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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Honorable Jennifer B. McCoy, Circuit Court Judge Charleston County

Appellate Case No. 2024-001612
Trial Court Case No. 2022-CP-10-04219

1001 Harborview, LLC.....Appellant,

v.

Phillip Tran and Quyen Tiet.....Respondents.

RECORD ON APPEAL

Ms. Jenna Kay DePoy, Esquire
222 W COLEMAN BLVD., BUILDING 2
MT. PLEASANT, SC 29464

Mr. Hal Eugene Cobb, Esquire
222 W COLEMAN BLVD., BUILDING 2
MT. PLEASANT, SC 29464

ATTORNEYS FOR APPELLANT

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
	)	FOR THE NINTH JUDICIAL CIRCUIT
1001 Harborview, LLC,)	
	)	Case No.: 2022-CP-10-04219
Plaintiff,)	
)	
vs.	)	ORDER FOR ENTRY OF DEFAULT
	)	AGAINST DEFENDANTS PHILIP
	)	TRAN AND QUYEN TIET
)	
)	
Defendants.)	
_____)	

The Notice of Summons and Complaint in the above-captioned matter was served upon Defendant Philip Tran and Defendant Quyen Tiet (collectively, “Defendants”) on September 14, 2022 via personal service. The Defendants have failed to submit responsive pleadings or defend the suit and on October 25, 2022, Plaintiff 1001 Harborview, LLC filed a Notice and Motion for Entry of Default Judgment and Request for Damages Hearing against Defendants (“Plaintiff’s Motion for Entry of Default”).

THE COURT HEREBY FINDS Defendants Philip Tran and Quyen Tiet were properly served with notice of the Summons and Complaint and each Defendant failed to file responsive pleadings within thirty (30) days after service and the Plaintiff properly moved for entry of default on October 25, 2022.

IT IS ORDERED that Defendants Philip Tran and Quyen Tiet are in default and this Entry of Default is considered effective as of October 25, 2022, the date the Court was first notified of Defendants’ default through Plaintiff’s Motion for Entry of Default.

IT IS FURTHER ORDERED that this matter is to be set on the Court’s docket for a hearing on damages pursuant to Plaintiff’s request.

Dated: _____

Clerk of Court
Charleston County Court of Common Please



Charleston Common Pleas

Case Caption: 1001 Harborview, Llc VS Philip Tran , defendant, et al

Case Number: 2022CP1004219

Type: Order/Entry of Default

So Ordered

s/Jennifer B. McCoy #2764

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	
	)	C.A. No.: 2022-CP-10-04219
1001 Harborview, LLC,)	
)	
Plaintiff,)	
	)	ORDER
vs.)	
)	
Philip Tran and Quyen Tiet,)	
)	
Defendants.)	
)	

This matter came before the Court for a hearing on Plaintiff’s Motion for Damages Hearing, held on September 6, 2023. Having considered the evidence presented and the applicable legal authorities, the Court finds as follows:

PROCEDURAL HISTORY

Plaintiff filed its Complaint on September 9, 2022, seeking the following causes of action: Declaratory Judgment and Breach of Contract October 26, 2022 as to both Defendants.

At the hearing, Stefanie L. Huffer appeared for Plaintiff. Lawrence M. Hershon appeared for Quyen Tiet. Philip Tran did not appear at the hearing.

TESTIMONY AND FINDINGS OF FACT

Plaintiff is the owner of commercial real property located at 5060 Dorchester Road, Unit 360, North Charleston, South Carolina. The subject property is part of a shopping center known as The Shoppes at Montague Corners. The size of the subject premises is 16,000 square feet. On December 22, 2021, Defendants entered into a retail lease agreement with Plaintiff for the lease of the subject property. The lease commenced immediately thereafter, and its terms included that the first six months of the lease were “rent free” so that the tenants could upfit the

premises as an Asian grocery store. However, a security deposit of \$23,200 was due upon signing of the lease. Defendants never made payment of the security deposit. Defendants also never commenced any material work to upfit the premises. Therefore, the Court finds that the lease was in breach no later than year-end of 2021. Payments for the lease were to commence June 1, 2022, at a \$16,000 per month (\$12 per square foot per year) as minimum rent plus \$6,000 per month in additional rent. The lease had a ten-year term.

Nazario Paragano appeared on behalf of Plaintiff to provide testimony.¹ Per the details provided by Plaintiff's attorney, Plaintiff is claiming that the full amount of rent for ten years is required to be paid and is owed as damages. These items total \$2,209,968 in minimum rent, \$720,000 in additional rent, \$146,000 in late fees, and \$8,357 in attorneys' fees and costs.

Despite the default in payment of the security deposit upon commencement of the lease, Plaintiff failed to list the property for rent with a real estate broker until July 2023, more than six months after the default by the Defendants.

Mr. Paragano testified that there have been two offers to rent the space at \$12.00 per square foot, but that the negotiations did not lead to an executed contract for lease of the premises. He also testified that Piggly Wiggly offered to rent the space at \$6.00 per square foot, but Plaintiff refused the offer and refused to negotiate further. There have not been any attempts to list the property for less than \$12.00 per square foot or to negotiate a price at less than \$12.00 per square foot.

Mr. Paragano further testified that the tenant previously in the space prior to Defendants left equipment and other furniture for use for a grocery store, which was also the intended use of

¹ Plaintiff filed two affidavits following the hearing: (1) an affidavit concerning damages from Mr. Paragano and (2) an affidavit of attorneys' fees from Plaintiff's counsel. As both were permitted post-hearing, which does not allow for Defendants to cross-examine, these documents were not considered by the Court in relation to this Order.

the Defendants. Mr. Paragano testified that Defendants purchased the equipment and furniture for \$100,000. He further testified that the equipment and furniture remained on the premises, and that Plaintiff had not taken any steps to assert a landlord's lien or otherwise sell the equipment and furniture to mitigate damages.

LEGAL ANALYSIS

“A defendant in default admits liability but not the damages” *Solley v. Navy Fed. Credit Union, Inc.*, 397 S.C. 192, 203, 723 S.E.2d 597, 603 (Ct. App. 2012) (citing *Renney v. Dobbs House, Inc.*, 275 S.C. 562, 566, 274 S.E.2d 290, 292 (1981)). “[T]he defaulting defendant has conceded liability. However, a defaulting defendant does not concede the [a]mount of liability.” *Solley*, 397 S.C. at 203, 723 S.E.2d at 603 (quoting *Howard v. Holiday Inns, Inc.*, 271 S.C. 238, 242, 246 S.E.2d 880, 882 (1978)). Even “[i]n a default case, [therefore,] the plaintiff must prove . . . the amount of his damages, and such proof must be by a preponderance of the evidence.” *Solley*, 397 S.C. at 204, 723 S.E.2d at 603 (citation omitted). “[T]he principle that a plaintiff must prove his damages even when the defendant is in default applies to all damages claims in default cases.” *Wells Fargo Bank, N.A. v. Marion Amphitheatre, LLC*, 408 S.C. 87, 90, 757 S.E.2d 557, 559 (Ct. App. 2014).

Plaintiff seeks a declaratory judgment that the lease is terminated. Per the allegations in the Complaint, the lease has been terminated as of July 24, 2022. However, the Defendants were in default as of January 1, 2022, some six months earlier.

An action for breach of contract seeking damages is one at law. *Sterling Dev. Co. v. Collins*, 309 S.C. 237, 240, 421 S.E.2d 402, 404 (1992). Under the contract claim the injured party can recover actual damages for the direct and natural consequences of the breach, or for damages that were within the contemplation of the contracting parties. *Collins Music Co. v.*

Smith, 332 S.C. 145, 147, 503 S.E.2d 481, 482 (Ct. App. 1998). Plaintiff, however, has failed to mitigate its damages. A party injured by the acts of another is required to do those things a person of ordinary prudence would do under the circumstances, but the law does not require him to exert himself unreasonably or incur substantial expense to avoid damages. *Tri-Continental Leasing Corp. v. Stevens, Stevens & Thomas, P.A.*, 287 S.C. 338, 338 S.E. (2d) 343 (Ct. App. 1985). A party who has suffered injury or damage from the actionable conduct of another is under a duty to make all reasonable efforts to minimize the damages incurred. *Newman v. Brown*, 228 S.C. 472, 480, 90 S.E.2d 649, 653 (1955) (“It is the undoubted general rule that it is the duty of the owner of the property, which is injured by . . . another, to use reasonable means to minimize the damages.”) To the extent that it reasonably could have so minimized those damages and failed to do so, a plaintiff is not entitled to recover from the other party. *M. C. Heath & Co. v. Postal Telegraph-Cable Co.*, 87 S.C. 219, 234, 69 S.E. 283, 287-288 (1910). In other words, one cannot recover any damages that might have been avoided by the use of reasonable care and diligence. In addition, the plaintiff bears the burden of proving by the preponderance of the evidence that he is entitled to compensatory damages. *See Clark v. Cantrell*, 339 S.C. 369, 529 S.E.2d 528 (2000); *Whisenant v. James Island Corp.*, 277 S.C. 10, 281 S.E.2d 794 (1981) (in order for damages to be recoverable, evidence should enable fact finder to determine amount thereof with reasonable certainty and cannot be left to conjecture, guess, and speculation).

First, when the security deposit was not paid, Plaintiff was on notice that Defendants were unlikely to perform under the lease, and furthermore were on notice of the Defendants’ default under the lease. The reasonable step following such a default, which clearly establishes that Defendants would not be fulfilling the terms of the lease, would have been for Plaintiff to re-

list the property for rent at that time, rather than waiting six months to do so. Second, Plaintiff had opportunities to negotiate terms with a new, replacement tenant. The obligation to take reasonable steps to mitigate of damages requires not only the listing of the property so a new tenant can be signed to take the space, but also to consider having a tenant who will pay less per square foot for the space. The opportunity existed to lease the space at \$6.00 per square foot. It is unknown if other potential tenants would have leased at a rate somewhere between \$6.00 and \$12.00, but it is reasonably certain that interest would increase at lower prices.

A period of twelve months from the initial default is more than a reasonable amount of time to find a new tenant. The first six months of the tenancy had no payments required, so no damages occurred during the first six months. During the second six month period, a total of \$96,000 in minimum rent and \$36,000 in additional rent were due. However, this must be reduced by the amount that could have been obtained from Piggly Wiggly at \$6.00 per square foot plus additional rent that would also have been recovered from that tenant (which presumably would have been the same amounts to be paid by Defendants under the lease). In addition, monthly late charges do not accrue for each month after the lease has already been in default. This reduces the additional rent in full, and also reduces the minimum rent in half, to \$48,000.

In addition, Plaintiff could have taken steps to deem the personal property abandoned and to sell it to further reduce damages. Allowing setoff “prevents an injured person from obtaining a double recovery for the damage he sustained, for it is almost universally held that there can be only one satisfaction for an injury or wrong.” *Riley v. Ford Motor Co.*, 414 S.C. 185, 195, 777 S.E.2d 824, 830 (2015) (citation omitted) (*quoting Rutland v. S.C. Dep’t Transp.*, 400 S.C. 209, 216, 734 S.E.2d 142, 145 (2012)). At a minimum, 33% of the value of the personal property, of \$100,000, could have been attained on resale, further reducing damages by \$33,000.

The Court finds that the lease has terminated. However, Plaintiff failed to properly mitigate damages. The lease does allow for the recovery of reasonable attorneys' fees and costs. While attorneys' fee affidavits were submitted following the hearing, they do not detail what amounts are included in the costs incurred. Furthermore, the Defendants are not responsible for Plaintiff's decision to switch attorneys. Based on the amount awarded as damages herein of \$15,000, a reasonable amount of attorneys' fees and costs is \$3,000, for a total award to Plaintiff against the Defendants of \$18,000. Therefore, based on the preponderance of the evidence presented concerning damages, the Court awards judgment in favor of Plaintiff in the amount of \$18,000.00.

IT IS SO ORDERED.

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2022-CP-10-04219

1001 Harborview, LLC,

Philip Tran and Quyen Tiet

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Lawrence M. Hershon

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Master-in-Equity's Order and Judgment Regarding Foreclosure of Judgment Lien and Sale

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
1001 Harborview, LLC	Philip Tran	\$18,000.00
1001 Harborview, LLC	Quyen Tiet	\$18,000.00
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the ____ day of _____, _____, and a copy mailed first class or placed in the appropriate attorney's box on this ____ day of _____, _____, to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

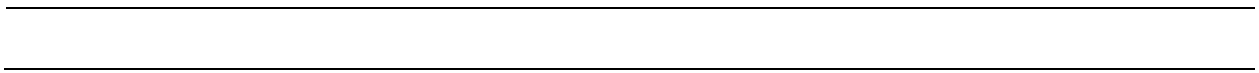
CLERK OF COURT

Court Reporter: _____

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.





Charleston Common Pleas

Case Caption: 1001 Harborview, Llc VS Philip Tran , defendant, et al

Case Number: 2022CP1004219

Type: Order/Judgment and Form 4

So Ordered

s/Jennifer B. McCoy #2764

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FORM 4

COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

CASE NO. 2022CP1004219

1001 Harborview Llc
PLAINTIFF(S)

Philip Tran et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff filed a Motion to Reconsider with this Court on February 9, 2024. "The purpose of Rule 59(e), SCRPC, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." Arnold v. State, 309 S.C. 157, 172, 420 S.E.2d 8/34, 842 (1992). "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Upon review of the Motion as well as the Memoranda, this Court DENIES Plaintiff's Motion to Reconsider without the necessity of a hearing. Rule 59(f), SCRPC; Pollard v. City of Florence, 314 S.C. 397, 401-402, 444 S.E.2d 534, 536 (Ct. App. 1994).

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/09/2024 .

Philip Tran

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Charleston Common Pleas

Case Caption: 1001 Harborview Llc VS Philip Tran , defendant, et al

Case Number: 2022CP1004219

Type: Order/Electronic Form 4

So Ordered

s/Jennifer B. McCoy #2764

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
	)	CASE NO.: 2022-CP-10-_____
1001 Harborview, LLC,)	
)	
Plaintiff,)	
)	
vs.	)	SUMMONS
)	
Philip Tran and Quyen Tiet,)	
)	

YOU ARE HEREBY SUMMONED and required to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Complaint upon the Court or the Plaintiff’s counsel, Cobb Dill & Hammett, LLC, at the address listed below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to appear and defend this action by Answering the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

RESPECTFULLY SUBMITTED,

COBB DILL & HAMMETT

s/Hal E. Cobb, Esq. _____
Hal E. Cobb, Esq. (S.C. Bar No. 100575)
hcobb@cdhlawfirm.com
M. Paige Kregor, Esq. (S.C. Bar No. 105226)
pkregor@cdhlawfirm.com
COBB DILL & HAMMETT, LLC
222 W Coleman Blvd.
Mt. Pleasant, SC 29464
Phone: (843) 936-6680
Facsimile: (843) 936-6673
Attorneys for Plaintiff

Dated: September 9, 2022
Mt Pleasant, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
	)	CASE NO.: 2022-CP-10-_____
1001 Harborview, LLC,)	
)	
Plaintiff,)	
)	
vs.	)	COMPLAINT
)	
Philip Tran and Quyen Tiet,)	
)	
Defendants.)	

COMES NOW Plaintiff 1001 Harborview, LLC, and states its complaint against Philip Tran and Quyen Tiet as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff 1001 Harborview, LLC (“Plaintiff” or “Landlord”) is a South Carolina limited liability company.
2. Upon information and belief, Defendant Philip Tran (“Defendant Tran” or “Tenant”) is a citizen and resident of South Carolina.
3. Upon information and belief, Defendant Quyen Tiet (“Defendant Tiet” or “Tenant”) is a citizen and resident
4. The property that is the subject of this litigation is located at 5060 Dorchester Road, Unit 360, North Charleston, South Carolina 29405.
5. For these reasons, both jurisdiction and venue are proper in this forum.

FACTAL BACKGROUND

6. This action arises under the retail lease agreement dated December 22, 2021 (the “Lease”) between Plaintiff as Landlord and Defendant Tran and Defendant Tiet (collectively “Defendants” or “Tenants”) relating to the property located at 5060 Dorchester Road, Unit 360,

North Charleston, South Carolina 29405 (the “Leased Premises”). A copy of the Lease is attached hereto as **Exhibit A**.

7. The Lease commenced on June 1, 2022 and the rent thereunder commenced on June 1, 2022.

8. The Lease term is ten (10) years; thus the Lease term ends on June 1, 2032 (“Term”).

9. Pursuant to Section 5(a) of the Lease, Minimum Rent was as follows:

(i) Sixteen Thousand and 00/100 (\$16,000.00) Dollars per month, totaling One Hundred Ninety-Two Thousand and 00/100 (\$192,000.00) Dollars in annual rent for Lease Year 1.

(ii) Seventeen Thousand Three Hundred Thirty-Three and 33/100 (\$17,333.33) Dollars per month totaling Two Hundred Seven Thousand Nine Hundred Ninety-Nine and 96/100 (\$207,999.96) Dollars in annual rent for Lease Year 2.

(iii) Eighteen Thousand Six Hundred Sixty-Six and 67/100 (\$18,666.67) Dollars per month, totaling Two Hundred Twenty-Four Thousand and 04/100 (\$224,000.04) Dollars in annual rent for Lease Year 3.

(iv) Twenty Thousand and 00/100 (\$20,000.00) Dollars per month totaling Two Hundred Forty Thousand and 00/100 (\$240,000.00) Dollars in annual rent for Lease Year 4.

(v) Twenty Thousand Six Hundred and 00/100 (\$20,600.00) Dollars per month, totaling Two Hundred Forty-Seven Thousand (\$247,00.00) Dollars in annual rent for Lease Year 5.

(vi) Twenty-One Thousand Two Hundred Thirteen and 33/100 (\$21,213.33)

Dollars per month totaling Two Hundred Fifty-Four Thousand Five Hundred Fifty-Nine and 96/100 (\$254,559.96) Dollars in annual rent for Lease Year 6.

(vii) Twenty-One Thousand Eight Hundred Fifty-Three and 33/100 (\$21,853.33)

Dollars per month, totaling Two Hundred Sixty-Two Thousand Two Hundred Thirty-Nine and 96/100 (\$262,239.96) Dollars in annual rent for Lease Year 7.

