

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA RECOMMENDING TO THE NEBRASKA LIQUOR CONTROL COMMISSION, APPROVAL OF A CLASS D LIQUOR LICENSE FOR SHIVEN, LLC DBA JD'S LIQUOR LOCKER IN LA VISTA, NEBRASKA.

WHEREAS, Shiven, LLC dba JD's Liquor Locker, 8052 S. 84th Street, La Vista, Sarpy County, Nebraska, has applied to the Nebraska Liquor Control Commission for a Class D Liquor License; and

WHEREAS, the Nebraska Liquor Control Commission has notified the City of said application; and

WHEREAS, the City has adopted local licensing standards to be considered in making recommendations to the Nebraska Liquor Control Commission; and

WHEREAS, said licensing standards have been considered by the City Council in making its decision;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, hereby recommend to the Nebraska Liquor Control Commission approval of a Class D Liquor License submitted by Shiven, LLC dba JD's Liquor Locker, 8052 S. 84th Street, La Vista, Sarpy County, Nebraska.

PASSED AND APPROVED THIS 21ST DAY OF MAY 2024.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk



**LA VISTA POLICE DEPARTMENT
INTER-DEPARTMENT MEMO**

TO: Pam Buethe, City Clerk

FROM: Acting Chief Captain D. J. Barcal

DATE: May 2, 2024

RE: Local Background Check– Shiven, LLC DBA JD's Liquor Locker

The La Vista Police Department has reviewed the Nebraska Liquor Control Commission Documents completed by the applicant and conducted a check of local records relating to the Manager Application of Shivani Patel for Shiven LLC, DBA JD's Liquor Locker at 8052 S. 84th Street. No criminal record was located.

As with all Nebraska Retail Liquor Licenses, I am asking the applicant strictly conform to Nebraska Liquor Commission rules and regulations under Section 53-131.01, Nebraska Liquor Control Act.

APPLICATION FOR LIQUOR LICENSE CHECKLIST RETAIL

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
EMAIL: lcc.frontdesk@nebraska.gov
WEBSITE: www.lcc.nebraska.gov

| | |
|-----------------|--------|
| License Class: | D |
| License Number: | 126402 |

| | |
|------------------------------------|-------------|
| RECEIVED | |
| Office Use Only | APR 18 2024 |
| Date Stamp HERE ONLY | |
| Do not stamp | |
| NEBRASKA LIQUOR CONTROL COMMISSION | |

| |
|--|
| <u>Office Use Only</u> |
| NEW / REPLACING <u>122464</u> |
| TOP <input checked="" type="radio"/> Yes / <input type="radio"/> No |
| Hot List <input checked="" type="radio"/> Yes / <input type="radio"/> No |
| Initial: <u>VT</u> |

PLEASE READ CAREFULLY

See directions on the next page. Provide all the items requested. Failure to provide any item will cause this application to be returned or placed on hold. All documents must be legible. Any false statement or omission may result in the denial, suspension, cancellation or revocation of your license. If your operation depends on receiving a liquor license, the Nebraska Liquor Control Commission cautions you that if you purchase, remodel, start construction, spend or commit money that you do so at your own risk. Prior to submitting your application review the application carefully to ensure that all sections are complete, and that any omissions or errors have not been made. You may want to check with the city/village or county clerk, where you are making application, to see if any additional requirements must be met before submitting application to the Nebraska Liquor Control Commission.

APPLICANT NAME Shiven, LLC

TRADE (DBA) NAME JD's Liquor Locker

PREVIOUS TRADE (DBA) NAME _____

CONTACT NAME AND PHONE NUMBER Steven Ranum

CONTACT EMAIL ADDRESS sranum@crokerlaw.com

| | |
|-----------------|-----------------|
| Office use only | |
| PAYMENT TYPE | <u>Pay Port</u> |
| AMOUNT | <u>\$600</u> |
| RECEIVED: | <u>4/18/24</u> |
| DATE DEPOSITED | |

| |
|--|
|  |
| 2400004045 |

**CLASS OF LICENSE FOR WHICH APPLICATION IS MADE AND FEES
CHECK DESIRED CLASS**

RETAIL LICENSE(S) Application Fee \$400 (nonrefundable)

CLASS C LICENSE TERM IS FROM NOVEMBER 1 – OCTOBER 31

ALL OTHER CLASSES TERM IS MAY 1 – APRIL 30

A BEER, ON SALE ONLY

B BEER, OFF SALE ONLY**

C BEER, WINE, DISTILLED SPIRITS, ON AND OFF SALE**

Do you intend to sale cocktails to go as allowed under Neb Rev. Statute 53-123.04(4) YES NO

D BEER, WINE, DISTILLED SPIRITS, OFF SALE ONLY**

F BOTTLE CLUB,

I BEER, WINE, DISTILLED SPIRITS, ON SALE ONLY

Do you intend to sale cocktails to go as allowed under Neb Rev. Statute 53-123.04(5) YES NO

J LIMITED ALCOHOLIC LIQUOR, OFF SALE – MUST INCLUDE SUPPLEMENTAL FORM 120

AB BEER, ON AND OFF SALE

AD BEER ON SALE ONLY, BEER, WINE, DISTILLED SPIRITS OFF SALE

IB BEER, WINE, DISTILLED SPIRITS ON SALE, BEER OFF SALE ONLY

Class K Catering endorsement (Submit Form 106) – Catering license (K) expires same as underlying retail license

Class G Growler endorsement (Submit Form 165) – Class C licenses only

**Class B, Class C, Class D license do you intend to allow drive through services under Neb Rev. Statute 53-178.01(2) YES NO

**ADDITIONAL FEES WILL BE ASSESSED AT THE CITY/VILLAGE OR COUNTY LEVEL WHEN THE
LICENSE IS ISSUED**

CHECK TYPE OF LICENSE FOR WHICH YOU ARE APPLYING

Individual License (requires insert FORM 104)

Partnership License (requires insert FORM 105)

Corporate License (requires FORM 101 & FORM 103)

Limited Liability Company (LLC) (requires FORM 102 & FORM 103)

NAME OF ATTORNEY OR FIRM ASSISTING WITH APPLICATION (if applicable)

Name Steven Ranum Phone Number 4023916777

Firm Name Croker Huck Law Firm

Email address sranum@crokerlaw.com

Should we contact you with any questions on the application? YES NO

PREMISES INFORMATIONTrade Name (doing business as) JD's Liquor LockerStreet Address 8052 S. 84th StreetCity La VistaCounty SarpyZip Code 68128 - 3303Premises Telephone number 402-339-1634Business e-mail address spatel_india@hotmail.com

Is this location inside the city/village corporate limits

YES NO **MAILING ADDRESS (where you want to receive mail from the Commission)**

Check if same as premises

Name Shivani PatelStreet Address 6015 S. 191st TerraceCity OmahaState NEZip Code 68135 - 4195**DESCRIPTION AND DIAGRAM OF THE AREA TO BE LICENSED**

IN THE SPACE PROVIDED BELOW DRAW OR ATTACH A DIAGRAM OF THE AREA TO BE LICENSED

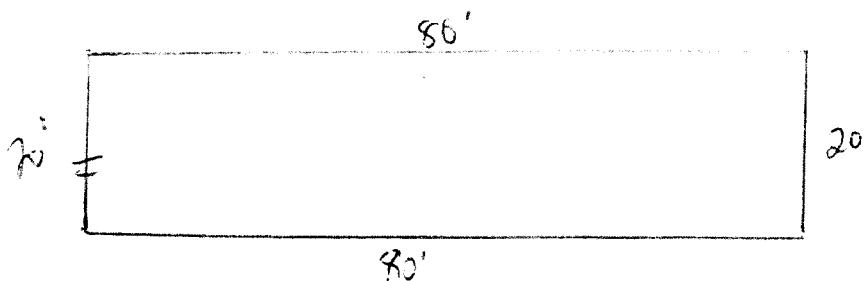
DO NOT SEND BLUEPRINTS, ARCHITECH OR CONSTRUCTION DRAWINGS

PROVIDE LENGTH X WIDTH IN FEET (NOT SQUARE FOOTAGE)

INDICATE THE DIRECTION OF NORTH

Building length 80 x width 20 in feetIs there a basement? Yes No If yes, length x width in feetIs there an outdoor area? Yes No If yes, length x width in feet+

*If including an outdoor area permanent fencing is required. Please contact the local governing body for other requirements regarding fencing

Number of floors of the building 1**PROVIDE DIAGRAM OF AREA TO BE LICENSED BELOW OR ATTACH SEPARATE SHEET**

APPLICANT INFORMATION

1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY §53-125(5)

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name.

Include traffic violations. Commission must be notified of any arrests and/or convictions that may occur after the date of signing this application.

YES _____ NO If yes, please explain below or attach a separate page

| Name of Applicant | Date of Conviction (mm/yyyy) | Where Convicted (city & state) | Description of Charge | Disposition |
|-------------------|------------------------------|--------------------------------|-----------------------|-------------|
| Shivani Patel | 2009 | Omaha, NE | Speeding | Paid Fine |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

2. Was this premise licensed as liquor licensed business within the last two (2) years?

YES _____ NO

If yes, provide business name and license number JSV, LLC; 122466

3. Are you buying the business of a current retail liquor license?

YES _____ NO

If yes, give name of business and liquor license number JSV, LLC; 122466

4. Are you filing a temporary operating permit (TOP) to operate during the application process?

YES _____ NO

If yes

a) Attach temporary operating permit (TOP) (Form 125)

a) Submit a copy of the business purchase agreement

b) Include a list of alcohol being purchased, list the name brand, container size and how many

c) Submit a list of the furniture, fixtures and equipment

5. Are you borrowing any money from any source, include family or friends, to establish and/or operate the business?

YES NO

If yes, list the lender(s) **Ralston Management Group, LLC**

6. Will any person or entity, other than applicant, be entitled to a share of the profits of this business?

YES NO

If yes, explain. (all involved persons must be disclosed on application)

No silent partners 019.01E Silent Partners; Profit Sharing: No licensee or partner, principal, agent or employee of any Retail Liquor License shall permit any other person not licensed or included as a partner, principal, or stockholder of any Retail Liquor License to participate in the sharing of profits or liabilities arising from any Retail Liquor License. (53-1,100)

7. Will any of the furniture, fixtures and equipment to be used in this business be owned by others?

YES NO

If yes, list such item(s) and the owner. **Red Bull Cooler, Owned by Red Bull**

8. Is premises to be licensed within 150 feet of a church, school, hospital, home for indigent persons or for veterans, their wives, and children; or within 300 feet of a college or university campus?

YES NO

If yes, provide name and address of such institution and where it is located in relation to the premises (Nebraska Revised Statute 53-177(1) AND PROVIDE FORM 134 – CHURCH OR FORM 135 – CAMPUS AND LETTER OF SUPPORT FROM CHURCH OR CAMPUS

9. Is anyone listed on this application a law enforcement officer? If yes, list the person, the law enforcement agency involved and the person's exact duties. (Nebraska Revised Statute 53-125(15))

YES NO

10. List the primary bank and/or financial institution (branch if applicable) to be utilized by the business.

a) List the individual(s) who are authorized to write checks and/or withdrawals on accounts at this institution.

First National Bank of Omaha and/or American National Bank; Shivani Patel and Saumil Patel, authorized signers

11. List all past and present liquor licenses held in Nebraska or any other state by any person named in this application. Include license holder name, location of license and license number. Also list reason for termination of any license(s) previously held.

JSV, LLC; 122466; 8052 S. 84th Street; La Vista, NE 68128

Ralston Management Group, LLC (FoodMart), 8204 Harrison Street, Ralston, NE 68128, Lic #113942

12. List the alcohol related training and/or experience (when and where) of the person(s) making application. Those persons required are listed as followed:

- Individual: Applicant and spouse; spouse is exempt if they filed Form 116 – Affidavit of Non-Participation.
- Partnership: All partners and spouses, spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.
- Limited Liability Company: All member of LLC, Manager and all spouses; spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.
- Corporation: President, Stockholders holding 25% or more of shares, Manager and all spouses; spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.

NLCC certified training program completed

| Applicant Name | Date (mm/yyyy) | Name of program (attach copy of course completion certificate) |
|----------------|----------------|--|
| Saumil Patel | 03/2018 | Nebraska Alcohol Server/Seller Certification |
| | | |
| | | |

Experience

| Applicant Name/Job Title | Date of Employment | Name & Location of Business |
|----------------------------|--------------------|--|
| Saumil J. Patel/Supervisor | 8/10/2015 | Food Mart (Ralston Management Group LLC); 8204 Harrison St., Ralston, NE 68128 |
| Saumil J. Patel/Manager | 4/18/2018 | JD's Liquor Locker (JSV, LLC); 8052 S. 84th Street, La Vista, NE 68128 |
| | | |

13. If the property is owned, submit a copy of the deed or proof of ownership. If leased, submit a copy of the lease covering the entire license year.

Documents must be in the name of applicant as owner or lessee

Lease expiration date April 30, 2026
 Deed
 Purchase Agreement

14. When do you intend to open for business? May 1, 2024

15. What will be the main nature of business? Liquor Sales

16. What are the anticipated hours of operation? 9:30 a.m. - 9:30 p.m. M-Th; 9:30 a.m. - 10:00 p.m. F-Sat; Closed Sunday

17. List the principal residence(s) for the past 10 years for **ALL** persons required to sign, including spouses.

| RESIDENCES FOR THE PAST 10 YEARS | | | | | |
|----------------------------------|------|---------|---------------------|------|----|
| APPLICANT CITY & STATE | YEAR | | SPOUSE CITY & STATE | YEAR | |
| | FROM | TO | | FROM | TO |
| Saumil: Omaha, NE | 2013 | Present | | | |
| Shivani: Omaha, NE | 2013 | Present | | | |
| | | | | | |
| | | | | | |
| | | | | | |

If necessary, attach a separate sheet

PERSONAL OATH AND CONSENT OF INVESTIGATION
SIGNATURE PAGE – PLEASE READ CAREFULLY

The undersigned applicant(s) hereby consent(s) to an investigation of his/her background and release present and future records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant(s) and spouse(s) waive(s) any right or causes of action that said applicant(s) or spouse(s) may have against the Nebraska Liquor Control Commission, the Nebraska State Patrol, and any other individual disclosing or releasing said information. Any documents or records for the proposed business or for any partner or stockholder that are needed in furtherance of the application investigation of any other investigation shall be supplied immediately upon demand to the Nebraska Liquor Control Commission or the Nebraska State Patrol. The undersigned understand and acknowledge that any license issued, based on the information submitted in this application, is subject to cancellation if the information contained herein is incomplete, inaccurate or fraudulent.

