Consent shall not be unreasonably withheld. Such assignment or subletting must be only for use in accordance with the business set forth in Section 5 and in such event, TENANT shall remain liable for the payment of all rent to be paid hereunder and for the performance of all terms, covenants and conditions herein undertaken.

8. IMPROVEMENTS SHALL BECOME THE PROPERTY OF LESSOR:

TENANT may not make any alterations, additions and/or improvements to the leased premises without the LANDLORD'S written consent. All improvements erected or placed in or upon the leased premises or caused to be so placed by the TENANT shall be and will become the property of the LANDLORD, upon the expiration of this lease, without cost to the LANDLORD; provided that trade fixtures not attached to the realty placed therein by the TENANT may be removed by it prior to the expiration of this lease (but if not so removed within thirty (30) days after the termination of the lease, shall then be and become the property of the LANDLORD) provided that the TENANT shall repair any damage caused by such removal.

9. INDEMNIFICATION OF LESSOR: TENANT shall indemnify and save harmless LANDLORD from and against any and all loss, cost (including attorney's fees), damage, expense and liability (including statutory liability and liability under Workmen's Compensation Laws) in connection with claims for damages as a result of injury or death of any person or property damage to any property sustained by:

(a) TENANT, its partners, agents, employees, contractors, sub-contractors, their partners, agents and employees, regardless and irrespective of the cause of such claims for damages, except if caused by the sole negligence of LANDLORD, and

(b) All other persons, including LANDLORD'S agents and employees, which arise from or in any manner grow out of any act or neglect on or about the premises or by TENANT, TENANTS partners, agents, employees, customers, invitees, contractors and sub-contractors, their partners, agents and employees, or which arise from or in any manner grow out of any defect in any undertaking hereunder by TENANT or any failure of TENANT to comply with this lease.

(c) In the event that any action or proceeding is brought against **LANDLORD** by reason of any such claim, then **TENANT**, upon notice from **LANDLORD**, shall defend such action or proceeding at **TENANT'S** cost, and shall pay any judgment or decree and interest thereon which may be entered against **LANDLORD**. Nothing herein shall prohibit the **LANDLORD** from participating in the defense of any such proceeding.

10. **INSURANCE:**

TENANT shall, at its own cost through the time that this lease is in force, maintain the following:

(a) **COMPREHENSIVE GENERAL LIABILITY INSURANCE** with limits of \$300,000.00 one person and \$1,000,000.00 per accident, and property damage limits of \$100,000.00 which insurance shall contain a special endorsement recognizing and insuring any liability accruing to **TENANT** under the preceding Section 9 hereof,

(b) **WORKMEN'S COMPENSATION INSURANCE** as required by the State of Georgia;

(c) **FIRE WITH EXTENDED COVERAGE INSURANCE** insuring that **TENANT'S** merchandise and fixtures, to the extent of at least 80% of the value thereof The proceeds of such insurance shall not be used, except with the written consent of **LANDLORD** for any purpose other than the repair or replacement of **TENANT'S** fixtures and merchandise if the rest of the building is restored by the **LANDLORD**;

(d) **TENANT** shall procure and maintain in full force and effect at all times during the term of this lease, insurance protection for direct and indirect damage to all improvements on the premises and any alterations, remodeling or improvements made or installed by **TENANT** on the premises. Each policy providing this protection shall be in an amount equal to at least 80% of the full replacement value of the property insured and shall insure against the perils of fire, windstorm, riot, theft, vandalism and malicious mischief and explosion (from boilers, machinery, air-conditioning units and otherwise). Each policy shall name the **LANDLORD** as an additional insured as its interest shall appear and shall be placed with companies which are approved by the **LANDLORD**.

(e) The insurance required in the preceding paragraphs (b) and (c) shall contain a clause expressly waiving any right of the insurer of subrogation against **LANDLORD**. The insurance policies required in the preceding sub-paragraphs (a), (c) and (d) shall name the **LANDLORD** as a "Joint Insured" and **TENANT** shall furnish **LANDLORD** with certificates of such insurance and the Comprehensive General Liability Certificate shall show the endorsement required. Each certificate shall provide that **LANDLORD** will be given thirty (30) days written notice prior to cancellation of the insurance evidenced thereby and subject policies shall be subject to

the approval of **LANDLORD**.