(viii) Twenty-Two Thousand Five Hundred Six and 67/100 (\$22,506.67) Dollars per month totaling Two Hundred Seventy Thousand Eight Hundred Eight and 04/100 (\$270,808.04) Dollars in annual rent for Lease Year 8.

(ix) Twenty-Three Thousand One Hundred Eighty-Six and 67/100 (\$23,186.67) Dollars per month, totaling Two Hundred Seventy-Eight Thousand Two Hundred Forty and 04/100 (\$278,240.04) Dollars in annual rent for Lease Year 9.

(x) Twenty-Three Thousand Nine Hundred Seventy-Three and 33/100 (\$23,973.33) Dollars per month totaling Two Hundred Eighty-Seven Thousand Six Hundred Seventy-Nine and 96/100 (\$287,679.96) Dollars in annual rent for Lease Year 10.

10. Tenants were also responsible for Additional Charges in the amount of Six Thousand Dollars and 00/100 (\$6,000.00) per month and subject to adjustment thereafter.

11. Section 5(b) of the Lease stipulates that monthly Minimum Rent or Additional Charges shall be deemed late if not paid in full within five (5) days of their due date. Tenant shall pay a late charge equal to five (5%) percent of any past due amounts.

12. Section 16 of the Lease provides that Defendants were not to “vacate nor abandon the Leased Premises at any time during the term of this Lease, nor permit the Leased Premises to remain unoccupied for a period longer than ten (10) consecutive days during the term of this

Lease”.

13. Defendants have failed to Minimum Rent or Additional Charges due under the Lease for the months of June 2022, July 2022, and August 2022.

14. Defendants abandoned the building and ceased any and all operations therein.

15. Landlord has performed all obligations under the Lease, including, but not limited to, completing the Landlord’s Work as required under Section 8 of the Lease.

16. On or about July 19, 2022, Landlord provided Notice of Default and Termination of Lease pursuant to the Lease. A copy of the Notice of Default and Termination of Lease is attached hereto as **Exhibit B**.

17. As a result of Tenants’ failure to pay Minimum Rent and/or Additional Charges to Landlord and pursuant to Section 19 of the Lease, Landlord has the option to terminate the Lease upon written notice to Tenants.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment – Confirming Termination of Lease)

18. Plaintiff restates and re-alleges each and every allegation above as if fully set forth herein.

19. The South Carolina Declaratory Judgment Act provides this Court has the power to declare rights, status and other legal relations whether or not further relief is or could be claimed. *See* S.C. Code §15-53-20.

20. All necessary parties have been joined to this action. An actual, justiciable controversy exists between the parties relating to their rights and obligations under the Lease.

21. Section 19 of the Lease stipulates that the Tenant is in default should the Tenant fail to pay any Minimum Rent or Additional Charges as stated in the Lease by the due date and such failure continues for a period of ten (10) days after the due date thereof.

22. Section 19 of the Lease further addresses remedies available to Landlord in the event of default, that upon an event of default as defined in the Lease, Landlord shall have the right to elect any remedy or combination thereof listed in the Lease or available at law or in equity.

23. Defendants have failed to pay Minimum Rent and Additional Charges for the months of June 2022, July 2022, and August 2022 and all payments remain outstanding beyond ten (10) days following the first day of the calendar month (the "Due Date").

24. Plaintiff is entitled to exercise its right to terminate the Lease pursuant to Section 19 thereunder.

25. Plaintiff provided Tenant with a Notice of Default and Lease Termination pursuant to the Lease.

26. Pursuant to Section 19 of the Lease, Landlord may terminate the Lease five (5) or more days after the date Tenant receives Notice of Default and Lease Termination.

27. Accordingly, Plaintiff is entitled to an order confirming that the Lease is terminated as of July 24, 2022 due to the Defendants' failure to perform their obligations under the Lease.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract)

28. Plaintiff restates and re-alleges each and every allegation above as if fully set forth herein.

29. The Lease constitutes a binding contract between Plaintiff and Defendants.

30. Defendants have failed to make timely rent payments due under the Lease to the Plaintiff for the months of June 2022, July 2022 and August 2022.

31. Plaintiff anticipates it will continue to accrue damages as Defendants continue to withhold payments.

32. Plaintiff has suffered damages as a result of Defendants' breach of the Lease.

33. Plaintiff is entitled to judgment against Defendants for actual and compensatory damages for breach of Lease that is fair, just, and reasonable under the circumstances, plus costs, interest, and attorneys' fees in an amount that this Court deems just and proper.

WHEREFORE, Plaintiff prays for an Order granting the following:

- A declaratory judgment declaring that the Lease has been terminated as of July 24, 2022;
- Damages in the amount to be determined by the trier of fact including but not limited to actual and compensatory damages;
- Attorneys' fees and costs;
- All other relief as this court deems just and proper.

RESPECTFULLY SUBMITTED,

COBB DILL & HAMMETT

s/Hal E. Cobb, Esq.

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Attorneys for Plaintiff

Dated: September 9, 2022
Mt Pleasant, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
1001 Harborview, LLC,)
Plaintiff,)
vs.)
Philip Tran and Quyen Tiet,)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2022-CP-10-04219

**NOTICE AND MOTION FOR ENTRY
OF DEFAULT JUDGMENT AND
REQUEST FOR DAMAGES HEARING
AGAINST DEFENDANTS**

COMES NOW the Plaintiff, by and through the undersigned counsel, requesting the Clerk of Court to enter Default against Defendants Philip Tran and Quyen Tiet (“Defendants” or “Defaulting Defendants”) and schedule a hearing to determine damages.

INTRODUCTION

On or about December 22, 2021, Plaintiff, as landlord, and Defendants, as tenant, entered into a lease agreement (the “Lease”) for the property located at 5060 Dorchester Road, Unit 360, North Charleston, South Carolina 29405. Defendants have failed to make timely rent payments under the Lease for June 2022, July 2022, August 2022, September 2022, and October 2022 and thus have breached the Lease.

Plaintiff brought this action against the Defendant as a result of damages suffered due to Defendants’ breach of the lease agreement. Plaintiff filed suit on September 9, 2022 seeking declaratory judgment confirming termination of the Lease and alleging breach of contract against the Defendants. Plaintiff served Defendant Quyen Tiet on September 14, 2022 via personal service (See Exhibit A). Plaintiff also served Defendant Philip Tran on September 14, 2022 via personal

service (*See* Exhibit B). Pursuant to South Carolina Rules of Civil Procedure 12(a) and 6(a), Defendants were required to file an Answer on or before October 14, 2022. To date, Defendants have not answered the Summons and Complaint and are in default. Thus, Plaintiff is entitled to entry of default and a hearing on damages.

ARGUMENTS AND AUTHORITIES

Rule 55(a) directs the Clerk of the Court to enter default against a party who has not filed a responsive pleading or otherwise defended the suit. SCRCP 55(a).

Rule 55(b) permits the court to enter default judgment against a party against whom default has been entered. SCRCP 55(b)(1).

Plaintiff does not seek affirmative relief against an infant, an incompetent person, or the State of South Carolina.

Upon information and belief, defaulting Defendants are not in the Military Service of the United States and are not entitled to the protection of the Civil Relief Act of 1940 and Amendments thereto.

Under the SCRCP, the time for Defaulting Defendants to respond is thirty (30) days after being served with process. “If a party has failed to ‘plead or otherwise defend as provided by the [South Carolina Rules of Civil Procedure] and that fact is made to appear by affidavit or otherwise,’ the clerk of court will enter default.” *Stark Truss Co. v. Superior Construction Corporation*, 360 S.C. 503, 508-09, 602 S.E.2d 99, 102 (2004). In this case, the period expired on October 14, 2022.

Plaintiff is entitled to a judgment as a matter of law under SCRCP Rule 55(b)(1) because Defaulting Defendants did not file a responsive pleading on or before October 14, 2022.

Plaintiff is entitled to Entry of Default against Defaulting Defendants. Plaintiff's damages are unliquidated, and a hearing is requested to receive evidence of Plaintiff's damages.

PRAYER FOR RELIEF

For these reasons, Plaintiff respectfully requests the Court to enter a Default against Defaulting Defendants and to schedule an evidentiary hearing to determine Plaintiff's damages.

Respectfully Submitted,
s/ Hal E. Cobb, Esq. _____
Cobb Dill & Hammett, LLC
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Attorneys for the Plaintiff

Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON	)	CASE NO.: 2022-CP-10-04219
)	
1001 Harborview, LLC)	
)	
Plaintiff,)	
	)	Plaintiff’s Notice of Motion and
	)	Rule 59(e), SCRPC
Philip Tran and Quyen Tiet)	
)	
Defendants.)	
_____)	

PLEASE TAKE NOTICE that the Plaintiff, 1001 Harborview, LLC (“Defendant”), pursuant to Rules 7(b) and 59(e), SCRPC. Hereby move this Court, at a time and place to be set by the Court but not sooner than ten (10) days after service, to reconsider its January 30, 2024, Order, granting damages to the Plaintiff in the amount of Eighteen Thousand and no/100 (\$18,000.00) Dollars.

This Motion is supported by the pleadings, testimony, at the hearing, memorandum in support of this motion, and attachments thereto and upon additional law and argument as shall be appropriate.

Respectfully submitted,
 CHILLICO & ASSOCIATES, LLC

/s/ Stefanie L. Huffer
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ATTORNEY FOR THE PLAINTIFF

Mt. Pleasant, SC
 February 9, 2024

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
1001 Harborview, LLC)
)
Plaintiff,)
)
vs.)
)
Philip Tran and Quyen Tiet)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2022-CP-10-04219

**Plaintiff’s Memorandum in Support of
Motion to Reconsider Pursuant to
Rule 59(e), SCRCP**

Plaintiff, 1001 Harborview, LLC (“Harborview”) submits this memorandum in support of its Rule 59(e), SCRCP motion to reconsider the judgment entered January 30, 2024, granting the Plaintiff damages in the amount of only Eighteen Thousand and no/100 (\$18,000.00) Dollars. The Court should reconsider its decision for the following reasons:

1. The Court incorrectly applied the duty to mitigate to the Plaintiff and the Defendants failed to satisfy their burden to show that the Plaintiff’s actions to rent the property were inadequate or improper;
2. The Plaintiff has relet the property since the date of the damages hearing, thereby mitigating his damages; and
3. Defendants’ failure to pay the security deposit does not trigger an immediate re-listing of the property.

Defendants entered into a Lease Agreement for a sixteen thousand (16,000 sq ft.) square foot commercial property located at 5060 Dorchester Road, Unit 360, North Charleston, SC 29405. Defendants then defaulted on the Lease Agreement and a default judgment was issued in this action on October 26, 2022.

There was no dispute regarding the Defendants' default under the lease and a hearing was held on damages. Plaintiff received written notice of the judgment on December 30, 2024, and timely served and filed their motion for reconsideration.

1. Duty to Mitigate.

A. Court's Ruling to Plaintiff's Duty to Mitigate

The Court ruled that the Plaintiff had failed to mitigate its damages stating the following:

A party injured by the acts of another is required to do those things a person of ordinary prudence would do under the circumstances, but the law does not require him to exert himself unreasonably or incur substantial expense to avoid damages. *Tri-Continental Leasing Corp. v. Stevens, Stevens & Thomas, P.A.*, 287 S.C. 338, 338 S.E. (2d) 343 (Ct. App. 1985). A party who has suffered injury or damage from the actionable conduct of another is under a duty to make all reasonable efforts to minimize the damages incurred. *Newman v. Brown*, 228 S.C. 472, 480, 90 S.E.2d 649, 653 (1955) ("It is the undoubted general rule that it is the duty of the owner of the property, which is injured by . . . another, to use reasonable means to minimize the damages."). To the extent that it reasonably could have so minimized those damages and failed to do so, a plaintiff is not entitled to recover from the other party. *M. C. Heath & Co. v. Postal Telegraph-Cable Co.*, 87 S.C. 219, 234, 69 S.E. 283, 287-288 (1910). In other words, one cannot recover any damages that might have been avoided by the use of reasonable care and diligence. In addition, the plaintiff bears the burden of proving by the preponderance of the evidence that he is entitled to compensatory damages. See *Clark v. Cantrell*, 339 S.C. 369, 529 S.E.2d 528 (2000); *Whisenant v. James Island Corp.*, 277 S.C. 10, 281 S.E.2d 794

(1981) (in order for damages to be recoverable, evidence should enable fact finder to determine amount thereof with reasonable certainty and cannot be left to conjecture, guess, and speculation).

The Order also stated the following without citing any relevant case law:

The obligation to take reasonable steps to mitigate of damages requires not only the listing of the property so a new tenant can be signed to take the space, but also to consider having a tenant who will pay less per square foot for the space. The opportunity existed to lease the space at \$6.00 per square foot. It is unknown if other potential tenants would have leased at a rate somewhere between \$6.00 and \$12.00, but it is reasonably certain that interest would increase at lower prices.

B. Analysis of Mitigation Duties and Defendants Failure to Satisfy Burden to Proof

Plaintiff does not dispute that the governing law relating to his duty to mitigate is as follows:

However, the Court in this case blindly accepted that it was reasonable to lease the property at half the fair market value and would not require the Plaintiff to incur unreasonable or substantial expense.

The Plaintiff re-listed the property for rent at a rate of twelve and no/100 (\$12.00) Dollars per square foot. The exact amount the Defendants agreed to in their lease and leasing the property at \$6.00 a square foot would be unreasonable and result in additional substantial expenses and damages to the Plaintiff.

While case law is not specific regarding what “ordinary prudence” or what is “reasonable” in these cases, the Court of Appeals has found that re-listing the property with a commercial real estate brokerage is proper mitigation of its damages.

A defendant who claims a plaintiff's damages could have been mitigated has the burden of proving that mitigation is possible and reasonable. *Chastain v. Owens Carolina, Inc.*, 310 S.C. 417, 420, 426 S.E.2d 834, 835 (1993); *Moore v. Moore*, 360 S.C. 241, 262, 599 S.E.2d 467, 478 (Ct. App. 2004) (upholding the rule defendants have the burden of proving a plaintiff's damages could have been avoided, reduced, or minimized.”); *Genovese v. Bergeron*, 327 S.C. 567, 572, 490 S.E.2d 608, 611 (Ct. App. 1997) (Moreover, the party who claims damages should have been minimized has the burden of proving they could reasonably have been avoided or reduced.”); *Alala v. Peachtree Plantations, Inc.*, 292 S.C. 160, 167, 355 S.E.2d 286, 290 (Ct. App. 1987); *Tri-Continental Leasing Corp. v. Stevens, Stevens & Thomas, P.A.*, 287 S.C. 338, 342, 338 S.E.2d 343, 346 (Ct. App. 1985).

The South Carolina Court of Appeals previously stated:

“We hold the trial court's finding that The Shops "properly mitigated its damages through its attempt to re-lease the Property" was reasonably supported by the evidence. Brian Aiken, one of the managing members of The Shops, testified he tried to re-lease the space "in a number of ways," including preparing marketing material and distributing it to the brokerage community, adding the listing to

Multiple Listing Service, and reaching out to commercial brokers that specialized in restaurateurs. Appellants failed to present any evidence to support their contention that The Shops' actions to rent the property were inadequate or improper, and thus, Appellants failed to sustain their burden of proving The Shops failed to mitigate damages.”

The Shops at Wescott, LLC v. Sake House IV, Inc., 2023-UP-374 (S.C. App. Nov 22, 2023)

In this case, Mr. Paragano, the managing member of the Plaintiff entity testified at the damages hearing that the property was re-listed with a commercial real estate brokerage company whose duties would have been to provide all the services Mr. Aiken testified to in *The Shops at Wescott, LLC v. Sake House IV, Inc.*

Additionally, in the Order, the court makes a naked assertion that Plaintiff could have “mitigated” its damages by leasing the property for half the fair market value. Yet Plaintiff’s showed no proof that this rate decrease was feasible, what the costs to Plaintiff would be and that if it would in fact reduce the damages caused by the Defendants’ breach.

Similarly, to *The Shops at Wescott, LLC v. Sake House IV, Inc.* Plaintiff mitigated its damages by re-listing the property and the Defendants failed to present any evidence to support that the Plaintiff’s actions to rent the property were inadequate or improper and therefore have failed to sustain the burden of proof that the Plaintiff failed to mitigate damages.

2. Plaintiff has re-let the Property.

Since the hearing on damages, the property has been re-let. The Lease dated September 8, 2023, is attached and was executed after the damages hearing in this case. While this matter was under negotiation at the time of the damages hearing, there were several contingencies in the Lease that

needed to be satisfied after the execution of the Lease that would have allowed the new tenant to terminate the Lease. The contingencies included in the lease included: a title search, production of financials and tax returns of the tenant for a Lease Guaranty, and the new tenant obtaining \$300,000 from the City of North Charleston to ensure the community has safe and healthy food available. The funds request from the City of North Charleston went to the Finance Committee on September 20, 2023, which recommended the Resolution to City Counsel Authorizing the Execution of a Contract between the new Tenant and the City of North Charleston for the Provision of Grocery Access Services to Avoid Creation of a Food Desert. This Resolution then went before The North Charleston City Council on September 28, 2023

Rental payments under the new lease began January 15, 2024, at a rate of \$13.15/sq.

With the re-letting of the property, at a rate per square foot more than the Defendants were paying, the damages caused by Defendants breach are \$313,333.31 in Base Rent and \$114,000.00 for total of \$427,333.31. Calculations of those amounts are broken down below encompassing the period of June 2022 through December 2022, a period of 19 months which does not include the initial “rent free” period following the lease execution in December of 2021.