Individual applicants agree to supervise in person the management and operation of the business and that they will operate the business authorized by the license for themselves and not as an agent for any other person or entity. Corporate applicants agree the approved manager will superintend in person the management and operation of the business. Partnership applicants agree one partner shall superintend the management and operation of the business. All applicants agree to operate the licensed business within all applicable laws, rules, regulations, and ordinances and to cooperate fully with any authorized agent of the Nebraska Liquor Control Commission.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in FBI identification record. The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

**Must be signed by all applicant(s) and spouse(s) owning more than 25%
(YOU MAY NEED TO PRINT MULTIPLE SIGNATURE PAGES)**

Saumil J Patel
Signature of APPLICANT

Saumil Patel
Printed Name of APPLICANT

Shivani Patel
Signature of SPOUSE

Shivani Patel
Printed Name of SPOUSE

Shivani Patel
Signature of APPLICANT

Shivani Patel
Printed Name of APPLICANT

Saumil J Patel
Signature of SPOUSE

Saumil Patel
Printed Name of SPOUSE

LIMITED LIABILITY COMPANY (LLC)

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
EMAIL: lcc.frontdesk@nebraska.gov
WEBSITE: www.lcc.nebraska.gov

License
Class: _____

License Number: _____

RECEIVED

APR 18 REC'D

NEBRASKA LIQUOR
CONTROL COMMISSION

INSTRUCTIONS

1. All members and spouses must be listed
2. Managing/Contact member and all members holding over 25 % shares of stock and their spouse (if applicable) must sign the signature page of the application
3. Managing/Contact member and all members holding over 25% interest and their spouses must submit fingerprints. See Form 147 for further information
4. Attach copy of Articles of Organization

Name of Limited Liability Company that will hold license as listed on the Articles of Organization

Shivani, LLC

Name of Registered Agent: Shivani Patel

LLC Address: 6015 S. 191st Terrace

City: Omaha State: NE Zip Code: 68135-4195

LLC Phone Number: 402-490-3124 LLC Fax Number: _____

Name of Managing/Contact Member

Name and information of contact member must be listed on following page

Last Name: Patel First Name: Shivani MI: S

Home Address: 6015 S. 191st Terrace City: Omaha

State: NE Zip Code: 68135 Home Phone Number: 402-490-3124

Shivani Patel

Signature of Managing/Contact Member

List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: **Patel** First Name: **Saumil** MI: **J**

Social Security Number: [REDACTED] Date of Birth: [REDACTED]

Spouse Full Name (indicate N/A if single): **Shivani S. Patel**

Spouse Social Security Number: [REDACTED] Date of Birth: [REDACTED]

Percentage of member ownership **60.0%**

Last Name: **Patel** First Name: **Shivani** MI: **S.**

Social Security Number: [REDACTED] Date of Birth: [REDACTED]

Spouse Full Name (indicate N/A if single): **Saumil J. Patel**

Spouse Social Security Number: [REDACTED] Date of Birth: [REDACTED]

Percentage of member ownership **40.0%**

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Is the applying Limited Liability Company owned 100% by another corporation/LLC?

YES NO

If yes, Form 185 is required

Indicate the company's tax year with the IRS (Example January through December)

Starting Date: January 1st Ending Date: December 31st

Is this a Non Profit Corporation?

YES NO

If yes, provide the Federal ID #. _____

Nebraska Secretary of State

SHIVEN, LLC

Mon Apr 22 10:56:22 2024

SOS Account Number

2402051667

Status

Active

Principal Office Address

No address on file

Registered Agent and Office Address

SHIVANI PATEL

6015 SOUTH 191ST TERRACE

OMAHA, NE 68135

Designated Office Address

6015 SOUTH 191ST TERRACE

OMAHA, NE 68135

Nature of Business

Not Available

Entity Type

Domestic LLC

Qualifying State: NE

Date Filed

Feb 21 2024

Next Report Due Date

Jan 01 2025

Filed Documents

Filed documents for SHIVEN, LLC may be available for purchase and downloading by selecting the Purchase Now button. Your Nebraska.gov account will be charged the indicated amount for each item you view. If no Purchase Now button appears, please contact Secretary of State's office to request document(s).

| Document | Date Filed | Price | |
|-----------------------------|-------------|--------------------------------------|---------------------|
| Certificate of Organization | Feb 21 2024 | \$0.45 = 1 page(s) @ \$0.45 per page | Purchase Now |
| Proof of Publication | Mar 21 2024 | \$0.45 = 1 page(s) @ \$0.45 per page | Purchase Now |

Good Standing Documents

- If you need your Certificate of Good Standing Apostilled or Authenticated for use in another country, you must contact the Nebraska Secretary of State's office directly for information and instructions. Documents obtained from this site cannot be Apostilled or Authenticated.

Online Certificate of Good Standing with Electronic Validation**\$6.50**

This certificate is available for immediate viewing/printing from your desktop. A Verification ID is provided on the certificate to validate authenticity online at the Secretary of State's website.

**CERTIFICATE OF ORGANIZATION
OF SHIVEN, LLC**

The undersigned, desiring to form a limited liability company under and in conformity with the laws of the State of Nebraska, does hereby make this certificate and hereby verify:

1. **Name.** The name of the company is Shiven, LLC.
2. **Initial Designated Office.** The address of the initial designated office of the company in Nebraska is:

6015 South 191st Terrace
Omaha, NE 68135

3. **Initial Agent for Service of Process.** The name and address of the company's initial agent for service of process is:

Shivani Patel
6015 South 191st Terrace
Omaha, NE 68135

EXECUTED by the undersigned as of the 19th day of February, 2024.



Steven G. Ranum, Organizer

**OPERATING AGREEMENT OF
SHIVEN, LLC
A NEBRASKA LIMITED LIABILITY COMPANY**

THIS OPERATING AGREEMENT is made effective by the undersigned as of the 21st day of February, 2024.

**ARTICLE I.
FORMATION**

1. The undersigned have formed a limited liability company under the laws of the State of Nebraska by filing a Certificate of Organization with the Nebraska Secretary of State on March 1, 2018.

2. The name of this Company is Shiven, LLC.

3. The purpose for which this Company is formed is to engage in any lawful act, business or activity for which limited liability companies may be formed under the laws of the State of Nebraska and to do any and all other things determined by the Members to be necessary, desirable or incidental to the foregoing purpose.

4. The term of the Company shall become effective on the date the Certificate of Organization is filed with the Secretary of State of Nebraska, and shall be perpetual unless the Company is dissolved earlier pursuant to the provisions of this Operating Agreement or as provided in Section 21-101 et seq. of the Revised Statutes of the State of Nebraska (the “Act”).

5. The location of the designated office of the Company shall be the office shown in the Certificate of Organization filed with the Nebraska Secretary of State, as the same may be amended from time to time.

6. The Company’s agent for service of process and address of the agent for service of process shall be the agent and address shown in the Certificate of Organization filed with the Nebraska Secretary of State, as the same may be amended from time to time.

7. The initial capital contribution and percentage ownership interest in the Company (“Percentage Interest”) of each of the Members of the Company is set forth on Exhibit “A.”

**ARTICLE II.
MANAGEMENT**

1. Management of the Company shall be vested in the Members in proportion to their Percentage Interests. The act of a majority of the Members shall constitute the act of the Company, except where greater than majority approval is specifically required hereunder. The Members shall possess all rights and powers generally conferred by law and all rights and powers that are necessary, advisable, or consistent therewith and with the provisions of this Agreement.

2. No Members shall be expected to devote full time and attention to the affairs of the Company, but shall devote the amounts of time and attention reasonable and appropriate in the Member's good faith and judgment.

ARTICLE III. OFFICERS

1. The Members may, but need not, elect officers of the Company. If the Members do decide to elect officers, then the provisions of this ARTICLE III shall apply. The officers of the Company shall be a president, one or more vice-presidents (as the Members shall determine), a secretary and a treasurer, and such other officers and agents as may be deemed necessary. The same individual may simultaneously hold more than one office except that the president and treasurer shall not be the same person.

2. The officers of the Company shall be elected by the Members at its first regular meeting and at each regular meeting thereafter held. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified, or until his or her death, or until resignation or removal in the manner hereinafter provided.

3. Any officer may resign at any time by delivering notice to the Company. A resignation shall be effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the Company accepts the future effective date, the Members may fill the pending vacancy before the effective date if the Members provide that the successor shall not take office until the effective date.

4. The Members may remove any officer at any time with or without cause.

5. The appointment or election of an officer shall not itself create any contract rights. An officer's removal shall not affect the officer's contract rights, if any, with the Company. An officer's resignation shall not affect the Company's contract rights, if any, with the officer.

6. A vacancy in an office because of death, resignation, removal, disqualification or otherwise, may be filled by the Members for the unexpired portion of the term.

7. The president shall be the principal executive officer of the Company and, shall carry out the operations of the Company subject to and only as prescribed by the Members from time to time.

8. In the absence of the president or in the event of his or her death, inability or refusal to act, the vice-president (or in the event there be more than one vice-president, the vice-presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president.

9. The secretary shall: (a) keep the minutes of the Members' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of this Agreement or as required by law; (c) be custodian of the Company's records and, if a seal shall be adopted, of the seal of the Company and see that the seal of the Company is affixed to all documents, the execution of which on behalf of the Company under its seal is duly authorized; (d) keep a register of the post office address of each Member which shall be furnished to the secretary by such Member; (e) in general perform all duties incident to the office of the secretary and such other duties as from time to time may be assigned to him or her by the Members.

10. If required by the Members, the treasurer shall give bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Members shall determine. The treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Company; (b) receive and give receipts for moneys due and payable to the Company from any source whatsoever, and deposit all such moneys in the name of the Company in such banks, trust companies or other depositories as shall be selected in accordance with provisions ARTICLE VI; and (c) in general, perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to the treasurer by the Members.

11. An officer shall discharge his or her duties under that authority in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the Company and in accordance with the authority delegated to that office by the Members. In discharging his or her duties, an officer shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by: (a) one or more officers or employees of the Company whom the officer reasonably believes to be reliable and competent in the matters presented; or (b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence. An officer shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by this provision unwarranted. An officer shall not be liable for any action taken as an officer, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this provision.

ARTICLE IV. MEMBERS

1. The Members are listed on Exhibit A, which is attached hereto and made a part hereof. Exhibit A shall reflect the capital contribution and Percentage Interest of each Member in the profits and losses of the Company, or if percentages are not identified on Exhibit A, then each Member's Percentage Interest is in proportion to each Member's respective capital account. Additional Members may be admitted to the Company, at such time or times, and for such consideration as determined by the affirmative vote of a majority of the Members by Percentage Interest at a meeting called by the Members for such purpose.

2. Except as otherwise specifically provided in this Operating Agreement to the contrary, no Member, on his, her, or its own, shall have the right or authority to:

- a. Receive compensation for its role as a member or as an officer.
- b. Have the Member's contribution repaid except to the extent provided in this Operating Agreement or by law.
- c. Require partition of the Company's property or to compel any sale or appraisal of the Company's assets.
- d. Sell or assign or pledge the Member's interest in the Company or to constitute the vendee or assignee thereunder, except as provided in this Agreement.
- e. Voluntarily withdraw as a Member from the Company.

3. No Member shall be personally held accountable for any of the debts, losses, claims, judgments or any of the liabilities of the Company beyond the Member's contributions, and binding written commitments for additional capital contributions, to the capital of the Company.

ARTICLE V. **LIMITATIONS ON DUTY OF LOYALTY AND DUTY OF CARE**

1. A Member may deal with the Company in the conduct or winding up of the Company's activities as or on behalf of a person having an interest adverse to the Company, whether or not the transaction is fair to the Company.

2. Prior to dissolution, a Member may engage in business that is similar to or in competition with the business of the Company.

3. Any other act or transaction which would violate the duty of loyalty owed to the Company (as limited by this Article) may be authorized or ratified, after full disclosure of all material facts, by either a majority of the Members who are disinterested in the act or transaction, or by all of the Members whether or not disinterested in the act or transaction.

4. A Member's duty of care under this Operating Agreement is to refrain from acting or failing to act in a manner that is grossly negligent and to refrain from intentional or fraudulent misconduct or knowing violation of law.

5. In carrying out his duties hereunder, a Member shall not be liable to the Company nor to any Member for his good faith actions or failure to act, nor for any errors of judgment, nor for any act or omission believed in good faith to be within the scope of authority conferred by this Operating Agreement, but only for his own willful or fraudulent misconduct in the performance of his obligations under this Operating Agreement, or for gross negligence or willful breach of his fiduciary duties under this Operating Agreement or for a breach or act which is non-waivable under § 21-110(f) of the Act. The receipt of advice of counsel that certain acts and omissions are within the scope of authority conferred by this Operating Agreement shall be conclusive evidence of good faith; however, good faith may be determined without obtaining such legal advice. Notwithstanding the foregoing, the Member shall be liable to the Company and/or the Members as required by the non-waivable provisions of the Act in § 21-110(f).

6. To the fullest extent permitted by the Act, the Company shall reimburse for any payment made and indemnify for any debt, obligation, or other liability incurred by a Member in the course of the Member's activities on behalf of the Company which the Member believed, in good faith, to be within the scope of authority conferred by this Operating Agreement, except for willful or fraudulent misconduct, gross negligence or willful breach of fiduciary duties including breach of the duties set forth in Sections 21-134 and 21-138 of the Act. Notwithstanding the foregoing, the Company's indemnification of a Member and his agents, officers, and employees as to a third party is only with respect to such loss, liability or damage which is not otherwise compensated for by insurance carried for the benefit of the Company. Insurance coverage for public liability, and all other insurance deemed necessary or appropriate by the Members to the business of the Company, shall be carried in such amounts and of such types as shall be determined by the Members.