(f) The insurance policies required under the preceding sub-paragraphs or binders of said coverage shall be furnished to the **LANDLORD** upon the execution of this lease. In the event of a casualty, the proceeds from the insurance shall be used in restoring, rebuilding and repairing the improvements, however, in the event that the lease is terminated as a result of such casualty, then the proceeds payable to the **LANDLORD** and the proceeds shall be payable to the **TENANT** shall only be the proceeds received for **TENANTS** fixtures, equipment and personalty which is not considered as a part of the realty.

(g) In the event that **TENANT** fails to maintain such insurance, **LANDLORD** may pay for and secure all such policies and the cost of same shall be added to the next monthly rental payment as same becomes due and shall be additional rental then due.

11. UTILITIES:

The **TENANT** shall be responsible for the costs of utility services for gas, electricity, heat, water, sewer, telephone and garbage disposal services in connection with the leased premises for the benefit of the **TENANT** and shall pay all periodic charges for utility services provided to the premises during the term of this lease.

12. DEFAULT

(a) In the event of violation or breach by the **TENANT** of any of the covenants, agreements or conditions contained in this lease or imposed upon it by law, the **LANDLORD** may notify **TENANT** in writing of the same and the **TENANT** shall discontinue such violation or breach within

fifteen (15) days next following the posting of such notice by registered or certified mail addressed to **TENANT**. Should the **TENANT** fail to discontinue the violation or breach complained of by the **LANDLORD** in said written notice within fifteen (15) days next following the dispatch of such notice to it by registered or certified mail as aforesaid, this lease and the term of same then being enjoyed by the **TENANT** and each and every right and option granted or conferred upon the **TENANT** under these presents shall thereupon terminate and come to an end and the **LANDLORD** may forthwith re-enter without notice or demand and without liability as for trespass or otherwise (any statutory provisions to the contrary notwithstanding), but the **TENANT** shall to thereby be relieved of its liability to the **LANDLORD** for damages suffered by the latter by reason of the **TENANT'S** breach or violation of this lease and the balance due

hereunder for the full remainder of the term in force at the time of default shall become due and payable at once by the **TENANT**. Time is of the essence of this agreement.

(b) No assent, express or implied, by the **LANDLORD** or **TENANT** to any violation or breach of any of the other's covenants contained in this lease shall be deemed to be a waiver of any subsequent violation or breach of the same covenant or of any other covenant or as varying the terms of this lease in any particular.

(c) Any rights or remedies given or reserved to the **LANDLORD** or **TENANT** in this lease shall be cumulative of any other rights or remedies of the **LANDLORD** or **TENANT**, respectively, under the remaining terms of this lease or under the laws of the State of Georgia, and shall not be deemed exclusive.

(d) If **TENANT** is in default and **TENANT**, its agents and servants, have moved from the premises, **LANDLORD** may thereupon re-enter and take possession of the said premises and furnishings, fixtures and other belongings of the **TENANT** which may be in same, without legal process, which will terminate any right of **TENANT** to re-enter and shall be deemed an abandonment by **TENANT** and termination of this agreement as to any rights of **TENANT**.

(e) Following a default, the surrender of possession on demand or eviction by law, **LANDLORD** may retake possession immediately without legal process and the retaking of possession by **LANDLORD** shall not relieve **TENANT** of its obligations and liabilities hereunder and **LANDLORD** shall have the right to recover immediately as damages, rentals to the end of the term, to relate the premises or any part thereof for the term hereof or any portion

thereof, and any net sums received by the **LANDLORD** from such reletting shall first be applied

to the **LANDLORD'S** expense of retaking and repossessing the premises, the cost and expense in securing new Tenant, the cost of maintaining and repairing premises and the balance shall be retained by **LANDLORD** to be applied towards the liability of **TENANT** to **LANDLORD** for all rents and payments reserved herein and unpaid by **TENANT** for the remainder of the term hereof and on any judgment obtained to or from any sums due from **TENANT**.

(f) The foregoing provisions of this paragraph shall apply to any renewal or extension of this lease.

