

**FOURTH LEASE AMENDMENT AND EXTENSION OF LEASE**

THIS FOURTH LEASE AMENDMENT AND EXTENSION OF LEASE ("Amendment") is entered as of the 20<sup>th</sup> day of June, 2007, by and between MUDDY BRANCH SQUARE LIMITED PARTNERSHIP, hereinafter referred to as "Landlord", and MONTGOMERY COUNTY, MARYLAND, hereinafter referred to as "Tenant."

RECITALS:

A. Landlord and Tenant entered into a Lease Agreement dated June 26, 1987 (the "Original Lease"), as amended by that certain Supplement 1 to Lease dated June 26, 1987 ("Supplement"), that certain Lease Amendment and Extension of Lease dated October 2, 1997 ("Extension") and that certain Lease Modification Agreement dated October 2, 1997, attached to the Extension as Exhibit B ("First Amendment"), that certain Second Amendment to Lease dated March 9, 1998 ("Second Amendment"), and that certain Third Lease Amendment and Extension of Lease dated December 22, 2000 ("Third Amendment") (collectively the "Lease"), whereby said Tenant let those certain premises, containing approximately six thousand four hundred (6,400) square feet of gross leasable area ("Premises") located in Muddy Branch Square, Gaithersburg, Maryland ("Shopping Center"), for a period expiring on August 31, 2007. As used in this Amendment, the term "Lease" shall mean the "Lease, as amended hereby," unless its context expressly requires it to mean the Original Lease, the Supplement, the Extension, the First Amendment, the Second Amendment, or the Third Amendment; and

B. Landlord and Tenant desire to extend the term and amend said Lease in certain respects as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby reciprocally acknowledged, Landlord and Tenant agree as set forth below.

1. Recitals. The foregoing recitals and representations form a material part of this Amendment and are incorporated herein by this reference.

2. Term. The term of the Lease is hereby extended and revised so that the term shall expire on August 31, 2017 instead of August 31, 2007. The period from September 1, 2007 through August 31, 2017 is hereafter referred to as the "Third Extended Term." Any provision in the Lease, whether express or implied, which could be construed as providing Tenant a further right to extend the term past August 31, 2017 shall no longer be applicable.

3. Minimum Rent. During the Third Extended Term, the following schedule of Minimum Rent shall apply:

<u>Period</u>	<u>Annually</u>	<u>Monthly</u>
9/1/2007 through 8/31/2008	\$179,199.96	\$14,933.33
9/1/2008 through 8/31/2009	\$184,575.96	\$15,381.33
9/1/2009 through 8/31/2010	\$190,113.24	\$15,842.77
9/1/2010 through 8/31/2011	\$195,816.60	\$16,318.05
9/1/2011 through 8/31/2012	\$201,691.08	\$16,807.59
9/1/2012 through 8/31/2013	\$207,741.84	\$17,311.82
9/1/2013 through 8/31/2014	\$213,974.04	\$17,831.17
9/1/2014 through 8/31/2015	\$220,393.32	\$18,366.11
9/1/2015 through 8/31/2016	\$227,005.08	\$18,917.09
9/1/2016 through 8/31/2017	\$233,815.20	\$19,484.60

4. Parking. Tenant, Tenant's employees, and employees of any permitted concessionaires of the Premises shall not park their vehicles in any parking spaces in the Shopping Center other than as designated from time to time by Landlord as employee parking. Within fifteen (15) days after Landlord's request, Tenant shall furnish to Landlord the license plate numbers and description of the vehicles operated by Tenant and its employees and permitted concessionaires and Tenant shall notify Landlord of any changes in such information within fifteen (15) days after such changes occur. In the event Tenant, its employees or its permitted concessionaires park their vehicles other than in the areas specified therefor, then Landlord, without limiting any other remedy which Landlord may have under this Lease, at law or in equity, may charge Tenant the sum of Twenty and 00/100 Dollars (\$20.00) per day per vehicle parked in violation of the provisions of this Section 4, as additional rent. Such additional rent shall be payable by Tenant within five (5) days after receipt from Landlord of a statement therefor. Tenant shall not interfere with the rights of Landlord and other tenants, and their respective permitted concessionaires, officers, employees, agents, licensees and invitees, to use any part of the parking areas or any other portion of the Common Areas. Landlord reserves the right to impose parking charges by installing meters or otherwise, with appropriate provisions for parking ticket validation by tenants, and to tow vehicles in violation of this Section 4.