Lease Month	Base Rent	Additional Rent
June 2022	\$16,000.00	\$6,000.00
July 2022	\$16,000.00	\$6,000.00
August 2022	\$16,000.00	\$6,000.00
September 2022	\$16,000.00	\$6,000.00
October 2022	\$16,000.00	\$6,000.00
November 2022	\$16,000.00	\$6,000.00
December 2022	\$16,000.00	\$6,000.00
January 2023	\$16,000.00	\$6,000.00
February 2023	\$16,000.00	\$6,000.00
March 2023	\$16,000.00	\$6,000.00
April 2023	\$16,000.00	\$6,000.00
May 2023	\$16,000.00	\$6,000.00
June 2023	\$17,333.33	\$6,000.00
July 2023	\$17,333.33	\$6,000.00

August 2023	\$17,333.33	\$6,000.00	
September 2023	\$17,333.33	\$6,000.00	
October 2023	\$17,333.33	\$6,000.00	
November 2023	\$17,333.33	\$6,000.00	
December 2023	\$17,333.33	\$6,000.00	
	\$313,333.31	\$114,000.00	\$427,333.31

Had Harborview accepted the Piggly Wiggly lease at \$6.00 per square foot, the damages incurred would have been well over a million dollars. As Mr. Paragano testified, due to this locations size, and previous uses, it was not a easily leasable property. While this Court stated that Harborview should have easily been able to lease the property within a year of listing, this statement was made with no evidence, proof, or comps to show otherwise. Mr. Paragano is a seasoned business owner who is well versed in the commercial real estate market. Due to his refusal of the Piggly Wiggly lease at half the fair market value, Mr. Paragano was able to mitigate his damages and lessen the damages attributed to the Defendants.

3. Failure to Pay Security Deposit

This Court puts great weight on the Defendants' failure to pay the security deposit. As Mr. Paragano testified, at that point, Harborview did not view that as a default as the Defendants has expended One Hundred Thousand and no/100 (\$100,000.00) Dollars on equipment that was located within the property.

This Court insinuates that the default by the Defendants occurred immediately after the signing of the lease. While Mr. Paragano testified that the security deposit has not been paid, pursuant to the lease agreement, the Landlord has the ability – not the obligation – to enforce or waive any alleged default by the Tenant. As Mr. Paragano testified Harborview was unconcerned about the lack of a security deposit because of the purchase of \$100,000 worth of equipment that was located

in the property and the fact that these tenants had entered into two other leases with Harborview and paid their deposit on those properties.

Additionally, a damages hearing is not the venue to determine the facts – such as when a default occurred. The pleadings in this case state the Plaintiff’s determination of a default under the Lease occurred when the first rental payment was not made in June 2022. See Compl. 21-23. Landlord then acted swiftly by sending a notice of termination in July 2022 which was attached to the initial Complaint in this action.

For the above outlined reasons, Plaintiff did properly mitigate its damages, has relet the property, and is therefore entitled to funds in excess of this Court prior judgment awarding Harborview \$18,000 which is less than one month’s full rent under the Defendants’ Lease. We respectfully request that this Court reconsider the December 30, 2024 ruling and amend the Judgement amount accordingly.

Respectfully submitted,
CHILLICO & ASSOCIATES, LLC

/s/ Stefanie L. Huffer
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ATTORNEY FOR THE PLAINTIFF

Mt. Pleasant, SC
February 9, 2024

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)

1001 Harborview, LLC,)
)
Plaintiff,) TRANSCRIPT OF RECORD
) 2022-CP-10-04219
)
-vs-)
)
Philip Tran and)
Quyên Tiet,)
)
_____ Defendants.)

September 6, 2023

Charleston, South Carolina

B E F O R E:

HONORABLE JENNIFER B. MCCOY, JUDGE

A P P E A R A N C E S:

STEFANIE L. HUFFER, ESQUIRE
Attorney for the Plaintiff

LAWRENCE M. HERSHON, ESQUIRE
Attorney for the Defendant Ms. Tiet

Transcribed by Amy Pennica, from Webex

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INDEX

(WHEREUPON, there were no exhibits marked or testimony taken during this hearing.)

1 THE COURT: 1001 Harborview, LLC, versus Philip Tran.

2 MS. HUFFER: Good morning, Your Honor.

3 THE COURT: Good morning. I'll let y'all state your names
4 and who you represent for the record.

5 MS. HUFFER: I'm Stefanie Huffer with Chillico & Associates,
6 and I represent 1001 Harborview, LLC.

7 MR. HERSHON: Your Honor, this is Lawrence Hershon. I
8 represent one of the two defendants, Mrs. Tiet.

9 THE COURT: Okay. Well, this is a damages hearing, it looks
10 like. Who is this -- what defendant would this apply to,
11 Ms. Huffer?

12 MS. HUFFER: Both of them, Your Honor.

13 THE COURT: Both. Okay. All right. So they're already in
14 default? Is that their case?

15 MS. HUFFER: Yes.

16 THE COURT: Okay. All right. Well, happy to hear from you.

17 MS. HUFFER: As a brief summary, the defendants entered into
18 a lease for a commercial space that was about 16,000 square feet
19 with the intention of opening an Asian market and restaurant.
20 The lease was executed in December of '21 with a rental
21 commencement date of June of 2022. No rental payments have been
22 made at this time. The first year's rent started at \$16,000 a
23 month plus \$6,000 additional rent and a 5 percent late fee, which
24 escalated yearly. It was a 10-year lease. As I mentioned, no
25 rental payments have been made to date. The lease was terminated

1 due to abandonment. The lease does provide that the tenant can
2 be responsible for future amounts due, and so we are asking for
3 payment for the entirety of the 10-year lease, which would total
4 \$2 million --

5 THE COURT: No. I'm -- is it being re-rented already?

6 MS. HUFFER: It has not been re-rented. It was -- it has
7 been listed --

8 THE COURT: Has your client made efforts to re-rent it?

9 MS. HUFFER: Yes. It's been listed since the termination.

10 THE COURT: Okay. Well -- all right. Go ahead. Sorry.

11 MS. HUFFER: So the total amounts due on the lease as a
12 whole would be \$2,209,968 in minimum rent, \$720,000 in additional
13 rent, and \$146,498.40 in late fees. Additionally, the plaintiff
14 has incurred \$8,357.19 in attorney's fees and costs since filing
15 this in 2022.

16 THE COURT: Over \$8,000 in attorney's fees for an
17 eviction -- commercial eviction where it was abandoned?

18 MS. HUFFER: It was abandoned. There have been some service
19 issues with Philip Tran, I believe.

20 THE COURT: \$8,000 --

21 MS. HUFFER: As kind of noted, between -- previously Cobb,
22 Dill, and Hammet -- Hal Cobb at Cobb, Dill, and Hammet previously
23 was retained on this matter. His affidavit of attorney's fees
24 from May indicated --

25 THE COURT: Wait a minute. They're n t still retained? I'm

1 confused.

2 MS. HUFFER: They are not. No, ma'am.

3 THE COURT: Well, if they're not on the case anymore,
4 they're not entitled to attorney's fees at the hearing today.

5 MS. HUFFER: My client's already paid them.

6 THE COURT: Your client decided to change lawyers. That was
7 a business decision your client made.

8 MS. HUFFER: I was at Cobb, Dill, and Hammet during this
9 trial. When I switched firms, the client came with me.

10 THE COURT: Mm-hmm. Well, I'm not sure about that. That
11 might be a business transaction between you and Cobb, Dill, and
12 Hammet. I'll tell you what. Let me hear from the other side.
13 What would you like to tell me, Mr. Hershon?

14 MR. HERSHON: Yes, Your Honor. I've been retained after --
15 it was after the default -- to assist with this -- this damages
16 hearing. The complaint's not -- not verified, so here at this
17 damages hearing I would expect there would need to be testimony
18 that -- with damages, while a party is in default, the law in
19 South Carolina is that a party still has to prove damages by a
20 preponderance of the evidence. So I believe, before this Court,
21 there would need to be testimony, and I'd have the ability to
22 cross-examine to determine if those damages meet the burden for
23 the Court. So that's what we're prepared here for today.

24 THE COURT: Yeah. Ms. Huffer, is your client -- is he in
25 your office?

1 MS. HUFFER: Yes, ma'am. Would you like me to put him on
2 camera?

3 THE COURT: Well, I'd like to -- you know, I'm assuming
4 you're going to ask him some questions about the damages amounts;
5 is that right?

6 MS. HUFFER: Yes.

7 THE COURT: All right. So I'll just need to be able to see
8 him so that I can -- that would be helpful.

9 All right. Tell me your name, please, sir.

10 MR. PARAGANO: It's Nazario (inaudible) Paragano.

11 THE COURT: Okay. I'm having a hard time hearing you. I
12 don't know if maybe y'all could just switch seats. There you go.
13 Tell me your name one more time.

14 MR. PARAGANO: First name is Nazario, N-a-z-a-r-i-o. Middle
15 initial L. Last name Paragano, P-a-r-a-g-a-n-o.

16 THE COURT: All right. And I'll ask -- your lawyer can ask
17 you some questions now with regards to what you're seeking today.
18 Okay?

19 MR. PARAGANO: Sure.

20 MS. HUFFER: Mr. Paragano, can you tell me the history of
21 the lease of this property to the defendants.

22 MR. PARAGANO: The tenant came to us via Coldwell Banker
23 Commercial back in the summer, early fall of 2021 looking to
24 lease supermarket space for an Asian supermarket and restaurant.
25 As we were renovating the Montague Corners shopping center, we

1 entered into the lease with them with an active starting date of
2 December of 2021. Probably about 4 months into it, Ms. Tiet
3 basically said that she felt the rent was too high and wasn't
4 willing to open the store and effectively -- I heard what you had
5 said earlier about high legal fees -- we've been chasing her
6 around for months trying to find her. And eventually she was
7 represented by Mr. Hershon, but that's only been recently. And
8 it was even more difficult to find her partner, Mr. Tran. So
9 meanwhile I had, first, CBC Atlantic Commercial, and then I
10 subsequently changed brokers to NAI Charleston. And we have been
11 marketing the space to no success to date. We are -- it's not a
12 small 1,000-foot space. It's a 16,000-foot space or what they
13 call a "small box." We are stuck in the same economy that
14 everybody lives in right now. It was difficult. It's been
15 difficult. We have been unable to lease it. And on top of that,
16 it's kind of in a state of disrepair because all of the equipment
17 was left behind for 2 years, and the equipment is now rendered
18 effectively worthless. So it's been a hard road.

19 THE COURT: Okay. All right. What else? Any other
20 questions, Ms. Huffer?

21 MS. HUFFER: (Inaudible.)

22 MR. PARAGANO: I remember that it started out at \$12 a foot,
23 I believe, which was \$16,000 a month for the first year, and then
24 it escalated every month -- or every year thereafter. It's a
25 triple net lease, Your Honor, so it has taxes, insurance, and

1 common area maintenance share as well. We gave Ms. Tiet 6 months
2 free rent at the outset of the lease.

3 THE COURT: Ah, there we go. That was my first question.

4 MR. PARAGANO: Okay. We also --

5 THE COURT: So no deposit? Nothing?

6 MR. PARAGANO: She was supposed to pay a security deposit,
7 and she was supposed to pay the first month's rent per the lease
8 and did not.

9 THE COURT: And y'all still let her occupy the space?

10 MR. PARAGANO: She never moved in.

11 THE COURT: Okay. So that's -- there's a disconnect here.
12 See, that's why I don't know --

13 MR. PARAGANO: Your Honor, we had basically figured the
14 first 3 months or so was that she was getting her equipment
15 ordered, and she was getting her vendors set up, and she was
16 going to set up her equipment. And about 3 months into it, we
17 looked at ourselves and go, "You know what, I wonder if this
18 lady's going to take this place. After all, she signed off on
19 it." And we ended up meeting with her at Brent Case's office,
20 CBC Atlantic, and at that time, when we met with her, she
21 actually had the temerity to say, "You know what, your rent is
22 too high, and we don't want it anymore."

23 THE COURT: And that was 3 months into the --

24 MR. PARAGANO: It was 3 or 4 months. The date escapes me as
25 to what the exact date was. But she came to us saying, "Well, if

1 we can't be a supermarket, maybe we'll be a catering hall." And
2 I said to her, "You know, we're flexible on what it is that you
3 may or may not want to do, but you've got to do something and
4 turn the lights on." Now, coincidentally, with this, she signed
5 two leases. She also signed a lease for a nail salon on the
6 other side of the shopping center. And she defaulted on that one
7 as well. These cases are not -- they're not the same docket
8 number, but there is a judgment we have on her on that one as
9 well.

10 THE COURT: Mm-hmm. Okay.

11 MR. PARAGANO: I mean, all in all, this has kind of been a
12 bad situation. I've been doing this for 35 years. This is -- I
13 don't normally --

14 THE COURT: Yeah. I'm just surprised she was given a key to
15 the door with not a dollar in hand. That shocks my conscious.

16 MR. PARAGANO: Our desire, I guess, probably outplayed our
17 functionality on --

18 THE COURT: I guess so. I guess so. I don't know. Maybe
19 you have more faith in community than I do, I guess. I don't
20 know.

21 MR. PARAGANO: Your Honor, to be completely candid with you,
22 we figured that she had spent \$100,000 on the equipment and that
23 was enough of a carrot for her to open t e door, and I guess we
24 were wrong. But we thought that that was enough of a carrot.
25 Not in my wildest dreams did I ever think she would be sitting in

1 front of us going, "Your rent's too high. We don't want it now."

2 THE COURT: Yeah. What's this equipment? What are we
3 talking about?

4 MR. PARAGANO: There were some freezer cases and the like
5 that were left behind by the Save A Lot tenant. And she
6 apparently paid the Save A Lot tenant. She didn't pay us. She
7 paid the Save A Lot tenant for it and subsequently abandoned it
8 in place.

9 THE COURT: You think that, but you don't know that either,
10 right?

11 MR. PARAGANO: I was told by the Save A Lot tenant that he
12 did receive --

13 THE COURT: Okay. I see.

14 Okay. Ms. Huffer, any other questions?

15 MS. HUFFER: No, Your Honor.

16 THE COURT: He's doing just fine without even you asking
17 questions.

18 All right. Mr. Hershon, what would you like to ask this
19 gentleman?

20 MR. HERSHON: Thank you, Your Honor. Good morning,
21 Mr. Paragano.

22 MR. PARAGANO: Good morning.

23 MR. HERSHON: So the lease, again, commenced December of
24 2021; is that right?

25 MR. PARAGANO: Yes.

1 MR. HERSHON: And the security deposit and first month's
2 rent were required at that time?

3 MR. PARAGANO: They were, but they were not paid.

4 MR. HERSHON: Okay. And so the tenant was immediately in
5 default as of December 2021, right?

6 MR. PARAGANO: Correct.

7 MR. HERSHON: And there's been no reletting of the premises
8 since then?

9 MR. PARAGANO: There has been no reletting. There has been
10 attempts to relet. We've attempted to mitigate it.

11 MR. HERSHON: Okay. And the shopping center -- I mean, I've
12 been by there. It's been -- it's a nicely remodeled shopping
13 center, right?

14 MR. PARAGANO: Thank you.

15 MR. HERSHON: And -- yeah, it looks aesthetically very nice.
16 It's -- from what I can tell, does every other storefront have a
17 tenant in it?

18 MR. PARAGANO: Believe it or not, the only two that don't
19 have a tenant in it is her nail salon and her Asian market.

20 MR. HERSHON: And we're here today about the Asian market,
21 right?

22 MR. PARAGANO: We're here today.

23 MR. HERSHON: Okay. And -- but each of those other spaces,
24 other than the two you mentioned, are full and have paying
25 tenants in them?

1 MR. PARAGANO: They are full, and they have paying tenants
2 in them, yes.

3 MR. HERSHON: Okay. And this rent -- the rent on this
4 one -- you said it was going to be \$12 per square foot under the
5 lease for the first -- at least for the first year; is that
6 right?

7 MR. PARAGANO: That's what the face amount of the lease was,
8 yes.

9 MR. HERSHON: Okay. When was it first put back on the
10 market?

11 MR. PARAGANO: We put it back on the market probably in July
12 when we filed. When we first filed, we immediately listed it
13 again.

14 MR. HERSHON: So that's 7, 8 months after initiation of the
15 lease; is that --

16 MR. PARAGANO: Well, we were giving your client a chance to
17 open. She didn't. She didn't confirm that she wasn't opening
18 until sometime in -- I want to say late May, early June is when
19 she finally said, "I'm not opening."

20 MR. HERSHON: I understand. But that was 7 to 8 months
21 after the initial lease; is that right?

22 MR. PARAGANO: It was after the lease signing, yes.

23 MR. HERSHON: But the lease signing was December '21 --

24 MR. PARAGANO: Mr. Hershon, she had 6 months of free rent,
25 and she was burning through the free rent. So we didn't

1 necessarily have an issue with the fact that she hadn't opened in
2 the first 6 months until we got about halfway through and we
3 noticed that absolutely nothing was going on.

4 MR. HERSHON: I understand. But you've already noted that
5 it was a default to not pay the deposit, and I'm just asking time
6 frame. My question is, hey, December of 2021 is when this lease
7 commenced and was immediately in default, and it wasn't put back
8 on the market until July of 2022; is that right?

9 MR. PARAGANO: That would be basically correct.

10 MR. HERSHON: Who was it listed with at that time?

11 MR. PARAGANO: CBC Atlantic.

12 MR. HERSHON: Okay. And what was the listing price with
13 that broker?

14 MR. PARAGANO: \$12 a foot.

15 MR. HERSHON: \$12 a foot. Okay. And has it been at \$12 a
16 foot since then?

17 MR. PARAGANO: It has.

18 MR. HERSHON: And have there been any offers of any kind to
19 rent it at \$12 a foot?

20 MR. PARAGANO: There have been two offers that have not
21 proved fruition -- to fruition yet. There were two.

22 MR. HERSHON: So there've been two. What made it so that
23 those did not sign with you after they made offers?

24 MR. PARAGANO: Well, the first one was a -- the Harbor
25 Freight, which was next to us -- in the building directly next to

1 us -- that their corporate -- they were thinking about moving
2 over, and then their corporate made a business decision, and they
3 jerked us around for probably 4 months and finally made a
4 decision not to go forward. And then there was another Save A
5 Lot operator who's been swimming around. We're still in talks
6 with them, but they haven't committed to anything yet.