7. A Member owes to the Company and the other Members of the Company only those fiduciary duties that are required by this Operating Agreement or by the Act (except to the extent that the duties provided for in the Act have been eliminated or limited by a provision of this Operating Agreement).

ARTICLE VI. MEETINGS OF MEMBERS

1. Meetings of the Members of the Company may be held on any day, and may be called by the President or by the Members who hold at least thirty percent (30%) of the Percentage Interest in the Company. Upon written request delivered either in person or by certified mail, return receipt requested, to the President by any Members entitled to call a meeting of the Members, the President shall forthwith cause notice to be given to the Members entitled to such notice. Meetings upon request of Members entitled to call a meeting must be held on a date not less than five (5) nor more than sixty (60) days after the receipt of such request, as the President may fix. If such notice is not given within twenty (20) days after the delivery or mailing of such request, or if the Company does not have an elected President, the person or persons calling the meeting may fix the time of the meeting and give notice thereof in the manner provided for by law or this Operating Agreement, or cause such notice to be given by any designated representative. Each meeting of the Company shall be called to convene between 8:00 a.m. and 8:00 p.m., and shall be held at the designated office of the Company or at such other place as may be designated by the President or Members and specified in the notice of such meeting.

2. Except in exigent circumstances, not less than five (5) nor more than sixty (60) days before the date fixed for a meeting, written notice stating the time and place of the meeting shall be given. The notice shall be sent by personal delivery or by first class mail or by other means of written communication (including telefax), to each Member entitled to notice of the meeting who is a Member of record as of the day preceding the day on which notice is given, or, if a record date is duly fixed, as of that date. If mailed, the notice shall be addressed to the Members at their respective addresses as they appear in the records of the Company. The Members may waive notice of the meeting.

3. Except as may otherwise be provided by law, the Certificate of Organization or this Operating Agreement, at any meeting of the Members, the holders of a majority of the Percentage Interest of the Company, either present in person or by proxy, shall constitute a quorum for such meeting.

4. Members entitled to vote may vote in person or by proxy. The person appointed as proxy need not be a Member. Unless the writing appointing a proxy otherwise provides, the presence at a meeting of the person who appointed a proxy shall not operate to revoke the appointment. Notice to the Company, in writing or in open meeting, of the revocation of the appointment of a proxy shall not affect any vote or action previously taken or authorized. Meetings may take place by teleconference, video conference or other electronic means so long as all participants can be heard during the meeting. Action may also be taken without a meeting by unanimous written consent of all Members.

5. All votes of Members shall be weighted in accordance with his or her then existing Percentage Interest in the Company. Unless a greater or lesser specified percentage is required by the Certificate of Organization, this Operating Agreement, or law, the approval of Members owning a majority of the Percentage Interest entitled to vote on such act shall be the act of the Members in all such matters.

6. Any of the following actions by the Company must be approved by an affirmative vote of two-thirds of the Members by Percentage Interest at a meeting called by the Members or President for such purpose:

- a. the sale, lease, exchange, or other disposition of all, or substantially all, of the Company's property, with or without the goodwill, outside the ordinary course of the Company's activities;
- b. a merger or conversion of the Company; and
- c. the taking of any other action which is outside the ordinary course of the Company's activities.

ARTICLE VII. CONTRIBUTIONS

1. The Members shall make an initial contribution as described for that Member on Exhibit A. The value of the Contribution shall be as set forth on Exhibit A. Unless another time is specified herein or on Exhibit A, the Contribution shall be made upon the filing of the Certificate of Organization with the Secretary of State.

ARTICLE VIII. DISTRIBUTIONS

1. No distribution shall be declared and paid if, after the distribution:

- a. the Company would not be able to pay its debts as they become due in the ordinary course of the Company's activities; or

b. the Company's total assets would be less than the sum of its total liabilities (excluding liabilities to Members on account of their capital accounts).

2. The effect of a distribution under this Article is measured:

a. in the case of a distribution by purchase, redemption or other acquisition of a transferable interest in the Company, as of the date money or other property is transferred or debt incurred by the Company; and

b. in all other cases, as of the date:

i. the distribution is authorized if the payment occurs within one hundred twenty days after that date; or

ii. the payment is made, if the payment occurs more than one hundred twenty days after the distribution is authorized.

ARTICLE IX. ALLOCATION OF PROFITS AND LOSSES

1. Except as otherwise provided herein, net profits and losses of the Company (including profits and losses attributable to the sale or other disposition of all or any portion of the Company's property) shall be allocated among or borne by the Members in proportion to the Percentage Interest of each Member. The Percentage Interest of each Member is listed in Exhibit A. An amended Exhibit A shall be prepared in the event there is any change in the Percentage Interests.

2. Company profits, losses and gains shall be allocated to the Members in accordance with the portion of the year during which the Members have held their respective Percentage Interests. All items of income and loss shall be considered to have been earned ratably over the fiscal year of the Company, except that gains and losses arising from the disposition of assets shall be taken into account as of the date thereof.

3. All Members shall be entitled to participate pro rata in all non-liquidating distributions based on the Member's Percentage Interest, except as otherwise provided herein.

4. Upon the transfer of an interest, income, capital gain and loss attributable to the transferred interest shall, for federal income tax purposes, be allocated to the owners of such interest on the basis of the income or loss for each month that such Member was the owner of such interest, determined on an interim closing of the books method. In making such allocation, the Members shall be entitled to rely on the books and records of the Company. The Members may revise, alter, or otherwise modify the method of allocation as they determine necessary to comply with the Internal Revenue Code and Regulations or rulings promulgated thereunder.

ARTICLE X. **ACCOUNTING**

1. The Company books shall be kept in accordance with reasonable accounting principles consistently applied.
2. The fiscal year of the Company shall end on December 31.
3. The terms "net profits" and "net losses," as used herein, shall mean the net amount of the Company's profits and losses, as determined for federal income tax purposes.
4. The Members shall designate one of their number as the tax matters partner of the Company pursuant to Section 6231(a)(7) of the Code. Any Member designated as tax matters partner shall take such action as may be necessary to cause each other Member to become a notice partner within the meaning of Section 6223 of the Code. Any Member who is designated tax matter partner may not take any action contemplated by Sections 6222 through 6232 of the Code without the consent of the Members. Vikram Patel shall be the initial Tax Matters Partner and shall serve as such until the Members designate a new Tax Matters Partner by majority vote.

ARTICLE XI. **MEMBERS' CAPITAL ACCOUNTS AND ADDITIONAL CONTRIBUTIONS**

1. There shall be maintained a capital account for each Member in accordance with this Operating Agreement. The amount of each Member's contribution of cash, property and/or services to the capital of the Company shall be credited to such Member's capital account. From time to time, but not less often than annually, each Member's share of profits, losses and distributions shall be credited or charged, as the case may be, to such Member's capital account. The determination of a Member's capital account, and any adjustments thereto, shall be made in a manner consistent with tax accounting and other principles set forth in the Internal Revenue Code and applicable Regulations thereunder. No interest will be paid on any capital account. Loans to the Company by any member shall not be considered capital contributions.

2. If, at any time, the Company shall suffer a loss as a result of which the capital account of any Member shall be a negative amount, such loss, except as otherwise provided herein, shall be carried as a charge against that Member's capital account, and that Member's share of subsequent profits of the Company shall be applied to erase such capital account deficit.

3. Immediately following the transfer of any interest in the Company in accordance with the terms of this Operating Agreement, the capital account of the transferee-Member shall be equal to, or in the case of transfer to an existing Member, the capital account of the transferee Member shall be adjusted by, the capital account of the transferor-Member attributable to the transferred interest.

4. For purposes of computing the amount of any item of income, gain, deduction or loss to be reflected in the Member's capital account, the determination, recognition and classification of any such item shall, except as otherwise provided herein, be the same as its determination, recognition and classification for federal income tax purposes, taking into account

any adjustments required pursuant to the Internal Revenue Code and the applicable Regulations thereunder.

5. No Member shall be required to make any additional Capital Contributions except as set forth on Exhibit "A", unless a majority of the Members in Percentage Interest determine that a capital call is necessary or desirable. In the event of a capital call, the Members shall be afforded the opportunity (but not the obligation) to participate in such additional capital contributions on a pro rata basis in accordance with their Percentage Interests. In the event that less than all of the Members contribute their respective pro-rata share of the additional capital contributions, the other Members shall be allowed to contribute the additional amounts on a pro rata basis, which procedure will be repeated until the entire balance of the capital call has been committed. In the event all Members do not elect to contribute their pro rata share, the Percentage Interests of all Members shall be adjusted to appropriately and equitably reflect the value of the additional capital contributions. In the event that the entire balance of the capital call is not contributed by existing Members, the Company may solicit capital contributions from new members and admit new members on such terms and conditions as the Company may determine through the majority vote of existing Members.

ARTICLE XII. **TRANSFER OF MEMBER'S INTEREST**

1. Should a Member desire to sell, assign, encumber or exchange all or any part of his or her interest in the Company, such Member (hereinafter "Selling Member") who desires to transfer all or any part of his or her interest in the Company shall have the right to transfer to another the whole or any part of such interest only to the extent and upon strict compliance with the provisions and procedures set forth in this Operating Agreement. Any transfer or purported transfer in violation of this Operating Agreement shall be null and void.

2. If a Member desires to sell all or a portion of the Member's interest in the Company to a third party purchaser, the Member shall first obtain from such third party purchaser a bona fide written offer to purchase such interest, stating the terms and conditions upon which the purchase is to be made and the consideration offered therefor. The Selling Member shall give written notification to the Company and to the other Members, by certified mail or personal delivery, of the Member's intention to transfer the interest, furnishing to the Company and the other Members a copy of the aforesaid written offer to purchase such interest. Within thirty (30) days after receiving this notice, the Company may purchase, at its option, all or any portion of the Selling Member's interest on the same terms and conditions set forth in the bona fide offer. If the Company elects not to purchase all of the Selling Member's interest in the Company within such thirty (30) day period, then the other Members at that time may purchase, upon the same terms and conditions as stated in the bona fide written offer, any remaining interest offered for sale by giving written notification to the Selling Member, by certified mail or personal delivery, of their intention to do so within forty-five (45) days of receiving the notice from the Selling Member. If more than one Member shall desire to acquire the available interest and no agreement is reached regarding the portion of the available interest that each may acquire, the Members shall acquire the interest on a basis pro rata to the Percentage Interest of each Member desiring to purchase. If, after the lapse of forty-five (45) days from the date of the notice, neither the Company nor the other Members have agreed to acquire all of the interest

proposed to be transferred, then the Selling Member shall be free to sell or assign any remaining interest, on the same terms and conditions, to the third party, provided that the sale is consummated within sixty (60) days following the expiration of the forty-five (45) days from the date of notice. If the sale is not consummated within said sixty (60) days, the proposed sale or assignment shall again be subject to the provisions of this Section.

3. If any transfer is not approved in writing by the nontransferring Members, the transferee shall not be considered a Member of the Company and shall have no voting rights. Such a Transferee shall only be entitled to receive the economic benefits of ownership to the extent required by law and shall be considered an "Economic Interest Owner."

4. No assignment of any Member's interest in compliance with this ARTICLE XII, even if it results in the substitution of the assignee as a Member herein, shall release the assignor from those liabilities to the Company which survive such assignment.

5. Any assignment by a Member of all or any part of his or her interest in the Company shall be subject to the following:

a. The assignment instrument shall be in form and substance satisfactory to the Company. Among the reasons for which consent may be withheld by the Company is that it has determined, in its sole discretion, that such substitution may: (i) have an adverse effect on the legal or tax status of the Company under state or federal law or both; or (ii) have an adverse effect on the Members who are not participating in the transfer under state or federal law or both. The request for consent to sales or assignments shall contain a copy of all instruments and documents to be utilized in the transfer and shall be made by certified or registered mail, return receipt requested, sent to the Company at least fifteen (15) days prior to the proposed date of transfer. Any additional information requested, including any information relative to the assignee, shall be promptly furnished by the requesting assignor, and no decision need be reached until such information is furnished.

b. The assignee shall have submitted the assignee's written acceptance and adoption of all the terms and provisions of this Operating Agreement, including any and all amendments to this Operating Agreement approved by the requisite majority of Members to be made effective subsequent to the assignment.

c. The assignor shall have paid, or agreed in writing to pay, as the Company may determine, all reasonable expenses connected with such transfer, including, but not limited to, the cost of preparing and filing any amendment to this Operating Agreement necessary to effectuate the transfer.

d. The Company shall have received opinions of tax counsel reasonably acceptable to the Company that such transfer would not materially affect the classification of the Company as an S-electing corporation for federal and state income tax purposes, nor result in a termination of the Company for tax purposes.

6. No Member's interest in the Company has been registered under the Securities Act of 1933, as amended (the "Securities Act"). Notwithstanding any other provisions in this

Operating Agreement, no Member's interest may be offered for sale, sold, transferred or otherwise disposed of unless:

- a. such interest is registered under the Securities Act; or
- b. at the expense of the transferring Member, the Company receives a written opinion of counsel, satisfactory to the Company, to the effect that such transfer is exempt from registration under the Securities Act and is in compliance with all applicable federal securities laws and regulations; or
- c. the Company receives a "no-action" letter from the staff of the Securities and Exchange Commission ("SEC"), satisfactory to the Company, to the effect that the transfer is exempt from registration.

ARTICLE XIII. S CORPORATION STATUS

1. No Member shall transfer any membership interest or take or permit any action which might adversely affect the Company's classification for tax purposes as an S Corporation under the Internal Revenue Code and Regulations thereunder. Each Member shall do and perform all things reasonably necessary to preserve the status of the Company as such.

2. The Company shall not admit any Members who are not permitted shareholders of an S Corporation under the Internal Revenue Code and Regulations thereunder. Before any Membership interest is transferred or a new Member is admitted, such proposed Member shall furnish evidence satisfactory to the Company's legal counsel and tax advisors that the potential Member is qualified to be a shareholder of an S Corporation under the Internal Revenue Code and Regulations thereunder, which shall include but is not limited to, as applicable, a beneficiary of a trust proving that the trust is a qualified Subchapter S Trust, and that the beneficiary has consented to the election of the Company to operate under Subchapter S of the Internal Revenue Code.