5. Pro Rata Share. Sections 8(B) and 9(C) of the Original Lease are hereby modified so that Tenant's portion of Landlord's actual costs of operating and maintaining the Common Areas and Tenant's pro-



rata share of real estate taxes shall be a fraction, the numerator of which shall be the gross leasable area of the Premises and the denominator of which shall be the gross leasable area of the Shopping Center (said fraction shall hereinafter be referred to as Tenant's "Pro-Rata Share"); provided, however, if any tenant of the Shopping Center pays taxes pursuant to a separate tax assessment of its premises, maintains or insures its own parcel, premises or building, maintains any portions of the Common Areas at its own expense, or otherwise does not pay its full pro rata share of such expenses, the amount of such taxes, maintenance charges or insurance paid by such tenant shall be excluded from the calculation of Tenant's Pro-Rata Share of real estate taxes, Common Area operating and maintenance costs, or insurance and such tenant's premises shall be deducted in computing the square feet of gross leasable area in the Shopping Center for purposes of computing Tenant's Pro-Rata Share of such item. Space contained in any basement area or mezzanine area of the Shopping Center, such as a projection room in a movie theater or storage space located in a mezzanine of a space, shall not be included in computing gross leasable area of the Shopping Center, but basement area or mezzanine area used for retail sales or used in determining parking requirements for the Shopping Center shall be included. If there is a conflict between this Section 5 and any other provision of the Lease, this Section 5 shall control.

6. Tenant's Insurance. (a) Effective as of the date of this Amendment, Section 7.g.(B) of the First Amendment shall no longer apply, and the following shall apply in lieu thereof:

"Tenant covenants and agrees to maintain during the term, at Tenant's sole cost and expense, commercial general liability insurance with a combined single limit for bodily injury, including death, to any person or persons, and for property damages, of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate plus excess/umbrella liability insurance containing a per occurrence combined single limit of \$1,000,000.00 aggregate, for general liability, automobile liability, contractual liability, and employers' liability. Said insurance shall cover any and all liability of the insured with respect to said Premises, the areas adjacent to the Premises (including, but not limited to, the sidewalk and loading dock), or arising out of the maintenance, use or occupancy thereof. All such insurance shall specifically insure the performance by Tenant of the indemnity provisions as to liability for injury to or death of persons and injury or damage to property contained in the Lease. Tenant's commercial general liability insurance shall name Landlord, The Rappaport Companies, Landlord's mortgagee(s) and any other designee of Landlord, as additional insureds (using ISO Form CG 2010 (11/85), or equivalent). The amount of such liability insurance required to be maintained by Tenant hereunder shall not be construed to limit Tenant's indemnity obligations in the Lease or other liability hereunder."

(b) Within fifteen (15) days of Landlord's written request, the Tenant shall deliver to Landlord a certificate of insurance evidencing any insurance required under the Lease to be carried by Tenant. If Tenant elects to self-insure for the coverage required in Section 11 of the Lease, then Tenant covenants and agrees to at all times during the term maintain a bona fide plan of self-insurance with adequate reserves based on practices acceptable in the insurance industry and provide Landlord with such evidence of self-insurance upon Landlord's request; provided, however, nothing herein shall permit Tenant to self-insure, except as expressly permitted pursuant to the terms of Section 11 of the Lease.

7. Landlord's Insurance. (a) Subject to reimbursement by Tenant as provided for in Section 41 of the Original Lease, Landlord shall, at all times during the Third Extended Term, maintain in effect:

(i) A policy or policies of insurance covering the improvements and betterments in the Shopping Center in an amount equal to the full replacement cost (exclusive of the cost of excavations, foundations and footings) thereof, and so as to prevent the application of coinsurance provisions, providing protection against any peril generally included within the classification presently known as "Causes of Loss-Special Form." Landlord's obligation to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Landlord and shall be written by insurance companies authorized to do business in the jurisdiction where the Premises are located, and such companies shall have a Best's rating of at least A-. Further, Landlord shall have the right to carry such deductible amounts, as it shall reasonably select under such insurance coverage.

(ii) A commercial general liability insurance policy or policies for liability for bodily injury to persons and damage to property, occurring in or about the common areas of the Shopping Center. Said insurance policy or policies shall be in an amount of not less than a combined single limit liability of \$2,000,000.

(b) Section 41 of the Original Lease is hereby modified to provide that all references in said Section to Tenant's "proportionate share" of insurance costs shall be deemed to refer to Tenant's "Pro-Rata Share" (as defined in Paragraph 5 of this Amendment) of such costs.