(g) If, at any time during the term of this lease, the **TENANT** shall make any assignment

for the benefit of creditors or shall, in writing, admit insolvency or shall be decreed insolvent or bankrupt, voluntarily or involuntarily, by any court, Federal or State, or if this lease or any term hereby demised shall be levied upon as an asset or property right of the **TENANT**, then, in any such event, the **LANDLORD** may, at its election, terminate this lease and the term then being enjoyed by **TENANT** and each right and option granted or conferred upon the **TENANT** under these presents, forthwith; exercise of such election to be evidenced by written notice to that effect by either registered or certified mail, or upon the assignee or receiver, trustee or other person in charge of the estate or liquidation of the property of **TENANT**, as the case may be, but such termination shall not release or discharge any rental payable hereunder and the accrued or any other liability then accrued by reason of any agreement or covenant, herein contained, and on the part of the **TENANT** to be kept and performed.

(h) In the event of default in the payment of any rent to accrue hereunder, or in the event of the breach of any other covenant in this lease contained and on the part of **TENANT** to be kept and performed, the **TENANT** shall pay as attorney's fees fifteen percent (15%) of the amount then due, or to become due, under this lease, upon the **LANDLORD** placing said claim in the hands of an attorney or attorneys for collection.

13. **CONDEMNATION:**

If the whole of the leased premises shall be taken for any public or any quasi-public use under any statute or by right of eminent domain, then this lease shall automatically terminate as of the date that title shall be taken. If any part of the leased premises shall be so taken as to render the remainder thereof unusable for the purpose for which the leased premises was leased, then the **LANDLORD** and the **TENANT** shall each have the right to terminate this lease on thirty (30) day's notice to the other. In the event that this lease shall terminate or be terminated, the rental shall, if and as necessary, be equitably adjusted. All compensation awarded or paid upon such a total or partial taking of the leased premises shall belong to and be the property of the **LANDLORD** without any participation by the **TENANT**.

14. **SALE OF PREMISES:**

(a) **TENANT** acknowledges and agrees that, in the event of the sale of the property by the **LANDLORD**, **TENANT** will cooperate fully in the consummation of said sale and will agree to continue to abide by all City Codes and ordinances relating to signage, trash, noise, alcohol sales, parking, sanitation and trash, odor and noise, and will execute any and all documents required by the **LANDLORD** to ratify the terms of the Lease, to consent and agree to the sale.

(b) In the event that the premises of the subject lease are sold, the successors and assignees of the City of Savannah, as owners of the herein leased premises, shall be obligated and bound unequivocally to all the terms of this present lease.

15. NOTICES:

Any notice under this lease must be written and must be sent by certified mail or personally delivered and receipted, to the last known address of the party to whom the notice is to be given, as designated by such party in writing. The **LANDLORD** and **TENANT** hereby designate their addresses as follows:

LANDLORD:
P.O. Box 1027
Savannah, GA 31402

TENANT:
5 East River Street
Savannah, GA 31401

IN WITNESS WHEREOF, the **LANDLORD** and the **TENANT** have agreed to the terms of this lease and have hereunto affixed their signatures on the day and year first above written.

AS TO LESSOR (LANDLORD):

**THE MAYOR AND ALDERMEN
OF THE CITY OF SAVANNAH,
GEORGIA**

Michael B. Brown
BY: _____

**MICHAEL BROWN
CITY MANAGER
SAVANNAH, GEORGIA**

ATTEST:

Suzanne C. Reese

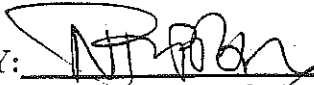
Clerk of Council

[Signature]

Witness

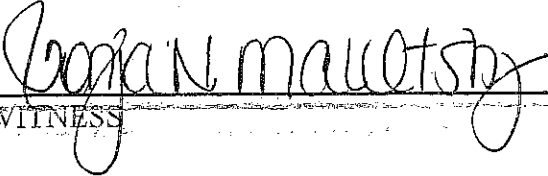
AS TO LESSEE (TENANT):

GALAXY CAFE, INC.

BY: 
NICK PAPPAS, (L.S.)

ATTEST:

VASS VARGAS
ASSISTANT SECRETARY


WITNESS