3. The Company shall not admit more Members than is allowed for an S Corporation under the Internal Revenue Code and Regulations thereunder.

4. The Company shall not have or create more than one class of membership. All loans by Members to the Company shall meet the requirements of being classified as "straight debt" for purposes of the straight debt safe harbor under Subchapter S of the Internal Revenue Code and Regulations thereunder.

5. Revocation of the election shall only be made following approval by at least two-thirds of all Members of the Company by Percentage Interest. If the requisite approval is obtained, each Member agrees to execute or cause to be executed by the proper person the necessary documentation which will authorize revocation of the election.

6. Any Member who causes a revocation or transfer that terminates the Subchapter S election, which is not approved as provided in Section 5 above, shall be liable to the Company and to each and every Member for any and all damages, liabilities or costs resulting directly and

indirectly therefrom, including without limitation any additional federal or state tax liability incurred by the Company or any of its Members as a result of the improper revocation or termination and any attorney fees or other costs incurred in computing and collecting any such damages; provided however, no Member shall be liable for damages under this Section for making a transfer that terminates the election if the Shareholder acted in good faith reliance on a written legal opinion that termination of the Subchapter S election would not be caused by the transfer and otherwise complied with all the requirements of this Operating Agreement. The additional federal and state tax liability caused by the improper revocation or termination shall be computed by the accountant that regularly prepares the Company's tax returns and his determination of such liability shall, except as otherwise provided in this Section, be conclusive and binding on all parties hereto for all purposes. In making such computations, the accountant shall determine the present value of the difference between the projected estimated federal and state income taxes of the Company and Members for the five taxable years following the revocation or termination and the estimated federal and state income taxes the Company and Shareholders would have to pay during the five year period had the Subchapter S election remained in effect. For this purpose, the accountant shall base his projections on the following assumptions:

- a. That each Member will be taxed at the maximum marginal rate applicable to that Member for the taxable year preceding the taxable year in which the termination or revocation is effective;
- b. That the Company distributes all of its net income for each year; and
- c. That if the Company has projected net losses or deductions that the net deductions for the five year computational period will not exceed the sum of the Member's tax basis at the time of revocation or termination plus any contributions to capital made by the Member between the revocation or termination date and the accountant's determination of the damages.

Provided, however, that if a waiver of the termination is granted pursuant to Section 1362(f) of the Internal Revenue Code, then the total tax adjustments including interest and any applicable penalties required by the Internal Revenue Service as a prerequisite for granting the waiver plus any attorney fees and other costs and expenses incurred by the Company and other Members in obtaining the waiver shall be paid as damages by the Member who caused the improper revocation or termination. The Members agree to take appropriate action to cause the Company to again qualify as a "small business corporation" pursuant to Section 1362(b) of the Internal Revenue Code and to cause the Company to file a timely request for a waiver of the termination pursuant to Section 1362(f) if the Member whose action caused the improper termination satisfies the following conditions:

- a. He agrees to cooperate fully with the other Members in seeking to obtain requalification, including, without limitation, instituting or joining in an action to rescind any transfer that caused the termination;

b. He provides an indemnity bond or other security satisfactory to the Company and remaining Members covering all of the anticipated costs and expenses involved in requalifying as a "small business corporation" and obtaining the waiver; and

c. He obtains a written legal opinion that the Company once again qualifies as a "small business corporation" and that there is a reasonable basis for believing that the Internal Revenue Service will grant the waiver.

7. All transferees and new members agree to be bound by this Operating Agreements and the provisions herein by virtue of becoming a transferee or new member without the requirement of any additional documentation thereof.

ARTICLE XIV. **REDEMPTION UPON DEATH OR INCOMPETENCY**

1. In the event that a Member dies, the Company may redeem, at its option, the deceased Member's Percentage Interest in the Company for an amount equal to the fair market value of the interest on the Member's date of death (the "Purchase Price"). The fair market value of the deceased Member's Percentage Interest in the Company shall be as agreed in good faith by the Company and the legal representative(s) of the deceased Member's estate (hereinafter the "Legal Representative"); provided that, if no such agreement has been reached within ninety (90) days of the date of death, then the fair market value shall be determined by an independent and duly qualified appraiser mutually agreeable to Company and the Legal Representative, each of which shall bear equally the cost of such appraisal. In the event the Company and the Legal Representative are not able to agree on an appraiser, then the Company and the Legal Representative shall each select one independent appraiser and those appraisers shall select a third appraiser. The decision of the third appraiser shall be binding on all parties. In the event that a Member becomes incompetent as determined by a licensed physician, the incompetent Member's Percentage Interest in the Company shall be purchased and sold pursuant to the procedures set forth herein with the valuation date to be the date of determination of incompetency.

2. Closing shall occur within sixty (60) days of the date on which the fair market value is determined by agreement of the parties or by an independent appraiser as set forth above ("Closing"), unless the parties mutually agree in writing to extend the period for closing.

3. It is understood and agreed between the parties that the Purchase Price under this Article shall be paid as follows:

a. Twenty-five percent (25%) of the Purchase Price shall be paid in cash at the Closing;

b. The balance of the Purchase Price shall be paid in ten (10) equal semi-annual installments of principal together with interest on the unpaid principal balance at a rate equal to two percent (2%) above the "prime rate of interest" as reported in the Wall Street Journal on the day of Closing, and adjusted on each payment date thereafter. The first payment shall be due on the first day of the seventh month after Closing and

successive payments shall be due semi-annually thereafter, with the final payment to include all remaining unpaid principal and all unpaid accrued interest;

c. The balance of the Purchase Price shall be evidenced by a promissory note or notes, each of which shall bear interest at the rate stated above; shall provide that the maker may prepay all or any part thereof without penalty at any time with interest to date of prepayment, but any partial prepayment shall be applied against the installments of such Note in the inverse order of maturity without any reduction in the amount of such installments; and shall further provide that in the event of a default in the payment of any installment which shall continue for ten (10) days after the due date thereof, the remaining unpaid principal balance and accrued interest shall, at the option of the holder thereof, become due and payable immediately. As security for payment of such notes, the Company shall pledge to the Legal Representative the interest of the Company purchased pursuant to the terms hereof ("Collateral"). The Company shall execute and deliver to the Legal Representative such documents as necessary to grant the Legal Representative a perfected security interest in the Collateral. The Personal Representative shall retain the Collateral as security for the payment of such notes and upon complete payment and satisfaction of such notes shall return the Collateral to the Company.

d. During the term of this pledge, so long as Company is not in default of such notes, the pledged Percentage Interest shall not have voting rights and shall not participate in distributions to Members.

e. In the event, during the term of this pledge, any share, dividend, reclassification, readjustment, or other change is declared or made in the capital structure of the Company, all new, substitute, and additional interests issued by reason of such change shall be held by Legal Representative under the terms of this Agreement in the same manner as the interests originally pledged hereunder.

f. In the event of any default in payment not cured within ten (10) days after written notice to the Company, the Legal Representative, or his or her assigns, shall have all the rights and remedies provided in the Nebraska Uniform Commercial Code.

g. In the event the Member's interest was held in a trust or transferred to a trust or an ineligible shareholder upon the death of the Member then the Company and the Legal Representative agree to take all actions necessary within the period prescribed under Subchapter S of the Internal Revenue Code and Regulations thereunder in order to preserve the Company's S-election, including but not limited to transferring the Member's entire interest to beneficiaries who are qualified to be shareholders of an S-corporation the number of which shall not cause the Company to exceed the maximum number of shareholders permitted for an S Corporation.

ARTICLE XV. DISSOLUTION AND TERMINATION

1. Upon the occurrence of the following events, the Company shall be dissolved:

a. the consent of Members owning, in the aggregate, at least 75% of the Percentage Interest of the Company;

b. at such time that more than 75% of the Percentage Interest of the Company is owned by Economic Interest Owners (i.e. Transferees who have not been approved by the other Members and thus, have no voting rights); or

c. the judicial dissolution of the Company.

2. Upon the death or incompetency of a Member who is a natural person, the Member's personal representative, executor or administrator shall have all of the rights of a Member for the purpose of managing or settling his or her estate, as well as such power as the decedent or incompetent possessed to designate an assignee of his or her interest in the Company and to join with such assignee in following the procedures contained in this Operating Agreement so that the assignee may become a Member.

3. In the event of the dissolution of the Company, the business and affairs of the Company shall continue to be governed by this Operating Agreement during the winding up of the Company's business and affairs.

ARTICLE XVI. LIQUIDATION

1. Upon the dissolution and/or termination of the Company, the Members shall proceed with the liquidation of the Company and sale of its assets. The proceeds of such liquidation shall be applied and distributed in the following order of priority:

a. to discharge the Company's debts, obligations, or other liabilities to creditors, including members that are creditors, and to payment of expenses of liquidation;

b. to the setting up of any reserves which the Members may deem reasonably necessary in order to meet any contingent or unforeseen liabilities or obligations of the Company arising out of, or in connection with, the business of the Company. Said reserves shall be paid over by the Members to any financial institution, as escrow agent, with trust authority in the county in which the principal accounting records of the Company have been maintained in order to be held by it for the purpose of disbursing such reserves in payment of any of the aforementioned contingencies or liabilities; and at the expiration of such period as the Members shall deem advisable, the financial institution shall distribute the balance remaining in the manner provided in this Article and in the order named above; and

c. to discharge the balance of the Members' capital accounts; and

d. the payment of the balance, if any, pro rata among the Members based upon their Percentage Interests.

2. When all of the acts provided for in this Article have been accomplished, the Company shall file a Statement of Dissolution and any other certificate required or permitted in the State of Nebraska and in any other state.

ARTICLE XVII. **AMENDMENT OF THE AGREEMENT**

1. All amendments to this Agreement shall require the approval of the Members holding a 75% majority of the Percentage Interest in the Company entitled to vote, except that any amendment to a provision of this Operating Agreement that, before amendment, provides for a greater percentage to take the action specified therein, shall require such greater percentage to approve an amendment thereto.

ARTICLE XVIII. **MISCELLANEOUS**

1. Any and all notices or other communications which may be sent to any Member shall be sent to the address noted in Exhibit A, unless the Company is notified in writing with regard to a change of address. Except as otherwise provided herein, notices or other communications shall be deemed to have been given when sent by first class mail and deposited with the United States Postal Service addressed as set forth above. Attendance at any meeting in person or by proxy, or participation in any action by the Company, except for the appearance to object to the meeting on the basis of inappropriate notice, shall constitute a waiver of any required notice.

2. This Operating Agreement shall be governed by, and construed in accordance with, the laws of the State of Nebraska.

3. This Operating Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one agreement, by each of the parties hereto on the dates indicated in the acknowledgment of said parties, notwithstanding that all of the parties are signatories to the same counterpart or that signature pages from different counterparts are combined. The signature of any party to any counterpart shall be deemed to be a signature to and may be appended to any other counterpart.

4. Words of gender used in this Operating Agreement shall be interpreted to include the other gender, and words in the singular number shall be interpreted to include the plural (and vice-versa), when the sense so requires. The captions to each Article are inserted only as a matter of convenience and for reference purposes and in no way define, limit or describe the scope or intent of this Operating Agreement or in any way affect it.

5. This Operating Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them concerning the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto relating to the subject matter of this Operating Agreement which are not described herein.

6. This Operating Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations of the jurisdiction in which the Company does business. If any provision of this Operating Agreement or its application to any person or circumstance shall, for any reason and to any extent, be found to be invalid or unenforceable, the remainder of this Operating Agreement or the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

7. The word "person", as used in this Operating Agreement, shall include a corporation, firm, partnership, trust, limited liability company or other form of association.

8. This Operating Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of all Members and their respective legal representatives, heirs, permitted successors and permitted assigns.

IN WITNESS WHEREOF, the Members have entered into this Operating Agreement to be effective as of the date first written above.

SIGNATURE PAGE TO FOLLOW

MEMBERS:

Shivani Patel

Shivani Patel

Saumil Patel

Saumil Patel

EXHIBIT A
MEMBERS' NAMES, INITIAL CAPITAL CONTRIBUTION AND
PROFIT INTERESTS

| <u>Name and Address</u> | <u>Contribution</u> | <u>Value</u> | <u>Percentage Interest</u> |
|--|---------------------|--------------|----------------------------|
| Saumil Patel 6015 South 191st Terrace Omaha, NE 68135 | \$600.00 | \$600.00 | 60.0% |
| Shivani Patel 6015 South 191st Terrace Omaha, NE 68135 | \$400.00 | \$400.00 | 40.0% |
| TOTAL | | \$1,000.00 | 100.0% |

01145270.DOC

MANAGER APPLICATION FORM 103

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
EMAIL: lcc.frontdesk@nebraska.gov
WEBSITE: www.lcc.nebraska.gov

License
Class: _____

License Number:

RECEIVED

APR 18 REC'D

NEBRASKA LIQUOR
CONTROL COMMISSION

MANAGER MUST:

- Be at least 21-years of age
- Complete all sections of the application.
- Form must be signed by a **member or corporate officer**
- Include Form 147 –Fingerprints are required
- Provide a copy of one of the following: US birth certificate, US Passport, naturalization papers OR legal resident documentation
- Be a resident of the state of Nebraska and if an US citizen be a registered voter in the State of Nebraska
- Spouse who **will** participate in the business, the **spouse must meet the same requirements as the manager applicant**:

Spouse who **will not** participate in the business

- Complete the Spousal Affidavit of Non Participation (Form 116). **Be sure to complete both halves of this form.**

CORPORATION/LLC INFORMATION

Name of Corporation/LLC: **Shiven, LLC**

PREMISES INFORMATION

Premises Trade Name/DBA: **JD's Liquor Locker**

Premises Street Address: **8052 S. 84th Street**

City: **La Vista**

County: **Sarpy**

Zip Code: **68128-3303**

Premises Phone Number: **402-339-1634**

Premises Email address: **spatel_india@hotmail.com**

Shivani Patel

SIGNATURE REQUIRED BY CORPORATE OFFICER / MANAGING MEMBER

The individual whose name is listed as a corporate officer or managing member as reported or listed with the Commission.