7 MR. HERSHON: Have there been any offers to rent it for
8 under \$12 per square foot?

9 MR. PARAGANO: Yes.

10 MR. HERSHON: And what have you done with those offers?

11 MR. PARAGANO: I've rejected them outright.

12 MR. HERSHON: Without further negotiation?

13 MR. PARAGANO: They were below the double-digit number.

14 MR. HERSHON: What number -- what's the highest number under
15 \$12 per square foot you've received an offer?

16 MR. PARAGANO: I got offered \$6 a foot by Piggly Wiggly.

17 MR. HERSHON: Okay. Have you had offers between 6 and 12?

18 MR. PARAGANO: No.

19 MR. HERSHON: Okay. So there was an offer at \$6 per square
20 foot that was rejected; is that correct?

21 MR. PARAGANO: Yes.

22 MR. HERSHON: When was that offer received?

23 MR. PARAGANO: In the spring. March -- February, March area
24 of this year.

25 MR. HERSHON: Of what year?

1 MR. PARAGANO: This year, 2023.

2 MR. HERSHON: Okay. So March 2023, offer at \$6 per square
3 foot?

4 MR. PARAGANO: Yes.

5 MR. HERSHON: For how many years?

6 MR. PARAGANO: Oh, sir, I did not know you were going to do
7 this line of questioning. I have no idea.

8 MR. HERSHON: That's okay. If you don't know the answer,
9 that is completely fine.

10 MR. PARAGANO: I don't know the answer to it.

11 MR. HERSHON: Okay.

12 MR. PARAGANO: I think it was 5 years.

13 MR. HERSHON: Has any other -- but no other store has come
14 in at something less than your listing price than this \$6 Piggly
15 Wiggly offer?

16 MR. PARAGANO: As I explained to Judge McCoy, this is a
17 squirrely type of size. There's not a lot of 16,000-foot tenants
18 running around. So the answer is, no, it has not been. It's
19 been a very slow market. Interest rates going up has -- interest
20 rates going up has caused people not to want it. I mean, there's
21 been -- this box is indicative of the economy that we're living
22 in right now.

23 MR. HERSHON: But it's a -- it's a box that you designed and
24 decided to try to lease, right?

25 MR. PARAGANO: I didn't design this. This was an old

1 supermarket. We bought out -- you know, what's funny is -- to
2 make the deal with Ms. Tiet, we ended up buying out the Save A
3 Lot tenant to get her in earlier. She was ready to go. I ended
4 up letting the Save A Lot out of their lease early to take her
5 in, and yet she decided not to open.

6 MR. HERSHON: Okay. So is the problem with that square
7 footage basically that there are either a lot of tenants that
8 want smaller space, but if it's a grocery store, it wants a lot
9 more than 16,000 square feet?

10 MR. PARAGANO: Right. It's too small for a mainstream
11 grocery like a Harris Teeter or a Publix. It's too small. It's
12 too large for a hair salon. It's too large for a restaurant.

13 MR. HERSHON: Okay. Now, the equipment that was purchased
14 from Save A Lot -- it's still sitting o -site as far as you know?

15 MR. PARAGANO: As far as I know. But I never got an
16 inventory of what it was, so things have gone in and out of that
17 place. I don't know.

18 MR. HERSHON: You haven't done anything to try to sell that
19 or to put it at auction, somehow recover against what's owed on
20 this lease?

21 MR. PARAGANO: I have not.

22 MR. HERSHON: Okay. And it's like fridges, freezers, like
23 stuff for the aisles that you would see in a small grocery store;
24 is that -- is that fair?

25 MR. PARAGANO: Reach-in boxes, shelving, quintessentially,

1 supermarket like (inaudible).

2 MR. HERSHON: Okay. Let me just have a moment. I want to
3 ask my client if she has anything further that she'd like me to
4 ask.

5 THE COURT: Mm-hmm.

6 MR. HERSHON: Your Honor, that's all the questions I have at
7 this time.

8 THE COURT: All right. Any follow-up, Ms. Huffer?

9 MS. HUFFER: No, Your Honor.

10 THE COURT: Great. All right. Any other witnesses you want
11 to call?

12 MS. HUFFER: Not on my side, Your Honor.

13 THE COURT: All right. Okay. And Mr. Hershon?

14 MR. HERSHON: No further witnesses, Your Honor.

15 THE COURT: Okay. All right. So he's not going to call his
16 client. Ms. Huffer, are you?

17 MS. HUFFER: No. I wasn't intending to.

18 THE COURT: Okay. That's fine. I just want to make sure.
19 All right. Well, anything else from the attorneys?

20 MS. HUFFER: No, Your Honor.

21 THE COURT: Okay. Mr. Hershon?

22 MR. HERSHON: I guess, just in terms of your decision, are
23 you looking for proposed orders on the law, or how do you -- is
24 there something that you like -- how you like to handle this type
25 of hearing?

1 THE COURT: You know, I guess I would -- yeah, we'll do
2 competing orders. If you could submit them in Word format, that
3 would be helpful. You know, just outline, you know, your own
4 estimation of what you think an appropriate damages amount is,
5 and I'll go from there. I'll review both of them. And I think
6 that's it.

7 MS. HUFFER: When would you like those, Your Honor?

8 THE COURT: How much time do you need?

9 MS. HUFFER: A week.

10 THE COURT: Yeah. Typically, I say 10 days. If you need
11 more, it's fine. Just shoot us an email.

12 MS. HUFFER: Ten days works.

13 MR. HERSHON: Yeah, 10 days is great. Thank you, Your
14 Honor.

15 THE COURT: All right. That sounds good. We'll be on the
16 lookout.

17 MR. HERSHON: Thank you, Your Honor.

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CERTIFICATE OF REPORTER

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I, Amy Pennica, Certified Verbatim Reporter in and for the State of South Carolina at Large, hereby certify that the foregoing is a true, accurate, and complete Transcript of Record to the best of my abilities to be heard and transcribed of the proceedings had and evidence introduced in the hearing of the captioned case, in The Court of Common Pleas, on the 6th day of September, 2023.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

2nd day of December, 2024

Amy Pennica

Court Reporter

6. From December 22, 2021 to July 22, 2022, the Defendants were provided possession of the property with no obligation to pay Minimum Rent or Additional Charges for the purpose of providing Defendants time and access to complete the Tenant's Work as described in Section 8 and Exhibit B-2 of the Lease.
7. Defendants did not complete, nor did they take any substantial steps toward completing, Tenant's Work in accordance with the Lease.
8. Rent commenced under the Lease on July 22, 2022.
9. The Lease term ends on July 22, 2032 ("Lease Term").
10. The terms of the Lease included that Minimum Rent would be paid by Defendants as follows:
 - a. Sixteen Thousand and no/100 (\$16,000.00) Dollars per month totaling One Hundred Ninety-Two Thousand and no/100 (\$192,000.00) Dollars in annual rent for Lease Year 1.
 - b. Seventeen Thousand Three Hundred Thirty-Three and 33/100 (\$17,333.33) Dollars per month totaling Two Hundred Seven Thousand Nine Hundred Ninety-Nine and 96/100 (\$207,999.96) Dollars in annual rent for Lease Year 2.
 - c. Eighteen Thousand Six Hundred Sixty-Six and 67/100 (\$18,666.67) Dollars per month totaling Two Hundred Twenty-Four Thousand and 04/100 (\$224,000.04) Dollars in annual rent for Lease Year 3.
 - d. Twenty Thousand and no/100 (\$20,000.00) Dollars per month totaling Two Hundred Forty Thousand and no/100 (\$240,000.00) Dollars in annual rent for Lease Year 4.
 - e. Twenty Thousand Six Hundred and no/100 (\$20,600.00) Dollars per month totaling Two Hundred Forty-Seven Thousand and no/100 (\$270,000.00) Dollars in annual rent for Lease Year 5.

- f. Twenty-One Thousand Two Hundred Thirteen and 33/100 (\$21,213.33) Dollars per month totaling Two Hundred Fifty-Four Thousand Five Hundred Fifty-Nine 96/100 (\$262239.96) Dollars in annual rent for Lease Year 6.
 - g. Twenty-One Thousand Eight Hundred Fifty-Three and 33/100 (\$21,853.33) Dollars per month totaling Two Hundred Sixty-Two Thousand Two Hundred Thirty-Nine 96/100 (\$262,239.96) Dollars in annual rent for Lease Year 7.
 - h. Twenty-Two Thousand Five Hundred Six and 67/100 (\$21,853.33) Dollars per month totaling Two Hundred Seventy Thousand Eight Hundred Eight and 04/100 (\$270,808.04) Dollars in annual rent for Lease Year 8.
 - i. Twenty-Three Thousand One Hundred Eighty-Six and 67/100 (\$23,183.67) Dollars per month totaling Two Hundred Seventy-Eight Thousand Two Hundred Forty and 04/100 (\$278,240.04) Dollars in annual rent for Lease Year 9.
 - j. Twenty-Three Thousand Nine Hundred Seventy-Three and 33/100 (\$23,973.33) Dollars per month totaling Two Hundred Eighty-Seven Thousand Six Hundred Seventy-Nine and 96/100 (\$287,679.96) Dollars in annual rent for Lease Year 10.
11. The Lease terms include that Defendants shall pay Additional Charges in the amount of Six Thousand and no/100 (\$6,000.00) Dollars per month and subject to adjustment thereafter.
12. The Lease Terms include that Minimum Rent or Additional Charges shall be deemed late if not paid in full within five (5) days after their due date. Tenant shall pay a late charge equal to five (5%) percent of any past due amounts.
13. Plaintiff performed its obligations under the Lease.

14. Defendants abandoned and vacated the building in July 2022, shortly after rent commenced thereunder, and ceased any and all operations therein.
15. Defendants have allowed the Leased Premises to remain unoccupied since July 2022.
16. Defendants have failed to pay any Minimum Rent or Additional Charges due under the Lease.
17. The Defendants outstanding amounts owed are as follows: (1) Minimum Rent for July 22, 2022 to May 22, 2022 totaling One Hundred Sixty Thousand and no/100 dollars (\$160,000); (2) Additional Charges for July 22, 2022 to May 22, 2023, totaling Sixty Thousand Dollars and no/100 (\$60,000); and (3) Late Charges in the amount of Eleven Thousand Dollars and no/100 (11,000) reflecting five (5%) percent of the total outstanding unpaid Minimum Rent and Additional Charges from June 22, 2022 to May 22, 2022.
18. Section 19 of the Lease States that in the event Landlord terminates the Lease, as occurred here, "Tenant will remain liable for all Minimum Rent, Additional Charges, and amounts payable by Tenant (there)under until the date this Lease would have expired had such termination not occurred."
19. Despite Plaintiff's commercially reasonable and extensive efforts, Plaintiff has been unable to re-let the Lease Premises following Defendants' abandonment.
20. I am asking the Court:
 - a. That the Defendants pay the balance owed to 1001 Harborview, LLC pursuant to the Lease and guaranty, totaling Two Million Two Hundred Nine Thousand Nine Hundred Sixty-Eight and no/100 (\$2,209,968.00) in Minimum Rent, Seven

Hundred Twenty Thousand and 00/100 Dollars (\$720,000.00) in Additional Charges, and One Hundred Forty-Six Thousand Four Hundred Ninety-Eight and 40/100 (\$146,498.40) in late fees.

- b. That the Defendants contribute towards 1001 Harborview, LLC's attorneys' fees, and cost, totaling, to date, Eight Thousand Three Hundred Fifty-Seven and 19/100 Dollars (\$8,357.19), as verified by the Affidavit of Attorney's Fees and Costs filed simultaneously herewith; and
- c. That the Court award any further and additional relief deemed just and proper.

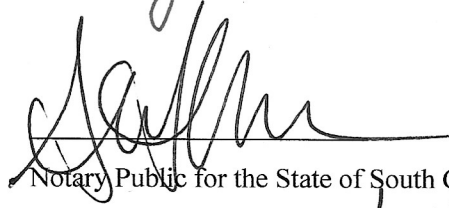
FURTHER AFFIANT SAYETH NOT!



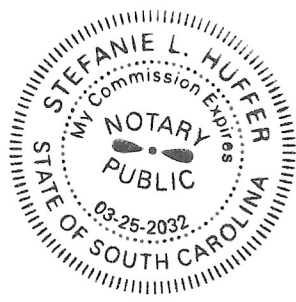
 Narzario L. Paragano

Sworn to me this 11 day of

July, 2023.

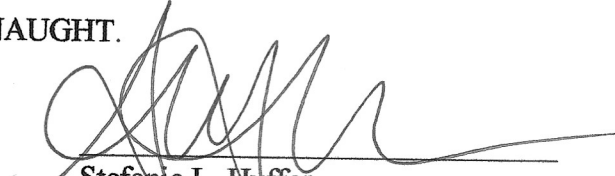


 Notary Public for the State of South Carolina
 My Commission Expires: 3/25/32
 County of: Charleston

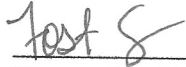


9. Based on the time devoted to this case, the difficulty of services rendered, the results accomplished, the professional standing of counsel, the fees customarily charged in this area of litigation, and other criteria which have been held to be relevant in the setting and awarding of attorney's fees and costs, I request that the Court grant judgment in favor of Plaintiff for these reasonable attorneys' fees and costs and that the Defendant be required to pay the same.

FURTHER, YOUR DEPONENT SAYETH NAUGHT.

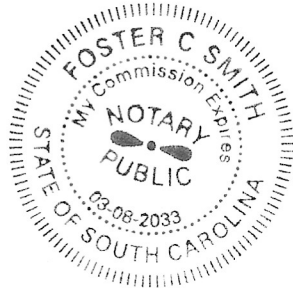

Stefanie L. Huffer
Attorney for Plaintiff

Sworn to and subscribed before me
this 15th day of September, 2023



Notary Public for the State of South Carolina

My Commission Expires: 3-8-2033



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

Case No.: 2022-CP-10-04219

Plaintiff,

vs.

**PLAINTIFF'S AFFIDAVIT OF
ATTORNEYS FEES AND COSTS**

Philip Tran and Quyen Tiet,

Defendants.

PERSONALLY APPEARED before me, Hal E. Cobb, Esq., who, being duly sworn, does state as follows:

1. I am over eighteen years of age and I make this Affidavit on my own personal knowledge and not upon any information or belief.
2. I was admitted to the South Carolina Bar on November 13, 2012, and have been actively engaged in private practice since that time.
3. I am the attorney of record for the Plaintiff and submit this affidavit in support of Plaintiff's claim for reasonable attorneys' fees and costs incurred in the above-captioned matter.
4. I am informed and believe that during the preparation of this case, the time spent, as set forth fully herein, was necessary for the protection of my client's rights and interests.
5. That the time and expenditures shown below have been computed as of 06.09.2022. The total amount of attorney's fees to date is \$5,562.27.
6. A record of costs, including service of process costs and filing fee costs have also been maintained. The total amount of costs to date is \$1,376.61.
7. The total amount of attorneys' fees and costs to date is \$6,938.88.
8. Based on the time necessarily devoted to this case, and considering the time expended, labor and skill required to perform the legal services, the nature and length of the professional relationship between the parties, the reputation and skill of the attorney performing the services, and other

criteria which have been held to be relevant in the setting of attorneys' fees, costs, and suit money; the undersigned on behalf of his client, requests that this Court review the file herein, together with this Affidavit, and award attorney's fees and costs in favor of the Plaintiff and against the Defendants in a sum which may be determined by the Court to be reasonable as to attorneys' fees, costs, and suit money, and that the Defendants be required to pay the same within a reasonable time as may be determined by this Court.

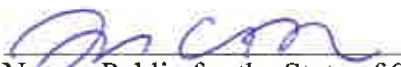
FURTHER AFFIANT SAYETH NOT!



Hal E. Cobb, Esq.
For Cobb Dill & Hammett, LLC
Counsel for Plaintiff

15th

September,



Notary Public for the State of South Carolina
My Commission Expires: 9/28/2032
County of Charleston



EXHIBIT A

THE SHOPPES AT MONTAGUE CORNERS
Formerly Oak Ridge Shopping Center

5060 DORCHESTER ROAD
NORTH CHARLESTON, SOUTH CAROLINA

RETAIL LEASE AGREEMENT

FROM: 1001 Harborview, LLC
1124 Park West Blvd, Suite 101
Mount Pleasant SC 29466
Phone: (843) 569-3000
Fax: (843) 735-7067

"LANDLORD"

TO: Quyen Tiet and Phillip Tran
5060 Dorchester Road Unit 360
North Charleston, SC 29405
Phone: (843)810-4827 & (864)477-9982
Email: phillip8tran@gmail.com

"TENANT"

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BASIC LEASE PROVISIONS

The following represents a summary of certain lease provisions which are part of, and, in certain instances, referred to, in subsequent provisions of this Lease:

1	Date of Lease:	December November 22, 2021
2	Landlord's Name and Address:	1001 Harborview, LLC 1124 Park West Blvd., Suite 101 Mount Pleasant SC 29466 Phone: (843) -569-3000
3	Tenant's Name, Address, Phone#_Email:	Quyen Tiet and Phillip Tran 5060 Dorchester Road Unit 360 North Charleston, SC 29405 Phone: (843)810-4827 & (864)477-9982 Email: phillip8tran@gmail.com
4	Leased Premises:	Depicted on Exhibit "A" as 16,000 +/- square ft. located at 5060 Dorchester Road, Unit 360 North Charleston, SC 29405
5	Term:	Ten (10) years from the Rental Commencement Date.
6	Delivery Date:	Estimated December 1, 2021
7	Rental Commencement Date:	Estimated June 1, 2022
8	Expiration Date:	Ten (10) years from the Rental Commencement Date.
9	Base Rent:	Year 1: \$16,000.00 Year 2: \$17,333.33 Year 3: \$18,666.67 Year 4: \$20,000.00 Year 5: \$20,600.00 Year 6: \$21,213.33 Year 7: \$21,853.33 Year 8: \$22,506.67 Year 9: \$23,186.67 Year 10: \$23,973.33
10	Additional Charges:	The Additional Charges shall include proportionate share of common area maintenance charges, real estate taxes and insurance will be calculated at \$4.50 per square foot of leased space for the initial year of the lease term, or a total of \$6,000.00 per month.
11	Initial Monthly Payment:	\$16,000.00 + \$6,000.00 = \$22,000.00
12	Permitted Use:	Asian Market and Restaurant
13	Security Deposit:	\$23,200.00
14	Construction to be performed by the Landlord:	See Exhibit "B"
15	Utility Charges:	Paid by Tenant
16	Guarantors:	Quyen Tiet and Phillip Tran

THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACTS, TITLE 15, CHAPTER 48, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED

LEASE FOR RETAIL SPACE

THIS LEASE, executed in Charleston, SC this 22 day of December, 2021 (the "Effective Date") by and between 1001 HARBORVIEW, LLC (hereinafter "Landlord"), with offices at 1124 Park West Blvd, Suite 101, Mount Pleasant SC 29466 and Quyen Tiet and Phillip Tran (hereinafter "Tenant"), with offices at 5060 Dorchester Road, Unit 360, North Charleston, SC.