8. Indemnification. Provided that Tenant is not contributorily negligent, Landlord shall indemnify and hold Tenant harmless from and against any and all claims, actions, damages, liabilities and expenses in connection with liability to third parties for loss of life, personal injury and/or damage to property arising from or out of the negligent acts of Landlord and its agents, contractors, and employees occurring in or upon the Shopping Center.

9. Assignment. Notwithstanding anything to the contrary in the Lease, Landlord shall hereby have the option, in its sole discretion, to terminate the Lease upon the terms set forth in this Section 9, if Tenant requests Landlord's consent for a subletting or assignment. The option shall be exercised by Landlord



giving Tenant written notice within sixty (60) days following Landlord's receipt of Tenant's written notice as required under the Lease. The term shall end on the date stated in Tenant's notice as the effective date for the assignment or subletting as if that date had been originally fixed in the Lease for the expiration of the term. Tenant shall, at Tenant's own cost and expense, discharge in full any outstanding commission obligation with respect to the Lease and any commissions which may be owing as a result of any proposed assignment or subletting, whether or not the Premises are rented by Landlord to the proposed assignee or sub-lessee or any other tenant.

Notwithstanding anything to the contrary contained in this Section 9, Tenant shall hereby have the right to void Landlord's notice of termination, if, within fifteen (15) days of such notice, Tenant provides notice to Landlord ("Tenant's Rescission Notice") that it rescinds its request for Landlord's consent to an assignment or subletting of the Lease, and Tenant shall continue to operate in the Premises pursuant to the terms of the Lease. In such event, Tenant shall be prohibited from seeking to assign the Lease or sublet the Premises for a period of two (2) Lease Years after the date of Tenant's Rescission Notice.

10. Broker. Each of the parties hereto represents and warrants that, other than the brokerage commission payable by Landlord to The Rappaport Companies pursuant to a separate agreement, there are no other brokerage commissions or finders' fees of any kind due in connection with this Amendment, and each of the parties hereto agrees to indemnify the other against, and hold it harmless from, any and all liabilities, damages, costs, claims and obligations arising from any such claim (including, without limitation, the cost of attorneys' fees in connection therewith).

11. Notices. Section 42 of the Original Lease and the first paragraph of the Third Amendment are hereby modified to provide that notices to Tenant and Landlord and rent payments shall be sent to the address set forth below:

Landlord  
c/o The Rappaport Companies  
8405 Greensboro Drive, Suite 830  
McLean, Virginia 22102-5121

Tenant  
Montgomery County, Maryland  
Department of Liquor Control  
16650 Crabbs Branch Way  
Rockville, Maryland 20855

With a copy to:  
Montgomery County, Maryland Department of Public Works and Transportation  
Office of Real Estate  
101 Monroe Street, 10th Floor  
Rockville, Maryland 20850  
Attn: Director of Real Estate

And with a copy to:  
Office of the County Attorney for Montgomery County Maryland  
101 Monroe Street, 3rd Floor  
Rockville, Maryland 20850  
Attn: County Attorney

Notwithstanding the foregoing, any notice to Tenant shall be deemed delivered upon delivery by Landlord of any notice to the first (1<sup>st</sup>) address shown above for Tenant.

12. Defined Terms. Terms that are defined in the Lease shall have the same meanings when such terms are used in this Amendment.

13. Confirmation of Terms. All of the terms, covenants and conditions of the Lease, except as are herein specifically modified and amended, shall remain in full force and effect and are hereby adopted and reaffirmed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Amendment under their respective seals on the day and year first above written.

WITNESS:

Margaret D. Pilley

**LANDLORD:**

MUDDY BRANCH SQUARE LIMITED PARTNERSHIP

By: Lehrco Corporation, General Partner

By: Samuel Lehman (SEAL)  
Samuel Lehman, President

WITNESS:

By: Debbie Richards

**TENANT:**

MONTGOMERY COUNTY, MARYLAND

By: Timothy L. Firestine (SEAL)  
Timothy L. Firestine  
Chief Administrative Officer

APPROVED AS TO FORM AND RECOMMENDED LEGALITY  
OFFICE OF THE COUNTY ATTORNEY

Eileen D. Swann  
5/30/2007

By: Cynthia Brenneman (SEAL)  
Cynthia Brenneman  
Director, Office of Real Estate

Date: 5/3/07