MANAGER INFORMATION

Last Name: Patel First Name: Saumil MI: J
Home Address: 6015 S. 191st Terrace
City: Omaha County: Douglas Zip Code: 68128 - 4195
Home Phone Number: 402-690-5016
Driver's License Number: [REDACTED]
Social Security Number: [REDACTED]
Date of Birth: [REDACTED] Place of Birth: [REDACTED]
Email address: ssaumil24@yahoo.com

Are you married? If yes, complete spouse's information (Even if a spousal affidavit has been submitted)

YES NO

Spouse's Information

Spouse's Last Name: Patel First Name: Shivani MI: S.
Social Security Number: [REDACTED]
Driver's License Number: [REDACTED]
Date of Birth: [REDACTED] Place of Birth: [REDACTED]

APPLICANT & SPOUSE MUST LIST RESIDENCE(S) FOR THE PAST TEN (10) YEARS
APPLICANT **SPOUSE**

| CITY & STATE | YEAR FROM | YEAR TO | CITY & STATE | YEAR FROM | YEAR TO |
|--------------|-----------|---------|--------------|-----------|---------|
| Omaha, NE | 2013 | Present | Omaha, NE | 2013 | Present |
| | | | | | |
| | | | | | |
| | | | | | |

MANAGER'S LAST TWO EMPLOYERS

| YEAR FROM TO | NAME OF EMPLOYER | NAME OF SUPERVISOR | TELEPHONE NUMBER |
|--------------------|----------------------------------|----------------------------|---------------------|
| 2015 | Present Ralston Management Group | N/A (Saumil is supervisor) | 402-690-5016 |
| 2015 | Present JSV, LLC | N/A (Saumil is supervisor) | 402-334-1634 |

1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY.

Must be completed by both applicant and spouse, unless spouse has filed an affidavit of non-participation.

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea, include traffic violations. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name. Commission must be notified of any arrests and/or convictions that may occur after the date of signing this application.

YES NO

If yes, please explain below or attach a separate page.

| Name of Applicant | Date of Conviction (mm/yyyy) | Where Convicted (City & State) | Description of Charge | Disposition |
|-------------------|------------------------------|--------------------------------|-----------------------|-------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

2. Have you or your spouse ever been approved or made application for a liquor license in Nebraska or any other state?

YES NO

IF YES, list the name of the premise(s):

Food Mart, License #113942; 8204 Harrison St., Ralson, NE 68128

3. JSV, LLC, License # 122466, 8052 S. 84th Street, La Vista, NE
Do you, as a manager, qualify under Nebraska Liquor Control Act (§53-131.01) and do you intend to supervise, in person, the management of the business?

YES NO

4. List the alcohol related training and/or experience (when and where) of the person making application.

| Applicant Name | Date (mm/yyyy) | Name of program (attach copy of course completion certificate) |
|-----------------|-------------------|--|
| Saumil J. Patel | 03-2018 | Nebraska Alcohol Server/Seller Certification |
| | | |
| | | |
| | | |
| | | |
| | | |

*For list of NLCC Certified Training Programs see [training](#)

Experience:

| Applicant Name / Job Title | Date of Employment: | Name & Location of Business: |
|----------------------------|---------------------|--|
| Saumil J. Patel/Supervisor | 8/10/2015 | Food Mart (Ralston Management Group LLC); 8204 Harrison St., Ralston, NE 68128 |
| Saumil J. Patel/Manager | 4/18/2018 | JD's Liquor Locker (JSV, LLC); 8052 S. 84th Street, La Vista, NE 68128 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

5. Have you enclosed Form 147 regarding fingerprints?

YES NO

PERSONAL OATH AND CONSENT OF INVESTIGATION
SIGNATURE PAGE – PLEASE READ CAREFULLY

The undersigned applicant(s) hereby consent(s) to an investigation of his/her background and release present and future records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant(s) and spouse(s) waive(s) any right or causes of action that said applicant(s) or spouse(s) may have against the Nebraska Liquor Control Commission, the Nebraska State Patrol, and any other individual disclosing or releasing said information. Any documents or records for the proposed business or for any partner or stockholder that are needed in furtherance of the application investigation of any other investigation shall be supplied immediately upon demand to the Nebraska Liquor Control Commission or the Nebraska State Patrol. The undersigned understand and acknowledge that any license issued, based on the information submitted in this application, is subject to cancellation if the information contained herein is incomplete, inaccurate or fraudulent.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in FBI identification record. The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

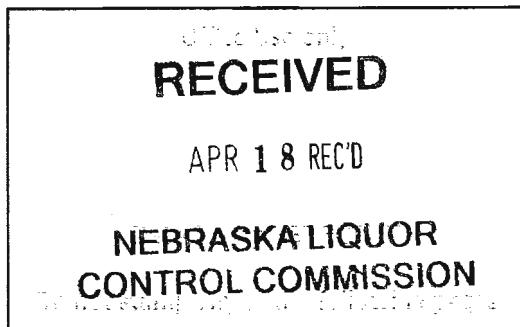
Must be signed by applicant and spouse.

Saumil J Patel
Signature of APPLICANT
SAUMIL J PATEL
Printed Name of APPLICANT

Shivani Patel
Signature of SPOUSE
Shivani Patel
Printed Name of SPOUSE

**PRIVACY ACT STATEMENT/
SUBMISSION OF FINGERPRINTS /
PAYMENT OF FEES TO NSP-CID**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov



THIS FORM IS REQUIRED TO BE SIGNED BY EACH PERSON BEING FINGERPRINTED:
DIRECTIONS FOR SUBMITTING FINGERPRINTS AND FEE PAYMENTS:

- **FAILURE TO FILE FINGERPRINT CARDS AND PAY THE REQUIRED FEE TO THE NEBRASKA STATE PATROL WILL DELAY THE ISSUANCE OF YOUR LIQUOR LICENSE**
- Fee payment of \$45.25 per person **MUST** be made **DIRECTLY** to the Nebraska State Patrol;
It is recommended to make payment through the **NSP PayPort** online system at www.ne.gov/go/nsp
Or a check made payable to **NSP** can be mailed directly to the following address:
*****Please indicate on your payment who the payment is for (the name of the person being fingerprinted) and the payment is for a Liquor License*****

The Nebraska State Patrol – CID Division
4600 Innovation Drive
Lincoln, NE 68521

- Fingerprints taken at NSP LIVESCAN locations will be forwarded to NSP – CID
Applicant(s) will not have cards to include with license application.
- Fingerprints taken at local law enforcement offices may be released to the applicants;
Fingerprint cards should be submitted with the application.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record. The procedures for obtaining a change, correction, or updating a FBI identification record are set forth in Title 28, CFR, 16.34.

****Please Submit this form with your completed application to the Liquor Control Commission****

Trade Name ID's liquor locker

Name of Person Being Fingerprinted: Saumit Patel

Date fingerprints were taken: 3/12/24

Location where fingerprints were taken: NSP - Omaha

How was payment made to NSP?

NSP PAYPORT CASH CHECK SENT TO NSP C

My fingerprints are already on file

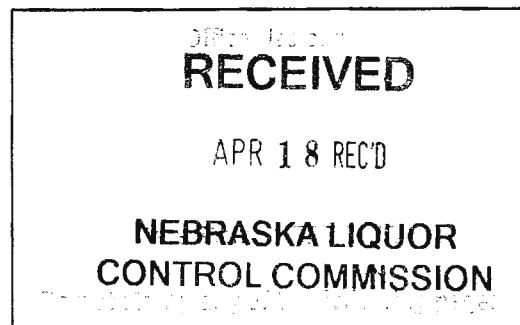
application less than 2 years ago? YES

My fingerprints are already on file with the commission – fingerprints completed for a previous application less than 2 years ago? YES

SIGNATURE REQUIRED OF PERSON BEING FINGERPRINTED

**PRIVACY ACT STATEMENT/
SUBMISSION OF FINGERPRINTS /
PAYMENT OF FEES TO NSP-CID**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov



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DIRECTIONS FOR SUBMITTING FINGERPRINTS AND FEE PAYMENTS:

- **FAILURE TO FILE FINGERPRINT CARDS AND PAY THE REQUIRED FEE TO THE NEBRASKA STATE PATROL WILL DELAY THE ISSUANCE OF YOUR LIQUOR LICENSE**
- Fee payment of \$45.25 per person **MUST** be made **DIRECTLY** to the Nebraska State Patrol;
It is recommended to make payment through the NSP PayPort online system at www.ne.gov/go/nsp
Or a check made payable to **NSP** can be mailed directly to the following address:
*****Please indicate on your payment who the payment is for (the name of the person being fingerprinted) and the payment is for a Liquor License*****

The Nebraska State Patrol – CID Division
4600 Innovation Drive
Lincoln, NE 68521

- Fingerprints taken at NSP LIVESCAN locations will be forwarded to NSP – CID
Applicant(s) will not have cards to include with license application.
- Fingerprints taken at local law enforcement offices may be released to the applicants;
Fingerprint cards should be submitted with the application.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record. The procedures for obtaining a change, correction, or updating a FBI identification record are set forth in Title 28, CFR, 16.34.

****Please Submit this form with your completed application to the Liquor Control Commission****

Trade Name J.D.'s Liquor Locker

Name of Person Being Fingerprinted: Shiven Patel

Date of Birth: Last 4 SSN:

Date fingerprints were taken: 3/12/2024

Location where fingerprints were taken: *NSP - Omaha*

How was payment made to NSP?

NSP PAYPORT CASH CHECK SENT TO NSP CK #

My fingerprints are already on file with the commission – fingerprints completed for a previous application less than 2 years ago? YES

Shivam, Ball

SIGNATURE REQUIRED OF PERSON BEING FINGERPRINTED

BUSINESS PLAN
SHIVEN, LLC

The business plan for Shiven, LLC is to purchase the assets of an existing retail liquor store from JSV, LLC d/b/a JD's Liquor Locker. The store is located at 8052 S. 84th Street, La Vista, Nebraska. JSV, LLC will continue to operate the store under the trade name of JD's Liquor Locker and will retain the personnel of the business. JSV, LLC is owned by one of the owners of Shiven, LLC, so the transition is expected to be smooth. Closing date is May 1, 2024.

LEASE ASSIGNMENT

This Lease Assignment is made as of the 28th day of March, 2024, by and between JSV, LLC, a Nebraska limited liability company (the "Assignor") and Shiven, LLC, a Nebraska limited liability company (the "Assignee"):

- 1) Assignor entered into a lease agreement dated on or February 28, 2018, by and between Assignor and F&J Realty ("Landlord"), and subsequently amended by a First Amendment to Lease dated October 10, 2019 (as amended, the "Lease Agreement"). Pursuant to the Lease Agreement, Assignor leased the premises consisting of approximately 1,600 square feet in the Brentwood Square Shopping Center in La Vista, Nebraska, more particularly described therein (the "Leased Premises"), at the rent provided in the Lease Agreement and subject to the covenants, conditions and stipulations contained in the Lease Agreement.
- 2) Assignor desires to assign, and the Assignee desires to assume the rights, duties, and liabilities of the Tenant thereunder.
- 3) Assignor assigns its right, title and interest in the Leased Premises to Assignee effective on the earlier of a) the issuance of a Temporary Operating Permit by the Nebraska Liquor Commission to Assignee or b) the issuance of a liquor license by the Nebraska Liquor Commission to Assignee, for the balance of the Term as set forth in the Lease Agreement.
- 4) Assignee shall assume all rights and duties required of Assignor under the Lease Agreement including all payments required thereby and shall comply with all terms and conditions of the Lease Agreement. Assignee shall make all future rental payments directly to Landlord pursuant to the terms and conditions of the original Lease Agreement.
- 5) Landlord does hereby consent to the assignment and transfer of the Lease Agreement, including all terms and conditions thereof, to Assignee. Guarantor hereby also consents to the assignment and acknowledges he remains liable as Guarantor under the Lease Agreement.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Lease Assignment the day and year first above mentioned.

ASSIGNOR:

JSV, LLC

By: Saumil J Patel
Saumil Patel, Sole Member

ASSIGNEE:

SHIVEN, LLC

By: Saumil J Patel
Saumil Patel, Member

GUARANTOR:

Saumil J Patel
Saumil Patel

LANDLORD:

F&J REALTY BRENTWOOD SQUARE PLAZA, LLC

John F. Koen

By: Manager

BRENTWOOD SQUARE SHOPPING CENTER LEASE

THIS LEASE, made this 28th day of February 2018, by and between F & J REALTY, hereinafter referred to as "Landlord", and JSV LLC, hereinafter referred to as "Tenant".

WITNESSETH:

1. PURPOSE: Landlord hereby demises and leases to Tenant that certain space in Landlord's building located at Brentwood Square Shopping Center, and having the address of 8052 South 84th Street, LaVista, Nebraska 68128, which space is described as follows: an area consisting of approximately 1,600 square feet, and said space so leased shall be used as a tobacco and liquor store and for no other use or purpose whatsoever without the express written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.
2. COMMENCEMENT: The term of this lease shall be for a period of three (3) years and zero (0) months beginning May 1, 2018.
3. RENTS: Tenant shall pay to Landlord as rent for said leased premises during the initial Lease Term the total sum of Fifty Thousand Four Hundred and 00/100-- Dollars (\$50,400.00) per the rent schedule below. Tenant shall pay rent and assessments on the first day of each and every month of said term, in advance, at the office of the Landlord or its duly appointed agent.

RENT SCHEDULE:

| | | | | | | |
|------|--------------------|----|-----------------------|----|-----------------|------------|
| From | <u>May 1, 2018</u> | to | <u>April 30, 2019</u> | \$ | <u>1,000.00</u> | per month. |
| From | <u>May 1, 2019</u> | to | <u>April 30, 2021</u> | \$ | <u>1,200.00</u> | per month. |
| From | | to | | \$ | | per month |
| From | | to | | \$ | | per month. |
| From | | to | | \$ | | per month. |

Rent representing _____, 20____ (\$_____) is hereby acknowledged
upon the execution of this Lease.