- W I T N E S S E T H -

SECTION 1. PREMISES

Landlord hereby leases to Tenant and Tenant leases from Landlord on the terms, covenants and conditions set forth herein, the "Leased Premises" as shown on Exhibit "A", attached hereto and made a part hereof, such space being within a one-story unit as measured from the exterior face of any exterior walls and to the center line of common walls, being a total of approximately 16,000 square feet.

Landlord reserves to itself, and shall at all times be responsible for, the roof, foundation and exterior walls of the building, or buildings, comprising said shopping center (hereinafter the "Shopping Center"), and further reserves the right to place, maintain, repair, and replace utility lines, pipes, ducts, conduits, wires and tunneling and the like, in, over, under, upon and through the Leased Premises as may be reasonably necessary or advisable for the servicing of the Leased Premises or of other portions of the Shopping Center development in locations which will not materially interfere with Tenant's use of the Leased Premises.

SECTION 2. TERM

The initial term of this Lease (including if extended pursuant to the terms hereof, the "Term") shall be for a period of ten (10) years commencing on the Rental Commencement Date unless extended as set forth herein.

Upon determination of the Rental Commencement Date (as defined in Basic Lease Provision #7) in accordance with the terms of this Lease, Landlord and Tenant shall, upon the request of either party, execute a Memorandum of Lease in form for recording, setting forth the commencement and termination dates of the term of this Lease. However, this recording shall be limited to a Memorandum of Lease describing the property herein demised, giving the term of this Lease and renewal rights, if any, and referring to this Lease.

SECTION 3. RENTAL COMMENCEMENT DATE

The date upon which Tenant shall be obligated to commence the payment of Rent and all Additional Charges shall be known as the "Rental Commencement Date." Such date shall be upon execution. Notwithstanding the foregoing, in the event the Delivery Date is delayed as a result of Tenant Delays (as defined in Section 8(e) below), then the Delivery Date shall be accelerated by the number of days that the Delivery Date was delayed as result of Tenant Delays.

SECTION 4. LEASE YEAR

"Lease Year" shall mean a period of twelve (12) consecutive full calendar months. The first Lease Year shall begin on the Delivery Date, if the date occurs on the first day of a calendar month, otherwise, the first Lease Year shall begin on the first day of the first calendar month after the Delivery Date. Each succeeding Lease Year shall begin on the anniversary of the first Lease Year.

SECTION 5. RENT

(a) Minimum Base Rent

Tenant shall pay Landlord, at the office or such other place as Landlord may from time to time designate, as "Minimum Rent" for the Premises during the Term, without any deduction or setoff, the sum of Sixteen Thousand and 00/100 Dollars (\$16,000.00) per month in Lease Year number one, in advance, on the first (1st) day of each calendar month for the first year of this Lease. The Minimum Rent payable to Landlord in subsequent Lease Years shall be as follows:

Year 2: \$17,333.33
 Year 3: \$18,666.67
 Year 4: \$20,000.00
 Year 5: \$20,600.00
 Year 6: \$21,213.33
 Year 7: \$21,853.33
 Year 8: \$22,506.67
 Year 9: \$23,186.67
 Year 10: \$23,973.33

Minimum Rent and the amounts to be paid by Tenant pursuant to Sections 5 and 6 hereof shall be prorated on a per diem basis for any partial month, preceding the first Lease Year. Tenant acknowledges that the foregoing Minimum Rent calculations are set forth and payable on a monthly basis for convenience's sake only, but the Minimum Rent for each Lease Year is twelve (12) times the monthly Minimum Rent shown above.

(b) Late Payments

The minimum monthly rent and additional charges due pursuant to Sections 5 and 6 hereof shall be deemed late if not paid in full within five (5) days of their due date. Additionally, there shall be an additional rent of Five Percent (5%) of the amount of rent past due.

(d) Renewal Option

Provided Tenant has not at any time during the Term been in Default (as hereinafter defined), Tenant shall have one (1) option (a "Renewal Option") to renew this Lease, for an additional five (5) years with Minimum Rent payable according to the following schedule:

Option Period 1

Year 11: \$24,692.53 per month
 Year 12: \$25,433.30 per month
 Year 13: \$26,196.30 per month
 Year 14: \$26,982.19 per month
 Year 15: \$27,791.66 per month

In order to exercise this Renewal Option to extend this Lease, Tenant shall give Landlord written notice at least six (6) months prior to the expiration of the Term, term of this Lease of its intent to exercise the Renewal Option. In the event Tenant does not exercise the Renewal Option prior to six (6) months to the expiration of the Term, Tenant shall be deemed to have irrevocably waived its right to exercise the Renewal Option, time being of the essence.

SECTION 6. ADDITIONAL CHARGES

Tenant shall also pay the following charges (hereinafter, "Additional Charges") which shall be considered for purposes of Default, as additional rent:

Tenant shall pay to Landlord as Additional Charges an amount equal to \$4.50 per sq. ft. of leased space for the first Lease Year (\$6,000.00 per month), which amount shall be adjusted at the conclusion of the first Lease Year based on the actual amounts of Additional Charges described below. The Additional Charges for the remainder of the Term and any renewals will be based on the actual "Additional Charges." Landlord shall deliver to Tenant and estimate of the Additional Charges for the coming Lease Year or, if Landlord desires, calendar year, and Tenant shall pay such amount in monthly increments; provided, however, the Additional Charges (i) shall not increase more than Five Percent (5%) annually after third (3rd) year of Term and (ii) within ninety (90) days after the end of each Lease or calendar year, as determined by Landlord, Landlord shall furnish Tenant with a statement of the actual amount of Tenant's proportionate share of all Additional Charges. Within fifteen (15) days after receipt of said statement by Tenant, Tenant shall pay to Landlord any deficiency due Landlord or any surplus paid by Tenant shall be credited against the next ensuing installment of Landlord's estimate for Tenant's proportionate share of Additional Charges.

The Additional Charges shall consist of the following:

(a) Real Estate Taxes & Assessments

For each calendar year, or part thereof during the Term, Tenant shall pay its proportionate share of all real estate taxes and assessments, levied and assessed against the land, buildings and all other improvements within the Shopping Center. Tenant's proportionate share shall be the total amount of such taxes and assessments multiplied by a fraction. The numerator of which shall be the number of square feet of floor area within the Leased Premises, and the denominator of which shall be the number of square feet of rentable floor area within all the buildings in the Shopping Center at the time such taxes were levied or assessed.

(b) Municipal, County, State or Federal Taxes

Tenant shall pay all taxes assessed against any leasehold interest of Tenant on any fixtures, furnishings, equipment, stock-in-trade, or other personal property of any kind owned, installed or used in or on the Leased Premises.

(c) Rental Taxes

Should any governmental taxing authority levy, assess, or impose any tax, excise or assessment (other than income or franchise tax) upon or against the rentals payable by Tenant to Landlord, either by way of substitution for or in addition to any existing tax on land and buildings or otherwise, Tenant shall pay any such tax, excise or assessment thereof.

(d) Insurance

Tenant agrees to reimburse Landlord its proportionate share (computed in the same manner as in Section 6(a) above) of the total cost of premiums for Landlord's insurance coverage.

(e) Common Area Expenses

Tenant agrees to pay to Landlord in the manner hereinafter provided, Tenant's proportionate share of all costs and expenses of every kind and nature paid or incurred by Landlord in general building maintenance, operating, equipping, policing and protecting, lighting, providing sanitation and sewer and other services for, insuring, repairing, replacing and maintaining the Common Areas (as defined hereinafter) and all other facilities used in the maintenance or operation of the Building. Such costs and expenses shall include, but shall not be limited to, the cost of: illumination and maintenance of Common Area signs, refuse disposal, water, gas, sewage, electricity and other utilities (without limitation), including any and all usage, service, hook up, connection, availability and/or standby fees or charges pertaining to same; maintenance and operation of any temporary or permanent utility, compliance with rules, regulations and orders of governmental authorities pertaining to air pollution control, including landscaping, cleaning, lighting, parking surface sealing and striping, curbs, gutters, sidewalks, drainage and irrigation ditches, conduits, pipes located on or adjacent to the Building; premiums for liability, casualty, and property insurance; personal property taxes; licensing fees and taxes; audit fees and expenses, supplies; depreciation of maintenance equipment used in the operation or maintenance of the Common Areas; a management fee paid to any third party management company managing the Building for Landlord; total compensation and benefits (including premiums for workmen's compensation and other insurance) paid to or on behalf of employees involved in the performance of the work specified in this Section and an administrative charge equal to Fifteen Percent (15%) of the aforementioned expenses.

Amortization, with interest, of capital expenditures made by Landlord after completion of the Building where such expenditures are for labor or energy saving devices or materials where such capital improvement is made to reduce operation expenses; legal and accounting services; hazard and liability insurance; real and personal property taxes; and all other costs and expenses of operating the building including the cost (amortized over such reasonable period of time which shall be determined by Landlord together with the interest at the rate of Twelve Percent (12%) per annum of the unamortized balance) of any capital improvements made to the Building by Landlord after the date of this Lease that are required under any governmental law or regulation that was not applicable to the Building at the time it was constructed, but shall not include: (1) leasing commissions; and (2) interest on debt or capital retirement of debt.

The proportionate share to be paid by Tenant shall be that portion of the foregoing costs and expenses which the number of square feet of 16,000 in the Leased Premises bears to the total number of 97,000 gross rentable square feet of area of all buildings in the Shopping Center.

SECTION 7. UTILITIES

(a) Landlord shall provide as part of the original installation the necessary water lines, sanitary sewer service and electric conductors stubbed into the Leased Premises.

(b) Tenant will provide, at its own cost, all necessary facilities within the Leased Premises, except as otherwise provided in Exhibit "B-1". Except as otherwise provided in this Section or Exhibit "B-1" hereof, Landlord shall not be responsible for providing any meters or other devices for the measurement of utilities supplied to the Leased Premises. Where necessary, Tenant shall make application for and arrange for the installation of all such meters or other devices.

(c) Landlord shall not be liable to Tenant in damages or otherwise if any one or more of said utility services or obligations hereunder is interrupted or terminated because of necessary repairs, installations, construction and expansion, non-payment of utility charges due, or any other cause beyond Landlord's reasonable control. No such interruption or termination of utility services shall relieve Tenant from any of its obligations under this Lease.

(d) Commencing with the date on Delivery Date, Tenant shall pay for gas, if the same is available to the Leased Premises, electric current and all other utilities required for the proper operation of Tenant's business.

(e) Tenant shall pay all water rents, all charges resulting from sprinkler system (if any) and sewer charges charged against the Leased Premises beginning on the Delivery Date and ending upon termination or expiration of this Lease.

SECTION 8. CONSTRUCTION:

(a) Landlord's Work

Landlord agrees to perform or cause to be performed, such work in the construction of the Leased Premises as may be set forth as Landlord's Work in Exhibit "B-1" and Exhibit "B-2", attached hereto and made a part hereof, such work to be substantially completed in accordance with the specifications set forth in said Exhibit "B-1".

(b) Delivery and Acceptance of Leased Premises

Landlord agrees that Landlord's work shall be substantially completed in a timely manner subject to delays caused by acts of God, government or public enemy, labor disputes, inability to obtain material or labor on reasonable terms, failure of Tenant to perform Tenant's obligations with respect to construction, or other cause beyond the control of Landlord. Under no circumstances shall Landlord be liable for any delay or failure to commence or complete its construction. Upon completion of construction, Landlord shall deliver the Leased Premises to Tenant for the commencement of Tenant's work, as follows:

Landlord shall notify Tenant in writing when the Premises are ready for occupancy by Tenant. Within ten (10) business days after receipt by Tenant of such notice, Tenant and Landlord shall inspect the Premises. If Tenant fails to inspect the Premises within such ten (10) day period, then Landlord shall be deemed to have delivered and Tenant shall be deemed to have accepted the Premises on the eleventh (11th) business day after receipt by Tenant of Landlord's notice.

Within five (5) business days after inspection of the Premises as set forth above, Tenant shall notify Landlord in writing of any condition, deficiency, or incomplete items (collectively, the "Non-Conforming Items") which cause the Premises not to be in accordance with the requirements of this Lease at the time of delivery possession. If Tenant fails within such five (5) day period to notify Landlord in writing of any Non-Conforming Items, then Landlord shall be deemed to have delivered and Tenant shall be deemed to have accepted the Premises on the sixth (6th) business day after the inspection by Tenant and Landlord of the Premises.

If Tenant notifies Landlord of any Non-Conforming Item within the five (5) day period set forth above, Landlord shall promptly correct or complete any Non-Conforming Items, and give the Tenant written notice of such correction or completion. Landlord shall be deemed to have delivered and Tenant shall be deemed to have accepted the Premises on the date on which Landlord gives notice of such correction or completion to Tenant. In the event that a dispute shall arise as to whether or not Landlord has corrected the Non-Conforming Items, or as to whether any condition, deficiency, or incomplete item is a Non-Conforming Item, a certificate of Landlord's architect that construction is substantially completed in accordance with plans and specifications and in accordance with plans and specifications and in accordance with the requirements of this Lease at the time of delivery of possession, shall be conclusive and binding upon the parties hereto.

(c) Tenant's Construction

With the exception of the items specifically enumerated in Exhibit "B-1" as Landlord's Work, Tenant shall, at its own expense, obtain all permits required to perform all work and supply all installation described in Tenant's plans and specifications as submitted per Section 8(c) hereof, including, but not limited to furniture, furnishings, special equipment and other items necessary for the completion of the Leased Premises and the proper operation of Tenant's business. All items furnished by Tenant shall be new and, if affixed to the Leased Premises, shall be free and clear of any lien or security interest. Tenant shall not undertake any construction, nor shall Tenant install any equipment, other than trade fixtures and personal property, without first obtaining Landlord's written approval of the Tenant's plans and specifications therefore, which plans and specifications shall be submitted to Landlord within thirty (30) days after Landlord's architect provides Tenant with shell plans for the Leased Premises. Thereafter, no changes shall be made in Tenant's plans and specifications without the consent of Landlord. Tenant shall pay to Landlord, upon demand, any additional cost incurred by Landlord as a result of changes requested by Tenant and approved by Landlord. Tenant shall not commence any work until Tenant delivers to Landlord a policy or policies of public liability and property damage insurance naming Landlord as an insured, in limits and with companies acceptable to Landlord. Tenant's construction shall be completed thirty (30) calendar days after delivery of the Leased Premises subject only to delays enumerated in Section 8(b) above.

In addition to the foregoing, Tenant shall at its expense properly ventilate the Premises so that adjoining Tenants shall not be disturbed or disrupted by odors emanating from the Premises. In the event Tenant fails

to properly ventilate the Premises as required herein, Landlord shall have the right, but not the obligation, to cause the Premises to be properly ventilated and Tenant shall immediately upon demand reimburse Landlord all costs and expenses incurred by Landlord to ventilate the Premises, plus an additional sum equal to Fifteen Percent (15%) of such costs to reimburse Landlord its administrative overhead.

(d) License to Enter Leased Premises

Landlord may, prior to its delivery of the Leased Premises, make said Leased Premises available to Tenant for its work and installations, at Tenant's sole risk, and so long as such work and installations do not interfere with the construction of the Leased Premises or other building improvements by Landlord. Tenant shall perform all of its obligations under this Lease (except its obligations to pay rent and other charges) from the date the Leased Premises are so made available to Tenant.

(e) Delays Caused by Tenant

Tenant understands and agrees that certain of the Landlord's Work can only be undertaken concurrently with or subsequent to work to be performed by Tenant. As a result, and notwithstanding any provision in this Lease to the contrary, (i) Landlord shall not be liable for delays in the completion of Landlord's Work resulting from delays in the prosecution or completion of Tenant's work ("Tenant Delays"), and (ii) Tenant shall have no right to terminate this Lease or assert claims against Landlord as result of Tenant Delays.

SECTION 9. COMMON AREAS

Landlord grants as a revocable license to Tenant and Tenant's customers and invitees the privilege to use, in common with all others to whom Landlord has, or may hereafter grant privileges to use the same, the Common Areas located within the Shopping Center. The term "Common Areas" as used in this Lease shall mean the parking areas, roadways, pedestrian sidewalks, loading docks, delivery areas, landscaped areas, and all other areas or improvements which may be provided by Landlord for the common use of Tenants of the Shopping Center. Landlord hereby reserves the following rights with respect to the Common Areas, to:

- a) Establish reasonable rules and regulations for the use thereof;
- b) Use or permit the use by third parties;
- c) Close or restrict the use of all, or any portion of the Common Areas as Landlord may deem necessary or desirable in Landlord's sole discretion; and
- d) Change the layout of such Common Areas, including the right to add to or subtract from their shape and size, whether by the addition of building improvements or otherwise.

As additional consideration in exchange for the Common Area rights granted to the Tenant by Landlord herein, Tenant gives the Landlord a limited power of attorney to use on its behalf with any governing entity, including, but not limited to, police, sheriff, EMS, etc. when there is a need to request a trespass notice or something related to any issue within the Shopping Center's Common Areas where the governing entity requires the Tenants of the Shopping Center to sign.

SECTION 10. TENANT'S USE OF PREMISES

Tenant, and no one else, shall use the Leased Premises, and such use shall be limited to the following: Asian Market and Restaurant.

Tenant shall not at any time leave the Premises vacant, but shall in good faith continuously, actively and diligently throughout the Term conduct and carry on its business, as permitted herein, in the entire Premises. Tenant's sales practices shall be consistent with the standards and practices generally acceptable in first-class retail shopping centers. Additionally, Tenant shall operate its business in an efficient, high class and reputable manner, and shall keep the Premises open to the public for business fully fixtured, stocked and staffed with competent personnel in attendance on all days and during all hours (including evenings) that the Shopping Center is open for business as such hours are established by Landlord from time to time as store hours for the Shopping Center, except to the extent Tenant may be prohibited from being open for business by any law, ordinance or government regulation which applies generally to prohibit all tenants in the Shopping Center from being open for business. In the event Landlord has approved Tenant remaining open for business after normal Shopping Center hours, then such approval shall be conditioned upon Tenant paying for all additional costs incurred by Landlord as a result thereof. In the event Tenant closes the Premises for business on any given day earlier than the scheduled closing time of the Shopping Center, and such closure occurs without Landlord's prior written consent, or in the event Tenant opens the Premises for business on any given day later than the scheduled opening time of the Shopping Center, and such late opening occurs without Landlord's prior written consent, then Tenant shall pay to Landlord, on demand, a fine of One Hundred and No/100 Dollars (\$100.00) per hour for the first and second instances of early closure or late opening per Lease Year; for each subsequent violation in a given Lease Year, the fine shall increase to Two Hundred and No/100 Dollars (\$200.00) per hour. Tenant recognizes that the specific

limited use prescribed herein is a material consideration to Landlord in order that the Shopping Center will maintain an appropriate tenant mix so as to produce the maximum amount of sales possible for all tenants and that the continued operation of a full service regional retail development will be assured. If Tenant's business in the Premises is to be conducted pursuant to a franchise agreement, the existence and continuation of such franchise agreement is a material consideration to Landlord in entering into this Lease and if such franchise agreement is terminated, Landlord shall be entitled to treat such event as an Event of Default and elect any of the remedies provided in Section 19.