4. **COMMON AREA MAINTENANCE CHARGES:** Tenant shall pay Landlord additional annual rental equal to the sum of the amounts:

(i) by which taxes, assessments, and governmental charges whether Federal, State, County or Municipal, which are levied on or charged against the real estate of which the leased premises are part and any other taxes and assessments attributable to said real estate or its operation by multiplying the following percentage (2.443% for taxes/1.736% for CAM), representing the relationship of the net rentable square feet of floor area occupied by the Tenant as it relates to the total net rentable square feet on the site of which the leased premises form a part, however, Tenant shall be responsible for all such taxes per square foot of space; and shall pay its prorated amount in monthly installments, along with monthly rent.

(ii) by which the Insurance Premiums attributable to the real estate of which the leased premises form a part by multiplying the percentage specified in subparagraph (i) hereof for insurance of multi-peril all risk policy covering the buildings and liability in the manner consistent with the shopping center.

(iii) common area operating and maintenance costs, which costs include all costs of maintenance, repairs and replacements to common areas, including but not limited to line painting, cleaning of center, roads, lighting, snow removal, management, liability insurance, depreciation of machinery and equipment used in such maintenance depreciation based on useful life using a straight line basis, repair and replacement and the cost of personnel in implementing such services (excluding structural maintenance, repair or replacement to buildings).

All such costs shall be multiplied by the fraction or percentage specified in subparagraph (i) hereof and paid by Tenant with monthly base rent payments.

Tenant's share of such costs in excess of the amount hereinafter provided shall be determined on an annual basis for each calendar twelve (12) month period ending on December 31, prorating fractional years. Based upon and establishing costs for common areas, Tenant shall pay \$ 456.00 per month on the first day of each month in advance with rent and at the end of each year an analysis of the total year's common area operating costs shall be presented to Tenant and Tenant shall pay any excess charge to the Landlord within thirty (30) days of receiving said statement.

5. DESTRUCTION: If said building or the leased premises shall be damaged or destroyed in whole or in part by fire, the elements or other casualty so as to render the building or leased premises unfit for occupancy, and if in Landlord's or Tenant's judgment, they cannot be repaired within one hundred eighty (180) days from the happening of said injury, this lease shall terminate, at Landlord's or Tenant's election, effective as of the date of such damage. If Landlord elects to repair the leased premises, such repairs shall be completed within ~~ninety (90) one hundred eighty (180)~~ days from the happening of such injury, delays due to force majeure, strikes, material shortages, and other factors outside Landlord's control excepted. Landlord's failure to repair the leased premises within such time period shall cause this lease to terminate at the expiration thereof without any further liability whatsoever on the part of either party. Upon termination hereunder, Tenant shall immediately surrender the possession of the leased premises and all rights therein to Landlord, the Landlord shall have the right immediately to enter into and take possession of said leased premises and shall not be liable for any loss, damage or injury to the property or person of Tenant or any occupant of, in or upon said leased premises. Rental and all other amounts payable hereunder shall abate during such period as the leased premises remain wholly unoccupied due to such event.

6. Tenant agrees that no representations as to the condition of said leased premises have been made by Landlord to Tenant either directly or indirectly prior to or at the execution of this lease that are not herein expressed and Tenant accepts space in "as is" condition.

7. LANDLORD REPAIRS: Landlord agrees to maintain in good condition, and repair as necessary the foundations, exterior walls and the roof of the leased premises.

8. TENANT REPAIRS: During the continuance of this lease Tenant shall keep the leased premises and appurtenances in good order and repair and shall keep the said premises and appurtenances in a wholesome condition without charge or expense to Landlord. Tenant shall make all repairs and replacements necessary to carry out the foregoing including, but not by way of limitation, those to and of all interior doors, interior door frames, windows, plate glass, and the heating, air conditioning, plumbing, and electrical system exclusively servicing said bay.

Tenant shall pay for all damages to the building as well as damages to the tenants or occupants thereof caused by any waste, misuse or neglect of said leased premises, its apparatus or appurtenances and shall not make or allow to be made any structural change, alteration or addition, in, upon or to said premises without the written consent of Landlord for that purpose first had and obtained. At the expiration of the time mentioned in this lease, or at an earlier termination thereof by forfeiture or otherwise, Tenant shall yield up said leased premises together with all its apparatus and appurtenances to Landlord in the same condition as when leased, reasonable wear and tear and damage beyond the control of Tenant excepted, and will surrender all original and duplicate keys of the several doors and such other things as pertain to said leased premises.

Landlord hereby waives all claims to the cabinetry, appliances and moveable equipment installed by Tenant on the leased premises or adjacent grounds. Landlord agrees that said personal property shall remain property of Tenant and may be removed by Tenant upon the expiration of its tenancy; provided however, that Tenant restore said premises to its original condition to the extent practicable.

9. CLEANING: The Tenant shall not perform any acts or carry on any practice which may injure the leased premises or building of which the leased premises are a part, or be a nuisance or menace to other tenants in said building and shall keep the premises under its control (including adjoining drives, streets, alleys or yards) clean and free from rubbish and dirt, at all times, and it is further

agreed that in the event the Tenant shall not comply with these provisions, the Landlord may enter upon said premises and have rubbish, dirt and ashes removed and the sidewalks cleaned, in which event the Tenant agrees to pay all charges that the Landlord shall pay for hauling rubbish, ashes and dirt, or cleaning walks. Said reasonable charges shall be paid to the Landlord by the Tenant as soon as a bill is presented to Tenant and the Landlord shall have the same remedy as is provided in paragraph 16 of this lease in the event of Tenant's failure to pay.

10. **COMPLIANCE WITH LAWS:** The Tenant shall at its own expense promptly comply with all laws, orders, regulations or ordinances of all Municipal, County and State authorities affecting the leased premises and the cleanliness, safety, occupation and use of same, except those relating to the structural portions of the leased premises which shall be Landlord's responsibility unless resulting from the particular use of the leased premises by Tenant.

11. **REMEDY:** If the Tenant shall default in any payment, expenditure or covenant other than rent required to be paid, expended or performed by the Tenant under the terms hereof, which shall continue for thirty (30) days after written notice thereof is provided to Tenant, the Landlord may at its option, make such payment or expenditure or perform such covenant, in which event the amount or cost thereof shall be payable as rental to the Landlord by the Tenant on the next ensuing rent day together with a charge of five percent (5%) of the amount thereof for Landlord's administrative expenses in connection therewith.

12. **EASEMENTS:** Tenant hereby grants to Landlord such licenses or easements in or over the leased premises or any portion or portions thereof as shall be reasonably required for the installation or maintenance of mains, conduits, pipes, or other facilities to serve the building of which the leased premises are a part, or any part thereof, including but not by way of limitation, the premises of any other Tenant thereof, provided, however, that Landlord shall pay for any alteration required on the leased premises as a result of any such exercise, occupancy under, or enjoyment of, any such license or easement, and provided further that no exercise, occupancy under, or enjoyment of any such license or easement shall result in any unreasonable interference with Tenant's use, occupancy, or enjoyment of the leased premises as contemplated by this lease.

13. **ROOF ACCESS:** The Landlord reserves the right of free access at all times to the roof of the leased premises. The Tenant shall not use the roof for any purpose without the consent in writing of the Landlord.

14. **SUBLET:** Tenant shall not sublet said leased premises or any part thereof, nor allow the same to be used or occupied by any other person or for any other use than that herein specified, nor assign this lease or any interest therein, without the written consent of the Landlord, which written consent the Landlord agrees will not be unreasonably withheld, and shall not suffer or permit any assignment or transfer by operation of law or otherwise, of the estate, or interest of Tenant in said leased premises acquired in, by or through this lease. Any written consent which Landlord may give to any assignment of Tenant's lease or to any sublease or co-tenancy of the leased premises shall be bound by the terms hereof, and be restricted to the particular assignment or sublease or co-tenancy, and the agreement herein not to assign or sublet remain in effect against the Tenant and Tenant's assigns and Subleases it shall not be deemed unreasonable for Landlord to withhold consent to any new use or Tenant on the basis of existence of a competing use by a then current or prospective tenant of the shopping center, exclusive of non-compete clauses in existing leases.

15. **LANDLORD'S OPTION:** The Tenant agrees that if the estate hereby created shall be taken in execution, or by other process of law, or if the Tenant shall be declared bankrupt or insolvent, according to law, or any receiver be appointed for the business and property of the Tenant, or if any assignment shall be made of the Tenant's property for the benefit of creditors, then and in such event this lease may be canceled at the option of the Landlord.

16. **CURE FOR DEFAULTS:** If Tenant shall default in the payment of rent reserved, or move out of, abandon or vacate the leased premises, then if Tenant shall not have cured such defaults within **thirty (30) fifteen (15)** days after receiving written notice thereof, Landlord may either:

(i) terminate this lease, and with or without process of law, expel and remove Tenant, or any other person or persons in occupancy from the leased premises, together with their goods and

chattels, using such force as may be necessary in the judgment of Landlord or its agents in so doing, and repossess the leased premises, provided that in the event of termination pursuant hereto Landlord shall, nevertheless, be entitled to damages provided by law, just as if Tenant repudiated this lease, or

(ii) terminate Tenant's right to possession only, without terminating this lease, and with process of law, expel, and remove Tenant, or any other person or persons in occupancy from the leased premises together with their goods and chattels, using such force as may be necessary in the judgment of Landlord or its agents in so doing, and repossess the leased premises without such entry and possession terminating this lease or releasing Tenant in whole or in part from Tenant's obligation to pay rent hereunder for the full term hereof. Upon and after entry into possession without termination of this lease, Landlord shall use its best efforts to relet the leased premises or any part thereof for the account of the Tenant, to any person, firm, or corporation, for such rent, for such term (including a term beyond the term hereof, but the part of such term which is beyond the term hereof shall not be chargeable to Tenant's account), and upon such terms and conditions as Landlord, in Landlord's sole discretion, shall determine, and Landlord shall apply all rents received upon such a reletting as follows:

(a) first to the payment of such reasonable expenses as Landlord may have incurred in recovering possession of said leased premises (including reasonable legal expense and attorneys' fees), and in putting the same into good order or condition (reasonable wear and tear accepted), or preparing, or altering the same for rental and reletting, and all other reasonable expense, commissions and charges paid, assumed, or incurred by Landlord in or about reletting the leased premises, Tenant shall not be liable for alterations or improvements to the premises made in reletting the premises; and

(b) then to the fulfillment of the covenants of Tenant hereunder, if the consideration collected by Landlord upon any such reletting is not sufficient to pay in full the amount of rent reserved in this lease together with the items and expenses enumerated in subparagraphs (i) and (ii) above, then Tenant shall pay to the Landlord the amount of each monthly deficiency upon demand.

The foregoing remedies shall not be deemed mutually exclusive nor are the foregoing intended to be exclusive of any other remedies available at law or in equity to Landlord, all such rights and remedies being cumulative. In the event any payment of rent is paid after ten (10) days from the date on which said rent is due, Tenant shall pay an administrative charge of five percent (5%) of the amount of the late payment of the next rent due date.

17. LIEN: Landlord shall have a lien on all of the property, fixtures and furniture of Tenant situated on the leased premises during the term of this lease as security for the payment of the rent reserved and the performance of the agreements of this lease by Tenant, which lien Landlord may enforce by distress or attachment, and Tenant hereby waives all exemptions. If the rent reserved herein shall at any time be in arrears or Tenant shall breach any of the agreements of this lease, Landlord shall thereupon be entitled to the immediate possession of all of the property, fixtures and furniture of Tenant situated on the leased premises and may enter said premises and take possession thereof. If at the end of thirty (30) days Tenant shall not have fulfilled its obligations hereunder then Landlord, at its option, may sell the same at a public or private sale, and if such property is sold Landlord shall apply the proceeds, first, to the cost and expenses of such sale, second, to the satisfaction of any sums owing to it from Tenant for nonpayment of rent and expense of such sale, third, to the satisfaction of any sums owing to it from Tenant for nonpayment of rent accrued or to accrue under the terms hereof or breaches of other obligations of the lease, and the balance, if any, it shall pay over to Tenant. Any property, furniture or fixtures belonging to Tenant, which Landlord may store, shall be at Tenant's sole risk and Landlord shall not be held responsible for any breakage or damage occasioned by such storing. If this lease is terminated at the election of Landlord, as aforesaid, or in any other way, Tenant shall, without demand, surrender and deliver up said leased premises and property peaceably to Landlord immediately upon such termination, and if Tenant shall remain in possession of the leased premises, or any part thereof, one day after the termination of this lease in any of the ways above named, Tenant shall be deemed guilty of forcible detainer of the leased premises under the statutes of the State of Nebraska and shall be subject to all the conditions and provisions above named and to eviction and removal forcibly or otherwise with or without process of law as above stated. After the commencement of a suit, or after final judgment, for possession of said premises, Landlord may receive and collect any rent due from Tenant, and the payment of said

rent shall not waive or affect said suit or said judgement. All rights of Landlord in the event of default herein enumerated shall be in addition to and without prejudice to any remedy or remedies, which Landlord may have at law or in equity for nonpayment of rent or for breaches of the covenants and agreements hereof.