Tenant shall maintain all display windows in a neat, attractive condition and shall keep all display windows and exterior electric signs in front of the Premises lighted from dusk until 10:00 p.m. every day, including Sundays and holidays. Landlord reserves the right to connect all canopy signs in the Shopping Center, including Tenant's, to a "common" electrical line controlled by Landlord and/or POA, in order to control the hours during which such signs are kept lighted, and all charges for the installation, maintenance and repair of such electrical line, as well as all electrical usage charges associated therewith, shall be payable by Tenant and deemed "Common Area Costs".

SECTION 11. TENANT'S COVENANTS WITH RESPECT TO OCCUPANCY

Tenant agrees to:

- a) Occupy the Leased Premises in a safe and careful manner and in compliance with all applicable laws, ordinances, rules, regulations and order of any governmental bodies and without committing or permitting waste;
- b) Neither do nor suffer anything to be done or kept in or about the Leased Premises, which contravenes Landlord's insurance policies or increases the premiums therefore;
- c) Permit no reproduction of sound, which is audible outside the Leased Premises, nor permit odors to be unreasonably dispelled from the Leased Premises;
- d) Place no signs or lettering on the exterior of the Shopping Center without the prior written consent of Landlord, and to maintain in good repair and promptly remove and repair any damage caused by any such permitted signs. (See Exhibit "C" regarding sign criteria);
- e) Place no merchandise, sign or other thing of any kind in the vestibule or entry of the Leased Premises or on the sidewalks or other Common Areas adjacent thereto or elsewhere on the exterior of the Leased Premises;
- f) Park Tenant's vehicles and to require all employees to park vehicles only in such places as may be designated from time to time by Landlord for the use of Tenant and its employees;
- g) Keep any refuse in proper containers in the interior of the Leased Premises until the same is removed, and to permit no refuse to accumulate around the exterior of the Leased Premises;
- h) Promptly load and unload only from areas specified by Landlord;
- i) Conduct no auction, fire or going out of business sale without the prior written consent of Landlord;
- j) Permit Landlord free access to the Leased Premises at all reasonable times for the purpose of examining the same or making alterations or repairs to the Leased Premises that Landlord may deem necessary for the safety or preservation thereof;
- k) Adequately heat and cool the Leased Premises at Tenant's sole expense;
- l) Cause or permit no lien upon the Leased Premises and to suffer no matter or thing whereby the estate, right, and interest of Landlord in the Leased Premises, or any part thereof, might be impaired;
- m) Solicit no business in the Common Areas, nor distribute handbills or other advertising matter to customers nor place same in or on automobiles in the Common Areas; and
- n) Comply with all reasonable rules and regulations, which Landlord may from time to time establish for the use, and care of the Leased Premises, the Common Areas, and other facilities and buildings included in the Shopping Center.

SECTION 12. REPAIRS, ALTERATIONS, MECHANIC'S LIEN:

- (a) Tenant shall keep the entire interior Leased Premises and every part thereof (structural and otherwise) including, but not limited to, floor, ceiling, walls, and all fixtures, facilities or equipment contained therein, in good condition and repair, including but not limited to the heating, air conditioning, electrical, plumbing, electrical fixtures, plumbing fixtures and sewer systems, the exterior front and rear doors, door hardware, window frames, and all portions of the store front area, and shall make any replacements thereof, and of all broken and cracked glass which may become necessary during the term of this Lease. Prior to undertaking the aforementioned repairs to floors or mechanical systems, Tenant shall notify Landlord of said repairs and the methodology to be used in effecting the repairs. If Tenant refuses or neglects to commence or complete repairs promptly and adequately, Landlord may make or complete said repairs and Tenant shall pay the cost thereof to Landlord. Notwithstanding the foregoing, Landlord shall at all times be responsible for the maintenance and upkeep of the roof and all exterior and structural elements of the Premises.
- (b) The Tenant shall obtain a service contract on HVAC system for the maintenance and repair of the system. The Tenant shall provide a copy of the service contract to the Landlord within thirty (30) days of the commencement date of the Lease. Tenant's HVAC contract must provide for annual coil cleaning, recharging of refrigerants, cleaning debris from drain pans and keeping condensation drainage lines in proper working order. Tenant's HVAC contractor shall be responsible for maintaining the roof penetrations from the refrigerant condenser lines. All penetrations shall be properly sealed to ensure a watertight roof penetration.
- (c) Tenant shall not, without Landlord's prior written consent, which may be withheld in Landlord's sole discretion, make nor permit to be made any alterations, additions, or improvements to the Leased Premises.
- (d) All improvements by Tenant shall become the property of Landlord and shall not be removed from the Leased Premises. All trade fixtures, furniture, furnishings and signs installed in the Leased Premises by Tenant and paid for by Tenant, unless they have been so affixed that they have become part of the Leased Premises, shall remain the property of Tenant and may be removed upon the expiration of the term of this Lease, provided however that:
1. Any of such items may be removed only if Tenant repairs any damage caused by such removal;
 2. Tenant shall have fully performed all of the covenants and agreements to be performed by Tenant and no payments are due or will thereafter become due from Tenant to Landlord under the provisions of this Lease.

If Tenant fails to remove such items from the Leased Premises prior to the expiration or earlier termination of this Lease, all such trade fixtures, furniture, furnishings and signs shall become the property of Landlord unless Landlord elects to require their removal in which case Tenant shall promptly remove same and restore the Leased Premises to its prior condition.

SECTION 13. INDEMNITY AND INSURANCE**(a) Indemnification by Tenant**

Tenant will indemnify and hold Landlord harmless from and against all loss, cost, expense and liability whatsoever (including Landlord's cost of defending against the foregoing, such cost to include attorney fees) resulting or occurring by reason of Tenant's construction, use, or occupancy of the Leased Premises.

(b) Public Liability Insurance

Tenant, at its own expense, shall provide and keep in force with companies acceptable to Landlord, public liability insurance covering the Leased Premises and Tenant's use thereof, with minimums of \$500,000 on account of bodily injuries to or death of one (1) person; \$1,000,000 on account of bodily injuries to or death of more than one (1) person as a result of any occurrence and \$50,000 coverage for property damage, and to deposit said policies (or certificates thereof) with Landlord prior to the date of any use or occupancy of the Leased Premises by Tenant. Such policy or policies shall name 1001 Harborview, LLC as Landlord and Nova Management, Inc as the Property Management Company, each as additional insured and shall bear endorsements to the effect the insurer agrees to notify Landlord not less than thirty (30) days in advance of any cancellation or modification thereof.

(c) Landlord's Liability

Except in the event of willful misconduct on the part of the Landlord, Landlord shall not be liable for any:

1. Damage to Tenant's property, including ceiling tiles or personal injury to Tenant, its employees or agents, or any third parties, located in the Leased Premises, regardless of the cause of such damage; nor

2. Acts or omissions of other Tenants of the Shopping Center;
3. Condition of the Leased Premises whatsoever unless Landlord is responsible for the repair thereof and has failed to make such repair after notice from Tenant of the need therefore, and expiration of a reasonable time for the making of such repair.

(d) Fire & Extended Coverage Insurance

Landlord agrees to carry policies insuring the improvements on the Shopping Center against fire and such other perils as are normally covered by extended coverage endorsements in the county where the Shopping Center is located, in an amount equal to at least Eighty Percent (80%) of the insurable value of such improvements, together with insurance against such other risks (including loss of rent) and in such amounts as Landlord deems appropriate. Landlord agrees to pay the fire and extended coverage insurance subject to Section 6 of this Lease.

(e) Mutual Waiver of Subrogation

Landlord and Tenant each agree to cause to be included in their respective policies of fire and extended coverage insurance the agreement of the issuer thereof that said policies shall not be invalidated by a waiver of claim by the insured against the Landlord or Tenant, as the case may be, and each will furnish evidence thereof to the other. Landlord and Tenant (for themselves and their insurers) each hereby waive all rights of subrogation against the other and against the officers, employees, agents and representatives of the other, and against other tenants of the Shopping Center (provided such Parties and other tenants have waived such rights against Landlord and Tenant), on account of any loss by or damage to the waiving party or its property or the property of others under its control (including as to Tenant, the Leased Premises and its contents, and as to Landlord the other portions of the Shopping Center), arising from any risk generally covered by fire and extended coverage insurance.

(f) Tenant's Failure to Maintain Insurance.

If at any time during the term of the Lease, Tenant fails to maintain the insurance required by this Lease, Landlord may, but shall not be obligated to, obtain, and pay the premiums for, such insurance. Upon demand, Tenant shall pay to Landlord all amounts paid by Landlord pursuant to this Section 13(f).

SECTION 14. DAMAGE & DESTRUCTION

If the Leased Premises are damaged by any peril covered by standard policies of fire and extended coverage insurance to an extent which is less than Twenty-five Percent (25%) of the cost of replacement (as determined by Landlord's insurer) of the Leased Premises, the damages shall, except as hereinafter provided, promptly be repaired by Landlord, at Landlord's expense, but that in no event shall Landlord be required to repair or replace Tenant's stock in trade, trade fixtures, furniture, furnishings, equipment, personal property, or property, or leasehold improvements. Notwithstanding anything herein to the contrary, Landlord may elect either to repair or rebuild the Leased Premises or the buildings in the Shopping Center, as the case may be, or to terminate this Lease upon giving notice of such election in writing to Tenant within ninety (90) days after the event causing the damage if:

1. The Leased Premises are damaged by any cause, to the extent of Twenty-five (25%) or more of the cost of replacement of the Leased Premises; or
2. The buildings in the Shopping Center are damaged by any cause to the extent of Fifty Percent (50%) or more of the cost of replacement; or
3. Any damage by any cause to the Leased Premises occurs during the last two (2) years of the Term. Landlord may elect either to repair or rebuild the Leased Premises or the buildings in the Shopping Center, as the case may be, or to terminate this Lease upon giving notice of such election in writing to Tenant within ninety (90) days after the event causing the damage.

If the casualty, repairing, or rebuilding shall render the Leased Premises untenable in whole or in part, a proportionate abatement of the Minimum Rent shall be allowed until the date Landlord completes the repairs or rebuilding; provided, however, that Tenant shall not be required to pay Minimum Rent or Additional Rent for any period of time in which Tenant is unable to fully operate its business due to any such repairs or rebuilding. If Landlord is required or elects to repair the Leased Premises, Tenant shall repair or replace its stock in trade, trade fixtures, furniture, furnishings, equipment and personal property in a manner and to at least a condition equal to that prior to its damage or destruction and the proceeds of all insurance carried by Tenant shall be held in trust by Tenant for the purpose of such repair or replacement.

SECTION 15. UNIFORM COMMERCIAL CODE

To the extent, if any, this Lease grants Landlord any lien or lien rights greater than provided by the laws of the State of South Carolina pertaining to "Landlord's Liens", this Lease is intended as and constitutes a security agreement within the meaning of the Uniform Commercial Code. Landlord, in addition to the rights prescribed in this Lease, shall have a lien upon and an interest in Tenant's property now or hereafter

located upon the Leased Premises which grants Landlord a Security Interest, as that term is defined, under this state's Uniform Commercial Code to secure the payment to Landlord of the various amount provided in this Lease. Tenant agrees to and shall execute and deliver to Landlord such "Financing Statements" and such further assurances as Landlord may, from time to time, consider necessary to create, perfect and preserve the lien described and all additions, substitutions, replacements and accessions thereto, and all proceeds of its or their sale or other disposition. Landlord, at the expense of Tenant, may cause such Financing Statements and assurances to be recorded and re-recorded, filed and re-filed, and renewed or continued, at such times and places as may be required or permitted by law to create, perfect and preserve such liens. In the event Tenant fails to promptly execute and return to Landlord such Financing Statements as Landlord may require to create, preserve and perfect its lien, Tenant shall and does hereby designate Landlord to act as Tenant's agent for the sole and limited purpose of executing such Financing Statements and any such execution by Landlord pursuant to this Lease shall be effective and binding upon Tenant as though executed originally by Tenant. Tenant's designation of Landlord as agent hereunder shall not be subject to revocation until this Lease is terminated.

SECTION 16. ABANDONMENT

Tenant shall not vacate nor abandon the Leased Premises at any time during the term of this Lease, nor permit the Leased Premises to remain unoccupied for a period longer than ten (10) consecutive days during the term of this Lease. If Tenant shall abandon, vacate or surrender the Leased Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant and left on the Leased Premises shall, at the option of Landlord, be deemed abandoned and available to Landlord to use or sell to offset amounts due and payable. Should the Leased Premises be presumed to be vacated or abandoned, Landlord has the right, without being held as trespassing, to enter and recapture the Leased Premises. From and after the date of such recapture, the Lease shall be deemed terminated; provided, however, that such termination shall not relieve Tenant of Tenant's obligation to pay all amounts otherwise due or to-become-due under the Lease.

SECTION 17. ASSIGNING AND SUBLETTING

Tenant, voluntarily, or involuntarily, shall not assign, convey, mortgage, encumber or otherwise transfer this Lease or any interest hereunder, nor shall Tenant allow any transfer hereof or any lien upon Tenant's interest hereunder by operation of law or otherwise, nor shall Tenant sublet the Leased Premises or any part thereof, or permit the use or occupancy of the Leased Premises or any part thereof by any person or entity other than Tenant, without the prior written consent of Landlord.

Any consent by Landlord shall not constitute a waiver of the necessity for such consent to any subsequent assignment, conveying, mortgaging, encumbering or otherwise transferring this Lease or any interest hereunder, or allowing any transfer hereof or any lien upon Tenant's interest hereunder by operation of law or otherwise, or subletting the Leased Premises or any part thereof, or permitting the use or occupancy of the Leased Premises or any part thereof by any person or entity other than Tenant, nor does it constitute a waiver of Landlord's right to accept the Leased Premises as set forth hereinabove.

SECTION 18. EMINENT DOMAIN

In the event the Shopping Center, or any part thereof, shall be taken or condemned either permanently or temporarily for any public or quasi-public use or purpose by any authority in appropriation proceedings or by any right of eminent domain, the entire compensation award therefore, including but not limited to, all damages as compensation for diminution in value of the leasehold, reversion and fee, shall belong to Landlord without any deduction there from for any present or future estate of Tenant, and Tenant hereby assigns to Landlord all its right, title and interest to such award. However, Tenant shall have the right to recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded to Tenant on account of interruption of Tenant's business and for moving and relocation expenses. In the event of a taking under the power of eminent domain of more than Twenty-five Percent (25%) of the Leased Premises or a sufficient portion of the Shopping Center so that after such taking less than Fifty Percent (50%) of the floor area within all buildings occupied by Tenants (as constituted prior to such taking), either Landlord or Tenant shall have the right to terminate this Lease by notice in writing given within ninety (90) days after the condemning authority takes possession, in which event all rents and other charges shall be pro-rated as of the date of such termination.

In the event of a taking of any portion of the Leased Premises not resulting in a termination of this Lease, Landlord shall use so much of the proceeds of Landlord's award for the Leased Premises as is required therefore to restore the Leased Premises to a complete architectural unit and this Lease shall continue in effect with respect to the balance of the Leased Premises, with a reduction of Minimum Rent in proportion to the portion of the Leased Premises taken.

SECTION 19. DEFAULT BY TENANT; LANDLORD REMEDIES

This Lease and the term and estate hereby granted are subject to the limitation that, whenever a Default has occurred and is continuing, Landlord will have the right, notwithstanding the fact that Landlord may have some other remedy hereunder or at law or in equity, to terminate this Lease on a date specified in a written termination notice delivered to Tenant, which date must be at least five (5) days after the date Tenant receives such termination notice. Upon the date specified in Landlord's termination notice, this Lease and the estate hereby granted will terminate with the same force and effect as if the date specified in Landlord's notice was the expiration date of the term.

The following shall be deemed a "Default" or an "Event of Default" hereunder:

- (i) Failure to pay any Minimum rent or Additional Charges as stated in the Lease by the due date and such failure continues for a period of ten (10) days after the due date for such payment; or
- (ii) Failure to observe any of the non-monetary covenants contained in this Lease, where the failure continues for a period of thirty (30) days after delivery by Landlord of written notice specifying such default; or
- (iii) Failure to control the patrons or employees invited into the Premises, specifically if police are called to handle disturbances at or related to the Premises either within the Premises or within the Common Areas more than twice in a calendar year, this will be deemed an Event of Default, excepting for when Tenant calls police to assist with issues, those calls shall not be part of this potential Default. Additionally, no one is permitted to park, even for a brief moment, in the FIRE LANE in front of the premises. Repeated offenses will result in the tenant being assessed a fine by management. The Tenant will be required to execute a Power of Attorney in the form contained in Exhibit E.

Landlord shall be entitled all remedies available by law including recovering monies due Landlord and applicable late fees and/or eviction of Tenant from the Premises.

If Landlord terminates this Lease pursuant to this Section 19, Tenant will remain liable for (i) the sum of (x) all Minimum Rent, Additional Charges and other amounts payable by Tenant hereunder until the date this Lease would have expired had such termination not occurred, and (y) all reasonable expenses incurred by Landlord in re-entering the Leased Premises, repossessing the same, making good any default of Tenant, painting, altering or dividing the Leased Premises, putting the same in proper repair, reletting the same (including any and all reasonable attorneys' fees and disbursements and reasonable brokerage fees incurred in so doing), removing and storing any property left in the Leased Premises following such termination, and any and all reasonable expenses which Landlord may incur during the occupancy of any new tenant (other than expenses of a type that are Landlord's responsibility under the terms of this Lease); less (ii) the net proceeds of any reletting actually received by Landlord. Tenant agrees to pay to Landlord the difference between items (i) and (ii) above with respect to each month during the period that would have constituted the balance of the Term, at the end of such month. Any suit brought by Landlord to enforce collection of such difference for any one month will not prejudice Landlord's right to enforce the collection of any difference for any subsequent month. Tenant's liability under this Section 19 will survive the institution of summary proceedings and the issuance of any warrant thereunder.