18. **HOLD HARMLESS:** Landlord shall not be liable for any damage to Tenant's property occasioned by failure to keep the leased premises in repair, other than as results from its own negligent acts or omissions, and shall not be liable for any damage done or occasioned by or from electric current, plumbing, gas, water, steam or sewage, or the bursting, leaking, running or failure of operation of any radiator, tank, water closet, wash stand, waste pipe, air-conditioning or any other apparatus in, above, upon or about said building or leased premises, nor for damage occasioned by water, snow, or ice being upon any sidewalk or entrance way, or being upon or coming through the roof, skylight, trap door or any other opening in said building or premises, nor for any damage arising from the action or negligence of Tenant, co-tenants or other occupants of the said building or of any owners or occupants of adjacent or contiguous property. Tenant hereby releases, discharges and agrees to indemnify, protect and save harmless Landlord of and from any and all claims, demands and liability for any loss, damage, ~~injury~~ or other casualty to Tenant's person or property arising from the foregoing and hereby, in advance of loss, waives any right to subrogation arising by reason of such loss. ~~To the extent obtainable, Tenant shall be required to obtain in Tenant's insurance coverage a waiver of subrogation clause as to any rights against Landlord and other tenants in the shopping center upon an insured loss to Tenant's property.~~ Tenant and Landlord hereby release, discharge and agree to indemnify, protect and save harmless each other of and from any and all claims, demands and liability for any loss, damage, ~~injury~~ or other casualty to property, whether it be that of either of the parties hereto or of third persons, whether they be third persons, or employees caused by, growing out of or happening in connection with use or occupancy of the leased premises or Shopping Center or use of any equipment, facilities or property in, on or adjacent to aforesaid building. Tenant agrees to indemnify, defend and save harmless Landlord from any claim or loss by reason of any accident or damage to any person or property happening in the Premises except for those claims and losses due to the negligence of Landlord, and for any accident or damage on any common area caused by Tenant's negligence. Likewise, Landlord agrees to indemnify, defend and save harmless Tenant from any claim or loss by reason of an accident or damage to any person or property happening on any common area (including without limitation, parking area, sidewalks, ramps and service areas) of the Shopping Center except for those claims and losses due to the negligence of Tenant, and for any accident or damage in the Premises caused by Landlord's negligence.

19. **INSURANCE REQUIREMENTS:** Tenant agrees to indemnify and hold harmless the Landlord from any liability for damages to any person or property in, on or about said leased premises from any cause whatsoever, excluding causes created by Landlord's own act or omissions or that of its contractors, employees or agents and Tenant will procure and keep in effect during the term hereof public liability and property damage insurance naming Landlord as Additional Insured for the benefit of the Landlord of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for damages resulting to one person, Five Hundred Thousand Dollars (\$500,000.00) for damages resulting from one casualty, and Fifty Thousand Dollars (\$50,000.00) property damage resulting from any one occurrence. Tenant shall deliver said policies or a certificate of insurance to the Landlord with an endorsement providing that the policy cannot be canceled or the coverage lapsed except after thirty (30) days notice to Landlord, and upon Tenant's failure so to do the Landlord may at its option obtain such insurance and the cost thereof shall be paid as additional rent due and payable upon the next ensuing rent day.

20. All of the remedies herein are cumulative and given without impairing any other rights or remedies of Landlord, and Tenant shall pay and discharge all costs and expenses and reasonable attorney fees that shall arise from the enforcing of the covenants of this lease by Landlord.

21. The fact that Landlord does not exercise its rights hereunder in the event of breach of one or more covenants herein by Tenant shall not be deemed a waiver of such rights as to that or any subsequent breaches of the same or any other covenants herein by Tenant.

22. **EMINENT DOMAIN:** In the event that the whole of the building of which the leased premises form a part or the whole of the leased premises shall be taken by the exercise of the power of

eminent domain, then in such case, this lease shall terminate as of the date of the taking of possession by or the vesting of title in the condemning authority. Tenant may elect to terminate if 25% or more of the shopping center is taken.

If less than the whole, but more than twenty percent (20%) of the leased premises are taken under the power of eminent domain, Landlord and Tenant shall each have the right to terminate this lease by giving written notice to the other within thirty (30) days after being notified of such taking and in such event, such termination shall be effective upon the day possession of such premises shall be required for public use. In the event (i) neither party hereto shall elect to terminate this lease; or (ii) less than twenty percent (20%) of the leased premises are so taken, Landlord shall, at its own cost and expense, make all necessary repairs and alterations to the basic building, storefront and interior work in order to constitute the remaining premises a complete architectural unit. In the event, pursuant to the terms of this paragraph 22, this lease is not terminated, all of the terms herein provided shall continue in effect, except that the rent shall be reduced in proportion to the amount of the leased premises taken. Any award made for any taking under the power of eminent domain shall belong solely to Landlord with the exception of any portion of the award made specifically for tangible personal property of Tenant. Landlord may, in its sole discretion, effect a sale of the whole or any portion of the leased premises in lieu of condemnation, in which case the sale shall be construed as a taking under the power of eminent domain and the proceeds of sale as an award.

23. SUBORDINATION: This lease shall, at the option of Landlord, be subject and subordinate to any mortgages or deeds of trust now or record affecting the leased premises or hereafter placed on the leased premises by Landlord. Landlord may exercise the aforesaid option to subordinate this lease by notifying Tenant thereof at any time in writing. In the event Landlord exercises its option to subordinate this lease to any deed of trust or mortgage pursuant hereto, Tenant shall, at the option of the holder of said deed of trust or mortgage or of any purchaser at any foreclosure sale thereunder, attorn to said holder of any such deed of trust or mortgage or to any purchaser at any foreclosure sale thereunder.

24. NOTICES: Any notice, demand, request, consent, approval, or other communication which either party hereto is required or desires to give or make or communicate upon or to the other shall be in writing and shall be given or made or communicated by United States registered or certified mail, addressed in the case of Landlord to:

F & J Realty - Brentwood Square Shopping Center
c/o First Management, Inc.,
Suite 550-The Center
1941 South 42nd Street
Omaha, Nebraska 68105-2982

and addressed in the case of Tenant to:

JSV LLC
7842 North 151st Street
Bennington, Nebraska 68007
Vikram1880@yahoo.com

subject to the right of either party to designate a different address by notice similarly given. Any notice, demand, request, consent, approval, or other communication so sent shall be deemed to have been given, made or communicated, as the case may be on the date the same was deposited in the United States mail as certified matter with postage thereon fully prepaid.

25. All payments to be made to the Landlord shall be made to the address indicated in paragraph 24 hereof.

26. The term "Landlord" as used in this Lease, as relates to Landlord's covenants and obligations, shall be limited to mean and include only the owners (at the relevant time) of the fee simple title to the leased premises and/or underlying realty. It shall be a condition of any transfer of Landlord's interest in this lease that the transferee agrees to be bound by and perform all obligations of the Landlord hereunder, in the absence of which no purported transfer shall be effective. In the event

such transfer is properly effective, the transferor shall be automatically relieved of all personal liability regarding the performance of Landlord's obligations herein contained which arise out of acts occurring after the effective date of such transfer (it being intended hereby that all of Landlord's obligations herein contained shall be binding upon Landlord, its successors and assigns, but only during and in respect of their respective periods of ownership of any interest in the leased premises or the underlying realty). Landlord hereby ~~warrants~~ stipulates that it holds title to said premises, has the authority to execute this lease, and guarantees Tenant of its rights to peaceful, quiet use of said premises.

27. RIGHT TO SHOW: The Tenant hereby agrees that for a period commencing ninety (90) days prior to the expiration of this lease, the Landlord may show the premises to prospective Tenants, and sixty (60) days prior to the expiration of this lease, may display in and about said premises and in the windows thereof, the usual and ordinary "FOR LEASE or RENT" signs, upon 24 hours notice to Tenant.

28. HOLDOVER: Should Tenant, or any of its successors in interest, holdover the premises, or any part thereof, after the expiration of the term of this lease, unless otherwise agreed in writing, such holdover shall constitute and be construed as tenancy from month to month only, at a rental equal to the rental payable for the last month of the term of this lease plus one hundred percent (100%) of such amount. The inclusion of the preceding sentence shall not be construed as Landlord's permission for Tenant to holdover. Notwithstanding the foregoing, however, such increased rentals shall be no more than one hundred twenty percent (120%) of the previously applicable rental unless (i) Landlord and Tenant are not then actively negotiating for the renewal of the occupancy of the leased premises or (ii) Landlord has given Tenant at least one hundred twenty (120) days advance written notice of its intention to exercise its rights under this paragraph 28.

29. UTILITIES IN HOLDOVER: The Tenant will pay all charges made against the leased premises for gas, water, sewage, heat, and electricity during the continuance of the lease, as the same shall become due.

30. ADVERTISING, RULES AND REGULATIONS, AND PARKING: It is further agreed that all signs and advertising displayed in and about the premises shall be such that only as advertise the business carried on upon the leased premises, and that the Landlord shall control the character and size thereof, and that no sign shall be displayed excepting such as shall be approved in writing by the Landlord, and that no awning shall be installed or used on the exterior of said building unless approved in writing by the Landlord. Landlord shall have the right from time to time to establish and enforce reasonable rules and regulations regarding signs, customer and tenant parking areas, use of the common areas and of the leased premises providing such rules and regulations are uniformly enforced against all occupants of the Shopping Center. Such rules and regulations shall be effective upon notice to Tenant of their promulgation. Tenant shall not be entitled to conduct any fire or going out of business sales upon or about the leased premises without the prior written consent of Landlord.

Pursuant to the Landlord's ability to establish and enforce reasonable rules and regulations regarding the parking areas, Tenant does hereby agree to provide ~~require all employees, agents and representatives to park to the rear of the demised premises, known as the west side, so long as adequate parking spaces exist, and upon request shall serve to Landlord or its agents, a comprehensive list of employees, agents and representatives' automobiles, by color, make and license number upon demand to aid in enforcement of parking rules and regulations this regulation.~~ Should Tenant not comply by supplying the list or enforcement thereof upon formal written notification, Tenant shall be construed to be in default of the lease agreement.

31. ACCESS: The Landlord shall have the right to enter upon the leased premises at all reasonable hours and upon 24 hours written notice except in the case of an emergency for the purpose of inspecting the same. If the Landlord deems any repairs or replacements necessary which are Tenant's obligation to make hereunder, Landlord may demand that the Tenant make the same and if the Tenant refuses or neglects forthwith to commence such repairs or replacements, and complete the same with reasonable dispatch the Landlord may make or cause to be made such repairs or replacements and shall not be responsible to the Tenant for any loss or damage that may accrue to Tenant's stock or business by reason thereof, and if the Landlord makes or causes to be made such

repairs or replacements, the Tenant agrees that Tenant will forthwith on demand, pay to the Landlord the cost thereof together with a charge of five percent (5%) of the amount thereof for Landlords' administrative expenses in connection therewith.

32. SECURITY DEPOSIT: The Landlord herewith acknowledges the receipt of One Thousand and 00/100 ----- Dollars (\$ 1,000.00), which is to be retained as security for the faithful performance of all of the covenants, conditions, and agreements of this lease, but in no event shall the Landlord be obligated to apply the same upon rents or other charges in arrears or upon damages for the Tenant's failure to perform the said covenants, conditions and premises for nonpayment of rent or for any other reason shall not in any event be affected by reason of the fact that the Landlord holds this security. The sum if not applied toward the payment of rent in arrears or toward the payment of damages suffered by the Landlord by reason of the Tenant's breach of the covenants, conditions and agreements of this lease is to be returned to the Tenant when this lease is terminated, according to these terms, and in no event is the said security to be returned until the Tenant has vacated the premises and delivered possession to the Landlord.

In the event that the Landlord should repossess himself of the leased premises because of the Tenant's default or because of the Tenant's failure to carry out the covenants, conditions and agreements of this lease, the Landlord may apply the said security upon all damages suffered to the date of said repossession and may apply the said security upon all damages suffered to the date of said repossession and may retain the said security to apply upon such damages as may be suffered or shall accrue thereafter by reasons of the Tenant's default or breach. The Landlord shall not be obligated to keep the said security as a separate fund, but may mix the said security with his own funds. Under no circumstances shall Landlord be responsible to Tenant to account for such funds other than to disclose their ultimate application to whatever damages Landlord elects. Landlord's obligation to Tenant as to such deposit shall terminate upon Landlord's conveyance of the shopping center to a successor Landlord and delivery of such funds to said successor Landlord by check or credit.

33. LATE CHARGE: Any rent or assessments as so outlined in the lease not paid when due and any other sums due from Tenant to Landlord hereunder not paid when due (or upon demand) shall be subject to a \$50.00 late fee if not received by the Landlord within five (5) days after that due date and late charges shall accrue at a rate of \$5.00 per day, to be paid with said month's late rent. Tenant will be allowed one (1) late payment per year without penalty.

34. BINDING ON PARTIES: All the terms of this lease shall extend to and be binding upon the respective heirs, executors, administrators, successors and assigns of the respective parties hereto.

35. Unless prevented by events reasonably beyond Tenant's control, Tenant shall use, occupy and operate the entire premises continuously and without interruption during the term in the manner and under the names set forth in the lease hereof in a competent, dignified, energetic and consistent manner such as will enhance the premises as a whole and its reputation as a desirable place to shop so as to achieve the maximum profitable volume of sales. Unless prevented by events reasonably beyond Tenant's control, Tenant shall remain open for business and adequately stocked on all days and during all hours that it is customary for businesses in Brentwood Square Shopping Center to be open with the option of being closed or open on Sundays or any evening and shall adequately staff its store with sufficient employees to handle the maximum profitable quality to accomplish the same; and shall maintain displays of merchandise in the display windows, if any, and keep such windows well lighted. **Tenant may close its business five (5) days per year for vacation.**

36. PERCENTAGE RENTS: Tenant shall pay additional rental for each lease year equal to the amount by which four percent (4 %) of the gross receipts for said year, which shall include the total sales price of all merchandise sold in or from the leased premises and the total amount received or charged for services rendered or performed in or from the leased premises (exclusive of sales tax), exceed the rental paid in monthly installments during said lease year. If Tenant's fiscal year and lease year do not correspond, Tenant may pay its additional annual rental on a fiscal year basis provided Landlord agrees in writing to the calculation method to be used for any periods shorter than one (1) year. Tenant shall provide Landlord a report showing gross receipts within sixty (60) days of the end of said period and the report must be certified as accurate by Tenant.

~~Landlord shall have the right to require an audit of Tenant's books and records by a Certified Public Accountant of Landlord's choice to verify the accuracy of the reported figures for gross receipts. If the results of said audit differ by more than five percent (5%) from said reported figures, Tenant shall pay to Landlord the cost of said audit as additional rent hereunder.~~

~~Said additional rent shall be paid with the submission of the report and shall be based on the gross receipts for the lease year or period immediately preceding said report.~~

37. **SIGNAGE**: All exterior signs must be approved in writing by Landlord prior to installation by Tenant. All lighted signs to be per specifications shown on Exhibit "B" sign criteria. Tenant shall at Tenant's sole expense, have one (1) lighted exterior sign installed by lease commencement date. Said sign must meet all legal codes. Tenant will be allowed maximum signage allowable by code.

38. **ESTOPPEL CERTIFICATE**: Tenant shall, upon demand from Landlord, execute and deliver to Landlord, an Estoppel Certificate in such form and content as reasonably requested by Landlord, attesting to the compliance to date of Landlord with the terms and conditions of this lease and such other matters as requested by Landlord which would prevent Tenant from attesting to such a certificate. Tenant shall set forth such alleged default or defaults upon the certificate and detail or attest to the best of Tenant's knowledge ~~fact~~ that these listed defaults are the only defaults by Landlord hereunder.

39. **INTENT**: It is the purpose and intent of Landlord and Tenant that the return to Landlord under this lease shall be absolutely net to Landlord so that the share of taxes, insurance premiums, management fees and any and all other reasonable other and necessary expenses and costs reasonably attributable to the premises (and not otherwise specifically provided for in this lease) shall be the obligation of Tenant rather than Landlord.

40. **TENANT ALTERATIONS**: The Tenant shall not make any structural alterations, additions, or improvements in or to the premises without the prior written consent of the Landlord, subject to any conditions the Landlord may deem appropriate. Any alterations, additions, or improvements consented to by the Landlord shall be made at the Tenant's sole expense. The Tenant shall provide its own trash containers for construction debris; use service entrances to the premises, if any; conduct no core drillings during business hours; and disrupt other tenants as little as possible. The Tenant shall secure any and all governmental permits, approvals, or authorizations required in connection with any such work, and shall hold Landlord harmless from any and all liability, costs, damages, expenses (including attorneys' fees), and liens resulting therefrom. All alterations, additions, and improvements (expressly including all light fixtures and floor coverings), except trade fixtures, appliances, and equipment that do not become a part of the premises, shall immediately become the property of the Landlord. Upon the expiration or early termination of the term hereof, the Tenant shall, upon written demand by Landlord (given at least thirty (30) days before the end of the term), at the Tenant's sole expense, remove any such alterations, additions, or improvements designated by the Landlord. The Tenant shall, forthwith and with all due diligence, at its sole expense, repair any damage to the premises caused by such removal. Tenant further agrees to submit to Landlord or Landlord's agents all plans and prints for said alterations prior to actual work and Tenant's contractors shall provide Landlord with proof of liability insurance prior to commencing any actual alterations.

41. **RIGHT TO TRIAL**: Tenant & Landlord hereby waives right to request a trial by jury for any dispute arising out of the terms, conditions and covenants of this lease whether such legal action taken shall arise out of enforcement of any of the provisions contained herein or whether or not dispute arises out of consequences of Tenant occupying space in Brentwood Square Shopping Center.

42. **EXPLANATORY PROVISIONS**: (A) The words "Landlord" and "Tenant" shall be taken to include and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and shall be taken in the plural sense, wherever the context requires, and all pronouns used herein and referring to said parties shall be construed accordingly, regardless of the number or gender thereof.

(B) Headings of the various paragraphs herein are inserted merely as a matter of convenience and for reference and shall not be considered as in any manner defining, limiting or describing the scope or intent of the particular paragraphs to which they refer or as affecting the meaning or construction of the language in the body of such paragraphs.

43. ADDITIONAL PROVISIONS: EXHIBIT A
EXHIBIT B
RULES & REGULATIONS
ADDENDUM

44. Until this lease is executed on behalf of all parties hereto, it shall be construed as an offer of proposed Lessee to proposed Lessor. Time being of the essence, this lease must be completed on behalf of all parties on or before May 1, 2018, to be effective.

45. The undersigned as well as the corporation hereby guarantees unto the Landlord, its successors and assigns, the payment of base rent and any and all assessments so defined in master lease, and the performance of all of the covenants under said lease by Tenant and hereby waives notice of any default under said lease and agrees that liability shall not be released or affected by any extension of time for payment or by any forbearance by the Lessor.

46. There are no oral agreements between the parties hereto affecting this lease, and this lease supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties hereto with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this lease.

IN WITNESS WHEREOF, the parties hereto have caused the execution of this lease as of the day and year first above written.

F & J REALTY
LANDLORD

Witness: Randall Wheeler By: Frank R. Krejci
Frank R. Krejci

JSV LLC
TENANT

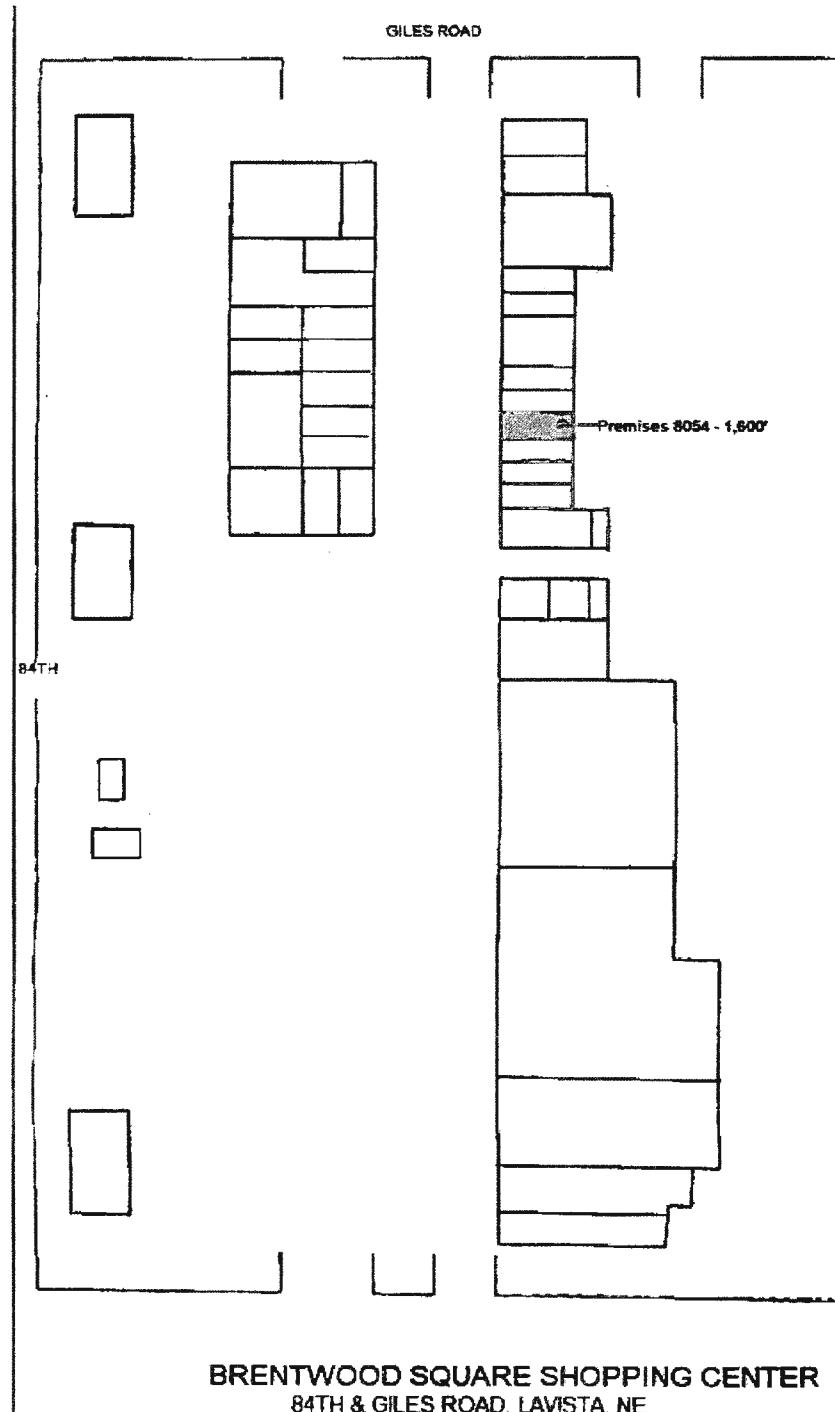
Witness: Randall Wheeler By: Vikram K. Patel

GUARANTORS:

By: Saumil J. Patel
Saumil J. Patel

By: Vikram K. Patel
Vikram K. Patel

EXHIBIT



**BRENTWOOD SQUARE SHOPPING CENTER
EXHIBIT "B"**

RE: SIGN CRITERIA

This policy is established by the owner of Brentwood Square Shopping Center, LaVista, Nebraska, to attain the best possible appearance of all signs in the center.

1. Prior to construction and erection of any signs, two copies of the plans and specifications must be submitted for approval by the Landlord, % First Management, Inc., Property Manager.
2. All signs on the Phase I and Phase II buildings are to be the individual letter style mounted on race way, internally illuminated by neon illumination and mounted in the designated area on the Brentwood Square Shopping Center buildings. No flashing lamps, or revolving or rotating units will be allowed.
3. All signs' letter size and sign length on the Phase I and Phase II buildings are to be approved by the Landlord, % First Management, Inc., Property Manager.
4. No flashing lamps, revolving or rotating units or lighted window signs will be permitted. Neon illuminated signs are permitted.
5. No V-type marquee signs will be allowed.
6. All field measurements must be verified.

812K
LANDLORD'S
INITIALS

VLR
TENANT'S
INITIALS

BRENTWOOD SQUARE SHOPPING CENTER RULES AND REGULATIONS

1. **AWNINGS AND CANOPIES**: No awnings or other projections shall be attached to a wall, roof or fascia, the premises or the building in which the demised premises are located without, in each instance, the prior written consent of Landlord.
2. **NOISE**: No loudspeakers, televisions, phonographs, radios or other sound or pictorial devices shall be used in a manner so as to be heard or viewed outside the demised premises of each respective Tenant without the prior written consent of Landlord.
3. **PREVENT FREEZING**: Tenant shall maintain a temperature within the demised premises throughout the year to maintain a sufficiently high enough interior temperature to prevent freezing of plumbing and fixtures.
4. **ODOR**: Tenant shall not make, or permit, any noise or odor objectionable to the public, or other occupants of the building, or to the Landlord, to emit from the demised premises; or create, or permit the extended maintenance arising from said odor of for existence of any nuisance.
5. **PARKING**: The Landlord requires that any tenants, their agents or representatives do not park in stalls directly in front of any retail space or directly adjacent to such space but rather all Tenants, assigns or representatives shall park no closer than a minimum of a 100 foot radius to said space to allow easy access to customer parking.
6. Any further rules and regulations may be made at discretion of the Landlord pursuant to Section 30 of the Lease agreement attached hereto providing they are uniformly enforced against all occupants of the Shopping Center.

ADDENDUM

The following Addendum is made a part of the Lease dated the 28th day of February, 2018, by and between F & J REALTY, Landlord, and JSV LLC, Tenant.

(A) Merchants Association: Tenant will promptly become a member of, and during the term of this lease participate in, the Merchants Association. Each member tenant shall have one vote; Landlord shall also have one vote. Merchants Association funds are to be used solely for advertising and promotions and administration expenses incident thereto. Dues are calculated on the basis of Ten Cents (10¢) per square foot per year payable in advance on the first day of each month. Minimum dues are Ten and 00/100 Dollars (\$10.00) per month.

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE is made and entered into on this 10th day of October, 2019, by and between F & J REALTY, hereinafter referred to as "Landlord", c/o First Management, Inc. with offices at Suite 550, The Center, 1941 South 42nd Street, Omaha, Nebraska 68105-2982, and JSV, L.L.C., with offices at 8052 South 84th Street LaVista, NE 68128, hereinafter referred to as "Tenant";

WITNESSETH:

WHEREAS, Landlord and Tenant entered into a lease dated February 28th, 2018 demising to Tenant Space No. 8052 South 84th Street, such space being a portion of a shopping center development known as Brentwood Square Shopping Center in LaVista, Sarpy County, Nebraska, and

WHEREAS, Landlord and Tenant desire to amend said lease to extend the lease term.

NOW THEREFORE, Landlord and Tenant agree that effective October 10th, 2019, said lease shall be and is hereby amended as follows:

ONE On Page 1, delete the paragraph in lease Paragraph 2 in its entirety and substitute in lieu thereof the following:

"2. COMMENCEMENT: The term of this lease shall be for a period of eight (8) years and zero (0) months beginning May 1, 2018."

TWO On Page 1, delete the lease Paragraph in its entirety and substitute with the following:

"3. RENTS Tenant shall pay to Landlord as rent for said leased premises during the initial Lease Term the total sum of One Hundred Twenty Two Thousand and Four Cents (\$122,000.04) per the rent schedule below. Tenant shall pay rent and assessments on the first day of each and every month of said term, in advance, at the office of the Landlord or its duly appointed agent."

On Rent Schedule:

"From May 1, 2018 to April 30, 2019, \$1,000.00 per month.

From May 1, 2019 to April 30, 2021, \$1,200.00 per month

From May 1, 2021 to April 30, 2023, \$1,300.00 per month

From May 1, 2023 to April 30, 2025, \$1,366.67 per month

From May 1, 2025 to April 30, 2026, \$1,433.33 per month

THREE This agreement shall not be effective until executed by both Landlord and Tenant.

[Remainder of page intentionally left blank.]

Except as herein amended, the February 28th, 2018 Lease between Landlord and Tenant shall in all respects remain in full force and effect.

F & J REALTY
LANDLORD

Witness: Randall Weale By: Frank R. Krejci
Frank R. Krejci

JSV, L.L.C.
TENANT

Witness: Randall Weale By: Vikram K. Patel
Vikram K. Patel

GUARANTORS :

By: Samuel J. Patel
Samuel J. Patel

By: Vikram K. Patel
Vikram K. Patel

Certificate of Completion

This is to certify that

SAUMIL PATEL

has successfully completed the following
HOSPITALITYexam.com course and examination

Course Name: Nebraska Alcohol Server/Seller Certification



Edward D McLean, Administrator
www.HOSPITALITYexam.com

Date: 03/21/2018
Expiration: 36 Months
Certificate #: 11964
Birth Date: [REDACTED]