SECTION 20. SECURITY DEPOSIT:

To secure the faithful performance by Tenant of the covenants, conditions and agreements set forth in this Lease to be performed by it, Tenant has deposited with Landlord the sum of TWENTY THREE THOUSAND TWO HUNDRED and 00/100 (\$23,200.00) on the understanding that:

- (1) Landlord shall not be obliged to but may apply such deposit or any portion thereof to the curing of any default that may exist, without prejudice to any other remedy or remedies which Landlord may have on account thereof, and upon such application Tenant shall pay Landlord on demand the amount so applied which shall be added to the security deposit so the same will be restored to its original amount;
- (2) Should the Shopping Center be transferred by Landlord, the security deposit or any balance thereof may be turned over to Landlord's successor or transferee for such application or return;
- (3) Landlord or its successors shall not be obligated to hold the security deposit as a separate fund, but may co-mingle it with other funds;
- (4) In no event shall Landlord be obliged to apply the security deposit against amounts due during or on account of the final month of the term; and

- (5) If Tenant shall faithfully perform all of the covenants and agreements in this Lease contained on the part of the Tenant to be performed, the security deposit, or any then remaining balance thereof, shall be returned to Tenant, without interest, within thirty (30) days after the expiration of the term hereof.

Notwithstanding anything aforementioned to the contrary, Tenant hereby agrees not to look to the mortgagee, as mortgagee, mortgagee in possession, or successor in title to the property, for accountability for any security deposit required by Landlord hereunder, unless said sums have actually been received by said mortgagee as security for Tenant's performance of this Lease.

SECTION 21. NOTICES & PAYMENTS

Any notice or consent required to be given by or on behalf of either party to the other shall be deemed given when mailed by registered or certified mail, return receipt requested, addressed to Landlord and Tenant at the addresses hereinabove specified, or the Leased Premises, or at such other address as may be specified from time to time by notice in the manner herein set forth. Minimum Rent and Additional Charges payments shall be considered delivered on the date actually received.

SECTION 22. MORTGAGE SUBORDINATION & ATTORNMENT

This Lease shall be subordinate to the lien of any mortgage which may now or hereafter affect the real property of which the Premises form a part, and to all renewals, modifications, consolidations, replacements, and extensions thereof so long as the holder of such lien or mortgage has agreed in writing to acknowledge this Lease and not disturb Tenant's occupancy of the Premises. In confirmation of such subordination, Tenant shall execute promptly any reasonable subordination agreement that Landlord may request that contains a commercially reasonable non-disturbance provision.

Tenant shall attorn to any foreclosing first mortgagee, purchaser at a foreclosure sale or purchaser may deed in lieu of foreclosure, but no such mortgagee or purchaser shall be (a) liable for any act or omission of Landlord, (b) bound by any payment of any rent, (Additional Rent) or other charge made more than ten (10) days in advance of the due date thereof, or (c) bound by any assignment, surrender, termination, cancellation, amendment or modification of this Lease made without the express written consent of such mortgagee or purchaser.

SECTION 23. CERTIFICATES OF LEASE INFORMATION

At any time and from time to time, Tenant agrees to execute and deliver to Landlord, for the benefit of such persons as Landlord requests, a statement in writing, satisfactory to Landlord certifying such facts are true and ascertainable. Failure to comply shall constitute default.

SECTION 24. QUIET ENJOYMENT

Landlord hereby covenants and agrees that if Tenant shall perform all the covenants and agreements herein stipulated to be performed on Tenant's part, Tenant shall at all times during the continuance hereof have the peaceable and quiet enjoyment and possession of the Leased Premises without any manner of let or hindrance from Landlord or any person or persons lawfully claiming the Leased Premises. Landlord warrants to Tenant during Landlord's ownership, premises will be professionally maintained.

SECTION 25. LIABILITY OF LANDLORD

If Landlord shall fail to perform any covenant, term or condition of this Lease upon Landlord's part to be performed and, as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment and levy thereon against the right, title and interest of Landlord in the Shopping Center as the same may then be encumbered and neither Landlord, nor if Landlord be a partnership, any of the partners comprising such partnership, shall be liable for any deficiency. It is understood that in no event shall Tenant have any right to levy execution against any property of Landlord other than its interest in the Shopping Center as expressly provided herein. In the event of the sale or other transfer of Landlord's right, title and interest in the Leased Premises of the Shopping Center, Landlord shall be released from all liability and obligations hereunder except liability to Tenant accrued prior to the date of such transfer.

SECTION 26. MISCELLANEOUS PROVISIONS

- (a) **WAIVER:** No waiver of any condition or legal right or remedy shall be implied by the failure of Landlord to declare forfeiture of for any other reason., and no waiver of any condition or covenant shall be

valid unless it be in writing signed by Landlord. No waiver by Landlord with respect to one or more Tenants or occupants of the Shopping Center shall constitute a waiver of or a breach of any condition nor be claimed or pleaded as an excuse of a future breach of the same condition or covenant,

(b) **SURRENDER & HOLDING OVER:** Tenant shall deliver up and surrender to Landlord possession of the Leased Premises upon the expiration of the Lease, or its termination in any way, in as good condition and repair as the same shall be at the commencement of said term (damage by fire and other perils covered by standard fire and extended coverage insurance and wear and decay only excepted). Should Tenant remain in possession of the Leased Premises after any termination of this Lease, no tenancy or interest in the Leased Premises shall result there from but such holding over shall be subject to immediate eviction and removal, and Tenant shall, upon demand, pay to Landlord, as liquidated damages, a sum equal to double the Minimum Rent as specified herein for any period during which Tenant shall hold the Leased Premises after the stipulated term of this Lease may have terminated.

(c) **TRANSFER OF LANDLORD'S INTEREST:** Landlord shall be liable under this Lease only while the owner of the Shopping Center, and if Landlord should sell or otherwise transfer Landlord's interest in the Shopping Center upon an undertaking by the purchaser, or transferee, to be responsible for all of the covenants and undertakings of Landlord, Tenant agrees that Landlord shall thereafter have no liability to Tenant under this Lease or any modification or amendment thereof, except for such liabilities which might have accrued prior to the date of such sales or transfer of Landlord's interest.

(d) **LANDLORD'S LIEN:** Tenant, if permitted by the laws of the state governing this Lease, grants to Landlord, and Landlord shall have a lien and/or valid security interest upon Tenant's fixtures, machinery, equipment, goods, wares, merchandise, and other personal property for the performance of the obligations of Tenant under this Lease. Landlord, in addition to any other remedies permitted by law, shall have the right, upon fifteen (15) days prior written notice to Tenant, to enter the Leased Premises to enforce said security interests. Tenant hereby agrees to execute such financing statements and other instruments necessary or desirable in Landlord's discretion to perfect the security interest hereby created. Any statutory lien for rent is not hereby waived, the express contractual lien herein granted being in addition and supplementary thereto.

(e) **BROKERS' COMMISSIONS:** Tenant represents and warrants that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease and agrees to indemnify Landlord against and hold it harmless from all liabilities arising from any such claim, including the cost of attorney fees.

(f) **SUCCESSORS & ASSIGNS:** This Agreement inures to the benefit of, and shall be binding upon the parties, their heirs, successors, assigns and legal representatives, subject only to the provisions restricting assignment and subleasing.

(g) **JOINT & SEVERAL LIABILITY:** The parties to this Lease, as shown on the face plate and Page 1, are jointly and severally liable under all terms, conditions, and covenants of this Lease.

SECTION 27: ATTORNEY'S FEES

Should it become necessary for Lessor to employ an attorney to enforce any of the conditions or covenants hereof, including the collection of rents or gaining possession of the Premises, Lessee agrees to pay all expenses so incurred, including a reasonable attorneys' fee.

SECTION 28. FINAL EXPRESSION OF PARTIES' AGREEMENT

This Lease is the final expression of the parties' agreement. All other prior written or oral agreements and understandings, if any, are superseded. Tenant and Landlord warrant and agree that no promises, representations, waivers, or courses of conduct not set forth herein have been made or are being relied upon. This Lease may be modified only by a writing signed by Landlord and Tenant.

SECTION 29. LANDLORD'S RIGHT TO RELOCATE TENANT IN THE SHOPPING CENTER

Landlord reserves the right at any time during the Term to change the location of the Premises to another space similar in size in the Shopping Center upon sixty (60) days prior written notice to Tenant (the "Relocation Period"), subject to any applicable zoning regulations and ordinances. Such new Premises shall be improved by Landlord comparably to the original Premises at the Commencement Date. Prior to the expiration of the Relocation Period, Landlord and Tenant shall execute an amendment to this Lease substituting the new location for the present location, adjusting the floor space of the new space, and proportionately adjusting Additional Rent, as applicable, based upon the change in size of the Premises, and, further, Landlord shall reimburse all reasonable direct, third party, out of pocket costs incurred, and substantiated, by Tenant in moving from the Premises to the new location. At Landlord's request prior to any such relocation, Tenant shall provide Landlord with a written good faith estimate of such costs. Tenant

shall deliver possession of the relocated Premises to Landlord on or before the expiration of the Relocation Period in the condition required pursuant to this Lease and, subject to all charges which are due and owing or which shall accrue up to such date (which charges shall be paid to Landlord within thirty (30) days of such date), Tenant shall be released from any and all further obligations pursuant to this Lease accruing after such date with respect to the vacated Premises; provided, however, Tenant shall continue to be liable for all obligations accruing under this Lease after the date of such relocation. In such event this Lease and each and all of the terms and covenants and conditions hereof shall remain in full force and effect and thereupon be deemed applicable to such new space except that revised Reference Pages and a revised Exhibit A shall become part of this Lease and shall reflect the location of the new premises.

SECTION 30. FINANCIAL INFORMATION OF TENANT

Tenant shall at any time and from time to time during the term of this Lease, within fifteen (15) days of written request by Landlord, deliver to Landlord such financial information concerning Tenant and Tenant's business operations (and the Guarantor of this Lease, if the Lease be guaranteed) as may be reasonably requested by any mortgagee or prospective mortgagee or purchaser. If Tenant fails to provide such information promptly, then, without limiting any other remedy which Landlord may have for such failure, Landlord may thereupon terminate this Lease on not less than ten (10) days written notice.

SECTION 31. CANCELLATION OF PRIOR LEASE

Upon execution of this lease, the prior lease by and between Tenants and C LEVEL INVESTMENTS (predecessor in interest to 1001 Harborview, LLC) dated June 1, 2013, shall become null and void. All terms and conditions of this lease shall prevail from this point forward.

IN WITNESS WHEREOF, each party has caused this lease to be executed under seal by its duly authorized representative.

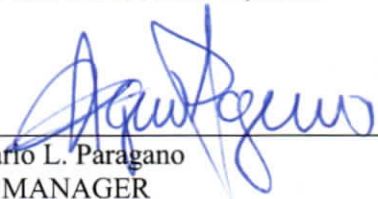
Signed in the Presence of:

LANDLORD:

1001 HARBORVIEW, LLC

WITNESS:



BY: 
Nazario L. Paragano
ITS: MANAGER

WITNESS:

TENANT:

QUYEN TIET AND PHILLIP TRAN



BY: 
ITS: _____

QUYEN TIET


Name: _____

BY: 
Personally as Tenant and Guarantor

PHILLIP TRAN


Name: _____

BY: 
Personally as Tenant and Guarantor

GUARANTY OF FULL PERFORMANCE

THIS GUARANTY is made and entered into at Charleston, SC, this 22 day of December, 2021, Quyen Tiet and Phillip Tran (hereinafter referred to, collectively, as "GUARANTORS").

WITNESSETH:

WHEREAS 1001 HARBORVIEW, LLC as Landlord (hereinafter referred to as "LANDLORD"), and Quyen Tiet and Phillip Tran as Tenant (hereinafter referred to as "TENANT"), have entered into a Lease Agreement (hereinafter "LEASE") dated the 22 day of December, 2021, a copy of which LEASE is attached hereto and incorporated herein; and

WHEREAS, as an inducement for LANDLORD to enter into said LEASE, GUARANTOR has agreed to guaranty the full performance of all obligations of TENANT, as lessee, under said LEASE for the ten (10) years of the Lease Agreement and one five (5) year Option period.

NOW THEREFORE, in consideration of the execution and delivery of the LEASE by LANDLORD, and other valuable consideration, receipt of which is hereby acknowledged, GUARANTOR, hereby guarantees the full and prompt payment of rent and other leasehold charges required to be paid by TENANT pursuant to the LEASE, together with the full performance and observance of all covenants and agreements contained in said LEASE and to be performed on the part of TENANT.

This Guaranty is absolute and unconditional and shall not be released, or deemed to be release, prior to the expiration of the term of said LEASE, and any extensions thereof, unless released by LANDLORD, by written instrument.

Demand and notice of non-payment or non-performance, diligence in collection and notice of acceptance of this Guaranty are hereby expressly waived.

The undersigned acknowledged that LANDLORD may, from time to time, at his discretion, without prior notice to or consent of the undersigned, and without in any way impairing or affecting GUARANTOR'S liability created hereby:

- 1) Change the manner, place or term of the payment under said LEASE or extend the time of payment, subject to Tenant's consent;
- 2) Settle or compromise with TENANT as lessee, any liabilities arising under said LEASE to such extent as it may determine without affecting the liability of GUARANTOR.

GUARANTOR certifies that he has full authority to enter into this Guaranty and that the same is his free act and deed.

IN WITNESS WHEREOF, GUARANTOR has set his hand the day and year first written above.

****The balance of the page intentionally left blank****

Signed in the Presence of:

GUARANTOR:

[Signature]
Quyen Tiet

12/22/2021
Date

STATE OF SOUTH CAROLINA)

COUNTY OF Charleston)

BEFORE ME, Charlotte King a Notary Public of the County and State aforesaid, did personally appear the above named Quyen Tiet who acknowledged that he did sign the foregoing with full authority herein and that the same is his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____ this 22 day of December, 2021.

[Signature]
NOTARY PUBLIC
My commission expires: 3-1-26



GUARANTOR:

[Signature]
Phillip Tran

12/22/2021
Date

STATE OF SOUTH CAROLINA)

COUNTY OF Charleston)

BEFORE ME, Charlotte King a Notary Public of the County and State aforesaid, did personally appear the above named Phillip Tran who acknowledged that she did sign the foregoing with full authority herein and that the same is his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____ this 22 day of December, 2021.

[Signature]
NOTARY PUBLIC
My commission expires: 3-1-26



EXHIBIT A

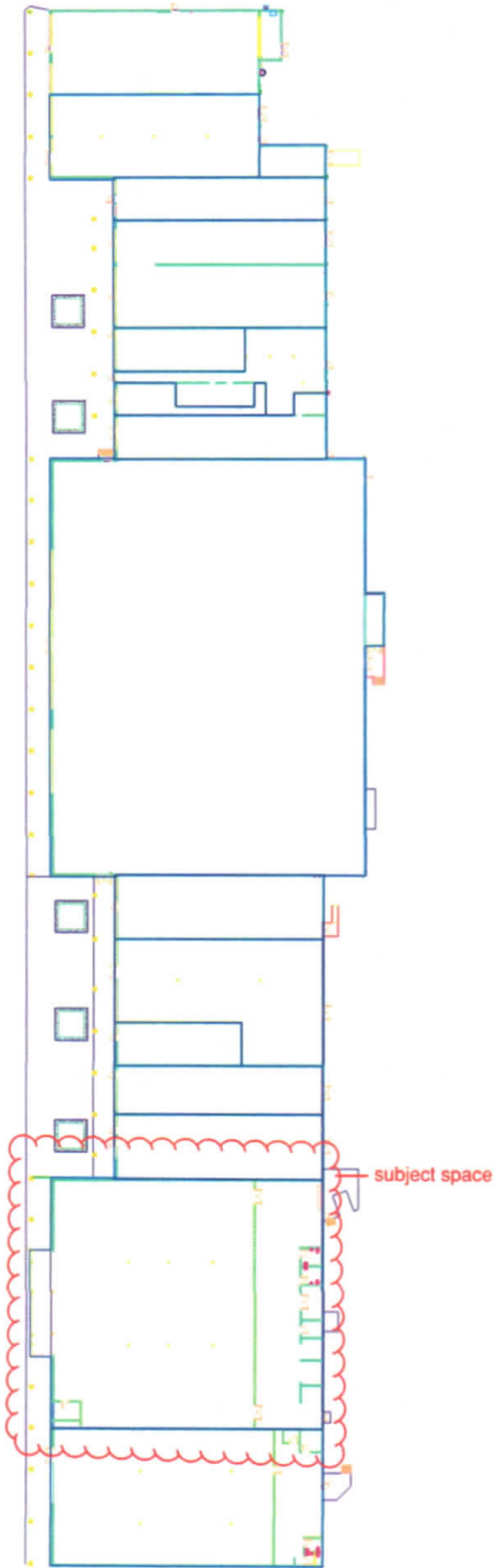
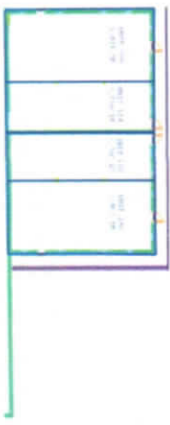


Exhibit B 1
Landlord's Work

Landlord, at its sole cost and expenses, will design, in its sole and absolute discretion, and undertake the following work, unless provided elsewhere to the contrary, in the Shopping Center and the Premises:

1. The installation of a "roll up" style door on the left wall of the building facing the courtyard.
2. The installation of a man door/store front on the same wall as the roll up door
3. Relocating existing storefront doors.
4. No other work will be performed by Landlord inside the Premises. The intent of which makes this an "as is" deal with the exception f 1 and 2 above.

EXHIBIT B 2

Tenant's Work

Tenant, as its sole cost and expense, shall perform all work, other than that to be performed by Landlord as set forth in Part I of this Exhibit, required to complete the Premises to a finished condition ready for the conduct of business therein.

Tenant's work shall include without limitation the following the following:

A. Design Drawings and Working Drawings and Specifications

B. Construction Criteria

1. The criteria and/or outline specifications as set forth herein represent minimum standards for the design, construction and finish of the Premises by Tenant.

a. General

- (i) **Jurisdiction and Codes:** The Shopping Center is being developed in and under the jurisdiction of the City and state. All design and construction work shall comply with all applicable statutes, ordinances, regulations, laws and codes, including, without limiting the foregoing, The National Electric Code, The Guide of American Society of Heating, Refrigerating and Air Conditioning Engineers and the requirements of Landlord's fire insurance underwriter.
- (ii) **Permits and Approvals:** Prior to the commencement of construction, building and other permits for Tenant's Work, if appropriate, shall be obtained by Tenant at Tenant's expense and posted in a prominent place within the Premises. Landlord's written approval shall be obtained by Tenant prior to submitting plans to local building department for permits and before undertaking any construction work which deviated from Tenant's Design Drawings, as approved by Landlord, or the undertaking of any modifications whatsoever to Landlord's building shell and/or utilities and other work not explicitly shown on said Design Drawings. Landlord's approval of the foregoing shall not constitute the assumption of any responsibility by Landlord for the accuracy of sufficiency thereof, and Tenant shall be solely responsible thereof.
- (iii) **Standard Project Details:** Standard Project Details, as issued by Landlord's Architect, and as they pertain to Tenant's Work shall govern with respect to such work. Such details shall be incorporated in the Interior Design Drawings for the Premises.
- (iv) **Materials:** Only new, first-class material shall be used in the construction of the Premises.
- (v) **Field Conditions:** Tenant shall verify conditions pertaining to the Premises from time to time, prior to and after commencement of construction. Tenant shall coordinate work with other or with existing conditions occurring above or below Premises and shall make changes from time to time as required to accommodate such work or conditions.

A. Interior Finishes and Improvements

1. Tenant's Work shall include, but not be limited to, the following within the Premises.

- a. **Floor Coverings:** Carpeting, wood flooring, marble or quarry tile shall be extensively used in sales and other customer areas. A limited amount of

other types of floor coverings materials (subject to Landlord's approval) may be used in such areas.

- b. **Wall Coverings:** Interior painting, decorating, paneling, wallpaper, peg board, ext on walls and columns.
- c. **Interior Partitions:** All interior partitions shall be metal stud construction with gypsum board finish on all sides with taped and spackled joints.
- d. **Special Lighting:** Chandeliers, decorative lighting and interior spotlights, including wiring for same, as required by Tenant.
- e. **Fixtures:** Built-ins, counter, kitchen, kitchen equipment and all other trade fixtures including, without limitation, cash registers, time clocks, etc. And all additional wiring and outlets for same.
- f. **Telephone:** Extension of telephone incoming feeders from project central distribution backboard.
- g. **Additional Electrical:** Signs, burglar alarms, etc. and all related conduit and wiring. Additional electrical service not provided by Landlord shall be reviewed and approved by Landlord.

B. Other Requirements

- 1. **Space Verification.** Tenant shall be obligated to have its architect, store planner, engineer or contractor conduct an on-site verification of all dimensions and field conditions prior to proceeding with Tenant's Work.
- 2. **Insurance Requirements.** Prior to commencement of Tenant's Work and until completion thereof, or commencement of the Lease Term, whichever is the last occur, Tenant shall effect and maintain Builder's Risk Insurance covering Landlord, Landlord's general contractor, Tenant, Tenant's contractors and Tenant's subcontractors, as their interest may appear against loss of damage by fire, vandalism and malicious mischief and such other risks as are customarily covered by a standard "All Risk" policy of insurance protecting against all risk of physical loss or damage to all Tenant's Work, and all materials, equipment, supplies and temporary structures, or while on the Premises or within the Landlord's Tract, all to the accrual replacement cost thereof at all times on a completed value basis. In addition, Tenant agrees to indemnify and hold Landlord harmless against any and all claims for injury to persons or damage to property by reasons of the use of the Premises for the performance of Tenant's Work, and claims, fines, and penalties arising out of any failure of Tenant of its agents, contractors and employees to comply with any law, ordinance, code requirement applicable to Tenant's Work and Tenant agrees to require all contractors and subcontractors engaged in the performance of Tenant's Work to effect and maintain and deliver to Tenant and Landlord, certificates evidencing the existence of, and covering Landlord, Tenant and Tenant's contractors, prior to commencement of Tenant's Work and until completion thereof, the following insurance coverages:
 - a. **Workmen's Compensation and Occupational Disease insurance** in accordance with laws of the State in which the property is located and Employer's Insurance to the limit of \$ 100,000.00.
 - b. **Commercial General Liability Insurance** affording protection for bodily injury, death, personal injury and property damage, and including coverage for contractual liability, independent contractors, completed operations and products liability with limits of not less than \$ 3,000,000.00 combined single limit per occurrence.
 - c. **Comprehensive Automobile Liability Insurance**, including coverage for "non-owned" automobiles, for property damage, bodily injury, including

death resulting therefrom with limits of not less than \$ 1,000,000.00 for any one occurrence combined singles limit.

- d. Owners and contractors' protective liability coverage for an amount not less than \$ 1,000,000.00
3. Damage Deposit. Prior to commencement of construction in the Premises, Tenant or its agent shall deliver a \$ 5,000.00 damage deposit in the form of a cashier's check made payable to Landlord. Landlord shall have the right to use all or any part of said damage deposit as reimbursement for any damage caused by Tenant of its contractors to any mall finishes.
4. Impact Fees. Tenant shall pay any additional impact fees for alterations beyond Landlord's planned provisions (toilet room(s) etc.) as stated above assessed by applicable governmental authorities having jurisdiction.
5. Construction Rules. Tenant will abide by and cause its contractors, subcontractors, agents and employees to abide by rules and regulations published by Landlord from time to time, including, but not limited to, those pertaining to parking, toilet facilities, safety conduct, delivery of materials and supplies, employee egress to the Center, trash storage or collection or removal, and cooperation with Landlord's architect, general contractor and subcontractors or other agents.
6. Reasonable Easement. Landlord specifically reserves the rights (and Tenant shall permit Landlord or its employees, agents or contractors reasonable access to the Premises for the purpose of exercising such rights), to install, maintain, repair and replace in the ceiling space and/or under the concrete slab in the Premises, all such electrical, plumbing, HVAC and other system components that may be required to service the Common Areas or other tenants in the Center. Adequate access panels or doors shall be incorporated into Tenant Work for inspection, service and replacement of both Landlord and Tenant equipment.

EXHIBIT "C"
SIGNAGE CRITERIA

THE SHOPPES AT MONTAGUE CORNERS
Formerly Oak Ridge Shopping Center

1. Signage must be approved by The City of North Charleston and receive a permit from the municipality.
2. Landlord hereby approves Tenant's standard signage, including colors and logos, on the façade of the Leased Premises, which shall be the maximum allowable signage on the façade(s) of the Leased Premises as permitted by applicable law – see attached sign spec as Exhibit C. Tenant shall also have the right to install its standard signage on any available pylon/monument sign.
3. Tenant shall be permitted to install a "coming soon" banner thirty (30) days prior to Tenant opening for business and a "grand opening" sign for thirty (30) days after opening for business.
4. Signage must be channel-lit letters on a raceway or other Landlord approved design.
5. At Tenant's expense, Tenant shall remove all façade signage within fourteen (14) business days upon expiration of the Lease Agreement or Tenant vacating the Premise as outlined in the Lease Agreement.

All signage shop drawings shall be submitted to Landlord in care of:

1001 Harborview, LLC
Attn: Rick Pennoyer
Rick@tenantdev.com

EXHIBIT "D"

COMMENCEMENT DATE AGREEMENT

THIS COMMENCEMENT DATE AGREEMENT (the "Agreement") is entered into on _____ 20____, between _____, a _____ ("Landlord"), and _____, a _____ ("Tenant")

WHEREAS, Landlord and Tenant have entered into that certain Lease dated _____, 20____ (the "Lease"), for the Premises Located at _____ (*shopping center*) in _____ (city), _____ (state), all as more particularly described in the lease; and

WHEREAS, Landlord and Tenant wish to set forth their agreements as to the commencement of the term of the Lease.

NOW, THEREFORE, in consideration of the Premises as described in the Lease and the covenants set forth therein, Landlord and Tenant agree as follows:

- 1. Capitalized and defined terms used in this Agreement shall have the same meanings as those ascribed to them in the Lease unless the context clearly required otherwise.
- 2. The initial Lease Term commenced on _____
- 3. The initial Lease Term shall expire on _____
- 4. The Rent Commencement Date under the Lease is _____.
- 5. The Square Footage of the Premises is approximately _____.
- 6. Set forth in the table below are: (i) the dates by which Tenant must deliver written notice to Landlord if Tenant elects to exercise a Renewal Term; (ii) the commencement dates for each Renewal Term; and (iii) the expiration dates for each Renewal Term:

Renewal Terms Period	Notice Date	Commencement Date	Expiration Date

Tenant's failure to execute this Agreement within ten (10) business days following Tenant's receipt hereof shall be deemed as Tenant's acceptance of the terms hereof, pursuant to Article III of the Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year above written.

1001 HARBORVIEW, LLC

BY: _____
Nazario L. Paragano
ITS: MANAGER

QUYEN TIET AND PHILLIP TRAN

BY: _____
QUYEN TIET AND PHILLIP TRAN
ITS: MANAGER

EXHIBIT "E"

Limited Power of Attorney

STATE OF SOUTH CAROLINA)	
	)	LIMITED POWER OF ATTORNEY
	)	Montague Corners
	)	5060 Dorchester Road
COUNTY OF CHARLESTON	)	North Charleston, SC

KNOW ALL MEN BY THESE PRESENTS THAT I, Quyen Tiet, on behalf of Unit 360 do hereby make, constitute and 1001 Harborview, LLC and its agent Rick Pennoyer, as my Attorney-in-Fact for and in my place and stead, the same as I could do if personally present to act on behalf of tenant space, unit 360 to contact and request the city of North Charleston or Charleston Police Department or any other applicable force (collectively, the "Police") to vacate any trespassers or uninvited guests on the leased premises consisting of Unit #360 (the "Premises"), 5060 Dorchester Road, Charleston, SC (the "Property"). I do hereby specifically authorize my said Attorney-in-Fact to execute and deliver on my behalf any form, reports, documents, evidence, etc. that will assist the Police in removing any individual who should no longer be on the Premises of the Property, including, but not limited to, arrests, no trespass orders, or other forms deemed necessary by the Police to cure the issue of any trespasser or uninvited guests.

I DO HEREBY RATIFY AND CONFIRM any and all that my Attorney-in-Fact may have done on my behalf pursuant to the authorization expressed in this instrument.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing his/her own estate. It is the intent of the undersigned that the authority conferred upon the above-named Attorney-in-Fact shall be exercisable notwithstanding his/her physical disability or mental incompetence in accordance with the South Carolina Probate Code which provides that Powers of Attorney shall not be terminated by the disability or mental incompetence of the principals whenever the document creating the Power of Attorney so provides and establishes certain safeguards.

The undersigned does hereby grant permissions to 1001 Harborview, LLC and its agent Rick Pennoyer, my Attorney-in-Fact, to correct and/or execute or initial all typographical or clerical errors in any or all renewal documents required to be executed by the undersigned at renewal.

This Limited Power of Attorney shall automatically terminate 365 days from the date executed.

[rest of page intentionally left blank]

EXHIBIT B

Notice of Default and Termination of Lease



222 WEST COLEMAN BLVD.
MT. PLEASANT, SC 29464
(P) 843-936-6680

3422 RIVERS AVE.
NORTH CHARLESTON, SC 29405
(P) 854-444-2018

227B SOUTH CEDAR ST.
SUMMERVILLE, SC 29483
(P) 843-285-5741

July 18, 2022

SENT VIA CERTIFIED MAIL AND EMAIL

Phillip Tran and Quyen Tiet
2 Queens Way
Greenville, SC 29615
phillip8tran@gmail.com

1001 Harborview, LLC
1124 Park West Blvd
Suite 101
Mt. Pleasant, SC 29466

RE: **Notice of Default and Termination of Lease**
5060 Dorchester Road, Unit 360, North Charleston, SC 29405

Dear Mr. Tran:

Please be advised that Cobb Dill & Hammett, LLC, represents 1001 Harborview, LLC, (“Landlord”) with respect to the Lease Agreement between Landlord, Phillip Tran, and Quyen Tiet, dated December 22, 2021, for the rental premises located at 5060 Dorchester Road, Unit 360, North Charleston, SC 29405 (“Lease”). The Lease is enclosed herein at **Exhibit A**.

This letter serves as official notice that you are in default of the Lease for failing to tender payments due under the Lease. Under Section 19 of the Lease, a tenant is in default when they fail to pay any minimum rent or additional charges as stated by the Lease by the due date and such failure continues for a period of ten (10) days after the due state for such payment.

Upon an occurrence of default, Landlord may choose to terminate the Lease, along with other remedies pursuant to Section 19. Landlord will make diligent efforts to relet the premises in order to mitigate loss, however, the termination of this Lease does not release you from the obligations created thereunder.

Therefore, **THIS LETTER SERVES AS NOTICE THAT LANDLORD HEREBY ELECTS TO EXERCISE ITS RIGHT TO TERMINATE THE LEASE PURSUANT TOT SECTION 19 THEREIN, WHICH SHALL BE EFFECTIVE FIVE (5) DAYS AFTER YOUR RECEIPT OF THIS LETTER.**

Finally, you signed a Guaranty of Full Performance on December 22, 2021, which personally guaranteed full performance under the Lease, including, but not limited to, the full and prompt payment of rent and additional charges as agreed under the Lease.

@



Hal E. Cobb, Esq.
For Cobb Dill & Hammett, LLC

EXHIBIT A

AFFIDAVIT OF SERVICE

State of South Carolina

County of Charleston

Common Pleas Court

Case Number: 2022-CP-10-04219

Plaintiff:
1001 Haborview LLC

vs.

Defendant:
Philip Tran and Quyen Tiet

Received by FALCON EXPRESS SERVICES, LLC to be served on **Quyen Tiet, 3506 W. Montague Avenue, Suite 201, N. Charleston, SC 29418.**

I, Margaret B. Buchanan, being duly sworn, depose and say that on the **14th day of September, 2022 at 10:59 am,** I:

INDIVIDUALLY/PERSONALLY served by delivering a true copy of the **LETTER, SUMMONS, COMPLAINT, and EXHIBITS** to: **Quyen Tiet** at the address of: **3506 W. Montague Avenue, Suite 201, N. Charleston, SC 29418**, in compliance with state statutes.

Military Status: Based upon inquiry of party served, Defendant is not in the military service of the United States of America.

Description of Person Served: Age: 47, Sex: F, Race/Skin Color: Asian, Height: 5'5", Weight: 140, Hair: Black, Glasses: N

Is the place of service the dwelling / usual place of abode for the party served? () Yes No () Unknown

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on the 14 day of September, 2022 by the affiant who is personally known to me.

Keri Jenelle Pugh
NOTARY PUBLIC
My Commission Expires: 11/26/23

Margaret B. Buchanan
Margaret B. Buchanan
Process Server

FALCON EXPRESS SERVICES, LLC
P.O. Box 874
Charleston, SC 29402-0874
(843) 577-9696

Our Job Serial Number: FES-2022005736



EXHIBIT B

AFFIDAVIT OF SERVICE

State of South Carolina

County of Charleston

Common Pleas Court

Case Number: 2022-CP-10-04219

Plaintiff:
1001 Haborview LLC

vs.

Defendant:
Philip Tran and Quyen Tiet

Received by FALCON EXPRESS SERVICES, LLC to be served on **Philip Tran, 3506 W. Montague Avenue, Suite 201, N. Charleston, SC 29418.**

I, Margaret B. Buchanan, being duly sworn, depose and say that on the **14th day of September, 2022** at **10:59 am**, I:

INDIVIDUALLY/PERSONALLY served by delivering a true copy of the **LETTER, SUMMONS, COMPLAINT, and EXHIBITS** to: **Philip Tran** at the address of: **3506 W. Montague Avenue, Suite 201, N. Charleston, SC 29418**, in compliance with state statutes.

Military Status: Based upon inquiry of party served, Defendant is not in the military service of the United States of America.

Description of Person Served: Age: 60, Sex: M, Race/Skin Color: Asian, Height: 5'4", Weight: 150, Hair: Salt & Pepper, Glasses: N

Is the place of service the dwelling / usual place of abode for the party served? () Yes () No () Unknown

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

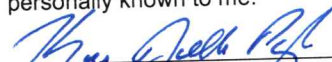


Margaret B. Buchanan
Process Server

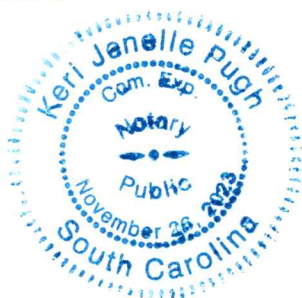
FALCON EXPRESS SERVICES, LLC
P.O. Box 874
Charleston, SC 29402-0874
(843) 577-9696

Our Job Serial Number: FES-2022005739

Subscribed and Sworn to before me on the 14 day
of September, 2022 by the affiant who is
personally known to me.



NOTARY PUBLIC
My Commission Expires: 11/26/23



RECEIVED

Jul 18 2025

SC Court of Appeals

CERTIFICATE OF COUNSEL IN RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Honorable Jennifer B. McCoy, Circuit Court Judge

Charleston County

Appellate Case No. 2024-001612

1001 Harborview, LLC..... Appellant,

vs.

Phillip Tran and Quyen Tiet..... Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal complies with Rule 210 and 267, SCACR.

s/ Jenna K. DePoy

Jenna K. DePoy, Esq.
S.C. Bar No.: 106309
jdepoy@cobbhammett.com
Hal E. Cobb, Esq.
S.C. Bar No.: 100575
hcobb@cobbhammett.com
Cobb Hammett Law Firm
222 W. Coleman Blvd.,
Mt. Pleasant, SC 29464
Phone: (843) 936-6680

July 14, 2025
Mt. Pleasant, SC